

Table 3

**Patents, Trade Marks, Industrial Designs
and Copyright in Canada**
PATENTS

Duration. 17 years from issue.

Novelty. Not known or used by others before applicant's invention; not described in any patent or publication printed anywhere more than two years before filing in Canada; not in public use or for sale in Canada more than two years before Canadian application. For treaty or convention rights, Canadian application must be filed within one year of filing of first successful foreign application.

Unpatentable. Scientific principles, abstract theorems, methods of doing business, computer programs per se. There are also special provisions for substances which are prepared or produced by chemical processes and are intended for food or medicines. This list is not exhaustive.

Application procedure. Inventor or assignee must file application with the Commissioner of Patents, Ottawa/Hull, K1A 0E1, including petition, abstract, disclosure, drawing and claims. Patent rules contain stringent regulations on preparation of documents.

Examination procedure. Application is secret until patent is issued. Examination as to formal correctness, patentability and conflict with other applications. Search may be confined to Canadian patents. Appeals of Office decisions are to the Federal Court.

Fees. On filing \$200; on allowance of the application \$350; on filing an application to re-issue a patent \$300. There are other fees charged for a number of other services provided by the Patent Office.

Compulsory licenses may be granted by the Commissioner of Patents if it is proved that the patentee has abused his patent rights.

TRADE MARKS

Duration. 15 years from registration, renewable.

Legal effect. Registration is not compulsory for protection except that articles containing precious metals must be marked with a registered mark.

The right to register is based on being the first to use the mark, to make the mark known or to file an application. Applications can be filed on the basis that the mark is in use in Canada, will be used in Canada or is registered and in use abroad.

Not registrable. A word which is primarily merely the name or surname of an individual who is living or has died within the preceding 30 years, a word which is descriptive or deceptively misdescriptive of the goods or services associated with the mark, a word which is the name of the goods or services in any language, a mark which is confusing with a registered trade mark, obscene marks, national flags. This list is not exhaustive.

Application procedure. Owner must file an application with the Registrar of Trade Marks, Ottawa/Hull, K1A 0E1.

Examination procedure. Examination as to form and registrability; application advertised in Trade Marks Journal, after which opposition may be lodged. Otherwise, application is allowed. Appeal to the Federal Court.

Fees. Application for registration \$150, renewal of registration \$150. There are fees charged for a number of other services provided by the Trade Marks Office.

INDUSTRIAL DESIGNS

Duration. 5 years and renewable for another 5 years.

Application procedures. Design must be registered within one year of publication in Canada, only the designer or person for whom design was executed may apply (i.e. not assignee). Applications are filed with the Commissioner of Patents, Ottawa/Hull K1A 0E1.

Examination procedure. Examination is for originality of design.

Fee. Examination and registration \$150, renewal \$200.

COPYRIGHT

Duration. For most works, life of the author plus 50 years. For a few other items, 50 years.

Legal effect. The creator of any original literary, musical, dramatic or artistic work retains the right to produce or reproduce the work or any substantial part of it in any material form for the duration of copyright.

Application procedure. Application for registration to be filed with the Commissioner of Patents, Ottawa/Hull K1A 0E1. Copies of the work are not to be submitted. It is advisable to mark the work with the © symbol, the name of the owner of copyright and the year of first publication when copies are sold in Canada.

Fees. Application for registration \$25.