

THE PATENT REGIME IN CANADA

The Patent Act is administered by the Patent Office. Originally, the life of the patent was 14 years from the date of the grant. Subsequently in 1969, it was extended to 17 years. Presently, it is 20 years from the date of application.⁴⁷ In 1990, Canada granted 14,944 patents to innovators and 16,248 in 1991. In each of the two years, about 11.6% of all patents were taken out by individuals, and of all the patents granted in Canada, 92.7% were taken out by foreigners.⁴⁸ In 1982, of all the patents granted in Canada, 93.8% were held by foreigners. In 1982, in the tally of granting patents to innovators, Canada (with 22,447 patents) stood at 5th place in the world.⁴⁹ Because the proportion of patents held by foreigners in Canada is relatively high, each year a significant sum passes out in the form of royalty payments to foreigners for the use of patent rights. However, this situation is not peculiar to Canada.⁵⁰ It reflects that Canada, as a dynamic economy, imports advanced technology. However, a high proportion of patents are apparently not worked—either in Canada or in other countries. This may reflect the fact that many patented innovations become obsolete shortly after the patent grant or are not economically feasible.

⁴⁷ Consumer and Corporate Affairs Canada, *Annual Report*, Year-end March 31, 1992, Government of Canada, Ottawa: p. 23.

⁴⁸ Moreover, of all the patents granted to foreigners in Canada, the United States share rose from 53% in 1990 to 54% in 1991; the Japanese share went up from 13.4% in 1990 to 14.2% in 1991; and the German share declined from 8.3% in 1990 to 7.8% in 1992. Source: Consumer and Corporate Affairs Canada, *Annual Report*, Year-end March 31, 1992, Government of Canada, Ottawa, *op. cit.*

⁴⁹ Behind the United States (57,889 patents granted), Japan (50,601), the United Kingdom (29,590), and France (23,944); and ahead of West Germany (16,306), Brazil (10,074), Switzerland (9,627), and Sweden (7,864). The survey excludes the former Soviet Union. Source: World Intellectual Property Organization (WIPO), *100 Years Protection of Intellectual Property: Statistics, 1883-1982*, Geneva, 1983.

⁵⁰ In 1982, foreigners received 84% of the patents issued in the United Kingdom; in Switzerland foreigners held 80%; in France they held 68%; foreign-owned patents accounted for only 17.3% of all patents granted in 1981 in Japan; and for 41% in the United States in 1982. Source: WIPO, 1983, *op. cit.*