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Computer programs, regardless of the format in which they are stored, are protected by Canadian copyright as literary works. Copyright also applies to mechanical contrivances such as records, compact discs, cassettes and tapes.

While copyright law is intended to protect a work from unauthorized copying or reproduction, it does not prevent simultaneous generation of exactly the same material, or prevent the use of the ideas in a work copyrighted earlier. For example, Andrew Lloyd Webber's musical production *Phantom of the Opera* is protected by copyright, although, like the 1925 silent film starring Lon Chaney, it is based on Gaston Leroux's novel of the Paris opera. For a work to be protected by copyright, originality is not required of the ideas embodied in the work, but in the manner of expression of the idea or thought.

### **TRADE SECRETS AND CONFIDENTIAL INFORMATION**

Without a written agreement, the owner of confidential information or trade secrets in one jurisdiction may have difficulty preventing misuse of that information in another jurisdiction. The use of that information will be subject to the national laws of the jurisdiction where the misuse occurs. What is considered confidential information, and the protection to which

it is entitled, varies dramatically from country to country.

In some jurisdictions, confidential information may be considered property in its own right, provided the information is specific, is not in the public domain, and benefits its owner. The owner may be asked to prove that he or she has taken care to keep the information confidential — that documents have been marked confidential, or kept under lock and key, for example.

**There is no generally agreed-upon definition of confidential information, and no international convention deals specifically with it. For this reason, written contracts are particularly important in any collaboration, to define what will constitute confidential information and to govern the relationship between the parties where such information is concerned.**

### **INTERNATIONAL TREATIES**

Canada has signed a number of international treaties relating to intellectual property; these treaties extend national rights to international situations. Two examples are the area of copyright and the rights under the *Patent Cooperation Treaty* to initiate patent applications in multiple countries. International treaties generally allow a resident of one country to apply for a patent or for registration of a copyright, trademark or industrial design in another country on the same terms and conditions as a resident of that country. In the patent field, the Paris Convention extends priority rights to foreign applicants.

Although the concept of patenting is almost universally recognized, the nature of patents, filing procedures and rights granted by patents vary drastically from country to country. Also, all the claims in an application may not be allowed in all countries. Finally, application of the laws governing joint ownership and joint exploitation of an invention and their enforcement are not