invention and creates a legal situation in which the patented invention can only be exploited (made, used, sold, imported, etc.) with the authorization of the patent owner. This protection is limited in time, generally to 15 to 20 years. However, the life of a patent varies from jurisdiction to jurisdiction as do the rights granted by a patent. Patents are issued for inventions, that is, new and useful art, processes, machines, manufacture or composition of matter, or any new and useful improvements of these.

In Canada, a patent provides the holder with the right to exclude others from making, using or selling an invention up to a maximum of 20 years after an application for the patent is filed, and is given in exchange for full and complete disclosure of the invention. After the 20-year term has expired, anyone may make, use or sell the invention.

The patent holder is thus the owner of an "intellectual property" conceived by the exercise of intellectual creativity. The right conferred by a Canadian patent extends throughout Canada, but not to foreign countries. Conversely, foreign patents do not protect an invention in Canada.

Although there are international treaties that deal with filing and processing patent applications, the applications themselves are evaluated in accordance with each country's domestic standards. Essentially, however, a patent precludes the use of the patented invention by any other party in every country in which it has been granted or registered. If a patent has not been granted in a country, the invention is unprotected in that country, although it may be protected in another way, as a trade secret, for example.

The most significant commercial market for a Canadian invention may be in another country or countries. Canadian inventors should seriously consider filing corresponding foreign patent applications in these countries, to preserve their rights as inventors and to ensure the value of the commercial exploitation of their inventions.

(For foreign protection, see *Patent Cooperation Treaty*, page 7.)

What Can be Patented?

Under most patent legislation, including Canada's, for an invention to be protected by law (patentable in other words) it must be new in the sense that there is no indication it has been published or publicly used. It must not be obvious, in the sense that it would not have occurred to any specialist in that industrial field had such a specialist been asked to find a solution to the same problem. And it must be applicable in industry in the sense that it can be industrially manufactured or used.

In other words, **to be patentable, an invention must have novelty, inventive ingenuity, and utility.**

To satisfy the novelty requirement, the applicant for a patent must be the original inventor, or a person to whom the inventor has assigned the rights to the invention. The applicant cannot obtain a valid patent if another inventor has previously disclosed the invention anywhere in the world. Furthermore, **publication or use of the invention by the inventor more than one year before the patent application is filed, whether in patents, periodicals, technical articles or elsewhere, is an absolute bar to obtaining a valid patent in Canada.**

The utility requirement means that a patent is granted only for a product, or for a process that produces something operable or that has practical use. Scientific principles, abstract theorems, mere ideas or methods of doing business are not patentable. Registration of processes or inventions that have no immediate commercial use is not ruled out, however.

Finally, to be patentable an invention must be a development or improvement that would not have been obvious beforehand to workers skilled in the technology involved. Routine workshop changes, normally expected