

or become unpatentable. The value of the invention will be lost to the originator who may not even recover the cost of research.

By knowing their rights, all innovators — researchers, inventors, writers, designers, artisans and manufacturers — can protect their intellectual property at each stage of design, development and commercialization, as well as receive their fair share of the rewards.

HOW CAN INTELLECTUAL PROPERTY BE PROTECTED?

Generally, protection for intellectual property takes the form of **patents** for inventions, **registration** for trademarks and industrial designs, **copyright** for literary and artistic works, **integrated circuit topographies** for integrated circuits (chips) and **plant breeders' rights** for new varieties of plants created by cross-breeding.

Intellectual property that is not specifically protected by industrial property or copyright law, such as **trade secrets** and **confidential information**, can be protected by specific **confidentiality agreements** or **project agreements** between parties. Although the laws in some countries, including Canada, may recognize confidentiality rights outside formal agreements, trade secrets and confidential information can generally be best protected through agreements between collaborating parties. The agreements are subject to the laws of the country in which they are made.

Finally, intellectual property may be protected by **containment** — physical containment by restricted access to technology or containment of ideas by selective disclosure and publication. Containment is discussed in greater detail on page 11.

The laws of a country relating to intellectual property are generally concerned only with what takes place in that country. A patent, trademark registration or the registration of an industrial design is effective only in the country where the government office made the grant or the registration. Protection must be obtained in each country separately. (The *Patent Cooperation Treaty* helps to expedite this process. See page 7.)

The copyright of a Canadian author is valid in foreign countries if the country in which protection is sought belongs to either the Berne Convention or the Universal Copyright Convention. These conventions include most of the countries in the world, although the nature of the protection varies from country to country. Copyright may be registered in Canada and in a number of other countries. Although copyright protection is usually extended in most countries without registration, registration confers certain benefits on the copyright owner in the country of registration, such as presumptions to the effect that copyright subsists in the work and that the registrant is the owner of such copyright. In addition, registration is of considerable assistance in establishing entitlement to damages for infringement.

The decision whether or not technology should be protected is often based on the value of the technology to the owner, and the cost of protecting and exploiting it. The means of protection chosen and how successful it is depends on the nature of the intellectual property, the financial means of the owner, and the diligence of the inventor in keeping the information confidential.