

Patents

What is a patent?

A patent is a legal right to prevent others from making, using, or selling your invention, for up to 20 years in the country or region where your patent is granted. The rights provided by a Canadian patent extend only throughout Canada, so if you want protection in other countries, you must apply there separately.

When should you file a patent application?

Since the first applicant to file a patent application for an invention is entitled to obtain the patent, you should file as soon as possible after you complete an invention, in case another person has also discovered the invention and intends to seek a patent for it. It is crucial not to publish, advertise or disclose any information about your invention before you are ready to file a patent application.

What can you patent?

Patents apply to inventions that are: 1. new (first in the world), 2. useful (functional and operative), and 3. inventive (showing ingenuity and not obvious to someone of average skill who works in the field of your invention). The invention must also be a product, composition, machine, process, or an improvement on any of these.

For example, a computer code by itself is not something physical, so it is not patentable by law. However, if a computer program offers a new and inventive solution to a problem by modifying how the computer works, it may be patentable.

What can you not patent?

There are certain things that cannot be patented, including: disembodied ideas, concepts, or discoveries; scientific principles and abstract theorems; methods of medical treatment or surgery; higher life forms; forms of energy; features of solely intellectual or aesthetic significance; and printed matter.

Where to apply?

The services of a registered patent agent should be used to register a patent in Canada and help with the complexities of patent law. If not described clearly and properly, patent applications could be invalid.

How can I check if a product is already patented?

The first step to any patent request is to ensure that the invention is not already doing something that is protected in the patent system. Anyone can search the public patent databases at the [Canadian Patent Database](#) and the [Google Patent Database](#). However, as you know your invention best, you may be in a better position to determine if your invention is truly new, useful, and innovative before pursuing a patent application.

What if my patent has been infringed?

If you believe your patent has been infringed, you can file a lawsuit for damages in the appropriate court. In response, the defendant may attack the validity of your patent or argue that there was no infringement. If the defendant's actions do not fall within the scope of any of your patent claims, or if the patent is declared to be invalid for any reason, there is no infringement.