

## BLM Mod.4.1#4: Patent FAQs

For definitions of terms used in the following questions and answers, refer to the Canadian Intellectual Property Office (CIPO) website at:  
<[http://strategis.ic.gc.ca/sc\\_mrksv/cipo/patents/e-filing/gloss.htm](http://strategis.ic.gc.ca/sc_mrksv/cipo/patents/e-filing/gloss.htm)>.

### Q. What is the difference between copyright and a patent?

A. The Canadian Intellectual Property Office website defines the terms as follows:

**Copyright:** “legal protection for literary, artistic, dramatic, or musical works, computer programs, performer’s performances, sound recordings and communication signals.”  
(CIPO, Glossary: <[http://strategis.ic.gc.ca/sc\\_mrksv/cipo/patents/e-filing/gloss.htm](http://strategis.ic.gc.ca/sc_mrksv/cipo/patents/e-filing/gloss.htm)>)

**Patents:** “Patents are government grants that give inventors exclusive rights to their inventions. Patent protection applies in the country that issues the patent... Patents are granted for products or processes that are new, workable and ingenious (novel, useful and inventive). In this way, patents serve as a reward for ingenuity...”

In Canada, a patent is given to the inventor who first files an application. It’s therefore wise to file as soon as possible after completing your invention because someone else may be on the same track.”

(CIPO, Frequently Asked Questions: <[http://strategis.gc.ca/sc\\_mrksv/cipo/patents/faq\\_pt-e.html](http://strategis.gc.ca/sc_mrksv/cipo/patents/faq_pt-e.html)>)

### Q. Why obtain a patent?

A. If you do not have a patent, you can protect your invention only if you do not share it in public. The moment that you show your invention to anyone else, you run the risk that this person can use it without your consent, market it, and claim rights to it by obtaining a patent.

### Q. Who can apply for a patent?

A. The legal owner of an invention can obtain the patent. Usually, the owner is the person who invented something.

### Q. How long does it take to obtain a patent?

A. It may take up to three years.

### Q. How long is a patent effective?

A. In Canada, the “life” of a patent is 20 years from the date the application was first filed. During that time, the invention is protected from being copied. A fee must be paid yearly to keep it in force.

### Q. Are patent laws the same around the world?

A. Patent laws are national and can differ from one country to another. When applying for a patent in Canada, ensure that you read and understand Canadian patent information and laws.

### Q. Where is my patent protected?

A. A patent obtained in Canada protects your invention in Canada. To be protected in other countries, you must also file a patent application in each country in which you want protection.

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**Q. What happens if an invention with a patent is copied?**

- A.** The owner of the patent can claim rights infringement and ask for compensation. A famous example is the sewing machine.

Elias Howe (1819-1867), an American, invented a sewing machine and was granted a patent in 1846. Isaac Merrit Singer (1811-1875), also an American, invented a continuous-stitch sewing machine in 1851. Others also made copies of Howe's invention. After much time in courts of law, it was determined in 1854 that Howe was the rightful inventor of the sewing machine. By the time his patent expired in 1867, he had made about \$2,000,000 from his invention.

However, Singer's greatest "invention" was the marketing of his sewing machine. He started a company that became world famous. To this day, the Singer name is most widely associated with the invention of the sewing machine.

**Q. How do I know whether a patent for my invention already exists?**

- A.** While you may think that your invention is original, it may, in fact, have been invented and patented by someone before you. By doing a preliminary search, you may determine that there is another invention like yours already patented, thereby saving yourself time and money.

**Q. What needs to be included in a patent application?**

- A.** The following documents must be included in a patent application:
- a petition or application
  - a detailed description of the invention
  - an abstract, which is a brief summary of your invention
  - a claim, which determines exactly what part(s) or aspect(s) of your invention, or how much of your invention, the patent will protect. If the invention uses objects already invented, the claim can only include the original or new aspects.
  - any drawing referred to in the description
  - a filing fee