

LEGAL INSIGHTS

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Intellectual Property - Patent

Intellectual property refers to the intangible assets of a business, including patents, copyrights, trademarks, and trade secrets. These assets are often the most valuable assets of a corporation.

PATENTS

A patent is a legal protection granted by the federal government to an inventor to encourage progress and prevent others from benefiting from the invention. Patents cover inventions new to the marketplace or improvements on existing inventions.

There are three basic criterion an invention must meet to be patentable in Canada:

1. Invention - any new and useful art, matter, or any new and useful improvement in any art, process, machine, manufacture or composition of matter. For an invention to be inventive, it cannot be obvious and already available and readily apparent to someone skilled in that industry.

2. Novelty - not known or “disclosed” or made “available to the public” in the “art” or anywhere in the world.

3. Utility is established if an invention has a useful and functional purpose.

Patent protection involves the right to exclude others from making, using or selling anything that would fall under the claims of the issued patent. Canadian patents have a maximum life of 20 years from the date of patent application filed.



PATENT INFRINGEMENT

Determining whether a patent has been infringed entails the court examining the claims of the patent and comparing them to the invention or evaluating the validity of the patent.

The court can determine that infringement exists even if the invention isn't identical to the original. If the device largely performs the same function in the same way to produce substantially identical results, a court may find infringement.

If someone infringes your patent, you may file a lawsuit for damages in the appropriate court to enforce your patent against an infringer. Courts have the authority to compensate the patent holder for losses associated with the infringement.

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If you have questions specific to your business, or would like additional information, please reach out to your Henderson Insurance Advisor.

LET US HELP YOU MANAGE YOUR RISK

Regina
Moose Jaw
+1 (888) 661-5959

www.hendersoninsurance.ca
www.navacord.com
HII@hendersoninsurance.ca