

Ridout & Maybee LLP

CANADA'S INTELLECTUAL PROPERTY AND TECHNOLOGY LAW FIRM

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Podcast: Should my client file a patent application?

Presented by Colin Climie
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This podcast is not legal advice. If you want our views on your specific situation, contact Colin Climie at 416-865-3519 or CCLimie@ridoutmaybee.com.

Source of Info in This Podcast

- 1) Expertise of Ridout & Maybee LLP ([R&M website](#)) and Colin Climie ([Colin's bio](#)).
- 2) Canadian Intellectual Property Office (CIPO)
 - [CIPO website](#)

What is a patent, exactly?

- 1) A deal
- 2) Exclusive rights (make, use, sell)
- 3) Limited term
- 4) Transferable

What does a patent do?

An issued patent protects the function of an invention.

How can filing a patent application help my client?

- 1) Establishes the client as first inventor.
- 2) Protects the client from intellectual property theft.
- 3) Establishes an asset that may be licensed.

What subject-matter is patentable?

[Section 2](#) of the Canadian Patent Act defines an invention as any new and useful art, process, machine, manufacture or composition of matter

What are some examples of patentable subject-matter?

- a product (e.g., a door lock)
- a composition (e.g., a chemical composition used in lubricants for door locks)
- a machine (e.g., for making door locks)
- a process (e.g., a method for making door locks)
- an improvement on any of these

These examples are provided on this [web page](#), which is maintained by the Canadian Intellectual Property Office.

What are some examples of non-patentable subject-matter?

- Scientific discovery (e.g., gravity)
- Mathematical methods $\left(x = \frac{-b \pm \sqrt{b^2 - 4ac}}{2a}\right)$
- Higher life forms (e.g., a mouse)
- Methods of medical treatment

What kind of subject-matter is “iffy”?

- Computer-related innovation
- Medical diagnostic methods

What criteria does an invention have to meet to be patentable?

- 1) New
- 2) Non-Obvious
- 3) Industrially Applicable

What does it mean to not be new?

- The Examiner relies on a single prior art document
- Is often clear

What does it mean to be obvious?

- The Examiner relies on a mosaic of prior art documents
- Is often a matter of interpretation

What does it mean to not be industrially applicable?

Example: perpetual motion machine

What is necessary to file a patent application?

A full description of the invention:

- How to make
- How to use

Why do patents exist?

To promote investment in research and encourage sharing of information.

Thank you!

Please contact Colin at 416-865-3519 or CCLimie@ridoutmaybe.com if you have any questions about the post-application steps or the content of this podcast.