

PATENT TIMELINE AND COSTS

The Industry Partnerships & Commercialization office manages SickKids' intellectual property to facilitate commercialization of new technologies. Together with SickKids Innovators we pursue patent protection for inventions with the highest potential for positive impact on both the organization and society at large. By doing so, we also help drive commercial value for the invention.

Patent protection generally follows one of two paths: using a PCT (Patent Cooperation Treaty), or a non-PCT route. Here we've outlined the basic stages of each path, along with the typical timelines and estimated costs. Please contact our office for more information on how we can help you protect your invention.

WHAT IS INTELLECTUAL PROPERTY?

Intellectual Property (IP) is an asset that legally grants the owner protection from others using the idea or invention without permission.

TYPES OF IP	
(*Canadian regulations; may differ in other countries)	
PATENT	<ul style="list-style-type: none"> • New and useful inventions (products, compositions, machines, processes) • New and useful improvement to an existing invention • 20-year protection from filing date
COPYRIGHT	<ul style="list-style-type: none"> • Protects author's right to reproduce, publish, or perform, their original work of art • Covers literary, artistic, dramatic or musical works and recordings, as well as software, databases, and clinical questionnaires • Protection up until 50 years after the death of the author
TRADEMARK	<ul style="list-style-type: none"> • Name, phrase, sounds, designs, or symbols that distinguish a brand from others • 10-year protection from registration; renewable
INDUSTRIAL DESIGN	<ul style="list-style-type: none"> • Physical design of an article (shapes, configurations, patterns, ornaments, etc.) • 15-year protection from granted patent date

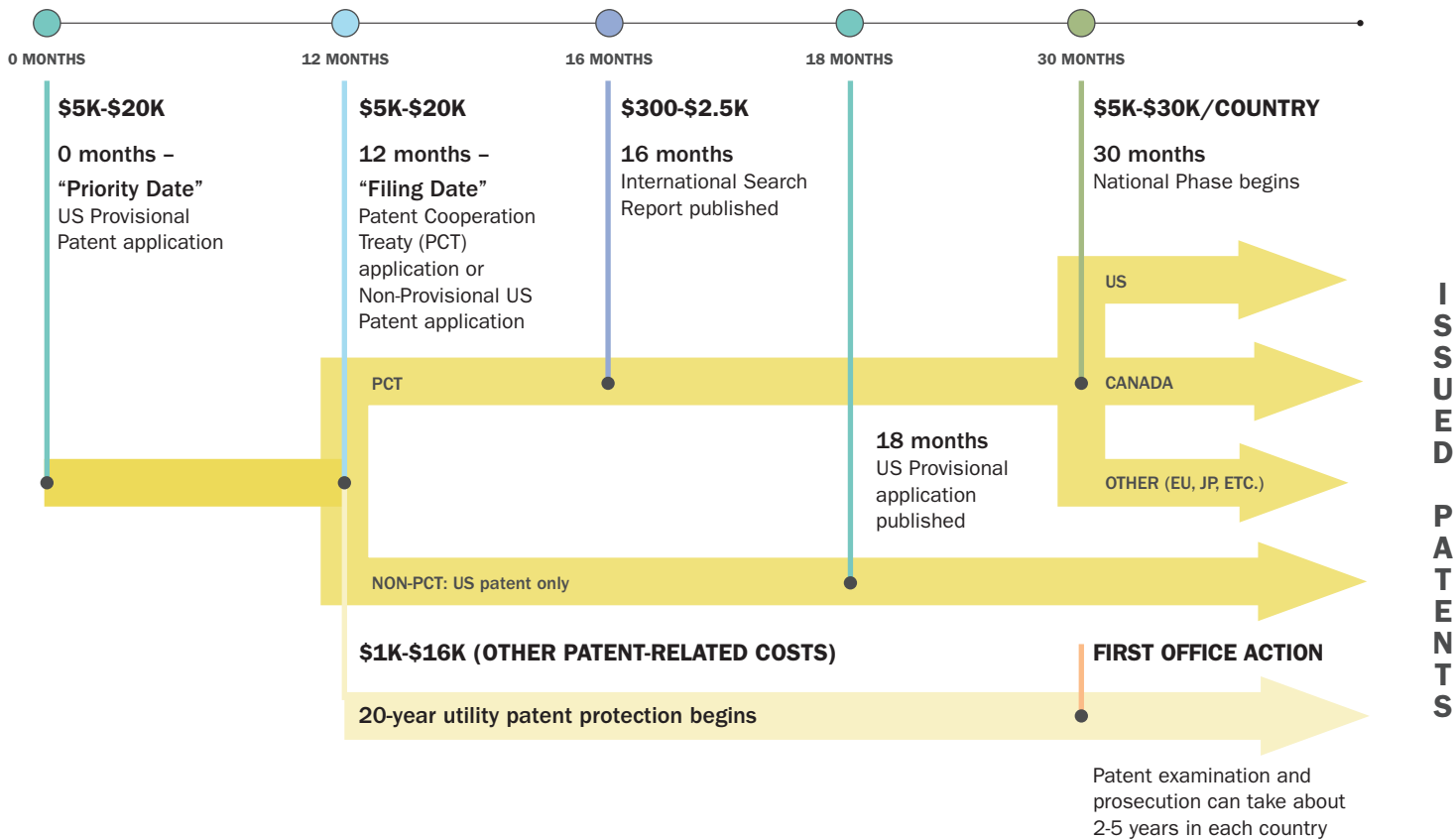


PATENTS

Patents give protection for 20 years after the day on which you filed your patent application ("Filing Date"). In exchange, the full description of the invention is published for the public to access and learn from.

Patents are granted on a national level. A Canadian patent cannot extend protection to other countries, and likewise a foreign patent does not protect an invention in Canada.

PATENTABILITY CRITERIA	
NOVEL	<ul style="list-style-type: none"> • There is no prior art (evidence against originality of invention) or public disclosure of invention (including published papers and presentations)
NON-OBVIOUS	<ul style="list-style-type: none"> • Can't be a logical or incremental improvement of existing technologies; i.e. it is sufficiently inventive
USEFUL	<ul style="list-style-type: none"> • Must demonstrate credible and specific utility



INNOVATOR(S) RESPONSIBILITIES	
US PROVISIONAL PATENT	<ul style="list-style-type: none"> • Preliminary filing based on early-stage claims • Locks in a filing date of a patent, while giving a year to build on claims and assess market potential • Does not count as public disclosure • Date of filing referred to as “Priority Date”
PATENT COOPERATION TREATY (PCT)	<ul style="list-style-type: none"> • Useful if seeking protection in multiple countries simultaneously • Allows for the filing of one PCT application in one office • Patents are still granted at a national level
INTERNATIONAL SEARCH REPORT	<ul style="list-style-type: none"> • Published ~6 months after filing a PCT • An “International Searching Authority” gives applicants an idea of what prior art may be out there and affect the patentability of the invention • Helps proactively deal with potential issues before national phase
NATIONAL PHASE	<ul style="list-style-type: none"> • 30 months after the priority date, at the end of the PCT phase • Start to pursue granted patents in specific countries or regions – need to fulfill requirements of each individual jurisdiction • The ISR can ease the time it takes to approve granted patents
OFFICE ACTIONS	<ul style="list-style-type: none"> • A document from the patent examiner summarizing the allowability of the patent claims • If rejected, examiner will provide relevant prior art references • Applicants may contest rejected claims by: <ul style="list-style-type: none"> • Arguing how certain claims are not found in the referenced prior art; and/or • Amending claims to include features not in the referenced prior art. • Sufficient response to office actions will result in a granted or rejected patent for that jurisdiction
IP MAINTENANCE	<ul style="list-style-type: none"> • Each jurisdiction may have different regulations around the amount and regularity of patent maintenance fees