



Securing Your Investments



PATENT MAINTENANCE FEES



Introduction

The patent process requires the payment of specific fees in order to obtain or maintain a patent or patent application. While there are three basic types of fees required to obtain a patent — filing fees, examination fees, and grant of patent fees — a fourth type, maintenance fees, is required to ensure that your patent application or patent remains current.

For information related to fees in respect of the filing, examination and grant of patents, please refer to *A Guide to Patents* available by contacting our Client Service Centre (see end of leaflet) or by visiting our website at www.cipo.gc.ca.

Maintenance Fees

Maintenance fees protect both your investment and your IP rights. You have spent a considerable amount of time, money and effort toward your patent application and patent — follow through and secure your innovation!

What is the process?

Maintenance fees must be paid on a yearly basis.

You pay maintenance fees to prevent your patent rights from expiring before the maximum twenty years. The date upon which your maintenance fee becomes due depends on the filing date of your patent. The first payment is due no later than the second anniversary of the filing of your application, and for each subsequent anniversary of the date of filing up to the nineteenth year.

For example, if you filed your application on January 1, 2006, your first maintenance fee will be due by January 1, 2008. You also have the flexibility of paying for a number of years in advance.

Does this apply to all patents?

No. Maintenance fees are not required for patents issued before October 1, 1989.

For applications filed after October 1, 1989, and for patents issued on these applications, maintenance fees are payable starting on or before the second anniversary of the application filing date.

For applications filed under the Patent Cooperation Treaty (PCT), the PCT international filing date is the filing date in Canada. When entering the national phase in Canada, you are required to pay any maintenance fee that would have been payable had the international application been filed in Canada as a Canadian application on the international filing date.

For reissued patents, the maintenance fees continue to be paid according to the schedule for the original patent.

As for divisional applications, they bear the filing date of the parent application. Therefore a divisional application is, at the time of filing, subject to fees calculated from the filing date of the parent application, which are payable upon the filing of the divisional application.

Who can pay the maintenance fees?

The authorized correspondent is the only person entitled to pay the maintenance fee for patent applications.

Following the grant of a patent, the fee to maintain a patent can be paid by the patentee, or by any person acting for the patentee, whether residing in Canada or not.

All correspondence concerning the payment of a maintenance fee for a patent application or a patent will be sent to the person paying the maintenance fee or, if applicable, to the authorized correspondent.

To make sure that any correspondence issued by CIPO reaches the intended party, please ensure that CIPO has your correct address. It is your responsibility to inform CIPO of any change of address.

How much do I pay?

The amount you pay will vary depending on whether the applicant has submitted a small entity declaration.

The amount you pay increases every five years of the patent's life. You can find out the fee due each year by consulting Schedule II, Tariff of Fees of the *Patent Rules*, or on our website: www.cipo.gc.ca.

How do I pay?

You can pay by cash, Interac, credit card (VISA, MasterCard or American Express), deposit account, postal money order or cheque payable to the Receiver General for Canada. Please do not add provincial or federal taxes with your payment.

You may also want to submit a maintenance fee calculation sheet whenever you are paying maintenance fees. The form is available on our website at www.cipo.gc.ca, or can be obtained by contacting CIPO's Client Service Centre.

Please refer to our correspondence procedures on our website before submitting you payment.

Do I get a receipt?

Standard receipts are issued for payments made by credit cards. If you need an official receipt, you could, as an option, submit the duplicate of your completed maintenance fee calculation sheet so that the copy can be dated and returned.

How can I make sure I do not forget to pay the maintenance fee each year?

You can set up your own reminder system by using a diary, or you can employ a patent agent.

What happens if I do not pay within the prescribed period?

For an application, office practice is to send a notice indicating the patent application is now deemed to be abandoned. You can reinstate the application within twelve months from the date of abandonment, by submitting a request to reinstate the application accompanied by the required maintenance fee and the prescribed \$200 reinstatement fee. If the twelve-month reinstatement period expires, the application will be abandoned beyond the possibility of reinstatement.

For a patent, office practice is to send a notice indicating that your patent is now considered in an "about-to-lapse" state, meaning that the patent will lapse unless the maintenance fee, together with an

additional fee of \$200 for late payment, is submitted within the one year period of grace. If the patent lapses, there will be no possibility of revival.

The notices are sent as a courtesy only. Consequences for non-payment arise even if a notice is not sent.

Note: Time limits for the payment of maintenance fees cannot be extended.

Where can I obtain more information?

If you have any questions about the information contained in this leaflet, please contact CIPO's Client Service Centre.

In person or by mail:
Place du Portage I
Room C-229, 2nd Floor
50 Victoria Street
Gatineau QC K1A 0C9

By telephone:
1-866-997-1936
TTY for the hearing impaired: 1-866-442-2476

By facsimile:
(819) 953-7620 (enquiries only)
(819) 953-CIPO (to submit IP documents)

Email:
cipo.contact@ic.gc.ca
Business hours: 8:30 a.m. to 4:30 p.m. (ET) Monday to Friday

Website:
www.cipo.gc.ca

This leaflet provides general information only and does not provide legal advice.

Suggestions:

- We recommend that you keep this leaflet with your other patent papers for future reference.
- Should you dispose of your patent in any way to someone else, please provide your leaflet to the new patent holder.

