

# IP roadmap – Your path to getting a patent

## Consider using a registered patent agent

Registered Canadian patent agents are qualified to act on your behalf with the Canadian Intellectual Property Office (CIPO). [View the list of licensed patent agents.](#)



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## Filing your application

To obtain a filing date, your application must include:

- an indication that the grant of a patent is intended
- identification of the applicant and their contact information
- a description of the invention (in any language)

If you do not submit all the filing requirements, CIPO will send you a notice. You have 2 months from the date of the notice to reply before your application will be deemed never to have been filed.

Paying the application fee is not required to receive a filing date.

If you do not pay the application fee when you file, CIPO sends you a notice asking for the application fee and a late fee.

You have 3 months from the date of the notice to reply before your application is considered withdrawn.

Note: The instructions for this step do not apply to divisional applications. To learn how to file a divisional, consult [section 3.04 of the Manual of Patent Office Practice](#).

Do not publicly disclose your invention until you have filed your application with CIPO.



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## Filing certificate issued

CIPO will send you a filing certificate within a few weeks of receiving your application if your application meets the filing requirements. The certificate has your application number and filing date.



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## Checking compliance

CIPO checks your application to ensure that it includes:

- a petition (a formal request for a patent)
- an abstract (a summary of your invention)
- a claim or claims to the invention
- a statement of entitlement or inventorship
- the appointment of an agent, if the application is filed by someone other than the inventor(s)
- the name and postal address of each inventor
- a translation of any description submitted in a foreign language

If your application is missing required documents or information, CIPO sends you a notice. You must provide the missing information by the due date of the notice.\*



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## Paying your maintenance fees

You must pay annual maintenance fees starting from the second anniversary of your filing date. These fees keep your patent application or patent in good standing.

If you do not pay your maintenance fee by the due date, a late fee will apply and CIPO will send you a notice. You must respond to it within 6 months after the maintenance fee due date or within 2 months after the date of the notice, whichever comes last.\*



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## Your application is online

In most cases, CIPO makes your application available to the public online in the Canadian Patents Database 18 months after the earliest priority date or your filing date.



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## Requesting an examination

CIPO only examines your patent application if someone requests it within 4 years of the filing date of your patent application.

If you do not request examination and pay the fee for requesting examination (including any applicable excess claims fee) within this time, CIPO will send you a notice. Then, you will have 2 months from the date of the notice to request examination. A late fee applies.\*

### Requesting a fast-track examination

CIPO offers 3 ways to expedite examination:

- under a special order for advanced examination
- under the Patent Prosecution Highway
- for green technologies

Each of the above has its own request process.



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## Responding to the report\*

Vous pouvez donner suite au rapport de l'examineur ou l'examinatrice en apportant des modifications à votre demande ou en présentant des arguments.

Vous aurez 4 mois pour y donner suite après la date du rapport de l'examineur ou l'examinatrice\*. Une fois votre réponse reçue, l'examineur ou l'examinatrice réexaminera votre demande. Vous pourriez alors recevoir un autre rapport d'examen, ou un appel d'un examinateur ou d'une examinatrice pour corriger des irrégularités mineures.



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## Examination and report

A patent examiner will determine if your patent application complies with the *Patent Act* and the *Patent Rules*.

If there are defects in your application (other than minor defects that could be included in the conditional notice of allowance), you will receive a report from the examiner identifying the defects about 20 months after the request for examination, or within 7 months for fast-track applications. Your request for examination entitles you to 3 examination reports. If further examination is required after 3 reports, you will be notified that you must request continued examination. Any request for continued examination entitles you to 2 more reports. Additional requests for continued examination may be required.



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## Allowance or rejection and final action

### If your application is allowed

CIPO sends you a notice of allowance confirming that you will receive a patent and asking you to pay a final fee within 4 months of receipt of this notice.\*

### If your application is conditionally allowed

CIPO sends you a conditional notice of allowance asking that you address the minor defects or provide arguments and pay the final fee within 4 months of receipt of this notice.\*

### If your application is rejected

CIPO sends you a final action report explaining why your application was rejected. You have a final chance to respond and present arguments or propose changes to your application.

### Appealing your rejection

If the examiner is still unsatisfied, CIPO refers your application to the Patent Appeal Board and you can appear before the Board to argue your case. The Board will either recommend that your application be allowed, allowed if amended, or refused by the Commissioner of Patents.

If your application is refused at this stage, you may appeal to the Federal Court of Canada within 6 months. The refusal will be indicated in a Commissioner's Decision which will also specify the applicable 6-month period in which to initiate an appeal to the Federal Court.



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## Grant of patent

After allowance, and upon receipt of your final fee, and if applicable, a response to the conditional notice allowance, CIPO will send you a letter by email or postage advising that your patent has been issued. The letter includes a link to our patent download page and a code for you to download your patent.



If you do not reply to the notice within the indicated time, your application will be deemed abandoned.

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Aussi offert en français sous le titre *Feuille de route de la PI – La marche à suivre pour obtenir votre brevet*.



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