

INDEX

The index entries are referenced to section numbers and subsection numbers in the publication.

ABANDONMENT, 9:23

circumstances, 9:23(a)
good faith reply, 9:23(b)
timely completion of application, 9:23(c)
timely payment of fees, 9:23(f)
timely payment of maintenance feeds,
9:23(d)
timely request for examination, 9:23(e)

ACCOUNT OF PROFITS, 14:5

apportionment, 14:5(f)
condonation, 14:5(i)
expenses, 14:5(e)
indirect profits, 14:5(g)
interest, 14:5(h)
measure of profits, 14:5(c)

- differential cost approach, 14:5(c)(ii)
- differential profits approach,
14:5(c)(iii)
- full cost approach, 14:5(c)(i)

multiple parties, 14:5(b)
proof of the expenses, 14:5(d)

APPLICATION FOR A PATENT, 9

applications filed on or after October 1,
1989

- abandonment, 9:23
 - o circumstances, 9:23(a)
 - o good faith reply, 9:23(b)
 - o timely completion of
application, 9:23(c)
 - o timely payment of fees, 9:23(f)

- o timely payment of maintenance
feeds, 9:23(d)
- o timely request for examination,
9:23(e)

allowance of an application, 9:29
amendments, 9:18

- o after allowance, 9:18(e)
- o application, 9:18(a)
- o include sequence listings,
9:18(c)
- o limitation after rejection,
9:18(d)
- o new matter, 9:18(b)

appeal from decision of commissions, 9:32

- appeal decisions, 9:32(e)
- appeal to federal court, 9:32(a)
- powers of the federal court, 9:32(d)
- procedure on appeals, 9:32(b)
- standard of review, 9:32(c)

appeal to the patent appeal board, 9:28
application, 9:11

- o abstract, 9:11(c)

petition, 9:11(b)
specification, 9:11(d)

- claims, 9:11(d)(2)
- description, 9:11(d)(1)

appointment of patent agents, 9:7

- appointment of representative, 9:8

claim date, 9:13

- applicant, request for priority by,
9:13(g)
- disclosure of subject matter, 9:13(e)
- filing date, 9:13(f)

INDEX

- multiple priorities, effect of, 9:13(h)
 - prior application, 9:13(d)
 - prior Canadian application, 9:13(b)
 - prior convention or Treaty application, 9:13(c)
 - requirements, 9:13(a)
 - completing the application, 9:15
 - conflicting applications, 9:27
 - corrections, 9:19
 - divisional applications, 9:21
 - examination, 9:17
 - accelerated examination, 9:17(b)
 - prosecution of application, 9:17(c)
 - request for examination, 9:17(a)
 - timely response in good faith, 9:17(d)
 - fees, 9:10
 - fees for “small entity” applicants, 9:10(b)
 - o current status, 9:10(b)(3)
 - o legislative correction, 9:10(b)(2)
 - reduced feeds, 9:10(b)(1)
 - o maintenance fees, 9:10(c)
 - filing date, 9:12
 - filing prior art, third party, 9:26
 - good faith, issues of, 9:22
 - grant of a patent, 9:30
 - granting patent, 9:20
 - inventor, application by, 9:4
 - inventor’s legal representative, application by, 9:4
 - joint inventors and applications, 9:6
 - o appeal from decision of commission, 9:6(f)
 - o changing inventors named in patent, 9:6(i)
 - o consequences of misnaming inventors, 9:6(h)
 - effect of refusal, 9:6(a)
 - o joining persons, 9:6(c)
 - joint applicant had no part in invention, 9:6(b)
 - o joint investors, ownership rights of, 9:6(g)
 - power of commissioner, 9:6(d), 9:6(e)
 - o section 31 appeal, 9:6(f)
 - judicial review, 9:33
 - misrepresentation, 9:25
 - postal services interruption relief, 9:34
 - publication of the application, 9:16
 - o confidentiality period, 9:16(a)
 - o secret applications and patents, 9:16(c)
 - o significance of the publication date, 9:16(b)
 - refusal to grant patents, 9:31
 - reinstatement, 9:24
 - requesting priority, 9:14
 - o withdrawal of request, 9:14(b)
 - time, 9:9
 - third party filing, 9:26
 - commission of patents, 9:2
 - communications with the patent office, 9:2(c)
 - manual of patent office practice (MOPOP), 9:2(b)
 - Old Act* applications filed before October 1, 1989, 9:35
 - benefit, 9:36(e)
 - conflicting applications, 9:41
 - conflict exists, 9:41(a)
 - federal court, 9:41(c)
 - patent office, 9:41(b)
 - convention priority, 9:36(a)
 - earliest corresponding foreign application, 9:36(d)
 - examination, 9:39
 - foreign application, 9:36(b)
 - no new matter, 9:40(a)
 - priority date, 9:36
 - significance of, 9:36(f)
 - public inspection, not open to, 9:37
 - same invention, 9:36(c)
 - substances intended for food, 9:38
 - supplementary disclosure, 9:40(b)
 - patent agents, 9:3
 - patent office, 9:2
- BIOTECHNOLOGY, 3:8**
- animals, 3:8(e)
 - higher life forms, 3:8(c)
 - inventions,
 - biochemical, 3:8(a)

INDEX

- biological, 3:8(a)

lower life forms, 3:8(b)
plants, 3:8(f)

CLAIM DATE, 9:13

applicant, request for priority by, 9:13(g)
disclosure of subject matter, 9:13(e)
filing date, 9:13(f)
multiple priorities, effect of, 9:13(h)
prior application, 9:13(d)
prior Canadian application, 9:13(b)
prior convention or Treaty application,
9:13(c)
requirements, 9:13(a)

CONSTRUCTION OF THE PATENT, 8

claims, types of, 8:8

- product by process claims, 8:8(b)
- product claims, 8:8(a)

“Jepson” claims, 8:8(d)
“Markush” claims, 8:8(e)
“Swiss Form” claims, 8:8(c)

consideration, 8:11
experts, role of, 8:10
first duty of court, 8:1
general principles, 8:5

- abstract, 8:5(c)

approach, 8:5(a)

- description, role of, 8:5(b)
- drawings, role of, 8:5(b)
- function of the claims, 8:5(d)

historical developments, 8:4

- Canadian rules, 8:4(c)

U.K. rules, 8:4(b)
rules prior to 1981, 8:4(a)
issue of law, 8:2
issues concerning specification, 8:7

- alternatives, 8:7(d)

dependence claims, 8:7(f)

- antecedent claims, 8:7(f)(i)
- element, included or additional,
8:7(f)(ii)

inventions, single or multiple, 8:7(c)
new result or method, 8:7(b)
new technology, 8:7(i)
numerical limitations, 8:7(h)

- promise of patent, 8:7(a)
- reference numbers, 8:7(e)

reference to another claim, 8:7(g)
prior decision, 8:12
rules of construction, 8:6
claims language, 8:6(o)

- consideration of variants, 8:6(o)(ii)
- determination of essential elements,
8:6(o)(iv)
- essential elements, 8:6(o)(iii)
- purposive construction, 8:6(o)(i)
- U.K. law, 8:6(o)(v)

consider whole claim, 8:6(l)
construed as a whole, 8:6(d)
construed objectively, 8:6(e)
construed to avoid unreasonable result,
8:6(k)
context, 8:6(j)
date of publication, 8:6(a)
disclaimed, 8:6(q)
extrinsic evidence, 8:6(f)
factual matrix, 8:6(c)
interpretation, consistency in, 8:6(n)
interpreted in its context, 8:6(j)
language, interpretation of, 8:6(m)
language of patent specification, 8:6(j)
person of ordinary skill in the art, 8:6(b)

- application, 8:6(b)(v)
- common general knowledge,
8:6(b)(iii)
- expert evidence, 8:6(b)(iv)
- person skilled in art, 8:6(b)(ii)

purposive construction, 8:6(h)
read fairly, 8:6(i)
redraft, should not, 8:6(p)
specification, construction of, 8:7
terms, specific, 8:9

“about”, 8:9(a)
“approximately”, 8:9(a.1)
“comprising”, 8:9(b)
“for”, 8:9(c)

- functional claims, 8:9(d)

“obvious chemical equivalent”, 8:9(e)
“pharmaceutical preparation”, 8:9(f)

- relative terms, 8:9(h)

“treatment”, 8:9(g)
types of claims, 8:8

INDEX

product by process claims, 8:8(b)

- product claims, 8:8(a)

“Jepson” claims, 8:8(d)

- “Markush” claims, 8:8(e)

“Swiss Form” claims, 8:8(c)
written instruments, 8:3

DAMAGES, 14:3

absence of licences, 14:3(f)
alternatives, 14:3(m)
damages from use, 14:3(g)
effect of licences, 14:3(e)
loss due to price reduction, 14:3(i)

- market disruption, 14:3(i)(ii)
- post infringement losses, 14:3(i)(iii)

loss of profit, 14:3(h)
lost sales, 14:3(h)
measure of damages, 14:3(b)
mitigation, 14:3(l)
infringer’s profits, 14:3(c)
plaintiff’s loss, 14:3(c)
reasonable royalty, 14:3(k)
recovery of plaintiff’s damages, 14:3(n)
sales patentee, 14:3(j)

DEDICATION TO THE PUBLIC, 12:6

dedication, 12:6(a)
effect of dedication, 12:6(c)
reasons for dedication, 12:6(b)

DESCRIPTION OF INVENTION, 7:8

clarity, 7:8(g)

- ambiguity, 7:8(g)(i)
- definition of materials, 7:8(g)(iii)
- errors and inaccuracies, 7:8(g)(ii)
- proportions of ingredients, 7:8(g)(iv)

failure to meet disclosure requirements, 7:8(j)
good faith, 7:8(h)
misleading matter, 7:8(i)
nature of the invention, 7:8(b)
necessity for experiments, 7:8(e)
operation and use, 7:8(c)
reference to previous documents, 7:8(f)
standards for disclosure, 7:8(d)

- contemplated by the inventor, 7:8(d)(ii)
- general points, 7:8(d)(i)

DISCLAIMER, 12:2

British authorities, 12:2(f)
certificate of correction, 12:3
correction by the court, 12:4
effect, 12:2(j)
extent, 12:2(g)
form, 12:2(i)
function, 12:2(h)
history,

- Canada, 12:2(c)
- U.K., 12:2(a)
- U.S., 12:2(b)

re-examination 12:5

- advantages, 12:5(h)
- disadvantages, 12:5(h)
- question of patentability, 12:5(d)
- re-examination proceeding, 12:5(e)
- request, 12:5(b)

statutory provisions for disclaimer, 12:2(d)
United States authorities, 12:2(e)

DISCLOSURE

anticipate, 5:12(c)
filing date, 5:16
applicant, 5:16(a)
one year before filing date, 5:16(b)
general considerations, 5:12(a)
infringe, 5:12(c)
patent or publication, 5:15

- claimed subject matter, 5:15(l)

construction, 5:15(e)

- directions, 5:15(l)
- drawing, 5:15(f)
- enabling disclosure, 5:15(m)
- exact prior description, 5:15(k)
- experiments, 5:15(j)

evidence of obviousness, 5:15(q)
language, 5:15(d)
no mosaic of documents, 5:15(c)
oral disclosure, 5:15(g)
paper anticipation, 5:15(p)
photograph, 5:15(f)
prior description, 5:15(a)

- public accessibility, 5:15(b)
- same invention, 5:15(h)
- similarity of language, 5:15(n)

sufficiency of description, 5:15(i)

INDEX

- use unnecessary, 5:15(o)
- person skilled in the art, 5:12(d)
- public, 5:11
 - art cited in the patent, 5:11(b)
- available to the public, 5:11(a)
- enabling disclosure, 5:11(c)
- public use or sale, 5:14
 - accidental use, 5:14(i)
- analogous use, 5:14(c)
 - enabling disclosure, 5:14(d)
 - experimental use, 5:14(g)
 - impractical device, 5:14(e)
 - inoperable device, 5:14(e)
 - method or result, 5:14(h)
- same invention, 5:14(b)
 - secret use, 5:14(f)
- same invention, 5:12(b)
 - without experimentation, 5:12(e)
 - without invention, 5:12(f)
- EXAMINATION, 9:17**
- accelerated examination, 9:17(b)
- prosecution of application, 9:17(c)
- request for examination, 9:17(a)
- timely response in good faith, 9:17(d)
- FILING APPLICATIONS, *OLD ACT*, 9:35**
- benefit, 9:36(e)
- conflicting applications, 9:41
 - conflict exists, 9:41(a)
 - federal court, 9:41(c)
 - patent office, 9:41(b)
- convention priority, 9:36(a)
- earliest corresponding foreign application, 9:36(d)
- examination, 9:39
- foreign application, 9:36(b)
- no new matter, 9:40(a)
- priority date, 9:36
 - significance of, 9:36(f)
- public inspection, not open to, 9:37
- same invention, 9:36(c)
- substances intended for food, 9:38
- supplementary disclosure, 9:40(b)
- INFRINGEMENT, 13**
- assignee, 13:21
- burden of proof, 13:4(c)
- Canada, must occur in, 13:13
- cause of action, 13:24
- construction of patent, 13:6
- constructing, 13:12
- construed infringement, 13:7
 - approach, 13:7(a)
 - combinations, 13:7(c)
 - common law, 13:7(f)
 - intention, 13:7(b)
 - new product, 13:7(e)
 - presumption, 13:7(e)
 - proof of infringement, 13:7(d)
- crown right to use, 13:18
- exclusive right of patentee, 13:4
- expiry, effect of, 13:11(d)
- “Gillette defence”
- historical, 13:2
- inducing infringement, 13:15
 - affiliated companies, 13:15(d)
 - aiding and abetting, 13:15(f)
 - common design, 13:15(e)
 - supplying product, 13:15(b)
 - vicarious liability, 13:15(g)
- infringement by officers and directors, 13:16
- infringing Acts, 13:10
- purposive construction, 13:2(a)
- U.K. law, 13:2(b)
- liability for patent infringement, 13:19
- licensee, 13:22
- making, 13:12
- non-infringement defences, 13:17
 - experimental and developmental, 13:17(a)
 - foreign vehicle entering Canada temporarily, 13:17(e)
 - laches and acquiescence, 13:17(g)
- licence, 13:17(c)
- limitation period, 13:17(f)
 - manufacture, 13:17(b)
 - patent misuse, 13:17(h)
 - use and sale, 13:17(d)
- Old Act* patents, 13:3
- patent term, activity during, 13:11
 - articles acquired prior to filing, 13:11(b)

INDEX

- correction, 13:11(c)(iii)
- dedication, 13:11(c)(v)
- disclaimer, 13:11(c)(ii)
- re-examination, 13:11(c)(iv)

reissue, 13:11(c)(i)
patentee, 13:20
patentee, persons claiming under, 13:23
selling, 13:12, 13:14
statutory grant, 13:9
three aspects of patent infringement,
13:4(b)
using, 13:12, 13:14

INTERNATIONAL PATENT PROTECTION, 10
Canada-European Union, Comprehensive Economic and Trade Agreement (CETA), 10:8
North America Free Trade Agreement (NAFTA), 10:4
Paris convention, 10:2
patent cooperation treaty (PCT), 10:3

- amendment of the claims, 10:3(d)
- international application, 10:3(a)
- international preliminary examination, 10:3(f)
- international publication, 10:3(e)
- international search, 10:3(b)
- national phase entry, 10:3(i), 10:3(j)
- right to practice, 10:3(g)
- third party observations, 10:3(c)
- time limits, 10:3(h)

Patent Law Treaty (PLT), 10:6
Strasbourg Agreement, 10:7
Trade-Related aspects of Intellectual Property Rights (TRIPS), 10:5

- TRIPS and patents, 10:5(a)
- TRIPS disputes, 10:5(b)

INVENTION, 2
accidental discovery, 2:8
date of invention, 2:10
definition in *Patent Act*, 2:3
discovery, 2:7
idea, 2:6
inventor: 2:11

- historical background, 2:11(a)

- under the *Patent Act*, 2:11(b)

inventive ingenuity, 2:4
making an invention, 2:9
patent granted, 2:1

JOINT INVENTORS AND APPLICATIONS, 9:6
appeal from decision of commission, 9:6(f)
changing inventors named in patent, 9:6(i)
consequences of misnaming inventors, 9:6(h)
effect of refusal, 9:6(a)
joining persons, 9:6(c)
joint applicant had no part in invention, 9:6(b)
joint investors, ownership rights of, 9:6(g)
power of commissioner, 9:6(d), 9:6(e)
section 31 appeal, 9:6(f)

NOVELTY, 5
anticipation of novelty, 5:2
common general knowledge, 5:10
consideration of novelty, 5:18

- chemical product, 5:18(c)
- claims made by a particular process, 5:18(d)

combinations, 5:18(a)
confidential communications, 5:18(k)
enantiomers, 5:18(g)
new use, 5:18(e)
novelty in part, 5:18(i)

- process, 5:18(b)

(Continued on page I-7)

INDEX

- product for a new use, 5:18(f)
 - rediscovery, 5:18(j)
 - selection patents, 5:18(h)
 - co-pending patent applications, section 28.2(1)(c),(d), 5:17
 - description in patent or publication, 5:22
 - anticipation under sections 27(1)(b) and 28(2), 5:22(b)
 - printed publication, 5:22(a)
 - development of requirements, 5:3
 - Canadian laws, 5:3(b)
 - U.K. laws, 5:3(a)
 - disclosure, anticipate, 5:12(c)
 - filing date, 5:16
 - applicant, 5:16(a)
 - one year before filing date, 5:16(b)
 - general considerations, 5:12(a)
 - infringe, 5:12(c)
 - patent or publication, 5:15
 - claimed subject matter, 5:15(l)
 - construction, 5:15(e)
 - directions, 5:15(l)
 - drawing, 5:15(f)
 - enabling disclosure, 5:15(m)
 - exact prior description, 5:15(k)
 - experiments, 5:15(j)
 - evidence of obviousness, 5:15(q)
 - language, 5:15(d)
 - no mosaic of documents, 5:15(c)
 - oral disclosure, 5:15(g)
 - paper anticipation, 5:15(p)
 - photograph, 5:15(f)
 - prior description, 5:15(a)
 - public accessibility, 5:15(b)
 - same invention, 5:15(h)
 - similarity of language, 5:15(n)
 - sufficiency of description, 5:15(i)
 - use unnecessary, 5:15(o)
 - person skilled in the art, 5:12(d)
 - public, 5:11
 - o art cited in the patent, 5:11(b)
 - available to the public, 5:11(a)
 - enabling disclosure, 5:11(c)
 - public use or sale, 5:14
 - o accidental use, 5:14(i)
 - analogous use, 5:14(c)
 - o enabling disclosure, 5:14(d)
 - o experimental use, 5:14(g)
 - o impractical device, 5:14(e)
 - o inoperable device, 5:14(e)
 - o method or result, 5:14(h)
 - same invention, 5:14(b)
 - o secret use, 5:14(f)
 - same invention, 5:12(b)
 - without experimentation, 5:12(e)
 - without invention, 5:12(f)
 - enablement, 5:13
 - essential nature, 5:1
 - evidence of novelty, 5:19
 - lack of novelty, 5:2
 - person skilled in the art, 5:9
 - prior foreign grant, section 27(2), 5:24
 - prior to invention, knowledge or use, *Old Act*, 5:21
 - o conflict, 5:21(e)
 - disclosure to public before filing date, 5:21(d)
 - o invention date, 5:21(a)
 - o section 61, 5:21(c)
 - o section 61(3), 5:21(f)
 - public use or sale before filing date, 5:23
 - reference considered individually, 5:6
 - relevant dates, 5:8
 - requirement of novelty, 5:1
 - statutory requirements, current Act, 5:5
 - novelty applications, 5:25
 - Old Act*, 5:20
 - subject matter defined by claim, 5:7
 - test for anticipation, 5:4
- OBVIOUSNESS, 4**
- anticipation, 4:2
 - application of test, 4:21
 - aggregations, 4:21(a)
 - claimed class, 4:21(e)
 - combinations, 4:21(a)
 - composition, 4:21(k)
 - idea, 4:21(i)
 - material, 4:21(j)
 - new use for old product or process, 4:21(f)

INDEX

- omission, 4:21(i)
 - product for a new use, 4:21(g)
 - proportions, 4:21(j)
 - recently disclosed technology, 4:21(d)
 - selection, 4:21(h)
 - shape, 4:21(j)
 - size, 4:21(j)
 - claim, 4:15, 4:16
 - common general knowledge in art, 4:14
 - relevance, 4:14(a)
 - current Act,
 - information disclosed, 4:10(a), 4:10(b)
 - Patent Act*, section 28.3, 4:5(a)
 - prior art, 4:10
 - relevant date for obviousness, 4:8
 - statutory test for obviousness, 4:5
 - determination of, 4:17
 - directly and without difficulty, 4:17(e)
 - factors, 4:18
 - activities of others, 4:18(j)
 - climate in the art, 4:18(g)
 - combination of factors, 4:18(m)
 - commercial success, 4:18(i)
 - effort required to achieve invention, 4:18(d)
 - industry praise, 4:18(k)
 - manner of making the invention, 4:18(c)
 - meritorious awards, 4:18(k)
 - motive to find the solution, 4:18(b)
 - patents, 4:18(l)
 - reception of invention, 4:18(j)
 - simplicity, 4:18(e)
 - utility, 4:18(f)
 - file record, relevance of, 4:19
 - file wrapper, relevance of, 4:19
 - hindsight, caution concerning, 4:17(j)
 - invention, 4:17(c)
 - mechanical skills, 4:17(h)
 - objective test, 4:17(b)
 - obvious to try, 4:17(d)
 - other factors, 4:17(k)
 - question of fact, 4:17(g)
 - relevant date, 4:17(i)
 - test of obviousness, 4:17(f)
 - expert evidence, prior art, 4:12
 - inventive concept, 4:15
 - Canadian law, 4:15(b)
 - current Act, section 28.3, 4:15(e)
 - general principles, 4:15(c)
 - Old Act*, 4:15(d)
 - U.K. law, 4:15(a)
 - issues to consider, 4:11
 - age of the prior art, 4:11(g)
 - cited art, 4:11(c)
 - disclosure, 4:11(a)
 - information outside the field, 4:11(f)
 - locating art, 4:11(j)
 - paper references, 4:11(h)
 - post-art, 4:11(e)
 - prosecution of patent application, 4:11(d)
 - relevance of a diligent search, 4:11(i)
 - relevant art, 4:11(b)
 - non-obviousness, 4:3
 - developing the requirement, 4:3(a)
 - o Canadian law, 4:3(d)
 - o U.K. law, 4:3(b)
 - o U.S. law, 4:3(c)
 - Old Act*
 - constructive date of invention, 4:7(b)
 - date of invention, 4:7
 - filing date, 4:7(b)
 - prior art, 4:9
 - priority date, 4:7(b)
 - proof of actual date of invention, 4:7(a)
 - relevant date for obviousness, 4:7
 - test for obviousness, 4:4(b)
 - overview, 4:1
 - prior art, expert evidence as to, 4:12
 - relevant date for obviousness, 4:7
 - skilled in the art, person, 4:13
 - identify the person, 4:13(a)
 - notional person, 4:13(b)
 - qualities and capabilities, 4:13(c)
 - o expert evidence as to, 4:13(d)
 - state of the art, 4:16
 - subject-matter defined by the claim, 4:6
- PATENT GRANT AND VALIDITY
OF PATENTS, 11**

INDEX

conditions, 11:11
double patenting, 11:10
evidence, relevant, 11:9

- commercial success, 11:9(d)
- proof of patents, 11:9(b)
- record file, 11:9(c)

grant, 11:1
grant subject to adjudication, 11:4
grounds of invalidity, 11:8
invalid claims, 11:7
maintenance feeds, 11:12
marking of patented articles, 11:13

- benefit, 11:13(b)
- Canadian law, 11:13(a)
- false representations, 11:13(d)
- offences for false marking, 11:13(c)

nature of a challenge, 11:6
nature of the grant, 11:2
presumption of validity, 11:5
prior grant, 11:10
term of the grant, 11:3

PATENTS, 1

English law, 1:6

- book of bounty, 1:6(d)
- British patents Acts, 1:6(g)

law courts, 1:6(b)
monopolies, 1:6(a)

- patents, 1:6(a)

governed, 1:5
jurisdiction, limited by, 1:4
monopoly, patent, 1:3
obtaining by application, 1:4
Patent Act, 1:5, 1:7

- history, 1:17
- since 1989, 1:8
- transition provisions, 1:9
- which *Patent Act* applies, 1:9

Patent Rules, 1:10
Patented Medicines (Notice of Compliance) Regulations, 1:11
Statute of Monopolies, 1:12
purpose, 1:2

REISSUE, 12

“accident”, 12:1(k)

application for reissue, 12:1(n)
“deemed”, 12:1(g)
defective, 12:1(h)
effect of reissue, 12:1(o)
error, 12:1(j)
history,

- Canada, 12:1(c)
- U.K., 12:1(a)
- U.S., 12:1(b)

“inadvertence”, 12:1(k)
inoperative, 12:1(h)
invalid patent, 12:1(i)
jurisdiction of commission, 12:1(f)
litigation involving reissued patent,

- infringement, 12:1(p)
- validity of reissue, 12:1(q)

“mistake”, 12:1(k)
no new matter, 12:1(m)
purpose and nature, 12:1(e)
“same invention”, 12:1(l)
statutory provisions, 12:1(d)
valid patent, 12:1(i)

REMEDIES, 14

account of profits, 14:5

- apportionment, 14:5(f)
- condonation, 14:5(i)

expenses, 14:5(e)
indirect profits, 14:5(g)
interest, 14:5(h)

- measure of profits, 14:5(c)
 - o differential cost approach, 14:5(c)(ii)
 - o differential profits approach, 14:5(c)(iii)
 - o full cost approach, 14:5(c)(i)
- multiple plaintiffs, 14:5(b)

proof of the expenses, 14:5(d)
appeals, 14:14
claims of particular parties, 14:1(f)

- licensee, 14:1(f)(ii)
- losses of subsidiary, claim of parent for, 14:1(f)(iii)

patentee, 14:1(f)(i)
compensation for damages, 14:4
compensatory remedies, 14:1(b)
costs, 14:1(e)

INDEX

- currency conversion, 14:8
- damages, 14:3
 - absence of licences, 14:3(f)
 - alternatives, 14:3(m)
- damages from use, 14:3(g)
 - effect of licences, 14:3(e)
 - loss due to price reduction, 14:3(i)
 - o market disruption, 14:3(i)(ii)
 - o post infringement losses, 14:3(i)(iii)
 - loss of profit, 14:3(h)
 - lost sales, 14:3(h)
- measure of damages, 14:3(b)
- mitigation, 14:3(l)
 - infringer's profits, 14:3(c)
 - plaintiff's loss, 14:3(c)
 - reasonable royalty, 14:3(k)
 - recovery of plaintiff's damages, 14:3(n)
- sales patentee, 14:3(j)
- declaration, 14:1(c), 14:12
- destruction on oath, 14:11
- effect of income tax, 14:9
- election of damages, 14:2
 - account of profits compared, 14:2(a)
 - o causation, 14:2(a)(i)
 - o damages, 14:2(a)(ii)
 - choosing the remedy, 14:2(c)
 - discretion of court, 14:2(b)
- exemplary damages, 14:6
- injunction 14:10
- interest, 14:7
 - post-judgment interest, 14:7(b)
 - prejudgment interest, 14:7(a)
- preventive remedies, 14:1(a)
- procedural considerations, 14:13
 - compensation phase, 14:13(b)
- liability judgment, 14:13(a)
- punitive damages, 14:6
- punitive remedies, 14:1(d)
- SPECIFICATION, 7**
- claims, 7:11
 - broader than the invention, 7:11(d)
 - clarity of language, 7:11(b)
 - definition of the ambit of the monopoly, 7:11(c)
 - nature and function of the claims, 7:11(a)
- common general knowledge in the art, 7:5
- description of invention, 7:8
 - clarity, 7:8(g)
 - o ambiguity, 7:8(g)(i)
 - o definition of materials, 7:8(g)(iii)
 - o errors and inaccuracies, 7:8(g)(ii)
 - o proportions of ingredients, 7:8(g)(iv)
- failure to meet disclosure requirements, 7:8(j)
- good faith, 7:8(h)
- misleading matter, 7:8(i)
- nature of the invention, 7:8(b)
 - necessity for experiments, 7:8(e)
- operation and use, 7:8(c)
 - reference to previous documents, 7:8(f)
- standards for disclosure, 7:8(d)
 - o contemplated by the inventor, 7:8(d)(ii)
 - o general points, 7:8(d)(i)
- description requirements in specific situations, 7:9
 - biological material, 7:9(g)
- description of known matter, 7:9(a)
- distinction between old and new matter, 7:9(h)
 - matter necessarily implied, 7:9(b)
 - principle, 7:9(i)
 - selection patents, 7:9(f)
 - size or shape, 7:9(c)
 - sound prediction of utility, 7:9(e)
 - utility, 7:9(d)
- drawings, 7:10
- historical, 7:2
 - development in the U.K., 7:2(a)
 - evolution of Canadian laws, 7:2(b)
- issues, *see* SPECIFICATION ISSUES
- person skilled in the art, 7:4
- relevant date, 7:6

INDEX

statutory provisions, 7:3

SPECIFICATION ISSUES, 8:7

alternatives, 8:7(d)

dependence claims, 8:7(f)

- antecedent claims, 8:7(f)(i)
- element, included or additional, 8:7(f)(ii)

inventions, single or multiple, 8:7(c)

new result or method, 8:7(b)

new technology, 8:7(i)

numerical limitations, 8:7(h)

promise of patent, 8:7(a)

reference numbers, 8:7(e)

reference to another claim, 8:7(g)

SUBJECT-MATTER OF PATENTS, 3

biotechnology, 3:8

- animals, 3:8(e)

higher life forms, 3:8(c)

- inventions,
 - o biochemical, 3:8(a)
 - o biological, 3:8(a)
- lower life forms, 3:8(b)
- plants, 3:8(f)

business methods, 3:11

business plans, 3:11

business systems, 3:11

combinations, 3:5

- aggregation distinguished from combination, 3:5(c)

arrangement of parts, 3:5(f)

common result essential, 3:5(b)

novelty of elements, 3:5(d)

omission and addition, 3:5(e)

computer programs, 3:9

copyright, 3:16

data processing systems, 3:9

definitions, 3:3

- art, 3:3(a)
- composition of matter, 3:3(e)
- machine, 3:3(c)
- manufacture, 3:3(d)
- process, 3:3(b)

development of requirements, 3:2

- Canadian requirements, 3:2(d)
- U.K. requirements, 3:2(b)

- U.S. requirements, 3:2(c)

improvements, 3:13

industrial designs, 3:15

integrated circuit topographies, 3:17

inventions,

- dangerous, 3:20
- ethically questionable, 3:20
- immoral objects, 3:20

mathematical formulas, other, 3:10

patentable subject-matter, 3:1(a)

patentability of claimed subject-matter, 3:1(c)

principles and theorems, 3:4

- knowledge of scientific principle, 3:4(b)
- patentability, 3:4(a)

process, 3:6

- addition, 3:6(c)
- analogous purposes, 3:6(e)
- biological, 3:6(f)
- chemical, 3:6(f)

general statement, 3:6(a)

mental steps, 3:6(g)

methods of medical treatment, 3:6(i)

- methods of surgical treatment, 3:6(i)

new result, 3:6(b)

non-medical treatment, 3:6(j)

old result, 3:6(b)

- omission, 3:6(c)

professional skills, 3:6(h)

variation, 3:6(c)

products and substances, 3:7

- food, 3:7(c)
- medicine, 3:7(c)

non-obviousness, 3:7(b)

- novelty, 3:7(b)
- signals, 3:7(d)
- utility, 3:7(b)

selection, 3:12

statutory provisions, 3:1(b)

trade-marks, 3:18

unpatentable matter, 3:14

UTILITY, 6

as described and claimed, 6:3

as specified, 6:9

INDEX

- claim inutility, 6:14
 - broad class, 6:14(b)
 - not useful products or processes, 6:14(a)
 - omits an essential element, 6:14(c)
 - dangerous result or disadvantages, 6:7
 - evidence as to utility, 6:17
 - commercial success, 6:17(c)
 - infringement, 6:17(b)
 - filing date, 6:13
 - demonstrated utility, 6:13(a)
 - sound prediction of utility, 6:13(b)
 - historical, 6:2
 - immoral objects, 6:8
 - improvement patents, 6:15
 - in part, 6:12
 - promised results, 6:10
 - quantum, 6:6
 - selection patents, 6:16
 - statements of advantages, 6:11
 - to be assessed at filing date, 6:4
- VALIDITY OF PATENTS — *see*
PATENT GRANT AND VALIDITY
OF PATENTS**