

Index

ABANDONMENT (OF APPLICATION)

Generally, § 21:1, § 21:2
Of PCT application, § 5:5, § 21:2
Patent not invalid, § 21:3

ABSTRACT

Not part of the specification,
§ 12:102
Required to be published in English
and French, § 15:8

ABSTRACT THEOREM NOT PATENTABLE

Generally, § 12:120

ABUSE OF PATENT RIGHTS

Generally, § 20:14 to § 20:26
As defence to infringement action,
§ 19:32
Repealed provision re, § 26:44

ACCOUNTING OF PROFITS

See Action for infringement

ACTION FOR INFRINGEMENT

Generally, § 19:1 to § 19:27
Accounting of profits, § 19:29
Appeal, § 19:47, § 19:49, § 19:150
Assignment of patent as affecting,
§ 17:4, § 19:30, § 19:36
Burden of proof in, § 19:35
reverse burden, § 19:52, § 19:53
repealed provision re, § 26:38
Damages, § 19:43
reference into, post-trial, § 19:44
repealed provision re, § 26:37
Defences to
generally, § 19:36
abuse of patent rights, § 19:36

ACTION FOR INFRINGEMENT

—Cont'd

Defences to—Cont'd
accidental or innocent use,
§ 19:19
acquiescence and laches, § 19:36,
§ 19:153
Competition Act, breach of by
plaintiff, § 1:8, § 19:36
experimental use, § 19:146
"Gillette defence," § 12:118,
§ 19:37
inequitable conduct by plaintiff,
§ 19:36
invalidity of patent as, § 19:36,
§ 19:157
licence, defendant's, § 19:36
limitation defence, § 19:51
prior acquisition of invention
(prior user's right),
§ 19:148, § 19:149
repealed provision re, § 26:41
Estoppel, as to issue or cause of
action, § 19:36
Evidence in, § 19:38
Exemptions from infringement,
§ 19:5
Injunction, § 19:46, § 19:150,
§ 19:151
interlocutory, § 19:152
Interest, award of, § 19:45
Interlocutory proceedings in,
§ 19:40
Judgment in, § 19:150
stay of execution of, § 19:47
summary judgment, § 19:39
Jurisdiction of courts, § 19:1,
§ 19:28
stay of duplicative proceedings,
§ 19:28

ACTION FOR INFRINGEMENT

—Cont'd

- Limitation of, § 19:50, § 19:51
- Lovastatin, § 19:138
- Mootness, dismissal of action for, § 19:39
- No action for infringement
 - act committed after period or transfer, § 19:54
 - act committed during period, § 19:54
 - subsequent acquisition, § 19:54
- Omeprazole, § 19:138
- Order of court in, § 19:150
- Parties to, § 19:30
 - defendant in, officer or director of corporation, § 19:31
 - defendants acting in concert, § 19:20, § 19:31
 - mise-en-cause, § 19:33
 - plaintiff in, § 19:30
 - assignment as affecting, § 17:4, § 19:35
 - licensee as, § 19:30
 - “persons claiming under the patentee,” § 19:30
- Presumption, product infringes process, § 19:52, § 19:53
- Question of law, separate trial of issue, § 19:39
- Quia timet action, threatened infringement, § 19:25, § 19:29
- “Reasonable compensation” for pre-grant use of invention, § 19:48
- Remedies
 - generally, § 19:27, § 19:41, § 19:150
 - accounting of profits, § 19:44
 - damages, § 19:43
 - delivery up, § 19:46
 - injunction, § 19:46, § 19:150, § 19:151
 - interlocutory, § 19:152
 - stay of, § 19:47

ACTION FOR INFRINGEMENT

—Cont'd

- Remedies—Cont'd
 - interest, § 19:45
 - TRIPS, effect of on, § 19:42
- Stay of execution, § 19:47
- Third party rights, § 19:54

ADVANTAGE (OF AN INVENTION)

- Normally need not be claimed, § 12:115

- Normally need not be disclosed in the specification, § 2:41, § 12:58

- Selection patent for compound, need to be disclosed in, § 2:29

- Undisclosed, as justifying insufficiency attack, § 12:88

- Unexpected, may justify selection patent, § 2:25

AGENT

- See Patent agent

AGGREGATIONS

- Generally, § 2:16

AMBIGUITY

- Generally, § 12:62, § 12:74, § 12:77, § 12:100

- About, § 12:83

- And insufficiency compared, § 12:74

- Comprising, § 12:82

- Contra proferentem, § 12:78

- Multiple meanings not fatal, § 12:79

- Obvious chemical equivalent, § 12:84

- Obvious error not fatal, § 12:80

- Substantially, § 12:85

AMENDMENT OF PATENT APPLICATION

- Generally, § 14:7

- New matter in, § 14:8

ANTICIPATION

See also Novelty
 See also Overclaiming
 Generally, § 2:34, § 12:116, § 12:138, § 12:139, § 12:155, § 12:164
 Generally, § 12:132, § 12:138
 Acts constituting, § 12:147
 Analysis of requires two-step approach, § 12:155
 Anticipation as clarified in Sanofi, § 12:155
 enabling publication, § 12:155
 further criteria and legal requirement, § 12:157
 “necessarily result,” § 12:155
 overclaiming test, § 12:155
 prior disclosure test, § 12:155
 prior publication, § 12:155
 trial and error, § 12:156
 two-pronged approach to anticipation analysis, § 12:155
 undue burden, § 12:157
 Availability to public, § 12:137, § 12:154, § 12:158
 inherency, § 12:160
 recipe cases, § 12:159
 Burden of proof, § 12:143
 Claim date, § 12:154
 Claims, tested relative to, § 12:134, § 12:154
 Combination, of, § 12:147
 Concept of, contrasted with novelty, § 12:136
 Criteria for, § 12:155
 Dichotomy of anticipation/overclaiming, § 12:139
 Difficult to make out, § 12:144
 Enabling disclosure, § 12:138, § 12:139, § 12:149 to § 12:151, § 12:154, § 12:156
 Evidence of, § 12:144
 Experiments by inventor and others, § 12:161

ANTICIPATION—Cont’d

First to file, § 12:154
 First to invent, § 12:154
 Foreign case law, resort to, § 12:167
 General principles of, § 12:142
 “Infringes if later, anticipates if earlier,” § 12:137, § 12:158, § 12:160, § 12:164
 Inherency of result in following known process, § 12:160
 Introduction, § 12:137
 Negating a finding that patented invention has been made available to the public, § 12:154
 New use of old article, § 2:24, § 12:165
 Obviousness, and, § 12:162
 “Old Act” and “new Act” tests for, § 12:140, § 12:142, § 12:149, § 12:153
 “Paper patents,” § 12:145, § 12:160
 Patent office, § 12:165
 Prior disclosure Generally, § 12:132, § 12:141, § 12:147, § 12:154, § 12:159
 person-skilled-in-the-art test, § 12:150, § 12:152, § 12:156
 practice of must be normal, not contrived, § 12:151
 “that gives me what I wish,” § 12:151
 Prior enabling public disclosure, § 12:138
 Prior publication, § 12:150
 evidence of date of, § 12:149, § 12:161
 mosaic of documents not permitted, § 12:150, § 12:152
 need not have been read by anyone, § 12:154
 one disclosure may be enough, § 12:153
 purposive construction applies to, § 12:148

ANTICIPATION—Cont'd

Prior public use, **§ 12:138, § 12:151, § 12:161**
by user unknowing that the invention is being used, **§ 12:138, § 12:157**
experimental, **§ 12:161**
Prior sale, **§ 12:161**
Process-dependent product claims, of, **§ 12:165**
Question of fact or mixed question of law and fact, **§ 12:142**
Reasonable man test, **§ 12:154**
“Recipe” cases, **§ 12:159**
“Reeves Brothers test,” **§ 12:149**
Repealed provisions re, **§ 26:12, § 26:16 § 26:42**
Selection patent criteria, **§ 12:153**
Selection patents, of, **§ 12:166**
Swiss-style claims may avoid, **§ 12:154, § 12:160**
Tests for, **§ 12:148**

APPEAL

Commissioner, from, procedure, **§ 8:1 to § 8:3**
Commissioner, from, refusal to grant patent, **§ 15:3**
intervention in, **§ 8:3**
standard of review of Commissioner's decision, **§ 1:7, § 8:3**
Commissioner's decision or order in compulsory licence cases, from, **§ 9:5, § 20:26**
Impeachment action, from trial judgment, **§ 20:11**
Infringement action, from trial judgment, **§ 19:49**
duty of appellate tribunal in reviewing trial decision and testimony in, **§ 19:49**
order in, **§ 19:150**
Standard of review in, s. 55.2 cases, **§ 1:7, § 19.90**

APPLICANT, FOR PATENT

Generally, **§ 2:3**
Defined, **§ 2:1, § 2:2**
Joint, **§ 12:370**
Non-resident, **§ 12:369**

APPLICATION FOR PATENT

See Patent application

ART

Generally, **§ 2:12**

ASSIGNMENT

Of patent or application for patent, **§ 17:1, § 17:3, § 17:5**
action for infringement as affecting, **§ 17:4**
bona fide purchaser, **§ 17:4**
priority of rights as between competing assignees, **§ 17:5, § 17:6**
foreign patent rights, **§ 17:6**
provincial law applicable to, **§ 17:2**

Registration of, **APPA § A:59, § 17:4**

Repealed provisions re, **§ 26:36**
Right to sue when patent assigned, **§ 17:4**

Void against subsequent assignee unless registered, **§ 17:5**

ASSISTANT COMMISSIONER OF PATENTS

Generally, **§ 4:4**

ATOMIC ENERGY, INVENTIONS RE

See Nuclear energy, patents relating to
Generally, **§ 11:1**

ATOMIC ENERGY CONTROL ACT (RENAMED NUCLEAR ENERGY ACT)

Generally, **§ 26:9**

BEST MODE

See Disclosure, **§ 12:56 to § 12:89**

BIOTECHNOLOGICAL SUBJECT-MATTER

- Generally, § 2:20
- Adequate disclosure of, § 12:88, § 14:5, § 14:6
- regulations re
 - see Rules 103, 159 and 183
 - sequence listings
 - see Rule 111
- Deposit of biological material, § 14:5

BURDEN OF PROOF

- Of infringement, § 19:35
 - of patent for process for making a new product, § 19:52, § 19:53
- Of invalidity, § 15:7, § 15:9

BUSINESS METHODS, PATENTABILITY OF

- Generally, § 2:17

CAVEAT (REPEALED)

- Generally, § 26:46

CERTIFICATE OF CORRECTION OF CLERICAL ERROR

- Generally, § 4:8
- Standard of review of Commissioner's decision, § 1:7, § 4:9

CERTIFIED COPY OF PATENT

- Generally, § 4:14

CHEMICAL AND PHARMACEUTICAL INVENTIONS, CLAIMS FOR

- Generally, § 12:116, § 12:117, § 26:26

CLAIM, CLAIMS

- See also Specification
- Generally, § 12:90 to § 12:118
 - benevolent, § 12:98
 - comes first, § 12:92

CLAIM, CLAIMS—Cont'd

- Generally, § 12:90 to § 12:118
 - Cont'd
 - comparison with other claims, § 12:98
 - file histories permitted, uses of, § 12:109
 - construing claims, § 12:94
 - contra proferentem doctrine, § 12:97, § 12:99
 - ictionaries, use of, § 12:97
 - disclosure (description, specification) as aid to, § 12:105
 - duty of, in infringement action, § 19:2
 - equivalents
 - doctrine of, see also Infringement of patent, Purposive construction, § 19:9
 - non-essential limitations, of, § 12:102
 - “reverse equivalence,” § 19:15
 - essential to see where the shoe pinches, § 12:93
 - extrinsic evidence in aid of, § 12:107
 - fencing of invention, § 12:95
 - file history as aid to, § 12:107
 - foreign patent, comparison of claims with, § 12:109
 - Interpretation Act, applicability of, § 1:5, § 12:52
 - inventor's intention, evidence of inadmissible, § 12:48, § 12:102
 - “Markman hearing,” § 12:39
 - meaning clear, if, § 12:105
 - prior art, relative to, § 12:38
 - purposive, § 12:102
 - essential elements, determining, § 12:102
 - variants, substitution of, § 12:102
 - re-examination proceedings, in, § 12:96

CLAIM, CLAIMS—Cont'd

Generally, § 12:90 to § 12:118

—Cont'd

rules of, § 12:90

Advantage, need to claim, § 12:113, § 12:115

Alternatives treated separately, § 12:112, § 12:119

multiply dependent claims, § 12:120

Ambiguity of, § 12:62, § 12:74, § 12:77, § 12:100

Apparatus, § 12:114

Breadth of, § 12:115, § 12:116

Chemical and pharmaceutical inventions, for, § 12:116, § 12:117, § 26:26

Composition of matter, § 2:13

Conjunctive and disjunctive limitations in, § 19:8

Context, as limiting, § 12:116

Date of

see Claim date

Dependent, meaning separate from but consistent with meaning of claim from which it depends, § 12:106

Desired result, not permitted to claim, § 12:116, § 12:164

Differentiation between claims, two claims must not mean the same thing, § 12:106

Disclosure, § 2:29, § 2:32, § 2:46

Disclosure, support by and conformity with, § 12:115
“fairly based,” § 12:115

Distinguish old matter from new, need not, § 12:110

Environmental elements in, § 12:115

Errors of wording in, § 12:80

Essential element of determination of what is, § 12:102
need to include, § 2:36, § 12:115
substitutability of, § 12:102

CLAIM, CLAIMS—Cont'd

Essential element of—Cont'd
variants of, affecting the working of the invention, § 12:102

“Fairly based” on disclosure, § 12:115

File history, use of in construction of claims, § 12:108, § 12:109, § 15:6, § 15:9

Indefinite terms in, § 12:80

Invalidity of some, does not imply entire patent invalid, § 19:155

Jepson claims, § 12:110

Markush claims, § 2:41, § 12:112, § 12:119

Overclaiming

see Overclaiming

Person skilled in the art, § 12:37, § 12:40

Preamble of, in construing, § 12:101, § 12:110

Product claims, § 12:113
process-dependent, § 12:113, § 12:165

selection patent, in, § 12:113

Purpose of, § 12:29

Pyramid or hierarchical claims, § 12:116

Ranges of variables, for, § 12:80, § 12:81

Redundant, as basis for invalidity attack, § 12:106

Scope

family of claims having varying, § 12:116

limitation of, by wording of description, § 12:104, § 12:116

Selection patent, in, § 12:113

Statutory basis for, § 12:1

Style of, § 12:98, § 12:110

Support for in disclosure (description), § 12:115

Swiss-style, § 12:111, § 12:165

Unusual meaning of word in, § 12:105

CLAIM, CLAIMS—Cont'd

- Utility of claimed subject-matter,
§ 12:81, § 12:112
- Words in, § 12:52, § 12:81

CLAIM DATE

- Generally, § 2:112
- Anticipation tested relative to,
§ 12:132, § 12:133
- Defined, § 12:45, § 12:129

CLERICAL ERRORS

- Correction of, § 23:16
- In claims, § 12:80
- Standard of review of Commissioner's decision, § 1:7, § 4:9

COMBINATIONS

- Generally, § 2:16

COMMERCIAL SUCCESS, OBVIOUSNESS AND

- Generally, § 12:221

COMMISSIONER OF PATENTS

- Abuse of patent rights, jurisdiction over, § 20:14
- Action against, for refusal of patent, § 15:4
- Action against, re processing of patent application, § 8:3, § 15:2
- Annual report of, § 11:6, § 11:7
- Appeal from decision of, § 8:1, § 8:2, § 9:5, § 15:3
- standard of review of Commissioner's decision, § 8:3
- Appointment, powers and duties, § 4:2
- Assistant Commissioner, § 4:4
- Compensation for infringement, § 9:10
- Compulsory licence, power to grant, § 20:16
- appeal from decision or order, § 20:26
- repealed provisions re, § 26:45
- Costs, in court proceedings, § 11:5

COMMISSIONER OF PATENTS

- Cont'd
- Defence contracts, setting patents use, § 9:2
- Discretion permitted, § 15:2
- Duties, remedy if failure to perform, § 4:3
- Government use of patents, order for, § 9:1
- Commissioner's exercise of jurisdiction
- appeal from, § 9:5
- prerequisites for, § 9:3
- Judicial review of decision of, § 15:6
- Mandamus against, § 4:3
- Public servants' defence-related inventions
- fixing compensation for, § 9:10
- Refusal of patent application by, § 15:2, § 15:4
- appeal from, § 15:3
- Reports of, § 11:6, § 11:7
- Seal of, § 6:1

COMMON GENERAL KNOWLEDGE

- Generally, § 12:44, § 12:188

COMPENSATION

- Defence-related patents and inventions, § 9:10
- Fixed by Commissioner
- see Commissioner of Patents
- Pre-grant use of patented invention, for, § 19:48

COMPETITION LAW, APPLICABILITY TO PATENTS-RELATED ACTS

- Generally, § 1:8
- Competition Act excerpt relating to patents, § 1:8

COMPLETION OF PATENT APPLICATION

- Generally, APP B § B:28

COMPOSITION OF MATTER

Generally, § 2:13
Claims to, coexisting with compound claims, § 2:24
Commissioner may require specimen of, § 14:3

COMPULSORY LICENCE

Appeal from decision or order, § 20:26
semiconductor technology, § 9:3, § 9:4

Export of pharmaceutical products to developing countries, for, § 10:1

General, § 20:14
application for, requirements of, § 20:21

procedure, § 20:21

Pharmaceutical patents, for (repealed), § 14:10, § 26:26
continuation of previously granted licences, § 23:2

Public health in developing countries, to promote, § 10:1

COMPUTER PROGRAMS, PATENTABILITY OF

Generally, § 2:18

CONFIDENTIALITY PERIOD FOR PATENT APPLICATIONS

Generally, § 4:15

CONFLICT

Generally, § 22:3
Proceedings “should have been directed,” § 26:42
Repealed provisions re, § 26:28, § 26:42
cases subsequent to repeal, § 26:30

Transitional provisions re, § 22:6, § 22:18

CONSISTORY CLAUSE IN SPECIFICATION, UNNECESSARY

Generally, § 12:118, § 26:20

CONSTRUCTION

Of claims
see Claim, claims
Of specification
see Specification

CONTRA PROFERENTEM DOCTRINE, AS APPLICABLE TO CONSTRUCTION

Generally, § 12:97, § 12:99

CONVENTION, PARIS

See also Priority, Treaties
Generally, § 12:129, § 12:130, § 12:366, § 12:368
Compliance of Canadian law with, § 12:368
Improper claim to priority under, § 18:3

COSTS

Commissioner’s, in court proceedings, § 11:5
Security for, in impeachment action, § 20:1, § 20:7

COURTS HAVING PATENT JURISDICTION

Generally, § 1:2

CRIMINAL OFFENCES

Generally, § 21:5

CROWN CORPORATION, USE OF PATENT BY

Generally, § 9:1, § 9:2

DAMAGES

See Action for Infringement;

DATE

Anticipation, for testing as of claim date, § 12:125, § 12:133
Assessing utility, § 2:37, § 2:38, § 2:51
Claim, of
see Claim date

DATE—Cont'd

- Construction of specification, of, **§ 12:45**
- Filing, of
 - see Filing date
- Invention, of, **§ 12:175**
- Obviousness, for testing, **§ 12:169, § 12:173**

DEDICATION TO PUBLIC OF PATENT

- Generally, **§ 12:19, § 16:7, § 23:9**

DEFENCE (I.E., FOR MILITARY PURPOSES)

- Foreign government
 - agreement with re defence-related invention, **§ 9:11**
- Inventions re, ownership and use of, **§ 9:10**
- Patents for national defence, **§ 9:1, § 9:10**
- Defence Production Act, **§ 9:2**

DEFENCES, TO ACTION FOR INFRINGEMENT

- See Action for infringement

DEPOSIT OF BIOLOGICAL MATERIAL

- Generally, **§ 14:5, § 14:6**

DESCRIPTION

- See Disclosure

DIES NON

- Generally, **§ 21:13**

DISCLAIMER

- Generally, **§ 16:1**
- Commissioner may not refuse, **§ 16:4**
- Court, review of by, **§ 16:4**
- Dedication to public, as alternative to, **§ 16:7**
- Good faith required of applicant for, **§ 16:4**
- Parts of claims may be disclaimed, **§ 16:3**

DISCLAIMER—Cont'd

- Patentee may not resile from, **§ 16:3**
- Pending action, as affecting, **§ 16:5**
- Repealed provision, **§ 26:34**
- Validity of, **§ 16:4**

DISCLOSURE

- See also Insufficiency
- See also Specification
- Advantages of invention, no need to disclose, **§ 12:58**
- Best mode, **§ 12:56 to § 12:89**
- Biotechnological subject-matter, of, **§ 12:67, § 12:88**
 - deposit of biological material, **§ 14:5, § 14:6**
- Computer software to implement invention, program listing not required, **§ 12:67**
- Consistory clause in, **§ 12:118, § 26:20**
- Construction of, **§ 12:48**
- Content of, required, **§ 12:1**
- Deposit of biological material, **§ 14:5, § 14:6**
- Duty of, on applicant, **§ 12:20**
 - assessed relative to claim(s) in issue, **§ 12:57**
- Erroneous statements in, **§ 12:80**
- Insufficiency of
 - see also insufficiency
 - generally, **12:61**
- Novelty of invention, no need for, but see also Selection Patents, **§ 12:58**
- Prior art, distinctions over, no need for, **§ 12:58**
- Purpose of, **§ 12:10**
- Selection patents, extent of required in, **§ 12:72, § 12:88**
- Sound prediction, of, **§ 12:70**
- Statutory requirement for, **§ 12:1**
- Trials or experiments required to interpret, **§ 12:66**
- Unintelligible, renders patent invalid, **§ 12:76**

DISCLOSURE—Cont'd

Utility of invention, of, § 2:34,
§ 12:59
Variants and improvements, § 12:73

**DISCONFORMITY ATTACK ON
VALIDITY**

Generally, § 14:8, § 20:6

DISCOVERY

Generally, § 2:10
Accidental, is not a bar to patentability, § 12:204
Invention, distinguished from, § 2:10

**DIVISION (OF PATENT
APPLICATION)**

Generally, § 13:9, § 13:10
Prosecution is procedural not substantive, § 13:10

**DIVISIONAL PATENT
APPLICATION**

See also Double Patenting
Generally, § 13:9
Must claim inventively relative to parent, § 13:10
Overlapping claims in, § 13:10

DOCUMENTS

Electronic filing of, in Patent Office, § 4:10, § 4:11
Electronic recordal of, in Patent Office, § 4:12, § 4:13
Public inspection of, in Patent Office, § 4:15, § 4:16

DOUBLE PATENTING

Generally, § 12:6, § 12:18
Coterminous ("same invention") and obviousness bases for, § 12:13, § 12:15
Dedication to avoid, § 12:20
Dedication to public may not avoid, § 12:19, § 16:7

DOUBLE PATENTING—Cont'd

Division directed by Patent Office does not generate, § 12:12
does not necessarily avoid, § 12:11, § 12:20, § 16:7
Divisional applications, § 12:12
Obviousness-type, § 12:7, § 12:22
On the claims, focus, § 12:16
Patent Office treatment of, § 12:24
Reissue may cure, § 15:17
Repealed provision affecting, § 26:42
Same-type, § 12:7
Single invention or composite generic invention, § 12:20
Take-away points, § 12:23

DRAWINGS

Addition to patent application, § 12:128
As aid to construe specification, § 12:53, § 14:2
Patent application, § 12:1, § 12:53
Requirement for, in patent application, § 14:1

EFFICACY

Generally, § 2:45

**ELECTRONIC FILING,
RECORDAL OF
DOCUMENTS IN PATENT
OFFICE**

Generally, § 4:10 to § 4:13

**ERROR, MATERIAL IN
PETITION**

Generally, § 18:1, § 18:2
As to inventorship, effect of on validity of patent, § 12:371, § 18:3
correction of inventorship or ownership in patent, § 17:8

ERRORS, CLERICAL

Correction of, § 23:16
In claims, § 12:80

ESSENTIAL ELEMENT	EXPERT—Cont'd
Omission of in claim, invalidates for overclaiming, § 2:36, § 12:115	Ultimate issue, evidence re, § 12:38
ESTOPPEL, AS TO ISSUE OR CAUSE OF ACTION	FALSE MARKING OR REPRESENTATION
Generally, § 19:36	Generally, § 21:5, § 21:7
ETHICS, OBLIGATIONS OF APPLICANT AND PATENT AGENT	FALSE PROMISE
Generally, § 4:9, § 12:56	Generally, 19:114
"EVERGREENING"	FEDERAL COURT
Generally, § 12:15, § 12:19	Appeals from Commissioner, § 8:1, § 8:2
EVIDENCE	FEDERAL GOVERNMENT
Expert	See Government
see Expert	
Patent in court proceedings, of, § 6:2	FEES
	Patent, maintenance of, § 15:14
EXAMINATION OF PATENT APPLICATION	Patent application
Generally, § 13:8	filing of, § 12:1, § 12:125
Duty of applicant, § 13:8	late payment of, § 12:127
final action, § 13:8, § 15:4	maintenance of, § 12:123
Judicial interference with, § 13:8	reinstatement of abandoned, § 12:9, § 21:1, § 21:2
Process of examination, § 13:8	Remedying improper payment of, § 22:19
Prosecution	
see Prosecution (of application)	
Re-examination	FILE HISTORY
see Re-examination of patent	As evidence for other purposes, § 12:109
Role of Manual of Patent Office Practice (MOPOP), § 13:8	As pertinent to presumption of validity, § 15:9
	Construing claims, use of for, § 12:107, § 13:3
EXAMINERS	FILING
Appointment of, § 4:5	Of documents in Patent Office, electronic, § 23:16
EXHAUSTION OF PATENT RIGHTS	Of patent application, requirements for, § 12:1
Generally, § 19:24	withdrawal of patent application, § 12:132
EXPERT	FILING DATE (OF PATENT APPLICATION)
Evidence of, to construe specification, § 12:37	Generally, § 2:1, § 12:126
Patent agent as, for construing claims, § 12:38	Retroactive granting of earlier, § 12:127

FILING DATE (OF PATENT APPLICATION)—Cont'd	GOVERNMENT
Transitional provisions, § 22:1	Commissioner's jurisdiction to order use of patented invention by, § 9:1
outstanding documents and information, § 12:127	appeal from, § 9:5 prerequisites for, § 9:3
FIRST TO FILE	Contractor to, use of patents by, § 9:2
Generally, § 12:133	Crown corporation, use by, § 9:2
FOREIGN GOVERNMENT	Defence purposes, use of patents for see Defence
Agreement re defence-related invention, § 9:11	Foreign, agreement re defence-related invention, § 9:11
FORFEITURE	Ownership of patents, § 9:10
Generally, § 21:2, § 26:47	Patent Act binds federal and provincial, § 3:1, § 3:2
FRAUD ON PATENT OFFICE	Use of patents by, § 9:1, § 9:2 repealed provision, § 26:8
Generally, § 18:1, § 18:2	
GATT (GENERAL AGREEMENT ON TARIFFS AND TRADE)	GRACE PERIOD
Generally, § 1:5, § 9:4	Generally, § 12:132, § 12:168
GENUS, SPECIES, ESPECIALLY IN CHEMICAL/PHARMACEUTICAL CASES	GRANT OF PATENT(S)
Generally, § 2:25, § 12:5, § 12:8, § 12:21	Generally, § 15:5, § 15:7 Annual report re, § 11:7 Appealable final decision, is, § 15:6 Conclusive as to compliance with the Act and Rules, § 14:8, § 15:6
“GILLETTE DEFENCE”	Exclusive right, § 15:6 Issuance distinguished, § 15:8 Issue date and formalities, § 15:8
Generally, § 12:117, § 19:37, § 19:39	Policy underlying, § 1:4 Presumption of validity, § 15:9 Repealed provisions, re, § 26:32 Royal prerogative, formerly, § 9:2 “Use,” meaning of in s. 42, § 15:6
GOOD FAITH	
Duty of disclosure invention, of, § 12:56 prior art, of, § 13:8	
Required Generally of applicant, § 12:31, § 12:56, § 12:75	
Response to Examiner, must be made in, § 18:3, § 21:1	
Specification construed to protect what was invented in, § 12:51, § 15:6	HEALTH, PUBLIC See Compulsory Licence
Specification contrived to permit varying interpretations, § 12:75, § 12:87	
	HISTORY
	Patent Act, of, § 1:4 Requirements of specification and claims, of, § 12:29

HOLIDAYS

Generally, § 21:13

HUMANITARIAN PURPOSES, USE OF PATENTS FOR

Generally, § 10:1

IMPEACHMENT OF PATENT

Generally, § 20:1

Anticipation, on basis of, repealed provisions re, § 26:14, § 26:42

Grounds for, § 20:5

Interested person may bring action for, § 20:3

Mootness, dismissal of action, § 20:2

Obligation to impeach, repealed provisions re, § 26:42

Re-examination does not foreclose, § 20:2

Reissue, action re parent must include, § 15:17

Security for costs in action for, § 20:7

IMPROVEMENT

Generally, § 13:1

Infringement not avoided by, § 13:2, § 19:16

Invention need not be, § 2:11, § 2:34

INDEPENDENT CONTRACTOR

Infringement by, § 19:32

With government, acquires no right to infringe patent, § 9:2

With licensee, acquires no right to infringe patent, § 17:4

INFRINGEMENT OF PATENT

Accidental, § 11:3

Action for

see Action for infringement

Advantage of the invention, taking constitutes, § 19:2, § 19:3

Aircraft temporarily in Canada, by, § 11:3

INFRINGEMENT OF PATENT

—Cont'd

Article acquired, manufactured before filing of application, post-grant sale of is not, § 19:148

Article acquired from patentee, resale of is not, § 19:24

Biotech patent, of, § 19:36

Burden of proof of, § 19:35 of patent for process for making a new product, § 19:52, § 19:53

Business interest, use of invention by defendant to advance constitutes, § 19:2

Claims, see also Claim, claims, construction of conjunctive and disjunctive phrases in, § 19:8

construction is antecedent to determination of, § 19:2

differences between as affecting, § 19:9

essential and non-essential elements of, § 19:11

limitation of scope to recited elements, § 19:13, § 19:16

purposive construction of, § 19:3, § 19:7

Combination, sale of elements of is not, § 19:6, § 19:20

kit of parts infringes, § 19:21

Commercial embodiment, comparing, § 19:7, § 19:16

Compensation for, before grant, § 19:48

Conflict-of-laws principles applicable, § 19:6

Construction of claims, duty of court to perform, § 19:2

Contributory, § 19:20

Damages for

see Action for Infringement

Defence-related patent, or, § 9:10

INFRINGEMENT OF PATENT

—Cont’d

Defences to
 see Action for infringement
Defendants acting in concert,
 § 19:20, § 19:31
Defendant’s article, analysis of,
 § 19:16
Defendant’s intention irrelevant,
 § 19:19
Defined, § 19:2
Doctrine of equivalents
 defined, § 19:14
 equivalents, by, § 19:9, § 19:14
 reverse equivalence, § 19:15
 rules applicable to, § 19:9
Drug patents
 see Patented Medicines (Notice
 of Compliance) Regulations
 (PMNOC Regulations)
Essential elements of valid claim,
 taking of, § 19:8, § 19:11
Evidence of foreign counterpart
 lawsuit, § 19:38
Exemptions from, § 19:5, § 19:57
General, § 19:2
Government, by
 see Government
Importation of product of process,
 § 19:22
Importation of product satisfying
 claims of patent, § 19:21
Improvement by infringer does not
 avoid, § 13:1, § 13:2, § 19:16
Improver tests, the, § 12:103
Independent contractor, by, § 9:2,
 § 17:4, § 19:32
Inducing or procuring, § 19:20
Inessential element of claim, variant
 or omission of, § 19:11
Inferiority of impugned article does
 not avoid, § 19:16
Intention of defendant irrelevant to,
 § 19:19

INFRINGEMENT OF PATENT

—Cont’d

Intermediate, use or sale of may
 constitute, § 19:22, § 19:96
Inventor’s view of what was
 invented irrelevant to, § 19:12
Kit of parts, by, § 19:21
Limitation of action for, § 19:50,
 § 19:51
Mechanical equivalents
 see equivalents
Mixed question of law and fact,
 § 19:2, § 19:8
New principle, patent for, § 19:8
New product, presumption re pro-
 cess, § 19:52, § 19:53
Offer to sell, § 19:23
Patent granted to infringer does not
 avoid, § 13:1, § 19:9
Pecuniary benefit to infringer not
 required, § 19:23
Pharmaceutical patents
 see Notice of Compliance
 Regulations
Pioneer patent, § 19:9
“Pith and marrow,” see also
 equivalents, § 19:9
Place of, § 19:6
Prior user of invention, by, § 19:148
Process claim, sale of product of
 infringes, § 19:22, § 19:52,
 § 19:53
 presumption re, § 19:53
Purposeful construction and, § 19:7,
 § 19:9, § 19:10
Question of law and fact, § 19:2
Remedies for
 see Action for Infringement
Repair and reconstruction, § 19:21
Resale of article purchased from
 patentee is not, § 19:24
Reverse equivalence, § 19:15
Sale of article FOB foreign country
 is not, § 19:6
Secret patent, of, § 9:10

INFRINGEMENT OF PATENT**—Cont'd**

- Ship or vessel temporarily in Canada, by, **§ 11:3**
- Spare parts, sale of for installation in patented article, **§ 19:21**
- Statutory tort, a species of, **§ 19:2**
- Subsidiary, by, does not make parent liable, **§ 19:32**
- Substance of invention, taking of, **§ 19:9**
- Temporary vehicle or vessel in Canada, by, **§ 11:3**
- Territorial ambit of, **§ 19:6**
- Testing required to determine, **§ 12:67, § 12:103, § 19:8**
- Textual, **§ 19:2**
- Threat of, as justifying *qua timet* action, **§ 19:25, § 19:29**
- Use, by, **§ 19:17**
 - as an intermediate, **§ 19:18**
- Variant of claimed element as affecting, **§ 19:12**
- Vehicle temporarily in Canada, by, **§ 11:3**
- Vicarious liability for, **§ 19:32**

INJUNCTION

- See Action for Infringement

INOPERABLE SPECIES

- Generally, **§ 2:36**

**INSPECTION OF DOCUMENTS
IN PATENT OFFICE**

- Generally, **§ 4:15, § 4:16**

**INSUFFICIENCY (OF
DISCLOSURE)**

- Generally, **§ 12:61**

Ambiguity and, **§ 12:74**

Biotechnological subject-matter, of, **§ 12:67, § 12:88**

Claim by claim, **§ 12:64**

Computer software to implement invention, program listing not required for sufficient

**INSUFFICIENCY (OF
DISCLOSURE)****—Cont'd**

specification, **§ 12:67**

Data to support invention, insufficiency of, distinguished, **§ 12:72**

Date for determination, **§ 12:63**

Erroneous statements in disclosure, **§ 12:80**

Experiments, trials required by reader of specification, **§ 12:66, § 12:86**

General knowledge, inferred, **§ 12:65**

How it works not why it works, **§ 12:68**

Test for sufficiency, **§ 12:62**

Undisclosed advantage or activity, as supporting, **§ 12:88**

What is the invention?, **§ 12:62**

**INTELLECTUAL PROPERTY,
PATENT A SPECIES OF**

Generally, **§ 1:4**

Coexistence of patents with other species thereof, **§ 1:4**

**INTERESTED PERSON, IN
IMPEACHMENT ACTION**

Generally, **§ 20:3**

**INTERNATIONAL
HUMANITARIAN
PURPOSES, USE OF
PATENTS FOR**

Generally, **§ 10:1**

INTERPRETATION

Of claims

see Claim, claims, construction of

Of NOC Regulations, **§ 19:84**

Of Patent Act Generally, **§ 1:5**

- with reference to foreign law, **§ 1:5**

with reference to treaties, **§ 1:5**

Of regulations under the Act, **§ 5:2**

INTERPRETATION—Cont'd

Of specification
see Specification

**INTERPRETATION ACT,
APPLIES TO THE PATENT
ACT AND TO PATENT
SPECIFICATIONS**

Generally, § 1:5, § 12:52

INVALIDITY

Burden of proof of, § 15:7, § 15:9
Claims, of some, does not imply
entire patent invalid, § 19:155

Declaration of, by court, § 20:1,
§ 20:2
certificate of, § 20:9, § 20:10
within jurisdiction of provincial
courts, § 20:2

Defence to infringement action,
§ 19:157

Grounds for finding of, § 20:5
failure to meet selection patent
criteria, not, § 2:25
technical attacks given little
weight, § 20:5

Holistic approach to analysis of,
§ 1:2, § 20:5

In rem and inter partes finding
distinguished, § 19:158

INVENTION

See also Obviousness

Abstract theorem is not, § 12:120

Acquisition of before filing of
someone else's patent applica-
tion, § 19:148

Art, § 2:12

Complete, must be, with adequate
testing, § 2:6

Compound and composition,
§ 12:9, § 12:111, § 12:115,
§ 12:117

composition of matter, a species
of invention, § 2:13

Conception, and, § 2:4, § 2:6

Date of, § 12:175

INVENTION—Cont'd

Discovery distinguished, § 2:10
Genus/species description/claiming
issues, § 12:8, § 12:21,
§ 12:72, § 12:112, § 12:116,
§ 12:119

Inventive concept, inventive step
see Obviousness

Laws of physics, must not violate,
§ 14:4

Manufacture, a species of invention,
§ 2:13

Meanings, different, § 12:119

New use of old article or product,
§ 2:24

Patentable, § 2:16

"Same," § 4:17, § 12:13 to
§ 12:15, § 12:21, § 15:16,
§ 15:17, § 16:6, § 22:6,
§ 26:16

Scintilla of, sufficient to support
patent, § 12:205

Separate single or composite
generic, § 12:20, § 12:73

Speculative

see Sound prediction

Unity of, § 12:5, § 13:10

Verification and testing do not con-
stitute, § 2:7, § 2:30

What constitutes, different in differ-
ent circumstances, § 12:119

INVENTIVE CONCEPT

See Obviousness, inventive concept

INVENTIVE STEP

See Obviousness, inventive step

INVENTOR, INVENTORSHIP

Generaly, § 12:26

Combination invention, of, § 2:16

Correction of, in patent, § 2:4

Defined, who qualifies as, what acts
qualify as invention, § 2:4,
§ 2:13

Employee, § 17:8

INVENTOR, INVENTORSHIP**—Cont'd**

- Erroneous naming of, effect on validity, **§ 12:26, § 12:371, § 18:3**
- Joint, joint application, **§ 12:370, § 12:371**

ISSUE OF PATENTS

See Grant of patent(s)

JEAN CHRETIEN PLEDGE TO AFRICA

Generally, **§ 10:2**

JOINT APPLICATION FOR PATENT

Generally, **§ 12:370**

JUDGMENT

Action for infringement, in, **§ 19:150**

stay of, **§ 19:47**

Appeal from
see Appeal

Default judgment, motion for, **§ 19:39**

Registration of, in Patent Office, **§ 20:9**

Stay of execution of, **§ 19:47**

Summary judgment, **§ 19:39**

JUDICIAL REVIEW

Generally, **§ 1:7**

Commissioner's decision, of, **§ 15:9**

competitor lacks standing to bring, re grant, **§ 15:6**

Minister's decision re patent register, of, **§ 19:90**

JURISDICTION

Impeachment, action for, **§ 20:1**

Infringement, action for, **§ 19:1, § 19:28**

Of Federal Court, **§ 17:7, § 19:1**

Commissioner's decisions, judicial review of, **§ 8:3**

JURISDICTION—Cont'd

Of Federal Court, **§ 17:7, § 19:1**

—Cont'd

contractual matters respecting patents, **§ 17:8**

impeachment actions, **§ 20:1**

infringement actions, **§ 19:1, § 19:28**

Patent Office records, **§ 17:7, § 17:8**

provincial courts, concurrent, stay of proceedings where duplicative proceedings commenced, **§ 19:28**

Of provinces over property in patents, **§ 1:4, § 17:2, § 17:8**

Validity issues, over, **§ 19:158**

LAWS OF NATURE, NOT PATENTABLE

Generally, **§ 12:120**

LEGAL REPRESENTATIVES

Generally, **§ 2:117**

Defined, **§ 2:1**

LEGISLATIVE JURISDICTION, PROVINCIAL AND FEDERAL

Generally, **§ 1:4, § 17:2, § 17:8**

LICENCES, LICENSING

See also Assignment, Compulsory Licence

Generally, **§ 20:14**

application for, requirements, **§ 20:21**

Exclusive, recordal of, **§ 17:3, § 17:4**

Recordal of, effect of failure to record, **§ 17:6**

Refusal to grant, may constitute abuse, **§ 20:14**

Restrictions on, enforceable against subsequent purchaser, **§ 19:24**

LICENSEE

Contractual relations with licensor, **§ 17:4**

LICENSEE—Cont'd

Estoppel, inability to impeach patent, **§ 20:4**
Plaintiff in infringement action, **§ 19:30**

LIFE FORMS

See Subject-matter

LIMITATION OF ACTIONS FOR INFRINGEMENT

Generally, **§ 19:50, § 19:51**

LIVING MATTER

See Subject-matter

MAINTENANCE FEES

Generally, **§ 12:123, § 15:14**
Late fee and notice, **§ 12:2, § 15:14**
Late payment of, **§ 15:15**
Patent not invalid, **§ 12:123, § 22:15**
Powers of Federal Court, **§ 15:14**
Prescribed fee deemed paid on prescribed date, **§ 12:123, § 15:14**
Term limit deemed expired on prescribed date, **§ 15:14**
Unauthorized person paying, **§ 15:15**

MANUFACTURE AS A SPECIES OF INVENTION

Generally, **§ 11:1, § 11:2**

MANUFACTURING AND DESIGN OF PATENTED MEDICINES REGULATIONS

Generally, **§ 19:58**

MARKING

False, **§ 21:5**
Repealed provisions re, **§ 26:10, § 26:48**

“MARKMAN HEARING”

Generally, **§ 12:39**

MATERIAL MISSTATEMENT IN PETITION

Generally, **§ 18:1, § 18:2**

MEDICAL TREATMENT, METHODS OF, PATENTABILITY OF

Generally, **§ 2:19**

MEDICINE

See Patented medicine; Medical treatment, methods of, patentability of; Claim, claims—chemical and pharmaceutical inventions, for

MENTAL STEPS, PATENTABILITY OF, CLAIMS INCLUDING

Generally, **§ 2:5**

MICROORGANISMS, PATENTABILITY OF

Generally, **§ 2:20**

“MIND WILLING TO UNDERSTAND,” SPECIFICATION TO BE READ WITH

Generally, **§ 12:41, § 12:50, § 12:95, § 12:99**

MISREPRESENTATION, AS TO PATENTED ARTICLE

Generally, **§ 21:5**

MISSTATEMENTS IN PATENT PETITION ETC., CONSEQUENCES OF

Generally, **§ 18:2**

MISUSE OF PATENT RIGHTS

See Abuse of patent rights

MODELS, TO BE FURNISHED IN SUPPORT OF PATENT APPLICATION

Generally, **§ 14:3**

MONOPOLY, MEANING OF IN PATENT LAW	NOVELTY—Cont'd
Generally, § 1:4	Changes to the law effected by s. 28.2, § 12:154
NATIONAL DEFENCE	modifications in the law of novelty effected by s. 28.2, § 12:154
See Defence	Concept of, contrasted with anticipation, § 12:136
NATURAL PHENOMENA, NOT PATENTABLE	Dichotomy of anticipation/overclaiming explained, § 12:139
Generally, § 12:120	Disclosure of point of, not required in specification or claims, § 2:41, § 12:58
NEW DRUG SUBMISSION	First to file, see also First to file, § 12:154
See Patented Medicines (Notice of Compliance) Regulations (PMNOC Regulations)	First to invent, § 12:154
NEW USE OF OLD ARTICLE OR PRODUCT	Grace period, § 12:168, § 12:368
Generally, § 2:24, § 12:165	Introduction, § 12:137
Must be recited in the claims, § 12:110	Lack of
	see Anticipation
NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA)	New use of old article, process, etc., § 2:24, § 12:165
Generally, § 1:5	Novelty-destroying, § 12:154
Regulations to implement, § 9:7	Overclaiming, § 12:116, § 12:138, § 12:139, § 12:155, § 12:164
NOTICE OF ALLEGATION	Prior disclosure, § 12:154
See Patented Medicines (Notice of Compliance) Regulations (PMNOC Regulations)	Repeated provisions re, § 26:12, § 26:42
NOTICE OF ALLOWANCE	NUCLEAR ENERGY, PATENTS RELATING TO
Failure to pay fees due for, a deemed abandonment, § 21:1	Generally, § 11:1
Not an appealable decision of the Commissioner, § 8:3	OBVIOUSNESS
NOTICE OF COMPLIANCE REGULATIONS	Generally, § 12:169, § 12:170
See Patented Medicines (Notice of Compliance) Regulations (PMNOC Regulations)	Anticipation, § 12:233
NOVELTY	Applicant, § 12:170
See also Anticipation	Assessing, § 12:233
Generally, § 2:9, § 12:132	Burden of proof, § 12:234
	Claim date, § 12:170
	“Classic” Beloit test, § 12:180
	Commercial acquiescence, § 12:223
	Commercial success, § 12:221
	Common general knowledge, § 12:188
	proof of existence, § 12:189

OBVIOUSNESS—Cont’d

“Cripps question,” § 12:179
Date, relevant, § 12:172
Date of invention, § 12:175
absent proof, § 12:175
“first to file” system, § 12:175
priority date, § 12:175
proof requirement, § 12:175
Evidence
expert, § 12:231
inventor, § 12:232
obviousness, § 12:231
unobviousness, § 12:225
Experts, § 12:185
Failure by others, § 12:226
Foreign jurisdictions, prior art from,
§ 12:191
Foreign tests, § 12:237
Australian test, § 12:239
British test, § 12:238
Comparison between tests,
§ 12:240
European test, § 12:237
Highly skilled persons, evidence
against, § 12:225
Imitation by others, § 12:224
Invention
analogous use of a well-known
principle, § 12:209
application, § 12:202
different stages of, § 12:201
idea, § 12:202
new compound, § 12:210
routine effort, § 12:204
scintilla or spark, mere, § 12:205
selection-patent criteria, § 12:208
simplicity of implementation,
§ 12:206
simultaneous, § 12:230
unexpected utility, § 12:207
what constitutes, § 12:200
Inventive concept, § 12:199
Inventiveness, § 12:170
Inventive step, § 12:202
Inventors, § 12:185

OBVIOUSNESS—Cont’d

Mosaicing, § 12:190
Motivation, § 12:219
New Act patents, § 12:171
Non-obviousness, § 12:170
Non-technical factors, § 12:222
Objective approach, § 12:181
“Obvious to try,” § 12:211
inapplicability, § 12:218
test, § 12:216
US law, § 12:215
Old Act patents, § 12:171
Person skilled in the art, § 12:183
Canada, § 12:186
common general knowledge,
§ 12:188
curious onlooker, § 12:184
England, § 12:186
evidence against, § 12:225
experts, § 12:185
following a wellcharted route,
§ 12:228
inventors, § 12:185
long felt need, § 12:227
qualities of the posita, § 12:184
Post-relevant date publications,
§ 12:196
Prejudice, § 12:195
Prior art, § 12:191
“lion in the path,” § 12:194
not static, § 12:194
search, § 12:198
“teaching away” from the inven-
tion, § 12:229
Prior public use, evidence of,
§ 12:193
Publications, post-relevant date,
§ 12:196
Question of fact, § 12:176
mixed question, § 12:176
objective test, § 12:176
subjective test, § 12:176
Receipt of award, § 12:226
Sanofi-Synthelabo, § 12:182
Secondary considerations, § 12:220

OBVIOUSNESS—Cont'd	OVERCLAIMING
Subject-matter, § 12:170	Claiming desired result, § 12:164
Technical considerations, § 12:233	Dichotomy of anticipation/ overclaiming explained, § 12:139
Test, § 12:177	Novelty, and, § 12:116, § 12:138, § 12:139, § 12:155, § 12:164
evolution of, § 12:178	Relative to scope of invention disclosed, § 12:116
Tracking advances in the art, § 12:197	Relative to scope of invention made, § 12:116, § 12:164
Unpublished work, § 12:192	Technical, literal approach to ques- tion not to be taken, § 12:116
“Worth a try,” § 12:211	Utility, and, § 2:41, § 12:115, § 12:164
experimentation, § 12:213	
UK law, § 12:215	
untested hypotheses, § 12:214	
Wrong tests, § 12:233	
dissection of combinations, § 12:236	
ex post facto analysis, § 12:235	
OFFENCES, INDICTABLE	OWNERSHIP OF PATENTS
Generally, § 21:5	Assignment see Assignment
OFFERS TO SELL, AS CONSTITUTING INFRINGEMENT	Co-ownership, § 12:372
Generally, § 19:23	Correction of, § 17:7
OFFICIAL LANGUAGES ACT, APPLICABILITY TO SPECIFICATIONS	Employee vs. employer, § 17:8
Generally, § 15:8	Government, by defence-related inventions, § 9:10
OFFICIAL SECRETS ACT	Joint ownership, § 12:372
Generally, § 9:10	Trust, in, § 12:26, § 17:8
“OLD ACT”	“PAPER PATENT”, “PAPER REFERENCE”
Generally, § 1:6	Novelty relative to prior, § 12:160
Anticipation re patents granted under, § 12:2	Obviousness relative to prior, § 12:193
Obviousness re patents granted under, § 12:174	
OLD ARTICLE OR PRODUCT, NEW USE OF	PARIS CONVENTION
Generally, § 12:165	See Convention, Paris
Claim styles for, § 2:25	
ORDER	PARTIES TO ACTION
See Judgment	Action for impeachment, § 20:1 “interested person,” § 20:3
	Action for infringement, § 19:27 parties defendant, § 19:31 parties plaintiff, § 19:30
	PATENT
	Assignment of, see also Assign- ment, § 17:1, § 17:3, § 17:5
	Bargain, § 12:30

PATENT—Cont’d

Certified copy of, § 4:14
Chose in action, is a species of, § 1:4
Coexistence with other intellectual property rights, § 1:4
Definition of, § 2:118
Double
 see Double patenting
Evidence (proof) of, in court, § 6:2
Grant, issue
 see Grant of patent(s)
Intellectual property, is a species of, § 1:4
Invalidity of
 see Invalidity
Invention, one patent for one, § 12:4
Multiple inventions in one, § 12:4
Personal property, is a species of, § 1:4
Policy underlying grant of, § 1:4, § 12:10
Re-examination of, § 16:8
 appeal from decision, § 16:14
Reissue of, § 15:16, § 15:17
Revocation of, § 20:16, § 20:18
Term, § 15:10, § 15:12
 repealed provision re, § 26:33

PATENTABILITY, PATENTABLE INVENTION

See also Invention, Selection
 patents, Double patenting
Generally, § 2:12, § 2:28
Compound and composition, § 2:24, § 12:8, § 12:111

PATENT ACT

History, policy, legislative jurisdiction, § 1:4
Interpretation of, § 1:5

PATENT AGENT

Ethical obligations of, § 4:9, § 12:56
Misconduct of, § 7:3

PATENT AGENT—Cont’d

Privileged communication, § 7:4
Registration of, § 7:1

PATENT APPEAL BOARD

Generally, § 4:3, § 15:2, § 15:4

PATENT APPLICATION

Generally, § 12:1
Abandonment of, § 12:123, § 12:369, § 13:6, § 21:1
Amendment of, § 14:7
Assignment of, see also Assignment, § 17:1, § 17:3, § 17:5
Atomic-energy related, § 11:1
Completion of, § 12:369
Confidentiality period for, § 4:15
Continuation-in-part, § 12:130
Defence-related, § 9:10
Delay in prosecution, consequences of, § 14:8
Divisional, § 13:9
Drawings, § 12:122
Drawings in, § 14:1
Duty of disclosure of prior art, in, § 13:8
Examination of, § 13:6, § 13:7
 relaxed standard of claim construction during, § 13:8
Filing date of, § 2:1, § 2:2, § 12:125, § 12:126
Filing of, requirements for, § 12:1
Forfeiture, § 21:2
Fraudulent filing of, § 12:26
Informalities in filing of, § 12:1, § 12:27
Inspection of, in Patent Office, § 4:15, § 4:16
Joining, § 12:370
New matter in, § 14:8
Non-resident applicant, by, § 12:369
Prosecution of, § 4:6, § 13:8
 court interference with or review of, § 8:3, § 15:2
 delay in, consequences of, § 14:8

PATENT APPLICATION—Cont'd

- Reference to previously filed application, § 12:122
- Refusal of, § 15:1, § 15:2, § 15:4
- appeal from, § 15:3
- repealed provisions re, § 26:30
- Reinstatement of, § 12:123, § 12:369, § 13:6, § 21:1, § 21:2
- Restoration, § 21:2
- Search for pending, corresponding to foreign patent, § 4:17
- Secrecy of, § 4:15, § 9:10
- repealed provisions re, § 26:4
- Withdrawal of, § 12:132

PATENT COOPERATION TREATY (PCT)

- Generally, § 5:3, § 5:4
- Time limits for PCT cases, § 5:5, § 21:2

“PATENTED INVENTION”

- Generally, § 12:121
- Licensed use for humanitarian purposes, § 10:7
- Omission of essential element of, § 12:95, § 12:102

PATENTED MEDICINE PRICES REVIEW BOARD

- Generally, § 23:1
- Advisory panel to, § 23:20
- Constitution and establishment of, § 23:19
- Criminal remedy for breach of obligation to or order by, § 21:9
- Guidelines published by, § 23:12
- Interpretation of provisions re, § 23:1
- Jurisdiction of, is not defeated by dedication of patent, § 23:9
- Meeting with Minister, § 23:31
- New medicine, § 23:7
- Orders of, § 23:27, § 23:28
- Powers of, § 23:24, § 23:30

PATENTED MEDICINE PRICES REVIEW BOARD—Cont'd

- Pricing information re, § 23:3
- Board order re, § 23:5
- Pricing of new patented medicine, § 23:3
- excessive price, § 23:8
- Procedure before, § 23:26
- Regulations re, § 23:30
- Repealed provisions re, § 26:27
- Report to Minister, § 23:17
- Sales information, § 23:16

PATENTED MEDICINE(S)

- See also Compulsory licence, Patented Medicines (Notice of Compliance) Regulations (PMNOC Regulations)
- Generally, § 23:1
- Confidentiality of information re, § 23:15
- Excessive price of, § 23:8
- factors to be considered, § 23:11
- hearing re, § 23:13
- Information re, confidentiality of, § 23:15

PATENTED MEDICINES (NOTICE OF COMPLIANCE) REGULATIONS (PMNOC REGULATIONS)

- Generally, § 19:57
- Allegations, when to be made, § 19:104
- bald allegations, § 19:108
- contents of NOA, § 19:107
- multiple and successive NOAs, § 19:106
- NOAs vis-023901911/2-vis
- NDSs, timing of, § 19:105
- sufficiency of NOA, § 19:109
- Amendments to, § 19:75
- 1998 amendments, § 19:77
- 1999 amendments, § 19:78
- 2006 amendments, § 19:80
- 2008 amendments, § 19:82

PATENTED MEDICINES

**(NOTICE OF COMPLIANCE)
REGULATIONS (PMNOC
REGULATIONS)—Cont'd**

Authority to
adopt, **§ 19:60**
regulate, **§ 19:59**
Background and history of, **§ 19:74**
Damages
abuse of process, **§ 19:139**
amendments, **§ 19:139**
Apotex, **§ 19:138, § 19:139,
§ 19:141**
appellate decisions, **§ 19:138**
automatic injunction, **§ 19:138**
clarity, **§ 19:138**
commentary, **§ 19:138**
constitutionality, **§ 19:138**
counterclaim, **§ 19:138, § 19:139**
declaration of invalidity,
§ 19:139
defence, **§ 19:138, § 19:140**
discontinuance, **§ 19:138,
§ 19:139, § 19:141**
discovery, **§ 19:138 to § 19:140**
disgorgement, **§ 19:138, § 19:139**
dismissal, **§ 19:138, § 19:139,
§ 19:141**
effect of declaration of invalidity/
impeachment, **§ 19:139**
embryonic state, **§ 19:138**
English Court of Appeal,
§ 19:138
entitlement to damages,
§ 19:138, § 19:139
factors in determining quantum,
§ 19:140
Federal Court jurisdiction,
§ 19:138
Federal Court of Appeal,
**§ 19:138, § 19:139,
§ 19:141**
first person, **§ 19:138, § 19:139,
§ 19:141**

PATENTED MEDICINES

**(NOTICE OF COMPLIANCE)
REGULATIONS (PMNOC
REGULATIONS)—Cont'd**

Damages—Cont'd
five-step process to assessment of
damages, **§ 19:138**
future losses, **§ 19:138, § 19:139**
generic market size, **§ 19:138**
hypothetical marketplace,
§ 19:138
impeachment of patent, **§ 19:139**
interlocutory injunction,
§ 19:138, § 19:139
interlocutory proceedings,
§ 19:138
intra vires the Patent Act,
§ 19:138
judicial treatment, **§ 19:138**
lack of clarity, **§ 19:138**
limitation period, **§ 19:138**
losses, **§ 19:138, § 19:139**
lost profits, **§ 19:138, § 19:139**
lost volumes, **§ 19:138**
lovastatin, **§ 19:138**
market entry delay, **§ 19:138**
Minister, **§ 19:138, § 19:139**
moot appeals, **§ 19:141**
NOC Regulations, **§ 19:138**
notice of compliance, **§ 19:138**
omeprazole, **§ 19:138**
overall market size, **§ 19:138**
patent infringement, **§ 19:138**
period of liability, **§ 19:138**
preventing infringement,
§ 19:138
procedure, **§ 19:138**
proceedings, **§ 19:141**
profits, **§ 19:139**
prohibition, **§ 19:138**
prohibition order, **§ 19:138,
§ 19:141**
ramipril, **§ 19:138**
regulatory impact analysis state-
ment, **§ 19:139**

PATENTED MEDICINES (NOTICE OF COMPLIANCE) REGULATIONS (PMNOC REGULATIONS)—Cont'd <ul style="list-style-type: none"> Damages—Cont'd <ul style="list-style-type: none"> reversal, § 19:138, § 19:139, § 19:141 right of recovery, § 19:138 second person, § 19:138, § 19:139 Supreme Court of Canada, § 19:138 Teva, § 19:138, § 19:139 theoretical infringement, § 19:138 third party claim, § 19:138 trial decisions, § 19:138 turpi causa defence, § 19:138 UK High Court of Justice, § 19:138 unjust enrichment, § 19:138, § 19:139 unsuccessful patentee liability, § 19:138 withdrawal, § 19:139 Data protection regulations, § 19:80 Drug approval review process, relationship to, § 19:61 <ul style="list-style-type: none"> conclusion of, § 19:70 confidentiality, § 19:71 drug submissions, § 19:63 <ul style="list-style-type: none"> NDS v. ANDS, § 19:66 notifiable change to, § 19:69 paper record, § 19:65 PMNOC Regulations, under, § 19:68 sponsor of NDS, § 19:72 supplemental, § 19:67 Food and Drug Regulations, § 19:62 purpose of review process, § 19:64 regulatory process primer, § 19:62 safety and efficacy, § 19:64 	PATENTED MEDICINES (NOTICE OF COMPLIANCE) REGULATIONS (PMNOC REGULATIONS)—Cont'd <ul style="list-style-type: none"> History of s. 55.2 and PMNOC Regulations, § 19:57 Interplay with Act, miscellaneous, § 19:142 <ul style="list-style-type: none"> section 55.2(4), § 19:144 section 55.2(5), § 19:144 section 55.2(6), § 19:146 section 56, § 19:143 Interpretation of, § 19:84 <ul style="list-style-type: none"> approach to, § 19:84 interpretive aids, § 19:87 matters of, § 19:85 “patented invention,” § 19:86 Jurisprudence re <ul style="list-style-type: none"> general scheme, § 19:88 purpose of s. 55.2 and related regulations, § 19:88 Legislative landscape, change in, § 19:58 Miscellany <ul style="list-style-type: none"> see interplay with Act, miscellaneous Notice of compliance, prohibition on issuance of, § 19:135 <ul style="list-style-type: none"> mootness <ul style="list-style-type: none"> appeals, § 19:137 withdrawal of NOA, § 19:136 Patent lists and patent listing, § 19:92 <ul style="list-style-type: none"> delisting patents, § 19:99 improper listing concern, timing of challenge, § 19:102 intermediates <ul style="list-style-type: none"> claims to, § 19:95 use of, § 19:96 pre-amendment listability requirements, § 19:100 process claims, § 19:94 proper listing, three-step analysis to question of, § 19:97 single claim may suffice, § 19:98
--	---

PATENTED MEDICINES

**(NOTICE OF COMPLIANCE)
REGULATIONS (PMNOC
REGULATIONS)—Cont'd**

Patent lists and patent listing,
 § 19:92—Cont'd
 submitting patent list, timing of,
 § 19:103
 transitional provisions, § 19:93
Patent register, § 19:89
 de-listing by Minister, see also
 patent lists, § 19:89
 duty to audit, Minister's, § 19:89
 judicial review of Minister's
 decision, § 1:7, § 19:90
 standing to seek, § 19:91
 maintenance of, by Minister,
 § 19:89
Prohibition, proceedings for order
 of, § 19:110
 burden of proof, § 19:117
 allegations of non-infringe-
 ment, as to, § 19:119
 allegations of validity, as to,
 § 19:120
 “close calls,” burden matters
 in, § 19:123
 current view, § 19:122
 historical overview, § 19:121
 overriding principle, § 19:118
disclaimers, use of, § 19:133
infringement issues, § 19:132
interveners, § 19:113
legal standard: “justified,”
 § 19:115
Minister's duties administrative,
 § 19:111
motion for production, § 19:130
motion to dismiss, § 19:124
 abuse of process, § 19:127
 comity, § 19:129
 issue estoppel, § 19:128
 section 6(5)(a), § 19:125
 section 6(5)(b), § 19:126
parties, § 19:112

PATENTED MEDICINES

**(NOTICE OF COMPLIANCE)
REGULATIONS (PMNOC
REGULATIONS)—Cont'd**

Prohibition, proceedings for order
 of, § 19:110—Cont'd
 patent licences, effect of,
 § 19:134
 presumptions, § 19:131
 procedural considerations,
 § 19:114
 standard of proof, § 19:116
Regulatory impact analysis state-
 ment to, § 19:76
Section 3
 see patent register
Section 4
 see patent lists and patent listing
Section 5
 see allegations, when to be made
Section 6
 see prohibition order, proceed-
 ings for
Section 7
 see notice of compliance, prohi-
 bition on issuance of
Section 8
 see damages
Steps set out in, § 19:73
Validity, attacks on, § 19:60

**“PATENTED PRODUCT,” FOR
HUMANITARIAN USE
PURPOSES**

Generally, § 10:3, § 10:4, § 10:6

PATENT OFFICE

Days closed, § 21:13
Defined, § 4:1
Electronic filing, storage of docu-
 ments in, § 4:10 to § 4:13
Employees not to traffic in patents,
 etc., § 4:7
Public inspection of documents in,
 § 4:15, § 4:16

PATENT OFFICE—Cont'd	PHARMACEUTICAL INVENTION—Cont'd
Record, court order for variation of, § 17:7	Claiming of, repealed provisions re, § 26:26, § 26:27
Seal of, § 6:1	effect on jurisprudence, § 2:25, § 12:9
PATENT RULES	Compulsory licensing of, repealed provisions re, § 26:26
Act prevails over and governs interpretation, § 5:2	
Power of Governor in Council to make, § 5:1	
PCT	PHARMACEUTICAL PRODUCT
See Patent Cooperation Treaty, Treaties	See Compulsory Licence, § 10:1
PERPETUAL MOTION MACHINES	POLICY UNDERLYING PATENT SYSTEM AND PATENT ACT
Generally, § 14:4	Generally, § 1:4
PERSON INTERESTED	POSTAL SERVICES INTERRUPTION RELIEF ACT
Impeachment action, in, § 20:3	Generally, § 12:127
Judicial review of Commissioner's decision, § 15:6	
May apply for compulsory licence, § 20:17	
PERSON SKILLED IN THE ART	PREDICTABILITY
Defined, § 1:5, § 12:41, § 12:183	Sound see Sound Prediction, § 12:116, § 12:207
Knowledge deemed to have, § 12:41	
May be a composite, § 12:43	PRESCRIBED
Obviousness tested relative to, § 12:169, § 12:177	Defined, § 2:121
Specification is directed to, § 12:1, § 12:36, § 12:37	PRESUMPTION OF VALIDITY
PETITION	Generally, § 15:7
See also Filing	
Material allegation in, untrue, § 18:1, § 18:2	PRIOR ART
PHARMACEUTICAL INVENTION	See also Re-examination of patent Generally, § 12:161, § 13:4
See also Patented medicine	Admission of in patent, § 12:195
Biological material, deposit of, § 12:88, § 14:5, § 14:6	Inventor's evidence as to, § 12:107
	Obligation of applicant to disclose, § 13:8
	PRIOR CLAIMING
	Generally, § 12:13
	PRIORITY
	See also Convention, Paris
	Claim, does not constrain interpretation of patent, § 12:47, § 12:367
	Claim date, Paris Convention, § 12:125, § 12:366

PRIORITY—Cont'd

Domestic application, based on,
§ 12:367
Effect of, § 12:368
Improper claim to, § 18:3
Late claiming of, § 12:368
Repealed provisions re, § 26:16
Request for, § 2:1, § 2:2, § 12:366
Subject-matter added after priority
date, availability of, § 12:367

PRIORITY DATE

Definition (repealed), § 2:122,
§ 26:2

**PRIOR PUBLICATION, PRIOR
USE**

See Anticipation, Novelty

PRIOR USER'S RIGHT

Generally, § 19:148, § 19:149
Repealed provisions re, § 26:41

**PRIVILEGED
COMMUNICATION**

Generally, § 7:4
Exceptions, § 7:3, § 7:4
Individual acting on behalf of patent
agent or client, § 7:3, § 7:4
Patent agents outside Canada, § 7:3,
§ 7:4
Waiver, § 7:3, § 7:4

**PROFESSIONAL METHODS,
PATENTABILITY OF**

Generally, § 2:20

**PROHIBITION, ORDER FOR
AGAINST MINISTER RE
NOTICE OF COMPLIANCE**

See Patented Medicines (Notice of
Compliance) Regulations
(PMNOC Regulations)

PROMISE

Of the patent, § 2:52

**PROOF OF PATENT IN COURT
PROCEEDINGS**

Generally, § 6:2

**PROSECUTION (OF
APPLICATION)**

Amendment, § 14:7
new matter prohibited, § 14:7,
§ 14:8

Delay in, § 14:8

Duty of applicant to be precise,
§ 13:8, § 21:2

Examination, § 13:6 et seq.

File history, use of for construing
claims or attacking patent,
§ 12:102, § 15:6, § 15:9

Final action, § 13:8, § 15:4

Good faith by applicant required,
§ 21:1, § 21:2

Grant of patent overcomes defects
in, § 15:6

Misstatements made during, conse-
quences of, § 18:3

Prior art, duty to disclose, § 13:8

PROVINCES

Legislative jurisdiction over prop-
erty in patents, § 1:4, § 17:2,
§ 17:6

Liability for patent infringement,
§ 3:1, § 3:2

Patent Act binding upon, § 3:1

Use of patent by government of,
§ 9:1, § 9:2

**PROVINCIAL COURTS,
JURISDICTION OF**

See Action for infringement, Juris-
diction

**PUBLICATION OF PATENTS
AND APPLICATIONS**

Generally, § 4:15

Prevention of
atomic energy-related inventions,
§ 11:1
defence-related inventions,
§ 9:10

PUBLICATION OF PATENTS AND APPLICATIONS	RE-EXAMINATION OF PATENT
—Cont'd	—Cont'd
Prior, as bar to patentability	Proceedings, § 16:12
see Novelty	Re-examination Board, § 16:10
PUBLIC HEALTH	REFUSAL OF PATENT APPLICATION BY COMMISSIONER
See Compulsory Licence	Generally, § 15:1, § 15:2, § 15:4
PUBLIC INSPECTION OF DOCUMENTS IN PATENT OFFICE	Appeal from, § 15:3
Generally, § 4:15, § 4:16	REGISTER, REGISTRATION
Prevention of, § 9:10, § 11:1	See Assignment, Judgment, Patent agent
PUBLIC SERVANTS	REGULATIONS
Inventions by, Generally, § 12:4	Act prevails over, § 5:2
Inventions by, re defence, ownership of, § 9:10	Power of Governor in Council to make, § 5:1
PURCHASER OF PATENTED ARTICLE, RIGHTS OF	REINSTATEMENT (OF ABANDONED APPLICATION)
Generally, § 19:24	Generally, § 21:1, § 21:2
PURPOSIVE CONSTRUCTION	REISSUE (OF PATENT)
See Claim, claims, Infringement of patent	Generally, § 15:16, § 15:17
“QUID PRO QUO” JUSTIFICATION FOR PATENT GRANT	Application, amendment of, § 15:17
Generally, § 1:4, § 12:15	Commissioner may exercise discretion, § 15:17
“REASONABLE COMPENSATION” FOR PRE-GRANT USE OF INVENTION	Defective original patent, § 15:17
Generally, § 19:48	Delay in seeking, § 15:17
RE-EXAMINATION OF PATENT	Double patenting, may cure, § 15:17
Generally, § 16:8	Impeachment of reissued patent, § 15:17
Appeal from decision of Board, § 16:14	Inadvertence, accident, mistake, § 15:17
Certificate of Board upon conclusion of, § 16:13	mistake of law, § 15:17
Construction of claims in, § 12:78, § 16:11	urgency a factor, § 15:17
Impeachment proceedings not foreclosed by, § 20:2	Invalid patent, of, § 15:17
	Inventor's intention, § 15:17
	Patent agent's error, § 15:17
	Pending action or cause of action, effect on, § 15:16, § 15:17
	Same invention requirement, § 15:17
	Strict construction of s. 47, § 15:17

REISSUE (OF PATENT)—Cont'd

Third-party rights and interests,
§ 15:17

Two or more patents may issue
from a reissue application,
§ 15:16, § 15:17

U.S. legislation and case law,
authority of, **§ 15:17**

**REPRESENTATIVE FOR
SERVICE**

Generally, **§ 12:369**

REQUEST FOR EXAMINATION

Generally, **§ 13:6**

REQUEST FOR PRIORITY

Generally, **§ 12:366, § 12:367**

RESTORATION

Generally, **§ 21:2**

Repealed provision re, **§ 26:47**

REVOCATION OF PATENT

Generally, **§ 20:16, § 20:18**

RULES, POWER TO MAKE

Generally, **§ 5:1**

RULES OF CONSTRUCTION

See Specification

SAFETY

Generally, **§ 2:45**

**SALE OF PATENTED ARTICLE,
RESTRICTIONS ON**

Generally, **§ 19:24**

SAME INVENTION

See also Double patenting

Other contexts, **§ 12:14**

**SCHEDULES TO ACT
(FOLLOWING S. 103)**

Generally, **§ 10:6**

Amendment of, **§ 10:5**

SCIENTIFIC PRINCIPLE

Invention must not violate, **§ 14:4**

Unpatentable per se, **§ 12:120**

SEAL OF THE PATENT OFFICE

Generally, **§ 6:1**

**SEARCH OF PENDING
APPLICATIONS
CORRESPONDING TO
FOREIGN PATENT**

Generally, **§ 4:17**

**SECRECY OF PATENTS,
APPLICATIONS, ETC.**

Generally, **§ 4:15**

Atomic energy-related inventions,
for, **§ 11:1**

Defence-related inventions, for,
§ 9:10

SELECTION PATENTS

Generally, **§ 2:25**

Anticipation, **§ 12:166**

Criteria to be satisfied, **§ 2:25**

failure to meet is not a per se
ground of invalidity, **§ 2:25**

Disclosure requirements, **§ 12:69**

Obviousness, **§ 12:177**

SELF-PRIORITY

Generally, **§ 12:366, § 12:367**

Repealed provision re, **§ 26:13**

**SEMICONDUCTOR
TECHNOLOGY,
COMPULSORY LICENSING
OF**

Generally, **§ 9:3, § 9:4**

**SEPARATE CLAIMS, CLAIMED
ALTERNATIVES ARE
DEEMED**

Generally, **§ 12:1**

**SERVICE, REPRESENTATIVE
FOR**

Generally, **§ 12:369**

SHELL OIL

Generally, **§ 12:10**

SOUND PREDICTION

- Generally, § 2:42
- Claiming based on, § 2:31, § 12:110, § 12:115, § 12:116, § 12:207
- Criteria for, § 2:42
- Date for testing, § 2:51
- Disclosure requirement for, § 2:46; § 12:70
- Doctrine has no application to obviousness, § 2:49
- Prima facie reasonable inference of utility required, § 2:48
- Utility and, § 2:31, § 2:32

SPECIES

- Genus in chemical cases, and, § 2:25
- Inoperable, § 2:36

SPECIFICATION

- See also Claim, claims, Disclosure
- Generally, § 12:56 to § 12:89
- Advantages, whether need be described in, § 2:29, § 2:41, § 12:58, § 12:110
- whether need be claimed in, § 12:115
- Claims
 - see Claim, claims
- Consistory clause in, § 12:118, § 26:20
- Construction of, § 12:32
 - benevolent, § 12:41, § 12:51
 - date as of which construed, § 12:45
 - drawings as aid to construe, § 12:54, § 14:2
 - duty of court, § 12:32
 - experiments, testing required to practise invention, § 12:66
 - expert evidence for construing, § 12:36, § 12:37
 - historical, § 12:46
 - Interpretation Act, applicability of, § 12:52

SPECIFICATION—Cont'd

- Construction of, § 12:32—Cont'd
 - “mind willing to understand,” to be read with, § 12:41, § 12:50, § 12:95, § 12:99
- person skilled in the art, addressed to, § 12:36, § 12:37
- potential issues, selecting publication date, § 12:47
- prosecution of application, irrelevant to, § 12:107
- question of law or mixed fact and law, § 12:32
- rules of, § 12:48

Contrived to permit varying interpretations, § 12:75

Disclosure, see also Disclosure historical evolution of, § 12:10

Evidence of inventor irrelevant, § 12:49

Foreign patent, comparison with, § 12:109

Material misstatement or omission in, § 12:31, § 12:61, § 18:3

New matter need not be distinguished from old in, § 12:58

Old or obvious matter need not be included in, § 12:58

Statutory basis and requirements of, § 12:1

Technical terms in, § 12:18

Utility, whether need be described in, § 2:41, § 12:59

Words and phrases used in, § 12:121

**SPECIMENS, TO BE FURNISHED
IN SUPPORT OF PATENT
APPLICATION**

Generally, § 14:3

STANDARD OF PROOF

Generally, § 2:48

STAY OF EXECUTION

Generally, § 19:47

SUBJECT-MATTER

Generally, § 2:14, § 12:90 to § 12:118, § 12:129
Abstract theorem is not patentable, § 12:56 to § 12:89, § 12:120
Aggregations, § 2:16
Architectural plans, § 2:23
Biotechnological, § 2:20
Business methods, § 2:17
Combinations, § 2:16
Computer programs, § 2:18
Laws of nature, natural phenomena, § 12:120
Life forms, living matter, § 2:20
Medical treatment, methods of, § 2:19
Mental steps, § 2:22
Microorganisms, § 2:20
New use of something old, § 2:24
Printed matter, § 2:21
Professional methods, § 2:17
Scientific principle is not patentable, § 12:18, § 12:56 to § 12:89, § 12:120
Selections, § 2:25

SUFFICIENCY

See Insufficiency

TERM OF PATENT

Generally, § 15:10, § 15:12
Repealed provision re, § 26:32

THEOREM, ABSTRACT IS NOT PATENTABLE

Generally, § 12:120

THREATS THAT A CUSTOMER INFRINGES, UNJUSTIFIED

Generally, § 19:25

TIME PERIOD

Extension, § 21:13

TITLE

See Ownership of patents, Assignment

TRANSITIONAL PROVISIONS

Applications for patent, old Act and new Act, § 12:2
Miscellaneous, § 22:1, § 22:2
Not included in Patent Act, § 22:9

TREATIES

Canadian law presumed to be compliant with treaties, § 1:5
GATT (General Agreement on Tariffs and Trade), § 1:5, § 9:4
Paris Convention, see also Priority, § 12:129, § 12:130, § 12:366, § 12:368
Patent Cooperation Treaty (PCT), § 5:4
TRIPS, World Trade Organization, § 10:1, § 10:2, § 10:6, § 19:42
Various, as aid to interpretation of legislation, § 1:5

TRIAL OF AN ISSUE

Generally, § 19:39

USE, NEW, OF OLD ARTICLE OR PRODUCT

Generally, § 2:24, § 12:165
Claim styles for, § 2:25

UTILITY

Generally, § 2:31
Burden of proving absence in pending application, § 2:36
Claim preamble limits scope to embodiments having, § 12:80, § 12:101
Claims, subject-matter of must be useful, § 12:80 § 12:112
Commercial success and technical improvement not needed to establish, § 2:39
Confining claims to useful embodiments, § 12:85
Control and reproducibility, factors in assessing, § 2:40
Date for assessing, § 2:37, § 2:38, § 2:51

UTILITY—Cont'd

Disclosure of, in specification, whether required, § 2:32, § 2:41
 Element essential to, must be claimed, § 2:36
 Lack of, in any member of claimed class, invalidates patent, § 2:36
 Promise of the patent, § 2:52
 Sound prediction and, § 2:42, § 12:60, § 12:69, § 12:110, § 12:116

VALIDITY

See also Invalidity
 Evidence of, may include corresponding patents elsewhere, § 15:9
 Presumption of, § 15:7, § 15:8
 prior art cited and other factors as affecting, § 15:9

WORDS AND PHRASES IN PATENTS

Generally, § 12:116

WORKING, “WORK ON A COMMERCIAL SCALE,” § 26:2, § 26:44, § 26:45**WORLD TRADE ORGANIZATION (WTO)**

See also Treaties
 TRIPS effect on patent infringement remedies, § 19:42
 World Trade Organization
 Implementation Act, § 1:5, § 2:9, § 9:4
 WTO decision waiving enforcement of pharmaceutical patents for developing countries, etc., § 10:1, § 10:2