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<p><b>CANADIAN PATENT ACT ANNOTATED SECOND EDITION</b> <b>Robert H. Barrigar Andrew M. Shaughnessy</b> <b>Release No. 1, February 2025</b></p>
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The *Canadian Patent Act Annotated*, Second Edition, is your one-stop source, bringing together commentary and current case law interpreting patent legislation. This includes all of the relevant statutes, regulations and rules you need to provide your client with the best patent advice available.

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## What's New in this Update:

This release includes updates to the *Patent Act*—Amended by 2024, c. 16, s. 57(1)(h). This release also includes updates to Appendix G—Certificate of Supplementary Protection Regulations—Amended by Can. Gaz., Pt. I, Vol. 157, No. 48, p. 3697. This release also features updates to Appendix L1—Quantum Table—Remedies for Patent Infringement. This release also features the addition of the Administrative Instructions under the Patent Cooperation Treaty, effective as of July 1, 2004. This release also features the addition of an updated version of § T.1 The patentability of methods of medical treatment in Appendix T—Legal Memos. This release also features the addition of the July 2024 updates to the Manual of Patent Office Practice. This release also features the addition of an updated version of CIPO's Patent Fees.

## Highlights:

- **Quantum Table—Remedies Table for Patent Infringement—Accounting of Profits**—While the Federal Court erred in several aspects of its remedial analysis, those errors did not affect the outcome of this appeal. As there was no basis to interfere with the Federal Court's obviousness conclusions, the appeal was dismissed. Justice Gleason agreed with Rovi that the Federal Court erred in its treatment of the factors that it considered when determining whether to award an accounting of profits and concluded that the Federal Court's entire approach started from the wrong premise. The Federal Court toted up the factors that it felt favoured awarding an accounting of profits, versus those that it felt disfavoured making such an award. The implicit starting point for the Federal Court's approach was that there is no *prima facie* entitlement to an accounting of profits. However, this starting point failed to recognize the need for compelling reasons to deny the remedy of an accounting of profits. Instead of proceeding in this fashion, the Federal Court should have started from the premise that Rovi would be entitled to the requested accounting of profits unless there were sufficient compelling reasons to deny the remedy. When the correct approach is followed, one cannot quantify factors as being "neutral" and then discount them in the way the Federal Court did. Rather, what is required is consideration of whether there were factors which militated against the requested award such that it would have been inequitable to make it: *Rovi Guides, Inc. v. Videotron Ltd.*, 2024 CarswellNat 3128, 2024 FCA 125 (F.C.A.).