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ANNOTATED PATENT ACT

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Release No. 2, June 2025

This publication examines the provisions of *Canada's Patent Act* to explain the history, purpose and importance of each provision within the broader scheme of the legislation as a whole. Each section of the Act is examined and the following information included: the current section is reproduced in full; related sections and related rules are gathered for ease of reference, a legislative history of the provision is discussed as it relates to the development of the law of patents as a whole, and upon the specific issues dealt with by the provision, and commentary upon the section (and its subsections) is provided in terms of the purpose and function of the section within the context of the act as a whole, specific issues in respect of both the obtaining and enforcement of patent rights, and relevant, specific facts of case law are summarized.

What's New in this Update:

This release features updates to Appendix D (Patent Rules), Appendix L (Use of Patented Products for International Humanitarian Purposes Regulations, SOR/2005-143), Appendix M (Patent Cooperation Treaty), Appendix O (Practice Notices and Guidance Documents), Appendix Q (Quantum Table — Remedies), Appendix IF (Issues in Focus), Appendix SLL (Index to Canadian Legal Literature) and Appendix WP (Words and Phrases Judicially Considered).

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Highlights

- **Appendix IF (Issues in Focus)**—IF:5 and IF:6 have been updated to June 1, 2024 and August 1, 2023 respectively in this release. IF:6 is titled “What do the cases say about the calculation of lost profits in patent infringement cases?”. This memorandum considers the following fact scenario: your client is bringing an action for a patent infringement, and you plan to seek lost profits (as opposed to an accounting of profits) and would like to know what the courts have said about the calculation of these types of damages. The memorandum concludes that the court must not only determine how many infringing products were sold by the defendant but must use a market share approach where methodology for establishing lost sales. The court must determine what amount of those sales would the plaintiff had made, but for the actions of the defendants.
- **Appendix WP (Words and Phrases Judicially Considered)**—This appendix has been updated to February 17, 2025 in this release. The following is an excerpt from this appendix:
WP:67.5 Cultural Appropriation
Ontario
Cultural appropriation, the adoption of the customs, practices, ideas and spiritual beliefs is a topic that has received wide acknowledgement in recent years. . . .
R. v. Voss et al. (2024), 2024 ONSC 5568, 2024 CarswellOnt 17007 (Ont. S.C.J.) at para. 3 Warkentin, J.

ProView Developments

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