

Index

ACCOUNTING OF PROFITS—QUANTUM

See also DAMAGES—QUANTUM; QUANTUM; VALUATION
Accounting of profits, § 21:34 to § 21:76
 actual profits, § 21:35
 apportionment, § 21:45 to § 21:47
 proof of quantum, § 21:46
 when considered, § 21:47
 costs, commentary on, § 21:61 to § 21:73
 administrative, § 21:65
 bonuses, § 21:67
 cost of capital, § 21:73
 income taxes, § 21:72
 intangible, § 21:70
 legal, § 21:66
 manufacturing, § 21:62
 marketing, § 21:64
 research and development, § 21:69
 sales, § 21:63
 stock options, § 21:71
 units ordered destroyed, § 21:68
 differential profits, § 21:36, § 21:37
 calculating, § 21:39 to § 21:44
 exemplary damages, § 21:76
 infringer, § 21:38
 introduction, § 21:34
 principles, § 21:34
 profit on profit, § 21:74, § 21:75
 punitive damages, § 21:76
 revenues of defendant, § 21:48 to § 21:55
 convoyed products, sale of, § 21:49
 costs to be deducted, § 21:56 to § 21:73
 fixed costs, § 21:57, § 21:60
 foreign jurisdictions, profits made in, § 21:51
 profit, definitions of, § 21:58
 profits earned but unrealized, § 21:54
 profits of less than a 100 percent owned entity, § 21:53
 springboard advantages, § 21:55

ACCOUNTING OF PROFITS—QUANTUM—Cont'd

Accounting of profits, § 21:34 to § 21:76
—Cont'd
 revenues of defendant, § 21:48 to § 21:55—Cont'd
 third parties, revenue realized through action of, § 21:50
 variable costs, § 21:57, § 21:59
 wholly owned subsidiaries, § 21:52
 simplified three-step test, § 20:16.50

ADR

Generally, § 15:1 et seq.
Advantages, § 15:21 to § 15:29
 control, § 15:21 to § 15:24
 creativity, § 15:26 to § 15:29
 decision-maker, § 15:25
 expenses, § 15:21
 flexibility, § 15:22, § 15:23
 non-legal issues, § 15:24
 time, § 15:21
Control
 advantage, as, § 15:21 to § 15:24
 binding parties, § 15:9, § 15:10
 hybrid methods, § 15:11
 litigation, § 15:16
 mediation, § 15:8
 negotiation, § 15:7
 spectrum of, § 15:6
Copyright disputes, § 3:15
Court decisions re, § 15:89 to § 15:100
 arbitration
 appeal, right to, § 15:97
 disqualification of arbitrator, § 15:98
 jurisdiction of arbitrator, § 15:99
 scope of clause, § 15:95
 stay pending, § 15:96
 valuation and, § 15:100
 breach of confidence, § 15:93
 enforceability of agreements, § 15:90
 mediation, mandatory, § 15:94
 settlement
 court's authority to enforce, § 15:92
 lawyers' authority to effect, § 15:91

ADR—Cont'd

Definitions, § 15:5
 facilitated negotiation, § 15:5
 med-arb, § 15:5
 mini-trial, § 15:5
 negotiation, § 15:5
 neutral evaluation, § 15:5
 neutral fact finding, § 15:5
 summary trial, § 15:5
 Disadvantages, § 15:12 to § 15:20
 complexity, § 15:17, § 15:18
 control, § 15:16
 delay, § 15:13
 executive time, § 15:14
 expense, § 15:12
 judgment, § 15:20
 jurisdiction, § 15:19
 uncertainty, § 15:15
 Failure of process, § 15:88
 Finalizing settlement, § 15:87
 Forums, § 15:30 to § 15:47
 Commercial ADR Services, § 15:34
 court-annexed, § 15:30 to § 15:33
 Federal, § 15:31
 international (multi-jurisdictional)
 ADR services, § 15:35 to
 § 15:47
 Ontario, § 15:32, § 15:33
 history of mandatory mediation,
 § 15:32
 January 1, 2010 changes, § 15:33
 History of, § 15:4
 Hybrid methods, § 15:11
 Jurisprudence—see court decisions re
 Litigation, vs.—see disadvantages
 Mandatory, § 15:3, § 15:94
 Mediation
 control, spectrum of, § 15:8
 court decisions re, § 15:94
 negotiation, § 15:60, § 15:61
 presentation, § 15:84
 Negotiation—see control; procedure
 Preparation, § 15:67 to § 15:74
 clients, § 15:68 to § 15:70
 counsel, § 15:71 to § 15:74
 facts, § 15:72
 issues, § 15:69, § 15:74
 law, § 15:72
 outcomes, § 15:69, § 15:74
 personalities, § 15:72

ADR—Cont'd

Preparation, § 15:67 to § 15:74—Cont'd
 process, § 15:68, § 15:73
 support, § 15:70
 timing, § 15:71
 Presentation, § 15:75 to § 15:86
 advisor, § 15:77
 agreed statement of facts, § 15:80
 counsel, § 15:75 to § 15:77
 documents, § 15:81
 evaluation, § 15:85
 experts, § 15:82
 facilitator, § 15:76
 facts, § 15:79
 law, § 15:83
 mediation, § 15:84
 support, § 15:75
 witnesses, § 15:81
 Procedure, § 15:48 to § 15:54
 agreed statement of facts, § 15:64
 business issues, § 15:53
 clients only negotiation, § 15:58
 confidentiality, § 15:49
 cost, § 15:48
 counsel in negotiation, § 15:59, § 15:60
 determinations, § 15:63
 factual issues, § 15:52
 forum, § 15:55
 issue analysis, § 15:50, § 15:62
 lawyers' statements, § 15:65
 legal issues, § 15:51
 mediation, § 15:60, § 15:61
 negotiations, § 15:57
 personality issues, § 15:54
 process, § 15:56 to § 15:66
 witnesses, § 15:66
 Spectrum of control—see control
 Voluntary, § 15:3

AFFIDAVIT

See LITIGATION PROCESS; SIMPLIFIED PROCEEDINGS; TRIAL

AGGRAVATED DAMAGES

See also DAMAGES
 Generally, § 19:39

**ALTERNATIVE DISPUTE
 RESOLUTION**

See ADR

ANTI-COUNTERFEITING

Counterfeit goods, Canada, overview, **§ 27:1**
 Counterfeit goods and services, **§ 27:2 et seq.**
 airplane parts, **§ 27:5**
 apparel, **§ 27:11**
 car parts, **§ 27:5**
 cosmetics, **§ 27:12**
 electrical goods, **§ 27:7**
 food, **§ 27:8**
 goods, **§ 27:3**
 grey market goods, **§ 27:15**
 health products, **§ 27:10**
 home renovation products, **§ 27:6**
 luxury goods, **§ 27:11**
 pharmaceuticals, **§ 27:4**
 piracy, music, **§ 27:13**
 piracy, software, **§ 27:13**
 services, **§ 27:14**
 toys, **§ 27:9**
 Enforcement, **§ 27:17 et seq.**
 Canadian Border Services Agency (CBSA), **§ 27:18 to § 27:19**
 procedure, **§ 27:19**
 request for assistance, **§ 27:18**
 civil, **§ 27:24 to § 27:32**
 accounting, **§ 27:31**
 action, **§ 27:27**
 aggravated damages, **§ 27:32**
 application, **§ 27:28**
 damages, **§ 27:30**
 procedure, options, **§ 27:25**
 procedure, preliminary, **§ 27:26**
 punitive damages, **§ 27:32**
 remedies, **§ 27:29**
 criminal, **§ 27:33 to § 27:37**
 contempt, **§ 27:37**
 legislation, **§ 27:34**
 penalties, case law, **§ 27:36**
 procedure, **§ 27:35**
 legislation, **§ 27:20 to § 27:23**
 Canada-United States-Mexico Agreement (CUSMA), **§ 27:23**
 Combating Counterfeit Products Act, **§ 27:20**
 Copyright Act, **§ 27:22**
 Trademarks Act, **§ 27:21**
 online, **§ 27:45 to § 27:51**
 domain names, remedies, **§ 27:52**

ANTI-COUNTERFEITING—Cont'd

Enforcement, **§ 27:17 et seq.**—Cont'd
 online, **§ 27:45 to § 27:51**—Cont'd
 evidence, **§ 27:53**
 metaverse, **§ 27:50**
 non-fungible tokens (NFTs), **§ 27:50**
 notice and notice regime, Canada, **§ 27:51**
 takedown notice, **§ 27:46**
 applications, **§ 27:49**
 online marketplace, **§ 27:48**
 social media, **§ 27:47**
 process, civil and criminal, **§ 27:17**
 regulatory, **§ 27:38 to § 27:44**
 sector regulations, **§ 27:38**
 consumer products, **§ 27:44**
 electronics, **§ 27:40**
 food products, **§ 27:39**
 health products, **§ 27:42**
 labelling, clothing, apparel, **§ 27:43**
 pharmaceutical products, **§ 27:42**
 vehicle parts, **§ 27:41**
 Scope of counterfeiting problem, **§ 27:16**

ANTON PILLER ORDERS

Generally, **§ 18:1 et seq.**
 Computer-related disputes, **§ 9:58, § 9:59**
 Defendant-specific, **§ 18:8**
 Inherent jurisdiction, **§ 18:4**
 Judicial treatment, **§ 18:51, § 18:52**
 Jurisdiction, **§ 18:4 to § 18:6**
 Origins, **§ 18:2**
 Parties, **§ 18:7**
 Preliminary relief, **§ 10:76**
 Principles, **§ 18:1 to § 18:3**
 Procedure, **§ 18:21 to § 18:50**
 affidavit of service, **§ 18:36**
 challenges, **§ 18:44 to § 18:48**
 Charter, **§ 18:49**
 confidentiality, **§ 18:23**
 contempt, **§ 18:42**
 damage, **§ 18:28**
 see also harm
 defendant's solicitor, **§ 18:37 to § 18:42**
 disclosure obligations, **§ 18:32**
 evidence, loss of, **§ 18:29**
 evidence, preliminary segregation of, **§ 18:25**
 evidence at risk, **§ 18:48**

ANTON PILLER ORDERS—Cont'd

Procedure, **§ 18:21 to § 18:50**—Cont'd
 execution, **§ 18:33 to § 18:36, § 18:44**
 ex parte hearing, **§ 18:31, § 18:32**
 forum, **§ 18:21**
 harm, **§ 18:47**
 see also damage
 inventory list, **§ 18:36**
 John Doe order, **§ 18:30**
 mischaracterization, **§ 18:46**
 monitoring, **§ 18:38**
 non-disclosure, **§ 18:45**
 photographic evidence, **§ 18:36**
 preliminary issues, **§ 18:21 to § 18:25**
 prima facie case, **§ 18:27**
 privilege, **§ 18:40**
 questioning, **§ 18:39**
 records, **§ 18:36**
 review motion, **§ 18:43**
 secrecy, **§ 18:31**
 security for costs/damages, **§ 18:22**
 solicitor's notes, **§ 18:36**
 solicitor's report, **§ 18:36**
 supervision, **§ 18:24**
 test, **§ 18:26 to § 18:30**
 trade-secrets, **§ 18:41**
 undertakings, **§ 18:50**
 Purpose, **§ 18:3**
 Rolling, **§ 18:9**
 Rules, **§ 18:4 to § 18:6**
 Terms, **§ 18:10 to § 18:20**
 defendant's obligations, **§ 18:16, § 18:17**
 disclosure prohibitions, **§ 18:17**
 duration, **§ 18:19**
 entry, permitted, **§ 18:11**
 plaintiff's obligations, **§ 18:13**
 preservation pending execution, **§ 18:14**
 procedural protections, **§ 18:18**
 review of execution, **§ 18:20**
 search, **§ 18:15**
 seizure, **§ 18:15**
 subject matter, defined, **§ 18:12**

APPEALS

See also, DISCOVERY; EXAMINATION FOR DISCOVERY; LITIGATION PROCESS; PRE-TRIAL LITIGATION PROCEDURES; SIMPLIFIED PROCEEDINGS

APPEALS—Cont'd

Appeal procedures, **§ 10:138 to § 10:180**
 appeal books, memoranda and books of authorities, **§ 10:162 to § 10:171**
 appeal books, **§ 10:163**
 contents, **§ 10:164**
 material in possession of tribunal, **§ 10:166**
 ordering transcripts and exhibits, **§ 10:165**
 service and filing, **§ 10:167**
 book of authorities, **§ 10:169**
 general principles, **§ 10:162**
 interlocutory appeals—Ontario courts, **§ 10:171**
 memorandum, **§ 10:168**
 prothonotary orders and referee reports, **§ 10:170**
 commencement, **§ 10:152 to § 10:161**
 appearance or cross-appeal, **§ 10:158**
 consent judgments, **§ 10:159**
 general principles, **§ 10:152**
 interlocutory appeals—Ontario courts, **§ 10:161**
 notice of appeal, **§ 10:156**
 prothonotary orders and referee reports, **§ 10:160**
 respondents, **§ 10:157**
 timing, **§ 10:153 to § 10:155**
 appearance or cross-appeal, **§ 10:155**
 filing notice of appeal, **§ 10:153**
 service, **§ 10:154**
 hearing procedure, **§ 10:172 to § 10:175**
 general principles, **§ 10:172**
 new evidence on appeal, **§ 10:174**
 prothonotary orders and referee reports, **§ 10:175**
 requisition of hearing, **§ 10:173**
 right to appeal, **§ 10:138 to § 10:145**
 appeals with leave, **§ 10:143 to § 10:145**
 acts of Parliament, **§ 10:144**
 appeal to Supreme Court of Canada, **§ 10:145**
 Ontario appeals, **§ 10:143**
 appeals without leave, **§ 10:139**
 judgments of trial division, **§ 10:140**

APPEALS—Cont'd

Appeal procedures, **§ 10:138 to § 10:180**
 —Cont'd
 right to appeal, **§ 10:138 to § 10:145**
 —Cont'd
 appeals without leave, **§ 10:139**
 —Cont'd
 prothonotary orders and referee
 reports, **§ 10:142**
 to Federal Court under acts of Par-
 liament, **§ 10:141**
 general principles, **§ 10:152**
 standard of review, **§ 10:146 to**
§ 10:151
 appeal from order of Prothonotary/
 Master, **§ 10:151**
 discretionary decisions, **§ 10:149**
 evidentiary rulings, **§ 10:150**
 expert evidence, **§ 13:35**
 general principles, **§ 10:146**
 questions of fact, **§ 10:148**
 questions of law, **§ 10:147**
 stays pending appeal, **§ 10:176 to**
§ 10:180
 availability, **§ 10:177**
 generally, **§ 10:178**
 interlocutory orders, **§ 10:179**
 general principles, **§ 10:176**
 procedure, **§ 10:180**

APPORTIONMENT

See PROFITS, quantum; QUANTUM,
 profits

ASSESSMENT

See COSTS

BALANCE OF CONVENIENCE

See also INJUNCTIONS
 Generally, **§ 17:13, § 17:14**

BUSINESS METHODS

See also COMPUTER-RELATED
 DISPUTES, patents
 Generally, **§ 9:24 to § 9:26**

CDRP

See also DOMAIN NAMES DISPUTE
 RESOLUTION; INTERNET
 TRADEMARK DISPUTES
 Basis for complaint and eligibility, **§ 8:1**
to § 8:179
 bad faith: attracting internet users,
§ 8:107 to § 8:113
 attempt to attract users, **§ 8:109**

CDRP—Cont'd

Basis for complaint and eligibility, **§ 8:1**
to § 8:179—Cont'd
 bad faith: attracting internet users,
§ 8:107 to § 8:113—Cont'd
 commercial gain, **§ 8:110**
 confusion, **§ 8:111**
 disclaimer, **§ 8:113**
 intention, **§ 8:108**
 parking, **§ 8:112**
 bad faith: blocking complaint, **§ 8:96 to**
§ 8:101
 CIRA provision of information and
 access, **§ 8:101**
 pattern, **§ 8:99**
 purpose, **§ 8:97**
 variations, **§ 8:98**
 WHOIS searching, **§ 8:100**
 bad faith: disrupting business of
 complainant, **§ 8:102 to § 8:106**
 competitor, **§ 8:104**
 disruption, **§ 8:105**
 parking, **§ 8:106**
 purpose, **§ 8:103**
 bad faith: other factors, **§ 8:119 to**
§ 8:136
 breach of agreement, **§ 8:123**
 cyberflight, **§ 8:133**
 defamatory content, **§ 8:130**
 depreciation of complainant's
 goodwill, **§ 8:129**
 disobedience of Court Order, **§ 8:135**
 failed negotiation of agreement,
§ 8:122
 failure to comply with CPR, **§ 8:128**
 failure to respond, **§ 8:121**
 generic name speculation, **§ 8:124**
 illegal activity, **§ 8:134**
 impersonation, **§ 8:131**
 lapsed registration, **§ 8:125**
 miscellaneous, **§ 8:136**
 phishing, **§ 8:132**
 prior knowledge, **§ 8:120**
 theft and access prevention
 mechanisms, **§ 8:127**
 use of proxy service, **§ 8:126**
 bad faith: other factors in 2000 draft,
§ 8:114 to § 8:118
 misleading information, **§ 8:118**
 multiple registrations, **§ 8:117**
 no intention to use, **§ 8:115**

CDRP—Cont'd

Basis for complaint and eligibility, **§ 8:1 to § 8:179—Cont'd**
 bad faith: other factors in 2000 draft, **§ 8:114 to § 8:118—Cont'd**
 offer to transfer, **§ 8:116**
 bad faith: overview, **§ 8:81 to § 8:136**
 burden of proof, **§ 8:86**
 exhaustive list of factors, **§ 8:83**
 influence of other factors, **§ 8:89**
 intention, **§ 8:87**
 knowledge of complainant's mark, **§ 8:88**
 original definition, **§ 8:82**
 registration, **§ 8:83**
 time, **§ 8:84**
 whose bad faith, **§ 8:85**
 bad faith: purpose of transfer, **§ 8:90 to § 8:95**
 competitor, **§ 8:94**
 excess costs, **§ 8:95**
 legitimate offer, **§ 8:93**
 offer of transfer, **§ 8:92**
 purpose, **§ 8:91**
 basis for complaint, **§ 8:16**
 confusing similarity: decisions, **§ 8:68 to § 8:73**
 decisions applying confusion test, **§ 8:69**
 decisions expressly applying resemblance test, **§ 8:70**
 other approaches, **§ 8:71**
 confusing similarity: overview, **§ 8:67 to § 8:80**
 confusing similarity: resemblance, **§ 8:74 to § 8:77**
 application of resemblance test, **§ 8:75**
 consequences of resemblance test, **§ 8:76**
 examples of resemblance, **§ 8:77**
 resemblance as test, **§ 8:74**
 confusing similarity: "...sucks" and related names, **§ 8:78 to § 8:80**
 "sex" domain names, **§ 8:80**
 UDRP decisions, **§ 8:79**
 confusing similarity with mark of complainant, **§ 8:17**
 eligible complainant, **§ 8:11 to § 8:15**
 Canadian presence requirements, **§ 8:12**

CDRP—Cont'd

Basis for complaint and eligibility, **§ 8:1 to § 8:179—Cont'd**
 eligible complainant, **§ 8:11 to § 8:15**
 —Cont'd
 compliance, **§ 8:15**
 exclusions, **§ 8:14**
 relation to registered trademark, **§ 8:13**
 introduction, **§ 8:2, § 8:5**
 amendment, **§ 8:5**
 differences from UDRP, **§ 8:3**
 legitimate interest: descriptive name, **§ 8:151 to § 8:155**
 descriptive name, **§ 8:152**
 good faith, **§ 8:155**
 preparations, **§ 8:154**
 use, **§ 8:153**
 legitimate interest: generic name, **§ 8:156 to § 8:160**
 generic name, **§ 8:157**
 good faith, **§ 8:160**
 preparations, **§ 8:159**
 use, **§ 8:158**
 legitimate interest: geographical location, **§ 8:170**
 legitimate interest: name, **§ 8:168, § 8:169**
 name, **§ 8:169**
 legitimate interest: non-commercial activity, **§ 8:161 to § 8:167**
 criticism, review or news reporting, **§ 8:165**
 fan site, **§ 8:167**
 good faith, **§ 8:160**
 non-commercial activity, **§ 8:164**
 parody site, **§ 8:166**
 use, **§ 8:162**
 legitimate interest: other factors, **§ 8:177 to § 8:179**
 disclaimer, **§ 8:178**
 parallel challenge to complainant's mark, **§ 8:179**
 legitimate interest: other factors in draft, **§ 8:171 to § 8:176**
 accurate description, **§ 8:172**
 comparative advertising, **§ 8:175**
 demonstrable preparations, **§ 8:173**
 good faith belief, **§ 8:176**
 third party uses, **§ 8:174**

CDRP—Cont'd

Basis for complaint and eligibility, **§ 8:1**
to § 8:179—Cont'd
 legitimate interest: overview, **§ 8:137**
to § 8:179
 absence of legitimate interest,
§ 8:140
 burden of proof, **§ 8:139**
 influence of other factors, **§ 8:141**
 original definition, **§ 8:138**
 whose legitimate interest, **§ 8:142**
 legitimate interest: use as mark,
§ 8:144 to § 8:150
 distributors and licensees, **§ 8:150**
 good faith, **§ 8:149**
 mark, **§ 8:145**
 preparations, **§ 8:148**
 rights, **§ 8:146**
 use, **§ 8:147**
 mark: certification mark, **§ 8:28 to**
§ 8:31
 licensee, **§ 8:31**
 licensor, **§ 8:30**
 successors, **§ 8:29**
 mark: exclusions, **§ 8:37 to § 8:39**
 names of individuals, **§ 8:38**
 mark: overview, **§ 8:18 to § 8:39**
 mark: prohibited mark, **§ 8:33 to § 8:36**
 public authority, **§ 8:35**
 qualifying marks, **§ 8:34**
 use, **§ 8:36**
 mark: registered trademark, **§ 8:32**
 mark: trademark or trade name used in
 Canada, **§ 8:19 to § 8:27**
 licensee, **§ 8:26**
 licensor, **§ 8:25**
 non-qualifying marks, **§ 8:27**
 purpose of distinguishing, **§ 8:23**
 successors, **§ 8:24**
 trademark, **§ 8:20**
 trade name, **§ 8:21**
 use, **§ 8:22**
 purpose and scope, **§ 8:6 to § 8:10**
 bad faith registration, **§ 8:8**
 construction of CDRP, **§ 8:10**
 obligations of parties, **§ 8:9**
 purpose of CDRP, **§ 8:6**
 scope of CDRP, **§ 8:7**
 rights: overview, **§ 8:55 to § 8:66**
 date of registration, **§ 8:56**

CDRP—Cont'd

Basis for complaint and eligibility, **§ 8:1**
to § 8:179—Cont'd
 rights: prohibited marks, **§ 8:64 to**
§ 8:66
 rights: trademark, trade name or certifi-
 cation mark used in Canada,
§ 8:57 to § 8:60
 licensees and licensors, **§ 8:59**
 municipal names, **§ 8:60**
 successors, **§ 8:58**
 rights: trademarks registered in Canada,
§ 8:61 to § 8:63
 licensees and licensors, **§ 8:63**
 successors, **§ 8:62**
 use: business, **§ 8:51**
 use: non-commercial activity, **§ 8:52,**
§ 8:53
 non-commercial, **§ 8:53**
 use: overview, **§ 8:40**
 use: services, **§ 8:43 to § 8:50**
 cross border issues, **§ 8:44**
 performance, **§ 8:42**
 services: cross border online issues,
§ 8:45
 CDRP decisions, **§ 8:50**
 computer services, **§ 8:49**
 entertainment services, **§ 8:49**
 hospitality services, **§ 8:47**
 information services, **§ 8:48**
 retail services, **§ 8:46**
 telecommunications services,
§ 8:49
 use: wares, **§ 8:41, § 8:42**
 cross border issues, **§ 8:42**
 use: website, **§ 8:54**
 Procedures and remedies, **§ 8:180 to**
§ 8:254
 arbitration legislation, **§ 8:179**
 communication of complaint, **§ 8:208**
 communications, **§ 8:185**
 complaint, **§ 8:200 to § 8:206**
 additional information, **§ 8:204**
 amendment, **§ 8:206**
 certification, **§ 8:205**
 complainant information, **§ 8:202**
 delay, **§ 8:201**
 description of basis for, **§ 8:203**
 consolidation of proceedings, **§ 8:227**

CDRP—Cont'd

Procedures and remedies, **§ 8:180 to § 8:254**—Cont'd
 court proceedings, **§ 8:251 to § 8:254**
 judicial review, **§ 8:253**
 jurisdiction, **§ 8:252**
 decisions, **§ 8:240 to § 8:243**
 amendment, **§ 8:241**
 communication, **§ 8:242**
 publication, **§ 8:243**
 evidence, **§ 8:235 to § 8:238**
 balance of probabilities, **§ 8:236**
 evidentiary principles, **§ 8:237**
 negotiations, **§ 8:238**
 fees, **§ 8:183**
 further submissions, **§ 8:229 to § 8:232**
 by complainant as of right, **§ 8:230**
 on request by panel, **§ 8:231**
 with leave of panel, **§ 8:232**
 initiation of proceeding, **§ 8:189 to § 8:191**
 introduction, **§ 8:180, § 8:181**
 language, **§ 8:184**
 law, **§ 8:239**
 panel: appointment, **§ 8:219 to § 8:223**
 appointment, **§ 8:222**
 chair, **§ 8:223**
 conversion to single member panel, **§ 8:221**
 qualification of panellists, **§ 8:220**
 three member panel, **§ 8:219**
 panel: powers and obligations, **§ 8:224 to § 8:226**
 communication, **§ 8:225**
 conduct of proceeding, **§ 8:226**
 impartiality, **§ 8:224**
 parallel proceedings, **§ 8:234**
 parties, **§ 8:192 to § 8:199**
 complainant, **§ 8:193**
 identification of registrant, **§ 8:195 to § 8:199**
 CIRA WHOIS policy, **§ 8:195**
 contact procedure, **§ 8:197**
 exceptions to WHOIS policy, **§ 8:196**
 request for disclosure, **§ 8:199**
 request for list of domain names, **§ 8:198**
 registrant, **§ 8:194**
 pre-decision termination, **§ 8:233**

CDRP—Cont'd

Procedures and remedies, **§ 8:180 to § 8:254**—Cont'd
 provider, **§ 8:182**
 provider review of complaint, **§ 8:207**
 provider review of response, **§ 8:217, § 8:218**
 communication of response, **§ 8:217**
 provider review, **§ 8:218**
 refiling, **§ 8:250**
 remedies, **§ 8:247, § 8:248**
 transfer to nominee, **§ 8:248**
 reply, **§ 8:228**
 response, **§ 8:209 to § 8:216**
 additional information, **§ 8:213**
 amendment, **§ 8:216**
 certification, **§ 8:215**
 claim for costs, **§ 8:214**
 extension of time, **§ 8:210**
 registrant information, **§ 8:211**
 response to basis of complaint, **§ 8:212**
 reverse hijacking, **§ 8:244 to § 8:246**
 costs, **§ 8:246**
 unfairly and without colour of right, **§ 8:245**
 termination of proceeding, **§ 8:249**
 time, **§ 8:186 to § 8:188**
 computation, **§ 8:187**
 extension of time, **§ 8:188**

CIRA DISPUTE RESOLUTION POLICY

See CDRP

CLASS ACTIONS

See ENFORCEMENT, computer-related disputes and licensing; LITIGATION PROCESS, parties to litigation

COMPETITION LAW

Generally, **§ 6:1 et seq.**
 Claims/defences in private IP litigation, **§ 6:52 to § 6:57**
 Competition Act claims, **§ 6:53**
 civil claims, **§ 6:55**
 conspiracy, **§ 6:54**
 Competition Act defences to infringement, **§ 6:56**
 settlements in IP litigation, **§ 6:57**
 Competition Act, **§ 6:2 to § 6:5**
 analysis, **§ 6:5**

COMPETITION LAW—Cont'd

Competition Act, § 6:2 to § 6:5—Cont'd
 classes of behaviour, § 6:3
 enforcement, § 6:4
 overview, § 6:2 to § 6:5
 purpose, § 6:2
 Enforcement, § 6:24 to § 6:31
 Competition Bureau, § 6:24
 confidentiality, § 6:26
 Intellectual Property Enforcement Guidelines (IPEG), § 6:32
 investigative powers, § 6:25
 Competition Tribunal, § 6:30
 private civil actions, § 6:31
 proceedings, conduct of, § 6:27
 injunctions, § 6:28
 interim orders, § 6:28
 prohibition orders (Section 34), § 6:29
 Intellectual Property Enforcement Guidelines (IPEG), § 6:32
 Introduction, § 6:1
 IP rights, key provisions of Competition Act, § 6:33 to § 6:51
 civil provisions, § 6:34 to § 6:36
 abuse of dominance (section 78 and 79), § 6:41, § 6:42
 agreements preventing competition substantially (section 90.1), § 6:37
 exclusive-dealing, tied-selling and market restriction, § 6:44
 price maintenance (section 76), § 6:43
 refusal to deal (section 75), § 6:45
 section 90.1 applied to IP rights, § 6:38 to § 6:40
 criminal provisions, § 6:34 to § 6:36
 conspiracy (section 45), § 6:34 to § 6:36
 mergers (section 92), § 6:46 to § 6:50
 application to IP rights, § 6:48
 challenges to, § 6:49
 general, § 6:46
 joint ventures, R and D, § 6:50
 pre-notification requirements, § 6:47
 special remedies, § 6:51
 Substantive provisions, summary of, § 6:6 to § 6:23
 civil reviewable practices, § 6:8 to § 6:14
 abuse of dominance, § 6:9

COMPETITION LAW—Cont'd

Substantive provisions, summary of, § 6:6 to § 6:23—Cont'd
 civil reviewable practices, § 6:8 to § 6:14—Cont'd
 competitor agreements, § 6:10
 exclusive-dealing, tied-selling and market restriction, § 6:12
 price maintenance, § 6:11
 refusal to deal, § 6:13
 specialization agreements, § 6:14
 criminal anti-competitive conduct, § 6:6, § 6:7
 bid-rigging, § 6:7
 conspiracy, § 6:6
 marketing practices, § 6:17 to § 6:22
 deceptive marketing practices (civil), § 6:18
 deceptive telemarketing (criminal), § 6:20
 double-ticketing (criminal), § 6:21
 false or misleading representations (criminal), § 6:19
 multi-level marketing and pyramid selling (criminal), § 6:22
 mergers and notifiable transactions, § 6:15, § 6:16
 mergers, § 6:15
 notifiable transactions, § 6:16
 special remedies, § 6:23

COMPUTER-RELATED DISPUTES

See also CDRP; DOMAIN NAMES
 DISPUTE RESOLUTION;
 INTERNET TRADEMARK
 DISPUTES
 Generally, § 9:1 et seq.
 Copyright
 computer programmes, § 9:6 to § 9:8, § 9:20
 data, § 9:11 to § 9:14
 merger, § 9:9, § 9:10
 software reverse engineering, § 9:15, § 9:16
 technological protection measures, § 3:13, § 9:17, § 9:18
 Intellectual property rights, § 9:5 to § 9:28
 Licensing
 generally, § 9:29
 agreement, § 9:2, § 9:30, § 9:42

COMPUTER-RELATED DISPUTES

—Cont'd

- Licensing—Cont'd
 - arbitration provisions, enforcement of rights re, **§ 9:54.50**
 - assignment, **§ 9:44**
 - browse-wrap agreements, **§ 9:33**
 - click-wrap agreements, **§ 9:32**
 - enforcement of rights, **§ 9:51.50 to § 9:55**
 - improvement and similar dealings, **§ 9:46**
 - insolvency, **§ 9:47**
 - interpretation of agreement, **§ 9:42**
 - legislative developments, **§ 9:38**
 - new uses, **§ 9:45**
 - open source licences, **§ 9:56**
 - performance under the license, **§ 9:43.50**
 - shrink-wrap agreements, **§ 9:31**
 - statutory reform, **§ 9:39 to § 9:41**
 - transfer, **§ 9:44**
 - unusually harsh terms, **§ 9:34**
 - website terms checklist, **§ 9:37**
- Moral rights, **§ 9:19**
- Patents, **§ 9:21 to § 9:26**
 - business methods, **§ 9:24 to § 9:26**
 - hardware, **§ 9:21 to § 9:23**
 - software, **§ 9:21 to § 9:23**
- Remedies, **§ 9:57 to § 9:63**
 - Anton Piller orders, **§ 9:58, § 9:59**
 - damages, **§ 9:62, § 9:63**
 - delivery up, **§ 9:60, § 9:61**
 - inspections, **§ 9:60, § 9:61**
 - profits, **§ 9:62, § 9:63**
 - Trade secrets, **§ 9:27, § 9:28**

CONFIDENTIAL INFORMATION

See INJUNCTIONS; TRADE SECRETS

CONFIDENTIALITY ORDERS

See LITIGATION PROCESS, pre-trial procedure

CONFLICTS

See PATENTS

CONTEMPT

- Generally, **§ 23:55 to § 23:75**
- Civil, **§ 23:56, § 23:73**
- Contumacious acts, **§ 23:57**
- Corporate, **§ 23:66**

CONTEMPT—Cont'd

- Criminal, **§ 23:56**
- Defences, **§ 23:74**
- Intention, **§ 23:62**
- Jurisdiction, **§ 23:72**
- Knowledge of order, **§ 23:63**
- Last resort, **§ 23:55**
- Non-payment, **§ 23:70**
- Notice, **§ 23:71**
- Orders, **§ 23:58**
 - entitlement, **§ 23:60**
 - non-binding, **§ 23:59**
- Party in contempt, finding a, **§ 23:61**
- Penalties, **§ 23:75**
- Purging, **§ 23:68**
- Recklessness, **§ 23:67**
- Sanctions, **§ 23:75**
- Service, **§ 23:63**
- Specificity, **§ 23:71**
- Standard of proof, **§ 23:62**
- Third parties, **§ 23:65**
- Vicarious liability, **§ 23:69**

CONVERSION

- Generally, **§ 19:25**

CONVOYED SALES

- See DAMAGES, patent disputes; PATENTS, damages; PROFITS, lost; PROFITS, statutory and judicial treatment; QUANTUM, damages; QUANTUM, profits

COPYRIGHT

- Generally, **§ 3:1 et seq.**
- Collective societies
 - absentee owners, **§ 3:67**
 - alternatives, **§ 3:64**
 - apportionment of royalties, **§ 3:65**
 - blank audio recording, **§ 3:61**
 - Copyright Board proceedings, **§ 3:63**
 - dispute resolution, **§ 3:62 to § 3:67**
 - distant signals, **§ 3:60**
 - entitlement to sue, **§ 3:69**
 - judicial review, **§ 3:68**
 - licensing regimes, **§ 3:56 to § 3:61**
 - musical works, **§ 3:58**
 - non-member claims, **§ 3:66**
 - off-air taping, **§ 3:60**
 - other subject matters, **§ 3:59, § 3:64**
 - performance rights, **§ 3:58**
 - published sound recordings, **§ 3:58**

COPYRIGHT—Cont'd

- Collective societies—Cont'd
 - resolutions, **§ 3:62 to § 3:67**
 - retransmission, **§ 3:60**
 - royalties, **§ 3:65**
 - works, **§ 3:59, § 3:64**
- Disputes, **§ 3:2 to § 3:13**
- Industrial designs, relation to, **§ 4:7 to § 4:15**
- Infringement, **§ 3:3**
 - authorization, **§ 3:10**
 - books, **§ 3:8, § 3:9**
 - computer programmes, **§ 9:6 to § 9:8, § 9:19, § 9:20**
 - data, **§ 9:11 to § 9:14**
 - direct, **§ 3:4**
 - merger, **§ 9:9, § 9:10**
 - moral rights, **§ 3:12, § 9:19**
 - parallel importation, **§ 3:9**
 - plates, **§ 3:7**
 - provision of services, **§ 3:11**
 - public performance for profit, **§ 3:8**
 - secondary, **§ 3:5**
 - secondary infringement related to lessons, **§ 3:6**
 - software reverse engineering, **§ 9:15, § 9:16**
- Injunctions
 - availability, **§ 17:31, § 17:32**
 - specific remedies, **§ 17:33, § 17:34**
- Moral rights, infringement of, **§ 3:12**
 - computer programmes, **§ 9:19**
- Pharmaceuticals, **§ 7:27**
- Registration disputes, **§ 3:51**
 - clerical errors, **§ 3:52**
 - damages, **§ 3:55**
 - expungement, **§ 3:54**
 - rectification, **§ 3:53**
 - remedies, **§ 3:52 to § 3:55**
- Remedies — see REMEDIES
 - resolutions, **§ 3:52 to § 3:55**
- Resolutions — see RESOLUTIONS
- Technological measures and rights management information, **§ 3:13**

COSTS

- Generally, **§ 14:1 et seq.**
- Abandonment costs, **§ 14:14**
- Appeals of costs orders, **§ 14:43, § 14:44**
 - review of assessment, **§ 14:43**

COSTS—Cont'd

- Assessment of costs, **§ 14:28**
- disbursements, **§ 14:30 to § 14:42**
 - computer research, **§ 14:33**
 - couriers, **§ 14:35**
 - expert witnesses, **§ 14:31**
 - investigations, **§ 14:36**
 - law society levy, **§ 14:37**
 - operating expenses, **§ 14:38**
 - photocopying and binding, **§ 14:32**
 - process servers, **§ 14:35**
 - solicitor agency fees, **§ 14:40**
 - travel disbursements, **§ 14:34**
 - trial transcripts, **§ 14:41**
 - witness fees, **§ 14:42**
 - fees, **§ 14:29**
 - tariff B, **§ 14:29**
- Class proceedings, **§ 14:22**
- Copyright disputes, **§ 3:39**
- Costs against a successful party, **§ 14:8**
- Costs of motions, **§ 14:10**
- Discontinuance costs, **§ 14:14**
- Divided success, **§ 14:6**
- Industrial designs disputes, **§ 4:50**
- Motions
 - Anton Piller motions, **§ 14:13**
 - increased costs, **§ 14:23 to § 14:27**
 - factors considered on a rule 403 motion, **§ 14:27**
 - motion for directions to assessment officers, **§ 14:23**
 - evidence in support, **§ 14:26**
 - extension of time to bring motion, **§ 14:25**
 - within 30 days, **§ 14:24**
 - show cause/contempt, **§ 14:12**
 - summary judgment motions, **§ 14:11**
- No costs orders, **§ 14:7**
- Offers to settle, **§ 14:19**
- Patent disputes, **§ 1:82**
 - security for, **§ 1:43, § 1:63**
- Patented Medicines (Notice of Compliance) Regulations proceedings, **§ 14:15**
- Principles, general, **§ 14:1 to § 14:5**
 - award of party-and-party costs, **§ 14:1**
 - discretionary power of court
 - limitations on exercise of full discretionary power, **§ 14:5**

COSTS—Cont'd

- Principles, general, **§ 14:1 to § 14:5**
 - Cont'd
 - discretionary power of court—Cont'd to award party-and-party costs, **§ 14:2**
 - lump-sum awards, **§ 14:3**
 - tariff B, **§ 14:4**
- Pro bono counsel, **§ 14:18**
- Security for costs, **§ 14:20**
- Security for costs for impeachment of patents, **§ 14:21**
- Self-represented litigants, **§ 14:17**
- Solicitor, liability of, **§ 14:16**
- Solicitor-and-client costs, **§ 14:9**
- Specific matters, **§ 14:6 to § 14:21**

CRIMINAL CONDUCT

- Competition Act, **§ 6:6 to § 6:23**
 - see also COMPETITION LAW
 - application to IP, **§ 6:34 to § 6:36**
 - bid-rigging, **§ 6:7**
 - conspiracy, **§ 6:6, § 6:34 to § 6:36, § 6:54**
 - price maintenance, **§ 6:11, § 6:43**
- Contempt, **§ 23:56**
- Copyright disputes, **§ 3:41 to § 3:49**
 - Copyright Act, under, **§ 3:42 to § 3:47**
 - copyright infringement, **§ 3:42**
 - Criminal Code, under, **§ 3:48**
 - limitation periods, **§ 3:47**
 - moral rights infringement, **§ 3:44**
 - multiple offences, **§ 3:49**
 - penalties, **§ 3:45**
 - technological protection measures, **§ 3:43**
- Trade secrets and
 - counseling, **§ 5:50**
 - fraud, **§ 5:48 to § 5:50**
 - mischief, **§ 5:48 to § 5:50**
 - theft, **§ 5:48 to § 5:50**

DAMAGES

- Generally, **§ 19:1 et seq.**
- Aggravated, **§ 19:39**
- Burden of proof, **§ 19:7**
- Computer-related disputes, **§ 9:62, § 9:63**
- Copyright disputes, **§ 3:30, § 3:55, § 19:23 to § 19:30**
 - conversion, **§ 19:25**
 - educational institutions, **§ 3:33**

DAMAGES—Cont'd

- Copyright disputes, **§ 3:30, § 3:55, § 19:23 to § 19:30**—Cont'd
 - entitlement, **§ 19:30**
 - exemplary damages, **§ 3:31**
 - general damages, **§ 19:23**
 - moral rights, for infringement of, **§ 19:27**
 - non-pecuniary damages, **§ 19:29**
 - profits, **§ 19:24**
 - punitive damages, **§ 3:31, § 19:28**
 - statutory damages, **§ 3:32, § 19:26**
- Election for, **§ 19:34 to § 19:36**
 - advantages, **§ 19:35**
 - disadvantages, **§ 19:36**
- Industrial designs disputes, **§ 4:46, § 4:47, § 19:31 to § 19:33**
 - calculation, **§ 4:46**
 - election, **§ 4:45**
 - entitlement, **§ 19:33**
 - profits, **§ 19:32**
 - punitive damages, **§ 4:47**
 - quantification, **§ 19:31**
 - royalty, **§ 19:32**
 - sales, **§ 19:32**
- Judicial treatment, **§ 19:6**
- Patent disputes, **§ 1:79, § 19:9 to § 19:17**
 - convoyed sales, **§ 19:12**
 - entitlement, **§ 19:16**
 - lost sales, **§ 19:12**
 - non-infringing alternatives, **§ 19:15**
 - pharmaceuticals, **§ 7:1**
 - post-issuance, **§ 19:10 to § 19:17**
 - pre-issuance, **§ 19:9**
 - price erosion, **§ 19:14**
 - profits, **§ 19:11**
 - punitive damages, **§ 19:17**
 - royalty, **§ 19:13**
 - sales, **§ 19:11, § 19:12**
 - springboard, **§ 19:12**
- Patented Medicines (NOC) Regulations, **§ 19:40 to § 19:43**
- Principles, **§ 19:2**
- Procedure, **§ 19:4, § 19:5**
 - reference, **§ 19:5**
- Punitive, **§ 19:28, § 19:37**
 - copyright disputes, **§ 3:31, § 19:28**
 - patent disputes, **§ 19:17**
 - trademark disputes, **§ 2:29, § 19:21**
 - trade secret disputes, **§ 5:83**

DAMAGES—Cont'd

- Royalties
 - industrial design disputes, § 19:32
 - patent disputes, § 19:13
 - trademark disputes, § 19:20
- Special, § 19:38
- Statutory damages, § 19:26
- Trademark disputes, § 2:25, § 19:18 to § 19:22
 - entitlement, § 19:22
 - punitive damages, § 2:29, § 19:21
 - quantification, § 19:18
 - royalties, § 19:20
 - sales, § 19:19
- Trade secrets disputes
 - acquisition costs, § 5:79
 - breach of confidence, § 5:76
 - breach of contract, § 5:85
 - breach of fiduciary duty, § 5:84
 - capitalization of royalty, § 5:80
 - consulting fee, § 5:78
 - development costs, § 5:79
 - lost opportunity, § 5:82
 - lost profit, § 5:77
 - market value of information, § 5:81
 - punitive damages, § 5:83
- Undertaking to pay, § 17:15, § 17:16

DAMAGES—QUANTUM

- See also ACCOUNTING OF PROFITS—QUANTUM; QUANTUM; VALUATION
- Damages in intellectual property disputes, § 21:2 to § 21:33
- Introduction, § 21:2 to § 21:10
- Lost profits, § 21:11 to § 21:20
 - convoled sales, loss of, § 21:16
 - future loss, § 21:20
 - increased costs, § 21:15
 - price reductions, § 21:14
 - sales, loss of, § 21:12, § 21:13
 - springboard damages, § 21:17
 - subsidiary company, loss of, § 21:18
 - substitute products, § 21:19
- Principles, § 21:2 to § 21:10
 - apportionment, § 21:5
 - but for test, § 21:3
 - causation, § 21:3
 - foreseeability, § 21:6
 - hindsight, use of, § 21:8
 - mitigation, § 21:7

DAMAGES—QUANTUM—Cont'd

- Principles, § 21:2 to § 21:10—Cont'd
 - non-infringing alternatives, § 21:4
 - remoteness, § 21:6
 - taxation, § 21:9
 - three-step test, § 20:16.50
 - value to owner, § 21:10
- Royalties, § 21:21 to § 21:33
 - apportionment, § 21:26
 - base, § 21:25
 - considerations, § 21:28 to § 21:32
 - cost basis, § 21:30
 - damages under s. 8 of PM(NOC) regulations, § 21:33
 - hypothetical, § 21:24
 - increased costs, § 21:29
 - industry standard rates, § 21:23
 - nominal damages, § 21:32
 - non-confiscatory, § 21:31
 - normal rates, § 21:22
 - pre-grant damages, § 21:28

DEFAULT JUDGMENTS

See LITIGATION PROCESS

DELIVERY UP

See also INJUNCTIONS
Generally, § 17:19, § 17:20

DESIGNS

See INDUSTRIAL DESIGNS

DESTRUCTION

See also INJUNCTIONS
Generally, § 17:19, § 17:20

DISBURSEMENTS

See COSTS

DISCOVERY

See also, APPEALS; EXAMINATION FOR DISCOVERY; LITIGATION PROCESS; PRE-TRIAL LITIGATION PROCEDURES; SIMPLIFIED PROCEEDINGS

Discovery, § 10:39

- documentary, § 10:41 to § 10:47
- confidential documents, § 10:38
- deponent, § 10:45
- form of affidavit of documents, § 10:42
- inspection, § 10:43
- other matters, § 10:47

DISCOVERY—Cont'd

Discovery, § 10:39—Cont'd
 documentary, § 10:41 to § 10:47
 —Cont'd
 relevant documents, § 10:44
 simplified action, § 10:46
 timing, § 10:41
 general principles, § 10:40
 oral examination, § 10:48 to § 10:59
 assignors, § 10:51
 direction to attend, § 10:59
 general, § 10:48
 non-parties, § 10:52
 other matters, § 10:56
 persons outside Canada, § 10:58
 relevance, § 10:54
 representative, § 10:49
 scope, § 10:53
 supplemental discovery, § 10:57
 timing, § 10:50

DISPUTE TYPES (TRADEMARKS)

Generally, § 2:5, § 2:6, § 2:13 to § 2:39
 Appeals
 generally, § 2:14
 judicial review, vs., § 2:36
 Cause of action
 generally, § 2:16 to § 2:21
 false description, § 2:20
 injurious falsehood, § 2:17
 official mark, § 2:21
 passing off, § 2:16
 registered mark, § 2:21
 substitution, by, § 2:19
 trade libel, § 2:17
 unfair competition, § 2:16
 Challenging
 published official mark, § 2:35 to § 2:37
 registration, § 2:32 to § 2:37
 Invalid registration, § 2:33
 Opposition—see OPPOSITION
 Pharmaceuticals—see
 PHARMACEUTICALS, trademark disputes

**DOMAIN NAMES DISPUTE
RESOLUTION**

See also CDRP; INTERNET
TRADEMARK DISPUTES

**DOMAIN NAMES DISPUTE
RESOLUTION—Cont'd**

Basis for complaint and eligibility, § 8:176 to § 8:179
 bad faith: attracting internet users, § 8:107 to § 8:113
 attempt to attract users, § 8:109
 commercial gain, § 8:110
 confusion, § 8:111
 disclaimer, § 8:113
 intention, § 8:108
 bad faith: blocking complaint, § 8:96 to § 8:101
 pattern, § 8:99
 purpose, § 8:97
 variations, § 8:98
 WHOIS searching, § 8:100
 bad faith: disrupting business of complainant, § 8:102 to § 8:106
 competition, § 8:104
 disruption, § 8:105
 parking, § 8:106
 purpose, § 8:103
 bad faith: other factors, § 8:119 to § 8:136
 breach of agreement, § 8:123
 cyberflight, § 8:133
 defamatory content, § 8:130
 depreciation of complainant's goodwill, § 8:129
 disobedience of court order, § 8:135
 failed negotiation of agreement, § 8:122
 failure to comply with CPR, § 8:128
 failure to respond, § 8:121
 generic name speculation, § 8:124
 illegal activity, § 8:134
 impersonation, § 8:131
 lapsed registration, § 8:125
 miscellaneous, § 8:136
 phishing, § 8:132
 prior knowledge, § 8:120
 theft and access prevention mechanisms, § 8:127
 use of proxy service, § 8:126
 bad faith: other factors in 2000 Draft, § 8:114 to § 8:118
 misleading information, § 8:118
 multiple registrations, § 8:117
 no intention to use, § 8:115
 offer to transfer, § 8:116

DOMAIN NAMES DISPUTE RESOLUTION—Cont'd
Basis for complaint and eligibility, § 8:176 to § 8:179—Cont'd
bad faith: overview, § 8:81 to § 8:136
burden of proof, § 8:86
influence of other factors, § 8:89
intention, § 8:87
knowledge of complainant's mark, § 8:88
original definition, § 8:82
registration, § 8:83
time, § 8:84
whose bad faith, § 8:85
bad faith: purpose of transfer, § 8:90 to § 8:95
competition, § 8:94
excess costs, § 8:95
legitimate offer, § 8:93
offer of transfer, § 8:92
purpose, § 8:91
basis for complaint, § 8:16
confusing similarity: decisions, § 8:68 to § 8:73
decisions applying confusion test, § 8:69
decisions expressly applying resemblance test, § 8:70
other approaches, § 8:71
confusing similarity: overview, § 8:67 to § 8:80
confusing similarity: resemblance, § 8:74 to § 8:77
application of resemblance test, § 8:75
consequences of resemblance test, § 8:76
examples of resemblance, § 8:77
resemblance as test, § 8:74
confusing similarity: “...sucks” and related names, § 8:78 to § 8:80
“sex” domain names, § 8:80
UDRP decisions, § 8:79
confusing similarity with mark of complainant, § 8:17
eligible complainant, § 8:11 to § 8:15
Canadian presence requirements, § 8:12
compliance, § 8:15
exclusions, § 8:14

DOMAIN NAMES DISPUTE RESOLUTION—Cont'd
Basis for complaint and eligibility, § 8:176 to § 8:179—Cont'd
eligible complainant, § 8:11 to § 8:15
—Cont'd
relation to registered trademark, § 8:13
introduction, § 8:2, 8:5
amendment, § 8:5
differences from UDRP, § 8:3
legitimate interest: descriptive name, § 8:151 to § 8:155
descriptive name, § 8:152
good faith, § 8:155
preparations, § 8:154
use, § 8:153
legitimate interest: generic name, § 8:156 to § 8:160
generic name, § 8:157
good faith, § 8:160
preparations, § 8:159
use, § 8:158
legitimate interest: geographical location, § 8:170
legitimate interest: name, § 8:168, § 8:169
name, § 8:169
legitimate interest: non-commercial activity, § 8:161 to § 8:167
criticism, review or news reporting, § 8:165
fan site, § 8:167
good faith, § 8:163
non-commercial activity, § 8:165
parody site, § 8:166
use, § 8:162
legitimate interest: other factors, § 8:177 to § 8:179
disclaimer, § 8:178
parallel challenge to complainant's mark, § 8:179
legitimate interest: other factors in draft, § 8:171 to § 8:176
accurate description, § 8:172
comparative advertising, § 8:175
demonstrable preparations, § 8:173
good faith belief, § 8:176
third party uses, § 8:174

DOMAIN NAMES DISPUTE RESOLUTION—Cont'd
Basis for complaint and eligibility, § 8:176 to § 8:179—Cont'd
legitimate interest: overview, § 8:137 to § 8:179
absence of legitimate interest, § 8:140
burden of proof, § 8:139
influence of other factors, § 8:141
original definition, § 8:138
whose legitimate interest, § 8:142
legitimate interest: use as mark, § 8:144 to § 8:150
distributors and licensees, § 8:150
good faith, § 8:149
mark, § 8:145
preparations, § 8:148
rights, § 8:146
use, § 8:147
mark: certification mark, § 8:28 to § 8:31
licensee, § 8:31
licensor, § 8:30
successors, § 8:29
mark: exclusions, § 8:37 to § 8:39
names of individuals, § 8:38
statutory protected marks, § 8:39
mark: overview, § 8:18 to § 8:39
mark: prohibited mark, § 8:31 to § 8:34
public authority, § 8:33
qualifying marks, § 8:32
use, § 8:34
mark: registered trademark, § 8:32
mark: trademark or trade name used in Canada, § 8:19 to § 8:27
licensee, § 8:26
licensor, § 8:25
non-qualifying marks, § 8:27
purpose of distinguishing, § 8:23
successors, § 8:24
trademark, § 8:29
trade name, § 8:21
use, § 8:22
purpose and scope, § 8:6 to § 8:10
bad faith registration, § 8:8
construction of, § 8:10
obligations of parties, § 8:9
purpose of CDRP, § 8:6
scope of CDRP, § 8:7

DOMAIN NAMES DISPUTE RESOLUTION—Cont'd
Basis for complaint and eligibility, § 8:176 to § 8:179—Cont'd
rights: overview, § 8:55 to § 8:66
date of registration, § 8:56
rights: prohibited marks, § 8:64 to § 8:66
licensees, § 8:66
successors, § 8:65
rights: trademark, trade name or certification mark used in Canada, § 8:57 to § 8:60
licensees and licensors, § 8:59
municipal names, § 8:60
successors, § 8:58
rights: trademarks registered in Canada, § 8:61 to § 8:63
licensees and licensors, § 8:63
successors, § 8:62
services: cross border online issues, § 8:45
CDRP decisions, § 8:50
computer services, § 8:49
entertainment services, § 8:49
hospitality services, § 8:47
information services, § 8:48
retail services, § 8:46
telecommunications services, § 8:49
use: business, § 8:51
use: non-commercial activity, § 8:52, § 8:53
non-commercial, § 8:53
use: overview, § 8:38
use: services, § 8:43 to § 8:50
cross border issues, § 8:44
use: wares, § 8:41, § 8:42
cross border issues, § 8:42
use: website, § 8:54
Procedures and remedies, § 8:180 to § 8:254
arbitration legislation, § 8:181
communication of complaint, § 8:208
communications, § 8:185
complaint, § 8:200 to § 8:206
additional information, § 8:204
amendment, § 8:206
certification, § 8:205
complainant information, § 8:202
delay, § 8:201

**DOMAIN NAMES DISPUTE
RESOLUTION—Cont’d**

Procedures and remedies, § 8:180 to § 8:254—Cont’d

complaint, § 8:200 to § 8:206—Cont’d

description of basis for, § 8:203

consolidation of proceedings, § 8:227

court proceedings, § 8:251 to § 8:254

judicial review, § 8:253

jurisdiction, § 8:252

decisions, § 8:240 to § 8:243

amendment, § 8:241

communication, § 8:242

publication, § 8:243

evidence, § 8:235 to § 8:238

balance of probabilities, § 8:236

evidentiary principles, § 8:237

negotiations, § 8:238

fees, § 8:183

further submissions, § 8:229 to § 8:232

by complainant as of right, § 8:230

on request by panel, § 8:231

with leave of panel, § 8:232

initiation of proceeding, § 8:189 to § 8:191

introduction, § 8:178, § 8:179

language, § 8:184

law, § 8:239

panel: appointment, § 8:219 to § 8:226

appointment, § 8:222

chair, § 8:223

conversion to single member panel, § 8:221

qualification of panellists, § 8:220

three member panel, § 8:219

panel: powers and obligations, § 8:224 to § 8:226

communication, § 8:225

conduct of proceeding, § 8:226

impartiality, § 8:224

parallel proceedings, § 8:234

parties, § 8:192 to § 8:199

complainant, § 8:193

identification of registrant, § 8:195 to § 8:199

CIRA WHOIS policy, § 8:195

contact procedure, § 8:197

exceptions to WHOIS policy, § 8:196

request for disclosure, § 8:199

**DOMAIN NAMES DISPUTE
RESOLUTION—Cont’d**

Procedures and remedies, § 8:180 to § 8:254—Cont’d

parties, § 8:192 to § 8:199—Cont’d

identification of registrant, § 8:195 to § 8:199—Cont’d

request for list of domain names, § 8:198

registrant, § 8:194

pre-decision termination, § 8:233

provider, § 8:182

provider review of complaint, § 8:207

provider review of response, § 8:217, § 8:218

communication of response, § 8:217

provider review, § 8:218

refiling, § 8:250

remedies, § 8:247, § 8:248

transfer to nominee, § 8:248

reply, § 8:228

response, § 8:209 to § 8:216

additional information, § 8:213

amendment, § 8:216

certification, § 8:215

claim for costs, § 8:214

extension of time, § 8:210

registrant information, § 8:211

response to basis of complaint, § 8:212

reverse hijacking, § 8:244 to § 8:246

costs, § 8:246

unfairly and without colour of right, § 8:245

termination of proceeding, § 8:249

time, § 8:186 to § 8:188

computation, § 8:187

extension of time, § 8:188

ELECTION

See DAMAGES; PROFITS, application

ENFORCEMENT

Generally, § 23:1 *et seq.*

Competition law—see COMPETITION LAW, enforcement

Computer-related disputes, § 9:51.50 to § 9:55

class action remedies, § 9:52 to § 9:55

Contempt—see CONTEMPT

Foreign judgments, § 23:76 to § 23:88

British judgments, § 23:88

ENFORCEMENT—Cont'd

Foreign judgments, § 23:76 to § 23:88
 —Cont'd
 conclusiveness of, § 23:80
 court of competent jurisdiction, § 23:77
 enforceable orders, types of, § 23:78
 exceptions, § 23:81
 finality of, § 23:79
 fraud, § 23:83
 natural justice, § 23:84
 other public law, § 23:82
 penal law, § 23:82
 public policy, § 23:85
 Reciprocal Enforcement of Judgments Act, § 23:87
 revenue law, § 23:82
 statutory enforcement, § 23:86
 Licensing
 arbitration provisions, re, § 9:54.50
 enforcement, § 9:51.50 to § 9:55
 Mechanisms, § 23:11 to § 23:54
 Creditor's Relief Act, § 23:49, § 23:50
 enforcement of intellectual property rights at Canadian border, § 23:52 to § 23:54
 Execution Act—see EXECUTION ACT
 Fraudulent Conveyances Act—see FRAUDULENT CONVEYANCES ACT
 garnishment, § 23:36
 Intellectual property rights as security, § 23:51
 writs—see WRITS
 Principles, § 23:1 to § 23:4
 authority of Sheriff's Office, § 23:7
 bailiffs, § 23:6
 definitions, § 23:1
 interlocutory injunctions, § 23:2
 engaging sheriff/bailiff, § 23:9
 interpleader, § 23:10
 liability of sheriff/bailiff, § 23:8
 orders, § 23:3
 ownership disputes, § 23:10
 Sheriff's Office, § 23:5 to § 23:10
 stay pending appeal, § 23:4
 Trademark disputes, § 2:44

EXAMINATION FOR DISCOVERY

See also APPEALS; DISCOVERY; LITIGATION PROCESS; PRE-TRIAL

EXAMINATION FOR DISCOVERY

—Cont'd
 LITIGATION PROCEDURES; SIMPLIFIED PROCEEDINGS
 2020 Guidelines, § 11:3
 Basic rules, § 11:4
 Categories of questions, § 11:50
 arising in IP cases generally, § 11:17 to § 11:26
 admitted facts, § 11:17
 confidential issues, § 11:21
 damages or accounting in absence of bifurcation, § 11:26
 existence of documents not produced, § 11:18
 facts contained in privileged correspondence, § 11:23
 identity of witnesses, § 11:24
 internal prosecution file and privilege issue, § 11:22
 probative value outweighed by time and trouble, § 11:19
 related corporations, § 11:25
 vague and overbroad, § 11:20
 arising in patent cases, § 11:27 to § 11:44
 Canadian and foreign file wrappers, § 11:37
 commercial success, § 11:41
 development of defendant's product, § 11:38
 development of plaintiff's invention and product, § 11:39
 elements absent from product or process, § 11:30
 foreign applications, patents and proceedings, § 11:36
 inventive feature, substance/essential elements of invention, § 11:29
 inventorship, § 11:27
 prior and enabling disclosure, § 11:33
 products or processes not alleged, § 11:40
 sound prediction, § 11:34
 state of the art, prior art and common general knowledge, § 11:28
 sufficiency of disclosure, § 11:35
 terms used in patent, § 11:32
 testing, § 11:42

EXAMINATION FOR DISCOVERY**—Cont'd**

- Categories of questions, § 11:50—Cont'd
 - arising in patent cases, § 11:27 to § 11:44—Cont'd
 - utility, operability and covetous claiming, § 11:31
 - witnesses' background, § 11:44
 - witnesses who are experts and inventors, § 11:43
 - arising in trademark cases, § 11:45 to § 11:50
 - availability of impugned mark in other jurisdictions, § 11:47
 - filings and search strategies, § 11:48
 - intention of defendant, § 11:49
 - notoriety, fame or goodwill of a mark, § 11:45
 - supplier's ability to supply, § 11:50
 - technical specifications of products, § 11:46
- Conduct of Counsel During Discovery, § 11:53
- Cross-examination, discovery vs., § 11:6
 - confidentiality orders, § 11:6.30
 - confidential material, filing of, § 11:6.90
 - discovery of documents, § 11:6.10
 - hybrid orders, § 11:6.70
 - protective orders, § 11:6.3, § 11:6.5
- Directing and terminating discovery, § 11:51
 - Discovery plan, developing a, § 11:55
 - Discovery strategy, developing a, § 11:55
 - Discovery witness, § 11:50.50
 - Facts, § 11:8 to § 11:15
 - conclusions, § 11:14
 - evidence, § 11:9
 - hypotheticals, § 11:12
 - interpretations, § 11:10
 - opinions, § 11:11
 - positions, § 11:15
 - reopening discovery, failure to ask relevant questions, § 11:52
 - speculation, § 11:13
 - Limits on documentary discovery, § 11:3
 - Limits on oral discovery, § 11:3
 - Limits on refusal motions, § 11:3
 - Motion to compel, form of objection, § 11:54

EXAMINATION FOR DISCOVERY**—Cont'd**

- Motion to compel, form of presentation, § 11:54
 - Particulars, discovery vs., § 11:5
 - Purpose, § 11:2
 - Relevance, § 11:7

EXECUTION ACT

- Generally, § 23:46 to § 23:48
- Exemptions, § 23:47
- Exigible property, § 23:48

EXEMPLARY DAMAGES

- See also DAMAGES
- Generally, § 3:31

EXPUNGEMENT

- See COPYRIGHT, registration; trademark remedies

FOREIGN JUDGMENTS

- See ENFORCEMENT

FRAUDULENT CONVEYANCES ACT

- Generally, § 23:37 to § 23:45
- Defences, § 23:43
- Definitions, § 23:40, § 23:41
- Intention to defraud, § 23:42, § 23:44
- Scope, § 23:38
- Standing, § 23:39
- Voidable transactions, § 23:45

GARNISHMENT

- See ENFORCEMENT, mechanisms

ICANN UNIFORM DOMAIN NAME DISPUTE RESOLUTION POLICY

- See DOMAIN NAMES DISPUTE RESOLUTION

INDUSTRIAL DESIGNS

- Generally, § 4:1 et seq.
- Alteration—see correction
- Correction, § 4:18 to § 4:22
 - ague application, § 4:22
 - jurisdiction, § 4:19
 - procedure, § 4:21
 - standing, § 4:20
- Dispute types, § 4:2 to § 4:39
- Expungement, § 4:32 to § 4:37
 - discovery evidence, § 4:37
 - jurisdiction, § 4:33
 - pleadings, § 4:35, § 4:36

INDUSTRIAL DESIGNS—Cont'd

Expungement, § 4:32 to § 4:37—Cont'd
 standing, § 4:34
 trial evidence, § 4:37
 Infringement, § 4:23 to § 4:31
 evidence, § 4:29
 jurisdiction, § 4:24
 pleadings, § 4:26 to § 4:28
 standing, § 4:25
 Limitation periods, § 22:6
 Ownership disputes, § 4:38, § 4:39
 jurisdiction, § 4:39
 Rectification—see correction
 Registrability, § 4:4 to § 4:17
 appeals, § 4:17
 assignment, § 4:6
 copyright, relation to, § 4:7 to § 4:15
 descriptions, § 4:15
 designs, § 4:7
 drawings, § 4:15
 examination, § 4:16
 licence, § 4:6
 morality, § 4:14
 non-functional, § 4:10
 originality, § 4:11
 proprietor, § 4:5
 published within year, whether, § 4:14
 standing, § 4:5, § 4:6
 subject matter, § 4:7 to § 4:15
 Remedies, § 4:40 to § 4:51
 accounting of profits, § 4:48
 amendment of the Register, § 4:40
 calculation of damages, § 4:46
 costs, § 4:50
 damages, generally, § 4:46, § 4:47,
 § 19:31 to § 19:33
 delivery up, § 4:49
 destruction, § 4:49
 election, § 4:45
 entitlement to damages, § 19:33
 injunctions, generally, § 4:42, § 4:44,
 § 17:35, § 17:36
 interest, § 4:51
 preservation, § 4:41
 profits, § 4:48, § 19:32
 punitive damages, § 4:47
 quantification, § 19:31
 royalty, § 19:32
 sales, § 19:32
 Resolution techniques, § 4:3

INFORMATION TECHNOLOGY

See COMPUTER-RELATED DISPUTES

INFRINGEMENT

See also COPYRIGHT; INDUSTRIAL DESIGNS; PATENTS; PHARMACEUTICALS

INJUNCTIONS

See also ANTON PILLER ORDERS

Generally, § 17:1 et seq.

Competition law, § 6:28

Confidential information and trade secrets, § 17:41, § 17:42

general principles, § 17:41

judicial history and trends, § 17:42

Copyright, availability of injunctive relief, § 17:31, § 17:32

general principles, § 17:31

judicial history and trends, § 17:32

wide injunction, § 3:29

Copyrights, § 3:27

Industrial designs, § 4:42, § 4:44, § 17:35, § 17:36

general principles, § 17:35

judicial history and trends, § 17:36

Information technology, § 17:43, § 17:44

general principles, § 17:43

judicial history and trends, § 17:44

Integrated circuit topographies, § 17:39, § 17:40

general principles, § 17:39

judicial history and trends, § 17:40

Interest-related, § 24:6

Legal tests, § 17:5 to § 17:22

balance of convenience, § 17:13, § 17:14

general principles, § 17:13

judicial history and trends, § 17:14

delivery up and destruction, § 17:19, § 17:20

general principles, § 17:19

judicial history and trends, § 17:20

general principles, § 17:5

irreparable harm, § 17:11, § 17:12

general principles, § 17:11

judicial history and trends, § 17:12

judicial history and trends, § 17:8

lifting of interlocutory injunctions and staying of permanent injunctions, § 17:17, § 17:18

general principles, § 17:17

INJUNCTIONS—Cont'd

Legal tests, **§ 17:5 to § 17:22**—Cont'd
 lifting of interlocutory injunctions and
 staying of permanent injunctions,
§ 17:17, § 17:18—Cont'd
 judicial history and trends, **§ 17:18**
 Overview, **§ 17:1 to § 17:4**
 general principles, **§ 17:2**
 international obligations, **§ 17:4**
 judicial history and trends, **§ 17:3**
 preface, **§ 17:1**
 Patents, availability of injunctive relief,
§ 1:77, § 17:23, § 17:24
 general principles, **§ 17:23**
 judicial history and trends, **§ 17:24**
 Pharmaceutical patents/patented
 medicines (NOC Regulations), **§ 7:2
 to § 7:18, § 17:25, § 17:26**
 general principles, **§ 17:25**
 judicial history and trends, **§ 17:26**
 Plant breeders' rights, **§ 17:37, § 17:38**
 general principles, **§ 17:37**
 judicial history and trends, **§ 17:38**
 Prima facie case/serious issue, **§ 17:9,
 § 17:10**
 general principles, **§ 17:9**
 judicial history and trends, **§ 17:10**
 special defences to an injunction,
§ 17:21, § 17:22
 general principles, **§ 17:21**
 judicial history and trends, **§ 17:22**
 undertaking to pay damages, **§ 17:15,
 § 17:16**
 general principles, **§ 17:15**
 judicial history and trends, **§ 17:16**
 Specific remedies under Copyright Act,
§ 17:33, § 17:34
 general principles, **§ 17:33**
 judicial history and trends, **§ 17:34**
 Specific remedies under Trademarks Act,
§ 17:29, § 17:30
 general principles, **§ 17:29**
 judicial history and trends, **§ 17:30**
 Trademarks, **§ 2:24**
 Trademarks, availability of injunctive
 relief, **§ 17:27, § 17:28**
 general principles, **§ 17:27**
 judicial history and trends, **§ 17:28**

INSPECTION

See PATENTS, remedies

**INTEGRATED CIRCUIT
 TOPOGRAPHIES**

Generally, **§ 17:39, § 17:40**
 Limitation periods, **§ 22:7**

INTEREST

Generally, **§ 24:1 et seq.**
 Federal Courts Act, **§ 24:2**
 Industrial design disputes, **§ 4:51**
 Patent disputes, **§ 1:83**
 Post-judgment, **§ 24:13**
 Pre-judgment, **§ 24:1**
 pleading, **§ 24:12**
 Profits, deducting from, **§ 20:26, § 20:41
 to § 20:48**
 compound interest, **§ 20:47**
 rate of interest, **§ 20:47**
 simple interest, **§ 20:47**
 Provincial law, **§ 24:3 to § 24:11**
 compound interest, **§ 24:11**
 exclusions, **§ 24:5**
 interlocutory injunctions, **§ 24:6**
 judicial discretion, **§ 24:9**
 legislative scheme, **§ 24:4**
 Quebec, **§ 24:10**
 rate, **§ 24:8**
 time, **§ 24:7**
 undertakings, **§ 24:6**

INTERLOCUTORY INJUNCTIONS

See INJUNCTIONS

INTERLOCUTORY MOTIONS

See LITIGATION PROCESS

INTERNET TRADEMARK DISPUTES

See also CDRP; DOMAIN NAMES
 DISPUTE RESOLUTION

Basis for complaint and eligibility, **§ 8:1
 to § 8:179**
 bad faith: attracting internet users,
§ 8:107 to § 8:113
 attempt to attract users, **§ 8:109**
 commercial gain, **§ 8:110**
 confusion, **§ 8:111**
 disclaimer, **§ 8:113**
 intention, **§ 8:108**
 bad faith: blocking complaint, **§ 8:96 to
 § 8:101**
 pattern, **§ 8:99**
 purpose, **§ 8:97**
 variations, **§ 8:98**

INTERNET TRADEMARK DISPUTES**—Cont'd**

Basis for complaint and eligibility, **§ 8:1 to § 8:179**—Cont'd
 bad faith: blocking complaint, **§ 8:96 to § 8:101**—Cont'd
 WHOIS searching, **§ 8:100**
 bad faith: disrupting business of complainant, **§ 8:102 to § 8:106**
 competition, **§ 8:104**
 disruption, **§ 8:105**
 parking, **§ 8:106**
 purpose, **§ 8:103**
 bad faith: other factors, **§ 8:119 to § 8:136**
 breach of agreement, **§ 8:123**
 cyberflight, **§ 8:133**
 defamatory content, **§ 8:130**
 depreciation of complainant's goodwill, **§ 8:129**
 disobeyance of court order, **§ 8:135**
 failed negotiation of agreement, **§ 8:122**
 failure to comply with CPR, **§ 8:128**
 failure to respond, **§ 8:121**
 generic name speculation, **§ 8:124**
 illegal activity, **§ 8:134**
 impersonation, **§ 8:131**
 lapsed registration, **§ 8:125**
 miscellaneous, **§ 8:136**
 phishing, **§ 8:132**
 prior knowledge, **§ 8:120**
 theft and access prevention mechanisms, **§ 8:127**
 use of proxy service, **§ 8:126**
 bad faith: other factors in 2000 draft, **§ 8:114 to § 8:118**
 misleading information, **§ 8:118**
 multiple registrations, **§ 8:117**
 no intention to use, **§ 8:115**
 offer to transfer, **§ 8:116**
 bad faith: overview, **§ 8:81 to § 8:136**
 burden of proof, **§ 8:86**
 influence of other factors, **§ 8:89**
 intention, **§ 8:87**
 knowledge of complainant's mark, **§ 8:88**
 original definition, **§ 8:82**
 registration, **§ 8:83**
 time, **§ 8:84**
 whose bad faith, **§ 8:85**

INTERNET TRADEMARK DISPUTES**—Cont'd**

Basis for complaint and eligibility, **§ 8:1 to § 8:179**—Cont'd
 bad faith: purpose of transfer, **§ 8:90 to § 8:95**
 competition, **§ 8:94**
 excess costs, **§ 8:95**
 legitimate offer, **§ 8:93**
 offer of transfer, **§ 8:92**
 purpose, **§ 8:91**
 basis for complaint, **§ 8:14**
 confusing similarity: decisions, **§ 8:68 to § 8:73**
 decisions applying confusion test, **§ 8:69**
 decisions considering dual analysis, **§ 8:72**
 decisions expressly applying resemblance test, **§ 8:70**
 decisions implicitly applying resemblance test, **§ 8:71**
 split decision, **§ 8:73**
 confusing similarity: overview, **§ 8:67 to § 8:80**
 confusing similarity: resemblance, **§ 8:74 to § 8:77**
 application of resemblance test, **§ 8:75**
 consequences of resemblance test, **§ 8:76**
 examples of resemblance, **§ 8:77**
 resemblance as test, **§ 8:74**
 confusing similarity: "...sucks" and related names, **§ 8:78 to § 8:80**
 "sex" domain names, **§ 8:80**
 confusing similarity with mark of complainant, **§ 8:17**
 eligible complainant, **§ 8:11 to § 8:15**
 Canadian presence requirements, **§ 8:12**
 compliance, **§ 8:15**
 exclusions, **§ 8:14**
 relation to registered trademark, **§ 8:13**
 introduction, **§ 8:2, § 8:5**
 amendment, **§ 8:5**
 differences from UDRP, **§ 8:3**
 legitimate interest: descriptive name, **§ 8:152 to § 8:155**
 descriptive name, **§ 8:152**

INTERNET TRADEMARK DISPUTES**—Cont'd**

- Basis for complaint and eligibility, **§ 8:1 to § 8:179—Cont'd**
- legitimate interest: descriptive name, **§ 8:152 to § 8:155—Cont'd**
 - good faith, **§ 8:155**
 - preparations, **§ 8:154**
 - use, **§ 8:153**
 - legitimate interest: generic name, **§ 8:156 to § 8:160**
 - generic name, **§ 8:157**
 - good faith, **§ 8:160**
 - preparations, **§ 8:159**
 - use, **§ 8:158**
 - legitimate interest: geographical location, **§ 8:170**
 - legitimate interest: name, **§ 8:168, § 8:169**
 - name, **§ 8:169**
 - legitimate interest: non-commercial activity, **§ 8:161 to § 8:167**
 - criticism, review or news reporting, **§ 8:165**
 - fan site, **§ 8:167**
 - good faith, **§ 8:163**
 - non-commercial activity, **§ 8:165**
 - parody site, **§ 8:166**
 - use, **§ 8:162**
 - legitimate interest: other factors, **§ 8:177 to § 8:179**
 - disclaimer, **§ 8:178**
 - parallel challenge to complainant's mark, **§ 8:179**
 - legitimate interest: other factors in draft, **§ 8:171 to § 8:176**
 - accurate description, **§ 8:172**
 - comparative advertising, **§ 8:175**
 - demonstrable preparations, **§ 8:173**
 - good faith belief, **§ 8:176**
 - third party uses, **§ 8:174**
 - legitimate interest: overview, **§ 8:137 to § 8:179**
 - absence of legitimate interest, **§ 8:140**
 - burden of proof, **§ 8:139**
 - influence of other factors, **§ 8:141**
 - original definition, **§ 8:138**
 - whose legitimate interest, **§ 8:142**

INTERNET TRADEMARK DISPUTES**—Cont'd**

- Basis for complaint and eligibility, **§ 8:1 to § 8:179—Cont'd**
- legitimate interest: use as mark, **§ 8:144 to § 8:150**
 - distributors and licensees, **§ 8:150**
 - good faith, **§ 8:149**
 - mark, **§ 8:145**
 - preparations, **§ 8:148**
 - rights, **§ 8:146**
 - use, **§ 8:147**
 - mark: certification mark, **§ 8:28 to § 8:31**
 - licensee, **§ 8:31**
 - licensor, **§ 8:30**
 - successors, **§ 8:29**
 - mark: exclusions, **§ 8:37 to § 8:39**
 - names of individuals, **§ 8:38**
 - mark: overview, **§ 8:18 to § 8:39**
 - mark: prohibited mark, **§ 8:33 to § 8:37**
 - public authority, **§ 8:35**
 - qualifying marks, **§ 8:34**
 - use, **§ 8:36**
 - mark: registered trademark, **§ 8:32**
 - mark: trademark or trade name used in Canada, **§ 8:19 to § 8:27**
 - licensee, **§ 8:26**
 - licensor, **§ 8:25**
 - non-qualifying marks, **§ 8:27**
 - purpose of distinguishing, **§ 8:23**
 - successors, **§ 8:24**
 - trademark, **§ 8:20**
 - trade name, **§ 8:21**
 - use, **§ 8:22**
 - purpose and scope, **§ 8:6 to § 8:10**
 - bad faith registration, **§ 8:8**
 - obligations of parties, **§ 8:9**
 - purpose of CDRP, **§ 8:6**
 - scope of CDRP, **§ 8:7**
 - rights: overview, **§ 8:55 to § 8:66**
 - date of registration, **§ 8:56**
 - rights: prohibited marks, **§ 8:64 to § 8:66**
 - rights: trademark, trade name or certification mark used in Canada, **§ 8:57 to § 8:60**
 - licensees and licensors, **§ 8:59**
 - municipal names, **§ 8:60**
 - successors, **§ 8:58**

INTERNET TRADEMARK DISPUTES**—Cont'd**

Basis for complaint and eligibility, **§ 8:1 to § 8:179**—Cont'd
 rights: trademarks registered in Canada, **§ 8:61 to § 8:63**
 licensees and licensors, **§ 8:63**
 successors, **§ 8:62**
 use: business, **§ 8:51**
 use: non-commercial activity, **§ 8:52, § 8:53**
 non-commercial, **§ 8:53**
 use: overview, **§ 8:38**
 use: services, **§ 8:43 to § 8:50**
 cross border issues, **§ 8:44**
 performance, **§ 8:42**
 services: cross border online issue, **§ 8:45**
 CDRP decisions, **§ 8:50**
 computer services, **§ 8:49**
 entertainment services, **§ 8:49**
 hospitality services, **§ 8:47**
 information services, **§ 8:48**
 retail services, **§ 8:46**
 telecommunications services, **§ 8:49**
 use: wares, **§ 8:41, § 8:42**
 cross border issues, **§ 8:42**
 use: website, **§ 8:54**
 Procedures and remedies, **§ 8:180 to § 8:254**
 arbitration legislation, **§ 8:181**
 communication of complaint, **§ 8:208**
 communications, **§ 8:185**
 complaint, **§ 8:200 to § 8:206**
 additional information, **§ 8:204**
 amendment, **§ 8:206**
 certification, **§ 8:205**
 complainant information, **§ 8:202**
 delay, **§ 8:201**
 description of basis for, **§ 8:203**
 consolidation of proceedings, **§ 8:227**
 court proceedings, **§ 8:251, § 8:254**
 judicial review, **§ 8:253**
 jurisdiction, **§ 8:252**
 decisions, **§ 8:240 to § 8:243**
 amendment, **§ 8:241**
 communication, **§ 8:242**
 publication, **§ 8:243**

INTERNET TRADEMARK DISPUTES**—Cont'd**

Procedures and remedies, **§ 8:180 to § 8:254**—Cont'd
 evidence, **§ 8:235 to § 8:238**
 balance of probabilities, **§ 8:236**
 evidentiary principles, **§ 8:237**
 negotiations, **§ 8:238**
 fees, **§ 8:183**
 further submissions, **§ 8:229 to § 8:232**
 by complainant as of right, **§ 8:230**
 on request by panel, **§ 8:231**
 with leave of panel, **§ 8:232**
 initiation of proceeding, **§ 8:189 to § 8:191**
 language, **§ 8:184**
 law, **§ 8:239**
 panel: appointment, **§ 8:219 to § 8:226**
 appointment, **§ 8:222**
 chair, **§ 8:223**
 conversion to single member panel, **§ 8:221**
 qualification of panellists, **§ 8:220**
 three member panel, **§ 8:219**
 panel: powers and obligations, **§ 8:224 to § 8:226**
 communication, **§ 8:225**
 conduct of proceeding, **§ 8:226**
 impartiality, **§ 8:224**
 parallel proceedings, **§ 8:234**
 parties, **§ 8:192 to § 8:199**
 complainant, **§ 8:193**
 identification of registrant, **§ 8:195 to § 8:199**
 CIRA WHOIS policy, **§ 8:195**
 contact procedure, **§ 8:197**
 exceptions to WHOIS policy, **§ 8:196**
 request for disclosure, **§ 8:199**
 request for list of domain names, **§ 8:198**
 registrant, **§ 8:194**
 pre-decision termination, **§ 8:232**
 provider, **§ 8:182**
 provider review of complaint, **§ 8:207**
 provider review of response, **§ 8:217, § 8:218**
 communication of response, **§ 8:217**
 provider review, **§ 8:218**
 refiling, **§ 8:250**

INTERNET TRADEMARK DISPUTES**—Cont'd**

- Procedures and remedies, **§ 8:180 to § 8:254**—Cont'd
 remedies, **§ 8:247, § 8:248**
 transfer to nominee, **§ 8:248**
 reply, **§ 8:228**
 response, **§ 8:209 to § 8:216**
 additional information, **§ 8:213**
 amendment, **§ 8:216**
 certification, **§ 8:215**
 claim for costs, **§ 8:214**
 extension of time, **§ 8:210**
 registrant information, **§ 8:211**
 response to basis of complaint, **§ 8:212**
 reverse hijacking, **§ 8:244 to § 8:246**
 costs, **§ 8:246**
 unfairly and without colour of right, **§ 8:245**
 termination of proceeding, **§ 8:249**
 time, **§ 8:186 to § 8:188**
 computation, **§ 8:187**
 extension of time, **§ 8:188**

IRREPARABLE HARM

- See also INJUNCTIONS
 Generally, **§ 17:11 to § 17:54**
 Academic criticisms, **§ 17:50**
 "Clear and not speculative" standard, **§ 17:48**
 Federal Court threshold, **§ 17:47**
 International landscape, **§ 17:51**
 Australia, **§ 17:54**
 United Kingdom, **§ 17:52**
 United States, **§ 17:53**
 observations and reflections, **§ 17:45**
 origins of, **§ 17:46**
 Quebec, **§ 17:49**

LICENSING

- Generally, **§ 16:1 et seq.**
 Computer-related disputes—see COMPUTER-RELATED DISPUTES
 Drafting a license agreement, **§ 16:41**
 Fraud, **§ 16:42 to § 16:49**
 Intellectual property disputes, **§ 16:1 to § 16:22**
 bankruptcy, impact of, **§ 16:21, § 16:22**
 contract law, **§ 16:3 to § 16:22**
 acceptance, **§ 16:5**

LICENSING—Cont'd

- Intellectual property disputes, **§ 16:1 to § 16:22**—Cont'd
 contract law, **§ 16:3 to § 16:22**
 assignment of IP licenses, **§ 16:20**
 consideration, **§ 16:4**
 direct damages, **§ 16:9**
 good faith, duty of, **§ 16:10**
 liability, limitation of, **§ 16:8**
 offer, **§ 16:5**
 parol evidence rule, **§ 16:6**
 sole and exclusive rights, **§ 16:18**
 sublicense, **§ 16:19**
 termination and waiver of rights, **§ 16:7**
 third party infringers, **§ 16:11**
 copyright, **§ 16:15**
 industrial design, **§ 16:13**
 integrated circuit topographies, **§ 16:16**
 negotiation, **§ 16:2**
 patent, **§ 16:12**
 plant breeders' rights, **§ 16:17**
 trademark, **§ 16:14**
 Issues related to, **§ 16:34 to § 16:40**
 confidential information, **§ 16:40**
 copyright, **§ 16:39**
 improvements, **§ 16:36**
 license back, **§ 16:37**
 patent rights, definition of, **§ 16:34, § 16:35**
 trademark licenses, **§ 16:38**
 License agreements, provisions of, **§ 16:23 to § 16:33**
 enforcement guidelines, **§ 16:27**
 first sale doctrine, **§ 16:26**
 grant of rights, **§ 16:23**
 marking, **§ 16:28**
 copyright, **§ 16:30**
 industrial design, **§ 16:32**
 integrated circuit topographies, **§ 16:33**
 patent, **§ 16:31**
 trademark, **§ 16:29**
 patent rights exhaustion, **§ 16:26**
 representations, **§ 16:25**
 termination, **§ 16:24**
 warranties, **§ 16:25**
 Patent rights, definition of, **§ 16:34, § 16:35**

LIMITATION PERIODS

Generally, § 22:1 et seq.
 Factors, § 22:16 to § 22:26
 amended periods, § 22:18
 amending pleading, § 22:25
 conflict of laws, § 22:20
 delay, § 22:23
 discoverability, § 22:19
 parties, § 22:21
 pleading generally, § 22:24
 promissory estoppel, § 22:22
 statutory interpretation, § 22:17
 tolling agreements, § 22:26
 Sources, § 22:2 to § 22:15
 Competition Act, § 22:13
 copyrights, § 3:23, § 3:47, § 22:4
 crown liability, § 22:12
 Federal Courts Act, § 22:14
 industrial designs, § 22:6
 integrated circuit topographies, § 22:7
 Olympic and Paralympic Marks Act, § 22:10
 patents, § 22:5
 plant breeders' rights, § 22:8
 provincial statutes, § 22:15
 Time Limits and Other Periods Act (COVID-19), § 22:14.50
 trademarks, § 22:9
 trade secrets, § 5:59

LITIGATION, BEST PRACTICES

See also LITIGATION PROCESS
 case management and scheduling, § 26:9
 discussion, § 26:27
 documentary production, § 26:13
 early motions, § 26:11
 evidence for trial, § 26:23
 expert evidence, § 26:19
 Federal Court, rules and notices, § 26:3, § 26:4
 foundations, § 26:2
 judicial process, interacting with Court Officers, § 26:7
 mentors, § 26:6
 oral discovery, § 26:15
 overview, § 26:1
 pleadings, § 26:11
 preparing witnesses, § 26:23
 pre-trial conferences and preparations, § 26:21

LITIGATION, BEST PRACTICES**—Cont'd**

See also LITIGATION PROCESS
 —Cont'd
 refusals motions, § 26:17
 rules of professional conduct, provincial, § 26:5
 trial, § 26:25
 troubleshooting, appeal, § 26:28
 troubleshooting, trial, § 26:26

LITIGATION, INTELLECTUAL PROPERTY PLEADINGS

Declaration of non-infringement/impeachment, patent generally, § 12:66 to § 12:91
 claim generally, § 12:66 to § 12:73
 business and technology, § 12:70
 defendant's patent, § 12:69
 general principles, § 12:66
 invalidity, § 12:72
 miscellaneous, § 12:73
 non-infringement, § 12:71
 parties, § 12:68
 prayer for relief, § 12:67
 standing, § 12:70
 counterclaim generally, § 12:81 to § 12:87
 general principles, § 12:81
 infringement, § 12:85
 miscellaneous, § 12:87
 parties, § 12:83
 quantum, relief, § 12:86
 relief, § 12:82, § 12:86
 standing, § 12:84
 defence generally, § 12:74 to § 12:80
 admissions, § 12:75
 assertions of no knowledge, § 12:75
 defendant's patent rights, § 12:77
 denials, § 12:75
 general principles, § 12:74
 infringement, § 12:79
 miscellaneous, § 12:80
 parties, § 12:76
 standing, § 12:78
 reply generally, § 12:88 to § 12:89
 admissions, § 12:88
 assertions of no knowledge, § 12:88

LITIGATION, INTELLECTUAL PROPERTY PLEADINGS—Cont'd

Declaration of non-infringement/
impeachment, patent—Cont'd
 reply—Cont'd
 denials, § 12:88
 reply and miscellaneous, § 12:89
 reply and defence to counterclaim,
 § 12:90
 reply to defence to counterclaim,
 § 12:91

Expungement, trademark, § 12:118

Infringement, copyright and moral right
 generally, § 12:119 to § 12:156
 application, copyright and moral right
 infringement, § 12:155
 application, TPM circumvention,
 § 12:155
 claim
 generally, § 12:119 to § 12:127
 copyright, § 12:122
 general principles, § 12:119
 infringing acts, § 12:123
 miscellaneous, § 12:127
 moral rights, § 12:124
 parties, § 12:121
 quantum, § 12:126
 relief, § 12:120, § 12:126
 standing, § 12:122
 technological protection measures,
 § 12:125

counterclaim
 generally, § 12:145 to § 12:151
 business and activities, § 12:148
 general principles, § 12:145
 invalidity, § 12:150
 miscellaneous, § 12:151
 non-infringement, § 12:149
 parties, § 12:147
 prayer for relief, § 12:146

defence
 generally, § 12:128 to § 12:144
 admissions, § 12:129
 assertions of no knowledge, § 12:129
 business and activities, § 12:131
 defences, no copyright infringement,
 § 12:137 to § 12:139
 defences, other, § 12:140
 denial of copyright ownership,
 § 12:136

LITIGATION, INTELLECTUAL PROPERTY PLEADINGS—Cont'd

Infringement, copyright and moral right
 —Cont'd
 defence—Cont'd
 denial of subsistence/validity of
 copyright, § 12:132
 denials, § 12:129
 disentitlement to relief, § 12:142
 general principles, § 12:128
 limitation period, § 12:143
 miscellaneous, § 12:144
 moral rights, unenforceability,
 § 12:141
 parties, § 12:130
 reply, § 12:152
 reply and defence to counterclaim,
 § 12:153
 reply to defence to counterclaim,
 § 12:154

Infringement, patent
 generally, § 12:22 to § 12:65
 claim
 generally, § 12:22 to § 12:28
 defendant's infringing activities,
 § 12:26
 general principles, § 12:22
 miscellaneous, § 12:28
 parties, § 12:24
 plaintiff's patent rights and standing,
 § 12:25
 prayer for relief, § 12:23
 relief and quantum sought, § 12:27

counterclaim
 generally, § 12:51 to § 12:58
 business and technology, § 12:54
 general, § 12:51
 invalidity of patent, § 12:57
 miscellaneous, § 12:58
 non-infringement, § 12:56
 parties, § 12:53
 prayer for relief, § 12:52
 statements, false and misleading,
 § 12:55

defence
 generally, § 12:29 to § 12:50
 admissions, denials, § 12:30
 assertions of no knowledge of allegations
 made in statement of
 claim, § 12:30
 defendant's business, § 12:32

LITIGATION, INTELLECTUAL PROPERTY PLEADINGS—Cont'd
Infringement, patent—Cont'd
defence—Cont'd
disentitlement to relief, § 12:48
general principles, § 12:29
invalidity, § 12:35 to § 12:46
limitation periods, § 12:49
miscellaneous, § 12:50
non-infringement, § 12:34
parties, § 12:31
patent right, § 12:33
standing, plaintiff, § 12:33
unenforceable, patent, § 12:47
reply
generally, § 12:59 to § 12:60
admissions, § 12:59
assertions of no knowledge
generally, § 12:59
denials, § 12:59
reply and miscellaneous, § 12:60
reply and defence to counterclaim
generally, § 12:61 to § 12:65
admissions, § 12:61
assertions of no knowledge, § 12:61
defence to counterclaim, § 12:63
denials, § 12:61
miscellaneous, § 12:64
reply, § 12:62
Infringement, trademark and passing off
generally, § 12:92 to § 12:117
application, passing off, § 12:117
application, trademark infringement and passing off, § 12:117
claim
generally, § 12:92 to § 12:97
general principles, § 12:92
infringing acts, § 12:96
miscellaneous, § 12:97
parties, § 12:94
relief, § 12:93, § 12:96
standing, § 12:95
counterclaim
generally, § 12:106 to § 12:110
invalidity, § 12:109
miscellaneous, § 12:110
parties, § 12:108
prayer for relief, § 12:107
defence
generally, § 12:98 to § 12:105

LITIGATION, INTELLECTUAL PROPERTY PLEADINGS—Cont'd
Infringement, trademark and passing off
—Cont'd
defence—Cont'd
admission, § 12:99
assertions of no knowledge, § 12:99
defence, non-infringement, § 12:102
defence, trademark invalidity, § 12:103
delay, § 12:101
denials, § 12:99
disentitlement to relief, § 12:100
general principles, § 12:98
limitation periods, § 12:101
miscellaneous, § 12:105
remedies, entitlement, § 12:104
reply
generally, § 12:111 to § 12:112
admissions, § 12:111
assertions of no knowledge, § 12:111
denials, § 12:111
reply and miscellaneous, § 12:112
reply and defence to counterclaim
generally, § 12:113 to § 12:115
admissions, § 12:113
assertions of no knowledge, § 12:113
denials, § 12:113
miscellaneous, § 12:115
reply to defence to counterclaim, § 12:116
Pleadings, IP
generally, § 12:1 to § 12:9
amending pleadings
generally, § 12:8, § 12:9
with leave, § 12:9
without leave, § 12:8
form and content of pleadings, § 12:2 to § 12:12:7
motions, pleadings
generally, § 12:10 to § 12:18
default judgment, § 12:18
motion strike, § 12:11 to § 12:17
objection to the service of a claim, § 12:10
patent, trademark and copyright litigation
generally, § 12:19 to § 12:21
copyright, § 12:18
patent, § 12:19

LITIGATION, INTELLECTUAL PROPERTY PLEADINGS—Cont'd
Pleadings, IP—Cont'd
patent, trademark and copyright litigation—Cont'd
trademark, § 12:20
LITIGATION PROCESS
See also APPEALS; DISCOVERY; EXAMINATION FOR DISCOVERY; PRE-TRIAL LITIGATION PROCEDURES; SIMPLIFIED PROCEEDINGS
Appeal procedures, § 10:138 to § 10:180
appeal books, memoranda and books of authorities, § 10:162 to § 10:171
appeal books, § 10:163
contents, § 10:164
material in possession of tribunal, § 10:166
ordering transcripts and exhibits, § 10:165
service and filing, § 10:167
book of authorities, § 10:169
general principles, § 10:162
interlocutory appeals—Ontario courts, § 10:171
memorandum, § 10:168
prothonotary orders and referee reports, § 10:170
commencement, § 10:152 to § 10:161
appearance or cross-appeal, § 10:158
consent judgments, § 10:159
general principles, § 10:152
interlocutory appeals—Ontario courts, § 10:161
notice of appeal, § 10:156
prothonotary orders and referee reports, § 10:160
respondents, § 10:157
timing, § 10:153 to § 10:155
appearance or cross-appeal, § 10:155
filing notice of appeal, § 10:153
service, § 10:154
hearing procedure, § 10:172 to § 10:175
general principles, § 10:172
new evidence on appeal, § 10:174
prothonotary orders and referee reports, § 10:175
requisition of hearing, § 10:173

LITIGATION PROCESS—Cont'd
Appeal procedures, § 10:138 to § 10:180
—Cont'd
right to appeal, § 10:138 to § 10:145
appeals with leave, § 10:143 to § 10:145
acts of Parliament, § 10:144
appeal to Supreme Court of Canada, § 10:145
Ontario appeals, § 10:143
appeals without leave, § 10:139
judgments of trial division, § 10:140
prothonotary orders and referee reports, § 10:142
to Federal Court under acts of Parliament, § 10:141
general principles, § 10:152
standard of review, § 10:146 to § 10:151
appeal from order of Prothonotary/Master, § 10:151
discretionary decisions, § 10:149
evidentiary rulings, § 10:150
expert evidence, § 13:35
general principles, § 10:146
questions of fact, § 10:148
questions of law, § 10:147
stays pending appeal, § 10:176 to § 10:180
availability, § 10:177
generally, § 10:178
interlocutory orders, § 10:179
general principles, § 10:176
procedure, § 10:180
Best practices, see LITIGATION, BEST PRACTICES
Litigation process, § 10:1 to § 10:9
parties, § 10:1 to § 10:5
bifurcation of proceedings, § 10:4.50
class actions, § 10:5
consolidation of proceedings, § 10:4
general principles, § 10:1
intervention, interpleader, § 10:3
joinder, misjoinder, addition or substitution, § 10:2
service of proceedings, § 10:6 to § 10:9
general principles, § 10:6
service outside jurisdiction, § 10:8, § 10:9
manner of service, § 10:9

LITIGATION PROCESS—Cont'd

Litigation process, **§ 10:1 to § 10:9**
 —Cont'd
 service of proceedings, **§ 10:6 to § 10:9**
 —Cont'd
 service outside jurisdiction, **§ 10:8, § 10:9**—Cont'd
 where allowed, **§ 10:8**
 service within jurisdiction, **§ 10:7**
 Pre-trial procedures, **§ 10:10 to § 10:110**
 affidavit evidence, **§ 10:27 to § 10:33**
 content, **§ 10:29**
 cross-examination, **§ 10:33**
 form, **§ 10:28**
 general principles, **§ 10:27**
 on a motion, **§ 10:31**
 'principled' approach, **§ 10:30**
 solicitor's affidavit, **§ 10:32**
 commission evidence, **§ 10:60 to § 10:63**
 availability, **§ 10:61**
 general principles, **§ 10:60**
 procedure, **§ 10:62**
 use of, **§ 10:63**
 confidentiality orders, **§ 10:34 to § 10:38**
 access to confidential documents, **§ 10:38**
 availability, **§ 10:35 to § 10:37**
 order of confidentiality, **§ 10:35**
 protective agreements, **§ 10:36.50**
 protective order, **§ 10:36**
 general principles, **§ 10:34**
 discovery, **§ 10:39**
 documentary, **§ 10:41 to § 10:47**
 confidential documents, **§ 10:38**
 deponent, **§ 10:45**
 form of affidavit of documents, **§ 10:42**
 inspection, **§ 10:43**
 other matters, **§ 10:47**
 relevant documents, **§ 10:44**
 simplified action, **§ 10:46**
 timing, **§ 10:41**
 general principles, **§ 10:40**
 oral examination, **§ 10:48 to § 10:59**
 assignors, **§ 10:51**
 direction to attend, **§ 10:59**
 general, **§ 10:48**
 non-parties, **§ 10:52**

LITIGATION PROCESS—Cont'd

Pre-trial procedures, **§ 10:10 to § 10:110**
 —Cont'd
 discovery, **§ 10:39**—Cont'd
 oral examination, **§ 10:48 to § 10:59**
 —Cont'd
 other matters, **§ 10:56**
 persons outside Canada, **§ 10:58**
 relevance, **§ 10:54**
 representative, **§ 10:49**
 scope, **§ 10:53**
 supplemental discovery, **§ 10:57**
 timing, **§ 10:50**
 interlocutory motions, **§ 10:18 to § 10:26**
 general principles, **§ 10:18**
 procedure, **§ 10:19 to § 10:26**
 affidavit evidence, **§ 10:21**
 motion record, **§ 10:22**
 motions in writing, **§ 10:25**
 notice of motion, **§ 10:19**
 time and place, **§ 10:20**
 timing, **§ 10:23**
 offers to settle, **§ 10:64 to § 10:66**
 consequences, **§ 10:66**
 general principles, **§ 10:64**
 procedure, **§ 10:65**
 pleadings, **§ 12:1 to § 12:9**
 amendment, **§ 12:8, § 12:9**
 with leave, **§ 12:9**
 without leave, **§ 12:8**
 form and content, **§ 12:2**
 material facts, **§ 12:3**
 other matters, **§ 12:7**
 particulars, **§ 12:4**
 points of law, **§ 12:3**
 statements of claim, **§ 12:5**
 subsequent pleadings, **§ 12:6**
 general principles, **§ 12:1**
 timing of, **§ 10:23**
 preliminary relief before trial, **§ 10:67 to § 10:94**
 Anton Piller Orders, **§ 10:76**
 default judgment, **§ 10:83 to § 10:85**
 alternative service of statement of claim, **§ 10:85**
 availability, **§ 10:83**
 setting aside, **§ 10:84**
 discontinuance, **§ 10:87**
 dismissal for delay, **§ 10:86**

LITIGATION PROCESS—Cont'd

Pre-trial procedures, **§ 10:10 to § 10:110**

- Cont'd
- preliminary relief before trial, **§ 10:67 to § 10:94**—Cont'd
- general principles, **§ 10:67**
- interim and interlocutory injunctions, **§ 10:68 to § 10:75**
- evidence, **§ 10:73**
- interim, **§ 10:69**
- interlocutory, **§ 10:70**
- mareva, **§ 10:75**
- quia timet, **§ 10:71**
- test, **§ 10:72**
- undertaking, **§ 10:74**
- questions of law and admissibility, **§ 10:92 to § 10:94**
- availability, **§ 10:93**
- procedure, **§ 10:94**
- striking out pleadings, **§ 10:77 to § 10:82**
- abuse of process, **§ 10:82**
- immaterial or irrelevant, **§ 10:79**
- no reasonable cause of action or defence, **§ 10:78**
- prejudice or delay, **§ 10:81**
- scandalous, frivolous or vexatious, **§ 10:80**
- summary judgment, **§ 10:88 to § 10:91**
- availability, **§ 10:89**
- evidence, **§ 10:90**
- timing, **§ 10:91**
- pre-trial conferences, **§ 10:101 to § 10:105**
- availability, **§ 10:102**
- evidence, **§ 10:105**
- general principles, **§ 10:101**
- procedures, **§ 10:103**
- scope of, **§ 10:104**
- pre-trial evidentiary considerations, **§ 10:106 to § 10:110**
- demonstrative evidence, **§ 10:109**
- expert evidence, **§ 10:108**
- general principles, **§ 10:106**
- notice to admit, **§ 10:107**
- science and technology primers, **§ 10:110**
- references, **§ 10:14 to § 10:17**
- availability and scope, **§ 10:15**
- conduct of, **§ 10:16**

LITIGATION PROCESS—Cont'd

Pre-trial procedures, **§ 10:10 to § 10:110**

- Cont'd
- references, **§ 10:14 to § 10:17**—Cont'd
- general principles, **§ 10:14**
- report, **§ 10:17**
- security for costs, **§ 10:11 to § 10:13**
- amount, **§ 10:13**
- availability, **§ 10:12**
- general principles, **§ 10:11**
- specially managed proceedings, **§ 10:95 to § 10:100**
- Federal Court, **§ 10:96, § 10:97**
- powers of case management judge, **§ 10:97**
- procedure, **§ 10:96**
- general principles, **§ 10:95**
- Ontario provincial courts, **§ 10:98**
- powers of case management judge or Master, **§ 10:100**
- procedure, **§ 10:99**
- Simplified proceedings, **§ 10:111 to § 10:137**
- applications, **§ 10:111 to § 10:129**
- application vs. action or appeal, **§ 10:112 to § 10:115**
- judicial review, **§ 10:113**
- proceeding under Act of Parliament, **§ 10:114**
- section 56 of Trademarks Act, **§ 10:115**
- general principles, **§ 10:111**
- procedure, **§ 10:116 to § 10:129**
- additional material, **§ 10:124**
- affidavit evidence, **§ 10:121**
- conversion to an action, **§ 10:129**
- cross-examination, **§ 10:122**
- notice of appearance, **§ 10:119**
- notice of application, **§ 10:117**
- oral testimony, **§ 10:127**
- parties' records, **§ 10:123**
- pre-hearing conference, **§ 10:126**
- references from a tribunal, **§ 10:128**
- request for material in possession of tribunal, **§ 10:120**
- requisition for hearing date, **§ 10:125**
- respondents, **§ 10:118**

LITIGATION PROCESS—Cont'd

Simplified proceedings, § 10:111 to § 10:137—Cont'd
 simplified actions, § 10:130 to § 10:137
 availability, § 10:131
 general principles, § 10:130
 procedure, § 10:132
 discovery, § 10:133
 Federal Court trial, § 10:135
 motions, § 10:134
 Ontario—subsequent proceedings, § 10:137
 Ontario—summary judgment or trial, § 10:136

MARKETING PRACTICES

See also COMPETITION LAW, Competition Act overview
 Generally, § 6:17 to § 6:22

MEDIATION

See ADR, mediation

MOTIONS

See LITIGATION PROCESS

NEGOTIATION

See ADR, control; ADR, procedure

OFFERS TO SETTLE

See LITIGATION PROCESS

OPPOSITION

Generally, § 2:6
 Advantages v disadvantages, § 2:68 to § 2:78
 Non-compliance, § 2:7
 Non-distinctiveness, § 2:11
 Non-entitlement, § 2:10
 Non-registrability, § 2:9
 Proposed use, § 2:12
 Resolution of, § 2:41 to § 2:122
 abandonment, § 2:48
 advertising, § 2:46
 agreement, limiting, § 2:55
 agreement, pre-registration, § 2:45
 agreements, settlement, § 2:96 to § 2:122
 alternative mark or slogan, § 2:63
 application file history, § 2:56
 assessment of case, § 2:41 to § 2:59
 business, § 2:58

OPPOSITION—Cont'd

Resolution of, § 2:41 to § 2:122—Cont'd
 chain-of-title, § 2:51
 coexistence conditions, § 2:102 to § 2:122
 description, accuracy of, § 2:50
 development of case, § 2:41 to § 2:59
 enforcement, § 2:44
 foreign registration, § 2:62
 history of mark, § 2:43 to § 2:46
 importance of mark, § 2:41
 internal development of mark, § 2:43
 judicial reviews, § 2:68 to § 2:78
 legal basis, § 2:53 to § 2:59
 licences, § 2:52
 origin of mark, § 2:43
 outcome, likelihood of, § 2:60 to § 2:67
 packaging, § 2:46
 plans, § 2:42
 position, establishing, § 2:41 to § 2:52
 priority, § 2:53, § 2:54
 proposed use, § 2:61
 protection, § 2:44
 purchase of mark, § 2:43
 registrations, other, § 2:57
 restrictions on use, § 2:45
 sales figures, § 2:46
 settlement, § 2:79 to § 2:95
 see also OPPOSITION, settlement
 strength of case, § 2:60
 use, § 2:43 to § 2:46, § 2:48, § 2:59
 validity of registration, § 2:47
 Settlement, § 2:79 to § 2:95
 agreement, § 2:96 to § 2:122
 coexistence conditions, § 2:102 to § 2:122
 effects of, § 2:82 to § 2:95
 structure, § 2:96 to § 2:101
 timing of approach, § 2:79 to § 2:81

PATENTABILITY

See PATENTS

PATENTS

Generally, § 1:1 et seq.
 Business methods disputes, § 9:24 to § 9:26
 Commissioner—see Patent Office
 Computer hardware disputes, § 9:21 to § 9:23

PATENTS—Cont'd

Computer software disputes, § 9:21 to § 9:23

Conflict, § 1:21 to § 1:24

- effect of, § 1:24
- general principles, § 1:21
- procedure, § 1:23
- standing, § 1:22

Damages, § 19:9 to § 19:17

- convoyed sales, § 19:12
- entitlement, § 19:16
- lost sales, § 19:11
- non-infringing alternatives, § 19:15
- post-issuance, § 19:10 to § 19:17
- pre-issuance, § 19:9
- price erosion, § 19:14
- profits, § 19:11
- punitive damages, § 19:17
- royalty, § 19:13
- sales, § 19:11, § 19:12
- springboard, § 19:12

Expert witnesses, § 13:16

History of Patent Act, § 1:2

Impeachment action, plaintiff's case, § 1:60 to § 1:68

- discovery, § 1:68
- general principles, § 1:60
- jurisdiction, § 1:61
- pleadings, § 1:64
- grounds of invalidity, § 1:66
- parties, § 1:65
- relief sought, § 1:47
- security for costs, § 1:63
- standing, § 1:62

Infringement, § 1:5

Infringement action, defendant's case, § 1:40 to § 1:59

- discovery, § 1:59
- general principles, § 1:40
- invalidity defences, § 1:48
- ambiguity, § 1:53
- anticipation, § 1:49
- Old Act patents, § 1:49
- covetous claiming, § 1:52
- double patenting, § 1:51
- inadequate disclosure, § 1:54
- inutility, § 1:55
- obviousness, § 1:50

PATENTS—Cont'd

Infringement action, defendant's case, § 1:40 to § 1:59—Cont'd

- invalidity defences, § 1:48—Cont'd
- relevance of uncured deemed abandonment of application, § 1:58
- unpatentable subject matter, § 1:56
- untrue material allegations, additions and omissions, § 1:57

jurisdiction, § 1:41

pleadings, § 1:44

- invalidity, § 1:46
- non-infringement, § 1:45
- plaintiff's disentitlement to remedies, § 1:47
- security for costs, § 1:43
- standing, § 1:42

Infringement action, plaintiff's case, § 1:25 to § 1:36

- bifurcation orders, § 1:34
- disclaimers, § 1:36
- discovery, § 1:33
- jurisdiction, § 1:26
- pleadings, § 1:28
- defendant's infringing acts, § 1:31
- parties, § 1:29
- plaintiff's rights, § 1:30
- remedies sought, § 1:32
- reissue of patents, § 1:35
- standing, § 1:27

Injunctions, § 17:23, § 17:24

- patented medicines, § 17:25, § 17:26

Introduction, § 1:1

Limitation periods, § 22:5

Medicines, § 17:25, § 17:26

- see also PHARMACEUTICALS

Patentability, § 1:3

Patent and claim construction, § 1:6

Patent disputes, resolutions, § 1:10

Patent disputes, resolution techniques, § 1:9

Patent disputes, types of, § 1:4

Patent office practice, § 1:11 to § 1:13

- application process, § 1:12
- judicial review of Commissioner's decisions, § 1:13
- time to file patent applications, § 1:11

Protests, § 1:14 to § 1:17

- effect of, § 1:17

PATENTS—Cont'd

Protests, § 1:14 to § 1:17—Cont'd
 general principles, § 1:14
 procedure, § 1:16
 standing, § 1:15

Re-examination, § 1:18 to § 1:20
 general principles, § 1:18
 procedure, § 1:20
 standing, § 1:19

Remedies, generally, § 1:8

Remedies, other, § 1:69 to § 1:76
 amendment of patent records, § 1:69
 inspection, § 1:70 to § 1:72
 general principles, § 1:70
 judicial history and trends, § 1:72
 procedure, § 1:71

preservation, § 1:73 to § 1:75
 general principles, § 1:73
 judicial history and trends, § 1:75
 procedure, § 1:74

reasonable compensation, § 1:76

Remedies common to intellectual property disputes, § 1:77 to § 1:83
 accounting of profits, § 1:80
 costs, § 1:82
 damages, § 1:79
 delivery-up and destruction, § 1:81
 election, § 1:78
 injunctions, § 1:82
 interest, § 1:83

Summary judgment, § 13:39

Title disputes, § 1:37 to § 1:39
 general principles, § 1:37
 procedure, § 1:39
 standing, § 1:38

Trade secret disputes, relation to, § 5:18, § 5:63

Trial, § 13:3
 patented medicines notice of compliance trial, § 13:4

Validity, § 1:7

PERMANENT INJUNCTIONS

See INJUNCTIONS

PHARMACEUTICALS

Generally, § 7:1 et seq.
 Copyright disputes, § 7:28

PHARMACEUTICALS—Cont'd

Nature of disputes, § 7:1 to § 7:18.50
 NOC Regulations, § 7:2 to § 7:18.50
 appeals, interlocutory orders, § 7:18.50
 commencing an action, § 7:14
 confidentiality rules, § 7:13
 general outline, § 7:3
 no joinder or consolidation of proceedings, § 7:16
 notice of allegation, § 7:10
 notice of allegation—contents and associated documents, § 7:11
 notice of allegation—patents not subject to, § 7:18
 notice of allegation—request for inventor information and invention documents, § 7:12
 notice of compliance, § 7:17
 one opportunity to commence action, § 7:15
 patent register—addressing listed patents, § 7:9.50
 patent register—certificates of supplementary protection, § 7:6
 patent register—contents of patent list, § 7:8
 patent register—eligibility, § 7:4
 patent register—Minister's Responsibilities, § 7:9
 patent register—relevance of patents to SNDS, § 7:5
 patent register—timing, § 7:7
 patent disputes, § 7:1

Remedies, § 7:29 to § 7:65
 accounting for profits, § 7:50 to § 7:54
 damages or accounting for profits, plaintiff's choice, § 7:52
 NIA—non-infringing alternative, § 7:51
 patent infringement remedies: damages, § 7:54
 profits on profits, § 7:53
 springboard profits, § 7:53.50
 copyright remedies, § 7:55
 damages, § 7:49
 NOC Regulations—Section 8 damages, § 7:31
 patent—remedies, § 7:29
 patents—remedies under the NOC Regulations, § 7:30

PHARMACEUTICALS—Cont'd
 Remedies, § 7:29 to § 7:65—Cont'd
 remedies in trade libel cases, § 7:64
 Section 8 damages, when to claim, § 7:34
 Section 8 intra vires; no claim for future losses under pre-2017 NOC Regulations, § 7:32
 Section 8 scope of damages, § 7:35 to § 7:48
 additional claims in provincial court, § 7:45
 NOC Regulations—Remedies: Mareva Injunction, § 7:43
 NOC Regulations—Remedies: Motion to Dismiss the Application, § 7:44
 Pantoprazole—Apotex Inc. v. Takeda Canada Inc., § 7:37
 Pregabalin—Teva Canada Ltd. v. Pfizer Canada Inc., § 7:38
 proper commencement date, § 7:41
 Ramipril—Apotex Inc. v. Sanofi-Aventis, § 7:36
 Ramipril—Sanofi-Aventis Canada Inc. v. Teva Canada Ltd., § 7:35
 Section 8—claims in provincial courts, § 7:42
 Section 8—does infringement prevent claim?, § 7:40
 Section 8—party that bears burden, § 7:39
 trademarks—remedies, § 7:59 to § 7:63
 injunctions—undertaking as to damages, § 7:61
 passing off cases, § 7:60
 trademark applications and oppositions, § 7:62, § 7:63
 unjust enrichment or profits of the first person, no claims, § 7:33
 Trade libel disputes, § 7:27
 Trademark disputes, § 7:19 to § 7:26
 expungement proceedings, § 7:26
 licensing the appearance of a capsule, § 7:22
 passing off, § 7:21
 passing off v. infringement, § 7:24
 product appearance, § 7:20
 the name confound, § 7:23
 trademark applications and opposition proceedings, § 7:25

PLANT BREEDERS' RIGHTS

Generally, § 17:37, § 17:38
 Licensing, § 16:11
 Limitation periods, § 22:8

PLEADINGS

See LITIGATION PROCESS

PRESERVATION

See PATENTS, remedies

PRE-TRIAL LITIGATION

PROCEDURES

See also, APPEALS; DISCOVERY; EXAMINATION FOR DISCOVERY; LITIGATION PROCESS; SIMPLIFIED PROCEEDINGS

Pre-trial procedures, § 10:10 to § 10:110
 affidavit evidence, § 10:27 to § 10:33
 content, § 10:29
 cross-examination, § 10:33
 form, § 10:28
 general principles, § 10:27
 solicitor's affidavit, § 10:32
 commission evidence, § 10:60 to § 10:63
 availability, § 10:61
 general principles, § 10:60
 procedure, § 10:62
 use of, § 10:63
 confidentiality orders, § 10:34 to § 10:38
 access to confidential documents, § 10:38
 availability, § 10:35 to § 10:37
 general principles, § 10:34
 discovery, § 10:39
 documentary, § 10:41 to § 10:47
 confidential documents, § 10:38
 deponent, § 10:45
 form of affidavit of documents, § 10:42
 inspection, § 10:43
 other matters, § 10:47
 relevant documents, § 10:44
 simplified action, § 10:46
 timing, § 10:41
 general principles, § 10:40
 oral examination, § 10:48 to § 10:59
 assignors, § 10:51
 direction to attend, § 10:59

**PRE-TRIAL LITIGATION
PROCEDURES—Cont'd**

Pre-trial procedures, **§ 10:10 to § 10:110**
 —Cont'd
 discovery, **§ 10:39**—Cont'd
 oral examination, **§ 10:48 to § 10:59**
 —Cont'd
 general, **§ 10:48**
 non-parties, **§ 10:52**
 other matters, **§ 10:56**
 persons outside Canada, **§ 10:58**
 relevance, **§ 10:54**
 representative, **§ 10:49**
 scope, **§ 10:53**
 supplemental discovery, **§ 10:57**
 timing, **§ 10:50**
 interlocutory motions, **§ 10:18 to § 10:26**
 general principles, **§ 10:18**
 procedure, **§ 10:19 to § 10:26**
 affidavit evidence, **§ 10:21**
 motion record, **§ 10:22**
 motions in writing, **§ 10:25**
 notice of motion, **§ 10:19**
 time and place, **§ 10:20**
 timing, **§ 10:23**
 offers to settle, **§ 10:64 to § 10:66**
 consequences, **§ 10:66**
 general principles, **§ 10:64**
 procedure, **§ 10:65**
 pleadings, **§ 12:1 to § 12:9**
 amendment, **§ 12:8, § 12:9**
 with leave, **§ 12:9**
 without leave, **§ 12:8**
 form and content, **§ 12:2**
 material facts, **§ 12:3**
 other motions, **§ 12:7**
 particulars, **§ 12:4**
 points of law, **§ 12:3**
 statements of claim, **§ 12:5**
 subsequent pleadings, **§ 12:6**
 general principles, **§ 12:1**
 preliminary relief before trial, **§ 10:67 to § 10:94**
 Anton Piller Orders, **§ 10:76**
 default judgment, **§ 10:83 to § 10:85**
 alternative service of statement of claim, **§ 10:85**
 availability, **§ 10:83**
 setting aside, **§ 10:84**

**PRE-TRIAL LITIGATION
PROCEDURES—Cont'd**

Pre-trial procedures, **§ 10:10 to § 10:110**
 —Cont'd
 preliminary relief before trial, **§ 10:67 to § 10:94**—Cont'd
 discontinuance, **§ 10:87**
 dismissal for delay, **§ 10:86**
 general principles, **§ 10:67**
 interim and interlocutory injunctions, **§ 10:68 to § 10:75**
 evidence, **§ 10:73**
 interim, **§ 10:69**
 interlocutory, **§ 10:70**
 mareva, **§ 10:75**
 quia timet, **§ 10:71**
 test, **§ 10:72**
 undertaking, **§ 10:74**
 questions of law and admissibility, **§ 10:92 to § 10:94**
 availability, **§ 10:93**
 procedure, **§ 10:94**
 striking out pleadings, **§ 10:77 to § 10:82**
 abuse of process, **§ 10:82**
 immaterial or irrelevant, **§ 10:79**
 no reasonable cause of action or defence, **§ 10:78**
 prejudice or delay, **§ 10:81**
 scandalous, frivolous or vexatious, **§ 10:80**
 summary judgment, **§ 10:88 to § 10:91**
 availability, **§ 10:89**
 evidence, **§ 10:90**
 timing, **§ 10:91**
 pre-trial conferences, **§ 10:101 to § 10:105**
 availability, **§ 10:102**
 evidence, **§ 10:105**
 general principles, **§ 10:101**
 procedures, **§ 10:103**
 scope of, **§ 10:104**
 pre-trial evidentiary considerations, **§ 10:106 to § 10:110**
 expert evidence, **§ 10:108**
 general principles, **§ 10:106**
 notice to admit, **§ 10:107**
 references, **§ 10:14 to § 10:17**
 availability and scope, **§ 10:15**
 conduct of, **§ 10:16**

PRE-TRIAL LITIGATION**PROCEDURES—Cont'd**

- Pre-trial procedures, **§ 10:10 to § 10:110**
 - Cont'd
 - references, **§ 10:14 to § 10:17**—Cont'd
 - general principles, **§ 10:14**
 - report, **§ 10:17**
 - security for costs, **§ 10:11 to § 10:13**
 - amount, **§ 10:13**
 - availability, **§ 10:12**
 - general principles, **§ 10:11**
 - specially managed proceedings, **§ 10:95 to § 10:100**
 - Federal Court, **§ 10:96, § 10:97**
 - powers of case management judge, **§ 10:97**
 - procedure, **§ 10:96**
 - general principles, **§ 10:95**
 - Ontario provincial courts, **§ 10:98**
 - powers of case management judge or Master, **§ 10:100**
 - procedure, **§ 10:99**

PROFITS

- Generally, **§ 20:1 et seq.**
- Apportionment, **§ 20:28 to § 20:32**
 - application in practice, **§ 20:32**
 - convoy sales and profits, **§ 20:29**
 - extent of infringement, **§ 20:30**
 - view in Lubrizol, **§ 20:31**
- basis for determining costs that may be deducted, **§ 20:27**
- comparative approach to assessment of profits, **§ 20:33 to § 20:40**
 - Australia, **§ 20:40**
 - case law after Schmeiser, **§ 20:36**
 - case law prior to Schmeiser, **§ 20:34**
 - Supreme Court Decision in Schmeiser, **§ 20:35**
 - United Kingdom, **§ 20:38**
 - United States, **§ 20:39**
- condonation, **§ 20:43**
- Teledyne and its statement of the principles, **§ 20:22 to § 20:26**
- cases, **§ 20:21 to § 20:45**
 - cost of unsold inventory ordered to be destroyed, **§ 20:25**
 - incremental costs, **§ 20:23**
 - interest, **§ 20:26**
 - legal costs, **§ 20:24**

PROFITS—Cont'd

- Apportionment, **§ 20:28 to § 20:32**
 - Cont'd
 - Teledyne and its statement of the principles, **§ 20:22 to § 20:26**
 - Cont'd
 - other issues, **§ 20:41 to § 20:48**
 - accounting for interest, **§ 20:47**
 - breach of contract, accounting of profits, **§ 20:46**
 - patent infringement, accounting of profits, availability of, **§ 20:41**
 - specific statutes, **§ 20:45**
 - tax effects, **§ 20:48**
 - Conclusion, **§ 20:49**
 - General principles, **§ 20:1 to § 20:3**
 - focus on gains of infringer, **§ 20:1**
 - issues that arise, **§ 20:3**
 - remedies generally alternative, **§ 20:2**
 - Procedure, **§ 20:9 to § 20:16**
 - bifurcation from issue of liability, **§ 20:9**
 - conduct of compensation hearing, **§ 20:16**
 - directions in the liability judgment, **§ 20:12**
 - factors to consider if compensation bifurcated, **§ 20:11**
 - methods for deferring/separating compensation from liability, **§ 20:10**
 - practical considerations, **§ 20:14, § 20:15**
 - no standard form of accounts, **§ 20:14**
 - standard accounting records not having all information, **§ 20:15**
 - simplified three-step test, **§ 20:16.50**
 - timing of election between remedies, **§ 20:13**
 - Profits vs. damages, election between, **§ 20:4 to § 20:8**
 - burden of proof, **§ 20:7**
 - court may refuse on equitable grounds, **§ 20:5**
 - factors to consider, **§ 20:8**
 - volume of documents, **§ 20:6**
 - Statutory and judicial history and trends, **§ 20:17 to § 20:20**
 - jurisdiction to award profits, **§ 20:17**

PROFITS—Cont'd

Statutory and judicial history and trends,
§ 20:17 to § 20:20—Cont'd
 profits not inherently more complex or
 difficult to estimate, **§ 20:20**
 profits rarely used IP remedy, **§ 20:18**
 two remedies considered together,
§ 20:19

PROTESTS

See PATENTS

PUNITIVE DAMAGES

See DAMAGES

QUANTUM

See also, ACCOUNTING OF PROFITS-
 QUANTUM; DAMAGES-
 QUANTUM; VALUATION
 Generally, **§ 21:1**, **§ 21:77**
 Accounting of profits, **§ 21:34 to § 21:76**
 actual profits, **§ 21:35**
 apportionment, **§ 21:45 to § 21:47**
 proof of quantum, **§ 21:46**
 when considered, **§ 21:47**
 costs, commentary on, **§ 21:61 to**
§ 21:73
 administrative, **§ 21:65**
 bonuses, **§ 21:67**
 cost of capital, **§ 21:73**
 income taxes, **§ 21:72**
 intangible, **§ 21:70**
 legal, **§ 21:66**
 manufacturing, **§ 21:62**
 marketing, **§ 21:64**
 research and development, **§ 21:69**
 sales, **§ 21:63**
 stock options, **§ 21:71**
 units ordered destroyed, **§ 21:68**
 differential profits, **§ 21:36**, **§ 21:37**
 calculating, **§ 21:39 to § 21:44**
 exemplary damages, **§ 21:76**
 infringer, **§ 21:38**
 introduction, **§ 21:34**
 principles, **§ 21:34**
 profit on profit, **§ 21:74**, **§ 21:75**
 punitive damages, **§ 21:76**
 revenues of defendant, **§ 21:48 to**
§ 21:55
 convoyed products, sale of, **§ 21:50**
 costs to be deducted, **§ 21:56 to**
§ 21:73

QUANTUM—Cont'd

Accounting of profits, **§ 21:34 to § 21:76**
 —Cont'd
 revenues of defendant, **§ 21:48 to**
§ 21:55—Cont'd
 fixed costs, **§ 21:57**, **§ 21:60**
 foreign jurisdictions, profits made in,
§ 21:51
 profit, definitions of, **§ 21:58**
 profits earned but unrealized, **§ 21:54**
 profits of less than a 100 percent
 owned entity, **§ 21:53**
 springboard advantages, **§ 21:55**
 third parties, revenue realized
 through action of, **§ 21:50**
 variable costs, **§ 21:57**, **§ 21:59**
 wholly owned subsidiaries, **§ 21:52**
 Damages in intellectual property disputes,
§ 21:2 to § 21:33
 introduction, **§ 21:2 to § 21:10**
 lost profits, **§ 21:11 to § 21:20**
 convoyed sales, loss of, **§ 21:16**
 future loss, **§ 21:20**
 increased costs, **§ 21:15**
 price reductions, **§ 21:14**
 sales, loss of, **§ 21:12**, **§ 21:13**
 simplified three-step test, **§ 20:16.50**
 springboard damages, **§ 21:17**
 subsidiary company, loss of, **§ 21:18**
 substitute products, **§ 21:19**
 principles, **§ 21:2 to § 21:10**
 apportionment, **§ 21:5**
 but for test, **§ 21:3**
 causation, **§ 21:3**
 foreseeability, **§ 21:6**
 hindsight, use of, **§ 21:8**
 mitigation, **§ 21:7**
 non-infringing alternatives, **§ 21:4**
 remoteness, **§ 21:6**
 taxation, **§ 21:9**
 value to owner, **§ 21:10**
 royalties, **§ 21:21 to § 21:33**
 apportionment, **§ 21:26**
 base, **§ 21:25**
 considerations, **§ 21:28 to § 21:32**
 cost basis, **§ 21:30**
 damages under s. 8 of PM(NOC)
 regulations, **§ 21:33**
 hypothetical, **§ 21:24**
 increased costs, **§ 21:29**

QUANTUM—Cont'd

Damages in intellectual property disputes, § 21:2 to § 21:33—Cont'd
 royalties, § 21:21 to § 21:33—Cont'd
 industry standard rates, § 21:23
 nominal damages, § 21:32
 non-confiscatory, § 21:31
 normal rates, § 21:22
 pre-grant damages, § 21:28

RECTIFICATION

See COPYRIGHT, registration disputes

RE-EXAMINATION

See PATENTS

REFERENCES

See DAMAGES; LITIGATION PROCESS; PROFITS; QUANTUM

REGISTRATION DISPUTES

See COPYRIGHT;

REMEDIES

See also ANTON PILLER ORDERS; DAMAGES; INJUNCTIONS; PROFITS; QUANTUM
 Competition Act, § 6:51
 Computer-related disputes—see COMPUTER-RELATED DISPUTES
 Copyright disputes, civil remedies re, § 3:26 to § 3:40
 Anton Piller orders, § 3:28
 conversion, § 19:25
 costs, § 3:39
 damages generally, § 3:30, § 19:23 to § 19:30
 declaratory judgment, § 3:37
 delivery up, § 3:36
 detention of imported or exported copies, § 3:38
 educational institutions, against, § 3:33
 entitlement, § 19:30
 exemplary damages, § 3:31
 general damages, § 19:23
 injunctions generally, § 3:27
 moral rights infringement, § 3:40
 non-pecuniary damages, § 19:29
 profits, § 3:35, § 19:24
 punitive damages, § 3:31, § 19:28
 statutory damages, § 3:32, § 19:26
 wide injunctions, § 3:29

REMEDIES—Cont'd

Copyright disputes, criminal remedies re, § 3:41 to § 3:49
 Copyright Act, under, § 3:42 to § 3:47
 copyright infringement, § 3:42
 Criminal Code, under, § 3:48
 limitation periods, § 3:47
 moral rights infringement, § 3:44
 multiple offences, § 3:49
 penalties, § 3:45
 Patent disputes—see PATENTS
 Pharmaceuticals
 see also PHARMACEUTICALS
 copyright and, § 7:28
 Trademark disputes—see TRADEMARKS
 Trade secret disputes—see TRADE SECRETS

RESOLUTIONS
 Generally, § 3:14 to § 3:25
 Alternative dispute resolution, § 3:15
 see also ADR
 Copyright, civil remedies, § 3:26 to § 3:40
 Anton Piller orders, § 3:28
 conversion, § 19:25
 costs, § 3:39
 damages, generally, § 3:30, § 19:23 to § 19:30
 declaratory judgment, § 3:37
 delivery up, § 3:36
 detention of imported or exported copies, § 3:38
 educational institutions and, § 3:33
 entitlement, § 19:30
 exemplary damages, § 3:31
 general damages, § 19:23
 injunctions, generally, § 3:27
 moral rights infringement, § 3:40
 profits, § 3:35, § 19:24
 punitive damages, § 3:31, § 19:28
 statutory damages, § 3:32, § 19:26
 wide injunctions, § 3:29
 Copyright, criminal remedies, § 3:41 to § 3:49
 Copyright Act, under, § 3:42 to § 3:47
 copyright infringement, § 3:42
 Criminal Code, under, § 3:48
 limitation periods, § 3:47
 moral rights infringement, § 3:44

RESOLUTIONS—Cont'd

Copyright, criminal remedies, § 3:41 to § 3:49—Cont'd
 multiple offences, § 3:49
 penalties, § 3:45
 Copyright, judicial proceedings, § 3:16
 enforcement of foreign judgments, § 3:18
 jurisdiction, § 3:17
 limitation period, § 3:24
 moral rights infringement, § 3:20
 nature of, § 3:22
 parallel importation of books, § 3:9, § 3:20
 presumptions, § 3:23
 standing, § 3:19 to § 3:21
 summary judgment, § 13:40
 third party discovery, § 3:25
 trial, § 13:6

SERVICE

See LITIGATION PROCESS

SETTLEMENT

See OPPOSITION, settlement

SIMPLIFIED PROCEEDINGS

See also, APPEALS; DISCOVERY; EXAMINATION FOR DISCOVERY; LITIGATION PROCESS; PRE-TRIAL LITIGATION PROCEDURES
 Simplified proceedings, § 10:111 to § 10:137
 applications, § 10:111 to § 10:129
 application vs. action or appeal, § 10:112 to § 10:115
 judicial review, § 10:113
 proceeding under Act of Parliament, § 10:114
 section 56 of Trademarks Act, § 10:115
 general principles, § 10:111
 procedure, § 10:116 to § 10:129
 additional material, § 10:124
 affidavit evidence, § 10:121
 conversion to an action, § 10:129
 cross-examination, § 10:122
 notice of appearance, § 10:119
 notice of application, § 10:117
 oral testimony, § 10:127
 parties' records, § 10:123

SIMPLIFIED PROCEEDINGS—Cont'd

Simplified proceedings, § 10:111 to § 10:137—Cont'd
 applications, § 10:111 to § 10:129
 —Cont'd
 procedure, § 10:116 to § 10:129
 —Cont'd
 pre-hearing conference, § 10:126
 references from a tribunal, § 10:128
 request for material in possession of tribunal, § 10:120
 requisition for hearing date, § 10:125
 respondents, § 10:118
 simplified actions, § 10:130 to § 10:137
 availability, § 10:131
 general principles, § 10:130
 procedure, § 10:132
 discovery, § 10:133
 Federal Court trial, § 10:135
 motions, § 10:134
 Ontario—subsequent proceedings, § 10:137

SPECIALLY MANAGED PROCEEDINGS

See LITIGATION PROCESS

SPRINGBOARD

See DAMAGES, patent disputes; PROFITS, lost; TRADE SECRETS

STANDARD OF REVIEW

See APPEALS

STATUTORY DAMAGES

See DAMAGES; RESOLUTIONS, civil remedies

STRIKING OUT PLEADINGS

See LITIGATION PROCESS

SUMMARY JUDGMENT

See LITIGATION PROCESS, preliminary relief

TAXATION

See COSTS

Key areas of interest, § 25:29 to § 25:34
 GST/HST implications of settlements, § 25:33
 structuring settlements, § 25:34

TAXATION—Cont'd

Key areas of interest, **§ 25:29 to § 25:34**
 —Cont'd
 surrogatum principle/income tax consequences of settlements/damage awards, **§ 25:29 to § 25:32**
 case law, **§ 25:31, § 25:32**
 —intellectual property cases — income versus capital, **§ 25:31**
 punitive damages, **§ 25:32**
 CRA administrative interpretation, **§ 25:30**
 income tax and the common law, **§ 25:29**
 Key Federal statutes, **§ 25:1 to § 25:15**
 Excise Tax Act, **§ 25:7 to § 25:15**
 exempt supplies, **§ 25:9**
 place of supply rules, **§ 25:11**
 is the supply made in Canada, **§ 25:13**
 non-resident override rules, **§ 25:12**
 participating provinces and supplies within Canada, **§ 25:14**
 small suppliers and registration requirement, **§ 25:15**
 taxable supplies of goods and services, **§ 25:8**
 value-added taxes in Canada, **§ 25:7**
 zero-rated supplies, **§ 25:10**
 Income Tax Act, **§ 25:1 to § 25:6**
 income tax in Canada, **§ 25:1**
 taxation of damage awards and settlement payments, **§ 25:6**
 types of income and their taxation, **§ 25:2**
 capital gains, **§ 25:4**
 income, **§ 25:3**
 non-taxable receipts, **§ 25:5**
 Relevant key tax concepts, **§ 25:16 to § 25:28**
 carrying on business in Canada, **§ 25:21, § 25:22**
 GST/HST purposes, **§ 25:22**
 income tax purposes, **§ 25:21**
 general anti-avoidance rule, **§ 25:28**
 permanent establishment, **§ 25:23, § 25:24**
 GST/HST purposes, **§ 25:24**
 income tax purposes, **§ 25:23**

TAXATION—Cont'd

Relevant key tax concepts, **§ 25:16 to § 25:28**—Cont'd
 residency, **§ 25:16 to § 25:20**
 GST/HST purposes, **§ 25:19, § 25:20**
 corporations, **§ 25:20**
 individuals, **§ 25:19**
 income purposes, **§ 25:16**
 corporations, **§ 25:18**
 individuals, **§ 25:17**
 transfer pricing considerations, **§ 25:25 to § 25:27**
 adjustment and penalties, **§ 25:26**
 arms length principle and transfer pricing methodologies, **§ 25:25**
 intangible property rights, **§ 25:27**

TRADEMARKS

Generally, **§ 2:1 et seq.**
 Causes of action, **§ 2:16 to § 2:21**
 official marks, **§ 2:21**
 passing off and unfair competition, **§ 2:16**
 section 7(b) and common law tort of passing off, **§ 2:18**
 section 7(c) and common law tort of passing off by substitution, **§ 2:19**
 section 7(a) and common law torts of trade libel and injurious falsehood, **§ 2:17**
 section 7(d) — false descriptions, **§ 2:20**
 Disputes before the courts, generally, **§ 2:15**
 Evaluating merits of opposition versus court action, **§ 2:68 to § 2:78**
 advantages of opposition, **§ 2:68 to § 2:73**
 disadvantages of opposition, **§ 2:74 to § 2:78**
 Introduction, **§ 2:2 to § 2:5**
 nature of trade mark rights, **§ 2:2 to § 2:4**
 common law, **§ 2:2**
 registration under the Trademarks Act, **§ 2:3**
 special protection for published official marks, **§ 2:4**
 types of trade mark disputes, **§ 2:5**
 Language of, **§ 2:1.70**

TRADEMARKS—Cont'd

Section 56 — appeals to the Federal Court, **§ 2:14**
 Section 38 oppositions, **§ 2:6**
 bad faith, **§ 2:8**
 non-compliance with section 30 - section 38(2)(a), **§ 2:7**
 non-distinctiveness — section 38(2)(d), **§ 2:11**
 non-entitlement, **§ 2:10**
 non-registrability — section 38(2)(b), **§ 2:8**
 proposed use — section 30(e), **§ 2:12**
 Section 45 — summary cancellation proceedings for non-use, **§ 2:13**
 Settlement, **§ 2:79 to § 2:95**
 benefits to oppose, **§ 2:82 to § 2:88**
 downsides, **§ 2:89 to § 2:95**
 timing of approach to applicant, **§ 2:79 to § 2:81**
 Settlement agreement, **§ 2:96 to § 2:122**
 co-existence conditions, **§ 2:102 to § 2:122**
 structure of the relationship, **§ 2:96 to § 2:101**
 Settling trademark oppositions, evaluation of successful outcome, **§ 2:60 to § 2:67**
 applicant's commitment, **§ 2:61 to § 2:63**
 foreign registration, **§ 2:62**
 proposed use, **§ 2:61**
 secondary type mark, slogan, **§ 2:63**
 assessing opposer's motivation, **§ 2:64 to § 2:67**
 business issues, **§ 2:64**
 keeping register clean, **§ 2:65 to § 2:67**
 strength of case, **§ 2:60**
 Settling trademark oppositions, gathering facts/evaluating case, **§ 2:40 to § 2:59**
 establishing legal basis, **§ 2:53 to § 2:59**
 investigate applicant, **§ 2:56**
 verify priority, **§ 2:53, § 2:54**
 priority of registration/application, **§ 2:53**
 prior use, **§ 2:54**
 establishing position, **§ 2:41 to § 2:52**
 current and future business plans, **§ 2:42**

TRADEMARKS—Cont'd

Settling trademark oppositions, gathering facts/evaluating case, **§ 2:40 to § 2:59—Cont'd**
 establishing position, **§ 2:41 to § 2:52**
 —Cont'd
 establish marks history and current posture, **§ 2:43 to § 2:46**
 any restrictions on use/registration by prior agreements with others, **§ 2:45**
 origin — internal development or purchase, **§ 2:43**
 protective and/or enforcement efforts, **§ 2:44**
 use, sales figures, advertising, packaging, **§ 2:46**
 identifying importance of mark, **§ 2:41**
 verify mark is up to date, **§ 2:47 to § 2:52**
 chain of title, **§ 2:51**
 goods or services description, **§ 2:49**
 licenses, **§ 2:52**
 mark in use, **§ 2:48**
 presentation of mark, **§ 2:50**
 validly registered, subsisting and renewed, **§ 2:47**
 Trademark remedies, **§ 2:22 to § 2:39**
 challenging registered trademarks and official marks, **§ 2:32 to § 2:37**
 challenging published official marks, **§ 2:35**
 declaratory relief, **§ 2:37**
 judicial review vs. appeal, **§ 2:36**
 expunging/amending entries on register, **§ 2:32**
 amendments, **§ 2:34**
 expungement, **§ 2:33**
 expunging distinguishing guise registrations, **§ 2:35**
 concurrent use orders, **§ 2:38, § 2:39**
 enforcement of foreign judgments, **§ 2:39**
 in proceedings involving a registered trade mark, **§ 2:38**
 customs remedies, **§ 2:30, § 2:31**
 interim custody orders and orders prohibiting future importation, **§ 2:30**

TRADEMARKS—Cont'd

- Trademark remedies, § 2:22 to § 2:39
 - Cont'd
 - customs remedies, § 2:30, § 2:31
 - Cont'd
 - section 53.1 — detention orders and other appropriate orders, § 2:31
 - general, § 2:22 to § 2:29
 - general remedies, § 2:23
 - destruction, § 2:26
 - exportation, § 2:27
 - injunctions, § 2:24
 - other disposition, § 2:28
 - delivery up, § 2:28
 - removal, obliteration or over-labelling, § 2:28
 - punitive damages, § 2:29
 - recovery of damages or profits, § 2:25
 - jurisdiction of Federal Court versus provincial courts, § 2:22
 - Trademarks Act, revised, § 2:1
 - privilege, trademark agent, § 2:1.5

TRADE SECRETS

- Generally, § 5:1 et seq.
- Breach of confidence, § 5:31 to § 5:36
 - damages, § 5:76
 - employer's liability, § 5:36
 - jurisdiction, § 5:31
 - test, § 5:32
 - vicarious liability, § 5:36
- Breach of contract
 - confidentiality agreements, § 5:29
 - damages, § 5:85
 - disputes generally, § 5:11
 - express, § 5:24 to § 5:29
 - implied, § 5:30
 - non-competition clauses, § 5:25
 - non-disclosure agreements, § 5:29
- Breach of fiduciary duty, § 5:37 to § 5:45
 - arm's length, dealing at, § 5:39
 - damages, § 5:84
 - director's duties, § 5:41
 - employees, § 5:42 to § 5:45
 - employment relationship, § 5:40
 - key employees, § 5:43
 - management, duties of, § 5:41
 - management, top, § 5:42
 - negotiating parties, between, § 5:39
 - officer's duties, § 5:41

TRADE SECRETS—Cont'd

- Breach of fiduciary duty, § 5:37 to § 5:45
 - Cont'd
 - other employees, § 5:44
 - senior employees, § 5:42
 - test for employees, § 5:45
 - vulnerability, § 5:38
- Common law protection, § 5:3
- Computer-related disputes
 - employer confidential information, § 9:27, § 9:28
 - programmer skill, § 9:27, § 9:28
- Confidential information, § 5:32
 - past solicitor-client relationship, § 5:63
- Confidential information, distinguished, § 5:22
- Contractual disputes, § 5:11
 - see also breach of contract
- Criminal actions
 - counseling, § 5:50
 - fraud, § 5:48 to § 5:50
 - mischief, § 5:48 to § 5:50
 - theft, § 5:48 to § 5:50
- Defences, § 5:51 to § 5:61
 - acquiescence, § 5:60
 - de minimis non curat lex, § 5:61
 - denial, § 5:52 to § 5:56
 - experience, § 5:53
 - innocent recipient, § 5:58
 - laches, § 5:60
 - limitation periods, § 5:59
 - misappropriation or misuse, denying, § 5:56
 - obligation of confidence, denying, § 5:55
 - personal knowledge, § 5:53
 - public domain, § 5:52
 - public interest, § 5:57
 - reverse engineering, § 5:54
 - sale of proceeds, § 5:54
 - skill, § 5:53
- Employment-related disputes, § 5:7
- Fiduciary duty, § 5:19
 - see also breach of fiduciary duty
- Injunctions, § 17:41, § 17:42
- Negotiations, § 5:14
- Non-competition clause, § 5:28
- Pre-emptive measures, § 5:62 to § 5:64
 - assignment, § 5:64
 - licensing, § 5:64

TRADE SECRETS—Cont'd
Pre-emptive measures, § 5:62 to § 5:64
—Cont'd
patent protection, § 5:63
Remedies, § 5:65 to § 5:86
accounting of profits, § 5:74
Anton Piller orders, § 5:73
constructive trust, § 5:86
damages, § 5:76 to § 5:85
injunctions, § 5:67 to § 5:73
interlocutory injunctions, § 5:67
permanent injunctions, § 5:72
profits, § 5:74
punitive damages, § 5:83
quantum meruit, § 5:75
restitution, § 5:66
Restrictive covenants, § 5:2
Springboard principle, § 5:17
Unjust enrichment, § 5:46
Wrongful interference with rights, § 5:47
TRIAL
Generally, § 13:1 et seq.
Conduct of trial, § 13:61 to § 13:74
Canadian Patent Office, written communications, § 13:68
confidentiality, § 13:71
confidentiality orders, § 13:73
protective orders, § 13:72
demonstrative evidence, § 13:67
electronic trials, § 13:74
evidence and hearsay, § 13:66
examination in chief/cross-examination, § 13:63 to § 13:65
final argument, § 13:69
late-produced evidence, § 13:62
opening statement, § 13:61
PMNOC trial length, § 13:60.50
relief sought, § 13:70
rule in Browne v. Dunn, § 13:65.50
Fact witnesses, § 13:8
Introduction, § 13:1
Materials for trial, § 13:53 to § 13:60
trial briefs, § 13:53 to § 13:60
book of authorities, § 13:58
compendium of evidence and primers, § 13:55
co-ordinating matters with Registrar, § 13:59
copies, § 13:60
counsel's trial book, § 13:54

TRIAL—Cont'd
Materials for trial, § 13:53 to § 13:60
—Cont'd
trial briefs, § 13:53 to § 13:60—Cont'd
discovery excerpts "read-in," § 13:56
trial memorandum, § 13:57
trial record, § 13:53
Narrowing issues before trial, § 13:36 to § 13:52
pre-trial motions, § 13:37 to § 13:49
bifurcation order, § 13:37
pre-trial conference, § 13:45
at pre-trial conference, § 13:48
pre-trial conference memoranda, § 13:47
requisition, § 13:46
trial management conference, § 13:49
settlement discussions, § 13:44
summary judgment, § 13:38
patent cases, § 13:39
trademark and copyright cases, § 13:40
summary trial, § 13:41
patent cases, § 13:42
trademark and copyright cases, § 13:43
requests to admit, § 13:50, § 13:51
agreed statements of facts/issues, § 13:52
documents, § 13:51
facts, § 13:50
Proving case at trial, § 13:2 to § 13:6
copyright cases, § 13:6
patent cases, § 13:3
patent medicine notice of compliance cases, § 13:4
trademark cases, § 13:5
Witnesses, § 13:7 to § 13:35
expert witnesses, § 13:9 to § 13:35
assistance in cross-examination, § 13:28
code of conduct, § 13:22
crafting affidavit or statement, § 13:23
assistance of lawyer in preparation of report or affidavit, § 13:26
good science, § 13:24
translating into understandable form, § 13:25

TRIAL—Cont'd

Witnesses, § 13:7 to § 13:35—Cont'd
 expert witnesses, § 13:9 to § 13:35
 —Cont'd
 expert reports to be relied upon at trial, § 13:26.50
 familiarizing witnesses with courtroom, § 13:27
 issues addressed, § 13:16
 experts in patent cases, § 13:17
 trademark actions: confusion, § 13:18
 limitations on number, § 13:11
 outlining areas of agreement between experts, § 13:26.30
 patent actions: conducting infringement tests, § 13:19
 preparation of for giving evidence, § 13:21
 procedure for expert witnesses, § 13:29 to § 13:35
 blinding, § 13:30
 code of conduct, § 13:29
 deference to trial judge on appeal, § 13:35
 expert witness conference, § 13:32
 hot-tubbing, § 13:34
 objection to expert witness, § 13:31
 pre-trial conference, § 13:33
 retain early, § 13:10
 selecting, § 13:12
 experience as a witness, § 13:15
 expertise, § 13:13
 good teacher, § 13:14
 trademark actions: surveys, § 13:20

UNDERTAKING TO PAY DAMAGES

See also INJUNCTIONS
 Generally, § 17:5 to § 17:22

UNIFORM DOMAIN NAME DISPUTE RESOLUTION POLICY

See DOMAIN NAMES DISPUTE RESOLUTION

VALIDITY

See generally COPYRIGHT, infringement; INDUSTRIAL DESIGNS; PATENTS; PHARMACEUTICALS; TRADEMARKS

VALUATION

See also, ACCOUNTING OF PROFITS—QUANTUM; DAMAGES—QUANTUM; QUANTUM

WITNESSES

See TRIAL

WRITS

Generally, § 23:11 to § 23:54
 Delivery, of, § 23:32
 Execution, of, § 23:12
 Fieri facias, of, § 23:13 to § 23:31
 adequacy of price, § 23:28
 adverse claims, § 23:22
 diligence, § 23:18
 entry, § 23:21, § 23:25
 finality of auction, § 23:29
 notice of sale, § 23:27
 proceeds of sale, § 23:30
 process, § 23:16
 return, § 23:31
 sale of property, § 23:26
 search, § 23:17
 seizable property, § 23:14
 seizure, § 23:19, § 23:25
 third parties, § 23:22
 timeliness, § 23:20
 transfer of property, § 23:23
 unseizable property, § 23:15
 value of property, § 23:24
 Seizure and sale, of—see fieri facias
 Sequestration, of, § 23:33
 leave, § 23:34
 notice, § 23:34
 sheriff's duties, § 23:35