

Commissioner's Decision #1425
Décision du Commissaire n° 1425

TOPICS: J-00 Meaning of Art
J-50 Mere Plan
O-00 Obviousness

SUJETS: J-00 Signification de la technique
J-50 Simple Plan
O-00 Évidence

Application No.: 2,767,500

Demande n°: 2 767 500

IN THE CANADIAN PATENT OFFICE

DECISION OF THE COMMISSIONER OF PATENTS

Patent application number 2 767 500, having been rejected under subsection 30(3) of the *Patent Rules*, has subsequently been reviewed in accordance with paragraph 30(6)(c) of the *Patent Rules*. The recommendation of the Patent Appeal Board and the decision of the Commissioner are to refuse the application.

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INTRODUCTION

- [1] This recommendation concerns the review of rejected patent application number 2 767 500, which is entitled “Phased debit activation system and method” and is owned by Target Brands. The outstanding defects indicated by the Final Action (FA) are that the claims do not define statutory subject matter, contrary to section 2 of the *Patent Act*, and are obvious, contrary to paragraph 28.3(b) of the *Patent Act*. The Patent Appeal Board (the Board) has reviewed the rejected application pursuant to paragraph 30(6)(c) of the *Patent Rules*. As explained below, our recommendation is to refuse the application.

BACKGROUND

The Application

- [2] Canadian patent application 2 767 500 was filed on February 10, 2012 and published on April 19, 2012.
- [3] The application relates to the incrementally phased activation of a general-purpose reloadable (GPR) card, wherein each phase activates additional functions for the card and its associated account.

Prosecution history

- [4] On July 24, 2014, an FA was written pursuant to subsection 30(4) of the *Patent Rules*. The FA stated that the application is defective on two grounds. One is that the claims on file (i.e. claims 1 to 42) do not comply with section 2 of the *Patent Act*, and the other is that they do not comply with section 28.3 of the *Patent Act*.

- [5] In a January 26, 2015 response to the FA (R-FA), the Applicant argued why the application complies with the *Patent Act*. In particular, the Applicant contended that the claims include physical, technical elements (and are thus directed to statutory subject matter) and that the claims are not obvious in view of the references cited in the FA.
- [6] As the Examiner considered the application not to comply with the *Patent Act*, the application was forwarded to the Board for review on April 17, 2015, pursuant to subsection 30(6) of the *Patent Rules*, along with a Summary of Reasons (SOR) maintaining that the claims on file do not define statutory subject matter and are obvious.
- [7] With a letter dated June 30, 2015, the Board forwarded the Applicant a copy of the SOR and offered the Applicant the opportunities to make further written submissions and to attend an oral hearing. In its response (R-SOR) on September 30, 2015, the Applicant declined the opportunity to attend an oral hearing and requested the review to proceed based on the current written record.
- [8] A Panel was formed to review the application under paragraph 30(6)(c) of the *Patent Rules* and make a recommendation to the Commissioner as to its disposition. In a letter dated January 27, 2017 (the Panel Letter), we set out our preliminary analysis and rationale as to why, based on the record before us, the subject matter of the claims on file do not comply with section 2 and paragraph 28.3(b) of the *Patent Act*.
- [9] In its letter of February 24, 2017, the Applicant requested an extension of time to respond to the Panel Letter. That extension was granted. On March 27, 2017, the Applicant replied to the Panel Letter with a letter (the Reply Letter) maintaining that the application complies with the *Patent Act* and providing further supporting arguments.

ISSUES

[10] The two issues to be resolved by this review are:

- Whether the claims on file define subject matter falling within the definition of invention in section 2 of the *Patent Act*; and
- Whether the claims on file define subject matter that would not have been obvious, thus complying with paragraph 28.3(b) of the *Patent Act*.

LEGISLATION AND LEGAL PRINCIPLES

Purposive construction

[11] In accordance with *Free World Trust v. Électro Santé*, 2000 SCC 66, essential elements are identified through a purposive construction of the claims done by considering the whole of the disclosure, including the specification and drawings (see also *Whirlpool v. Camco*, 2000 SCC 67 at paragraphs 49(f) and (g) and 52). In accordance with “Manual of Patent Office Practice” (CIPO, June 2015) at §13.05 [MOPOP], the first step of purposive claim construction is to identify the person skilled in the art (the skilled person) and his or her relevant common general knowledge (CGK). The next step is to identify the problem addressed by the inventors and the solution put forth in the application. Essential elements can then be identified as those required to achieve the disclosed solution as claimed.

Statutory subject matter

[12] The definition of invention is set out in section 2 of the *Patent Act*:

“Invention” means any new and useful art, process, machine, manufacture or composition of matter, or any new and useful improvement in any art, process, machine, manufacture or composition of matter.

[13] “Examination Practice Respecting Computer-Implemented Inventions”, PN2013-03 (CIPO, March 2013) [PN2013-03] clarifies the Office’s approach to determining if a computer-related invention is statutory subject matter.

[14] As stated in *PN2013-03*, where a computer is found to be an essential element of a construed claim, the claimed subject matter will generally be statutory. Where, on the other hand, it is determined that the essential elements of a construed claim are limited to matter excluded from the definition of invention (e.g. the fine arts, methods of medical treatment, mere ideas, schemes or rules, etc.), the claimed subject matter will not be compliant with section 2 of the *Patent Act*.

Obviousness

[15] Section 28.3 of the *Patent Act* requires claimed subject matter to not be obvious:

The subject matter defined by a claim in an application for a patent in Canada must be subject matter that would not have been obvious on the claim date to a person skilled in the art or science to which it pertains, having regard to

(a) information disclosed more than one year before the filing date by the Applicant, or by a person who obtained knowledge, directly or indirectly, from the Applicant in such a manner that the information became available to the public in Canada or elsewhere; and

(b) information disclosed before the claim date by a person not mentioned in paragraph (a) in such a manner that the information became available to the public in Canada or elsewhere.

[16] In *Apotex v. Sanofi-Synthelabo Canada*, 2008 SCC 61 at paragraph 67, the Supreme Court of Canada stated that it is useful in an obviousness inquiry to follow the following four-step approach:

- (1)(a) Identify the notional “person skilled in the art”;
- (b) Identify the relevant CGK of that person;
- (2) Identify the inventive concept of the claim in question or if that cannot readily be done, construe it;

- (3) Identify what, if any, differences exist between the matter cited as forming part of the “state of the art” and the inventive concept of the claim or the claim as construed;
- (4) Viewed without any knowledge of the alleged invention as claimed, do those differences constitute steps which would have been obvious to the person skilled in the art or do they require any degree of invention?

ANALYSIS

Purposive construction

[17] As explained below, we consider there to be generally two main groups of claims in the application, one involving two activation phases and the other involving three activation phases. For convenience, claims 16 and 19 are provided below as representatives of these two groups:

16. A method of activating and maintaining a general-purpose reloadable (GPR) account, the method comprising:

receiving, from a point-of-sale (POS) terminal, an account identification number corresponding with the GPR account, identification information corresponding with a consumer applying for the GPR account, and an initial monetary value to be loaded to the GPR account;

activating the GPR account to a first level of activation in which the GPR account is available to pay for purchases up to the initial monetary value, wherein activating the GPR account occurs while the consumer applying for the GPR account is at the POS terminal, and while in the first level of activation, the GPR account is unavailable for reloading with additional monetary value;

verifying the identification information after activation of the GPR account to the first level of activation; and

following verifying the identification information, activating the GPR account to a second level of activation in which the GPR account can be reloaded with the additional monetary value.

19. The method of any one of claims 16 to 18, further comprising:

generating a personal identification number (PIN) for the consumer following the activating the GPR account to the second level of activation; and

sending the PIN to the consumer and activating the GPR account to a third level of activation, which is the only one of the first level of activation, the second level of activation, and the third level of activation allowing cash withdrawals from the GPR account.

The skilled person

[18] In the Panel Letter, we identified the skilled person to be one or more financial product planners or distributors, and the programmers and other technologists experienced with developing and maintaining the tools and infrastructure for such professionals. The Applicant has not disputed this identification.

The CGK

[19] The FA identified the following concepts as CGK. We agreed in the Panel Letter that these concepts are part of the CGK and the Applicant has not disputed their inclusion:

- Payment instruments (such as credit, debit and prepaid cards) and payment processing;
- General-purpose computing devices and appropriate programming techniques;
- The activation of credit products at the point of sale, and the provision of GPR accounts and cards to underserved consumers (i.e. those who do not qualify, or who have a low level of qualification, for traditional banking services);
- The fact that regulatory and industry compliance requirements for GPR cards call for the collection and verification of card applicant information using, for example, a third-party database check or a physical examination of government issued documents;
- POS terminals, financial processing networks, databases and the use of such infrastructure to activate, load, reload and accept payment from GPR cards;
- Using a POS terminal to read a GPR account identification number from a GPR card;
- Collecting GPR card applicant identification information (at some point) for forwarding to a financial processing network;
- Using a POS terminal to submit to the financial processing network an initial monetary amount to be loaded to the GPR account; and

- Receiving activation approval from the financial processing network at the POS terminal and communicating initial activation of the GPR card account to the card applicant.

[20] In the Panel Letter, we indicated we also consider the skilled person to be well aware that:

- It is desirable to make a GPR card convenient to reload and use;
- It would be preferable for the seller of a prepaid access card to capture the card applicant's identification information at the POS, given their unique position to do so face-to-face;
- Different regulatory and industry requirements apply to different prepaid access services and functions. For example, to access the reload function – as opposed to certain other functions and services – the cardholder or card applicant must provide identification information for verification; and
- Phased activation of GPR cards can be implemented, whereby access to functions is increased as verifications are completed.

[21] In accepting these concepts and knowledge as CGK, we are supported by the examples embodied in:

- The present application's (paragraph 14) brief description of legal requirements;
- McGimpsey, "Selecting a secure and compliant prepaid reloadable card program" (First Data, 2009) at the sidebar of page 2;
- Amendment to the Bank Secrecy Act Regulations, 75 Fed. Reg. 123,36589 (2010) (amending 31 C.F.R. §103) at pages 36598 to 36603, 36605 and 36606 [*FinCEN*]; and
- "A guide to prepaid cards for transit agencies" TC-10002 (Princeton Junction, US: Smart Card Alliance, March 2010) at pages 15 and 23 [*Smart Card Alliance*].

- [22] The Applicant did not argue that any of these concepts or items of knowledge were beyond the CGK, but instead objected to the citation of *FinCEN* and *Smart Card Alliance* which, unlike McGimpsey, were introduced to the Applicant in the Panel Letter.
- [23] The Applicant stated in the Reply Letter:
- [I]t is noted that the Board has introduced two new prior art documents which were never identified during prosecution. Applicant respectfully submits that is contrary to the intent of the *Patent Act* and *Rules*, and that by doing this, Applicant is denied due process. During prosecution, Applicant is free to amend the claims and to confer with the Examiner, generally having several opportunities to do so. None of this is possible before the Patent Appeal Board. If the Board feels that these documents are relevant to the claimed subject matter, due process requires they remand the application back to the Examiner for proper prosecution under the *Patent Act*.
- [24] First, the Applicant has merely stated that it is contrary to the intent of the *Patent Act* and *Patent Rules* for the Board to consider previously undiscussed CGK. We are unpersuaded by this assertion. The relevant CGK must be established before claims can be purposively construed and outstanding issues resolved. This is a necessary component of properly carrying out a review pursuant to paragraph 30(6)(c) of the *Patent Rules*.
- [25] Second, to ensure due process in the present case, we used the Panel Letter to invite the Applicant to make any desired written submissions, including those concerning our identification of the CGK in that letter.
- [26] Finally, we cannot remand the application back to the Examiner as no statutory mechanism exists for doing so.
- [27] As stated above, the Reply Letter did not submit that any of the concepts or knowledge identified as CGK were not generally known. Instead, it stated, with respect to the citation of *FinCEN* in particular, that a document can only be considered CGK if it is very well known in the art, and submitted:

[A] person skilled in the art of writing software code for gift cards in Canada has probably never heard of the U.S. Bank Secrecy Act Regulations. And in any event, no physical evidence has been provided to show that such a document would be “generally known” to such an individual. As such, Applicant submits that the Board cannot rely on this reference.

[28] We first observe that the notional skilled person is not necessarily limited to any particular country. Secondly, the Applicant has not disputed our identification of the skilled person as a team including one or more financial product planners or distributors, aware of regulatory and industry compliance requirements for GPR cards and other prepaid access services. The requirements of the *Bank Secrecy Act Regulations* are an example of such regulatory requirements and we are accordingly of the view that the skilled person would be aware of them.

[29] Regardless, *FinCEN* (like the other references) is not cited as the source of the relevant CGK, but as an indicator of it. *FinCEN* (see e.g. pages 36589 to 36593) explains that its proposed rules “are intended to address regulatory gaps that have resulted from the proliferation of prepaid innovations over the last ten years and their increasing use as an accepted payment method.” The proposals are based on the Financial Crimes Enforcement Network’s regulatory research into the operation of the prepaid industry, involving a review of the development of the industry, industry consultations and publications of proposals and regulations. We consider what *FinCEN* describes is part of the relevant CGK, at least insofar as it concerns the elements of CGK identified above.

The problem to be solved

[30] The FA and the SOR identified the problem as the inability to activate prior art GPR cards until fulfilment of specific legal requirements. In the R-FA, the Applicant disagreed with this characterization, instead describing the problem as how to effect staged activation of a GPR card at a POS terminal, with secure authorization from a financial processing network.

- [31] As explained in the Panel Letter, we see the focus of the description is not on the workings of POS terminals, how to enable them to interact with GPR cards or how to use POS terminals to communicate with or secure authorization from financial processing networks. Furthermore, as noted above and not disputed by the Applicant, such details were CGK.
- [32] In contrast, though the concept of phased activation of GPR cards was also CGK, this concept and its implementation are the stated and apparent focus of the application. Therefore, the problem does not appear to lie in any aspect of the physical GPR card itself, or in the infrastructure including the POS terminal, financial processing network and database, but rather in the phased activation process.
- [33] Thus, based on the specification (e.g. paragraphs 1, 2 and 11 to 15), the skilled person would understand the problem to be that GPR cards and accounts generally cannot be used before completion of an activation process and fulfilment of legal requirements, potentially frustrating consumers.
- [34] Although the Applicant, in its Reply Letter, disagreed with the outcome of the claim construction set out in the Panel Letter, it did not specifically dispute the identification of the problem.

The proposed solution

- [35] As explained in the Panel Letter, the application proposes the offering of a single GPR card for which functions can be incrementally added in phases. During the initial phase, the card can only be used as a payment instrument. During the second phase, the card can also be reloaded with funds. During the third phase, the card can also be used at appropriate terminals (by entering a PIN) to withdraw funds from the associated account. In this manner, the consumer is given automatic access to funds

initially loaded into the GPR account while the activation process and legal checks (required for the other functions) are still being carried out.

[36] Although the Applicant, in its Reply Letter, disagreed with the outcome of the claim construction set out in the Panel Letter, it did not specifically dispute the identification of the solution.

The essential elements

[37] As explained in the Panel Letter, we believe that the skilled person, based on the relevant CGK, and on the problem and solution according to the application, would understand the set of essential elements of claims 1 to 18, 22 to 25, 27 to 32 and 34 to 42 for facilitating activation of a GPR card to comprise:

- Collecting identification information from a GPR card applicant and forwarding it for activation approval;
- Loading an initial monetary value to the account associated with the GPR card; and
- Upon activation approval, communicating initial activation to the Applicant, wherein:
 - Initial activation of the GPR card is the first phase in a multiple-phase activation;
 - The GPR card and associated account are available only for making purchase payments during the initial activation phase; and
 - The GPR card and associated account are also available for reloading with additional monetary value during the second activation phase.

[38] Claims 19 to 21, 26 and 33 also involve the third phase, so we construe the set of essential elements of these claims for facilitating activation of a GPR card to comprise the same elements identified above, and where:

- The GPR card and associated account are also available for making cash withdrawals by using a PIN during a third activation phase.

[39] As noted above, the claims also refer to physical details or elements, such as GPR cards, POS terminals and other infrastructure. The Applicant, in its R-FA and R-SOR, contended that these physical elements, including the GPR card and the POS terminal, also belong among the essential elements.

[40] Such details are outside the concern of the problem and solution, as explained above. These may be part of the context or working environment of the claimed inventions, but not essential elements of the inventions themselves. As such, they may be omitted. As stated in *MOPOP* at §13.05.02*c*, not every element that has a material effect on the operation of a given embodiment is necessarily essential to the solution.

[41] In its R-FA, the Applicant referred to the primacy of the claim language and suggested purposive construction is only needed to determine the meaning of unclear claim wording; where claim wording is clear, it concluded, claims can simply be read literally.

[42] Referral to the disclosure for interpretation of the claims is not reserved for instances where claims are unclear or ambiguous. As explained in *MOPOP* at §13.05.02*b*, purposive construction must remain anchored in the language of the claims, but “cannot be determined solely on the basis of a literal reading” of the claims. A properly informed purposive construction must consider the application as a whole. The form of the claim language chosen by the inventor cannot override all other considerations during purposive construction of the claims.

Statutory subject matter

[43] As purposively construed above, the essential elements of claims 1 to 42 are steps and rules defining the incrementally phased activation of the GPR card and account. They are characterized by the terms of the card applicant’s relationship with the card

issuer and what the cardholder is permitted to do with the card in the different phases of the activation process.

[44] As explained in the Panel Letter, such matter does not manifest a discernible effect or change of character or condition in a physical object. It merely involves the carrying out of a plan or theory of action without the production of any physical results proceeding directly from the operation of the theory or plan itself.

Accordingly, we consider it a mere scheme, plan or set of rules, and the sets of essential elements of claims 1 to 42 to be outside the categories of invention within section 2 of the *Patent Act*.

[45] Therefore, claims 1 to 42 do not define statutory subject matter, and thus do not fall within the definition of invention in section 2 of the *Patent Act*.

Obviousness

Identify the notional skilled person and the relevant CGK

[46] The notional skilled person has already been identified above. The above identification of the relevant CGK is also considered to be applicable for the purpose of assessing obviousness.

Identify the inventive concept of the claim in question or if that cannot readily be done, construe it

[47] Since the claims have already been purposively construed above, their constructions have been taken as also representing the inventive concepts.

Identify what, if any, differences exist between the matter cited as forming part of the “state of the art” and the inventive concept

[48] In addition to the documents cited above, we also referred, in the Panel Letter, to the following document, which was cited in the FA:

- US 7 252 226 7 August 2007 Risafi et al.

[49] As stated in the Panel Letter, we consider McGimpsey's white paper to not only exemplify the CGK (as explained above), but to also be the most relevant reference, given the inventive concepts identified above. McGimpsey explained it was known to offer prepaid GPR cards to consumers at a retail location. The consumer would pay a purchase fee and an initial amount would be loaded on the card, activating it as a payment instrument; the card would later be activated as a reloadable card when the cardholder contacted the issuer and provided the legally required personal information.

[50] McGimpsey (pages 2 to 5) referred to the use of prepaid GPR cards to make purchases, pay bills and withdraw funds from ATMs, the reloading of prepaid GPR cards and the regulatory and industry requirements for being issued and using such cards. McGimpsey (page 5) also referred to prepaid GPR cards as having multiple phases in their life cycle from issuance to final use.

[51] The Applicant contended in the Reply Letter that McGimpsey did not disclose GPR cards with multiple phases in this context:

But the only relevant text in McGimpsey is a sentence which reads "*An experienced prepaid manager can map the various requirements against each phase of the card's life cycle (from issuance to final use).*" McGimpsey makes no mention of 'phases' in the way Applicant is using it; that is, beginning with a loyalty or points card, converting that points card to a gift card, subsequently to a debit card, etc. By 'phases' McGimpsey can only be read to mean manufacturing a prepaid card, hanging it in the store, loading it, using some of the cash, using the balance, and throwing away the card. There is no mention in McGimpsey or in any of the other references of 'phases' in the context of the claimed invention. **All of the cards described in McGimpsey and in the other references have a single use and a single function.** [Emphasis in original.]

[52] Although the quoted text from McGimpsey (page 5) does not clearly and explicitly encompass the same sort of "multiple-phase activation", it does show that a GPR card's life cycle is made up of phases, where different phases involve different

regulatory and administrative requirements. This suggests that the card would correspondingly have different functions for at least some of those phases.

[53] In any case, McGimpsey explicitly disclosed elsewhere (sidebar of page 2) the multiple-phase activation of GPR cards:

Prepaid GPR cards can be purchased by consumers at a retail location or online. A purchase fee is paid and an initial load amount is placed on the card. The card is later activated as a reloadable card when the cardholder calls the customer service number (or logs on to the secure Web site) to provide personal information as required by the USA Patriot Act. Some programs will then send the customer a new card with the customer's name fully embossed on the card.

[54] Therefore, a difference between the state of the art and the inventive concepts is that McGimpsey did not explicitly disclose their exact sequence of steps – he did not describe the card applicant as providing all required personal information at the beginning of the multiple-phase activation process. Additionally, regarding the inventive concept for claims 19 to 21, 26 and 33, McGimpsey did not disclose a third activation phase (following a payment-only activation phase and a payment-and-reload-only activation phase) where the cardholder could withdraw cash.

Do those differences constitute steps which would have been obvious to the skilled person or do they require any degree of invention

[55] The Applicant contends that the concept of multiple-phase activation of GPR cards, where the cards have different functions in different phases, was not suggested by the prior art.

[56] As explained in the Panel Letter, not only do we consider the concept of a GPR card with a multiple-phase activation process to have been CGK, McGimpsey also showed it was known to offer prepaid GPR cards with at least two activation phases, where the card could not be reloaded until it entered the second phase. Collecting the card applicant's identification information at the beginning of the application process

would have been an obvious alternative to collecting it later, making the processes of activating the card as a reloadable one, and reloading the card, more convenient for the cardholder. The information was needed to get a fully activated GPR card – the goal of the card application process – and the sooner the information was collected, the sooner any needed administrative steps and regulatory checks could have been started and ultimately completed. Another motivation for collecting the identification information at this point would have been to take advantage of the unique face-to-face interaction between the card applicant and the seller at the POS.

[57] As stated in the Panel Letter, it would thus have been obvious how to implement the concept of a GPR card with a multiple-phase activation process. Accordingly, we do not see the differences between the inventive concept for claims 1 to 18, 22 to 25, 27 to 32 and 34 to 42 and McGimpsey's disclosure as having required any degree of invention, given the CGK.

[58] Regarding the inventive concept for claims 19 to 21, 26 and 33, the present description (e.g. paragraphs 12, 15, 40, 41 and 47) does not explain why the cash withdrawal function is reserved for a later activation phase. It appears the only reason to make a third activation phase for adding the cash withdrawal function is that the provider may not be able to add this function sooner – the regulatory checks and administrative steps involved may take longer than those involved with making payment or reload functions available. According to the present description (paragraph 41), as soon as a PIN can be provided to the card application, the GPR account enters the third phase.

[59] As explained in the Panel Letter, since it was CGK (or at least known from McGimpsey) to make at least some of the functions of a prepaid GPR card available to a cardholder before the regulatory checks and administrative steps required for the other functions had been completed, it would have been obvious to apply this solution granularly: that is to say, to have incrementally added functions in different

phases as soon as the applicable checks and steps were completed. As stated in the SOR, such an approach would have increased the convenience for the consumer.

[60] McGimpsey did not discuss the regulations and other details involved in using GPR cards to make cash withdrawals, but neither does the present description (e.g. paragraphs 12, 15, 40, 41 and 47). Therefore, these details must be considered part of the CGK identified above regarding payments processing. In any case, Risafi et al. (columns 4, 7 and 14) discussed such transactions.

[61] Accordingly, we do not see any differences between the inventive concepts and the cited matter requiring any degree of invention from the skilled person.

Conclusions

[62] We are of the view that claims 1 to 18, 22 to 25, 27 to 32 and 34 to 42 would have been obvious to the skilled person in view of McGimpsey's disclosure and the relevant CGK, and claims 19 to 21, 26 and 33 would have been obvious in view of the combined disclosures of McGimpsey and Risafi et al., and the relevant CGK.

[63] Therefore, claims 1 to 42 do not comply with paragraph 28.3(b) of the *Patent Act*.

RECOMMENDATION OF THE BOARD

[64] In view of the above, the panel recommends that the application be refused on the basis that claims 1 to 42:

- Define non-statutory subject matter and thus do not comply with section 2 of the *Patent Act*; and
- Define subject matter that would have been obvious and thus do not comply with paragraph 28.3(b) of the *Patent Act*.

Leigh Matheson
Member

Marcel Brisebois
Member

Andrew Strong
Member

DECISION

[65] I concur with the findings of the Board and its recommendation to refuse the application. The claims on file do not comply with section 2 and paragraph 28.3(b) of the *Patent Act*.

[66] Accordingly, I refuse to grant a patent for this application. Under section 41 of the *Patent Act*, the Applicant has six months to appeal my decision to the Federal Court of Canada.

Johanne Bélisle
Commissioner of Patents
Dated at Gatineau, Quebec,
this 7th day of August, 2017