

Commissioner's Decision No. 1447
Décision du commissaire n° 1447

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. 2,561,710
Demande n° 2 561 710

IN THE CANADIAN PATENT OFFICE

DECISION OF THE COMMISSIONER OF PATENTS

Patent application number 2,561,710, 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 2,561,710, which is entitled “Systems and Methods for International Shipping and Brokerage Operations Support Processing”. The patent application is owned by United Parcel Service of America, Inc. The outstanding defects to be addressed are that the claims do not define statutory subject-matter and that the claims are obvious. 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 2,561,710, based on a previously filed Patent Cooperation Treaty application, is considered to have a filing date of March 8, 2005 and was published November 3, 2005.
- [3] The application pertains to computer implemented brokerage systems for determining the duties and tariffs associated with a shipment, also known as “rating” a shipment.

Prosecution history

- [4] On July 24, 2015, a Final Action (“FA”) was written pursuant to subsection 30(4) of the *Patent Rules*. The FA explained that the application is defective on the grounds that the claims on file (i.e. claims 1 to 7) do not comply with section 2 of the *Patent Act* and section 28.3 of the *Patent Act*.
- [5] In a January 20, 2016 response to the FA (“R-FA”), the Applicant submitted arguments for allowance and proposed claims. As the Examiner considered the application still did not comply, the application was forwarded to the Board for review on March 29, 2016, pursuant to subsection 30(6) of the *Patent Rules*, along with a Summary of Reasons (“SOR”) maintaining the rejection of the application.
- [6] With a letter dated April 6, 2016, the Board sent the Applicant a copy of the SOR and offered the Applicant the opportunity to make further written submissions and to attend an oral hearing. With its response on July 4, 2016, the Applicant declined an oral hearing but indicated that further submissions would be made in advance of a preliminary review by the Board.

- [7] In a letter dated July 20, 2017, the Applicant provided its response to the SOR (“R-SOR”) with written submissions as to why the application and proposed claims overcome the defects of non-statutory subject-matter and obviousness. The Applicant also provided comments on the Office practice regarding purposive construction and the determination of statutory subject-matter.
- [8] The present Panel was formed to review the application under paragraph 30(6)(c) of the *Patent Rules* and to make a recommendation to the Commissioner as to its disposition. In a letter dated November 3, 2017 (the “Panel Letter”), we presented our preliminary analysis and rationale as to why, based on the record before us, the subject-matter of the claims on file did not comply with section 2 and section 28.3 of the *Patent Act*. With respect to the proposed claims, we stated that our preliminary view with regard to the claims on file would not have changed if the proposed claims had been adopted. The Panel also addressed the arguments raised by the R-SOR pertaining to the Office approach to purposive construction and the assessment of statutory subject-matter.
- [9] In its response to the Panel Letter (the “Reply”) dated December 1, 2017, the Applicant stated that “no further submissions will be made”.

ISSUES

- [10] There are two issues to be addressed by this review:
- 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 are non-obvious as required by section 28.3 of the *Patent Act*.

LEGAL PRINCIPLES AND PATENT OFFICE PRACTICE

Purposive construction

- [11] In accordance with *Free World Trust v. Électro Santé*, 2000 SCC 66 [*Free World Trust*], 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 [*Whirlpool*] at paragraphs 49(f) and (g) and 52). In accordance with the *Manual of Patent Office Practice*, revised June 2015 (CIPO) at §13.05 [*MOPOP*], the first step of purposive claim construction is to identify 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] Following the Federal Court of Appeal decision in *Canada (Attorney General) v Amazon.com Inc.*, 2011 FCA 328 [*Amazon.com*], the Office released an examination memo PN2013-03 entitled “*Examination Practice Respecting Computer-Implemented Inventions*” [PN2013-03] which clarifies examination practice with respect to the Office’s approach to computer implemented inventions.

[14] As stated in PN2013-03, Office practice considers that 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 (for example, fine arts, methods of medical treatment, features lacking in physicality, or claims where the subject-matter is a mere idea, scheme, rule or set of rules), the claim 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

Applicant’s submissions regarding Office practice on purposive construction

[17] In the R-SOR the Applicant contended that purposive construction carried out in accordance with Office practice does not accord with Canadian law. In particular, the Applicant argued that the Office approach places too much emphasis on the analysis of a described problem and solution and that in accordance with Canadian jurisprudence, all claimed features or elements in a claim are presumed to be essential (citing *Pollard Banknote Ltd. v. BABN Technologies*, 2016 FC 883, *AstraZeneca Canada v. Apotex*, 2017 SCC 36, and *Amazon.com*).

[18] As we stated in the Panel Letter, having considered the Applicant’s arguments, in our view the jurisprudence cited above by the Applicant continues to follow and draw on the principles of purposive construction as established in previous jurisprudence such as *Free World Trust* and *Whirlpool*. The cited jurisprudence establishes, among other principles, that the claim language is to be construed based on a reading of the patent as a whole from the point of view of the skilled person, that purposive construction cannot be determined solely on the basis of a literal reading of the patent claims, and that because claim language may be deliberately or inadvertently deceptive, a practical feature of a claim may not form part of the set of essential elements of a claimed invention.

[19] The Panel Letter further explained that the guidance of *MOPOP* at § 13.05.02b outlines the Office’s interpretation of Canadian patent law in respect of purposive

construction as applied to the examination of a patent application. The Office practice specifies that a properly informed purposive construction must consider the specification as a whole, as read through the eyes of the person skilled in the art, against the background of the CGK in the field or fields relevant to the invention, so as to identify the problem and solution addressed by the application. The identification of the problem is guided by the examiner's understanding of the CGK in the art and by the teachings of the description. The solution to that problem informs the identification of the essential elements: not every element that has a material effect on the operation of a given embodiment is necessarily essential to the solution.

- [20] In its Reply, the Applicant did not provide any further comments on the Panel's description of the Office practice on purposive construction. Accordingly, we apply those principles in our review.

The skilled person and the relevant CGK

- [21] In the Panel Letter, we identified the skilled person as a team skilled in the field of logistics, in particular in the field of customhouse brokerage and shipping, and also skilled in the field of general purpose computing technology.
- [22] The Panel Letter identified the CGK of the skilled person as including:
- The process of importing goods and classifying them in accordance with the international goods classification scheme;
 - Use of tariff codes in the above-mentioned classification scheme;
 - General purpose computing systems, networking and appropriate computer programming techniques;
 - Knowledge of confidence levels assigned to information processed by a computer, the confidence level representing a degree of a match between the processed data and information in a computer database. If the confidence level is below a certain threshold, then the data is presented to a user for manual alteration;
 - Knowledge of a threshold level value to determine whether a confidence level has reached a minimum level of acceptance to consider normalized data records to be equivalent; and
 - Knowledge of the use of a confidence level when categorizing an item.

[23] As the Applicant did not provide any reasoning against these characterizations of the skilled person and the CGK in its Reply, we adopt these characterizations in this review.

The problem to be solved and the proposed solution

[24] Although the R-FA and R-SOR predominantly disagreed with the Office approach to claim construction, the Applicant also disputed the essence of the problem and solution as identified in the FA. The Applicant questioned why the problem would not be specific to a computer implementation and similarly why the computer components would not be part of the solution as intended by the inventor.

[25] As we explained in the Panel Letter, the application acknowledges the existence of computerized brokerage systems permitting shippers and customhouses to rate shipments with the correct tariff. Such systems and functions are part of the CGK. The person skilled in the art would thus not see the problem being addressed by the application as lying in the implementation in a computerized system of the steps to determine the tariff code.

[26] We further noted that the current application addresses a problem that occurs with or without the use of a computer and is therefore not specific to a computer implementation. The fact that a computer is used to perform the calculations does not necessarily mean it is an essential element of the solution, but may instead be a convenient, logical manner in which to perform the calculations.

[27] We also stated that in our view, the solution relates to an improved method of determining tariff codes and does not relate to any problems associated with the computerized brokerage systems or the implementation of determining the tariff codes. This view is supported by the focus of the description and drawings on the rules to accurately determine the tariff code, e.g. using a confidence threshold, comparisons with a rating profile, etc., and not to any challenges of using a computerized system to implement said rules.

[28] Therefore, as we set out in the Panel Letter, it is our view that the skilled person would recognize that the problem being solved is how to improve the accuracy of determining the correct tariff code. In our view, the solution proposed by the application, as it would be understood by the skilled person, is to determine a tariff code by accurately matching shipment data with a rating profile, and if a confidence threshold level is met, use the tariff code associated with the rating profile.

[29] As the Reply from the Applicant provided no argument in response to our preliminary views regarding the identification of the problem and solution, we adopt them here.

The essential elements

[30] Independent claims 1 and 5 are directed to a system and a method respectively for determining a tariff amount for an item based on a tariff code associated with a rating profile for the item that satisfies a confidence level threshold when correlated with the item shipping data. Claim 1 is reproduced here as a representative claim:

A computer system comprising one or more processors and one or more memory storage areas, the system configured to:

- receive shipment data pertaining to at least one item, the shipment data comprising an item quantity, a value for the item, and at least one of an item description or an item code;
- identify a rating profile based at least in part on at least one of the item description or the item code, wherein the rating profile comprises (a) at least one of a product description or a product code and (b) a tariff code;
- determine a confidence level of the rating profile based at least in part on a correlation with at least one of the (a) item description and the product description or (b) the item code and the product code;
- determine whether the confidence level satisfies a confidence threshold level;
- after determining that the confidence level satisfies the confidence threshold level, select the tariff code associated with the rating profile to determine a tariff amount for the item; and
- determine the tariff amount for the item based at least in part on a tariff rate associated with the tariff code and the value of the item.

[31] In the R-FA and in the R-SOR, the Applicant contended that according to jurisprudence, all elements of a claim are presumed to be essential, as the inventor intended. The Applicant submitted that a physical computing device is an essential element of each claim and could not be substituted or omitted without affecting the working of the claimed invention.

[32] As discussed at the outset of this section, Office practice on claim construction is set out in *MOPOP* and is based on the Office's interpretation of Canadian jurisprudence as applied to the examination of a patent application. The Office practice establishes, among other points, that the mere presence of an element in the claim language chosen by the inventor cannot override all other considerations

during purposive construction of the claims, as not every element that has a material effect on the operation of a given embodiment is necessarily essential to the solution.

[33] Regarding the instant application, despite inclusion of computerized components in the claims, the Panel's view is that based on the CGK and on the problem and solution identified, the skilled person would understand these computerized components to be outside the scope of the problem and solution. Such physical elements may be part of the context or working environment of the claimed invention, but are not essential elements of the claimed invention itself. Even without a computer, the result would be the same, as the computer components do not actually change the nature of the solution to the problem.

[34] Accordingly, our view is that claims 1 and 5 share the same set of essential elements for the identified solution, namely:

- receiving shipment data pertaining to at least one item, the shipment data comprising an item quantity, a value for the item, and at least one of an item description or an item code;
- identifying a rating profile based at least in part on at least one of the item description or the item code, wherein the rating profile comprises (a) at least one of a product description or a product code and (b) a tariff code;
- determining a confidence level of the rating profile based at least in part on a correlation with at least one of the (a) item description and the product description or (b) the item code and the product code;
- determining whether the confidence level satisfies a confidence threshold level; and
- after determining that the confidence level satisfies the confidence threshold level, selecting the tariff code associated with the rating profile to determine a tariff amount for the item.

[35] Claims 2-4 and 6-7 define variations related to using a plurality of rules for the threshold level, using different rating profile sets, and using second rating profiles and confidence levels.

[36] Therefore we consider that the essential elements of the claims on file are the above steps for selecting a tariff code for an item by identifying a rating profile related to the shipped item, determining a confidence level of the rating profile, determining if the confidence level meets a threshold and selecting the tariff code associated with the rating profile.

[37] As the Applicant's Reply provided no argument in response to our preliminary views regarding the essential elements identified above, we adopt them for this review.

Statutory subject-matter

[38] The FA considered the essential elements of claims 1 to 7 to be directed to mere calculations and thus not to a patentable category of invention. The Applicant's R-FA and R-SOR presented two main lines of argument as to why the subject-matter of the claims on file is statutory; we addressed both in the Panel Letter.

[39] First, the Applicant submits that the Office should not "lose sight of the Shell Supreme Court decision" regarding the meaning of the word "art" as provided in *Progressive Games, Inc. v Canada (Commissioner of Patents)* (1999), 3 C.P.R. (4th) 517 (F.C.T.D.), namely, the characterization that "art": (i) is not a disembodied idea but a method of practical application; (ii) is a new and innovative method of applying skill or knowledge; and (iii) has a commercially useful result or effect.

[40] On this point, the Panel does not believe that our analysis on statutory subject-matter incorrectly applies the definition of the word "art" nor incorrectly assesses the requirements of statutory subject-matter under section 2 of the *Patent Act*. As observed by the Federal Court of Appeal in *Amazon.com*, at paragraph 51:

Broadly speaking, each of the three elements of "art" [as quoted from *Progressive Games* by the Federal Court in the case appealed to the Federal Court of Appeal] are grounded in the provisions of the *Patent Act* in the sense that they reflect the statutory requirements of novelty, utility, non-obviousness, and the prohibition on the granting of a patent for a mere scientific principle or abstract theorem.

[41] Thus, these elements cannot be taken as a three-prong test for determining whether claimed subject-matter belongs to a category of invention under section 2 of the *Patent Act*. For example, a claim's novelty and inventiveness (or lack thereof) does not indicate whether it is statutory.

[42] Second, the Applicant refers to *Amazon.com* and notes that there is no inherent prohibition against the patentability of a "business method or system".

[43] The Panel agrees with the Applicant that there is no inherent prohibition on the patentability of business methods or systems. In the present case, the Panel performed a purposive construction of the claims and determined that the essential

elements do not define statutory subject-matter as they define the calculations or rules of a plan or mental process. The claims on file have not been rejected for defining a “business method or system”, nor did the Panel Letter express this view.

[44] As construed above, the essential elements are the rules and calculations for accurately determining a tariff code of an item, based on comparing item data to a rating profile and determining a confidence level for the match of the item data to the profile, and then assigning a tariff code associated with the profile for the item. A set of rules and calculations are considered to be abstract and outside the definition of invention.

[45] Therefore, our view is that claims 1 to 7 do not define statutory subject-matter and thus do not comply with section 2 of the *Patent Act*.

Obviousness

Identify the notional skilled person and the relevant CGK

[46] The notional skilled person and the relevant CGK have already been identified above and are considered to be applicable for the purpose of assessing obviousness.

Identify the inventive concept

[47] Based on the claim construction above, our view is to consider the inventive concept to be the same as the identified essential elements.

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

[48] The FA cited the following documents as relevant art:

D1	US 2002/0116273	August 22, 2002	Sundel
D2	US 5,530,907	June 25, 1996	Pavey
D3	US 2003/0041068	February 27, 2003	Camarillo
D4	US 2002/0156793	October 24, 2002	Jaro

[49] As we set out in the Panel Letter, we consider D1 to be the most relevant cited document forming part of the “state of the art”. We consider documents D2-D4 to illustrate CGK computer programming and data analysis techniques that utilize comparisons, thresholds and confidence levels in analysing data.

[50] D1 discloses a computerized tax and duty determination system for facilitating the shipment of goods where there exists a desire to more accurately determine the

duties and taxes (tariff) owing for the shipped goods at the package or item level, not simply at the total shipment level. The system receives shipment specific information (e.g., see paragraph 9: order-specific, client-specific and/or item-specific parameters), wherein this information is compared to a database containing the rules and applicable duties and/or taxes for the shipment destined for a particular destination. Based on this comparison, the tax and duty determination system determines the applicable duties and/or taxes for each item in the shipment and for the shipment as a whole.

[51] As we stated in the Panel Letter, we consider that the skilled person would understand that D1 does not explicitly disclose:

- the information includes a 'tariff code';
- determining a confidence level of the rating profile based at least in part on a correlation with at least one of the (a) item description and the product description or (b) the item code and the product code;
- determining whether the confidence level satisfies a confidence threshold level; and
- after that determination, selecting the tariff code associated with the rating profile to determine a tariff amount for the item.

[52] The Applicant did not indicate any disagreement with these identified differences.

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

[53] Regarding the first difference (use of tariff codes), as we noted in the Panel Letter, while D1 teaches determining the duty rate for goods being shipped based on a match against item information stored in a database, it does not use tariff codes. However, as discussed under CGK above, tariff codes are part of the known methods for determining duty and taxes based on the international goods classification scheme and the Panel views that it would be an obvious design choice to use the accepted tariff codes as the information in D1, rather than a duty rate.

[54] Regarding the second and third differences (use of a confidence level and associated threshold to analyse the rating profile from the database), the Panel's view is the same as the argument made in the FA: the skilled person faced with a less than perfect match from the database would have been motivated to determine an acceptable degree of match in D1 by using CGK data analysis techniques such

as a confidence level and an associated threshold. As taught in D1 at paragraph 37, D1 recognizes that keyword searching the database for the appropriate duty and tax rates may be less accurate and that matching a Stock Keeping Unit (“SKU”) code for higher accuracy is possible. In the Panel’s view, this is motivation for the skilled person to apply CGK data analysis techniques (for example, confidence levels and threshold assessments) to quantify and qualify the accuracy of the returned database information, especially in cases where the more accurate SKU based search was unavailable. As previously stated, the Panel’s view is that it is CGK in the art of computer databases and data analysis to assign a confidence level to a match in the event that a perfect match cannot be found. References D2, D3, and D4 all illustrate CGK uses of determining a confidence level representing a degree of a match, wherein if the confidence level satisfies a threshold, the match is determined to be acceptable.

- [55] Regarding the final difference (selecting a tariff code associated with the rating profile to determine a tariff amount for an item), as described above, D1 teaches analysing shipment data and matching data within the shipment by keyword and/or SKU to a “profile” (for example, item-specific information) stored in a database in order to determine a match with the item-specific information stored in the database. Once the match has been determined, D1 teaches that the tariff amount for the item is calculated based on the duty rate associated in the database with the item-specific information.
- [56] It is the Panel’s view that there is no inventive ingenuity in substituting the duty rate stored in the database of D1 with known tariff codes supplemented with known data analysis techniques for determining a match using confidence levels and thresholds. It is our view that the skilled person reading D1 and motivated to address the issue of less than accurate database information in determining duty and tax rates would be led to utilize confidence levels, thresholds and tariff codes in the system of D1.
- [57] Accordingly, we consider that claims 1 and 5 would have been obvious to the skilled person in view of D1 and the CGK.
- [58] Dependent claims 2-4 and 6-7 define additional limitations in the rules defined in independent claims 1 and 5 related to using a plurality of rules for the threshold level, using different rating profile sets, and using second rating profiles and confidence levels. In the Panel’s view, these limitations are mere design choices

and do not involve any additional inventive ingenuity and therefore we consider these claims to be obvious.

- [59] The Applicant's Reply did not offer any comments or arguments regarding our assessment of obviousness.

Conclusion on obviousness

- [60] We consider that the subject-matter of claims 1 to 7 on file would have been obvious in view of D1 and the CGK and therefore not in compliance with section 28.3 of the *Patent Act*.

Proposed claims

- [61] As stated above, the Applicant submitted proposed claims 1-7 with its R-FA. The proposed claims differ primarily in regards to the features of determining a confidence level:

- determine a confidence level of the rating profile based at least in part on:
 - (1) whether the match is based on a correlation between (a) the item description and the product description, (b) the item code and the product code, or (c) both the item description and the product description and the item code and the product code; and
 - (2) the correlation between with at least one of the (a) item description and the product description or (b) the item code and the product code;

- [62] The Examiner construed the proposed claims similarly as the claims on file had been construed and viewed the proposed claims as also failing to comply with section 2 and section 28.3 of the *Patent Act*.
- [63] Regarding the subject-matter analysis of the proposed claims, we do not see the additional claim features related to determining a confidence level to add any further statutory essential claim elements. Accordingly, our view concerning non-statutory subject-matter of the claims on file as provided above also applies to the proposed claims.
- [64] Regarding the obviousness analysis, the added features in the proposed claims to further define the determination of a confidence level is considered to lack inventive ingenuity. The Panel agrees with the statements in the SOR that it would have been obvious to a person skilled in the art that the amount or types of data used in the match process would affect the confidence level of the match. Basing the confidence level on a correlation comprising all available sets of data (e.g., item

and product codes and item and product descriptions) would necessarily improve the confidence level over a correlation based on only one set of data (e.g., item and product codes or item and product descriptions). Accordingly, our view concerning obviousness of the claims on file as provided above also applies to the proposed claims.

- [65] The proposed claims also clarify the identification of a suitable rating profile by explicitly defining a comparison step between shipping data and stored profiles looking for a match. However, this change appears to be an effort to further clarify the claim and is not considered a substantive change with respect to the obviousness argument. The Applicant did not offer any further arguments regarding this clarification.
- [66] Given the proposed claims would not remedy any defects of the claims on file, it follows that the proposed claims are not considered a necessary specific amendment under subsection 30(6.3) of the *Patent Rules*.

RECOMMENDATION OF THE BOARD

- [67] In view of the above, the Panel recommends that the application be refused on the basis that claims 1 to 7 define non-statutory and obvious subject-matter and thus do not comply with section 2 and section 28.3 of the *Patent Act*.
- [68] We also do not consider the claims proposed on January 20, 2016 to constitute specific amendments necessary to comply with the *Patent Act* and *Patent Rules*. Accordingly, we decline to recommend that the Applicant be notified under subsection 30(6.3) of the *Patent Rules* that said proposed claims are necessary.

Andrew Strong
Member

Marcel Brisebois
Member

Lewis Robart
Member

DECISION OF THE COMMISSIONER

- [69] I concur with the findings of the Board and its recommendation to refuse the application as the claims on file do not comply with section 2 and section 28.3 of the *Patent Act*.
- [70] 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 1st day of May, 2018