



National Group: Czech Republic
Title: Questionnaire Apotex Inc. v Sanofi-Aventis
Proposed AIPPI intervention – Supreme Court of Canada appeal
Contributors: Dr. Michal Havlík
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Questions

A. Utility or industrial applicability requirement

1. Does your national law have a utility or industrial applicability requirement for patentability?

Yes

2. Please briefly describe the utility or industrial applicability requirement, including whether it is based on:

The wording of the industrial applicability requirement under the Czech Patent Act complies with the European Patent Convention.

(a) statute;

3. What must be disclosed in the patent specification to satisfy the utility or industrial applicability requirement? In particular, must the patent specification disclose:

(a) the utility or industrial applicability;

4. Is the basis for any disclosure required in the patent specification:

B jurisprudence; or

B. Prosecution

5. Is it necessary to demonstrate utility or industrial applicability during prosecution?

Yes

6. Is the requirement to demonstrate utility or industrial application during prosecution based on:

(a) statute

7. Is there a material date by which the utility or industrial applicability be demonstrated?

No

8. What evidence is required to demonstrate utility or industrial applicability? For example:

(a) Yes, *post filing evidence be used.*

C. Litigation

9. Is lack of utility or industrial applicability a basis for a validity attack in litigation?

Yes

10. Is such attack permitted by reason of:

(a) statute;

11. Is there a material date by which the utility or industrial applicability must be demonstrated?

No.

12. What evidence may the patentee adduce in response? For example:

Yes, post filing evidence be used.