

## Re-examination systems

### Canada

Under s. 48.1 of the Patent Act, any person may request a re-examination of any claim of a patent by filing with the Commissioner prior art, consisting of patents, applications for patents open to public inspection and printed publications, and by paying a prescribed fee. Upon receipt of the request, the commissioner shall establish a Re-Examination Board consisting of not fewer than three persons, at least two of whom shall be employees of the Patent Office, to which the request shall be referred for determination. If the Board determines that a substantial new question of patentability affecting any claim of the patent concerned is raised by the request for re-examination, the Board will cause a re-examination to be made of the claim of the patent in respect of which the request for re-examination was submitted. The re-examination is conducted *ex parte*, and the third party challenger is not a party to the process. Decisions of the Re-Examination Board can only be appealed by the patentee, to the Federal Court.