## Index

Access to medical procedures 48–52  
case against patent protection 50  
control, question of 50–52  
demand and supply, dynamics of 51–52  
increased costs of health care 52–53  
meanings 49  
methods of medical treatment 48–50  

*Actavis v Merck* 361–372  
Court of Appeal 362–364  
'different medical condition' 368  
distinct and different medical condition 366  
first instance 361–362  
novel technical features 363  
obviousness 364–365  
precedent 371  
which novelty? 370–371  

Animals 101–112  
agricultural methods 102  
application by TBAs 103–104  
EBA 111–112  
ectoparasitic infestations of pigs 103–104  
immunostimulation 107–108  
incidental objectives 106–111  
increased meat production 108–109  
industrial application 101–106  
legislative history 104–105  
method of treatment by therapy 109–110  
reformulation of exclusion 106  
surgical methods 111–112  
therapy, meaning 110  

Arguments against patent protection 41–70, 443–444  
access to medical procedures 48–52  
case against patent protection 50  
control, question of 50–52  
demand and supply, dynamics of 51–52  
increased costs of health care 52–53  
meanings 49  
methods of medical treatment 48–50  
breach of patient's privacy 68–69  
disclosure 69  
right to privacy 68–69  

code of ethics 61–62  
compulsory licences 53–58  
Act of 1977 54–55  
case for 56  
costs, and 57  
intellectual property rights 53  
limitations 57–58  
meaning 53  
public health, and 55–56  
emotive arguments 41–42  
Hippocratic Oath 61–62  
methods of medical treatment 63–65  
specific to medical profession 63–64  
incentive structures 66–68  
alternative 67  
methods 43–45  
pharmaceutical products 43–45  
physician liberty and autonomy 58–60  
factors affecting judgment 59  
physician/patient relationship 60–61  
products 43–45  
public health implications 45–58  
rationale for exclusion 42  
right to health 46–48
sharing norm 62–63
everse of 65
methods of medical treatment 63–65
nature of 64–65
TRIPS Agreement 47
Arguments for and against patent protection 443–447
Arguments for patent protection 9–40, 444–445
balancing exercise 443
direct control over supply of invention 444
economic purpose 10
economic rationale 444
ethical justifications 443–444
incentive to disclose 11–13
Chamberlain family 12
methods of medical treatment 11–13
research, and 13
incentive to invent/innovate 14–23
breadth of medical science 22
cost-benefit analysis, and 22
cost of research, and 17
Goeyk-Farber on 21–22
high development cost inventions 20–23
methods of medical treatment 15–18
promotion of R&D 16
reward theory 14–15
SET Patent 18–20
utilitarian principles 14
liberty/autonomy 34–39
collaborative research efforts 38
Hegel on 36
Locke's theory of property 35–36
methods of medical treatment 38–39
property rights, justification for 36–37
Radin on 37
rights of creator of invention 39
prospect theory 23–26
Kitch on 23–24
limitation 24
methods of medical treatment 25–26
simple methods of treatment 26
treatment regimes 25–26
rationales 9–10
rent dissipation theory 27–31
Grady and Alexander on 27–30
methods of medical treatment 28–31
reward/desert 31–34
endocrine therapy 33
identity of creator 34
methods of medical treatment 33–34
philosophical difficulties 32
value of product to society 33–34
Australia
judicial determination of exclusion 434
public interest 446
Commonwealth
Manner of new manufacture see Manner of new manufacture
Contraceptive methods 97–100
feminine hygiene device 99–100
LHRH composition 97
manner of new manufacture see also Manner of new manufacture
arrangement of pills on card 317–319
hormonal drugs 316
method of medical treatment, whether 316
pack claims 316, 317–320
process claims 316
royal prerogative 317
setting limits 320–321
method of treatment by therapy, whether 97–98
personal use 98–100
susceptible to industrial application, whether 98–100
Cosmetic methods 89–96
acceptable form of claim 95–96
anti-snoring means 94
appetite suppressant 91
cleaning plaque 93–94
industrial application 94–95
meaning 90
not patentable 93–94
patentable 90–92
Patents Act 1977 see Patents Act 1977
thenoyl peroxide 90
therapeutic use, and 91–92

Diagnostic methods 184–228
application of principles 208–218
consistency of approach 218
defining diagnostic methods 208–212
interaction with human or animal body 213
intermediate steps 216–218
methodological issues: early view 213
methodological issues: more recent view 214–216
no diagnosis 209
no diagnosis and not practised on body 210
only examination and data gathering phase present 210–212
practised on human or animal body 213
‘applied to the human or animal body’ 188–189
blood extraction method 193–194
broad approach 196–201
application of general principles 200–201
blood extraction method 199
defining diagnostic methods 196–197
medical practitioners, involvement of 197–198
mental acts 196–197
practised on human or animal body 198–199
ultimate responsibility of physician 198
defining 189–192
EPO jurisprudence 439–440
examination phase 193
four-pronged test 190–191
legislative history 187–189
medical practitioners, involvement of 192–194
narrow approach 189–196
new medical technology 218–228
EU Biotech Directive see EU Biotech Directive
genetic diagnostic testing 219–221, 223–227
methods of medical treatment 219–221
morality, and 222–223
ordre public 222–223
patent law, and 218–219
non-invasive measurement 191–192
Patents Act 1977 see Patents Act 1977
practised on human or animal body 194–196
reconciling two approaches 201–208
delineating scope of definition 204–205
diagnosing diagnostic methods 201–206
essential features of claims 205–206
first principles 202
intellectual exercise 203–204
medical practitioners, involvement of 206–207
multi-step approach 202–203
practised on human or animal body 207–208
rationale for exclusion 201–202
scope of exclusion 184–185

Disclaimers 168–182

cosmetic method with therapeutic effect 170–171
EBA, and 180–181
excluded method of medical treatment 174–175
flow measurement 171–172
form of admissible claim 175–178
higher level of abstraction 177–178
implications of using 178–180
importance of 169–170
issue 169–170
legal analysis 182
limiting scope of claims, and 172
methods of medical treatment, and 170–175
‘non therapeutic’, meaning 173–174
omission of step 181–182
surgical methods, and 168–182
use of 175–176
when allowed 175–176
wording of claims, and 171
Dosage regimes
Patents Act 1977 see Patents Act 1977

Enlarged Board of Appeal (EBA) animals, and 111–112
disclaimers, and 180–181
MEDI-PHYSICS/Treatment by surgery, and 140–148
surgical methods, and 123–124, 136–138, 153
therapeutic methods, and 85–87
EU Biotech Directive 221–223
aim of 221
methods of medical treatments 221–222
morality, and 222–223
ordre public 222–223
European Patent Office (EPO) jurisprudence 436–442
diagnostic methods 439–440
 genetic diagnostic testing 224–227
 legislative history 436
 medical treatment 5–6
 second and further medical uses 440–442
 surgical methods 438–439
 therapeutic methods 436–438
 United Kingdom courts, and 442
Excluded surgical step 158–168
applicable national laws 161–162
diagnostic methods 160–161
existence of surgical steps in claim 159–161
insertion of device into human body 162–163
interaction with body 158
MEDI-PHYSICS/Treatment by surgery 165–168
method for conditioning gas 163
non-surgical steps, and 159–160
ratio legis 161–162
surgical steps defined as excluded surgical treatments 162–164
surgical steps not defined as excluded surgical treatments 164–165
Genetic diagnostic testing 223–227
challenges 228
EPO jurisprudence 224–227
morality, and 223–227
nucleic acid 224–226
ordre public, and 223–227
socio-economic consequences of patenting 226–227
Hippocratic Oath 61–62
methods of medical treatment 63–65
specific to medical profession 63–64
Judicial determination of exclusion 433–436
Australia 434
New Zealand 434
United Kingdom 433–434
 PAT 434
United States of America 435–436
Manner of new manufacture 287–331
Australia 321–330
ethical considerations 324
law 299
public policy 323
vendible test 322–323
biological subject matter 301–304
biotechnological subject matter 301–304
commercial object requirement 297–298
Commonwealth 321–330
contraceptive methods 315–321
arrangement of pills on card 317–319
hormonal drugs 316
method of medical treatment, whether 316
pack claims 316, 317–320
<table>
<thead>
<tr>
<th>Index</th>
<th>461</th>
</tr>
</thead>
<tbody>
<tr>
<td>process claims 316</td>
<td></td>
</tr>
<tr>
<td>royal prerogative 317</td>
<td></td>
</tr>
<tr>
<td>setting limits 320–321</td>
<td></td>
</tr>
<tr>
<td>diagnostic methods, and</td>
<td></td>
</tr>
<tr>
<td>deafness, and 290–291</td>
<td></td>
</tr>
<tr>
<td>demise of commercial object requirement 299–301</td>
<td></td>
</tr>
<tr>
<td>economic rationale of patent system 300–301</td>
<td></td>
</tr>
<tr>
<td>ethical grounds 308–315</td>
<td></td>
</tr>
<tr>
<td>extraction of lead 297</td>
<td></td>
</tr>
<tr>
<td>medicine, meaning 288</td>
<td></td>
</tr>
<tr>
<td>micro-organisms 302–303</td>
<td></td>
</tr>
<tr>
<td>morality: emerging concept</td>
<td></td>
</tr>
<tr>
<td>309–311</td>
<td></td>
</tr>
<tr>
<td>morality: legal justification</td>
<td></td>
</tr>
<tr>
<td>311–314</td>
<td></td>
</tr>
<tr>
<td>morality: necessary or hindrance, whether 314–315</td>
<td></td>
</tr>
<tr>
<td>morality, relevance 308</td>
<td></td>
</tr>
<tr>
<td>nature of exclusion 288–295</td>
<td></td>
</tr>
<tr>
<td>New Zealand 321–330</td>
<td></td>
</tr>
<tr>
<td>EISAI 327–329</td>
<td></td>
</tr>
<tr>
<td>new use claim 325–326</td>
<td></td>
</tr>
<tr>
<td>novelty 326</td>
<td></td>
</tr>
<tr>
<td>public policy 324–325</td>
<td></td>
</tr>
<tr>
<td>second medical indication</td>
<td></td>
</tr>
<tr>
<td>327–329</td>
<td></td>
</tr>
<tr>
<td>second medical use patents</td>
<td></td>
</tr>
<tr>
<td>325–329</td>
<td></td>
</tr>
<tr>
<td>Swiss-type claims 327,329</td>
<td></td>
</tr>
<tr>
<td>Patent Office Practice 287, 304–307</td>
<td></td>
</tr>
<tr>
<td>Act of 1977 307</td>
<td></td>
</tr>
<tr>
<td>contraception 305</td>
<td></td>
</tr>
<tr>
<td>Examiners, role of 307</td>
<td></td>
</tr>
<tr>
<td>improved wool yield 304–305</td>
<td></td>
</tr>
<tr>
<td>PAT, role of 307</td>
<td></td>
</tr>
<tr>
<td>procedure 306–307</td>
<td></td>
</tr>
<tr>
<td>reduction of gastric secretion</td>
<td></td>
</tr>
<tr>
<td>306</td>
<td></td>
</tr>
<tr>
<td>public policy grounds 308–315</td>
<td></td>
</tr>
<tr>
<td>rationale for exclusion 295–315</td>
<td></td>
</tr>
<tr>
<td>sound treatment 302–303</td>
<td></td>
</tr>
<tr>
<td>Statute of Monopolies 296</td>
<td></td>
</tr>
<tr>
<td>statutory interpretation 296–304</td>
<td></td>
</tr>
<tr>
<td>statutory regime 296</td>
<td></td>
</tr>
<tr>
<td>test for general patentability 300</td>
<td></td>
</tr>
<tr>
<td>treatment in animals 293–295</td>
<td></td>
</tr>
<tr>
<td>treatment in humans 289–292</td>
<td></td>
</tr>
<tr>
<td>vendible product 298</td>
<td></td>
</tr>
<tr>
<td>widening conception of manufacture 298</td>
<td></td>
</tr>
<tr>
<td>Medical treatment</td>
<td></td>
</tr>
<tr>
<td>EPO jurisprudence 5–6</td>
<td></td>
</tr>
<tr>
<td>future of medical patents</td>
<td></td>
</tr>
<tr>
<td>7–8</td>
<td></td>
</tr>
<tr>
<td>patent protection 1–2</td>
<td></td>
</tr>
<tr>
<td>arguments 2–5</td>
<td></td>
</tr>
<tr>
<td>direct control 5</td>
<td></td>
</tr>
<tr>
<td>public health, and 3–4</td>
<td></td>
</tr>
<tr>
<td>patentability 6–7</td>
<td></td>
</tr>
<tr>
<td>Medicine</td>
<td></td>
</tr>
<tr>
<td>meaning 288</td>
<td></td>
</tr>
<tr>
<td>New medical technology 112–116</td>
<td></td>
</tr>
<tr>
<td>DNA technology 113–114</td>
<td></td>
</tr>
<tr>
<td>gene therapy 113–115</td>
<td></td>
</tr>
<tr>
<td>germline gene therapy 114–115</td>
<td></td>
</tr>
<tr>
<td>somatic gene therapy 114–115</td>
<td></td>
</tr>
<tr>
<td>stem cell therapy 115</td>
<td></td>
</tr>
<tr>
<td>therapeutic cloning 113–115</td>
<td></td>
</tr>
<tr>
<td>New Zealand economic rationale 446</td>
<td></td>
</tr>
<tr>
<td>judicial determination of exclusion 434</td>
<td></td>
</tr>
<tr>
<td>manner of new manufacture see</td>
<td></td>
</tr>
<tr>
<td>Manner of new manufacture</td>
<td></td>
</tr>
<tr>
<td>Patent Appeal Tribunal</td>
<td></td>
</tr>
<tr>
<td>judicial determination of exclusion 434</td>
<td></td>
</tr>
<tr>
<td>Patent Office Practice, and 307</td>
<td></td>
</tr>
<tr>
<td>Patents Act 2004 332–373</td>
<td></td>
</tr>
<tr>
<td>basis of origin of exclusion, and 333–334</td>
<td></td>
</tr>
<tr>
<td>comparison with pre-1977 law 333–338</td>
<td></td>
</tr>
<tr>
<td>interpretation 332–333</td>
<td></td>
</tr>
<tr>
<td>revision of EPC, and 332</td>
<td></td>
</tr>
<tr>
<td>Patents Act 1977 334–338</td>
<td></td>
</tr>
<tr>
<td>Actavis v Merck see Actavis v Merck</td>
<td></td>
</tr>
<tr>
<td>animals, treatment of see also</td>
<td></td>
</tr>
<tr>
<td>Animals 336</td>
<td></td>
</tr>
<tr>
<td>application of exclusion 338–344</td>
<td></td>
</tr>
<tr>
<td>defining therapy 339–340</td>
<td></td>
</tr>
<tr>
<td>ex post facto rationalisation 338–339</td>
<td></td>
</tr>
<tr>
<td>inherent contradictions 339</td>
<td></td>
</tr>
</tbody>
</table>

Eddy D. Ventose - 9780857938015
Downloaded from Elgar Online at 12/19/2018 05:01:01PM
via free access
method of treatment by therapy 339–342
pharmaceutical inventions 338
taxol 340–342
Bristol-Myers Squibb, and 361–370
cosmetic methods 337–338
diagnostic methods 336–337, 343–344
dosage regimes 356–372
Actavis v Merck 361–372
issues for courts 357
second medical treatment 357–360
further reformation of exclusion 335–336
humans, treatment of 336
industrial application 335
invention 334–335
methods of treatment by surgery 342–343
new law of patents 334
reformulation of exclusion 335
second and further medical uses 345–356
applying requirements of Swiss-type claim 353–355
codification of EISAI/Second medical indication 355–356
current UK approach 348–353
desire to achieve conformity 347–348
doctrinal issues 346–356
dosage regime 352–353
EISAI 345–346
manufacture of medicament 353–354
new therapeutic application 354–355
novelty in end result 350–351
only first medical use protected 346
pharmaceutical inventions 347
principle, matter of 347
reaffirmation by Court of Appeal 349–353
reluctant application by Jacob J 348–349
second medical indication 345–346
Swiss-type claim 351–352
taxol 349–353
Public health considerations 433
Royal prerogative
contraceptive methods and 317
Second and further uses see also Second and further medical uses
claims allowable, whether 252–253
‘compounds’ 232
devices 246–254
dosage regimes 255–285
controversy over 255–256
decisions of TBAs 279–280
defining 280–281
differences between EPC 1973 and EPC 2000 281–282
end of Swiss type claims 282–283
EPC 1973 261–269
EPC 2000 259–261, 269
first medical uses 273–274
new technical effect 281
relationship with medical treatment exclusion 271–273
second and further medical uses 256–259
specific uses under EPC 2000 274–277
Swiss-type claims 277–279
EISAI 235–237
EPO jurisprudence, and 440–442
extending reach of EISAI principle 244–246
administration of vaccine to sero-positive pigs 244–245
initial exclusion 234–235
instruments 246–254
claims allowable, whether 252–253
recent changes 253
legislative history 230–234
new medical technology 285–286
not applicable to products which are not medicaments 251
not falling within ratio legis of ESAI/second medical indication 249–251
origin 234–237
Second and further medical uses see also Second and further uses
Patents Act 1977 see Patents Act 1977
Swiss-type claims see Swiss-type claims
treatment regimes 255–285 controversy over 255–256
decisions of TBAs 279–280
differences between EPC 1973 and EPC 2000 281–282
end of Swiss-type claims 282–283
EPC 2000 259–261
first medical uses 273–274
new technical effect 281
relationship with medical treatment exclusion 271–273
second and further medical uses 256–259
specific uses under EPC 2000 274–277
Swiss-type claims 277–279
SET patent 18–20
funding 19
Surgical methods 117–183
animals 121–122
biotechnology, and 122
broadening of definition 183
cosmetic methods 148–153
beautifying human body 150–151
EBA in MEDI-PHYSICS/Treatment by surgery 153
purpose test 149–151
removal of excess hair 150
technical features of claims 151–153
tightening skin surface 151–152
defining 124–138
dental treatment 155–156
diagnostic method 154
disclaimers see also
Disclaimers 168–182
EBA in CYGNUS/Diagnostic method 136–138
EBA, referral to 123–124
EPO jurisprudence 438–439
exception 131–132
excluded surgical step 158–168
applicable national laws 161–162
diagnostic methods 160–161
existence of surgical steps in claim 159–161
insertion of device into human body 162–163
interaction with body 158
MEDI-PHYSICS/Treatment by surgery 165–168
method for conditioning gas 163
non-surgical steps, and 159–160
ratio legis 161–162
surgical steps defined as excluded surgical treatments 162–164
surgical steps not defined as excluded surgical treatments 164–165
expansive definition 125
hair removal method 121
interpretive criteria 155–157
intervention on structure of organism 156–157
issues relating to 118
legislative history 119–123
MEDI-PHYSICS/Treatment by surgery 138–148
apparatus for skin resurfacing 142
broad or narrow construction of exclusion 143–144
decision of EBA 140–148
decision of TBA 138–140
hair removal method 142
legal analysis 146–148
literal interpretation 140–141
ratio legis of exclusion 141–143
redefining methods of treatment by surgery 144–146
treatment by therapy 141
medical practitioners, involvement of 153–155
Medical patent law – the challenges of medical treatment

narrow interpretation 126–127
non-insignificant 129–130
pericardial access 124
physician, role of 153–155
polarized 129Xe 123–124
purpose of intervention 132–136
ratio legis 132–134
relevance 134–136
reason for exclusion 117
significance 157
surgery, meaning 128–129
therapeutic treatment, and 130–131
travaux preparatoires 120
treatment, meaning 125–126
Swiss-type claims 237–244
acceptable form 242–244
adsorbent, use of 238–239
anti-tumoural agent 242–243
L (-) carnitine 241
manufacture of medicament 238–239
new therapeutic application 239–242
requirements 237–244
sea lice infestation 242
serotonin receptor 240–241
Therapeutic methods 71–116
animals see Animals
contraceptive methods see Contraceptive methods
cosmetic methods see also Cosmetic methods
defining 75–78
EPO jurisprudence 436–438
implantable devices 78–88
application 86
blood assistance method 84–85
EBA 85–87
need for functional link or nexus 79–80
not patentable 80–81
pacemaker 81–84
patentable 81–85
rapid acquisition resonance imaging 87
therapeutic effect 88
involvement of medical practitioners 88–89
legislative history 73–75
maintenance of health 77–78
medical treatments 73
methods of therapy 73–74
new medical technology see New medical technology
‘physical methods’ 74
restoration of health 77–78
scope of exclusion 75–77
therapy, meaning 74–75
treatment by therapy, meaning 72–73
Treatment by therapy 74–75, 75–76
TRIPS Agreement 47, 54
United Kingdom courts
EPO jurisprudence, and 442
United Kingdom Patents Act 2004 see Patents Act 2004
United States of America 374–432
applying Bilski v Kappos 422–430
applying machine-or-transformation test 425–428
diagnosis for curative purposes 420
interpreting claims 423–424
mental step 429–430
natural phenomena 428–429
relevance of machine-or-transformation test 422–423
balancing of competing values and interests 445
constitutional guarantee 392–393
constitutional power 392–431
creation of fever in human body 379
diagnostic methods after Bilski v Kappos 412–430
analysis of gene sequences 421–422
defining diagnostic methods 413–415
mathematical formula 417–418, 419
laws of nature 416–417

Eddy D. Ventose - 9780857938015
Downloaded from Elgar Online at 12/19/2018 05:01:01PM via free access
<table>
<thead>
<tr>
<th>Term</th>
<th>Page(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>machine-or-transformation test</td>
<td>415–416</td>
</tr>
<tr>
<td>natural phenomena</td>
<td>416–422</td>
</tr>
<tr>
<td>process for curing synthetic rubber</td>
<td>418–420</td>
</tr>
<tr>
<td>diagnostic methods in Federal Circuit</td>
<td>400–409</td>
</tr>
<tr>
<td>diagnostic methods in Federal Circuit</td>
<td>394–395</td>
</tr>
<tr>
<td>diagnostic methods in Supreme Court</td>
<td>396–400</td>
</tr>
<tr>
<td>‘application of a law of nature’</td>
<td>399</td>
</tr>
<tr>
<td>‘correlate’, meaning</td>
<td>396–399</td>
</tr>
<tr>
<td>‘natural phenomenon’</td>
<td>399–400</td>
</tr>
<tr>
<td>‘process’</td>
<td>399</td>
</tr>
<tr>
<td>public interest considerations</td>
<td>400</td>
</tr>
<tr>
<td>658 patent</td>
<td>396</td>
</tr>
<tr>
<td>Dick</td>
<td>378</td>
</tr>
<tr>
<td>ex parte Brinkerhoff</td>
<td>378–380</td>
</tr>
<tr>
<td>ex parte Scherer</td>
<td>374, 375</td>
</tr>
<tr>
<td>Federal Circuit</td>
<td>394–395</td>
</tr>
<tr>
<td>algorithm</td>
<td>394, 408</td>
</tr>
<tr>
<td>diagnostic claims</td>
<td>394–395</td>
</tr>
<tr>
<td>diagnostic methods</td>
<td>399–400</td>
</tr>
<tr>
<td>Genomic Research and Diagnostic</td>
<td>400–409</td>
</tr>
<tr>
<td>Accessibility Act</td>
<td>407</td>
</tr>
<tr>
<td>fundamental principle</td>
<td>407</td>
</tr>
<tr>
<td>machine-or-transformation test</td>
<td>404</td>
</tr>
<tr>
<td>mental process</td>
<td>403–404</td>
</tr>
<tr>
<td>phenomena of nature</td>
<td>401–403, 406</td>
</tr>
<tr>
<td>transformation</td>
<td>407–408</td>
</tr>
<tr>
<td>‘warning’ steps</td>
<td>408–409</td>
</tr>
<tr>
<td>Genomic Research and Diagnostic Accessibility Act</td>
<td>390–392</td>
</tr>
<tr>
<td>contrary to spirit of MPAA</td>
<td>392</td>
</tr>
<tr>
<td>immunity from infringement</td>
<td>391</td>
</tr>
<tr>
<td>reason for</td>
<td>390</td>
</tr>
<tr>
<td>research on genetic sequences</td>
<td>391</td>
</tr>
<tr>
<td>retrospective application</td>
<td>391–392</td>
</tr>
<tr>
<td>infringement</td>
<td>390</td>
</tr>
<tr>
<td>inhaled ethers</td>
<td>375–376</td>
</tr>
<tr>
<td>initial exclusion</td>
<td>375–378</td>
</tr>
<tr>
<td>initial judicial determination</td>
<td>375–382</td>
</tr>
<tr>
<td>involvement of human body</td>
<td>380–381</td>
</tr>
<tr>
<td>judicial determination of exclusion</td>
<td>434</td>
</tr>
<tr>
<td>legal requirements of paternity</td>
<td>431</td>
</tr>
<tr>
<td>legislative history</td>
<td>383–384</td>
</tr>
<tr>
<td>legislative intervention</td>
<td>382–392</td>
</tr>
<tr>
<td>MPAA</td>
<td>382</td>
</tr>
<tr>
<td>MPAA</td>
<td>432</td>
</tr>
<tr>
<td>medical or surgical method</td>
<td>380</td>
</tr>
<tr>
<td>nature of exclusion in</td>
<td>385</td>
</tr>
<tr>
<td>section 387(c)</td>
<td>384–390</td>
</tr>
<tr>
<td>cadavers</td>
<td>387</td>
</tr>
<tr>
<td>defendant</td>
<td>386</td>
</tr>
<tr>
<td>hybrid claims</td>
<td>389–390</td>
</tr>
<tr>
<td>legislative intention</td>
<td>385–390</td>
</tr>
<tr>
<td>medical activity</td>
<td>384–385, 386–387</td>
</tr>
<tr>
<td>patented use of composition of matter</td>
<td>387–389</td>
</tr>
<tr>
<td>three-pronged approach</td>
<td>385</td>
</tr>
<tr>
<td>patent protection reasserted</td>
<td>380–382</td>
</tr>
<tr>
<td>POBA</td>
<td>374</td>
</tr>
<tr>
<td>professional ethics</td>
<td>431</td>
</tr>
<tr>
<td>public policy</td>
<td>431</td>
</tr>
<tr>
<td>section 1, Patent Act</td>
<td>392–393</td>
</tr>
<tr>
<td>Senate Bill 1334</td>
<td>383</td>
</tr>
<tr>
<td>Supreme Court</td>
<td>390</td>
</tr>
<tr>
<td>categories of inventions eligible for</td>
<td>410</td>
</tr>
<tr>
<td>protection</td>
<td>410–411</td>
</tr>
<tr>
<td>diagnostic methods after Bilski v Kappos</td>
<td>412–430</td>
</tr>
<tr>
<td>machine-or-transformation test</td>
<td>410–411</td>
</tr>
<tr>
<td>process, test for</td>
<td>411</td>
</tr>
<tr>
<td>standard for patentability in Bilski v Kappos</td>
<td>409–412</td>
</tr>
<tr>
<td>surgical instruments</td>
<td>377</td>
</tr>
<tr>
<td>USPTO</td>
<td>374</td>
</tr>
</tbody>
</table>