

Schedule “A”

Paragraph 44 reproduced from *Written Representations on behalf of the Plaintiffs
(Applicants) for motion returnable March 12, 2004*

“44. The prima facie test set out in *Irwin Toy* is appropriate. Indeed, this test has been followed in cases in which the remedies made available by the Federal Court have been far more invasive than the order sought here. For example, on injunction applications, which often have far reaching consequences for the party affected, the *prima facie* test is applied. Only in the case of an *Anton Piller* order, which permits attendance, preservation and removal remedies far more invasive than the scope of the order sought in this case, must the parties seeking the order satisfy a higher “strong *prima facie*” test.”