[44] The Federal Court added a further reason for rejecting the proposed amendments as having no reasonable prospect of success. In its view, Teva had improperly conflated the concepts of inutility (under s. 2 of the *Patent Act*) and insufficiency (under ss. 27(3) of the *Patent Act*), a methodology inconsistent with this Court's holding in *Pfizer Canada Inc. v. Canada (Minister of Health)*, 2008 FCA 108, [2009] 1 F.C.R. 253. Whether or not Gilead could predict or did predict the utility of all of the claimed compounds says nothing about whether the person of skill had sufficient information to work the invention.

[45] I see no legal error in any of the Federal Court's analysis, nor any palpable and overriding error. I have the following additional specific comments.

[46] Teva submits that the Federal Court applied too high a standard in assessing whether its proposed amendment had any reasonable prospect of success. It suggests that the Federal Court improperly required Teva not just to show that the grounds advanced by the amendments were tenable, but to go further and to prove its case to a high level of persuasion. Teva stresses that this Court has adopted a liberal approach to pleading amendments and the Federal Court went against that approach: see, *e.g.*, *Anderson Consulting v. Canada*, [1998] 1 F.C. 605, 220 N.R. 35; *Merck & Co., Inc. v. Apotex Inc.*, 2003 FCA 488, [2004] 2 F.C.R. 459 at para. 31.

[47] Construing the Federal Court's reasons in a holistic and fair way, I do not agree that the Federal Court imposed too high a burden upon Teva or otherwise applied a test wrong in law. Rather, this is a case where on the facts the Federal Court found that Teva's proposed amendments did not have even a remote chance of success.