

Intellectual Property

At Lenczner Slaght, we recognize the vital importance of intellectual property in a complex and fast-moving global marketplace.

We have extensive courtroom experience representing clients in all types of intellectual property matters in proceedings before the Federal Court, the Federal Court of Appeal, the Ontario Superior Court, the Ontario Court of Appeal and the Supreme Court of Canada. Our lawyers have also litigated IP cases in the US, and we regularly represent US-based corporations on the Canadian aspects of disputes that span multiple jurisdictions. In addition, Lenczner Slaght's success in negotiating favourable commercial outcomes in litigation matters extends to the resolution of technically sophisticated IP disputes on behalf of our clients.

Our lawyers have acted on some of Canada's leading patent trials. We also have extensive experience litigating cases under the PM(NOC) Regulations for our pharmaceutical clients. In addition to our patent work, our lawyers have also litigated trade secret, copyright, trademark, competition law, confidential information and misleading advertising disputes. From seeking or fighting injunctions on the use of trademarks to arbitrations involving IP licensing contracts to complex drug product litigation, our lawyers have acted as advocates on the full range of intellectual property matters. We also advise clients on complicated issues at the intersection of intellectual property and competition law.

Our clients include national and multinational companies from a wide array of industries and sectors, including pharmaceuticals, biotechnology, information technology and software, communications and the Internet, agriculture and aquaculture, manufacturing, nutraceuticals, fashion and design, music recording/distribution, broadcasting and internet communications, medical devices and mining.

RECOGNITION

- ▶ Acquisition International
Best IP Litigation Firm - Ontario
- ▶ LMG Life Sciences (2023)
Intellectual Property; Shortlisted for Patent Litigator of the Year (Canada)

- Lexpert®/American Lawyer Guide to the Leading 500 Lawyers in Canada (2024)
Intellectual Property
- The Legal 500 Canada (2024)
Intellectual Property (Recommended Lawyer)
- LMG Life Sciences (2023)
Intellectual Property
- Best Lawyers in Canada (2022-2023)
Ones to Watch – Intellectual Property
- The Legal 500 Canada (2023 - 2024)
Intellectual Property (Recommended Lawyer)
- Best Lawyers in Canada (2023)
Toronto "Lawyer of the Year" in Intellectual Property Law
- IAM Patent 1000 (2022-2023)
Patent Litigation: Recommended Individual (Bronze)
- OBA Rising Star Award (2022)
Information Technology/Intellectual Property
- Chambers Global (2020-2024)
Intellectual Property – Litigation (Canada)
- LMG Life Sciences (2016)
Canadian IP Contentious Impact Case of the Year (*Gilead Sciences Inc v Idenix Pharmaceuticals Inc*)
- LMG Life Sciences (2021)
Canadian Patent Impact Case of the Year (*Natco Pharma v Minister of Health and Gilead Sciences*)
- Who's Who Legal: Canada (2018-2023)
IP – Patents (Global Leader), Life Sciences – Patent Litigation (Global Leader), Patents (National Leader), Life Sciences (National Leader)
- Best Lawyers in Canada (2015-2024)
Intellectual Property
- Canadian Legal Lexpert® Directory (2018-2024)
Intellectual Property (Most Frequently Recommended), Litigation - Intellectual Property (Consistently Recommended), Life Sciences & Health (Consistently Recommended)
- IAM Patent 1000 (2019-2020; 2022-2023)
Patent Litigation: Recommended Individual (Silver)
- Managing Intellectual Property: IP STARS (2015-2023)
Patent Star – Canada, Trademark Star – Canada, Top 250 Women in IP (2018 and 2020)
- The Legal 500 Canada (2022-2024)
Intellectual Property (Recommended Lawyer)
- Chambers Canada (2020-2024)
Intellectual Property: Litigation (Nationwide – Canada), Life Sciences: IP/Patent Litigation (Nationwide – Canada) (2022)
- Canadian Legal Lexpert® Directory (2021-2022)
Life Sciences & Health
- Best Lawyers in Canada (2022-2023)
Ones to Watch – Intellectual Property
- Managing Intellectual Property: IP STARS (2020-2022)
Rising Star

- **Best Lawyers in Canada (2021-2024)**
Biotechnology and Life Sciences Practice, Corporate & Commercial Litigation, Intellectual Property
- **Chambers Global (2019-2024)**
Intellectual Property: Litigation (Canada)
- **Lexpert Special Edition: Canada's Leading Litigation Lawyers (2018-2023)**
- **Who's Who Legal: Canada (2018-2023)**
IP – Patents (Global Leader), Life Sciences – Patent Litigation (Global Leader), Patents (National Leader), Life Sciences (National Leader)
- **Chambers Canada (2019-2024)**
Intellectual Property: Litigation (Nationwide – Canada)
- **IAM Patent 1000 (2018)**
Patent Litigation: Recommended Individual (Bronze)
- **Who's Who Legal: Patents (2017-2018)**
Leading Lawyer Worldwide
- **Canadian Legal Lexpert® Directory (2018-2024)**
Intellectual Property (Most Frequently Recommended), Litigation - Intellectual Property (Most Frequently Recommended), Life Sciences & Health (Repeatedly Recommended), Litigation - Corporate Commercial (Repeatedly Recommended)
- **Benchmark Canada (2018-2024)**
Litigation Star – Class Action, Commercial, Public Law, Intellectual Property
- **Who's Who Legal: Life Sciences (2017-2018)**
Patent Litigation
- **The Legal 500 Canada (2014-2024)**
Dispute Resolution (Hall of Fame), Competition and Antitrust (Recommended Lawyer 2018), Intellectual Property (Recommended Lawyer 2018)

- **The Legal 500 Canada (2018-2024)**
Intellectual Property (Leading Lawyer)
- **The Legal 500 Canada (2017-2018)**
Intellectual Property (Recommended Lawyer)
- **LMG Life Sciences Awards (2017)**
Canadian Patent Contentious Firm of the Year
Canadian Firm to Watch
- **LMG Life Sciences Awards (2017)**
Canadian Rising Star
- **Best Lawyers in Canada (2018-2024)**
Biotechnology and Life Sciences Practice, Intellectual Property
- **IAM Patent 1000 (2012-2018)**
Patent Litigation: Recommended Individual (Silver)
- **IAM Patent 1000 (2016-2023)**
Patent Litigation: Recommended Individual (Gold)
- **Benchmark Canada (2012-2018)**
Litigation Star - Intellectual Property
- **Benchmark Canada (2012-2024)**
Litigation Star – Arbitration, Class Action, Commercial, Intellectual Property, Professional Liability
- **Benchmark Canada (2014-2015)**
Local Litigation Star - Arbitration, General Commercial, Intellectual Property

- **Benchmark Canada (2017-2024)**
Litigation Star – Intellectual Property; Top 100 Women in Litigation
- **Best Lawyers in Canada (2006-2024)**
Administrative & Public Law, Appellate Practice, Bet-the-Company Litigation, Class Action Litigation, Corporate & Commercial Litigation, Director and Officer Liability Practice, Health Care Law, Intellectual Property, Legal Malpractice, Medical Negligence, Personal Injury Litigation, Product Liability, Securities
- **Best Lawyers in Canada (2013-2019)**
Corporate & Commercial Litigation, Intellectual Property
- **Best Lawyers in Canada (2015)**
Intellectual Property Law
- **Best Lawyers in Canada (2017-2024)**
Administrative & Public Law, Alternative Dispute Resolution, Appellate Practice, Corporate & Commercial Litigation, Defamation & Media, Intellectual Property, International Arbitration
- **Canadian Legal Lexpert® Directory (2013-2016)**
Litigation - Intellectual Property
- **Canadian Legal Lexpert® Directory (2016, 2018)**
Intellectual Property, Litigation - Corporate Commercial, Litigation - Intellectual Property
- **Chambers Canada (2016-2019)**
Intellectual Property: Litigation (Nationwide – Canada)
- **Chambers Global (2011-2018)**
Intellectual Property: Litigation
- **Chambers Global (2012 - 2016)**
Intellectual Property: Litigation
- **Corporate Intl Global Awards (2014)**
IP Law Firm of the Year in Canada
- **IAM Patent 1000 (2014 - 2016)**
Patent Litigation
- **Lexpert's Guide to the Leading US/Canada Cross-Border Litigation Lawyers in Canada (2009)**
Litigation Lawyer to Watch
- **The Legal 500 Canada (2014-2018)**
Intellectual Property
Intellectual Property (Tier 4)
- **Who's Who Legal (2011-2016)**
Life Sciences
- **Who's Who Legal: Canada (2016-2017)**
Patents

SELECT CASES

- **GlycoBioSciences Inc v Industria Farmaceutica Andromaco SA de CV and Montebello Packaging and Nadro SAPI de CV** – Counsel to Andrómaco, a Mexican pharmaceutical company, a defendant in a dispute relating to the manufacture, approval, and distribution of a wound gel product in Mexico, the United States, and Europe. On a preliminary motion, successfully stayed the action for lack of jurisdiction.
- **Confidential Matter** – Copyright counsel to a major accounting firm in relation to the development and marketing of a data analytics tool.
- **Confidential Matter** – Copyright counsel to a major news media

company in matter relating to unauthorized use of its content to train AI tools.

- **Janssen Inc v The Ministry of Health and Attorney General of Canada** – Counsel to Janssen Inc. in appeal of judicial review application to the Federal Court of Appeal addressing the interpretation and vires requirements for listing patents on the Patent Register under the *Patented Medicines (Notice of Compliance) Regulations*
- **GlycoBioSciences Inc v Magna Pharmaceuticals Inc and Robert Van Osdel** – Counsel to MAGNA Pharmaceuticals, Inc. a defendant in a dispute brought in Ontario relating to the approval and distribution of a wound gel product in the United States.
- **Janssen Inc v The Ministry of Health and Attorney General of Canada** – Counsel to the applicant Janssen Inc. in two applications for judicial review to the Federal Court addressing the interpretation and vires requirements for listing patents on the Patent Register under the *Patented Medicines (Notice of Compliance) Regulations*.
- **7912854 Canada Inc v Sunprotection Group Inc et al** – Counsel to leading window coverings designer and manufacturer, Altex, in a trademark infringement, passing off, false advertising, trade libel and unfair competition action in the Federal Court of Canada.
- **7912854 Canada Inc v Sunprotection Group Inc et al** – Counsel to leading window coverings designer and manufacturer, Altex, in a commercial action in the Superior Court of Canada, related to intentional interference with contractual relations, and misappropriation of confidential and proprietary information.
- **Puma SE v Caterpillar Inc** – Co-counsel to Puma in an application for leave to appeal to the Supreme Court of Canada arising from Caterpillar's opposition to Puma's trademark application for PROCAT on the basis that it is confusing with Caterpillar's registered design trademark (CAT & Triangle Design).
- **Confidential Matter** – Counsel to a music collective in a contractual dispute.
- **James Caruk v Amazon.com Inc et al** – Counsel to the Defendants, technology companies (Amazon, Apple, Fox/Tubi) and media production companies, in an action alleging, *inter alia*, copyright infringement, passing off and misappropriation of personality. This action was dismissed pre-discovery following service of the Defendants' notice of motion to strike.
- **Gilead Sciences, Inc et al v Pharmascience Inc** – Counsel to Gilead Sciences, Inc. and Gilead Sciences Canada, Inc. in a NOC action in the Federal Court in respect of Canadian Patent No. 2,845,553.
- **Gilead Sciences, Inc et al v Pharmascience Inc** – Counsel to Gilead Sciences, Inc. and Gilead Sciences Canada, Inc. in a NOC action in the Federal Court in respect of Canadian Patent Nos. 2,845,553 and 2,990,210.
- **Gilead Sciences, Inc et al v Natco Pharma (Canada) Inc** – Counsel to Gilead Sciences, Inc. and Gilead Sciences Canada, Inc. in a NOC action in the Federal Court in respect of Canadian Patent No. 2,845,553.
- **Gilead Sciences Inc, et al v JAMP Pharma Corporation** – Counsel to Gilead Sciences, Inc. and Gilead Sciences Canada, Inc. in a NOC action in the Federal Court in respect of Canadian Patent No. 2,845,553.
- **Gilead Sciences, Inc et al v Apotex Inc** – Counsel to Gilead Sciences, Inc. and Gilead Sciences Canada, Inc. in a NOC action in the Federal

- Court in respect of Canadian Patent Nos. 2,845,553 and 2,990,210.
- **Gilead Sciences, Inc et al v Natco Pharma (Canada) Inc** – Counsel to Gilead Sciences, Inc. and Gilead Sciences Canada, Inc. in a NOC action in the Federal Court in respect of Canadian Patent Nos. 2,845,553 and 2,990,210.
 - **Gilead Sciences, Inc et al v Apotex Inc** – Counsel to Gilead Sciences, Inc. and Gilead Sciences Canada, Inc. in a NOC action in the Federal Court in respect of Canadian Patent No. 2,845,553.
 - **Society of Composers, Authors and Music Publishers of Canada, et al v Entertainment Software Association, et al** – Counsel to the intervener Professor Ariel Katz in an appeal to the Supreme Court of Canada addressing the interpretation of the “making available” provision of the Copyright Act, the role of the Copyright Board of Canada in determining legal questions, and the question of when copyrights trigger entitlements to royalties.
 - **Rovi Guides v Videotron** – Counsel to Rovi Guides (a subsidiary of Xperi Holding Corporation) in a patent infringement action involving four patents related to digital entertainment technologies.
 - **Rovi Guides v BCE Inc, Ericsson et al** – Counsel to Rovi Guides (a subsidiary of Xperi Holding Corporation) in a patent infringement action involving four patents related to digital entertainment technologies.
 - **Merck & Co et al v Apotex Inc** – Counsel to Merck & Co. and AstraZeneca in a damages reference action in the Federal Court regarding lisinopril and prinivil. *(Prior to joining Lenczner Slaght.)*
 - **Merck & Co et al v Apotex Inc** – Counsel to Merck & Co., et al in a patent infringement action in the Federal Court and Federal Court of Appeal (leave to SCC denied) relating to lisinopril. *(Prior to joining Lenczner Slaght.)*
 - **Strategic Advice** – Counsel to a FinTech company in potential patent infringement litigation.
 - **Strategic Advice** – Counsel to a supplier of information technology products in threatened patent litigation.
 - **Del Ridge Homes Inc v Ledgemark Homes Inc** – Counsel to a sustainable real estate developer, Del Ridge Homes Inc, in a trademark infringement, false advertising, and unfair competition action in the Federal Court of Canada.
 - **Weir-Jones Engineering Ltd and Weir-Jones Engineering Consultants Ltd v Department of Public Works and Government Services** – Counsel to Public Works and Government Services Canada in successfully defending a procurement complaint before the Canadian International Trade Tribunal involving allegations of patent and trademark infringement by Natural Resources Canada in respect of its early earthquake warning system.
 - **Alberta Innovates Technology Futures v Connacher Oil and Gas Limited** – Counsel to Connacher Oil and Gas Limited in a patent infringement action commenced by Alberta Innovates-Technology Futures in regard to Canadian Patents 2 323 029 and 2 391 721. *(Prior to joining Lenczner Slaght.)*

- **Fortress Real Developments Inc.** – Counsel to Fortress Real Developments Inc. in an appeal from a decision of the Registrar in respect of FORTRESS REAL CAPITAL & CASTLE DESIGN (see T-317-16) and in various trademark prosecution matters. *(Prior to joining Lenczner Slaght.)*
- **Fresh Baked Goods** – Counsel to Steven Page (formerly of the Barenaked Ladies) in an action in the Ontario Superior Court in regard to a copyright authorship action commenced by Ed Robertson pertaining to the hit theme song from The Big Bang Theory. *(Prior to joining Lenczner Slaght.)*
- **Premier Tech** – Counsel to Premier Tech in regard to trademark portfolio strategy, pre-litigation advice and enforcement, opposition proceedings and other trademark prosecution matters, and trademark litigation. *(Prior to joining Lenczner Slaght.)*
- **Strategic Patent Advice** – Counsel to a global biologics company and a global pharmaceuticals company providing pre-litigation strategic patent advice.
- **Teva Canada v Mylan Pharmaceuticals** – Counsel to Mylan in a NOC action relating to COPAXONE (glatiramer acetate injection), an immunomodulator medication used to treat multiple sclerosis.
- **Voith Group** – Counsel to Voith providing advice on patent matters relating to paper mill technology.
- **Merck Sharp & Dohme Corp et al v JAMP Pharma Corporation** – Counsel to JAMP in a NOC action relating to JANUVIA (sitagliptin), a medication used to control high blood sugar in people with type 2 diabetes.
- **Pliteq Inc v Sof Surfaces Inc** – Counsel to the defendant (plaintiff by counterclaim), Sof Surfaces Inc., in a bet-the-company commercial and intellectual property litigation, involving claims of trademark infringement and unfair competition claims under the Trademark Act and Competition Act and common law.
- **Allergan Inc v JAMP Pharma Corporation** – Counsel to JAMP in NOC action relating to FIBRISTAL (ulipristal), a medication used to treat moderate-to-severe signs and symptoms of uterine fibroids in adult women.
- **Wi-LAN Inc v LG Electronics and LG Electronics Canada** – Counsel to Wi-LAN Inc in a patent infringement action, involving a patent relating to telecommunication networks, handover of devices between base stations in advanced telecommunication networks, and related technologies. This matter also involved allegations related to standards essential patent licensing obligations; determination of a fair, reasonable and non-discriminatory (FRAND) royalty; and claims under the *Competition Act*. *(Prior to joining Lenczner Slaght)*
- **York University v Access Copyright** – Counsel to the interveners Authors Alliance and Ariel Katz in an appeal to the Supreme Court of Canada addressing the issue of fair dealing and the question of whether tariffs set by the Copyright Board are mandatory.
- **Bayer Inc et al v JAMP Pharma Corporation** – Counsel to JAMP in a NOC action relating to XARELTO (rivaroxaban), a medication indicated for prophylaxis of deep vein thrombosis.
- **Wi-LAN Inc and Quarterhill Inc v Telus Communications Inc** – Counsel to Quarterhill Inc. and its subsidiary Wi-LAN Inc. in a patent infringement action, involving patents relating to telecommunication networks, bandwidth allocation in advanced telecommunication

networks, and related technologies. This matter also engaged standards essential patent obligations and claims under the *Competition Act*. (Prior to joining *Lenczner Slaght*)

- **Wi-LAN Inc and Quarterhill Inc v LG Electronics and LG Electronics Canada** – Counsel to Quarterhill Inc. and its subsidiary Wi-LAN Inc. in a patent infringement action, involving patents relating to telecommunication networks, bandwidth allocation in advanced telecommunication networks, and related technologies. This matter also engaged standards essential patent obligations and claims under the *Competition Act*. (Prior to joining *Lenczner Slaght*)
- **Wi-LAN Inc and Quarterhill Inc v Rogers Communications Canada Inc** – Counsel to Quarterhill Inc. and its subsidiary Wi-LAN Inc. in a patent infringement action, involving patents relating to telecommunication networks, bandwidth allocation in advanced telecommunication networks, and related technologies. This matter also engaged standards essential patent obligations and claims under the *Competition Act*. (Prior to joining *Lenczner Slaght*)
- **Sunovion Pharmaceuticals Canada Inc et al v JAMP Pharma Corporation** – Counsel to JAMP in a NOC action relating to LATUDA (lurasidone), an anti-psychotic medication used to treat bipolar depression and schizophrenia.
- **Sullivan v Northwood Media** – Counsel to the Plaintiff in copyright case on a novel motion to impose a discovery plan.
- **Rovi Guides and TiVo Solutions v Bell Canada** – Counsel to TiVo Solutions and its subsidiary Rovi Guides in a patent infringement action, involving patents relating to interactive television program guides, DVR technology, and related technologies.
- **Rovi Guides and TiVo Solutions v Telus Corporation** – Counsel to TiVo Solutions and its subsidiary Rovi Guides in a patent infringement action, involving patents relating to interactive television program guides, DVR technology, and related technologies.
- **Rovi Guides and TiVo Solutions v Videotron** – Counsel to TiVo Solutions and its subsidiary Rovi Guides in a patent infringement action, involving patents relating to interactive television program guides, DVR technology, and related technologies.
- **United American Corp et al v Instagram** – Counsel to Instagram in a patent infringement action relating to methods for the sharing of content on social media.
- **United American Corp et al v Facebook** – Counsel to Facebook in a patent infringement action relating to methods for the sharing of content on social media.
- **Flair Airlines v Gregor LLC** – Counsel to Gregor LLC in a commercial and domain name dispute. Successfully resisted a motion for interlocutory injunction by having the action dismissed for lack of jurisdiction.
- **Valeant Canada LP v Ranbaxy Pharmaceuticals Canada Inc.** – Counsel to Valeant in proceedings pursuant to the *PM(NOC) Regulations* relating to Wellbutrin XL (bupropion hydrochloride), a medication used to treat depression.

- **Purdue Canada v Collegium Pharmaceutical Inc.** – Counsel to Collegium Pharmaceutical Inc. against Purdue Pharma in an application under the *Patented Medicines (Notice of Compliance) Regulations*, as well as a patent infringement action, involving the medicine XTAMPZA ER® (a tamper-resistant oxycodone product used in pain management).
- **Pharmascience Inc. v Valeant Canada LP** – Counsel to Valeant in an action for damages under section 8 of the *PM(NOC) Regulations* relating to Sublinox (zolpidem), a medication used to treat insomnia.
- **Valeant Canada LP v Generic Partners Canada Inc.** – Counsel to Valeant in proceedings pursuant to the *PM(NOC) Regulations* relating to Glumetza (metformin), a medication used to treat type 2 diabetes.
- **Rosseau Asset Management v The Rosseau Group** – Counsel to Rosseau Asset Management in a trade-mark infringement and passing off action.
- **Google Inc v Equustek Solutions Inc** – Counsel to Google in an appeal to the Supreme Court of Canada from decisions of the Supreme Court of British Columbia and British Columbia Court of Appeal in a novel case regarding the limits to be placed on injunctions granted against non-parties.
- **Wyeth Holdings LLC v GlaxoSmithKline Inc.** – Counsel to Wyeth and Pfizer in a patent infringement and impeachment action related to biologic vaccines against meningitis serotype B infection.
- **Venngo Inc v Concierge Connection Inc cob as Perkopolis** – Counsel to Venngo in an appeal to the Federal Court of Appeal and a leave to appeal application to the Supreme Court of Canada of a decision relating to trademark infringement and passing off.
- **Ferrero SpA v 218587 Ontario Limited** – Counsel to the defendant in a proceeding relating to the sale of food products containing the plaintiff's trademark. Successfully opposed an interlocutory injunction to restrain the sales of those products.
- **Teva Canada Limited v Pfizer Canada Inc** – Counsel to Pfizer in an action for damages under section 8 of the *PM(NOC) Regulations* relating to Lyrica (pregabalin), a neuropathic pain drug. The action proceeded to a five-week trial.
- **AbbVie Corporation v Janssen Inc** – Counsel for Janssen in a patent infringement action relating to Stelara (ustikinumab), a monoclonal antibody product for use in the treatment of psoriasis, among other indications. This was the first patent infringement trial in Canada relating to a biologic drug.
- **International Commercial Arbitration** – Counsel to a patent licensing company in an international commercial arbitration relating to a patent license agreement and related US multi-jurisdictional patent litigation.
- **Perfect 10, Inc v Google, Inc** – Counsel for Google in copyright case relating to image search.
- **PreMD Inc v Ogilvy Renault LLP** – Counsel in a damages trial and appeal arising from failure to pay a maintenance fee on a US patent.
- **Johnson & Johnson Inc v Boston Scientific Ltd** – Counsel in interlocutory proceedings in a patent appeal relating to coronary stents.

- **A & W Food Services of Canada Inc v McDonald's Restaurants of Canada Ltd** – Counsel to McDonald's in a successful defence at trial of a claim alleging breach of the trade-mark "Chicken Grill" and loss of goodwill. This was the Canadian decision addressing the concept of "reverse confusion".
- **Apotex Inc v Ontario (Minister of Health and Long-term Care)** – Counsel in a judicial review of the Minister's decision not to list Apocitalopram as interchangeable with Lundbeck's citalopram-containing pharmaceutical product and the listing of Genpharm's Gen-citalopram on Ontario's Drug Benefit Index.
- **Hospira Healthcare Corporation v Kennedy Institute of Rheumatology** – Counsel to Janssen in successfully obtaining one of the highest percentage cost awards seen so far in Federal Court litigation, for a total of approximately \$3.5 million in costs.
- **Consumer Goods Companies** – Counsel to consumer goods companies on Canadian regulatory matters. *(Prior to joining Lenczner Slaght)*
- **Medical Device Companies** – Counsel to medical device companies on clinical trial regulatory matters. *(Prior to joining Lenczner Slaght)*
- **Dr Oetker Re Trademark Matters** – Counsel to Dr. Oetker in various trademark prosecution and litigation matters. *(Prior to joining Lenczner Slaght.)*
- **Bristol-Myers Squibb Canada Co et al v Mylan Pharmaceuticals ULC** – Counsel to Bristol-Myers and Merck in a *PM(NOC)* application in the Federal Court and Federal Court of Appeal regarding efavirenz (SUSTIVA). *(Prior to joining Lenczner Slaght.)*
- **Bristol-Myers Squibb Canada Co et al v Teva Canada Limited et al** – Counsel to Bristol-Myers and Merck in a *PM(NOC)* application in the Federal Court and Federal Court of Appeal regarding efavirenz (ATRIPLA). *(Prior to joining Lenczner Slaght.)*
- **Apotex Inc v Hoffman-La Roche Limited** – Counsel for Roche in a section 8 action in the Federal Court regarding valganciclovir (VALCYTE). *(Prior to joining Lenczner Slaght.)*
- **Henry Neugebauer v Anna M Labieniec** – Counsel to Mr. Neugebauer in the Federal Court and Federal Court of Appeal in a copyright dispute relating to joint authorship of book relating to a Memoire recounting Mr Neugebauer's story as a Holocaust survivor. *(Prior to joining Lenczner Slaght.)*
- **Glaxosmithkline Biologics SA v Novartis** – Counsel to Glaxosmithkline in an impeachment action in the Federal Court regarding adjuvant use in vaccines. *(Prior to joining Lenczner Slaght.)*
- **Glaxosmithkline Inc v Apotex Inc et al** – Counsel to Glaxosmithkline in an action in the Federal Court regarding cefuroxime. (CEFTIN) *(Prior to joining Lenczner Slaght.)*
- **Gilead Sciences Inc v Idenix Pharmaceuticals Inc** – Counsel to Gilead Sciences Inc in the Federal Court and Federal Court of Appeal (leave to SCC denied) proceeding in respect of sofosbuvir, successfully invalidating Idenix's '191 patent and maintaining Gilead's '657 patent. *(Prior to joining Lenczner Slaght.)*

- **Integrated Intellectual Property Strategy** – Commissioned by Government of Canada (Innovation, Science and Economic Development Canada) to prepare a study and report on strategies to integrate and exploit intellectual property for idea-based enterprises. *(Prior to joining Lenczner Slaght)*
- **Telecommunication Source Code Dispute** – Retained by a rights-holder in a breach of contract and infringement of intellectual property rights dispute related to Voice Over IP (VOIP) technologies. *(Prior to joining Lenczner Slaght)*

SELECT PUBLICATIONS AND PRESENTATIONS

- **IPIC 2024 Conference** – Sana Halwani was invited to share her expertise at the IPIC 2024 Conference. Sana will be a panelist on *From Courtroom to Practice: Analyzing Top IP Cases of the Year*, where she will discuss the most significant patent law rulings of the year and provide insights into how they're shaping the future of IP law and practice.
- **Copyright Master Class** – Sana Halwani will be sharing her expertise on a Copyright Master Class course, hosted by McGill University in partnership with the Intellectual Property Institute of Canada (IPIC). On the session titled, *Copyright Litigation Inside and Out: Legal & Business Views*, Sana will discuss the nuts and bolts of prosecuting or defending a copyright case in Canada.
- **Expert Witnesses and Persuasive Testimony in Technology Cases: Leveraging Technical Evidence** – Sana Halwani was invited to present at the Canadian Bar Association program titled, *Expert Witnesses and Persuasive Testimony in Technology Cases: Leveraging Technical Evidence*. Sana will discuss the critical role of expert witnesses in technology litigation, providing best practices for selecting, preparing, and presenting them effectively. She will also cover strategies for handling cross-examination and engage in interactive discussions on recent cases involving technological testimony.
- **Patent and Trademark Case Law Review Series** – Andrew Moeser was invited to present at the Intellectual Property Institute of Canada's *Patent and Trademark Case Law Review Series*. Andrew discussed leading court decisions on core trademark issues, related to "Section 45".
- **Year-in-Review in IP Law 2024** – Martin Brandsma was invited to present at the Intellectual Property Institute of Canada's (IPIC) *Year-in-Review in IP Law 2024*. Martin led this year's panel on copyright law, which included discussion on the most significant IP decisions over the last year.
- **A 2023 Snapshot: Through the Lens of Lenczner Slaght** – Lenczner Slaght launches *A 2023 Snapshot*, a look at the most significant developments, decisions, business takeaways, and trends in litigation from the last year, across 15 practice areas. Revisit 2023 and look ahead to 2024 through the lens of our expert litigators.
- **Copyright in an Educational Setting** – Sana Halwani shared her expertise at the joint Intellectual Property Institute of Canada and McGill University Summer IP Course. Sana presented *Copyright in an Educational Setting*.

- **Protecting Confidential Information** – Jordana Sanft shared her expertise at the Intellectual Property Institute of Canada's webinar on Protecting Confidential Information – the Interplay between Implied Undertaking, Protective Orders/Agreements, and the Open Court Principle.
- **Year-in-Review in IP Law 2023** – Jordana Sanft was invited to speak at IPIC's Year-in-Review in IP Law 2023. Jordana presented a year-in-review on patent law and the significant decisions released over the last year.
- **27th Intellectual Property Law: The Year in Review** – Jordana Sanft was invited to share her expertise at the Law Society of Ontario's flagship program titled "27th Intellectual Property Law: The Year in Review".
- **11th Annual Patent Colloquium** – Jordana Sanft was invited to share her expertise at the University of Toronto's 11th Annual Patent Colloquium. Jordana spoke on the panel "*AI's Impact on Patent Law – Can AI Be the Inventor?*".
- **IPIC2022 Conference** – Sana Halwani was at the IPIC2022 Conference in Whistler. Sana led a panel discussion on "*The "Culture Shift" in Litigation Towards Getting to Judgment Quickly – What Has Worked and What Hasn't.*"
- **IPIC2022 Conference** – Jordana Sanft was Chair of the IPIC2022 Conference in Whistler. Following her opening remarks to kick-off the conference, she led a conversation with the conference's keynote speaker, Manjit Minhas (CEO, Minhas Breweries, Distilleries and Wineries (Calgary) and Dragon, Dragon's Den).
- **Copyright in an Educational Setting** – Sana Halwani shared her expertise at the Intellectual Property Institute of Canada and McGill University Summer IP Course. Sana presented on *Copyright in an Educational Setting*.
- **Summer Courses in Intellectual Property** – Jordana Sanft shared her expertise at the Intellectual Property Institute of Canada and McGill University Summer IP Course. Jordana presented on *Patent Enforcement: Infringement and Mock Trial: Expert Reports and Cross-Examination of a Witness*.
- **CBA Intellectual Property Online Symposium** – Veronica C. Tsou led a session on "Summary Disposition in IP Cases" at the CBA's IP Professional Development Program.
- **The Scope of Patent Agent Privilege Post-Janssen** – Cynthia L. Tape shared her expertise at IPIC's webinar titled "The Scope of Patent Agent Privilege Post-Janssen". The panel discussed the Federal Court's commentary, including communications to which the privilege established by section 16.1 does and does not attach.
- **A 360 Review of the Amended PMNOC Regulations** – Andrew Moeser shared his expertise at the Intellectual Property Institute of Canada's program on "*A 360 Review of the Amended PMNOC Regulations*".
- **26th Intellectual Property Law: The Year in Review** – Sana Halwani was invited to share her expertise at the Law Society of Ontario's 26th Intellectual Property Law: The Year in Review. Sana provided a year in review on patent law.
- **IPIC2021 Virtual** – Our expert IP litigators, Sana Halwani and Andrew Moeser, were invited to speak at IPIC's Annual Conference.
- **PMNOC Litigation: Everything You Want to Know but Are Afraid to Ask** –

Veronica C. Tsou shared her expertise at the OBA's program titled *PMNOC Litigation: Everything You Want to Know but Are Afraid to Ask*. Veronica shared her insider view on the life of a *PMNOC (Patented Medicines (Notice of Compliance))* litigation file.

- **Electronic Trial Prep for Junior Lawyers During COVID-19 –** Veronica C. Tsou spoke at IPIC's webinar on *Electronic Trial Prep for Junior Lawyers During COVID-19*. Veronica shared her best tips and strategies on preparing for virtual trials.
- **IP Culture Shift: The Rise of Summary Disposition –** Andrew Moeser authored the Lexpert article "*IP Culture Shift: The Rise of Summary Disposition*". In this article, Andrew comments on the shift towards summary disposition in Canadian IP litigation.
- **9th Annual Patent Colloquium –** Sana Halwani shared her expertise at the University of Toronto's 9th Annual Patent Colloquium. Sana spoke on the panel *Patent Litigation by Zoom, Pros and Cons*.
- **IPIC2020 Virtual –** Sana Halwani moderated a Fireside Chat with the Honourable Thomas Cromwell at the IPIC2020 Virtual Conference.
- **The Battle Over TikTok –** Adil Abdulla's article *The Battle Over TikTok* was published by the Information Technology and Intellectual Property Law Section of the Ontario Bar Association.
- **COVID-19 & IP Practice: Litigating From Your Living Room –** Sana Halwani spoke on the IPIC webinar titled "*COVID-19 & IP Practice: Litigating From Your Living Room*". The program provided an update on the latest developments and strategies for success during this time.
- **Anatomy of a Patent Trial –** Kaitlin Soye and Veronica C. Tsou presented at ILCO's Advanced Litigation Law CLE program. They provided an overview of the key steps in a patent case, including the Federal Court rules, as well as practical ways that Law Clerks can add value to the legal team.
- **Surviving a Breakup: Dealing with Departing (and New!) Employees, Confidential Information, and IP –** Sana Halwani, Monique Jilesen, Brian Kolenda, and Sarah Millar presented at the GC Forum's Q3 event on October 3.
- **Intellectual Property Institute of Canada's 93rd Annual Meeting –** Sana Halwani moderated the panel "*Patriot Games – Coordination and Management of Multi-Jurisdictional Litigation*" at IPIC's 93rd Annual General Meeting.
- **Basics of Law – Evidence: From Key Principles to Digital Evidence –** Sana Halwani presented at the Intellectual Property Institute of Canada's webinar called "Basics of Law – Evidence: From Key Principles to Digital Evidence". The program discussed fundamental principles of evidence, the latest strategies in collecting digital evidence, and tips on presenting evidence before courts and tribunals.
- **Intellectual Property Institute of Canada's 92nd Annual Meeting –** Sana Halwani was the moderator for the "The Paperless Office and Other Legal Tech (R)evolutions" panel at IPIC's 92nd Annual General Meeting.
- **IPIC Patent Case Law Series –** Sana Halwani once again presented on the topic of "Infringement" at the Intellectual Property Institute of Canada's 2018 Patent Case Law Series.
- **LSUC's 22nd Annual IP Law, the Year in Review –** Sana Halwani spoke on the topic "Reaching the (No) Promised Land: The striking down of the promise doctrine and its effect on Canadian patent litigation and

prosecution”.

- **The value of a fully integrated IP strategy: strategies to integrate and exploit intellectual property for idea-based enterprises –** Commissioned by the Federal Government (Innovation, Science and Economic Development Canada), Andrew Moeser prepared a report on strategies to integrate and exploit intellectual property for idea-based enterprises.
- **Federation of Asian Canadian Lawyers Annual Conference – IP Without Tears: An Intellectual Property Law Update for the Uninitiated –** Sana Halwani spoke on the panel "IP Without Tears: An Intellectual Property Law Update for the Uninitiated". This panel discussed how recent major Canadian and foreign cases in the areas of patent, trademark, copyright, and technology will impact companies doing business in Canada.
- **A trust approach for sharing research reagents –** Andrew Moeser co-authored the article “*A trust approach for sharing research reagents*”, which was published in *Science Translational Medicine*: Volume 9, Issue 392.
- **Patents and Pills: Linkage, Litigation and Generic Drug Approval –** Andrew Moeser lectured at the Faculty of Law, University of Toronto, Pharmaceutical Governance Course.
- **CIPO to modernize IP profession –** Andrew Skodyn's article appeared in the January 23, 2015 issue of the *Lawyers Weekly*. This article discussed proposals to modernize the IP Community.
- **Keep your greedy hands off my genes! –** The U.S. Supreme Court's invalidation of gene patents is a victory for basic principles of patent law, but public policy concerns remain unresolved
- **The Harold G. Fox Moot, 2014 Canadian Intellectual Property Moot –** The Honourable Ian Binnie will hold the Fox Lecture on Friday, February 21, 2014.
- **Canada: Modernisation and Flux –** Andrew Moeser co-authored the article *Canada: Modernisation and Flux*, which was published in *IAM Magazine – IP Value: 2013*. The article provided a review of Canada's IP regime, with discussions of the 2012 Copyright legislative reform and Supreme Court decisions, nontraditional Trademarks updates, Canada's unique sound prediction disclosure requirement, and the role of IP in Canada's trade talks.
- **Advocacy Before the Federal Court in Intellectual Property Matters – Appeal Proceedings –** Ronald G. Slaght, Q.C. presented at the CBA Program for the appellant about writing the persuasive factum, making a strong first impression, emphasizing strengths and selecting and organizing the most effective facts. He was also part of the panel which will discuss Supreme Court of Canada Issues on intervention, bringing motions, and handling the media and other publicity issues.
- **A shift in the Canadian law of obviousness: a comment on Sanofi-Synthelabo Canada Inc. v. Apotex Inc. –** Andrew Moeser's article *A shift in the Canadian law of obviousness: a comment on Sanofi-Synthelabo Canada Inc. v. Apotex Inc.*, was published in the *University of Toronto Faculty of Law Review*: Volume 67.

BLOG POSTS

- **Summary Judgment Still Appropriate for Certain Patent Infringement Claims –** A desire to expedite patent disputes may result

in a party pursuing summary adjudication. We have previously commented on a number of cases relating to the use of summary proceedings for resolving patent cases in Canada. In particular, in the Federal Court of Appeal's 2022 decision in *Gemak Trust v Jempak Corporation*, the FCA held that summary judgment is not appropriate where there are serious issues with respect to the credibility of witnesses, and the Court observed more generally that "while patent infringement issues are not by definition excluded from the ambit of the summary judgment process, they tend to raise complex issues of fact and law that are usually better left for trial". We noted that in *Gemak*, the FCA was tapping the brakes on a trend towards increased adoption of summary proceedings in patent cases, and that for parties interested in summary adjudication, summary trial may be a more attractive option, particularly where witness credibility, and especially expert credibility, is likely to be an issue.

- **On the Horizon: Legal Complexities Intersecting Generative AI, Class Actions, and IP Law** – The multifaceted nature of generative AI is bound to create legal complexities at the intersection of intellectual property law and class actions, as this emerging technology disrupts not only the tech landscape but the legal one too.
- **Bars or Bytes? Exploring the Implications of a Track that Drake Might (or Might Not) Have Created** – Did Drake respond to an alleged feud with fellow artists, including Kendrick Lamar and Rick Ross? As reported by the LA Times, a track titled 'Push Ups (Drop and Give Me 50)' appeared online recently, taking aim at Lamar and several of his recent musical collaborators. However, this track remained unclaimed on any of Drake's official platforms, causing some to question whether this track was fan-generated using artificial intelligence. This cynicism may be justified: Drake is reportedly no stranger to having to denounce fan-generated songs, and Lamar's rumoured response was actually the work of artificial intelligence and another rapper.
- **AI in the Courtroom: The Quest for Legal Precedents** – The current landscape is inundated with narratives surrounding artificial intelligence and its intersection with the law. From the New York Time's lawsuit launched against OpenAI in December 2023, to the BC lawyer reprimanded for citing fake AI-generated cases, to the lying Air Canada chatbot, the legal and mainstream media is full of stories of AI or people using AI running up against traditional legal doctrine and practice. Yet, amidst this surge of AI-related incidents, Canada finds itself grappling with more questions than answers.
- **When Is a Gap Not a Gap? Court Maintains Procedural Differences Between Actions and Applications** – In two decisions released on the same day, the Federal Court has confirmed that applications are summary procedures that exclude the right or ability to examine witnesses who have not sworn affidavits.
- **Policing Scope Creep: Relevance in Canadian Pharma Disputes for Section 8 Damages** – In Canada, a generic pharmaceutical company can commence an action for damages under section 8 of the *Patented Medicines (Notice of Compliance) Regulations* (the "*Regulations*"), if it successfully defends a patentee's claims in an earlier section 6 prohibition proceeding. Section 8 actions are often complex, requiring a determination of the alleged loss suffered by assessing a "but-for world" where the generic would have received regulatory approval and commenced sales at an earlier date, but for having been blocked by the operation of the *Regulations*. Depending on the drug(s) and patent(s) at issue, there may be several independent section 8 actions against a patentee, each started by a different generic plaintiff (see our previous post). When distinct section 8 actions are commenced pertaining to the

same drug(s), patent(s), and patentee(s), issues as to relevance and scope of each action may arise.

- **Swiftly Navigating the Importance of IP** – Few pop icons have navigated the art of protecting their intellectual property as well as Taylor Swift. Not only does Taylor Swift have an outstanding knack for creating number one hits, a keen eye for branding, and an entrepreneurial spirit that is inspiring, she is also business savvy in protecting her trademarks and copyright. On this International Women’s Day 2024 we look to Taylor Swift as an inspiration in IP protection, enforcement, and commercialization, as we celebrate women who “could show you incredible things”.
- **Pharma Patent Case Round-Up** – If your 2024 has been too busy to keep up with caselaw, below we summarize and provide the key takeaways from pharmaceutical patent decisions that have been issued from the Federal Court and Federal Court of Appeal in the last two months.
- **Benjamin Moore: An Opportunity Missed** – It has been approximately six months since the Federal Court of Appeal’s decision in *Canada (Attorney General) v Benjamin Moore & Co* (the “*Benjamin Moore Appeal*”) was released, yet no practice direction has been issued from the Canadian Intellectual Property Office (“CIPO”) to address the decision, and there is no consistency in the way that computer-implemented inventions are being examined. As the patent bar awaits a decision on the leave application to the Supreme Court of Canada, we provide our thoughts on the Federal Court of Appeal’s decision, and the missed opportunity it was.
- **Sniff, Kleenex Is Snuffed Out of Canada** – On August 25, 2023, Canadians were advised that KLEENEX was blowing out of town and would no longer be available in Canada (see *Globe & Mail* article).
- **No Human, No Copyright: U.S. District Court of Columbia Denies Thaler’s Summary Judgment Motion** – The “Creativity Machine”, owned by Stephen Thaler, generated a work of art of its own accord. Thaler applied to register copyright in the artistic work titled ‘A Recent Entrance to Paradise’ with the United States Copyright Office. The application stated the Creativity Machine created the work and it was listed as the author. Thaler sought to transfer the copyright to himself as owner. The registration was denied.
- **Inventor Examination Cannot Be Compelled by Proxy, and Other Practical Lessons** – In the recently released decision *Boehringer Ingelheim Ltd v Jamp Pharma Corporation*, Jamp brought a motion seeking an order that would require Boehringer to make their employee inventors attend to be examined for discovery, failing which the order could be enforced against Boehringer themselves. Boehringer argued that the *Rules* do not contemplate such an order. Associate Judge Duchesne agreed.
- **Understanding Patents** – Andrew Moeser will be sharing his expertise on patent enforcement at the joint Intellectual Property Institute of Canada and McGill University Summer IP Course. Andrew will lead a discussion on Patent Enforcement: Infringement, as well as participate on a Mock Trial focused on Expert Reports and Cross-Examination of a Witness.
- **Insights on the Independence of Expert Evidence** – In the recently released decision *dTechs EPM Ltd v British Columbia Hydro and Power Authority and Awesense Wireless Inc*, the Federal Court of Appeal (“FCA”) weighed in on the role and independence of experts in patent

cases. In particular, the FCA provided guidance on (1) the role counsel may play in preparing expert reports; (2) an expert's role in claim construction; and (3) the difference in the role of an expert where anticipation is alleged based on prior use versus prior publication.

- **Shocking Result? Summary Trial on Battery Jump Starter Patent Fails to Get Going** – Patent infringement cases are complex and technical, and historically Canadian courts were reluctant to endorse summary disposition in the patent context. However, in recent years there has been an increased trend towards the application of summary proceedings in this area. In particular, we have previously commented on decisions of the Federal Court (“FC”) (*Canmar, Kobold, and Janssen*) and Federal Court of Appeal (“FCA”) (*Canmar and ViiV*) that demonstrate the Court’s willingness to approve summary proceedings in patent cases under the appropriate circumstances. Last fall, the FCA decision in *Gemak* was interpreted by some commentators as a return to the historical position, but in our view, *Gemak* can be viewed as tapping the brakes on summary judgment rather than signalling a more sweeping reversal of the trend towards summary adjudication.
- **Clarity on the Test for Inducing Infringement in Canadian Patent Law** – Indirect infringement or “inducement” often arises in pharmaceutical patent infringement cases where a defendant generic manufacturer may not ultimately “use” the drug in question (*i.e.*, directly infringe). Since 2011, the Federal Court of Appeal’s (“FCA”) *Corlac Inc v Weatherford Canada Inc* decision has frequently been cited as the leading authority for the tripartate test for inducement. In 2020, the Federal Court suggested that *Corlac* had changed the law of inducement—particularly at the second step determining influence—thereby requiring “a higher threshold for establishing inducement than was applied in the earlier cases”. In the recent decision of *Teva Canada Limited v Janssen Inc (“Paliperidone”)*, the FCA has rejected that interpretation of *Corlac*. The FCA held that *Corlac* incorporates the same principles of inducing infringement as had been established in cases dating back to 1906. In doing so, it overturned the lower Court’s inducement determination based on a supposed higher standard and found that the defendant was liable for inducement when the *Corlac* test was properly applied.
- **Let’s Chat(GPT)** – The use of generative artificial intelligence (AI) is on the rise and is receiving significant attention across disciplines and industries. The impact of generative AI spans various fields such as healthcare, gaming, education, marketing, visual arts, literature, music, banking and fashion, to name a few. In the context of intellectual property law, where the focus is on innovation and creativity, generative AI raises countless complex questions. This blog post focuses on ChatGPT and copyright.
- **To Consolidate or Not to Consolidate – This is the Federal Court’s Question** – In a recent decision, *Takeda Canada Inc v Apotex Inc*, the Federal Court dismissed the Plaintiff, Takeda’s, motion for consolidation of two actions against Apotex relating to Takeda’s dextansoprazole (DEXILANT) under section 6 of the *Patented Medicines (Notice of Compliance) Regulations* (the “PM(NOC) Regulations”).

- **Better Together – or Maybe Not** – Some things just go better together and probably always will, as Luke Combs sings in ‘Better Together’. Like a cup of coffee and a sunrise; Sunday drives and time to kill. Multiple section 8 actions however have not made the cut. According to the recent decision of Justice Southcott in *Apotex Inc v Janssen Inc*, multiple actions for section 8 damages should not have common issues heard together.
- **FCA Taps the Brakes on Summary Judgment in Patent Cases** – Over the last several years there has been a trend towards increased adoption of summary proceedings for resolving patent cases in Canada. In particular, we have previously commented on decisions of the Federal Court (e.g., *Kobold* partial SJ motion) and Federal Court of Appeal (e.g., *Canmar* Appeal) that signalled a willingness to move away from the historic reluctance of those courts to approve summary judgment for patent infringement actions. We had also noted that summary proceedings were a trend to watch this year.
- **A Complete Code: Ontario Court of Appeal Denies Remedies Exist Outside the PMNOC Regime** – The Patented Medicines (Notice of Compliance) Regulations (PMNOC Regulations) is a complete code. In *Apotex Inc v Eli Lilly Canada Inc*, the Ontario Court of Appeal weighs in on the drawn-out battle between patent owners and generics on whether monetary relief is available outside the parameters of the PMNOC regime. It is not.
- **Public Disclosure vs. Confidentiality Protection: The FCA Finds the Proper Balance** – In *FibroGen, Inc v Akebia Therapeutics, Inc*, the Federal Court of Appeal set aside an order requiring a party to make certain fact witness statements from a discontinued action public, restoring the proper balance and safeguarding the confidentiality of documents that had been designated as confidential or highly confidential information.
- **Do I pay the same? Am I only streaming? Or is "making available" a separate, compensable claim?** – Last week, the Supreme Court of Canada released its decision in *SOCAN and Music Publishers of Canada v ESA*, the latest instalment in a decade long battle about whether and how copyright owners should be compensated for making works available online (even if those works are not subsequently downloaded or streamed by a user).
- **Don't Make Me Say It a Fourth Time: Federal Court Weighs in (Again) on Patentable Subject Matter** – Associate Chief Justice Gagné's decision in *Benjamin Moore & Co v Attorney General of Canada*, 2022 FC 923 ("*Benjamin Moore*") marks the second time that the Federal Court has had to weigh in to tell the Commissioner that it was not applying the correct test for patentability of computer-implemented inventions. Unlike past decisions (discussed below), the Court in *Benjamin Moore*, provided instruction on how the Commissioner ought to assess patentability of such inventions. As a top line, these instructions appear to level the playing field – reducing the artificially high standard that computer-implemented inventions face during patent examination.
- **Don't Be the Author of Your Own Dismissal: Chief Justice Dismisses Dueling Motions for Summary Judgment in the Trademark Context** – Summary adjudication can be enticing. In the right circumstances, it saves the parties time and money. Unsurprisingly, there is a growing trend in Canadian intellectual property litigation to use summary adjudication that we have been actively monitoring (see, e.g., our comments here, here, here, here, here and here).
- **Bill C-27 and the Proposed Artificial Intelligence and Data Act: Oversight of AI in Canada is Coming** – On June 16, 2022, Canada's

Minister of Innovation, Science and Industry introduced Bill C-27, titled “*An Act to enact the Consumer Privacy Protection Act, the Personal Information and Data Protection Tribunal Act and the Artificial Intelligence and Data Act and to make consequential and related amendments to other Acts*” (short title, the *Digital Charter Implementation Act, 2022*), in the House of Commons.

- **The Suit Against Iron Man’s Suit is Not Iron Clad** – Iron Man’s suit is at the centre of an intergalactic copyright infringement battle brought by Horizon Comics Productions Inc. (“Horizon”) against Marvel Entertainment, LLC et al. (“Marvel”). The alleged infringement is largely directed to Horizon’s Canadian created *Radix* comic book series (the “Works”) and Marvel’s Iron Man suit from the movie Iron Man 3.
- **SCC Leave Denied in Alexion Pharmaceuticals Inc v Canada (Attorney General)** – In our blog 2021 Year in Review & 2022 Trends to Watch for Pharmaceutical Patents, we identified *Alexion Pharmaceuticals Inc v Canada (Attorney General)* as an important case to watch in 2022 as leave to the Supreme Court was filed.
- **Data-Protection Déjà Vu All Over Again** – For the second time in less than a year, Justice St. Louis of the Federal Court has set aside the issuance of a Notice of Compliance (“NOC”) to an innovator drug company and remitted the matter to the Minister of Health (“Minister”) for what will be a third determination in *Catalyst Pharmaceuticals, Inc v Médunik Canada* (“*Catalyst 2022*”).
- **Amendments to the Patented Medicines Regulations Lose Some Teeth** – The proposed amendments to the *Patented Medicines Regulations* had the projected effect of lowering drug prices by billions of dollars over the next ten years. But by overreaching its jurisdiction, these amendments have lost some of its bite. The Quebec Court of Appeal determined several provisions to be *ultra vires*.
- **Mirror Mirror on the Wall, Whose IP Will Win It All?** – An intellectual property battle among major athletic brands is brewing in the United States. Lululemon is suing Peloton. Peloton is suing Lululemon. And Nike is suing Lululemon.
- **AI and IP: Who or What Can Be an Author or Inventor in Canada?** – There have been two recent and notable developments with respect to artificial intelligence (“AI”) and intellectual property (“IP”) rights in Canada. A preliminary legal question at the intersection of AI and IP is whether AI can be granted authorship in the case of copyright or inventorship in the case of patents for something that it generated. Jurisdictions around the world are facing the same issues. This blog post discusses Canada’s first foray into this new frontier.
- **The Federal Court Clarifies the Burden of Proof in Summary Trial** – In 2022, the use of summary proceedings in patent matters continues at the Federal Court. In *Janssen Inc v Pharmascience Inc*, the Court:
- **First Application of the New Prior Use Defence** – On January 7, 2022, the Federal Court released the public reasons in *Kobold Corporation v NCS Multistage Inc*. This summary judgment motion is the first judicial consideration of the prior use defence since the substantial amendments to section 56 of the *Patent Act* in 2018. Our comments on the procedural aspects of this summary judgment motion are available in a companion post here.
- **Partial Summary Judgment Narrows Patent Infringement Case** – The recent patent infringement case of *Kobold Corporation v NCS Multistage Inc* is interesting for two reasons: (1) it shows how a summary judgment motion can advance a case even if certain issues require a full

trial; and (2) it is the first time a court has interpreted the defence of prior use since the 2018 amendments to section 56 of the *Patent Act*. This post considers the use of summary adjudication. Click here to read our companion post which considers the substance of the prior use defence.

- **2021 Year in Review & 2022 Trends to Watch: Pharmaceutical Patents** – In 2021, the Canadian pharmaceutical and life sciences industries were once again at the forefront of innovation, developing and commercializing new vaccines, drugs, and medical devices. The media continued to shine a light on the advances made to protect the public from COVID-19, including regulatory approvals for new mRNA and adenovirus vector vaccines. In the pharmaceutical patent litigation arena in particular, we saw some new trends develop. There were important developments in proceedings relating to pharmaceutical patents, advances in cases and legislative developments relating to the Patented Medicine Prices Review Board (“PMPRB”) as well as judicial review applications and appeals in patent-related fields.
- **You can call my lawyer(s)?** – For the first time, the Federal Court has dealt with the issue of whether a party is permitted to appoint co-solicitors of record. The Court held that a party may not appoint co-solicitors as of right, but it provided guidance on the circumstances in which co-solicitors may be permitted. It remains to be seen how “special” such circumstances must be, especially since such arrangements are not uncommon in modern practice.
- **Inside or Out: Jurisdiction in the Context of Copyright** – The application of the test for jurisdiction in the copyright context can sometimes be an exercise in gut feel. Luckily for litigants who prefer to make decisions based more on case law than feelings, the Divisional Court recently provided clarification on the application of the test for jurisdiction for statutory torts, like copyright infringement. The Ontario Divisional Court’s decision in *Pourshian v Walt Disney Company* (“*Pourshian*”), an appeal of a motion for an order to stay the plaintiff’s copyright infringement action on the basis of lack of jurisdiction, will hopefully take some of the guess work out of jurisdictional issues in the future.
- **An Ode to Users’ Rights** – In the last case heard before her retirement from the Supreme Court of Canada, and writing for a unanimous Court, Justice Rosalie Abella affirmed the Federal Court of Appeal’s ruling that tariffs set by the Copyright Board are not mandatory (*York University v Access Copyright*). Justice Abella also rejected the FCA’s narrow approach to fair dealing and reiterated the nature of fair dealing as a user’s right, to be approached in the educational context from a student’s perspective and not exclusively from the institutional perspective.
- **The Train Has Left the Station: The Federal Court of Appeal Confirms That Opposition Won’t Derail a Summary Trial** – As part of our series on summary adjudication, we previously commented on the Federal Court’s recent use of a summary trial to resolve a patent infringement dispute. The abbreviated procedure of a summary trial addresses many of the Federal Court’s traditional concerns with summary judgment (e.g., lacking live evidence).
- **Online Pirates Can Be Blocked** – Copyright holders in Canada have scored a major victory in the fight against online piracy. The Federal Court of Appeal (“FCA”) in *Teksavvy Solutions Inc v Bell Media Inc* recently affirmed that site blocking injunctions may be ordered against Internet Service Providers (or ISPs), even as third parties to a copyright infringement action.
- **In PM(NOC) Litigation, the Pleadings Rule** – Since the amendments to the *PM(NOC) Regulations* in 2017, both generic and brand side litigants

have struggled with the question of whether the second person's Notice of Allegation governs the issues in the proceeding, or the Statement of Defence. The Federal Court of Appeal has answered in this week's decision in *Sunovion Pharmaceuticals Canada Inc v Taro Pharmaceuticals Inc*: it is the Statement of Defence.

- **Don't Sit Back During Summary Judgment: Federal Court of Appeal Weighs in on Summary Judgment for Patent Infringement Actions** – The Federal Court of Appeal has historically held that summary judgment is usually not the preferred means of resolving patent infringement actions. These cases are inherently complex and technical, and usually involve expert evidence. In the Federal Court of Appeal's view, a trial judge who has had the opportunity to hear all of the evidence live is best suited to resolve these disputes (see *Suntec Environmental Inc v Trojan Technologies Inc*).
- **Door Left Open for Use of Foreign Patent Prosecution History** – Since its enactment in 2018, section 53.1 of the *Patent Act* has been the subject of much discussion. This provision allows courts tasked with construing the claims of a patent to consider communications previously made by the patentee to the Canadian Patent Office in the course of patent prosecution (known as the "prosecution history" or the "patent file wrapper"). Recently, the Federal Court has provided differing interpretations regarding the limitations of this section.
- **The Other Shoe Has Dropped: Summary Judgment in the Federal Court** – Patent infringement actions are inherently complex and technical. They often involve complex scientific inquiries and expert evidence. The Federal Court has historically held that summary judgment—which does not include live evidence—is generally not the preferred means of resolving patent infringement actions. Instead, such determinations are best left to a trial judge who has had the opportunity to hear all of the evidence live (e.g., *Suntec Environmental Inc v Trojan Technologies Inc*).
- **The Federal Court of Appeal Clarifies the "Obvious to Try" Test** – The Federal Court of Appeal ("FCA") has clarified the extent of flexibility afforded when undertaking the "Obvious to Try" test in *Amgen v Pfizer, 2020 FCA 188*. Although it ultimately cautioned against a segmented approach, the FCA did not dismiss the possibility that experimental steps could be assessed individually in order to make conclusions about an experiment as a whole, particularly with respect to the Self-Evident and Extent of Effort factors of the test. Despite agreeing that the Federal Court ("FC") could have been more expansive and all-embracing in its overall conclusion, the FCA did not deem the FC's lack of analysis to have amounted to a palpable and overriding error.
- **A Decade in the Making: Federal Court Weighs in on Non-patentable Subject Matter** – Many know Amazon as the world's largest online retailer, a mantle it carries, in part, because of just how easy it is to buy about anything. In fact, as many Canadians know, you can buy something on Amazon with as little as "1-Click".
- **Update to the Federal Court Case and Trial Management Guidelines** – Last week, the Federal Court published a consolidated practice notice, updating and consolidating four other case and trial management guidelines for complex proceedings and proceedings under the *PM(NOC) Regulations* from 2015, 2016, and 2017 (available [here](#), [here](#), [here](#), and [here](#)).
- **Patent Injunctions: "Anything but Unusual"** – The popular Canadian pastime of snowmobile litigation has turned up yet another interesting decision (*Bombardier Recreational Products Inc v Arctic Cat Inc, 2020 FC 946*) – this time on the topic of injunctions. This decision of Justice

Roy arose from the moving parties' attempt to vary an Order issued by the Federal Court in *Bombardier Recreational Products Inc v Arctic Cat Inc*, 2020 FC 691. As Justice Roy noted, the Order itself was "anything but unusual," and was representative of injunctions issued in patent cases time and time again. Given this and the existing jurisprudence, it was perhaps a predictable result that the parties were denied any relief.

- **Trial Advocacy is (Mostly) the Same Online: Lessons Learned from a Virtual Patent Trial** – The COVID-19 pandemic has required courts to adapt to new ways of providing access to justice. We have first-hand experience with this new reality.
- **The Times They Are a-Changin': Summary Judgment in the Federal Court** – Patent infringement actions are inherently complex and technical. They often involve complex scientific inquiries and expert evidence. The Federal Court has historically held that summary judgment—which does not include live evidence—is generally not the preferred means of resolving patent infringement actions. Instead, such determinations are best left to a trial judge who has had the opportunity to hear all of the evidence live (e.g. *Suntec Environmental Inc v Trojan Technologies Inc*).
- **Board Man Doesn't Get Paid** – During last year's NBA Finals, Kawhi Leonard was taking on more than the Golden State Warriors. In the middle of the Finals, he filed a lawsuit against the company he formerly endorsed—Nike—in the Southern District of California (original complaint here). At issue was Leonard's "Klaw Logo," which he claimed to have conceived before his contract with Nike. An early sketch of the logo and the design Nike ultimately used are shown side-by-side here.
- **The Disaster Plaintiff: The Best Worst Litigation Strategy Created by and Starring Tommy Wiseau** – The legacy of the movie *The Room*, Tommy Wiseau's infamously terrible 2003 cult classic, reached new heights (or lows depending on your point of view) last week when it made its mark on Canadian law in Justice Schabas' decision in *Wiseau Studio, LLC v Harper*. A movie lovingly advertised as providing a viewing experience akin to "getting stabbed in the head" prompted copyright litigation and, in the process, has provided a new story of the risks of pursuing an ill-advised litigation strategy through trial.
- **The Federal Court of Appeal Takes No Prisoners** – On October 15, 2020, both parties were granted leave to appeal to the Supreme Court of Canada. We will continue to follow the developments of the appeal.
- **Full Steam Ahead: Opposition Won't Derail a Patent Infringement Summary Trial** – In 2014, the Supreme Court of Canada recognized that the most painstaking procedure is not always the best procedure to resolve disputes – a culture shift was required to create timely and affordable access to the civil justice system (see *Hryniak*). This touchstone for access to justice is reflected in several courts' rules of procedure, including the Federal Court of Canada.
- **Patent vs Pandemic: Ensuring Patents Save Lives** – These are trying, stressful, and uncertain times, even for the optimist. As the number of confirmed cases of COVID-19 rise and hospitals begin to fill, the need for medicine and medical supplies is at the forefront of everyone's mind. The search is on for rapid and innovative solutions. But what if that brilliant solution treads on a patent?
- **FCA Narrows Jurisdiction of Drug Price Regulator** – The Patented Medicine Prices Review Board ("Board") regulates the prices of patented medicines in Canada when a patent is found to "pertain" to a medicine. Since 1996, based on the Federal Court of Appeal's decision in *ICN Pharmaceuticals Inc v Canada (Staff of the Patented Medicine Prices Review Board)*

("ICN"), the "pertains to" test could be satisfied on the basis of the "merest slender thread" of a relationship between the patent and the medicine.

- **Sweet Justice for IP Rights Holder: Agreement not in Restraint of Trade** – The intersection of intellectual property law and competition law is an area that gains greater significance with each passing year. Much of the focus in this area recently has been on the appropriate scope of action to take by regulators. For example, in Canada, the Intellectual Property Enforcement Guidelines promulgated by the Competition Bureau in 2016 have attracted significant attention.
- **Procedural Skirmishes and Unintended Effects: The Proposed NOC Regulations** – The proposed regulations amending the *Patented Medicines (Notice of Compliance) Regulations* were released on July 14, 2017. These Proposed Regulations are a dramatic change from the existing Regulations, both substantively and procedurally.
- **Canadian Patentees Finally Reach the [no] Promised Land** – On June 30, 2017, the Supreme Court of Canada unanimously granted AstraZeneca's appeal in the long-awaited conclusion of the "Promise Doctrine" saga in *AstraZeneca Canada Inc v Apotex Inc*.
- **The Death Knell of the Rocket Docket** – For those of us who take an interest in American patent litigation, the US District Court for the Eastern District of Texas (also known as the "Rocket Docket") has been a fabled place where a third (or more) of US patent suits are heard, cases get to trial in two years or less, and patentees are king. It has also been the venue of choice for patent suits brought by non-practicing entities (NPEs...
- **The Rules of Evidence Still Apply in PMNOC Section 8 Cases** – It's no surprise to litigators that some courts tend to be relaxed with the rules of evidence in civil cases. In many contexts, courts are prepared to admit inadmissible hearsay evidence and simply address evidentiary concerns by noting that such evidence may be given less weight. That type of approach was often taken in cases under section 8 of the *Patented Medicine (Notice of Compliance) Regulations*.
- **Up In Smoke: Imprisoned For Contempt of Court** – A recent Federal Court decision has given new meaning to the notion of criminalizing marijuana. The case of *Trans-High Corporation v Hightimes Smokeshop and Gifts Inc* (2015 FC 1104) is perhaps one of the first times marijuana related trade-mark infringement has landed someone in jail.
- **Not every question deserves an answer** – Refusals motions have long been the scourge of the intellectual property bar. Prothonotary Aalto recently observed: "Refusals motions that last days on end because counsel move on every single refused question including the most trivial without considering whether the questions are truly essential or not consume a disproportionate amount of time of the Court in dealing with them to the detriment of other litigants..." (*Mediatube Corp. and Northvu Inc. v. Bell Canada and Bell Aliant Regional Communications, LP*, 2015 FC 391 (Proth.))

But times are changing. In its Notice to the Profession released last month, the Federal Court placed significant limits on the discovery process with the express goal of achieving greater proportionality in court proceedings "in terms of the costs and time required, to the nature and complexity of the dispute".

The new practice direction, entitled "Case Management: Increased Proportionality in Complex Litigation Before the Federal Court", expands the role of case management in interlocutory motions and appeals to

keep parties on track for their scheduled trial date. The greatest area of change is in oral discoveries. Under the new practice, the following general guidelines apply:

- each party is limited to approximately one day of oral discovery per week of trial scheduled, up to a maximum of four days of discoveries;
- no questions can be taken under advisement. All questions must be answered unless clearly improper, prejudicial or privileged;
- refusals motions are limited to one hour per day of discovery of each party's representative; and
- significant cost sanctions may be imposed against unsuccessful or unreasonable parties, again "to ensure effective, proportionate use of the court's scarce resources by parties."

Consideration is also being given to recommending a legislative amendment limiting appeals of interlocutory orders by judges and prothonotaries.

This new direction comes in the wake of the Federal Court's repeated cries of abuse of the discovery process by counsel and parties. The Report of the Subcommittee on Global Review of the *Federal Courts Rules* also highlighted the need to curb abuse and disproportionate conduct, noting that the current scale of costs is too low to deter the conduct of large, sophisticated litigants.

These limits on the discovery process also parallel recent developments in the Ontario courts. Some Superior Court judges have adopted an approach that awards costs on an "amount per refusal" basis, at \$1,500.00 per refusal, to a maximum of 8 "key" refusals. (See the standard case management directions released as an appendix to Justice David M. Brown's decision in *Farrell v. Kavanagh*, 2014 ONSC 905 (Ont. S.C.J. [Commercial List]), released prior to his elevation to the Court of Appeal for Ontario, and since endorsed and adopted in *Merpaw v. Hyde*, 2015 ONSC 1795.)

The Federal Court has always given case management prothonotaries and judges considerable "elbow room" to resolve interlocutory matters and move cases expeditiously to trial. This direction reinforces the primacy of proportionality in the discovery process, and provides the court with additional tools to curb abuses. It is a welcome advancement for counsel and litigants frustrated with the morass of procedural hurdles all too frequently encountered in IP litigation.

- **Want an Enforceable Industrial Design? Make it Smart AND Sexy –** In industrial design, it pays to have it all. In a recent decision, the Federal Court of Appeal held that while a purely functional design does not attract protection (as per section 5.1(a) of the Industrial Design Act), an industrial design that has a functional aspect can still be enforced if the design is also visually appealing.
- **Federal Court of Appeal Changes Test on Interlocutory / Discretionary Appeals –** In the recent decision of *Imperial Manufacturing Group Inc. v. Decor Grates Incorporated*, 2015 FCA 100, the Federal Court of Appeal used an appeal of a particulars motion in an industrial designs case to eliminate the prior distinction between the standard of review of discretionary or interlocutory orders and all other appeals from the Federal Court.

➤ **No Debate on Section 8 – Supreme Court dismisses patent appeal from the bench** – In a rare and surprising turn of events, a full panel of the Supreme Court of Canada unanimously dismissed Sanofi-Aventis' appeal of its "Section 8" liability at the conclusion of oral argument on April 20. (*Sanofi-Aventis v. Apotex Inc.*, 2015 SCC 20).

➤ **Computation of Interest on Damages in Patent Infringement Cases** – A decision issued last month contains a useful synopsis by Justice Zinn of principles applicable to damages awards in patent infringement cases: *Eli Lilly & Co. et al. v. Apotex Inc.* 2014 FC 1254.

Eli Lilly successfully sued Apotex for patent infringement on patents relating to a process for making the antibiotic cefaclor. The Statement of Claim was issued in June 1997, with a trial decision issued in 2009. Eli Lilly elected its own damages, rather than an accounting of Apotex' profits. The damages decision issued in January 2015, more than 17 years after the commencement of the action.

One of the key features of Justice Zinn's decision is his treatment of prejudgment interest, and in particular, his creation of a judicial presumption that the plaintiff would have earned compound interest on the damage award. The issue of simple vs. compound interest under Section 36 of the *Federal Courts Act* is a frequent topic of litigation. For example, in *AlliedSignal*, the Federal Court held that a compound rate of return on prejudgment interest was exceptional (*AlliedSignal Inc. v. Du Pont Can. Inc.* (1998) 78 CPR (3d) 129, aff'd (1999) 86 CPR (3d) 324 (F.C.A.)) In the cefaclor case, Justice Zinn came to an entirely different proposition: "...in today's world there is a presumption that a plaintiff would have generated compound interest on the funds otherwise owed to it and also that the defendant did so during the period in which it withheld the funds". As for the rate of interest, Justice Zinn awarded a rate based upon the plaintiff's own profit margin from its business activities during the relevant time period.

While the legal theory behind calculation of pre-judgment interest may not be the stuff of thrillers and newspaper reports, the effect of Justice Zinn's decision is to grant \$74M of prejudgment interest, a sum that dwarfs the \$31M damages award. While each party attempted to attribute litigation delay to the other in an effort to alter the interest calculation, Justice Zinn refused to engage, and simply concluded that both parties bore responsibility.

Apotex has appealed the decision to the Federal Court of Appeal.

➤ **BC Court Signals Change in Patent Landscape with Viagra Decision** – The British Columbia Supreme Court's decision in *Low v. Pfizer Canada Inc.*, 2014 BCSC 1469 could radically change the legal landscape for patent law in Canada. Patent law has thus far been entirely statutory rather than a product of the common law; courts had not recognized any common law rights or remedies in relation to patents. The decision of Justice Smith changes that, and in so doing changes the risks innovators must consider.

SELECT NEWS ARTICLES

- **Sarah Gupta Joins Lenczner Slaght's IP Team** – Canada's leading litigation firm continues to grow its expert Intellectual Property group with the addition of another exceptional lawyer, Sarah Gupta.
- **The 2024 Lexpert Directory Recognizes Lenczner Slaght's Litigation Excellence** – Lenczner Slaght's litigators continue to be recognized by their peers as the foremost practitioners in their fields.
- **Chambers Global Recognizes Lenczner Slaght for the 22nd Consecutive Year** –

Canada's leading litigation firm and its expert litigators are increasingly recognized in the latest edition of world-renowned directory, Chambers Global.

- **Lenczner Slaght Remains at the Centre of the Lexpert Bull's Eye –** The 2024 Lexpert®/American Lawyer Guide to the Leading 500 Lawyers in Canada recognizes Lenczner Slaght as the #1 firm in Toronto for Litigation and Commercial Litigation for the 23rd consecutive year.
- **Chambers Canada Recognizes Lenczner Slaght as a Top-Tier Litigation Firm –** Canada's leading litigation firm and its expert litigators continue to be recognized by world-renowned directory, Chambers & Partners.
- **LMG Life Sciences Recognizes Lenczner Slaght's Patent Litigation Expertise –** Following an extensive qualitative research process that included peer and client feedback, Lenczner Slaght is proud to be ranked for its patent litigation expertise in the latest edition of LMG Life Sciences.
- **Song with Deep-faked Vocals of Drake, the Weeknd Not Eligible for Juno Nomination –** In this article, CBC mentions Jordana Sanft and her recent interview, where she shared her expert insights on IP law in the world of generative AI.
- **Lenczner Slaght Litigators Recognized as Best Lawyers in Canada –** In the latest edition of *Best Lawyers in Canada*, 41 of our expert litigators are recognized for their expertise across 24 practice areas. The following lawyers have also been recognized as "Lawyer of the Year" for receiving the highest overall peer-feedback in their practice areas in Toronto.
- **Lenczner Slaght Litigators Recognized Among Leading Practitioners in IP –** Managing Intellectual Property's 2023 IP STARS handbook, a leading guide to the world's foremost IP firms and practitioners, continues to recognize Sana Halwani and Jordana Sanft.
- **Lenczner Slaght Receives Worldwide Recognition in IP Litigation –** Canada's leading litigation firm continues to be recognized year-over-year for its exceptional Intellectual Property expertise.
- **CBC Day 6 Segment: Generative AI –** Jordana Sanft shared her expertise on CBC's Day 6 segment on generative AI, in particular AI-generated vocals of popular artists, in the context of copyright law.
- **Corey McClary Joins Lenczner Slaght's IP Team –** Canada's leading litigation firm continues to grow its expert Intellectual Property Group with the addition of another exceptional lawyer, Corey McClary.
- **Lenczner Slaght Welcomes Martin Brandsma –** Canada's leading litigation firm is pleased to announce that Martin Brandsma has joined its Intellectual Property Group as Counsel.
- **Lenczner Slaght's Litigation Excellence Recognized in 2023 Lexpert Directory –** Following comprehensive peer review surveys and interviews with senior members in the legal profession, the 2023 *Canadian Legal Lexpert Directory* has recognized 31 of the firm's expert litigators for their experience, knowledge, and precision, with 108 rankings spanning 17 practice areas.
- **Chambers Global Recognizes Lenczner Slaght for the 21st Consecutive Year –** Canada's leading litigation firm continues to be recognized for its dispute resolution expertise by world-renowned directory, Chambers Global, alongside notable full-service, national, and international firms.
- **Lenczner Slaght Stands Out as a "Litigation Powerhouse" in Legal 500 Canada –** Canada's leading litigation firm is once again ranked in

Tier 1 for Dispute Resolution by *Legal 500 Canada*.

- **Lenczner Slaght Ranked Band 1 in Chambers Canada for 5th Consecutive Year** – Canada’s leading litigation firm and its expert litigators continue to be recognized in the latest edition of world-renowned directory, Chambers & Partners.
- **Moderna Sues Pfizer and BioNTech for Infringement of Its Covid-19 Vaccine Patent** – The Lawyer’s Daily interviewed Cynthia Tape on Moderna’s claims against Pfizer and BioNTech for patent infringement.
- **Lenczner Slaght Litigators Recognized Among the Best Lawyers in Canada** – In the latest edition of *Best Lawyers in Canada*, 39 of our expert litigators are recognized by their peers for their expertise across 24 practice areas.
- **SCC’s First Copyright Ruling on ‘Making Available’ Online Creates New Category of Correctness Review** – The Lawyer’s Daily interviewed Sana Halwani on the SCC’s first copyright ruling on the new ‘making available’ online provision of the *Copyright Act*. Sana represented an intervenor on the matter.
- **Lenczner Slaght’s Expert IP Team Receives Worldwide Recognition** – Canada’s leading litigation firm continues to be recognized for its exceptional Intellectual Property expertise by IAM Patent 1000.
- **Sana Halwani & Jordana Sanft Recognized as Leading Practitioners in IP** – *Managing Intellectual Property’s 2022 IP STARS handbook*, a leading guide to the world’s foremost IP firms and practitioners, has once again recognized Sana Halwani and Jordana Sanft for their patent and trademark expertise.
- **Sana Halwani Named Among Top 250 Women in IP** – Sana Halwani is globally recognized as one of the world’s leading female IP practitioners in *Managing Intellectual Property’s Top 250 Women in IP* list.
- **Veronica Tsou Recognized as OBA Rising Star in IP** – We are proud to announce that Veronica Tsou is the recipient of the Ontario Bar Association’s inaugural Rising Star Award, celebrating exceptional junior members of the Information Technology and Intellectual Property section.
- **The 2022 Lexpert Directory Recognizes Lenczner Slaght’s Litigation Excellence** – 31 of our expert litigators are recognized by their peers as the foremost practitioners across 18 fields.
- **Lenczner Slaght Ranked for the 20th Consecutive Year in Chambers Global** – Canada’s leading litigation firm continues to be recognized for its dispute resolution expertise by world-renowned directory, Chambers Global, alongside notable full-service, national, and international firms.
- **Lenczner Slaght’s 21st Year at the Centre of the Lexpert Bull’s Eye** – Lenczner Slaght continues to be recognized as the #1 firm in Toronto for Litigation and Commercial Litigation by the 2022 Lexpert®/American Lawyer Guide to the Leading 500 Lawyers in Canada.
- **New IP Partner Joins Lenczner Slaght** – Canada’s leading litigation firm is proud to welcome exceptional intellectual property litigator, Jordana Sanft, as a strong new addition to its formidable IP team.
- **Legal 500 Highlights Lenczner Slaght’s Litigation Dominance** – Legal 500 recognizes Canada’s leading litigation firm as “a regular fixture in the country’s ground-breaking contentious cases”.
- **Chambers Canada Recognizes Lenczner Slaght’s Litigation Excellence** – Canada’s leading litigation firm and its expert litigators continue to advance their position in the latest edition of world-renowned

directory, Chambers & Partners.

- **Sana Halwani Recognized as a Leading Practitioner in IP** – Sana Halwani continues to be recognized for her expertise in Managing Intellectual Property’s 2021 IP STARS handbook, a leading guide to the world’s foremost IP firms and practitioners.
- **Best Intellectual Property Litigation Lawyers in Ontario** – In a recent Lexpert article, Sana Halwani is recognized among the Top 10 Best Intellectual Property Litigation Lawyers in Ontario.
- **Lenczner Slaght Ranked for the 19th Consecutive Year in Chambers Global** – Canada’s leading litigation firm is once again recognized for its dispute resolution expertise by world-renowned directory, Chambers Global, alongside notable full-service, national, and international firms.
- **Lenczner Slaght Welcomes New IP Partner** – Canada’s leading litigation firm adds Andrew Moeser to its formidable Intellectual Property team.
- **Lenczner Slaght Achieves 20 Years at the Centre of the Lexpert Bull’s-Eye** – The 2021 Lexpert®/American Lawyer Guide to the Leading 500 Lawyers in Canada continues to recognize Lenczner Slaght as the #1 firm in Toronto for Litigation and Commercial Litigation.
- **Legal 500 Recognizes Lenczner Slaght’s Top-Tier Litigation Expertise** – Canada’s leading litigation firm is “recognized across the country as a force in complex disputes” according to Legal 500.
- **Who’s Who Legal: Canada 2020 Recognizes Lenczner Slaght’s Expert Litigators** – In the latest edition of Who’s Who Legal: Canada, Lenczner Slaght achieves eight recognitions in the Litigation chapter, with a total of ten expert litigators ranked.
- **Best Lawyers in Canada Recognizes Lenczner Slaght’s Litigation Expertise** – Lenczner Slaght is proud to announce that 33 of our expert litigators are recognized in *Best Lawyers in Canada 2021*. Our lawyers received a total of 128 rankings, up from 100 in 2020.
- **Proceedings in first-ever Zoom trial at Federal Court met with praise by judge, counsel** – The Lawyer’s Daily interviewed Sana Halwani and Paul-Erik Veel on their experience in the first-ever Zoom trial before the Federal Court.
- **Lenczner Slaght’s IP Expertise Recognized Globally** – Lenczner Slaght is proud to be recognized for its exceptional Intellectual Property expertise.
- **Sana Halwani Named a Global IP Star** – Sana Halwani continues to be recognized for her patent and trademark expertise in Managing Intellectual Property’s 2020 IP STARS handbook, a leading guide to the world’s foremost IP firms and practitioners.
- **Lexpert Highlights Lenczner Slaght’s Professional Excellence** – Lenczner Slaght’s litigators continue to be recognized by their peers as the foremost practitioners in their fields.
- **Chambers Global Recognizes Lenczner Slaght for the 18th Consecutive Year** – Canada’s leading litigation firm continues to be recognized for its dispute resolution expertise by world-renowned directory, Chambers Global, alongside notable full-service, national, and international firms.
- **Lenczner Slaght’s Expert Litigators Ranked in Who’s Who Legal: Canada 2019** – Canada’s leading litigation firm continues to be recognized for its exceptional litigation expertise.

- **Lenczner Slaght's 19th Year at the Centre of the Lexpert Bull's-Eye** – Canada's leading litigation firm continues to be recognized as the #1 firm in Toronto for Litigation and Commercial Litigation by the 2020 Lexpert®/American Lawyer Guide to the Leading 500 Lawyers in Canada.
- **Lenczner Slaght Welcomes Vinayak Mishra** – Exceptional associates continue to choose Canada's leading litigation firm, strengthening the firm's talent pool, knowledge, and experience.
- **Chambers Canada Recognizes Lenczner Slaght as a Top-Tier Litigation Firm** – Canada's leading litigation firm and its expert litigators continue to advance their position in the latest edition of world-renowned directory, Chambers Canada, with nine new rankings.
- **Best Lawyers in Canada Recognizes Lenczner Slaght with 100 Rankings** – In the latest edition of *Best Lawyers in Canada*, 28 Lenczner Slaght lawyers earned a total of 100 rankings, up from 86 in 2019.
- **IAM Patent 1000 Recognizes Lenczner Slaght's IP Expertise** – Canada's leading litigation firm continues to be recognized year over year for its exceptional Intellectual Property expertise.
- **Sana Halwani is an IP Star** – Managing Intellectual Property's 2019 IP STARS handbook, a leading guide to the world's foremost IP firms and practitioners, has once again recognized Sana Halwani for her patent and trademark expertise.
- **Our IP Talent Portfolio Continues to Grow** – Lenczner Slaght adds another exceptional litigator to its expert Intellectual Property team.
- **Lenczner Slaght Welcomes Strong Addition to its IP Talent Portfolio** – Canada's leading litigation firm is pleased to announce that Cynthia Tape has joined our growing Intellectual Property Group as Counsel.
- **Lenczner Slaght Litigators Ranked in Best Lawyers in Canada** – Canada's leading litigation firm is proud to announce that 25 of the firm's 58 lawyers have been recognized in the *Best Lawyers in Canada 2019* publication across multiple categories.
- **Patented drugs price review could impact innovation** – Andrew Skodyn was mentioned in the Law Times article "*Patented drugs price review could impact innovation*". He discusses the federal government's recently proposed changes to the PMPRB and how they may impact the pharmaceutical industry in Canada.
- **Lenczner Slaght's IP Team Receives Worldwide Recognition** – Canada's leading litigation firm and all three of its Intellectual Property partners are ranked in the 2018 edition of IAM Patent 1000 – The World's Leading Patent Professionals.
- **Lenczner Slaght Partners Named Global IP Stars** – Andrew Skodyn and Sana Halwani have once again been recognized for their patent and trademark expertise in Managing Intellectual Property's 2018 IP STARS Handbook, a leading guide to the world's foremost IP firms and practitioners
- **Sana Halwani is a Globally Recognized IP Star** – For the second year in a row, Sana Halwani has been named in *Managing Intellectual Property's* Top 250 Women in IP list, featuring lawyers from across the world!
- **Lenczner Slaght Ranked as a Top Firm for Patent Work by IP STARS** – Lenczner Slaght has once again been recognized as a top patent contentious firm in Canada by the 2018 Managing Intellectual Property

's IP STARS publication, a leading guide to the world's foremost IP firms and practitioners.

- **Lenczner Slaght Ranked for the 16th Consecutive Year in Chambers Global 2018** – Canada's leading litigation firm is once again recognized in the area of Dispute Resolution by this world-renowned directory alongside notable full-service, national and international firms.
- **Top 10 Business Decisions of 2017** – *Google v. Equustek Solutions, 2017 SCC 34* is ranked second in Lexpert's Top 10 Business Decisions of 2017. Lenczner Slaght's William C. McDowell and Scott Rollwagen are mentioned as counsel to Google Inc.
- **Our Expert IP Team Continues to Grow** – Canada's leading litigation firm continues to add exceptional litigators to its IP talent portfolio.
- **Lenczner Slaght is Named a Top-Tier Firm in Legal 500 Rankings** – Along with the firm's Tier 1 ranking in Dispute Resolution with four leading lawyers and one next generation lawyer recognized, Lenczner Slaght is also ranked in Intellectual Property, Labour and Employment, and Competition and Antitrust.
- **Who's Who Legal: Canada 2017 Highlights Lenczner Slaght Litigators** – Lenczner Slaght is proud to be named as "the foremost litigation team in the country" by Who's Who Legal: Canada 2017, with six of our expert litigators recognized for their exceptional work representing clients.
- **International Recognition for Lenczner Slaght's Expert IP Team** – Canada's leading litigation firm is delighted to announce that its IP team won three awards at the 2017 LMG Life Sciences Awards, where the preeminent lawyers and law firms in the US and Canada were recognized for their work in the life sciences industry.
- **Acclaimed photos of late Chicago photographer Vivian Maier at centre of Canadian court fight** – Sana Halwani is mentioned in an article in *The Star* regarding an action for copyright infringement in fine art photographs taken by the posthumously-discovered photographer Vivian Maier. Sana is counsel to the Stephen Bulger Gallery in this case.
- **Lenczner Slaght Ranked Among the Best** – Almost half of the leading litigation firm's lawyers are recognized in the *Best Lawyers in Canada*.
- **IP Team Nominated among the Best for 2017 LMG Life Sciences Awards** – Lenczner Slaght is proud to announce that our IP team is a finalist in three major awards at the 2017 LMG Life Sciences Awards, recognizing leading lawyers and law firms in the US, Canada and Europe that have made a significant impact in the life sciences industry.
- **Lenczner Slaght Recognized Internationally in IP Litigation** – Canada's leading litigation firm and two of its IP partners, Sana Halwani and Andrew Skodyn, are ranked in the 2017 edition of IAM Patent 1000.
- **Lenczner Slaght is the Unrivaled Litigation Boutique in Chambers Global 2017** – The firm's litigators earned the top rankings alongside full-service, national and international counterparts in the litigation categories.
- **Sana Halwani Joins Lenczner Slaght** – Newest partner brings together science, law, and advocacy.
- **Lenczner Slaght lawyers recognized in Lexpert ALM 500 Guide** – Canada's leading litigation boutique leads all firms with 10 lawyers ranked in litigation practice areas in the 2017 Lexpert®/American Lawyer Guide to the Leading 500 Lawyers in Canada ("ALM 500")
- **Supreme Court hears arguments in case pitting Google against B.C. firm** – William C. McDowell was quoted in the Globe and Mail article *Supreme Court hears arguments in case pitting Google against B.C. firm*

on December 6, 2016.

- **Peers Recognize Lenczner Slaght's Expertise in Cross-border Litigation** – Fifteen Lenczner Slaght lawyers have been ranked in the Lexpert 2016 Guide to the Leading U.S/Canada Cross-Border Litigation Lawyers in Canada
- **Lenczner Slaght Lawyers Ranked Best** – Nearly half of the firm's lawyers recognized among Canada's foremost practitioners
- **IP back to the future** – Andrew Skodyn is quoted in the Canadian Lawyer Special Report *IP Back to the Future* on June 6, 2016.
- **Lenczner Slaght Remains Among Top in Chambers Global Rankings** – Canada's leading litigation practice recognized in tier one for 14 consecutive years.
- **Lenczner Slaght Lawyers Repeatedly Ranked Among the Best** – Half of the firm's lawyers are ranked as leading practitioners and three named "Lawyer of the Year" in the latest Best Lawyers in Canada Directory.
- **20 Lenczner Slaght Lawyers Recognized in 2015 Lexpert Directory** – Recognized by Canadian Legal Lexpert® Directory as leading practitioners.
- **International Recognition for IP Litigation** – Celebrated boutique Lenczner Slaght marries extensive trial experience with highly specialised IP know-how.
- **Patent-holders can be sued for more than 100 per cent of damages: SCC** – Andrew Skodyn is quoted in Canadian Lawyer's Legal Feeds Blog on April 23, 2015 in relation to the recent decision in *Sanofi-Aventis v. Apotex* and its legal implications.
- **The modern IP family: Is it the dawning of a new age for patent** – Andrew Skodyn was quoted in the April, 2015 issue of Canadian Lawyer addressing updates and developments currently taking place in the arena of life sciences.
- **Lenczner Slaght Repeatedly Tops Chambers Global Ranking** – Canada's leading litigation practice remains highly regarded for 13 consecutive years.
- **Lenczner Slaght - "a fortress inhabited by litigation royalty"** – 13 Lenczner Slaght lawyers recognized in the 2015 Benchmark Litigation Directory.
- **Premier practice comprised of Toronto's premier litigators** – Legal 500 Canada recommends Lenczner Slaght in Dispute Resolution, Intellectual Property, Labour and Employment Law.
- **Growth Spurt: Optimism reigns in the life sciences sector** – Andrew Skodyn was quoted in the November/December, 2014 issue of Lexpert Magazine. The article analyzes the life sciences arena.
- **Lenczner Slaght Welcomes Four New Associates** – Canada's leading litigation practice grows to 53 lawyers.
- **23 Lenczner Slaght Lawyers Ranked Among the Best** – Nearly half of the firm's 49 lawyers are ranked as leading practitioners and two named "Lawyer of the Year" in the latest Best Lawyers in Canada Directory.
- **Leaked CETA document raises concerns, questions** – Andrew Skodyn was quoted in Canadian Lawyer Inhouse - Online on August 18, 2014 on the Comprehensive Economic and Trade Agreement excerpt that was leaked.
- **Broken promises** – Andrew Skodyn was quoted in the August 2014

issue of Canadian Lawyer magazine on the 'promise of the patent'.

- **Lenczner Slaght Gains International Recognition for IP Litigation** – Lenczner Slaght has been ranked for intellectual property litigation in the third annual Intellectual Asset Management (IAM) Patent 1000 guide to the world's leading patent practitioners.
- **Lenczner Slaght Increases Rankings in 2014 Lexpert Directory** – Canada's leading litigation practice continues to add new names to the list.
- **Pharma is on the Competition Bureau's radar** – Andrew Skodyn was quoted in this article in the June/July Issue of Canadian Lawyer InHouse, which first appeared on canadianlawyermag.com/inhouse.
- **Lenczner Slaght Tops Chambers Global Ranking** – Canada's leading litigation practice remains in Band 1 for 12th consecutive year.
- **Lenczner Slaght Welcomes Two New Partners** – Canada's leading litigation practice grows to 20 partners with newest additions.
- **High-profile partners join Lenczner Slaght** – Canada's leading litigation practice gains two new widely admired lawyers.
- **Lenczner Slaght Lawyers Ranked Among the Best** – Canada's leading litigation practice has 22 professionals in the 2014 Best Lawyers in Canada list.