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### **FOX ON THE CANADIAN LAW OF PATENTS, FIFTH EDITION**

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**Fox on the Canadian Law of Patents, Fifth Edition** is the pre-eminent text for patent lawyers and agents in Canada. The fourth edition was repeatedly cited by courts including the Supreme Court of Canada. However, since its publication in 1969, there have been significant changes in Canadian patent law, including major statutory revisions in 1989 and 1996. The new edition brings the statement of the law up to date while retaining the jurisprudence as compiled by Dr. Fox to the extent that it remains relevant. Topics covered in this edition include: Invention, Subject Matter of Patents, Obviousness, Novelty, Utility, Application for a Patent, International Patent Protection, Dedication and Re-Examination, and Infringement and Remedies for Infringement.

This release features updates and additions to the commentary and case law in Chapters 1 (Introduction), 3 (Patentable Subject Matter), 4 (Obviousness), 5 (Novelty), 6 (Utility), and 7 (The Specification).

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## Highlights

### *Introduction*

The *Patent Rules* were amended effective March 25, 2024. On July 17, 2024, CIPO launched a new online portal for patent services called “MyCIPO Patents”.

### *Patentable Subject Matter*

With respect to the issue as to whether claims relating to dosages of a pharmaceutical were an unpatentable method of medical treatment, the Supreme Court of Canada has granted leave to appeal from the decision of the Federal Court of Appeal in *Pharmascience v. Janssen*, 2024 FCA 23.

The patentability of computer-implemented inventions was considered by the Patent Appeal Board and the Commissioner in *Dusome et al’s Patent Application 2,701,028*, 2024 CACP 11; *Cantor Index LLC’s Patent Application 2,521,159*, 2024 CACP 12; *Cantor Index LLC’s Patent Application 2,599,952*, 2024 CACP 13; *Cantor Index LLC’s Patent Application 2,616,157*, 2024 CACP 14, C.D. 1673 (P.A.B., Commr.); and *Brinks Network Inc.’s Patent Application 2,693,164*, 2024 CACP 15. In the UK, the English Court of Appeal in *Comptroller-General v. Emotional Perception*, [2024] EWCA Civ 825 (E.W.C.A.) reversed the trial decision relating to AI. In Australia, leave to appeal the most recent *Aristocrat* decision.

### *Obviousness*

Issues as to obviousness were considered by the Federal Court in *Tekna Plasma Systems v. AP&C Advanced Powders & Coatings*, 2024 FC 871; *AGI Suretrack v. Farmers Edge*, 2024 FC 934; *Boehringer v. JAMP Pharma*, 2024 FC 1198; *Molo Design v. Chanel*, 2024 FC 1260; by the Federal Court of Appeal in *Rovi Guides v. Videotron*, 2024 FCA 125; *Rovi Guides v. Telus*, 2024 FCA 126; *Agracity v. UPL*, 2024 FCA 133; *Munchkin v. Angelcare*, 2024 FCA 156; and by the English Patents Court in *Samsung Bioepis v. Janssen Biotech*, [2024] EWHC 1984 (Pat.).

### *Novelty*

Anticipation issues were addressed by the Federal Court in *AGI Suretrack v. Farmers Edge*, 2024 FC 934; *Boehringer v. JAMP Pharma*, 2024 FC 1198; *Molo Design v. Chanel*, 2024 FC 1260; and by the Federal Court of Appeal in *Rovi Guides v. Telus*, 2024 FCA 126; *Agracity v. UPL*, 2024 FCA 133; *Munchkin v. Angelcare*, 2024 FCA 156; and by the English Patents Court in *Pfizer v. GlaxoSmithKline*, [2024] EWHC 2523 (Pat). The trial decision was affirmed by *Rovi Guides v. Videotron*, 2024 FCA 125 but novelty was not in issue on appeal.

### *Utility*

Utility issues were addressed by the Federal Court in *Tekna Plasma Systems v. AP&C Advanced Powders & Coatings*, 2024 FC 871; *Boehringer v. JAMP Pharma*, 2024 FC 1198; *Proslide v. Whitewater*, 2024 FC 1439; by the Federal Court of Appeal in *Munchkin v. Angelcare*, 2024 FCA 156. Trial decisions were affirmed by *Rovi Guides v. Videotron*, 2024 FCA 125; and *Munchkin v. Angelcare* 2024 FCA 156, but utility was not in issue on appeal.

### *The Specification*

Issues as to the sufficiency of the disclosure and/or claims in a specification were considered by the Federal Court in *Tekna Plasma Systems v. AP&C Advanced Powders & Coatings*, 2024 FC 871; by the Federal Court of Appeal in *Agracity v. UPL*, 2024 FCA 133. Trial decisions were affirmed by *Rovi Guides v. Videotron*, 2024 FCA 125, but sufficiency and ambiguity were not in issue on appeal, *Munchkin v. Angelcare*, 2024 FCA 156, but sufficiency and overbreadth were not in issue on appeal.