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### **SECURED TRANSACTIONS IN PERSONAL PROPERTY IN CANADA (3rd EDITION)**

**Richard McLaren**

**Release No. 8, August 2025**

#### **What's New in this Update:**

This six-volume work provides a complete practitioner's manual to the personal property security regimes of Ontario, Manitoba, Saskatchewan, Alberta, British Columbia and the Atlantic provinces. As a textbook, it contains detailed analysis of the finer and more complex academic aspects of personal property security law. As a handbook, it sets out the mechanics for registering and searching documents under the various provincial statutes. Finally, as a law reporter, it features the full text of all relevant case law together with expertly prepared headnotes. In addition, the legislation is regularly updated.

This release features updates to commentary in Chapters 10 (Debtor's Rights) and 17 (Registration — Alberta) and adds two new cases to Appendix M Case Law.

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## Highlights:

- **Debtor's Rights — Rights After Default — Right to Enforce Secured Parties' Duties by Action Under s. 67 — § 10:19. Court Orders and Directions: s. 67(1)** — In *Smiley Farming Co. Ltd. v. John Deere Financial Inc.*, the SKCA considered whether the Chambers judge erred in summarily determining an application for possession of collateral pursuant to s. 63(2) of the PPSA2 (similar to s. 67(1) of the Ontario PPSA) rather than consolidating it with another action and/or directing it to trial due to conflicting evidence regarding ownership of the collateral. Pursuant to an application under s. 63(2) of the PPSA, s. 66(1) of the PPSA (similar to s. 67(1)(c) of the Ontario PPSA) provides courts with discretion to decide the application or direct the matter to trial. The SKCA held that conflicting evidence regarding ownership of collateral does not immediately preclude a judge from determining the matter summarily. A summary determination is appropriate under s. 63 of the PPSA when the evidence is sufficient for the judge to make necessary findings of fact, fairly apply the law and resolve the issues raised in the application. The Court also stated that a decision about whether an application under s. 63(2) of the PPSA can be determined by summary judgment by making an order under s. 66(1)(a) is reviewable only for a palpable and overriding error, unless there is an extricable error in principle: *Smiley Farming Co. Ltd. v. John Deere Financial Inc.*, 2025 SKCA 25, 19 P.P.S.A.C. (4th) 121 (Sask. C.A.).
- **Registration — Alberta — Mechanics of Registration — Which Form to Use? — The Financing Change Statement — § 17:17. Discharge, Total or Partial: s. 50** — In 2109062 *Alberta Ltd. v. Strait Pipeline & Integrity Ltd.*, the Court of King's Bench of Alberta contemplated whether to discharge a PPSA registration pursuant to notice under s. 50(3) of the PPSA or to maintain it pursuant to an application under s. 50(7) pending the resolution of litigation. Applying the test set out by the Saskatchewan Court of Appeal in *Thomas v. Input Capital Corp.*, 2020 SKCA 67, 12 P.P.S.A.C. (4th) 339 (Sask. C.A.), the Court ordered the registration be maintained based on an examination of the evidence, a threshold consideration of the merits of the case and a balancing of the parties' interests. However, the Court refused to incorporate conditions offered by the parties into its order so as not to expand on or introduce new terms into the parties' general securities agreement that may require continuous monitoring. In obiter, the court rejected the argument that the mechanism set out in s. 50(3) and 50(7) was intended to be only administrative. The administrative purpose does not preclude a party from seeking essentially a summary ruling that a contested registration should be discharged: 2109062 *Alberta Ltd. v. Strait Pipeline & Integrity Ltd.*, 2025 ABKB 308, 19 P.P.S.A.C. (4th) 149 (Alta. K.B.).

## **ProView Developments**

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