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FOX ON CANADIAN LAW OF COPYRIGHT AND INDUSTRIAL DESIGNS, 4th EDITION

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Release No. 6, October 2024

This comprehensive statement of Canadian law and practice has been the bedrock of Canadian copyright research and argument for more than half a century.

This release features updates to the case law and commentary in Chapter 7 (Literary Works), Chapter 10 (Artistic Works), Chapter 23 (Exceptions), Chapter 24 (Civil Remedies for Infringement of Copyright), Chapter 31 (Industrial Design), Chapter 32 (Breach of Confidence), Appendix B (Canadian Copyright Legislation, Regulations and Related Materials).

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Highlights

- **Chapter 24. Civil Remedies for Infringement — VII. Discovery — 25:53. Equitable Discovery — Norwich Orders** — In this release, the discussion of equitable discovery and the cases in which this principle has been applied has been updated to include consideration of *R. v. Bykovets*, 2024 SCC 6, 2024 CarswellAlta 398 (S.C.C.). In this case, the court concluded that section 8 of the Canadian Charter of Rights and Freedoms protects IP addresses. This recognition adds another step to criminal investigations by requiring that the state show grounds to intrude on privacy online.
- **Chapter 32. Breach of confidence — 32.24.51 Evidence at Trial** — A new section, Evidence at Trial, has been added to Chapter 32. This section considers a number of decisions, including the BC Court of Appeal’s decision in *GEA Refrigeration Canada Inc. v. Chang*, 2020 BCCA 361, 2020 CarswellBC 3213 (B.C. C.A.), leave to appeal refused 2021 CarswellBC 2518 (S.C.C.), additional reasons 2022 CarswellBC 724 (B.C. C.A.). In this case, it was held that in breach of confidence claims, strong circumstantial evidence can be sufficient to establish possession and misuse. This new section also considers contractual confidentiality obligations.

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