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#### Education

University of Western Ontario (2017)  
JD  
McMaster University (2014) BEng  
Mgt (Summa Cum Laude -  
Thermofluids and Energy Systems)

#### Bar Admissions

Ontario (2018)

#### Practice Areas

Commercial Litigation  
Competition and Antitrust  
Defamation and Media  
Employment  
Injunctions  
Intellectual Property

#### Contact

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# Jim Lepore

#### JIM LEPORE

is an associate at Lenczner Slaght.

"Jim is best-in-class for Canadian IP litigation." — *Chambers Canada*

Jim's focus is advocacy— with a particular interest in intellectual property and commercial litigation. Jim has experience with complex disputes involving companies in the technology, telecommunications and oil and gas sectors. Drawing on his extensive background in engineering, business, and law, he provides creative solutions to legal issues inside and outside of the courtroom.

Prior to joining Lenczner Slaght, Jim summered, articulated and practiced at a leading litigation boutique in Toronto.

Jim is a graduate of the University of Western Ontario, Faculty of Law, where he was awarded the WeirFoulds LLP Writing Prize in Intellectual Property, the J.S.D. Tory Writing Prize for excellence in writing and legal research, the Intellectual Property Institute of Canada's national writing prize and winning prizes in several advocacy competitions. Outside of the classroom, Jim volunteered as a case manager at Western's Business Law Clinic.

Before law school, Jim studied mechanical engineering and management at McMaster University and graduated *summa cum laude*. His capstone research project was in the field of aero-acoustics, designing a low noise landing gear for a Bombardier private jet.

#### RECOGNITION

- Canada's IP Writing Challenge (2016)  
Intellectual Property Institute of Canada; IP Osgoode
- First Year Appellate Competition (FYAC) (2015)  
Winner
- Harold G. Fox Intellectual Property Moot (2016)  
Honourable Mention - Best Oral Advocate
- Highest Standing in Process and Substance in IP Litigation (2016)  
University of Western Ontario, Faculty of Law
- J.S.D. Tory Writing Prize (2017)  
University of Western Ontario, Faculty of Law
- Legate & Associates Medical Malpractice Trial Advocacy Moot (2017)  
Winner

- University of Western Ontario Law Alumni Association Scholarship (2014)  
University of Western Ontario, Faculty of Law
- WeirFoulds LLP Writing Prize in Intellectual Property (2016)  
University of Western Ontario, Faculty of Law

## SELECT CASES

- **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.
- **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.
- **Confidential Matter** – Copyright counsel to a major news media company in matter relating to unauthorized use of its content to train AI tools.
- **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 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).
- **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.
- **Fraudulent and Deceptive Web Domains Dispute** – Counsel to an infrastructure company related to the takedown and transfer of a fraudulent web domains. Provided strategic advice on intellectual property portfolio and assertion of the same.
- **Songbird Life Science Inc v Hyris Limited** – Counsel to Hyris Limited, resisting an application before the Superior Court of Justice seeking injunctive relief. The application related to Canadian distribution of Hyris's proprietary, COVID-19-specific diagnostic technology, which permitted users to conduct accurate COVID-19 testing "on site", without the need for a medical laboratory.
- **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.

- **Strategic Advice** – Counsel to a FinTech company in potential patent infringement 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.
- **Voith Group** – Counsel to Voith providing advice on patent matters relating to paper mill technology.
- **Product Liability** – Defence of a product liability action including allegation of negligent design and manufacture of a multi-million-dollar electric arc furnace.
- **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.
- **Swist v MEG Energy Corp** – Counsel to the plaintiffs in a patent infringement action, involving a patent related to heavy oil extraction. *(Prior to joining Lenczner Slaght)*
- **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)*
- **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)*
- **Dennis v Her Majesty the Queen in Right of Canada** – Counsel to the Canadian Wheat Board in a proposed class proceeding in the Federal Court and the Manitoba Court of Queen’s Bench by former grain...
- **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

- **Lenczner Slaght Advocacy Competition in Legal Ethics and Professionalism 2023** – We were proud to continue our sponsorship of Western Law’s annual Legal Ethics and Professionalism moot! Matthew B. Lerner, Sean Lewis, Sean Blakeley, Jim Lepore, and Allison Jandura participated as judges.
- **Non-Infringing Alternatives: Moving Beyond Condemnation to Arrive at Compensation** – Jim Lepore’s article *Non-Infringing Alternatives: Moving Beyond Condemnation to Arrive at Compensation* appeared in Volume 33 of Canadian Intellectual Property Review.
- **Selecting and Protecting Inherently Strong Names** – Jim Lepore co-authored the article *Selecting and Protecting Inherently Strong Name* for the Hamilton Law Journal.
- **The Effect of Proximity of the Landing Gear Lights on its Turbulent Wake** – Jim Lepore co-authored the article *The Effect of Proximity of the Landing Gear Lights on its Turbulent Wake* that appeared in Volume 10 of the Journal of Turbulence.
- **Experimental Investigation of Landing Light Orientation on Landing Gear Noise** – Jim Lepore co-authored the article *Experimental Investigation of Landing Light Orientation on Landing Gear Noise* for the American Society of Mechanical Engineers Pressure Vessel and Piping Conference.
- **Stereoscopic PIV Study of a Simplified Landing Gear Model** – Jim Lepore co-authored the article *Stereoscopic PIV Study of a Simplified Landing Gear Model* for the 10th Pacific Symposium on Flow Visualization and Image Processing Conference.
- **Limitations of Only Using a NUANS Search** – Jim Lepore co-authored the article *Limitations of Only Using a NUANS Search* for the Hamilton Law Journal.

## BLOG POSTS

- **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.

- **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.
- **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).
- **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).
- **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*).
- **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*).

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- **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".
  - **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.
  - **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.

#### SELECT NEWS ARTICLES

- **Lenczner Slaght Welcomes Jim Lepore** – Canada's leading litigation firm adds another exceptional litigator to its expert Intellectual Property Group.

#### PROFESSIONAL ACTIVITIES

- Canadian Bar Association
- Ontario Bar Association
- Intellectual Property Institute of Canada  
Internet & Technology Committee (2021-present)
- Toronto Intellectual Property Group