Blaney McMurtry LLP

PUBLICATION

Comparison of Canadian and US approaches to patentability and infringement issues

Date: August 01, 2024
Co-Authors: Nicholas Wong, Rae Daddon

Originally published by IAM in "The Guide to Life Sciences: Key issues for senior life sciences executives 2024".

Despite the many similarities between Canada and the United States, important differences exist in the area of patent law.

In this article, Blaneys' Intellectual Property Partners Nick Wong and Belle Van, and Associate Rae Daddon, explore how the US and Canadian regimes differ on three patentability and patent infringement-related issues: (1) whether a prior sale of a product bars patentability, (2) the question of how similar a product could be without infringing on a patented invention and (3) infringement in the context of the "skinny label" pathway for drugs.

The authors reinforce the need for stakeholders to remain vigilant of developments in US and Canadian patent law and to adapt their IP strategies as they identify opportunities and challenges in each jurisdiction. Finally, they state that "the differences in the US and Canadian regimes underscore the complexity of navigating patent law across jurisdictions and the importance of having effective legal counsel on both sides of the border."

Read the full article, published by IAM in "The Guide to Life Sciences: Key issues for senior life sciences executives 2024", here.