



# Cynthia L. Tape

**CYNTHIA L. TAPE**  
is counsel at Lenczner Slaght.

Cynthia's practice focuses on patent and commercial litigation. She has extensive experience in pharmaceutical and biotechnology patent cases, and has been involved as litigation counsel in IP and regulatory matters before the Federal Courts, the Ontario Superior Court of Justice, and the Supreme Court of Canada. She has also appeared as counsel in cases before those courts, the Court of Appeal for Ontario and administrative tribunals. Prior to joining Lenczner Slaght, she practiced in the patent and commercial litigation groups of leading Canadian firms.

Cynthia taught patent law at Queen's University's Faculty of Law for many years and won the Law Students Society's award for excellence in teaching. She is a past Chair of the CBA's National IP Section Executive, and has written papers and spoken at conferences on various IP and regulatory topics. Cynthia is co-editor of the Canadian adaptation of Lubet's *Modern Trial Advocacy: Analysis & Practice*, now in its 4th edition.

Before her call to the Bar, Cynthia served as Law Clerk to the Honourable Charles Dubin, Chief Justice of Ontario, and puisne justices of the Court of Appeal for Ontario, and to the Right Honourable Beverley McLachlin, Chief Justice of Canada (retired), at the Supreme Court of Canada.

Prior to attending law school, Cynthia obtained a Ph.D. (Pathology) from Queen's University. Her doctoral research was on the protein biochemistry of amyloidosis.

## Education

Queen's University (1994) LLB  
Queen's University (1992) Ph.D.  
(Pathology)  
Queen's University (1985) BSc  
(Honours – Life Sciences)

## Bar Admissions

Ontario (1997)  
New York (1997)

## Practice Areas

Appeals  
Intellectual Property  
Commercial Litigation

## Contact

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## RECOGNITION

- Best Lawyers in Canada (2021-2024)  
Biotechnology and Life Sciences Practice, Corporate & Commercial Litigation, Intellectual Property
- Canadian Legal Lexpert® Directory (2021-2022)  
Life Sciences & Health
- IAM Patent 1000 (2021-2023)  
Patent Litigation: Recommended Individual (Bronze)
- Lexpert Special Edition: Canada's Leading Health Sciences Lawyers (2021)
- Lexpert Special Edition: Canada's Leading Technology & Health

Sciences Lawyers (2022)

- The Legal 500 Canada (2023 - 2024)  
Intellectual Property (Recommended Lawyer)

## SELECT CASES

- **Gilead Sciences, Inc et al v Pharmascience Inc** – Counsel to Gilead Sciences, Inc. and Gilead Sciences Canada, Inc. in a NOC action in the Federal Court in respect of Canadian Patent No. 2,845,553.
- **Gilead Sciences, Inc et al v Pharmascience Inc** – Counsel to Gilead Sciences, Inc. and Gilead Sciences Canada, Inc. in a NOC action in the Federal Court in respect of Canadian Patent Nos. 2,845,553 and 2,990,210.
- **Gilead Sciences, Inc et al v Natco Pharma (Canada) Inc** – Counsel to Gilead Sciences, Inc. and Gilead Sciences Canada, Inc. in a NOC action in the Federal Court in respect of Canadian Patent No. 2,845,553.
- **Gilead Sciences, Inc et al v Apotex Inc** – Counsel to Gilead Sciences, Inc. and Gilead Sciences Canada, Inc. in a NOC action in the Federal Court in respect of Canadian Patent Nos. 2,845,553 and 2,990,210.
- **Gilead Sciences, Inc et al v Natco Pharma (Canada) Inc** – Counsel to Gilead Sciences, Inc. and Gilead Sciences Canada, Inc. in a NOC action in the Federal Court in respect of Canadian Patent Nos. 2,845,553 and 2,990,210.
- **Gilead Sciences, Inc et al v Apotex Inc** – Counsel to Gilead Sciences, Inc. and Gilead Sciences Canada, Inc. in a NOC action in the Federal Court in respect of Canadian Patent No. 2,845,553.
- **Strategic Patent Advice** – Counsel to a global biologics company and a global pharmaceuticals company providing pre-litigation strategic patent advice.
- **Teva Canada v Mylan Pharmaceuticals** – Counsel to Mylan in a NOC action relating to COPAXONE (glatiramer acetate injection), an immunomodulator medication used to treat multiple sclerosis.
- **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.
- **Allergan Inc v JAMP Pharma Corporation** – Counsel to JAMP in NOC action relating to FIBRISTAL (ulipristal), a medication used to treat moderate-to-severe signs and symptoms of uterine fibroids in adult women.
- **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.
- **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.
- **Rovi Guides and TiVo Solutions v Bell Canada** – Counsel to TiVo Solutions and its subsidiary Rovi Guides in a patent infringement action, involving patents relating to interactive television program guides, DVR technology, and related technologies.
- **Rovi Guides and TiVo Solutions v Telus Corporation** – Counsel to TiVo Solutions and its subsidiary Rovi Guides in a patent infringement action, involving patents relating to interactive television program guides,

DVR technology, and related technologies.

- **Rovi Guides and TiVo Solutions v Videotron** – Counsel to TiVo Solutions and its subsidiary Rovi Guides in a patent infringement action, involving patents relating to interactive television program guides, DVR technology, and related technologies.
- **AstraZeneca Canada Inc v Apotex Inc** – Counsel to Apotex in a patent infringement damages case involving allegations regarding the availability of non-infringing alternatives. *(Prior to joining Lenczner Slaght)*
- **Amgen Canada Inc v Apotex Inc** – Litigation counsel to Apotex Inc. in the first biosimilars case to be decided under the *PM(NOC) Regulations*, concerning the drug filgrastim. *(Prior to joining Lenczner Slaght)*
- **AstraZeneca Canada Inc v Apotex Inc** – Litigation counsel to Apotex Inc. in proceedings under the *PM(NOC) Regulations* and in a patent infringement action, concerning the drug esomeprazole. *(Prior to joining Lenczner Slaght)*
- **Nu-Pharm Inc v Canada (Attorney General)** – Counsel to Nu-Pharm in the Supreme Court of Canada on an appeal as to whether a party who seeks damages allegedly caused by a governmental decision must first invalidate that decision by way of judicial review in the Federal Court. *(Prior to joining Lenczner Slaght)*
- **Apotex Inc v Sanofi-Synthelabo Canada Inc** – Counsel to the intervenor Canada's Research-Based Pharmaceutical Companies (Rx&D) in the Supreme Court of Canada on an appeal concerning selection patents. *(Prior to joining Lenczner Slaght)*
- **Pfizer Canada Inc v Canada (Minister of Health)** – Counsel to Pfizer in a proceeding under the *PM(NOC) Regulations* regarding epirubicin, a cancer-treatment drug. *(Prior to joining Lenczner Slaght)*
- **Law Society of Upper Canada v Ernst & Young** – Counsel to Ernst & Young in proceedings involving the issue whether the passing-on defence is available under Canadian law to preclude the recovery of damages for breach of contract and negligence. *(Prior to joining Lenczner Slaght)*
- **Parke-Davis Division v Canada (Minister of Health)** – Counsel to Parke-Davis (Pfizer) in the Federal Court of Appeal regarding patent dedications in Canada. *(Prior to joining Lenczner Slaght)*
- **Winnipeg Child and Family Services (Northwest Area) v G (D.F.)** – Counsel to the intervenor Canadian Civil Liberties Association in the Supreme Court of Canada on an appeal as to whether tort law principles and the courts' *parens patriae* jurisdiction may be invoked to justify the detention and treatment of a pregnant woman. *(Prior to joining Lenczner Slaght)*

## SELECT PUBLICATIONS AND PRESENTATIONS

- **The Scope of Patent Agent Privilege Post-Janssen** – Cynthia L. Tape shared her expertise at IPIC's webinar titled "The Scope of Patent Agent Privilege Post-Janssen". The panel discussed the Federal Court's commentary, including communications to which the privilege established by section 16.1 does and does not attach.
- **Modern Trial Advocacy: Analysis and Practice, Canadian Fourth Edition** – Cynthia L. Tape co-edited the Canadian Fourth Edition of *Modern Trial Advocacy: Analysis and Practice*. The publication provides not only Canadian case law and statutes, but also valuable insight into the specific elements of Canadian litigation practice.

## BLOG POSTS

- **Data-Protection Déjà Vu All Over Again** – For the second time in less than a year, Justice St. Louis of the Federal Court has set aside the issuance of a Notice of Compliance (“NOC”) to an innovator drug company and remitted the matter to the Minister of Health (“Minister”) for what will be a third determination in *Catalyst Pharmaceuticals, Inc v Médunik Canada* (“Catalyst 2022”).
- **FCA Narrows Jurisdiction of Drug Price Regulator** – The Patented Medicine Prices Review Board (“Board”) regulates the prices of patented medicines in Canada when a patent is found to “pertain” to a medicine. Since 1996, based on the Federal Court of Appeal’s decision in *ICN Pharmaceuticals Inc v Canada (Staff of the Patented Medicine Prices Review Board)* (“ICN”), the “pertains to” test could be satisfied on the basis of the “merest slender thread” of a relationship between the patent and the medicine.

## SELECT NEWS ARTICLES

- **Lenczner Slaght Stands Out as a Top-Tier Litigation Firm in Legal 500 Canada** – Canada’s leading litigation firm is once again recognized as a “litigation powerhouse” according to *Legal 500 Canada*.
- **Lenczner Slaght Litigators Recognized as Best Lawyers in Canada** – In the latest edition of *Best Lawyers in Canada*, 41 of our expert litigators are recognized for their expertise across 24 practice areas. The following lawyers have also been recognized as “Lawyer of the Year” for receiving the highest overall peer-feedback in their practice areas in Toronto.
- **Lenczner Slaght Receives Worldwide Recognition in IP Litigation** – Canada’s leading litigation firm continues to be recognized year-over-year for its exceptional Intellectual Property expertise.
- **Lenczner Slaght Stands Out as a “Litigation Powerhouse” in Legal 500 Canada** – Canada’s leading litigation firm is once again ranked in Tier 1 for Dispute Resolution by *Legal 500 Canada*.
- **Moderna Sues Pfizer and BioNtech for Infringement of Its Covid-19 Vaccine Patent** – The Lawyer’s Daily interviewed Cynthia Tape on Moderna’s claims against Pfizer and BioNTech for patent infringement.
- **Lenczner Slaght Litigators Recognized Among the Best Lawyers in Canada** – In the latest edition of *Best Lawyers in Canada*, 39 of our expert litigators are recognized by their peers for their expertise across 24 practice areas.
- **Lenczner Slaght’s Expert IP Team Receives Worldwide Recognition** – Canada’s leading litigation firm continues to be recognized for its exceptional Intellectual Property expertise by IAM Patent 1000.
- **The 2022 Lexpert Directory Recognizes Lenczner Slaght’s Litigation Excellence** – 31 of our expert litigators are recognized by their peers as the foremost practitioners across 18 fields.
- **Lenczner Slaght Litigators Ranked Among Best Lawyers in Canada** – In the latest edition of *Best Lawyers in Canada*, 37 of our expert litigators are recognized for their expertise across 25 practice areas.
- **Lenczner Slaght’s IP Expertise Recognized Worldwide** – Canada’s leading litigation firm continues to be recognized for its exceptional Intellectual Property expertise.
- **Lexpert Recognizes Lenczner Slaght’s Leading Health Sciences Expertise** –

The inaugural issue of Lexpert's Special Edition on Canada's Leading Health Sciences Lawyers recognizes 11 Lenczner Slaght lawyers for their extensive industry experience. The rankings are also published in the June issue of the Globe & Mail's Report on Business.

- **The 2021 Lexpert Directory Recognizes 30 Lenczner Slaght Lawyers**  
– An increasing number of our expert litigators are recognized by their peers as the foremost practitioners in their fields.
- **Best Lawyers in Canada Recognizes Lenczner Slaght's Litigation Expertise** – Lenczner Slaght is proud to announce that 33 of our expert litigators are recognized in *Best Lawyers in Canada 2021*. Our lawyers received a total of 128 rankings, up from 100 in 2020.
- **Lenczner Slaght Welcomes Strong Addition to its IP Talent Portfolio**  
– Canada's leading litigation firm is pleased to announce that Cynthia Tape has joined our growing Intellectual Property Group as Counsel.

#### PROFESSIONAL ACTIVITIES

- Ontario Bar Association
- The Advocates' Society