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DABUS Down, Not Done: Thaler Appeals Canadian Ruling on AI Inventorship

As we predicted in our earlier comment, Dr. Stephen Thaler – who created an AI system that allegedly conceived two disparate yet novel products – is not giving up his bid to have that system (DABUS) awarded a Canadian patent.

On December 5, 2025, Dr. Thaler filed a Notice of Appeal in the Federal Court challenging a June 2025 decision that saw the Patent Appeal Board refuse to recognize DABUS as a valid inventor under Canadian patent law.

Core Grounds for Appeal

The appeal takes direct aim at the Board's statutory interpretation. Dr. Thaler argues the Commissioner committed several errors in concluding that "inventor" must mean a natural person. Central to Dr. Thaler's argument is the claim that the Commissioner failed to interpret the *Patent Act* in light of evolving technological realities. He contends the very existence of his application challenges the Board's finding that there is "no evidence" the meaning of "inventor" has evolved, asserting this is "the first time in human history where machines have had the capacity to 'invent.'"

The appeal alleges "hindsight bias," suggesting it's easy to look back at earlier technological advances and assume existing legislation covered them at the time when this wasn't necessarily the case.

The Accession Argument

Dr. Thaler is renewing the accession argument the Board rejected. In brief, under the Roman principle of "accession" (the owner of property owns its fruits), Dr. Thaler maintains that, as DABUS' owner, he is entitled to the intellectual property DABUS produces. As we noted previously, the UK Supreme Court also rejected this argument, distinguishing tangible property (such as a cow producing a calf) from intangible concepts generated by AI.

Relief Sought

The relief sought is ambitious and unlikely to be granted in full. Instead of asking the Court to remit the matter to the

Commissioner after quashing the decision, Dr. Thaler seeks:

- a declaration that DABUS is a valid inventor
- confirmation that, as DABUS' legal representative and owner, he is entitled to its intellectual property

Key Takeaways

This appeal adds Canada to Dr. Thaler's global campaign for AI inventorship rights, joining ongoing or concluded proceedings in the UK, US, EU, and Australia.

Even if Dr. Thaler succeeds on appeal, the practical questions we identified after the Board's decision remain unresolved:

- How much human input transforms AI output into human invention?
- Must that contribution be intellectual, or can it be supervisory?

These questions will likely persist regardless of how the Federal Court rules – and may ultimately require legislative intervention to answer definitively.