

## **RICHARD ARNOLD Q.C.**

**11 South Square, Gray's Inn, London WC1R 5EY  
Tel 020 7405 1222 Fax 020 7242 4282 Email clerks@11southsquare.com**

### Qualifications

BA in Natural Sciences (Chemistry), Magdalen College, Oxford 1983 (MA 1986)  
Dip. Law, Polytechnic of Central London (now University of Westminster) 1984  
Called to the Bar of England & Wales, Middle Temple 1985 (Q.C. 2000)

### Areas of practice

Patents, trade marks, passing off, copyright, design right, registered designs, performers' rights, database rights, confidential information, privacy, data protection, entertainment and media law, information technology law, restraint of trade, trade libel, trade descriptions, related European Union law.

I have appeared in English courts from a Magistrates' Court to the House of Lords, in the Privy Council, in the Patent Office and Trade Mark Registry, before the Appointed Person, in the Copyright and Data Protection Tribunals, in the European Patent Office Opposition Division and Boards of Appeal and in the European Court of Justice. I have also sat as an arbitrator on several occasions and have acted as an expert witness in American proceedings.

### Appointments

Deputy High Court Judge (2004-), Assistant Recorder (2005)  
Appointed Person to hear trade mark appeals under Trade Marks Act 1994 (2003-)  
Chairman of the Code of Practice for the Promotion of Animal Medicines Committee (2002-)

### Legal publications

*Halsbury's Laws* (4<sup>th</sup> ed, 2007 re-issue), vol 48 – Trade Marks  
*Performers' Rights* (3rd ed, Sweet & Maxwell, 2004)  
*Computer Software: Legal Protection in the United Kingdom* (2nd ed, Sweet & Maxwell, 1992) (with Henry Carr QC)  
*Civil Court Service* (Jordans, 2005-now) (contributor)  
*Civil Appeals* (EMIS, 2002-2006) (contributor)  
*Entertainment and Media Law Reports* (Sweet & Maxwell, 1993-2004) (editor)  
Articles, case notes and reviews in *Law Quarterly Review*, *European Intellectual Property Review*, *Entertainment Law Review*, *Intellectual Property Quarterly*, *Yearbook of Copyright and Media Law*, *Journal of Intellectual Property Law and Practice*, *Copyright World* and *The European Lawyer* (see list below)

### Professional memberships

IP Bar Association; Chancery Bar Association; TIPL0; CIPA (Ass.); ITMA (Ass.).

## Professional reputation

Nominated as IP Silk of the Year in Chambers & Partners Bar Awards 2007

Ranked \* for Intellectual Property (“*‘brain a stick’ ... Clients applaud his ‘incredible rigour when approaching disputes, his superb service and turnaround’, not to mention his ‘clear and logical approach that cuts through seemingly intractable problems’. A man who pays ‘inexhaustible attention to detail’ ... ‘a good fighter who blows your socks off with his firm grasp of litigation strategy’*”), 2 for Information Technology (“*Peers note that ‘appearing against him is tough, as he is forthright and ferociously clever’*”) and 2 for Media and Entertainment (“*a ‘very bright, thorough and persistent advocate’ who is also ‘very affable’*”) in Chambers UK 2008

Ranked 2 for Intellectual Property (“*a ‘brilliant mind’ and ‘superb service and turnaround’*”), 2 for Information Technology (“*‘very bright’ and ‘fantastic’*”) and 2 for Media and Entertainment in The Legal 500 2007

## Interesting cases as leading counsel

*Boehringer Ingelheim v Swingward* [2004] ETMR 65 (CA), [2007] ETMR 71 (ECJ), [2007] EWCA Civ 83 (CA) (trade marks/parallel imports/repackaging)

*Cigarrera Bigott v Philip Morris Products* [2005] FSR 4 (PC) (trade marks/assignment of pending application)

*DU PONT Trade Mark* [2004] FSR 15 (CA) (trade marks/appeals/rehearing or review/fresh evidence/sections 10 and 11 of 1938 Act)

*Dyson v Qualtex* [2006] RPC 31 (CA) (design right/spare parts/must fit/must match/surface decoration/commonplace)

*Experience Hendrix v Purple Haze Records (No 2)* [2007] FSR 31 (CA) (performers’ rights/subsistence/qualification/infringement)

*A. Fulton v Grant Barnett* [2001] RPC 257 (ChD) (design right/commonplace)

*A. Fulton v Totes Isotoner* [2004] RPC 16 (CA) (design right/definition of ‘design’)

*Glaxo Group v Genentech* [2008] EWCA Civ 23 (CA) (patent/stay pending EPO)

*Lambretta Clothing v Teddy Smith (UK)* [2005] RPC 6 (CA) (design right/ definition of ‘design’/ copyright/section 51 defence)

*Mastercigars Direct v Hunters & Frankau* [2007] RPC 24 (CA) (trade marks/parallel imports/IMPLIED consent)

*Menashe v William Hill Organisation* [2003] 1 All ER 273 (CA) (patents/section 60(2)/use of computer abroad)

*Navitaire v easyJet Airline* [2006] RPC 3, 4 (ChD) (copyright/computer software/look and feel/effect of Software Directive)

*O2 Holdings v Hutchinson 3G (UK)* [2007] RPC 16 (CA), Case C-533/06 (ECJ) (trade marks/comparative advertising)

*PHILOSOPHY DI ALBERTA FERRETTI Trade Mark* [2003] RPC 15 (CA) (trade marks/non-use/timing of application)

*Rugby Football Union v Cotton Traders* [2002] ETMR 76 (ChD) (trade marks & passing off/use of national emblem/validity/section 11(2)(b) defence)

*Sawkins v Hyperion Records* [2005] 1 WLR 3281 (CA) (copyright/originality/performing editions of Baroque music)

*Stena Rederi v Irish Ferries* [2003] RPC 36 (CA) (patents/section 60(5)(d) defence)

*Vector v Glatt Air Techniques* [2007] EWCA Civ 805 (CA) (patents/added matter)

## Articles etc

### *Articles*

Towards a Performers' Copyright: An Analysis of *Rickless v United Artists* [1987] EIPR 97  
Can One Sue in England for Infringement of Foreign Intellectual Property Rights? [1990] EIPR 254  
The Broadcasting Act 1990 and the Copyright, Designs and Patents Act 1988 [1991] Ent LR 23  
A New Remedy for Copyright Infringement? [1997] EIPR 689  
Cross-Border Enforcement: The Latest Chapter [1999] IPQ 389  
The Myth of the *Auteur*: Performers as Authors [2000] Ybk of Cop & Med Law 3  
*Joy*: a Reply [2001] IPQ 10  
Copyright in Sporting Events and Broadcasts or Films of Sporting Events After *Norowzian* [2001] Ybk of Cop & Med Law 51  
Copyright in Photographs: a Case for Reform [2005] EIPR 303  
The Protection of Confidential Information in the Human Rights Era: Two Aspects [2007] JIPLP 599

### *Case Notes*

*Bayer v Winter*: An Alternative to *Ne Exeat Regno* [1986] EIPR 83  
*CBS v Robinson*: An *Anton Piller* Too Far? [1986] EIPR 187  
Is a Licensor a Joint Tortfeasor with his Licensee if the Latter Fails to Obtain Third Party Clearances? *Grower v BBC* [1990] Ent LR 179  
The Copyright Tribunal Strikes Again: *AIRC v PPL* [1993] Ent LR 145  
Inconsistency in the Copyright Tribunal [1993] EIPR 179  
Infringement of Copyright in Computer Software by Non-Textual Copying: First Decision at Trial by an English Court *John Richardson Computers v Flanders* [1993] EIPR 250  
Are Performers Authors? *Hadley v Kemp* [1999] EIPR 464  
Circumstances Importing an Obligation of Confidence *Campbell v MGN* [2003] LQR 193  
Copyright fandango *Fisher v Brooker* (2007) 67 European Lawyer 11  
Confidence in Exclusives: *Douglas v Hello!* in the House of Lords [2007] EIPR 339

### *Book Reviews*

*Terrell on the Law of Patents* (14th ed) [1995] EIPR 408  
*Copyright Protection of Computer Software in the UK* (Lai) [2000] IPQ 367  
*Film Copyright in the European Union* (Kamina) Copyright World, April 2003 p. 26  
*International Protection of Performers' Rights* (Morgan) [2003] Ent LR 157  
*Harmonised Trade Mark Law in Europe* (Hildebrandt) [2006] JIPLP 494

Last updated 22 February 2008