



## Kathryn Pickard

Called: 2001

### Practice

Kathryn's practice covers all areas of Intellectual Property law. She draws on her scientific background to get to grips with challenging and diverse technology. Recent cases have concerned robotic warehousing, laser eye surgery, cryptocurrencies, DNA sequencing, eSIM cards, antibody testing, car batteries and pharmaceuticals. Kathryn has a particular interest in patent law and is also regularly instructed in matters concerning trade marks, passing off, designs, copyright, confidential information and trade secrets.

Kathryn has extensive experience of litigation in the High Court and Court of Appeal and represents clients in the Intellectual Property Enterprise Court, Intellectual Property Office, before the Appointed Person and at mediation. She has appeared twice in the Supreme Court: in *Warner-Lambert*, a case about validity and infringement of second-medical use patents, and in *Starbucks*, a passing off case concerning "NOW TV". She also appeared in the House of Lords in *Rhone-Poulenc Rorer*, a patent entitlement case.

Kathryn has experience of intellectual property litigation in other jurisdictions. She was a practising member of the Faculty of Advocates from 2014-2019, during which time she appeared regularly in the Court of Session. Kathryn was also instructed to act in a 10-day breach of confidence action before the Supreme Court of Gibraltar.

Kathryn is listed in the top rank of intellectual property juniors in both the Legal 500 and Chambers and Partners directories. She has been awarded Chambers and Partners "IT/IP Junior of the Year" twice (in 2018 and 2023) and was the Lawyer's 'Barrister of the Week' in July 2021. Kathryn is Consulting Editor of Halsbury's Laws Vol 97A (2021): Trade Marks and Trade Names.

### What the directories say

*"Kathryn Pickard is known for her drafting and advocacy skills. She is sensible and reasonable whilst also being thorough and tenacious"; "She is smart and knowledgeable"; "Kathryn Pickard is amazing, sharp and great at thinking. She is one of the best junior patent barristers in the UK"*

- Chambers & Partners UK Bar 2024 (Band 1)

*"Kathryn Pickard is incredibly brilliant; she is hard-working and her oral advocacy is superb"; "Kathryn is a very determined advocate with very good oral and written skills, complemented by her very strong legal and scientific background"*

- Chambers & Partners UK Bar 2023 (Band 1)

*"Kathryn is always calm and unflappable, and has a deceptively razor-sharp mind. She thinks on her feet very quickly and her advocacy is brilliant – she has a calm yet forceful nature to her advocacy, and she has a lot of credibility with the bench"*

- Legal 500 UK Bar 2024 (Tier 1)

*"Forensic mind and experience"; "great reputation with clients"; "great performer with a calm demeanour, highly rated"*

- Juve Patent Barristers – UK 2023

## Education and Qualifications

2004 Tenancy 11 South Square  
2002 Bachelor of Civil Law (Distinction), Brasenose College, Oxford University  
2001 Called to the Bar, Inner Temple  
2001 Bar Vocational Course, Inns of Court School of Law, City University  
2000 BA Law and Natural Sciences (First Class), Clare College, Cambridge University  
1996 A-levels (Double Maths, Physics & Chemistry), Hills Road VI Form College

## Recent & Reported Cases

***Generics (UK) Ltd v AstraZeneca AB* [2024] EWHC 137 (Pat)**

Diabetes treatment – patent & SPC revocation proceedings – trial listing

***Philip Morris Products SA v Nicoventures Trading* [2023] EWHC 2616 (Pat)**

Heat not burn technology – Arrow relief – validity & infringement (including equivalents)

***Wright & Ors v Coinbase & Ors* [2023] EWHC 1893 (Ch), [2023] FSR 25; and *CRYPTO Open Patent Alliance v Wright* [2023] EWHC 1894 (Ch)**

Cryptocurrencies – ownership of Bitcoin – stay of copyright, database right and passing off claims

***Kigen (UK) Ltd v Thales DIS France SA* [2023] EWHC 313 (Pat) and [2023] EWHC 1855 (Pat)**

eSIM technology – case management of FRAND proceedings – trial order & technical expert evidence

***Nicoventures Trading Ltd v Philip Morris Products* [2023] EWHC 854 (Pat)**

Heat not burn technology – patent validity and infringement

***AutoStore Technology AS v Ocado Group Plc* [2023] EWHC 716 (Pat)**

Automatic storage and retrieval systems for warehousing – robots – patent infringement and validity

***Philip Morris Products SA v Nicoventures Trading Ltd* [2022] EWCA Civ 1638; [2023] ECC 13**

Patent appeal – construction & obviousness

***Kigen (UK) Ltd v Thales DIS France SA* [2022] EWHC 2846 (Pat)**

eSIM technology – jurisdiction – implementer commenced FRAND proceedings

***Alcon Eye Care UK v AMO Development, LLC* [2022] EWHC 955 (Pat); [2022] RPC 21**

Laser eye surgery – patent validity and infringement

***Fairfax & Favor Ltd v The House of Bruar Ltd* [2022] EWHC 689 (IPEC); [2022] ECDR 12**

Spanish riding boots – design right – validity and infringement

***Illumina Cambridge v Latvia MGI Tech SIA* [2021] EWCA Civ 1924; [2022] RPC 14**

DNA sequencing – patents appeal – plausibility and obviousness

***FibroGen Inc v Akebia Therapeutics Inc* [2021] EWCA Civ 1279; [2022] RPC 7**

Anaemia treatment – patents appeal – undue burden insufficiency

***AutoStore Technology AS v Ocado Group Plc* [2021] EWCA Civ 1003; [2022] 1 WLR 561 & [2021] EWHC 1614 (Pat)**

Disclosure of without prejudice discussions in US ITC – appeal – applicable test on interim injunction

***Nicoventures Trading Ltd v Philip Morris Products* [2021] EWHC 1977 (Pat)**

Heat not burn technology – patent infringement & validity

***Anan Kasei Co Ltd v Neo Chemicals & Oxides Europe (Ltd)* [2021] EWHC 1035 (Ch); [2021] FSR 24**

Summary Judgment – importation / keeping & causation of damage– withdrawal of admissions

***Philip Morris Products SA v RAI Strategic Holdings Inc* [2021] EWHC 537 (Pat); [2021] RPC 20**

Heat not burn technology – patent infringement & validity

***Illumina Cambridge Ltd v Latvia MGI Tech SA* [2021] EWHC 57 (Pat); [2021] RPC 12**

DNA sequencing – patent infringement & validity

***Edwards Lifesciences v Meril* [2020] EWHC 2562 (Pat)**

Transcatheter heart valve – patent infringement & validity

***Akebia Therapeutics v FibroGen* [2020] EWHC 866 (Pat); [2020] RPC 15**

HIF-PH inhibitors for treatment of anaemia – patent infringement & validity

***Evalve v Edwards Lifesciences* [2020] EWHC 513 (Pat); [2020] RPC 13 & [2020] EWHC 514 (Pat); [2020] RPC 12**

Transcatheter heart valve – patent infringement & validity - public interest defence to injunction

***Teva UK Ltd v Gilead Sciences Inc* [2019] EWCA Civ 2272; [2020] RPC 5**

Pharmaceutical – Supplementary Protection Certificate

***Mexichem UK Ltd v Honeywell International Inc* [2019] EWHC 3377 (Pat)**

Mobile air conditioning units – chemical patents – declaratory relief – strike out / summary judgment

***TJX UK v SportsDirect.com Retail Ltd* [2019] EWHC 3246 (Ch)**

Trade Marks & passing off – admissibility of survey evidence

***University Court of University of St Andrews v Student Gowns* [2019] CSOH 86; 2019 S.L.T 1347**

Trade Marks & passing off – intra-UK jurisdiction – *forum non conveniens*

***Evalve Inc v Edwards Lifesciences Ltd* [2019] EWHC 3395 (Pat)**

Patent – medical devices – public interest - disclosure

***Warner-Lambert Co LLC v Generics (UK) Ltd (t/a Mylan)* [2019] UKSC 56; [2019] 3 All E.R. 95**

Second-medical use patents – infringement – sufficiency – amendment

***Parainen Pearl Shipping Ltd v Kristian Gerhard Jebsen Skipsrederai AS* [2018] EWHC 2628 (Pat); [2019] RPC 8**

Patent – repair / manufacture – exhaustion – implied licence - estoppel

***Teva UK Ltd v Gilead Sciences Inc* Case C-121/17 [EU:C:2018:585] & [2018] EWHC 2416 (Pat); [2019] RPC 4**

CJEU – Art. 3(a) SPC Regulation & Patents Court - final disposal of action

***Edwards Lifesciences LLC v Boston Scientific Scimed Inc* [2018] EWHC 1256 (Pat); [2018] FSR 31**

Final injunction – patent for medical device – carve-out of injunction

***Edwards Lifesciences LLC v Boston Scientific Scimed Inc* [2018] EWCA Civ 673; [2018] FSR 29**  
 Patent appeal – validity – transcatheter heart valve

***Edwards Lifesciences LLC v Boston Scientific Scimed Inc* [2018] EWHC 664 (Pat); [2018] FSR 30**  
 Patent infringement - election between account of profits and damages

***AstraZeneca AB v Teva UK Ltd* [2017] CSOH 150; 1018 S.L.T 52**  
 Patent – interim interdict – pharmaceutical for breast cancer

***Generics (UK) Ltd (t/a Mylan) v Yeda Research and Development Co Ltd* [2017] EWHC 2629 (Pat); [2018] RPC 2**  
 Patent – infringement and validity – Arrow relief – pharmaceutical for Multiple Sclerosis

***CCHG Ltd (t/a Vaporized) v Vapouriz Ltd* [2017] CSOH 200; 2017 S.L.T 907; [2017] E.T.M.R. 35**  
 Trade Marks – appeal to Court of Session – validity

***Accord Healthcare Ltd v Astellas Pharma GmbH* [2017] EWCA Civ 442; [2018] 1 C.M.L.R 17**  
 Marketing authorisations - stay of appeal pending judgment of CJEU

***Edwards Lifesciences LLC v Boston Scientific Scimed Inc* [2017] EWHC 755 (Pat)**  
 Final injunctions – patent for medical device – public interest

***Teva (UK) Ltd v Merck Sharp & Dome Corp* [2017] EWHC 539 (Pat)**  
 Validity of SPC for HIV medication (Atripla)

***Edwards Lifesciences LLC v Boston Scientific Scimed Inc* [2017] EWHC 405 (Pat)**  
 Patent – infringement and validity – transcatheter heart valve

***Teva (UK) Ltd v Gilead Sciences Inc* [2017] EWHC 13 (Pat)**  
 Validity of SPC for HIV medication (Truvada) – reference to CJEU

***Property Renaissance Ltd (t/a Titanic Spa) v Stanley Dock Hotel Ltd (t/a Titanic Hotel)* [2016] EWHC 3103 (Ch)**  
 Trade mark & passing off – infringement, own name defence, appeal against decision of Registrar

***Generics (UK) Ltd (t/a Mylan) v Warner-Lambert Co LLC* [2016] EWCA Civ 1006; [2017] RPC 1**  
 Validity of 2<sup>nd</sup> medical use patent (pregabalin)

***Unwired Planet International Ltd v Huawei Technologies Co Ltd & Ors* [2016] EWHC 576 (Pat)**  
 Technical trial in the mobile telecommunications patent case

***Accord Healthcare Ltd v Astellas Pharma GmbH* [2015] EWHC 3676 (Ch)**  
 Medicines Directive (2001/83/EC) – marketing authorisations – generic exemption

***Generics (UK) Limited t/a Mylan v Warner Lambert Company LLC* [2015] EWHC 3370 (Pat); [2016] RPC 16**  
 Post-trial amendment of patent – Abuse of process

***Generics (UK) Limited t/a Mylan v Warner Lambert Company LLC* [2015] EWHC 2548 (Pat); [2016] RPC 3**  
 Patent revocation and infringement action concerning a second medical use patent (pregabalin)

***Starbucks (HK) Limited & Anr v British Sky Broadcasting Group plc & Ors* [2015] UKSC 31; [2015] 1 W.L.R 2628**

Passing off – claim in relation to Hong Kong TV subscription service under the name “Now TV”

***Everseal Stationery Products v Document Management Solutions* [2015] EWHC 842 (IPEC)**  
*Patent for a business communication – revocation proceedings*

***Fresh Trading Ltd v Deepend Fresh Recovery Ltd & Anor* [2015] EWHC 52 (Ch)**  
 Copyright – claim for declaration of ownership

***Teva v AstraZeneca AB* [2014] EWHC 2873 (Pat)**  
 Patent – pharmaceutical – infringement and revocation

***Wilko Retail v Buyology* [2014] EWHC 2221 (Pat); [2015] ETMR 13**  
*Norwich Pharmacal order – trade mark infringement*

***Kennametal v Pramet Tools* [2014] EWHC 565 (Pat); [2015] RPC 4**  
 Patent – milling cutter tool – infringement and validity

***IPCom v HTC Europe* [2013] EWCA Civ 1496; [2014] RPC 12**  
 Patent – 3G telecoms – Court of Appeal review of *Glaxo* guidance on stays in patent actions

***Actavis v Boehringer* [2013] EWHC 2927 (Pat)**  
 Supplementary protection certificate – pharmaceutical – reference to CJEU

***Samsung v Apple* [2012] EWHC 2049 (Pat) and [2012] EWCA Civ 1223**  
 Dissemination of judgment – publicity notice on Apple’s website

***Samsung v Apple* [2012] EWHC 1882 (Pat); [2013] ECDR 1**  
 Registered design – expedited trial concerning infringement of Apple’s design for tablet computer

***Specsavers v Asda* [2010] EWHC 2035 (Ch); [2011] FSR 1**  
 Trade mark and passing off dispute – advertising campaign

***Fosroc International Ltd v WR Grace & Co-Conn* [2010] EWHC 1742 (Pat)**  
 Patent – validity of patent for improved cement composition

***Orbital 2 Ltd v Giger* BL O/033/10**  
 Patent entitlement dispute – wind turbine technology – application to strike out proceedings in Intellectual Property Office

***Virgin Atlantic v Premium Aircraft* [2009] EWCA Civ 1513; [2010] FSR 15, CA**  
 Patent – application for stay of inquiry pending ongoing opposition proceedings at EPO

***Mölnlycke Health Care AB v BSN Medical Ltd* [2009] EWHC 3370 (Pat)**  
 Patent – wound dressing – application to stay proceedings pending outcome of foreign proceedings and application for interim injunction

***Virgin Atlantic v Premium Aircraft* [2009] EWCA Civ 1062; [2010] RPC 8**  
 Patent appeal – aircraft seating system – claim construction and identity of skilled person

***Mölnlycke Health Care AB v Wake Forest University* [2009] EWHC 2204 (Pat)**  
 Patent revocation action – device for wound therapy

***Aerotel Ltd v Wavecrest Group Enterprises Ltd* [2009] EWCA Civ 408; [2009] Bus LR D117**  
 Patent appeal – telecommunications system

***Trafalgar Financial Futures Ltd & Anr v Hamdi & Ors* (2009)**  
 Supreme Court of Gibraltar Breach of confidence action - trade secrets in futures trading techniques

***Virgin Atlantic Airways v Premium Aircraft* [2009] EWHC 26 (Pat); [2009] ECDR 11**  
 Patent and unregistered design right dispute - Virgin Airways' Upper Class Seating system

***Honda Motor Co v Neesam* [2008] EWCA Civ 1280; [2009] 1 WLR 2406**  
 Application for permission to bring contempt proceedings against a witness who signed a false statement of truth

***Patel v Allos Therapeutics Inc* [2008] ETMR 75**  
 Cybersquatting dispute concerning challenge to decision of ICANN UDRP tribunal

***Aerotel Ltd v Wavecrest Group Enterprises Ltd* [2008] EWHC 118 (Pat)**  
 Patent action – infringement and validity of patent for a telecommunications system

***Honda Motor Co Ltd v Neesam* [2008] EWHC 338 (Ch); [2008] RPC 32**  
 Trade mark infringement action – parallel importation of Honda motorbikes

***GAT Microencapsulation Gmbh v Syngenta Ltd* O/039/08**  
 Patent revocation action – patent for microcapsules of insecticide

***Rhone-Poulenc Rorer International Holdings Inc v Yeda Research and Development Co Ltd* [2007] UKHL 43; [2008] 1 All ER 425**  
 Appeal on the law of patent entitlement

***Pan World Brands Ltd v Tripp Ltd (EXTREME Trade Mark)* [2008] RPC 2**  
 Appeal to the Appointed Person – trade mark revocation action

***Ultraframe (UK) Ltd v Fielding & Ors* [2006] EWCA Civ 1660; [2007] CP Rep 12**  
 Costs - relevance of misconduct to assessment of costs

***GE Healthcare Ltd v PerkinElmer Life Science (UK) Ltd & Ors* [2006] EWHC 214 (Pat)**  
 Patent action – infringement, validity & entitlement - patent for a scintillation proximity assay

***Ultraframe (UK) Ltd v Gary Fielding & Ors* [2005] EWHC 1638 (Ch); [2006] FSR 17**  
 99-day trial - misappropriation of business and design right infringement

## **Publications, Talks & Teaching**

*Halsbury's Laws 5<sup>th</sup> Edition Volume 97A (2021): Trade Marks and Trade Names, Vol 97A 2021* – Consulting Editor

*Civil Appeals* (2<sup>nd</sup> ed.), edited by Sir Michael Burton: Sweet & Maxwell (2013) – contributor

*The Common Law of Intellectual Property: Essays in Honour of Professor David Vaver*: Hart Publishing (2010) – contributor

*A Whiter Shade of Pale: the doctrines of estoppel, acquiescence, laches and delay*: Legal Hub, Sweet & Maxwell (2009)

*The Company Names Tribunal*: Legal Hub, Sweet & Maxwell (2009)

“*After the Robots: how strong is without prejudice protection?*” – Competition Law Association, Lunchtime Meeting, Oct 2022

“*Intention, off-label prescriptions and new use patents after Warner-Lambert v Generics [2018] UKSC 56*” – CIPIL Spring Conference 2019, University of Cambridge Centre for Intellectual Property and Information Law

2012-15 Tutor, Intellectual Property, Edinburgh University

2011-12 Supervisor, Intellectual Property Tripos, Cambridge University

## **Memberships**

Faculty of Advocates (non-practising)

Intellectual Property Bar Association

Chancery Bar Association

South Eastern Circuit