



## Kyra Nezami

Called: 2017

### Practice

Kyra joined 11 South Square as a tenant in October 2019 following the successful completion of pupillage.

Kyra has developed a broad intellectual property practice, with particular experience acting in high value patent disputes involving telecommunications technology and computing/electronic engineering and FRAND/RAND disputes. She has experience appearing in the Court of Appeal, High Court, IPEC and UKIPO. Kyra has acted as junior counsel and sole counsel in a range of intellectual property disputes, including patent, trade marks, passing off, design right and breach of confidence disputes.

Kyra's academic background is in law and computing science. She studied law as an undergraduate and specialised in Intellectual Property Law during her LLM (Distinction) before following her interest in computing to obtain an MSc in Computing Science (Distinction) which included topics such as machine learning and networks and distributed systems."

### Education and Qualifications

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|-------------------|---------------------------------------------------------------------------------------------------------------------|
| <b>2019</b>       | Tenancy at 11 South Square                                                                                          |
| <b>2018-2019</b>  | Pupillage at 11 South Square                                                                                        |
| <b>2017- 2018</b> | MSc in Computing Science (with Distinction), Imperial College London                                                |
| <b>2017</b>       | Called to the Bar, Gray's Inn                                                                                       |
| <b>2016- 2017</b> | Bar Professional Training Course, University of Law                                                                 |
| <b>2016</b>       | LLM in Intellectual Property Law (with Distinction), UCL                                                            |
| <b>2015</b>       | <i>GlaxoSmithKline Prize for Excellence in Patents and Trade Secrets</i><br>LLB in Laws, London School of Economics |

### Significant recent & reported cases

#### ***Sandoz v Bayer* [2025] EWHC 2533 (Pat)**

Sandoz sought to amend its Points of Claim to allege that certain factual allegations (denied by Bayer) relating to how Bayer had obtained its patent, and the resulting knowledge with which it had obtained interim injunctions, were relevant to how the Court would assess Sandoz's loss in its claim for compensatory damages under Bayer's cross-undertakings.

Bayer opposed that amendment and applied to strike out and/or for summary judgment on the equivalent allegations in the Points of Reply.

Michael Tappin KC sitting as a Deputy Judge of the High Court refused Sandoz's application for permission to amend and granted Bayer's application. He held that there is no authority which supports the proposition that if Sandoz were to prove the matters it alleged, the Court would be more liberal in its assessment of Sandoz's loss, or more willing to make assumptions or presumptions in

favour of Sandoz when assessing that loss.

***Sandoz v Bayer* [2025] EWHC 2201 (Pat)**

Sandoz brought a claim for an account of profits in reliance on Bayer's cross-undertaking given at the time of obtaining interim injunctions. It relied on the principle established in *Attorney General v Blake* that an account of profits may be available for breach of contract in exceptional circumstances.

Bayer successfully applied to strike out and/or for reverse summary judgment on Sandoz's claim to an account of profits. Michael Tappin KC (sitting as a Deputy Judge of the High Court) held that a correct construction of the cross-undertaking given by Bayer was that Bayer undertook to comply with any order the Court might make to compensate Sandoz for loss it had suffered as a result of the injunction. Bayer was not undertaking to disgorge profits it made as a result of the injunctions.

***MediaTek & Others v Huawei* [2025] EWHC 1016 (Pat)**

Mr Justice Meade heard MediaTek's application for the listing of an expedited FRAND trial. He refused to order expedition of the FRAND trial to October 2025 (5.5 months) from the date of the hearing, but instead listed it in February 2026 (10 months).

***DSM IP Assets BV & Anor v Algal Omega 3 Limited & Anor* [2025] EWHC 675 (Pat)**

Patent infringement and validity action concerning three patents relating to oils extracted from microorganisms, which are rich in beneficial fatty acids such as docosahexaenoic acid (DHA), and the production of such oils.

The case concerned a number of issues including Biogen sufficiency and the allowability of claim amendments involving product-by-process features.

***Sycurio Limited v PCI-PAL Plc and another* [2024] EWCA Civ 606**

The Claimant appealed the decision of Bacon J against the finding that its patent was invalid for obviousness over the prior art and, in any event, would not have been infringed on a normal construction or under the doctrine of equivalents. The question of construction arose in part from the issue of conformance of the description with the claims, and in particular whether the skilled reader would understand certain embodiments in the specification to be outside the scope of the claims as granted.

In upholding the Judge's decision on construction the Court of Appeal, Lord Justice Arnold giving the leading judgment, dismissed the appeal on ground 1 (the invalidity appeal) and held that it was therefore not necessary to determine the remainder of the appeal. The Court of Appeal's judgment gives detailed consideration to the structure of the specification and the language used to describe the options and embodiments disclosed therein.

***Dish v Aylo* [2024] EWHC 1310 (Pat)**

Aylo applied for expedition to avoid the "injunction gap" in parallel German proceedings. Meade J reviewed the authorities and found that Aylo passed the hurdle of some objective need for urgency (insofar as that was a threshold test) because there was a real risk of an adverse effect on its UK business as a result of injunctions in Germany. However, expedition was declined. Meade J placed particular weight on the potentially severe impact on other court users, and the organisation of the Patents Court list.

***Sycurio v PCI-Pal* [2023] EWHC 2361 (Pat)**

This was the trial of a claim for infringement of a patent relating to the secure processing of payments by telephone calls to a call centre. The patent was addressed to a method for reducing fraud by blocking data signals relating to the payment whilst maintaining voice communication between the user and the call centre agent. The Defendants' card payment system was alleged to infringe either on purposive construction or under the doctrine of equivalents.

The Defendants denied infringement and raised a Gillette/Formstein defence. They counterclaimed for invalidity on the basis that the Patent was obvious over three additional prior art citations (two

patents and one press release).

The judgment discusses the composition of the Skilled Team and claim construction. The court held the patent obvious over the prior art patents and not infringed. The claimants propose to seek permission to appeal from these findings.

***JC Bamford Excavators Limited v Manitou UK Limited & Anor* [2023] EWCA Civ 840**

Court of Appeal decision on the publication of the Defendant's confidential information and trade secrets in a judgment. The Court held that:

1. the information in question (recorded in the first instance judgment and various other documents) has relative confidentiality, even though it could be deduced by someone with access to the public machines, because possession of the documents provides a 'short cut'; and
2. where it is necessary to protect trade secrets, open justice must give way to a still greater principle, which is justice itself.

The Defendants, Manitou, were granted an enduring 31.22(2) order in respect of its confidential information (constituting technical trade secrets).

***O/1141/22 AXATE Trade Mark Application***

Appointed Person decision in an appeal concerning AXA's opposition to the registration of AXATE based on relative grounds.

***InterDigital v Lenovo* [2023] EWCA Civ 105**

This was an appeal by InterDigital against the decision of Mr Justice Mellor in technical trial B in these proceedings which found InterDigital's patent invalid because it was anticipated over the prior art.

***InterDigital v Lenovo Trial B* [2022] EWHC 10 (Pat)**

This was the second technical trial in the telecommunications patent case between InterDigital and Lenovo concerning InterDigital's patent portfolio.

The trial concerned essentiality and validity of a patent directed to the multiplexing and E-TFC selection procedure in High Speed Uplink Packet Access (HSUPA). InterDigital alleged essentiality to various HSUPA standards and Lenovo counterclaimed that the patent was invalid for anticipation and obviousness.

***J C Bamford v Manitou BF* [2022] EWHC 1724 (Pat)**

Trial of an action for infringement of three patents relating to the control systems for telehandlers (machines widely used in the building industry and agriculture for moving and lifting loads) which were designed to control the operation of the machine so that it operates efficiently within safe working limits. The trial judge, Hacon HHJ sitting as a judge of the High Court, held that two of the patents were invalid but would have been infringed if valid and that the third patent was valid and historically infringed by the defendant.

***Interdigital Technology v Lenovo* [2021] EWHC 2152 (Pat)**

Kyra Nezami represented Lenovo in the first technical trial in the telecommunications patent case between InterDigital and Lenovo concerning InterDigital's patent portfolio.

The trial concerned essentiality and validity of a patent directed to the configuration of a non-contention based control channel in LTE. InterDigital alleged of essentiality to various LTE (4G) standards and Lenovo counterclaimed that the patent was invalid for anticipation, obviousness, added matter and insufficiency.

***Planetart v Photobox Free Prints* [2020] EWHC 713 (Ch)**

The parties operated competing mobile apps offering online photo printing. The claimant's app was called 'FreePrints'. The defendant's app was called 'Photobox Free Prints'. Both provided a monthly allowance of free prints. The claimant alleged passing off and infringement of a trade mark for their app icon. The passing off claim was dismissed. The claim for trade mark infringement succeeded in

relation to the defendant's app icon but was dismissed otherwise. The case raised interesting questions about the protectability of descriptive phrases.

#### Selection of cases observed during pupillage

##### ***Garmin v Philips* [2019] EWHC 107 (Ch)**

Trial concerning patent validity, including attacks based on excluded subject matter and collocation of features, and infringement. Assisted Brian Nicholson QC and Chris Hall, acting for Philips.

##### ***TQ Delta v ZyXEL* [2019] EWHC 562 (Ch)**

Trial concerning patent validity and essentiality to DSL standards. Assisted Iain Purvis QC, Brian Nicholson QC and David Ivison, acting for ZyXEL.

##### ***GSK v Sandoz and Vectura* (High Court - decision pending)**

Trial of claim for passing off through get-up, including a claim to passing off by equivalence. Assisted Iain Purvis QC and Anna Edwards-Stuart, acting for Vectura.

##### ***Prosyscor v Netsweeper* [2019] EWHC 1302 (IPEC)**

Trial concerning patent entitlement and confidential information. Assisted Hugo Cuddigan QC and Chris Aikens, acting for Netsweeper.

##### ***PlanetArt v Photobox***

Passing off action. Assisted Tom Aikin, acting for Photobox, in response to an interim injunction application ([2019] EWHC 1688 (Ch)) and subsequently an application to introduce survey evidence.

##### ***Quinn Packaging v Linpac Packaging and Faerch Plast* [2019] EWHC 2119 (IPEC)**

Trial concerning patent validity, raising issues of extension of the scope of protection, loss of priority and obviousness. Assisted Anna Edwards-Stuart and David Ivison, acting for Quinn.