



Mark Vanhegan QC

Called: 1990
Silk: 2009

Practice

After reading Natural Sciences and Law at Trinity College Cambridge, Mark joined chambers in 1991. He was appointed Queen's Counsel in 2009. For many years his practice has encompassed the full range of disputes relating to intellectual property rights, information technology and media law. He regularly appears in all the Courts in England and Wales and Europe relating to IP claims, including the Supreme Court/House of Lords, and the Court of Justice, as well as in the Commercial Court, the TCC and in international arbitrations, (ICC and LCIA).

The width of his practice is also reflected in the subject matter of the disputes. In the last few years Mark has acted in cases involving technology from myriad fields including oil and gas, formula one, quantitative trading (hedge funds), pharmaceuticals, mobile telecommunications, medical devices, satellite broadcasting and airline seating units. As a result of that experience Mark is frequently instructed in highly technical commercial disputes, particularly those involving confidential information, computer software and media rights. In addition he is regularly asked to act as an Arbitrator and as a Mediator. In the latter role, Mark is able to assist parties to achieve a positive outcome which is not necessarily available through the conventional litigation route.

What the directories say

"His extensive experience dealing with IT disputes adds considerable extra value in terms of strategic approach and practical advice." - **Legal 500 (IT)**

"A first-rate silk." - **Legal 500 (IP)**

"Like a judge in terms of his calmness and gravitas." - **Legal 500 (Media & Entertainment)**

"He has a great crossover practice between IP and IT, and he is really up on the technical detail of the IT as well as the contractual aspects." "He is certainly a very able opponent." - **Chambers & Partners (IT)**

"He is technically excellent and very responsive, and has smooth advocacy skills." - **Chambers & Partners (IP)**

"He is at the top of his game, clients really like him and he's easy to deal with." "A seriously robust and strong advocate who is not afraid to disagree with judges and has an uncanny ability to get a judge on your side." - **Chambers & Partners (IP)**

"He offers sound and reliable advice and is very effective in court."- **Legal 500 (IP)**

"He is a very experienced litigator and a very persuasive cross-examiner." - **Chambers & Partners (IP)**

Education and Qualifications

Trinity College, Cambridge, (Natural Sciences (Parts IA & IB) and Law (Parts IB & II))

Inns of Court School of Law 1989-90

Called to the Bar, Lincoln's Inn, 1990

Tenant at 11, South Square, since 1991

Appointed Queens Counsel March 2009

Recent & Reported Cases

Neurim v Generics UK Limited (t/a Mylan) [2020] EWCA Civ 793

This was an appeal from the decision of Marcus Smith J in [2020] EWHC 1362 (Pat) to refuse to grant an interim injunction to prevent Mylan launching a generic prolonged-release melatonin product.

Neurim v Generics UK Limited (t/a Mylan) [2020] EWHC 1362 (Pat)

Neurim Pharmaceuticals (1991) Limited is the registered proprietor of EP(UK) 1,441,702 B1 (the Patent). Flynn Pharma Limited is registered as an exclusive licensee. The Patent claims prolonged release pharmaceutical formulations concerning the active ingredient melatonin to improve the restorative quality of sleep in a patient suffering from primary insomnia characterised by non-restorative sleep. Flynn distributes a pharmaceutical formulation claimed by the Patent under the brand name Circadin. Mylan propose imminently to release a "generic" rival to Circadin.

Philips v ASUSTEK, HTC et al [2019] EWCA Civ 2230

This was a set of three appeals from Judgments of Arnold J (as he was) concerning mobile telecommunications patents owned by Philips ([2018] EWHC 1224 (Pat), [2018] EWHC 1732 (Pat) and [2018] EWHC 1826 (Pat)).

Koninklijke Philips NV v Asustek Computer & HTC [2018] EWHC 1224, 1732 & 1826 (Pat)

Acted for Philips in 3 patent infringement and validity trials each relating to one of Philips' standard essential telecommunication patents for 3.5G, (HSPA).

W3 Ltd v Easygroup Ltd [2018] FSR 16 (Ch)

Acted for W3 against easyGroup in this complex trade mark trial relating to the use of the easyroommate mark and claims of alleged infringement by easyGroup. The trial vindicated W3's use of the easyroommate mark and resulted in

Easygroup's easy mark being declared partially invalid. The judgment further addressed the issues of honest concurrent use, descriptive marks, reputation & unfair advantage.

Generics (UK) Ltd (t/a Mylan) v Yeda Research and Development Co Ltd [2018] RPC 2 (Pat)

Acted for Mylan in this patent infringement and validity trial relating to a pharmaceutical for treating Multiple Sclerosis (Copaxone), in which Mylan successfully cleared the way for their own pharmaceutical treatment for MS. The judgment further addressed the issues as to the role of experts and the scope of the claims when considering novelty

Koninklijke Philips NV v HTC [2017] EWCA Civ 1526; [2017] 10 WLUK 235 (CA)

Acted for Philips to determine the scope of a covenant not to sue, in a licensing agreement relating to mobile telephony, governed by the law of California, which had been raised by HTC as a potential defence to infringement.

Signature Realty Ltd v Fortis Developments Ltd [2016] EWHC 3583 (Ch)

Acted for Signature in this copyright infringement trial relating to architectural drawings which had been used to obtain planning permission. The judgement further addressed issues of flagrancy and the entitlement for injunctive relief.

Magmatic Ltd v PMS International [2016] Bus. L.R. 371 [2016] E.C.D.R. 15 [2016] R.P.C. 11 (Supreme Court)

Acted for PMS in the Supreme Court in the first Registered Community Design case to reach the Supreme Court and which related to the interpretation of registered

community designs depicting monochromatic images for children's mobile suitcases

Unwired Planet International Ltd v Huawei Technologies Co Ltd & Samsung [2016] EWHC 94 (Pat); [2016] 1 WLUK 633

Acted for Samsung in this patent infringement and invalidity trial relating to the alleged infringement of one of Unwired Planet's Standards Essential Patents for telecommunications networks.

Pinterest Inc v Premium Interest Ltd [2015] EWHC 738 (Ch); [2015] E.C.C. 14; [2015] E.T.M.R. 30; [2015] F.S.R. 27

Acted for Pinterest in this Community trade mark and passing off dispute over the coining of the "Pinterest" mark, and which raised issues of the nature of various EU law defences and the basis of staying proceedings.

Rawding v Seaga UK Limited [2015] EWCA Civ 113; [2015] Info TLR 161 (CA)

Acted for Rawding in this appeal involving application to introduce fresh evidence to establish that 4 emails, said to contain a personal guarantee for the debts of a company, had been forged. Evidence admitted, appeal allowed and retrial ordered.

Weatherford Global Products v Hydropath Holdings [2015] B.L.R. 69 (TCC)

Acted for Weatherford in this TCC trial relating to Oil & Gas industry; pipelines; breach of supply agreement and breach of licence agreement, breach of confidence, ATEX regulations and Health & Safety, breach of fiduciary duty

Samsung Electronics v Apple Retail [2015] RPC 3 (CA)

Acted for Samsung in this patent infringement and validity dispute relating to mobile telephones. Adjournment of appeal by the Court of Appeal, pending the central limitation of the patents before the EPO, after the trial of the infringement and validity trial, not an abuse of process.

Collingwood Lighting Ltd v Aurora Ltd [2014] EWHC 228 (Pat)

Acted for Collingwood in this patent trial for a claim for infringement relating to the sale of fire-rated LED downlighters, novelty, inventive step, common general knowledge, redesign and alleged innocent infringement

Manvers Engineering Ltd v Lubetech Industries Ltd [2013] EWHC 3393 (IPEC)

Acted for Lubetech in this patent trial relating to equipment for catching oil leakages, involving issues of infringement, validity, anticipation, obviousness and added matter.

Nestec v Dualit [2013] RPC 32 (Pat)

Acted for Dualit in this patent infringement trial concerning coffee capsules involving issues of validity, anticipation, prior use, obviousness, infringement, right to repair, consumables and exhaustion of rights.

Samsung v Apple [2013] EWHC 468 (Pat)

Acted for Samsung in this patent trial concerning UK infringement and validity, inventive step, added matter, priority date, of this multi- jurisdictional dispute concerning mobile phone technology patents.

Redd Solicitors LLP v Red Legal Ltd [2013] ETMR 13 (PCC)

Acted for Red Legal in this trade mark infringement trial concerning the mark "REDD" in respect of legal services, infringement of community and UK trade marks, own name defence, validity, partial revocation & bad faith.

Hollister Inc v Medik Ostomy Supplies [2013] ETMR 10; [2013] FSR 24 (CA)

Acted for Hollister on this trade mark infringement appeal in the Court of Appeal relating to parallel importation of medical devices; repackaging and relabelling; account of profits, proportionality, remedies available.

Bailey v Graham (aka Levi Roots) [2012] EWCA Civ 1469 (CA); [2011] EWHC 3098 (Ch)

Acted for Levi Roots in the trial and subsequent appeal in relation to the claims to breach of confidence and contract relating to the creation and commercialisation of the famous "Reggae Reggae Sauce".

Tarbs Europe S.A -and-Republic of Macedonia, Makedoneska Radio Televizija [2012] EWHC 1691 (Comm)

Acted for the Macedonian State Broadcaster in this €80 million contractual and commercial fraud dispute relating to the creation of a national telecommunications centre in Macedonia and the international broadcasting of its state television programme between a Greek satellite television company and amongst others the Macedonian Govt and the Macedonian state broadcaster

Jones v IOS (RUK) Ltd & Ricoh Ltd [2012] EWHC 348 (Ch)

Acted for Jones in this £28 million breach of confidence claim relating to a contract dispute regarding the supply of commercial photocopiers worldwide.

Ate My Heart Inc v Mind Candy Ltd [2011] EWHC 2741 (Ch)

Acted for Mind Candy in this trade mark infringement claim brought by the popstar Lady GaGa in relation to the Mushi Monster's children's cartoon character Lady Goo Goo.

Virgin Atlantic Airways v Contour (formerly Premium) & Delta & ors [2011] Bus. L.R. 1071; [2011] R.P.C. 18; [2011] F.S.R. 27; [2011] R.P.C. 8; [2010] F.S.R.

15; [2010] R.P.C. 8; . (First instance, Court of Appeal, Supreme Court and EPO, Opp Div & Technical Board of Appeal).

Acted for Contour in this patent infringement dispute which raised issues of claim construction, validity, added matter, skilled person relating to premium class lie flat aircraft seats

Galileo International Technology LLC v European Union (formerly European Community) [2011] E.T.M.R. 22 (Ch)

Acted for the European Union relating to registration of the Galileo trade mark in respect of the European satellite navigation research programme

Becker v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (C-51/09 P); [2010] E.T.M.R. 53; [2008] E.C.R. II-3431; [2009] E.T.M.R. 38 (EUCJ)

Acted for Harman Intl. in this appeal against finding of Court of First Instance regarding the registration of the CTM "BARBARA BECKER".

Kingsway Hall Hotel Ltd v Red Sky IT (Hounslow) Ltd [2010] EWHC 965 (TCC); (2010) 26 Const. L.J. 542

Acted for Kingsway Hall in this contractual dispute relating to the terms of supply and technical state of an hotel booking computer system

Zeno Corp v BSM-Bionic Solutions Management GmbH [2009] EWHC 1829 (Pat); (2009) 32(10) I.P.D. 32070 (Pat)

Acted for Zeno in this patent infringement, validity and threats claim relating to a medical device

O2 v Hutchison 3G [2008] RPC 33 (ECJ) [2007] RPC 16 (CA), [2006] ETMR 54 & 55 (Ch)

Acted for O2 in this registered trade mark infringement and comparative advertising directive dispute, (First instance, CA and ECJ)

Rousselon Freres et Cie v Horwood Homewares Ltd [2008] RPC 30 & 31 (Ch)

Acted for Rousselon in this trade mark dispute which raised issues relating to Composite marks, Confusion, Declaratory orders, Discretion, Jurisdiction & Stay of execution

Knorr-Bremse v Haldex Brake Products [2008] FSR 30 (Pat)

Acted for Knorr-Bremse in this patent dispute relating to braking systems for commercial vehicles. Declaration of non-infringement & previous agreement between claimant's parent company and the defendant in Germany. Whether jurisdiction clause governed by Council Regulation 44/2001. Whether stay of proceedings should be granted

Triumph v Eaton [2007] EWHC 1367 (Pat)

Acted for Triumph in this patent infringement, validity & amendment trial relating to the hydraulic system for the Airbus A320 commercial aircraft

British Phonographic Industry v. Music Trading on-line et al "CD-WOW" [2007] FSR 21 (Ch) & [2007] EWCA Civ 111; [2008] 1 W.L.R. 608 (CA)

Acted for the BPI (first instance and CA) in this copyright claim involving issues of contempt and £41M damages relating to the supply of CDs through the CD-WOW website.

Mastercigars v Hunters & Frankau [2007] RPC 24 (CA); [2007] ETMR 44 (Ch)

Acted for Hunters & Frankau at trial and on appeal in this case relating to parallel importation of cigars – trade mark infringement & the nature of consent

Navitaire v. Easyjet [2006] RPC 3 & 4 (Ch)

Acted for Navitaire in this copyright & database infringement dispute relating to computer software for an airline reservation system. Subsequent applications for a retrial

Sabaf v. MFI & Meneghetti [2005] RPC 10 (House of Lords)

Acted for Sabaf (first instance, CA and HL) in this patent infringement, importation and obviousness (meaning of collocation) dispute relating to gas burners

Harrison v. Teton Valley Trading - "Chinawhite" - [2004] 1 WLR 2577; [2005] FSR 10 (CA)

Acted for Teton Valley in this trade mark validity dispute concerning the meaning of bad faith

Haberman v. Comptroller General of Patents [2004] RPC 414 (Pat)

Acted for the Comptroller of Patents in this dispute relating to the effect and construction of section 118 of Patents Act 1977

Associated Newspapers v. Express Newspapers [2003] FSR 51 (Ch)

Acted for Express Newspapers in this registered trade mark infringement and passing off dispute concerning the use of the London Evening Mail

Independiente Ltd et al v. Music Trading on line et al "CD-WOW" [2003] EWHC 470 (Ch)

Acted for the BPI in this sound recording copyright infringement dispute which addressed the issue of the nature of representative actions

Joop v. Canadelle [2002] RPC 45 (Ch)

Acted for Canadelle in this appeal from the Trade Mark Office and admission of fresh evidence on appeal

Dyson v. Hoover No 1 [2001] RPC 26; No.2 [2001] RPC 27; No. 3 [2002] RPC 42; No. 4 [2003] FSR 21 (CA) & (Pat)

Acted for Hoover (first instance and CA) in this patent infringement & validity dispute relating to the use of dual cyclones in vacuum cleaners & inquiry as to damages, extent of confidential disclosure and costs

Thibierge & Comar v Rexam [2002] RPC 18 (Pat)

Acted for Rexam in this appeal to High Court in patent entitlement proceedings

Blayney v Clogau Gold Mines [2002] FSR 14 (Ch) & [2003] FSR 360 (CA)

Acted for Clogau in this inquiry as to damages in copyright & the application of the user principle to copyright damages

Newspaper Licensing Agency v Marks & Spencer plc [2002] RPC 4 (House of Lords)

Acted for M&S (first instance, CA and HL) in this copyright dispute which addressed the meaning of typographic arrangement of published editions & fair dealing for the purposes of reporting current events

DaimlerChrysler v. Alavi [2001] RPC 42 (Ch)

Acted for DaimlerChrysler in this registered and community trade mark infringement and validity dispute concerning the use of MERC.

Wheatley v. Drillsafe [2001] RPC 7 (CA)

Acted for Wheatley (first instance and CA) in this patent infringement & validity dispute which addressed "the Protocol Questions"

Masquerade Music v Bruce Springsteen [2001] EMLR 25 (CA)

Acted for Bruce Springsteen (first instance and CA) in his copyright infringement claim against amongst others Masquerade, which addressed issues relating to title and best evidence rule

Mars v Teknowledge [2000] ECDR 99 & FSR 138 (Ch)

Acted for Teknowledge in this copyright, database right, breach of confidence case relating to coin machines and addressed the question of costs on account

I Am A Celebrity Get Me Out of Here - format rights

Memberships

IPBA

ChBA