LIST G
BARRISTERS

Melissa Marcus



Melissa specialises in intellectual property, with extensive experience in trade marks, copyright and misleading or deceptive conduct litigation. Melissa also practises in defamation law.

QUALIFICATIONS

Bachelor of Arts
Bachelor of Laws (Hons)
Master of Laws (Cantab)

CORRESPONDENCE

P 03 9225 8558
E mmarcus@vicbar.com.au

CHAMBERS

Emmerson Chambers
Level 18 Room 15
200 Queen Street
Melbourne VIC 3000

INTELLECTUAL PROPERTY

Appellate | Confidential Information | Copyright & Designs | Media & Entertainment | Patents | Trade Marks

TORT LAW

Commissions & Inquiries | Defamation

Melissa has been involved with Royal Commissions including the Royal Commission into Institutional Responses to Child Sexual Abuse, and the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability.

Melissa has also acted as an independent auditor in relation to undertakings to the ACCC pursuant to section 87B of the *Competition and Consumer Act 2010* (Cth).

Before joining the Bar, Melissa worked for Mallesons Stephen Jaques (as it then was), managing its Trade Marks Group in Melbourne, and she also worked at Linklaters in London after completing a Master of Laws at Cambridge University in the mid 1990s.

Melissa has been recognised for a number of years as a specialist adviser and is listed in the current editions of:

Doyle's Guide – Intellectual Property
Best Lawyers in Australia – Defamation and Media Law, Intellectual Property and Litigation
Lexology Index (formerly Who's Who Legal) – IP – copyright

Melissa has been a board member for St Leonard's College since 2017 and became a board member of the Presentation Sisters Property Association in 2025.

Liability limited by a scheme approved under the Professional Standards Legislation

Recent Cases

INTELLECTUAL PROPERTY

Registrar of Trade Marks v National Cancer Foundation Limited – Full Federal Court – trade marks and interpretation of section 84A of the *Trade Marks Act 1995* (Cth). Acting on behalf of the Registrar of Trade Marks. Led by Stephen Rebikoff KC.

Melbourne Bone and Joint Clinic Pty Ltd v Registrar of Trade Marks – Federal Court – registrability of trade mark. Acting on behalf of the Registrar of Trade Marks. See [2024] FCA 53.

Mobile Skips (Australia) Pty Ltd v Registrar of Trade Marks – Federal Court – registrability of trade mark. Acting on behalf of Registrar of Trade Marks in appeal to the Federal Court.

Swancom Pty Ltd v The Jazz Corner Hotel Pty Ltd – Full Federal Court – trade mark infringement. Acting on behalf of The Jazz Corner Hotel Pty Ltd. Led by Colin Golvan KC. Full Court decision – [2022] FCAFC 157. For earlier decisions see [2020] FCA 396; (No 2) FCA 328; and (No 3) [2021] FCA 729.

State Street Global Advisors Trust Company and Another v Maurice Blackburn Pty Ltd and others – Full Federal Court – intellectual property, inducing breach of contract and misleading or deceptive conduct. 'Fearless Girl' statue. Acted for Maurice Blackburn. Led by Colin Golvan KC. Full Court decision - [2022] FCAFC 57. For decisions below see [2019] FCA 1464; (No. 2) FA 137; and (No. 3) FCA 568.

Bendigo & Adelaide Bank Limited v Community First Credit Union Pty Ltd – Full Federal Court – trade marks. Acted on behalf of Bendigo & Adelaide Bank Limited. Full Court, led by Tony Bannon SC – [2021] FCAFC 31. See also on costs, (No. 2) (2021) FCAFC 62. Before Federal Court, led by Colin Golvan KC see *Community First Credit Union Pty Ltd v Bendigo & Adelaide Bank Limited* [2019] FCA 1553, and on costs (No. 2) [2019] FCA 1976.

Freighter Group Pty Ltd v Maxiparts Limited - Federal Court – trade marks, breach of contract, injunctions. Acted for Respondent. Led by P Wallis KC.

Sportsbet Pty Limited v ArcNames Ltd and Anor – Supreme Court – trade mark infringement, freezing orders, anti suit injunction. Acted for defendants. Led by C Dimitriadis KC (main proceeding) and K Foley KC (anti suit injunction).

Australian Nurseryman's Fruit Improvement Company Limited and another v Agrikal Pty Ltd and others – Federal Court – infringement of Plant Breeders Rights. Acted on behalf of the Respondents.

Red Hill Wine Pty Ltd and others v Red Hill Vineyard Pty Ltd and others – Federal Court – trade mark infringement and misleading or deceptive conduct. Acted on behalf of the Respondents.

Telstra Corporation Limited v Singtel Optus Pty Ltd – Supreme Court of Victoria – misleading or deceptive conduct - urgent application on behalf of Telstra for interlocutory injunction relating to Optus' advertisements relating to its mobile phone network. Led by M Collins KC and Jim Peters KC. Acted for Telstra.

FRM AG Pty Ltd v RFM NT Pty Ltd and others – Federal Court – trade mark infringement, misleading or deceptive conduct, passing off. Cross claim. Let by P Wallis KC. Acted for Respondents.

Funtastic and another v IE Enterpises and another – Supreme Court – trade marks - urgent interlocutory application for search orders by Funtastic. Acted for Funtastic.

Roundtable on Sustainable Palm Oil v Apperley Holdings Pty Ltd – Federal Court - trade mark proceedings and misleading or deceptive conduct. Led by Colin Golvan KC.

Wolveridge Architects Pty Ltd v Sorrento Moon Pty Ltd and Ors – Federal Court – copyright infringement proceedings. Acted on behalf of Respondents.

Nesor Nominees Pty Ltd v Big Boys BBQ Pty Ltd – Federal Court - trade mark infringement action. Acted on behalf of Applicant. Default judgment.

Radnor Pty Ltd v Ricegrowers Limited – Federal Court - trade mark infringement. Acted on behalf of the Applicant.

Telstra Corporation Limited v Phone Directories Company Australia Limited and Ors – Full Court of the Federal Court – trade marks - registrability of the word yellow. See [2015] FCAFC 156 - Full Court decision concerning Telstra's application to register the word Yellow. Led by G Schoff KC. Acted for Telstra.

P*hone Directories Company Australia and others v Telstra Corporation Limited* – Federal Court – trade marks - registrability of word yellow. See [2014] FCA 373 – 2 separate appeals (de novo) from the TMO relating to Telstra's application to register the word Yellow. Led by G Schoff KC. Acted for Telstra.

DTA (Australia) Pty Ltd v Italia Ceramics Pty Ltd – Federal Court – trade mark infringement, misleading or deceptive conduct and passing off. Led by G Schoff KC. Acted for the Applicant.

Fire Protection Association of Australia v Simpro Software (2014) – Federal Court - copyright infringement. Led by M Collins KC. Acted for the Applicant.

DEFAMATION

Al Muderis v Nine Network Australia Pty Limited and Ors - Federal Court – defamation. Acting on behalf of the

Respondents. [2025] FCA 909, decision of Abraham J. Lengthy defamation proceedings against Nine Network Australia Pty Limited and others in which the Respondents succeeded with the defence of contextual truth (section 26 of the Defamation Act 2005) and public interest (section 29A). Led by Matt Collins KC. Matter is now on appeal.

Huifeng Liu and another v Zhen Kang – Federal Court – defamation. Acting for the Applicants in a long-running defamation proceeding.

Peter Spencer v Australian Community Media and Others – Supreme Court – defamation. Acting on behalf of the Defendants.

Mulvany v Hive & Wellness Australia Pty Ltd and another (formerly Capilano Honey) – Victorian Court of Appeal – defamation and injurious falsehood. Acted for Defendants. See [2019] VSCA 122 - appeal by Mulvany from decision of Dixon J to not vary injunctions previously made.

Hive and Wellness Australia Pty Ltd v Mulvany – Supreme Court of Victoria – defamation. See [2019] VSC 273 – acting for Hive and Wellness in relation to strike out application of defamation defences.

Capilano Honey Ltd v Mulvany [2018] VSC 672 – Supreme Court of Victoria – defamation. Hearing before Dixon J in which Mr Mulvany sought to vary injunctions imposed upon him previously by the Supreme Court in NSW.

Dean Al Sesalim v The Herald & Weekly Times and Anor – Supreme Court – defamation. Acted for the plaintiff. Led by G Schoff KC.

Contract Control Services Pty Ltd & Anor v Regional Publishers (Western Victoria) Pty Ltd and Anor (2016) – Supreme Court - injurious falsehood and defamation. Acted for defendants. Led by M Collins KC.

Antonio Madafferi v The Age Limited and Ors – Supreme Court – defamation. See [2015] VSC 682, [2016] VSC 103. Acted for the plaintiff. Led by G Schoff KC.

MMP Greater Geelong v Hayeswinckle Holding – County Court of Victoria - defamation action. Led by M Collins KC).

Sharkey v The Age Company – Supreme Court – defamation. Acting for The Age. Let by M Collins KC.

ROYAL COMMISSIONS

Acting for the Salvation Army Southern Territory in relation to the Royal Commission into Institutional Responses to Child Sex Abuse, including appearing before the Royal Commission in Adelaide in October 2015 in relation to Case Study 33 and in Sydney in December 2016 in relation to Case Study 49 (led by Dr Matt Collins KC).

Acting on behalf of Monash University in relation to appearance of employee before the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability in 2020.

GENERAL COMMERCIAL

AHG WA (2015) Pty Ltd and Others v Mercedes-Benz Australia/Pacific Pty Ltd – Federal Court - contract, economic duress, franchisor dispute, unconscionable conduct. Acted on behalf of the Respondent in lead up to trial as part of the interlocutory team, dealing with interlocutory disputes (2023), led by Kathleen Foley SC. Also acted on behalf of the Respondent in relation to preparing for appeal (2025), again led by Kathleen Foley SC, working on

a mock appeal. Assisted with submissions in relation to special leave application in 2025.

Deb Fryers v Shane Jacobson & Anor – County Court – general commercial. Acted for Ms Fryers in relation to a claim for breach of contract and quantum meruit.

Access Solutions Pty Ltd v Gamet Pty Ltd – County Court - retail tenancies, conversion. See [2017] VCC 1563. Dispute concerning lockout of tenant by landlord involving conversion of goods and business interruption.

Barry Plant Group Pty Ltd v Northcote Realty Pty Ltd – Supreme Court of Victoria – urgent injunction application relating to potential breach of franchise agreement.

Deerfield Productions Pty Ltd v Evergreen Films Pty Ltd - County Court acted for Australian subsidiary of US film production company in relation to commercial dispute brought by Australian composer.

Schiavello v Exquisite Pty Ltd and another – County Court – breach of contract. See [2015] VCC 4 (29 May 2015.

Winbet (Aust) v Racing Vic – Supreme Court of Victoria - action relating to calculation of levy payable by Winbet to Racing Vic. Led by M Collins KC.

TRADE MARKS OFFICE

Melissa also regularly appears before the Trade Marks Office. A list of recent cases before the Office is available upon request.

Memberships

Victorian Bar - Commercial Bar Association

Intellectual Property Society of Australia and New Zealand (IPSANZ)

Intellectual Property Society of Australia and New Zealand (IPSANZ) - Committee Member Victorian Division