

Clare Cunliffe



Clare Cunliffe practises in intellectual property and general commercial litigation

QUALIFICATIONS

Bachelor of Laws (Hons) (Melb)
Bachelor of Arts (Hons) (Melb)
Diploma Intellectual Property
Law (Bristol)

CORRESPONDENCE

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CHAMBERS

Emmerson Chambers
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COMMERCIAL LAW

Appellate | Commercial Arbitration | Competition | Consumer Law

INTELLECTUAL PROPERTY

Appellate | Confidential Information | Copyright & Designs | Information Technology | Media & Entertainment | Patents | Privacy & Data Protection | Telecommunications | Trade Marks

PUBLIC LAW

Administrative Law | Judicial Review

Clare has particular expertise in intellectual property litigation, with extensive experience in patent revocation and infringement proceedings (including pharmaceutical patent injunctions) and patent oppositions, trade mark infringement and revocation proceedings, non-use applications and oppositions, and copyright litigation, as well as litigation concerning the misuse of confidential information in the pharmaceutical context.

Before joining the Bar, Clare was a Senior Associate at Corrs Chambers Westgarth in Melbourne where she practised in intellectual property litigation, focusing on patent litigation, and general commercial litigation. Clare has also worked in the United Kingdom, at boutique intellectual property firm Powell Gilbert, and at Allens. From 2005 to 2018, Clare co-authored the Australian chapter of Kluwer's Global Patent Litigation. She is also writing the Australian chapter of a text called Patent Enforcement for Globe Law and Business.

Clare is listed in Doyle's Guide to Leading Victorian Intellectual Property Barristers (2021) as a pre-eminent junior counsel and in Doyle's Leading Intellectual Property Junior Counsel – Australia (2021) as a pre-eminent junior counsel. <https://doylesguide.com/leadin...>

She is listed in Chambers Intellectual Property: The Bar (2020) as a Band 1 practitioner. Her review reads:

"Operating across the IP spectrum, Clare Cunliffe is particularly well known for her "encyclopedic knowledge of patent law and patent decisions in Australia and beyond, and her ability to bring that knowledge to bear in cases." This makes her "a first choice for large, complex patent infringement and validity proceedings," it being further noted that "leading IP senior counsel tend to choose her as their junior." More than one interviewee places her in the front rank of junior counsel practising at the IP Bar."

and in the Legal 500 Asia-Pacific (2020) as a Leading Junior. Her review reads:

"Her knowledge of patent law and her ability to grasp complex technology sets her apart in this field. Clare is a leading junior in patent, trade mark, copyright, consumer law and competition matters."

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Recent Cases

Lundbeck v Sandoz (acting for Lundbeck in a long running dispute as to escitalopram, which is presently in the High Court of Australia)

Juno v Celgene (acting for Celgene in relation to Revlimid, in a proceeding involving a compound patent and seven method of treatment patents)

Merck v Sandoz (acting for Merck in relation to its compound patent for sitagliptin)

ACCC v AFG (acting for the ACCC against Australasian Food Group in a case where the ACCC alleges AFG engaged in exclusive dealing)

MMD Design and Consultancy Limited v Camco Engineering Pty Ltd (acting for MMD Design and Consultancy Limited, initially in a preliminary discovery application and then in patent infringement

and revocation proceedings)

ACCC v Megasave (acting for the ACCC against Megasave in circumstances where the ACCC alleges that Megasave made false representations to potential franchisees)

Toolgen v Fisher (acting for Mr Fisher in a case about the patentability of gene editing technology, involving novel issues of support and enablement)

VMS v Sarb (acting for Sarb in a long running dispute concerning parking technology)

Sportsbet Pty Ltd v Crownbet Pty Ltd (acting for Sportsbet in a dispute about Crownbet's right to use the name Sportingbet. Sportsbet obtained an injunction)

Samsung Bioepis v Fresenius (acting for Samsung Bioepis in a dispute against Fresenius relating to Fresenius' patent for a formulation of adalimumab, which resulted in Fresenius surrendering its patent)

Teva v Boehringer Ingelheim (acting for Teva in a dispute against Boehringer Ingelheim concerning three patents protecting tiotropium)

Roche v Sandoz (acting for Roche in a dispute concerning rituximab, where Roche obtained interlocutory injunctive relief against Sandoz based on four method of treatment patents)

Pokemon Company International, Inc v Redbubble Ltd (acting for Pokemon in a copyright case against Redbubble)

Memberships

From 2012 to 2015, Clare was the secretary of the Intellectual Property Society of Australia and New Zealand (IPSANZ). From 2016 to 2018, she was the Treasurer. From 2018 she became Vice President of IPSANZ, a position she still holds. She has been a committee member of the International Association for the Protection of Industrial Property (AIPPI Australia) from 2013. In 2016 she became treasurer and chair of the continuing professional development committee, a position she still holds. She is also vice chair of AIPPI's global amicus curiae committee.