

THREE NEW SQUARE

INTELLECTUAL PROPERTY



CHARLES BRABIN

Year of Call: 2013

PRACTICE AREA

All aspects of Intellectual Property law, including patents, trade marks, passing off, copyright, designs, confidential information and contractual disputes involving intellectual property or technical subject matter.

EDUCATION AND TRAINING

2016-2017: Pupillage with Miles Copeland, Geoffrey Pritchard, Simon Malynicz and Dominic Hughes

2013-2014: Paralegal at leading London specialist IP firm

2012-2013: BPTC, College of Law

2011-2012: GDL, College of Law

2007-2011: DPhil Biochemistry (Genetics), University of Oxford

2004-2007: BA (Hons) Biological Sciences, First Class, University of Oxford

BACKGROUND

Prior to being called to the Bar, Charles studied Biological Sciences at undergraduate level, staying on to complete a DPhil in developmental genetics under Prof. Alison Woollard. Charles' research involved using molecular biology, comparative genomics and bioinformatics to elucidate the mechanisms of stem cell development in the nematode worm *Caenorhabditis elegans*.

CASE EXPERIENCE

Charles' practice is in line with Chambers' specialisms, spanning a broad range of IP areas, including patents, copyright, trade marks, passing off, confidential information and design law. Charles has been involved in proceedings in IPEC, the High Court and the Court of Appeal and the UKIPO; subject matter has extended to damages enquiries, parallel imports, competition law, jurisdiction and remedies, Norwich Pharmacal relief, the concept of 'image rights' and sound trade marks. In addition to publicly referenced cases, Charles has worked on numerous matters which have not reached court.

Selected Cases

Nasdaq v Finage and ors (on-going)

Acting for claimant, led by Douglas Campbell KC, in relation to allegations of trade mark infringement, passing off, misuse of confidential information and conspiracy.

Alcatel Lucent and Nokia v Amazon Digital UK Ltd and ors (settled pre-RAND trial in March 2025)

Acting for the claimant in patent infringement proceedings relating to the provision of streaming video services, and addressing issues of RAND principles raised by Amazon.

See [2024] EWHC 1921 (Pat) (24 July 2024) addressing *inter alia* Alcatel's strike-out application relation to Amazon's RAND case, the relevance of NEPs (as opposed to just SEPs) to RAND licences, Nokia's jurisdiction challenge and Amazon's applications for interim licence relief and expedition of interim licence and RAND trials.

NHS Scotland v Accord and ors CAT Case No: 1671/5/7/24 (stayed after issue pending determination of Court of Appeal proceedings)

Acting for the claimants in damages claim before the Competition Appeals Tribunal under Chapter I and Chapter II of the Competition Act 1998, relating to the sale and supply of hydrocortisone tablets and in particular findings of the Competition and Markets Authority of cartel agreements and pricing abuse. Permission to serve out of the jurisdiction was granted in relation to service on Allergan Unlimited (based in Ireland) and Intas (based in India)

Heraeus Noblelight v First Light Lamps [2023] EWHC 1950 (Pat)

Junior counsel acting for Heraeus with Geoffrey Pritchard in High Court patent litigation reaching trial in June 2023, in relation to arc lamps for uses including laser pumping and hair removal.

NHS Scotland v Warner-Lambert (settled in summer 2023, shortly before trial)

Junior counsel in damages inquiry arising from cross-under takings given in the litigation over the second medical use patent for pregabalin: see [2021] EWHC 2182 (Ch); [2022] EWHC 189 (Pat); [2022] EWHC 1856 (Ch). Noted as "potentially the most complicated follow-on damages inquiry ever heard before the Patents Court"; The Lawyer "Top 20 Cases of 2023".

Interdigital v Oppo (settled in spring 2023, shortly before trial)

Junior counsel, led by Daniel Alexander KC, in patent infringement action relating to discontinuous reception (DRX) modes of mobile telephones

3 New Square, Lincoln's Inn,
London WC2A 3RS

T +44 (0)20 7405 1111

F +44(0)20 7405 7800

clerks@3newsquare.co.uk

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Sound trade mark: 'Intel bong' (2022)

Sole counsel appearing before UKIPO for Intel, defending the trade mark application against refusal on absolute grounds.

Sound trade mark: 'L&G jingle' (2022)

Sole counsel appearing before UKIPO for L&G, defending the trade mark application against refusal on absolute grounds.

Fiberweb v Geofabrics (settled January 2022, shortly before trial)

Junior counsel acting for Fiberweb in seeking a declaration of non-infringement in relation to their Hydrotex 4 product, a geocomposite railway trackbed liner, following finding of infringement by Fiberweb's Hydrotex 2 product.

Geofabrics v Fiberweb [2022] EWHC 2363 (Pat)

Junior counsel acting for Fiberweb in the damages inquiry arising from finding of infringement of Geofabrics's patent by Fiberweb's Hydrotex 2 product.

International Pipeline Limited v IKUK and ors (trial vacated July 2022, shortly before trial)

Acting for defendants in proceedings involving allegations of conspiracy, breach of contract, breach of confidence as well as of infringement of patents, copyright and design rights.

Add2 Research and Development Ltd v dSPACE Digital Signal Processing & Control Engineering GMBH & Anor [2021] EWHC 1630 (Pat)

Junior counsel for the Claimant, led by Guy Burkill KC, in a patent infringement case interface circuits used in hardware-in-the-loop (HIL) simulations for *inter alia* automotive engine testing.

'ZÜRICH' Trade Mark Application (2021)

Sole counsel appearing before UKIPO, representing Birkenstock, defending the trade mark application against refusal on absolute grounds.

IP Bridge v Huawei (2022)

Junior counsel acting for IP Bridge in relation to multiple applications within FRAND proceedings.

Centrix Inc v Kwikbolt Ltd (trial vacated in July 2021, shortly before trial)

Junior counsel in patent infringement action, acting for the patentee, relating to a system for non-permanently fastening together panels, in particular in the context of the aerospace manufacturing industry.

Optis v Apple (2021)

Junior counsel in High Court application relating to US and UK confidentiality regimes and disclosure in the context of patents declared essential to telecommunications standards.

Conversant v Huawei and ZTE (2020; settled prior to appeal hearing)

Junior counsel in appeal and cross-appeal of *Conversant v Huawei and ZTE* [2020] EWHC 14 (Pat) (see below)

Conversant v Huawei and ZTE [2020] EWHC 14 (Pat)

Second junior counsel in High Court trial concerning infringement, validity and essentiality of multiple patents relating to mobile telecoms.

Conversant v Apple (2018-2020; settled prior to trial)

Junior counsel in High Court case concerning infringement and validity of a patent relating to the remote control of electronic devices.

Huntapac Produce Ltd v Kettle Produce Ltd (2020)

Sole counsel for Kettle in UKIPO opposition proceedings (see O-258-20).

Dansac and Hollister v Medik (settled in 2020, shortly before trial)

Junior counsel in High Court trade mark infringement action relating to parallel importation of medical products, including strike-out/summary judgment application ([2019] EWHC 104 (Ch)) based on the recent CJEU judgment in *Junek v Lohmann & Rauscher*. This is believed to be the first case addressing the implications of this CJEU ruling, which affects the rights of trade mark owners and parallel importers, in particular the relevance of the 'BMS criteria', including the need to give notice.

Quest v PopSockets (settled in 2019, shortly before trial)

Junior counsel in High Court patent dispute relating to popular multifunctional accessories for sticking to the back of smartphones.

'MODERN ROMANCE' Trade Mark (2019)

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Sole counsel in trade mark dispute (see IPO Decision O-226-19) between members of the 1980s Modern Romance pop band, concerning ownership of goodwill and the ability of respective members to register the band's name as a trade mark.

Kallo v Whole Earth Sweetener Company (settled in 2019, shortly before trial)
Junior counsel in High Court trade mark and passing off dispute relating to household food products.

'MINIKICKS' Trade Mark (2018)

Sole counsel in Trade mark dispute, heard in the IPO (see O-826-18) between MiniKicks and Little Kickers, both of which offer football-based activities for children.

Huntapac Produce Ltd v Kettle Produce Ltd (2018)

Sole counsel representing Kettle at the UKIPO in trade mark dispute involving consolidated opposition and cancellation proceedings relating to marks for, *inter alia*, vegetables and vegetable derived-products.

RELEVANT PUBLICATIONS

- Brabin, C. 2023. 'Sounding Off' – Review of industry trends and legal developments and challenges in relation to sonic branding and sound trade marks (<https://www.citma.org.uk/resources/sounding-off-review0323.html>)
- Brabin, C. 2018. The Nagoya Protocol: the legal framework and challenges ahead. RHS Yearbook.
- Brabin, C. 2015. Toxic traces of autumn: will exDNA make it from the forest floor to the pharmacy shelf? Life Sciences Intellectual Property Review. April Issue.
- Brabin, C. 2014. Nagoya Protocol: searching for living gold. Life Sciences Intellectual Property Review. November Issue.
- Brabin, C. 2014. Intellectual property law in the realm of biology - striking the right balance. European Intellectual Property Review. 36:11

PERSONAL INTERESTS

Beekeeping, sheep husbandry, photography, botany and the natural world in general

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