

THREE NEW SQUARE

INTELLECTUAL PROPERTY



DANIEL SELMI

Year of Call: 2013

A junior barrister who impresses with his commerciality, combined with a depth of technical knowledge aided by his background in life sciences academia.

"Daniel is a pleasure to work with and is a real team player. He is highly responsive and incredibly industrious." "Daniel Selmi has excellent oral advocacy and a commanding presence."

Chambers & Partners, 2023

"Daniel is phenomenally bright, and able to master complex technologies and tricky legal arguments with consummate ease. He wears his terrific expertise very lightly (and so is easy to work with), and he creates a collaborative atmosphere among those working with him...he is really passionate about getting the right results for clients."

Legal 500, 2023

"Daniel is frighteningly brilliant and very personable." "His level of knowledge is phenomenal and he is able to grasp the case quickly. I class him as a rising star." "He mastered the technologies of the patents at issue incredibly rapidly, with his formidable intellect. He has been a fantastic advocate."

Chambers & Partners, 2022

"Daniel is extremely bright. He possesses a fantastic combination of strong technical knowledge, calm logical thinking, and commercial acumen."

Legal 500, 2022

"Very approachable, provides responsive, well thought out advice and is an impressive advocate." "He's got a technical background and is very good on the science. He's also commercial, and a very good team player who is quick to roll up his sleeves."

Chambers & Partners, 2021

"Excellent knowledge of trade mark laws and provides a clear explanation of his views on the merits of cases."

Legal 500, 2021

BIOGRAPHY

Daniel is ranked as a Leading Junior in both the Legal 500 and Chambers & Partners for intellectual property law. He practices in all areas of intellectual property law, including patents, trade marks, passing off, copyright, registered designs and design rights and confidential information and commercial disputes involving the same. He is a contributing author to Terrell on the Law of Patents (19th edition, 2020), the leading practitioner textbook on UK patent law.

Daniel is currently instructed on some of the most high-profile litigation at the IP Bar, including: *Dr Reddy's and NHS Scotland v Warner-Lambert* (second medical use patent for pregabalin; selected by The Lawyer as one of the "Top 20 Cases of 2023"); *Nokia v Oppo* (patent for 4G LTE transmission; Juve Patent "Top 10 patent case of 2022"); *Swatch v Samsung* (trade mark infringement of the Swatch Group's famous Swiss watch brands); *Lidl v Tesco* (trade mark infringement in respect of Tesco's clubcard); and *M&S v Aldi* (UK registered design infringement of M&S's "light up gin bottles"). A selection of cases that Daniel has been instructed on can be found below and on his downloadable CV (current as of February 2023).

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Prior to coming to the Bar, Daniel completed an undergraduate Masters degree in Molecular and Cellular Biochemistry at the University of Oxford, achieving a Distinction in the preliminary examinations and graduating with 1st class (Hons) in 2005. He was the only life scientist accepted onto the Life Sciences Interface Doctoral Training Centre (LSI DTC) programme at the University of Oxford, which provided comprehensive postgraduate training in mathematical, physical, computational and engineering science techniques. As a result of this breadth, he is able to grasp all areas of science and technology. Daniel subsequently undertook a DPhil (PhD) in Condensed Matter Physics (bionanotechnology) at Oxford titled *"DNA Lattices and Protein Arrays: Novel Approaches to Biological Structure Determination"*, which was awarded in 2010. His DPhil thesis was examined as *"exceptional for a PhD student"* and *"timely, thought-provoking, and ground-breaking"*. He subsequently continued his research at postdoctoral level and was elected a Fellow of St Cross College, Oxford University.

During his subsequent legal training, Daniel obtained the top merit-based scholarship for both the law conversion (GDL) and Bar training (BPTC) years from Lincoln's Inn. During his GDL year, he won the prestigious ESU-Essex Court Chambers National Mooting Competition and went on to represent the UK (and win) the 13th Commonwealth Mooting Competition, where he was named the best individual mooter in the Commonwealth final.

EDUCATION AND TRAINING

- **2013-2014:** 12-month pupillage at Three New Square, to Tom Hinchliffe, Tom Mitcheson, Simon Malynicz and Geoff Pritchard, covering all aspects of Intellectual Property law
- **2012-2013:** Bar Professional Training Course, City University
Awards: Lord Mansfield Scholarship (top BPTC scholarship); Shelford Pupillage Scholarship
Mooting: Winner (UK team) & Best Individual Mooter, 13th Commonwealth Mooting Competition, Cape Town, South Africa (Awarded the Commonwealth Shield, 2013)
- **2011-2012:** Graduate Diploma in Law, Oxford Brookes University (Distinction)
Awards: Hardwicke Entrance Award; Lord Bowen Scholarship (top GDL scholarship)
Mooting: Winner of the ESU-Essex Court Chambers National Mooting Competition (Awarded the Silver Mace, 2012); Winner of the Oxford Inter-Varsity Moot (2012)
- **2009-2011:** St Cross College, Oxford University, Junior Research Fellow
Awards: BBSRC Postdoctoral Research Fellowship (postdoctoral award – research grant ranked 1st/~150 overall)
- **2006-2009:** St Hugh's College, Oxford University, DPhil in Condensed Matter Physics (Bionanotechnology): *"DNA Lattices and Protein Arrays – Novel Approaches to Biological Structure Determination"*
Awards: EPSRC Doctoral Prize Fellowship (postdoctoral award – top 10% of PhD students)
- **2005-2006:** St Hugh's College, Oxford University, Life Sciences Interface Doctoral Training Centre (transitioned from the Life-Sciences into the Mathematical, Physical & Computational Sciences)
Awards: EPSRC Graduate Studentship (PhD scholarship)
- **2001-2005:** St Hugh's College, Oxford University, MBiochem (Hons) degree in Molecular and Cellular Biochemistry (Distinction, 1st Class)
Awards: Mary Lunt Scholarship (undergraduate scholarship at St Hugh's college); Book Prize (Outstanding academic performance in Finals); Fulford Scholarship (top graduate scholarship at St Hugh's college)

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CASE EXPERIENCE

PATENTS

Court work

- Dr Reddy's, **NHS Scotland & Ors v Warner-Lambert** *Case management*: [2022] EWHC 189 (Pat); [2022] EWHC 284 (Pat). *Disclosure & Confidentiality*: [2022] EWHC 1856 (Ch). *IPC Appeal*: [2023] EWCA Civ 73 (Acting for NHS Scotland along with NHS England, Wales and Northern Ireland in "potentially the most complicated follow-on damages inquiry ever heard before the Patents Court"; The Lawyer "Top 20 Cases of 2023"). 5-week common issues trial and damages inquiry in October 2023)
- **Nokia v OnePlus & Ors** *Pre-trial applications* [2022] EWHC 1548 (Pat); [2022] EWHC 1745 (Pat). *Trial*: [2022] EWHC 2814 (Pat). *Consequential*: [2022] EWHC 3395 (Pat) (NEP patent for low pass filtering the amplitude component in 4G LTE mobile phones, including resisting pre-trial amendment application to add a further patent, and admissibility of technical evidence)
- **AutoStore v Ocado** [2021-2022] (3-patent action relating to automated storage solutions, involving infringement / validity issues and a prior user defence under s.64 PA 1977. Unable to attend 4-week trial in March 2022 due to another trial; The Lawyer "Top 20 Cases of 2021")
- **Alcon v. Aspire & Actavis** *Trial*: [2021] EWHC 1026 (Pat). *Consequential*: [2021] EWHC 1881 (Pat) (Revocation action brought to claim damages under a cross-undertaking in respect of an expired patent, fluprostenol isopropyl ester for treating glaucoma and ocular hypertension)
- **Resman AS v. Tracerco Ltd.** [2016-2019] (Reservoir monitoring patent. Settled shortly before 1 week trial in February 2019)
- **TQ Delta LLC v. ZyXEL** [2017] EWHC 3305 (Pat) (2-patent action concerning ADSL2/2+, VDSL2 technology)
- **Align Technology, Inc. v. ClearCorrect** [2017-2019] (4-patent action relating to orthodontic appliances. Settled shortly before 2-week trial in March 2019)
- **Teva v. Astra Zeneca** [2017] (Multi-jurisdictional 3-patent action concerning Fulvestrant; seconded barrister)
- **Napp Pharmaceutical Holdings Ltd. v. Dr Reddy's Ltd. & Sandoz Ltd.** [2016] EWHC 1517 (Pat) (Pre-trial hearings, 2-patent action concerning trans-dermal patches for pain relief)
- **Wobben Properties GmbH v. Siemens** [2015] EWHC 2114 (Pat) (Method of operating a wind power station; seconded barrister)
- **Celltrion v. Biogen & Others** [2015] (3-patent action concerning rituximab dosage regimes; seconded barrister)
- **TCT Mobile Europe SAS v. Telefonaktiebolaget LM Ericsson** [2014-2015] (3 patents with the highest technical rating of 5, concerning speech coding technology for mobile telecommunications; seconded barrister)

UK Intellectual Property Office & European Patent Office

- BL O/348/22 **AutoStore v Ocado** (Entitlement reference under Section 12 of the PA 1977 in respect of a load handling device patent)
- BL O/019/22 **Chiesi Farmaceutici S.P.A** (The first ever UK IPO hearing granting an application for a paediatric extension to SPC/GB11/051 after expiry of the underlying SPC)
- EPO opposition to EP 2 156 751 [2020-2021] (Novel Sweetener Having Sugar-Like Taste And Production Method And Use Of The Same)

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INTELLECTUAL PROPERTY

- EPO opposition to EP 2 793 618 [2019] (Beverage Comprising Steviol Glycosides).

TRADE MARKS / PASSING OFF / COPYRIGHT / DESIGNS

Trade Marks & Passing Off

Court work

- **Lidl v Tesco Bad faith & survey applications**: [2022] EWHC 1434 (Ch); [2022] E.T.M.R. 39; [2022] EWHC 1650 (Ch); [2022] EWCA Civ 1433; [2023] E.C.C. 3; [2023] E.T.M.R. 6 (Trade mark infringement / passing off / copyright action in respect of Tesco's Clubcard. Contested strike out (bad faith) and survey evidence applications. Awaiting trial judgment)
- **Revive A Phone Limited v WeFix** [2022] EWHC 2195 (Ch) (UK IPO appeal to the High Court, treatment of weakly distinctive elements under Section 5(2)(b))
- **Swatch Group v Samsung Trial**: [2022] EWHC 1127 (Ch); [2023] F.S.R. 1. *Consequential*: [2022] EWHC 1895 (Ch); [2022] Costs L.R. 1255; [2022] 10 C.L. 149 (Trade mark infringement in respect of third-party watch face apps bearing The Swatch Group's famous Swiss watch brands on the Samsung app store. Appeal listed in December 2023)
- **Argex N.V. v Argex-Argila** [2021] (Trade mark infringement / passing off action, expanded clay goods. Settled the week before 4-day trial in October 2022)
- **Lyle & Scott v American Eagle** [2022] (Breach of contract and passing off action in relation to fashion clothing. Settled prior to 7-day trial in November 2022)
- **Christian Dior Couture S.A. v (1) Luxoptics Ltd (2) B2C18 Ltd** [2021] (Contested *Norwich Pharmacal* disclosure application in relation to Christian Dior eyewear)
- **Equisafety Ltd v Battle, Hayward & Bower, Ltd** [2021] EWHC 3296 (IPEC); [2022] E.T.M.R. 11 (IPEC action for trade mark infringement / passing off in relation to equine safety products)
- **Puma v Nike** [2021] EWHC 1438 (Ch); [2021] E.T.M.R. 44 (High Court trade mark appeal in respect of UK IPO decision O/415/19 for the mark FOOTWARE)
- **Lease Comparison Limited v. Carparison Limited** [2019] (IPEC passing off action in relation to car leasing services. Settled before trial)
- **Fidelity v. Fidelis PTR**: [2018] EWHC 667 (Ch). *Trial*: [2018] EWHC 1097 (Pat). *Consequential*: [2018] EWHC 2074 (Ch) (Trade mark infringement/passing off of Fidelity's trade marks, financial / insurance services. Settled shortly before appeal in November 2019)
- **TVM Management Co Ltd v. District Enforcement Ltd** [2019] (IPEC trial involving copyright infringement and passing off of mooring maps and journey calculators. Settled several days before trial in September 2019)
- **Breitling v. Moshe & Ors** [2019] (IPEC trial in relation to trade mark infringement of Breitling's marks; unreported)
- **Prefabricated Access Suppliers v Circle Safety Training Ltd** [2019] (IPEC trial involving trade mark infringement / passing off of various marks for mobile scaffolding towers. Settled the week before trial in October 2019)
- **HBI Europe Gmbh v. MMS Wholesale Ltd.** [2018] (IPEC trial relating to trade mark infringement/passing off of HBI's RAW trade marks for rolling trays. Settled the week before trial in December 2018)
- **Pho Holdings Limited v. Pho Street Limited** [2017] (High Court passing off action in relation to Vietnamese restaurants)
- **Pizza Express v One Delivery Limited** [2016] (IPEC trademark/copyright infringement/passing off action in respect of Pizza Express's marks)



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- **Penyards Property Management v. Mr Graham Evans & Others** [2015] (Trademark infringement/passing off action in relation to property letting services)

UK Intellectual Property Office & EU Intellectual Property Office

Daniel also has extensive experience at the UK IPO and the EU IPO and has been one of the most frequently instructed barristers at the UK IPO (a full list of decisions is available upon request).

Notable cases include:

- O/247/21 (UK IPO trade mark opposition to Nairn's POPPED OATS marks)
- O/773/19 (Appeal to the Appointed Person following this opposition by Which? to "which dish", including a security for costs application)
- O/029/20 [2020] WLUK 556 (Appeal to the Appointed Person in relation to an opposed figurative trade mark for "Lens Me" for technical goods in class 9)
- O/776/19 & O/777/19 (Long running UK IPO parallel revocation and opposition proceedings against the trade mark ABANKA)
- O/640/19 (One of the first, if not the first ever, extended form passing off action in relation to services)
- O/385/19, [2019] 6 WLUK 746 (Appeal to the Appointed Person concerning invalidity of CHEVRON trade marks)
- O/032/19, [2019] 1 WLUK 316 & O/056/19 (Trade mark invalidity appeal to the Appointed Person concerning the trade mark Reprolene)
- O/556/17 (UK IPO opposition proceedings brought by MGM to the mark MGM MUTHU HOTELS)
- O/439/14, [2015] R.P.C 15 (Trade mark appeal to the Appointed Person concerning invalidity and revocation claims brought by the applicant in respect of Indian Motorcycle marks)

Copyright

- **Lidl v Tesco** [2023] (Copyright infringement allegations in respect of Tesco's Clubcard. Awaiting judgment)
- **Illiquidx Ltd v Altana Wealth Ltd & Anor** [2021] EWHC 647 (Ch) (High Court action for breach of contract, breach of confidence and/or trade secrets and copyright infringement)
- **Full Fortune Intellectual Ltd v Coobuy Ltd** [2020] (IPEC action for passing off / copyright infringement in relation to footwear products)
- **Original Fabrics Ltd v JT Griffiths & Co Ltd** [2020] (IPEC copyright infringement action in relation to fabric designs)
- **Voodoo v. Rollic Games & Hero Games** [2020] (High Court action for copyright infringement concerning one of the most successful free-to-play video games)
- **Lawspeed Ltd v. Jackie Kerr Ltd** [2019] (IPEC action concerning copyright in privacy notices)
- **Amtico International Limited v. Luxury Flooring** [2019] (High Court action relating to copyright infringement in vinyl flooring)
- **TVM Management Co Ltd v. District Enforcement Ltd** [2019] (IPEC trial involving copyright infringement and passing off. Settled several days before trial in September 2019)
- **Goulding v Bedford** [2017] (Several interim applications and IPEC damages inquiry in relation to copyright infringement/licensing of swim-wear images. The claimant sought damages in excess of £90,000 and was awarded less than £200. Unreported)
- **Pizza Express v. One Delivery Limited** [2016] (IPEC trademark/copyright infringement/passing off action in respect of Pizza Express's marks)

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- Enigma Imports (UK) Ltd v. **Vina Trade (Europe) Ltd** [2016] (Summary judgment application and 2-day IPEC trial concerning copyright and UK/C-UDR infringement in statues. Settled on the first day of trial in June 2016)

Design Rights

- **Marks & Spencer** v Aldi [2023] EWHC 178 (IPEC) (IPEC action for UK registered design infringement in relation to “light up gin bottles”. Featured in all mainstream news outlets, including the BBC, the Independent, the Standard and the Daily Mail)
- **Sony Interactive Entertainment Europe Ltd** v Junzhi Wang [2020] (UK IPO application for invalidity asserting Sony’s Dual Shock 4 controller)
- **Global One-Pak Ltd** v. Easy Cleaning Solution Ltd [2019] (IPEC action for infringement of Community registered designs in trigger sprays)
- **Target Sports Ltd** v. Legend Darts Ltd [2019] (IPEC action for infringement of unregistered design rights in darts packaging)
- Enigma Imports (UK) Ltd v. **Vina Trade (Europe) Ltd** [2016] (Summary judgment application and 2-day IPEC trial concerning copyright and UK/C-UDR infringement in statues. Settled on the first day of trial in June 2016)

OTHER INTELLECTUAL PROPERTY

Confidential Information

- **Illiquidx Ltd** v Altana Wealth Ltd & Anor [2021] EWHC 647 (Ch) (High Court action for breach of contract, breach of confidence and/or trade secrets and copyright infringement)

Damages inquiries / accounts of profits

- Dr Reddy’s, **NHS Scotland & Ors** v Warner-Lambert *Case management*: [2022] EWHC 189 (Pat); [2022] EWHC 284 (Pat). *Disclosure & Confidentiality*: [2022] EWHC 1856 (Ch). *IPC Appeal*: [2023] EWCA Civ 73 (Acting for NHS Scotland along with NHS England, Wales and Northern Ireland in “potentially the most complicated follow-on damages inquiry ever heard before the Patents Court”; The Lawyer “Top 20 Cases of 2023”). 5-week common issues trial and damages inquiry in October 2023)
- **Equisafety Ltd** v Battle, Hayward & Bower, Ltd [2021] EWHC 3296 (IPEC); [2022] E.T.M.R. 11 (IPEC account of profits following the trial of this action for trade mark infringement of the Mercury mark)
- **Fit Kitchen** v Scratch Meals Ltd & Ors [2020] EWHC 2069; [2021] EWHC 2986 (Ch); [2022] EWHC 1525 (IPEC); [2022] 5 WLUK 350 (IPEC account of profits following the trial of this action for trade mark infringement of the FIT KITCHEN mark, including a number of contested interim applications)
- Unilever v. **various** [2019] (4 separate damages inquiries relating to trade mark infringement/passing off of UNILEVER marks)
- Health & Case Management Limited v **The Physiotherapy Network (UK) Ltd** [2018] EWHC 869 (QB) & [2019-2020] (Damages inquiry for *sui generis* database infringement, including contested applications for security for costs, specific disclosure, permission to amend pleadings and strike out).

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- *Goulding v Bedford* [2016] (Several interim applications and IPEC damages inquiry in relation to copyright infringement/licensing of swim-wear images. The claimant sought damages in excess of £90,000 and was awarded less than £200. Unreported)

Professional negligence

- **[Party A]** v [Party B] [2017-2020] (Junior Counsel in a multi-million-pound professional negligence claim against a leading global intellectual property firm)

PUBLICATIONS & OTHER LEGAL INTEREST

Scientific

Publications

- Adamson R.J., Sharp T.H., Selmi D.N., Goddard A.D., Gilbert R.J.C., Turberfield, A.J. and Watts A. *Probing GPCR-G-alpha interactions: A functional study by EM and SPR*. European Biophysics Journal with Biophysics Letters **42** (2013) S172-S172
- Selmi D.N., Adamson R.J., Attrill H., Goddard A.D., Gilbert R.J.C., Watts A. and Turberfield A.J. (2011) *DNA-templated protein arrays for single-molecule imaging*. Nano Letters 11(2): 657-660
- Selmi D.N., Attrill H., Watts A., Gilbert R.J.C. and Turberfield A.J. (2011) *Observation of Structural Changes on Activation of the NTS1 G-Protein-Coupled Receptor on DNA-Templated Protein Arrays by Cryo-EM*. Biophysical Journal 98(3)
- Selmi D.N. and Turberfield A.J. (2009-2011) *Method of Preparing Polypeptides for Cryo-Transmission Electron Microscopy (Cryo-EM) and Structure Determination Using DNA Lattices*. WO 2011/012844 A1

Talks

- Invited speaker at a mini symposium on GPCR structure and function, Department of Biochemistry, Oxford University (2011)
- Invited speaker at the 50th Anniversary Symposium of the British Biophysical Society, Cambridge, UK (2010)
- Invited speaker at the Biophysical Society 54th Annual Meeting, San Francisco, California, USA (2010)
- Invited speaker at the 5th International Conference on Foundations of Nanoscience, Snowbird, USA (2008)

As a second-year undergraduate student, Daniel developed a keen interest in neuropharmacology. He proposed the notion of complex neuropsychobiological interactions between certain drugs, which rationalised a large amount of experimental data and led to publications in the Journal of Neural Transmission and Journal of Psychopharmacology, where he was attributed.

Legal

- Contributing author to Terrell on the Law of Patents (19th edition 2020), the leading practitioner textbook on UK patent law

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- Daniel has been an invited speaker on intellectual property law and procedure to delegates from the Chinese Ministry of Commerce and Judges of the Supreme Court of the Republic of China. He has also been interviewed by Bloomberg Law for his trade mark expertise and has published several commentaries on legal cases
- Daniel remains active in mooting as a coach and as judge. He coached the Oxford team at the Oxford IP International Moot in 2017 to the semi-finals and was a judge in 2019. He was also a judge of the Kings College London IP Moot in 2020

PROFESSIONAL ASSOCIATION MEMBERSHIPS

- Chancery Bar Association
- IP Bar Association

PERSONAL

- Competitive Olympic weightlifter. Currently English national standard for age group and training for various Masters competitions
- Competitive powerlifting between 2007-2009 (Varsity and national, awarded two half-blues. Deadlifted 270kg at 81.2kg bodyweight. Oxford University Sportsman of the Year, 2008)
- Various martial arts

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