

# THREE NEW SQUARE

INTELLECTUAL PROPERTY



DR RICHARD  
DARBY

Year of Call: 2023

UPC Representative: 2023

European Patent Attorney: 2013

## Practice Areas

Richard has been involved with intellectual property law since 2009. He started his career as a patent attorney at a top intellectual property law firm. During this time he regularly represented clients at hearings at the European Patent Office: defending and attacking patents, and convincing EPO examiners to grant applications.

Since transferring to the Bar in 2023, he has extended his practice beyond patents to the full range of intellectual property rights, including trade marks, copyright, passing off, designs, supplementary protection certificates, and contractual disputes involving intellectual property.

## Education and career

- 2024-present: Barrister at Three New Square Intellectual Property
- 2023-2024: 12 month pupillage at Three New Square supervised by Jeremy Heald, Katherine Moggridge and Stuart Baran covering all aspects of intellectual property law
- 2022-2023: Postgraduate Diploma in Legal Practice (Bar), BPP University (Distinction)
- 2020-2022: Postgraduate Diploma in Law, BPP University (Distinction)
- 2010-2011: Postgraduate Certificate in Intellectual Property Law, Queen Mary University of London (Distinction)
- 2009-2022: UK and European Patent Attorney, Carpmaels & Ransford
- 2006-2009: Doctor of Philosophy (PhD) in Materials Science, University of Cambridge
- 2002-2006: Master of Science (Natural Sciences), University of Cambridge (1<sup>st</sup> Class)

## Prizes and awards

- Buchanan Prize from Lincoln's Inn for Bar Course performance (2023)
- Lord Denning Scholarship from Lincoln's Inn (2022)
- Daniel Simons Scholarship for outstanding advocacy performance (2015)
- Departmental Demonstrator Prize (2008)
- Goldsmiths' Prize for best performance in fourth year exams (2006)
- Armourers and Brasiers' Prize for best performance in third year exams and Braybrook Prize for best Natural Sciences performance within college (2005)
- Awarded an Armourers and Brasiers' bursary and elected a scholar of Selwyn College (2004)

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## Selected Cases

### Patents

***Amazon.com, Inc. v InterDigital VC Holdings, Inc. (ongoing)***

Claim for declaration of RAND licence terms and revocation of patents relating to video compression technologies.

***Nominal Sum Ltd v R L Jones Industries Ltd (ongoing)***

Claim for patent infringement and a counterclaim for revocation relating to loft flooring systems.

***National Tube Straightening Service Ltd v Brisko Scaffolding Limited (ongoing)***

Claim for patent infringement and passing off, and counterclaim for revocation relating to a loading bay safety gates.

***Fujikura Ltd v Sterlite Technologies Ltd [2025] EWHC 3181 (Pat)***

Claim for patent infringement and counterclaim for revocation relating to fibre optic cables.

***The Coca-Cola Company EP3345490 [2025]***

EPO opposition proceedings on a patent for beverages containing high potency sweeteners.

***ModernaTX Inc v Pfizer Ltd [2024] EWHC 1695 (Pat)***

Claim for patent infringement and counterclaim for revocation relating to betacoronavirus mRNA vaccines.

### Trade Marks

***David Lloyd Leisure Limited v BOCA Sports Gardens LLC (ongoing)***

Claim for trade mark infringement and passing off in relation to health, fitness, leisure and wellness goods and services.

***Huawei Cloud Computing Technologies v Kooapps LLC (awaiting decision)***

Consolidated invalidity and opposition proceedings at the UK IPO.

***Athleta (ITM) Inc. v Sports Group Denmark A/S [2025] EWCA Civ 1584***

Appeal to the Court of Appeal on issues of genuine use, distinctive character, and visual similarity in relation to trade mark registrations, and variant forms and goodwill in relation to passing off.

***GBA Logistics Ltd v GBA (Holdings) Ltd OI/1011/25***

Revocation of trade mark registrations for non-use at the UK IPO.

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## ***EasyGroup Ltd v Easy Hotel SDN. BHD***

Application for default judgment in relation to trade mark infringement via targeting of UK consumers.

## ***Athleta (ITM) Inc. v Sports Group Denmark A/S [2024] EWHC 2449 (Ch); [2024] E.T.M.R. 43***

Claim for trade mark infringement and passing off and a counterclaim for invalidity and revocation relating to activewear.

## **Copyright**

### ***The Beauty Tech Group Limited v Nooance SAS (ongoing)***

Claim for copyright and trade mark infringement and passing off, and counterclaim for invalidity and declarations of non-infringement (including of registered designs) in relation to LED light therapy masks.

### ***Treacy and another v Benam and another (ongoing)***

Claim involving copyright infringement of architectural drawings, passing off and breach of contract.

## **Observed / Contributed to as a Pupil**

### **Patents**

*Koninklijke Philips N.V. v Guangdong Oppo Telecommunications Corpo, Ltd* (settled after trial)

*Samsung Bioepis UK Limited v Janssen Biotech, Inc.* [2024] EWHC 1984 (Pat)

*Celltrion Inc. v Genentech* [2025] EWHC 174 (Pat)

### **Trade marks/passing off**

*Vagabond Skor Varberg AB v Vagabond Wear UK Ltd* IPEC (ongoing)

*Oatly AB v Vitasoy O/0421/24*

### **Design rights**

*Marks and Spencer Plc v Aldi Stores Ltd* [2024] EWCA Civ 178; [2024] F.S.R. 16

### **IP contractual disputes**

*Astrazeneca UK Ltd v Tesaro Inc* [2024] EWCA Civ 78

### **SPCs**

*Halozyme, Inc. v The Comptroller-General of Patents, Designs and Trade Marks* [2024] EWHC 3202 (Pat)

*Merck Serono S.A. v The Comptroller-General of Patents, Designs and Trade Marks* [2023] EWHC 3240 (Ch)

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## **Experience as a European Patent Attorney**

### *EPO Board of Appeal*

T 1270/18 - EP1831586 "Toothed Belt Comprising a Tooth Support Made of Fabric" in the name of ContiTech Antriebssysteme GmbH (representing Gates Corporation as Opponent) [2021]

T 2029/18 - EP2098224 "Rapidly Disintegrating Gelatinous Coated Tablets" in the name of Johnson & Johnson Consumer Inc. (representing the proprietor) [2021]

T 2120/16 - EP1757257 "Adaptable Absorbent Articles" in the name of Johnson & Johnson Consumer Inc. (representing the proprietor) [2020]

T 170/14 - EP1813207 "Surgical Instrument with Electronic Safety-Interlocks" in the name of Ethicon Endo-Surgery, Inc. (representing the proprietor) [2019]

T 282/12 - EP1773302 "Rapidly Disintegrating Gelatinous Coated Tablets" in the name of Johnson & Johnson Consumer Inc. (representing the proprietor) [2017]

T 797/14 - EP2029178 "Radiopharmaceutical Products" in the name of GE Healthcare Limited (representing Lantheus Medical Imaging, Inc as Opponent) [2017]

T 1501/13 - EP1587881 "Multi-Layer Effect Pigment with the Outermost Layer having a Larger Thickness" in the name of BASF Corporation (representing the proprietor) [2016]

T 2121/11 - EP1025812 "An Intravascular Stent Having Tapered Struts" in the name of Nitinol Development Corporation (representing the proprietor) [2013]

### *EPO Opposition Division*

EP3430448 "Method of Manufacturing Silicone Hydrogel Contact Lenses Having Reduced Rates of Evaporation" in the name of CooperVision International Limited (representing Johnson & Johnson Vision Care, Inc. as Opponent) [2022]

EP2575770 "Process for Making Dry and Stable Hemostatic Compositions" in the name of Baxter Healthcare SA (representing Ethicon, Inc. as Opponent) [2022 and 2019]

EP3500536 "Composite Heat Insulation System" in the name of Wacker Chemie AG (representing Celanese International Corporation as Opponent) [2022]

EP2201266 "V-Ribbed Belt and Method for Manufacturing Same" in the name of Gates Corporation (representing proprietor) [2021]

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EP3116527 “Method for Preparing Human Plasma Proteins” in the name of Laboratoire Français du Fractionnement et des Biotechnologies (representing CSL Behring GmbH as Opponent) [2021]

EP2590810 “Ophthalmic Lens Molds with Low Levels of UV Light Transmittance, Ophthalmic Lenses Molded Therein, and Related Methods” in the name of CooperVision International Limited (representing Johnson & Johnson Vision Care, Inc. as Opponent) [2021]

EP2760917 “Silicone Hydrogels Having Improved Curing Speed and Other Properties” in the name of Johnson & Johnson Vision Care (representing the proprietor) [2021]

EP2493698 “Security Devices and Methods of Manufacturing Them” in the name of De La Rue International Limited (representing Koenig & Bauer AG as Opponent) [2021]

EP1517615 “Method and Device for Liquefying of a Powdery Fat Based Product Particularly in the Production of Chocolate and the Like” in the name of Société des Produits Nestlé S.A. (representing Mars, Incorporated as Opponent) [2020]

EP2234781 “Method for Cast Molding Contact Lenses” in the name of Novartis AG (representing Johnson & Johnson Vision Care, Inc. as Opponent) [2019]

EP1773302 “Rapidly Disintegrating Gelatinous Coated Tablets” in the name of Johnson & Johnson Consumer Inc. (representing the proprietor) [2019]

EP2598317 “Ophthalmic Device Molds and Related Methods” in the name of CooperVision International Holding Company, LP (representing Johnson & Johnson Vision Care, Inc. as Opponent) [2018]

EP2098224 “Rapidly Disintegrating Gelatinous Coated Tablets” in the name of Johnson & Johnson Consumer Inc. (representing the proprietor) [2018]

EP2470453 “Pouch for Preparing a Beverage” in the name of PSR Profitable Strategic Redeployment Sarl (representing Mars, Incorporated as the Opponent) [2017 and 2018]

EP2319560 “Injection Device” in the name of Cilag GmbH International (representing the proprietor) [2017]

EP2598320 “Ophthalmic Device Molds Formed from Water-Soluble Vinyl Alcohol Copolymer, Ophthalmic Devices Molded Therein, and Related Methods” in the name of CooperVision International Holding Company, LP (representing Johnson & Johnson Vision Care as Opponent) [2017]

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EP2013391 "A Wipe Comprising a Hydromolded Fibrous Structure" in the name of The Procter & Gamble Company (representing Johnson & Johnson Consumer Companies, Inc. as Opponent) [2017]

EP2461767 "Silicone Hydrogel Lenses with Water-Rich Surfaces" in the name of Alcon Inc. (representing Johnson & Johnson Vision Care as Opponent) [2017]

EP2265430 "Method and System for Making Ophthalmic Devices Using Stereolithography and a Single Moulding Surface" in the name of Novartis AG et al (representing Johnson & Johnson Vision Care, Inc. as Opponent) [2015]

EP1940971 "Multilayer Effect Pigment" in the name of BASF Corporation (representing the proprietor) [2015]

EP2076188 "System and Methods for Determining an Analyte Concentration Incorporating a Hematocrit Correction" in the name of Nipro Diagnostics, Inc. (representing LifeScan, Inc. as Opponent) [2015]

EP1661465 "Fat-Based Confections Comprising Flavor Components" in the name of Mars Incorporated (representing the proprietor) [2014]

EP2029178 "Radiopharmaceutical Products" in the name of GE Healthcare Limited (representing Lantheus Medical Imaging, Inc as Opponent) [2013]

EP1587881 "Multi-Layer Effect Pigment with the Outermost Layer having a Larger Thickness" in the name of BASF Corporation (representing the proprietor) [2013]

EP2134624 "Packaged Products and Array of Bandoleer of Packaged Products" in the name of Mars, Incorporated (representing the proprietor) [2013]

EP1025812 "An Intravascular Stent Having Tapered Struts" in the name of Nitinol Development Corporation (representing the proprietor) [2011]

## *EPO Examining Division Hearings*

EP3217860 "Method for Quantifying Plaque in Pet Animals" in the name of Mars, Incorporated [2022]

EP3479780 "Multi-Layer Tissue Thickness Compensator Comprising Resilient and Sacrificial Collapsible Layers" in the name of Ethicon LLC [2021]

EP3427197 "Method and System for Improving Size Selection of Garments" in the name of The LYCRA Company UK Limited [2021]

EP2630955 "Immediate Release and Sustained Release Ibuprofen Dosing Regimen" in the name of Johnson & Johnson Consumer Inc. [2021]

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EP1590081 “Method of Preparation of Non-Pyrophoric Copper-Alumina Catalysts” in the name of BASF Corporation [2015]

EP2164756 “Packaged Food Products” in the name of Mars Incorporated [2014]

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