

THREE NEW SQUARE

INTELLECTUAL PROPERTY



STUART BARAN

Year of Call: 2011

“Junior of the Year : IP, IT and media”

Legal 500, 2018

"He is very bright and gets on top of all of the key issues while also being close to the detail. ...

He is very client-friendly and switched-on."

Chambers & Partners, 2019

"With an already formidable presence on his feet, backed with a first-class brain and friendly and open client skills, he is one of the rising stars of the IP Bar."

Legal 500, 2019

"In-demand junior who continues to impress instructing solicitors with his work ethic, client care, commerciality and intelligence. He is recognised for his experience in trade mark litigation, and is also well known for his representation of life sciences companies in high-value patent and SPC litigation. [...] Excellent junior whose superb judgement would befit a much more senior barrister. [...] A star of the future: very user-friendly, easy to discuss things with and clear in his writing and oral presentation."

Chambers & Partners, 2018

"Impresses sources with his innate intelligence, enthusiasm and confidence. A chemist by training, he has proven his mettle in cases involving patents and trade marks, and has further won admiration for his advocacy in the IPEC ... Extremely hard-working and shows judgment beyond his level of experience ... Exceptionally bright and brilliant with clients, he's going to be a star."

Chambers & Partners, 2016

"The best trade mark senior junior at the Bar - no one knows more about the case law"

Legal 500, 2015

"An up-and-coming junior whose appearances as sole junior in deeply complex matters belie his recent call ... he has also appeared in major trade mark disputes ... He's very bright and doing a lot of big technical cases, ones which would often go to someone of more senior call." Chambers & Partners, 2015

"Despite only being called in 2011, he is already developing a reputation as a hard-working junior with a confident grasp of the subject ... A real star in the making ... He is exceptionally bright and brilliant with clients."

Chambers & Partners, 2014

PRACTICE

Stuart was Legal 500 Junior of the Year: IP, IT and Media for 2018. In 2019 he was appointed to a three-year term as one of two Standing Counsel to HM Comptroller-General of Patents, Designs and Trade Marks.

He practises in all areas of intellectual property, including: patents, SPCs, trade marks, passing off, copyright, designs and confidential information. He prides himself on being an approachable

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and modern commercial advocate who enjoys working as part of a team and with all different types of clients and colleagues.

Despite being of relatively recent call, Stuart already has experience as a junior on the biggest of IP cases. He was sole junior to Eli Lilly in its celebrated multi-national battle against Actavis that culminated before the UK Supreme Court with a judgment that defines the modern approach to patents construction. He also appeared before the CJEU in Luxembourg on the ground-breaking *Sky v. SkyKick* (trade marks) and *Sandoz v. Searle* (SPCs) cases.

Stuart has appeared unled in the Court of Appeal, High Court, the IPEC, the General Court of the European Union, and the European Patent Office, as well as in trade mark registration proceedings (*ex parte* and *inter partes*, at first instance and on appeal) in the UKIPO. He enjoys working with solicitors, patent and trade mark attorneys from a variety of different settings, including in-house lawyers, specialists and non-specialists.

Stuart was recognised as a ranked junior in Chambers and Partners (2014 edition) before his first full year as a tenant was complete, and has been ranked each year since. He is also a “leading junior” for intellectual property in the Legal 500. In 2017/18 he was awarded “2018 Junior of the Year: IP, IT and Media” by Legal 500, and nominated for the equivalent award from Chambers & Partners.

EDUCATION

- 2011—12: 12-month pupillage at Three New Square, to Tom Hinchliffe, Simon Malynicz, Tom Mitcheson and Geoff Pritchard, covering all aspects of intellectual property law.
- 2010—11: Outstanding, Bar Professional Training Course - BPP Law School, Holborn
- 2009—10: Distinction, Graduate Diploma in Law - City Law School
- 2005—09: DPhil, Physical and Theoretical Chemistry, “Gas Phase Detection Using Diode Lasers” – Balliol College, Oxford•2001—05: First Class Hons, MChem Chemistry with Quantum Chemistry (Distinction) Jesus College, Oxford
- 1999: AQA National Award for 100% in all papers, GCSE French

OTHER IP INTERESTS

- 2016—date: Contributing editor of Terrell on the Law of Patents and supplements
- 2013—date: Contributing IP Editor, White Book (responsible for commentary on Part 63 CPR and relevant parts of Part 45 (costs) and Section 2 (Injunctions))
- 2014: Contributor to UK AIPPI submissions regarding second medical use patent claims
- 2012: Occasional contributor to IPKat (part of the team at Three New Square blogging as the Advokat)
- 2008—2012: Chairman, Oxford International Intellectual Property Moot and Conversazione

SELECTION OF RECENT CASES (* - UNLED)

PATENTS / SPCS

Stuart’s patents practice covers all technologies, but with a particular emphasis on life sciences cases. He has appeared at all levels up to and including the Supreme Court – for parties who own patents and parties who challenge them.

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- **Eli Lilly v. Genentech** (* – sole oral advocate for SPC action) – large-scale patents case: infringement and validity issues regarding biologic treatments for RA and psoriasis. Unled for the SPC trial. High Court; appeal on foot.
- **Accord v. RCT** – patents/SPC validity case concerning epilepsy drug, lacosamide. High Court; appeal settled
- **Actavis UK v. Eli Lilly & Co (pemetrexed litigation)** – seminal pharmaceutical case which shaped the modern law of patent infringement in the UK; involved complex issues of foreign law as well as fundamental questions of domestic patent law – sole junior in the High Court, Court of Appeal and Supreme Court
- **Merck Sharp & Dohme v. Shionogi** – action to revoke patent over HIV drug – High Court
- **Sandoz v. G.D. Searle** – SPCs – action regarding Art 3(a) SPC Regulation – High Court trial and successfully resisted (unled) expedition application* in Court of Appeal against a silk; appeal and preliminary reference to CJEU ongoing
- ***Coloplast v. MacGregor Healthcare** – full patents trial, involving multiple experts and XX by videolink (IPEC)
- **Idenix Pharmaceuticals, Inc. v. Gilead Sciences, Inc.** (sole junior) – this was a complex 3-week pharmaceutical patents trial in the High Court and Court of Appeal
- **Merck Sharp and Dohme Ltd v. ONO Pharmaceutical Co Ltd** (led for trial; *interim hearing unled) – High Court – biotechnology; patents
- **GSK v. Wyeth Holdings** – patents – action for revocation concerning BEXSERO® vaccine – High Court
- **Hospira v. Cubist Pharmaceuticals** – patents action regarding the antibiotic daptomycin – High Court and Court of Appeal (forthcoming)
- **Teva UK Ltd v. Boehringer Ingelheim International GmbH** – patents, SPCs, pharmaceuticals – High Court
- **Resolution v. H. Lundbeck A/S** (sole junior for trial) – also interim hearings in relation to recusal of judge (including one unled) [2013] EWHC 3160 (Pat); [2013] EWCA Civ 1515
- ***FH Brundle v. Richard Perry** – unled, sole counsel throughout this action for unjustified threats; application for judgment in default; publicity orders; Defendant forged letter from judge; further application for Extended Civil Restraint Order (this case established the IPEC's jurisdiction to make such orders) – IPEC

TRADE MARKS AND PASSING OFF

Stuart has a flourishing IP practice in courts and tribunals at all levels, dealing with all manner of registration disputes as well as representing brand-owners and defendants in infringement actions. He has appeared successfully (and unled) in fora from the UKIPO upwards, and is one of the few junior advocates with experience of appearing several times as sole advocate in the General Court of the EU.

- **Glaxo Wellcome v. Sandoz and Vectura** – passing off; goodwill in colour; aspects of pharmaceutical regulation – High Court
- **Sky plc v. Skykick** – trade mark infringement, availability of defences, own name defence, EU law and its transposition into domestic law – High Court, CJEU
- **Sky v. Microsoft Corporation** – “SKYDRIVE” infringement trial – High Court
- **Comic Enterprises Ltd v. Twentieth Century Fox** (“GLEE”) [2014] ETMR 46 – infringement; defences; form of order; series marks – High Court, Supreme Court (settled before hearing).
- ***HALLOUMI** – Various cases for the Republic of Cyprus regarding protection of the HALLOUMI certification and collective marks – CJEU and GCEU

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- ***The Coca-Cola Company v. OHIM / EUIPO** ("MASTER") T-480/12 – appeal; registrability; unfair advantage; EUIPO's failure to take measures to implement first successful judgment on appeal from GCEU – GCEU
- **Société des Produits Nestlé SA v. Cadbury UK Ltd** (colour purple) [2013] EWCA Civ 1174 – Court of Appeal – colour marks; registrability; signs
- **Timesource and Woolley v. Ultimate Products Ltd** [2014] EWHC 1919 (Ch) – passing off, account of profits – High Court
- ***Sussex Heights (Brighton) Ltd v. Coady** [2012] EWPC 57 – sole counsel in this action for passing off – PCC
- ***Re: ARTBANK** O-169/14 – UKIPO – Resisting revocation proceedings and Opposition to later application; successfully resisted appeal to the Appointed Person (O-223/15)
- ***Re: TEAM GB** – UKIPO – ex parte hearings for the British Olympic Association in relation to registering the TEAM GB mark.

OTHER IP CASES

- **Timesource and Woolley v. UPGS UK Ltd** [2014] EWHC 1919 (Ch) – account of profits
- **UPGS v. Timesource** – Unlawful interference with trade
- ***Ayman and anor v. Reem al Bawadi Restaurant Ltd** ("REEM AL BAWADI") – trade marks; passing off; enforcement of Tomlin order; costs

PERSONAL

A keen violinist, Stuart has played often as an orchestra member, soloist and chamber musician. He is a School Governor at a state academy school in the Midlands. Other interests include food (reading, cooking, and eating), city travel (especially to Italy and the USA) and orchestral concerts.

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