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2014

The Essential Law Careers Guide

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Intellectual property

IP work can be divided into two main areas: hard and soft intellectual property. 'Hard' intellectual property relates to patents, while 'soft' intellectual property covers trademarks, copyright, design rights and passing off. IP barristers advise on issues that range from commercial exploitation to infringement disputes and agreements that deal either exclusively with IP rights or with IP rights in the wider context of larger commercial transactions.

Stuart Baran came to the Bar from a background in science: chemistry was his passion throughout school and his time at the University of Oxford. He first mixed law with the sciences during a pre-university spell of work experience with some patent attorneys – an experiment which resulted in a very positive reaction indeed. “The opportunity came through my chemistry teacher, because it was an area in which he had worked during his time in industry,” Stuart explains. “I knew that I wanted to study chemistry at university, but following that experience I was already starting to consider IP law as an option after graduating, which I thought would be an interesting way to stay involved with science without actually working at the lab bench. I looked into it in a bit more detail when I got to university, at which point I began to also appreciate the independent lifestyle that barristers have; so I decided to pursue a career at the IP Bar.”

After graduating, Stuart continued his chemistry studies, completing a DPhil during which he had the opportunity to teach classes at Oxford, something which he considers to have been a really useful experience in preparing him for his later career. After chemistry, Stuart took the GDL at City University followed by the BPTC at BPP Law School, and finally landed a pupillage at 3 New Square. “I had a wonderful time during pupillage and really enjoyed the experience – 3 New Square is a particularly

good chambers at which to be a pupil, because it is a relatively small set, which means that pupils know the people they are working with well and can really participate in chambers life. It was also great to experience different types of IP law and reap the benefits of direct contact with different kinds of client. At the same time,” he continues, “there is no denying that pupillage is stressful, and no matter how kind and considerate my pupil masters invariably were, it is inherently exhausting to be constantly interviewed and assessed over 12 months, which is essentially what pupillage entails.”

Nonetheless, Stuart passed his gruelling year-long examination with flying colours and became a tenant at 3 New Square, where he has since been able to realise his ambition of having a broad IP practice. “My work is a mixture of patents, trademarks, passing off, designs and, to a slightly lesser extent, copyright and confidential information,” he explains. “This isn’t an area of law that requires you to be in court every day – the majority of my time is spent in chambers, but it’s a really interesting and varied diet of cases. It is not like a criminal set, where you are not working if you are not standing up in court, while it also differs from the mainly advisory role of, for example, a tax barrister. I appear in court a fair amount – recently it has been around two or three times a month – and court appearances increase as you get more senior and start to make submissions on the really big cases.”

Already, Stuart has had the chance to work on matters involving household names. “My first experience of a big trial was as part of a team acting on behalf of Microsoft,” he explains. “Seeing the submissions and questions that I had helped to develop actually be used over the course of the trial was very rewarding. However, there is a lot of interesting work involved regardless of whether the dispute is between large



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companies. To understand many patent cases you have to go into the science, so I often have to do quite a bit more preparation for a short hearing than would be the case for a criminal trial, in which the law may largely be agreed and you just have to argue about what actually happened. The extended preparation and extra work can also be difficult when you're still getting to grips with this area of law, as it can be a bit tricky to know what your client needs, but still have to work through a lot of procedural stuff to achieve it. I wish I had realised earlier on just how much barristers have to do aside from the legal advice and court advocacy that we provide. There is a lot of procedural work that you may not notice during a mini-pupillage (I certainly didn't), and the surprise of just how much extra there is to do can throw the time management of some junior barristers – but you learn quickly enough!"

In addition to his varied caseload, Stuart enjoys working for a wide range of clients. "The mixture of clients is particularly broad at the junior end," he says. "The most significant patent actions are often fought between the very biggest organisations, such as tech giants and pharmaceutical companies. However, the success of the Patents County Court (PCC) following its appointment of a new judge in 2010 has meant that it is also much more viable for SMEs to bring IP disputes. Some of the cases that I have conducted in the PCC have involved residents' associations, small businesses and one-person inventors. There are also a lot of trademark disputes at this level, as brands and names can prove very valuable to even the smallest businesses."

Stuart also considers that other developments in intellectual property will ensure it remains an exciting area in which to practise over the next few years. "There are going to be changes in the way that we litigate IP matters in the near future," he

explains. "The agreement has been signed for a Europe-wide unitary patent court, which is just getting off the ground. We're waiting to see exactly how it's going to work – the procedural rules are being developed at the moment. If it takes off, it will change our practice significantly. This also means that it's a very interesting time to be at the junior end of this practice area, as no one is going to be more experienced in the new landscape as it develops than we are. There will also be plenty of chances to work with lawyers in other countries, so this really could be a great opportunity for the English Bar."

Though it is the case for all lawyers, strong analytical skills are particularly important for IP barristers. "You certainly need to be a details person," says Stuart. "It is so important to master the ability to maintain a high level of detail while still expressing yourself very clearly – explaining complicated things in a simple way is half the battle in this area of law. In terms of qualifications, there is no doubt that people with a scientific academic background have a head start, particularly when it comes to patents. However, I don't think any chambers makes a science degree an absolute requirement for pupillage, and certainly there are very successful IP barristers who do not have a scientific background."

Finally, Stuart has some tips for developing your practice if intellectual property is your ambition: "The best advice I have received about practising intellectual property is to try to stay as broad as possible for as long as possible. Many people are drawn to this job by a specific interest, as I was, but the most interesting thing about this area of law is its variety. Having a broad brief is also a safer option when you are starting out, as this minimises your risk if a particular area changes, so make sure to apply for pupillage at chambers where you will be able to gain a wide array of experience."