

THREE NEW SQUARE

INTELLECTUAL PROPERTY



JUSTIN TURNER QC

Year of Call: 1992

Silk: 2009

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LDE454

IP/IT Silk of the Year 2016, Chambers & Partners Bar Awards 2016

PRACTICE AREA

Justin Turner's practice is concerned with all areas of intellectual property and other commercial disputes with a technical character. His technical background (a PhD in immunology) has resulted in a major part of his practice being concerned with biotechnology. He has presented cases relating to computer software, financial derivatives, electrical engineering, wind turbines, telecoms, industrial process chemistry, ship building and the oil industry. He appears in the UK courts, the European Patent Office and the Court of Justice of the EU. He represents clients in international arbitration and has significant experience of damages inquiries.

Justin was voted IP/IT Silk of the Year by Chambers and Partners in 2016. He has been described as "an outstanding advocate and a very clever scientist" with a "fantastic mix of strategic ability and a keen eye for detail" who has also been praised for his ability as a cross-examiner (Chambers and Partners).

Justin Turner has recently represented Gilead Sciences (at first instance and in the Court of Appeal) in its litigation with Idenix concerning sofosbuvir (Solvaldi) anti-HCV therapy. He has also represented Warner Lambert before the Court of Appeal in the leading case on the correct construction of second medical use patents and Regeneron in relation to its patents for human antibody producing (reverse chimeric) transgenic mice. He has been in many of the leading cases concerning interim injunctive relief including *Novartis v Hospira* and *SmithKline Beecham v Apotex*.

Justin Turner formerly sat on GTAC, the gene therapy advisory committee which is responsible for approving gene therapy and stem cell clinical trials in the UK. He is a director of UKAD, the United Kingdom anti-doping agency, which carries out the testing of athletes and brings proceedings for breach of WADA anti-doping violations.

Justin Turner is an editor of the 18th edition of Terrell on the Law of Patents.

LEGAL DIRECTORIES

IP/IT Silk of the Year, Chambers & Partners Bar Awards 2016

"He engages in the thorough vetting of a case that allows him to go into court robustly. An outstanding advocate and a very clever scientist" Chambers and Partners, 2016

"Outstanding" Legal 500, 2016

"A really tenacious advocate, who is effective in a difficult case" Chambers And Partners, 2015

RECENT CASES INCLUDE

- *Regeneron Pharmaceuticals v Kymab* [2016] EWHC 87 - Representing Regeneron in respect of its patents relating to reverse chimeric transgenic immunoglobulin loci both in UK proceedings and before the technical board of appeal of the EPO.
- *Wobben Properties v Siemens* [2015] EWCA 2114, [2017] EWCA Civ 5 - Representing Siemens in defending patent infringement proceedings relating to high wind ride through for off-shore wind turbines.
- *Warner Lambert v Actavis* [2015] EWCA Civ 556 - Representing Warner Lambert in relation to the enforcement of a second medical use patent for Lyrica - a leading case on the correct approach to construction of second medical use claims.
- *Idenix Pharmaceuticals v Gilead Sciences* [2014] EWHC 3916, [2016] EWCA Civ 1089 - Representing Gilead in defending patent infringement proceedings brought in respect of sofosbuvir, a revolutionary antiviral therapy for hepatitis C.
- *Hospira v Kennedy Trust for Rheumatology* - Representing the Kennedy Trust in defending patents relating to TNF alpha and methotrexate for RA - the action settled mid-trial. He is currently involved in EPO proceedings relating to the same patents.
- *Novartis v Hospira* [2013] EWCA Civ 583 - Representing Novartis in a leading case on the obtaining

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- of a post judgment injunction (relating to Aclasta)
- Merck Sharp Dome and Bristol Myers v Teva [2013] EWCA 1958 - Representing Merck and Bristol Myers in a leading case on the obtaining of quia timet injunctive relief
- Glenmark v Wellcome Foundation and Glaxo [2013] EWHC 148 – Representing Wellcome (GSK) in patent revocation proceedings relating to Malarone
- Neurim C130/11 – Obtaining from the CJEU a ruling that, contrary to earlier case law, SPCs were permissible in the field of second medical use.
- HTC v Apple [2013] EWCA 451 - Representing the Comptroller before the CA concerning the patentability of computer software and opposing Apple's swipe to unlock and multitouch patents
- Convatec and others v Smith & Nephew and others [2011] EWHC 2039 - Representing Smith & Nephew and SFM in the successful defence of a complex misuse of confidential information and patent infringement case in relation to cellulose based wound dressings.
- Medimmune v Novartis [2011] EWHC 1669 – Representing Novartis in its successful action for revocation of the McCafferty phage display patent
- Eli Lilly v Human Genome Sciences [2008] EWHC 1903 successfully defending an obviousness attack relating to the novel cytokine BlyS identified by bioinformatics

Justin Turner has a particular interest in misuse of confidential information. In addition to Convatec v Smith & Nephew (referred to above) he represented SmithKline Beecham when it asserted confidential information in the genetic code of a production strain of *Streptomyces clavuligerus*. He also represented LIFFE, the derivatives exchange, in a claim for misuse of confidential information in a trading system for credit default swaps.

Justin Turner has conducted a number of mediations on behalf of the design organisation ACID.

EDUCATION AND QUALIFICATIONS

SCIENTIFIC

- 1981 - 1986 Studied at the Royal Veterinary College, London University, graduating with a Bachelor of Veterinary Medicine in 1986.
- 1987 - 1991 Studied at Emmanuel College, Cambridge University, graduating with a PhD in immunology from the department of clinical medicine. His thesis addressed, principally, the role played by interleukins and interferons in the control of immune responses to viral infections.
- 1990 Consultant scientist at the International Laboratory for Research into Animal Disease, Nairobi. This is an international institute formed for the purpose of developing a vaccine for trypanosomiasis.

LEGAL

- 1990 Studied for a diploma in law at City University. Awarded a Harmsworth Scholarship by Middle Temple.
- 1991 Attended the Inns of Court School of Law.
- 1992 Called to the Bar.

FURTHER UNITED KINGDOM CASES IN WHICH JUSTIN TURNER HAS BEEN INVOLVED INCLUDE

- Biogen v. Medeva [1997] RPC 1 (House of Lords: patent proceedings relating to recombinant hepatitis vaccine), • Kastner v. Rizla [1995] RPC 585 (a leading patent infringement case in the court of appeal),
- SmithKline Beecham v. Norton & Lek [1997] FSR 81 (AUGMENTIN - patent proceedings and also a claim for misuse of confidential information in the DNA sequence of a strain of *Streptomyces clavuligerus* used in the production of potassium clavulanate),
- Visx v. Nidek [1999] FSR 405 (patent proceedings relating to excimer laser surgery for myopia),
- DSM v Novo [2001] RPC 675 (patent proceedings relating to phytase)
- Bristol Myers Squibb v. Baker Norton and Napro [2001] RPC 1 (TAXOL – patent proceedings relating to a medical use claim for chemotherapy),
- Norozian v Arks [1998] FSR 394 (film copyright relating to an advert for GUINNESS) Coflexip v Stolt Comex [2001] 182 (patent proceedings relating to a vertical lay system for flexible pipe),
- Monsanto and Pfizer v. Merck [2002] RPC 758 (VIOXX - patent proceedings relating to COX-2 Inhibitors),
- SmithKline Beecham's Patent [2003] RPC 114 (SEROXAT anticipation under section 2(3) of Patents Act 1977)
- SmithKline Beecham's Patent [2003] RPC 855 (SEROXAT – patent proceedings relating to paroxetine)

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- hydrochloride anhydrate) • SmithKline Beecham's Patent [2003] RPC 769 (SEROXAT – patent proceedings relating to paroxetine hydrochloride anhydrate.) • SmithKline Beecham v Apotex [2003] FSR 544 (SEROXAT – interim injunction granted pending trial under patent relating to paroxetine hydrochloride anhydrate)
- Coflexip v Stolt Offshore [2003] FSR 41 (court of appeal, principles to be applied on an enquiry as to damages)
- Technip France SA's Patent [2004] RPC 46 (court of appeal, second action relating to validity of patent for vertical lay system)
- Glaxo Group Limited's Patent [2004] RPC 843 (validity of patent relating to SERETIDE)
- SmithKline Beecham v Apotex [2004] RPC 27 (SEROXAT – second patent proceedings relation to paroxetine hydrochloride anhydrate)
- Cambridge Antibody Technology v Abbott [2005] FSR 27 (licence dispute as to royalty payments to be made pursuant to a joint development collaboration agreement in relation to HUMIRA).
- Dyson technology v Strutt [2005] EWHC 2814 (misuse of confidential information and restrictive covenant relating to vacuum technology)
- Synthon v SmithKline Beecham [2005] UKHL 59 (House of Lords decision on the correct approach to novelty in the context of a patent to a polymorph)
- LIFFE v Pinkava [2006] EWHC 595 (entitlement proceedings and misuse of confidential information relating to financial derivatives)
- Baxter Healthcare v Abbott [2007] EWHC (patent proceedings concerning the storage of the anaesthetic sevoflurane)
- Boehringer Ingelheim v Vetplus [2007] FSR 29 (court of appeal, comparative advertising and trade mark infringement under the Human Rights Act)
- Cantor Gaming v Game Account Global [2008] FSR 4 (copyright infringement and breach of contract relating to gaming software) • Arrow Generics v Merck [2007] FSR 39 (jurisdiction of the court to make a declaration in respect of the validity of a patent application)
- Wobben v Vestas-Celtic [2007] EWHC 2636 (patent proceedings relating to wind energy systems)
- Eli Lilly v 8PM [2008] FSR 11 (decision of the Court of Appeal concerning whether transiting goods through Europe is trade mark infringement)
- Eli Lilly v Human Genome Sciences [2008] EWHC 1903 (patent proceedings relating to the novel cytokine BLYS identified by bioinformatics)
- Boehringer v Vetplus [2007] FSR 29 (whether the principle in Bonnard v Perryman applies to trade mark infringement in a comparative advertising campaign)
- Generics (UK) Limited and others v H Lundbeck A/S [2009] UKHL 12 (House of Lords decision concerning the sufficiency and breadth of claim)
- Lilly and others v 8PM [2009] EWHC 1905 (damages enquiry following grant of a wrongful injunction)
- Novartis and CibaVision v Johnson & Johnson [2009] EWHC 1671 (patent proceedings relating to extended wear contact lenses).
- Apimed Medical Limited v Brightwake Limited [2011] RPC 16 (patent proceedings relating to honey wound dressings)
- Molnlycke Healthcare AB v Brightwake Limited [2011] EWHC 376 (patent proceedings relating to silicone wound dressings)
- H Lundbeck A/S v Norpharma and others [2011] EWHC 907 (patent proceedings relating to a process for the synthesis of 5cbx used in the manufacture of escitalopram)
- Medimmune Limited v Novartis Pharmaceuticals UK Limited [2011] EWHC 1669 (patent proceedings relating to phage display – invalidity of the McCafferty patent)
- Convatec Limited and others v Smith & Nephew Limited and others [2011] EWHC 2039 (patent proceedings relating to a cellulose-based wound dressing)

INTERESTS AND PASTIMES

Pastimes, before having children, included playing tennis, squash and real tennis (The Queens Club and The Jesters), fly fishing, riding and music. Casual academic interests include evolutionary biology, the history of science and macroeconomics.

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