

# THREE NEW SQUARE

INTELLECTUAL PROPERTY



STUART BARAN

Year of Call: 2011

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

*Legal 500, 2015*

“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

“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 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 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. In 2017, he will appear twice in the UK Supreme Court: once in a patents appeal, and then in a trade mark dispute.

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.

## 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 DiodeLasers” – 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 18e 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

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## 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.

- **Actavis UK v. Eli Lilly & Co (pemetrexed litigation)** – pharmaceutical case which 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, Court of Appeal (forthcoming)
- **Sandoz v. G.D. Searle** – SPCs – shorter trials scheme action regarding Art 3(a) SPC Regulation – High Court trial and successfully resisted (unled) expedition application\* in Court of Appeal against a silk
- **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 as sole advocate in the General Court of the EU.

- **\*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
- **Comic Enterprises Ltd v. Twentieth Century Fox (“GLEE”)** [2014] ETMR 46 – infringement; defences; form of order; series marks – High Court, Supreme Court (forthcoming).
- **Sky plc v. Skykick** – trade mark infringement, availability of defences, own name defence, EU law and its transposition into domestic law – High Court
- **Sky v. Microsoft Corporation** – “SKYDRIVE” infringement trial – High Court
- **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: FORGE** O-326/14 – UKIPO Appointed Person – appeal of decision under s. 5(2)(b)
- **\*Re: HILUX** O-297/13 – UKIPO – opposition under s. 5(4)
- **\*Re: TEAM GB** – UKIPO – ex parte hearings for the British Olympic Association in relation to registering the TEAM GB mark.

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## OTHER IP CASES

- **\*Mark-Antony Johnson v. Career Development Group** – PCC - copyright; strike out of claim in IPEC small claims track
- **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

\*Confidential advice relating to interim injunction for major cosmetics brand;

Confidential advice regarding format-shifting and exemptions to copyright

## PERSONAL

A keen violinist, Stuart has played often as an orchestra member and soloist; and also has an active string quartet. Other interests include food (reading, cooking, and eating), city travel (especially to Italy and the USA) and orchestral concerts.

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