

Charles Brabin

Year of Call: 2013

Practice areas

All aspects of Intellectual Property law, including patents, trade marks, passing off, copyright, designs, confidential information and contractual disputes involving intellectual property or technical subject matter.

Education and training

2016-2017: Pupillage with Miles Copeland, Geoffrey Pritchard, Simon Malynicz and Dominic Hughes

2013-2014: Paralegal at leading London specialist IP firm

2012-2013: BPTC, College of Law

2011-2012: GDL, College of Law

2007-2011: DPhil Biochemistry (Genetics), University of Oxford

2004-2007: BA (Hons) Biological Sciences, First Class, University of Oxford

Background

Prior to being called to the Bar, Charles studied Biological Sciences at undergraduate level, staying on to complete a DPhil in developmental genetics under Prof. Alison Woollard. Charles' research involved using molecular biology, comparative genomics and bioinformatics to elucidate the mechanisms of stem cell development in the nematode worm *Caenorhabditis elegans*.

Case experience

Charles is developing his practice in line with Chambers' specialisms, having been involved in cases spanning a broad range of IP areas – including patents, copyright, trade marks, passing off and registered and unregistered national and Community designs. The above has included proceedings in IPEC, the High Court and the Court of Appeal and Charles has appeared before the UKIPO in trade mark opposition and cancellation proceedings. In addition, he has worked on numerous matters across the spectrum of IP, extending to parallel imports, competition law, jurisdiction and remedies, *Norwich Pharmacal* relief, customs seizures and the concept of 'image rights', which have not reached court.

Since taking tenancy, Charles has also spent 5 months on secondment at EIP LLP, working on a High Court patent case.

Huntapac Produce Ltd v Kettle Produce Ltd 2018

Acting unled for Kettle at UKIPO Hearing involving consolidated opposition and cancellation proceedings.

Glaxo Wellcome UK Ltd (t/a Allen & Hanburys) & Anor v Sandoz Ltd & Anor [2017] EWCA Civ 227

Trade mark-related appeal dealing with the issues of joint tortfeasance and limitation period.

Glaxo Wellcome UK Ltd (t/a Allen & Hanburys) & Anor v Sandoz Ltd [2017] EWCA Civ 335

Trade mark appeal, focussing on the concept of colour marks, specifically colour combination marks and colour marks applied to objects.

Azumi Ltd v Zuma's Choice Pet Products Ltd [2017] EWHC 609 (IPEC)

Trade marks case focussed on claims of dilution and tarnishment by the operator of high-end Japanese restaurants against a dog food company and its sole director and shareholder, the latter appearing as a litigant in person at trial. Unjustified threats and the scope of the own name defence were also in issue.

Fujifilm Kyowa Kirin Biologics Co Ltd v Abbvie Biotechnology Ltd [2017] EWHC 395 (Pat)

This trial followed the Court of Appeal's judgment (*Fujifilm Kyowa Kirin Biologics Co Ltd v Abbvie Biotechnology Ltd* [2017] EWCA Civ 1) which held that 'Arrow declarations' – which state that a product was not novel or was obvious in patent law – can, as a matter of principle, be granted by the courts. It was held that in the circumstances of the case, the declaration sought should be granted. The facts of this case and motivation for the declaratory relief sought were different to those in *Arrow*, hence case has given rise to the term 'Fujifilm Declaration'.

Edwards Life Sciences v Boston Scientific Scimed [2017] EWHC 405 (Pat)

Patent case on the validity and infringement of patents for transcatheter heart valves.

Teva UK v Boehringer Ingelheim Pharma [2016] EWCA Civ 1296

Submissions in the Court of Appeal on the principles underlying permission to appeal and on whether permission was appropriate in this case.

Merck v Shionogi [2016] EWHC 2989 (Pat)

Patent case on the validity and infringement of a patent covering a class of HIV integrase inhibitors, with issues focussed on Markush formulae, insufficiency and plausibility.

Relevant publications

- Brabin, C. 2018. The Nagoya Protocol: the legal framework and challenges ahead. RHS Yearbook.
- Brabin, C. 2015. Toxic traces of autumn: will exDNA make it from the forest floor to the pharmacy shelf? Life Sciences Intellectual Property Review. April Issue.
- Brabin, C. 2014. Nagoya Protocol: searching for living gold. Life Sciences Intellectual Property Review. November Issue.
- Brabin, C. 2014. Intellectual property law in the realm of biology - striking the right balance. European Intellectual Property Review. 36:11

Personal interests

Beekeeping, sheep husbandry, photography, botany and the natural world in general.