



JULIAN COOKE

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Areas of Practice

Intellectual Property - patents, trade marks, copyright, designs, confidential information
Trade Practices - misleading and deceptive conduct, passing-off
Administrative Law - therapeutic goods, administrative decisions (judicial review)

Admissions

Bar (NSW) 2006
Solicitor (NSW) 2002
Solicitor Advocate (England & Wales) 2001
Solicitor (England & Wales) 2000
Solicitor (WA) 1998

Education

BCL (Oxford) 1997
LLB (Hons 1) (Murdoch) 1995
BA (Phil) (Murdoch) 1995
Vice-Chancellor's Award for Academic Excellence (Murdoch) 1995

Professional Career

Mr Cooke specialises in intellectual property law (patents, trade marks, copyright, designs, confidential information), trade practices and administrative law. He has appeared in a number of leading cases in the High Court of Australia and in the Federal Court of Australia. Those cases have included Samsung v Apple (mobile telecommunication patents), Apotex v Sanofi-Aventis (pharmaceutical patent), the Tobacco Plain Packaging case (trade marks) and IceTV v Nine (copyright). He also regularly appears before hearing officers of IP Australia in respect of registration of patents and trade marks.

Mr Cooke has recently been recognised in:

- Chambers Asia-Pacific (2016): Junior Counsel (Band 1 - Intellectual Property)
- Doyle's Guide (2016) - (2015) - Preeminent Junior Counsel (Intellectual Property)
- Best Lawyers in Australia (2016) - (2014): Intellectual Property
- The World's Leading Trademark Professionals (2016) - (2014): Junior Counsel (Band 1).

Before joining the Bar, Mr Cooke was a Senior Associate in the intellectual property department of an international law firm in Sydney. Before that he practised in a London law firm in commercial litigation and intellectual property and was admitted as a UK qualified solicitor and later as a solicitor advocate.

Mr Cooke was the Associate to the Chief Justice of Western Australia.

Selected Cases

Patents

Mobile Telecommunication Patents

- Samsung v Apple: 3G UMTS 25 series mobile telephone telecommunication patents, led by Young QC.
- Vringo Infrastructure, Inc v ZTE (Australia) [\(No 4\) \(2015\) 110 IPR 568](#): 3G UMTS 25 series mobile telecommunication patents, led by Shavin QC.
- Voxon Pty Ltd v Telstra Corporation Ltd & Ors (NSD 2556/2013): 3G and 4G UMTS 25 series mobile telecommunication patents, led by Howard SC.

Pharmaceutical Patents

- Merial Limited v Bayer Intellectual Property GmbH [\[2016\] APO 16](#), [\[2016\] APO 17](#): topical ectoparasiticide formulations, unled.
- Gilead Sciences, Inc v Alphapharm Pty Ltd (APO): pharmaceutical patent for tenofovir alafenamide hemifumarate, led by Caine QC.
- Apotex Pty Ltd v Les Laboratoires Servier [\(No 4\) \(2015\) 111 IPR 160](#); [\(No 5\) \[2015\] FCA 334](#): pharmaceutical patent for the drug Perindopril Arginine, unled.
- GlaxoSmithKline Australia Pty Ltd v Pharmacor Pty Ltd [\[2014\] FCA 1202](#): pharmaceutical patent for Panadol Osteo, unled.
- Orion Corporation v Actavis Australia Pty Ltd [2015] FCA 909: pharmaceutical patent for the drug Entacapone combination, led by Burley SC.
- Eli Lilly v Generic Health Pty Ltd [\[2013\] FCA 1254](#): interlocutory injunction, pharmaceutical patent for the drug Raloxefine, led by Caine SC.
- Sigma Pharmaceuticals (Australia) Pty Ltd, Alphapharm Pty Ltd, Generic Health Pty Ltd, Cth of Aust & Ors v Wyeth: compensation in respect of undertakings as to damages in respect of the drug Venlafaxine, led by Bannon SC.

- Spirit Pharmaceuticals Pty Ltd v Mundipharma Pty Ltd [\(2013\) 102 IPR 55](#): pharmaceutical patent for the drug Oxycodone, led by Catterns QC.
- Novartis AG v Agvantage Pty Ltd [2012] FCA 160: sheep blow-fly treatment (dicyclanil) patent, unled.
- Amgen Inc v Hospira (NSD 1281/2009): pharmaceutical patent for the drug PEGFilgrastim and infringement by a biosimilar, led by Catterns QC.
- Apotex v Sanofi-Aventis [\[2008\] FCA 1194](#), [\[2009\] FCAFC 134](#), [\[2010\] HCATrans 59](#): pharmaceutical patent for the enantiomeric drug Clopidogrel, led by Burley SC.
- Alphapharm Pty Ltd v H Lundbeck A/S [\[2008\] FCA 559](#): pharmaceutical patent for the enantiomeric drug Escitalopram, led by Catterns QC.

Medical Device Patents

- Reckitt Benckiser Healthcare (UK) Ltd v GlaxoSmithKline Australia Pty Ltd [\[2013\] FCA 736](#), [\[2013\] FCA 583](#), [\[2013\] FCAFC 102](#); [\(2015\) 112 IPR 273](#); [2016] FCAFC 90: a patent for liquid dispensing, led by Howard SC.
- The Laryngeal Mask Company Ltd v Ultimate Medical Pty Ltd (NSD 1167/2011): medical device patents for laryngeal masks, led by Burley SC.

Chemical Patents

- Ansell Healthcare Products LLC v Reckitt Benckiser (Australia) Pty Limited (NSD 1180 of 2014): chemical vulcanization process patent, led by Howard SC.
- BHP Billiton Worsley Alumina Pty Limited v Alcoa of Australia Limited [2014] APO 30 industrial chemistry process patent, unled.
- Xylotheque Ltd v Construction Research & Technology GmbH (2014) 105 IPR 474: concrete accelerator dispersion patent, unled.

Mechanical Patents

- The Pilbara Infrastructure Pty Ltd v Lynx Engineering Consultants Pty Ltd (NSD 2002/2013): mechanical patent for ore cars, led by Catterns QC.
- J.M. van der Hoeven BV v Houweling Nurseries Oxnard, Inc [\[2016\] APO 6](#): climate control in greenhouses, unled.
- Smith Light Pty Ltd v Golight Pty Limited [\[2016\] APO 37](#): portable light, unled.
- Siemens AG v ABB Schweiz AG [\[2015\] APO 75](#): Method and apparatus for detaching frozen charge from a tube mill, unled.

- Argenta Manufacturing Limited v Merial Ltd [\[2015\] APO 51](#): intraruminal device patent, unled.
- Enviro Global Pty Ltd v Kembla Watertech Pty Ltd (NSD 1697/2010): mechanical patent for sewerage pipe repair, led by Burley SC – settled after trial.
- Austal Ships Pty Ltd v Damien Smith [\[2011\] APO 04](#): patent entitlement dispute, unled.
- Law v Razer Industries Pty Ltd [\[2010\] FCA 1058](#): first case dealing with a licence sought from the Commissioner under s 223 of the Patents Act 1990, led by Ireland QC.

Computer/Electrical Patents

- Electronic Tax Free Shopping v Fexco Merchant Services [\(2015\) 110 IPR 490](#): automatic currency conversion method patent, led by Franklin SC.
- Vehicle Monitoring Systems Pty Ltd v SARB Management Group Pty Ltd [\(2013\) 101 IPR 496](#): electrical innovation patent for detecting vehicles for overstay parking, led by Cobden SC.

Trade Marks and Misleading & Deceptive Conduct

- Moroccanoil Israel Ltd v Aldi Food Pty Ltd (NSD 1297/2015): appeal from an opposition decision of the Delegate (s 41) – decision reserved.
- Moroccanoil Israel Ltd v Aldi Food Pty Ltd (NSD 613/2015): trade mark infringement contravention of ACL, passing-off, led by Cobden SC – decision reserved.
- Clipsal Australia Pty Ltd v Clipso Electrical Pty Limited (NSD 2537/2013): shape trade mark infringement, contravention of ACL, passing-off, design, unled – decision reserved.
- International Awards Group, LLC v Asian Advertising Festival (Spikes) Asia Pte Ltd (NSD528/2016): trade mark infringement, contravention of the ACL, passing-off, unled – ongoing.
- JT International SA v Commonwealth of Australia [\[2012\] HCA 43](#): leading High Court case concerning tobacco plain packaging, appeared for the Commonwealth, led by Gageler SC.
- Health World Ltd v Shin-Sun Australia Pty Ltd [\[2008\] FCA 100](#), [\[2009\] FCAFC 14](#), led by Cobden SC, [\[2010\] HCA 13](#): leading High Court case on the question of “person aggrieved” under the Trade Marks Act 1995, led by Burley SC.

- Paul's Retail Pty Ltd v Sporte Leisure Pty Ltd [\[2012\] FCAFC 51](#), [\[2012\] HCATrans 219](#): defining the scope of parallel importation under the Trade Marks Act 1995, led by Cobden SC.
- Paul's Retail Pty Ltd v Lonsdale Australia Inc [\[2012\] FCAFC 130](#) defining the scope of parallel importation under the Trade Marks Act 1995, led by Cobden SC.
- Food Channel Network Pty Ltd v Television Food Network GP [\[2010\] FCAFC 58](#), led by Franklin SC, [\[2010\] HCATrans 303](#) (led by Cobden SC)
- King Par, LLC v Brosnan Golf Pty Ltd (2014) 106 IPR 457 cancellation of trade mark for abandonment, unled.
- International Hair Cosmetics Group Pty Ltd v International Hair Cosmetics Ltd [\[2011\] FCA 540](#), trade mark infringement in respect of an international website, appeal, led by Cobden SC.
- Sentia Australia Pty Ltd v Michael Cindric [2015] ATMO 88
- Schneider Electric (Australia) Pty Ltd v Arlec Australia Pty Ltd [2015] ATMO 18
- Moroccanoil Israel Ltd v Karan Cogna [\[2013\] ATMO 62](#)
- Sanofi-Aventis in Sanofi-Aventis v Eremad Pty Ltd [\[2010\] ATMO 76](#)
- Australian Broadcasting Corporation v Commercial Radio Australia Ltd [\[2010\] ATMO 46](#)
- Accenture Global Services GmbH v SanEmpero Group International Pty Ltd [\[2011\] ATMO 77](#).
- Wenger SA v Courier Luggage Pty Ltd [\[2011\] ATMO 31](#).
- Virgin Blue Airlines Pty Ltd v Qantas Airways Ltd [2009] ATMO 30.

Copyright

- Roadshow Films Pty Limited & Ors v Telstra Corporation Limited & Ors (NSD 239/2016): the first s115A site-blocking application in Australia, led by Lancaster SC – decision reserved.
- Brand Developers v Capital Brands (NSD 1280/2015): copyright infringement, unjustified threats, contravention of the ACL and passing-off, unled – on-going.
- Seven (Network) Operations Ltd v Endemol Australia Pty Ltd (2015) 114 IPR 287: interlocutory injunction concerning alleged copyright infringement of the MKR television program format by The Hotplate, led by McClintock SC.

- Sports Data Pty Ltd v Prozone Sports Australia Pty Ltd (2014) 316 ALR 475: interlocutory injunction concerning copyright infringement of databases, led by Webb SC.
- CA, Inc v ISI Pty Ltd [\[2012\] FCA 35](#): copyright infringement of databases, led by Cobden SC.
- Primary Health Care v Commissioner of Taxation [\(2010\) 186 FCR 301](#): copyright in medical records, led by de Wijn QC.
- United Broadcasting International Pty Ltd v Turkplus Pty Ltd [\[2010\] FCA 594](#), [\[2010\] FCA 1413](#): concerning copyright infringement of television broadcasts, led by Cobden SC.
- The Polo/Lauren Company L.P. v Ziliani [\[2008\] FCA 49](#), [\[2008\] FCAFC 195](#): parallel imports, copyright, designs, led by Burley SC.
- Nine Network Australia Pty Ltd v Ice TV Pty Ltd [\[2007\] FCA 1172](#), [\[2008\] FCAFC 71](#), [\[2009\] HCA 14](#): leading High Court copyright case, led by Ireland QC.
- Parry v Aristocrat Technologies Pty Ltd & Ors [\[2007\] HCATrans 483](#): gaming machines, led by Ireland QC.

Designs

- Hunter Pacific International Pty Ltd v Martec Pty Ltd: [2016] FCA 796: ceiling fan hub, unled.
- Gram Engineering Pty Ltd v Bluescope Steel Limited [\[2013\] FCA 508](#); (2014) 313 ALR 311: fencing design infringement and revocation, led by Cobden SC.

Confidential Information

- Sports Data Pty Ltd v Prozone Sports Australia Pty Ltd (2014) 316 ALR 475: interlocutory injunction in respect of breach of confidentiality concerning computer databases, led by Webb SC.
- CA, Inc v ISI Pty Ltd [\[2012\] FCA 35](#) breach of confidentiality concerning computer databases, led by Cobden SC.

Trade Practices

- IceTV Pty Ltd v Ross [\[2009\] NSWSC 980](#); [\[2010\] NSWCA 272](#), [\[2011\] HCATrans 214](#): leading case concerning restraint of trade, led by Ireland QC.

- Campaign Master (UK) Ltd v Forty Two International Pty Ltd [\[2008\] FCA 979](#): interlocutory injunction, led by Ireland QC.
- Barnes v Fortytwo International Pty Ltd [\[2010\] FCA 397](#); [\[2010\] FCA 398](#); [\[2010\] FCAFC 87](#): breach of implied undertakings, led by Ireland QC.

Corporate and Commercial

- White City Land in Alexander’s Club Pty Ltd v White City Tennis Club [\[2010\] HCA 19](#) [\[2009\] NSWCA 114](#), [\[2007\] NSWSC 1430](#): leading High Court case concerning breach of fiduciary duty and constructive trust, led by Ireland QC.
- Coyne v Calabro (No 5) [\[2010\] NSWSC 694](#): misrepresentation/contract, led by Ireland QC.

Administrative

- Sigma Pharmaceuticals (Australia) Pty Ltd, Alphapharm Pty Ltd, Generic Health Pty Ltd, Cth of Aust & Ors v Wyeth: compensation in respect of undertakings as to damages in respect of the drug Venlafaxine, led by Lloyd SC.
- Alphapharm Pty Ltd v H Lundbeck A/S [\[2008\] FCA 559](#): s25A of the Therapeutics Goods Act 1989, led by Catterns QC.

Publications

- Bowne SC and Cooke: “Patent Litigation Precedents”
Intellectual Property Precedents, Lexis Nexis, Butterworths
- Cooke: “Bulletin (Copyright and Patents)”
Intellectual Property Precedents, Lexis Nexis, Butterworths

Memberships

Intellectual Property Society of Australia and New Zealand
Copyright Society of Australia