

DAVID LARISH

Selected Intellectual Property and Commercial Cases

Intellectual Property

Patent matters

- *Pfizer Ireland Pharmaceuticals v Samsung Bioepis Au Pty Ltd (No 2)* [2019] FCA 657; *Pfizer Ireland Pharmaceuticals v Samsung Bioepis Au Pty Ltd* (2017) 351 ALR 103; *Pfizer Ireland Pharmaceuticals v Samsung Bioepis Au Pty Ltd* [2017] FCA 285; [2017] FCA 573. Preliminary discovery relating to biosimilar medicine with active substance etanercept (for prospective respondent). Led by Catterns QC and Cooke at first instance and on appeal, Young QC and Cooke on High Court special leave application (*Samsung Bioepis Au Pty Ltd v Pfizer Ireland Pharmaceuticals* [2018] HCATrans 97) and currently by Caine QC and Cooke. Briefed by Ashurst.
- *Nichia Corporation v Arrow Electronics Australia Pty Ltd* [2019] FCAFC 2; *Nichia Corporation v Arrow Electronics Australia Pty Ltd (No 5)* [2017] FCA 1013; *Nichia Corporation v Arrow Electronics Australia Pty Ltd (No 4)* [2017] FCA 864; *Nichia Corporation v Arrow Electronics Australia Pty Ltd (No 3)* (2016) 240 FCR 13. Patent for LED lights (for applicant, patentee). Led by Catterns QC and Cochrane; Bannon SC and Cochrane on special leave. Briefed by Allens.
- *Merck Sharp & Dohme Corp v Wyeth LLC* – NSD 1381/2017 (reserved). Patents for Prevnar 13 vaccine (for applicant revoker). Led by Howard SC. Briefed by Corrs.
- *Merck Sharp & Dohme Corp v Pfizer Inc* – NSD 774/2009 (ongoing). Patent for vaccine serotype (for applicant revoker). Led by Howard SC. Briefed by Corrs.
- *Caffitaly System S.p.A v One Collective Group Pty Ltd* – NSD 179/2019 (ongoing). Patents for coffee capsules (for alleged infringer/revoker). Led by Cooke. Briefed by Barry Nilsson.

- *Vector Corrosion Technologies Ltd v DuoGuard Australia Pty Ltd* – QUD 649/2018 (ongoing). Patent for corrosion solution (for patentee). Led by Flynn. Briefed by Bennett & Philp.
- *Hill and Smith Holdings PLC v Safe Barriers Pty Ltd* – NSD 1212/2018 (ongoing). Patent for temporary road barriers (for alleged infringer/revoker). Led by Logan QC. Briefed by Dundas Lawyers.
- *Seiko Epson Corporation v Calidad Pty Ltd* [2018] FCA 104; *Seiko Epson Corporation v Calidad Pty Ltd* (2017) 133 IPR 1. Appeal judgment reserved. Patent for print cartridges (for applicant, patentee). Led by Catterns QC and Cochrane, and Bannon SC and Cochrane on appeal. Briefed by Allens.
- *Generic Health Pty Ltd v Bayer Pharma Aktiengesellschaft* (2018) 361 ALR 248; *Generic Health Pty Ltd v Bayer Pharma Aktiengesellschaft* [2018] FCAFC 210; *Bayer Pharma Aktiengesellschaft v Generic Health Pty Ltd* (2017) 124 IPR 23; *Bayer Pharma Aktiengesellschaft v Generic Health Pty Ltd* [2017] FCA 428. Patent damages inquiry (for respondent, generic). Led by Moore SC and Fox at trial, led by Jackman SC and Fox on costs hearing and appeal. Briefed by Bird & Bird.
- *Dometic Australia Pty Ltd v Houghton Leisure Products Pty Ltd* (2018) 135 IPR 403. Patent for air conditioner (for applicants). Led by Cobden SC and Cochrane. Briefed by KWM.
- *Industrial Galvanizers Pty Ltd v Safe Direction Pty Ltd* (2018) 135 IPR 220. Patent for guard rail post (for applicant, patentee). Led by Goddard SC. Briefed by Sparke Helmore.
- *Liberation Group Developments Pty Ltd v Lomax Group Pty Ltd* – QUD 117 of 2018 (reserved). Interlocutory decision at *Liberation Developments Pty Ltd v Lomax Group Pty Ltd* [2018] FCA 842. Patent for hoardings (for applicant, patentee). Led by Franklin SC. Briefed by Bennett & Philp.
- *Kafataris v Davis* (2016) 120 IPR 206. Full Court appeal on patent inventorship dispute and breach of confidential information relating to gambling (for appellant). Led by Burley SC and Flynn.
- *Load and Move Pty Ltd v Container Rotation Systems Pty Ltd* (2016) 341 ALR 458. Federal Court preliminary discovery proceedings regarding infringement of engineering patents (for prospective applicant, patentee). Led by Cooke. Briefed by Harris Gomez Group.

- *Orion Corporation v Actavis Pty Ltd* [2015] FCA 909; *Orion Corp v Actavis Pty Ltd (No 2)* [2015] FCA 1026; *Orion Corp v Actavis Pty Ltd (No 3)* (2015) 116 IPR 102. Pharmaceutical patent (for respondent, generic). Led by Burley SC and Cooke. Briefed by Ashurst.
- *Apotex Pty Ltd v Les Laboratoires Servier (No 4)* (2015) 111 IPR 160; *Apotex Pty Ltd v Les Laboratoires Servier (No 5)* [2015] FCA 334; *Les Laboratoires Servier v Apotex Pty Ltd* (2016) 117 IPR 415. Application to amend patent following trial, including acting in Full Court appeal (for amendment opponent, Actavis). Led by Cooke. Briefed by Ashurst.
- *Voxson Pty Limited v Telstra Corporation Limited* [2015] FCA 1490; *Voxson Pty Limited v Telstra Corporation Limited (No 2)* [2015] FCA 1491; *Voxson Pty Limited v Telstra Corporation Limited (No 3)* [2015] FCA 1492. Telecommunications patents (for applicant, patentee). Led by Howard SC and Cooke. Briefed by Dibbs.
- *Oakmoore Pty Ltd v ARB Corporation Ltd* [2015] APO 66. Patent Office inventorship dispute (for patent applicant, ARB Corporation Ltd). Led by Cochrane. Briefed by Hodgkinson McInnes Patents.
- *Universal Solar and Surface Science Pty Ltd v Endless Solar Corporation Ltd* – NSD 1052/2016 (settled). Patent for solar surfaces (for respondent, alleged infringer). Unled. Briefed by Aspect Legal.

Trade mark and copyright

- *Federal Treasury Enterprise (FKP) Sojuzplodoimport v Spirits International B.V. (Permanent Stay)* [2019] FCA 802; *Federal Treasury Enterprise (FKP) Sojuzplodoimport v Spirits International B.V. (No 6)* [2019] FCA 337; *Federal Treasury Enterprise (FKP) Sojuzplodoimport v Spirits International B.V. (No 5)* [2018] FCA 19; *Federal Treasury Enterprise (FKP) Sojuzplodoimport v Spirits International B.V. (No 4)* [2017] FCA 1345. Trade mark cancellation proceedings (for Spirits International). Led by Darke SC, unled on interlocutory hearings re privilege and costs forthwith. Briefed by KWM.
- *Workplace Institute Ltd v IBM Australia Ltd* – VID 651 of 2019 (ongoing). Trade mark infringement proceedings (for IBM). Led by Darke SC. Briefed by Baker & McKenzie.
- *Mediabay Marketplace Pte Ltd v eBay Inc* – NSD 664 of 2019 (ongoing). Opposition appeal (for eBay). Unled. Briefed by KWM.

- *PDP Capital Pty Ltd v Grasshopper Ventures Pty Ltd* – NSD 1345/2018 (ongoing). Trade mark infringement (for respondent). Led by Cooke. Briefed by Bennett & Philp.
- *Dunlop Aircraft Tyres Limited v The Goodyear Tire & Rubber Company* (2018) 134 IPR 220; *Dunlop Aircraft Tyres Limited v The Goodyear Tire & Rubber Company (No 2)* [2018] FCA 1443. Trade mark infringement proceedings and Trade Mark Office appeal (for Dunlop). Appeared unled against silk for interlocutory hearings. Led by Darke SC at trial. Briefed by Corrs.
- *Vokes Ltd v Laminar Air Flow Pty Ltd* (2018) 133 IPR 182; *Laminar Air Flow Pty Ltd v Registrar of Trade Marks* [2017] FCA 1447; *Laminar Air Flow Pty Ltd v Registrar of Trade Marks* [2018] FCA 38. Ownership dispute, including application for judicial review (for applicant). Led by Cooke. Briefed by Davies Collison Cave.
- *Singtel Optus Pty Limited v Optum Inc* (2018) 140 IPR 1; *Singtel Optus Pty Limited v Optum Inc (No. 2)* (2018) 134 IPR 112. Trade Mark Office appeal (for respondent, trade mark applicant). Led by Darke SC. Briefed by Corrs.
- *Gain Capital UK Ltd v Citigroup, Inc (No 4)* (2017) 123 IPR 234. Federal Court Trade Mark Office appeal (for appellants). *GAIN Capital UK Limited v Citigroup Inc (No 2)* (2016) 118 IPR 4; *GAIN Capital UK Limited v Citigroup Inc (No 3)* [2016] FCA 582 (interlocutory decisions). Led by Darke SC (led by Cooke for interlocutory hearings). Briefed by Chryselegal.
- *Myosa Pty Ltd v Resmed Limited* [2017] FCA 1187. Trade mark infringement; resisting summary judgment. Led by Shavin QC. Briefed by Bennett & Philp.
- *Winnebago Industries, Inc v Knott Investments Pty Ltd (No 4)* (2015) 115 FCR 1327. Passing off damages hearing (for respondents). Led by Bannon SC and Flynn. Briefed by KWM.
- *Aloe Vera of America, Inc v Retail Royalty Company* – NSD 150/2017 (settled on eve of hearing). Trade Mark Office appeal (for respondent, opponent). Unled. Briefed by Spruson & Ferguson.

- *Seven Network (Operations) Limited v Endemol Australia Pty Limited* (2015) 114 IPR 287. Interlocutory injunction for alleged copyright infringement (for respondents). Led by McClintock SC and Cooke. Briefed by Ashurst.
- *Move4Life Pty Ltd v Provention Limited* – NSD 212/2018 (settled). ACL, passing off, trade mark and copyright infringement and trade mark cancellation proceedings (for applicants). Unled. Briefed by Ashurst.
- *Epoch Capital Pty Ltd v Coventry Management Pty Ltd* – NSD 686/2014 (settled on eve of trial). Copyright infringement and breach of confidential information (for applicants). Led by Newlinds SC and Flynn. Briefed by McCabes.

Trade Marks Office

- *Amazon Technologies Inc v The Echo Label Limited* [2019] ATMO 59. Non-use proceedings (for non-use applicant, Amazon Technologies Inc). Unled. Briefed by KWM.
- *DXC Technology Australia Pty Ltd and Ent. Services Australia Pty Ltd v Specialisterne Centre Australia Limited*. Opposing proceedings (for opponents). Unled. Briefed by Bird & Bird.
- *PayPal, Inc v FinPal Pty Ltd* [2018] ATMO 196. Opposition proceedings (for opponent, PayPal, Inc). Unled. Briefed by KWM.
- *Multi Access Limited v Guanzhou Pharmaceutical Holdings Limited* [2018] ATMO 41. Opposition proceedings (for opponent, Multi Access Limited). Unled. Briefed by JWS.
- *Mo Industries, LLC v Prince Holly Yan, LLC* [2018] ATMO 162. Opposition proceedings (for applicant). Unled. Briefed by KWM.
- *Braintree Communications Pty Ltd v Paypal, Inc* (2017) 128 IPR 497. Opposition (for applicant, PayPal, Inc). Unled. Briefed by KWM.
- *Retail Royalty Company v Aloe Vera of America, Inc* (2017) 128 IPR 81. Opposition (for opponent, Retail Royalty Company). Unled. Briefed by Spruson & Ferguson.
- *Hollard v Real Estate Insurance NSW* (2017) 127 IPR 117. Opposition and non-use proceedings (for applicant on opposition and non-use opponent, REINSW). Led by Cooke. Briefed by Tresscox.

- *Monster Energy Company v USA Nutraceuticals Group, Inc* [2017] ATMO 22. Opposition (for applicant, USA Nutraceuticals). Unled. Briefed by Spruson & Ferguson.
- *Banjo Inc v FundIT Technology Pty Ltd* (2017) 131 IPR 499. Opposition proceedings (for opponent). Unled. Briefed by KWM.
- *Angel Gowns Australia Inc v Angel Gowns for Australian Angel Babies Inc* (2017) 133 IPR 99. Opposition proceedings (for opponent). Unled. Briefed by Phang Legal.
- *Singtel Optus Pty Ltd v Optum, Inc* [2016] ATMO 11. Opposition (for applicant, Optum, Inc). Unled. Briefed by Corrs.
- *Bowra v Industrial Progress Corporation Pty Ltd* [2016] ATMO 48. Opposition (for applicant, IPC). Led by Cochrane. Briefed by Kanji Solicitors.
- *RB Pharmaceuticals Limited v Mundipharma AG* (unreported, 2016). Opposition (for opponent, RB Pharmaceuticals Limited). Unled. Briefed by Thomson Geer.
- *LRC Products Limited v Medical Symbiosis Pty Limited* (unreported, 2016). Opposition (for opponent, LRC Products Limited). Unled. Briefed by Thomson Geer.
- *Singtel Optus Pty Ltd v Optum, Inc* [2015] ATMO 84. Request for extension of time in respect of filing of notices of intention to defend (for applicant, Optum, Inc). Unled. Briefed by Corrs.
- *Sentia Australia Pty Ltd and Michael Cindric v ISENTIA Pty Limited* [2015] ATMO 88. Opposition (for applicant, Isentia Pty Ltd). Led by Cooke.

Commercial/other

- *The University of Sydney v ObjectiVision Pty Ltd* – NSD 385/2014 (reserved). Federal Court breach of contract, copyright infringement and confidential information proceedings (for applicant). *The University of Sydney v ObjectiVision Pty Ltd* [2016] FCA 1199; [2017] FCA 554; [2018] FCA 393; [2018] FCA 1184 (interlocutory decisions). Led by Darke SC and Flynn at trial and by Flynn on interlocutory decisions. Briefed by KWM.
- *Sydney Tools Pty Ltd v Sean Neicho* – Supreme Court of NSW 2019 / 110529 (ongoing). Misuse of confidential information (for defendant). Led by Dalton QC. Briefed by KHQ Lawyers.

- *Wang v Fam* – Supreme Court of NSW 2019/67755 (ongoing). Restitution (for defendants). Unled. Briefed by Thomson Geer.
- *Get Tonic Pty Ltd v Pocket Health Pty Ltd* – Supreme Court of Qld 1641/2019 (ongoing). Misuse of confidential information (for respondent). Unled, including against QC at interlocutory injunction hearing. Briefed by Macpherson Kelley.
- *Caltex Australia Petroleum Pty Ltd v CCS Ceska* – Supreme Court of NSW 2016 / 109638 (ongoing). Breach of contract (for defendant). Led by Flynn. Briefed by KWM.
- *Crescent Capital Funds Management v Crescent Funds Management* – NSD 448/2014 (reserved). Lump sum costs (for respondents). Unled. Briefed by Corrs
- *Rox Australia Pty Ltd v Swyft Australia Pty Ltd* – Supreme Court of NSW 2018/00359888 (final relief granted in February 2019 without written reasons). Breach of contract (for plaintiff). Unled. Briefed by Aspect Legal
- *In the Matter of Sol Sana Pty Ltd* [2018] NSWSC 570 (for interests opposing oppression suit). Briefed by Mills Oakley. Unled.
- *Buyeast Pty Ltd v Zhang* – District Court proceedings (settled). Unled. Briefed by Abadee Dresdner Freeman.
- *Olis Insurance Pte Ltd and Ors ats Tenix Holdings Pty Ltd* – Supreme Court of NSW 2013 / 381728 (settled). Insurance claim (for group of reinsurers). Led by Jackman SC, Faulkner SC and Munro. Briefed by KWM.
- *Mercupond Australia Pty Ltd v Murano Walls Pty Ltd* (unreported, 2017). Local Court proceedings for breach of contract (for plaintiff). Unled. Briefed by KWL Lawyers.
- *Judge v Open Tiling Services Pty Ltd* (unreported, 2016). NCAT proceedings under Home Building Act (for home owner, Judge). Unled. Briefed by Alexanders Lawyers.
- *Thomas International Limited v Humantech Pty Ltd* [2015] FCA 1333. Winding up of companies (for Schutte parties). Led by McKeand SC. Briefed by HWL Ebsworth.

- *Thomas International Limited v Humantech Pty Ltd* – NSD 546/2015 (settled). Breach of contract, breach of undertakings, trade mark infringement, contraventions of consumer law (for director respondent, Mr Schutte). Led by Darke SC. Briefed by HWL Ebsworth.
- *Programmed Electrical Technologies Pty Ltd v Pulvin Composite Pty Ltd* – Supreme Court proceedings (settled). Breach of contract and sale of goods (for first defendant). Unled. Briefed by Abadee Dresdner & Freeman.
- *Sheahan and Lock; In the Matter of Binqld Finances Pty Ltd (In Liq)* (2015) 107 ACSR 163. Claim for joint privilege (for liquidators). Led by Tokley SC.
- *Curtis v Singtel Optus Pty Ltd* (2014) 225 FCR 458. Full Court appeal, bankruptcy (for Official Receiver). Led by Heath.
- *Dental Corporation v Ilyong Son* – Supreme Court of NSW (freezing order obtained). Breach of contract and fraudulent misappropriation of funds (for plaintiff). Led by Cochrane. Briefed direct by in-house counsel.
- *Kallianiotis v Castro* – District Court proceedings (settled). Unled. Briefed by Kelly and Chapman Lawyers.
- *Fix Auto Australia Pty Ltd v RKY Investments Pty Ltd* – District Court proceedings (settled). Unled. Briefed by Nicholson Ryan.