



# MEHER GAVEN

## Curriculum Vitae

**Chambers:** 5 Wentworth  
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**Education:** LLB, NSW University  
BVA (Bachelor of Visual Arts), Sydney University (SCA)

## LEGAL CAREER

**2012:** **Admitted as a Barrister NSW**

**2000:** **Admitted as an Australian Lawyer**

## OVERVIEW OF CAREER

Since her admission as a solicitor in 2000, Meher has acted for both government and private clients. Meher's private practice as a solicitor was principally in commercial litigation and included intellectual property disputes and contractual and consumer claims. Meher's government practice focused on Commonwealth enforcement action and included service to the ACCC, IP Australia, the Department of Human Services, the National Industrial Chemicals Notification and Assessment Scheme and the Companies Auditors Liquidators and Disciplinary Board. Meher also undertook a secondment at the Arts Law Centre of Australia advising artists on a range of matters including intellectual property, contracts and employment issues. As a senior litigator at the Australian Government Solicitor, Meher acted in a number of high profile litigation matters including:

- 'Air cargo' cartel proceedings commenced by ACCC – Involvement in investigation and proceedings brought against numerous airlines.
- *ACCC v Cabcharge Australia Ltd* [2010] FCA 1261– Misuse of market power case against Cabcharge - Assisted with evidence gathering for Newcastle taxi drivers.

- *ACCC v Visy Industry Holdings Pty Ltd* [2007] FCA 1617 – Assisted with trial preparation and was a recipient of the AGS Australia Day Award for that matter.
- *ACCC v Personalised Chocolates 4 U Pty Ltd* [2010] FCA 709 – Proceedings alleging breaches of Part V of the Trade Practices Act (as it was then) and breaches of the Franchising Code of Conduct. The matter resolved by consent judgment.
- *Alphapharm Pty Ltd v H Lundbeck A/S (No 2)* [2008] FCA 1036 – Appeared for Commissioner of Patents on question of statutory construction of *Patents Act*.

Meher was also an associate to Justice Wilcox in the Federal Court in 2005 and 2006 obtaining experience in a variety of areas of law including intellectual property, trade practices, administrative law and employment law. Justice Wilcox delivered a number of significant judgments during this time, such as *Universal Music Australia Pty Ltd v Sharman License Holdings Ltd* [2005] FCA 1242 and *Nikolich v Goldman Sachs JB Were Services Pty Ltd* [2006] FCA 784.

Since coming to the Bar in 2012, Meher has consolidated her practice in commercial litigation, intellectual property and employment law. She has a broad commercial practice and acts for corporate, government, not-for-profit organisations and individual clients. As a Barrister her main areas of practice are:

General Commercial  
 Intellectual Property  
 Competition and Consumer law  
 Corporations  
 Discrimination  
 Employment law  
 Administrative law  
 Equity

#### **CURRENT OR RECENT RETAINERS AS A BARRISTER**

- *Commissioner of Patents v AbbVie Biotechnology Ltd* – Briefed to appear for the Commissioner (led by Christian Dimitriadis SC) in a Full Federal Court appeal heard in February 2017 concerned with whether Swiss type claims are capable of extension under s 70(2)(b) of the *Patents Act*. The decision under review: *AbbVie Biotechnology Ltd Commissioner of Patents* [2016] AATA 682.
- *Primary Health Care Limited v Commonwealth of Australia* – Briefed to appear for the Commonwealth (led by Julia Baird SC) in a trade mark appeal before the Full Federal Court in November 2016 concerned with the registrability of use of the words ‘Primary Health Care’ and a logo mark incorporating such words (relevantly, under s 41, 42 and 44 of the *Trade Marks Act*).

- *Savvas v Council of the City of Botany Bay* – Currently briefed to appear for the Respondent (now Bayside Council) in the Supreme Court (unled) in relation to a real property matter involving contractual arguments and an easement dispute.
- Currently briefed to advise the Australian Pesticides and Veterinary Medicines Authority.
- *Jones Tulloch Pty Ltd v Commissioner of Patents* [2016] FCA 1108 - Briefed to appear (unled) in Federal Court proceedings for the Commissioner in an application for judicial review of the Commissioner's decision concerned with statutory interpretation of s 97(4) of the *Patents Act* (re-examination powers). The matter was successfully defended.
- *Cantarella Bros Pty Ltd v Du Bois* [2016] FCA 1115 - Briefed to appear for the Applicant (led by Michael Green SC) in Federal Court proceedings alleging misuse of confidential information, infringement of copyright, contraventions of the Corporations Act and breach of contractual obligations in relation to employment duties. The matter resolved without admissions. The published decision concerns suppression and non-publication orders following the resolution of proceedings.
- *Domino's Pizza Enterprises Limited v Commissioner of Patents* – Currently briefed to appear (unled) for the Commissioner in Federal Court proceedings concerned with the statutory construction of s 210 of the *Patents Act* arising out of the refusal of the Deputy Commissioner to exercise the power to summons witnesses and issue notices to produce at the request of the applicant.
- *Hilton v Legal Profession Admission Board* [2016] NSWSC 1617; *Hilton v Legal Profession Admission Board (No 2)* [2016] NSWSC 1842 – Briefed to appear with respect to matters concerned with an application for re-admission of a lawyer (led by David Bennett AC QC). The matter is due to be heard before the Court of Appeal in July 2017.
- *LG Electronics Australia Pty Limited v Dyson Appliances (Aust) Pty Ltd* – Briefed to appear for the Applicant (led by Michael Hall SC) for injunctive relief arising out of alleged contraventions of section 18, 29(1)(a) and 33 of the *Australian Consumer Law*. The matter resolved by consent judgment.
- *Horticulture Innovations Australia Ltd v Westley* [2015] NSWSC 1292 – Appeared (unled) for twelve interested parties with leave to appear granted in relation to the question of whether the plaintiff should be allowed to trace monies held in Court in

circumstances where the interested parties were owed monies by the Defendant.

- *Tiles Sydney Pty Ltd v J2 Pty Ltd and Anor* – Briefed to advise and appear (unled) for the Defendants in Supreme Court proceedings seeking injunctive relief arising out of alleged trade mark infringement. The matter resolved by consent judgment.
- Numerous appearances (unled) in the Federal Court and Supreme Court.

#### **OTHER SELECT MATTERS**

- *Apple Inc v Register of Trade Marks* [2014] FCA 1304 – Appeared for Register of Trade Marks in Federal Court proceedings involving an appeal under s 35 of the *Trade Marks Act 1995* (Cth) from a decision of the Registrar of Trade Marks to reject Apple's application for the 'APP STORE' trade mark (led by Julia Baird SC).
- *Preece v Preece* [2014] FCCA 1647– Bankruptcy proceedings – appeared for creditor (unled); also appeared in relation to interlocutory hearings on appeal to the Federal Court of Australia. Also briefed to appear in the appeal to the Federal Court (unled) with the appeal being withdrawn on the day it was to be heard.
- *Dynamite Games Pty Limited v Aruze Gaming Australia Pty Limited* [2013] FCAFC 96 – Appeared for respondent to Full Court appeal concerned with the validity and infringement of a standard patent and an innovation patent relating to electronic gaming machines (led by Tony Bannon SC and Neil Murray).
- *Margan v Australian Human Rights Commission & Ors* [2013] FCA 612 – Appeared for State of NSW (unled) on the hearing of an application for leave to appeal in a discrimination matter.
- *Mylan v Health Services Union NSW* – Briefed for the Health Services Union (HSU) (led by Hugh Stowe) in a Supreme Court civil recovery action against Michael Williamson and others. In a related matter, Meher appeared for HSU in matter involving summary dismissal of proceedings commenced under the *Fair Work Act* (led by Hugh Stowe).
- *John Christopher Burke v Inspector-General in Bankruptcy* [2014] FCAFC 112 – Appeal concerned with statutory construction of provisions of *Bankruptcy Act* (led by Michael Heath).
- ICAC Inquiry into NSW public sector concerning allegations relating to mining exploration licences (led by Hugh Stowe).
- *Macquarie International Health v South Sydney Area Health Authority* – retained as one of many junior counsel to appear with Greg Burton SC for the defendant in an assessment of damages of case arising out of a finding of trespass (with the plaintiff

claiming over 200 million dollars).

- *Brasco Australia Pty Ltd v Chris Papantoniou* (unpublished) – Summary judgment regarding breach of terms of settlement (unled).
- Appeared for Coles Supermarket Pty Ltd (unled) in an interlocutory application for costs with indemnity costs awarded for costs arising out of compliance with a subpoena in Federal Court proceedings.
- Meher is also retained in matters concerned with:
  - Employment disputes and discrimination matters; and
  - Estate litigation, including family provision matters.

#### **MEMBERSHIPS**

- Intellectual Property Society of Australia and New Zealand
- Copyright Society of Australia
- NSW Bar Association