

THREE NEW SQUARE

INTELLECTUAL PROPERTY



RICHARD MILLER QC

Year of Call: 1976

Silk: 1995

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LDE454

PRACTICE AREA

All areas of Intellectual Property; Patents, Trade Marks, Copyright, Designs, Breach of Confidence, Franchising, Restrictive Covenants, and EU law relating to Intellectual Property matters.

PUBLICATIONS

Terrell on the Law of Patents (co-editor); Sweet & Maxwell, 14th edition (1994), 15th edition (2000), 16th edition (2006) and 17th edition (2011)

POSITIONS

- Benchers of the Middle Temple 2007
- Chairman, Intellectual Property Bar Association 2005-2011 (Vice-chairman 2004-05)
- Co-Chairman, European Committee of the Bar Council 2009-2011;
- Member, Ethics Committee of the Bar Council;
- Observer, Council (UK Group), International Association for the Protection of Industrial Property (AIPPI);
- Member, Patents Sub-Group, Council of Bars and Law Societies of Europe (CCBE).

EDUCATION

- Charterhouse 1966-1970
- University of Sussex 1971-1974 (BSc, Chemical Physics)

LEGAL DIRECTORY COMMENTS

"A calm, authoritative presence in the courtroom.... a very good operator who thinks strategically.... a very skilful advocate". Chambers and Partners, 2017

"Always on top of the papers and extremely sound in his advice". Legal 500, 2017

"Has over 30 years of experience in life sciences patent litigation.... dedicated and very sound in his judgment". Chambers and Partners, 2016

"A good fighter, who is thorough and highly convincing". Chambers and Partners, 2015.

"An excellent advocate, who is very good on his feet, very careful and incredibly thorough". Chambers and Partners, 2014

PRINCIPAL CASES

1995 ON:

PATENTS:

- Warner-Lambert Co LLC v Sandoz GmbH [2016] EWHC 3317 (Pat), [2017] EWHC 216 (Pat) (patent/ interim injunction/ application to discharge following trial and appeal to Court of Appeal/ application for permission to appeal to the Supreme Court pending/ costs)
- Generics (UK) Ltd v Warner-Lambert Co LLC (CA) [2017] RPC 1 (patent/ Swiss-form claims/ direct and indirect infringement/ post-trial amendment of patent)
- Fujifilm Kyowa Kirin Biologics Company Ltd v Abbvie Biotechnology Ltd [2016] EWHC 2204 (Pat) (patent/ declaration/ permission to serve out of the jurisdiction/ application to set aside/ application to strike out)
- Generics (UK) Ltd v Warner-Lambert Co LLC [2016] RPC 16 (Patents Court) (patent/ Swiss-form claims/ post-trial amendment of patent)
- Medical Research Council v Celltech R&D Ltd [2015] EWHC 2139(Ch) (patent licence agreement/ application for transfer to Patents Court)
- DuPont Nutrition Biosciences ApS v Novozymes A/S [2013] EWHC 155 (Pat) (patent/ use of documents disclosed on discovery outside the proceedings/ injunction to restrain defendant from seeking to prevent use of such documents in foreign proceedings)
- Musion Systems Ltd v Activ8-3d Ltd & Others [2011] EWPCC 12, [2012] EWPCC 5 (patent/ infringement/ preliminary issue/ meaning of "offer for disposal" and "make"/ vicarious and joint liability/ "Unless Order" for payment of costs)
- Apimed Medical Honey Ltd v Brightwake Ltd [2012] EWCA Civ 5 (CA); (patent/ validity/ obviousness/ error of principle)

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- University of Queensland v Comptroller-General of Patents (Case C-630/10, CJEU, 25 November 2011; Pat Ct [2012] EWHC 223 (Pat)); (Supplementary Protection Certificate/ construction of Articles 3(a) and 3(b) of the SPC Regulation)
- Scinopharm v Eli Lilly & Company [2009] EHC 631 (Pat) (Patents Court); (patent/ obviousness/ motivation)
- Thorn Security Ltd v Siemens Schweiz AG [2009] RPC 3 (CA); (patent/ infringement/ registration of transfer of patent by law)
- Eli Lilly & Co Ltd v Neopharm Ltd [2008] FSR 25 (Patents Court); (patent/ pre-trial disclosure/ names of customers)
- Wobben v Vestas-Celtic Wind Technology Ltd [2007] EWHC 2636 (pat) (Patents court); (Patent/ construction/ infringement/ obviousness/ insufficiency)
- LIFFE Administration and Management -v- Pavel Pinkava [2007] 4 All ER 981; [2007] RPC 667 (CA); (patent/entitlement/invention by employee)
- Smith International Inc -v- Specialised Petroleum Services Group Ltd [2006] FSR 487 (CA); (patent/ second tier appeal from the Patent Office/whether CPR r.52.13 applies)
- Mayne Pharma Pty Ltd -v- Pharmacia Italia SpA [2005] EWCA (Civ) 137 and 294 (CA); (patent/ infringement/construction of claim/date of order for delivery up)
- Stanelco Fibre Optics Ltd's Applications [2005] RPC 319 and 348 (Patents Court); (patent/entitlement/ admission of fresh evidence after judgment)
- Coflexip SA -v- Stolt Offshore Ltd (No.2) [2004] FSR 118 (Patents Court); [2004] FSR 708 (CA); (patent/infringement/inquiry as to damages/estoppel as to validity/CPC Art.33)
- Coflexip SA -v- Stolt Offshore Ltd [2003] FSR 728 (CA); (patent/infringement/inquiry as to damages/loss of profit)
- Stena Rederi Aktiebolag -v- Irish Ferries Ltd [2002] RPC 990 (Patents Ct); [2003] RPC 668 (CA); (patent/infringement/exclusion for ships temporarily in UK waters)
- Oystertec Plc's Patent [2003] RPC 559 (Patents Ct); (patent/application to revoke/agent acting for undisclosed principal)
- Coflexip SA -v- Stolt Comex Seaway [1999] 2 All ER 593, [1999] FSR 473 (Patents Ct); [2001] 1 All ER 952, [2001] RPC 9, [2000] IP&T 1332 (CA); (patent/infringement/obviousness/scope of injunction/ admissibility of fresh evidence on appeal)
- Oxford Gene Technology -v- Affymetrix (No.2) [2001] RPC 18 (CA); (patent/amendment/privilege)
- Texas Iron Works Inc -v- Nodeco [2000] RPC 207 (PCC and CA); (patent/obviousness/added matter/ damages/innocence)
- Rocky Mountain Traders -v- Hewlett Packard [2000] FSR 411 (Patents Ct), [2002] FSR 1 (CA); (patent/ construction/novelty/obviousness)
- Napp Pharmaceuticals -v- Asta Medica Ltd [1999] FSR 370 (Patents Ct); (patent/infringement/ joint tortfeasors)
- Coin Controls Ltd -v- Suzo International [1997] 3 All ER 45, [1997] FSR 660 (Patents Ct); (patent/ Brussels Convention/infringement of European patent in Germany & Spain/joint tortfeasors)
- Coflexip Stena Offshore Ltd's Patent [1997] RPC 179 (Patents Ct); (patent/assignment/stamp duty)
- Norling -v- Eez-Away [1997] RPC 160 (Patents Ct); (patent/amendment/jurisdiction)

REGISTERED TRADE MARK AND PASSING OFF:

- Frost Products Ltd v F C Frost Ltd [2013] EWPCC 34 (Vos J) (registered trade mark/ validity/ CTMR, article 8 (4)/ whether sign used in the course of trade "of more than mere local significance")
- Jean Christian Perfumes v Thakrar [2011] FSR 34, [2011] EWHC 1383 (Ch); (Community Trade Mark/ validity of oral exclusive licence/ infringement by oral use of mark)
- Lilly ICOS & Others v 8pm Chemists Ltd [2010] FSR 4 (ChD); (registered trade mark/ inquiry as to damages on a cross-undertaking/ causation/ illegality)
- Nude Brands v Stella McCartney Ltd [2009] EWHC 2154 (Ch); (registered trade mark/ interim injunction)
- Eli Lilly & Company v 8pm Chemists Ltd [2008] FSR 11 (CA); (registered trade mark/ import and re-export of goods en route to the USA)
- Phones4u Ltd v Phone4u.co.uk [2007] RPC 83 (CA); (passing off by use of domain name/registered trade mark depicting claimant's logo/whether domain name confusingly similar/effect of colour limitation)
- Kambly SA v Intersnack Knabber-Gebäck GmbH & Co [2004] EWHC 943 (Ch); (registered trade mark/ admissibility of fresh evidence on appeal) • Unilever Plc's TM Appn [2002] All ER (D) 288 (Dec), [2003] RPC 651 (ChD); (registration of the shape of goods - VIENNETTA)
- Euromarket Designs Inc -v- Crate & Barrel Ltd [2001] FSR 288; (registered trade mark/Defendant in Ireland/internet advertising/use of own name)
- Dawnay Day & Co -v- Cantor Fitzgerald International [2000] RPC 669 (CA); (passing off/joint venture/ ownership of goodwill in name)

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- SWISS MISS Trade Mark Application [1997] RPC 219, [1998] RPC 889 (CA); (regd trade mark/deceptiveness/geographical origin); [1996] RPC 223 (admissibility of fresh evidence on appeal)
- Road Tech Computer Services -v- Unison Software [1996] FSR 805 (registered trade mark/validity of registration for "computer programs"/infringement/honest concurrent use)
- Mercury Communications -v- Mercury Interactive [1995] FSR 850; (registered trade mark/validity/infringement/use of own name)

COPYRIGHT AND OTHER CASES:

- J N Dairies v Johal Dairies [2010] All ER (D) 104 (Jun), [2010] EWHC 1689 (Ch); (misuse of confidential information/ measure of damages)
- Experience Hendrix LLC -v- Purple Haze Records Ltd [2005] EWHC 249; (Performers Protection Rights)
- ABKCO -v- Music Collection [1995] RPC 657 (CA); (copyright/authorising UK infringement from abroad)
- Kall-Kwik Printing -v- Rush [1996] FSR 114 (franchise agreement/restrictive covenant/enforceability)
- Polymasc Pharmaceuticals -v- Charles [1999] FSR 711 (employment contract/restrictive covenant/enforceability)
- The Gadget Shop Ltd -v- The Bug.com Ltd [2001] FSR 383; (employment contract/confidential information/search order)

1989-1995:

PATENTS:

- Hallen Corp. -v- Brabantia [1989] RPC 307 (Patents Ct), [1991] RPC 198 (CA) (patent/validity/obviousness); [1990] FSR 134 (Patents Ct); (patent/amendment/partial validity/discretion/conditions);
- Vax Appliances Ltd -v- Hoover plc [1991] FSR 307 (Patents Ct); (patent/infringement/validity/priority date/prior use)
- Insituform -v- Inliner (1992) RPC 83 (Patents Ct); (patent/validity/exclusive licensee)
- Memco-Med Ltd's Patent [1992] RPC 403 (Patents Ct); (patent/employee's compensation/outstanding benefit)
- The Wellcome Foundation -v- Discpharm [1993] FSR 433 (PCC); (patent/EU Treaty Art.30, now Art.28/importation of pharmaceutical products from Spain)
- Andreas Pavel -v- Sony & Toshiba (the Sony Walkman case), PCC and CA; (patent/validity/infringement/amendment)

REGISTERED TRADE MARKS AND PASSING OFF:

- Dormeuil Frères -v- Nicolian International [1989] FSR 256; (registered trade mark/search order/duty of disclosure)
- Dormeuil Frères SA -v- Feraglow Limited [1990] RPC 449; (registered trade mark/interim payment/assessment of damages)
- Gillette -v- Edenwest [1994] RPC 279 (passing off/damages /innocence);

COPYRIGHT AND DESIGNS:

- Volvo -v- Veng (1988) ECR 6211; (1989) 4 CMLR 122 (ECJ); (registered design/EU Treaty Art.86, now Art.82);
- Potton Ltd -v- Yorkclose Ltd [1990] FSR 11; (copyright/architectural drawings/account of profits/apportionment)
- Entec (Pollution Control) -v- Abacus Mouldings [1992] FSR 332 (CA); (copyright/drawings/interlocutory relief)
- Linpac Mouldings -v- Eagleton [1994] FSR 545 (CA); (copyright/secondary infringement/failure to give undertaking)

RESTRICTIVE COVENANTS AND FRANCHISING:

- Prontaprint Limited -v- Landon Litho Ltd [1987] FSR 315 (franchise agreement/restrictive covenant/enforceability)
- Kall-Kwik Printing -v- Bell [1994] FSR 674 (franchise agreement/restrictive covenant/ enforceability/ EU Treaty Art. 85, now Art.81)

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