

Katrina Howard SC



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Katrina Howard has practised as a barrister for over 20 years including as senior counsel for more than ten years. She read and practised at the Melbourne bar, before moving to the Sydney bar in 1993. She was appointed senior counsel in 2006. She was head of Wardell Chambers, level 15, from 2006 until she moved to 9 Selborne Chambers in 2011. In 2008, she was called to the Bar of England and Wales and is a door tenant at Three New Square, Intellectual Property Chambers, London.

Katrina specialises in the field of intellectual property, especially patents. She has a strong technical background, with a BSc (First Class Hons, pharmacology), Monash University (Melbourne), and an LLB (Hons Class IIa), Melbourne University. In 2006, she completed a specialist course in international intellectual property law at a summer school in Cambridge, UK.

Most of her patent related work has been in the biological sciences including pharmaceuticals and biotechnology, medical devices and, more recently, vaccines, antibodies and biosimilars. She has acted in most of the major cases in these areas in the last twenty years in Australia (including cases concerning omeprazole, Viagra, escitalopram, olanzapine and rosuvastatin, hepatitis C virus, taq polymerase, erythropoietin, cell delivery systems, cattle breeding, meningococcal and pneumococcal vaccines, antibodies - Keytruda and Mabthera, and coronary

stents). Many of these cases have been part of multinational litigation, parallel to cases conducted in the UK and USA. However, she acts in cases involving any field of technology including acting for Samsung in its battle against Apple over smartphone technology, and more recently for Arrow in the battle with Nichia over white LEDs.

She is identified in Who's Who Legal: Patents 2018 as one of the world's leading practitioners in the field of Patents, and in Who's Who Legal: Life Sciences 2018 – Patent Litigation as one of the world's leading practitioners in the field of IP: 'Katrina Howard SC is "highly recommended" thanks to her expertise in the full spectrum of contentious IP matters'.

From 2012-2018, she was the Patent and Trade Marks Attorneys Disciplinary Tribunal, and is regularly asked to speak about ethics.

She has given numerous presentations at local, national and international conferences (including on a panel of patent experts from the US, Europe and Japan at the 2012 BIO International Convention in Boston, USA, and at Patski in St Anton, Austria, in 2013 and at Whistler, Canada, in 2015). She has published several articles in her areas of interest. In 2009, she prepared a submission on various aspects of the Raising the Bar Bill 2011 (which amended the Patents Act in 2013) on behalf of the Australian Institute of Patent Attorneys, after consulting with international experts in the UK, Europe and USA.

Principal cases (patents)

High Court of Australia:

- **Kimberly-Clark v Arico** (sufficiency of patents, nappies)
- **Grain Pool of Western Australia v The Commonwealth** (constitutional validity of Plant Varieties Act)
- **Astra v Alphapharm** (inventive step, omeprazole formulation)
- **UWA v Gray** (entitlement, special leave refused)
- **Samsung v Apple** (interlocutory injunction, special leave refused)
- **Alphapharm v Lundbeck** (power to grant extensions of time for filing an extension of term, appeal dismissed)
- **D'Arcy v Myriad** (patentability of breast cancer genes, application to intervene by the Institute of Patent and Trade Mark Attorneys)
- **Alphapharm v Lundbeck** (extension of term, special leave refused)

Federal Court of Australia:

- Alphapharm v Tanabe (patent for a beta-blocker, term extension trial)
- Asahi v Grace (patent for shrink wrap plastic, trial and appeal)
- Murex v Chiron (patent for the hepatitis C virus, trial)
- Tidy Tea v Unilever (patent for dripless teabags, trial and appeal)
- Biochem v Emory (patent for the drug 3TC, used to treat AIDS, hearing and appeal)
- Genetics Institute v Amgen (patent for the hormone, erythropoietin, trial and appeal); also Genetics Institute v Johnson (prior claiming, appeal from patent office)
- New England Biolabs v Hoffman La-Roche (patent for the enzyme, taq polymerase, used in PCR, trial)
- Atlantis v Schindler (patent for drainage cells, appeal)
- Clark v Coffey (patent for a method for detecting opal deposits, trial)
- 3M v Tyco (patent for electrical connectors, trial and appeal)
- Gambro v Fresenius (patent for dialysis machines, trial, appeal and trial as to damages)
- Eli Lilly v Pfizer (patent for use of Viagra to treat erectile dysfunction, trial and appeal)
- Mycogen v Monsanto (patent for genetically engineered cotton plants, trial)
- Conor v Angiotech (patent for drug-eluting (taxol) stents, hearing and appeal on entitlement; also a member of the team of barristers that argued the equivalent case in the House of Lords)
- Hexal v Hoffmann La Roche (patent for use of carvedilol to decrease mortality from heart failure, interlocutory injunction)
- Merck v Genrx (patent for the drug, alendronate, used to treat osteoporosis, interlocutory injunction)
- Merck v Arrow (patent for the drug, alendronate; trial and appeal)
- Pfizer v Commissioner of Patents (extension of patent for the anti-fungal drug, voriconazole, trial and appeal)
- Emperor Sports v Commissioner of Patents (acted for the Commissioner in appeal regarding re-examination of procedures)
- IGT v Aristocrat (games for poker machines, trial and appeal)
- Alphapharm v Lundbeck (patent for the anti-depressant drug, escitalopram, trial and appeal; appeal to AAT regarding extension of time and appeal to Full Court and further appeal to High Court; opposition to application for extension of term in Patents Office, appeal to Federal Court and further appeal to Full Federal Court and High Court; further infringement proceedings)

- DuPont v ICI and the Commissioner of Patents (acted for the Commissioner in appeal regarding opposition procedures)
- Sheiman v Novopharm (conspiracy claim relating to patent applications for sterilisation apparatus)
- Interpharma v Lilly (patent for gemcitabine, anti-cancer agent, interlocutory injunction)
- Inverness v MDS (pregnancy testing kits, trial)
- Hospira v Amgen (patent for PEG-GCSF, a pegylated hormone used to increase blood cell count)
- Novozymes v Danisco (patent relating to an enzyme (lipase) used in baking bread, trial and appeal)
- Apotex v Eli Lilly (patent for olanzapine, used to treat schizophrenia, trial and appeal)
- Apotex v AstraZeneca (patents relating to rosuvastatin, a cholesterol-lowering agent, trial and appeal)
- Samsung v Apple (smartphone technology, trial)
- Merck v Apotex (mometasone furoate nasal spray, interlocutory injunction)
- DSM v Suntory (arachidonic acid containing composition and microbial process for production, appeal from opposition)
- Reckitt Benckiser v Glaxo SmithKline (liquid dispensing apparatus, interlocutory injunctions, appeals and trial)
- Hoffmann-La Roche v Apotex (patent relating to valganciclovir, an anti-viral drug)
- Merck v Ono Pharmaceuticals (patent relating to anti-PD1 monoclonal antibodies, trial in 2017)
- Blueport Nominees v Sewerage Management Services (pipe connectors for use in sewerage, trial)
- Voxson v Optus, Telstra and Vodafone (patents relating to GPS technology and video streaming, various interlocutory hearings)
- Merial v Intervet (soft chew anti-parasitic formulation, appeal from opposition)
- Tytec v General Transport (trailers, appeal from opposition)
- Ansell v Reckitt Benckiser (synthetic latex condoms, various interlocutory hearings and trial end 2016 – matter settled before judgment)
- Nichia v Arrow (LEDs, trial and appeal)
- Roche v Sandoz (Mabthera – anti-cancer/arthritis antibody, interlocutory injunction)
- Meat and Livestock Authority v Cargill / Branhaven (method for genetic selection of cattle – appeal from opposition and amendment)
- Globaltech v Coretell (drilling, trial)
- Merck (MSD) v Wyeth (patents relating to pneumococcal vaccines, trial)

Appearances before the Australian Patent Office in many cases, including the following oppositions:

- Genentech v Celltrix (insulin like growth factor binding protein)
- Tioxide v Kerr McGee (process for manufacturing titanium dioxide)
- CSIRO v Bio-Care (method for controlling termites)
- DSM NV v Novo Nordisk (patent for *Aspergillus tubigenis* XYL b enzyme)
- Affymax v Diversa (patent for DNA shuffling)
- Human Genome Sciences v Ludwig (VEGF2 protein)
- SmithKline Beecham v Lek (combination of amoxicillin and clavulanate)
- Genentech v HGS (VEGF-related protein)
- Bluescope v IGS Technologies (coated steel compositions)
- Novogen v GJ Consultants (entitlement)
- Novozymes A/S v DSM N. V. (methods for expression cloning in filamentous fungi)
- Nestle v Effem (canned pet food)
- Oravax v CSL (*Helicobacter* vaccine)
- Bayer v Novartis (endoparasitocidal agents)
- Ashmont v Nature Vet (anthelmintic formulations)
- Orenco v Everhard (septic tanks)
- Merck v Sherman (enalapril formulation)
- Fexco DCC v Mainline (method for foreign currency conversion)
- Euro-celtique v Grunenthal; Grunenthal v Mundipharma (opoid formulations)
- Unilever v Nestec (ice confections)
- CSR v Renouf (laminated insulating material)
- Sheiman v Novapharm (sterilisation apparatus)
- Vistakon v Novartis (contact lenses)
- NewSouthInnovations v Kaczmarek (entitlement)
- Alphapharm & 3 Ors v Lundbeck (anti-depressant – extension of time application, following opposition and subsequent appeals)
- Haas v Steiner (anti-microbial agents)
- Novartis v Bayer (endoparasitocidal agents)
- Martek v Suntory (process for manufacturing oils used in infant formula)
- Shell v Exxon (process for removing contaminants from gas)
- Exxon v Shell (gasoline formulation)
- Apotex v AstraZeneca (rosuvastatin formulation)
- QNL v Cominco (process for extraction of minerals from ores)

- Sandoz v Euroceltique (tramadol formulation)
- Unnamed opponent (Mr Carter) v Cristal Inc (titanium alloy)
- Unnamed opponent (Mr Cox) v Abbott Laboratories (infant milk formula)
- Northern Rivers v Cougar Biotech (Johnson & Johnson) (treatment for prostate cancer)
- Fonterra v Corman (milk product)
- Evonik v Sudzucker (sugar sweetener)
- Intervet v DuPont (anti-parasitic formulations)
- Cargill v Dow Agrosience (genetically modified canola plants, seeds and oils)
- TasAlks v TPI and Sun (high codeine poppies)

Other areas of interest:

Any case or inquiry relating to technology in any field of law.

In her early years at the Bar, Katrina Howard appeared in various criminal cases and cases alleging personal injury as a result of exposure to extremely low frequency radiation from high voltage power lines, and appeared on behalf of the Electrical Supply Association of Australia (representing all electrical utilities in Australia) in a Government Inquiry into Community Needs and High Voltage Transmission Line Development.