

Jesmini Ambikapathy

Barrister-at-law, Nigel Bowen Chambers

PRACTICE OVERVIEW AND BACKGROUND

Jesmini accepts briefs in all areas of law with a particular focus on intellectual property, equity and commercial litigation, inquiries and administrative law.

Jesmini has significant experience in the public and private sector and in the pharmaceutical and life science industries.

Prior to coming to the Bar, she worked in the patent litigation team of a top tier Australian law firm and as in-house counsel for the CSIRO and two listed global pharmaceutical companies. Jesmini was the associate to the Hon. Justice A. C. Bennett AC of the Federal Court of Australia and a Gates scholar at the University of Cambridge, where she completed an MPhil in Bioscience Enterprise.

ADMISSIONS

2017	Barrister, New South Wales
2002	Legal Practitioner, Supreme Court of New South Wales

EDUCATION

2006	University of Cambridge Masters in Philosophy – BioScience Enterprise Gates Cambridge Trust Scholar Institute of Biotechnology Commendation
2001	Australian National University Bachelor of Laws (Honours) Bachelor of Science (Honours) – Biochemistry and Molecular Biology

PROFESSIONAL EXPERIENCE

2017- Present	Barrister PRACTICE AREAS: intellectual property, commercial and corporate law, equity, Inquiries, administrative law Counsel Assisting , Royal Commission into National Natural Disaster Arrangements (2020)
2012 – 2016	Aspen Pharmacare Australia Pty Ltd Senior Lawyer PRACTICE AREAS: commercial and contract law, pharmaceutical regulation, consumer and competition law, intellectual property, privacy
2009 – 2012	Eli Lilly Australia Legal Counsel PRACTICE AREAS: commercial law, pharmaceutical regulation, consumer law, intellectual property, privacy
2004 – 2009	CSIRO Legal Counsel PRACTICE AREAS: intellectual property (including international enforcement), commercial law
2004	Australian Government Solicitor Lawyer PRACTICE AREAS: litigation, employment, administrative law
2003 - 2004	The Hon. Justice Annabelle C. Bennett AC Associate Federal Court of Australia
2001 - 2003	Mallesons Stephen Jaques Solicitor/Graduate PRACTICE AREAS: patent litigation, privacy, banking and financial services

SELECTED CASES

Patents

Vehicle Monitoring System Pty Ltd v SARB Management Group Pty Ltd
(led by R Cobden SC, C Burgess and P Arcus)

Patent infringement and cross claim for invalidity. Final hearing in March and April 2021, decision reserved. Interlocutory decisions include [2020] FCA 1243; (2020) 150 IPR 554; (2020) 151 IPR 1; [2020] FCA 819; [2020] FCA 1243; [2020] FCA 1866

Vehicle Monitoring System Pty Ltd v SARB Management Group Pty Ltd (2021) 164 IPR 200
(led by P Arcus)

Patent opposition, appeal to the FCAFC. First instance decision, 'appeal' from decision of a delegate of the Commissioner of Patents – (2020) 150 IPR 216 (led by C Burgess).

DCA Cities Holdings Pty Ltd v Vehicle Monitoring System Pty Ltd (unled; ongoing)
Patent infringement and cross claim for invalidity.

CTA Australia Pty Ltd v SupplyM8 International Pty Ltd & Ors (led by HPT Bevan SC; ongoing)
Patent infringement and cross claim for invalidity.

CSR Building Products Ltd v Steadiform Pty Ltd (led by HPT Bevan; settled 2021)
Patent infringement and cross claim for invalidity.

Vuly Pty Ltd v Wei Yang [2020] APO 13 (unled)
Application for a declaration of entitlement to a patent.

Wei Yang v Vuly Pty Ltd (unled; settled, 2020)
Appeal from patent office decision – *Vuly Pty Ltd v Wei Yang* [2020] APO 13

Trade Marks

Patriot Campers Pty Ltd v Sunshine Forrest International Trading Pty Ltd (unled; settled 2022)
Importation and sale of replica products – trade mark infringement, passing off, misleading and deceptive conduct (ongoing)

Armco Barriers Pty Ltd v Australian Handrails Pty Ltd & Ors (led by L Thomas; ongoing)
Trade mark infringement, passing off and misleading and deceptive conduct; cross claim for cancellation of trade mark

Vets First Choice Pty Ltd v Vet1 Pty Ltd (led; ongoing)
Trade mark infringement; cross claim for cancellation, removal for non-use, misleading and deceptive conduct and passing off

XGPrinter Pty Ltd v YQueue Singapore Pte Ltd [2022] ATMO 139 (unled)
Trade mark office, opposition to registration of a trade mark

Austin John Watson ATF Watson Family Trust v Cosmetic Warriors Ltd (2020) 156 IPR 1 (unled)
Application to remove a trade mark for non-use.

Stay Upright Pty Ltd v Ascent Training Services Pty Ltd (unled; settled, 2020)
Trade mark infringement, passing off, misleading and deceptive conduct

Rolex SA v Spooks GmbH [2018] ATMO 200 (unled)
Trade mark office, opposition to registration of a trade mark

SUMOL+MARCAS, S.A. v Sumo IP Holdings Pty Ltd (2018) 145 IPR 98 (unled)
Opposition to an application to remove a trade mark

F45 Training Pty Ltd & Ors v Hillbrick Bicycles Pty Ltd & Ors (led by HPT Bevan; settled, 2017)
Trade mark infringement, copyright infringement, passing off, misleading and deceptive conduct

Copyright, Designs and Confidential Information

EV20 Consulting Group Pty Limited v Paperless Warehousing Pty Limited (led by J Giles SC)

Software dispute – unjustified threats of copyright infringement, misleading and deceptive conduct, misuse of confidential information (ongoing)

Crafted Furniture Pty Ltd v Burden & Cura Furniture Pty Ltd (unled; settled, 2022)

Copyright infringement, misleading and deceptive conduct, misuse of confidential information

Foxtel Management Pty Limited v TPG Internet Pty Ltd (2017) 349 ALR 154 (led by J Beaumont)

Copyright infringement, injunction requiring carriage service providers to take reasonable steps to disable access to online locations outside Australia

Commercial, Corporate and Equity

Supreme Court

Numedico Technologies Pty Ltd v Mastorakis & Omikron Group Limited (led by T Duggan KC; ongoing)
Claim for breach of business asset sale agreement (medical device technology)

Irminger-Finger & Anor v BARD1 Life Sciences Limited (led by P Liondas; settled 2022)

Claim for breach of terms of share sale agreements relating to performance milestones (cancer diagnostic)

Aquamore Credit Equity Pty Ltd & Anor v Pamada Pty Ltd (in liq) & Ors; Aquamore Credit Equity Pty Ltd v Mark Sydney von Somogy & Anor (led by J Lazarus SC; ongoing)

Enforcement of guarantee and collateral security contract

Welsh v Halloran (led by T Alexis SC; settled, 2019-2021)

Misleading and deceptive conduct, participating in breach of fiduciary duties, professional negligence

Ha Tiang Noon v George Ha Hau Cheng (led by J Giles SC; settled, 2019-2020)

Settlement Deed – interpretation and rectification

Discovery Technology Pty Ltd v Shopper Media Group Pty Ltd (led by S Grey; settled, 2018-2020)

IT dispute – existence of a contract, breach of contract, convention estoppel

Active Edge Promotions Pty Ltd v The Fundraising Group (Australia) Pty Ltd

(led by A McInerny SC; settled, 2019)

Breach of contract, constructive trust

Welsh v Welsh & Ors (led by T Alexis SC and M Cairns; settled, 2018-2019)

Promissory estoppel, breach of fiduciary duties, partnership, family provision application

Protein Plus Pty Ltd v Pederick & Pederick (unled; settled, 2018-2019)

Compensation for improvements, Agricultural Tenancies Act 1990

Federal Court

Godolphin Australia Pty Ltd & Anor v Pace Development Group Pty Ltd (led by C Dimitriades SC)

Misleading and deceptive conduct and passing off (settled; 2022)

Kolodziej v Cynosure Pty Ltd (unled; settled at hearing, 2018-2019)

Misleading and deceptive conduct

District Court

Invent Services Pty Ltd v Australasian Insulation Supplies Pty Ltd (unled; ongoing)

Enforce of oral joint venture agreement

Kahn & Ors v Gayed (unled; settled at hearing, 2017-2019)

Home building dispute, breach of contract, breach of statutory warranties, negligence

Administrative Law

NSW Civil and Administrative Tribunal

Council of the Law Society of NSW v Petrovich [2019] NSWCATOD 44 (led by E Muston SC)
Professional misconduct

DQD v Children's Guardian [2019] NSWCATAD 84 (unled)
Application for an enabling order under s 28(1) of the *Child Protection (Working with Children) Act* 2012 (NSW)

Luckman v NSW Land & Housing Corporation (unled; dismissed for procedural default, 2017)
Residential tenancy dispute, right to conduct periodic inspections

Brown v NSW Land and Housing Corporation (unled; settled, 2017)
Residential tenancy dispute, eviction

Federal Court

BDR18 v Minister for Home Affairs [2020] FCA 212 (unled)
Appeal from Federal Circuit Court, decision of the Immigration Assessment Authority (IAA)

Minister for Immigration and Border Protection v BBS16 (2017) 257 FCR 111 (led by D Hughes)
Appeal from Federal Circuit Court, decision of the Immigration Assessment Authority (IAA),
“exceptional circumstances” under s 473DD(b) of the *Migration Act* 1958, application of the
ICCPR to complementary protection claims

Federal Circuit Court

EZM17 v Minister for Immigration, Citizenship & Multicultural Affairs [2022] FEDCFAMC2G 633
(unled)
Judicial review application, decision of the Immigration Assessment Authority

ETR17 v Minister for Immigration, Citizenship & Multicultural Affairs [2022] FEDCFAMC2G 632
(unled)
Judicial review application, decision of the Immigration Assessment Authority

Inquiries

Royal Commission into National Natural Disaster Arrangements (2020)
Counsel Assisting – subject areas of focus included science and technology, land management,
land use planning and building regulation, emergency warnings and risk information.

*Royal Commission into Misconduct in the Banking, Superannuation and Financial Services
Industry (2017)*
Briefed by National Australia Bank for document review and advice