

Background and Practice Overview

Megan predominantly practices in intellectual property law, but also has experience in other areas of commercial and migration law. Megan has been recognised by Doyles as a Leading Intellectual Property Junior Counsel – NSW; and is ranked in Chambers' Partners Asia-Pacific 2023: Intellectual Property: The Bar.

Prior to being called to the Bar, Megan was Associate to the Hon Justice Burley of the Federal Court of Australia. During that time, she had exposure to a wide variety of legal cases, in both first instance and appellate jurisdictions. Megan has also previously been a Senior Associate in MinterEllison's intellectual property disputes team; in-house IP Counsel for generic pharmaceutical company Hospira, (now Pfizer); and solicitor at King & Wood Mallesons.

Megan has substantial experience in intellectual property litigation, intellectual property advisory work, and patent and trade mark prosecution. Examples of significant cases that she has been involved in include the High Court appeal of *AstraZeneca AB v Apotex Pty Ltd*, regarding pharmaceutical patents for cholesterol drug rosuvastatin (Crestor); the first patent repair case in Australia, *Seiko Epson Corporation v Calidad Pty Ltd*; and the trade mark dispute *In-N-Out Burgers, Inc v Hashtag Burgers Pty Ltd*.

Megan is also a qualified Trade Mark Attorney and holds a Bachelor of Biomedical Science and Bachelor of Laws (Hons) from Monash University.

Admissions

Barrister	2019
High Court of Australia	2012
Supreme Court of Victoria	2012

Professional Experience

Barrister Sydney	Nigel Bowen Chambers	2019 - current
Federal Court of Australia Sydney	Associate to the Hon Justice Burley	2018-2019
MinterEllison Melbourne	Senior Associate Associate	2016-2018 2014-2015
Lipman Karas Adelaide	Associate	2015-2016
Hospira (now Pfizer) Melbourne	IP Legal Counsel (Seconded, then part-time employee)	2014-2015
King & Wood Mallesons Melbourne	Solicitor	2012-2013
Houlihan² Melbourne	Trade Mark Attorney Technical Assistant	2008-2012
Monash University, Physiology Dep. Melbourne	Scientific Research Assistant	2006-2009

Selected Work as Junior Counsel

Patents

Pfizer Ireland Pharmaceuticals v Samsung Bioepis Co. Ltd – NSD331/2022

Led by D Shavin KC, T Bannon SC and C Cochrane SC. Acting for Pfizer in its claim against Samsung Bioepis Co Ltd & ors for alleged infringement of a process patent concerning the preparation of the biologic drug etanercept. The case also involves an application to amend the patent in suit and a cross-claim for revocation.

Astellas Pharma Inc v Aragon Pharmaceuticals Inc [2022] APO 36

Led by C Dimitriadis SC. Acted for Astellas in its successful opposition of grant of a method of treatment patent concerning the use of various anti-androgens in the treatment of metastatic castration resistant prostate cancer.

Samsung Bioepis & Organon Pharma v Fresenius Kabi – VID422/2022; VID360/2022

Led by C Dimitriadis SC. Acting for Organon in the action for revocation of two formulation patents and defence of a cross-claim for infringement.

Merck Sharp & Dohme Corp. & Anor v Sandoz Pty Ltd (2021) 162 IPR 409; (2022) 291 FCR 26

Led by C Dimitriadis SC. Successfully challenged the grant of an extension of patent term, and defended patent infringement and ACL claims in relation to a method of treatment patent for sitagliptin; and defended Merck's appeal.

CPC Patent Technologies Pty Ltd v Apple Pty Limited – NSD998/2021

Led by T Bannon SC and C Dimitriadis SC. Acting for CPC in its infringement action against Apple in relation to two patents concerning the biometric facial and fingerprint recognition functions in Apple devices. The case also involves a cross-claim for revocation.

Quaker Chemical (Australasia) Pty Ltd v Fuchs Lubricants (Australasia) Pty Ltd – S75/2021

Led by T Bannon SC, C Dimitriadis SC and R Clark. Acted for Quaker in its special leave application to the High Court concerning the scope of the reasonable trial grace period provision in the *Patents Act 1990* (Cth).

Cytec Industries Inc v Nalco Company (2021) 162 IPR 202

Led by J Cooke SC. Acting for Nalco Company, in relation to a patent concerning a chemical additive for inhibiting accumulation of aluminosilicate scale on equipment used in the Bayer process.

Allied Pumps Pty Ltd v LAA Industries Pty Ltd [2020] APO 41; [2021] APO 47; NSD639/2021

Led by T Bannon SC and T Cordiner KC. Successfully acted for Allied Pumps in an opposition to an extension of time application; a substantive opposition; and an ongoing Federal Court revocation and infringement proceeding relating to patents directed to genset systems.

Juno Pharmaceuticals Pty Ltd & Natco Pharma Limited v Celgene Corporation – VID718/2020

Led by D Shavin KC and K Beattie. Acted for Juno Pharmaceuticals & Natco Pharma in their action for revocation of an API Patent and multiple method of treatment patents concerning particular hematological disorders; and defence of a cross-claim for infringement.

Hanwha Solutions Corporation & Ors v Jinko Solar Australia Holdings Co. Pty Ltd – NSD395/2019

Led by P Flynn SC. Acting for Jinko, respondent and cross-claimant in a patent infringement claim and invalidity cross-claim of a patent pertaining to solar cells and methods of manufacturing same.

F45 Training Pty Ltd v Body Fit Training Company Pty Ltd [2019] FCA 1911

Led by C Cochrane SC. Successfully acted for F45 Training Pty Ltd in its application for preliminary discovery to ascertain whether the respondent was infringing two patents directed to a method and system for remote configuration and operation of fitness studios from a central server.

Neurim Pharmaceuticals v Generic Partners Pty Ltd & Apotex Pty Ltd – NSD656/2017

Led by D Shavin KC and L Thomas. Acting for Neurim Pharmaceuticals in its claim against two generic pharmaceutical companies for patent infringement of a method of treatment patent concerning the use of melatonin to treat primary insomnia characterised by non-restorative sleep. The case also involves a cross-claim for revocation.

H Lundbeck A/S v Sandoz Pty Ltd – NSD647/2014; NSD824/2016

Led by C Dimitriadis SC. Acting for Sandoz in Lundbeck's claim against Sandoz for patent infringement in relation escitalopram.

Trade Marks / Australian Consumer Law / Passing Off

In-N-Out Pty Ltd v Rich Asians Pty Ltd [2022] FCA 1573

Unled. Acted for In-N-Out in its claim against Rich Asians for trade mark infringement, misleading or deceptive conduct and passing off in relation to ghost kitchen activity in Queensland.

Richemont Australia Pty Ltd v Duo Jewellery Pty Ltd – SYG353/2022

Led by J Hennessy SC. Acted for Richemont in relation to its claim against Duo Jewellery & Ors for design infringement, misleading or deceptive conduct and passing off with respect to copies of Maison Van Cleef & Arpel's Alhambra jewellery collection.

Matthew Clark v Hyper Bicycles, Inc – VID248/2022

Unled. Successfully acted for Hyper Bicycles in its non-use application in the Trade Mark Office. The matter is now on appeal to the Federal Court.

Goodman Fielder Pte Ltd v Conga Foods Pty Ltd [2020] FCA 1808; [2021] FCA 307

Led by E Heerey KC. Successfully acted for Goodman Fielder in a five day hearing in the Federal Court regarding claims for trade mark infringement, and defended a cross-claim to revoke five trade marks.

The a2 Milk Company v Societe des Produits Nestlé S.A. - NSD 831/2021

Led by N Murray SC. Acting for Nestlé in an appeal by The a2 Milk Company from a decision in the Trade Mark Office concerning the registration of Nestlé's A2 related trade marks.

FCA US LLC & FCA Australia Pty Ltd v Mahindra Automotive Australia Pty Ltd & Mahindra & Mahindra Ltd – NSD 348/2021

Led by P Flynn SC. Acted for FCA in a misleading or deceptive conduct and design infringement action in the Federal Court with respect to Mahindra's "Thar" motor vehicle, which is alleged to incorporate key features of the Jeep® Wrangler® and adopt the same distinctive overall appearance.

Opposition by ERREA' SPORT S.p.A. to registration of trade mark application no. 2145306

Unled. Acted for Giorgio Armani S.P.A. in relation to its opposition of Errea' Sport's application to amend its statement of grounds and particulars.

Viceroy Cayman Limited v Anthony Otto Syrowatka [2021] ATMO 159

Unled. Successfully acted for Viceroy in its opposition of a trade mark application for VICEROY in relation to hotel services.

Avante Australia Pty Ltd v Mills Brands Pty Ltd & Anor – SYG1036/2020

Unled. Acted for the respondents, defending a trade mark infringement and passing off claim in the Federal Circuit Court; and cross-claim to revoke the trade mark.

In-N-Out Pty Ltd v Hashtag Burgers Pty Ltd [2020] FCA 193; [2020] FCA 772; *Hashtag Burgers Pty Ltd v In-N-Out Burgers, Inc* [2020] FCAFC 235

At first instance, led by C Burgess. Successfully acted for In-N-Out in a four day hearing in the Federal Court regarding claims for trade mark infringement, misleading or deceptive conduct and passing off. Also successfully defended an application to stay the injunction and costs orders.

On appeal, led by C Dimitriadis SC and C Burgess. Successfully defended the appeal and succeeded on In-N-Out's cross-appeal concerning joint tortfeasorship.

Opposition by Team Building Holdings Pty Ltd to registration of trade mark application no. 1883945 [2020] ATMO 167

Unled. Successfully defended an opposition to registration of a device mark for Noosa Brewing Co.

L'Oreal v Provendex Pty Ltd

Unled. Acting for L'Oreal in its dispute with Provendex in relation to two non-use applications and an opposition to the registration of ELIVE related trade marks.

Procter and Gamble Pty Ltd v Colgate Palmolive Pty Ltd – NSD730/2019

Led by J Cooke SC. Acted for Procter and Gamble Pty Ltd in a misleading or deceptive conduct action in the Federal Court.

Mylan Health Pty Ltd v Cipla Australia Pty Ltd & Anor – VID766/2019

Led by T Cordiner KC. Acted for Mylan Health Pty Ltd in a packaging get-up misleading or deceptive conduct and passing off action in the Federal Court. The case settled prior to trial.

Copyright

Phonographic Performance Company of Australia v Commercial Radio & Audio – CT1/2023

Led by C Dimitriadis SC. Acting for PPCA in the Copyright Tribunal in relation to a licence scheme for commercial radio stations.

Free TV v Phonographic Performance Company of Australia – CT2/2022

Led by R Cobden SC and F Roughley. Acting for PPCA in the Copyright Tribunal in relation to a licence scheme for free to air broadcasters.

Copyright Agency Limited v The University of Adelaide & 38 other universities [2022] ACOPYT 2

Led by R Cobden SC and L Thomas. Acted for the universities in the Copyright Tribunal proceeding concerning the amount of equitable remuneration payable by the universities for licensed copying and communication pursuant to s 113 of the Copyright Act. The matter settled prior to the hearing of the appeal.

APRA AMCOS v Netflix & Ors – CT1/2021

Led by M Hall SC and R De Stoop. Acting for APRA AMCOS in the Copyright Tribunal in relation to a licence scheme with subscription video on demand service providers.

AGL Energy Limited v Greenpeace Australia Pacific Limited (2021) 159 IPR 336

Led by J Hennessy SC. Acted for AGL in a copyright and trade mark infringement action in the Federal Court with respect to Greenpeace's advertising campaign concerning AGL.

Guider v Royal Botanic Gardens and Domain Trust & State of NSW, Development of Planning, Industry and Environment – SYG2535/2020

Led by R Cobden SC. Acted for the Trust and State of NSW, defending claims of infringement of the author's moral rights in a public mural.

Private Arbitration regarding quantification of licence fees

Led by M Hall SC and R De Stoop. Acted for a collecting society in a private arbitration concerning the quantification of licence fees.

Shawn Carter v The Little Homie Pty Ltd – VID1273/2019

Led by E Heerey KC. Acted for The Little Homie Pty Ltd, defending claims of trade mark infringement, copyright infringement, misleading or deceptive conduct and passing off. The case settled prior to trial.

State of Escape Accessories Pty Ltd v Stefanie Arianne Schwartz & Anor – VID521/2018

Led by L Merrick. Acted for the respondents, defending claims of copyright infringement concerning an asserted work of artistic craftsmanship.

Migration

CVO17 v Minister for Immigration and Border Protection [2019] FCA 1612

Led by HPT Bevan SC. Successfully acted for the Minister in an appeal from a decision of the Federal Circuit Court on the ground of legal unreasonableness.

Commercial

New Aim Pty Ltd v Leung [2023] FCAFC 67

Led by P Crutchfield KC and L Merrick. Acting for New Aim in its claim against former employee Leung & Ors for breach of confidence, breach of contract and contravention of s 183 of the *Corporations Act 2001* (Cth) in relation to New Aim's supplier information.

Croghan v Blacktown City Council [2019] NSWCA 248

Led by M Hall SC. Successfully acted for the appellant in its appeal against the primary judge's indemnity costs order pursuant to UCPR 42.15.

Yacht Club Sopot SP. Z.O.O. v The Yacht "Monster Project" (No. 2) [2019] FCA 1425

Led by P Larkin SC. Acted for the vessel, and its owner, following the arrest and sale of the vessel pursuant to the *Admiralty Act 1988* (Cth).

Selected Work as a Solicitor

Patents

Seiko Epson Corporation v Calidad Pty Ltd [2017] FCA 1403

Acted for Calidad Pty Ltd in defending allegations of patent infringement and pursuing a cross-claim for unjustified threats in the context of repairing and modifying used printer cartridges.

Janssen Sciences Ireland UC v Alphapharm Pty Ltd [2017] FCA 1399

Acted for Alphapharm Pty Ltd in defending an urgent interlocutory injunction application relating to a chemical process patent for HIV protease inhibitor drug, darunavir.

Apotex Pty Ltd v Cipla Limited [2017] FCA 1627

Acted for Cipla Limited, MEDA A.B. and Mylan Health Pty Ltd seeking an urgent interlocutory injunction relating to a formulation patent for nasal and ocular use for preventing or minimising allergic reactions.

AstraZeneca AB v Apotex Pty Ltd [2015] HCA 30

Acted for Actavis Australia Pty Ltd (formerly Watson Pharma Pty Ltd) and Ascent Pharma Pty Ltd in defending infringement proceedings and pursuing a revocation cross-claim relating to two method of treatment patents and one formulation patent concerning the cholesterol drug rosuvastatin (Crestor); and advising on matters relating to the Commonwealth of Australia's subsequent claim for damages against AstraZeneca pursuant to an undertaking as to damages.

Ranbaxy Laboratories Limited v AstraZeneca AB [2013] FCA 368

Acted for Ranbaxy Laboratories Limited in revocation proceedings and defending infringement proceedings relating to two new chemical entity patents and one formulation patent concerning the stomach reflux and ulcer drug esomeprazole (Nexium).

Novartis AG & Anor v Hospira Pty Limited (NSD 1048/2012 and NSD 1207/2012) (settled after trial but before judgment)

Acted for Hospira in defending infringement proceedings and pursuing a revocation cross-claim for two method of treatment patents concerning the treatment of osteoporosis and bone cancer.

Trade Marks and other

Singtel Optus Pty Limited v Optum Inc [2018] FCA 575

Acted for Singtel Optus Pty Ltd in its appeal from a decision of the Registrar of Trade Marks to allow the trade mark OPTUM and defend a cross-claim for non-use.

Seiko Epson Corporation v Calidad Pty Ltd [2017] FCA 1403

Acted for Calidad Pty Ltd in defending allegations of trade mark infringement, breach of contract, breach of statutory duty and misleading or deceptive conduct for repairing and modifying used printer cartridges.

Glenmark Pharmaceuticals Europe Limited v Mayne Pharma International Pty Ltd, No 20458/CYK (ICC. Arbitration)

Acted for Mayne Pharma in a contractual dispute concerning a supply agreement for pharmaceutical products in Europe that was arbitrated in June 2015.

Australian Competition and Consumer Commission v Pfizer Australia Pty Ltd [2015] FCA 113

Acted for Alphapharm Pty Ltd and Sigma Pharmaceuticals Limited, two of thirteen subpoenaed third parties, in narrowing the scope of the subpoenas and seeking suppression and costs orders.

Carlyle Capital Corporation Ltd (In Liquidation) and Others v Conway and Others [2013] 2 Lloyd's Rep. 179

Acted for the liquidators in an action in Guernsey against the former Directors. The case involved allegations of breach of fiduciary duty and various sections of the Companies (Guernsey) Law 1994.

The Florey Institute of Neuroscience and Mental Health v Kleiner Perkins Caufield & Byers et al case No CV 12-6504

Acted for the Florey Institute in its unjust enrichment claim in the United States District Court for the Northern District of California. The parties settled prior to trial.

In-house IP Counsel for Hospira (now Pfizer)

Responsible for determining the global patent strategy for a large number of prospective small molecule pharmaceutical products that were in early to mid-stage development. The role was a global role involving multiple jurisdictions (including the United States, Europe, Australia, India, Taiwan and China).

Presentations and Publications

- Evetts M. "By the grace of section 24 – grace period developments". AIPPI 25 November 2021.
 - Evetts M., White E., Lambert D. (2021). "Burger Wars: Down and Out". IPSANZ 13 May 2021.
 - Evetts M., Heerey E. QC. (2020). "Survey Evidence: wasted opportunity or waste of time?". IPSANZ Journal, 120, pp 12-22.
 - Evetts M. (2019). "Survey evidence: wasted opportunity or waste of time?". IPSANZ Conference 2019 (paper accompanying presentation by Ed Heerey QC).
 - McMaster W., Kelp J., Evetts M. (2014). "AstraZeneca cholesterol patents held invalid". Intellectual Property Magazine, Oct, 66-68.
 - Evetts M., Lim C., Swinson M. (2012). "Restraint of Trade and Restrictive Covenants". The Australian Law Journal, 86(11), 729-731.
 - Verty ANA., Evetts MJ., Crouch GJ., McGregor I.S., Stefanidis A., Oldfield B.J. (2011) "Δ9-Tetrahydrocannabinol (THC) attenuates weight loss in an activity based model of anorexia nervosa". Journal of Neuropsychopharmacology, 36(7), pp 1349-58.
 - Hollis J., Lemus M., Evetts MJ., Oldfield B.J. (2010) "Central interleukin-10 attenuates lipopolysaccharide-induced changes in metabolism and Fos expression in the arcuate nucleus and within orexin neurons". Neuropharmacology, 58(4-5), 730-738.
 - Evetts MJ., Verty ANA., Oldfield B.J. (2009) "Δ9-Tetrahydrocannabinol (THC) attenuates weight loss in an activity based model of anorexia nervosa". Podium presentation made at the Endocrine Society Annual General Meeting, Adelaide.
 - Evetts MJ., Verty ANA., Oldfield B.J. (2009) "Δ9-Tetrahydrocannabinol (THC) attenuates weight loss in an activity based model of anorexia nervosa". Poster presented at the Society for Study of Ingestive Behaviour Annual Conference, United States of America.
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Recommendations

Chambers and Partners 2023 – Intellectual Property Junior Counsel – Global and Asia Pacific

"Megan Evetts brings notable experience to her work, having practiced privately and in-house before joining the Bar. Her practice covers a wide range of intellectual property rights, but she is singled out for her expertise with trade marks and patents, particularly within the life sciences sector."

Doyles Guide 2023 - Leading Intellectual Property Junior Counsel – New South Wales

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