



Katrina Howard SC

T +61 2 8915 2121

F +61 2 9233 1137

E khoward@selbornechambers.com.au

Ninth Floor Selborne Chambers 174 Phillip Street, Sydney NSW 2000

T +61 (2) 8915 2100

M +61 416 230 288

www.9selborne.com.au

Introduction

Katrina has a BSc (Hons I, pharmacology) from Monash University and an LLB (Hons IIa) from Melbourne University.

Katrina has practised at the Sydney Bar since 1993, mainly in patent law. She was also admitted to practice as a barrister in the UK in 2008, and is a door tenant at Three New Square, Intellectual Property Chambers, London. Through specialist studies at Cambridge University, attending and presenting at local conferences such as IPSANZ and IPTA and international conferences such as BIO and Patski, and involvement in many cases as part of complex global litigation, she has a thorough knowledge of patent laws in the US, UK and Europe, as well as Australia.

Katrina has acted in many of the major patent cases in Australia in the last twenty-five years across a broad range of technologies, including in the fields of pharmaceuticals and biotechnology (including relating to the hepatitis C virus, the AIDS virus, taq polymerase, erythropoietin, omeprazole, Viagra, escitalopram, olanzapine, rosuvastatin, high codeine poppies, fish oils and parasite treatments), antibodies and biosimilars (including Keytruda, Mabthera and etanercept), vaccines (including meningococcal vaccines, and recently for Merck in its four-year battle with Wyeth/Pfizer over pneumococcal vaccines), gene technologies (including transgenic mice, methods for cattle breeding, and recently CRISPR gene-editing technology, CAR T-cell technology and personalized medicine), medical devices (such as dialysis machines, taxol-coated stents, pregnancy testing kits, syringes for Panadol and condoms), as well as many patents in the fields of chemistry and physics (including mining, LED lights, corrosion mitigation and solar cell technology) and IT (including poker machines, and for Samsung in its battle against Apple over smartphone technology). She has also been involved in many cases concerning patent term extensions (including obtaining an extension of term for the escitalopram patent several years after expiry resulting in a large claim for damages) and patent entitlement disputes.

From 2012-2018, Katrina was the Patent and Trade Marks Attorneys Disciplinary Tribunal, and often advises attorneys regarding conflicts of interest and other ethical issues.

Katrina has appeared in various other cases involving scientific issues, including personal injuries, professional negligence and conspiracy, and is interested in any matter which calls for scientific expertise in any field of law.

Katrina is also a mediator (Harvard certified and accredited by Australian Disputes Centre), and was on a World Trade Organisation IP Disputes Settlement Panel.

Professional Recognition

Katrina Howard SC is internationally recognised in the field of patent litigation in life sciences.

Katrina was recognised in **2023 Leading Adviser Awards** as **Leading BioTech Patent Litigator of the Year – Australia**.

Katrina was named as **Leading IP Silk, The Legal 500, 2023**: "Katrina is utterly adept at shaping clear arguments based perfectly on the technical detail of her cases. This marrying of legal skill with technical insight results in an impressive performance when presenting in court; a quality that is often highlighted during the unscripted cut and thrust with judges, when she frequently outshines her opposing counsel."

Katrina was an exclusive winner in Australia of the **Client Choice Awards 2022, Life Sciences**.

Katrina was named as Global Elite Thought Leader in **Who's Who Legal: Life Sciences: Patent Litigation 2022**. She is described as "a case winner" who is "excellent at drafting affidavits, and easily understands science in any case" and "has excellent knowledge of the law and federal court practice". She is highly recommended as "an outstanding lawyer for life sciences" with peers acclaiming her "fantastic technical knowledge".

Katrina "combines an excellent scientific background with a deep knowledge of patent law" and is "an internationally renowned patent litigator with a prolific background in the life sciences": **Who's Who Legal: Patents 2021 and Who's Who Legal: Life Sciences 2021**.

Katrina Howard SC is the first (and only) female silk to have been ranked in the top band in Intellectual Property in Australia in recent years by **Chambers & Partners, Asia-Pacific Guide**:

- **2022:** "Katrina Howard SC of Ninth Floor Selborne Chambers is recommended by more than one source for her particularly strong expertise in the patent field, where her academic background in biochemistry, microbiology and pharmacology constitutes a notable asset. One interviewee observes: "I can confidently rely upon Katrina's ability to understand both the scientific and the legal aspects of the case." In addition to being seen as "a first-choice counsel in the pharma field," she is also praised as a silk who not only "works extremely hard and is on top of the material," but also shows an "ability to think outside the square when formulating arguments."
- **2021:** "Katrina Howard SC of Ninth Floor Selborne Chambers is widely identified as "a leading IP senior counsel," recommended by more than one source for her particularly strong expertise in the patent field, where her academic background in biochemistry, microbiology and pharmacology constitutes a notable asset. One source succinctly identifies her as "someone you always want on your team."
- **2020:** "Rising in the rankings, Katrina Howard SC of Ninth Floor Selborne Chambers is held in high regard for her expertise in complex patent litigation. She is a popular choice among pharmaceutical and biotechnology corporations seeking representation in complex patent cases, where she is able to draw on her scientific background. One source finds that she is "a sharp scientist and a tenacious advocate who forms trusted relationships with experts and is a skilled cross-examiner." Another interviewee enthuses: "She is particularly outstanding as appeal counsel. She's able to distil an argument and present it in a way that is adaptive to the court's needs. She has excellent client rapport and understands the commercial drivers for litigation."

Named as one of the **Best Lawyers in Australia** in Intellectual Property Law in 2020, 2021, 2022, 2023 and 2024

Recommended as **Leading Intellectual Property Senior Counsel** 2021, 2022 and 2023 in **Doyles Guide, Australia**.

Euromoney's Women in Business Law Expert Guide, Patents, 2021 and 2022

Other Professional achievements

- **First Victorian female barrister to be awarded silk in NSW**
- **First female barrister to be made Head of Chambers in NSW**
- **First Australian female barrister to be unconditionally qualified in the UK**
- **First (and only) female silk ranked in the top band in intellectual property law in Chambers & Partners**
- **Described as a "vanguard" (IPTA conference, April 2022) and a "trailblazer" (IPTA conference, April 2023) in for women in the field of patent litigation**

Principal cases (patents)

Decisions of the 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)
- **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)

Special Leave Applications to High Court of Australia:

- **UWA v Gray** (entitlement)
- **Samsung v Apple** (interlocutory injunction)
- **Alphapharm v Lundbeck** (extension of term)
- **Nichia v Arrow** (LED lights, inventive step)
- **Globaltech v Australian Mud** (method for drilling, construction and infringement)

Decisions of the Full Federal Court of Australia:

- **Asahi v Grace** (patent for shrink wrap plastic, trial and appeal)
- **Tidy Tea v Unilever** (patent for dripless teabags, trial and appeal)
- **Genetics Institute v Amgen** (patent for the hormone, erythropoietin, trial and appeal)
- **Atlantis v Schindler** (patent for drainage cells, appeal)
- **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)
- **Conor v Angiotech** (patent for taxol stents, hearing and appeal on entitlement; also a member of the team of barristers that argued the case in the House of Lords)
- **Merck v Arrow** (patent for the drug, alendronate; trial and appeal)
- **Emperor Sports v Commissioner of Patents** (for Commissioner in appeal regarding re-examination 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** (for Commissioner in appeal regarding opposition procedures)
- **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)
- **Reckitt Benckiser v Glaxo SmithKline** (syringes, interlocutory injunctions, appeals and trial)
- **Nichia v Arrow** (LEDs, trial and appeal)
- **Meat and Livestock Authority v Cargill / Branhaven** (method for genetic selection of cattle – appeal from opposition and amendment; appeal from amendment decision)
- **Globaltech v Australian Mud** (drilling, trial and appeal)
- **Merck (MSD) v Wyeth (Pfizer)** (patents relating to pneumococcal vaccines, trial and appeal – matter settled after May 2021 hearing of appeal before judgment)

Federal Court of Australia (cases resulting in at least one published decision and ongoing):

- **Alphapharm v Tanabe** (patent for a beta-blocker, term extension trial)
- **Murex v Chiron** (patent for the hepatitis C virus, trial)
- **Biochem v Emory** (patent for the drug 3TC, used to treat AIDS, hearing and appeal)
- **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)
- **Mycogen v Monsanto** (patent for genetically engineered cotton plants, trial)
- **Hexal v Hoffmann La Roche** (patent for carvedilol to treat heart failure, interlocutory injunction)
- **Merck v Genrx** (patent for the drug, alendronate, used to treat osteoporosis, interlocutory injunction)
- **Clark v Coffey** (patent for a method for detecting opal deposits, trial)
- **Pfizer v Commissioner of Patents** (extension of patent for anti-fungal drug, voriconazole, trial and appeal)
- **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)
- **Samsung v Apple** (smartphone technology, trial)
- **Merck v Apotex** (mometasone furoate nasal spray, interlocutory injunction)
- **DSM v Suntory** (arachidonic acid composition and process for production, appeal from opposition)
- **Hoffmann-La Roche v Apotex** (patent relating to valganciclovir, an anti-viral drug)
- **Merck v Ono Pharmaceuticals** (patent relating to anti-PD1 monoclonal antibodies, worked with barristers in UK trial in 2017, AU case settled before trial)
- **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)
- **Hoffmann La-Roche v Sandoz** (Mabthera – anti-cancer/arthritis antibody, interlocutory injunction)
- **Vector v Duoguard** (corrosion mitigation, trial)
- **Hanwha v Jinko and Ors** (solar cells, various interlocutory hearings)
- **Pfizer v Samsung Bioepis, Merck and Organon** (etanercept, preliminary discovery, infringement, validity and amendment proceedings)(ongoing)
- **Perfect Day v Fonterra** (biotech dairy substitutes, appeal from opposition, amendment application)(ongoing)
- **CIPLA v Bayer** (rivaroxaban, anti-blood clotting drug, revocation/infringement proceedings)(ongoing)
- **EIS v LELO** (sexual stimulation devices, infringement/revocation proceedings)(ongoing)

Australian Patent Office (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 tubigensis* XYL b enzyme)
- **Affymax v Diversa** (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** (opioid 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 & 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)
- **Regeneron v Kymab** (transgenic mice, submissions only)
- **Sigma-Aldrich v JH Corporate Services** (CRISPR gene-editing techniques)
- **Astellas Pharma v Aragon Pharmaceuticals** (treatment for prostate cancer)
- **Rozenberg v Fred Hutchinson Cancer Research Centre / Seattle Children's Hospital** (CAR T-cell therapies to treat cancer)
- **QIP Nominees v Dana Farber Institute** (personalized cancer vaccines using mutated peptides)