

# Neil Murray SC

Barrister

Tenth Floor Chambers

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Silk since 2018. Barrister since 2004. Admitted as a legal practitioner in 1998.

## Areas of practice

All areas of intellectual property and related fields, including:

- patents
- trade marks
- copyright
- *Australian Consumer Law* and passing off
- confidential information
- administrative law, particularly reviews of decisions of the Copyright Tribunal of Australia, the Commissioner of Patents and the Registrar of Trade Marks

## Description

Neil appears for and advises clients across a range of industries including pharmaceuticals (generic and originator), engineering, mining, information technology, telecommunications, music, consumer goods, liquor, gaming, finance and local government. He represents clients in the Federal Court of Australia at trial and on appeal; the High Court of Australia; the Supreme Court of New South Wales; the Trade Marks Office; the Patents Office; the Copyright Tribunal; and at mediations.

His chambers are in Sydney, but he appears in cases in Melbourne, Canberra, and other Australian cities. His cases are often part of multinational litigation, involving the United States of America, the United Kingdom and/or Europe.

Before joining the Bar, he was a senior associate specialising in intellectual property disputes in a leading Australian-based multinational law firm. He is a member of the Intellectual Property and Federal Court Liaison Committees of the Law Council of Australia, the Intellectual Property Society of Australia and New Zealand, the Copyright Society of Australia and AIPPI Australia.

## Recommendations

### *Chambers & Partners*

*Global Guide 2023*

*Asia-Pacific Guide 2023*

"stands out for his assured handling of patent and copyright litigation cases"

### *Doyle's Guide to the Australian Legal Profession:*

Pre-eminent intellectual property senior counsel, New South Wales, 2022

Leading intellectual property senior counsel, Australia, 2022

Recommended technology, media & telecommunications senior counsel, New South Wales, 2022

*Who's Who Legal Australia and New Zealand*  
2022

Listed for patents and trade marks  
"an exceptional advocate"  
"easy to work with"

*The Legal 500*

2022

"meticulous and strategic in his thinking"  
"An outstanding, recently elevated senior IP barrister across patents, trade marks and copyright"

Listed in "Best Lawyers" survey, *Australian Financial Review* and [www.afr.com](http://www.afr.com) 2010-2022  
- intellectual property.

Selected cases

Patents

*Apotex v sanofi-aventis* (leflunomide); High Court of Australia, patentability of methods of treatment and infringement of patent for a new medical use of known drug.

*Northern Territory v Collins*; High Court of Australia, (the leading case on statutory indirect infringement)

*AstraZeneca v Apotex* (rosuvastatin); High Court of Australia, construction and application of ss 7(2), (3) of the Patents Act 1990 (obviousness), on appeal from a five-judge bench of the Full Federal Court.

*Aktiebolaget Hassle v Alphapharm* (omeprazole); (as instructing solicitor), High Court of Australia, seminal case on obviousness.

*Mylan Health v Sun Pharma* (fenofibrate); Full Federal Court, five-judge bench, multiple grounds of invalidity in respect of 3 pharmaceutical patents.

*Warner-Lambert v Apotex* (pregabalin); Full Federal Court, first appellate decision on whether application for listing on the Pharmaceutical Benefits Scheme constitutes patent infringement.

*Bristol-Myers Squibb Co v Apotex* (aripiprazole); Full Federal Court, construction, novelty and obviousness of patent claims to a polymorph of a known compound and test for exclusive licence under *Patents Act 1990*.

*Dynamite Games v Aruze Gaming Australia*; Full Federal Court, inventive step and innovative step for standard and innovation patents concerning gaming machines.

*SNF (Australia) v Ciba Specialty Chemicals Water Treatments*; Full Federal Court, validity and infringement of patents concerning treatment of mining waste.

*Les Laboratoires Servier v Apotex* (perindopril arginine); Full Federal Court, obligation on patentee to describe best method, false suggestion, form of declaratory relief, patent amendment.

*Les Laboratoires Servier v Apotex* (perindopril erbumine); Full Federal Court, patent amendment.

*Samsung Electronics v Apple Inc*; Full Federal Court, principles of interlocutory injunctions.

*Apple Inc v Samsung Electronics*; Federal Court of Australia, patent infringement and validity of over 20 patents concerning touch screen devices, heard by two judges concurrently over nearly four months.

## Copyright

*Roadshow Films v iiNet*; Full Federal Court, liability of ISP for copyright infringement by users of BitTorrent.

*EMI Songs v Larrikin Music Publishing*; Full Federal Court, the Kookaburra Sits in the Old Gum Tree/Down Under case.

*National Rugby League v Optus*; Full Federal Court, extent of time-shifting exception and liability for provision of online television recording service.

*Aristocrat Technologies Australia v DAP Services (Kempsey)*; Full Federal Court, damages for copyright infringement.

*Universal Music v Sharman License Holdings*; Federal Court of Australia, liability of providers of Kazaa software for copyright infringement by users.

## Trade Marks/misleading and deceptive conduct/passing off

*Campomar Sociedad Limitada v Nike International Inc*; High Court of Australia (as instructing solicitor), removal of trade marks from the Register and principles concerning misleading and deceptive conduct under the *Trade Practices Act 1974*, now the *Australian Consumer Law*.

*AFT Pharmaceuticals v Reckitt Benckiser*; Full Federal Court, misleading and deceptive conduct claims in relation to pharmaceutical advertising and whether claims had adequate scientific foundation.

*E & J Gallo Winery v Lion Nathan Australia*; Full Federal Court, removal of trade mark from Register for non-use and trade mark infringement.

*AFT Pharmaceuticals v Reckitt Benckiser*; Federal Court of Australia, further case between these parties about whether adequate scientific foundation for claims made in pharmaceutical advertisements.

*Shape Shopfitters v Shape Australia*; Federal Court of Australia, action under the *Australian Consumer Law* and the *Trade Marks Act*.

*Gain Capital v Citigroup*; Federal Court of Australia, appeal from a decision of a delegate of the Registrar of Trade Marks.