

CATHERINE BEMBRICK

5 Wentworth Chambers

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AREAS OF PRACTICE

- Competition and Consumer.
- Intellectual Property.
- Employment and Industrial.
- General Commercial.
- Commissions and Inquiries.

ADMISSIONS

- Barrister, New South Wales **2015**
(Ludlow's award: highest aggregate mark July 2014 bar exams)
- Solicitor, New South Wales and High Court of Australia **2006**

QUALIFICATIONS

- Master of Laws (Hons I): University of Cambridge **2009**
- Bachelor of Laws (Hons I): University of Sydney **2005**
- Bachelor of Arts (Hons): University of Sydney **2001**

RECENT EXPERIENCE

Competition, consumer and commercial:

Catherine is an experienced competition and consumer lawyer and has advised and acted on matters involving cartel conduct (criminal and civil), misuse of market power, merger clearances, other anti-competitive agreements and restraints of trade. Recent experience includes:

- *Commonwealth Director of Public Prosecutions v Alkaloids of Australia Pty Ltd & Anor*: briefed by the CDPD to advise in the prosecution of criminal cartel conduct with respect to price fixing, bid rigging and market allocation (led by G Craddock SC).
- *Australian Eastern Railroad Pty Ltd v Genesee & Wyoming Inc* (2019/289989): briefed by White & Case for the first defendant in Supreme Court of NSW proceedings alleging breach of contract (ongoing, led by J Sheahan QC and M Costello).
- *Ord Minnett v Bourke & Thomas* (2020/00295294): briefed by Lander & Rogers for the applicant in successfully obtaining an interlocutory injunction against former employees for breaches of contractual restraints (unled).
- Conducting and appearing in ACCC section 155 examinations.

Intellectual property:

Catherine regularly appears in intellectual property disputes involving patents, trade marks and copyright. Recent experience includes:

- *Watson v The Commissioner of Patents* [2020] FCAFC 56: *Watson v Commissioner of Patents* [2019] FCA 1015 – briefed by the Commission of Patents in successfully defending an appeal from a decision revoking an innovation patent on the basis that it was not a manner of manufacture (led by C Cochrane SC).

- *Seed Terminator Holdings Pty Ltd v Dean Mayerle* [2020] APO 42: briefed by IP Gateway in successfully defending an opposition to the grant of multiple patents for a weed seed destructor on a combine harvester including on the basis of manner of manufacture, novelty, inventive step and entitlement (led by J Cooke).
- *Technological Resources Pty Ltd* [2020] APO 42: briefed by Cotters in successfully defending an opposition by the examiner to a patent application for the operation of automated vehicles on the basis of lack of inventive step (led by J Cooke).
- *Global Import Corporation Pty Ltd v Campers Direct Pty Ltd* (2020): briefed by Holding Redlich in trade mark infringement proceedings in the Federal Circuit Court (settled) (unled).
- *Dyno Nobel Inc v Orica Explosives Technology Pty Ltd (No 2)* [2019] FCA 1552: briefed by Shelston IP for the applicant in patent validity and infringement proceedings for a method of blasting (led by A Bannon SC and C Cochrane SC).
- *Frucor Beverages Limited v The Coca-Cola Company* [2018] FCA 993; *Frucor Beverages Limited v The Coca-Cola Company* [2017] FCA 298: briefed by Bell Gully in seeking trade mark registration for the colour green (led by M Darke SC).

Employment and industrial:

Catherine appears and advises in employment and industrial matters including unfair dismissal, adverse action and general protections matters and underpayment disputes. Recent experience includes:

- *Bobrenitsky v Sydney Trains* [2021] FWC 3792: briefed by McCullough Robertson to defend unfair dismissal proceedings in the Fair Work Commission (unled).
- *Knothe-Tate v University of NSW* (NSD830/2021): briefed by Corrs Chambers Westgarth to defend Federal Court proceedings for alleged breaches of the Fair Work Act including adverse action (ongoing, led by E Raper SC).
- *Oliver v McKinsey Pacific Rim* (VID757/2020): briefed by Mallesons Stephen Jacques to defend Federal Court proceedings for adverse action (ongoing, led by E Raper SC).
- *Morrison v Australian National University* (U2020/3161): briefed by HWL Ebsworth in defending Fair Work Commission proceedings for unfair dismissal (ongoing, led by E Raper SC).
- *Lawson v Australia Post* (2021, Local Court of NSW): briefed by Lander & Rogers in successfully defending a contractual dispute for payment of a discretionary bonus (unled).
- *Fair Work Ombudsman v Natjon Constructions* (2021, Federal Circuit Court): briefed by the Fair Work Ombudsman to prosecute a compliance notice (unled).
- *FWO v HSCC Pty Ltd Pty Ltd* [2020] FCA 655: briefed by the Fair Work Ombudsman in penalty proceedings for underpayment, false record keeping and other contraventions of the *Fair Work Act* by Hero Sushi, in which the Court ordered the largest pecuniary penalty to date for such contraventions (led by E Raper SC).

Commissions, inquiries and arbitrations:

- 2020: Assisting Hon Dr A Bennett AC, SC in confidential arbitration involving licence fee for intellectual property rights.
- 2019: Assisting Hon Dr A Bennett AC, SC in confidential inquiry regarding a sporting body following the Royal Commission into Institutional Responses to Child Sexual Abuse.
- 2016: Counsel in the Inquiry into North Sydney Council, assisting the Commissioner and Counsel Assisting E Raper SC.

PREVIOUS EXPERIENCE

Senior Associate and Solicitor: Allens Linklaters (Competition)

2006-2015

- Advising on the application of Part IV of the *Competition and Consumer Act 2010* (Cth), the Australian Consumer Law and representing clients on confidential ACCC investigations

including with respect to misuse of market power, exclusive dealing and cartel conduct (price fixing, market allocation and bid rigging).

- Advising clients on the application of the Australian Consumer Law.
- Obtaining ACCC merger clearance for acquisitions by clients in industries including medical devices, pharmaceuticals, mining and manufacturing.
- Representing clients in defending proceedings brought by the ACCC and others including – acting for Pfizer Australia in defending misuse of market power proceedings: *ACCC v Pfizer Australia Pty Ltd* [2015] FCA 113; Viscas Corporation in defending cartel proceedings; *ACCC v Prysmian & Ors* [2013] FCA 294 and Amcor Limited in defence of a cartel class action damages claim: *Jarra Creek Central Packing Shed Pty Ltd v Amcor Australia* [2011] FCA 298.

Associate: Slaughter and May London

2010-2011

- Advising clients on the application of UK and EU competition law, Competition Appeal Tribunal proceedings and obtaining OFT clearance for three significant mergers (including a merger to monopoly).

Inner Temple Trust Pegasus Scholar

2009

- Scholarship at the London Bar: Monckton Chambers, One Essex Court, Charter Chambers. Assisted in the preparation of submissions for the UK's first criminal cartel prosecution.

Associate to Hon Justice Bennett AC (Federal Court of Australia)

2008-2009

OTHER EXPERIENCE, MEMBERSHIPS AND RECENT PUBLICATIONS

- Chair of the Medicines Australia Code of Conduct Committee (2016 to date).
- Casual Academic Lecturer in Evidence Law, University of Sydney Law Extension Committee (2016 to date).
- Member of IPSANZ and the NSW Bar Association.
- Recent publications:
 - Paying the price: sentencing for criminal cartel conduct (July 2020) *Law Society Journal*: C Bembrick and L Witt.
 - Anti-competitive IP transactions under the spotlight (October 2019) *Law Society Journal*: C Cochrane and C Bembrick.
 - Admission to the Manner of Manufacture Club – Patent Eligibility of Computer Implemented Business Methods (2019) 116 *Intellectual Property Forum* 51: C Cochrane and C Bembrick.
 - Privilege pitfalls – implied waiver in email chains (July 2019) *Law Society Journal*: C Cochrane and C Bembrick.