CATHERINE BEMBRICK

5 Wentworth Chambers

SELECTED CASES

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, anti-competitive agreements and restraints of trade. Recent experience includes:

- *Australian Competition and Consumer Commission v Mastercard* (2022 – Federal Court): briefed by the ACCC in its prosecution of Mastercard for misuse of market power (ongoing, led by J Sheahan KC and J Arnott SC).
- *Australian Eastern Railroad Pty Ltd v Genesee & Wyoming Inc* (2019/289989 – Supreme Court of NSW): briefed by White & Case for the first defendant in proceedings alleging breach of contract (ongoing, led by J Sheahan KC and M Costello KC).
- *J Wisbey & Associates v UBS AG & Ors* (2019 – Federal Court): briefed by Maurice Blackburn Lawyers for the applicant in class action proceedings alleging cartel conduct with respect to foreign currency trading (ongoing, led by J Sheahan KC).
- *Stakeshop Pty Ltd v Stake Gaming Pty Ltd* (2023 – Federal Court): briefed by Addisons for the respondent in misleading and deceptive conduct and trade mark infringement proceedings (ongoing, led by M Darke SC).
- *Commonwealth Director of Public Prosecutions v Alkaloids of Australia Pty Ltd & Anor*: briefed by the CDPP to advise in the prosecution of criminal cartel conduct with respect to price fixing, bid rigging and market allocation (led by G Craddock SC).
- *Ord Minnett v Bourke & Thomas* (2020 – Supreme Court of NSW): briefed by Lander & Rogers for the applicant in successfully obtaining an interlocutory injunction against former employees for breaches of contractual restraints (unled).
- *Crescent Funds Management (Aust) v Crescent Capital Partners Management Pty Ltd* [2017] FCAFC 2; *Crescent Capital Partners Management Pty Ltd v Crescent Funds Management (Aust) Ltd* [2016] FCA 229: briefed by Corrs Chambers Westgarth for the respondent/ appellant in defending misleading and deceptive conduct proceedings (led by M Darke SC).
- Conducting and appearing in ACCC section 155 examinations.

Employment and industrial:

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

- *Fair Work Ombudsman v El Baba Lawyers* [2024] FedCFamC2G: briefed by the Fair Work Ombudsman in penalty proceedings relating a failure to comply with a compliance notice (unled).
- *Bobrenitsky v Sydney Trains* [2023] FCAFC 96; *Sydney Trains v Bobrenitsky* [2022] FWCFB 32; *Bobrenitsky v Sydney Trains* [2021] FWC 3792: briefed by McCullough Robertson for Sydney Trains to defend unfair dismissal proceedings in the Fair Work Commission and on appeal to the Full Federal Court (unled at first instance, led by E Raper SC and M Seck on appeal).
- *Fair Work Ombudsman v Tolu Investors* [2023] FedCFamC2G 773: briefed by the Fair Work Ombudsman to prosecute a failure to comply with a compliance notice (unled).
- *Fair Work Ombudsman v Blue Sky Kids Land* (2023 – Federal Court): briefed by the Fair Work Ombudsman to prosecute contraventions of the Award and Fair Work Act relating to underpayments, failure to comply with statutory notices, NES provisions and serious contraventions involving record keeping failures (led by M Seck).
- *Antoniou v Bentleys Sydney (Admin) Pty Ltd* (2022 – Federal Court): briefed by Hall & Wilcox to defend proceedings alleging sexual harassment and discrimination proceedings (led by I Taylor SC).
- *Curtis v Westpac Banking Corporation* (2022 – Federal Circuit Court): briefed by HWL Ebsworth to defend adverse action and discrimination proceedings (unled).
- *Lynch v Xchanging Pty Ltd* (2022 – Federal Court): briefed by Lander & Rogers to defend adverse action and whistle-blower proceedings (unled).
- *Morrison v Australian National University* [2022] FWC 301: briefed by HWL Ebsworth for the University in defending unfair dismissal proceedings (led by E Raper SC).
- *Knothe-Tate v University of New South Wales* (2021 – Federal Court): briefed by Corrs Chambers Westgarth for the University to defend Fair Work Act proceedings including adverse action (led by I Taylor SC).
- *Fair Work Ombudsman v Natjon Constructions* (2021 – Federal Circuit Court): briefed by the Fair Work Ombudsman to prosecute a failure to comply with a compliance notice (unled).
- *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).
- *Oliver v McKinsey Pacific Rim* (2022 – Federal Court): briefed by Mallesons Stephen Jacques to defend Federal Court proceedings for adverse action (led by E Raper SC).
- *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).

Intellectual property:

Catherine regularly appears in intellectual property disputes involving patents, trade marks and copyright and is recognised by Doyle's Guide as a leading intellectual property junior counsel in NSW. Recent experience includes:

- *MSA 4x4 Accessories Pty Ltd v Clearview Towing Mirrors Pty Ltd* [2024] FCA 24: briefed by DLA Piper for the respondent/cross-claimant in patent validity and infringement proceedings for a mechanical device (led by A Fox SC).
- *Allied Pumps Pty Ltd v LAA Industries Pty Ltd* [2023] FCA 1457: briefed by DLA Piper for the respondent/cross-claimant in patent validity and infringement proceedings for a dewatering submersible pump (led by B Caine KC and A Fox SC).
- *Hampden Holdings IP Pty Ltd v Aldi Foods Pty Limited* (2023 – Federal Court): briefed by Spruson & Ferguson Lawyers for the respondent/cross-claimant in copyright infringement proceedings (led by A Fox SC).
- *AVT Paints Pty Ltd v Officeworks Ltd* (2022 – Federal Court): briefed by Holding Redlich for the applicant in trade mark infringement and misleading and deceptive conduct proceedings (unled).
- *Australian Mud Company Pty Ltd v Globaltech Corporation Pty Ltd* (2022 – Federal Court): briefed by Bird & Bird in successfully seeking confidentiality orders in patent infringement proceedings (unled).
- *Watson v The Commissioner of Patents* [2020] FCAFC 56; *Watson v Commissioner of Patents* [2019] FCA 1015: briefed by the Commissioner of Patents in successfully defending 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 SC).
- *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 SC).
- *Global Import Corporation Pty Ltd v Campers Direct Pty Ltd* (2020 – Federal Circuit Court): briefed by Holding Redlich for the applicant in trade mark infringement proceedings in the Federal Circuit Court (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).

Commissions, inquiries and arbitrations:

- 2023: Counsel Assisting in the Commission of Inquiry to examine DNA Project 13 concerns (Queensland Government).
- 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.