



Patrick Sands

Special Counsel (Consultant)

Melbourne
+61.3.9640.4308

Patrick.Sands@klgates.com

OVERVIEW

Patrick is a special counsel in the Intellectual Property (IP) group with a focus on IP litigation, especially life sciences and technology patent cases. Patrick is one of Australia's leading intellectual property lawyers, providing commercially focused advice and guidance on major strategic IP disputes and regulatory matters to sophisticated companies. He is passionate about the intersect of science, technology, and the law and achieving commercial solutions to complex problems.

Patrick is a very experienced IP litigator, responsible for running some of the highest profiled cases on patent infringement and validity in Australia in recent years. In addition to patents, he advises on and conducts proceedings relating to copyright, registered designs, breach of confidential information, and Australian Consumer Law claims. He has extensive experience managing Australian IP cases that are part of multi-jurisdictional disputes where global strategies are developed and pursued.

Patrick offers a distinct combination of experience and skills. He obtained a degree in physics and industry experience in the UK before becoming a lawyer and over the last 20 years in Australia he has built a strong practice in IP litigation, strategic advice, and patents, acting as a lead partner on patent litigation matters. Patrick has acted for clients in a broad range of sectors, including pharmaceutical, medical devices, digital mobile radio, consumer, optical communications, mining, and automotive. With his background he is able to communicate effectively with scientists, management, boards, and legal counsel in technical industries. He is highly commercial and pragmatic, always looking at litigation as a means to achieve an advantageous business outcome for the client.

Patrick has conducted proceedings in the Federal Court, Full Federal Court, and High Court of Australia. He has particular experience in obtaining and opposing interlocutory injunctions and running appeals.

He is known for being pragmatic, calm, commercial, and concise and is recognised in the market for his ability to think strategically.

PROFESSIONAL BACKGROUND

In 1990, Patrick graduated with a physics degree in the United Kingdom and spent several years working for GE in R&D and product management. He undertook his subsequent legal studies at The College of Law in London and Melbourne and Monash Universities.

Patrick has worked in IP litigation and dispute resolution since 1997. Prior to moving to Australia in 2001, he worked in the IP disputes department of a national UK law firm.

ACHIEVEMENTS

- Recognised by *Chambers Asia-Pacific* in Australia
 - Life Sciences, 2024
 - Intellectual Property: Patents, 2024
 - Life Sciences, 2021, 2023
- Recognised by *Chambers Global* for Intellectual Property: Patents in Australia, 2024
- Recognised by *Asia IP* as an IP expert in Australia, 2022-2023
- Recognised by *IAM Patent 1000* as a Silver Ranking Individuals: Litigation, 2021-2023
- Listed in *The Best Lawyers in Australia*™
 - Intellectual Property Law, 2023-2025
 - Litigation, 2023-2025
 - Lawyer of the Year for Life Sciences Practice, 2021-2023
 - Life Sciences Practice, 2024-2025
- Listed in *Managing IP Stars*, as a 'Patent Star – Australia,' 2020-2021
- Listed by *Doyle's Guide* as a recommended
 - Leading Intellectual Property Lawyer in Australia, 2022
 - Leading Contentious Intellectual Property Lawyer in Victoria, Australia, 2015-2023
- Recognised by *Who's Who Legal: Australia & New Zealand* as a recommended lawyer in Australia for Life Sciences, 2021-2023

EDUCATION

- Legal Practice Course, College of Law, London, 1995
- B.Sc., University of Southampton, 1990 (*Hons, Physics*)

ADMISSIONS

- High Court of Australia
- Supreme Court of Victoria

THOUGHT LEADERSHIP POWERED BY HUB

- 16 May 2023, Full Federal Court Takes 'New Aim' at Experts: Appeal Decision Handed Down in *New Aim Pty Ltd v Leung* [2023] FCAFC 67
- 19 December 2022, Trade Secrets: An International Perspective on Their Protection and Tips to Mitigate Disclosure Risk
- 22 August 2022, High Court Split 3-3 in Landmark Decision on the Patentability of Computer Implemented Inventions in Australia
- 12 July 2022, Developers Denied Double Dipping Damages
- 7 June 2022, Indirect Patent Infringement Down Under
- 22 April 2022, Australia Re-Aligned With Major Jurisdictions for AI-Based Inventorship
- February 2022, Getting the Best Out of Your Intellectual Property – The Importance of Registered Designs and the Protection of Trade Secrets
- 25 November 2021, Australian Appeal Case Revisits Patentability of Computer Implemented Inventions
- 2 August 2021, AI Can Invent – Australia is First to Recognise Non-Human Inventorship

NEWS & EVENTS

- 15 February 2024, *Chambers Global* 2024 Guide Ranks K&L Gates Lawyers, Practices
- 14 December 2023, *Chambers Asia-Pacific* 2024 Guide Recognises K&L Gates
- 23 October 2023, K&L Gates' Intellectual Property Practice, Lawyers Recognized in 2023 *Managing IP* Magazine's "IP Stars"
- 1 August 2023, K&L Gates Intellectual Property Practice Listed Among Leaders in 2023 IAM Patent 1000 Rankings
- 6 October 2022, K&L Gates Recognized in 2022 *Managing IP* Magazine's 'IP Stars'
- 11 July 2022, K&L Gates Intellectual Property Practice Recognized Among Leaders in 2022 IAM Patent 1000 Rankings
- 16 December 2021, *Chambers Asia-Pacific* 2022 Guide Recognises K&L Gates

- 12 August 2021, K&L Gates Intellectual Property Practice Again Ranked Among Leaders in 2021 IAM Patent 1000
- 3 June 2021, K&L Gates Lawyers Ranked as 2021 'IP Stars' by Managing IP Magazine

AREAS OF FOCUS

- IP Litigation
- Pharma and BioPharma Litigation
- Post-Grant Patents

INDUSTRIES

- Digital Health
- Health Care Sector
- Pharmaceuticals, Biologics, and Medical Devices
- Technology

REPRESENTATIVE EXPERIENCE

- Advising a floorplan projection company to defend allegations of patent infringement.
- Working with an American healthcare company securing trap purchases of competitor products to assess infringement of patents in Australia directed to systems and methods of dialysis.
- Advising an Australian company to file a complaint for patent infringement in the US against a competitor relating to smart diaper technology, primarily used to improve the quality of care for the elderly in residential care homes.
- Advising an electric skateboard company in relation to patent infringement by a number of competitors who were each selling electric skateboards alleged to infringe our client's patent.
- Advising a US company in relation to the enforcement of its Australian patent for methods of inferring genetic traits.
- Advising an Australian company on enforcement of its patents relating to safety gloves.
- Advising an Australian ASX listed company in relation to its Australian patent portfolio and likely infringement by a competitor which involves infringement and validity analyses, and advice on experimental evidence in readiness for patent litigation.

- Advising an Australian ASX listed company that specialises in the separation and extraction of rare earth elements regarding the intellectual property due diligence review of patent properties and licence agreements that are central to the acquisition.
- Acting for a biometric security company in relation to filing patent infringement proceedings in the Federal Court of Australia, and in relation to enforcing patents against third parties in the US, Europe, and Australia.
- Advising a global pharmaceutical company in relation to patent term extension law in Australia and whether there are opportunities to challenge the patent term extensions applied to patents for a particular pharmaceutical product.
- Acting for a pharmaceutical company in numerous patent infringement and validity cases over a 15 year period, including the (then) leading drugs by volume and value on the Pharmaceutical Benefits Scheme. This included two successful appeals to the High Court on matters of significance to patent practice in the Australian pharmaceutical industry.
- Acting for a global corporation that produces medical technology in enforcing its patent for a vacuum wound dressing against a portfolio medical technology company in the Federal Court of Australia.
- Acting for a pharmaceutical company in defending several cases concerning the packaging of prescription pharmaceuticals, associated Product Information and Consumer Medicines Information leaflets. Also taking enforcement action against third party pharmaceutical companies for misleading and deceptive conduct arising from their instructions to prescribers to only prescribe the originator's brand.
- Acting for an Australian generic pharmaceutical and private label over the counter medicines company in defending patent infringement proceedings brought by a drug discovery and development company in the Federal Court of Australia alleging infringement of the drug discovery and development company's patent for a method of treating insomnia characterised by non-restorative sleep with the drug melatonin. The generic pharmaceutical company cross-claimed to invalidate the patent. The litigation was hard-fought, including an interlocutory injunction application. A two week trial was heard in December 2020 before Justice Nicholas. Judgement is reserved.
- Acting for national retailers in defending Federal Court proceedings for copyright infringement and breach of confidence.
- Acting for an international optical communications company in relation to prosecuting patent infringement proceedings.
- Advising international pharmaceutical companies in relation to the patent aspects of international arbitration based in Singapore.
- Representing international medical device companies in Federal Court patent infringement and revocation proceedings.
- Acting for the Australian Government agency responsible for scientific research in litigation concerning wireless networking technology.

- Representing automotive and after-market manufacturers in registered design and patent litigation proceedings in the Federal Court and Full Court.
- Acting for a Melbourne, Australia-based university in patent litigation concerning a dental remineralisation compound.