

## Edward Bragiel



Year called: 1977

Practice areas: Copyright & Design, Media & Entertainment, Trade Marks, IP, Chancery & Commercial

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### Profile

Edward Bragiel's practice includes both intellectual property and media and entertainment as well as chancery/commercial. In both areas he has substantial experience of litigation in the High Court from urgent interim applications to witness actions and of cases before specialist tribunals.

In the fields of intellectual property and media and entertainment his cases have involved copyright, design right, performers' rights, trade marks, passing off and confidential information and contractual claims arising in these areas and he has appeared before a range of tribunals from the High Court and

Court of Appeal to the Copyright Tribunal, the IPEC and the Appointed Person. He has a particular expertise in copyright having appeared or advised in many cases concerning infringement of many different kinds of work from literary works, musical compositions and traditional artistic works through to sound recordings, architects' plans, technical drawings and designs and software. He further has specific experience of proceedings before the Copyright Tribunal having appeared in a number of references to the Tribunal and advised users of copyright works in connection with potential references.

In the chancery/commercial field his cases have ranged from commercial fraud, company and partnership disputes and professional negligence to real property and private client and involved a diverse subject-matter varying from the devolution of intellectual property rights relating to the recordings and performances of dead rock stars and the works of celebrated authors, to real property, undue influence, constructive trusts and estoppel, trustee disputes, administration of estates and domicile. In 2010 he worked with the Law Commission on its Intestacy and Family Provision Claims on Death project leading to the 2011 Report (Law Com No. 331).

He is authorised to accept instructions directly from the public and is happy to work directly with clients.

Edward is regarded in Who's Who Legal 2015.

## **Directory & Testimonial Quotes**

### **Quotes from emails/letters from solicitors (copies available on request) and reported judgments**

“Dear Edward as ever thank you for your wise words” (2017) (email from instructing solicitors in IP licensing dispute).

“I am very pleased to have been able to introduce you to the clients and I know how much they value what you have done for them” (2016) (email from instructing solicitor in High Court claim).

“I would be very grateful if you could express my sincere thanks to Mr Bragiel for his very prompt and well thought out advice” (2014) (email from client in administration of estates/tax dispute).

“Now that we've had an opportunity to review the full text I would like you to pass on my thanks to Edward as his opinion is very helpful and I believe strengthens our case” (2013) (email from client in software IP dispute).

“Many thanks for this which I am reading through you have captured the complexities of the field and the present case in their entirety” (2009) (email from solicitor in design right dispute).

“Mr Bragiel's answer to this point, which I think is correct .....” *Levey v Vesely* [2007] EWCA Civ 367 at paragraph 49

“... the proposition is certainly one which Mr. Bragiel espoused and argued effectively” (*Cyganik v Agulian* [2005] WTLR 1049 at 1071A)

“ Mr Bragiel’s cross-examination of [the Claimant] was effective” (ibid at 1053)

“ As Mr Bragiel concisely put it she went from [the deceased’s] life by way of constructive dismissal” (Ottey v Grundy)

“ The time available to counsel to research the law was short but despite this they presented comprehensive and clear submissions” (Boddington v Lawton [1994] ICR 478 at 483

“ Mr Bragiel appearing for the Commissioners mounted a formidable argument in support of the judge’s view” (Marr v Marr [1990] Ch 773 at 782)

“ The reaction of [the Defendant] when these errors were put to him in cross-examination by Mr Bragiel led me to think that he had deliberately sought to mislead [the Claimant] and the court” ( High Court trial Manchester District Registry)

“ Re Band Aid Trust” “.... All of the Trustees, but specifically Bob are very grateful for the efforts that you are making. I would be grateful if you could pass on our thanks to Mr Bragiel ...” (letter from Band Aid Trustees to solicitors who also offered their services pro bono)

“ Dear Edward, May I take this opportunity of formally writing to thank you for all your hard work on behalf of our clients .... and to congratulate you on the result. In particular I am grateful for the way that you “pulled the fat out of the fire” when [ ] QC was seeking to re-amend the Statement of Claim”. (letter from instructing solicitors in High Court Copyright infringement action.)

## **Career**

MA (Cantab) Law, Trinity Hall, Exhibition

Harmsworth Major Exhibition, Middle Temple

Astbury Scholarship, Middle Temple

## **Cases**

**Re K (2017)** – copyright – right to reproduce and communicate material generated during a public inquiry

**Warwickshire County Council v Matalia [2017] EWCA Civ 991** – confidential information in examination papers

**Hudd v Radford and Others (unreported – The Stage 5th January 2017)** – litigation concerning purposes for which approximately £1.5m of funds held by Equity, the Actors' Union, was to be applied – represented trustees of Equity

**Alpha-Tek Associates Ltd v Durham University (Appointed Person 30th September 2016 O-464-16)** -appeal to the Appointed Person relating to trade mark applications, oppositions and applications for declarations of invalidity

**J v W (2014)** – publishing dispute relating to best-selling illustrated book for children acting on behalf of illustrator

**Bristol Ground School v Intelligent Data Capture [2014] EWHC 2145** – acted on behalf of claimant between 2012 and 2014 advising on and drafting claims for extensive copyright infringement in training software and manuals for commercial airline pilots on which the claimant succeeded at trial (not involved in final hearing)

**Re W (2014)** – advising on and drafting documentation for the deposit of archive of artworks of well-known artist with a university

**Cutbot Limited v Newspaper Licensing Agency (CT123/13)** – Copyright Tribunal; licence to reproduce newspaper articles – advised and drafted application and statement of grounds for applicant's chief executive to present to Tribunal

**T v W (2013)** – dispute relating to single which was No 1 in UK and 23 other countries

**Re a London Borough (2013)** – copyright dispute relating to rights in software relating to delivery of social care

**Re Shaffer (2011)** – IP and other issues arising in administration of the estate of playwright

**Re MH (2011)** – advising on and drafting trust of clinical negligence damages of £1.5m awarded to sportsman – acting on behalf of sportsman

**Agulian v Nathanael (2009)** – conflict of Laws – applicability of foreign succession laws

**Re Beatrix Potter (2008)** copyright/administration of estates

**Levey v Vesely [2007] EWCA Civ 367** – real property – successfully resisted appeal against finding that no tenancy arose notwithstanding grant of exclusive possession

**Cyganik v Agulian [2006] EWCA Civ 129** – domicile – successful appeal on which it was held that notwithstanding 40 years residence in England a hotelier was not domiciled here

**McPhail v Bourne (2006)** – copyright and undue influence claims brought by a former member of Busted (not involved in trial of claim)

**Re Experience Hendrix (2006)** – Performers’ Rights, Copyright and administration of estates

**Re Healey (2006)** – long-running dispute as to the Healey and Austin-Healey trade marks

**Murphy v Burrows [2004] EWHC 190 (Ch)** – estoppel

**Ottey v Grundy [2003] EWCA Civ 1176** – estoppel – appeared for successful claimant at first instance [2002] EWHC 858 (Ch) – unavailable for hearing of appeal due to previous commitment but prepared written skeleton for Claimant/Respondent – decision upheld without Claimant/Respondent’s representative being called upon

**Hanson v S.W.E.B. [2001] EWCA Civ 1377** – real property – enforceability of contract for the sale of land

**Durand v Molino [2000] E.C.D.R. 320 Ch D** – copyright in commissioned painting – successful defence of infringement claim

**Mather v Appleton (1998)** – copyright dispute involving “All Saints”

**Re Hunt (1998)** – copyright/administration of estates; illustrations for “Winnie the Pooh”

**Duffy v Lamb [1997] EWCA Civ 1373** – real property – interference with easement for the passage of electricity to a business

**Byford v Rainbow Communications Ltd (1995) I.P.D. 18132** – Performers’ Rights relating to metal band

**Gantenbrink v BBC [1995] F.S.R. 162** – copyright in film – circumstances in which undertakings to the court can be varied

**Boddington v Lawton [1994] I.C.R. 378** – whether rules of trade union in restraint of trade

**British Amusement Catering Trades Association v PPL [1992] RPC 149** – Copyright Tribunal – tariff for playing sound recordings on Juke Boxes

**PRS v British Entertainment and Dancing Association [1993] E.M.L.R. 325** – appeal to High Court from decision of Copyright Tribunal relating to tariff for playing music in discotheques/nightclubs – acted for successful respondent

**Re Marr [1990] Ch 773** – insolvent partnerships

**Re Virgo Systems [1990] BCLC 34** – company law

**Perfect Songs v Lennon (1989)** – copyright dispute – acted for defendant

**Re N.U.R.M.T (1989)** – trade union assets acted for union

**Live Aid (1989)** – copyright advice pro bono for organisers

**PRS v British Entertainment and Dancing Association PRT 46/87** – Copyright Tribunal – tariff for playing music in discotheques/nightclubs

**Independent Television Companies Association Limited v PRS (1983) P.R.T. 38/81** – licence for playing music on independent television

**Sillitoe v McGraw-Hill Book Co (UK) Ltd [1983] F.S.R. 545 Ch D** – copyright fair dealing defence

**Suedeclub Co Ltd v Occasions Textiles Ltd [1981] F.S.R. 606** – procedure

## **Membership**

Chancery Bar Association

IP Bar Association

## **Qualifications and Regulations**

### **Qualifications**

MA (Cantab) Law, Trinity Hall, Exhibition  
Harmsworth Major Exhibition, Middle Temple  
Astbury Scholarship, Middle Temple

### **Regulation**

Edward is a self-employed, independent barrister whose practice is governed by the Code of Conduct of the Bar of England and Wales. He is registered with the Bar Standards Board of England and Wales (Bar Ref: 10792)

**He has professional indemnity insurance provided by the Bar Mutual Indemnity Fund (BMIF Ref: 2190/007). Please refer to the BMIF website for full details of the world-wide cover provided, and the BMIF's contact details**

## **Publications**

### **Books**

Williams, Mortimer & Sunnucks ' Executors, Administrators and Probate, 20th ed (2013) (chapters dealing with jurisdiction and administration where there is a foreign element)

### **Articles**

“Examination of what rights exist in formats for television shows”: EIPR 2015 Vol 37 issue 9, 558-565 and issue 10, 631-4

“The Magic Tree Case”: 2006 Trade Mark World 188

“Is the Copyright Tribunal Showing Irrational Tendencies?": EIPR 2001

“Costs of Interim Applications under the CPR”: Solicitors Journal Sept. 2000

“Protecting the Olympic Symbol”: The Times 19th September 2000

“Actionability in the UK of Infringements of Intellectual Property Rights Committed Abroad” : IP Quarterly [1999] IPQ No.2

“IP Rights and the World Cup” 1998 NLJ 12th June

“The Redwood cases : The Commercial Significance of Reversionary Provisions of the Copyright Act 1956” : [1981] 3 EIPR 91

## **Human Interest**

Married, two children.