

## Richard Davis



Year called: 1992

Practice areas: Copyright & Design, Media & Entertainment, Trade Marks, IP, Patents, IT

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*“His manner with the judge was excellent. His use of analogies was excellent, and built up the light-bulb moment for the judge. He is really pragmatic.” “Highly thought of and clever in the patent space.”* Chambers & Partners 2022

*“He is creative, has a very strong intellect and is good at cutting through excessive verbiage to get to the point.”* Legal 500 2020

*“He puts in the time and effort and leaves no stone unturned.”*? ? Chambers & Partners 2019

*“He is extremely thorough and prepared to go the extra mile.”*? ? Chambers & Partners 2018

*“Very good in patent matters.”* Legal 500 2017

*“He is very helpful, pragmatic and clients have a huge respect for him.” “He is a very user-friendly and very knowledgeable in the IP arena”* Chambers & Partners 2017

## Profile

Richard specialises in all aspects of intellectual property law with a particular emphasis on patents. His clients benefit from his unique background, first as an electrical engineer and later as a Chartered and European Patent Attorney. Richard is acknowledged as one of the leaders in his field.

Richard's patent practice encompasses a diverse range of technologies. These include his specialist field of electronics in addition to mechanical engineering, chemical engineering together with some pharmaceutical and biochemical work. He has particular expertise in the telecommunications sector having advised such giants as Apple, LG Electronics, Nokia, Motorola and Symbian. Recently he has represented the UK Government in the Pregabalin litigation concerning second medical use claims.

His dual qualification as a European Patent Attorney has resulted in him appearing frequently before the European Patent Office. Notable successes include acting for Zipher in respect of patents which had been revoked by the UK courts.

He has particular expertise in cases involving patent and trade mark attorney practice both before the UK IPO and the EPO. This includes unusual and complex areas such as judicial review of IPO decisions made as an International Receiving Office, restitution and actions concerning attorney negligence.

Richard is equally at home with the other intellectual property rights and has carved a niche in designs and 'difficult' copyright cases. He is one of the few counsel to have appeared before the CJEU (General Court) on a designs matter and one of the very few to have appeared before the UK Registered Designs Appeal Tribunal. He has been involved in a number of cases which have pushed the boundaries of what is protectable under the law of copyright and database rights.

In addition to his IP practice, Richard also advises on a multiplicity of IT matters, in particular in relation to contractual issues involving a technical aspect, the licensing of IP rights and software copyright.

Richard is one of the general editors of the Black Book (CIPA Guide to the Patents Acts). He lectures and tutors regularly on IPRs to patent and trade mark attorneys and solicitors. He is a visiting lecturer of CEIPI on the European patent litigation diploma.

## Directory & Testimonial Quotes

### Chambers & Partners 2022

*"His manner with the judge was excellent. His use of analogies was excellent, and built up the light-bulb moment for the judge. He is really pragmatic." "Highly thought of and clever in the patent space."*

### Chambers & Partners 2020

*"A very clever lawyer who is good technically in our area." "He provides sound advice and representation."*

### **Chambers & Partners 2019**

*“I was extremely impressed with his oral advocacy – he was extremely well prepared for the hearing and presented a difficult case very well.” “He puts in the time and effort and leaves no stone unturned.”*

### **Chambers & Partners 2018**

*“He is very good on the details, has an excellent technical background and never shies away from giving difficult advice.” “He is extremely thorough and prepared to go the extra mile.”*

### **Chambers & Partners 2017**

*“He is very helpful, pragmatic and clients have a huge respect for him.” “He is a very user-friendly and very knowledgeable in the IP arena”*

### **?Chambers & Partners 2016**

*?”Has an excellent grasp of technical subject matter.” “Extremely easy to work with, he’s client-focused and very practical.”*

### **Chambers & Partners 2015**

*?”An excellent junior, who is incredibly hard-working, responsive and conscientious.”*

### **Chambers & Partners 2014**

*“A strong patent practitioner who has a particular emphasis on electronics cases. Sources attribute his superb knowledge of the law in that area in part to his being a qualified patent attorney.”*

### **Chambers & Partners 2013**

*“Richard Davis specialises mainly in patents, although he is also a formidable expert on design rights. He is fairly unique in that he is a qualified UK and European patent attorney, and he is also a leading authority on questions of inherent patentability. Solicitors find him a natural choice for European Patent Office proceedings.”*

### **Chambers & Partners 2012**

*“Richard Davis has that “great scientific knowledge” that proves such an advantage to a patent specialist. He has particular expertise in matters relating to electrical engineering, having worked in that field before being called to the Bar. Recently, he represented Motorola in a series of patent infringement and validity cases against Research in Motion.”*

### **Chambers & Partners 2011**

*“Richard Davis is “excellent for patent work” and has “great experience of appearing in highly technical cases involving electronics and software.”*

### **Legal 500 2021**

*”Quickly arrives at the heart of the issues and is incredibly bright.”*

### **Legal 500 2020**

*”He is creative, has a very strong intellect and is good at cutting through excessive verbiage to get to the point.”*

### **?Legal 500 2019**

*?”He has enormous experience, is results driven and easy to deal with.”*

## **?Legal 500 2018**

*“Very good in patent matters.”*

## **Legal 500 2016**

*“An excellent barrister and adviser with considerable advocacy experience”*

## **Legal 500 2015**

*“He is reliable and client-focused, and has an excellent grasp of technical subject matter.”*

## **Legal 500 2013**

Richard Davis has “a strong technical understanding of software and electronics.”

## **World Trade Mark Review 2017**

“is recommended for his patent and designs expertise in particular, but he is comfortably at home on complex trade mark disputes”.

?Richard is regarded in **Who’s Who Legal 2015**

## **Career**

Richard has a first degree in engineering from Cambridge University and joined Marconi as a digital design engineer after graduation.

After his initial training as a barrister, he spent 5 years with a leading firm of patent attorneys in London. During that period he worked predominantly in the electronics and software fields.

He returned to practice at the Bar in 1998.

## **Cases**

### **Patents (UK)**

**RegenLab v Estar Medical & others** – substantial patent trial on a preparation method for platelet rich plasma including disputed prior sales of the product.

**Clearswift Ltd v Glasswall (IP) Limited [2018] EWHC 2442 (Pat)** – a revocation action concerning virus checking software.

**Philips Lighting North America Corporation & Anor v Megaman (UK) Ltd & Ors.** – Acted in both the UK Patent Court and the EPO in a high profile action concerning dimmable LEDs on Philips’ EnabLED program.

**L’Oreal S.A. & L’Oreal (UK) Limited & RN Ventures Limited [2018] FSR 20, 21** – A patent and registered design infringement and counterclaim for validity concerning the Clarisonic sonic face brush. Case also involved a novel point on costs concerning non-registration of an exclusive licence.

**Philips Lighting North America Corporation & Anor v Megaman (UK) Ltd & Ors.** – Patent infringement action involving LED lights.

**L’Oreal S.A. & L’Oreal (UK) Limited & RN Ventures Limited** – A patent and registered design infringement and counterclaim for validity concerning the Clarisonic sonic face brush.

**Meter-Tech Llc & Anor. v British Gas Trading Ltd [2016] EWHC 2278 (Pat)** – Patent action concerning smart meters, where the Court held that a large scale use could be within the experimental use exception but had to relate to the subject matter of the invention.

**Warner Lambert Company LLC v. Generics (UK) Limited (trading as MYLAN) & Ors. [2016] EWCA Civ 1006:**– Acted for the UK Government on the Appeal of the Pregabalin litigation.

**Warner Lambert Company LLC v Actavis [2015] EWHC 72 (Pat); [2015] EWCA Civ 556 & [2015] EWHC 2548 (Pat)** – Acted for the UK Government in the high profile Pregabalin litigation concerning the scope of second medical use claims.

**Glass v Frevssinet [2015] EWHC 2972 (IPEC)** – Patent trial concerning cathodic protection apparatus and method.

**Kennametal v Pramet [2015] RPC 2,4** – Patent trial concerning cutting tool geometry and subsequent limitation application.

**Re Really Virtual’s Patent [2013] RPC 3; Re Halliburton’s Patent [2012] RPC 12; Re Symbian’s Patent [2009] RPC 1; Re AT&T Knowledge Ventures LP [2009] FSR 19; Re Bloomberg’s Patent [2007] FSR 26; Re Shopalotto’s patent [2006] RPC 7** – Richard has acted in many of the leading cases concerning inherent patentability. He was also instructed in respect of the petition to the House of Lords in Macrossen’s Application.

**Jackson-Ebben v Wine Innovations (O/465/14): McLaughlin & Harvey v OpenHydro (O/073/14)** – Examples of contested entitlement disputes undertaken at the UK IPO.

**Schenck v Universal Balancing [2012] EWHC 1920 (Pat)** – Patent trial (without a leader) including substantial allegations of prior user and an unusual s62 defence.

**Wagner v Earlex [2012] EWHC 984 (Pat)** – Patent trial (without a leader) including a prior use allegation relating to display at an exhibition.

**RIM v Motorola** – Series of cases concerning essential and non-essential 2.5G / 3G telecoms patents. The subject matter of the patents included system architecture, MAC layer protocols and device functionality.

**FASL v Loft Stairs Ltd [2009] FSR 24** – Patent trial (without a leader) including unusual construction and novelty issues.

**Dyson v Samsung [2009] FSR 19** – Patent trial (without a leader) concerning cyclone technology.

**Vector v Glatt [2007] RPC 12** – High Court patent revocation action and subsequent appeal concerning a fluidised bed processor including an application for post-grant amendment.

**Secretary of State for Education & Skills v Frontline Technology Limited [2004] EWHC 1487**  
– Acted for the UK Government in a patent revocation action concerning a computerized registration system. [2005] EWHC 37 – Issues of estoppel in post-judgment amendment application.

**Re Hartington Conway's patent [2004] RPC 6 & 7** – An entitlement dispute which ultimately turned on an estoppel point and subsequent appeal to the High Court.

#### **Patents (EPO)**

**Re EP '801** – three day Opposition Division hearing concerning blowable optical fibre cables.

**Re EP '040** – Opposition Division hearing including the taking of evidence on prior user allegations.

**T611/15, T621/16** – Technical board of Appeal hearings concerning Philips EnabLED dimmable LED technology.

**T1325/15** – Action for restitution concerning missed appeal deadline.

**J 18/09** – Legal Board of Appeal concerning PCT / EP interface and the possibility of entering EP national phase via a divisional application (to permit prosecution of unsearched subject matter).

**T 439/06 [2007] OJEPO 491 [2008] EPOR 8** – Potentially landmark EPO Technical Board of Appeal proceedings concerning the application of the principle of proportionality in restitutio proceedings.

**T 1083/03** – Technical Board of Appeal proceedings concerning inventive step of a complex 'essential' 2.5G mobile phone patent.

**T 764/02** – Acted for patentee against 9 opponents concerning novelty / inventive step / inherent patentability of a financial software invention.

**J 6/02** – Legal Board of Appeal proceedings concerning correction under r88 EPC.

**Re: EP '375 and others** – Represented the patentee upholding the validity of four electro-mechanical patents previously held invalid by the UK courts.

**Re: EP '513** – Opposition Division concerning an electronics patents alleged to lack novelty / inventive step on the basis of prior use which involved extensive examination of witnesses.

#### **Designs, Copyright, Database Rights & Trade Marks**

**Action Storage Systems Ltd v G-Force [2017] FSR 18** – UK unregistered design right case covering multiple issues of subsistence and the statutory exclusions.

**Style Research v Factset [2013] EWHC 4029 (Pat)** – application for trial of a preliminary issue concerning the database rights in a financial analysis technique.

**Temple Island v New English Teas [2012] FSR 9** – Landmark case on the scope of copyright in an artistic work.

**Advanced Perimeter Systems v Keycorp (MultiSys) [2012] RPC 14, 15** – Appeal to the Appointed Person concerning the date of assessment of goodwill and subsequent decision on fall back positions before an appellant tribunal.

**Ningbo v Stabilo T148/08** – Successful appeal to the Court of First Instance re the scope of provisions under the Design Regulation to invalidate registered designs on the basis of earlier trade mark use.

**Re Nintendo's registered design** – On-going appeal to the OHIM Board of Appeal concerning the scope of the technicality exclusion in relation to registered design invalidation proceedings.

**Woodhouse v Aquila [2006] RPC 1** – Registered design infringement / validity action under the 'new' law and associated UK UDR action.

**Crystal Canopies Ltd v Tempest Shield Fibreglass Roofing Ltd** – (unreported, 3 November 2000, Laddie J (Registered Design Appeal Tribunal)). A successful appeal against the design of the Registry on a contentious entitlement issue leading to the revocation of the design.

**Telepharmacy Solutions Trade Mark [2006] ETMR 10** – Trade mark hearing before the Court of First Instance of the European Court of Justice.

## **Professional Negligence**

**Baillie v Bromhead Johnson [2015] FSR 16** – Landmark case concerning the professional negligence of a patent attorney.

## **IT**

**Meridian International Services Ltd v Richardson [2007] EWHC 2539 (Ch)** – Week long computer software / IT speedy trial. A fact heavy case which turned on the oral evidence.

## **Membership**

Chartered Institute of Patent Attorneys: Fellow; Elected member of Council.

Institute of Engineering and Technology (formally Institute of Electrical Engineers)

European Patent Attorney

Chartered Patent Attorney

Chartered Engineer

## **Qualifications and Regulations**

### **Qualifications**

MA (Cantab) Engineering.

Chartered Patent Attorney

European Patent Attorney

Chartered Engineer

### **Regulation**

Richard 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: 28984)

He has professional indemnity insurance provided by the Bar Mutual Indemnity Fund (BMIF Ref: 2190/031). Please refer to the BMIF website for full details of the world-wide cover provided, and the BMIF's contact details.

## **Publications**

### **Books**

The CIPA Guide to the Patents Acts (The Black Book) – General Editor

[Tritton on Intellectual Property in Europe](#)

## **Human Interest**

In his spare time Richard enjoys flying light aircraft and fiddling with (and occasionally driving) his TVR.