
Andrew Lomas

Call 2014



Scope of Practice

• Life Sciences and Patents • Competition • International Arbitration & Litigation • Trade Marks, Passing Off, Copyright, and Designs • Injunctions and Other Applications

Overview

Specialising in complex and high value disputes, Andrew has a particular focus on proceedings with highly technical subject matter involving technology, software, pharmaceutical and patents, including substantial commercial, competition and international arbitration disputes, regularly appearing as sole counsel or as part of a team in the CAT, High Court and before tribunals (LCIA, ICC, HKIAC, SIAC, VIAC, SCC, UNCITRAL and ICSID).

Andrew is regularly instructed on complicated cross-border / multi-jurisdictional disputes, and has also developed a reputation for making and defending heavy interlocutory applications including: (i) interim injunctions; (ii) contempt proceedings; (iii) specific disclosure; (iv) summary judgment and strike out; and (v) enforcement / recognition of judgments and arbitral awards.

He is praised by clients for his no-nonsense approach to issues, and seeks to identify how litigation or arbitration can be used to achieve commercial objectives. He has also been recommended in legal directories as a rising star stating that: *“Andrew is prepared to get stuck in and do the hard yards for the client. His skeletons are well put together and persuasive, and he works well in a team.”*

Current instructions include *The Secretary of State for Health and Social Care & Others v. Lundbeck Limited & Others* in follow-on damages claim relating to “pay-for-delay” agreements and the supply of drugs to the NHS; *Nikki Stopford v. Google*, the £7.3bn collective claim against Google alleging it has used its search engine dominance to shut out competition in mobile search; *Dr Liza Lovdahl Gormsen v Meta Platforms, Inc. and Others* in the £2bn collective proceedings concerning users data; *Gain v. Areoflot & Anor* in set aside proceedings relating to a \$60mn claim brought under an aircraft lease agreement; and *Scipharm v Moorfields Eye Hospital* for the Defendant NHS Trust in a claim alleging breach of a pharmaceutical development agreement (Court of Appeal hearing listed in June 2024).

Examples of Recent Cases

Life Sciences and Patents

Before coming to the Bar, Andrew was a research scientist at Oxford where he completed a doctorate in anti-cancer drug design and taught undergraduate organic chemistry. He then spent a year working in pharmaceutical M&A before deciding to become a barrister. As a result, Andrew is well-equipped to deal with a wide range of disputes relating to life sciences industry, including breaches of warranties under share purchase agreements, claims alleging breaches of collaboration, development, and other joint-venture agreements, claims for royalties and alleged breaches of licences, as well as claims with respect to validity / infringement of patents.

Recommended by the Legal 500 (2021) as a rising star in intellectual property, with the most recent (2022) edition stating that: “*Andrew is prepared to get stuck in and do the hard yards for the client. His skeletons are well put together and persuasive, and he works well in a team.*”

- **Breach of SPA Claim**

Instructed (unled) in potential claim for breaches of a share purchase agreement (“SPA”) under which a life sciences business was acquired. Ongoing.

- **Gilead v Nucana**

Instructed (led by Tom Mitcheson KC) in a matter related to a patent for novel nucleoside analogues. Questions as to plausibility (both as a matter of inventiveness and sufficiency) and added matter. Trial, January 2023

- **Scipharm v Moorfields Eye Hospital**

Instructed (as sole counsel) for the Defendant NHS Trust in a claim alleging breach of a pharmaceutical development agreement. Involving questions as to contractual interpretation, expert evidence on standard industry practice, and causation / quantum of loss. 6 day trial, June 2021, waiting for judgment.

- **Excel-Eucan v Source Vagabond Systems**

Instructed (unled) on behalf of the Claimant in respect of a claim for breach of a patent licence (and infringement of the patent) relating to a machine gun bandolier. Successfully resisted transfer out of the Shorter Trials Scheme (judgment at [2018] EWHC 3864 (Ch)) and successful at trial (Trial judgment at [2019] EWHC 3175 (Pat)).

- **Astex Pharmaceuticals v AstraZeneca AB**

Instructed (led by Charles Béar KC at first instance and Charles Hollander KC on appeal) on behalf of the

Claimant in a multimillion dollar dispute about development of new Alzheimers drug. Trial judgment at [2017] EWHC 1442 (Ch), appeal judgment at [2018] EWCA Civ 2444.

- **HKIAC Proceedings**

Instructed (unled) in Hong Kong International Arbitration Centre proceedings relating to a pharmaceutical patent licence and a multimillion dollar damages claim.

- **Finchimica v Bayer**

Instructed (led by Justin Turner KC) in a claim involving agricultural pesticide additives.

- **Warner-Lambert v Sandoz & Ors**

Instructed (led by Geoffrey Hobbs KC) on behalf of Defendants in relation to an application to vary the terms of an interim injunction. Considered issues of proportionality and specificity of relief in respect of a full label marketing authorisation in circumstances where the invalidity of certain claims of the underlying patent had been upheld in the Court of Appeal after the grant of the original injunction. Judgment at [2016] EWHC 3317 (Pat).

Competition

Before coming to the Bar Andrew worked in pharmaceutical M&A, with his practice having a particular focus on highly technical subject matter. He has been instructed in a range of technology, software, pharmaceuticals, and patents disputes, as well as a number of substantial competition matters, including:

- **Dr Liza Lovdahl Gormsen v Meta Platforms, Inc. and Others (Competition Appeal Tribunal)**

Acting for Meta (led by Tony Singla KC) in the £2bn+ collective proceedings concerning users data.

- **Nikki Stopford v. Google (Competition Appeal Tribunal)**

Acting for the Claimant representative (led by Daniel Jowell KC and Colin West KC) in the £7.3bn collective claim against Google alleging it has used its search engine dominance to shut out competition in mobile search.

- **The Secretary of State for Health and Social Care & Others v. Lundbeck Limited & Others (Competition Appeal Tribunal)**

Acting for Defendants (led by David Scannell KC) in a follow-on damages claim relating to “pay-for-delay” agreements and the supply of drugs to the NHS.

- **For Claimants (led by Matthew Cook KC) in relation to a competition dispute involving proprietary technology and alleged abuses of a dominant position.**

International Arbitration & Litigation

Andrew has acted in a range of arbitral proceedings conducted under most sets of institutional rules (LCIA, ICC, HKIAC, SIAC, VIAC, SCC, UNCITRAL, ICSID, etc) as well as in international commercial courts / other jurisdictions.

- **SIAC Proceedings**

Instructed (unled) by respondent in relation to a \$400mn claim arising from an asset sale. Metals and mining, Asia-Pacific. Ongoing.

- **DIFC Proceedings**

Instructed (unled) in relation to a claim for breach of copyright licence / joint venture agreement in respect of

gaming software. Ongoing.

- **Set Aside of Enforcement / Recognition of a Foreign Award**

Instructed (unled) in respect of proceedings under s.103 of the Arbitration Act 1996 to set aside an order enforcing / recognising a \$100mn Swedish arbitral award in circumstances where the Svea Court of Appeal.

- **UNCITRAL Investor-State Proceedings**

Instructed (as co-counsel) in relation to a \$600mn expropriation claim against a CEE nation, with pending appeal before Svea Court of Appeal. Ongoing.

- **Cross-border Fraud Claim**

Advised in respect of \$1bn claim alleging unlawful means conspiracy, centred on Jersey but with satellite disputes in Ukraine, Russia, and China. Settled.

- **LCIA Proceedings**

Instructed (as co-counsel) alongside UAE lawyers in arbitral proceedings for breach of contract. Ongoing.

- **VIAC Proceedings**

Instructed (as co-counsel) in arbitral proceedings arising from a construction dispute. 4 day hearing in Vienna, June 2021.

- **LCIA Proceedings**

Instructed (led by Michael Sullivan KC) to advise in relation to prospective LCIA proceedings

- **ICC Proceedings**

Instructed (unled) for the Claimant in multi-million dollar claim to enforce a guarantee under ICC Rules, seated in London.

- **ICAC Proceedings**

Instructed (unled) in multi-million dollar breach of contract proceedings (financial services) at the International Commercial Arbitration Court at the Chamber of Commerce and Industry of the Russian Federation. Involved range of issues including jurisdiction, agency, choice of laws, and contractual construction. 4 day hearing, Moscow, 2019.

- **HKIAAC Proceedings**

Instructed (unled) in Hong Kong International Arbitration Centre proceedings relating to a pharmaceutical patent licence and a multimillion dollar damages claim.

- **Other**

Andrew also has experience on IP related matters including: licensing and rights agreements; parallel importation (including the BMS conditions for repackaging); and the hallmarking requirements for precious metals.

Trade Marks, Passing Off, Copyright, and Designs

Andrew advises on all aspects of intellectual property law as well as commercial disputes involving IP. He has particular experience in trade marks and passing off, and is a visiting lecturer in post-graduate trade mark law at the Centre for Commercial Legal Studies at the University of London. Andrew has advised and acted in copyright claims in respect of a range of subject matters (including user manuals, medical diagrams, architect's drawings, and software as well as copyright in a database and *sui generis* database rights). His design rights experience includes a broad range of subject matter, including trains, fashion items, ice-cream vans, and microwavable plastic cups.

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- **Au Vodka v NE10 Vodka & Anor**

Instructed (unled) to resist an application for an interim injunction in respect of the alleged goodwill in the get-up of vodka bottles. Successfully resisted the application, struck out part of the Claimant’s case, and achieved an order for an expedited trial. Judgment at [2022] EWHC 2371 (Ch).

- **Shareholder Dispute / Trade Mark Infringement claim**

Instructed (unled) on behalf of the potential claimant, a household brand, in respect of potential proceedings against a director and several shareholders for breach of duties, trade mark infringement, passing off, and breach of contract. Ongoing.

- **Warren v Lidl & Ors**

Instructed (unled) on behalf of the Claimant butcher in a claim alleging passing off against the well-known discounter and copycat supermarket, Lidl. Appeared against silk at: (i) PTR, successfully resisting application under CPR rr.31.14 (judgment at [2021] EWHC 110 (Ch)); (ii) trial (judgment at [2021] EWHC 1097 (Ch)); and (iii) lengthy form of order hearing, involving questions as to the appropriateness of damages-based agreements to IP claims (judgment at [2021] EWHC 2372 (Ch)).

- **Associated British Foods & Anor v Warburtons Ltd & Anor**

Instructed (led by Philip Roberts KC) on behalf of the Defendants in a claim alleging passing off. Appeared unled against a silk in application to adduce survey evidence.

- **Online Intermediary Proceedings**

Concerning the scope of relief available under s.97A of the Copyright Designs and Patents Act 1988 and availability of Norwich Pharmacal relief in context of foreign proceedings.

- **Walton International Ltd & Anor v Verweij Fashion BV**

Instructed (led by Simon Malynicz KC) on behalf of the Claimants in a trade mark infringement claim. Trial raised issues including jurisdictional effect of a notice of discontinuance and honest concurrent use. Trial judgment at [2018] EWHC 1608 (Ch).

- **Typographical Arrangement Claim**

Instructed (unled) for the Claimant designers in respect of a claim asserting copyright in a typographical arrangement.

- **Firstfind Ltd & Ors v Edward Ashley-Carter & Ors**

Instructed (led by Henry Forbes Smith) for the Claimants in a dispute as to the ownership of various rights in the CHINAWHITE nightclub brand which involved a number of applications including summary judgment involving issues of assignments in gross and the extent of rights in unregistered trade marks following the judgment of the Supreme Court in *Starbucks*. Appeared unled for strike out / summary judgment hearing.

- **FibreFab Ltd & Ors v Optronics Plus Ltd & Ors**

Instructed (unled) in relation to an interim injunction application based on the scope of rights in passing off where the rights asserted adhered to signs that were alleged to be comprised of generic and/or descriptive words.

- **Movie Megastores International Ltd v Shaboroz**

Instructed (unled) at trial for the Defendant in relation a claim for infringement of copyright in a song.

Injunctions and Other Applications

- **Gain v Aeroflot & Anor**

Instructed (unled, under an OFSI licence [pending]) to set aside an order for default judgment worth \$60mn. Issues as to access to justice for sanctioned parties. Ongoing

- **Au Vodka v NE10 Vodka & Anor**

Instructed (unled) to resist an application for an interim injunction in respect of the alleged goodwill in the get-up of vodka bottles. Successfully resisted the application, struck out part of the Claimant's case, and achieved an order for an expedited trial. Judgment at [2022] EWHC 2371 (Ch).

- **Set Aside of Enforcement / Recognition of a Foreign Award**

Instructed (unled) in respect of proceedings under s.103 of the Arbitration Act 1996 to set aside an order enforcing / recognising a \$100mn Swedish arbitral award in circumstances where the Svea Court of Appeal.

- **Terra Services v NCA**

Instructed (led by Robin Barclay KC) in an application brought under s.59 of Criminal Justice and Police Act 2001 in relation to documents seized under a search warrant pursuant to a Letter of Request from the US Department of Justice. Involved questions as to the scope of privilege and the applicability of the rule from *The Palermo*.

- **Scipharm v Moorfields Eye Hospital**

Successfully applied for disclosure of solicitors' attendance notes on the basis that privilege had been waived in their contents. Judgment at [2021] EWHC 2079 (Comm).

- **Cole v Carpenters**

Successfully resisted (as sole counsel, acting under Direct Access scheme) an application (under old CPR 81) for permission to bring contempt proceedings on basis the application was premature. Questions as to waiver of Part 36 privilege and oppressive conduct. Judgment at [2020] EWHC 3155 (Ch).

- **BTCS v Sokmen**

Instructed (led by Charles Graham KC) on behalf of the Claimants in respect of an urgent ex parte application for an interim injunction to restrain a former employee from further breaches of confidence. Involved interplay between statutory whistleblowing rights, data protection, and duties of confidence arising in contract and equity.

- **Distinctive Wholesale Ltd v Clayton Horsnell Ltd & Ors**

Successfully struck out (as sole counsel) additional claims alleging procurement / inducement of a breach of contract and unlawful means interference, judgment at [2018] EWHC 3742 (IPEC).

- **Warner-Lambert v Sandoz & Ors**

Instructed (led by Geoffrey Hobbs KC) on behalf of Defendants in relation to an application to vary the terms of an interim injunction. Considered issues of proportionality and specificity of relief in respect of a full label marketing authorisation in circumstances where the invalidity of certain claims of the underlying patent had been upheld in the Court of Appeal after the grant of the original injunction. Judgment at [2016] EWHC 3317 (Pat).

- **El-Helw v TSB Banking Group PLC**

Instructed (as sole counsel) for the respondent bank, successfully resisting an application for a mandatory

injunction seeking relief under, inter alia, the Data Protection Act 1998.

- **FibreFab Ltd & Ors v Optronics Plus Ltd & Ors**

Instructed (as sole counsel) in relation to an interim injunction application based on the scope of rights in passing off.

What the directories say

"Andrew Lomas is super bright and very good at breaking things down for clients. He is an enthusiastic and excellent barrister." (Chambers & Partner, Intellectual Property, 2024)

"Andrew Lomas has a technical background because he was in academia beforehand. He has that maturity about him which is more than his call would suggest." (Chambers & Partner, Intellectual Property, 2024)

'Andrew is prepared to get stuck in and do the hard yards for the client. His skeletons are well put together and persuasive, and he works well in a team.' (Chambers & Partner, Intellectual Property, 2023)

Education

City University London, GDL and BPTC [2012 - 14]

University of Oxford, DPhil Pharmacology: "Small molecule inhibitors of Lactate Dehydrogenase A" [2007 - 2011]

University of Oxford, MSc Medicinal Chemistry (Distinction) [2006 - 2007]

University of Durham, BSc Chemistry (1st Class) [2003 - 2006]

Languages

Russian (Basic)

Other Academic Achievements

Finalist, Savills Senior Moot, City Law School, [2014]

1st Place, Inter-Inn Moot (representing Inner Temple), [2013]

1st Place, Times Law Award, [2013]

XXth Willem C Vis International moot (representing Inner Temple), [2013]

Exhibition (GDL and BPTC), Inner Temple, [2012-2014]

1st Place, Bogdanor Politics Prize, Brasenose College, [2010]

Senior Hulme Scholarship, Brasenose College, [2008 - 2010]

Senior Cheetham Scholarship, Brasenose College, [2007 - 2010]

Cancer Research UK Studentship in Medicinal Chemistry, [2006 - 2010]

GlaxoSmithKline Organic Chemistry Prize, Durham University, [2004]

Professional Memberships

COMBAR, Chancery Bar Association, Intellectual Property Bar Association, IPSoc (society for junior IP practitioners), London Common Law and Commercial Bar Association.

Other Experience

Councillor, Royal Borough of Kensington and Chelsea [2014 - 2018]

Army Reservist (short-listed as best soldier in Corps in 2012) [2009 - 2014]

Tutor in Chemistry, University of Oxford (Brasenose College and Exeter College) [2007 - 2010]

Awards



Contact Clerks



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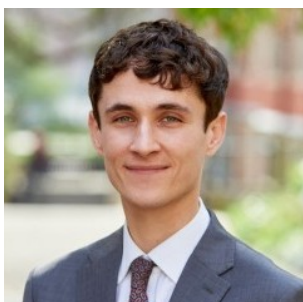


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