



Mark Wilden

Year of Call: 2018

Email Address: mark.wilden@3pb.co.uk

Telephone: 020 7583 8055

Overview

Mark Wilden is a commercial barrister specialising in Intellectual Property and Media and Entertainment.

Mark came to the Bar after a successful 15-year career as an audio producer, sound engineer and musician. He worked in house at Oxford University Press for eight years, played drums professionally, performed as a DJ and produced music podcasts through the 2000s. He still performs occasionally, most recently with top-40 band 'Stornoway' and with 3PB's band 'Out of Office'. He worked at Carpmaels & Ransford LLP before completing pupillage at 8 New Square Chambers.

Mark acts mostly unled in the High Court, IPEC, County Court and IPO and accepts instructions in all forms of intellectual property and related causes of action, including contract, technology and economic torts. He acts for clients across the creative and entertainment industries including in music, journalism, film and TV, including very high profile clients and high value matters. He writes articles and presents seminars on intellectual property, entertainment and law, and civil litigation.

Mark was shortlisted for Bristol Law Society Pro Bono Lawyer of the Year in 2023 in recognition of his regular pro bono advice clinics for musicians and for SMEs in the creative industries. He also volunteers in the High Court as part of the Chancery Litigants in Person Support Scheme (CLiPS) and is a panel member of Advocate.

Mark is an authoritative and persuasive advocate with a practical approach to advice, pleading and litigation strategy, and has been described as "a diligent and talented lawyer and a pleasure to work with".

Recommendations

"New session with IP barrister Mark Wilden. Very different perspective on a wide range of IP matters to previous session with IP attorneys, both very interesting, informative and helpful. Strongly recommended. Thanks to BIPC and Mark." - **BIPC Bristol IP advice clinic client**

"I'm so thankful for the support, kindness and professionalism I received from day one. I couldn't think of a better team to have by my side." - **Lay client in IPEC claim**

"We used Mark for some advice on grey goods for [High Street retailer]. He was very responsive, very knowledgeable and technically excellent. I particularly admired the pre-con call to discuss the format and what he was going to say. We have used him several times since on a range of IP and IT matters and are very impressed." - **Laura Trapnell, Head of IP and IT, Paris Smith Solicitors**

"Mark dealt with a breach of restrictive covenants and database issue in a clear concise manner enabling the client to grasp complex legal arguments very quickly and provided very thorough advice in conference. Mark's dealing with the client and follow-up with me were very impressive." - **Instructing Solicitor**

“Mark is one to watch and has a bright future ahead of him at the bar. He is very responsive, easy to work with and has a very high technical ability. I would not hesitate in either instructing or recommending Mark in the future.” – **Alex Jeffery, Partner, Head of Litigation, Bright Solicitors**

Academic qualifications

- LLB (Hons) (1st class), Open University with University of Law
- BPTC LLM (Distinction), University of Law
- Postgraduate Diploma in Intellectual Property Law and Practice residential school, University of Oxford

Professional bodies

- Chancery Bar Association
- IP Bar Association
- Commercial Bar Association
- British Literary & Artistic Copyright Association
- Next Generation Media Lawyers
- Advocate
- PRS For Music: writer member
- PPL: performer and recording rights holder member

Expertise

Intellectual property

Mark accepts instructions in all areas of Intellectual Property. Examples of recent work include:

Pasternak v Prescott [2022] EWHC 2695 (Ch): Analysis and drafting of defence in high-profile copyright infringement claim (with Carpmaels & Ransford LLP)

R2843/2019-3 B&Bartoni v Hypertherm (EUIPO): Written submissions for successful appeal on the invalidity of registered design protecting a consumable part of a complex product (with Carpmaels & Ransford LLP).

In IPEC

EVVA v V&P Fox: For claimant in patent infringement and validity action (ongoing)

Makeality v City Doggo: For defendant in TM infringement / passing off claim over the name 'Piddle Patch' for dog toilets (ongoing)

Basilotta v Jack Hill Culture Company: For defendant in successful strike-out of copyright infringement claim at CMC

Rinkoff v Baby Cow Productions: For claimant in copyright claim over a TV show format (to CMC)

Zone 8 Media v Rodriguez: For defendant in copyright claim for alleged piracy of internet pornography (to CMC)

McBean v Clapton Football Club: For claimant football club in a passing off claim against a rival club

James v Mitchell & Borabeads: Win at trial for claimant for passing off re. jewellery brand.

In IPO

Re. AIRCHAMBER: For trade mark applicant re. objections on absolute grounds

Re. MONSTER: For Ducati Motor Holding opposing a trade mark application for the word 'MONSTER' for virtual goods (awaiting decision)

Re. WINDRUSH: For the Department of Levelling Up, Housing and Communities opposing five trade mark registrations for 'Windrush' and related terms. successful on most issues: decision O-0051-24

Re. EONX: For trade mark applicant in opposition by E.ON based on three prior marks, successful on most issues: decision O-1155-23

Re. LOVE UR CURLS: Win for trade mark applicant in overcoming objections of three examiners for lack of inherent distinctiveness.

Re. TMKONNECT: For opponent in trade mark opposition on relative grounds.

Re. GAY STAR NEWS: For opponent in trade mark opposition on relative grounds relying on unregistered rights.

Advisory work including:

- Threats of infringement proceedings by use of Amazon IPR take-down procedures
- Performers' rights of choristers in church services
- Infringement of IP rights by sale of signed books with allegedly faked signatures
- Design right infringement by copying of fashion designs
- Copyright infringement issues including unlicensed use of photographs on non-commercial websites
- Trade mark infringement by unlicensed resale of own-brand products.

Commercial

Mark Wilden accepts instructions on commercial disputes, especially in cases involving the entertainment industries, intellectual property rights and technology-related issues. Examples of recent work include:

- **Discovery Park Management v MRI Software EMEA (County Court):** For claimant in contractual claim over non-delivery of software services
- **Crayon v Total Group International (County Court):** Win for claimant at trial regarding cloud computing services
- **M v FF (County Court):** For defendant in data breach claim
- **Re. Petropavlovsk (Ch D):** For shareholders in the disputed insolvency of a Russian gold mining company (with CLiPS Scheme).

Advisory work including:

- Liability for interception of data by 'data sniffing'
- Domain name disputes and use of the Nominet Domain Dispute Resolution Service
- Construction of contractual agreements
- Debt and economic torts, including procuring breach of contract
- Civil litigation strategy, procedure and remedies.

Media & Entertainment

Mark Wilden accepts instructions on commercial disputes in the creative industries and on defamation matters. Examples of recent work include:

- **Phoenix Music International v Cadiz Music and Digital (ChD):** Claim for infringement of copyright in compilation CDs, including by copying of track lists, artwork and remastered audio recordings (led by Nicholas Caddick KC)
- **Aslanyan v FremantleMedia (KBD):** For defendant TV producer in high-value claim brought by unsuccessful contestant of the show Britain's Got Talent
- **SS1 Productions v Star Concerts (County Court):** Win for defendant concert promoter in summary judgment and strike-out application regarding alleged breach of joint venture agreement
- **AS v OF (County Court):** For defendant in film financing claim
- **S v NHM (KBD):** For claimant in defamation claim.

Advisory work including:

- Proposed claim by festival organisers against headlining act for premature termination of festival due to nature of performance
- Interim injunction application against former business partner exceeding the terms of licence in concert promotion tours
- Termination of long-standing arrangement for publication of political cartoons by broadsheet newspaper
- Renegotiation of contractual relationship for production of reality television show on major online platforms
- Music-related issues including licensing, sampling, royalties and the nature and scope of related rights
- Defamation claims, considering defences including truth, honest opinion and lack of serious harm.

Articles

Read Mark Wilden's article about navigating copyright in the world of ever evolving technology for Counsel magazine.

[View Article](#)

3PB's specialist intellectual property barrister [Mark Wilden](#) has written for The Barrister on fighting against unjustified intellectual property takedown complaints in online platforms such as Amazon, eBay and YouTube.

[View Article](#)

Mark Wilden discusses the case of *Pasternak v Prescott* [2022] EWHC 2695 (Ch) and explores how the case illustrates the intricacies of copyright protection of historical research.

[View Article](#)

Mark Wilden on “Massive overdisclosure” ordered in departure from business & property courts disclosure regime in *Genius Sports Technologies Ltd v Soft Construct* (Malta).

[View Article](#)

Hebden v Domino Recording Company Ltd [2022] EWHC 74 (IPEC)

Specialist intellectual barrister Mark Wilden has recently critiqued the key new case of *Hebden v Domino Recording Company Ltd* [2022] EWHC 74 (IPEC), which concerns royalties for music streaming and downloads and could have a significant effect on the UK music industry.

[View Article](#)

Easygroup v Beauty Perfectionists [2021] EWHC 3385 (Ch)

3PB’s specialist intellectual property Third Six pupil barrister Mark Wilden analyses the decision of the High Court in *Easygroup v Beauty Perfectionists* [2021] EWHC 3385 (Ch).

[View Article](#)

Articles

Mark Wilden discusses the case of *Pasternak v Prescott* [2022] EWHC 2695 (Ch) and explores how the case illustrates the intricacies of copyright protection of historical research.

[View Article](#)

Mark Wilden on “Massive overdisclosure” ordered in departure from business & property courts disclosure regime in *Genius Sports Technologies Ltd v Soft Construct* (Malta).

[View Article](#)

Hebden v Domino Recording Company Ltd [2022] EWHC 74 (IPEC)

Specialist intellectual barrister Mark Wilden has recently critiqued the key new case of *Hebden v Domino Recording Company Ltd* [2022] EWHC 74 (IPEC), which concerns royalties for music streaming and downloads and could have a significant effect on the UK music industry.

[View Article](#)

Easygroup v Beauty Perfectionists [2021] EWHC 3385 (Ch)

3PB’s specialist intellectual property Third Six pupil barrister Mark Wilden analyses the decision of the High Court in *Easygroup v Beauty Perfectionists* [2021] EWHC 3385 (Ch).

[View Article](#)