

Jane Foulser McFarlane

Year of Call: 1994
Email Address: jane.foulser@3pb.co.uk
Telephone: 020 7583 8055

Overview

Jane Foulser-McFarlane has returned to private practice at the Bar to specialise in personal injury and intellectual property, having just completed a PhD at Exeter University in Intellectual Property Law.

The title of her thesis was *'Copyright Damages Need to Have a Sufficiently Punitive Element to Successfully Deter Infringement.'* Jane has also been working for an intellectual property law firm based in South-East Asia as a Legal Editor and Intellectual Property Writer. Jane's work has included writing on behalf of the firm for prestigious journals, such as the Oxford University Press, Journal of Intellectual Law and Practice, as well as the American Bar Association, The World Trademark Review and the European Communities Trademark Association (ECTA). Jane will continue her freelance writing for the law firm. She has extensive experience in commenting on high profile cases brought by well known luxury brands and regularly analyses the impact of a successful outcome, not only on the brands themselves, but also in the context of the existing legal framework.

Jane has been a working associate at 3PB since 2012. In intellectual property, she focuses mainly on copyright and passing off, as well as trade marks and has gained a good knowledge and understanding of trade mark law in China and has worked in Beijing.

Jane had a substantial and wide-ranging personal injury practice, prior to doing her PhD in intellectual property law, which she is also now returning to, along with an intellectual property caseload. Her expertise in personal injury cases includes:

- Road Traffic Accidents including motorcycle accidents
- Professional Negligence
- Employers Liability
- Occupiers and Public Liability

She is a regular contributor to New Law Journal, including writing a book review of William Patry's "*How to Fix Copyright.*"

Publications of note:

- *God and the Stormtroopers – Assessing How Far Toys Can be Used for Role Play Without Breaching Copyright*
- *Virtual Reality? Online Infringement? No...It's Infringement Online*
- *Privacy's death knell? Interim injunctions*
- *Mediation in Intellectual Property Law Disputes – Is Low Cost Dispute Resolution the Way Forward, Following the Findings of The Hargreaves Report*
- Bottom of The Class*: What are the implications for Google's online library?*

- For Richer or Poorer – To what extent are intellectual property rights matrimonial assets*?*
- God & the Stormtroopers – Assessing how far toys can be used for role play without breaching copyright
- *Piracy's Death Sentence – Anti-Counterfeiting Trade Agreement*
- *In the Witches Domain – Internet domain names*
- Tarzan Yell Falls Flat – *Sounds as Trademarks*

Jane has appeared on "Law in Action" on Radio 4 to debate the subject of "Remote Justice" alongside Lord Burnett.

Academic qualifications

- LLB (Hons); University of Wales, Cardiff
- LLM (International commercial and maritime law, with emphasis on international intellectual property law. Dissertation was on the legal protection of computer databases)
- BPC, Inns of Court School of Law
- PhD in intellectual property law, Exeter University

Professional bodies

- Personal Injury Bar Association (PIBA)
- Intellectual Property Bar Association
- International Association for the Protection of Intellectual Property (AIPPI UK)

Expertise

Personal Injury

Jane Foulser McFarlane advises and represents both claimant and defendant clients on a broad range of issues including:

- Catastrophic injury
- Asbestosis/ industrial disease
- Employer's liability
- Occupiers and public liability
- Road traffic claims including motorcycle accidents
- Highway claims

Jane has represented a number of clients in personal injury actions arising out of hit-and-run incidents and is known for being an approachable and pragmatic advocate.

Reported cases

- Aquilina v Aquilina [2004] EWCA 504
- David Lewin v Stephen Harvey [2010] Lawtel AM0201691: Representing the Claimant, who was awarded £31,000 for the loss of taste and smell.