

# The Trademark

Issue 4 2022

GLOBAL REACH, LOCAL KNOWLEDGE

[www.trademarklawyermagazine.com](http://www.trademarklawyermagazine.com)

## Lawyer



## “THUMBS UP” – and down – to US trademark registration challenges based on “foreign” marks

Chris Mitchell, a member of Dickinson Wright, reviews the dispute between Coco-Cola and Meenaxi over the request for the cancellation of registration of identical marks with key takeaways in light of a surprising outcome.



**An interview with  
Astellas Pharma**  
Page 12



**Successfully  
pursuing  
a TRO**  
Page 16



**Chinese Version  
Trademarks**  
Page 30





European Intellectual Property Specialists



# We talk your language

HGF offers a fully integrated IP solution, bringing together patent attorneys, trade mark attorneys, design attorneys, IP solicitors and attorneys-at-law across 22 offices in Austria, France, Germany, Ireland, The Netherlands, Switzerland and the United Kingdom.

**hgf.com**

 HGF Limited  
 @HGF\_IP



# Women in IP Leadership

Celebrating achievements and continuing  
the empowerment of women



Sponsored by



We give special thanks to HGF for their dedication and support in continuing  
the empowerment of women in IP by facilitating this opportunity.



This segment is dedicated to women working in the IP industry, providing a platform to share real accounts from rising women around the globe. In these interviews we will be discussing experiences, celebrating milestones and achievements, and putting forward ideas for advancing equality and diversity.

By providing a platform to share personal experiences we aim to continue the empowerment of women in the world of IP.

This segment is sponsored by HGF, who, like *The Trademark Lawyer*, are passionate to continue the empowerment of women. HGFs' sponsorship enables us to remove the boundaries and offer this opportunity to all women in the sector. We give special thanks to HGF for supporting this project and creating the opportunity for women to share their experiences, allowing us to learn from each other, to take inspiration, and for continuing the liberation of women in IP.



Sponsored by



“

**At the heart of HGF values is our people, they enrich our business and make it stronger. We know that women, especially in leadership roles, provide a different set of skills, fresh perspectives, structural and cultural differences that can drive more effective solutions. Awareness around the importance and value of gender diversity in IP has grown and one of HGF's DEI targets is to improve gender balance at a senior level. One of the actions we have taken to help us work towards this is to change the partner promotion process. The new system is meritocratic, equitable, and aligns with our Values of People Matter, Teamwork, Excellence, and Progressive.**

”

If you would like the opportunity to share your experiences with *Women in IP Leadership*, would like to nominate an individual to be involved, or would like to learn more about sponsorship, please contact our Editor.



# Stephanie Moe: Associate, Fitzwilliam, Stone, Furness-Smith & Morgan

**An interview: inspirations, experiences, and ideas for equality.**

**S**tephanie is an Associate at Fitzwilliam, Stone, Furness-Smith & Morgan. She began her legal career in 2013 and is a member of the Firm's Intellectual Property and Litigation Departments. She has considerable trademark and commercial litigation experience representing many clients before the Intellectual Property Office of Trinidad and Tobago, the High Court and Court of Appeal.

At the Law Firm, Stephanie handles all aspects of trademark work including prosecution and enforcement. She also regularly advises clients on unfair competition, copyright, food and drug, advertising law and generally all aspects of intellectual property practice.

## **What inspired your career?**

My parents have definitely been very influential in developing and inspiring my legal career, especially my father. As a child, I remember he had a very strong work ethic, he travelled a lot for work, and he always instilled in me the value of education and more so being independent and critically thinking as a woman. My parents have offered a lot of guidance in my educational and, eventually, professional choices and I am very grateful for their support.

Also, I have always had a passion for literature. It was a natural fit for me to study law as reading is a fundamental aspect of legal training and practice.

## **How have you found the pathway to your current position? And can you offer advice from your experience?**

My Firm, Fitzwilliam Stone, Furness-Smith & Morgan is a full-service firm with several departments ranging from Corporate, Commercial, Litigation, Oil and Gas and of course, Intellectual Property. When I first started working at the Firm, I gained exposure in these various practice areas.

I settled into the Litigation department for a number of years, however, an opportunity arose when Olive Ramchand, a Partner in the Intellectual



**“If I was to offer any advice to someone based on my experience, I would say don't be afraid to change direction as taking a different path could lead to a more fulfilling career.”**

Property department, needed assistance in a trademark litigation dispute. She called on me to prepare the legal arguments and I remember being very captivated by her passion for intellectual property. That was really my first exposure to litigious intellectual property practice, and I loved it. Shortly thereafter, an opportunity arose for an Associate to join the IP department - I thought about whether I wanted to make a career change after about five years in the Litigation department to go in a completely different direction. I spoke with several Partners in the Firm and they were very supportive. I eventually decided to take the leap and do it. I have never looked back!

If I was to offer any advice to someone based on my experience, I would say don't be afraid to change direction as taking a different path could lead to a more fulfilling career.

## **What challenges have you faced? And how have you overcome them?**

I think for all lawyers, there's a need to develop a certain amount of grit to have confidence when practising the law.

Being a young woman, there are some challenges in developing that fortitude. I've learned to rely on my past experiences to help me through. For example, as a teenager, I entered different singing and music competitions both in the Caribbean and the UK. I was heavily involved in music for several years and being on a stage is not an easy thing.

It takes a lot of courage to be able to perform in front of an audience and on camera. When I graduated from law school, I entered the Miss World Trinidad and Tobago pageant on a whim, and I had a fantastic experience. Many would think that those experiences don't inherently have anything to do with the law, but they definitely developed an ability to work under pressure, to be able to develop poise in nerve-racking situations and confidence which is critical in practising law.





**The professional development and character development which I've seen in myself over the past several years is something that I hold very dearly.**



**What would you consider to be your greatest achievement in your career so far?**

Graduating from law school was definitely an achievement. I remember chatting with my law school friends in the few days before our final exams and discussing what we wanted to do professionally. I was so confident, I don't know how I got this bravado, but I told my friends that I would work in a top tier law firm - and I'd make Partner one day.

I actually got into Fitzwilliam Stone, a top-tier firm in Trinidad and Tobago and very well respected in the Caribbean, and I'm still working towards partnership. That has been a great achievement, to be able, all these years later, to come full circle to say that the statement I made to my friends is being realized.

I'd also say one of my greatest achievements is actually sticking with law because law is not easy and it takes a lot of nerve to overcome certain challenges and to push through when you're deep in deadlines with demanding clients. So, I think more than anything else the professional development and character development which I've seen in myself over the past several years is something that I hold very dearly. It's that self-growth and those qualities that propel me and are very necessary for my career path moving forward.

**What are your future career aspirations? And how will you work to achieve them?**

I would say that in Trinidad and Tobago, and in the Caribbean as a whole, there's so much to offer in terms of culture and heritage but there's not a lot of awareness of IP in the Caribbean which is essential in protecting these cultural expressions. I've been able to meet with small and medium-sized enterprises to assist in leveraging IP opportunities and developing trademark strategies, both locally and internationally. I really enjoy helping these businesses to protect their trademarks and also create enforcement strategies, which is where my litigation background is leveraged.

I take a lot of pride in sitting down and explaining the trademark process in a comprehensive manner to clients who may not have any knowledge of intellectual property at all. I recently had the pleasure of working with a team of Chinese agents to protect a local client's trademarks from infringement in China which was a time-consuming but very rewarding experience.

So, as far as my future career aspirations go, I want to continue in that vein of really educating the Trinidad and Tobago and Caribbean population because there's a lot of valuable intellectual property in the region. It is very rewarding when you see product launches,

successful enforcement strategies and your client comes back and thanks you for your hard work, appreciating the time, patience and dedication to assist in developing and protecting their IP portfolios.

**What changes would you like to see in the IP industry regarding equality and diversity in the next five years?**

With respect to equality and diversity, I've been fortunate that in Trinidad and Tobago we're very ethnically diverse. Also, in the legal profession, there are many women, and there are many women who have been awarded silk, we have a female president and she's a lawyer by profession. All of this female representation is reflected in IP practice locally.

I would say in terms of global changes, that the conversation is great regarding diversity and inclusion but conversation is just the starting point. I think there is also a need for action. Personally, at my law Firm, I've benefitted tremendously from our mentorship program where I am mentored by a Senior Partner, Cynetta Lai Leung. I've also been able to discuss my career trajectory with other Partners, male and female, who have been very willing to sit down with me and guide me through my legal career. I think it's very important to not just speak about diversity and inclusion but to have mentorship programs in place to really make that a tangible experience and to develop opportunities for younger practitioners, for women, for people who are ethnic minorities, and I think that globally, we are headed in the right direction.

**How do you think the empowerment of women can be continued and expanded in the IP sector?**

I think your platform is excellent! I remember reading through the *Women in IP Leadership* articles and noting that while the interviewees have varying ethnic and cultural backgrounds, we share very similar experiences.

That's very eye-opening and therefore important for women to support each other. I'm fortunate enough to be in a group, called Sistah Girl, for female trademark lawyers to network with one another and it gives each of us the opportunities to discuss issues. We meet every year at the INTA Annual Meeting, and I think those sorts of programs help women come to the fore. Mentorship is something I'd always advocate for and is key in really helping women to develop professionally.

Sponsored by





# Rachel Wilkinson-Duffy: Partner, Baker & McKenzie

**An interview: inspirations, experiences, and ideas for equality.**

**R**achel is Partner in the Trademark Unit within the Intellectual Property department of the London office of Baker McKenzie.

Rachel advises on all aspects of trademark and design protection and enforcement, including global filing strategies, clearance searching and transactions involving intellectual property for the UK, EU, Madrid Protocol and overseas. Rachel specializes in trademark disputes such as infringements, oppositions, cancellation actions, company and domain name disputes and dispute resolution. Rachel has worked with clients in a broad range of different fields, including pharmaceuticals, finance and fashion, as well as assisting NGOs in a number of sectors on a pro bono basis.



## **What inspired your career?**

When I first started out at a small trademark attorney firm as a legal secretary, I worked for a number of really inspiring women. They were all very different, but each in their unique way made me want to follow the same career path. What impressed me most was how much they all loved what they did and had a passion for IP and delivering for their clients. At the time, work for me was very much a 'nine-to-five' means to an end, but it was quite aspirational to think that it could grow into a career path and true passion. Supportive leaders and colleagues pushing me to think bigger and challenge myself led to me starting my studies to become a trademark attorney. I remember what an incredible confidence boost it was to have these successful role models believing in me.

## **How have you found the pathway to your current position? And can you offer advice from your experience?**

I think the best advice I could give from my experience is two-fold.

First – make sure that you take up opportunities as and when they arise, even if it just seems like something small. Looking back, I can definitely see that my career path has largely been the culmination of lots of small decisions to say yes to something which might at the time seem not very exciting or important, or perhaps that I was

a bit scared about taking on because of a worry I did not have enough experience or knowledge. There is always a good reason to say no, but saying yes opens up new opportunities to learn and grow in ways you may not have expected.

Second – Always be true to yourself and pursue things that you are passionate about. It is so clichéd, but life really is too short not to be able to express yourself in your working life and do something you love. Your true self might not be everyone's cup of tea, but I think all of us have personal traits that are more loveable than we realize and, as we've seen through the Zoom/Teams experience of Covid, allowing people to see a little bit about who you really are makes it so much easier to connect with them.

## **What challenges have you faced? And how have you overcome them?**

Coming from a different background to most (I didn't follow the usual university-to-trainee route into the profession) a personal challenge for me was not to give into the feeling that I don't belong. That sense of imposter feeling that we all get from time to time can be particularly strong when there is a clear reason why you are different and you work around lots of incredibly gifted people. I'm not sure any of us ever overcome those thoughts entirely, but I do think that when you are particularly struggling with it it's important to let yourself take some personal pride in your achievements. Recognize that there are parts of you that are pretty incredible too, maybe even strengths that others around you might not have, so you bring something important and valuable to the table also. For me personally, looking at it more as everyone being an important piece of the puzzle, rather than being better or worse than anyone else, has really helped me to overcome my insecurities around being different from others.

## **What would you consider to be your greatest achievement in your career so far?**

As it is still pretty recent, being promoted to partner at Baker McKenzie and elected as CITMA President within the space of a year has felt like a particular achievement. However, I hope that

“  
**Allowing people to see a little bit about who you really are makes it so much easier to connect with them.**  
”



“

**For me personally, looking at it more as everyone being an important piece of the puzzle, rather than being better or worse than anyone else, has really helped me to overcome my insecurities around being different from others.**

”

when I look back at the end of my career, what I will be most proud of are the people who I was able to develop and help in some way to go on to their own greatest achievements. It is always a motivating thought that you can only ever achieve so much personally, but that if you enable others the scope of what they can go on to achieve is almost limitless.

**What are your future career aspirations? And how will you work to achieve them?**

Well, my fellow trademark partner at Baker McKenzie and I often say that we will not stop until we have achieved world domination. More seriously though, I really don't like to be too prescriptive about how I want the rest of my career to develop, as who knows where the career path might wind off to. Building an ever stronger litigation practice and hopefully acting as a role model for other trade mark attorney litigators is a shorter term aspiration for me though. That ambition is largely driven by my personal passion for litigation and the job satisfaction it gives, so I am keen to help build out a stronger base in the trademark attorney profession to enable others coming through to ranks to take up a litigation practice where there is an interest. Currently I am working with the CITMA team, as well as others in the wider legal profession who are very kindly offering up their time to provide suggestions and support, to see what can be done to leave a lasting legacy on this during my two-year term as President. Watch this space!

**What changes would you like to see in the IP industry regarding equality and diversity in the next five years?**

I fear it may be a little too ambitious to hope we would actually achieve it in the next five years, but I would love to see us to get to the point where we work in an industry where everyone truly understands the value of inclusion and diversity of thought and how this can super charge business success, without the need for quotas. We are all unique in so many different ways and that should be celebrated and leveraged.

**How do you think the empowerment of women can be continued and expanded in the IP sector?**

Well, firstly I have to say that I think we really have come a very long way, both in the IP sector and more broadly in society, when it comes to female empowerment. The significant gains we have made in the past two decades since I started working really are incredible and I believe it is important to recognize those for the achievements they really are. Even 10 years ago, concepts like shared maternity/paternity

leave and flexible working were virtually unheard of and are now the norm. Moving forward, my view is that continuing to build on engagement by both men and women in diversity and inclusion initiatives will be key, not necessarily in a 'big initiatives' way, but firmly embedding the culture that we are all equally striving for true equality of opportunity. I would like to think that being a true champion of female empowerment is an entirely gender neutral role and continuing to develop that general mind-set in lots of little everyday ways is what is going to ensure that the gains we have made stick and continue to expand.



Sponsored by

