

GREENS LIST

BARRISTERS



GAUTAM MUKHERJI

BAR ROLL: 2011 | ADMITTED: 2006

Gautam provides advice and acts in a wide variety of commercial and administrative law matters.

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EXPERTISE

**Building Law & Construction Law | Commercial Law | Common Law | Corporations Law & Securities Law
| Defamation | Intellectual Property | Public Law & Administrative Law**

PROFILE

Gautam provides advice and acts in a wide variety of commercial and administrative law matters. His practice has a particular focus on defamation and intellectual property law including trade marks, and copyright, and administrative law including FOI proceedings.

He also has experience in corporations law including insolvency, corporate governance and compliance, regulatory issues and more general commercial litigation including contractual disputes, consumer disputes, and estates disputes.

Gautam has appeared in trials and applications in the Federal Court of Australia and the Supreme Court of Victoria and Western Australia (both as junior counsel and unled), as well as in the County and Magistrates' Courts of Victoria, the VCAT and AAT.

Gautam has also advised and represented individuals in Australian Securities and Investments Commission and Australian Competition and Consumer Commission investigations.

Before coming to the Bar Gautam was a Senior Associate at K&L Gates (then Middletons) where he specialised in commercial litigation and intellectual property.

Gautam holds an honours degree in Law and a Masters in Law from the University of Melbourne. He is a contributing author for the Laws of Australia.

A sample of Gautam's matters include:

Defamation

- *International Wushu Federation v Google* (2021, Federal Court of Australia) Acting for plaintiff seeking release of documents and information identifying defendant for defamation proceedings.
- *Gayed v Abdelmalek* (2020, County Court VIC) Acting for plaintiff seeking damages for publications on Facebook directed at small community. Determination as to damages of \$120,000 and costs.
- *Penman and Anor v Dalliston* (2020, County Court VIC). Acting for plaintiffs in relation to alleged defamatory publications published on Tripadvisor website and Facebook.
- *Billis v McLernon* (2019, Supreme Court WA) Acting for plaintiff in contempt proceedings for alleged breaches of permanent injunctions restraining publication of defamatory material online.
- *Burke v Shiells and Anor* (2018, County Court VIC). Acting for defendants in action brought by ex-councillor against fellow member of council in relation to publications said to be contained in letters to the editor published in local newspaper.
- *Moroney and Ors v Zegers* (2018, Supreme Court VIC). Acting for defendant in defamation action brought by 10 joint plaintiffs in relation to publications alleged to be contained in emails sent to membership of a sporting club.
- *De Saram and Cochrane v Cunniffe and Brown* (2016, Supreme Court VIC). Acting for defendants in two separate action brought by an ex business partners who allege that defamatory statements were made in emails and face book posts.
- *Anderson v Mighell* (2014, Supreme Court VIC). Acting for defendant to defamation action brought by business partner in relation to statements alleged to have been made in person and by email.

Intellectual Property

- *Condari Pty Ltd v Haus Group Australia Pty Ltd* (2021, Federal Court of Australia). Acting for respondent in relation to allegations of trade mark infringement arising from use of Google Ad words.

- *Granvue Homes v Lukach, Kuzevski and Anor* (2020, Federal Circuit Court of Australia). Acting for respondents defending allegations of copyright infringement arising from house plans.
- *Karmakar and Anor v Vend Ltd* (Federal Court of Australia). Acting for applicant seeking rectification of the trade marks register based on prior existing un registered substantially identical trade mark and reputation.
- *Abodeliving.com Pty Ltd v Abode Group of Companies Pty Ltd* (Federal Court of Australia). Acting for applicant in trade mark infringement proceedings in relation to unauthorised use of trade marks on websites and in online marketing.
- *HCA Lawyers Pty Ltd v Taylor Preston Lawyers Pty Ltd* (Federal Court of Australia). Acting for applicant in relation to alleged use of material on business website in breach of copyright.
- Domain name dispute for major Australian brand owner against registrant of domain name using registered trade mark.
- Advice in relation to protection of and enforcement of intellectual property rights including use of instructional manuals and copyright in architectural drawings for houses.

Administrative law, review

- *The Queen v Reed-Robertson* [2016] VSC 236 Acting for the accused in opposing an application in the Supreme Court for release of record of interview to the media.
- *Kalm and Minister for Immigration and Citizenship* [2013] AATA 87 Acting for applicant seeking to set aside Minister's decision to cancel visa on failure to pass character test.
- *Contreras and Minister for Immigration and Border Protection* [2013] AATA 914 Acting for applicant seeking to set aside Minister's decision to cancel visa on failure to pass character test.
- *Tabcorp Holdings Ltd v The Secretary to the Department of Treasury and Finance (No 1)* (Review and Regulation) [2013] VCAT 1234 Appeared for the Department of Treasury and Finance led by Dr S.B. McNicol QC.
- *Tabcorp Holdings Limited v Secretary to the Department of Treasury and Finance* (Review and Regulation) [2013] VCAT 1731 Appeared for the Department of Treasury and Finance led by P.R.D Gray QC
- *Elbayeh v Secretary, Department of Education, Employment and Workplace Relations* [2012] FCA 832 Acting for applicant seeking review of decision of the AAT to affirm decision of the Secretary.

General

- *Hill v Cronin* (2021, Supreme Court VIC). Acting for defendant in claim alleging constructive trust over property where constructive trust said to arise from contributions made by plaintiff during course of relationship and large pool of joint assets.

- *Hotondo Building v Dycom Technology Pty Ltd* (2021, County Court) Acting for plaintiffs in claim alleging breaches of technology service agreement made apparent after cyberattack.
- *Mostafa v Sherif* (2020, County Court, VIC). Acting for plaintiff in claim alleging moneys paid as an investment were actually loans provided.
- *Dwyer v Alfex CNC Australia Pty Ltd* (2020, County Court, VIC). Acting for plaintiff alleging misleading and deceptive conduct and breaches of consumer guarantees in relation to supply of laser marking machine.
- *Liversidge v Broken Head Investments and Ors* (2020, VCAT). Acting for respondents in claim alleging breaches of licence and seeking injunctions.
- *Dorobak Investments Pty Ltd & Anor v Schnitz Hawthorn Pty Ltd & Ors* (2020, Supreme Court, VIC). Acting for defendants in relation to allegations of breaches of contract, fiduciary obligations and consumer law.
- *Downie v Spiral Foods and Ors* (Supreme Court VIC). Acting for plaintiffs in class action against manufacturers, packagers and distributors of Bonsoy soy milk. Led by D. Curtain QC and with L. Nichols.
- *Tabcorp Holdings Limited v State of Victoria* [2013] VSC 302 Appeared for the State in Supreme Court proceedings. Led by Dr S.B McNicol QC.
- *Tabcorp Holdings Limited v State of Victoria (No 2)* [2013] VSC 54 Appeared for the State in Supreme Court proceedings. Led by W. Harris QC and Dr S.B McNicol QC.
- *De Cata and Anor v Iaconnis and Ors* (Supreme Court VIC). Acting for applicants seeking removal of single dwelling covenant on property in Reservoir.
- *Saleh Challenge Pty Ltd v Savas Pastras* (Supreme Court VIC). Acting for applicant/plaintiff seeking removal of a number of unwarranted and unjustified caveats placed over real property.
- *Chen v Young* [2016] VCC 952 Acting for defendant in claim for misleading and deceptive conduct in the sale of a business.
- *Eagle Fuels Pty Ltd v Slidecross Pty Ltd & Anor* [2014] VCC 596 Acting for supplier of fuel in seeking payment of invoices and enforcing of personal guarantees.
- *Eagle Fuels v Ground Moves* (Magistrates Court). Acting for supplier of fuel in contractual dispute arising in circumstances of allegation of land contamination
- *DC Payments v various* (Magistrates Court). Acting for plaintiff, a provider of automatic teller machines and associated services, in various contractual disputes with small business owners utilising the plaintiff's services and machines.
- *Burgess Properties Pty Ltd v Grimshaw* (Civil Claims) [2015] VCAT 1230 Acting for respondents in contractual dispute in relation to building works.
- *Pizza Fellas Pty Ltd v Eatnow Services Pty Ltd and Anor* (VCAT). Acting for applicant in an urgent interlocutory injunction application seeking to restrain the respondents from continuing to make allegedly unauthorised use of intellectual property online. Led by I. Martindale QC.

RECENT CASES



DEFAMATION: International Wushu Federation v Google (2021 - Federal Court of Australia) Acting for plaintiff seeking release of documents and information identifying defendant for defamation proceedings



DEFAMATION: Gayed v Abdelmalek (2020 - County Court VIC) Acting for plaintiff seeking damages for publications on Facebook directed at small community. Determination as to damages of \$120000 and costs



DEFAMATION: Penman and Anor v Dalliston (2020 - County Court VIC). Acting for plaintiffs in relation to alleged defamatory publications published on Tripadvisor website and Facebook



DEFAMATION: Billis v McLernon (2019 - Supreme Court WA) Acting for plaintiff in contempt proceedings for alleged breaches of permanent injunctions restraining publication of defamatory material online



DEFAMATION: Burke v Shiells and Anor (2018 - County Court VIC). Acting for defendants in action brought by ex-councillor against fellow member of council in relation to publications said to be contained in letters to the editor published in local newspaper



DEFAMATION: Moroney and Ors v Zegers (2018 - Supreme Court VIC). Acting for defendant in defamation action brought by 10 joint plaintiffs in relation to publications alleged to be contained in emails sent to membership of a sporting club



DEFAMATION: De Saram and Cochrane v Cunniffe and Brown (2016 - Supreme Court VIC). Acting for defendants in two separate action brought by an ex business partners who allege that defamatory statements were made in emails and face book posts



DEFAMATION: Anderson v Mighell (2014 - Supreme Court VIC). Acting for defendant to defamation action brought by business partner in relation to statements alleged to have been made in person and by email



INTELLECTUAL PROPERTY: Condari Pty Ltd v Haus Group Australia Pty Ltd (2021 - Federal Court of Australia). Acting for respondent in relation to allegations of trade mark infringement arising from use of Google Ad words



INTELLECTUAL PROPERTY: Granvue Homes v Lukach/ Kuzevski and Anor (2020 - Federal Circuit Court of Australia). Acting for respondents defending allegations of copyright infringement arising from house plans



INTELLECTUAL PROPERTY: Karmakar and Anor v Vend Ltd (Federal Court of Australia). Acting for applicant seeking rectification of the trade marks register based on prior existing un registered substantially identical trade mark and reputation



INTELLECTUAL PROPERTY: Abodeliving. com Pty Ltd v Abode Group of Companies Pty Ltd (Federal Court of Australia). Acting for applicant in trade mark infringement proceedings in relation to unauthorised use of trade marks on websites and in online

marketing



INTELLECTUAL PROPERTY: HCA Lawyers Pty Ltd v Taylor Preston Lawyers Pty Ltd (Federal Court of Australia). Acting for applicant in relation to alleged use of material on business website in breach of copyright



INTELLECTUAL PROPERTY: Domain name dispute for major Australian brand owner against registrant of domain name using registered trade mark



INTELLECTUAL PROPERTY: Advice in relation to protection of and enforcement of intellectual property rights including use of instructional manuals and copyright in architectural drawings for houses



ADMINISTRATIVE LAW - REVIEW: The Queen v Reed-Robertson [2016] VSC 236 Acting for the accused in opposing an application in the Supreme Court for release of record of interview to the media



ADMINISTRATIVE LAW - REVIEW: Kalm and Minister for Immigration and Citizenship [2013] AATA 87 Acting for applicant seeking to set aside Minister's decision to cancel visa on failure to pass character test



ADMINISTRATIVE LAW - REVIEW: Contreras and Minister for Immigration and Border Protection [2013] AATA 914 Acting for applicant seeking to set aside Minister's decision to cancel visa on failure to pass character test



ADMINISTRATIVE LAW - REVIEW: Tabcorp Holdings Ltd v The Secretary to the Department of Treasury and Finance (No 1) (Review and Regulation) [2013] VCAT 1234 Appeared for the Department of Treasury and Finance led by Dr S.B. McNicol QC



ADMINISTRATIVE LAW - REVIEW: Tabcorp Holdings Limited v Secretary to the Department of Treasury and Finance (Review and Regulation) [2013] VCAT 1731 Appeared for the Department of Treasury and Finance led by P.R.D Gray QC



ADMINISTRATIVE LAW - REVIEW: Elbayeh v Secretary to the Department of Education/ Employment and Workplace Relations [2012] FCA 832 Acting for applicant seeking review of decision of the AAT to affirm decision of the Secretary



GENERAL: Hill v Cronin (2021 - Supreme Court VIC). Acting for defendant in claim alleging constructive trust over property where constructive trust said to arise from contributions made by plaintiff during course of relationship and large pool of joint assets



GENERAL: Hotondo Building v Dycom Technology Pty Ltd (2021 - County Court) Acting for plaintiffs in claim alleging breaches of technology service agreement



GENERAL: Mostafa v Sherif (2020 - County Court

made apparent after cyberattack



VIC). Acting for plaintiff in claim alleging moneys paid as an investment were actually loans provided



GENERAL: Dwyer v Alfex CNC Australia Pty Ltd (2020 - County Court of VIC). Acting for plaintiff alleging misleading and deceptive conduct and breaches of consumer guarantees in relation to supply of laser marking machine



GENERAL: Liversidge v Broken Head Investments and Ors (2020 - VCAT). Acting for respondents in claim alleging breaches of licence and seeking injunctions



GENERAL: Dorobak Investments Pty Ltd & Anor v Schnitz Hawthorn Pty Ltd & Ors (2020 - Supreme Court of VIC). Acting for defendants in relation to allegations of breaches of contract - fiduciary obligations and consumer law



GENERAL: Downie v Spiral Foods and Ors (Supreme Court VIC). Acting for plaintiffs in class action against manufacturers - packagers and distributors of Bonsoy soy milk. Led by D. Curtain QC and with L. Nichols



GENERAL: Tabcorp Holdings Limited v State of Victoria [2013] VSC 302 Appeared for the State in Supreme Court proceedings. Led by Dr S.B McNicol QC



GENERAL: Tabcorp Holdings Limited v State of Victoria (No 2) [2013] VSC 54 Appeared for the State in Supreme Court proceedings. Led by W. Harris QC and Dr S.B McNicol QC



GENERAL: De Cata and Anor v Iaconnis and Ors (Supreme Court VIC). Acting for applicants seeking removal of single dwelling covenant on property in Reservoir



GENERAL: Saleh Challenge Pty Ltd v Savas Pastras (Supreme Court VIC). Acting for applicant/plaintiff seeking removal of a number of unwarranted and unjustified caveats placed over real property



GENERAL: Chen v Young [2016] VCC 952 Acting for defendant in claim for misleading and deceptive conduct in the sale of a business



GENERAL: Eagle Fuels Pty Ltd v Slidecross Pty Ltd & Anor [2014] VCC 596 Acting for supplier of fuel in seeking payment of invoices and enforcing of personal guarantees



GENERAL: Eagle Fuels v Ground Moves (Magistrates Court). Acting for supplier of fuel in contractual dispute arising in circumstances of allegation of land contamination



GENERAL: DC Payments v various (Magistrates Court). Acting for plaintiff - a provider of automatic teller machines and associated services - in various contractual disputes with small business owners utilising the plaintiff's services and machines



GENERAL: Burgess Properties Pty Ltd v Grimshaw (Civil Claims) [2015] VCAT 1230
Acting for respondents in contractual dispute in relation to building works



GENERAL: Pizza Fellas Pty Ltd v Eatnow Services Pty Ltd and Anor (VCAT). Acting for applicant in an urgent interlocutory injunction application seeking to restrain the respondents from continuing to make allegedly unauthorised use of intellectual property online. Led by I. Martindale QC

Memberships & Committees

[Victorian Bar](#)

To get in touch with Gautam Mukherji | or for more information please contact the Clerk on:

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