

# Tom Cleary

"Tom excels at practical litigation advice."  
*Chambers Asia & Pacific 2025*

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## PROFESSIONAL EXPERIENCE

- Barrister, *Mills Lane Chambers* 2026 – now
- Specialising in civil and commercial disputes, intellectual property, defamation, privacy, consumer protection and trust litigation
  - Strategic adviser on intellectual property protection strategies and media law matters, including pre-publication review or crisis management
- Lawyer, *Chapman Tripp & Chapman Tripp Patents* 2018 – 2026
- Senior Solicitor (2018 – 2019) and Senior Associate (2019 – 2026) in New Zealand's market-leading litigation and intellectual property teams
  - Ranked by Chambers & Partners, Legal 500, Managing IP and Asia IP
- Junior Barrister, *Shortland Chambers* 2015 – 2018
- Worked with leading advocates on a wide range of matters
- Judges' Clerk, *Ministry of Justice* 2013 – 2015
- Clerked for Justice Andrews and Justice Asher
  - Clerk to the Rules Committee

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## PROFESSIONAL QUALIFICATIONS

- Barrister & Solicitor of the High Court of New Zealand 2014
- Australian Trade Marks Attorney 2023
- Trans-Tasman Patent Attorney 2025

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## MEMBERSHIPS

- New Zealand Bar Association
- New Zealand Intellectual Property Attorneys
- Intellectual Property Society of Australia and New Zealand
- International Association for the Protection of Intellectual Property
- Communications and Media Law Association

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## EDUCATION

University of Melbourne 2020 – 2023

- Master of Laws, specialising in intellectual property and defamation law

University of Otago 2007 – 2013

- Master of Bioethics and Health Law (Distinction)
- Bachelor of Laws (Honours)
- Bachelor of Science in Biochemistry

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## PUBLICATIONS

- Clive Elliott KC and Tom Cleary, “Recalibrating IPONZ’s Practice and Procedure for Patent and Trade Mark Oppositions” (2025) 139 *Intellectual Property Forum* 42
- Tom Cleary, “Part 2 – Infringement of copyright” in *Intellectual Property Law* (LexisNexis)
- Clive Elliott KC and Tom Cleary, “Part 4 – Infringement, other patent proceedings and matters affecting patent ownership” in *Intellectual Property Law* (LexisNexis)
- Tom Cleary and Janko Marcetic, “Chapter 14 – Distributions to Shareholders” in *Morison’s Company Law* (LexisNexis)
- Co-editor and co-author of “Unlocking Prisons: How we can improve New Zealand’s Prison System” (JustSpeak, 2014)
- Mark Henaghan and Thomas Cleary, “The State in Action – An Insider’s View of How the State Regulates the Use of PGD with HLA Tissue-Typing in New Zealand” in Sheila AM McLean and Sarah Elliston (eds) *Regulating Pre-Implantation Genetic Diagnosis: A Comparative and Theoretical Analysis* (Routledge, Abingdon, 2013), chapter 9, 199
- Thomas Cleary, “A Curious Exception: (No) Legal Remedies for Negligent Pre-Birth Genetic Testing” (2013) *Journal of Law and Medicine* 102

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## PRESENTATIONS

- Justin Graham and Tom Cleary, “Deploying Expert Evidence in IP Disputes: Reflections on Four Recent Cases” (Legalwise, 2024)
- Justin Graham and Tom Cleary, “Navigating Defamation Law: Strategies and Recent Developments” (ADLS, 2019)

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## SELECTED CASES

- *Zuru New Zealand Ltd v Lego Holdings A/S* [2025] NZCA 650; (2023) 173 IPR 146 (HC), junior counsel to Julian Miles KC in the CA and Justin Graham in the HC for Zuru, confirming that Zuru's use of "Lego" in compatibility statements was not trade mark infringement, did not breach the Fair Trading Act 1986 or amount to passing off.
- *Rascals International Ltd v Taylor* [2025] NZHC 2471, junior to Campbell Walker KC and Justin Graham for the plaintiffs, concerning breaches of confidence, directors' and fiduciary duties, conspiracy and dishonest assistance arising from the disclosure of information and the acquisition of the Treasures brand and business opportunity.
- *FFWL v ANZ Bank New Zealand Ltd* [2025] NZHC 1427, junior to Michael Arthur for UBS, defeating an attempt to force UBS (a non-party) to hand over all internal documentation concerning a significant transaction.
- *Beca Carter Hollings & Ferner Ltd v Wellington City Council* [2024] 1 NZLR 438 (SC), junior to Michael Ring KC and John McKay for Beca, concerning whether the Building Act's longstop applied to contribution claims.
- *Sunbow Investment Ltd v Sunbow Ltd (in liq)* [2024] NZCA 305, co-counsel for the appellants, concerning an appeal over the repayment of a \$2.54m debt including the defence of illegality following a tragic high-profile murder.
- *Dew v Discovery NZ Ltd* [2024] 2 NZLR 153 (CA), junior to Davey Salmon KC for Warner Bros. Discovery, successfully blocking Cardinal Dew's interim injunction application seeking to stop reporting of serious allegations of sexual abuse.
- *Inguran, LLC v CRV Ltd* [2023] NZHC 3692, junior to Jack Hodder KC for the plaintiffs, obtaining an interim injunction for patent infringement against a competitor covering sex-selection flow cytometry technologies and the resulting products.
- *Philip Morris Products SA v Puff Mart Trading Ltd* [2021] NZHC 2824, junior to Matt Sumpter, securing an interim injunction for Philip Morris to stop misleading practices.
- *ResMed Pty Ltd v Fisher & Paykel Healthcare Ltd* [2021] NZIPOPAT 10, counsel for FPH in opposing a patent application related to dual cycle controls for a respiratory apparatus.
- *Re Darlow* (2021) 5 NZTR 31-016 (HC), junior to Michael Arthur, obtaining the Court's approval of variations to, and the reorganisation of, the Hugh Green trusts.
- *Waitakere Group Ltd v James Hardie New Zealand Ltd* [2021] NZHC 722, 1052, 1111, 1403, junior and sole counsel for the defendants in procedural disputes in a multi-million dollar building practices, alleged product negligence and Fair Trading Act 1986 claims.
- *Craig v Stringer* (2020) 25 PRNZ (CA), junior to Stephen Mills KC in a successful challenge to a stay based on the *Henderson v Henderson* principle.

- *Craig v Slater* [2020] NZCA, junior to Julian Miles KC in a successful and complex defamation appeal covering most aspects of defamation practice, including addressing the public interest communication defence and its limits.
- *Ross v Mediaworks Holdings Ltd* [2021] 2 NZLR 114 (HC), junior to Justin Graham for Mediaworks, defeating an application by then-politician Jami-Lee Ross for an urgent interim order blocking NewsHub’s “Powerbrokers Debate”.
- *Driver v Radio New Zealand Ltd* [2020] 3 NZLR 76 (HC), junior counsel to Robert Stewart for RNZ, Stuff and MediaWorks in successfully striking out defamation and novel invasion of privacy claims.
- *Craig v Williams* [2019] 1 NZLR 457 (SC), junior to Stephen Mills KC for the appellant, setting aside a jury’s record defamation liability and damages verdict for misdirections on the law of qualified privilege.
- *Mediaworks TV Ltd v Staples* [2019] NZCA 273, junior to Julian Miles KC for Mediaworks, securing a claim to journalistic source protection.
- *ResMed Ltd v Fisher & Paykel Healthcare Ltd* [2018] NZHC 2875, junior to Matt Sumpter for Fisher & Paykel Healthcare, leading arguments resisting further discovery in complex patent infringement and revocation proceedings.
- *McAlister v Lai* (2018) 14 TCLR 765 (CA), junior to Bob Hollyman, establishing that a law firm and its director were liable under the Fair Trading Act 1986 for misleading actions and omissions for their role in acting on an investment in Orcon’s purchase.
- *Horsfall v Potter* [2018] 1 NZLR 638 (SC), junior to John Billington KC for the respondent, successfully defending the Court of Appeal’s judgment concerning whether a transfer of a commercial property to a trust was captured by s 44 of the Property (Relationships) Act 1976. This decision is the leading case on illegality.
- *Kuwait Finance House (Bahrain) BSC v Teece* [2018] 2 NZLR 257 (HC), junior to Stephen Mills KC and Bob Hollyman, concerning whether a Bahraini arbitration centre’s default decision was a binding judgment enforceable in New Zealand.
- *van Heeren v Kidd* [2017] 3 NZLR 141 (CA), junior to Stephen Mills KC and Brent O’Callaghan, in successfully resisting a challenge to the High Court’s decision that an issue estoppel arose from foreign proceedings and a USD 25m payment was owed.
- *Cornwall Park Trust Board Inc v Chen* [2016] 2 NZLR 637 (CA), junior to Bob Hollyman, concerning the termination and remediation provisions in Glasgow leases. Leave to appeal was granted by the Supreme Court.
- *Ambrose v Key* [2015] NZHC 3242, junior to Bruce Gray KC for the then-Prime Minister in an interlocutory dispute in defamation proceedings concerning the “Tea Pot Tapes”.