

Tom Cleary

PROFESSIONAL EXPERIENCE

Barrister, *Mills Lane Chambers* 2026 –

- Advocate specialising in civil and commercial disputes, intellectual property, defamation, privacy, consumer protection and trust litigation
- Strategic adviser intellectual property protection strategies and reputation risk management, including pre-publication review
- Ranked by Doyle's Guide and Managing IP

Lawyer, *Chapman Tripp & Chapman Tripp Patents* 2018 – 2026

- Senior Solicitor (2018 – 2019) and Senior Associate (2019 – 2026) in top-tier litigation and intellectual property teams
- Ranked by Chambers & Partners, the Legal 500, Managing IP and Asia IP

Junior Barrister, *Shortland Chambers* 2015 – 2018

- Worked with leading advocates in a wide range of disputes

Judges' Clerk, *High Court of New Zealand* 2013 – 2014

- Clerked for Justice Andrews and Justice Asher
- Clerk to the Rules Committee

PROFESSIONAL QUALIFICATIONS

- Barrister & Solicitor of the High Court of New Zealand
- Registered Patent Attorney (New Zealand and Australia)
- Registered Trade Marks Attorney (Australia)

MEMBERSHIPS

- New Zealand Intellectual Property Attorneys, Fellow
- Federal Circuit Bar Association, Global Fellow (2026 – 2027)
- Intellectual Property Society of Australia and New Zealand
- International Association for the Protection of Intellectual Property
- Communications and Media Law Association

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

PUBLICATIONS

- Tom Cleary, “Infringement of copyright” in *Intellectual Property Law* (LexisNexis)
- Clive Elliott KC and Tom Cleary, “Infringement, other patent proceedings and matters affecting patent ownership” in *Intellectual Property Law* (LexisNexis)
- 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 and Janko Marcetic, “Distributions to Shareholders” in *Morison’s Company Law* (LexisNexis)
- Co-editor and an author of “Unlocking Prisons: How we can improve New Zealand’s Prison System” (JustSpeak, 2014)
- Mark Henaghan and Tom 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
- Tom Cleary, “A Curious Exception: (No) Legal Remedies for Negligent Pre-Birth Genetic Testing” (2013) *Journal of Law and Medicine* 102

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)

SELECTED CASES

- *ResMed Pty Ltd v Fisher & Paykel Healthcare Ltd* [2026] NZIPOPAT 6: for Fisher & Paykel Healthcare successfully opposing a patent application for a dual therapy respiratory apparatus (lead counsel).
- *Rascals International Ltd v Taylor* [2026] NZHC 2279: for Rascals alleging breaches of confidence, directors' and fiduciary duties, and dishonest assistance arising from the disclosure of information and the acquisition of the Treasures brand and business opportunity (led by Campbell Walker KC).
- *Zuru New Zealand Ltd v Lego Holdings A/S* (2025) 190 IPR 201 (CA): for Zuru confirming the use of "Lego" in a compatibility statement was not trade mark infringement, did not breach the Fair Trading Act 1986 or amount to passing off (led by Julian Miles KC).
- *Beca Carter Hollings & Ferner Ltd v Wellington City Council* [2024] 1 NZLR 438 (SC): for Beca seeking to strike out a significant contribution claim relying on the Building Act's longstop (led by Michael Ring KC).
- *Sunbow Investment Ltd v Sunbow Ltd (in liq)* [2024] NZCA 305: for the appellants concerning whether formal proof should have been entered and leading arguments on the illegality defence.
- *Dew v Discovery NZ Ltd* [2024] 2 NZLR 153 (CA): for Warner Bros. Discovery in blocking Cardinal Dew's interim injunction application designed to stop reporting of allegations of sexual abuse (led by Davey Salmon KC).
- *Inguran, LLC v CRV Ltd* [2023] NZHC 3692: obtaining an interim injunction for Inguran to stop a competitor from infringing patents concerning sex-selection flow cytometry technologies, and resisting a jurisdictional challenge (led by Jack Hodder KC).
- *Philip Morris Products SA v Puff Mart Trading Ltd* [2021] NZHC 2824: securing an interim injunction for Philip Morris to stop misleading practices arising from using a similar trade mark (led by Matt Sumpter).
- *ResMed Pty Ltd v Fisher & Paykel Healthcare Ltd* [2021] NZIPOPAT 10: for Fisher & Paykel Healthcare opposing a patent application for dual cycle controls for a respiratory apparatus (lead counsel).
- *Re Darlow* (2021) 5 NZTR 31-016 (HC): for the trustees of the Hugh Green Trust and Hugh Green Property Trust obtaining the Court's approval of variations to, and the reorganisation of, the Trusts (led by Michael Arthur).
- *Waitakere Group Ltd v James Hardie New Zealand Ltd* [2021] NZHC 722, 1052, 1111, 1403: for the defendants in procedural disputes in a significant product liability and Fair Trading Act 1986 claims (sole counsel or led by Jack Hodder KC).

- *Craig v Stringer* (2020) 25 PRNZ (CA): for the appellant in a successful challenge to a stay based on the *Henderson v Henderson* principle (led by Stephen Mills KC).
- *Craig v Slater* [2020] NZCA 305: for the appellant in a successful and complex appeal covering most aspects of defamation practice, including addressing the public interest communication defence and its limits (led by Julian Miles KC).
- *Ross v Mediaworks Holdings Ltd* [2021] 2 NZLR 114 (HC): for MediaWorks, defeating an application by then-politician Jami-Lee Ross for an urgent interim order blocking NewsHub's "Powerbrokers Debate" (led by Justin Graham).
- *Driver v Radio New Zealand Ltd* [2020] 3 NZLR 76 (HC): for RNZ, Stuff and MediaWorks striking out defamation and novel invasion of privacy claims (led by Robert Stewart).
- *Craig v Williams* [2019] 1 NZLR 457 (SC): for the appellant, setting aside a jury's defamation liability and damages defamation verdict (led by Stephen Mills KC).
- *Mediaworks TV Ltd v Staples* [2019] NZCA 273: for Mediaworks in securing a claim to journalistic source protection (led by Julian Miles KC).
- *ResMed Ltd v Fisher & Paykel Healthcare Ltd* [2018] NZHC 2875: for Fisher & Paykel Healthcare in complex patent infringement and revocation proceedings, including leading arguments resisting further discovery (led by Matt Sumpter).
- *McAlister v Lai* (2018) 14 TCLR 765 (CA): for the appellant, establishing that a law firm and its director were liable under the Fair Trading Act 1986 for misleading actions and omissions when assisting in an investment in Orcon (led by Bob Hollyman).
- *Horsfall v Potter* [2018] 1 NZLR 638 (SC): for the respondent successfully establishing that the transfer of a commercial property to a trust was captured by s 44 of the Property (Relationships) Act 1976 and the illegality principle (led by John Billington KC).
- *Kuwait Finance House (Bahrain) BSC v Teece* [2018] 2 NZLR 257 (HC): for the defendant in seeking to stay enforcement of a Bahraini arbitration centre's default decision (led by Stephen Mills KC).
- *van Heeren v Kidd* [2017] 3 NZLR 141 (CA): for the respondent 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 (led by Stephen Mills KC).
- *Cornwall Park Trust Board Inc v Chen* [2016] 2 NZLR 637 (CA): for the respondent concerning the termination and remediation provisions in Glasgow leases (led by Bob Hollyman).
- *Ambrose v Key* [2015] NZHC 3242: for the then-Prime Minister in an interlocutory defamation dispute concerning the "Tea Pot Tapes" (led by Bruce Gray KC).