



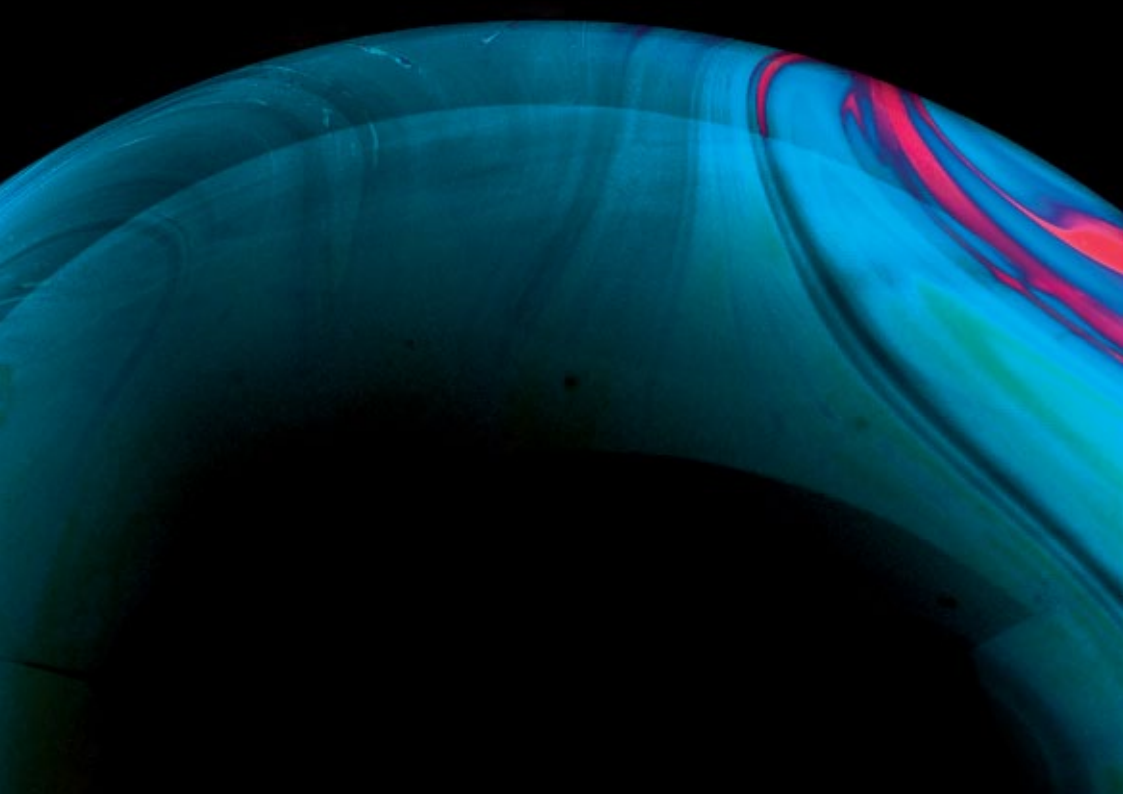
Oppositions & Appeals
Intellectual Property
Specialists

HGF Patent and
Trade Mark Attorneys

Intellectual property:
Release its potential

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Oppositions & Appeals



Oppositions & Appeals at HGF

Investing in the right team to represent you for contentious or judicial proceedings before the EPO is an important decision.

HGF have built a unique team of advocates with breadth and depth of experience.

Where parallel litigation occurs the team are supported by HGF Law, solicitors specialising in intellectual property with an enviable reputation for global patent litigation.



The team consists of:

Dr. Claire Irvine

Partner and Head of
Oppositions & Appeals

Dr. Richard Williams

Partner

Dr. Jonathan Atkinson

Partner

Dr. Gary Wilson

Partner

Dr. Andrew Wells

Partner

Matt Dixon

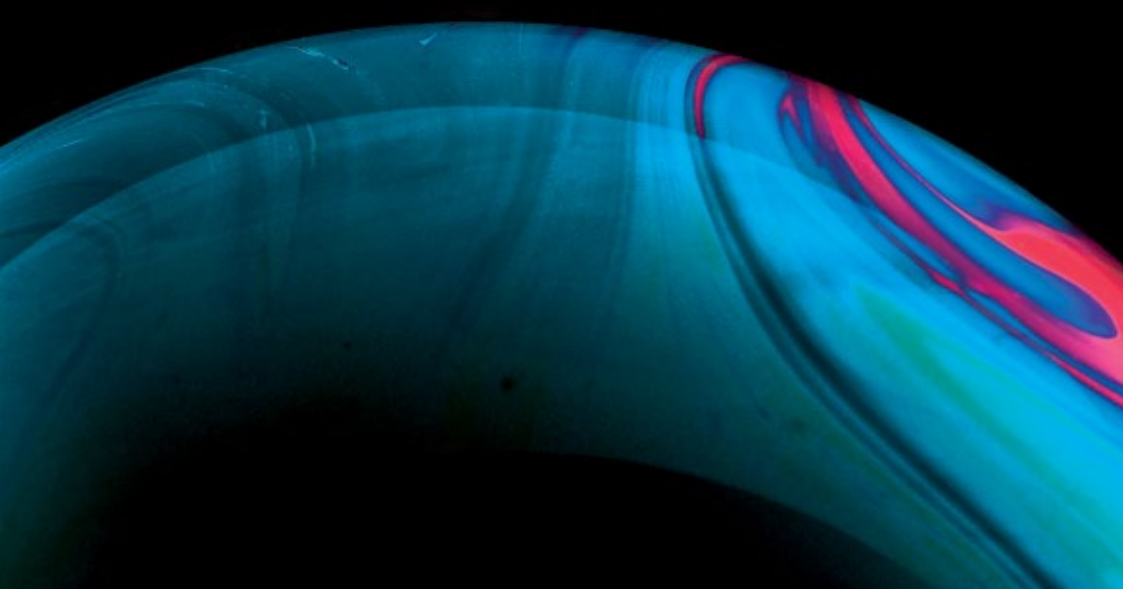
Partner

Martyn Fish

Solicitor and Partner
of HGF Law

HGF Patent and Trade Mark Attorneys also work closely with sister firm, HGF Law. The integrated service provided by the two firms ensures that we are able to coordinate patent or trade mark opposition proceedings and parallel High Court litigation seamlessly, allowing us to concentrate on winning rather than co-ordinating with advocates from external firms, which in turn has implications for your budgets. This unique service differentiates the firm within the intellectual property market operating in the UK.

If you would like to find out more about how we can support your IP team please contact Dr. Claire Irvine at cirvine@hgf.com or on +44 (0) 207 440 8900.



A comprehensive team

HGF has invested in a talented group of individuals to build a unique team of senior attorneys who are specialists in the field of oppositions and appeals. The team, led by Dr. Claire Irvine has over 90 years of strategic oppositions experience between them, making HGF an easy choice for clients who are looking for specialists in this field with a proven track record.

Oppositions and appeals differ significantly from routine prosecution practice and require someone with specialist experience and expertise, so it comes as no surprise that the range of companies the team works with varies from existing clients through to ad hoc projects, where they are brought in alongside the prosecution attorney to provide the strategic knowledge to win a case before the EPO.



Dr. Claire Irvine
Partner and Head of Oppositions
and Appeals

Claire has experience of opposition and appeal proceedings extending over more than 15 years; such work is a regular and major part of her practice, primarily in the biotech field. Claire's advocacy skills and strategic vision in handling such proceedings have made her the attorney of choice in leading teams both attacking and defending high profile patents in multi-party oral hearings at the European Patent Office. Such work has included defending much talked about patents covering genetic diagnosis and representing several major corporations in patenting battles in the fields of antibody engineering, blood diagnostics and genetic modification of plants. Claire frequently mentors others across technology areas in opposition tactics.



Dr. Richard Williams
Partner and Head of Life Sciences

Richard's continuous experience goes back nearly 20 years and he has an LL.M. in patent litigation and is regularly at oral proceedings in Munich and The Hague. He has acted against big pharma, biotech and Universities in relation to vaccines and adjuvants, growth hormone, erythropoietin, transgenic plants and oral contraceptives. He has defended big pharma and biotech patents in the fields of transgenic animals, nucleic acid amplification, recombinant proteins/biologics and cancer staging and diagnosis. Richard has experience of working alongside large litigation teams and has pursued many appeal cases including a referral to the Enlarged Board.



Dr. Gary Wilson
Partner

Gary regularly represents clients in opposition and appeal proceedings before the European Patent Office. He is highly sought after by clients due to his advocacy skills in both defending and opposing European patents. He has a high 'win rate' and has represented and guided numerous clients through complex proceedings to successful outcomes. Many of the patents he has defended have been of great commercial value and have come under aggressive attack from direct competitors. He has represented clients across a broad range of technical fields but has particular expertise in the chemical, medical device and food processing technologies.



Martyn Fish
Solicitor and Partner
of HGF Law

Martyn is a partner and solicitor at HGF Law. He is an experienced patent litigator and regularly advises clients on multi-jurisdictional patent actions. Oppositions and appeals are an important part of a client's armoury in dealing with infringement issues and Martyn regularly draws on the experience of the members of our oppositions and appeals team in advising client's on litigation strategy. Martyn's contribution to the oppositions and appeals teams helps to create a more coherent strategy for clients.



Dr. Jonathan Atkinson
Partner

Jonathan has extensive experience in conducting opposition and appeal proceedings gained over 20 years of practice. He has represented both patent proprietors and opponents in fields such as pharmaceuticals and life sciences, chemistry, advanced materials, metallurgy, and chemical processing. Jonathan has represented clients' interest before the Opposition Division, Board of Appeal and Enlarged Board of Appeal and has been involved in a number of cases for high value approved drugs; it is this aspect of his practice for which he is best known. He is frequently involved in multi-opponent cases and his clients particularly value his strategic insight in these types of cases. Jonathan's litigation experience has contributed to his high success rate before various tribunals at the European Patent Office.



Matt Dixon
Partner & Head of Engineering

Matt's technical background is in physics, having a first class honours degree from Imperial College, London, including a year at the University of Freiburg, Germany, developing drift chamber detectors for the Large Electron Positron Collider at the European Centre for Nuclear Research (CERN) in Switzerland. While in Freiburg, Matt became fluent in German. From 2000 to 2004, he lived and worked in Munich, specialising in multi-party oppositions and appeals proceedings before the European Patent Office, particularly in the field of absorbent products and superabsorbent polymers. Matt has also handled opposition cases in the fields of optical networks, satellite navigation and battery technology.



Dr. Andrew Wells
Partner & Head of Pharma

Andrew is the Head of HGF's Pharmaceutical Group and also runs our Manchester office. He has a first class honours degree and PhD in pharmaceutical sciences, both from the University of Nottingham. Andrew also has over 11 years experience in the patent field, which includes nearly 5 years working in-house for a major pharmaceutical company. During his patent career, Andrew has acquired extensive experience in handling opposition and appeal proceedings at the European Patent Office. Andrew has particular expertise in handling cases relating to pharmaceutical products (including new chemical entities, salts, polymorphs, and formulations), polymers, fuel compositions/additives, and food products. Clients value Andrew's strategic approach and he has an excellent record in delivering positive outcomes.



Frequently asked questions

1. Why file an EP opposition?

Freedom to operate concerns are likely to be your main driver. The opposition can be focussed, whether to some or all of the claims. Outcomes are one of complete revocation, patent amended (narrowed) or patent upheld. An opposition is inevitably less expensive than litigation in the courts. An opposition can cause a patentee to come to the table over licensing when it otherwise might not have done so. Going through a centralised opposition process might avoid separate national litigation.

2. How difficult is it to defend against an opposition?

There are often complex tactical situations to deal with where the order and structure of individual alternative claim requests will be determinative of the outcome. Oppositions have been compared by some to three dimensional chess and the timing of ones moves can also be crucial to the procedure. Where the facts are simply against one, patentees can elect for cosmetic reasons to accept narrower allowable claims than they would like at first instance, pending any intended appeal. Often there are no certainties and detailed preparation in good time before oral proceedings can make all the difference to the outcome. We know from experience that in the end it may come down to agile and persuasive advocacy to come out on top on the day.



3. Is there any disadvantage in filing an opposition?

A named opponent alerts the patentee to its interest in the patent, but anonymity can be achieved by filing a so-called “strawman” opposition. An opposition inherently includes the public interest and so even if the opponent withdraws, the EPO can continue of its own motion, meaning that a willing patentee and licensee (opponent) lose control of the opposition, but this is not common. However, withdrawal in an appeal procedure immediately terminates and gains finality in what is a judicial process. Oppositions can result in lengthy uncertainty, taking up to 3 years to complete and an appeal can take as long again.

4. Will we need expert evidence/witnesses?

The answer is very much case dependent. Generally we find it best to have an internal (company) expert who can verify technical facts from the outset, possibly attending and even speaking if required at oral proceedings. On the other hand, independent experts are costly and not often key or influential in the decision reached, but there are situations where the tribunal members are in need of specialist, independent technical guidance. In one particular case the independent experts were key and the tribunal thanked us for bringing them forward.

5. What happens if national litigation starts in parallel before the court?

Sometimes oppositions may just be part of a bigger litigation “war” involving complex strategic and multijurisdictional planning. The UK courts are reluctant to stay proceedings to await the outcome of an opposition or its appeal. Specialist IP litigation lawyers and barristers will be needed. Our opposition specialists together with HGF Law provide that legal team.

6. What if I don't like the granted claims for some reason?

Self opposition is not possible, but a patentee can make use of the central limitation procedure. This is a straightforward procedural process.

Oppositions & Appeals

For more information or a discussion please contact

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+44 (0) 207 440 8900

If you would like to receive briefing notes and seminar invites on the subject of oppositions and appeals in Europe please email
sjowett@hgf.com

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