

Curriculum Vitae

Dr. Luke McDonagh

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Current Employment:

I am Senior Lecturer and Graduate Entry LLB Programme Director at The City Law School, City, University of London (app. Sept 2015).

Academic Qualifications:

During September 2007-May 2011, I completed my Ph. D. at Queen Mary, University of London in the area of Copyright Law. I passed my VIVA in May 2011.

During 2006-07 I completed the LL.M. in Public Law at the London School of Economics with Merit (64%).

From 2002-05 I completed the B.C.L. at NUI Galway with 2.1 honours (67%).

Previous & Visiting Appointments

From August-Sept 2017, I was a Visiting Lecturer at Keio University Law School, Tokyo.

From August 2013-Sept 2015 I was a Lecturer in IP Law at Cardiff University.

From March-April 2015, I was a Visiting Scholar at Waseda Law School, Tokyo.

From September 2011-July 2013 I was LSE Fellow in the Law Department at the London School of Economics and Political Science (LSE).

External Funding Awards

2016-17 – Awarded _____ as part of an EU Horizon2020 project on Robotics and IP Law ‘INbots’ (joint award with Dr Enrico Bonadio)

2015-16 – Awarded **£5,010** from The Modern Law Review and **£500** from UK CLA to organise the 2016 MLR seminar at City Law School (joint award with Dr M. Malagodi).

2013-2014 – Awarded tender as sole researcher of **£17,000** by the UK Intellectual Property Office (IPO) to conduct empirical research concerning the Unitary Patent Court.

2012-2013 – Jointly granted funding totalling **£58,000** (with Christian Helmers and Yassine Lefouili) by the UK IPO to research IP litigation at the Intellectual Property Enterprise Court

2011-2012 – Awarded **£11,000** from the UK IPO for researching and writing two papers/reports with Christian Helmers concerning patent litigation.

January 2011 – Awarded **£5,000** - The London Centre for Arts and Cultural Exchange (now Culture Capital Exchange) awarded a seed funding grant to Mr. Jonathan Griffiths and I to organise a copyright knowledge exchange workshop, which took place in early 2011.

Selected Publications

Monograph:

European Patent Litigation in the Shadow of the Unified Patent Court (Edward Elgar, 2016)

Selected published peer-reviewed articles:

With Helmers, C., Lefouili, Y. & Brian Love, 'Who Needs a Copyright Small Claims Court? Evidence from the U.K.'s IP Enterprise Court' *Berkeley Technology Law Journal* (2018).

With Cremers, K., Ernicke, M., Gaessler, F., Harhoff, D., Helmers, C., Schliessler, P. & van Zeebroeck, N., 'Patent Litigation in Europe.' *European Journal of Law and Economics* 44(1) (2017), 1-44.

'Two Questions for Professor Drassinower,' *Intellectual Property Journal* 29(1) (2016), 71-76.

'From Brand Performance to Consumer Performativity: Assessing European Trade Mark Law after the Rise of Anthropological Marketing' *Journal of Law and Society*, 42(4) (2015) 611–636.

'Plays, Performances and Power Struggles - Examining Copyright's Integrity in the Field of Theatre,' *Modern Law Review* 77(4) (2014) 533-562.

With Helmers, C. & Love, B., 'Is there a Patent Troll Problem in the UK?,' *Fordham Intellectual Property, Media and Entertainment Law Journal* 24 (2014) 509-553.

With Helmers, C., 'Patent Litigation and the Issue-based approach to costs,' *Civil Justice Quarterly* 32(3) (2013) 369-384.

'Is Creative use of Musical Works without a licence acceptable under Copyright?' *International Review of Intellectual Property and Competition Law* (IIC) 4 (2012), 401-426.

'Rearranging the Roles of the Performer and the Composer in the Music Industry – the Potential Significance of Fisher v Brooker,' *IPQ* 1 (2012) 64-76.

Selected Book Chapters

'UK Patent Law and Copyright Law after Brexit: Potential Consequences,' in O.E. Fitzgerald & E. Lein (eds.), *Complexity's Embrace: The International Law Implications of Brexit* (CIGI Press, 2018).

'Biogen v Medeva' in J. Bellido (ed.), *Landmark Cases in Intellectual Property* (Hart, 2017).

With Marc Mimler, 'Intellectual Property Law and Brexit: A Retreat or a Reaffirmation of Jurisdiction?' in M. Dougan (Ed.), *The UK After Brexit: Legal and Policy Challenges* (Intersentia, 2017), 159–179.

'FOSS and Alternative Licensing in the United Kingdom: Assessing the Dual Importance of Contract Law and Copyright Law,' in A. Metzger (ed.), *Free and Open Source Software (FOSS) and other Alternative Licensing Models - A Comparative Analysis of the Main Legal Issues* (Springer, 2016), 461-476.

‘Copyright, Contract and FOSS’ in *Free and Open Source Software: Policy, Law and Practice* (N. Shemtov and I. Walden, eds.) (Oxford University Press, 2013), 74-107.

With Jonathan Griffiths, ‘Fundamental Rights and European Intellectual Property Law - The Case of Art 17(2) of the EU Charter,’ in *Constructing European IP: Achievements and New Perspectives* (Christoph Geiger ed.) (Edward Elgar, 2013), 75-93.

Selected Working Papers:

With Christian Helmers, Yassine Lefouili, & Brian Love, ‘The Effect of Fee Shifting on Litigation: Evidence from a Court Reform in the UK’ *Toulouse School of Economics Working Papers* 16-740 (2016) 1–42.

With Christian Helmers, 'Patent Litigation in the UK' and 'Trolls at the High Court,' *LSE Legal Studies Working Papers* 12 & 13 (2012) (two papers).

Impact and Media Appearances:

I spoke to BBC World about EU Trade Mark law in December 2017 –
<https://www.youtube.com/watch?v=y8gik6NH0Tg>

In October 2016, my research on patent litigation was cited in a US Federal Trade Commission Report on Patent Assertion Entities (patent trolls) -
https://www.ftc.gov/system/files/documents/reports/patent-assertion-entity-activity-ftc-study/p131203_patent_assertion_entity_activity_an_ftc_study_0.pdf

My work was cited in a House of Commons Q & A session (recorded in Hansard in March 2014) concerning patent litigation:
<http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm140320/text/140320w0002.htm#14032098000031>

My patent litigation research was cited in a recent UK Law Commission report (2014):
http://lawcommission.justice.gov.uk/docs/lc346_patents_groundless_threats.pdf

My work on patent litigation was cited in a 2014 Amicus Curiae brief submitted by Apple to the US Supreme Court in the case of *Highmark v Allcare*:
http://www.americanbar.org/content/dam/aba/publications/supreme_court_preview/briefs-v3/12-1163-12-1184_np_amcu_apple.authcheckdam.pdf

I am quoted in this BBC article on copyright law (February 2014) – ‘Pirated Sky TV sold for £10 a month’:
<http://www.bbc.co.uk/news/uk-england-london-26052012>

My work on patent trolls was cited in Google's 2013 submission to the Federal Trade Commission:
<https://docs.google.com/file/d/0BwxyRPFduTN2VTE4TXINcW9MR2s/edit>

Referees

Prof. Jonathan Griffiths: Professor, Law, Queen Mary University of London, WC2A 3JB
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Mr. Justice Birss: High Court, Rolls Building, Fetter Lane, London, EC4A 1NL
Tel: 0207 947 7379 – Email: mrjustice.birss@ejudiciary.net

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