

In-Person Presentation

**Assessing deceptive similarity of relatively descriptive or commonly-used trade marks as a "separate and distinct exercise" from assessing their registrability and
Jusand v Rattlejack: assessing the relevance of range to determinations of sufficiency and support in light of *Regeneron and Illumina***

Presented by Tom Cordiner KC and Ryan Maguire



This event is being presented LIVE in person on Wednesday, 6 December 2023.

In-Person **ADELAIDE**
Wednesday, 6 December 2023
Strathmore Hotel, 129 North Terrace, Adelaide
7.45 am: Breakfast and Coffee/Tea
8.15am - 9.15am: Presentation

Topics: **Assessing deceptive similarity of relatively descriptive or commonly-used trade marks as a "separate and distinct exercise" from assessing their registrability.**

The High Court in *Self Care* has left little doubt as to the correct application of principles to the assessment of deceptive similarity of trade marks and how that inquiry is a "separate and distinct exercise" from assessing whether a trade mark is registrable.

Conducting this inquiry in relation to a registered mark which contains elements that might be relatively descriptive or commonly used in the relevant trade can require careful consideration of the scope of that monopoly without impugning its validity.

Jusand v Rattlejack*: assessing the relevance of range to determinations of sufficiency and support in light of *Regeneron and Illumina

In *Jusand Nominees Pty Ltd v Rattlejack Innovations Pty Ltd* [2023] FCAFC 178, the Full Court of the Federal Court (Perram, Nicholas and McElwaine JJ) considered the 'new' requirements of sufficiency and support under ss 40(2)(a) and (3) of the Patents Act 1990 post-*Raising the Bar* and in light of the English authorities *Regeneron Pharmaceuticals Inc v Kymab Ltd* [2020] UKSC 27; RPC 22 and *Illumina Cambridge Ltd v Latvia MGI Tech SIA* [2021] EWHC 57 (Pat); RPC 12.

Of particular importance is the Full Court's consideration of how those requirements apply to an invention which could be made from a range of materials and the correct criteria by which to determine the relevance of that range to the invention.

Speakers:



Ryan Maguire, Barrister

Ryan Maguire provides specialist advice, appears in hearings before courts and the Trade Marks Office, prepares pleadings and written evidence and attends mediations. Ryan was recommended in Leading Intellectual Property Law Junior Counsel - Victoria, 2023 by Doyle's Guide. Ryan is also a registered Trade Marks Attorney.



Tom Cordiner KC, Barrister

Tom Cordiner holds the dual qualification of barrister and registered patents and trade mark attorney. After a short stint as a molecular geneticist in the mid 1990's, Tom has, since 1998, specialised in all aspects of intellectual property law. He was admitted to the bar in 2003 and appointed silk in 2016.

CPD: **1 CPD point in Substantive Law.**

Cost: **A\$40.00 Members** (includes \$3.64 10% GST)
A\$60.00 Non-members (includes \$5.45 10% GST)

RSVP: Registrations must be received before **6.00pm on Friday, 1 December 2023.**
Bookings are non-refundable once the RSVP date has passed, but may be transferrable.

Registration:

[Register to attend](#)