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## Theo Barclay

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*Outstanding. Smart, diligent, hard-working.*

- Legal 500 2021

He has been recognised by the directories:

- as a “rising star” in Commercial Litigation: *“Outstanding. Smart, diligent, hard-working. Absolutely will go as deep into the subject matter as necessary to find the answers and to be prepared – excellent on his feet and in the courtroom”.*
- as a Leading Junior in Sports Law: *“Excellent oral and written submissions and hugely confident; he has appeared against and beaten several QCs already”.*
- as a Leading Junior in Costs Law: *“Extremely hard working, he gets stuck into problems very quickly, and has well-judged insights into what points really matter.”*

Current and recent cases include:

- ***SKAT v Solo Capital Ltd & Ors*** [2021, ongoing] acting for the Danish tax authority on costs in this multi-billion pound fraud and unjust enrichment litigation (led by Nick Bacon QC).
- ***Lehtimäki v Cooper*** [2020] UKSC 33: the leading Supreme Court case on trust administration, charitable companies and fiduciary duties (led by Guy Mopuss QC and Professor Sarah Worthington QC).
- ***Glencairn v Product Specialities*** [2020] EWCA Civ 609: leading Court of Appeal authority on solicitors’ duties of confidentiality to their former opponents (sole counsel at first instance and in the Court of Appeal).
- ***GHS v Beale, Webstorm & Ors*** [2021, ongoing]: Multi-million pound conspiracy and copyright infringement claim in the IT sector, raising jurisdictional issues *and questions of alternative service (as sole counsel)*.
- ***Combe International Ltd v Dr Augustus Wolff GMBH*** [2021, ongoing]: High Court trademark infringement and passing off dispute between the owners of personal healthcare brands Vagisil and Vagisan (led by Mark Vanhegan QC)



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- ***Recovery Partners & Anor v Rukhadze & Ors*** [2021]: instructed on privilege issues in major Commercial Court fraud litigation arising out of the death of Georgian billionaire Arkady Patarkatsishvili.
- ***Beiersdorf v Aldi Stores Limited*** [2021, ongoing]: High Court claim against a supermarket for trademark infringement in relation to lookalikes of the Nivea Sun range. Representing Nivea (led by Guy Hollingworth)
- ***Winlink Marketing v Liverpool Football Club*** [2020] EWHC 2271 (Comm): Part of successful team in this High Court trial concerning brokers' contracts and commission for a sponsorship agreement (led by Robert Anderson QC)
- ***Albion Energy Ltd v Energy Investments Global BRL*** [2020] EWHC 301: dispute between a Qatari oil exploration company and an energy company (led by Guy Morpuss QC for the appeal to the Court of Appeal)
- ***New Balance v Liverpool Football Club*** [2019] EWHC 2837: successfully acted for Liverpool Football Club in this Commercial Court trial on whether it was permitted to appoint Nike as its kit sponsor (led by Guy Morpuss QC).
- ***BV Nederlandse van Eiprodukten v Rembrandt*** [2019] EWCA Civ 596: leading authority on the test for causation in fraud (led by Guy Morpuss QC at first instance and in the Court of Appeal).

### **Academic law**

In addition to his practice, Theo has lectured on commercial law at City University and on international law at King's College, London. He is a regular contributor to legal journals.

### **Outside of Law**

Theo has written about British politics for, among others, the Times, the Daily Telegraph, the Independent and the Spectator.

- His first book, ***Fighters and Quitters: Great Political Resignations*** was published by Biteback in January 2018 (Hardback) and February 2019 (Paperback). It is available [here](#).
- He is a contributing author to ***The Prime Ministers: Three Hundred Years of Political Leadership*** (Hodder & Stoughton, November 2020). It is available [here](#).

### **Privacy Policy**

Click here for a **Privacy Policy** for Theo Barclay.

## **Areas of Expertise**

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### **Intellectual Property**

Theo's intellectual property practice is focussed on "soft IP": trademarks, copyright infringement, design rights and passing off. He is often brought in as junior on commercial cases with an Intellectual Property aspect.

He is currently instructed in the following matters:

- ***Combe International Ltd v Dr Augustus Wolff GMBH***: a Chancery Division trademark infringement and passing off dispute between the owners of personal healthcare brands Vagisil and Vagisan (led by Mark Vanhegan QC).
- ***Frontier Estates v Ford & Ors***: Multi million pound Chancery Division action between two property companies, including claims of passing off in relation to images of developments, alongside an action for breach of fiduciary duty and conspiracy

(led by Paul Nicholls QC)

- **Beiersdorf v Aldi Stores**: a trademark infringement claim in the Chancery Division (as junior to Guy Hollingworth).
- **GHS v Beale & Ors**, a multi-million pound database rights & copyright infringement claim in the Chancery Division (as sole counsel).
- **Sir Mo Farah v Diamond Mist**: a passing off dispute involving the alleged use of a lookalike of Mo Farah to advertise a product.
- **Corkers v BFY**, an infringement and passing off claim in the IPEC concerning a brand of crisps (as sole counsel)
- a SIAC arbitration concerning copyright infringement and breaches of an exclusive rights agreement (as junior to Guy Morpuss QC).
- a putative claim to declare a recording contract unenforceable as a restraint of trade/unconscionable bargain (as sole counsel).

His past experience includes the following matters:

- **Mars v Aldi**: A now-settled claim issued in the Chancery Division concerning unfair advantage trademark infringement (as junior to Guy Hollingworth).
- **Distinctive Wholesale v Clayton Horsnell**: Chancery Division claim for infringement of copyright and database rights relating to bathroom supplies (as sole counsel).
- **Glencairn v Product Specialties**: a trademark infringement and passing off claim concerning whisky tasting glasses (as sole counsel).
- **7Eleven v Kankesu**: acting for 7Eleven in a claim for breach of a non-infringement agreement (as sole counsel).
- **VoltyLab v Volta**: trademark infringement in the financial services industry (as sole counsel).

In September 2019 he completed Oxford University's Intellectual Property Law Residential Programme.

## Qualifications & Memberships

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Theo studied Modern History at Brasenose College, Oxford, where he was an academic exhibitioner.

He then achieved a Distinction in the Graduate Diploma in Law, placing second in his year group.

Between 2010 and 2014 he was awarded Hardwicke, Lord Haldane, Lord Denning and Lord Wolfson scholarships by Lincoln's Inn.

In 2017 the Inns of Court awarded Theo the Pegasus Scholarship to undertake a two-month fellowship in the United States to study comparative law. The placement included working in the Supreme Court, Senate and House of Representatives, as well as marshalling federal and state judges in Florida, California, Delaware and Virginia.

Theo is a member of COMBAR, the British Association of Sport & Law, the PNBA and the Financial Services Law Association.