



## SHAUN MCVICAR

PARTNER

[Melbourne](#)  
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Shaun is an IP disputes partner and global co-leader of pharmaceuticals.

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## BACKGROUND

Shaun joined the Intellectual Property group of legacy firm Freehills in 1989 and was made a partner in 1995. Prior to its merger with Herbert Smith, Shaun was the Chair of Freehills' Pharmaceutical Focus Group and before that, was head of its Indonesia Desk. Following the merger with Herbert Smith, Shaun was appointed global co-head of Herbert Smith Freehills' Pharmaceutical Sector.

Shaun's international experience includes five years on secondment to lead and develop the IP practice at the firm's associated office in Jakarta. While in Indonesia, Shaun was involved in landmark IP cases, including Indonesia's first civil case of copyright infringement in computer software, its first case of software "hard disk loading" and its first unlawful comparative advertising case.

## MARKET RECOGNITION

Asia IP: IP Expert 2022.

Shaun is recognised as a Star Litigator in Australia by Benchmark Litigation 2020.

Shaun is recognised as one of the leading intellectual property lawyers in Australia and Asia and has been described by WTR 1000 as "*the go-to person for IP disputes as well as more commercial IP matters.*" His expertise is highlighted by listings in Chambers Global, Asia-Pacific Legal 500, Asialaw Profiles, WTR 1000 and Legal Profiles in Australia.

He has been listed in each edition of Best Lawyers and IP Stars-Patents and also IP Stars-Trade Marks & Copyrights since their inaugural editions.

Shaun is one of only 15 Australian practitioners recognised in the IAM Global Leaders 2021 guide, which identifies and brings together the world's elite patent practitioners. "He is very client-focused; he gets involved from the beginning and provides insight as we go along. We're pretty demanding clients and he's very willing to take our suggestions. He understands the bigger picture beyond his own jurisdiction." - Chambers Asia Pacific 2020.

Shaun *"always goes above and beyond to ensure clients get the best advice in line with their business objectives"* - WTR 1000. In recognition of Shaun's market standing as a Leading Individual in IP (Australia), he has been placed in the Legal 500 Asia Pacific Hall of Fame and into the Intellectual Property Hall of Fame - Legal 500 for two consecutive years. *"Exceptional"* - Legal 500 2020

## KEY SERVICES

Intellectual Property  
Copyright, Designs and Confidential  
Information

## KEY SECTORS

Pharmaceuticals and Healthcare  
Consumer

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## EXPERIENCE

Although a litigator, Shaun's primary goal is to assist his clients to use intellectual property - whether by way of enforcement or challenge - to obtain strong commercial outcomes and an enhanced competitive position in the markets in which they operate.

He has acted in major cases on patent validity and infringement, with an emphasis on the pharmaceutical industry, trade marks and copyright. He successfully acted in the only two pharmaceutical patent cases to be heard by the High Court of Australia in the last decade.

Although primarily based in Melbourne, Shaun works with local and international clients and conducts litigation in other jurisdictions. He has over 25 years' experience, including five years based in our Jakarta office, and time in our Singapore office. Shaun helps clients negotiate their way through the Australian aspects of multi-jurisdictional disputes. He is also skilled at assembling and managing cross-border teams of lawyers to provide his clients with maximum subject matter expertise, coverage and efficiencies.

Shaun is the client relationship partner for two of the firm's global pharmaceutical clients that are headquartered in North America.

A sample of some notable cases in which Shaun has acted include:

- Gilead in the Australian component of global patent revocation and infringement proceedings concerning Gilead's international blockbuster HCV drug, Sovaldi™
- Caterpillar Inc., the patentee and a Fortune 50 Company, in patent infringement proceedings relating to track joint assemblies
- Apotex Inc. in proceedings concerning patent infringement, revocation and copyright infringement. Apotex was unsuccessful before the Federal Court but the High Court later reversed the decision in favour of Apotex
- University of Melbourne (the patentee) and its licensee in patent proceedings relating to infringement and validity of a family of patents. After a successful outcome, significant royalties have been generated for the University
- Apotex Inc. in proceedings relating to the launch of a generic alternative to AstraZeneca's blockbuster statin Crestor™, then Australia's second largest selling drug on the PBS. The High Court found in favour of Apotex
- Treasury Wine Estates, one of the world's largest wine companies, in trade mark infringement proceedings concerning the famous PENFOLDS trade mark, including in the form of written and spoken Mandarin and Cantonese language transliterations