

Sophie Goddard SC

Barrister, Nigel Bowen Chambers

Tara Taylor, lawyer, McCullough Robertson, sits down with **Sophie Goddard SC**, Barrister, Nigel Bowen Chambers, to discuss Sophie's career and reflect on what it's like to be a woman in the law in celebration of International Women's Day this year.

Sophie was admitted to the bar in 1991 and was appointed Senior Counsel in 2007. Sophie specialises in all areas of intellectual property, including patents, trade marks and copyright, as well as breach of confidence, trade secrets, industrial designs, passing off and related misleading conduct and consumer law. Sophie has acted on behalf of both Australian and International clients in litigation concerning mining, pharmaceutical and engineering patents and has also appeared in competition law and administrative law matters.

TARA TAYLOR: Thank you very much Sophie for taking the time to talk with me about your experiences in the legal industry. To start off with, could you please tell us about your career path and how it led you to where you are today? Did you always know you wanted to be a barrister?

SOPHIE GODDARD SC: I am not one of those people who had an early vocation in the law and there are no other lawyers in my family. I was torn between a somewhat idealised scholarly life in the arts, studying medieval literature and the more earthly, commercial world of practising law. Fortunately, a university senate resolution made the decision for me, and I was forced to abandon postgraduate studies and returned to law. I am very sure that this was the better path for me. Once back in law, I studied intellectual property and knew immediately that this was the field in which I wished to practise. I think I was attracted to IP because of its connection with the arts, in the protection of copyright, and with science in the law of patents (I studied physics for the HSC). I worked at the Australian Copyright Council dispensing free legal advice to authors, songwriters, and filmmakers while waiting to go to the College of Law (at the time, a ballot system applied, and I missed the first intake). By chance, I was then offered the opportunity to go to London to work for a barrister and to conduct research on the law of confidential information. I adored London and working in barristers' chambers allowed me to make important connections and to experience life at the bar at close hand. I came very close to doing a pupillage there. Ultimately, I stayed for almost a year, then went to Paris to further my studies in French language and literature, and then came home. These experiences made a career at the bar seem more accessible to me. On my return, I decided to go straight to the bar, rather than take up a position as a solicitor at one of the IP firms. I thought, at the ripe old age of 29, that it was high time. The bar was attractive to me because in litigation you can take the time to think about the meaning of laws and rationale behind them as well as engage in challenging legal argument. Also, at the bar, you are self-employed and have greater flexibility about when and how you work.

TARA: You have been described as being able to apply your deep knowledge of intellectual property critically and strategically in the matters you act in, and as a great team leader who ensures all members of the legal team perform to their best. What skills do you consider have been the most essential to you on your journey?

SOPHIE: That is very generous. I like collaborating with a team and I think it's so important to remember that the people you work with have great intelligence and skills and their contribution is always worthy of attention. That doesn't mean I always agree with each member of the team (as I am sure many would attest); but I can't bear barristers who condescend to their fellow team members. There are still too many barristers who see themselves as superior to their colleagues in the law. This is always misplaced. Otherwise, the skills required at the bar include a combination of the ability to make decisions about which line to take in a matter and being versatile enough to change that course when, for some reason, that approach is no longer possible.

TARA: What's the greatest risk you've taken as a professional?

SOPHIE: Apart from going straight to the bar at 29, one that comes to mind is turning up to court in trousers (it was the early 90s) when I was the junior barrister to a now notorious person who (presumably for reasons of his own) suggested that I should not. Of course, I was silly to have asked his opinion in the first place. While we're on the subject of dress, there is nothing wrong with stylishly dressing for court to stand out – but keep it elegant and professional. I love suits and especially the cross-dressing required of a woman in barrister's attire – the crisp white shirts, wing collars, bands, black bar jacket and gown (but not the wig).

More seriously, there are times when you need to be defiant with judges, or solicitors and clients, while remaining courteous. I have certainly tried to do that, but I won't give examples.

TARA: In your view, are there any reforms that you think are desperately needed within the realm of intellectual property law? If so, what are they?

SOPHIE: We need to address the creeping influence of AI in everything we do. I recently acted for the Commissioner of Patents in the case of *Thaler v Commissioner of Patents* [2022] FCAFC 62 and [2022] HCA Trans 199 where the applicant, Dr Thaler, sought unsuccessfully to establish that AI could be regarded as the *inventor* under the patents act. The idea that there can be an invention where there is no human involved in the making of the invention (and for which a monopoly can be obtained) does not work in the AI context and risks stifling human creativity. It runs contrary



to the basic principles of rewarding and encouraging human endeavour by the grant of monopoly rights in return for the publication of the invention so that it can be worked by everyone to the benefit of society at large.

In this vein, the use of large language models and wholesale scraping of writers' and artists' portfolios for the purpose of producing works entirely created by AI (but entirely derivative of the works of the unpaid author/artist) is a matter that needs to be addressed by the parliament as a matter of urgency.

TARA: What's the most rewarding work you've done to date in your career?

SOPHIE: Probably, being involved in the AI debate and also getting generic drugs onto the market so that the pharmaceutical is accessible to the community at a fair price. That is not in every case, but especially where certain pharmaceutical companies continue to extend their monopolies by "evergreening" their inventions. This is done by filing new patents essentially for the same old inventions with sometimes very dubious additions or alterations without real scientific work or invention.

I am also proud of the fact that when I first joined Nigel Bowen Chambers as a founding member in 1991, I was the only woman in this new, largely intellectual property set, which at first was quite daunting. That remained the position for many years while I (together with some of the progressive men in chambers) tried to get more women to be accepted as members of chambers, over the sometimes vocal but more often unspoken opposition of the old guard. Now, I am happy to say there is gender parity in our chambers and I believe it is a happier and more successful IP chambers for that. I am also proud to say that a few years ago our clerk, Alistair Coyne, instigated an International Women's Day IP function that the women barristers at Nigel Bowen Chambers now hold annually. It is a mixture of serious law presentations on topics of interest in IP and more serious cocktails afterwards.

TARA: The 2024 International Women's Day campaign theme is 'Inspire Inclusion'. What does this mean to you and how would you like to see it applied in your industry?

SOPHIE: I would like to see more women coming to the bar and especially to be able to stay there long enough to reach senior counsel or go to the bench. That of course, relies on our solicitor colleagues to continue to brief women at the bar, not just as juniors but to