BRICK COURT
CHAMBERS

Brick Court Chambers
7-8 Essex Street, London WC2R 3LD
DX 302 London Chancery Lane

Nicholas Saunders KC

YEAR OF CALL: 2001 **YEAR OF SILK**: 2018

"Nick is an incredible and very impressive silk"

Chambers & Partners 2025

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Practice Overview

Nicholas Saunders KC has a broad practice which encompasses commercial, competition and intellectual property law. He has a strong technical background and is usually instructed in complex cases including financial, telecoms, IT and pharmaceuticals disputes. He is regularly instructed relatively close to trial in major cases where effective cross-examination and presentation of technical expert evidence is critical.

In the last three years he has argued over twenty cases before the Court of Appeal, Supreme Court, Court of Justice of the EU and EFTA Court. He also has extensive trial experience where his recent work has included leading the trial of a $100m commercial claim against a state oil and gas company, leading a very large claim against the Libya Africa Investment Authority in the Commercial Court, arbitrations relating to licensing of standard essential patents, cross-examining technical expert witnesses in a trial relating to the design of chemicals plants in which his clients were awarded damages of $96m, appearing in numerous patent infringement and validity proceedings, and acting in a substantial High Court trial relating to an algorithmic trading hedge fund.

He is recommended in Legal 500 and Chambers and Partners where comments about his work include “absolutely outstanding”, “Clients rate his awesome intellect, particularly strong on contract disputes”, “Really focused and calm, he’s unbelievably on top of the detail and all the strategic issues”, “Good because he has a brain the size of a planet but is also pretty down to earth”, “skilled at cross-examining witnesses and can translate technical jargon into lay terms”, “He is extremely clever, he immerses himself in the detail and he is very user-friendly”, “He knows his stuff, is very bright and is unflappable”, “Has impressive knowledge when it comes to the interface between IP and competition law”, “He’s got an extremely able technical grasp of the issues in complex cases”, “He can see the wood for the trees, identify what the good points are and articulate them relatively simply.”

Commercial

Nicholas has experience of a wide range of commercial work in the Commercial Court, Court of Appeal, and arbitrations under LCIA, SCC and UNCITRAL rules. He is regularly instructed in cases which involve conflict of laws issues or which require urgent *ex parte* applications.

His recent commercial cases include a substantial number of commodities and oil and gas disputes such as *Bioromoil v Vector Energy (LCIA arbitration); OMV Supply and Trading v Kazmunaygas* (Commercial Court, Court of Appeal, interpretation of CIF contracts, misrepresentation and rectification)*, Global Coal v London Commodity Brokers* (High Court, trading on SCOTA terms).

In *Catalyst v Libya Africa Investment Portfolio* (Commercial Court) he led a substantial claim relating to breach of an agreement to provide investment management services. In *Coward v Phaestos* he acted as lead junior at a substantial trial relating to a quantitative hedge fund. He has also acted in a number of commercial fraud cases including *Fortress Recovery Fund v Blue Skye* (Commercial Court fraud action relating to the restructuring of a fund and issues relating to scope of freezing injunctions). He has also appeared in a series of cases involving conspiracy and breach of confidence issues following the departure of employees to competitors including *Software Cellular Network v Tomlinson and others*; *Datafind v Sugden*; *Microgenix v Hall and others;* and *Epic Advertising v Cho Yung and others*.

He has acted in a number of cases involving claims for Wrotham Park damages including a recent high value arbitration, and a series of arbitrations relating to intellectual property licensing with a combined value of over $2 billion. He led for the claimant in *Medical Research Council v Celltech R&D* (High Court) which was a substantial claim for underpaid royalties under a patent licensing agreement.

His insurance cases include *Mutual Energy v Starr* (High Court claim relating to failure of the electricity cables between England and Northern Ireland) and advice to various mutual insurers.

For a number of years Nicholas has also been ranked in the top tier for information technology disputes and his cases in that area include *HMRC v EDS* (tax credits IT system implementation); *Secretary of State for Health v Fujitsu* (very substantial arbitration in which he acted for Fujitsu in relation to the NHS IT systems dispute); *O2 v Fujitsu* (High Court claim relating to O2's IT systems); and a number of confidential arbitrations.

He has also acted in several confidential defence related commercial disputes.

Competition

The majority of Nicholas' competition law work relates to the interaction between competition law and intellectual property. He has a considerable amount of specialist knowledge in this area and

has acted in a number of leading cases relating to 'euro defences' to IP infringement and in connection with FRAND and RAND licensing including *Unwired Planet v Google, Samsung and Huawei, Nokia v IPCOM, Philips v Amino,* and several confidential arbitrations.

His more general EU law work has included advising in relation to free movement of goods and the customs union and he has appeared in a series of cases involving the relationship between free movement and intellectual property rights including *Speciality European Pharma v Doncaster* (High Court, Court of Appeal); *Flynn Pharma v DrugsRUs and Tenolol* (High Court, Court of Appeal) and *Philips* (CJEU, free movement of counterfeit goods).

He has also acted in a number of disputes between airlines and airports relating to EU legislation on slot handling and airport handling fees including *Ryanair v Gatwick Airport* and *Ryanair v BAA* (both before the Civil Aviation Authority).

Nicholas has also acted in a number of cases involving the relationship between EU law and direct tax legislation including *Coin a Drink v HMRC* (principles of effectiveness and equivalence), *Monitor Audio v HMRC* (qualification for research and development tax credits), and *Timac Agro* (CJEU, transfer pricing and freedom to provide services).

Intellectual property

Nicholas' recent IP cases cover the full spectrum of IP work and include leading the Government's defence to a challenge to the UK trade mark legislation before the Court of Appeal and Supreme Court in *Twentieth Century Fox v Comic Enterprises* , defending Cadbury's appeal against grant of a trade mark for the colour purple, and appearing for the United Kingdom before the Grand Chamber of the CJEU in a case about Christian Louboutin's red-soled shoes.

His patent work focusses mainly on telecoms and pharmaceuticals disputes. He has appeared in most of the recent UK telecoms patent infringement cases (including *Interdigital v Nokia*; *Nokia v IPCOM*; *HTC v Nokia*; *Unwired Planet v Google, Samsung and Huawei*; and *Apple v Qualcomm*) and is acting in *Warner Lambert v Actavis* on second medical use patents which will be heard by the Supreme Court in February 2018. His other patent disputes include appeals about patentability (*Samsung v Comptroller, Nduka v Comptroller, Epshtein v Comptroller),* infringement and validity cases such as *Orasure v Sixtem Life* (High Court, medical devices), *Danisco v Novozymes* (High Court), *Appliance Brassware v Altecnic* (High Court patent infringement relating to plumbing equipment), *Liffe v Pinkava* (Court of Appeal, ownership of employee inventions), *GPS Industries v Prolink* (High Court infringement action relating to GPS on golf carts), *Nichia v Seoul Semiconductor* (High court infringement and validity relating to blue LEDs), *Philips v Amino* (High Court MPEG patent infringement) and *Schuch's patent* (High Court infringement claim relating to a tarpauling mounting system on trucks).

He has also appeared in most of the recent major cases on Supplementary Protection Certificates

including *Merck* (High Court, end of procedure notices), *LN* (CJEU, medical devices), *Teva v Gilead* (CJEU, meaning of 'basic patent in force'), *Pharmaq v Intervet* (EFTA Court), and *Actavis v Boehringer* (CJEU).

His trade mark cases include *Speciality European Pharma v Doncaster* (High Court, Court of Appeal trade mark infringement and parallel imports); *Flynn Pharma v DrugsRUs, Tenolol* (High Court, Court of Appeal trade mark infringement and parallel imports); *Hauck* (CJEU, three dimensional trade mark); *Canary Wharf v Registrar of Trade Marks* (High Court appeal, absolute grounds); *Jacobson v Globe* (High Court, Court of Appeal, trial relating to stripes on the sides of shoes), *Cadbury v Registrar of Trade Marks* (High Court, Court of Appeal, appeal relating to a trade mark for the colour purple), *Nestle v Cadbury* (CJEU, 3 dimensional trade mark for the shape of the Kit Kat); *Norwegian Board of Intellectual Property Rights* (EFTA Court, absolute grounds for trade mark registration and relevance of *ordre public*), *Ruuki Group* (High Court and Court of Appeal trade mark appeal), *Weightwatchers v Tesco* ('points' trade mark infringement action); *Easynet Group v easyGroup* (absolute grounds appeal to the High Court); *Solid Floor v Fetim* (absolute grounds appeal); *Iron & Smith* (CJEU, reputation in the Community); *Philips* (CJEU, counterfeit goods regulation); *Beverly Hills Polo Club v Sports Direct and others* (High Court infringement trial). He has also acted in a number of trade mark appeals to the General Court and CJEU including: *Psytech* (16PF); *Zipcar*; *Aurelia*; *Pineapple trade marks*; and *Stategies v Strategi*.

His recent copyright cases include *BASCA v Secretary of State for Business Innovation and Skills* (judicial review concerning whether the UK's private copying legislation was compatible with EU law); *Svensson v Retriever* (CJEU, whether internet links infringing); *Public Relations Consultants v Newspaper Licensing Agency* (CJEU, e-commerce directive); *Art and Allposters* (CJEU, distribution right and transformation of copyright work); *Stichting Brein v Ziggo* (CJEU, communication to the public and liability of internet service providers in connection with The Pirate Bay); *Levola Hengelo* (CJEU, whether copyright subsists in the taste of cheese); *Pelham EA* (CJEU, music sampling and phonograms); *Funke Medien* (CJEU); *Spiegel Online v Beck* (CJEU); *Vereniging Openbare Bibliotheken* (CJEU, rental and lending rights for e-books); and *Verlag Esterbauer* (CJEU, database rights in maps).

Many of his cases concerning Community and UK design rights relate to the fashion industry including *Karen Millen Fashions* (CJEU); *Knitmania v Rushlevel* (High Court trial, design of t-shirts), and a series of High Court actions in which he acted for Superdry: *Laundry Athletics v Arcadia Group; Laundry Athletics v Wondertype; Laundry Athletics v Sainsburys; Laundry Athletics v Boi Trading; Laundry Athletics v Fashion Union and the Officers Club; Laundry Athletics v Superfly; Laundry Athletics v Cult Retail; Laundry Athletics v Visage and Fashion Direct;* and *DKH Retail v Price*.

Nicholas has also acted in a number of cases related to counterfeit clothing and other goods such as *Chanel v Zou*.

His industrial design cases include *Linpac materials v Polymer UK* (High Court design right claim),

OHIM v Group Nivelles (CJEU, appeal relating to scope of relevant prior art in design cases); and *Funtime Handels v H Van der Beek* (High Court claim relating to Community and UK design rights in fair ground rides).

Nicholas also regularly acts in media and entertainment cases including the *Saxon* case (*Byford v Oliver* which concerned ownership of IP rights when bands split up), he is acting for *Duran Duran* in the band's appeal in the Court of Appeal against Sony in connection with the ownership of US copyrights (*Simon Le Bon and others v Gloucester Place,* Court of Appeal), and acting for Sean Combs in defence of passing off allegations in the High Court (*Dearlove v Sean Combs*). He also frequently advises bands, collecting societies and music publishers. He has also advised a number of well-known celebrities about issues relating to their image rights and trade mark issues.

Education & Appointments

MA, PhD (Cantab). Awarded various scholarships and prizes including British Academy scholarships. Nicholas worked at CERN in Geneva developing detectors used in the Large Hadron Collider. Former lecturer at Cambridge University. Awarded Queen Mother and Harmsworth scholarships by Middle Temple.

In 2014 Nicholas was appointed by the Attorney General as IP Treasury Junior (Standing Counsel to the Comptroller) and in that capacity regularly advises the Government and appears in intellectual property appeals and on behalf of the United Kingdom in cases before the European Court of Justice. He was previously on the Attorney General's B panel of counsel.

Publications

- Copinger and Scone James on Copyright (specialist editor and contributor)
- The Trade Marks Handbook (contributor - trade marks and the internet)
- The Encylopedia of E-Commerce (contributor - IP and e-commerce)
- The Encyclopedia of Forms and Precedents (contributor - e-commerce volume)
- The Modern Law of Patents (contributor - conflict of laws)

Directory Quotes

Nicholas is listed in each of the Legal 500 and Chambers and Partners as a leading barrister in intellectual property, information technology and competition law.

- "Nick is a charming and affable advocate." (Chambers & Partners 2027)

- "Nicholas is very slick on his feet. He will get on top of issues and home in on issues that were important while also being very impressive with clients and very reassuring." (Chambers & Partners 2027)
- "He is a top commercial IP silk. He puts forward an extremely good case." (Chambers & Partners 2027)
- "Nicholas Saunders has a very rare understanding across several areas. He has led on the advocacy and has been brilliant." (Chambers & Partners 2027)
- "Nicholas has an incredible ability to absorb technical material and make it manageable." (Chambers & Partners 2027)
- "Unbelievable ability to grasp technical details, but combines that with an affable and approachable manner. Always two steps ahead." (Legal 500 2027)

- "Absolutely stellar. Phenomenally good across the board - on paper, in conferences, and on his feet in the Court of Appeal. Nick's advocacy was calm, clear, and authoritative without ever being bombastic. When Nick speaks, you feel the judges really listen." (Legal 500 2027)

- "Nick has a unique combination of competition and IP expertise, and is an extremely persuasive advocate. He is calm in a crisis and always provides clear strategic direction."(Chambers&Partners2026)
- "He is absolutely charming, the gentleman of the Bar." (Chambers & Partners 2026)
- "Nicholas is excellent." (Chambers & Partners 2026)
- "He is very clever." (Chambers & Partners 2026)
- "Nick is a leading IP and competition silk. He has deep expertise in FRAND disputes and FRAND rate proceedings." (Chambers & Partners 2026)
- "He's very good. He's excellent, and I'm happy to recommend him." (Chambers & Partners 2026)
- "Nicholas Saunders KC is adept at handling complex telecommunications litigation involving FRAND issues. Previously standing IP counsel to the UK government, he now regularly acts for clients in the media and pharmaceutical industries, among others. His flair for both trade mark and patent work has led him to multiple appearances in the Supreme Court and CJEU in recent years." (Chambers & Partners 2026)
- "Nicholas Saunders KC of Brick Court Chambers is an accomplished advocate who is able to assist clients whose IT disputes concern significant contractual disputes and notable cross-border aspects. He also has prowess in IP and European law. He is an experienced adviser on technology disputes involving public authorities and high-profile international technology companies." (Chambers & Partners 2026)
- "Nicholas Saunders KC has an impressive practice at the intersection between intellectual

property and competition law. He is highly experienced in high-profile FRAND disputes, as well as pharmaceutical overpricing and follow-on damages proceedings." (Chambers & Partners 2026)

- "Nick has brings a truly unique combination of patent and competition law expertise to the bar. He is incredibly knowledgeable, even on seemingly obscure areas of science, which provide a powerful edge over the competition in a highly talented field." (Legal 500 2026)
- "Absolutely brilliant and extremely knowledgeable. He is a complete master of his subject and a massively reassuring presence in any case." (Chambers & Partners 2025)
- "Nick is an incredible and very impressive silk." (Chambers & Partners 2025)
- "Nicholas has an impressive FRAND practice." (Chambers & Partners 2025)
- "Nick's mastery of both competition and patent law is a real asset. He is very cool calm and collected, an excellent orator, influential with the judge, and a pleasure to work with." (Legal 500 2025)
- "Nicholas is completely on top of IP litigation. I was really impressed. He is very good at what he does."
- "A smart, able advocate, who is extremely able intellectually." (Chambers & Partners 2024)
- "A silk with a measured and serene style of advocacy." (Legal 500 2024)
- "A very smooth performer." (Legal 500 2024)
- "His advocacy skills are fantastic - he really gets the bit between his teeth when pushing his points." "Strong technically and commercially." (Chambers & Partners 2023)
- "Nicholas Saunders KC is very clever, and is good at creative arguments, especially on difficult cases." (Chambers & Partners 2023)
- "One of the best KCs for commercial litigation in the technology sector, especially where there is an overlap with IP law. He analyses cases very well but always with the clients overarching strategic objectives in mind." (Legal 500 2023)
- "Nicholas is both a terrifically persuasive advocate and extremely knowledgeable in his field." (Legal 500 2023)
- "He is really good on the interface between IP law, litigation and competition. He is also strong on the technical side and is really approachable with clients." "What stood out was his cross-examination skills and he has got a charming manner in court." (Chambers & Partners 2022)
- "He bridges the gap between coming from an IP background and doing more commercial work." (Chambers & Partners 2022)
- "A team player, really good to work with." (Legal 500 2022)
- "Whatever he picks up, he's brilliant at it." "Very knowledgeable and easy to work

with." (Chambers & Partners 2021)

- "He has phenomenal technical capability and is a very kind and helpful team player - really good counsel to have on your team." "He is very intelligent and personable." (Chambers & Partners 2021)
- "He has authority and gravitas." (Legal 500 2021)
- "A measured and intellectual advocate who is suitable for complex IP disputes. He is a real judge's barrister who talks to the judge, not at the judge. Although a relatively new silk, he has always had authority and gravitas and will go far." (Legal 500 2021)
- "He is known for his expertise across IP and competition law." (Legal 500 2021)
- "An accomplished advocate who is able to assist clients whose IT disputes concern significant contractual disputes and notable cross-border aspects. He also has prowess in IP and European law. He is an experienced adviser on technology disputes involving public authorities and high-profile international technology companies." "He has an excellent, practical approach and is always constructive and responsive." "He is a recognised leading lawyer in the field, who is very knowledgeable and easy to work with." (Chambers & Partners 2020)
- "He is very talented indeed." "Super bright and very technically minded." (Chambers & Partners 2020)
- "He is known for his expertise across IP and competition law." (Legal 500 2020)
- "A superb barrister." (Legal 500 2020)
- "Highly able, writes very well and knows what he is doing." "Always sensible and good to work with, he is pragmatic and has a good eye for what the winning points are." (Chambers & Partners 2019)
- "He will do very well in silk – he's very good technically and personally." "His patent litigation skills are excellent and he has a deep and profound understanding of competition law." (Chambers & Partners 2019)
- "Clients love him – he commands respect in meetings, and is thoughtful in manner and very successful in court." (Legal 500 2018-19)
- "Excellent for broad IP and commercial matters." (Legal 500 2018-19)
- "Very strong on IT-related matters with good clear advice." (Chambers & Partners 2018)
- "He is very academic and thorough." (Chambers & Partners 2018)
- "He has a brilliant unflappable quality in court." (Legal 500 2017)
- "Really focused and calm, he's unbelievably on top of the detail and all the strategic issues." (Chambers & Partners 2017)
- "He has a very calming manner and good instincts on what points to run." "He is very strong

intellectually and user-friendly." (Chambers & Partners 2017)

- "A first-rate mind." (Legal 500 2016)
- "Very knowledgeable and a pleasure to work with." (Legal 500 2016)
- “absolutely outstanding and will be a leading IT silk in ten years. He earns further praise for the quality of his written opinions.” (Chambers and Partners 2014)
- ""is good on all counts," according to solicitors, who further deem him to be "bright, sensible and easy to get on with."" (Chambers & Partners 2011)
- "the "solid" Nicholas Saunders, who "always does an excellent job" and has a practice that spans IP and IT." (Chambers & Partners 2011)
- “Good because he has a brain the size of a planet but is also pretty down to earth.” Saunders is favoured by sources as he is “skilled at interviewing witnesses and can translate technical jargon into lay terms” (Chambers and Partners 2010)
- "Nicholas Saunders' ‘rise has been stellar'. He is rated as a ‘fantastic junior' and ‘an extremely safe pair of hands', and acted in Interdigital v Nokia" (Legal 500, 2009)
- "a fast rising individual with a big future." (Chambers and Partners 2009)
- “the very commercial Nicholas Saunders. Clients rate his awesome intellect, particularly strong on contract disputes/large projects” Legal 500 2008)