

Obituary: Professor Sir Hugh Laddie (1946–2008)

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- **Daniel Alexander QC, a Visiting Professor based within the [UCL Institute of Brand and Innovation Law](#), and a barrister at 8 New Square Chambers, writes about the life of Sir Hugh Laddie.**

Professor Sir Hugh Laddie died at home in London on 28 November 2008. His funeral took place at Cheshunt on 30 November.

Hugh Laddie was born in 1946 and attended Aldenham School where he excelled as a scholar and at shooting. When faced with the choice of staying in the shooting team and revising for exams, he took the latter course. He studied medicine at St Catherine's College, Cambridge but changed to law, opting for a career in intellectual property.

Hugh joined 8 New Square Chambers (then at Francis Taylor Building) at a time when, in his words, everybody thought that the patent bar was "a very boring backwater". But, as things turned out, he said that it gave him "25 years of laughter, normally at the expense of the judiciary". In practice, he was a devastating advocate, taking witnesses and opponents' arguments apart. He was committed to legal innovation: he is credited with having invented the 'Anton Piller' (search and seizure) order and was described by Lord Denning as the "enterprising" Mr Laddie.

Hugh was appointed Junior Counsel for the Crown in Patent Cases, the UK Government's leading advocate in intellectual property cases, and, in 1986, took silk. He was much in demand, acting in some of the largest cases, including some of the early disputes in medical biotechnology a field in which he later delivered important judgments. Hugh was a much-valued member of 8 New Square Chambers and led the field as Chair of the Patent Bar Association. He joined vigorously in 8 New Square Chambers' teatime debates on law and life in general. He was supportive of colleagues; many successful practitioners began their careers under Hugh's guidance.

Together with Peter Prescott QC and Mary Vitoria QC, he wrote the classic text, 'The Modern Law of Copyright', while in practice – a book of great learning, iconoclasm and daring in troubling to state what the law should be and how it should develop.

On becoming a High Court judge in 1995, as Mr Justice Laddie, it was said of him at his inauguration that "we suspect we are about not to see a cruiser, a corvette or an inflatable dinghy full of marines, but an airborne task force bearing down with devastating and horrifying precision". That proved right. As a judge he was no less formidable an opponent than he had been as an advocate, with a renowned commitment to ferreting out the truth no matter how uncomfortable for litigants, large and small – or advocates. In Mr Justice Laddie's court, no one worried about what the other side would do to one's case. The real concern was what he would do to it. Counsel with a weak position particularly feared those moments when he would push back his wig, lower his voice and invite their opponent to sit down, while he delivered a volley of unanswerable questions. Although often painful, he was almost always right.

As a judge, he was fearless in his approach to authority. Kow-towing was not in Mr Justice Laddie's repertoire. In one of his first judgments, *Series 5 Software*, he quietly revolutionised the approach to the grant of interlocutory injunctions by a re-interpretation of *American Cyanamid*, thereby giving voice to what everyone thought but dared not say: the merits of the case actually matter. His intellectual approach, from Anton Piller onwards, drew on a close study of legal history to support modern developments.

In *Arsenal v. Reed*, a groundbreaking case on the scope of trade mark protection, he held that the European Court of Justice (ECJ) had exceeded its jurisdiction. In a masterstroke of dressing freedom as constraint, and desire as reluctance, he held that he was bound by authority not to follow the highest court in Europe: “no matter how tempting it may be to find an easy way out, the High Court has no power to cede to the ECJ a jurisdiction it does not have”: A less intellectually rigorous, but more diplomatic, Court of Appeal did not share his view.

Some said that Mr Justice Laddie was “anti-patentee”. He was not. But he was a strong believer that rights needed to be justified. Those seeking valuable commercial monopolies had to be prepared to defend them by reference to serious principle, not with hired guns. In *Wagamama*, he famously said: “Monopolies are the exception not the rule... They need to be justified. As long ago as 1615 in this country it was said that the effect of an unjustified monopoly was “to take away free trade, which is the birthright of every subject”. Unjustified monopolies got short shrift. Mr Justice Laddie reserved special treatment for hired guns: experts who did not give honest evidence found his court to be enemy territory. A litigant, witness or counsel who exhibited “pragmatic flexibility” quickly found their legs shot from under them with his words of *Cala Homes* ringing in their ears: “The judge is not a rustic who has chosen to play a game of Three Card Trick. He is not fair game. Nor is the truth”. But Mr Justice Laddie ran his court with such humour and fairness that, even as they nursed their wounds, those on whom they had been inflicted recognised that they were probably deserved. On the procedural front, Mr Justice Laddie was active in introducing innovations to try to cut the cost of patent litigation in England, including the streamlined procedure.

Mr Justice Laddie took a great interest in intellectual property law as it affected other countries: too great an interest, perhaps, for the Vice-Chancellor, the head of his division of the High Court, to approve of his regular lecturing overseas. He nearly created a diplomatic incident in taking a public line against the ever increasing tide of intellectual property rights in developing countries, a view which was not shared by the commercial wing of the US Government. He courageously sought to undo some of the propaganda about the universal value of intellectual property rights that was fashionable in trade circles at the time.

When Mr Justice Laddie announced his intention to resign from the bench in 2005, it came as a shock to the judicial system. Eyebrows were raised, particularly since he was sure to have been appointed to the Court of Appeal, had he stayed. But he chose freedom over promotion and found refuge as a consultant in the firm of Rouse & Co (then Willoughby & Co), a firm founded by an old friend. He was active there, giving expert evidence, travelling round the world and advising on numerous cases.

In 2006, Sir Hugh, as he had become, was offered a chair of Intellectual Property Law at UCL and an opportunity to make his mark on the academic world. He was an immediate success in that context, a natural and engaging teacher, inspiring students with his knowledge and love of intellectual property. He threw himself into this work, founding the Institute of Brand and Innovation Law at UCL, setting up a series of sell-out events on important contemporary topics of IP law and establishing links with China and India. He was a regular and engaged attendee at Fordham in New York and had a wide intellectual circle around the world.

In 2007, he became a member of the Intellectual Property Hall of Fame, joining Lord Justice Jacob, his colleague and friend for over 30 years. It was a deserved tribute. Professor Sir Hugh was internationally known, respected and admired. His influence ranged from South America to the Far East. The many tributes which have come from overseas include a comment from the leading German IP academic about his great spirit, his eloquence, his knowledge and his sense of humour. He had all of these.

A few weeks before his death, he introduced a major seminar at UCL on intellectual property enforcement which was attended by hundreds of practitioners, academics and students. His spirit was undimmed by his

serious illness: in his generous address, he remained true to form, introducing the first speaker (an old friend from the US) with great wit and with a twinkle in his eye, as quite wrong.

Hugh's home and family, which were his absolute priority, gave him the strength to be a "prodigious, fearless and unique hero", in the words of another comment. He knew his wife, Stecia, from teenage years. He adored her. He paid her warm tribute on his retirement from the bench both as a supporter and as a critic of his work: he was, we sensed, more likely to take account of Stecia's views than those of certain courts of appeal. They were married for 38 years and formed the centre of a rich and warm community life at their home, where he was also able to display his commitment to good design and meticulous craftsmanship: he loved properly made furniture, well-built and rakish sports cars and tying his own flies for fishing. Hugh also loved music, with eclectic tastes (from Segovia through Rossini to Dylan), a vast CD collection and many guitars. His children each took paths reflecting aspects of his interests: medicine, law and enterprise. They were all a source of immense pride for him and, on his retirement from the bench, he was addressed by one of his sons, who had followed him into the law as a barrister.

We join his family – Stecia, his mother Rachel, his brother Miles, his sister Judith, his children, James, Gideon and Joanna, his six grandchildren and extended family – in mourning the passing of one of the great figures of our field, in deep sadness but with lasting memories of the truth, justice and fun with which Hugh filled our lives.

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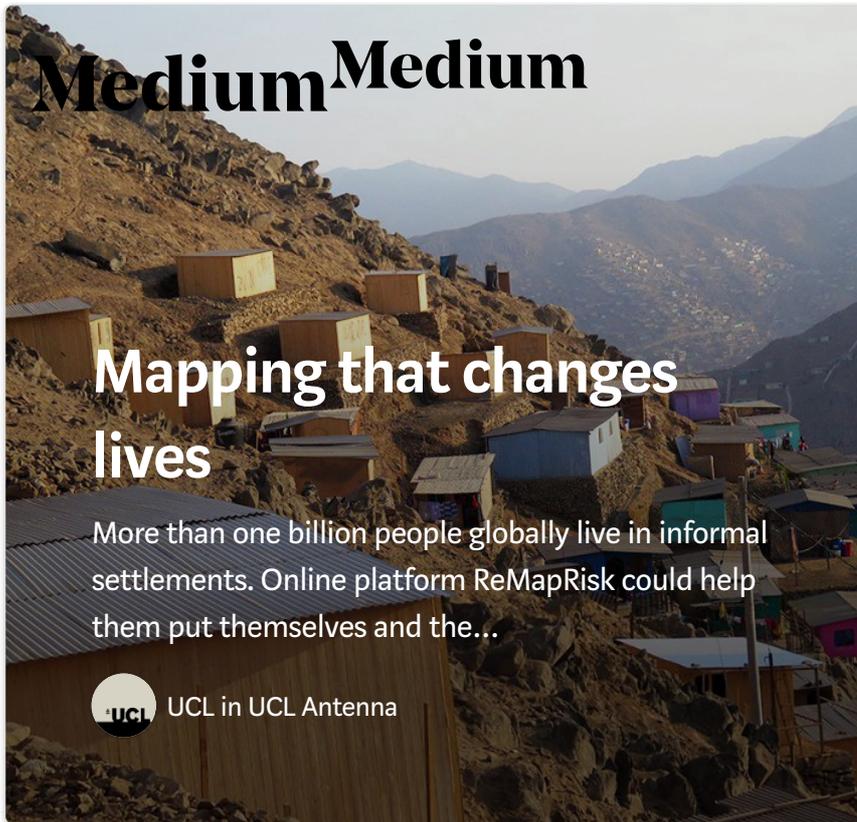


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