

Alex Charlton KC, FCIArb

Call 1983 Silk 2008



Alex Charlton KC is an international arbitrator in technology and technology-related disputes based in London where he also practices at the Bar.

Alex has deep expertise and experience in IT, telecoms and military equipment disputes. For the last 35 years he has arbitrated, adjudicated and litigated technology disputes concerning software (including safety critical and safety related software) and IT projects in all areas of business and commerce and for all aspects of government (both in the UK and abroad). Such disputes have included air traffic control, train signalling systems, radio and mobile networks, war-fighting capabilities, chipset software/protocol stacks, intellectual property licensing, financial and investment platforms, critical UK infrastructure and transition and transformation projects.

He also has very significant experience in broader commercial disputes such as blockchain and crypto assets, and those involving dishonesty, breach of confidence and trade secret. He is highly experienced in all aspects of interim relief including anti-suit injunctions.

His approach to all aspects of his work is rooted in an appreciation and understanding of commercial reality, the technical complexities and common sense.

Arbitration

Alex is regularly appointed as a panel member and sole arbitrator in technology and intellectual property disputes. Such appointments have been made under the rules of international arbitral institutions, the Commercial Court in London and on an *ad hoc* basis.

He is a fellow of the Chartered Institute of Arbitrators and a member of the ICC, LCIA, AIAC (of which he is a panel member). He is on the ICE's Crossrail Adjudication Panel and was appointed in 2021 to the Independent Panel for Post Office's Historical Shortfall Scheme (Horizon computer scandal).

His recent appointments have included disputes in areas concerning misappropriation of trade secrets, misuse of confidential information, breach and termination of technology licences, assignment of patents, breach of licences for telecoms provisioning software, failed software development and IT implementations.

Alex's experience of heavy, high-value, factually and technically complex cases gives him unmatched insight as arbitrator into both the dynamics of technology disputes and the burden on the parties in preparation cases for hearing.

Mediation and Adjudication

Alex has been an accredited mediator for over 20 years with a wealth of experience as counsel. He is also a highly experienced adjudicator.

Recommendations

In relation to IT and Telecoms, Alex is listed by Chambers & Partners as one of very small number of 'Leading KCs and was Chambers & Partners IT/Technology Silk of the Year for 2021. He is listed in the Legal 500 as a Tier 1 Silk in IT, where also features for International Arbitration (Counsel). He is recognised as being among the highest-ranked Barristers in Who's Who Legal (UK Bar 2024).

Recent recommendations include:

'One of the leading silks in this area of work. Incredibly skilful and knowledgeable, and of course great on his feet. Feels like you have one of the best on your side. Also, very user-friendly.' (Legal 500).

'Alex is a very confident and highly effective advocate with excellent cross-examination skills. His written work is equally impressive. He is personable and easy to work with, and also very good with clients.' (Legal 500).

'He is an extremely good advocate, who is persuasive and a calming influence.' (Chambers & Partners).

'He communicates and explains complex concepts in a very easy-to-understand way for lay individuals.' (Chambers & Partners).

'He is a pleasure to work with and someone who instils confidence in clients.' (Chambers & Partners).

He is.. *a master at developing a strong case strategy. He is very robust in advocacy and cross-examination... He has a lot of gravitas and impressed the client'* (Legal 500).

Arbitral Appointments

Featured Arbitral Appointments cases

Co-arbitrator – dispute relating to misuse of confidential information and misappropriation of trade secrets by between employer and former employees concerning financial services platforms (LCIA: London seat).

Sole arbitrator – IP dispute concerning termination of a technology licence in the US, infringement and assignment of a patent (ICC, London seat).

Sole arbitrator (appointed by the Commercial Court, London) – multi-million pound telecommunications software licence dispute involving companies in Mauritius and Iran (LCIA, initially then *ad hoc*: London seat).

Co-arbitrator – dispute relating to a US \$70m software development in the Far East (SIAC: Singapore seat).

Sole arbitrator in a technology dispute about data centre cabling in Ireland between international parties (Ad hoc: London seat).

Sole arbitrator – dispute between an Indian software house and a Middle Eastern software defence contractor in relation to licensing and implementation issues (ICC: London seat).

Independent Panel member of the Post Office Historical Shortfall Scheme – dealing with claims by postmasters in relation to Horizon software.

International & Domestic Arbitration

Notable International and Domestic Arbitration as Counsel

Featured International & Domestic Arbitration cases

Acting for a Chinese Telco in relation to a series of arbitrations arising out of termination of mobile data network service contracts in Africa in claims amounting to US \$500m (DIFC-LCIA and LCIA: seats in Dubai and London).

Acting for a Secretary of State against a contractor claiming £1 billion plus damages for unlawful termination of a national infrastructure IT systems contract (*ad hoc*, London seat).

Acting for Middle Eastern client in dispute with US company over termination of a licence agreement for e-market software for the mining oil and gas industry (LCIA, London seat).

Acting for US patent owner against a European chip manufacturer in a dispute about 3G protocol stack software development and associated patent licensing (UNCITRAL, London seat).

Acting for a US network manufacturer and service company in relation to licensing of provisioning software for mobile data networks (LCIA, London seat).

Acting for Vanuatu licensor of advertising engine bundled with peer-to-peer music file-sharing download in royalty dispute with a Californian advertising company, NY law of contract. (AAA, London seat).

Acting for UK IP owner of chipset software in dispute concerning a joint venture with South Korean partner. Korean law of contract (ICC: London seat).

Acting for Secretary of State for Defence in a number of disputes concerning procurement of war fighting capabilities on land, sea and air.

Telecoms and Networks

Featured Telecoms and Networks cases

T-Systems Ltd v EE: acting for EE in relation to an £86m dispute arising out of transformation of EE's Orange and T-Mobile estates. Acting for EE's parent company thereafter in relation to related disputes.

Acting for MNO in relation to transition and transformation programs and services for mobile business.

Acting for very large Telco in relation to multiple issues around network upgrade, broadband rollout, supply of services and technology.

Arqiva v Everything Everywhere Ltd: Acting for EE in a series of expedited trials and hearings in the TCC relating to roaming and network rights, statutory code rights and spectrum licences.

Mundio Mobile Ltd v Everything Everywhere Ltd: Acting for EE in relation to multiple service and technical issues with an MVNO.

Acting for a Mobile Network Operator in relation to issues concerning LTE rollout.

Acting for a technology company in relation to 4G RAN network build and roll out in Europe.

Cable & Wireless v ETG: acting for ETG, a telecoms company, in a claim by Cable & Wireless for operation and maintenance fees for IRU capacity.

Acting for the network service provider in relation to claims by an MVNO arising out of a serious service outage in the UK affecting 10m customers.

Software & Tech Disputes

Featured Software & Tech Disputes cases

Acting for Jaguar Land Rover Ltd in defending claims for £22m by Kyndryl Ltd (formerly an IBM company) for contractual variations, estoppels and quantum meruit in relation to a long-term IT infrastructure support and maintenance contract.

Acting for D14 in a US \$2 billion+ crypto asset dispute brought by Tulip Trading Limited, a company controlled by the man says he is Satoshi Nakamoto, in claims that fiduciary duties are owed by individuals said to control bitcoin networks [2022] EWHC 2970 (Ch); [2023] EWCA Civ 83.

Acting for Rolls-Royce Motor Cars Ltd against claims brought by a German software company, Topalsson, in relation to a failed project for the development and world-wide roll out of a new configurator for the launch of the Roll-Royce Ghost [2023] EWHC 1765 (TCC); [2023] EWHC 2092 (TCC).

Acting for Wipro Ltd in defending claims by Drax Energy Solutions Ltd in claims for misrepresentations, delays and quality breaches arising out of a failed project for a new smart meter customer care and billing platform [2023] EWHC 1342 (TCC).

Acting for LZ Labs GmbH and others in respect of alleged breaches of a mainframe software license with IBM UK Ltd in the UK and US in respect of a software defined mainframe development [2022] EHC 2094.

Acting for CIS General Insurance Ltd in its £132m claim against IBM UK Ltd in respect of a failed IT project for a new insurance system [2021] EWHC 347 (TCC).

Acting for Royal Devon & Exeter NHS Foundation Trust against ATOS IT Services UK in respect of a failed patient record system [2017] EWHC 2197 (TCC), [2017] EWCA Civ 2196.

Acting for BSKyB in its £700m claim for deceit against HP Enterprise Services Int Ltd, negligence and breach of contract arising out of a failed project for a Customer Relationship Management and Billing platform [2010] EWHC 86 (TCC).

Infrastructure & Outsourcing

Featured Infrastructure & Outsourcing cases

Acting for British Airways in a major claim against its facilities management company in relation to the 2017 data centre outage which caused flight cancellations and travel disruption across the world.

Advising major UK outsourcer in relation to systems introduced to Northern Ireland and whether political events amounted to force majeure.

Appointed adjudicator in a complex dispute around emergency lighting works at water company installations at around 100 sites in the Greater London area.

Tube Lines Ltd v London Underground Ltd: acting as adjudicator in respect of TLL's £327million additional cost claim arising out of the upgrade of signalling systems on the Jubilee and Northern Line.

Licensing, Intellectual Property & Confidential Information

Featured Licensing, Intellectual Property & Confidential Information cases

Acting for a Tanzanian bank against claims for US \$33m made in the Commercial Court by a US licensor for breach of licences for banking systems.

Acting for defendants in claims for copyright infringement, misuse of confidential information and patent claims in respect of integrated circuits for optical electronics including transimpedance amplifiers following sale of a business.

Acting for patent licensee in the trial of patent owner's claims for licence fees on phase III trials of new drugs for pancreatic cancer. Claim discontinued days before trial and indemnity costs argued and ordered.

Acting for licensee of online casino games in relation to intellectual property owner's enforcement actions.

Acting for banks, airlines, retailers and other commercial organisations in relation to software licensing and infringement claims by software owners and licensors.

Acting for rights owners in relation to unlawful exploitation of films; acting for the owners of a new TV cartoon series against the producers and directors.

Acting for a US Company against a former employee alleged to have hacked into its systems and unlawfully disclosed confidential information to third parties.

Appointments

- Independent Panel for Post Office's Historical Shortfall Scheme concerned with Horizon computer system failings
- Crossrail Adjudication Panel

Awards

- Awarded IT/IP Silk of year 2021

Memberships

- ICC
- LCIA
- AIAC
- Chartered Institute of Arbitrators

Education

- Dip Law, City University
- MA (Hons) English, University of St Andrews