



# Rebecca Keating

Call 2017

Rebecca is a highly sought after junior with a broad commercial practice, with particular advocacy and advisory experience in the following areas:

- Technology & Intellectual Property
- Data Protection & Cyber Security
- Banking, Financial Services & FinTech
- General Commercial Disputes
- Energy & Construction
- Professional Negligence

Rebecca is ranked by Legal 500 as a “Rising Star” in IT & Telecoms and Financial Services Regulation. She is described as “excellent: efficient, detailed and commercial”. Rebecca was shortlisted as Technology, Data and Crypto junior of the year in the Legal 500 2023 Awards.

Rebecca has been called to the Bar of England and Wales (2017) and to the Bar of Ireland (2019).

## Technology & Intellectual Property

Rebecca is ranked by Legal 500 as a “Rising Star” in IT & Telecoms and is described as “excellent: efficient, detailed and commercial. A brainbox when it comes to any and all IT and cyber disputes – she operates beyond her years.”

In 2023 Rebecca won the Leading Technology Law Advisor (London) award in the Influential Businesswoman Awards and was shortlisted for Legal 500 Technology, Data and Crypto junior of the year.

Rebecca acts in and advises on a variety of technology related disputes. Rebecca’s experience includes disputes and advisory work ranging across all areas of technology including software, hardware, cloud services and emerging technologies. Rebecca has acted for start-ups, innovators and some of the largest technology companies in the world including Google, Apple, Amazon, Tesla, eBay and Spotify. From the customer side, her clients include government organisations and global companies.

Rebecca is Co-Chair of the Society for Computers and Law Women in Technology group, a committee member of TECBAR and is on the editorial committee of the Tech Disputes Network.

Rebecca has published several articles on the topic of technology and the law in both national and international publications. She is the co-author of 'A Practical Guide to Quantum Computing and the Law' (forthcoming). She is also a contributing author to 'The Law of Artificial Intelligence' (Sweet & Maxwell) and the AI chapter of 'The Encyclopedia of Information Technology Law' (Sweet & Maxwell). She speaks regularly on the legal implications of emerging technologies such as quantum computing, AI and blockchain.

Rebecca has a longstanding interest in technology. Prior to joining Chambers, Rebecca worked at Dropbox's European Headquarters. While at Dropbox she worked with companies across different industries and with Fortune 500 companies located in Europe, the Middle East and South Africa. Her work focused on assisting clients in the large-scale deployment of cloud technology.

## Featured Technology & Intellectual Property cases

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Instructed as junior counsel in the Post Office Group Litigation (*Bates & Ors v the Post Office Ltd* (No 6: Horizon Issues) [2019] EWHC 3408 (QB)), a group action brought by over 500 current and former sub-postmasters who alleged defects in the Post Office's retail and accounting computer system.

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Instructed in the Nissan Renault Emissions Group Litigation. The underlying dispute involves allegations that Nissan vehicles contained software and/or hardware which constituted an illegal "defeat device".

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Instructed as junior counsel in a multimillion-pound arbitration arising out of a first of its kind technology project to develop infrastructure and studio technologies for one of the world's leading television broadcasters.

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Instructed as junior counsel in a patent dispute regarding tools for the commercialisation of quantum computing technologies.

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Acted as junior counsel in a multimillion-dollar arbitration regarding delay in delivery of a strategic banking system for a foreign state.

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Acted as sole counsel in a multi-day trial in relation to a claim for damages arising out of the design and build of a website.

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Acted as sole counsel in a multi-day arbitration under the LCIA Rules regarding a software dispute. Issues included misrepresentation (both fraudulent and negligent) and breach of contract.

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Instructed as sole and junior counsel in numerous claims both for suppliers and purchasers concerning the provision of software (bespoke and out-of-the-box), which include allegations of breach of contract (defects and delay), negligence and misrepresentation.

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Instructed as sole counsel in various disputes involving cryptoassets (including *Tulip Trading Limited v Bitcoin Association for BSV and others*). Details of relevant cases are set out in the Fintech section below. Relevant issues considered include hacking, tracing and misuse of traditional bank accounts for cryptotrading.

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Instructed as sole counsel defending a platform which facilitates tradespeople connecting with customers. The claim was brought by a user who allegedly suffered losses as a result of a scam profile. The case concerns the alleged duties of the platform provider to protect users against illicit use of the platform.

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Acted as sole counsel providing advice on the applicability of the UK export regime to encryption software.

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Instructed as junior counsel advising on a claim for injunctive relief seeking that a party be compelled to update software.

Instructed as junior counsel in various claims for breach of contract and negligence arising out of telecoms outages across Europe.

Instructed as junior counsel in a claim regarding termination of a supply agreement in the telecoms sector.

Instructed as sole counsel in a dispute for breach of a license agreement and misrepresentation in the provision of products and services.

Instructed as sole counsel in a dispute regarding system outages in a bespoke IT system and resulting losses.

Instructed as sole counsel in a claim for an injunction arising out of a third-party provider withdrawing access to a company's website and servers.

Instructed as sole counsel in a claim for breach of contract arising out of the design of accounting software and the provision of hardware.

Instructed as sole counsel providing advice on an alleged penalty provision arising out of an agreement for IT consultancy services.

Advised an inventor seeking compensation under sections 40 and 41 of the Patents Act 1977.

Acted as sole counsel advising on a dispute regarding consultancy services in an IT procurement transformation project.

Advised on a claim arising out of the alleged failure to implement suitable accessibility requirements for a website.

Acted as sole counsel advising a director regarding ownership of a TikTok account and alleged failures to fulfil director's duties.

Acting as sole counsel advising on the termination of a long-running software licensing agreement by a police force due to delayed delivery by a supplier.

## Data Protection & Cyber Security

Rebecca is ranked by Legal 500 as a "Rising Star" in IT & Telecoms and is described as "excellent: efficient, detailed and commercial. A brainbox when it comes to any and all IT and cyber disputes – she operates beyond her years." In 2023 Rebecca was shortlisted for Legal 500 Technology, Data and Crypto junior of the year.

Rebecca's data protection and cyber security experience includes claims involving breach of confidence, hacking and failings in internal processes. She has assisted medium to large organisations across a variety of industries including healthcare, technology, banking, travel and insurance. While at Dropbox her work touched upon issues regarding data protection and data security in the context of cloud technology.

## Featured Data Protection & Cyber Security cases

Instructed as junior counsel and sole counsel in relation to hundreds of claims, many of which involved representing

large international companies, for alleged distress, damages, and injunctions arising out of security incidents (including malware, phishing, DDoS and SQL injection) which led to third-parties gaining access to thousands of data subjects' data (personal, sensitive and financial).

Instructed as sole counsel representing several large international companies regarding claims for alleged misuse of private information, alleged failure to action a right to be forgotten request, breach of confidence and alleged breaches of PECR, GDPR and other data protection legislation arising out of the use of data subjects' data (such as soft opt-ins and direct marketing campaigns).

Acted as sole counsel advising a company regarding a claim for breach of the GDPR, misuse of private information and breach of confidence arising out of the use of photographs of a number of individuals in a company video.

Instructed as sole counsel defending several organisations in relation to claims arising out of the accidental sharing of sensitive information with third parties.

Instructed as sole counsel advising a public body on Standard Contractual Clauses and the scope of Schrems II.

Instructed as sole counsel advising on whether a series of breaches fell within the scope of the DPA 1998 or the DPA 2018/the GDPR.

Instructed as sole counsel advising on the scope of damages in light of the Supreme Court's decision in *Lloyd v Google*.

Instructed as sole counsel defending claims regarding alleged failures to comply with SARs in a variety of contexts including medical and employment relationships.

Instructed as sole counsel in a dispute for a large insurer regarding an alleged failure to keep an accurate record as required under data protection legislation.

## Banking, Financial Services & Fintech

Rebecca is ranked by Legal 500 a "Rising Star" in Financial Services Regulation.

Instructed both as sole and junior counsel, advising and representing private clients and regulators in several banking, financial services and fintech matters.

### Featured Banking, Financial Services & Fintech cases

*Tulip Trading Limited v Bitcoin Association for BSV and others*. The Claimant is a holding company said to be beneficially owned by Dr Craig Wright. It is alleged that Dr Wright was subject to a computer hack resulting in the loss of his ability to access certain amounts of cryptocurrencies. It is claimed that the Defendant developers owe tortious and/or fiduciary duties to re-write the software in order to enable access to the cryptocurrencies. Rebecca, along with Matthew Thorne, acts for the Fifteenth and Sixteenth Defendants.

*Financial Conduct Authority v Page & Ors*. [2022] UKUT 00124. Acted for the FCA as junior counsel in a five week Upper Tribunal case involving five references from FCA Decision Notices in respect of three IFA firms and individuals involved in hundreds of pension transfers from retail individuals to SIPP's for investment in offshore loan notes and bonds involving millions of pounds. Issues of integrity, dishonesty and recklessness. Acting in consequential appeals and judicial review

claims.

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Instructed as junior counsel for the FCA in case involving two references from FCA Decision Notices. The case concerns issues of recklessness arising out of the investment of funds into high-risk investments.

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Instructed as sole counsel for the FCA in a case involving the referral of a supervisory notice arising out of a failure to provide an adequate business model and a failure to communicate in an open and cooperative manner with the regulator.

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Instructed as sole counsel on behalf of a cryptocurrency lending company that sought permission to appeal against a County Court judgment. One of the grounds of appeal related to the novel point of the applicability, or non-applicability, of the Consumer Rights Act 2015 in the context of cryptocurrencies.

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Instructed as sole counsel defending a cryptocurrency advisory company against a claim worth hundreds of thousands of pounds brought by a customer for negligence and breach of GDPR.

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Instructed as sole counsel in a dispute regarding the hacking of a wallet resulting in the loss of cryptoassets and subsequent tracing of those assets. Drafted pleadings (relating to an injunction and the underlying claim) and advised on steps to pursue the hacker and the exchange which received the onward transfer.

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Instructed as sole counsel in a case concerning the instruction of a consultant to provide advice on cryptoassets. Included advising on an application to restore a company to Companies House and advice on the merits.

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Instructed as sole counsel in a dispute regarding closure of a bank account for alleged misuse of the account for cryptoasset transactions.

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Instructed as sole counsel in various claims relating to alleged fraudulent bank transactions.

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Advised a Fintech company in respect of the termination of a client account for speculative trading and refusing to account for profits to the client.

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Instructed as sole counsel advising an organisation in relation to issues arising in its IT rollout relating to open banking.

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Instructed as junior counsel advising on a purported breach of section 19 of FSMA arising from dealing in investments as principal in relation to commodity derivatives trading.

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Instructed as sole counsel advising a financial adviser in relation to an appointed representative acting outside the scope of their instructions.

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Instructed as sole counsel representing a large bank defending a claim that it was responsible for direct debits being received by an incorrect entity.

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## General Commercial Disputes

Rebecca has experience of a wide range of commercial disputes, both in litigation and in arbitration. In addition to the commercial disputes listed above, Rebecca has been instructed in the following matters.

## Featured General Commercial Disputes cases

Instructed as sole counsel in a number of cases defending a leading car manufacture against claims under the Consumer Rights Act 2015 and for breach of guarantee/warranty for alleged defective vehicles.

Acted as sole counsel providing advice in a dispute regarding a TV licensing agreement with a broadcaster.

Advised a global insurer in relation to business interruption insurance cover in the context of the coronavirus (COVID-19) pandemic in the UK in connection with the FCA test case (*The Financial Conduct Authority v Arch Insurance (UK) Ltd and others*).

Acted as sole counsel representing a rare art dealer defending a claim for rescission of the contract and damages for fraudulent misrepresentation.

Acted as sole counsel in a trial between a gold and platinum award winning song performer and music manager relating to unpaid royalties.

Instructed as sole counsel in a claim regarding whether certain payment obligations, arising as a result of a failure to meet certain KPIs or SLAs, amount to a penalty provision.

Instructed as sole counsel in a claim relating to defects in a factory logistics system.

Instructed as sole counsel in a case relating to an alleged breach of director's duties in the use of company funds.

Instructed as sole counsel seeking a declaration and mandatory injunction for delivery up of goods wrongfully retained.

Instructed as sole counsel in a case regarding a company director disputing liability under a personal guarantee entered into for the benefit of the company.

Instructed as sole counsel in a number of claims regarding rectification of the Companies House Register.

Instructed as sole counsel in relation to an insurance claim in respect of a public body's alleged negligent misstatement in public records which resulted in pure economic loss.

Advised on a matter regarding the application of the Groundhandling Directive in relation to the supply of jet fuel to a European airport.

## Energy & Construction

Rebecca has acted in a wide range of energy and construction disputes. Rebecca's experience has a strong international focus, including projects in Yemen, Qatar and Kuwait.

## Featured Energy & Construction cases

Instructed as junior counsel in *Dana UK AXLE Ltd v Freudenberg FST GmbH* [2021] EWHC 1413 (TCC), an application relating to the exclusion of expert evidence.

Instructed as junior counsel for the Ministry of Defence in a multi-million pound dispute relating to the redevelopment of

a military hospital. Issues included risk allocation, design obligations, delay and liquidated damages.

Instructed as junior counsel in a termination dispute concerning the construction of an oil and gas production facility in the Middle East.

Instructed as junior counsel in a number of claims arising out of PFI contracts including: a claim regarding cladding and fire defects which arose in the context of the financing, design and construction of a hospital; a claim regarding the scope and standard of work required under a PFI contract for the refurbishment and maintenance of a large housing project; and a claim arising out of a project relating to the conversion of housing on a number of sites.

Instructed as junior counsel in an application relating to a Qatari arbitration arising out of the Doha airport project.

Instructed as junior counsel in relation to a claim arising out of the alleged overheating of a large apartment complex.

Instructed as junior counsel and sole counsel in a number of adjudications.

Instructed as sole counsel advising on the meaning of possession and access under a JCT contract.

## Professional Negligence

Rebecca has gained experience in a variety of professional negligence disputes. This experience includes allegations of negligence against software developers, consultants, surveyors, architects and lawyers. She also co-authored the chapter on professional liability in 'The Law of Artificial Intelligence' (Sweet & Maxwell, 2020).

## Independent reviews

In 2022-2023 Rebecca acted as sole counsel to the review undertaken by Sir Bill Jeffrey into the Independent Press Standards Organisation (IPSO) – the regulator of the UK's newspapers and magazines. The review considered issues relating to the independence of the regulator, its effectiveness as a regulator and the future impact of technology on the regulation of newspapers and magazines.

## Publications

Rebecca is a contributing author to several journals and online sources including the Butterworths Journal of International Banking and Financial Law, Lexis Nexis, the Oxford Business Law Blog, the Society of Computers and Law, the King's Inns Law Review and the Hibernian Law Review. Recent publications include:

- Co-author of 'A Practical Guide to Quantum Computing and the Law' (forthcoming)
- Contributing author to 'The Law of Artificial Intelligence' (Sweet & Maxwell)
- Contributor to the AI chapter of 'The Encyclopedia of Information Technology Law' (Sweet & Maxwell).
- 'Landmark decision regarding the ICO's discretion in handling data protection complaints (Delo v ICO)' Lexis Nexis (October 2023)

- 'Dojima rice and digital assets: new tech, old problems? Market manipulation by cryptocurrency exchanges' Butterworths Journal of International Banking and Financial Law (December, 2022)
- 'Worth the candle? High Court guidance on low value data protection claims' Lexis Nexis (February 2022)
- 'The Digital Dispute Resolution Rules: the future of digital disputes' Butterworths Journal of International Banking and Financial Law (June, 2021)
- 'Opening innovation or opening up to risk? The potential liability framework for Open Finance' Butterworths Journal of International Banking and Financial Law (January, 2021)
- 'Schrödinger's Cat, Einstein's Dice and the Chandelier: A Novice's Guide to Quantum Computers' Comps. & Law (2019)

## Memberships

- ChIPs
- Commercial Bar Association
- Society for Computers and Law
- International Association for Artificial Intelligence & Law
- Co-Chair of the Society for Computers and Law, Women in Technology group
- Editorial Committee of the Tech Disputes Network
- Committee member of the Technology & Construction Bar Association

## Education

- Lord Mansfield Scholarship, Walter Wigglesworth Scholarship, Buchanan Prize and Hardwicke Entrance Award (Lincoln's Inn)
- Advocacy Scholarship (University of Law)
- Entrance Exhibition Scholarship (Trinity College Dublin)
- LLB (Honours), Trinity College Dublin (First Class)
- BPTC, University of Law (Outstanding)