

MALLESONS STEPHEN JAQUES

Max Bonnell

Max Bonnell is a partner in our Sydney office where he specialises in commercial litigation and international arbitration. His work involves all forms of dispute resolution and spans a variety of fields including resources, telecommunications, contractual disputes, trade practices, banking, professional negligence and Corporations Act disputes.

Max is experienced in mediation and arbitration as well as litigation in each of the major Australian jurisdictions. Much of his recent work has involved disputes concerning complex technological problems.

Max is a Fellow of the Chartered Institute of Arbitrators and a Fellow of the Australian Centre for International Commercial Arbitration. He has published and lectured extensively in the field of international arbitration. He regularly appears as an advocate before international tribunals.

Max is an Adjunct Professor of Law at Sydney University, where he teaches International Commercial Arbitration.

Representative matters / transactions

International arbitration

- Acted in disputes that were subject to arbitration under the rules of the ICC, LCIA, CIETAC, ACICA, HKIAC and the Arbitration Federation of South Africa, as well as in ad hoc arbitrations, these disputes involved diverse industries (including mining, engineering, computer software, energy and financial services) and involved parties in several jurisdictions including Australia, France, India, the United States, Vietnam, Singapore, China, Bulgaria and South Africa; in recent times he has appeared as advocate before tribunals in London, Sydney, Hong Kong and Geneva
- Global Arbitration Review referred to his "reputation for disputes concerning technology" in its 2008 review of the world's top 100 international arbitration firms (in which Mallesons was the only Australian based firm to be listed); he was again noted as a leading practitioner in the GAR 100 in 2009 and 2010, when he was named as "lawyer to know in Sydney"
- Acted for Australian companies in ICC arbitrations against a French company (with a London seat); a Bulgarian company (with a Geneva seat); a Vietnamese joint venture (with a Geneva seat); and in LCIA arbitrations against Indian companies (with a seat in London) and an Argentinian company (with a London seat); he acted for an Australian exporter in a dispute with a Philippine government agency
- Acting for a United States engineering company in a dispute with an Australian company concerning the construction of an undersea oil pipeline

- Advising parties to international financing transactions on the potential application of bilateral investment treaties and ICSID arbitrations
- Acting for an Australian investor in a claim against the Republic of India under the Australia - India bilateral investment treaty
- Acting in the arbitration of a complex contractual dispute between an electricity retailer and its supplier
- Advising an English client on the enforceability of a French arbitral award in Australia, and enforcing an LCIA award for an English client
- Advising on the processes of the Court of Arbitration for Sport
- Advising on the drafting and interpretation of arbitration agreements
- Awarded a Diploma in International Commercial Arbitration by the Chartered Institute of Arbitrators (London)
- Fellow of the Chartered Institute of Arbitrators (London), and
- Guest lecturer at the Diploma of International Commercial Arbitration course conducted by the University of NSW; speaker at the Hong Kong International Arbitration Centre "ADR in Asia" conference; speaker at the 2008 ACICA conference; lecturer at the Diploma of International Arbitration course held in Kuala Lumpur, 2008 and in Sydney, 2009; delivered a paper on emissions trading schemes and investment treaties at the Sydney University conference on Investment Law and Arbitration, 2010. He spoke on "Arbitration and State Parties: Where Next?" at the conference to mark the 25th anniversary of the HKIAC in November 2010.

Recent publications

- Australian editor of the Encyclopaedia of International Commercial Litigation (Kluwer Law International)
- "Arbitration Agreements and Urgent Interlocutory Applications: AED Oil v Puffin" (2010) 76 Arbitration 357-360
- "When is an Arbitration Agreement 'Inoperative'?" [2008] Int A.L.R. 111
- "The Bakun dispute: Mandatory national laws in international arbitration" (2007) 81 ALJ 259
- "Third Party Funding", Global Arbitration Review, Volume 3, Issue 1, 35

- "The Trade Practices Act: Australia's international Arbitration Headache" [2007] Int A.L.R. 170
- "HIH Casualty & General insurance Ltd (In liquidation) v R J Wallace" [2007] Int A.L.R. N-10
- "How not to Arbitrate: Pan Australia Shipping Pty Ltd v The Ship 'Comandate'" (2006) 72 Arbitration 391-395
- "Arbitrability of competition disputes in Australian law" (2005) 79 ALJ 585, and
- Chapter on Australian lex arbitri in "International Arbitration: A Country-by-country look at alternative dispute resolution methods".

Disputes involving complex technology

- Acting for Jones Lang LaSalle in a dispute over a failed software implementation
- Acting for a major bank against management consultants in a dispute over a failed software implementation
- Acting in a claim against the manufacturer of complicated electronic signalling equipment, and
- Acting in complex litigation between telecommunications carriers.

Other significant commercial litigation

- Acting for a major professional partnership in a large professional negligence claim made by the liquidator of the Bond companies, and
- Acting for IAG Insurance Limited in contractual disputes and negotiations with NRMA Limited.

Corporations Law

- Advising and appearing for clients in connection with investigations conducted by ASIC in relation to matters such as continuous disclosure obligations
- Representing clients in ASIC examinations, and
- Advising, and acting for, clients engaged in schemes of arrangement.

Competition law

- Defending a complex claim in the Federal Court under section 46 of the Trade Practices Act in the telecommunications industry, and

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- Acting in a major section 46 claim in relation to the pay television industry.

Sports law

- Acting for Cricket NSW in its call for tenders for provision of venues for major matches
- Advising Cricket NSW on issues concerning sponsorship
- Advising the Sydney Swans on contractual issues
- Acting for the Australian Jockey Club in a property dispute
- Acting for a French petrol supplier in a dispute concerning its ability to supply fuel to participants in Australian motor racing
- Advising athletes on appeal processes in the Court of Arbitration for Sport, and
- Acting in player disciplinary proceedings on behalf of Cricket NSW.

Qualifications

- 1983: Bachelor of Arts (Hons), University of Sydney
- 1985: Master of Arts, University of Warwick (UK)
- 1989: Bachelor of Laws, University of Sydney
- 1989: Solicitor, Allen Allen & Hemsley
- 1993: Senior Associate, Allen Allen & Hemsley
- 1995: Solicitor, Mallesons Stephen Jaques, Sydney
- 1996 - 1998: Senior Associate, Mallesons Stephen Jaques, Sydney
- 1999 - present: Partner, Mallesons Stephen Jaques, Sydney.
- 2009: Adjunct Professor, Sydney University

Professional memberships

- Law Society of New South Wales

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- Accredited as a mediator by LEADR
- Admitted to practice as a barrister and solicitor of the Supreme Courts of New South Wales, South Australia, Victoria and Western Australia
- Fellow of the Chartered Institute of Arbitrators (London)
- Fellow of the Australian Centre for International Commercial Arbitration