

Patrick Heneghan

Year of Call: 1997

Email Address: patrick.heneghan@3pb.co.uk

Telephone: 020 7583 8055



Commercial

Patrick Heneghan has a broad commercial practice covering a wide range of company/commercial matters and industry sectors and frequently involving multiple jurisdictions and dispute resolution mechanisms. Patrick is deputy head of our commercial group.

Patrick is typically instructed in relation to:

- Commercial contractual disputes
- Disputes in relation to contracts for the supply of goods and services
- Professional negligence claims
- Insurance claims
- Disputes arising under joint ventures
- Finance disputes
- Breaches of director's duties
- Shareholder and partnership disputes, and
- Infringements of competition law.

As well as his experience in the Business and Property Courts in the UK (including the Commercial Court), Patrick has a particular interest in international arbitration. Patrick has acted for clients in variety of European, Asian, African and Middle Eastern seats and under all the major institutional rules (including ICC, LCIA, AAA/ICDR, SCC, HKIAC, DIAC, UNCITRAL and ICSID). These disputes have covered not only commercial claims but also investor state disputes. Patrick's work in this area has been recognised in the leading legal directories and also by the Financial Times' in its *"Innovative Lawyers Report"*. Published extensively in the field of international arbitration, Patrick was the joint-general editor of the 4th edition and 5th editions of Thomson Reuters' Arbitration World.

Patrick accepts appointments as arbitrator.

Recent matters include acting for:

- A UK plc in claims against its energy adviser and energy supplier in a multi-million pound breach of contract and professional negligence dispute relating to its energy trading activities intended to hedge its risk in relation to the conflict in Ukraine.
- A UK supplier in respect of a High Court claim for breach of contract brought by a high-net worth individual for the late delivery of a recreational vessel. The dispute includes claims for extensions of time and frustration arising from the delayed delivery of the vessel, and a counterclaim for losses arising from the claimant's failure to pay the purchase price

by the due dates.

- A claimant in respect of professional negligence claims against a number of firms of solicitors in respect of their handling of claims against a developer for defects in residential premises.
- A technology services provider in a dispute regarding the award of an exclusive license to the winning bidder. The dispute included a claim for breach of contract against the winning bidder arising from its decision to utilise the services of an alternative services provider and for breach of confidentiality arising from the use of the technology provider's confidential information during the bid process.
- A local authority in relation to a claim for fraud against one of its service providers in respect of the cost of services provided during the COVID pandemic.
- Insurers in relation to a significant group litigation claim against a technology company for an anti-competitive agreement with another technology company and abuse of a dominant position in relation to auctions for web display advertising.
- An African airline against its Dublin based lessees in relation to the late re-delivery of two Boeing 747 aircraft due to delays arising from the certification of enhanced ground proximity warning systems. Disputes included whether the airline's delay in redelivery caused the loss complained of by the lessees arising from the significant fall in the market value of the aircraft due to market conditions occurring after the contractual date for redelivery.
- An international auction house in respect of a professional negligence claim brought by the consignors of an old master painting for failing to identify that the painting was a lost painting by a better-known artist and, therefore, significantly more valuable than the auction estimate and the amount for which the painting was ultimately sold at auction.
- Acting for a leading bank in respect of a default by a high net worth individual under a loan agreement. This representation involved successfully obtaining freezing orders in England and Jersey and advising in respect of enforcement action in the BVI, Delaware and Jersey.

Representative international arbitration matters include acting for:

- A global industrial company in respect of disputes arising from its interest in one of the largest open cast iron ore mines in Africa. The disputes included commercial arbitration against the co-owner, seated in Johannesburg, concerning breach of a joint ownership agreement; a claim against the government of the relevant African country for expropriation of the company's assets under a bilateral investment treaty; and assisting in relation to judicial review proceedings before the local courts.
- The respondent shareholder companies in LCIA arbitration proceedings in London in relation to a dispute over control of one of the world's largest producers and manufacturers of titanium products. The disputes concerned the exercise of put and call options in a shareholder agreement and involved obtaining anti-suit injunctions in the BVI to restrain proceedings commenced in New York, Cyprus and elsewhere in breach of an agreement to arbitrate.
- One of India's leading real estate developers in a series of connected LCIA arbitrations seated in London in respect of disputes arising out of a slum rehabilitation development project in India.
- Minority shareholders in relation to one of Eastern Europe's largest social online networking services in parallel arbitration and multi-jurisdictional litigation proceedings. The disputes included claims for breach of director's duties due to the diversion of certain corporate opportunities in the form of instant messengers, minority shareholder actions (in the BVI) and a claim for breach of a shareholders' agreement (LCIA arbitration London).
- A number of pharmaceutical companies and their affiliates in a series of *ad hoc* arbitrations, seated in London, concerning coverage disputes under Bermuda Form insurance contracts, under both New York and English law, in relation to a range of pharmaceutical products including a diabetes drug, selective non-steroidal anti-inflammatories, hormone replacement therapy, 4th generation oral contraceptives and the use of a new antibiotic for the treatment of children suffering from epidemic meningitis during a clinical trial in East Africa. Disputes included claims for material non-disclosure; that the injuries experienced were expected and intended by the insureds, and therefore excluded under the policies; and that costs incurred, and for which coverage was sought under the policies, related to both matters which were insured and matters which were not insured.
- Affiliated Asian energy companies against an oil and gas major in joined ICC arbitrations, seated in Hong Kong, in relation to disputes arising under long-term take-or-pay gas contracts. The disputes concerned two combined cycle gas fired power stations with a joint output of 1.5GW and included claims for *force majeure* due to the national grid operator

curtailing the output of the plants.

- Bondholders in respect of arbitration proceedings under a bilateral investment treaty and ICC arbitration in relation to a policy of political risk insurance arising out of their investments in a Latin American country.
- A European electricity company in relation to disputes arising under a long-term energy supply and off-take agreement providing for arbitration under the ICC Rules in Stockholm.
- An African energy company in associated price review arbitrations (UNCITRAL Rules and seated Geneva) arising under a number of long-term liquid natural gas take-or-pay contracts. These disputes concerned the continuing relationship (if any) between the price of gas in the relevant market and the prices of a basket of alternative energy sources, as well as the purchaser's own actions as the incumbent and dominant supplier of gas in the relevant market.
- A US energy company in an ICC arbitration, seated in Paris, in relation to disputes arising out of a contract for the supply of equipment for a single-cycle dual-fuel power station in the Middle East.

Recommendations

Mr. Heneghan has been identified as a "rising star" in the Guide to the World's Leading Experts in Commercial Arbitration (2013) and as "up and coming" in Chambers UK (2015). He is also recommended in both The Legal 500, where he is praised by clients for "achieving results" (2012) and providing "technically sound advice" (2013), and Chambers UK, in which he is described as "superb" (2013) and a "quality individual" (2015).

His work was recently recognised in the Financial Times' "Innovative Lawyers 2014" report where one of his matters was "Highly Commended" in the Disputes Resolution field. He is also acknowledged by The American Lawyer as having participated in one of the highest-value international arbitrations of recent years.

Academic qualifications

- Inns of Court School of Law, Bar Finals. Middle Temple, Major Scholar
- Middle Temple, Major Scholar
- M.A., Downing College, Cambridge
- B.C.L., Brasenose College, Oxford

Professional qualifications & appointments

- Called 1997, Middle Temple

Professional bodies

- Member of the London Court of International Arbitration
- Member of the British Institute of International and Comparative Law
- Member of Technology and Construction Bar Association (TECBAR)
- Member of The Society of Construction Law
- Member of the Honourable Society of the Middle Temple