

Josephine Davies

CALL: 2006

✉ enquiries@twentyessex.com

☎ +44 (0)20 7842 1200

Languages: French (conversational)



Overview

Josephine specialises in all areas of commercial law and litigation. She has a unique skill-set combining:

- depth of legal knowledge (notably in competition law, intellectual property law, shipping law and private international law);
- strong technical understanding based on her scientific background (BA in Physical Natural Sciences and MSci in Chemistry);
- extensive and diverse litigation (including urgent injunction work) and arbitration experience.

Josephine has strong advocacy experience covering both trial and interlocutory work. She has appeared as sole counsel in the Court of Appeal, the High Court (Commercial Court, Chancery Division and Queen's Bench Division) and in international arbitrations and appeals from arbitration. Her trial experience includes cross-examination on fraud allegations and of financial and engineering experts.

Josephine has notable expertise in relation to the conflicts of laws and injunctions (anti-suit, freezing and relating to confidential information) as well as the commonly associated contempt proceedings.

Her work covers a range of sectors including IP, pharmaceuticals, science, technology and IT, distribution, shipping, commodities, shipbuilding, and energy. Josephine is recognised by the legal directories for commercial litigation, shipping and commodities work.

Publications

- Co-author of chapter on LCIA rules in Weigand (ed), *Practitioner's Handbook on International Commercial Arbitration* (3rd edn, Oxford University Press, 2019).

Josephine regularly writes case notes for external publication, e.g. LMAA newsletter and the Harbour Litigation newsletter, Harbour View.

Professional memberships

- Advocate (formerly the Bar Pro Bono Unit) and Free Representation Unit
- Bar European Group
- BIICL
- Commercial Bar Association: Chambers Representative
- Competition Law Association
- Fraud Lawyers Association; Young Fraud Lawyers Association
- LCIA Young International Arbitrators Group
- LMAA: Supporting Member
- South Eastern Circuit

Josephine's cases involve sophisticated technical matters, where clients benefit from her scientific background (BA in Physical Natural Sciences and MSci in Chemistry) and her postgraduate qualifications in competition and intellectual property law.

[Privacy notice](#)

Education

- University of Oxford: Postgraduate Diploma in Intellectual Property Law
- King's College, London: Postgraduate Diploma in EU Competition Law, Distinction
- City University, London: Bar Vocational Course, Outstanding
- City University: Graduate Diploma in Law, Distinction
- University of Cambridge: MSci (Chemistry), First Class
- University of Cambridge, Clare College: BA Nat Sci (Physical: Chemistry, Geology, Physics, Maths), First Class

Awards/prizes/scholarships

- Top Scholarships for BPTC (Lord Mansfield) and for GDL (Lord Bowen), Lincoln's Inn
- Winner of Sir Louis Gluckstein Advocacy Competition, Lincoln's Inn
- DLA Piper prize for highest overall mark in PG Dip Competition Law, King's College London
- Olive Ward Prize for Chemistry and Scholar, Clare College, Cambridge

Lectures/talks

- 'Bitcoin as property' as part of SCIA Shenzhen seminar on Legal Issues regarding Blockchain, Cybersecurity and Data Breach (2018).
- 'Pass-on in Competition Law damages claims' as part of Thomson Reuters Competition Law Conference (2018).
- 'Arbitrators and potential bias. What should they declare? When can they be removed?' at the Commercial Bar Association North America Meeting (2018).
- 'Guarantees in Shipbuilding' at Queen Mary University Maritime law Seminar (2016).

Josephine also delivers talks regularly to clients in her practice areas, e.g. jurisdiction and conflicts of law, and freezing injunctions.

Example cases

- *SAS Institute Inc v World Programming Ltd* [2020] EWCA Civ 599 (ASI), [2019] EWHC 2496 (Comm) (Apportionment), [2019] EWHC 2481 (Comm) (Injunction); [2018] EWHC 3452 (Comm) (Enforcement): represented the defendant software company which resisted the enforcement in England of a US\$26 million US court judgment (on fundamental public policy and estoppel grounds) successfully counterclaimed under the Protection of Trading Interests Act 1980 in relation to treble damages paid in the USA and obtained an unusual anti-enforcement/anti-suit injunction (led by Paul Lowenstein QC and Thomas Raphael QC and with Oliver Caplin and John Bethell).
- *Astex Pharmaceuticals v AstraZeneca AB* [2018] EWCA Civ 2444: acted for the claimant drug discovery company in its claim for milestone payments and royalties under a collaboration contract with the defendant multinational to find a new treatment for Alzheimer's Disease (led in Court of Appeal by Charles Hollander QC).
- *LMAA Arbitration and s 68 of Arbitration Act appeal* (2018): acted for the bareboat charterer and subsequent purchaser of two tugs in its claim for around €1 million in damages flowing from the tug's defective condition on delivery. Josephine also acted for the buyers to obtain dismissal on paper of the sellers' s 68 challenge to the award (sole counsel).
- *Simpson v Simpson* [2016] EWCA Civ 1306: acted for appellant successfully overturning a first instance decision to award only nominal damages of £500 in relation to her claim for conversion of goods that had been included in company accounts with a value of around £185,000 (sole counsel).
- *Spar Shipping v Grand China Logistics AS* [2016] 2 Lloyd's Rep 447 (CA): acted for the respondent in this landmark case holding that the payment obligation in a standard form charterparty was not a condition and finding that The Astra was wrongly decided. It also gave important guidance on repudiation/renunciation (led by Michael Coburn QC).
- *Hilding Anders Int AB v Vita Cellular Foams (UK) Ltd (PU Foam cartel) (Chancery Division 2016)*: acted for the claimants in a follow-on action for damages arising from the European Commission's 2014 decision finding a cartel (contravening Article 101 TFEU) in the PU foam sector (led by Sara Masters QC).
- *JSC Alfa-Bank v Reznik* Commercial Court, Knowles J, 27.02.17: acted for freezing injunction defendant successfully obtaining full remission of 18-month custodial sentence for breach of freezing injunction asset disclosure requirements (sole counsel).

- *Lakatamia Shipping Co Ltd v Su* [2015] 1 WLR 291 (CA); [2015] 1 Lloyd's Rep 216: represented the defendants in a US\$58 million claim arising from a derivatives (FFAs) warehousing transaction (led by John Jarvis QC and with Leonora Sagan).
- *SIAC arbitration* (2014): represented the respondents in a US\$70 million dispute arising from their termination of a 20-year global distribution agreement. The case involved analysis of market expert evidence and a three-week evidence hearing (led by Duncan Matthews QC).
- *Tesco Stores Ltd v Office of Fair Trading* [2012] CAT 31: represented the OFT defending its 2011 decision finding a concerted practice between major supermarkets to raise cheese retail prices – landmark decision on the “hub and spoke” infringement (led by Stephen Morris QC and Kassie Smith QC).

General commercial, insurance and finance

Josephine Davies has extensive experience of general commercial, insurance and finance cases in court and international arbitration.

Her cases include:

- LCIA Arbitration concerning cyber-fraud and email hacking.
- High Court proceedings for breach of confidence and infringement of the database right.
- *SAS Institute Inc v World Programming Ltd* [2018] EWHC 3452 (Comm): represented the defendant software company which resisted the enforcement in England of a US\$26 million US court judgment (on fundamental public policy and estoppel grounds) and successfully counterclaimed under the Protection of Trading Interests Act 1980 in relation to treble damages paid in the USA.
- Acting for payday lender in dispute with its financiers who had obtained a freezing injunction against it.
- Commercial Court claim on behalf of marine underwriter for anti-suit injunction and negative declaratory relief in relation to casualty said to result from overloading.
- *Astex Pharmaceuticals v AstraZeneca AB* [2018] EWCA Civ 2444: acted for the claimant drug discovery company in its claim for milestone payments and royalties under a collaboration contract with the defendant multinational to find a new treatment for Alzheimer's.
- *Lakatamia Shipping Co Ltd v Su*: represented the defendants in a US\$58 million claim arising from a derivatives (FFAs) warehousing.
- LCIA Arbitration in relation to multi-million dollar loan agreements.

SIAC arbitration – termination of 20 year global distribution agreement, multi-million dollar claims.

LCIA Arbitration (multimillion dollar) about tax indemnity in contract for the operation and sale of satellites

Atlas Elektronik UK Ltd v QinetiQ Ltd (Commercial Court) – acted for defendant to claim for some £12m for misrepresentation and breach of warranty on business sale.

Shipping, commodities and shipbuilding

Josephine Davies has a wide-ranging practice in the fields of shipping, commodities and shipbuilding and has been consistently ranked by the directories for her shipping and commodities work. She was sole counsel in the landmark charterparty case, *The Astra*, and junior counsel in the subsequent, legally related, *Spar Shipping v Grand China Logistics AS*. Since very early in her practice, she has conducted a number of LMAA arbitrations as sole counsel, including cross examination of experts, and parties benefit from her strong scientific background in many technical disputes (e.g. cargo contamination and engineering disputes). Her expertise in jurisdictional matters is also of assistance in many disputes.

Her cases in these areas include:

- LMAA arbitration concerning alleged frustration of a charterparty due to Covid-19.
- Nine linked LMAA arbitrations concerning rejection of newbuild bulkcarriers because of alleged stern tube bearing defects.
- Commercial Court anti-suit injunction in charterparty dispute (early redelivery, non-payment of hire and repudiation) to vindicate a London arbitration clause and restrain proceedings against managers in any forum.
- LMAA arbitration arising from a bareboat charter and sale contract (involving Barecon and the Norwegian Sale Form) and concerning alleged defects to the azimuth thruster system of two tugs.

- General voyage and time charterparty disputes, including:
 - *The Astra* [2013] EWHC 865 (Comm) and *Spar Shipping v Grand China Logistics AS* [2016] EWCA Civ 982 – landmark cases on the payment obligation in a standard form
 - LMAA arbitration for owners concerning substantial claim for demurrage arising from protracted detention of vessel due to alleged local import restrictions. Issues included the scope of “act of government” provisions in the charter;
 - Advice on liability for stowaways; and
 - LMAA arbitration on speed and consumption.
- Cargo claims, including:
 - LMAA arbitration arising from alleged contamination of biodiesel raising specific issues of market value where US law provides for tax credits;
 - LMAA arbitration arising from explosion of chemicals cargo, acting for cargo claimant;
 - *Marios G / Maersk Piper* (Commercial Court): highly technical dispute about degree and cause of contamination to cargo of gasoil; and
 - Commercial Court claim for loss of cargo resulting from seizure of vessel by pirates.
- Commodities claims, including:
 - LMAA arbitration concerning the sale of allegedly contaminated sulfuric acid;
 - Commercial Court claim concerning alleged period contract for delivery of petroleum products;
 - LMAA arbitration arising from failure to meet volume obligations under a coal sale agreement; and
 - LMAA arbitration concerning an alleged pricing variation or error in a contract for sale of propane and butane raising fundamental issues re agreement of contracts and also rectification.
- Bunker related claims, including:
 - LMAA arbitration for owners arising from long term bunker supply agreement and short delivery;
 - Advice to owners in relation to contaminated bunker claim against bunker suppliers and potentially back-to-back claim against charterers who had arranged to stem the bunkers; and
 - Advising on issues arising from the OW Bunkers collapse.
- Shipbuilding claims, including:
 - Various LMAA arbitrations for multi-millions representing various buyers of newbuild ships with suspected serious stern tube bearing defects.
 - LMAA arbitration for defendant builder facing claim of about \$10 million for alleged safety and stability defects;
 - LMAA arbitration concerning tank-top strength and whether there had been a breach of obligation to deliver or to accept delivery; and
 - LMAA arbitration concerning alleged delay and technical defect and claims for refunds in relation to a series of 7 hulls.
- Guarantee claims associated with charterparty, shipbuilding and other disputes.
- Marine insurance claims, e.g. in relation to total loss of vessel.
- Commercial Court claim for general average arising from seizure of vessel by pirates and subsequent ransom payment.

IP, breach of confidence, IT, pharmaceuticals, science and technology

Josephine Davies is an ideal choice for cases in the STEM fields because of her strong scientific background. She has a 1st class degree from Cambridge in natural sciences (having studied physics, geology and maths before specialising in chemistry, including medicinal chemistry). She continued her studies at Cambridge to obtain a 1st class masters degree in chemistry. In addition, Josephine has a postgraduate qualification in intellectual property law from Oxford. She combines this background with strong general commercial litigation and arbitration experience.

Her cases in this area include:

- *Trappit SA v American Express Europe* (ongoing, Chancery Division) claim for copyright infringement, breach of confidence and economic torts arising from alleged copying of airline ticket re-purchasing /price optimisation software.
- *GHS Global Hospitality Ltd v Beale* (ongoing, Chancery Division) claim for copyright infringement, breach of confidence

and database right infringement arising from alleged copying of hotel booking management software and client/business database.

- *Celgard LLC v Shenzhen Senior Technology Material Co Ltd* [2020] EWCA Civ 1293, [2020] EWHC 2072 (Ch): Representing respondent to a claim for breach of confidence (primary and vicarious) and under the Trade Secrets Regulation in relation to manufacture in China of battery separators. Judgment of Court of Appeal on jurisdiction and granting a preliminary injunction prohibiting import into England subject to expedited appeal. (With James Abrahams QC)
- LCIA Arbitration concerning cyber-fraud and email hacking.
- High Court proceedings for breach of confidence and infringement of the database right.
- Advice in relation to jurisdiction issues arising in Chancery Division mobile telecoms patent infringement and FRAND dispute.
- Advice and engagement with funders on potential abuse of dominance actions against a well-known platform based services provider.
- *SAS Institute Inc v World Programming Ltd* [2018] EWHC 3452 (Comm): a case arising from software development and concerning enforcement of a US Judgment in England. A fundamental issue was whether choice of jurisdiction and law could be used by an IP holder to avoid the effect of the Software Directive (and its equivalent in the Copyright Designs and Patents Act).
- Advice to global telecommunications/network supplier in relation to cyber-trespass.
- *Astex Pharmaceuticals v AstraZeneca AB* [2018] EWCA Civ 2444: acted for the claimant drug discovery company in its claim for milestone payments and royalties under a collaboration contract with the defendant multinational to find a new treatment for Alzheimer's Disease (Court of Appeal with Charles Hollander QC).
- International arbitration concerning operation of journal bearings and involving highly technical engineering and tribology evidence.
- Advice and preliminary claim in software licensing / copyright infringement dispute in Chancery Division.
- Arbitration concerning alleged technical failures in the azimuth thruster systems of two tugs.
- Advising on termination of research and development agreement and licence for hepatitis drug.
- LCIA Arbitration concerning gas exploration rights including interpretation of seismic imaging.
- LCIA Arbitration concerning alleged misrepresentations and technical failures in satellites.
- Various cases in the context of international trade concerning contamination of high value hydrocarbon cargoes.

Competition law

Josephine Davies has significant expertise and diverse experience of competition law litigation in the Competition Appeal Tribunal and the High Court. Josephine combines thorough substantive legal knowledge (having studied Competition Law at postgraduate level) with an excellent grasp of the economic concepts (where her undergraduate degree in physical natural sciences and completion of the Oxera course assist). In addition, Josephine's chemistry MSci and intellectual property qualifications make her well suited to FRAND and other pharmaceutical sector disputes.

In multi-jurisdictional litigation, her wider experience of conflicts of law issues is invaluable.

Josephine also has a good understanding of regulatory proceedings having acted for the CMA and advised on leniency and whistle blowing applications to the EU and UK authorities.

Her cases in this area include:

- Advice, in the context of European Judgment registration/enforcement, on the effect of allegedly anti-competitive agreements on underlying contract terms.
- Advice and engagement with funders on potential abuse of dominance actions against a well-known platform based services provider.
- Advice to UK market leading company on potential abuse of dominance / vertical restraints allegedly arising in relation to pricing and contract termination provisions.
- Advice on strategy to found English jurisdiction in global cartel claims having regard to anticipated reversion from Brussels-Lugano to common law jurisdiction rules following Brexit.
- Arbitration claim raising essential facilities doctrine and related abuses connected with control of a port and commodities shipping terms.

- Advice to global telecommunications/network supplier on operation of essential facilities doctrine and network access regulations.
- *Hilding Anders Int AB v Vita Cellular Foams (UK) Ltd* (PU Foam cartel) (Chancery Division 2016): instructed for the Claimants in follow-on action for damages which raised issues of market definition, umbrella damages, loss of business and the appropriate mechanism to permit effective settlement by one of a group of defendants (with Sara Masters QC).
- Advising supplier in a dispute with a major UK supermarket group in relation to the Groceries Supply Code of Practice and drafting a complaint.
- LCIA arbitration concerning validity of contract clause restricting gas supply to the European Union.
- *Tesco PLC v OFT* [2012] CAT 31: represented the OFT defending its 2011 decision finding a concerted practice between major supermarkets to raise cheese retail prices – landmark decision on the “hub and spoke” infringement (with Stephen Morris QC and Kassie Smith QC).
- Advising major UK bank on LIBOR investigation and leniency applications to EU commission.
- Advice in relation to health insurer “fee assured” scheme and potential price-fixing.

Private International Law (jurisdiction, conflicts, foreign judgments)

Josephine Davies has wide ranging private international law experience including under the Brussels I and Brussels II regimes and the common law. Frequently these issues arise in connection with anti-suit injunctions in support of both English court proceedings and English arbitration proceedings. She routinely advises on and assists with applications for permission to serve out of the jurisdiction.

Her cases include:

- *Trappit SA v American Express Europe* (ongoing, Chancery Division): jurisdiction dispute under Brussels I Recast concerning the application of Article 25 (exclusive jurisdiction clause) and Article 29 (lis pendens) in relation to a claim for copyright infringement, breach of confidence and economic torts (with Sara Masters QC).
- *Celgard LLC v Shenzhen Senior Technology Material Co Ltd* [2020] EWCA Civ 1293, [2020] EWHC 2072 (Ch): interim injunction claim and jurisdiction dispute concerning forum conveniens and the law applicable under the Rome II Regulation to breach of confidence claims and Trade Secret Regulation claims (with James Abrahams QC). At first instance also raised issues of service by alternative means founded on Covid-19 issues.
- *SAS Institute Inc v World Programming Limited* (Commercial Court) [2020] EWCA Civ 599, [2019] EWHC 2481 (Comm): interim anti-suit / anti-enforcement injunction on non-contractual basis to restrain enforcement measures in California.
- Advice on the effect of allegedly anti-competitive underlying agreements on the registration/enforcement of a judgment under the Brussels regime.
- Commercial Court anti-suit injunction on contractual and quasi-contractual basis in contractual dispute (debt, damages and repudiation) to vindicate a London arbitration clause and restrain proceedings against agents of the contracting party.
- *SAS Institute Inc v World Programming Ltd* [2018] EWHC 3452 (Comm): successfully resisted enforcement at common law of a US\$26 million US court judgment (on fundamental public policy and estoppel grounds) and successfully counterclaimed under the Protection of Trading Interests Act 1980 in relation to treble damages paid in the USA.
- Commercial Court anti-suit injunction on quasi-contractual basis in relation to an insurance claim under a policy subject to an exclusive jurisdiction clause in favour of the London High Court.
- Advice on strategy to found English jurisdiction in global cartel claims having regard to anticipated reversion from Brussels-Lugano to common law jurisdiction rules following Brexit.
- Confidential Commercial Court hearings relating to arbitration: scope of the English Court’s jurisdiction to commit non-party, non-English domiciled company directors and/or make orders for cross-examination of such directors.

Injunctions, contempt and interim applications

Josephine Davies has substantial experience of freezing injunctions, anti-suit injunctions and injunctions to protect confidential information. She has appeared led, and unled, for both applicants and respondents. She also has good experience of the commonly associated contempt and committal proceedings. More generally she appears regularly in serious interim applications, for example, applications for delivery up and relief from sanctions.

Her cases include:

- *Celgard LLC v Shenzhen Senior Technology Material Co Ltd* [2020] EWCA Civ 1293, [2020] EWHC 2072 (Ch): interim injunction to restrain import of battery film allegedly produced using material disclosed in breach of confidence and/or contrary to the Trade Secrets Regulation (with James Abrahams QC).
- *SAS Institute Inc v World Programming Limited* (Commercial Court) [2020] EWCA Civ 599, [2019] EWHC 2481 (Comm): interim anti-suit / anti-enforcement injunction on non-contractual basis to restrain enforcement measures in California.
- Commercial Court anti-suit injunction on contractual and quasi-contractual basis in charterparty dispute (early redelivery, non-payment of hire and repudiation) to vindicate a London arbitration clause and restrain proceedings against managers in any forum.
- *JSC Alfa-Bank v Reznik* (Commercial Court, 2017): full remission of 18 month custodial sentence for breach of freezing injunction asset disclosure requirements, despite opposition.
- *Lakatamia v Su* [2014] EWCA Civ 636: standard Commercial Court freezing injunction wording excludes assets of company wholly owned by injunction defendant.
- *E v M* [2013] EWHC 895 (Comm): obtained declaration that contempt for breach of freezing injunction asset disclosure had been purged; sentence remitted in full.
- *WPP 2005 Ltd v Sprint Logistics Ltd* (Chancery Division): interim delivery up application.
- *QBD* (confidential): urgent injunction restraining disclosure of extensive confidential information.
- *Lakatamia v Su* [2014] EWHC 275 (Comm) - relief from sanction of strike out.

Energy

Josephine Davies is a good choice for energy disputes because of her strong scientific background. She has a 1st class degree from Cambridge in natural sciences (having studied physics, geology and maths). She continued her studies at Cambridge to obtain a 1st class masters' degree in chemistry. In addition, Josephine has a postgraduate qualification in competition law from King's College London and is so well placed to deal with the competition issues which often arise in the context of energy disputes.

Her cases in this area include:

- Ad hoc arbitration in relation to tax exemptions for hydrocarbon exploration offshore Brazil (REPETRO).
- Commercial Court claim relating to capacity sharing agreement for liquified natural gas (LNG) terminal.
- LCIA arbitration in relation to injunctive remedy for breach of non-compete / confidentiality provisions in relation to gas exploration / supply agreement. Also raised issues of competition law.
- Arbitration concerning terms of long-term coal supply contract and port usage.

Recommendations

She is effective, sensible and on top of the evidence. [Chambers UK Bar 2021](#)

A very bright and attentive barrister; methodical, thorough and very articulate. [The Legal 500 UK Bar 2021](#)

Precise in her work and excellent in technical matters, she is also straightforward and pleasant to work with. [The Legal 500 UK Bar 2021](#)

Very user-friendly, structured, measured and thoughtful - assists in making difficult decisions with aplomb and tactically very effective. [The Legal 500 UK Bar 2021](#)

She is extremely responsive, very thorough and very clear." "She is good at the technical detail. [Chambers UK Bar 2021](#)

A bright, sparkly, well informed, team player, and a hard worker and good advocate. [The Legal 500 UK Bar 2020](#)

Josephine is seriously good on details and data, she also writes elegantly and her advocacy is on a par with many more senior barristers. [Chambers UK Bar 2020](#)

Precise in her work and excellent in technical matters, she is also straightforward and pleasant to work with. [The Legal 500 UK Bar 2020](#)

Tenacious and strong on the law and on expert evidence. [The Legal 500 UK Bar 2020](#)

She is able to get on top of the science and explain it in simple, straightforward terms. She is fantastically thorough, her drafting is excellent and she is easy to get on with. [Chambers UK Bar 2019](#)

Always impresses with creative solutions to complex problems. [The Legal 500 UK Bar 2018](#)

Responsive, knowledgeable and creative, she adds value at every stage. [Chambers UK Bar 2018](#)

A very strong advocate, very willing to go in to bat hard for her clients. [Chambers UK Bar 2017](#)

She is highly intelligent, very hard-working and very user-friendly. [Chambers UK Bar 2017](#)