

# Patricia Edwards

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Languages: French (conversational); German (conversational)



## Overview

Patricia has a broad commercial practice, with a particular emphasis on advising and acting on complex cases with an international dimension.

She advises and acts in a wide range of disputes, including very substantial and complex trials, both with leaders and alone. Patricia also regularly appears in high value international arbitrations.

Patricia's practice encompasses insurance, aviation, banking, international trade and private international law work. She also has considerable experience of intellectual property, sports and competition law disputes, and is uniquely well positioned to act in commercial and chancery cases that raise issues in these areas.

Many of her cases raise both difficult legal questions and technical factual issues, and she is experienced in dealing with, and cross-examining on, complex scientific and financial evidence. In addition to working with technical and financial experts, Patricia has worked with experts in a wide range of foreign laws.

Patricia also accepts appointments to act as an arbitrator.

## Professional memberships

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- Lloyd's Arbitration Scheme Arbitrators Panel: appointed to Tiers 1 and 2

## Education

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- University of Oxford, Brasenose College: Bachelor of Civil Law (2007)
- University College London: LLB Hons, First Class (2005)

## Example cases

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- Acting for the appellants in a case concerning the rights attaching to Class X Notes in a CMBS structure.
- Acting for Thai Airways in a US\$150 million Commercial Court dispute arising out of delay and non-delivery of aircraft seats.
- Successfully defending the right of the defendants to race as Team Lotus in Formula 1, against claims of contractual restraints and alleged trade mark infringement and passing off.
- Commercial Court claim arising out of payment for wind tunnel testing of Formula 1 cars, in respect of which Aerolab was found to have copied designs belonging to the Force India team.
- Acting on behalf of insurers in a long-running arbitration of a US\$10 million sue and labour dispute following the sinking of a vessel.
- Acting for the claimant in a follow-on damages claim arising out of the Office of Fair Trading's finding that Reckitt Benckiser abused its dominant position in relation to the sale of the medicine Gaviscon.
- Obtaining an urgent anti-suit injunction in response to the defendant's attempt to prevent a multi-million dollar arbitration from proceeding in England by applying for an anti-suit injunction from a foreign court.
- US\$200 million offshore oil drilling dispute arising out of the defendant's decision to postpone exploration of a site in Kenya where the claimant maintained it was contractually bound to drill.

## Commercial litigation and arbitration

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Patricia advises and acts in a wide range of commercial disputes, including very substantial and complex trials, both with leaders and alone. She has secured a variety of urgent interim relief measures in the Commercial Court, including anti-suit injunctions. In addition to the courts she also regularly appears in high value international arbitrations of commercial disputes.

She is recommended in the legal directories as being "*incredibly bright and diligent*" and "*very commercial and good in big cases*" with "*a phenomenal brain*", and "*her turnaround time for high-quality and complex submissions or opinions always impresses*".

- *Hayfin & Anor v Windermere VII Cmbs Plc & Ors* [2016] EWHC 782 (Ch) – Financial List case concerning the rights attaching to the Class X Note in a Commercial Mortgage-Backed Securitisation structure. Instructed on appeal from the decision of Snowden J in relation to issues of construction of the CMBS documentation, and the correct computation of the payments to be made to the holder of the Class X Note on two quarterly interest payment dates.
- *Thai Airways v Koito Industries* [2015] EWHC 1250 (Comm); [2015] EWHC 1476 (Comm) – acted for the claimant in a Commercial Court dispute concerning liability for delay and non-delivery under contracts for the supply of aircraft seats. Successfully recovered damages in excess of US\$100 million for losses suffered by the airline in consequence. Case raised many important legal issues including novel issues of mitigation.
- *Myers v Kestrel & ors* [2015] EWHC 916 (Ch) – dispute arising out of various financial instruments, including issues as to whether a minority loan note holder could object to a variation of its rights by the majority, the meaning of "modification" in a contract, and claims that some of the defendants were insolvent.
- *Brillante Virtuoso* [2015] EWHC 42 (Comm) – US\$80 million Commercial Court claim arising out of a piracy attack off Yemen, following which the vessel was alleged to be a CTL. Raised a series of novel issues of marine insurance law in relation to liability for and assessment of loss.
- *Minster v Simcoe* (28 March 2014) – Commercial Court claim in which the judge dismissed an application by the claimant for permission to substitute the assignee of its claims as claimant after the limitation periods had expired. He found that the criteria under CPR r.19.5(2) were satisfied, but in the exercise of his discretion he refused permission on account of the claimant's delay in bringing the application. As a result, the entirety of the action was dismissed.
- *Aerolab v 1Malaysia* – Commercial Court claim arising out of the claimant's work on the defendant's F1 car in wind tunnels, in respect of which it was found to have copied designs belonging to the Force India team. Disputes arise in respect of payments claimed in respect of the wind tunnel work, raising issues of alleged illegality in performance of the contract. Successfully defended an application for summary judgment and an interim payment into court: HQ12X03557 (13 March 2013).
- ICC arbitration – acted alone for the claimants, who own and licence a network of television channels and a viewing platform, in a contractual dispute with a licensee.
- *X v Y* [2013] EWHC 1104 (Comm) – defendants to challenges under sections 67 (jurisdiction) and 68 (serious irregularity) of the Arbitration Act 1996 successfully sought an order for security for costs. Teare J declined to order a payment into court of the damages awarded by the tribunal pending the court challenges.

- *Abbott & ors v RCI Europe* – representing a leading timeshare exchange network in group litigation brought by current and former members.
- *Guava & ors v Delunas* – proceedings arising out of termination of a long-term management agreement for operations in Afghanistan, raising issues including breach of contract and fiduciary duties, an allegedly subsisting partnership, and passing off.
- *Group Lotus v 1Malaysia & Team Lotus Ventures* [2011] EWHC 1366 (Ch) – acted for the defendants as junior counsel to Guy Moppuss QC. The claimant (manufacturer of Lotus sports cars) sought an injunction preventing the defendants from racing as Team Lotus in Formula 1 based on contractual restraints and alleged trade mark infringement.
- *Dana Petroleum v Woodside Energy* – junior to Iain Milligan QC in a seven week Commercial Court trial of a US\$200 million off-shore oil drilling dispute. The defendant decided to postpone exploration of a site in Kenya where the claimant maintained it was contractually bound to drill. The case raised novel and important legal issues of how to assess damages for any lost chance of discovering oil, in relation to which extensive geological and geochemical expert evidence was adduced. (Case settled at court.)
- *Private Trust v Director* – acted for Trust in Commercial Court proceedings against a former director.
- *Glencore v Delek* – acted for the claimant in a Commercial Court claim under a circle out agreement, by which gasoline was notionally sold through a chain of parties.
- LCIA arbitration – led by Andrew Baker QC in a two week arbitration arising out of a share sale agreement in respect of a Russian company, involving detailed valuation reports by expert accountants.
- *Umbro v Hudson Bay* – acting alone, successfully applied on behalf of Umbro to strike-out a damages claim brought by an American distributor of soccer-based clothing.
- LCIA arbitration – instructed on behalf of a contractor in relation to the termination of a long-term government contract for international work.
- *Dornoch v Westminster International* [2009] 2 All ER (Comm) 399, [2009] 2 Lloyd’s Rep 191 and [2009] 2 Lloyd’s Rep 420 – appeared as junior counsel to Jonathan Gaisman QC in two Commercial Court trials. Underwriters sought to take over ownership of a mega-size trailer hopper dredger which was a CTL following a collision. The cases raised issues of insurance and private international law, and provide leading authority on s.423 Insolvency Act 1986.

## Private international law

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Patricia has a strong background in issues of conflicts of law, and is regularly instructed to advise and act in relation to questions of jurisdiction and applicable law. She is also experienced in securing interim anti-suit injunctions in support of English proceedings.

- Anti-suit injunction in support of English arbitration – obtained urgent anti-suit relief from the Commercial Court in order to prevent the defendant obtaining an anti-suit injunction in a foreign court against the claimant and tribunal, in advance of the hearing of a multi-million dollar claim in an English arbitration.
- *Umbro v Global Brands Management Srl* [2011] EWHC 2614 (QB) (Gloster J) -acted alone for Umbro in a *lis alibi pendens* dispute under Council Regulation 44/2001. Unusually, despite the existence of some identical issues in the competing sets of proceedings in Italy, the court declined to exercise its discretion under Article 28 in respect of the remainder of the claim which Umbro was permitted to pursue in England.
- *Oil company v Foreign State* – high-value claim arising out of a foreign state’s levy of tax on oil production. The case also raised preliminary issues of jurisdiction, arbitral seat and the arbitrability of the claims.
- *Dornoch v Westminster International* [2009] EWHC 889 (Admlty), [2009] 2 All ER (Comm) 399 and [2009] EWHC 1782 (Admlty), [2009] 2 Lloyd’s Rep 420 – appeared as junior counsel to Jonathan Gaisman QC. Underwriters sought to take over ownership of a mega-size trailer hopper dredger which was a CTL following a collision. The doctrine of *renvoi* and the application of the *lex situs* rule were considered in the context of moveable property.

## Insurance and reinsurance

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Patricia “acts in a wide range of high-value insurance cases”, and has considerable experience of related areas such as valuation. She is recommended for insurance and reinsurance work in the legal directories, most recently described as “very intelligent” and “a very thorough and very skilled advocate”. In addition to appearing in the Commercial Court,

Patricia also acts in substantial international arbitrations of insurance disputes, where she is recommended as being “An excellent performer” with “a phenomenal brain”, and “very commercial and good in big cases”.

- *Brillante Virtuoso* [2015] EWHC 42 (Comm) – claim against war risks underwriters for US\$80 million arising out of a piracy

attack off Yemen, following which the vessel was alleged to be a CTL. Raised a series of novel issues of marine insurance law in relation to liability for and assessment of loss, including the correct approach to the measure of indemnity for unrepaired damage under the ITC-Hulls 1/10/83 and s.69 of the Marine Insurance Act.

- *Minster Insurance Co Ltd v Simcoe & Erie General Insurance Co* (28 March 2014) – Commercial Court claim in which the judge dismissed an application by the claimant for permission to substitute the assignee of reinsurance claims in place of the assignor as claimant after the limitation periods had expired. Although he found that the criteria under CPR r.19.5(2) were satisfied, in the exercise of his discretion he refused permission on account of the claimant's delay in bringing the application. As a result, the entirety of the action was dismissed.
- *Martem Ltd v QBE Insurance (Europe) Ltd* – acting for the assured in a dispute arising out of the terms of an insurance policy following a finding by HMRC that the assured's business transactions were connected with fraud.
- *Shipowners v Insurers* – instructed on behalf of insurers in a long-running arbitration of a US\$10 million sue and labour dispute following the sinking of a vessel. The case raised difficult and novel issues of insurance law, as well as questions relating to valuation and to marine insurance practice.
- Advisory work – in relation to liabilities of multiple commercial and state entities arising out of cosmetic surgery and silicone breast implants.
- *Dornoch v Westminster International* [2009] EWHC 889 (Admlty), [2009] 2 All ER (Comm) 399 and [2009] EWHC 1782 (Admlty), [2009] 2 Lloyd's Rep 420 – acted with Jonathan Gaisman QC. The case raised a number of issues under the Marine Insurance Act 1906 in the context of underwriters seeking to take over ownership of a mega-size trailer hopper dredger, which was a CTL following a collision.

## Energy, aviation, shipping and commodities

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### Energy

Patricia has been involved in a number of complex and high-value oil disputes, including disputes relating to drilling and exploration rights, foreign state taxes, oil trading, jurisdiction and damages for breach of commercial agreements.

- Commercial Court claim – arising out of sale of African petroleum interests and related issues of taxation.
- Arbitration – arbitration concerning exploitation of licences to drill Russian oil fields. The assessment of damages required detailed valuation reports by expert accountants.
- *Dana Petroleum v Woodside Energy* – junior to Iain Milligan QC in a seven week Commercial Court trial of a US\$200 million off-shore oil drilling dispute. The defendant decided to postpone exploration of a site in Kenya where the claimant maintained it was contractually bound to drill. The case raised novel and important legal issues of how to assess damages for any lost chance of discovering oil, in relation to which extensive geological and geochemical expert evidence was adduced. (Case settled at court.)
- *Oil Company v Foreign State* – complex claim arising out of a foreign state's levy of tax on oil production.

### Aviation

Patricia has a growing aviation practice including particular experience in relation to international commercial contracts and leasing disputes, international safety standards and technical mechanical and engineering issues. She is recommended for work in aviation; the Legal 500 notes that "*Her drafting is first class and she has excellent judgement on which points are worth pursuing*".

- *Thai Airways v Koito Industries* [2015] EWHC 1250 (Comm); [2015] EWHC 1476 (Comm) – acted for the claimant in a Commercial Court dispute concerning liability for delay and non-delivery under contracts for the supply of aircraft seats. Successfully recovered damages in excess of US\$100 million for losses suffered by the airline in consequence. Case raised many important legal issues including novel issues of mitigation.
- ICC arbitration – claims in relation to multiple aircraft arising out of compliance with international regulations and alleged breaches by manufacturer.
- *NAS v Wind Rose* – Commercial Court claim under aircraft leasing agreements, including technical issues as to the condition in which aircraft were kept and returned and the cause of engine problems.
- *Minster v Simcoe* (28 March 2014) – Commercial Court claim in which the judge dismissed an application by the claimant for permission to substitute the assignee of aviation reinsurance claims in place of the assignor as claimant after the limitation periods had expired. Although he found that the criteria under CPR r.19.5(2) were satisfied, in the exercise of his discretion he refused permission on account of the claimant's delay in bringing the application. As a result, the entirety of the action was dismissed.

## Shipping and commodities

Patricia advises and acts in a wide range of shipping and commodities matters, with a particular emphasis on high value contractual and insurance disputes. She has acted in a number of substantial arbitrations arising out of non-performance of long-term COAs, raising a wide variety of issues as to liability and quantum. She has also been instructed on several large shipbuilding disputes, including claims for damages following alleged wrongful termination of contracts. In interim court proceedings, she has successfully obtained a variety of interim relief measures to protect contractual rights, including anti-suit injunctions in support of English proceedings.

- *Brillante Virtuoso* [2015] EWHC 42 (Comm) – US\$80 million Commercial Court claim arising out of a piracy attack off Yemen, following which the vessel was alleged to be a CTL. Raised a series of novel issues of marine insurance law in relation to liability for and assessment of loss.
- *ITC Offshore BV v Marsol DP2 Shipping Ltd & Marine Logistics Solutions (Marsol) LLC* – Commercial Court dispute arising out of the exercise of purchase options in respect of two vessels under bareboat charters. Issues include alleged breaches and termination of the charters, whether the purchase options were exercised validly, and discharge of mortgages over the vessels.
- *X v Y* [2013] EWHC 1104 (Comm) – defendants to challenges under sections 67 (jurisdiction) and 68 (serious irregularity) of the Arbitration Act 1996 successfully sought an order for security for costs. Teare J declined to order a payment into court of the damages awarded by the tribunal pending the court challenges.
- *Buyers v Shipyard* – instructed by shipyard in an arbitration in relation to a US\$25 million guarantee dispute raising a variety of complex construction issues.
- Arbitration – successfully acted in an arbitration of a multi-million dollar dispute arising out of a long-term contract. Issues raised included force majeure and frustration in the context of the global financial crisis.
- Shipowners v Insurers – instructed on behalf of insurers in a long-running arbitration of a US\$10 million sue and labour dispute following the sinking of a vessel.
- *Glencore v Delek* – acted for the claimant in a Commercial Court claim under a circle out agreement, by which gasoline was notionally sold through a chain of parties.
- LMAA arbitration – acted with Robert Bright QC for the successful respondents to a claim worth in excess of US\$100 million concerning valuation of vessels and raising issues of construction of purchase options.
- Shipowner v Shipper – arbitration to determine liability for US\$17 million of losses suffered following a large coal fire onboard a vessel.
- *The WD Fairway* [2009] 2 All ER (Comm) 399, [2009] 2 Lloyd's Rep 191 and [2009] 2 Lloyd's Rep 420 – appeared as junior counsel to Jonathan Gaisman QC in two Commercial Court trials of disputes relating to a mega-size trailer hopper dredger which became a constructive total loss following a collision.
- *Disponent Owner v Charterer* – multi-million dollar arbitration in relation to liability to perform under a long-term contract of affreightment, the timing of shipments to be performed, and the applicable principles in the assessment of damages.
- Owners v Charterers – acted successfully (alone) in an arbitration involving cross-examination on detailed expert evidence regarding a vessel's ability to berth safely at a particular port in light of its characteristics and equipment.

## Sports, media and intellectual property

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Recommended as “A remarkably bright junior whose turnaround of high-quality work is astonishing”, Patricia accepts instructions in all areas of intellectual property and sports law. She has acted and advised in relation to a number of urgent IP matters, and has particular experience of trade mark licence litigation. She has an increasingly broad sports law practice, and has been instructed in disputes arising out of both the Olympic Games and the Commonwealth Games. Patricia also accepts appointments to act as an arbitrator.

- *QinetiQ v GEOdynamics* – Claims under a license concerning patents and technology. Issues arose as to whether the patents were infringed by a third party and the effect of infringement in the market if so.
- *Guava & ors v Delunas* – passing off claim in relation to use of the claimant's trading name in Afghanistan and neighbouring areas.
- *Group Lotus v 1Malaysia & Team Lotus Ventures* [2011] EWHC 1366 (Ch) – acted for the defendants as junior counsel to Mark Vanhegan QC and subsequently Guy Mopus QC. The claimant (manufacturer of Lotus sports cars) sought an injunction preventing the defendants from racing as Team Lotus in Formula 1, based on alleged trade mark infringement,

passing off and contractual restraints. Successfully defended a summary judgment application and the claims for infringement, an injunction and damages at trial.

- *Patent licensor v licensee* – acting for claimant under a licence dispute raising issues of potential infringement of a patent relating to oil wells.
- *Football sponsorship* – advisory work in relation to sponsorship agreement and licence of IP rights.
- *Michael v Buckley* – represented television actor in proceedings relating to a management agreement.
- ICC arbitration – acting alone for the claimants, who own and licence a network of television channels and a viewing platform, in a dispute with a content licensee.
- *Aerolab v 1Malaysia* – claim arising out of the claimant’s work on the defendant’s F1 car in wind tunnels, in respect of which it was found to have copied designs belonging to the Force India team leading to findings of breach of confidence and copyright infringement. Successfully defended an application for summary judgment and an interim payment into court: HQ12X03557 (13 March 2013).
- *UCI Inquiry* – appointed as counsel to the Independent Commission (Sir Philip Otton, Baroness Tanni Grey-Thompson and Malcolm Holmes QC) set up to investigate the Union Cycliste Internationale in the wake of the scandal surrounding Lance Armstrong and doping in professional cycling.
- *Leading Sports Brand v Licensee* – substantial ICC arbitration between a leading brand and a licensee, which involved detailed evidence given by branding experts and accountants.
- *Company v Former Employee* – domain name dispute raising issues of trade mark infringement and defamation.
- *Umbro v Hudson Bay* – acting alone, successfully applied on behalf of Umbro to strike-out a damages claim brought by an American distributor of soccer-based clothing.
- *Group Lotus v Caterham* – litigation arising out of the acquisition of the Caterham car company and related alleged joint-branding exercises. (Settled after trial, before judgment.)
- *English Football Team v Sports Brand* – dispute arising out of a long-term sponsorship contract and the interpretation of its provisions.
- *Umbro v Global Brand Management* [2011] EWHC 2614 (QB) – one of a number of cases in which Patricia has acted concerning production and sale of sports apparel under licence.

Patricia has been Editorial assistant of the European Trade Mark Reports and the European Copyright and Design Reports.

## Competition law

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Patricia’s cases regularly raise competition issues and she accepts instructions to act in all areas of competition law. She has a strong background in competition law, having studied it on the BCL at Oxford and carried out research for leading academics.

- *BMI Healthcare & ors v Competition Commission* [2013] CAT 24 – successful application to review the Commission’s decision to provide access to confidential material within a disclosure room on unduly restrictive terms, in the context of the investigation into the private healthcare market. Acting for HCA, the largest operator of private hospitals in central London.
- *Pinewood v Reckitt Benckiser* – acted for the claimant with Stephen Morris QC in a follow-on damages claim arising out of the OFT’s finding that Reckitt Benckiser abused its dominant position in relation to the sale of the alginate medicine Gaviscon. Further infringements of competition law are also alleged in the litigation.
- Arbitration – dispute as to whether the terms of a long-term licence agreement infringed Article 101 TFEU.