

WIPO LIST OF NEUTRALS

BIOGRAPHICAL DATA

David LEVIN K.C.
Clerk Green
Owen Dixon Chambers
Melbourne, VIC
Australia



Nationality: British/Australian

EDUCATIONAL AND PROFESSIONAL QUALIFICATIONS

B.A., (Economics and Law), University of Cambridge, 1971.

Barrister, England & Wales, 1972, Victoria, 1977;
Queens Counsel, Victoria, 1997.

Admitted as a barrister in the High Court of Australia and in all Australian States and Territories.

LANGUAGES

English

PRESENT POSITION

Queen's Counsel in private practice;
Nominee of the Victoria Bar to the Supreme Court Building Cases List Users Group;
Member of the Melbourne Technology, Engineering and Construction (MTEC) Chambers.

PROFESSIONAL EXPERIENCE BEFORE PRESENT POSITION

Alternate Director, Barfund Pty Ltd, the trustee of the Victorian Bar's superannuation fund from 1996-2003;

Former Director, Barrister Chambers Ltd., a company established by the Victorian Bar to own and
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manage freehold and leasehold properties to provide accommodation for barristers and to provide other ancillary services;
Former member of the BCL Communications Committee (BCL operates a 10/100 Ethernet System providing broadband Internet access for 730 members of the Victorian Bar and a large telephone network);
Former member of the BCL Renovations Sub-committee, overseeing a multi-million dollar renovation of Owen Dixon Chambers East;
Former Chair of the Victorian Bar Dispute Resolution Committee (2004-5);
Former President (2003-6), Treasurer and Public Officer, Victorian Society for Computers and the Law Inc.;
Convenor, Victorian Bar Computer Users Group 1991-95.

AREAS OF SPECIALIZATION

Construction and computer litigation.

MEMBERSHIP IN PROFESSIONAL BODIES

Grade 1 Arbitrator and Accredited Mediator of the Institute of Arbitrators and Mediators Australia;
Accredited Mediator of the Victorian Bar;
Member of the Chartered Institute of Arbitrators;
Member of the London Court of International Arbitration (LCIA).

EXPERIENCE IN INTELLECTUAL PROPERTY

Conducted various legal proceedings involving architectural and computer software copyright issues.

EXPERIENCE WITH RESPECT TO DOMAIN NAMES

See publications below and in particular Domain Name Dispute Resolution seminar.
Sole panelist in 8 domain name disputes (to May 2009).

MAJOR PUBLICATIONS

"It Takes Two to Tango: Judicial Encouragement of ADR" 30 May 2009 Paper presented to the IAMA 2009 Annual conference;
"The Final Result: A discussion paper on the final decision on the merits and costs in the Multiplex and Cleveland Bridge litigation in the English Technology and Construction Court arising out of the construction of the new Wembley Stadium" Article published in the BDPS Newsletter Issue 33 and in the Quarterly Newsletter of Building Disputes Tribunal (NZ) Ltd – Issue No 1 - March 2009;
"Slaying the Lernaean Hydra in Victoria: A critical comparison of the new Supreme Court Building Cases Practice Direction No 1 of 2008 and the English Technology and Construction Court practice with particular reference to the litigation between Multiplex and Cleveland Bridge arising out of the construction of the new Wembley Stadium" Presentation for Building Disputes Practitioners' Society 16 July 2008 and article published in the BDPS Newsletter Issue 32;
"e-Trials and e-Tribulations: the myths of electronic trials." Keynote address at the Legal Technology Conference at Melbourne University Law School 10 July 2008;
"Is a building contract specifically enforceable and if so, under what circumstances?" (2007) 23 BCL 16;
"Contributing author/speaker at seminar for the Supreme Court Judiciary entitled "Judicial Involvement in Techno-Trials Session Two – Pre Trial Session" *Supreme Court*, March 19, 2003;
"Building & Construction Industry Security of Payments Act 2002 (Vic)", Seminar for the Construction Section of the Commercial Bar Association, June 11, 2003;
"Cybersquatting, Cyberbullying, Typosquatting and Domain Name Dispute Resolution", Seminar to IP

solicitors for Green's List, June 24, 2003;
 Convenor of seminar entitled "On-Line Alternative Dispute Resolution" for the Victorian Bar ADR Committee in conjunction with the Victorian Society for Computers and the Law Inc, 26 August 2003;
 "Litigation, Computers and the Internet", *8th Greek/Australian International Legal and Medical Conference Corfu*, June 2001;
 "The End of Expert Determination?" *The Arbitrator & Mediator* August 2003 Volume 22 Number 2;
 "Sands & McDougall Wholesale – running accounts, s.122 Bankruptcy Act and the potential liability of the Australian Taxation Office to repay tax instalments as voidable preferences", *Workshop for Solicitors at Seabrook Chambers*, March 24, 1999;
 "Recent Developments in Arbitration and Construction Law", *Institute of Arbitrators & Mediators Australia (Victorian Chapter) in conjunction with Building Disputes Practitioners Society Inc*, November 18, 1998;
 "Damage without Loss: A Legal Conundrum", (1994) 11 BCL 2, February 1995.

EXPERIENCE IN COURT LITIGATION

Has been engaged as a barrister since 1972 in countless cases.
 Has acted as counsel in a number of computer disputes and cases involving the use of computers including *Integer Computing v Facom Ltd* (eighteen month special reference), *Madeley Pty Ltd (Venture Holidays) v Touche Ross* (three months before McGarvie J in relation to a nationwide distributed PC system), *Tasmania Bank v Peak Marwick*, *ACOHS Pty Ltd v Merck Pty Ltd* (Federal Court action involving copyright of computer programs, confidentiality etc), *Redflex Traffic Systems v American Traffic Systems* (Supreme Court action involving the installation of software for a computer controlled speed management road traffic system in British Columbia), *Kilpatrick Green Pty Ltd v Leading Synthetics Pty Ltd* (dealing solely with the admissibility of computer derived evidence and computer programs) and prior to trial in *RACV v Unisys* (Supreme Court action involving the alleged failure of a large computer installation). He also acted in the Metrail ticketing dispute for Fujitsu.

Construction Litigation

Has acted as counsel in numerous construction cases, run generally in the Victorian Supreme Court, including *Alucraft v Grocon Pty Ltd* (six actions), *Kilpatrick Green v Grocon*, *Hazlewood Power Corporation v Utilities Insurance*, *Kennedy Taylor v Crown Ltd*, *Kennedy Taylor v Grocon*, *TOJV v HyderCMP* (Melbourne CityLink), *Barwon Region Water Authority v Aquatec-Maxcon* and *A J Lucas v McConnell Dowell*.

PROFESSIONAL TRAINING IN MEDIATION

Attendee at the Advanced Mediation Workshop conducted by the Victorian Bar's ADR Committee in conjunction with Bond University – 13-15 November 1998;
 Mediator accredited by the Victorian Bar Inc's ADR Committee.

EXPERIENCE IN MEDIATION

Has acted over the past 10 years as mediator in a small number of matters proceeding in the Supreme Court of Victoria, the County Court of Victoria and the Federal Court of Australia.

Has represented clients at numerous mediations over 25 years.

EXPERIENCE IN ARBITRATION

Has undertaken numerous arbitrations involving construction projects on behalf of diverse clients in the construction industry such as VicRoads and A.V.Jennings Pty Ltd., also acted as junior counsel for GACV in a lengthy arbitration between Esso, BHP Petroleum and the Gas & Fuel Corporation of Victoria. In 2000, acted as Senior Counsel on behalf of the Commonwealth Dept of Finance &

Administration in two arbitrations run in Canberra before former High Court judge Sir Daryl Dawson.

Acted as sole arbitrator, between July and October 1998, in an arbitration involving a Queensland dredging company and six Melbourne councils in an extensive dispute in which both sides were represented by Senior and Junior Counsel and in which interim and final awards were ultimately delivered. Has acted in a number of other arbitrations as arbitrator which ultimately resolved prior to award.

Recently has acted for the constructor of a major freeway in a dispute relating to the tolling software.

ARBITRATION EXPERIENCE
SUMMARY TABLE

Type	Administering Institution		Role			
	Name	Number of Arbitrations	Presiding Arbitrator	Sole Arbitrator	Co-arbitrator	Counsel
International Arbitrations	AAA					
	ICC					
	LCIA					
	Ad Hoc					
Number of cases: sub-total						
Domestic Arbitrations	AAA					
	Ad Hoc	51				51+
	IAMA			3		
Number of cases: sub-total						
TOTAL		54+		3		51+

MEDIATION EXPERIENCE**SUMMARY TABLE**

Type	Administering Institution		Role	
	Name	Number of Mediations	Mediator	Counsel
International Mediations				
	Ad hoc			
Number of cases: sub-total				
Domestic Mediations (Estimates)	AAA			
	Court-annexed		Approx. 6	(45+)
	Ad Hoc			
Number of cases: sub-total				
TOTAL		51+	6	45+