

WIPO LIST OF NEUTRALS

BIOGRAPHICAL DATA

Leon TRAKMAN
Neutral Bay, NSW
Australia



Nationality: Canadian/Australian

EDUCATIONAL AND PROFESSIONAL QUALIFICATIONS

S.J.D., Doctor of Law, Harvard Law School, 1979;
L.L.M., Master of Law, Harvard Law School, 1973;
L.L.B., Bachelor of Law, University of Cape Town, 1971;
Bachelor of Commerce, University of Cape Town, 1971.

LANGUAGES

English, Afrikaans, and (reading) Dutch

PRESENT POSITION

UNSW Professor of Law and Immediate Past Dean, Faculty of Law, University of New South Wales, Sydney, Australia;
Certified Mediator and Arbitrator, specializing *inter alia* in trade and intellectual property disputes;
Barrister, New South Wales, Australia;
Barrister and Solicitor, Nova Scotia, Canada;
Advocate, Supreme Court of South Africa.

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PROFESSIONAL EXPERIENCE BEFORE PRESENT POSITION

Specialist in international commercial arbitration;

Decided over 100 domestic and international commercial arbitration disputes; currently serving on, among others, two ICDR panels of the AAA, one HKIAC panel as presiding arbitrator;

WIPO arbitrator presided over more than 25 WIPO domain name disputes, among other intellectual property disputes;

Mediator in 30 commercial disputes;

Chapter 19 Panelist under the Canada-United States Free Trade Agreement, 1993-94 and the NAFTA, 1994 to present;

Decided various disputes between the United States, Canadian, or Mexican Governments and corporate complainants, notably, on antidumping and countervailing duties;

Serve on the Chapter 11 roster of the NAFTA, on investment;

Consultant to private industry, government and bar associations on dispute avoidance and resolution;

Consultant to the parties negotiating and drafting a new constitution for South Africa, 1990-92;

Consultant to the Canadian Bar Association, responsible to evaluate the efficiency of alternative dispute resolution in business contracts, 1995;

Consultant in contract negotiating, drafting and interpreting contracts.

AREAS OF SPECIALIZATION

Commercial and international arbitration, including among others: patent, copyright and trademark and domain name disputes;

Panelist in various trade disputes among the NAFTA countries, e.g. over sugar, steel and baler twine, softwood lumber;

Consultant in drafting, negotiating and interpreting commercial contracts;

Consultant on alternative methods of dispute resolution, inter alia, to Canadian Bar Association.

MEMBERSHIP IN PROFESSIONAL BODIES

Barrister, New South Wales, Australia;

Barrister and Solicitor, Nova Scotia Bar Society;

Advocate, Supreme Court of South Africa, Cape Division;

Member, Nova Scotia Bar Society;

Member, Canadian Bar Association;

Member, New South Wales Bar Association;

Member, American Bar Association;

Member, Chartered Institute of Arbitrators, MCI Arb;

Board of Directors, various commercial arbitration and mediation centers, for example, The International Mediation Center, Dallas, Texas;

Academic Council, Institute of Transnational Arbitration;

Board of Directors of technology, investment and pharmaceutical companies, among others;

Roster of commercial and international arbitration and mediation associations, e.g.:

International Center for Dispute Resolution of the American Arbitration Association (ICDR);

International Institute for Conflict Prevention and Resolution [CPR];

London Court of International Arbitration (LCIA);

International Chamber of Commerce (ICC);

Hong Kong International Arbitration Center (HKIAC);

Australian Center for International Dispute Resolution (ACICA);

Board of editors or advisors, current or past, *Journal of Insurance Law*, *Journal of Company Law*, *Canadian Journal of Insurance Law*, *Dalhousie Law Journal* and *Constitutional Commentary*, *New South Wales University Law Journal*; *South African Law Journal*;

Chair or member of public foundations allocating funds to professional and academic groups, including past chair of Committee 11 of the Social Sciences and Humanities Research Council; Bora Laskin National Prize Committee; and Molson National Prize Committee, Canada.

EXPERIENCE IN INTELLECTUAL PROPERTY

Ongoing involvement in deciding patent, copyright, trademark and domain name disputes over a 30 year period, including presiding over disputes involving patents, copyright, trademark and domain names;

Experience includes serving as an arbitrator in IP disputes, inter alia, by appointment of the American Arbitration Association, the World Intellectual Property Association and the Hong Kong International Arbitration Center;

Consulting on intellectual property disputes involving patent and copyright issues in particular;

Publications on contractual disputes in e-commerce and their significance for intellectual property.

EXPERIENCE WITH RESPECT TO DOMAIN NAMES

Appointed to decide over 25 domain name disputes, predominantly under WIPO jurisdiction;

Domain Name panelist, inter alia, Domain Island, Universal Registry, BCICAC, Hong Kong; Panelist, Domain Name Dispute Resolution, and WIPO Arbitration and Mediation Center.

MAJOR PUBLICATIONS (Selected)

Publications on, inter alia, international trade and investment law include intellectual property

Books

Co-Author, "International Investment Law", *Oxford University Press*, 2013;

Co-author, "International Business Law", *Oxford University Press*, 2010;

Co-author, "Doing Business in Mexico", *Transnational Legal Publ*, NY, 2002;

Co-author, "Rights and Responsibilities", *University of Toronto Press*, 1999;

Author, "Dispute Settlement under the NAFTA: Manual and Sourcebook", *Transnational publishers, New York*, 1997;

Author, "Reasoning with the Charter", *Butterworths Canada*, 1991;

Author, "The Law Merchant: The Evolution of Commercial Law", *Rothman*, 1983;

Editor, "Professional Competence and the Law", *Continuing Legal Education Series*, 1981.

Chapters in Books (recent)

"Investor-State Arbitration", (*Cambridge*, forthcoming 2015);

"Instituting Investment Claims under the Trans-Pacific Partnership Agreement," in *International Investment Law* (ed) Wenhua Shan (*Brill*, 2015);

"China and Investor-State Arbitration," In Picker, Toohey and Greenacre, *China, Trade and Investment*, (*Cambridge*, 2015);

"Bilateral Trade and Investment Agreements", in *Leon E. Trakman and Nick Ranieri, Regionalism In International Investment Law* (*Oxford University Press*, 2013);

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- “The Trans-Pacific Partnership Agreement”, in *Wehhau Shan, The ICSID* (Brill, 2015);
- “The ICSID In Perspective”, In Leon E. Trakman and Nick Ranieri, *Regionalism In International Investment Law* (Oxford, 2013);
- “Australia’s Rejection Of Investor-State Arbitration: A Sign Of Global Change?”, in *Regionalism In International Investment Law* (Oxford University Press, 2013);
- “Investment Dispute Settlement Under The Trans Pacific Partnership Agreement”, in Tania Voon (Ed), *Trade Liberalisation And International Co-Operation: A Legal Analysis Of The Trans-Pacific Partnership Agreement* (Edward Elgar, 2013);
- “Foreign Direct Investment”, In Mercurio, Trakman, Lewis & Zellers, *International Business Law*, 2010;
- “Dispute Resolution: Courts”, in Mercurio, et al, above;
- “Dispute Resolution: Arbitration”, in Mercurio et al, above.

Articles (selected)

- “Contracts: Legal”, International Encyclopaedia of the Social and Behavioral Sciences, Vol.3, *Elsevier, Oxford*, 2015;
- “Domicile of Choice in English Law,” 11 (3) *Journal of Private International Law* (2015 forthcoming) “Locating Australia on the Pacific Rim: Trade, Investment and the Asian Century (with Sharma, K) *Transnational Dispute Management* 1, 2015;
- “The Binding Force of Agreements to Negotiate in Good Faith”, (with Kunal Sharma), 73 *Cambridge Law Journal*, 2014;
- “Investment Dispute Resolution under the Proposed Transpacific Partnership Agreement”, 48(2) *Journal of World Trade* 1-29 (2014);
- “Deciding Investor-State Disputes”, 15(1) *Journal of World Investment and Trade*, 2013;
- “Investor-State Arbitration and Domestic Courts”, 46, 1 *Journal of World Trade*, February 2012;
- “Legal Traditions’ in International Commercial Arbitration”, *Transnational Dispute Management*, 2011;
- “Bilateral Trade and Investment Agreements”, *Transnational Dispute Management*, 2011;
- “The Twenty First Century Law Merchant”, 28, 4 *American Business Law Journal* 775-834, 2011;
- “Pluralism in Contract Law”, 58 *Buffalo L. Rev.* 1031, December 2010;
- “Foreign Direct Investment”, 41, 1 *George Washington International Law Review* 1-65, 2010;
- “Foreign Direct Investment”, 63 *International Trade and Investment Law Review* 31-85, 2010;
- “The Boundaries of Contract Law in Cyberspace”, *Revue Des Affaires Internationales* 161-194, 2009;
- “The Boundaries of Contract Law in Cyberspace”, 38, 1 *Public Contract Law Journal* 187-236, 2008;
- “The Proliferation of Free Trade Agreements”, 42 *Journal of World Trade* 367-388, 2008;
- “Arbitrating Options,” 14, 1 *University of New South Wales Law Journal* 20, 2008;
- “Ex Aequo Et Bono: De-Mystifying An Ancient Concept”, 8 *Chicago Journal of International Law* 621-
- “The IBA Guidelines on Conflict of Interest in International Commercial Arbitration”, 10 *International Arbitration Law Review* 124, Sweet & Maxwell, 2007;
- “International Commercial Arbitration”, 17, 1 *American Review of International Arbitration* 1-44, 2006;
- “The Rights and Responsibilities of Auditors to Third Parties” (with Jason Trainor), 31 *Queen’s Law Journal* 148-205, 2005;
- “From the Medieval Law Merchant to E-Merchant Law”, 53 *University of Toronto L.J.* 265-304, 2003;
- “Investment under the NAFTA and Beyond”, in “Doing Business in Mexico”, New York, 2002;
- “Confidentiality in International Commercial Arbitration”, 18 *Arbitration International*, 2002;
- “Appropriate Conflict Management”, *Wisconsin Law Review*, 285-415, 2001;
- “Arbitrating Investment Disputes under NAFTA”, 18 *J. International Commercial Arbitration*, 2001;
- “The Efficient Resolution of Business Disputes”, 30 *Canadian Journal of Business Law*, 1998;
- “Performance under Article 6.1 of the UNIDROIT”, Panamericana University, 1997;
- “Alternative Dispute Resolution”, *Corporate Legal Counsel Association of Canada*, 1992;
- “Alternative Dispute Resolution in International Trade”, 40 *Maine Law Review* 225, 1988;
- “Loss Sharing and Commercial Impracticability”, 69 *Minnesota Law Review* 471, 1985;
- “The Law Merchant”, 2 *Humane Studies Review* 1, 1985;
- “Material Disclosure in the Law of Insurance”, 34 *Toronto Law Journal* 421, 1984;
- “Legal Fictions and Frustrated Contracts”, 46 *Modern Law Review* 39, 1983;
- “The Unharnessed Insurer”, 31 *Toronto Law Journal* 318, 1981;
- “Interpreting Contracts: A Common Law Dilemma”, 59 *Canadian Bar Review* 241, 1981;
- “The Modern Law Merchant”, 12 *J. Maritime Law & Commerce* 153, 1981;

“Professional Competence and the Law”, *Continuing Legal Education Series* at 1, 1981;
 “Non-performance in International Sales Contracts”, 39 *Oil & Gas Tax Quarterly* 716, 1980;
 “Illegal Contracts: A Doctrinal and Comparative Study”, 94 *S.A. Law Journal* 327, 1977;
 “Legal Training in International, Comparative & Foreign Law”, 27 *J. Legal Education* 509, 1976.

EXPERIENCE IN COURT LITIGATION

Expert witness in judicial proceedings, in Canada, the United States and abroad in corporate-commercial disputes;

Presided or served in NAFTA disputes as judge pro tem as a Federal judicial appointment.

Appointed by US, Canada and Mexican Governments to decide these NAFTA cases:

In the Matter of: Synthetic Baler Twine Originating in or Exported from the United States of America, CDA-94-1904-02;

In the Matter of: Refined Sugar Originating in or Exported from the United States of America CDA-95-1904-04;

In the Matter of: Corrosion-Resistant Carbon Steel Products from Canada USA-98-1904-01;

In the Matter of: Certain Hot-Rolled Carbon Steel Plate, Originating in or Exported from Mexico CDA-97-1904-02;

In the Matter of Certain Iodinated Contrast Media Used for Radiographic Imaging, Originating in or Exported from the United States of America CDA-USA-1904-01 (Dumping) & CDA-USA-2000-1904-02 (Injury);

In the Matter of: Softwood Lumber Originating in or Exported from Canada, USA-CDA-2002-1904-04.

PROFESSIONAL TRAINING IN MEDIATION

Studied mediation at Harvard Law School, 1972-1975, 1979;

Attended various workshops on continuing mediation training, e.g. at Harvard, at ITESM in Mexico, conducted by the Canadian Bar Association, CBA, the American Bar Association, ABA and the New South Wales Bar Association;

Instructed in mediation, e.g., at Chartered Institute of Arbitrators; Dalhousie University, El Centro Jurici del ITESM, at the World Trade Center in Monterrey, El Centro; International de Mediacion, Centro de Resolucion de Controversias Mexico-Estados Unidos, at Southern Methodist University, the University of California, Davis and the University of New South Wales.

EXPERIENCE IN MEDIATION

Studied and taught mediation skills, concentrating on commercial mediation, including intellectual property;

Acted as a mediator in disputes on intellectual property, investment, maritime shipping, oil and gas, construction, computer technology, insurance, investment, and other matters;

Mediated over 30 commercial disputes.

PROFESSIONAL TRAINING IN ARBITRATION

Studied arbitration at the Harvard Law School, 1973-1975, 1979;

Doctorate at Harvard Law School encompassed international commercial arbitration (1979);

Attended various workshops as continuing arbitration education since 1979;

Lecturer in domestic and international commercial arbitration for various associations including, inter alia, the Chartered Institute of Arbitrators; the American, Mexican and Canadian Bar Associations;

Professor of arbitration law at Southern Methodist University, Dallas, the University of California, Davis, Dalhousie University, Canada; and the University of New South Wales; Australia;

Lectured on arbitration law in Mexico at El Centro Jurici del ITESM, the World Trade Center in Monterrey, El Centro Internacional de Mediacion and the Centro de Resolucion de Controversias Mexico-Estados Unidos, Universidad Panamericana.

EXPERIENCE IN ARBITRATION

Studied and taught arbitration courses to students, lawyers and professional arbitrators, concentrating on domestic and international commercial arbitration;

Acted as an arbitrator in over 100 cases;

Served as a panelist/arbitrator appointed by the American, Canadian and Mexican Governments to decide trade disputes;

Served on the Government roster of arbitrators under Chapter 11 of the NAFTA (investment disputes);

Acted as arbitrator in disputes over technology, patents, copyright and domain names, insurance and reinsurance, oil, gas and construction and shipping, among others;

Served on the following arbitration panels: American Arbitration Association (AAA), New York; CPR Institute for Dispute Resolution (New York); International Chamber of Commerce (ICC), Canada, New York and Paris; Centre for Dispute Resolution, Calgary, Alberta, Canada; World Intellectual Property Organization (WIPO), Geneva; Australian Centre for International Commercial Arbitration (ACICA), Melbourne, Australia; London Court of International Arbitration (LCIA), London, U.K.; Hong Kong International Arbitration Centre, Hong Kong, PRC; British Columbia International Commercial Arbitration Centre (BCICAC), Vancouver, Canada, among others.

ARBITRATION EXPERIENCE**SUMMARY TABLE**

Type	Administering Institution		Role			
	Name	Number of Arbitrations	Presiding Arbitrator	Sole Arbitrator	Co-arbitrator	Counsel
International Arbitrations						
	AAA, ICDR, ICC, HKIAC, WIPO, NAFTA Chapter 19; government, corporate and industry associations	46	9	22	9	
	Ad Hoc	24	4	12	7	
Number of cases: sub-total		70	13	36	16	
Domestic Arbitrations	ICC, AAA, Bar and various government, corporate and industry Associations	20	3	15	6	
	Ad Hoc	14	4	8	0	
Number of cases: sub-total		34	7	23	6	
TOTAL		104	20	59	22	

MEDIATION EXPERIENCE**SUMMARY TABLE**

Type	Administering Institution		Role	
	Name	Number of Mediations	Mediator	Counsel
International Mediations		16	16	
	Ad Hoc			
	Others			
Number of cases: sub-total		16	16	
Domestic Mediations		16	16	
	Court-annexed			
	Ad Hoc			
Number of cases: sub-total		16	16	
TOTAL		32	32	