

Cherry Xu

LLB (HKU) (First Class Honours)

PCLL (HKU) (Distinction)

BCL (Oxon)

Email Address:

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Year Of Call:

2016 (Hong Kong)

Practice Areas: Administrative and Public Law, Arbitration, Mediation, Chancery, Commercial Law, Company Law and Insolvency, Competition Law, Family Law, Intellectual Property, International Trade, Land & Planning Law, Securities Law, Bankruptcy, Regulatory



Cherry is developing a broad practice in civil and commercial law. She has been involved in a wide range of cases including commercial disputes, securities, company, insolvency and bankruptcy, competition, intellectual property, probate, land, judicial review and regulatory matters.

Cherry was born and raised in Fujian, China. She was admitted to the University of Hong Kong via the Gaokao scheme in the Mainland in 2007, ranking the first in her home city. Before attending the University of Hong Kong, she spent one foundational year with the Law Faculty in Fudan University, where she obtained a basic understanding of the PRC legal system. In 2012, she obtained her LLB degree from the University of Hong Kong with First Class Honours, ranking top of her year. After completing the PCLL programme with distinction, she was elected the Rhodes Scholar for Hong Kong in 2013 and proceeded to read BCL at Oxford University. In 2014, she graduated from the BCL degree with a distinction in competition law. In addition to the distinguished Rhodes Scholarship, she has been awarded various scholarships including the Charles Ching Memorial Scholarship in 2016.

Prior to joining Chambers as a tenant in 2016, Cherry completed pupillage with William Wong SC, Johnny Ma, Rachel Lam SC and Derek CL Chan SC.

Cherry is a native Mandarin speaker and is fluent in English and Cantonese.

Directory Quotes:

Cherry Xu is singled out as a Rising Star for Commercial Disputes.

Legal 500 Asia Pacific HK Bar (2021)

Expertise:

Scholarships and Awards

- Rhodes Scholar for Hong Kong 2013
- Charles Ching Memorial Scholarship 2016
- Maxwell Law Prize 2013
- Law Society of Hong Kong Prize in Professional Practice and Management 2013
- Hou De Charitable Foundation Scholarship for the Postgraduate Certificate in Laws Programme (2012-2013)
- The Bank of East Asia Scholarship (2011-2012)
- M.W. Lo Memorial Scholarships (2011-2012)
- The Hong Kong Institute of Chartered Secretaries Scholarships (2011-2012)
- Rowdget W Young Medal in Law (2011-2012)
- Professor Dafydd Evans Memorial Scholarship Class 1972 (2011-2012)
- The Des Voeux Chambers Junior Scholarship (2010-2011)
- Bank of East Asia Golden Jubilee Scholarship (2010-2011)
- Chan Kai Ming Prize (2009-2010)
- Linklaters Prize for Overall Excellence in Law: Year II (2009-2010)
- Madam Lau Kit Fong (Sau Chee) Memorial Scholarship (2009-2010)
- The Sola Gratia Foundation Scholarships (2009-2010)
- Dean's Honours List (2008-2009, 2009-2010, 2011-2012)

Publication

- "Copyright Protection in the Digital Age: A Tripartite Balance", *Hong Kong Law Journal*, Vol. 42, Part 3 of 2012 (Autumn 2012).

Memberships & Appointments

- Judicial Assistant to the Court of Appeal of Hong Kong (March-April 2020)
- Member, Committee on Competition Law of the Hong Kong Bar Association (2020-)
- Member, Standing Committee on China Practice Development of the Hong Kong Bar Association (2016)

Selected Cases

Arbitration Related

- Acted for the respondent in a HKIAC arbitration involving contract and construction matters; handled the preparation of pleadings, witness statements, trial, and taxation proceedings.
- Provided advice on a few HKIAC arbitrations involving company, contract, and commercial matters, as well as on matters relating to HK actions for setting aside foreign arbitral awards.

- Represented clients in a few HK actions to resist the enforcement of foreign arbitral awards.
- Represented clients in a few HK actions to resist the application for injunctions in aid of foreign arbitrations.
- Acted as the foreign law expert on international arbitration (together with Dr William Wong SC) to provide legal opinion on issues including bias and procedural fairness to resist the enforcement of an AAA award in mainland China.

Company and Insolvency

- *Sky Joy Investment Ltd v Zheng Dunmu & Another* (HCA 385/2016, 16.08.2017), representing the plaintiff in a dispute over the equitable interest in the shares in a listed company, which concerned the creation of equitable mortgage and priority between competing equitable interests.
- *Sky Joy Investment Ltd v Zheng Dunmu & Another* [2018] HKCA 259 (unreported, CACV 205/2017, 04.05.2018), representing the plaintiff in a dispute over equitable interests in the shares of a listed company; successfully resisted the appellant's application to file new evidence at the appeal stage.
- *Chen Lingxia v 中国金谷国际信托有限责任公司 & Others* [2019] HKCFI 379; (unreported, HCA 2012/2018, 15.2.2019), interlocutory applications concerning disputes over the title to the shares of a Hong Kong company, involving charge / mortgage over the shares executed in the PRC and purported auctions of the underlying debt and/or the charge / mortgage on Taobao in the PRC.
- *Canton Plus Enterprise Ltd & Another v Tong Zhenjun & Others* [2018] HKCFI 1402; (HCA227/2017, 15.12.2017), representing the plaintiffs in an interlocutory application for order to preserve and inspect documents, in a dispute over corporate affairs and management.
- *China Shanshui Cement Group Ltd & Others v Mi Jingtian & Others* [2018] HKCFI 1553 (unreported, HCA 762/2017, 19.07.2018), dispute concerning disputes between shareholders of companies listed on the Hong Kong Stock Exchange, and their subsidiaries, as well as the validity of the appointment of the directors of such companies; representing the defendants in this action and successfully applied to discharge interlocutory injunction against the defendants.

Commercial

- *Better Marine International Limited v Zhong Shan Company Limited* (unrep., HCA 958/2014, 30.11.2016), representing the plaintiff in a dispute over the commission under a ship building brokerage contract.
- *Better Marine International Limited v Zhong Shan Company Limited* [2020] HKCA 145, representing the plaintiff in an appeal against the first instance judgment in favour of the client; successfully resisted the appeal which was dismissed with costs order in favour of client.
- *Sap Products Ltd v Xena Security Ltd & Another* (unrep., DCCJ 2014/2015, 30.12.2016), representing the second defendant in an application to strike out the statement of claim.
- *Sugisaki Kiso Co., Ltd v Hsin Chong Construction Company Limited & Another* (unreported, HCCT 13/2017, 18.6.2017), representing a foreign plaintiff; successfully resisted the defendants' application for security for costs.

Competition

- *Taching Petroleum Co., Ltd v Meyer Aluminium Ltd* [2018] HKCFI 2095; (unreported, HCA 1929/2017, 07.09.2018), the first case in Hong Kong where a competition defence was raised in civil proceedings; representing the plaintiff; concerning the transfer of proceedings to the Competition Tribunal and the other case management matters.
- *Taching Petroleum Co., Ltd v Meyer Aluminium Ltd* [2019] HKCFI 515; (unreported, HCA 1929/2017, 22.02.2019), concerning whether the civil proceedings should be stayed pending the resolution of the issues related to the competition defence in Competition Tribunal proceedings.
- *Taching Petroleum Co., Ltd v Meyer Aluminium Ltd* [2019] HKCT 1; [2019] 2 HKLRD 205, concerning the making of a confidentiality protocol in competition proceedings concerning a competition defence raised in civil proceedings.

Securities

- *Lee Kwok Wa & Others v The Securities and Futures Commission v Young Bik Fung & Others* (2018) 21 HKCFAR 537, the first and landmark case in Hong Kong concerning the application of s.300 of the Securities and Futures Ordinance (Cap.571) to securities transactions conducted on an overseas securities exchange. Cherry appeared on behalf of the appellants in the Court of Appeal (CACV 33/2016, led by Paul Shieh S.C. and Derek Chan S.C.) and in the Court of Final Appeal (led by Gerard McCoy Q.C., S.C. and Derek Chan S.C.).

Land

- *Million-Add Development Ltd v Nok Wah Logistic (Hong Kong) Co Ltd* (unrep., HCA 2873/2015, 09.09.2016), representing the plaintiff in an O.14 application for summary judgment for, *inter alia*, possession of property, damages, and an account of profit.
- *Leung Chuk Chi & Another v The Incorporated Owners of Sheung Shing Court* [2019] HKLdT 34 (unreported, LDBM 48/2017, 15.5.2019), representing the respondent in resisting an application for documents in the possession of the IO.

Advisory / Regulatory

- Provided legal advice and/or drafting work in relation to, *inter alia*, the following areas (in relation to listing, litigation or arbitration):

Securities (including insider dealing and various applications under the SFO)

Competition

Regulatory

Company & Insolvency

Contract

Property

Intellectual Property

Trust

Probate

- Provided legal advice and/or representation in relation to regulatory matters including, *inter alia*, SFC investigation, enquiries from the HKEX and the Competition Committee