

Ling Chun Wai

LLB (U.Lon)

LLM (Cantab)

Diploma in EU Competition Law (King's College London)

Email Address:

cwling@dvc.hk

Year Of Call:

1996 (England and Wales)

1996 (Hong Kong)

Practice Areas: Arbitration , Mediation, Chancery,
Commercial Law, Competition Law, Intellectual Property,
Securities Law, Professional Negligence



CW received his legal education in England, having obtained an LLM degree (First Class) from the University of Cambridge before serving pupillage in Hong Kong. Called to the English and Hong Kong Bar in 1996, he has been a member of Des Voeux Chambers since 1999. He completed a Diploma in EU Competition Law at King's College London in 2018.

As a barrister, CW's practice encompasses a broad range of civil and commercial matters including banking, insurance, insolvency, land, securities, companies, trusts, administrative law, disciplinary inquiries and professional negligence. A versatile practitioner, he appears regularly in all levels of courts and other tribunals. He has recently advised several Hong Kong and PRC companies in dealing with requisitions in connection with their bids to obtain listing status on the Hong Kong Stock Exchange.

In addition, CW was described by Chambers & Partners as having "particular expertise in IP law" (2012). According to World Trademark Review (2019), he "specialises in civil and commercial cases and intellectual property is a substantial component of his practice".

CW is a Fellow of the Chartered Institute of Arbitrators. He is registered on the list of arbitrators and the Panel of IP Arbitrators at the Hong Kong International Arbitration Centre. He has appeared as counsel in arbitration as well as sitting as a sole arbitrator. He acts regularly for listed companies, financial institutions and governmental bodies. As an accredited mediator (HKMAAL), he also regularly acts as a mediator in commercial and IP cases.

Directory Quotes:

"Hardworking with strong attention to detail, he is highly commercial and pragmatic." Ling

Chun Wai is singled out as a Leading Junior for Intellectual Property.

Legal 500 Asia Pacific HK Bar (2021)

Ling Chun Wai of Des Voeux Chambers is a recommended IP expert and is referenced in World Trademark Review 2019 as “a specialist in civil and commercial cases, and intellectual property is a substantial component of his practice.”

World Trademark Review (2019)

Ling Chun Wai of Des Voeux Chambers represents parties in a diverse array of commercial and administrative cases and is a seasoned pro in IP, particularly trademark, disputes.

World Trademark Review (2018)

Expertise:

Selected Cases

- 造者 Infinitus & Device, TMA 303505987, 20 July 2020. Successfully resisted an opposition to an application to register a device mark before on the ground of bad faith.
- Monster Hunt TM, TMA 303670623AB, 8 January 2020. Successfully resisted an opposition to an application to register a bilingual mark before the Registrar of Trade Marks.
- Mathnasium Center Licensing LLC v. Chang Chi Hung [2021] 1 HKLRD 188. First case of its kind where defendant who signed a statement of truth in relation to a defence containing a false admission. Committal order overturned on appeal.
- Louis Vuitton Malletier v. Cuvee XLV French Wine Ltd [2019] HKCFI 1963. Obtained judgment for a fashion house in the first full-blown trial before the IP Judge in Hong Kong against a wine trader for infringement of a well-known trade mark.
- Xcelcom Ltd v. BGI-Hong Kong Co Ltd [2017] 1 HKLRD 421. Acted for the patentee in one of the first cases in Hong Kong involving infringement of a biochemical technology patent in an application for interlocutory injunction.
- China Construction Realty Ltd v. Lucky Dragon Ltd HCA 1237/2012. Successfully defended a defendant and its director against charges of contempt of court in a case involving claims in conspiracy to defraud creditors.
- Nokia Corporation v. TCT Mobile [2014] 2 HKLRD 43. In the context of a dispute under a patent license agreement, the case raised interesting issues of specific discovery where the licensor (represented by CW) sought documents to prove royalties due under the agreement.

- *CSS Jewellery Co Ltd v. Registrar of Trade Marks* [2010] 1 HKC 563. A trademark dispute between two undertakings with common historical origins, this was the first court case in which the doctrine of honest concurrent use was examined in the context of the new Trade Marks Ordinance.
- *Dynasty Line Ltd v. Sukanto Sia*, FAMV 38 of 2009. CW (appearing with John Scott SC) acted in an application for leave to appeal to the Court of Final Appeal. A fairly complex commercial dispute with an international flavour, it hinged on an analysis of the suitability of a foreign court as an appropriate forum for the dispute.
- *Lam Ching Sheung v. The Official Receiver* [2009] 5 HKLRD 278. CW successfully defended the Official Receiver against a claim by a former bankrupt for misfeasance in public office in a ruling which was upheld by the Court of Appeal.
- *Peconic Industrial Development Ltd v. Lau Kwok Fai & Others* (2009) 12 HKCFAR 139. CW was the junior in this ground-breaking case in a common law jurisdiction regarding the applicability of limitation periods to dishonest assistance claims, in this case, against a fraudulent solicitor.
- *Oriental Sharp Ltd v. Hong Kong Housing Authority* [2008] 3 HKLRD 508. CW acted for a developer in a major claim for losses in the wake of the Government's disastrous subsidised housing policy decision in 1998. The case raises nice issues of interpretation of the terms of a government grant and economic torts.
- *Guangzhou Green-Enhan Bio-Engineering Co Ltd v. Green Power Health Products International Co Ltd* [2005] 1 HKLRD 50. One of the most prominent intellectual property disputes in recent years, the decision was reached after a lengthy trial in the Court of First Instance involving complex issues of passing off, trade mark, copyright and trade libel.
- *AXA China Insurance Co Ltd v. Pacific Century Insurance Co Ltd* [2003] 3 HKC 1. Against the background of an application for interlocutory injunction, the case has become a landmark local authority on breach of confidence and restrictive covenants.
- *Lion Capital LLP v. Registrar of Trade Marks* [2011] 1 HKLRD 272. Representing the Registrar of Trade Marks, CW defended an appeal from the Registrar's decision based on conflict with a similar earlier mark.

In addition, CW has taken part in many international arbitrations administered by the HKIAC in cases concerning commercial disputes, technology transfer, business secrets and patent infringement.

Memberships and Appointments

- Member of the Board of Revenue (Inland Revenue Ordinance) from 1 January 2021
- HKIAC Domain Name Dispute Resolution Panel from December 2020
- Chairperson, Hong Kong Mediation Council, Hong Kong International Arbitration Centre (HKIAC) (2019-2020)
- Fellow of the Chartered Institute of Arbitrators (2008-)
- Deputy Judge of the District Court, HKSAR (Dec 2015)
- Vice-chairperson, Mediation Committee, Hong Kong Bar Association (2018-)

- Vice-chairperson, Committee on Intellectual Property, Hong Kong Bar Association (2020-)
- Member, Standing Committee on Overseas Admissions, Hong Kong Bar Association (2015-)
- Member, Standing Committee on Discipline, Hong Kong Bar Association (2016-)

Publications, Lectures and Talks

- Hong Kong Civil Procedure, Contributor (1999- now)
- Spearheading "[Making FRANDS or foes? UK Supreme Court's decision in Unwired Planet](#)" - a DVC webinar on the intersection between patent law and competition law (Oct 2020)
- Spearheading "[Generic.com: The shifting boundaries of trade mark territory](#)" - a DVC IP webinar critiquing the analysis of the recent decision in booking.com presented in conjunction with DVC's Benny Lo and Stephanie Wong (August 2020)
- "Soft Skills for the Hardcore Commercial Mediator", a webinar under the HKMC Mediation Insight Series (2020)
- "Mediation in China", presented to the UIA Mediation Forum, Milan (2020)
- "驰名商标在中国大陆、香港及其他地区的法例与应用", co-presented with Sakinah Sat to Dentons Shenzhen (2019)
- "Parodies in Trade Mark and Copyright Law", BIP Asia Forum (2019)
- "南京香港調解論壇-商事調解的應用、優勢與培訓", co-presented with Joint Mediation Hotline in Nanjing (2019)
- "The Carrot, the Stick and the Pill: the Intersection between IP and Competition Law" in DVC's Legal Tech Forum (May 2019)
- "How does mediation help parties resolve conflicts", China Business Law Journal, co-authored with Stephanie Cheung (Nov 2018)
- "Evolving IP Issues in Brand Protection in the Digital Marketing Era", co-organised by HKU and DVC (March 2018)