



serle court

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## Adrian de Froment

Year of Call: 2013

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## Practice Overview

Adrian has a broad commercial chancery practice, with a particular focus on commercial disputes, intellectual property and civil fraud. Much of Adrian's work also has an international or cross-border element to it.

He has substantial experience of acting in large, complex litigation having been instructed as part of the team acting for one of the defendants in *Wong v Grand View Private Trust Company Limited and ors*, one of the highest value trust cases to have been litigated, for the claimants in *Mariana v BHP*, the very large group action arising from the Fundão Dam environmental disaster in Brazil, and for the defendants in claims arising out of the £12 billion RBS rights issue.

Adrian regularly appears unled in the High Court, including recently acting for a successful claimant in UK enforcement proceedings following judgment abroad for \$135 million and as sole counsel for the successful defendants in *INVISTA v Botes and ors* [2019] EWHC 58 (Ch); [2019] 1 WLUK 170, a 7-day trial before Birss J of claims relating to alleged breaches of confidence by research scientists. He also has experience obtaining interim relief, including freezing relief.

Prior to coming to the Bar, Adrian gained a PhD in evolutionary biology from Princeton University and as a former scientist he is well placed to deal with scientific and quantitative issues that arise in litigation.

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## Areas of Expertise

### Commercial Litigation

*Wong v Grand View Private Trust Company Limited and ors* [2022] SC (Bda) 44 Com. Led by Richard Wilson KC, he is instructed as part of the team acting for one of the defendants (and co-claimant) in one of the highest value trust cases to have been litigated, the trial of which took place from April to September 2021 (instructed by MJM Ltd (Bermuda), Baker McKenzie (Taipei) and Stewarts Law).

*Covalis Capital LP and Covalis Capital LLP v Banco BTG Pactual SA* (2023). Acted, led by Hugh Norbury KC, for the claimants in claims relating to an investment fund.

*Município de Mariana and ors v BHP Group*: instructed as part of the team acting for the claimants in one of the largest group actions to come before the English court, arising from the collapse of the Fundão Dam in Brazil in 2015. The dam collapse has been described as the worst environmental disaster in Brazilian history (instructed by SPG Law).

*Barclays v Shetty* [2022] EWHC 19 (Comm). Acted in successful UK enforcement proceedings: summary judgment, interim and final charging orders, permission to serve out and by alternative means on third parties in more than 10 jurisdictions; an order for possession and sale of London property (instructed by Simmons & Simmons).

*Barclays v Shetty* [2020] DIFC CFI 061. Led by Zoe O'Sullivan KC, Adrian acted for the successful claimant bank on a claim under a guarantee following the collapse of the defendant's UAE-based business empire. Obtained a USD \$135 million WWFO ex parte (before Wayne Martin J), continued by consent, followed by a successful application for immediate judgment (also before Wayne Martin J).

*Harrington v Wells* (BL-2020-002057). Acting for the defendant in a High Court claim concerning alleged deceit in relation to an investment in a company developing data management and processing software for the telecoms industry (instructed by IBB).

*Barclays v Al Khaili* (2020-21, DIFC); Claim Nos: CFI-012-2020; CFI-086-2020; CA-003-2021. Instructed on behalf of the claimant bank at first instance and on its successful appeal before Justices Christopher Clarke, Wayne Martin and Zaki Azmi in a case concerning recognition in the DIFC of judgments from other jurisdictions, including for the purposes of the statutory res judicata provision Art 5(A)(4) of the Judicial Authority Law (instructed by Eversheds Sutherland (International) LLP).

*GDE LLC and Goffe v Anglia Autoflow Limited* [2020] EWHC 105 (Comm). Acted, with Professor Jonathan Harris KC (Hon.), for the successful defendant at a 5-day trial of a preliminary issue as to choice of law under Rome Convention; the matter is ongoing and an appeal is pending (instructed by Birketts LLP).

*KBC Aldini Capital Limited v David Baazov and ors.* Acted (led by Rupert Reed KC) for a Canadian internet entrepreneur in defending claims for USD 40 million based on fraud and passing off allegations made in DIFC proceedings relating to equity commitment letters filed in support of a 'go private' bid to acquire Amaya Inc: jurisdiction challenge ([2017] DIFC CFI 002) interlocutory applications, claimant struck out shortly before trial in February 2020 (instructed by Norton Rose Fulbright).

*INVISTA v Botes and ors* [2019] EWHC 58 (Ch); [2019] 1 WLUK 170 sole counsel for the successful defendants in a 7-day trial before Birss J. of claims relating to alleged breaches of confidence by research scientists formerly employed by INVISTA [2019] EWHC 58 (Ch); [2019] 1 WLUK 170 (instructed by Virtuoso Legal).

*HSBC Invoice Finance v Augustus Martin* (2018-2019): acted as sole counsel for the defendant and Part 20 claimant in relation to claims exceeding £6m arising out of unpaid and allegedly inflated invoices (instructed by Kingsley Napley).

Advised (with Prof. Jonathan Harris KC (Hon.)) in relation to a potential claim against the English guarantor of a debt owed by a French company to a Monégasque bank which had subsequently been assigned to a BVI company owned by a subset of the guarantors. The case involved complex jurisdiction and choice of law issues and an issue regarding the possible connivance in the default of their co-guarantor by the shareholders in the potential claimant (2017-2018) (instructed by Charles Russell Speechlys).

*RBS Rights Issue* (2015-2017): instructed as part of the team acting for the defendants in claims arising out of the £12 billion RBS rights issue, with David Railton KC, Sonia Tolaney KC, David Blayney KC and Simon Hattan (instructed by Herbert Smith Freehills).

*Shoeb v Square One* (2017): acted as sole counsel for the defendants in a \$1.6m debt claim involving allegations of sham (instructed by LSGA).

*Sigley v Southern*: acted for the respondent to a s.994 unfair prejudice petition.

*Smith v Huertas* (2015): instructed (with Jennifer Haywood), for the respondent in relation to an application for a declaration under Regulation 44/2001 art.34(1) that it would be manifestly contrary to public policy for the UK to recognise and enforce a French judgment (instructed by Boodle Hatfield).

*HRH Prince Abdulaziz Bin Mishal Bin Abdulaziz Al Saud v Apex Global Management Ltd* [2014] EWCA Civ 1106, assisted Daniel Lightman (now KC) in an appeal by a Saudi Arabian Prince, the respondent to a s.994 petition, against an unless order and the entry of judgment against him for US\$ 7.7m.

*Singh v Singh* [2014] EWHC 1060 (Ch): assisted Ian Croxford KC and Daniel Lightman (now KC) in a 5-week trial that resulted in the dismissal by Sir William Blackburne of a claim by a father that his son's business empire was held on constructive trust for the male members of his family in accordance with the Indian principles of the Mitakshara.

*Bank of St Petersburg & Or v Arkhangelsky & Ors* [2014] EWCA Civ 593: assisted Philip Marshall KC and Justin Higgs in this matter in which the Court of Appeal disapplied a Russian limitation period and granted an anti-enforcement

injunction preventing the enforcement of Russian judgments abroad pending the outcome of litigation in England.

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## Civil Fraud

*Harrington v Wells*. Acting for the defendant in a High Court claim concerning alleged deceit in relation to an investment in a company developing data management and processing software for the telecoms industry (instructed by IBB).

*Faerch v Davidson*. Acting for the defendant in a claim concerning alleged embezzlement, including appearing at the return date of a doorstep delivery-up and imaging order.

*HSBC Invoice Finance v Augustus Martin*: acted for the defendant and Part 20 claimant in relation to claims exceeding £6m arising out of allegedly inflated invoices (instructed by Kingsley Napley).

*KBC Aldini Capital Limited v David Baazov and ors* [2017] DIFC CFI 002: acted, with Rupert Reed KC, for a Canadian internet entrepreneur in defending claims for USD 40 million based on fraud allegations made in DIFC proceedings relating to equity commitment letters filed in support of a 'go private' bid to acquire Amaya Inc (instructed by Norton Rose Fulbright).

*Shoeb v Square One*: acted as sole counsel for the defendants in a \$1.6m debt claim involving allegations of sham (instructed by LSGA).

*HRH Prince Abdulaziz Bin Mishal Bin Abdulaziz Al Saud v Apex Global Management Ltd* [2014] EWCA Civ 1106, assisted Daniel Lightman (now KC) in an appeal by a Saudi Arabian Prince, the respondent to a s.994 petition, against an unless order and the entry of judgment against him for US\$ 7.7m.

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## Intellectual Property

Adrian is frequently instructed in trade mark, passing off, copyright, design and breach of confidence/trade secret matters in the High Court, IPEC and UK IPO.

He is a contributor to the CITMA publication "*Contentious Trade Mark Registry Proceedings*" by Michael Edenborough KC, and also a contributor to the CITMA and CIPA Trade Mark Handbook.

Adrian completed the Oxford Postgraduate Diploma in Intellectual Property Law and Practice in 2022.

### Recent instructions include:

Patents: *Bionome Technology Limited v Clearwater* (2024). Acting for the respondent in an appeal to the High Court in a patent entitlement matter (instructed by Simmons & Simmons LLP).

Copyright: acting for the Claimant in a claim for infringement of copyright in design drawings (instructed by Birketts LLP)

Trade marks: *iMiracle (HK) Limited v Vapes-Bars Limited* [2023] EWHC 2972 (Ch). Acted, led by Michael Edenborough KC, for the defendants in a trade mark infringement and passing off matter relating to disposable vapes (2023-24, instructed by JMW LLP).

Patents: *D.W. Windsor Limited v Urbis Schreder Limited*. Acting for the Claimant in an IPEC patent infringement matter concerning lighting infrastructure (instructed by JMW LLP).

Breach of confidence (2024): acting for the claimant in action against a former employee for breach of confidence (instructed by Potter Clarkson LLP).

Trade marks (2024): Acted for the Italian luxury goods maker Sergio Rossi S.P.A. in complex cross-oppositions (instructed by Bromhead Johnson LLP).

Copyright (2024): acting for the claimant in a claim for infringement of copyright in software (instructed by JMW LLP).

Breach of confidence: *Kinleigh Ltd (t/a "Kinleigh Folkard & Hayward"/"Kfh") v David Astburys Ltd (2023)*. Acted for the claimant in an action against former employees for breach of confidence.

Art forgery: advising an art dealer on strategy in relation to forgery by third parties of work purportedly by a well-known street artist (2023).

Passing off (2023): *RSM Restaurant Limited and ors v Liverpool Road Leisure and ors*. Acted for the claimants in passing off proceedings (instructed by JMW LLP).

*Om Records LLC v Om Developpement (O/1087/22)*. IPO proceedings involving s.5(2)(b) and s.5(4)(a) cross-oppositions; assignments in gross; whether goodwill trivial in extent (instructed by Murgitroyd).

*Harrington v Wells*. Acting for the defendant in a High Court claim concerning alleged deceit in relation to an investment in a company developing data management and processing software for the telecoms industry (instructed by IBB).

(2022) Advised in relation to potential multi-jurisdictional trade mark infringement and passing off proceedings; descriptive marks (instructed by Murgitroyd).

*PAI Partners SAS v PAI Capital Limited (2022)*. Acted for the successful claimant in a claim for trade mark infringement and passing off in relation to the use of the name of a French private equity firm (instructed by Potter Clarkson LLP).

*IPR Protection Ltd v Biddle (2022)*. Acted for the defendant in relation to claims for trade mark infringement; s.11(2)(b) descriptive use defence; s.47 invalidity application (instructed by Bird & Bird).

(2022) Patent infringement: advised as to the availability of claim for infringement of a patent for a geotextile material (instructed by Hill Dickinson).

*Perimeter Solutions v Perimeter Fencing Solutions (2021)*. Acted for the claimant in a passing off matter. Settled after service of particulars of claim (instructed by JMW LLP).

*Photobooth v NEPBH (IP-2021-NCL-000002)*. Copyright infringement claim in relation to mobile booth "skins". Instructed in relation to CMC (instructed by McDaniel & Co.).

*easyGroup v Beauty Perfectionists Limited and ors (IL-2020-000032)*. Drafted particulars of claim in a High Court claim for trade mark infringement (instructed by Stephenson Harwood LLP).

RE: POTTER'S HERBALS (OP000412928) Trade mark opposition at the UK IPO, including an interlocutory application for disclosure (instructed by Joshi IP).

RE: GAPMAPS (OP000414681) Trade mark opposition at the UK IPO (instructed by J.A. Kemp LLP).

*Penhallurick v MD5 Limited*. Instructed for the claimant in relation to cross-claims in the IPEC for infringement of copyright in computer software and breach of contract: statements of case, advice, oral advocacy at interlocutory hearings (instructed by Virtuoso Legal).

*INVISTA v Botes and ors* [2019] EWHC 58 (Ch); [2019] 1 WLUK 170; [2019] EWHC 1086 (Ch); [2019] EWHC 1087 (Ch); [2019] EWHC 1088 (Ch). Acted, unled, for the successful defendants in this dispute involving allegations that research scientists formerly employed by INVISTA had acted in breach of confidence, in breach of pre- and post-termination employment covenants and had procured breaches of contract by a third party. Successfully resisted summary judgment one month before trial (before Arnold J.). Represented the defendants at the 7-day trial before Birss J., at which the breach of confidence, post-termination and procuring claims were dismissed, and at 5 hearing days in relation to consequential matters. The case was notable for the costs result. Birss J. held that a part 36 offer made four months before trial by the claimants had not been a genuine offer to settle and this was one of the rare cases in which it was therefore unjust to enforce any of the consequences of CPR 36.17(4). Birss J. accordingly made a costs award in favour of the defendants.

RE: IT ON YOUR TERMS (R0432/2018) Instructed, with Michael Edenborough KC, for the appellant in relation to an appeal against a decision of the EU IPO (instructed by IPTogether).

*BSS Group Limited and PTS Group Limited v Perry Street Software*. Instructed, with Michael Edenborough KC, for the claimant in IPEC proceedings for infringement of EUTMs and UKTMs and associated counterclaim for declaration of invalidity/revocation (instructed by Freeths LLP).

*Chiselwood v Bespoke Cabinets Ltd and Krantz* Acted for the claimant at the 1-day trial of a claim for infringement of copyright and UKUDR (IPEC) (instructed by McDaniel & Co).

*EPP v Farnsworth and ors* Acted for the claimant exclusive licensee in relation to an IPEC claim for infringement of two EUTMs, copyright infringement and passing off (instructed by Virtuoso Legal).

*H. Radford v Downton Engineering and ors*: acted for the defendant in a claim for trade mark infringement under s.10(3) TMA 1994 (2017).

Instructed for the defendant in a claim for infringement of UKUDR in relation to fishing tackle (2017).

Instructed for the claimant in a dispute regarding infringement of UKUDR in relation to theme restaurant get-up (2017).

Adrian gained experience during pupillage of actions in the IPEC and the Trade Mark Registry, before the Appointed Person, and in the General Court of the European Union, with Michael Edenborough KC.

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## International and Offshore

Adrian has a busy offshore practice including recent instructions in high-profile cases in Bermuda and The Bahamas. He has also appeared in a series of substantial claims in the DIFC.

A large part of Adrian's English work also has an international or cross-border dimension to it, including advice and advocacy in relation to private international law issues as detailed in the previous section.

Recent instructions include:

*Wong v Grand View Private Trust Company Limited and ors* [2022] SC (Bda) 44 Com. Led by Richard Wilson KC, he is instructed as part of the team acting for one of the defendants (and co-claimant) in one of the highest value trust cases to have been litigated, the trial of which took place from April to September 2021 (instructed by MJM Ltd (Bermuda), Baker McKenzie (Taipei) and Stewarts Law).

*Jean-Rony Jean Charles v Attorney General of the Bahamas, Minister of Immigration and ors* (JCPC 2019/0100). Led

by Edward Fitzgerald KC, Adrian acted for the appellant on his appeal to the Privy Council (heard in July 2022) arising from the his detention and expulsion from The Bahamas to Haiti. The appeal to the Privy Council concerned, inter alia, points of general importance concerning the ambit of the court's constitutional jurisdiction in the Bahamas, including in particular whether constitutional relief may be sought in the same proceedings as a writ of habeas corpus, and the scope of the relief which may be ordered pursuant to that jurisdiction. Instructed by Callenders & Co (Bahamas) and Simons Muirhead Burton (London). The case has attracted considerable political and public attention in The Bahamas.

*Barclays v Shetty* (2020-22); (CFI-061-2020 in the DIFC); (CL-2021-000397 UK enforcement proceedings). Led by Zoe O'Sullivan KC, Adrian acted for the successful claimant bank in a claim under a guarantee following the collapse of the defendant's UAE-based business empire. Obtained a USD \$135 million WWFO ex parte (before Wayne Martin J), continued by consent, and in the successful application for immediate judgment: [2020] DIFC CFI 061 (also before Wayne Martin J). Acted (unled) in successful UK enforcement proceedings, obtaining summary judgment ([2022] EWHC 19 (Comm), Henshaw J), interim and final charging orders, permission to serve out and by alternative means on third parties in more than 10 different jurisdictions, and an order for possession and sale of valuable property in London (instructed by Simmons & Simmons).

*Barclays v Al Khaili* (2020-21); Claim Nos: CFI-012-2020; CFI-086-2020; CA-003-2021. Instructed on behalf of the claimant bank at first instance and on its successful appeal before Justices Christopher Clarke, Wayne Martin and Zaki Azmi in a case concerning recognition in the DIFC of judgments from other jurisdictions, including for the purposes of the statutory res judicata provision Art 5(A)(4) of the Judicial Authority Law (instructed by Eversheds Sutherland (International) LLP).

*KBC Aldini v Baazov and ors* (2018-2020). Led by Rupert Reed KC, Adrian acted for the first defendant to claims for USD 40 million based on fraud and passing off allegations relating to equity commitment letters filed in support of a 'go private' bid to acquire Amaya Inc. The proceedings involved a jurisdiction challenge and various interlocutory applications, including a successful application for evidence to be given by video link (apparently only the third such order granted in over a decade, and of renewed interest after the onset of the pandemic) and a successful application for security costs made by the defendants shortly before trial in February 2020 (instructed by Norton Rose Fulbright LLP).

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## Private International Law

Recent instructions include:

*Barclays v Al Khaili* (2020-21); Claim Nos: CFI-012-2020; CFI-086-2020; CA-003-2021. Instructed on behalf of the claimant bank at first instance and on its successful appeal in a case concerning recognition in the DIFC of judgments from other jurisdictions, including for the purposes of the statutory res judicata provision Art 5(A)(4) of the Judicial Authority Law (instructed by Eversheds Sutherland (International) LLP).

(2021) Assisted Jonathan Harris KC (Hon) and Philip Jones KC in advising in relation to questions relating to head of state immunity and the justiciability of factual issues concerning a head of state.

*GDE LLC and Goffe v Anglia Autoflow Limited* [2020] EWHC 105 (Comm) Acted, with Professor Jonathan Harris KC (Hon.), for the successful defendant at a 5-day trial of a preliminary issue as to choice of law under Rome Convention; extensive drafting, conducted cross-examination at trial and oral advocacy on an interlocutory application; the matter is ongoing and an appeal is pending (instructed by Birketts LLP).

*Município de Mariana and ors v BHP Group* (2018-2019) instructed as part of the team acting for the claimants in one of the largest group actions to come before the English court, arising from the collapse of the Fundão Dam in Brazil in 2015. The dam collapse has been described as the worst environmental disaster in Brazilian history (instructed by

SPG Law).

*KBC Aldini Capital Limited v David Baazov and ors* [2017] DIFC CFI 002: Acted, with Rupert Reed KC, for a Canadian internet entrepreneur in a jurisdiction challenge pertaining to a USD 40m fraud claim in the DIFC relating to allegedly forged equity commitment letters filed in support of a 'go private' bid (instructed by Norton Rose Fulbright).

Advised (with Prof. Jonathan Harris KC (Hon.)) in relation to a potential claim against the English guarantor of a debt owed by a French company to a Monégasque bank which had subsequently been assigned to a BVI company owned by a subset of the guarantors. The case involved complex jurisdiction and choice of law issues and an issue regarding the possible connivance in the default of their co-guarantor by the shareholders in the potential claimant (2017-2018) (instructed by Charles Russell Speechlys).

*Smith v Huertas*: instructed (with Jennifer Haywood), for the respondent in relation to an application for a declaration under Regulation 44/2001 art.34(1) that it would be manifestly contrary to public policy for the UK to recognise and enforce a French judgment (instructed by Boodle Hatfield).

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## Telecommunications and Information Technology

Please see above under Intellectual Property.

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## UAE & DIFC Litigation

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## Group Litigation

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## Client Testimonials

"...able to transform a house which appeared to be built on sand to one with a solid concrete foundation."

## Publications

[\*Easy Rent a Car Ltd v Easygroup Ltd\*](#) (20 March 2019) Intellectual Property Magazine

## Prizes and awards

Queen Mother's Scholarship, Middle Temple (for the GDL and the BPTC)

Burroughs-Wellcome Fellowship, Princeton University

Centennial Fellowship, Princeton University

Scholarship, New College, Oxford

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## **Education & Qualifications**

BA Biological Sciences (Double First), New College, Oxford

PhD Evolutionary Biology, Princeton University

GDL (Distinction), City University London

BPTC (Outstanding), City University London

Oxford Postgraduate Diploma in Intellectual Property Law and Practice

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