

WIPO LIST OF NEUTRALS

BIOGRAPHICAL DATA

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Date of Birth: November 1948
Nationality: Canadian, Australian

EDUCATIONAL AND PROFESSIONAL QUALIFICATIONS

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

LANGUAGES

English, Afrikaans, and (reading) Dutch.

January 3, 2012

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PRESENT POSITION

UNSW Professor of Law and Immediate Past Dean, Faculty of Law, University of New South Wales, Sydney, Australia;
Barrister, New South Wales, Australia;
Mediator and Arbitrator.

PROFESSIONAL EXPERIENCE BEFORE PRESENT POSITION

Barrister and Solicitor, Bora Laskin Professor, Dalhousie Law School, Canada;
Specialist in international commercial arbitration and mediation;
Responsible for resolving commercial disputes under, *inter alia*, Chapter 19 of the NAFTA, by appointment of the Governments of Canada, the United States and Mexico;
Practice as commercial and international mediator and arbitrator;
Consultant to private industry, government and bar associations;
Appointed as Consultant to the parties negotiating and drafting a new constitution for South Africa, 1990-92;
Worked actively on contentious issues with the ANC and Law Commission;
Appointed in 1995 as Consultant to the Canadian Bar Association, responsible to evaluate the efficiency of alternative dispute resolution in business contracts;
Active as consultant in contract negotiating, drafting and interpreting contracts;
Appointed to mediate and/or arbitrate disputes involving corporations, governments and public interest organizations;
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;
Served on the Chapter 11 roster of the NAFTA, on investment.

AREAS OF SPECIALIZATION

Commercial and international arbitration and mediation, including among others: violations of patent and copyright agreements 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.

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;
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;
Board of Directors of different companies in technology, investment and pharmaceutical industries, among others;
Service on roster of commercial and international arbitration and mediation associations, eg:

American Arbitration Association;
 Canadian Center for Dispute Resolution and the International Mediation Center;
 International Institute for Conflict Prevention and Resolution [CPR];
 London Court of International Arbitration;
 International Chamber of Commerce ICC;
 Hong Kong International Arbitration Center;
 Australian Center for International Dispute Resolution.

Has served or serve on the board of editors or board of advisors of, *inter alia*, 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;
 Chair or member of foundations and committees allocating funds to professional and academic groups, for example, the Committee 11 of the Social Sciences and Humanities Research Council;
 Member, Bora Laskin National Prize Committee; and Molson National Prize Committee, Canada.

EXPERIENCE IN INTELLECTUAL PROPERTY

Ongoing involvement as an arbitrator with copyright and patents disputes over a 30 year period, including presiding over disputes involving, *inter alia*, patents, copyright and domain names.

EXPERIENCE WITH RESPECT TO DOMAIN NAMES

Appointed to decide 20 WIPO domain cases;
 Domain Name panelist, *inter alia*, Domain Island, Universal Registry, BCICAC, Hong Kong;
 Panel on Domain Name Dispute Resolution, and WIPO Arbitration and Mediation Center.

MAJOR PUBLICATIONS

Books

Co-Author, "International Investment Law", *Oxford University Press*, 2012, upcoming;
 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)

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;
 An Arbitration Culture in International Trade and Investment Agreements, *in International Investment Law, Oxford University Press*, 2012, Upcoming;
 Bilateral Free Trade And Investment Agreements, *in International Investment Law, Oxford University Press* 2012, Upcoming;
 The International Centre For The Settlement of Investment Disputes *in International Investment Law, Oxford University Press*, 2012, Upcoming;
 Investment Tribunals or Domestic Courts, *in International Investment Law, Oxford University Press*, 2012, Upcoming.

Articles (selected)

Rejecting Investor-State Arbitration in favor of Domestic Courts, 46, 1 *Journal of World Trade*, February 2012, Upcoming;

Legal Traditions' and International Commercial Arbitration, *Transnational Dispute Management*, 2011;

Ex Aequo et Bono: Basing Decisions on that which is Just and Fair, *Transnational Dispute Management*, 2011;

Bilateral Trade And Investment Agreements, *Transnational Dispute Management*, 2011 From the Medieval to 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: Hazard or Opportunity? 41, 1 *George Washington International Law Review* 1-65, 2010;

Foreign Direct Investment: An Australian Perspective, 63 *International Trade And Investment Law Review* 31-85, 2010;

The Boundaries of Contract Law in Cyberspace, *International Business Law/ Revue Des Affaires Internationales* 161-194, 2009;

The Boundaries of Contract Law in Cyberspace, 38, 1 *Public Contract Law Journal* 187-236, 2008;

Modelling University Governance, 62, 1 *Higher Education Quarterly* 63-83, 2008;

The Proliferation of Free Trade Agreements: Bane or Beauty? 42 *Journal of World Trade* 367-388, 2008;

Governance Models, 94 *Academe* 41, 2008;

Arbitrating Options: Turning A Morass into A Panacea 14, 1 *University of New South Wales Law Journal* 20, Special Forum Issue, May, 2008;

Ex Aequo Et Bono: De-Mystifying An Ancient Concept 8, 2 *Chicago Journal of International Law* 621-642, 2008 Building the Dream - Getting New Structures for Old Faculties, 38 *Toledo Law Journal* 633-649, Special Dean's Issue, Winter 2007;

The IBA Guidelines on Conflict of Interest in International Commercial Arbitration, 10 *International Arbitration Law Review* 124, Sweet & Maxwell, 2007;

Legal Traditions and International Commercial Arbitration, 17, 1 *American Review of International Arbitration* 1-44, 2006;

The Rights and Responsibilities of Auditors to Third Parties: A Call for a Principled Approach (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 the NAFTA, 18 *Journal of International Commercial Arbitration*, 2001;

Contracts: Legal, *International Encyclopedia of the Social and Behavioral Sciences*, Vol.3, Elsevier, Oxford, 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: The Case for Commercial Arbitration, Contributor, *Corporate Liability, Corporate Legal Counsel Association of Canada*, 1992;

Alternative Dispute Resolution in International Trade, 40 *Maine Law Review* 225, 1988;

Privatizing Dispute Resolution under the Free Trade Agreement: Truth of Fancy? 40 *Maine Law Review* 349, 1988;

Winner Take Some: Loss Sharing and Commercial Impracticability, 69 *Minnesota Law Review* 471, 1985;

Commercial Law Scholarship in Canada, 23 *Osgoode Hall Law Journal* 663, 1985;

The Law Merchant, 2 *Humane Studies Review* 1, 1985;

Mysteries Surrounding Material Disclosure in the Law of Insurance, 34 *Toronto Law Journal* 421, 1984;

Legal Fictions and Frustrated Contracts, 46 *Modern Law Review* 39, 1983;

Professional Competence: Yesterday and Tomorrow, 7 *Dalhousie Law Journal* 831, Special Issue, 1982-83;

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;
 The Need for Legal Training in International, Comparative and Foreign Law, 27 Journal of 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 over NAFTA litigation as a judge pro tem of the Federal Court of Appeal of Canada.

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;
 Has attended various workshops on continuing mediation training, e.g. at Harvard, at ITESM in Mexico, and at meetings of the Canadian Bar Association, CBA, the American Bar Association, ABA and the New South Wales Bar Association;
 Has instructed in mediation, for example, 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

Has both studied and taught mediation skills, concentrating on commercial mediation;

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

Has mediated in 26 disputes.

PROFESSIONAL TRAINING IN ARBITRATION

Studied arbitration at the Harvard Law School;
Doctorate at Harvard Law School encompassed international commercial arbitration;
Attended various workshops as continuing arbitration education since graduating with a LL.B. in 1972 and a doctorate in law in 1979;
Instructed in domestic and international commercial arbitration, for various associations such as the Chartered Institute of Arbitrators; the American, Mexican and Canadian Bar Associations; at various universities in the United States, Southern Methodist University and the University of California, Davis and Canada, Dalhousie University; and Australian, University of New South Wales; and in Mexico at El Centro Jurici del ITESM, the World Trade Center in Monterrey, El Centro Internacional de Mediacion and at 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 80 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	41	5	23	11	
	Ad Hoc	11	4	6	3	
Number of cases: sub-total		52	9	29	14	
Domestic Arbitrations	ICC, AAA, Bar and various government, corporate and industry Associations	20	3	13	4	
	Ad Hoc	10	4	6	0	
Number of cases: sub-total		30	7	19	4	
TOTAL		82	16	48	18	

MEDIATION EXPERIENCE

SUMMARY TABLE

Type	Administering Institution		Role	
	Name	Number of Mediations	Mediator	Counsel
International Mediations		10	10	
	Ad Hoc			
	Others			
Number of cases: sub-total		10	10	
Domestic Mediations		16	16	
	Court-annexed			
	Ad Hoc			
Number of cases: sub-total		16	16	
TOTAL		26	26	