

WIPO LIST OF NEUTRALS

BIOGRAPHICAL DATA

David J.A. CAIRNS
B. Cremades y Asociados
Madrid
Spain

Nationality: New Zealander/British

EDUCATIONAL AND PROFESSIONAL QUALIFICATIONS

Diploma, Spanish Law for EU lawyers, Universidad San Pablo-CEU, Spain, 2006;
Fellow, Chartered Institute of Arbitrators, London, 2005;
Ph.D., University of Cambridge, United Kingdom, 1991-95;
LLM., University of Toronto, Canada, 1985-86;
LLB., (First Class Honours), University of Canterbury, New Zealand, 1979-82.

Bar Admissions:
Madrid; England and Wales (Solicitor-Advocate, Civil); New Zealand.

LANGUAGES

English, Spanish

PRESENT POSITION

Partner, B. Cremades & Asociados, Madrid, Spain.

January 30, 2020

PROFESSIONAL EXPERIENCE BEFORE PRESENT POSITION

Litigation partner, Chen & Palmer, Wellington, New Zealand, 1996-1999;
Litigation solicitor, McKenna & Co., London, U.K., 1991;
Solicitor, Bell Gully (1982-1985), and Buddle Findlay (1987-1989), Wellington, New Zealand.

AREAS OF SPECIALIZATION

International commercial arbitration; investment arbitration; contractual disputes; intellectual property disputes; construction disputes; mediation and dispute boards.

MEMBERSHIP IN PROFESSIONAL BODIES

Chartered Institute of Arbitrators, London, Chartered Arbitrator and Accredited Mediator;
ICDR Panel of International Arbitrators;
ICC National Committees, United Kingdom & New Zealand;
London Court of International Arbitration;
International Council for Commercial Arbitration;
Panel of Arbitrators of the Corte de Arbitraje de Madrid;
List of Arbitrators of the Court of Arbitration for Sport (CAS), Lausanne;
List of Arbitrators of the American Chamber of Commerce of Peru;
Club Español del Arbitraje;
International Arbitration Club, London;
Member of the ICSID Panel of Conciliators 2011-2017.

EXPERIENCE IN INTELLECTUAL PROPERTY

Chairman of an arbitral tribunal in an international dispute relating to the licensing and distribution of information technology in the telecommunications sector.

Sole Arbitrator in four disputes over domain name rights pursuant to the WIPO Expedited Arbitration Rules.

Three expert determinations pursuant to ICANN's new gTLD program; one determination pursuant to ICANN's PICDRP; and more than 80 UDRP decisions.

Counsel in passing off, unfair trading, copyright, and breach of confidence litigation, including appearing in the High Court and the Court of Appeal of New Zealand. Counsel in international arbitration proceedings involving the ownership of registered trademarks and intellectual property rights under international distribution agreements.

Advising on a wide range of matters including: (i) trademark and copyright issues arising from brand competition and advertising; (ii) arbitrability and conflicts of law issues relating to trademark registrations; (iii) domain name disputes; (iv) breach of confidence (including the confidentiality of arbitral proceedings); (v) intellectual property issues relating to the health sector (pharmaceuticals and tobacco); (vi) patent expiry strategies (pharmaceuticals); (vii) intellectual property protection in international law under the TRIPS agreement and bilateral investment treaties; and (viii) making submissions to government on policy issues relating to intellectual property protection.

EXPERIENCE WITH RESPECT TO DOMAIN NAMES

Panelist in over 80 domain name disputes;
Member of WIPO's Trademark PDDRP and UDRP Panels;
Member of the WIPO List of Experts for Legal Rights Objections;
Member of ICANN's PICDRP Standing Panel;

Member of the domain name panels of ADR.eu, and ADNDRC;
Sole Arbitrator in four disputes over domain name rights pursuant to the WIPO Expedited Arbitration Rules.

Three expert determinations pursuant to ICANN's new gTLD program:

United States Postal Service v Amazon EU S.à.r.l.; WIPO LRO2013-0044; gTLD string <mail>;
DotMusic Limited v Charleston Road Registry Inc WIPO LRO2013-0058; gTLD string <music>;
Bundesverband der Deutschen Tourismuswirtschaft (BTW) e.V v. New Cypress, LLC (ICC Exp/429/ICANN/46); gTLD string <reisen> (Community Objection).

MAJOR PUBLICATIONS

Books

The Remedies for Trademark Infringement Carswell & Co, (1988);

Advocacy and the Making of the Adversarial Criminal Trial Oxford University Press, (1998).

Articles

National Report-Spain in The International Handbook on Commercial Arbitration (Kluwer Law International, 2017) Supplement N° 93, February 2017;

The Premises of Witness Questioning in International Arbitration (ICCA Mauritius 2016; publication forthcoming);

Expertise in International Arbitration TDM 4 (2013), www.transnational-dispute-management.com;

Oral Advocacy and Time Control in International Arbitration in A. J. VAN DEN BERG ed. *Arbitration Advocacy in Changing Times* (ICCA Congress Series N° 15, Kluwer Law International, The Netherlands, 2011) pp. 181-201.

Advocacy and the Functions of Lawyers in International Arbitration in M. Á. FERNÁNDEZ-BALLESTEROS & DAVID ARIAS *Liber Amicorum Bernardo Cremades* (Wolters Kluwer España, 2010) pp. 291-307;

Cross-Examination in International Arbitration: Is it Worthwhile? in LAWRENCE W. NEWMAN & BEN H. SHEPPARD JR. eds. *Take the Witness: Cross-Examination in International Arbitration* (Juris, 2010) pp. 223-242;

Transnational Public Policy and the Internal Law of State Parties Arab Journal of Arbitration, Vol. 10, September 2007, pp. 27-36; Transnational Dispute Management, March 2009, Volume 6, Issue 1;

The Spanish Application of the UNCITRAL Model Law on International Commercial Arbitration (2006) 22 Arbitration International 573-595;

Mediating International Commercial Disputes: Differences in US and European Approaches Dispute Resolution Journal, August 2005, 63-69;

Contract and Treaty Claims and Choice of Forum in Foreign Investment Disputes in BERNARDO M. CREMADES AND JULIAN D.M. LEW (ED) *Parallel State and Arbitral Procedures in International Arbitration* (ICC Publication 692, 2005) at 13-41;

Published in Spanish as *La seguridad jurídica de las inversiones extranjeras: la protección contractual y de los Tratados* (2004) 19 Revista de la Corte Española de Arbitraje 69-93;

Spain's New Arbitration Act [2004] 7 International Arbitration Law Review 39-48; (2004) ASA Bulletin 695-721 (translation of Ley 60/2003 de 23 de diciembre, de Arbitraje); Republished with 2009 and 2011 legislative amendments as *Spain's Consolidated Arbitration Law* in (2012) Spain Arbitration Review, N° 13, 49-7;

New Trends in Spanish Arbitration Dispute Resolution Journal, February 2004, 62;

Corruption, International Public Policy and the Duties of Arbitrators Dispute Resolution Journal, November 2003, 100-107;

Transnational Public Policy in International Arbitral Decision-Making: The Cases of Bribery, Money laundering, and Fraud in KRISTINE KARSTEN AND ANDREW BERKELEY (ED) *Arbitration: Money Laundering, Corruption and Fraud* (ICC Publication 651, 2003) at 65-91;

Also published in Spanish as *Orden Público Transnacional en el Arbitraje Internacional (Cohecho, Blanqueo de Capitales y Fraude Contable)* Diario La Ley, N° 5798, lunes, 9 de junio de 2003; (2003) Revista de Direito Bancário, do Mercado de Capitais e da Arbitragem (Ano 6, n.º 20) 283-308;

The Brave New World of Global Arbitration (2002) 3 The Journal of World Investment 173-210;

Also published in Spanish as *El Arbitraje en la Encrucijada entre la Globalización y sus Detractores* (2002) 17 Revista de la Corte Española de Arbitraje 15-61; Revista Mexicana de Derecho Internacional Privado, núm. 11, Mayo de 2002, 47-95;

Confidentiality and State Party Arbitrations (2002) New Zealand Law Journal 125;

England's Procedural Revolution and Procedures Under Woolf (2000) New Zealand Law Journal 323 and 395.

EXPERIENCE IN COURT LITIGATION

Experienced advocate in the higher courts and tribunals of New Zealand.

Cases as counsel include passing off, copyright infringement, breach of confidence, contractual disputes, utilities regulation (gas), pharmaceutical pricing, competition law, and public law issues.

Numerous cases have involved applications for urgent interim relief, including interlocutory injunctions and Mareva and Anton Piller orders.

PROFESSIONAL TRAINING IN MEDIATION

Accredited UK Mediator; Registered Spanish Mediator;

ISDE-Instituto Superior de Derecho y Economía, Civil and Comercial Mediation Course, Madrid, June 2015;

Chartered Institute of Arbitrators, London, Mediation Training Course, November 1-6, 2010;

WIPO Workshop for Mediators in Intellectual Property Disputes, June 2004.

PROFESSIONAL TRAINING IN ARBITRATION

ICDR/AAA International Arbitrator Symposium (Advanced Case Management Issues) November 2012 and September 2005;

ASIPI/WIPO Workshop on the Arbitration of Intellectual Property Disputes, December 2007 (course leader);

WIPO Arbitration Workshop, October 2007;

Chartered Institute of Arbitrators, Fellowship programme, 2003/5.

EXPERIENCE IN ARBITRATION

President (ICSID/transport infrastructure/Perú);
President (ICC; corporate acquisition/Madrid);
President (Court of Arbitration of Madrid/distribution);
President (Court of Arbitration of Madrid/construction/Spain);
President (ICC/joint venture/Mexico);
President (ICDR/AAA/licensing and distribution/telecommunications/New York);
President (ICC/joint venture/commercial real estate/New York);
President (ICC/joint venture/pharmaceuticals/Spain);
President (ICC/share purchase agreement/insurance);
Co-Arbitrator (ICSID/NAFTA/investment);
Co-Arbitrator (ICC/investor-State arbitration/pesticides);
Co-Arbitrator (LCIA/ long-term supply contracts/ renewables energy sector/London);
Co-Arbitrator (CAS/ football/agents' contract);
Sole Arbitrator (ICC/financial derivatives contracts/Spain);
Sole Arbitrator (WIPO Expedited Arbitration Rules/domain name rights);
Sole Arbitrator (LCIA/acquisition/technology sector/British Columbia);
Sole Arbitrator (ICC/joint venture/construction/Middle East);
Sole Arbitrator (ICC/transportation/Middle East);
Sole Arbitrator (Corte de Arbitraje de Madrid/ share purchase agreement/Spain);
Sole Arbitrator (Corte de Arbitraje de Madrid/consultancy/mining);
Sole Arbitrator (Corte de Arbitraje de Madrid/ share purchase agreement/pharmaceuticals);
Sole Arbitrator (Corte de Arbitraje de Madrid/ real estate joint venture/Cape Verde);
Sole Arbitrator (CAS/ football/agents' contract).

Acted as an arbitrator or as counsel in arbitrations which include intellectual property, licensing and distribution, international sale of goods, telecommunications, transportation, construction and infrastructure projects, energy and natural resources, joint ventures, share purchase agreements, sports law, and investment disputes under BIT agreements.

Familiar with both common law and European approaches to arbitration, and a regular commentator on new developments in international arbitration.

EXPERIENCE IN MEDIATION

Mediator pursuant to the ICC ADR Rules in a dispute arising from an international liquor distribution contract.

Panel of Conciliators of the International Centre for the Settlement of Investment Disputes (ICSID) 2011-2017.

Member of the Comisión de Mediación of the Club Español de Arbitraje.

ARBITRATION EXPERIENCE

SUMMARY TABLE

Type	Administering Institution		Role			
	Name	Number of Arbitrations	Presiding Arbitrator	Sole Arbitrator	Co-arbitrator	Counsel/Secretary
International Arbitrations	AAA	6	1	–	–	5
	ICC	29	5	4	1	19
	LCIA	4	–	1	3	-
	Ad Hoc/ Other Institutions	46	3	12	8	23
Number of cases: sub-total		85	9	17	12	47
Domestic Arbitrations	AAA					
	Ad Hoc	5				5
Number of cases: sub-total		5				5
TOTAL		90	9	17	12	52