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Alan Maclean KC

"Alan produces fine advocacy and really has the ear of the court."
– CHAMBERS AND PARTNERS, 2027

Year of call: **1993**
Appointed to silk: **2009**
Degree: **BA (Hons) First Class, University College, Oxford (PPE)**

Alan Maclean KC is an accomplished and experienced Silk.

He is equally at home in first instance trials in the Commercial Court, the Chancery Division, international arbitration or the CAT, requiring detailed mastery of complex facts, as he is arguing points of law in the Supreme Court, the Court of Appeal or the Administrative Court. He strives always to demonstrate mastery of the essential skills of a 21st century Silk: a firm grasp of legal principle; sound judgment; enthusiasm for hard work; strategic and tactical awareness; skilful cross-examination of lay and expert witnesses and excellent written and oral advocacy.

Alan has built a broad practice in Silk, ranging across many aspects of commercial litigation and arbitration (in such fields as civil fraud, energy, sanctions, telecommunications and sports law) as well as public and regulatory law. Competition law, in the Court of Appeal, the High Court, the CAT and the CMA has also become an important part of Alan's busy practice.

Alan's practice also includes a significant advisory element. He endeavours to provide straightforward, dispassionate and realistic advice, whether in writing or in consultation.

In addition to his work in England and Wales, Alan has appeared as leading Counsel in Gibraltar, the BVI and before both the Cayman Island and Eastern Caribbean Courts of Appeal. He has also advised in several Hong Kong matters and has experience as an arbitrator.

Alan has long been recognised as a leading Silk in the leading legal directories, Chambers UK and the Legal 500. In the latest editions he is variously recommended for his expertise across administrative and public law, commercial litigation, energy, international arbitration and professional discipline/regulatory work. Recent comments include:

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- "Alan produces fine advocacy and really has the ear of the court." - Chambers UK, 2027
- "Alan has a strong ability to cut through noise and focus on the key issues at hand. He calls it as it is and is calm and objective in his delivery. Very good client handling skills. He earned the client's trust quickly. Authoritative and clear." - Legal 500, 2027
- "Alan is an excellent advocate who is always on top of his brief. He is able to see the case in high-level terms and is unfazed in advocating for the client's position." - Chambers UK, 2026
- "Alan has excellent insight and judgement. He applies the law in a practical and clear manner." - Legal 500, 2026

Previous comments include:

- "Alan is excellent at simplifying complex issues. Also strategic and commercial in his outlook, he can grasp the bigger picture and is able to spot risks before they develop." - Chambers UK
- "Alan is extremely thorough and gives realistic advice." - Legal 500
- "Alan is incredibly efficient, incisive in his analysis, sound in his judgement and very responsive to client demands." - Legal 500
- "Alan is extremely strong in the regulatory enforcement space. He is a sharp-minded advocate." - Chambers UK
- "Alan is calm and assured, and has a great depth of industry experience."- Chambers UK
- "You have no doubt that you have instructed the best when you have instructed Alan."- Legal 500

Alan was a member of the Attorney General's Panel until his appointment as Queen's Counsel (1999 - 2009, A Panel 2006 - 2009).

EXPERIENCE

Arbitration

Alan Maclean KC has appeared in a number of major international arbitrations, under ICC or LCIA Rules, many of which have involved joint ventures, shareholder agreements and/or company law issues, and often including issues of BVI and Cyprus company law. He recently acted in a heavy LCIA international arbitration concerning a Ukraine-based oil and gas infrastructure business.

"Alan is direct, quick to grasp the legal points and an outstanding advocate. You have no doubt that you have instructed the best when you have instructed Alan."

— LEGAL 500, 2023

Alan's current and recent work includes:

- an ICC arbitration arising out of the sale and supply of branded merchandise, involving allegations of fraud and misrepresentation.
- appearing for the appellant in the Court of Appeal seeking a declaration from the English Court as to the illegality of arbitration proceedings begun by the defendants overseas.

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Cases

Teva Pharma v Astrazeneca

[2017] EWCA Civ 2135; [2017] EWHC 1852 (Comm)

Alan appeared for the successful appellant in the Court of Appeal in a case between two major pharmaceutical companies concerning the ability of his clients to sell a generic pharmaceutical product in Portugal. Alan's clients sought summary judgment on a claim for a declaration from the English Court as to the illegality of arbitration proceedings begun by the defendants in Portugal concerning the claimants' ability to market a valuable pharmaceutical product. The case raised issues of contractual construction, and in particular the BCCI v Ali line of cases on construing settlement agreements.

Re U

LCIA arbitration

Alan recently led the team for the Defendants in a very high value LCIA arbitration concerning a major Eastern European energy infrastructure business. The $300M claim involved issues of Ukrainian and Cypriot company law.

Yegiazaryan v Smagin

[2016] EWCA Civ 1290; [2017] 1 Lloyd's Rep 102; [2017] 1 All ER (Comm) 1103

Alan appeared for the Respondent in the Court of Appeal successfully resisting an appeal pursuant to section 67 of the Arbitration Act 1996 under which sums in excess of US$72 million were awarded in respect of a dispute arising out of a Russian real estate project. The case raised important issues as to sections 67 and 70 of the Arbitration Act, and also questions of construction and consideration of cases such as Trust Risk Group SpA v AmTrust Europe Ltd [2015] 2 Lloyd's Rep. 154; Fiona Trust & Holding Corporation v Primalov [2008] 1 Lloyd's Rep 254 and Monde Petroleum SA v Westernzagros Ltd [2015] 1 Lloyd's Rep 330.

In addition, the Court rejected the appellant's attempt to introduce in the Court of Appeal a new ground of challenge not pleaded in the arbitration claim form and in respect of which permission to appeal had not been granted by the judge below. In doing, the Court of Appeal gave important guidance reiterating the primary role of the trial judge in relation to arbitration claims.

Chantiers de l'Atlantique SA v Gaztransport & Technigaz SAS

[2011] EWHC 3383 (Comm)

Alan acted for a major French engineering company in a claim to the Commercial Court under s. 68 Arbitration Act 1996 challenging an arbitral Award concerned with LPG carrier vessels on the ground that the Award had been obtained by fraud.

A v B

[2015] EWHC 1944 (Comm)

Alan acted for the successful respondent in a Commercial Court challenge to an arbitration award, pursuant to section 67 of the Arbitration Act 1996, brought on the basis that the arbitral tribunal lacked jurisdiction to determine the claim.

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K v S

[2015] 2 Lloyd's Rep 363

Alan acted in a successful application to the Commercial Court to strike out a challenge to an arbitral Award. Teare J's reported decision deals with the interplay between sections 57 and 70 of the Arbitration Act 1996.

Y v S

[2015] EWHC 612 (Comm); [2015] 1 Lloyd's Rep. 703

Alan acted for the defendant before Eder J, who dealt with issues concerning enforcement of an arbitration Award, including whether the court has power to order the provision of security on an application under s 66 of the Arbitration Act 1996.

L v A

LCIA arbitration

Alan led for the Defendants in two successive hard fought LCIA arbitrations concerned with alleged breaches of a shareholders agreement and unfair prejudice in relation to the BVI holding company of a major international drinks business.

Commercial

Commercial litigation is at the core of Alan Maclean KC's practice. His work extends across a broad range, including civil fraud, company law (especially joint venture/shareholder agreements and unfair prejudice), energy, banking, financial services, sanctions and telecoms, together with attendant conflicts of laws issues and interlocutory remedies (including pre and post judgment freezing orders and anti-suit injunctions).

"Alan is really good to work with and completely across all the legal and technical detail. He written work product is really strong."

— CHAMBERS AND PARTNERS, 2027

Alan has acted in many leading commercial cases: e.g. Bilta v Nazir (on attribution of dishonest acts and state of mind of director to a company); Charter v City Index (knowing receipt); Motorola Credit Corp v Uzan (freezing orders) and Rugby Football Union v Viagogo (Norwich Pharmacal Orders).

Alan's other leading cases include Hamilton v Al Fayed; the Buncefield litigation (the leading modern authority on public nuisance) and Berezovsky v Hine.

Recently Alan:

- has been acting for the leading Indian businessman Dr Vijay Mallya in a Commercial Court action brought by Diageo plc;
- advised the Takeover Panel in relation to the Disney/21st Century Fox/Sky transaction;
- was heavily involved in acting for the Civil Aviation Authority in relation to the collapse of the airlines Monarch and Thomas Cook;
- has acted in a number of electricity-related cases, concerning the Capacity Market auction rules and the complex domestic and non-domestic heat incentive schemes;

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- appeared in a Commercial Court case raising interesting jurisdiction issues under Article 7 of the Recast Brussels Regulation (whether an individual resident in London could sue a Swedish defendant in England for a declaration that no binding contract had been made in Sweden in relation to a shareholding in a BVI company);
- appeared for the successful appellant in the Court of Appeal in a case between two major pharmaceutical companies concerning the rights of Alan's clients to sell a generic pharmaceutical product in Portugal: Teva Pharma v Astrazeneca - Productos Farmaceuticos;
- has advised in two major cases on tracing remedies in the context of proprietary claims.

Cases

Cornerstone Telecommunications Infrastructure Ltd v Arqiva

Alan has been advising the Cornerstone Telecommunications Infrastructure Ltd (a joint venture between Vodafone and O2) in respect of disputes it has with Arqiva arising out of major contracts for site equipment necessary for the mobile networks of Vodafone and O2.

Carrington Power Ltd v GEMA

In late 2016 Alan acted for an electricity generation company in an appeal concerning its participation in the Electricity Capacity Market auction competition.

British Gas Trading Limited v Gas and Electricity Markets Authority

2019

Alan is currently acting for Ofgem in a judicial review challenge brought by British Gas against the controversial new tariff price cap for default rate gas and electricity consumers.

L v A

LCIA arbitration

Alan led for the Defendants in two successive hard fought LCIA arbitrations concerned with alleged breaches of a shareholders agreement and unfair prejudice in relation to the BVI holding company of a major international drinks business.

Laudamotion GmbH v Deutsche Lufthansa AG

Commercial Court 2018

Alan acted for the Claimant airline in a dispute with its much bigger commercial rival, Lufthansa, in a claim which involved allegations of breach of Art 102 TFEU in the context of the termination of the leases of Airbus aircraft.

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Joltid Ltd v Sjolund

Alan recently appeared in the Commercial Court in a case raising interesting jurisdiction issues under Article 7 of the Recast Brussels Regulation. The question was whether an individual resident in London could sue a Swedish defendant in England for a declaration that no binding contract had been made in Sweden in relation to a shareholding in a BVI company.

Re Monarch Airlines

In late 2017 Alan was heavily involved in acting for the Civil Aviation Authority in relation to the collapse of Monarch Airlines. Alan acted for the CAA in proceedings to revoke Monarch's Operating Licence.

Kyriakou v Christie Manson and Woods Ltd

[2017] EWHC 487 (QB)

Alan acted for the Applicant in successfully obtaining a Bankers Trust v Shapira order against Christie's auction house, and others, in respect of valuable chattels allegedly misappropriated in Greece and brought to England.

INEOS Upstream Ltd v Persons Unknown/Corre and Boyd v Ineos Upstream

[2017] EWHC 2945 (Ch)

Alan was leading Counsel for the Ineos Group, a global energy and chemicals business, in a high profile and landmark 'fracking' case in the Chancery Division. Alan successfully secured wide ranging injunctive relief to protect Ineos's shale gas exploration interests. The legal issues ranged across the law of trespass, nuisance, harassment, crime and human rights. Morgan J's judgment examined in detail the interaction between these areas of law and the freedoms protected by Articles 10 and 11 of the European Convention. An appeal is due to be heard in the Court of Appeal in March 2019.

Hutchison 3G UK Ltd v EE Limited

2015 - 2017

Alan was leading Counsel for the mobile network 'Three' in a Commercial Court action against its rival EE, arising out of a Network Integration Agreement concerning deployment of mobile data coverage and capacity by EE to Three on sites that were formerly part of the Orange mobile network.

Teva Pharma v Astrazeneca

[2017] EWCA Civ 2135; [2017] EWHC 1852 (Comm)

Alan appeared for the successful appellant in the Court of Appeal in a case between two major pharmaceutical companies concerning the ability of his clients to sell a generic pharmaceutical product in Portugal. Alan's clients sought summary judgment on a claim for a declaration from the English Court as to the illegality of arbitration proceedings begun by the defendants in Portugal concerning the claimants' ability to market a valuable pharmaceutical product. The case raised issues of contractual construction, and in particular the BCCI v Ali line of cases on construing settlement agreements.

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Global Asset Capital Inc v Aabar Block Sarl

[2017] 4 WLR 163

In 2017, Alan appeared in the Court of Appeal on an appeal where the issue was whether in the course of negotiations a legally binding and enforceable contract was concluded for the sale of a package of rights and other debt interests for €250m.

Gascoigne Halman Ltd v Agents' Mutual Ltd

[2017] CAT 15

Alan led the team for the successful claimant, Agents' Mutual Ltd, in a hard fought trial in the CAT of a case with important ramifications for the increasingly valuable online property portal market. A key issue in the case was an allegation that Agents' Mutual's "One other Portal" rule (which prevents its estate agent members listing properties on both Zoopla and Rightmove) breached the Chapter I prohibition of the Competition Act 1998. The CAT accepted Alan's submission that it did not. The case also involved hotly contested allegations of "collective boycott" and extensive expert economic evidence. The case has just been to the Court of Appeal on 'by object' points; judgment awaited.

Yegiazaryan v Smagin

[2016] EWCA Civ 1290; [2017] 1 Lloyd's Rep 102; [2017] 1 All ER (Comm) 1103

Alan appeared for the Respondent in the Court of Appeal successfully resisting an appeal pursuant to section 67 of the Arbitration Act 1996 under which sums in excess of US$72 million were awarded in respect of a dispute arising out of a Russian real estate project. The case raised important issues as to sections 67 and 70 of the Arbitration Act, and also questions of construction and consideration of cases such as Trust Risk Group SpA v AmTrust Europe Ltd [2015] 2 Lloyd's Rep. 154; Fiona Trust & Holding Corporation v Primalov [2008] 1 Lloyd's Rep 254 and Monde Petroleum SA v Westernzagros Ltd [2015] 1 Lloyd's Rep 330.

In addition, the Court rejected the appellant's attempt to introduce in the Court of Appeal a new ground of challenge not pleaded in the arbitration claim form and in respect of which permission to appeal had not been granted by the judge below. In doing, the Court of Appeal gave important guidance reiterating the primary role of the trial judge in relation to arbitration claims.

Y v S

[2015] EWHC 612 (Comm); [2015] 1 Lloyd's Rep. 703

Alan acted for the defendant before Eder J, who dealt with issues concerning enforcement of an arbitration Award, including whether the court has power to order the provision of security on an application under s 66 of the Arbitration Act 1996.

Lindsay v O'Loughnane

[2012] BCC 153

Alan acted for the successful claimant in this Commercial Court fraud trial concerning foreign exchange trading. The case involved sustained cross-examination of the defendant, whom the Judge found liable in the tort of deceit.

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K v S

[2015] 2 Lloyd's Rep 363

Alan acted in a successful application to the Commercial Court to strike out a challenge to an arbitral Award. Teare J's reported decision deals with the interplay between sections 57 and 70 of the Arbitration Act 1996.

HG ABS Fund Plc v Barclays Bank

(2013)

Alan acted for Barclays Capital in Commercial Court litigation concerning an alleged Event of Default under a Global Master Repurchase Agreement.

Dahabshiil Transfer Service Ltd v Barclays Bank Plc

[2013] EWHC 3379 (Ch); [2014] U.K.C.L.R. 215

Alan acted for an international money remittance company in a claim against Barclays Bank. The proceedings included obtaining an interlocutory injunction in the Chancery Division on the basis of alleged breach of a dominant position by the bank, contrary to the Competition Act 1998.

Chantiers de l'Atlantique SA v Gaztransport & Technigaz SAS

[2011] EWHC 3383 (Comm)

Alan acted for a major French engineering company in a claim to the Commercial Court under s. 68 Arbitration Act 1996 challenging an arbitral Award concerned with LPG carrier vessels on the ground that the Award had been obtained by fraud.

Bilta (UK) Ltd v Nazir

[2015] UKSC 23; [2016] AC 1; [2015] 2 All E.R. 1083; [2015] 2 Lloyd's Rep. 61

Alan led for the appellants in this Supreme Court case involving issues of secondary liability for fraud, raising important legal questions as to attribution of knowledge and illegality. The case involved thorough reconsideration by a 7-man Supreme Court of the difficult House of Lords decision in Stone & Rolls v Moore Stephens [2009] 1 AC 1391.

A v B

[2015] EWHC 1944 (Comm)

Alan acted for the successful respondent in a Commercial Court challenge to an arbitration award, pursuant to section 67 of the Arbitration Act 1996, brought on the basis that the arbitral tribunal lacked jurisdiction to determine the claim.

Libyan Investment Authority v Société Générale

Alan recently advised on the application of the international sanctions and asset-freezing regime applied to Libya in the context of a major Commercial Court fraud case brought by the Libyan Investment Authority seeking proprietary relief arising from claims that investment agreements made under the Gadhafi regime were void, voidable and/or unenforceable.

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Libyan Investment Authority v Maud

[2016] EWCA Civ 788; [2016] All ER (D) 15 (Aug)

Alan appeared in the Court of Appeal in a case raising important issues arising out of the Libyan Asset Freezing Regulations, including whether payment of a debt would contravene EU Regulation 204/2011 and the Libya (Asset-Freezing) Regulations 2011 because the Appellant was a designated entity whose assets were frozen under UN Security Council Resolutions 1970 (2011) and 1973 (2011).

Taktouk v Semaan

[2015] EWHC 652 (Ch)

Alan acted for the successful defendant in a claim for breach of fiduciary duty brought against her by her former husband, concerned with the sale of a property to a company in which her new partner, the Chelsea footballer Cesc Fabregas, had an interest.

Newland Shipping and Forwarding Ltd v Toba Trading

[2014] EWHC 661 (Comm)

Alan acted for the Claimant in a Commercial Court trial of an international sale of goods case raising issues about the relationship between a contractual right to terminate a contract and the right to terminate at common law for repudiatory breach.

Royal Cayman Island Police Service Commissioner v Bridger

[2014] EWHC 1899

Alan acted for the successful Defendant resisting summary judgment in a case raising an interesting point on the construction of the Civil Procedure Rules arising out of an investigation by the Cayman Islands Police Service into allegations of wrongdoing.

Civil Fraud, Asset Recovery & Injunctive Relief

Alan Maclean KC is an experienced Silk in civil fraud and asset recovery cases, including trials, appeals and related interlocutory work (including pre and post judgment freezing and other injunctive relief, Norwich Pharmacal applications and Bankers Trust v Shapira orders).

"Alan is a creative thinker with the ability to spot obscure but incredibly useful points."

— CHAMBERS AND PARTNERS, 2023

Alan's leading cases in this field include the Supreme Court case of Bilta v Nazir (ex turpi causa and attribution of knowledge) and the Court of Appeal cases of Charter v City Index (knowing receipt) and Motorola Credit Corp v Uzan (freezing orders). Alan was also instructed in Rugby Football Union v Viagogo (secondary ticket market Norwich Pharmacal relief).

Alan's recent work in this field includes:

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- obtaining a Bankers Trust v Shapira order against Christie's auction house, and others, in respect of valuable chattels brought to England from Greece (Kyriakou v Christie Manson and Woods Ltd);
- a Norwich Pharmacal application against a firm of solicitors arising out of hotly contested divorce proceedings;
- advising as to an overseas sovereign wealth fund's ability to obtain proprietary relief and tracing-based remedies in a claim based on alleged fraudulent and corrupt investment contracts (Libyan Investment Authority v Société Générale).

Cases

Kyriakou v Christie Manson and Woods Ltd

[2017] EWHC 487 (QB)

Alan acted for the Applicant in successfully obtaining a Bankers Trust v Shapira order against Christie's auction house, and others, in respect of valuable chattels allegedly misappropriated in Greece and brought to England.

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[2016] EWCA Civ 788; [2016] All ER (D) 15 (Aug)

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Chantiers de l'Atlantique SA v Gaztransport & Technigaz SAS

[2011] EWHC 3383 (Comm)

Alan acted for a major French engineering company in a claim to the Commercial Court under s. 68 Arbitration Act 1996 challenging an arbitral Award concerned with LPG carrier vessels on the ground that the Award had been obtained by fraud.

EU & Competition

Since taking Silk, Alan Maclean KC has developed a leading practice in competition law cases. He has recently appeared in competition cases in the Court of Appeal, the High Court, the CAT and the CMA.

"He is brilliant on the law, tactically very astute, charming with clients, and provides a great service."

— LEGAL 500, 2021

Most recently, Alan appeared for the respondent in the Court of Appeal in Gascoigne Halman v Agents' Mutual, a case of alleged breach of the Chapter I prohibition in the valuable online property portal market. Alan's client was successful in the CAT: (Agents Mutual Ltd v Gascoigne Halman Ltd [2017] CAT 15). The Court of Appeal's judgment is awaited.

Alan recently acted for the airline Laudamotion in a dispute with its much bigger commercial rival, Lufthansa, in a claim which involved allegations of breach of Art 102 TFEU in the context of the termination of the leases of Airbus aircraft: Laudamotion GmbH v Deutsche Lufthansa AG. He has also recently been advising a major multinational on a follow on claim to the Trucks Cartel ruling by the EU.

Alan's other leading cases in this field include two notable victories in Chancery Division abuse of dominant position cases: Purple Parking Ltd v Heathrow Airport Ltd (airport parking) and Dahabshiil v Barclays Bank (injunction to protect provision of banking services to international money remittance businesses). Alan also has recent experience of other transport related competition cases (coach services to Stansted and a proposal to de-privatise bus services in Tyne & Wear).

Alan Maclean KC also has a well-established advisory practice in a number of non-competition aspects of EU law, most notably concerning regulation of professions in areas such as mutual recognition of qualification/free movement, consumer protection and pharmaceutical/pharmacy regulation.

Most recently Alan has advised Government, at a very senior level, on aspects of the proposed BREXIT agreement with the EU. Alan's other recent work includes:

- advising DEFRA in responding to the European Commission's allegations of breach by the UK of the Habitats Directive;
- advising a county council on the application of the EU public works procurement regime to various forward funding property transactions;
- cases concerning drug licensing/pricing and the Drug Tariff;
- advising on the application of the EU Consumer Rights Directive; and
- advising various transport businesses on free movement and labour law issues arising from the ITWF v Viking Line line of authority.

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Cases

Gibfibre Limited v Gibraltar Regulatory Authority

2017-CIVAPP-006 (Gibraltar)

Alan is currently acting for a Gibraltar telecoms company in a statutory appeal against the regulator concerning powers to require the State owned operator to provide access to its infrastructure. The case involves novel and difficult questions arising out of the EU Framework and Access Directives. An appeal to the Court of Appeal of Gibraltar is pending.

British Gas Trading Limited v Gas and Electricity Markets Authority

2019

Alan is currently acting for Ofgem in a judicial review challenge brought by British Gas against the controversial new tariff price cap for default rate gas and electricity consumers.

Carrington Power Ltd v GEMA

In late 2016 Alan acted for an electricity generation company in an appeal concerning its participation in the Electricity Capacity Market auction competition.

Laudamotion GmbH v Deutsche Lufthansa AG

Commercial Court 2018

Alan acted for the Claimant airline in a dispute with its much bigger commercial rival, Lufthansa, in a claim which involved allegations of breach of Art 102 TFEU in the context of the termination of the leases of Airbus aircraft.

Unwired Planet International Ltd v Huawei Technologies Co Ltd

[2017] EWHC 2831 (Pat)

Alan acted for the telecoms giant Huawei in an application for anti-suit injunctive relief in respect of a competition law complaint brought by his client in China.

Re X

Alan has advised a leading global drinks business in a ‘follow on’ damages claim following the European Commission’s findings in the Trucks Cartel case involving many of the leading truck manufacturers.

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Gascoigne Halman Ltd v Agents' Mutual Ltd

[2017] CAT 15

Alan led the team for the successful claimant, Agents' Mutual Ltd, in a hard fought trial in the CAT of a case with important ramifications for the increasingly valuable online property portal market. A key issue in the case was an allegation that Agents' Mutual's "One other Portal" rule (which prevents its estate agent members listing properties on both Zoopla and Rightmove) breached the Chapter I prohibition of the Competition Act 1998. The CAT accepted Alan's submission that it did not. The case also involved hotly contested allegations of "collective boycott" and extensive expert economic evidence. The case has just been to the Court of Appeal on 'by object' points; judgment awaited.

Northern Powergrid (Northeast) Limited v The Gas and Electricity Markets Authority

(Competition and Markets Authority; 29 Sep 2015)

Alan acted for GEMA on an appeal to the CMA against Ofgem's price control decision for electricity distribution network operators applicable for the 8-year period from 1 April 2015.

Telecommunications

Alan Maclean KC has extensive experience of telecommunications disputes, both in a litigation and advisory context.

"Alan Maclean is a really good leader."

— CHAMBERS AND PARTNERS, 2027

Alan's current/recent work in this field includes:

- acting for a Gibraltar telecoms company in a case concerning the scope of the EU Access and Framework Directives and the implementing Gibraltar law;
- a Commercial Court claim against BT, concerned with the scope for a 'Transit Operator' to withhold payment to a 'Terminating Network Operator' on the basis of alleged 'Artificial Inflation of Traffic' under the Standard Interconnect Agreement;
- advising in a case concerning the scope of Code rights under schedule 3A of the Communications Act 2003; and
- acting for Hutchison 3G Ltd in a Commercial Court action against its rival, EE, concerning deployment of mobile data coverage and capacity.

Previously, Alan was heavily involved in advising on complex issues arising out of a prospective multi-billion merger transaction involving two UK mobile networks.

Cases

Cornerstone Telecommunications Infrastructure Ltd v Arqiva

Alan has been advising the Cornerstone Telecommunications Infrastructure Ltd (a joint venture between Vodafone and O2) in respect of disputes it has with Arqiva arising out of major contracts for site equipment necessary for the mobile networks of Vodafone and O2.

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Unwired Planet International Ltd v Huawei Technologies Co Ltd

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Gibfibre Limited v Gibraltar Regulatory Authority

2017-CIVAPP-006 (Gibraltar)

Alan is currently acting for a Gibraltar telecoms company in a statutory appeal against the regulator concerning powers to require the State owned operator to provide access to its infrastructure. The case involves novel and difficult questions arising out of the EU Framework and Access Directives. An appeal to the Court of Appeal of Gibraltar is pending.

Hutchison 3G UK Ltd v EE Limited

2015 - 2017

Alan was leading Counsel for the mobile network 'Three' in a Commercial Court action against its rival EE, arising out of a Network Integration Agreement concerning deployment of mobile data coverage and capacity by EE to Three on sites that were formerly part of the Orange mobile network.

Public & Regulatory

Alan Maclean KC has extensive public and regulatory law experience. He has appeared in many such cases in the Court of Appeal and the Administrative Court, and in many other Courts and tribunals, including the Court of Justice of the EU, the CMA, the CAT, the Upper Tribunal, the Information Tribunal and various professional disciplinary tribunals (in fields as diverse as licensed conveyancing and speedway racing).

"Alan Maclean is very good and very experienced."

– CHAMBERS AND PARTNERS, 2026

Alan has most recently been extensively involved in advising in relation to the new energy tariff cap legislation. Before that, acted for the Civil Aviation Authority on licensing and regulatory issues arising from the collapse of Monarch Airlines.

Alan's current or recent clients include the Takeover Panel, the Oil and Gas Authority, the BMA, the CAA, the Solicitors' Regulation Authority, the Law Society, the Law Society of Hong Kong, the Financial Reporting Council, the ICAEW, OFGEM, OFWAT, the GMC, the GDC, the Royal College of Physicians, the Charity Commission and the Independent Police Complaints Commission.

Recent cases include:

- acting in a number of electricity related cases, concerning the Capacity Market auction rules (against the regulator) and the domestic and non-domestic heat incentive schemes (for the regulator)
- advising in a high profile case of allegations of professional misconduct against solicitors arising out of the Al-Sweady Inquiry into the conduct of British soldiers in Iraq;
- acting for the claimant charity in a challenge to the implementation by NHS England of NICE's recommendations on new drug treatments for hepatitis;

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- representing the Charity Commission in the Upper Tier Tribunal in a case concerning the test for standing to appeal against a decision of the Charity Commission;
- acting for a major catering industry supplier in a case concerning the exercise of statutory powers of the New Covent Garden Market Authority in relation to a major redevelopment; and
- acting for the Independent Police Complaints Commission in a judicial review of a controversial report on a death in custody.

Alan Maclean was a member of the Attorney General's panel of counsel for 10 years prior to taking Silk. His Government clients have included No 10 Downing Street, the Cabinet Office, the Foreign & Commonwealth Office, the Ministry of Defence, HM Treasury (including advising in relation to the Parliamentary Ombudsman's investigation of the regulation of Equitable Life), the Ministry of Justice, the Department for Education and, very recently, DEFRA.

Alan has experience in the fields of State and Diplomatic immunity, including the State Immunity Act and the Vienna Convention.

Cases

OFSI v Standard Chartered Bank: Announcement of imposition of monetary penalty

The Office of Financial Sanctions Implementation announced the imposition of a monetary penalty of £20.47 million on Standard Chartered Bank (SCB) for breaches of financial sanctions pursuant to part 8 of the Policing and Crime Act 2017. SCB had referred the penalty for a Ministerial Review under s.147 of the Act. The relevant Minister, the Economic Secretary to HM Treasury, who conducted the Review personally in accordance with s 147, upheld the decision to impose a penalty but reduced the overall penalty payable. Alan advised HM Treasury.

British Gas Trading Limited v Gas and Electricity Markets Authority

2019

Alan is currently acting for Ofgem in a judicial review challenge brought by British Gas against the controversial new tariff price cap for default rate gas and electricity consumers.

Re Monarch Airlines

In late 2017 Alan was heavily involved in acting for the Civil Aviation Authority in relation to the collapse of Monarch Airlines. Alan acted for the CAA in proceedings to revoke Monarch's Operating Licence.

Re Proposed Quality Contracts Scheme for Tyne and Wear

(QCS Board, November 2015)

Alan acted for a major catering industry supplier in a public law case concerning the exercise of powers of the New Covent Garden Market Authority in relation to a major redevelopment of this key central London commercial site.

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Eskimo Ice v New Covent Garden Market Authority

Alan acted for a major catering industry supplier in a public law case concerning the exercise of powers of the New Covent Garden Market Authority in relation to a major redevelopment of this key central London commercial site.

Gibfibre Limited v Gibraltar Regulatory Authority

2017-CIVAPP-006 (Gibraltar)

Alan is currently acting for a Gibraltar telecoms company in a statutory appeal against the regulator concerning powers to require the State owned operator to provide access to its infrastructure. The case involves novel and difficult questions arising out of the EU Framework and Access Directives. An appeal to the Court of Appeal of Gibraltar is pending.

R (Hepatitis C Trust) v NHS England

Alan has recently acted for the Hepatitis C Trust in a judicial review challenge to NHS England's decision to limit the number of people with hepatitis C who were to be allowed access to new NICE approved drugs that cure the disease. The case raised important issues as to the control, or 'rationing' of NICE-approved medicines by the NHS.

RE Capacity Market Auction

In late 2017 Alan has been heavily involved in two cases concerning participation in the Electricity Capacity Market auction pursuant to the Electricity Capacity Regulations 2014. The cases involve issues of public law principle and the powers and duties of National Grid and Ofgem in applying the auction Rules.

Jeffrey v Independent Police Complaints Commission

[2017] EWHC 102 (Admin)

Alan acted for the Independent Police Complaints Commission in a judicial review of its report arising out of the death of Sean Rigg whilst in police custody. Among the many issues involved were questions of the legality of arrest, detentions and searches that were undertaken by the IPCC as part of its investigation.

Northern Powergrid (Northeast) Limited v The Gas and Electricity Markets Authority

(Competition and Markets Authority; 29 Sep 2015)

Alan acted for GEMA on an appeal to the CMA against Ofgem's price control decision for electricity distribution network operators applicable for the 8-year period from 1 April 2015.

Nicholson v The Charity Commission

[2016] UKUT 198

Alan acted for The Charity Commission in resisting an appeal in an important test case on standing to appeal a decision of The Charity Commission pursuant to section 34 Charities Act 2011.

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R (on the application of Antino) v Royal Institute of Chartered Surveyors

[2015] EWHC 2457 (Admin)

Alan acted for the Royal Institute of Chartered Surveyors in successfully resisting a judicial review claim based on alleged apparent bias, raising Porter v Magill issues.

General Medical Council v Nakhla

[2014] EWCA Civ 1522; (2015) 142 BMLR 35

Alan acted for the GMC on its appeal to the Court of Appeal in an important case on the requirements for entry to the UK's specialist register for senior medical practitioners.

Marrache v Attorney General of Gibraltar

[2013–14 Gib LR 703]; [2013–14 Gib LR 520]

Alan acted, both before the Chief Justice and the Court of Appeal of Gibraltar, for the Attorney General and the Governor of Gibraltar in opposing a judicial review challenge to the appointment of a retired English High Court Judge to sit in the criminal trial of the Marrache brothers, who were accused of crimes of serious dishonesty in relation to their Gibraltar-based solicitors' firm.

Sanctions

Alan has advised and appeared in a number of sanctions-related cases in recent years, including cases involving Libya and Russia. One recent example is his appearance in the Court of Appeal in a case raising important issues arising out of the Libyan Asset Freezing Regulations, including whether payment of a debt would contravene EU Regulation 204/2011 and the Libya (Asset-Freezing) Regulations 2011 (LIA v Maud).

"For sanctions work, he is one of the few at the Bar and is really good and practical. He is a real leader in this area and very pragmatic and considered in how he puts advice together."

— CHAMBERS AND PARTNERS, 2026

Cases

Libyan Investment Authority v Maud

[2016] EWCA Civ 788; [2016] All ER (D) 15 (Aug)

Alan appeared in the Court of Appeal in a case raising important issues arising out of the Libyan Asset Freezing Regulations, including whether payment of a debt would contravene EU Regulation 204/2011 and the Libya (Asset-Freezing) Regulations 2011 because the Appellant was a designated entity whose assets were frozen under UN Security Council Resolutions 1970 (2011) and 1973 (2011).

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Libyan Investment Authority v Société Générale

Alan recently advised on the application of the international sanctions and asset-freezing regime applied to Libya in the context of a major Commercial Court fraud case brought by the Libyan Investment Authority seeking proprietary relief arising from claims that investment agreements made under the Gadhafi regime were void, voidable and/or unenforceable.

Sport

Alan Maclean KC has recently been involved in a number of sports cases, including:

- acting for the Rugby Football Union in an appeal concerning the arrangements for the new women's Super Rugby competition;
- advising a leading Premiership Rugby club in a sponsorship dispute;
- advising a leading FA Premier League club in a case involving media access rights;
- a case involving another FA Premier League football club and the application of the FA's Owners' and Directors' Test.
- advising an overseas Rugby Football Union in relation to membership of Rugby Europe

Alan has also acted in several sporting disciplinary cases, most recently before the RFU Panel on behalf of two international rugby players. He has also advised Sport England on funding issues.

Civil Liberties & Human Rights

Alan has recently been involved in a number of cases concerning injunctive relief against Persons Unknown obtained by onshore oil and gas operators: e.g. Island Gas v Persons Unknown [2018] 12 WLUK 390; Ineos Upstream Ltd v Persons Unknown [2017] EWHC 3427 (Ch) (appeal to the Court of Appeal pending).

Alan has also recently been involved in a case for a major US hedge fund on an application for an injunction against the Financial Times to restrain publication of confidential information: Guggenheim Securities v The Financial Times Ltd QBD 2018

"Highly intelligent with good strategic insight. A persuasive advocate."

— LEGAL 500, 2023

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Alan other current work in this field includes advising George Soros's Open Society Justice Initiative.

Cases

Guggenheim Securities v The Financial Times Ltd

QBD 2018

Alan has recently been involved in a case for a major US hedge fund on an application for an injunction against the Financial Times to restrain publication of confidential information. The case raised issues on the interaction of Article 10 of the ECHR and the right of the claimant to protect its confidential information.

Island Gas Ltd v Persons Unknown

[2018] 12 WLUK 390

Alan represented the successful onshore oil and gas operators who obtained continued quia timet interim injunctions preventing unnamed protestors from undertaking unlawful activities aimed at their oil business. The case involved legal issues including the extent of Article 10 and 11 rights and the grant of injunctions against persons unknown.

INEOS Upstream Ltd v Persons Unknown/Corre and Boyd v Ineos Upstream

[2017] EWHC 2945 (Ch)

Alan was leading Counsel for the Ineos Group, a global energy and chemicals business, in a high profile and landmark 'fracking' case in the Chancery Division. Alan successfully secured wide ranging injunctive relief to protect Ineos's shale gas exploration interests. The legal issues ranged across the law of trespass, nuisance, harassment, crime and human rights. Morgan J's judgment examined in detail the interaction between these areas of law and the freedoms protected by Articles 10 and 11 of the European Convention. An appeal is due to be heard in the Court of Appeal in March 2019.

Jeffrey v Independent Police Complaints Commission

[2017] EWHC 102 (Admin)

Alan acted for the Independent Police Complaints Commission in a judicial review of its report arising out of the death of Sean Rigg whilst in police custody. Among the many issues involved were questions of the legality of arrest, detentions and searches that were undertaken by the IPCC as part of its investigation.

Virgin Atlantic Airways Ltd v Jet Airways (India) Ltd

[2013] EWCA Civ 1713 (CA); [2014] Bus. L.R. 491; [2014] RPC 18; [2012] EWHC 2153 (PAT); [2013] RPC 10

Alan acted, both at first instance and in the Court of Appeal, for Virgin Atlantic in an important case involving, among many others, the question of whether the English court was competent to adjudicate on the legality of acts performed by international organisations pursuant to the European Patent Convention. The case raised issues of the interface between the European Convention on Human Rights, the European Patent Convention and English domestic law.

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Financial Services & Banking

Alan Maclean KC has appeared in a number of banking cases, in the Commercial Court and the Chancery Division. He acted for Barclays Capital in Commercial Court litigation concerning an Event of Default under a Global Master Repurchase Agreement and for a major international bank defending a claim for US$35 million arising out of the performance of a Securities Lending Authorisation Agreement.

Alan's advisory practice includes the construction and application of guarantees, indemnities, letters of credit, bonds and other financial instruments.

Cases

Dahabshiil Transfer Service Ltd v Barclays Bank Plc

[2013] EWHC 3379 (Ch); [2014] U.K.C.L.R. 215

Alan acted for an international money remittance company in a claim against Barclays Bank. The proceedings included obtaining an interlocutory injunction in the Chancery Division on the basis of alleged breach of a dominant position by the bank, contrary to the Competition Act 1998.

OFSI v Standard Chartered Bank: Announcement of imposition of monetary penalty

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HG ABS Fund Plc v Barclays Bank

(2013)

Alan acted for Barclays Capital in Commercial Court litigation concerning an alleged Event of Default under a Global Master Repurchase Agreement.

Data Protection, Freedom of Information & Privacy

Alan Maclean KC was, from its inception, a member of the Attorney General's Panel of Counsel for freedom of information cases. He has appeared in many cases in the information and privacy field, including:

- a case seeking public access to secret documents about UK arms sales to Saudi Arabia;
- a claim by 'The Times' for disclosure of policy papers prepared for the Chancellor's Budget;

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- a case brought by a 'Guardian' journalist, which was the first in which the Government litigated the 'prejudice to public affairs' exemption in the Freedom of Information Act; and
- a case about the controversial Iraq WMD Dossier.

Investigations & Inquiries

Alan Maclean KC has extensive public inquiry experience, having appeared in several high profile inquiries. In 2003, in the Hutton Inquiry , he was selected to act for Prime Minister Tony Blair, his Chief of Staff, his Communications Director (Alastair Campbell) and the Chairman of the Joint Intelligence Committee, among others. Alan went on to advise No 10 Downing Street on other matters.

In 2012 Alan was Leading Counsel to the Pollard Review into the BBC Newsnight/Jimmy Savile affair.

Alan's other public inquiry experience includes: e.g. E.coli O157 (2009); Review into deaths at Deepcut Army Barracks (2007); Zahid Mubarek (2006) and the Bristol Royal Infirmary Inquiry (1999 - 2001).

"He is very bright, well thought of and has a good practice."

— CHAMBERS AND PARTNERS, 2016

ACHIEVEMENTS

Education

BA (Hons) First Class (PPE), University College, Oxford;

Kennedy Memorial Scholarship, Harvard University (John F Kennedy School of Government);

Post-Graduate Diploma in Law (with Distinction), City University;

Placed 1st in year at Bar School (1993).

Alan was awarded a Scarman Scholarship for being placed First in his year at Bar School. Gray's Inn awarded him a Bacon Scholarship, a Prince of Wales Award, a Macaskie Award, a Karmel Award and the Lee Prize. As a Bar student, he and a colleague won the International Final of the Observer Mace debating competition.

Selected earlier cases

Commercial

- Forsta AP-Fonden v Bank of New York Mellon
- Berezovsky v Hine and others (2012)
- Unaoil Ltd v Amona Ranhill Consortium Sdn Bhd [2012] EWHC 1595 (Comm)

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- Shell UK Ltd v Total UK Ltd [2011] QB 86
- Colour Quest Ltd v Total Downstream UK plc [2009] 2 Lloyd's Rep. 1
- West London Pipeline and Storage Ltd v Total UK Ltd [2008] 2 CLC 258
- North Principal Investments Fund Ltd v Greenoak Renewable Energy [2008] All ER (D) 288
- Merchantbridge & Co Ltd v Safron General Partner I Ltd [2006] All ER (D) 56
- Deloitte & Touche v Dickson [2005] All ER (D)
- Redwell Ltd v 1-3 Cuba Street Ltd [2005] All ER (D) 210 (Court of Appeal)
- Finecroft Limited v Lamane Trading Corporation (2005) (BVI)
- Motorola v Uzan [2004] 1 WLR 113
- If P&C v Silversea [2004] Lloyd's Rep IR 696 (CA); [2004] Lloyd's Rep IR 217 (Comm Court)
- Smith v Bridgend County Borough Council [2002] 1 AC 336
- Interbrew v Financial Times [2002] 1 Lloyd's Rep 542
- Hamilton v Al Fayed (No 3) [2001] All ER (D) 181
- Re Cosslett [1998] Ch 495 (Court of Appeal); [1997] Ch 23 (Chancery Division)

Civil Fraud, Asset Recovery & Injunctive Relief

- Charter plc v City Index Ltd [2008] 1 Ch 313 (CA); [2007] 1 WLR 26 (Ch Div)
- Dornoch Ltd v Mauritius Union Assurance Co Ltd [2006] 2 Lloyd's Rep 475 (CA); [2006] Lloyd's Rep IR 127 (Comm Court)
- Six Continents Hotels Inc v Event Hotels GmbH [2006] All ER (D) 101
- Reachbyte v Brewin Dolphin (Chancery Division 2006-2007)
- Siemens v Bumiputra Commerce Bank (Commercial Court 2006)
- Abu Dhabi Investment Co v H Clarkson & Co Ltd (Commercial Court 2004-2005)

Arbitration

- Chantiers de L'Atlantique SA v Gaztransport & Technigaz SAS [2011] EWHC 3383 (Comm)
- Norsk Hydro ASA v State Property Fund of Ukraine [2009] Bus. L.R. 558

Public & Regulatory

- Assisted Reproduction and Gynaecology Centre v Human Fertilisation and Embryology Authority [2013] EWHC 3087 (Admin)
- R (on the application of Thames Water Utilities Ltd) v Water Services Regulation Authority [2012] EWCA Civ 218; [2012] P.T.S.R. 1147
- R (Royal Brompton and Harefield NHS Foundation Trust) v Joint Committee of Primary Care Trusts [2012] EWCA Civ 472 (CA); [2011] EWHC (Admin) 2986
- Pharmaceutical Contractors Committee (NI) Ltd, Re Judicial Review [2010] NIQB 3
- Black & Clements, Re Judicial Review [2009] NIQB 94
- R (Higher Burrow Organic Farming Partnership) v Secretary of State for the Environment, Food and Rural Affairs [2008] All ER (D) 230
- R (Denfleet International Ltd) v NHS Purchasing and Supply Agency [2005] All ER (D) 252

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- Council for the Regulation of Health Care Professionals v Health Professions Council [2005] All ER (D) 64
- R v Greater Belfast Coroner ex p Northern Ireland Human Rights Commission [2002] HRLR 35
- R (S) v Plymouth City Council [2002] 1 WLR 2583
- R v Greater Belfast Coroner ex p Northern Ireland Human Rights Commission [2002] HRLR 35
- Heather v Leonard Cheshire [2001] All ER (D) 156
- R v Legal Aid Board ex p Edwin Coe [2000] 1 WLR 1909
- R v Gloucestershire CC ex p Barry [1997] AC 584
- R v Wandsworth ex p Beckwith [1996] 1 WLR 60

EU & Competition

- Dahabshiil Transfer Service Ltd v Barclays Bank Plc [2013] EWHC 3379 (Ch); [2014] UKCLR 215
- Purple Parking Ltd v Heathrow Airport Ltd [2011] EWHC 987 (Ch); [2011] UKCLR 492
- British Telecommunications plc v Office of Communications [2004] All ER (D) 176 (May) (CAT)
- R v Secretary of State for Trade and Industry ex p BT3G Ltd [2001] EuLR 822
- R v MAFF ex p Lay and Gage ECR 1997 I 05543

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