

## Vod K. S. Chan

陳家成大律師

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### RW Chambers

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### Practice Profile

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Vod is a practising barrister with a focus on civil litigation, especially in the areas of company/business, intellectual property, employment, discrimination, land/property, landlord and tenant, torts including personal injury, and banking laws. In particular, his spectrum of practice covers, in the area of company law, advising a listed company's investment vehicle on its shareholders' rights, and seeking reliefs on behalf of a company falling foul of the Companies Ordinance; regarding the employment law, assisting a worldwide leader of technical solutions in a hotly contested employment dispute, advising an international health care solution provider on a labour dispute involving a question of equal opportunity, and seeking an injunction order against a former employee for enforcement of restrictive covenants; and, concerning the law of intellectual property, seeking an injunctive relief for breach of confidence, advising in two separate cases of pharmaceutical patents involving an interesting point of law, and arguing a novel point of law in a trade mark dispute.

Likewise, he is also an active arbitrator and advocate in many arbitrations such as major financial arrangements/ cross-border investments/ international financing, banking, international trading, contract/ business, insurance, property management/DMC, construction/ engineering, PRC media, etc. By way of an example, his spectrum of arbitration practice covers disputes about a cross-border investment/ international financing of about half a billion dollars, an investment/ convertible note purchase agreement of about three quarters of a billion dollars, a major financial arrangement involving a leading international bank, a major fraud involving a leading bank in HK, a stock trading involving a licenced broker, a transaction between a sophisticated investor and an international bank, a major construction/ engineering project, an enforcement of an arbitral award of a construction/ engineering dispute, an international trading of industrial commodities, an import/ export contract of strategic medical supplies in Asia, a cross-border contract of equipment involving an affiliate of a Chinese multinational conglomerate, a provision of utility services of a building, etc.

Vod also acts as defence counsel in criminal litigation, from appearing before the Court of Appeal to advocating an unprecedented point of law in magistracy appeal to defending cases, for example, involving a corruption offence, an infringement of intellectual property rights, or a breach of trust with an amount in question close to \$20 million.

Prior to practising at the Bar, Vod was a part-time university lecturer in Canada on topics including information technology, e-business and management science, and also earned years

of business experience from enterprises, for example, specialising in technological advances such as global positioning systems and information technology.

## **Education**

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LLM in ArbDR (Distinction) (City University of Hong Kong) (CityU)

LLM (Distinction) (University of Hong Kong)

PCLL (University of Hong Kong)

LLB (Hons.) (University of London)

MBA (Simon Fraser University)

Advance Certificate in Sport & Exercise Nutrition (The University of Hong Kong School of Professional and Continuing Education)

SAP Certificate

## **Qualifications**

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- Practising Arbitrator:
  - Hong Kong International Arbitration Centre (HKIAC)'s List of Arbitrators
  - Domain Name Dispute Resolution
  - Fellow of Chartered Institute of Arbitrators
  - Fellow of Hong Kong Institute of Arbitrators (HKI Arb)
  - Member of Finance Dispute Resolution Centre
  - Nanjing Arbitration Committee International
  - Online Dispute Resolution Centre (eBRAM)
- General & Family Mediator:
  - HKIAC
  - Hong Kong Mediation Accreditation Association Limited
  - Hong Kong Bar Association (HKBA)
  - Finance Dispute Resolution Centre
  - International Online Dispute Resolution Centre (eBRAM)
- Greater Bay Area Lawyer

## **Selected Cases**

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- **Construction and Arbitration**
  - *To HS Eddy v Sheenluxe*, HCCT 34/2008 (Court of First Instance, 3 Dec 2008) (Opposing to set aside an arbitration award)
  - *Falcon Building Materials Co. Ltd. v Fine View Engineering Ltd*, DCCJ 5663/2006 (District Court, 3 Jan 2008)
  - *Otis Elevator Co (HK) Ltd v Cheung Yip Chuen David*, DCCJ 5316/2005 (District Court, 21 Jul 2006)
- **Administrative and Public Law**
  - *China Mobile v Commissioner of Inland Revenue*, HCIA 2/2017 (Court of First Instance, 28 Jul 2020) (Tax/Income Revenue)
- **Company and Insolvency**
  - *Palliser Investments Ltd v Man Chi Chuen & Another (Bankruptcy)*, HCB 3633/2005 (Court of First Instance, 17 Oct 2005)
  - *Tam Kwok Cheong v Win Glory Ltd & Other (Winding-up)*, HCCW 301/2010 (Court of First Instance, 20 Sep 2011)

- *Futin Ltd.*, HCMP 2016/2007 (Court of First Instance, 16 Apr 2009) (Companies); HCMP 2624/2010 (remedies were sought to rectify a blunder, which could have been otherwise a breach of provisions of the Companies Ordinance)
- **Contractual & Employment Disputes**
  - *Chiyu Banking Corp Ltd v Wan Loon Packg. & Staty. Co Ltd*, HCA 472/2003 (Court of First Instance, 15 Aug 2005) (a bank client obtained judgment to recover debts based on certain deeds of guarantee)
  - *My Beauty Co Ltd v Kong & Others*, HCA633/2011 (Injunction, Restrictive covenants/ Employment)
- **Criminal**
  - *HKSAR v Tsang Kwok-hin* [2005] 3 HKLRD H2 (an unprecedented point of law in HK was so argued there, on account of which the appeal against conviction was allowed)
  - *HKSAR v Wong C W*, HCMA 760/2012
  - *HKSAR v T. T. H.*, FAMC 13/2019 (leave sought from Court of Final Appeal from CACC 145/2016) (Rape & Child Phonograph)
- **Family Law**
  - *Tse v Hsu*, FCMC 1838/2013 (access, custody & relocation)
  - *Lo v Ho*, FCJA 455/2007 (assets)
- **Intellectual Property**
  - *Camsing Int'l Hldg Ltd v Stan Lee*, HCA193/2018 (Court of First Instance, 16 Apr 2020) (Abuse of civil process arising from a deal involving Marvel hero characters)
  - *Belt Collins Int'l v HK Beier Gaolin*, HCA1042/2008 (Court of First Instance, 6 July 2009) (Trademark/ Passing off)
  - *Du Pont and Merck v Betergents Ltd*, HCA 582/2006; *Merck v Betergents Ltd*, HCA2587/2006 (Pharmaceutical Patents)
  - *Sun HC Textile v Chan WM*, HCA 1745/2013 (Court of First Instance, 20 Apr 2018) (Fiduciary duties, breach of conf., passing off)
- **Land & Property**
  - *Mayer Hldgs v Make Success & Ors*, HCA 64/2012 (Court of First Instance, 5 Apr 2012) (Listed Co's Vietnam JV/Port)
  - *Cheung Lo Fat & Others v Tang Kung Leung & Others*, DCCJ 654/2013 (Land)
  - *Liu Yuen Chung Steven v Cheung Lo Fat & Others (joinder)*, HCMP 152/2014 (Court of Appeal, 28 Mar 2014)
  - *Rand Co Ltd v Bullen*, DCCJ 1488/2013 (District Court, 7 February 2014) (lease)
  - *Rose Palace Ltd v Jung Christopher Lam* [2013] 2 HKLRD 158 (VP summons)
  - *Wealthy Victor Ltd v Ace Cosmos*, HCA 1910/2007 (Court of First Instance, 25 Jan 2011) (\$50M escrowed/Overseas land)
  - *A Lam, K & K (firm) v Chan TS*, HCMP 1157/2009 (feud of family/siblings over half century)
  - *Lui Yuk Yin v Lam Chuen & Another*, DCCJ 1178/2005 (District Court, 1 March 2006) (in a property dispute a joinder application was opposed)
- **Tort & Personal Injury**
  - *Chiang Wing Nin v ISS Servisystem (HK) Ltd*, CACV 126/2005 (Court of Appeal, 10 Jan 2006) (a local arm of an international facility service provider was assisted in a case before the Court of Appeal)
  - *Chan Sze Yuen v Tin Wo Eng Co Ltd & Others*, HCPI 427/2008 (Court of First Instance, 17 September 2012) (Jurisdiction)
  - *Bishwakarma Bhakta Bahadur v Pacific Crown Security Services Ltd & Others*, HCPI 232/2015, [2018] HKCFI 1912

## **Appointments**

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- Chair, Appeal Tribunal Panel (Buildings)
- Torture Claims Appeal Board
- Appointment Committee of Finance Dispute Resolution Centre
- Vice Chair, Mediation Committee, HKBA
- Adjunct Professor, School of Law, CityU
- Deputy Registrar, District Court, HK Judiciary
- Council Member, HK Institute of Arbitrators
- ICC-HK Standing Committee on Arbitration and ADR
- Committee on Arbitration, HKBA
- Hong Kong University's Law Mentorship Programme
- Former Deputy Adjudicator, Small Claims Tribunal, HK Judiciary
- Former Deputy Magistrate, Tuen Mun Magistracy, HK Judiciary
- Former Member of HK Trade Development Council's Professional Services Advisory Committee
- Former Member of Steering Committee on Mediation, Department of Justice
- Former Adjunct Professor of Arbitration Law, CityU
- Former Lecturer of International Trade Law, Arbitration Program, HKU SPACE
- Former Member of Supervisory Board, Asia Dispute Resolution Journal
- Former Chairperson, HK Mediation Council, HKIAC

## **Publications**

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- *What Should Lawyers Do When the Best of the Two Worlds Collide in Mediation/Negotiation?*, HK Lawyer, p.35, 11/2020”
- *Using softer hands to settle injury claims*, South China Morning Post, p2, 16/1/2016
- *Turn bad times into a career opportunity*, South China Morning Post, p2, 20/9/2014
- *Mediator's Qualifications & Skills*, publication following Mediation Conference on 21/3/2014
- “*Stopping fighting friends' garment firm from unravelling*”, South China Morning Post, 15/2/2014
- *RTHK Disputants Should Have Radioed for Mediation Help*, South China Morning Post, p20, 13/4/2013
- *Should a lawyer-mediator's fee be shared in HK?*, HK Lawyer p.62 9/2012

## **Scholarships / Awards**

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Bronze Award for Volunteer Service, Social Welfare Department Hong Kong  
Eileen Purkiss Memorial Endowment Award  
BC Hydro Scholarship

## **Languages**

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Fluent in Cantonese, English and Putonghua