

Dr Tim Sampson



Construction and Technology

Tim regularly acts in complex construction disputes often with significant technical or expert evidential issues – including adjudications (both under the Scheme for Construction Adjudications and ad hoc rules) and High Court TCC enforcement proceedings, as well as leading in recent appeals to the Court of Appeal. He also advises in respect of claims. Tim also has substantial experience in relation to domestic building disputes, with a particular emphasis on dealing with such cases through mediation or ADR. Tim became Head of Lamb Chambers' Construction Group in January 2020.



Intellectual Property, Defamation and Data Protection

Tim has a successful intellectual property practise, as well as acting in defamation (including claims for malicious falsehood) and data protection claims. He is instructed in all aspects of contentious and non-contentious UK and European intellectual property law (copyright, trade marks, passing off, patents and design protection) and data protection regulation and regularly appears in the IPEC. Tim also advises on and drafts commercial contracts and IP/software licensing agreements.

In addition, Tim lectures and writes on all his specialist areas of legal practice and for a number of years taught on professional training courses run by BPP University, as well as providing Expert content for LexisNexis. He is also the current editor of Chapter 14 (Appeals) of CITMA's EU Trade Mark Handbook.

Qualifications

- Durham University – Bsc (Hons) Molecular Biology and Biochemistry
- University of Cambridge PhD in Biochemistry

Languages

- Basic Spanish

Memberships

- Called to the Bar at Lincoln's Inn (March 2000)
- Society of Construction Law
- Chancery Bar Association

Interests

Year of Call: 2000

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Construction

Tim regularly acts in construction disputes – in particular in respect of evidentially and legally complex TCC claims and adjudications (both under the Scheme for Construction Adjudication and under *ad hoc* rules) including multi-million-pound interim application “smash and grab” claims and TCC enforcement proceedings, as well as in appeals to the Court of Appeal.

Hirst & Another v Dunbar and Others [2022] EWHC 41 (TCC); 201 Con L.R. 71: – Tim acted for the Claimant, in a claim for sums expended on the renovation / completion of a number of properties situated on a development site that had been purchased out of administration (with the money provided from the first defendant). Any agreement between the Claimant and Defendants for payment relied on an oral contract said to have been entered into in early 2011. However, no serious attempts to claim the monies was made until 2014. The Defendants asserted that not only had there never been an agreement to pay the Claimants for the works (as this was undertaken at their own risk) but the claim was also time barred. The Common law rule that the claim arose once the works were substantially completed and that had been late 2012.

The importance of the case lies in its consideration of (albeit obiter) the limitation issue. It was the Claimants position that quantification of the sum owed under Part 2 of the Scheme for Construction Contracts effectively acted as a condition precedent on the right to bring a claim – in same way that third-party certification applied to extend the effective limitation period for the claim in *Henry Boot Construction Ltd v Alstom Combined Cycles* [2005] EWCA 814.

The Court concluded that the Scheme did not affect the Common law rule that the claim arose once the works were substantially completed. The Scheme provided a process for determining the sum to be paid and when it should be paid, rather than acting as a condition precedent on the right to be paid at all.

Payne & Payne v Crest Nicholson Operations Ltd. (Claim No. HT-2021-000449) – TCC: – Tim acted for the Claimants who were proprietors of a luxury new build property designed and built by the defendant and sold essentially off-plan via a marketing brochure. The property was alleged to be subject to numerous serious defects – including breaches of building regulations in relation to the radon ventilation system. Those defects had been rectified but over a number of years and with serious disruption to the lives of the claimants.



The claimants sought “blight” damages in respect of the property, together with damages for distress and inconvenience caused by the remedial works. All claims have now been settled via mediation.

PBS Bester AS v Bester Generation UK Ltd [2020] EWCA 404; [2020] 4 All E.R. 1101; [2020] B.L.R. 355; [2020] Bus. L.R. 1626: – This appeal arose out of the TCC’s refusal to grant PBS Energo summary enforcement of an adjudicator’s award of around £1.7 million, in circumstances where it later transpired that the appellant might have obtained the adjudicator’s award through misrepresentations (potentially fraudulent misrepresentations).

The CA confirmed the previous authority that where allegations of fraud were raised in the adjudication and failed and equally where fraud could / should have been raised in the adjudication but was not, then fraud could not then be raised in the enforcement proceedings.

The CA then had to address the effect (if any) of the TCC’s accelerated enforcement procedure under rule 9.2.4 (2nd Ed TCC Guide) on CPR 24.2(4) – summary judgment. The Court concluded that the terms of the TCC Guide could not modify the clear wording of CPR 24, which provided that a defendant did not need to file a defence where summary judgment had been applied for prior to the deadline for the filing of a defence. Albeit the Court was of the view that where fraud was to be alleged it would be best if this allegation were to be set out in formal pleadings.

Redstock Homes Ltd v NHBC and Thatching Advisory Service (UK) Ltd. (Claim No. HT 2020-00306) – TCC –

Tim was instructed on behalf of the Claimant (builder) in relation to a claim against TAS – as the suppliers of a proprietary fireproof Sorel cement board that was allegedly unfit for purpose- and NHBC who provided the their warranty to cover works undertaken by Redstock but it is alleged by Redstock had actually recommended / required the use of the TAS boards by Resdstock. NHBC counterclaimed against the Redstock and its directors for the costs of the remdial works undertaken in accordance with the terms of the NHBC cover. The central issue in the case is whether fireproof Sorel cement boards supplied by TAS were fit for purpose. All claims and counterclaims were settled via mediation.

Gosvenor London Ltd v Aygun Aluminium UK Ltd [2018] EWCA Civ 2695 – successfully acted for Aygun in resisting an appeal seeking to challenge Fraser J.’s first instance decision to add to the Wimbledon v Vago principles applying to stay applications in respect of adjudication enforcement claims and clarifying the applicability of evidence of fraud allegations in relation to



granting such stays. A subsequent application to the TCC to lift the stay was also refused: [2019] EWHC 3619 (TCC).

Gosvenor London Ltd v Aygun Aluminium UK

Ltd [2018] EWHC 227 (TCC); [2018] Bus. L.R. 1439; [2018] B.L.R. 353; 177 Con. L.R. 127 – acted for Aygun in resisting a claim for enforcement of a substantial adjudication award where Fraser J. added new principle “g” to the long-standing Wimbledon v Vago stay jurisdiction and considered the evidence relevant to the Court granting a stay under the new principle – including allegations of fraud that could or should have been raised in the adjudication.

Brown & Brown v Complete Building Solutions

Ltd. [2016] EWCA Civ 1; [2016] B.L.R. 98; [2016] 164 Con. L.R. 21 – representing the Appellants in an appeal against a summary judgment entered in respect of an adjudicator’s award under the HGCRA 1996 and Scheme for Construction Contracts. The Appellants having refused to meet the judgment sum as the adjudicator’s decision was – in their view – made in respect of a dispute that was the same or substantially the same as one previously unsuccessfully pursued by the respondent in an earlier adjudication – and was therefore barred under the terms of paragraph 9(2) of the Scheme.

Intellectual Property

Tim has been instructed in IPR cases before the Chancery Division of the High Court, the Intellectual Property and Enterprise Court (IPEC), as well as representing clients before the UK Trade Mark Office, the EUIPO / EPO and CJEU. Tim also lectured in IP law on Cambridge University’s Masters in Bioscience Enterprise MPhil course for 5 years.

Recent and Reported Cases

Trade Marks & Passing Off

Lifestyle Equities v Ahmed & Ahmed [2021] EWCA Civ

625; [2021] F.S.R. 31; [2021] Bus. L.R. 1020: Tim (led by Peter Knox KC) acted for the director Defendants in respect of a claim for an account of profits against them. The case raises important points of law in respect of the liability of directors as joint tortfeasors, where their company has been held liable for a strict liability tort (trade mark infringement) and whether, when taking such account, the directors and company are jointly or severally liable for the sums to be accounted. The case was appealed to the Supreme Court (hearing 20 / 21 Feb 2023) and judgment is expected shortly.

Asian Business Publications Ltd v British Asian



Achievers Awards Ltd [2019] EWHC 1094 (IPEC) – Tim acted for the defendant in respect of a claim for passing where there was alleged that the addition of the word “British” to name of its awards event did not sufficiently distinguish it from awards operated by the Claimant to avoid a misrepresentation arising.

Grenade (UK) Ltd v Grenade Energy Ltd & Anr [2016] EWHC 877 (IPEC) – represented the Defendants at the Claimant’s application for summary judgment for passing off & trade mark infringement

Sun Mark Ltd and Bulldog Energy Drink Ltd v Red Bull GmbH – (Case C-206/15 P: 2015) -represented the applicants in their application for permission to appeal to the CJEU in circumstances where the applicants had not taken part in proceedings before the General Court in respect of trade mark Opposition proceedings that has been resisted to that point in time by OHIM.

Weight Watchers Ltd & Others v Love Bites & Others [2012] EWPCC 11, [2012] E.T.M.R. 27: represented the Defendants in respect of allegations of trade mark infringement where the PCC (now the IPEC) exercised its power to give a preliminary non-binding judgment in a trade mark case for the first time.

Sun Mark v Red Bull – 2011 – instructed by Sun Mark on three related cases in involving Sun Marks’ trade mark disputes with Red Bull GmbH. (a) judicial review proceedings brought against the UKIPO and Red Bull as an interested party alleging that the UKIPO had improperly granted trade marks to Red Bull that had been applied for in bad faith bad faith (led by Aidan Robertson QC) (b) Drafting amended grounds of appeal and appeal skeleton in respect of the ruling of Arnold J. in Claim No. HC10 CO173 finding Sun Mark had infringed certain Red Bull trade marks (led by John Baldwin QC) and (c) trade mark office proceedings for the revocation of two Red Bull trade marks (No. 790389 & 824548) – all three claims were eventually compromised.

UKIPO – Trade Marks

“ISLAM CHANNEL” – acted for the applicant in respect of the UK Trade Mark Office’s refusal, under s.3(1)(b) and (c) of the TM Act, to grant a trade mark for Islam Channel (UK 00003119213 – (2016))

“PHYSIO SOLUTIONS / PHYSIOTHERAPY SOLUTIONS” – acted for the Opponent in its Opposition to the registration of “Physiotherapy Solutions”- OP 401540 – and the counterclaim for revocation – CA 500535 (2015)

“SAVE AN ORPHAN” (UK Trade Mark Opposition No.: 2628031 (2013)) – represented the Opponent in opposition proceedings in respect of the Save an Orphan trade mark.



Copyrights

Munim v Rahman [2022] EWHC 2870 (Ch): Tim was instructed to deal with the copyright ownership / infringement claims in respect of the design of a trophy for the Asian Restaurant & Takeaway Awards, in circumstances where an ex-employee /consultant claimed copyright in the trophy as the sole creator of the artistic work.

Davies v Wolverhampton Wanderers Football Club (1986) Ltd [2019] EWHC 1252 (Ch): Tim acted for the Defendant in respect of his claims to have created the iconic wolf's head design, now used by the football club, as a school boy in the 1960s. Consequently, he was the copyright owner of that work and that it has been unconsciously copied by graphic designers working for the club when creating the club's team badge.

Database Rights and Data Protection

Raminder Ranger v House of Lords Appointments Commission [2015] EWHC 45 (QB); [2015] 1 WLR 4324 – representing Dr Ranger in his Part 8 claim against HOLAC for access under the Data Protection Act for access to letters held by the Commission that allegedly contained information pertaining to his application for membership of the House of Lords.

Executive Grapevine International Limited v Wall & Others [2012] EWHC 4152 (Ch); – Chancery Division of the High Court before Norris J.: represented the Claimant in its claim for infringement of database rights by an ex-employee who had stolen copies of the company's marketing databases and sold them via e-Bay.

Patents

European Patent Office

Opposition to EP 1 021 120 B1 by HOOVER Ltd. (GB). – Acting for the opponent in oral opposition proceedings at the EPO in Munich.

Opposition to EP 1 161 405 by BIAGRO Inc. / Opposition to EP 743931 by MANDOPS (UK) Ltd. – joined cases heard before the EPO.

Commercial

General Commercial Litigation:

Brown & Brown v Royal Bank of Scotland (Claim No.HQ14X01249) – instructed by the Claimants in respect of a multi-million pound claim for damages against the bank in respect of an alleged breach of contract to



provide a commercial purchase and redevelopment loan. At first instance successfully resisting an application for Summary Judgment brought by RBS and then negotiated a settlement at the outset of the 5 day trial listed in the QB Division;

Bank Mellat v. Sec. of State for Foreign and Commonwealth Affairs (CO / 1733 / 2014) – instructed by Bank Mellat (led by Aidan Robertson QC) in respect of an application for Judicial Review of the Bank's claim that the FCO is acting contrary to the rule of law in not complying with the substance of the ruling of the Supreme Court in Bank Mellat (No.2) 2013.

Vincent Tchenguiz v Director of the Serious Fraud Office (2013 / 2014) – instructed to work with the disclosure team (using the EPIC system) in relation to the JR proceedings brought by Mr Tchenguiz against the SFO.

Euro Palace v British Gas Business Services Limited (before Simon J. High Court QB Division 2011) – representing the Applicant at a hearing for an emergency injunction to restore power to its supermarket which had been disconnected causing the shop's refrigeration systems to shut down.

McClean v Mangat & Walia – Petition No.: 8130 of 2003 (High Court – Companies Court (2011 hearing)) before Mr Nicholas Strauss QC sitting as a deputy judge of the HC: representing the Claimant in a two day trial in respect of his allegation of "unfairly prejudicial conduct" (s.459 of the) Companies Act) based upon revenue stripping by the two respondent directors and then to determine the appropriate valuation of his 25% shareholding.

Haddad v The University of Bradford (before HHJ Spencer QC – sitting at the Bradford CC 2010) representing the Claimant in his claim that the course content, supervision and facilities provided by the Defendant during the course of his PhD studentship failed to meet the requirements of his funding body (in effect the Iranian Government) and this amounted to a breach of contract – the claim was rejected and the Court of Appeal refused permission to Appeal.

Insolvency:

Andrew Pinnell v Asad Ali Meerza (High Court Chancery Div. Case No. 936 of 2010) drafting the grounds of appeal and appeal skeleton in respect of an appeal from Registrar Baister giving the Respondents the unfettered permission under s.285 of the Insolvency Act to continue proceedings against the Appellant.

In the matter of HH&P Thirty Eight Limited (Petition No. 1452 of 2011 – before Registrar Nicholls Chancery Div. (Companies Court) representing the Petitioner at an



application brought under ss. 98 and 166 of the Insolvency Act 1986;

Re Dorset House (Claim Lon / OOBK / LSC/2011/0620 and LAM / 2011 / 0019) before the London Leasehold Valuation Tribunal 2011 / 2012; instructed on behalf of the liquidators of the freehold company (as junior counsel) who were seeking to recover circa £2.5 million in service charge arrears to discharge debts to the construction company who had installed a new heating / water system into the block of over 100 flats.

Environmental Regulation

Broxbourne Council v Dichiara (before the Hertford Magistrates Court – 2005) representing the Defendant in a successful challenge to a s.215 Notice issued under the Town and County Planning Act 1990.

Environment Agency v. Riverfield Fishfarms 2007 (lead by Stephen Hockman QC) representing the Defendant in a dispute as to the meaning and enforceability of a Section 30 licence issued under the Salmon and Freshwater Fisheries Act 1975 to allow the introduction of albino carp into an inland waterway.

Environment Agency v Fadel & Fadel (Manchester Magistrates Court – 2011) advising the Defendants in respect of a prosecution under Regulations 12 and 41(1)(a) of the Environmental Permitting Regulation (England and Wales) Regulations 2007 arising out of an allegation that the Defendants were operating an illegal car salvage works.

Wellingborough BC v Poojas Caterers & Others (before the Wellingborough Magistrates Court – 2011) – representing the Defendants at a sentencing hearing following admissions of serious breaches of food hygiene regulations that could have justified a period of imprisonment.

Other Areas

Publications

University Course content – A Contractual Right or a Matter of Academic Judgement? **Ed. Law Journal 2011**

Strategic Legal Thinking For IPR Dependant Enterprise – **The ‘Five Rings’ Method: EIPR – July 2009**

The “Adjusted Future Free Income Ratio” – A New Methodology for Determining IPR Royalty Rates? : **EIPR – September 2007**

Transboundary Movement of Genetically Modified Organisms (EC) 1946/2003: A Review: **Bio-Science Law Review 2005/2006 Vol. 8**



The Regulation of Genetically Modified Food and Feed in the Community: **Bio-Science Law Review** 2004/2005 Vol. 7

Would you know your GMO? **Bio-Science Law Review** 2004/2005

GMO Regulation in Europe – A Prima for Patent Applicants: **Bio-science Law Review** 2003/2004 Vol. 4

Mayed, Integra and the Wealth of Nations: **EIPR** January 2004

Achieving Ethically Acceptable Biotechnology Patents: A Lesson from the Clinical Trials Directive?: **EIPR** September 2003

Aptamers and SELEX – Part 2 Protecting IP Rights: in **World Patent Information**, December 2003

Aptamers and SELEX – Part 1 The Technology; in **World Patent Information**, June 2003

Environmental Risk Assessments of GMOs Under Directive 2001/18: An Effective Safety-net or a “Collective Illusion”: **EIPR** February 2003

Rewriting the Genetic Code: The Impact of Novel Nucleotides on Biotechnology Patents: **EIPR** August 2002

