

Rachel Thorn

Partner



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Arbitration
Investment Treaty Arbitration
Commercial Litigation
Public International Law

Rachel Thorn represents companies in commercial arbitrations, both US domestic and international, and in investment-treaty disputes (ICSID, UNCITRAL). She has extensive expertise in the Federal Arbitration Act, the US leading domestic arbitration rules (AAA, JAMS, CPR) and is advising on issues involving mass arbitrations. Rachel also represents clients around the world in arbitrations under the rules of the major arbitral institutions (ICC, ICDR, LCIA, SCIAC, HKIAC). Her practice includes arbitration-related litigation in the United States Courts, including actions to compel or stay arbitration proceedings, and actions to vacate, confirm or enforce arbitration awards under the FAA and New York Conventions. In addition, she regularly counsels clients in transactional matters. Her experience spans many industries, including life science, technology, post M&A disputes, and dispute involving joint ventures and long-term cooperation agreements, energy and infrastructure.

In addition to frequently speaking on commercial arbitration topics, Rachel was recently appointed to serve a three-year term on the International Commercial Disputes Committee for the New York City Bar Association. She also serves on the ICC's US National Committee Nominations Committee and the WILEF Global Advisory Board.

Representative matters include:

- *Odyssey Marine Exploration, Inc. v. United Mexican States* – Representing claimant in an UNCITRAL arbitration brought under NAFTA Chapter 11 relating to an offshore concession to extract phosphate ore for indirect expropriation and breaches of MST and national treatment standards.
- *Bursel Tekstil Sanayi Ve Diş Ticaret A.Ş., Burhan Enuştekin and Selim Kaptanoğlu v. Republic of Uzbekistan* (ICSID Case No. ARB/17/24) – Representing claimants in an arbitration before ICSID brought under bilateral investment treaty and foreign investment law relating to the expropriation of a group of yarn processing companies and breaches of the fair and equitable treatment and full protection and security standards.
- *TCR Sports Broadcasting Holding v. WN Partner*, 652044/2014 (Supreme Court, New York County) – Represented MASN (The Mid-Atlantic Sports Network) in the successful vacatur of an award in favor of the Washington Nationals concerning the fair market value of telecast rights fees. The

- award was rendered by a committee of Major League Baseball, and MLB joined the Nationals in opposing the petition to vacate. Vacatur of the award was unanimously upheld on appeal.
- A large privately owned US company in multiple ICC arbitrations against three European chemical companies involving a joint venture for the manufacture of a petrochemical intermediate. The claims included breaches of contract and the misappropriation of trade secrets with \$1+ billion at issue. French law governed, and the proceedings were conducted in English and French.
 - A Fortune 500 company in an ICC arbitration in Paris against a systems integrator involving an outsourcing contract with over \$350 million in dispute. The matter settled on very favorable terms for the client.
 - A Fortune 500 company in an ICC arbitration in Paris and Dubai for breach of a joint venture arising out of a \$1 billion spinoff. The award settled for a fraction of the damages sought.

Selected Publications

- Chapter "Drafting Arbitration Clauses in IP Agreements," *The Guide to IP Arbitration* (Global Arbitration Review), March 2021
- "The Expansion of Discovery in Aid of International Arbitrations Under Section 1782: Recent Decisions Deepen Circuit Split," Client Alert, July 2020
- "Interim Relief Now Available in Mainland China in Support of Hong Kong-Seated Arbitrations," Client Alert, October 2019
- "Goodbye NAFTA, Hello USMCA: A New Framework for Investment, IP and the Digital Economy," Client Alert, October 2018
- "5 Reasons Tech Companies Should Consider International Arbitration," *Legaltech News*, October 2017
- "Renewable Energy Policy Changes Lead to Damages Claims – Investment Treaties, European Feed-In Tariffs, Arbitration, Political Risk, Expropriation," *Project Finance NewsWire*, June 2014
- Chapter "Disregarding the Corporate Veil and Denial of Benefits Clauses: Testing Treaty Language and the Concept of Investors," *The Backlash Against Investment Arbitration* (Kluwer), 2010

Selected Speaking Engagements

- "Association of Corporate Counsel New York - Mass Arbitrations," Webinar, March 2021
- "PLI's International Arbitration 2020 – Recent Developments in International Arbitration Panel," Webinar, June 2020
- "Eighth Annual Damages in International Arbitration: Traditional vs Non-Traditional Approaches, Emerging Trends, Methods and Techniques," New York, NY, November 2019
- "FIAA International Arbitration Advocacy Workshop: Questioning of Expert Witnesses in International Arbitration," Foundation for International Arbitration, New York, NY, November 2019, January 2014
- Co-Chair, Global Arbitration Review's GAR Live, New York, NY, October 2019
- Harvard International Arbitration Law Conference, February 2019
- "Litigation and Arbitration Workshop for China Fund Managers," China Fund Manager Seminar Series, May 2018

- "Due Process in the US – Who's in Charge Here," Global Arbitration Review's GAR Live Atlanta, March 2018
- "Advanced Arbitration Series Webinar #5: The Arbitration Award, Remedies, and Post Award Process," ABA, March 2018, February 2017, November 2015
- Symposium moderator, Global Arbitration Review's GAR Live New York, September 2017, September 2016
- "The Chorzow What?: Addressing Current Issues in Awarding Damages in Investment Arbitration," Columbia University School of Law, New York, NY, November 2016
- PLI's International Arbitration 2015 Conference, New York, NY, June 2015
- "Litigation in Aid or Avoidance of Arbitration," Maryland Bar Association Annual Conference, Ocean City, MD, June 2015
- "Regional Focus: North America and Asia," ICC Asia Pacific Conference, San Francisco, CA, April 2015
- "The Year in Review, 2014 Key Developments in Investor-State Arbitration," Columbia University School of Law's Center on Sustainable Investment, New York, NY, January 2015
- "Jurisdictional Overlaps Arising out of Treaty Obligations," Arbitration Day at the Columbia University School of Law, New York, NY, January 2014

Education

- University of Chicago Law School
JD, 1996
- University of Wisconsin, Madison
BA, 1992

Bar Admissions

- New York
- England & Wales