



PARTNER

## Tai-Heng Cheng

*Commercial Litigation and Disputes*

*Global Arbitration, Trade and Advocacy*

*White Collar: Government Litigation and Investigations*

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TAI-HENG CHENG is global co-head of international arbitration and trade at Sidley. Clients turn to him to solve their most significant legal problems.

He has won and collected nine-figure awards for clients both in commercial and investment-treaty arbitrations.

With over 20 years of experience, he is also a trusted advisor to companies, boards, and governments on issues beyond business disputes. He uses the full range of subject matter specialists at Sidley to devise and execute strategies that efficiently achieve his clients' goals. Often this has involved a multi-pronged approach before courts, tribunals, regulators, and directly with counter-parties, in multiple countries.

His clients span many industries, including energy and infrastructure, pharmaceuticals, real estate, manufacturing and financial services. While he is resident in the New York and Singapore offices, he also spends substantial time in Europe and Latin America representing clients.

Tai is ranked as one of the top 10 arbitration practitioners in North and South America under 45 by *Who's Who Legal*, and has also been recognized in *Chambers Global* and *Chambers USA* for international arbitration, *Euromoney's* Guide to the World's Leading Experts in Commercial Arbitration, *Benchmark Litigation's* Rising Stars and *Benchmark Litigation's* Under 40 Hot List.

Industry organizations and tribunals report that Tai:

- "is an elegant practitioner who knows all there is to know about arbitration," as well as "a very persistent advocate on behalf of his client" and a "fair and meticulous arbitrator" (*Chambers USA* 2019);
- "excels in the commercial and investment arbitration spheres due to his strong advocacy skills,

understanding of economic issues and astute case strategies" (*Who's Who Legal*); and

- delivered at a hearing "a remarkably eloquent and intelligent address with which the arbitrators of course full-heartedly agree in all respects" (Stockholm Chamber of Commerce arbitration award).

Awards rendered by Tai have been confirmed by U.S. District and Appeals courts as well as non-U.S. courts.

Tai has served as vice president of the American Society of International Law and is an elected fellow of the College of Commercial Arbitrators, the American Law Institute, and the Foreign Policy Association. He is a trustee of the Frick Collection in New York and sits on the boards of the Smithsonian Institute's National Museum of Asian Art and the Singapore Management University School of Law.

Prior to joining Sidley, Tai was the chair of the New York international arbitration practice in another global law firm. He was also a tenured professor of international law in the United States. He has a J.S.D. and LL.M. degree from Yale Law School and first class honors in law from Oxford University.

Tai is bilingual in English and Mandarin.

## **REPRESENTATIVE MATTERS**

### *Notable Arbitrations*

- Obtained an award of US\$622 million with 15.2 percent interest compounded monthly, against Petrobras, in an energy dispute before an ICDR tribunal.
- Represented a pharmaceutical company in a US\$1 billion arbitration dispute concerning a drug to treat diabetes, achieving a swift and favorable settlement.
- Represented an Asian company in a US\$300 million investor-state dispute with Mexico.
- Represented Italian investors in a US\$400 million bilateral investment treaty dispute against Albania, concerning an expropriated media and power plant investments, obtaining an unprecedented order of provisional measures under the ICSID Convention to terminate extradition proceedings in the United Kingdom and criminal proceedings in Albania.
- Represented an Albanian company against Albania in a US\$400 million Energy Charter Treaty arbitration concerning a hydroelectric power project.
- Represented a Brazilian power company in a US\$100 million arbitration dispute against Siemens concerning defective power plant turbines, achieving a favorable settlement.
- Represented several funds involved in renewable energy projects in Latin America, achieving favorable settlements through arbitrations and freezing order in aid of arbitration.
- Represented a mining company in the jurisdiction phase of a US\$1 billion ICSID bilateral investment treaty arbitration against Indonesia concerning a mining concession, defeating jurisdictional objections by Indonesia.

### *Notable Litigations*

- Represented an NYSE-listed international company in multiple matters triggered by a short seller's reports, successfully ending SEC and FINRA investigations, dismissing a securities class action

lawsuit in California and defeating a motion to dismiss defamation claims brought against the short sellers in New York, which was unprecedented in that jurisdiction.

- Represented a crypto currency company in a SEC investigation.
- Represented a sovereign wealth fund in a US\$5 billion real estate dispute involving commercial mortgage-backed securities, achieving a swift and favorable business solution.
- Represented a CFO in an eight-week federal white collar trial and appeal concerning a US\$50 million fraud, obtaining a sentence of one day time-served and no restitution.
- Represented a Taiwanese banker facing white collar crime charges in U.S. federal court relating to a US\$1.7 billion accounting fraud in Japan.
- Represented multiple sovereign wealth funds against the U.S. Department of Justice concerning the 2008 financial crisis, achieving no action by the DOJ and no publicity.
- Represented the Republic of Poland against a gun seller supported by the National Rifle Association in a lawsuit in the Eastern District of Virginia concerning a rare World War I rifle, resulting in the repatriation of the rifle to Poland where it is on permanent display in a museum.

#### *Notable Arbitrator Appointments*

- Chair of a US\$150 million ICC international arbitration concerning a resort in Mexico, with 12 parallel litigations and arbitrations in the United States and Mexico.
- Chair of a CPR arbitration tribunal in an US\$8 billion dispute between defense contractors concerning military aircraft intellectual property.
- Chair of an ICDR international arbitration in a franchise dispute between European and Latin American corporations.
- Emergency arbitrator in an ICDR arbitration, rendering a decision in 14 days that lead to a swift resolution of the dispute.
- Co-arbitrator in an ICC arbitration between a Brazilian and U.S. entities seeking, inter alia, declaratory relief, concerning the closure of a waste treatment facility.
- Co-arbitrator in an ICC insurance dispute arbitration seated in Singapore.
- Co-arbitrator in a US\$100 million ICC arbitration concerning a pricing dispute between two Thai manufacturing companies.
- Co-arbitrator in an ICC arbitration, in San Diego, concerning a licensing dispute.
- Chair of a US\$50 million HKIAC international arbitration in an investment dispute between 24 Chinese and Hong Kong entities, in proceedings in English and Mandarin.
- Chair of a US\$50 million ICDR arbitration between a Turkish company and a Canadian company, governed by Bahamas law.
- Sole arbitrator in an ICC arbitration between a U.S. company and an Indian company in a dispute arising from an oil well failure in Canada, with parallel proceedings in Texas.

- Sole arbitrator in a dispute between a U.S. bankruptcy estate and a Taiwanese entity.
- Co-arbitrator in a US\$50 million ICC arbitration between a Chinese company and a Canadian company in an aviation dispute. The decision was nominated for most important decision at the 2016 GAR Awards because of its message that Chinese companies would not be discriminated against in arbitrations in the United States.
- Co-arbitrator in an UNCITRAL international arbitration between U.S. and Hong Kong corporations.
- Co-arbitrator in an ICC international arbitration in an intellectual property licensing dispute between Canadian and Japanese corporations.

#### *Notable Expert Engagements*

- Testifying expert on public international law in a US\$500 million SCC arbitration concerning an airport project in Russia.
- Testifying expert on international arbitration in a US\$4 billion bankruptcy proceeding in Canada and the United States.
- Testifying expert and consultant on international law and U.S. law in Singapore court proceedings to successfully oppose extradition of individuals for conspiracy to defraud the United States.
- Amicus curiae in a U.S. Federal Court of Appeals case involving a US\$400 million state succession dispute between a hedge fund and sovereign state.
- Consultant to Kosovo on matters of state succession.

\*The above matters were handled prior to joining Sidley.

#### **MEMBERSHIPS AND ACTIVITIES**

- Member, Rising Arbitrators Initiative Advisory Council
- Vice President, American Society of International Law
- Member, International Chamber of Commerce Commission on Arbitration and ADR
- Advisory Board, Institute for Transnational Arbitration
- Advisory Board, Singapore Management University, School of Law
- Trustee, Smithsonian Institute's National Museum of Asian Art
- Member, The City University of New York LGBT Leadership Advisory Council
- Trustee, The Frick Collection

#### **PUBLICATIONS**

Dr. Cheng is the author of four books and over 60 articles, including:

- Contributor, "Advocacy in Investment Treaty Arbitration," Chapter in *Global Arbitration Review: The Guide to Advocacy*, *Law Business Research* (2019).
- Author, *Investor-State Arbitration in a Changing World Order*, *Brill/Nijhoff Publishers* (forthcoming,

2019).

- Co-Editor, International Arbitration in the United States, *Kluwer Law International* (2017).
- Author, When International Law Works, *Oxford University Press* (2012).
- Cited as authoritative by U.S. courts, Renegotiating the Odious Debt Doctrine, 70 L. & Contemp. Probs. 7 (2007).
- Cited as authoritative by U.S. courts, State Succession and Commercial Obligations, *BRILL* (2006).

Selected Media include:

- "Litigator of the Week: In \$100M Cyberheist, Sidley's Cheng Gets Case Tossed Against Bank," *The AmLaw Litigation Daily* (2020).
- "Albania liable for expropriating TV station," *GAR* (2019).
- "Vantage Gets \$720M Petrobras Award OK'd By Texas Court," *Law360* (2019).
- "Amira Foods Can Pursue Libel Claim Against Market Analyst," *Law360* (2016).
- "GAR Awards 2016: most important decision," *GAR* (2016).
- "Harbour Victoria Investment Holdings Ltd. v. Kabul Chawla and BPTP, Ltd.," *New York Law Journal* (2015).
- "US: The Southern District of New York and section 1782," *GAR* (2015).
- "US court allows Abu Dhabi fund's claim to proceed," *GAR* (2013).

## SERVICES

Art Law

Commercial Litigation and Disputes

Global Arbitration, Trade and Advocacy

International Commercial Arbitration

Investment Treaty Arbitration

White Collar: Government Litigation and Investigations

## ADMISSIONS & CERTIFICATIONS

U.S. Court of Appeals, 2nd Circuit

U.S. Court of Appeals, 5th Circuit

U.S. District Court, E.D. of New York

U.S. District Court, S.D. of New York

New York

## EDUCATION

Yale Law School, J.S.D., 2004

Yale Law School, LL.M., 2000

Oxford University, B.A., 1999