



# Jon Lang Mediation

The International Dispute Resolution Centre, 70 Fleet Street, London, EC4Y 1EU

## Mediation Biography

### Professional background

Jon Lang is one of the most experienced mediators in the UK. He is listed in the first tier of mediator rankings of both the Chambers & Partners and Legal 500 directories (and in The International Who's Who of Commercial Mediators).

CEDR accredited, Jon has mediated for several years. He became a full-time mediator in May 2005, after almost twenty years as a solicitor in private practice, the last six as a partner in the disputes group of White & Case in London.

Jon has acted as an expert in mediation, is a former Chair of the Mediation Committee of the International Bar Association and a former Vice-Chair of the American Bar Association's International Mediation Committee.

Jon is instructed in a wide variety of disputes both in the UK and overseas, from multi-party international trade cases involving proceedings in various jurisdictions, to cases involving multiple and diverse claims between members of partnerships.

Jon is the author of the book, *'A Practical Guide to Mediation in Intellectual Property, Technology & Related Disputes'* published by Sweet & Maxwell in 2006.

### Personal style

With twenty years litigation practice behind him, Jon draws on his extensive experience of negotiating settlements on behalf of his clients as well as representing them at mediation. He has a calm and measured approach and works hard with the parties to reach a deal.

A small selection of comments from recent editions of the Chambers & Partners and Legal 500 directories reflecting Jon's mediation style and practice are set out below. Also set out below are a small selection of comments received direct from parties or their advisors who have appointed Jon as mediator. Further examples can be found towards the end of the Biography section of Jon's website (<http://jonlang.com/biography/#practice>).

### The Directories

"Jon Lang .... is an increasingly prolific full-time mediator and 'a hit with commercial clients', Lang is credited as 'dependable', 'thoughtful', and 'well prepared'..."

" Repeatedly noted as a first choice..."

"...an excellent blend of experience, determination and charisma..."

"Most of all, he is singled out for his 'ability to get a deal done in even the most difficult of circumstances'..."

"...astute, commercial and pragmatic..."

"...highly effective, excellent, hardworking and intelligent..."

"...quickly gets to grips with complex cases and draws the dispute to a conclusion through his sheer commitment..."

## **The Clients**

“Jon is one of the best mediators I have used. More pro-active than any other mediator I know. Will definitely be using again.”

“Very impressed with Jon. Intelligent and personable...”

“...We liked his style of reality testing and his robust but friendly and equable manner, which ensured that the mediation was not just managed properly with no time being wasted, but that the parties became more and more deal focused as the day went on, culminating in settlement.”

“...very insightful, very focused, very effective...”

“...client is very pleased....and I think you’ve gone a long way towards restoring their faith in mediation!”

“He has a relaxed manner and gains the parties’ trust quickly. He is innovative in looking at ways to resolve disputes.”

“...worked tirelessly, with humour and ingenuity, at trying to find a solution with which both sides could live.”

“Kept momentum going at all times.”

“It was a success and Jon Lang was excellent...helped us secure a result...very positive and very commercial.”

“...were very impressed with Jon as a mediator...I have also been expressly asked by my clients ...to pass on their gratitude to him...Would definitely use him again.”

“Excellent mediator. Facilitated a settlement from entrenched parties.”

“Jon is an excellent mediator. Very practical, incisive and persuasive.”

## **Areas of Mediation Practice**

Recent examples of disputes mediated by Jon in various sectors are set out below. Further examples from each sector are available on Jon’s website by following the ‘further examples’ link by each sector section of Jon’s Biography.

### **Banking and Financial Services**

A claim against a bank for negligent advice and breach of various COB Rules in connection with the purchase of a number of investments and their suitability, and the monitoring of and eventual exit from those investments (c. £1 million).

An Inter-bank dispute in relation to security held by each (c. £2 million).

A dispute arising out of the creation of a private equity fund and the premature exit of a number of partners from an LLP set up to run the fund, with argument focusing on the value of various equity holdings and forecast carried interest calculations (c. £10 million).

An action brought by a bank to enforce several guarantees given by directors of a business (c. £3 million).

### **Boardroom, Shareholder and JV disputes**

A three day multi-party, multi-jurisdictional mediation (preceded by a number of pre-mediation meetings) involving the separation of family interests in various groups of companies around the world, the mediated settlement being implemented by way of numerous transfers of shareholdings, redemption of loans and other ‘balancing’ transactions (c. £several hundred million).

A claim against a former director for breaches of fiduciary and statutory duties, and dishonest assistance and knowing receipt.

A case involving UK and US proceedings and concerning restrictive covenants of senior directors leaving a multinational company and setting up in competition.

### **Commercial Fraud**

A claim by a major banking institution against several companies and individuals alleging bribery, breach of fiduciary duty and breach of contract, the dispute concerning representations made to the bank's credit committee causing various loans to be made (c. £7 million).

Litigation arising out of a failed property development company in which unsuspecting parties invested in non-existent property (c.£3 million).

A multi-party action arising out of the alleged diversion of opportunities to directors of a financial services business, including tracing claims against third parties (c. £6 million).

### **Competition**

A mediation of a parallel imports/exhaustion of rights case concerning the importation of new and re-engineered computing equipment into the EC.

A case concerning consent given by a licensee/authorised distributor of a trade mark owner (an economically linked undertaking) for the placing of product by another on the market in the EU.

A case concerning alleged abuse of a dominant position (art. 102 TFEU) and agreements restricting competition (art. 101 TFEU).

### **Confidential Information**

A multi-party mediation concerning the misuse of confidential information, breach of fiduciary obligations and breach of contract (c. £1 million).

A confidential information dispute in the healthcare sector arising out of the departure of minority shareholders/directors.

A three day mediation arising out of a breach of confidence dispute which included an exercise verifying deletion of confidential material from various databases at different locations.

### **Construction and Engineering**

A multi-party dispute arising out of the construction of a port, the dispute primarily concerning allegations of negligent bathymetric surveying and piling (c. £2.5 million).

A dispute arising out of the refurbishment of, and extension to a major London department store (c. £12m).

A mediation between a construction company and a museum arising out of the construction of a new wing (c. £10m).

A dispute between the inventor/designer of automated prosthetic limbs and their manufacturer.

A dispute concerning the development/manufacture of F1 engines.

### **Defamation**

Defamation and malicious falsehood claims arising out of a radio broadcast (c. £2m).

A dispute arising out of publication in print and online of allegations of professional misconduct.

A dispute arising out of the publication, in print and online, by a faith based organisation, of an article suggesting that certain beliefs were held by a high profile member of a community.

## **Employment**

A dispute between a former senior executive of a financial institution involving restraint of trade issues and money due under various share and executive plans (c. £2 million).

An unfair dismissal claim brought by a senior employee arising out of alleged protected disclosures, also involving a defamation claim.

A claim by a group of employees for unfair dismissal, age discrimination, unlawful deduction of wages and failure to inform and consult under TUPE.

## **Film and Entertainment (including gaming)**

A dispute arising out of the development, production, distribution and marketing of a series of films in the animation sector (£8 million).

A dispute between a film production company and an advertising agency concerning the making of a film for a major high street chain store (£750k).

A dispute between a software house and a gaming TV channel over the running of a gaming platform and revenue sharing arrangements (c. £500k).

## **Insolvency**

An action brought by liquidators against former directors alleging undervalue transactions, wrongful payment of dividends and seeking repayment of loans (c. £1.5 million).

Mediation of a claim by joint liquidators under section 212 IA 1986 against former directors and alleged shadow directors of various group companies arising out of a failed tax planning scheme in which defences based on the *Duomatic* principle and section 1157 CA 2007, amongst others, were being raised (c. 8 million).

A claim by liquidators against various professional services firms arising out of the collapse of a litigation funding scheme (c. £12 million).

A claim by a liquidator seeking recovery of alleged undervalue transactions (£10 million).

## **Insurance and Reinsurance**

A dispute involving a high street chain store and an insurance company concerning the selling of payment protection and other insurance policies (c. £900k).

A dispute between a public body and an insurer concerning a failed claims handling project.

A mediation arising out of a collective conditional fee agreement between solicitors and legal expenses underwriters (c.£4 million).

A dispute between an insurer and reinsurer arising out of the disputed settlement of claims (c. £3 million).

## **Intellectual Property - Trade Marks, Passing Off and Comparative Advertising**

A trade mark dispute between two household name technology companies arising out of their respective development of sub-brands, with infringement of a CTM and passing off alleged.

A trade mark mediation concerning a significant high street brand and the co-existence of two owners of the same 'split' trade mark, the dispute involving multiple jurisdictions and trade mark revocation, opposition and infringement proceedings in each (c. £2 million).

A multi-jurisdictional trade mark dispute between owners of two iconic brands involving infringement, revocation and invalidity claims brought by each against the other in the UK High Court, OHIM, The General Court of the European Union, the Chinese Trade Mark Office and in over 50 other countries around the world.

A dispute between competitors arising out of a comparative advertising campaign raising various issues under the EU Directive on misleading and comparative advertising (2006/114/EC).

### **Intellectual Property - Copyright and Database Rights**

A multi-party dispute concerning the exploitation of sound recordings and the back catalogue of a major rock star.

A database copyright dispute raising numerous issues including the level of intellectual creativity required under the Database Directive (96/9/EC), and various other issues under that Directive and the E-Commerce Directive (2000/31/EC).

A dispute between housebuilders concerning the alleged copying of plans raising various issues including the level of originality required for copyright works.

A multi-party dispute concerning incorporation of data into a third party database involving claims for delivery up, injunctions etc.

### **Intellectual Property - Design Right**

A dispute between competitors in the luxury goods market concerning community and national registered and unregistered design right.

A registered and unregistered design right dispute in the FMCG sector with discussion focusing on the essential or significant features of the registered design with regard to the statement of novelty, prior art and functional exclusions.

### **Intellectual Property - Patents**

An employee invention claim under section 40 Patents Act 1977 (c. £2million).

Mediation of a patent dispute involving claims of infringement of a UK and US patent with proceedings in both jurisdictions.

A patent entitlement case under Section 37 Patents Act, originally before the Comptroller and then transferred, in respect of a product used in the construction industry.

### **International Trade, Distribution Agreements and Agency**

A two-day mediation concerning a long-term raw material supply contract (c. £40 million).

A multi-party, multi-jurisdictional dispute concerning the supply of raw materials involving issues of foreign law liens, guarantees, reservation of title, etc (c. £1.5 million).

A mediation arising out of an agreement giving sole distribution rights in a particular jurisdiction and loss associated with alleged breach, including issues such as computation of 'Wrotham Park' damages (c. £2.5 million).

A mediation of a claim under the Commercial Agents Regulations with the manner of calculation of the value of the agency under Regulation 17, and the meaning of 'continuing authority to negotiate' under Regulation 2(1) and 'secondary activities', being the main issues in dispute.

### **IT/Technology/Telecoms**

A two-day mediation concerning a master software licence and services agreement in the financial services field involving a foreign public corporation (c. £70 million).

A mediation in Washington D.C. arising out of a dispute in the insurance sector following a merger and concerning the scope of a licence agreement (c. £15 million).

A mediation over 4 days arising out of the implementation of a CRM system (c. £1.4 billion).

A dispute concerning the failed development of a new telecoms service (c. £500k).

### **Outsourcing, Franchising and Leasing disputes**

A dispute between a retailer and service provider operating a call centre and warehousing facility concerning service level agreements, charging structures and termination.

A mediation involving a major airport arising out of an outsourcing contract (c £2.5 million).

A dispute between an international franchisor and one of its franchisees operating in a number of jurisdictions (c. £4 million).

A case concerning repairing obligations under a lease of industrial equipment.

### **Partnership**

A dispute involving the expulsion of a partner from a 20+ partner solicitors practice, involving issues of compensation, profit share and client retention.

A claim by a former partner of an accountancy practice based on misrepresentation, misapplication of capital and continuing obligations under guarantees (c. £750k).

Claims between two partners on dissolution of a property development partnership the assets of which included several property owning companies (c. £200 million).

### **Professional Negligence**

An architects negligence action brought by a prime contractor on a large inner city development project (c. £10 million).

A solicitors negligence action arising out of the sale of land and the adverse impact of various overage provisions (c. £500k).

An accountants negligence action arising out of tax advice given on the structuring of a share option plan (c. £1.5 million).

A claim brought by a lending bank against valuers for overvaluation of land and its development potential (c. £3 million).

### **Property**

A landlord and tenant case between a public authority and a commercial entity concerning alleged breaches of covenants, applications for a new tenancy, etc (c. £100k).

A multi-party mediation between owners of a property portfolio (c. £3 million).

Mediation of a dispute between tenants of a pub/hotel and the owner of the freehold over rent to be payable on a new lease, with discussion focusing on the 'reasonably efficient operator' (REO) and calculation of 'Fair Maintainable Trade' (FMT).

A multi-party dispute involving disputed boundaries (c. 200k).

### **Public Sector**

A dispute between a public educational establishment and a private supplier of educational resources raising a number of regulatory issues concerning oversight and maintenance of educational standards, specific requirements regarding foreign students, adherence to codes of practice etc

A dispute between a local authority and a child care/nursery services provider concerning service level agreements, landlord & tenant, and other issues.

A two-day mediation concerning a master software licence and services agreement in the financial services field involving a foreign public corporation (c. £70 million)

### **Sports**

A mediation between the governing body of a sport and a PR company concerning sponsorship for tournaments in the UK and overseas (c. 250k).

A dispute between a major football club and a sports agent (c. £500k).

A breach of contract claim arising out of the broadcast of a major sporting event (c.100k).

### **Trusts and Probate**

A claim by executors of an estate, supported by charity beneficiaries, against family members alleging undue influence in relation to certain life-time transactions.

Mediation of a dispute between a residuary beneficiary and the beneficiary under a codicil following the issue of proceedings by executors and a limited grant of probate, with discussion focusing on the application of the test for testamentary capacity (applied by various professionals prior to execution of the codicil) pursuant to *Banks v Goodfellow*, the role of attorneys under an Enduring Power of Attorney and an allegation of undue influence.

A dispute between the first family of a deceased and his second family over certain properties raising issues of proprietary estoppel.

### **Other types of mediations**

*Academia* - a dispute between educational establishments raising a number of regulatory issues concerning oversight and maintenance of educational standards, visa requirements for foreign students, adherence to codes of practice etc.

*Art and cultural heritage* - a claim arising out of a high profile auction concerning its marketing, cataloguing of articles, disputed provenance, etc (c. £5 million).

*Counterfeiting* - an action brought by a rights owner following various arrests and execution of search and seizure orders.

*Defence & Aerospace* - a mediation concerning aircraft leasing and asserted liens (c. £400K).

*Distrain* - a dispute arising out of allegedly illegal distraint for rent over a large piece of equipment used in the waste management sector.

*Fatal accidents* - a fatal accident claim arising out of an aircraft crash (c. £2 million).

*Fee disputes* - a dispute over fees between a solicitor and client arising out of a number of separate engagement letters.

*Mergers & Acquisitions* - several mediations arising out of business/company sale and purchase agreements including non-disclosure/breach of warranty claims and the calculation of loss in respect thereof; disputes in relation to materiality of non-disclosures; and disputed interpretations of seller protection/claim reduction provisions.

*Personal Injury* - a serious motor bike accident resulting in loss of limbs.

*Product liability* - a multi-party claim arising out of the supply of allegedly faulty electrical equipment which led to a fire and total destruction of commercial premises.

### **Career History**

Independent Commercial Mediator, May 2005 to date  
Partner, White & Case, 1999 to May 2005

Partner, Llewelyn Zeitman, 1996-99  
Solicitor, McKenna & Co, 1988-96  
In-house counsel, London International Financial Futures Exchange, LIFFE, 1987-88  
Solicitor, Elborne Mitchell, 1986-87

## **Work whilst in private practice/in-house**

Jon has acted for clients at all levels of the judicial system, in domestic and international arbitration and mediation. He has represented clients from a wide variety of industry sectors, from aviation to underwriting and in most types of commercial dispute, from shareholder actions to professional negligence. Whilst in-house counsel at LIFFE, Jon advised on matters relevant to the then existing financial services regulatory regime. Jon has represented clients in a number of reported cases.

## **Contact Details**

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