

# KIM ROONEY

## BARRISTER and ARBITRATOR

Call: 2010

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Kim M Rooney is a barrister, international arbitrator and mediator. Her practice focuses on serving as an arbitrator in complex and high value disputes in the aviation, commercial, construction energy, finance, infrastructure, IPR investment Information and Communications Technologies (ICT) sectors. She is regularly appointed as an emergency arbitrator and as an arbitrator in expedited proceedings.

An ICC International Court of Arbitration member, Kim chaired the Hong Kong Law Reform Commission's Subcommittee on Third Party Funding for Arbitration, co-drafting Part 10A of the Arbitration Ordinance Cap 609 and the Hong Kong Code of Conduct for Third Party Funding for Arbitration which implemented third party funding of arbitration in Hong Kong. Before moving to become a Hong Kong barrister in late 2009, Kim was a partner of White & Case LLP, heading its Asian dispute resolution practice. She has been practicing in Hong Kong since July 1990 when she worked on contentious insolvency at Baker & McKenzie. Kim is also admitted as a Western Australia Barrister and Solicitor and a Solicitor in England and Wales.

Kim's work as an arbitrator is regularly recognized in international directories. *Who's Who Legal Arbitration 2023* includes the following quotes:

*"As arbitrator you are left with total confidence that Ms Rooney has got to grips with the case right down to the minutiae"*

*"She has a rigorous intellect, which is carried lightly and coupled with a very diligent approach"*

*"Ms Rooney is incredibly organised and thorough"*

Kim is also a board member of eBRAM Online International Online Dispute Resolution Centre (serving on its executive committee), a member of the Rules Steering Committee of the Hague Court of Arbitration for Aviation, a member of the Council of the Hong Kong Bar Association and chair of its Arbitration Committee. She is the editor of the IBA's *"Dispute Resolution International"*, co-author of *"ICCA'S Guide to the Interpretation of the 1958 New York Convention: A Handbook for Judges"*

" (2012) and ADR Contributing Editor for "*Hong Kong Civil Procedure*". Kim led an arbitration law reform project in Laos in 1998 (World Bank funded) and a project in the Indonesian public sector reviewing alternatives to litigation and arbitration for investor state disputes from 2013 to 2016 (EU funded).

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## R E C E N T   H I G H L I G H T S

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Kim Rooney is regularly appointed as chair/presiding arbitrator, co-arbitrator, sole arbitrator, and emergency arbitrator in arbitrations governed by the laws of both civil and common law jurisdictions, and by international conventions, involving aviation, banking and finance, carbon credit, commercial, construction and infrastructure, distribution, energy and power, investment and trade, ITC, joint venture and shareholder, and pharmaceutical disputes, among others. Kim Rooney has sat as an arbitrator under the rules of AIAC, ACICA, HKIAC, ICC, JCAA, ICDR/AAA, LCIA (India), and SIAC, and in *ad hoc* arbitrations including under the UNCITRAL Rules, governed by the laws of Hong Kong, mainland China and various other Asian, Caribbean, European, Latin American, Russian, South American and North American jurisdictions and by international conventions. She has sat as an emergency arbitrator under various institutional arbitration rules including those of the HKIAC, ICDR/AAA and JCAA.

Kim Rooney's concluded cases as an arbitrator include arbitrations of:

1. **Corporate, joint venture and shareholder disputes**, among other issues, involving allegations of breaches of joint venture agreements, shareholders agreements, share charges and guarantees, share option agreements, and of corporate governance obligations, involving multiple jurisdictions, including Hong Kong, the Cayman Islands, the British Virgin Islands and mainland China;
2. **Concession, contractual and commercial disputes** involving allegations of breaches of conditions, representations, warranties, fraud, frustration, force majeure, illegality and non-compete provisions;
3. **Banking and financial disputes** involving private and public companies and regulated institutions (including global banks);
4. **Construction and infrastructure disputes** including a dispute arising from the construction, commissioning and operation of a coal fired power station, disputes arising from the construction, commissioning and operation of manufacturing plants in the automotive parts, high technology, electrical and mechanical equipment and pharmaceutical sectors, and contractual disputes among owners, and with contractors and sub-contractors;
5. **Disputes under supply contracts for petroleum products, iron ore and coal**;
6. **A dispute under a manufacturing and supply agreement for additives and catalysts for the petrochemical industry**;
7. **Pharmaceutical disputes** including a under manufacturing and sales agreements;
8. **Satellite and telecommunications disputes** including as to disputes arising from the construction of satellite and fixed line networks and disputes under a Digital Transmission Service Agreement.
9. **Mining disputes in Africa, Mongolia, and Mainland China** including as to
10. **Carbon credit contract disputes**;
11. **Restrictive covenant and other employment disputes**;
12. **Distribution agreement disputes**; and
13. **Royalty and taxation liability disputes**.

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## O T H E R   N O T A B L E   C A S E S

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## REPRESENTATIVE REPRESENTATIONS AS COUNSEL IN ARBITRATIONS

- Co-ordinating Counsel for a North Asian based respondent in an international arbitration of complex finance and construction disputes arising from an infrastructure project in Latin America governed by New York law.
- Representing PT Aria West, a consortium of international and domestic investors involved in an Indonesian telecommunications concession to construct and operate a US\$400 million fixed-line network, in its dispute (in an ICC arbitration) with its joint operator, the Indonesian Telecommunications operating agency.
- Representing the Republic of Indonesia in an ICSID arbitration of a dispute relating to the sale of a stake in a state-owned enterprise in the cement industry.
- Representing an Indonesian government ministry in various Asian jurisdictions in proceedings concerning the recognition and enforcement of an award arising out of an energy dispute.
- Representing a Korean conglomerate in a joint venture dispute concerning a natural resources project in Southeast Asia involving more than US\$300 million.
- Representing a consortium of foreign investors that had invested more than US\$400 million in a Filipino entity that was party to a concession agreement in the infrastructure sector in its dispute with a Filipino governmental agency.
- Representing North Asian investors in a potential investment treaty arbitration arising from the revocation of a license and the expropriation of investors' interest and rights in mining project.
- Representing the Philippines Government in an ICC arbitration of a dispute concerning the construction of an international airport terminal.
- Representing a North Asian party in emergency proceedings for interim relief in a complex dispute arising from an agreement for sale and purchase of shares in a listed company.
- Representing a multi-national oil company in the arbitration of a dispute concerning the assignment of an interest in a production-sharing contract in North Asia.
- Representing an Asian state-owned enterprise in a dispute with a foreign investor arising from the sale of a state-owned bank involving allegations of breaches of representations and warranties.
- Representing an international telecommunications group in an arbitration of a dispute concerning alleged breaches of patent licenses and the amount of royalties due.
- Representing a North Asian manufacturing group in its claims against a major European manufacturing group in a dispute arising under a sale and purchase agreement for the sale of a group of Asian businesses, which involved issues regarding licensing, manufacturing and delivery of goods in the high-tech sector.
- Representing an international advertising group in a dispute arising from breach of representations and warranties in a sale and purchase agreement involving distribution issues under PRC law.
- Representing an Asian party in a dispute arising from distribution agreements for satellite services.

- Representing an international IT group in a dispute concerning the termination of distributorship agreements in the PRC.
- Representing a foreign investor in Indonesia in a dispute arising from a distribution agreement.
- Representing the sellers of a controlling stake in a publicly listed company in an Asian jurisdiction in a dispute with the purchaser arising from the share sale and purchase agreement.
- Representing a European company in a dispute with Indonesian and Cayman Island entities arising from repayment obligations under a facility agreement relating to the supply and purchase of telecommunications materials and services in Indonesia.
- Representing a North Asian company in a dispute with a major Asian coal producer arising from a contract for sale and purchase of coal by a series of shipments.
- Representing a substantial Southeast Asian investment group in an *ad hoc* arbitration with a substantial North Asian conglomerate in a dispute involving indemnification claims under an agreement for sale and purchase of shares.
- Representing the respondent in a SIAC arbitration of a contractual dispute for breach of representations and warranties governed by Singapore law.
- Representing a multinational conglomerate in a shareholder's dispute with a Hong Kong based international group involving, among other things, an unauthorized sale of a US\$425 million asset and structuring of the claimed compensation.
- Representing a Sino-Foreign joint venture in the power generation sector in a substantial dispute with a European equipment and service supplier.
- Representing Asian investors in a potential investment treaty arbitration concerning expropriation of their investment in a substantial real estate development.
- Representing an international group in its licensing dispute with North Asian manufacturers of equipment governed by Californian law.
- Representing a Philippine engineering and construction company in a settlement of claims in an arbitration involving construction and engineering contracts for a telecommunications project.
- Representing a Sino-Foreign joint venture in the power generation sector in a substantial dispute with a French equipment and service supplier.
- Representing a European group that was a claimant against a joint venture participant in CIETAC arbitration.
- Representing European and Filipino companies in a dispute governed by ICC Rules with a Filipino company arising from various agreements concerning the supply and purchase of telecommunications materials and services in the Philippines, and a related facility agreement.
- Representing a Thai company in an *ad hoc* arbitration of a dispute arising from the charter party of a vessel.
- Representing Japanese companies in two ICC arbitrations against Russian companies concerning the breach of restructuring agreements.

## LITIGATION

Kim's litigation cases while a partner at White & Case LLP included successfully representing Chime Corporation, the Chinachem Group holding company, in Hong Kong litigation commenced by the Joint Liquidators against Mrs. Nina Wang, Chime Corporation and others.

In the early 1990's Kim was a member of the Baker & McKenzie team in Hong Kong that represented the Joint Liquidators of Carrian Investment Limited in various Hong Kong and cross border litigation arising from the liquidation of various Carrian group members.

## DIRECTORY RANKINGS

Kim is regularly included in various legal directories including *Who's Who Legal Arbitration 2024*, *Who's Who Legal Thought Leaders China & Hong Kong 2023* and *Who's Who Legal Mainland China & Hong Kong 2023*

## DIRECTORY QUOTATIONS

*Who's Who Legal Arbitration 2023*

*"As arbitrator you are left with total confidence that Ms Rooney has got to grips with the case right down to the minutiae"*

*"She has a rigorous intellect, which is carried lightly and coupled with a very diligent approach"*

*"Ms Rooney is incredibly organised and thorough"*

## EDUCATION

- B. Juris (1979), LL.B (1980) University of Western Australia

## OTHER QUALIFICATIONS

- Barrister and Solicitor of the Supreme Court of Western Australia (1980) (non-practising)
- Solicitor of the Supreme Court of England & Wales (1991) (non-practising)

## APPOINTMENTS AND MEMBERSHIPS

### APPOINTMENTS

- ICC International Court of Arbitration – Member (2018 to present)
- ICC International Court of Arbitration – Alternate Member (2016-2018)
- Belt & Road Commission of the ICC International Court (approx. 2019-2022)
- Co-moderator of ICC Asian Advanced Arbitrators' Academy (2018-2020)
- Chair, Law Reform Commission Subcommittee on Third Party Funding for Arbitration (2013-2016 to its conclusion)
- Member, Department of Justice's Working Group on Checklist for Outcome Related Fee Structures (June 2023 to present)

- Member of the Hong Kong Government's Advisory Committee on Promotion of Arbitration in Hong Kong (2015 to approx. 2019)
- Department of Justice's Committee on the Provision of Space in the Legal Hub (2015 to approx. 2020)
- A Chairman of the Appeal Tribunal (Buildings Ordinance (Cap 123)) (Hong Kong) [ to present]
- Executive Committee Member and Member of the Board of Directors of eBRAM International Online Dispute Resolution Centre (eBRAM) (2020 – Present)
- Inaugural Vice Chair of eBRAM (2018-2020)
- Senior ADR expert in an EU-funded project in the Indonesian public sector on alternatives to litigation and arbitration for investor state disputes (2013-2016).
- ADR Expert leading World Bank-funded project advising the Ministry of Justice of the Lao PDR on the reform of its international arbitration law (1998-1999)

## **ARBITRATION PANELS/LISTS**

- AAA/ICDR
- AIAC
- CIETAC
- Hainan International Arbitration Court
- Hangzhou Arbitration Commission
- Hague Court of Arbitration for Aviation
- HKIAC
- JCAA
- KCAB International
- Shanghai Arbitration Commission
- Shenzhen International Arbitration Court
- SIAC
- Xi' An Arbitration Commission

## **MEDIATION AND ADJUDICATION**

- HKMAAL Accredited General Mediator
- CEDR Accredited Mediator
- AIAC Accrt' d Adjudicator

## **MEMBERSHIPS**

- Chair of Arbitration Committee of the International Chamber of Commerce – Hong Kong (approx. 2008-2013)
- Member /ex officio member of the Executive Committee of the International Chamber of Commerce – Hong Kong (present)
- Member, Council of the Hong Kong Bar Association (2014-2020; 2022 to present)
- Chair, Committee on Arbitration, Hong Kong Bar Association (2020 – Present)
- Inaugural Chair, Committee on International Relations (later renamed International Practice), Hong Kong Bar Association (2012– 2018 )
- Member of the ICCA/Queen Mary Taskforce on Third Party Funding of Arbitration (2016-2017)

- Member of the Rules Committee of the Hague Aviation Court of Arbitration (2022 to present)

## PUBLICATIONS

Kim is the editor of the International Bar Association's *"Dispute Resolution International."* She is an ADR Contributing Editor for *"Hong Kong Civil Procedure"*. She was member of the group that drafted *"ICCA'S Guide to the Interpretation of the 1958 New York Convention: A Handbook for Judges"* (2012). Her other publications include:

- *Hong Kong Chapter* of the Law Over Borders Comparative Guide, Arbitration, Global Legal Post, 2023
- *Outcome Related Fee Structures Reforms*, Hong Kong Civil Procedure News, Issue 1/2023 February 2023.
- *"Conflict of Laws Issues in Arbitration"*; *"Hong Kong: A Practical Guide"* Thomson & Reuters, 5th Ed., 2022.
- *"The Global Impact of the Pandemic on Commercial Dispute Resolution in the First Year"*, Dispute Resolution International, May 2021 (lead author).
- *"The Global Impact of the Pandemic on Commercial Dispute Resolution in the First 7 Months"*, Dispute Resolution International, October 2020 (lead author).
- *Turning the Rivalrous Relations between Arbitration and Mediation into Cooperative or Convergent Modes of a Dispute Settlement Mechanism for Commercial Disputes in East Asia*, 12 (1) Contemp.Asia Arb J.107 (2019).
- *"Third-Party Funding of Arbitration and Alternative Dispute Resolution in Hong Kong"*, BCDR International Arbitration Review, Vol 5, December 2018, Issue 2.
- *"Recent Legal Developments in Third Party Funding of Arbitration and Mediation In Hong Kong"* "Asian Dispute Review", October 2017;
- *Law Reform Commission Final Report on Third Party for Funding of Arbitration in Hong Kong* with draft legislation (co-author); October 2016
- *Consultation Paper on Third Party Funding for Arbitration of the Law Reform Commission Sub-committee on Third Party for Funding of Arbitration in Hong Kong* (co-author); October 2015
- *Hong Kong Encyclopedia of Forms and Precedents, Arbitration & Mediation Volume* (co-author), Lexis Nexis, 2012
- *"ICSID and BIT Arbitrations and China"* Journal of International Arbitration, Kluwer, 2007.
- *"Hong Kong Insolvency Law"* in International Insolvency, H. Belzer and A. Gropper (co-editors), Juris Publishers, 2000.

## TEACHING

Ms. Rooney regularly lectures on international arbitration, advocacy, and international dispute resolution, including at the Peking University School of Law. Kim was one of the moderators of the ICC's Asia Advanced Arbitrators Academy (2018-2020).and regularly teaches various programmes conducted by arbitral institutions and various lawyers' associations, among others on arbitration law and practice.

## LANGUAGES

English, French (reading)