

# David L. Kreider

## Independent Chartered Arbitrator, Attorney and Solicitor

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**Born:** 1956, Ohio, USA

**Nationality:** American, New Zealander

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### Highlights:

- **David L. Kreider, International Arbitrator.** Principal and full-time independent international arbitrator with offices in Hong Kong and Auckland, specializing in:
  - ✓ **IT/Telecommunications** (supply contracts, Service Level Agreements, network interconnection, mobile roaming, software licensing and distribution, Value Added Services, Voice over Internet Protocol, Point-Of-Sale computer systems);
  - ✓ **Intellectual Property** (license disputes, trademarks, brands, copyright, luxury goods, infringement, R&D and technology transfer agreements, franchising, agency, royalties, confidentiality and know-how, trade secrets, design patents and models);
  - ✓ **Finance** (broker-dealer agreements, investment agreements, guarantee agreements, share purchase and buy-back agreements, M&A, derivatives contracts, cross-border Chinese business disputes);
  - ✓ **Hospitality** (disputes arising under hotel management agreements and gaming establishment joint-venture and management agreements).
- **Chairman of the New Zealand National Committee of the ICC International Court of Arbitration (Sept. 2016 - present).** Responsible for proposing arbitrators to the ICC Court in Paris where the latter is called upon to appoint an arbitrator under Article 13(3); for recommending new Court Members for appointment by the ICC World Council; for promoting ICC dispute resolution services; and for advancing the interests and capabilities of New Zealand international arbitrators at home and abroad.
- **Member of the ICC International Court of Arbitration, Paris (June 2014 – present).** Decides the appointment of arbitrators and their awardable fees; conducts Article 33 (ICC Arbitration Rules 2012) scrutiny reviews and approvals of final arbitral awards; and supports the administration of ongoing ICC arbitration cases. Article 33 provides that no award may be rendered by an arbitral tribunal until it has been approved by the Court.
- **Chartered Arbitrator of the Chartered Institute of Arbitrators, London (Since 2006).** “Chartered” status is the highest level of membership in this global qualifications body for arbitrators. A Chartered Arbitrator is “*a Fellow of the Chartered Institute of Arbitrators who has demonstrated to an interview panel advanced knowledge and understanding of arbitration*”

*and its practical application, evidencing a professional approach to parties and the public interest”.*

- **Member of the Teaching Faculty.** Faculty member of the Chartered Institute of Arbitrators, London. Regularly instructs the Institute’s Diploma Course in International Commercial Arbitration.
- **Member of the New Zealand Markets Disciplinary Tribunal.** Appointed by the New Zealand Government to serve on this independent disciplinary body, which conducts hearings to determine and impose penalties for financial market misconduct under the rules of the New Zealand Stock Market.

**Bar Admissions:** England and Wales (2000); Hong Kong Special Administrative Region (1999); California (1992); District of Columbia (1987); New Jersey (1986); New York (1985); Florida (1981).

### **Professional Experience Summary:**

After leading substantial IT and IP litigation and arbitration cases for the world’s top two telecommunications companies, Vodafone and China Mobile for 15 years, David Kreider started his own arbitration practice in 2013. Due to his extensive China experience and Mandarin capability, he often takes cases involving one or more Chinese parties.

In the financial sector, David has work experience in three different jurisdictions across the globe, serving as Chief of Enforcement with the U.S. Securities and Exchange Commission (“SEC”) in New York; as the Director of Corporation Finance for the Hong Kong Securities and Futures Commission (“SFC”); and, currently, as a Member of the New Zealand Markets Disciplinary Tribunal.

David has 14 years of U.S. courtroom experience as lead counsel in more than 70 bench and jury trials in both the state and federal court systems, practicing first with a Florida litigation firm and then with major Wall Street law firm Pillsbury. While in the U.S. SEC in New York, David led a team of lawyers and forensic accountants, launching investigations into insider trading and market manipulation cases, one involving high-profile derivatives dealings between Proctor & Gamble and Bankers Trust Company. He also prosecuted affinity frauds requiring Chinese language skills.

In 1995, Hong Kong’s SFC, in need of financial markets and securities law expertise with Chinese language capability, recruited David as its Director of Corporation Finance. He represented the Takeovers Executive in hearings of the Takeovers and Mergers Panel to determine disputes over the control of listed companies in Hong Kong. Also in Hong Kong, David joined Sidley Austin as Counsel, working on the commercial side preparing securities offerings for corporate clients in Greater China.

From January 1999 to December 2004, a period of 6 years, David Kreider was the General Counsel to China Mobile, the world’s largest telecommunications operator. Reporting directly to the Chairman in Hong Kong, he guided the Company through a challenging asset acquisition and overseas securities offerings phase. During this period of rapid growth he traveled extensively throughout China and advised senior management on matters such as SEC filings, due diligence, overseas listings, and investor relations. During his tenure, China Mobile raised US\$20 billion in overseas equity markets.

David was the point of contact for China Mobile in a number of CIETAC arbitrations and litigation cases in China, assisting the Board in developing effective dispute resolution strategies. He helped China Mobile expand its digital platform and build out its network infrastructure, with Internet portals, backbone fiber-optic networks and technology start-up ventures. He coined a number of brand names, trademarks and marketing tag lines, in both English and Chinese, used in connection with substantial telecommunications businesses. David also played a central role in the formation and functioning of the US\$2.3 billion strategic alliance joint venture between China Mobile and Vodafone.

After 10 years in Hong Kong, David joined Vodafone in New Zealand to head the Legal Department. He was personally responsible for all regulatory and business disputes, achieving successive wins in litigation and arbitration cases, contributing substantially to the Company's bottom line. David was also a member of the Executive Management Team, determining the strategic direction of the business and participating in decision-making about technology initiatives and business plans.

Having spent more than 20 years living in the Asia Pacific Region, often working in an all-Chinese environment, David speaks fluent Mandarin, reads both traditional and simplified Chinese characters, and has a working knowledge of Japanese. David Kreider is included on the panels of arbitrators of most major arbitral institutions.

**Arbitration Experience:** David Kreider has been appointed as chairman, sole arbitrator or co-arbitrator in more than 100 cross-border arbitration references and Internet domain name disputes, including ICC, HKIAC, SIAC and ICDR administered and *ad hoc* proceedings:

- Appointed as co-arbitrator in a Macao seated dispute between Macanese and Indochinese parties concerning a gaming joint venture. SIAC Arbitration Rules. Amount in controversy US\$200,000,000.
- Appointed as sole arbitrator in a Hong Kong seated dispute between Japanese and Chinese parties arising out of agreements for the sale and purchase of precision scientific equipment governed by Hong Kong law. HKIAC Administered Arbitration Rules. Amount in controversy US\$5,000,000.
- Appointed as co-arbitrator in a Singapore seated dispute between Bermudan and Indonesian parties arising out of an agreement for the sale and purchase of telecommunications equipment governed by Singapore law. SIAC Arbitration Rules. Amount in controversy US\$17,000,000.
- Appointed as co-arbitrator in Hong Kong seated arbitral proceedings involving a dispute between Dutch and Chinese parties to a hotel management agreement governed by Chinese law. HKIAC Administered Arbitration Rules. Amount in controversy US\$ 3,500,000.
- Appointed as sole arbitrator in a Hong Kong seated trademark-licensing dispute between Japanese and Chinese parties. HKIAC Administered Arbitration Rules. Amount in controversy US\$ 2,500,000.
- Appointed as co-arbitrator in 4 Hong Kong seated references between a Singapore claimant and Asian and off shore respondents alleging breach of a share purchase agreement and related guarantees. UNCITRAL Rules. Amount in controversy US\$ 15,000,000.
- Appointed as co-arbitrator in 5 Singapore seated references by a U.S. based securities broker alleging breach of customer agreements by multiple Asian respondents. ICDR Rules. Amount in controversy US\$ 15,000,000.
- Appointed as sole arbitrator in a trademark-licensing dispute seated in Hong Kong between Dutch and Chinese parties pertaining to the manufacture and distribution of luxury clothing and household furnishing products. ICC Rules. Amount in controversy € 4,500,000.
- Appointed as sole arbitrator and as chairman, respectively, in 2 related Hong Kong seated proceedings involving a trademark licensing dispute between Singapore and Chinese parties pertaining to a luxury hotel brand in China. The arbitration agreement required that the arbitrator be '*bilingual in both Chinese and English*'. HKIAC Administered Arbitration Rules. Amount in controversy US\$ 3,500,000.
- Appointed as co-arbitrator in a dispute seated in Toronto over a trademark licensing and product distribution agreement for water treatment technologies. ICDR Rules. Amount in controversy US\$ 12,000,000.
- Appointed as chairman in a dispute seated in Singapore between Australian and Malaysian parties to a software distribution and trademark licensing agreement. The arbitration agreement required that the arbitrator '*must have recognized expertise in information technology*'. SIAC Rules. Amount in controversy US\$ 600,000.

- Appointed as co-arbitrator in a Hong Kong seated dispute between a UK telecommunications company and a Chinese telecommunications VAS (Value Added Services) provider for breach of an acquisition agreement. ICC Rules. Amount in controversy US\$ 110,000,000.
- Appointed as co-arbitrator in a Hong Kong seated *ad hoc* arbitration between U.S. and Chinese parties involving a failed acquisition agreement and telecommunications and IP licensing issues under Chinese law. UNCITRAL Rules. Amount in controversy US\$ 80,000,000.
- Appointed as sole arbitrator in a Singapore seated dispute arising under an agreement between a Singapore ISP (Internet Services Provider) and a Singapore hotel management company for the installation of a VoIP (Voice over Internet Protocol) telecommunications network. SIAC Rules. Amount in controversy US\$ 500,000.
- Appointed as sole arbitrator under a contract between Singapore parties for the construction and testing of a POS (Point-Of-Sale) computer system. SIAC Domestic Arbitration Rules. Amount in controversy US\$ 150,000.
- Rendered more than 70 administrative panel decisions in Internet domain name disputes, both in English as well as in the Chinese language (*See List of Domain Names Decisions*).

#### **Appointments to Institutional Panels of Arbitrators:**

- Hong Kong International Arbitration Centre (Hong Kong);
- Singapore International Arbitration Centre (Singapore);
- China International Economic and Trade Arbitration Commission (Beijing);
- Beijing Arbitration Commission (Beijing);
- Tianjin Arbitration Commission (Tianjin);
- Jinan Arbitration Commission (Jinan);
- Shanghai International Arbitration Center (Shanghai);
- Shenzhen Court of International Arbitration (Shenzhen);
- Chinese Arbitration Association (Taipei);
- Korean Commercial Arbitration Board (Seoul);
- The Japan Commercial Arbitration Association (Tokyo);
- Pacific International Arbitration Center (Ho Chi Minh City);
- Kuala Lumpur Regional Centre for Arbitration (Kuala Lumpur);
- International Centre for Dispute Resolution (New York);
- International Institute for Conflict Prevention and Resolution (New York);
- National Arbitration Forum (Minneapolis);
- Chartered Institute of Arbitrators' Arbitration Panel (London);
- Australian Centre for International Commercial Arbitration (Sydney);
- Arbitrators' and Mediators' Institute of New Zealand Limited (Auckland);
- British Columbia International Commercial Arbitration Centre (Vancouver); and,
- Dubai International Arbitration Centre (Dubai);

#### **Employment History:**

- Full-Time Independent Arbitrator and Principal of David L. Kreider, International Arbitrator (2013 – present)
- Legal Director and Member of the Executive Board, Vodafone New Zealand, Auckland (2005-2013)
- General Counsel, China Mobile, Hong Kong (1999-2004)
- Counsel, Sidley Austin Brown & Wood, Hong Kong (1997-1998)
- Director of Corporation Finance, Hong Kong Securities & Futures Commission (1995-1997)
- Branch Chief, Enforcement Division, United States Securities and Exchange Commission, New York City (1992-1994)
- Associate, Pillsbury Winthrop Shaw & Pittman LLP, Palm Beach, Florida (1984-1992)
- Associate, Kaplan, Jaffe & Gates, Ft. Lauderdale, Florida (1981-1984)

### **Professional Associations:**

- Appointed New Zealand's Alternate Member to the ICC Court of Arbitration, Paris (June, 2014 - present)
- Appointed to the New Zealand Markets Disciplinary Tribunal, which hears and determines matters relating to the conduct of parties regulated by the NZX Participant Rules, the NZX Listing Rules, the NZX Derivatives Market Rules and the Clearing and Settlement Rules of New Zealand Clearing Limited (2013-present)
- Appointed to ICDR Code of Conduct and Professional Ethics Committee (September 2013)
- Director / Arbitrator, Australian Centre for International Commercial Arbitration (2011-present)
- Director / Arbitrator, American Arbitration Association (2010-present)
- Chartered Arbitrator / Fellow / Panel Arbitrator, The Chartered Institute of Arbitrators (2006-present)
- Fellow, Hong Kong Institute of Arbitrators
- Fellow, Singapore Institute of Arbitrators
- Fellow (Arbitration), Arbitrators' and Mediators' Institute of New Zealand
- Member, Silicon Valley Arbitration and Mediation Center, Palo Alto
- International Council for Commercial Arbitration
- Association Suisse de l' Arbitrage
- London Court of International Arbitration, Asia Pacific Users' Council

### **Publications:**

- *How Much Justice is Enough?* Comparative Law Journal of the Pacific, vol. 22 (September 2016) 47.
- Chapter 12 – 'The Award', in P Yuen, D McDonald and A Dong (eds), *Chinese Arbitration Law* (Hong Kong, LexisNexis) 339 - 364.
- *Whose Dispute is it Anyway? Dispute Resolution from the User's Perspective*, Korean Arbitration Review, October 2014.
- *Selecting the Arbitrator*, Journal of the Institute of Arbitrators & Mediators, Australia, December 2013.
- *Managing Offshore Arbitration Proceedings - Selecting the Arbitrator*, paper presented at Asia Pacific Regional Arbitration Group Conference, 27-29 June 2013, Beijing.
- *The Right Clauses for Your Client's Next Big Deal - How to Draft an International Disputes Clause*, paper presented at Arbitrators' and Mediators' Institute of New Zealand Annual Conference, 2-4 August 2012, Wellington.
- *A Corporate General Counsel's Perspective on Arbitration*, paper presented at Arbitrators' and Mediators' Institute of New Zealand Annual Conference, 4-6 August 2011, Auckland.
- *Dispute Resolution Practices in the Chinese Telecommunications Industry*, Asian Dispute Review, October 2007.
- *New Zealand's Telecommunications Industry Volunteers a Dispute Resolution Scheme for Consumers*, Asian Dispute Review, January 2007.

### **Education:**

- Chartered Institute of Arbitrators' Diploma in International Commercial Arbitration, London, England (2007)
- Doctor of Laws, University of Miami School of Law, Florida, USA (1981)
- Bachelor of Arts, East Asian Studies, Muhlenberg College, Pennsylvania, USA (1978)
- Oberlin-in-Taiwan Intensive Program in Chinese Studies, Taiwan (1975-76)

## Languages:

- English (native);
- Mandarin Chinese (fluent); Level 5 under the Hanyu Shuiping Kaoshi (“HSK”) Chinese language examination administered by the Ministry of Education of the People’s Republic of China (Level 6 being the highest level); Level 5 under the Chinese Language Proficiency Scales for Speakers of Other Languages (“CLPS”) (level 5 being the highest level).
- Japanese (working knowledge).

## **List of Domain Name Decisions**

- Bloomberg Finance L.P.: FA1609001696094 <bloomberg.shop>;
- Boehringer Ingelheim International GmbH: FA1608001691643 <ofev.wang>;
- SnoopyBy Co Ltd.: DCN-1600698 <gentlemonster.net.cn>;
- P & Y Halas Pty Limited: FA1608001691156 <seafolly.store>;
- Celgene Corporation: FA1608001686909 <celgene.store>;
- Sartén Ambalaj Sanayi ve Ticaret Anonim Sirketi: FA1606001679265 <sarten.com>;
- Skechers U.S.A., Inc. II: FA1606001681438 <skx.store>; FA1610001697619 <skechers.shop>;
- Genzyme Corporation: FA1604001672183 <genzyme.tech>;
- Iwaki America, Inc.: FA1604001670064 <walchem.net>;
- Sanofi: FA1605001673228 <sanofi.club>; FA1605001673225 <sanofi.click>; <sanofi.design>; <sanofi.gift>; <sanofi.help>; <sanofi.link>; <sanofi.online>; <sanofi.photo>; <sanofi.pics>; <sanofi.press>; <sanofi.wiki>;
- Eastbay, Inc.: FA1604001670359 <eastbay.online>;
- State Farm Mutual Insurance Company: FA 1603001665220 <statefarmjake.com>;
- Shenzhen Da-Jiang Science and Technology Innovations Co. Ltd. (深圳市大疆创新科技有限公司): DHK-1600128 <dji.com.hk>;
- Les Parfumeries Fragonard: FA1512001654755 <fragonard.love>;
- Universal Protein Supplements Corporation d/b/a Universal Nutrition: FA1601001655348 <animalfitness.net>;
- Boehringer Ingelheim International GmbH: DCN-1500657 <synjardy.com.cn>;
- Pandora A/S: HK-1500805 <fr-pandora-bijoux.com>; HK-1500806 <pandora.bijoux.net>;
- Smakdapp, Inc.: FA1510001643319 <bannersaver.net>;
- Goldman Sachs & Co.: FA1508001633381 <gsbankusa.com>;
- Wolfram Group LLC: FA1508001633666 <wolfram.top>; <wolframalpha.top>;
- Bayer AG: DCN-1500631 <bayercropscience.com.cn>;
- Lululemon Athletica Canada, Inc.: FA1505001621406 <lululemon.sale>;
- Lockheed Martin Corporation: FA1505001619833 <f-35.top>; <f-35.wang>; <f-35.xyz>;
- G.F.P.I.S.A.: FA1505001621512 <greubelforsey.club>;
- Timex Group USA, Inc.: FA1505001619668 <timex.boutique>; <timex.center>; <timex.company>; <timex.gallery>; <timex.international>;
- Instagram, LLC: FA1505001621216 <instagram.top>;
- Carlson, Inc. and its subsidiaries: FA1505001619076 <carlsonwagonlit.club>; <countryinns.club>; <parkinn.club>;
- Bloomberg L. P.: FA1505001619343 <bloomberg.top>;
- Paul Smith Group Holdings Limited: HK-1500737 <paulsmithboutiqueprix.com>;
- Six Continents Hotels, Inc.: FA1501001597910 <holidayinn.restaurant>;
- Add2Net, Inc.: FA1504001613785 <lunarpages.wang>;
- Lanxess Deutschland GmbH: FA1503001610376 <lanxess.xn--ses554g>;
- Retail Royalty Company and AE Direct Co LLC: FA1502001604764 <aeo.link>;

- Westinghouse Electric Corporation (西屋电气公司) HK-1500704 <westinghouseke.com>;
- Wynn Resorts Holdings LLC: HK-1500692 <wynn24.com>;
- Kingfisher France: FA1501001598577 <castorama.moscow>;
- MySQL AB: FA1501600020 <mysql.wiki>; FA1601001657701 <mysql.xyz>;
- Six Continents Hotels, Inc.: FA1501001597912 <holidayinn.club>; FA1501001597910 <holidayinn.restaurant>;
- Sports South LLC: FA1412001593009 <sportssouth.com>
- 御美株式会社 (M&M Company Limited): DHK-1400109 <iimo.com.hk> (re-filed Complaint struck out and case dismissed by subsequent panelist in DHK-1400117);
- Television Broadcasts Limited: HK-1400593 <tvbdo.org>; HK-1400665 <tvbs.com>;
- Burt's Bees Inc.: DCN-1400563 <burtsbees.cn>;
- The Body Shop International Plc.: HK-1300555 <thebodyshop-cn.net>;
- Changyi Airport Group (Singapore) Pte. Ltd.: HK-1200434 <changyiairportshopping.com>;
- Bearingpoint IP Holding B.V: DCN-1300532 <bearingpoint.com.cn>;
- Remy Cointreau Luxembourg S.A.: DCN-1200502 <metaxa.com.cn>; <metaxa.cn>;
- Votorantim Participações S.A.: DCN-1200482 <uszinc.com.cn>;
- Taiwan Semiconductor Manufacturing Co., Ltd.: HK-0900240 <tsmc.asia>;
- 悦诗风吟 (Innisfree Corporation): HK-1600911 <inn-isfree.com>; HK-1600912 <innisfreechina.com>; HK-1600913 <ysfyshopping.com>;
- 株式会社爱茉莉太平洋 (Amore Pacific Corporation): HK-1600903 <laneiges.com>; HK-1600904 <sulwhasoosale.com>; HK-1600905 <laneigecn.com>; HK-1600914 <ryoshampoo.com>; HK-1600915 <amoresale.com>; HK-1600916 <innisfrees.com>;
- Mitsumi Electric Co., Ltd. and Minebea Co., Ltd.: HK-1600906 <minebea-mitsumi.com>; <minebeamitsumi.com>;
- Eurofactor: DCN-1600705 <eurofactor.cn>;
- 深圳市大疆创新科技有限公司 (Shenzhen Dajiang Science and Technology Innovations Co. Ltd.): DCN-1500667 <dji.cn>; DCN-1500668 <dji.com.cn>;
- The Zippertubing Company: FA1602001660820 <zt.com>;
- 博科通讯系统有限公司 (Brocade Communications Systems, Inc.): DCN-1500652 <brocadechina.cn>; <brocadecn.cn>;
- 珀金斯控股有限公司 (Perkins Holdings Limited): DCN-1500645 <珀金斯.cn>;
- Sanmina Corporation: FA1509001637466 <sanmina-tech.com>;
- Udacity, Inc.: DCN-1500644 <udacitymail.cn>; <youdacity.com.cn>;
- 孖士打控股有限公司 (Mayer Brown JSM Holdings Limited): DCN-1500621 <mayerbrownjism.cn>;
- Google Inc.: FA1503001609085 <gotogoogle.com>; FA1504001614336 <androidpay.com>; <androidway.net>;
- Ate My Heart Inc: DCN-1400571 <ladygaga.cn>;
- Cathay Pacific Airlines: DCN-1300522 <asiamiles.com.cn>;
- East IP Inc.: HK-1300481 <beijingeastip.com>;
- Exxon Mobil Corporation: HK-1300531 <santoprene-tpv.com>;
- Amazon Technologies Inc.: DCN-1300538 <awscloud.cn>; <awscloud.com.cn>; <amazonec2.com.cn>; <amazon3.cn>; <amazon3.com.cn>; <amazonwebservices.cn>; <amazonwebservices.com.cn>; <awsamazon.cn>; <awsamazon.com.cn>;
- Disney Enterprises, Inc.: HK-0800202 <香港迪士尼乐园.net>; HK-0800210 <迪士尼乐园.biz>; <迪士尼樂園.biz>; <迪斯尼乐园.biz>; and <迪斯尼樂園.biz>;
- Wal-Mart Stores, Inc. and Wal-Mart China Co., Ltd.: HK-0800229 <沃尔玛中国.com>; HK-0800223 <沃尔玛中国.net>;

- Li Ka Shing Foundation Limited: HK-0800181 <李嘉诚基金会.com>;
- Cheung Kong Infrastructure Holdings Limited: HK-0800177 <长江基建集团.com>; HK-0800179 <长江基建.com>;
- Cheung Kong (Holdings) Limited: HK-0800188 <長江實業.com>; HKcc-0800003 <香港长江集团.cc>; HK-0800173 <長江.com>; HK-0800172 <长江.com>; HKcc-0800004 <长江.cc>.