

Hughes Hubbard & Reed

People in <i>Who's Who Legal</i> :	5
Pending cases as counsel:	19
Treaty cases:	7
Current arbitrator appointments:	41 (of which 12 are as sole or chair)
Lawyers sitting as arbitrator:	8

The US firm welcomed a new arrival from Freshfields

While it can at times seem a bit of a domestic litigation shop like many of its US peers, Hughes Hubbard & Reed stands out from that crowd by its early embracing of international arbitration. The firm was founded in 1888 by a former Chief Justice of the United States, Charles Evans Hughes, who became a member of the Permanent Court of Arbitration at The Hague in 1926 and served as a US delegate to the Pan American Conference on Conciliation and Arbitration in 1928.

The modern arbitration practice was started by Paris partner Axel Baum and Washington, DC partner John Townsend nearly 40 years ago, when they filed their first ICC case. Under Baum's tutelage, lawyers in Europe and the United States have had the time and space to develop true credentials in the field and are now recognised figures in their own right who sit as arbitrators in many cases in addition to their counsel work.

Townsend leads the international arbitration practice with New York-based partner John Fellas and Paris-based José Rosell. He also co-chairs the investment treaty arbitration practice with a new arrival at the firm, Alexander Yanos, who was formerly a partner at Freshfields Bruckhaus Deringer.

A former chairman of the board of the American Arbitration Association, in 2014 Townsend was made one of seven vice presidents of the LCIA Court – and the only one from the United States. He's been on the ICSID panel of arbitrators since 2008.

Firm members also hold sway at the ICC International Court of Arbitration: both Rosell and another Paris partner, Marc Henry, are on its commission.

Locations

The New York, Paris and DC offices house the majority of the firm's arbitration lawyers, with a few in Los Angeles and Miami too.

Who uses it?

Turkish state oil and gas company Türkiye Petrolleri Anonim Ortaklığı used the firm for an ICSID claim against Kazakhstan.

Other clients include Canada (one of the firm's partners, Joanne Osendarp, is a former trade lawyer for the government), Swedish telecoms operator Tele2 Sverige and Indian wind power provider Suzlon Energy.

In the pharmaceuticals sector, its clients include US company Forest Laboratories and Singapore's Menarini Asia-Pacific, formerly Invida.

The firm is also advising the central bank of a South American country and a US pharma group in a US\$320 million ICC case. The new hire, Alexander Yanos, brings considerable experience of advising energy companies in disputes with Latin American states.

In 2013, working alongside local firm Lawin, José Rosell helped the government of Lithuania defeat a €206 million damages claim brought by an Italian investor in the sparkling wine industry. Although the UNCITRAL panel found the state in breach of a bilateral investment treaty, it refused to award any damages.

The year before, Joanne Osendarp and John Townsend helped Canada prevail in an LCIA arbitration brought by the United States under the Softwood Lumber Agreement. A high-profile tribunal chaired by German arbitrator Klaus Sachs said the United States had failed to prove its case, which concerned the underpricing of logs from forests in British Columbia killed by a mountain pine beetle infestation.

In 2010, a Hughes Hubbard team helped RosInvestCo, a UK subsidiary of US hedge fund Elliott Associates, win an SCC award against Russia over the expropriation of its shares in Yukos Oil Company (along with VV Veeder QC and Swedish law firm Mannheimer Swartling). Although the award wasn't huge (US\$3.5 million), it was the first time the state had been held liable under an investment treaty over the *Yukos* affair. The award was shortlisted for "Arbitration Win of the Year" at the 2011 GAR Awards, although it has since been overturned.

Fellas is proud of his work for Tele2 Sverige in defending an ICDR award in the New York courts. He not only got the set-aside action by BVI entity DigiTelecom dismissed, but persuaded the court to impose sanctions on the other side's counsel on the grounds that the action was frivolous and had caused "unnecessary expense and delay".

Recent events

The hire of Yanos in September 2014 after 12 years with Freshfields (six as partner) was widely regarded as a coup. Yanos had been an advocate for BG Group as it sought the reinstatement of its US\$185 million arbitral award against Argentina before the US Supreme Court, a proceeding in which Hughes Hubbard prepared an *amicus curiae* brief. He shares a Hellenic background with Fellas, who is of Greek Cypriot origin.

Following his move, Yanos will continue to work for BG Group, with Freshfields as co-counsel. The application to reinstate the award was successful, with the Supreme Court quoting from the *amicus curiae* brief prepared by Fellas, Townsend and James Boykin (who has since been elevated to the partnership).

Subsequently, Townsend and Fellas teamed up with around 14 other well-known arbitration academics and practitioners to prepare another US Supreme Court *amicus curiae* brief, this time arguing against the application of the "manifest disregard" doctrine as an independent basis for set-aside of an arbitral award, in an appeal from a Fourth Circuit decision in an employment dispute. Sadly, the Supreme Court refused to hear the case.

2014 brought another win for Canada in the softwood lumber saga, when a tribunal chaired by Gabrielle Kaufmann-Kohler allowed Canada to lift a tax on exports.

Meanwhile, the firm helped Türkiye Petrolleri Anonim Ortaklığı settle its three-year ICSID dispute with Kazakhstan on the eve of hearings. The case concerned TPAO's 49 per cent stake in a joint venture with Kazakh state company KazMunaiGas. Terms of the settlement remain confidential.

The firm also successfully defended pharma client Merck & Co from a US\$325 million claim brought by a major Japanese pharmaceutical company, which alleged Merck had violated an agreement by terminating its development of a schizophrenia drug for safety reasons.

Its defence of Sojitz Aerospace America in a complex arbitration brought by US aerospace company Goodrich over a collapsed transaction with the Japanese Air Force also came to a successful conclusion.

A tribunal unanimously dismissed the claims and granted Sojitz's US\$7.6 million counterclaim.

Client comment

Colin Bird, Minister-Counsellor for Economic and Trade Policy at the Canadian embassy in Washington, DC, says Hughes Hubbard & Reed "dominated" in written and oral submissions in the two recent softwood lumber disputes, which he said had direct tax implications of over half a billion dollars to Canada. "Their record has been stellar," he says. "These were highly complex arbitrations involving high stakes, multiple stakeholders, extensive economic data and novel legal issues."

The United States may have had the simpler storyline, but the firm was "very effective at breaking down a very complex economic and regulatory context to put forward a compelling defence." They were able to present a clear decision tree for the arbitrators, which was clearly reflected in the award itself, he says. Bird singles out John Townsend, who did almost all the cross-examination, and Joanne Osendarp. Of Townsend: "His ability to develop a rapport with the bench has no peer and he is a master at presenting complex economic evidence in a clear and compelling way." Eric Parnes and John Wood, who assisted Townsend in the 2012 matter, were also impressive. "The Hughes team demonstrated an unparalleled command of the economics and context," he says.