



Timothy St. J. Ellam Q.C., FCI Arb

Partner

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t. +1 403-260-3533

Bar Admission

Alberta 1988
England and Wales 2000

Law School

University of Alberta

Practices

Disputes and Litigation
Appellate Litigation
International Arbitration
Corporate Commercial Litigation
IP Litigation
Intellectual Property
Alternative Dispute Resolution

Industries

Technology
Energy & Infrastructure
Automotive

Top of his field, Timothy's arbitration practice is defined by his relentless advocacy, deep industry expertise and track record of success.

Timothy St. John Ellam, QC, FCI Arb is a partner in our litigation and arbitration practices in Calgary and London and is co-chair of the Firm's international arbitration practice group.

Tim principally practices in the area of international arbitration in both Canada and London, UK with an emphasis on energy and intellectual property matters. His focus is on achieving the best possible outcomes for his clients, deftly representing them in all forms of dispute resolution.

I believe Tim's biggest strength to be his ability to use his vast practical experience to good effect, ensuring that the claim was accurately framed and arguments suitably countered. He is a very personable lawyer who is able to make clients feel comfortable, understood and confident, whilst at the same time always being realistic.

— CHAMBERS AND PARTNERS, DISPUTE RESOLUTION - NATIONWIDE

A star litigator, he has appeared as senior litigation counsel in numerous patent, licensing, copyright and technology related trials, arbitrations and hearings including many in the energy sector. A recent decision where he was lead counsel for the plaintiff, *Aux Sable v JL Energy* 2019 F.C. 581, was recognized as an Impact Case of the Year for 2020 by *Managing IP*. Tim frequently works with the Firm's London office on significant international arbitration matters and on litigation proceedings in the High Court of Justice (Commercial Court). He is also a Solicitor Advocate (Higher Courts – Civil) in the Law Society of England and Wales and holds Rights of Audience in the Higher Courts. He is an IBA Fellow in International Legal Practice; a distinction granted by the International Bar Association and the College of Law of England and Wales in 2005. He was appointed Queen's Counsel in 2014.

Tim is also a requested speaker at a number of arbitration events (LIDW, IADC, PDAC McGill University Annual MJDR/MASS Dispute Resolution Symposium) and an Arbitrator for the LSE-LCIA London and other Vis Pre-Moots. He is active in the Canadian branch of CIARB and is on the executive of the Alberta chapter.

Tim is a member of the Law Society of Alberta, The Law Society of England and Wales, the Canadian Bar Association, the International Bar Association, the International Association of Defense Counsel, the American Intellectual Property Law Association, the Solicitors Association of Higher Court Advocates (UK), a member of the Commercial Bar Association (COMBAR), a Fellow of the Chartered Institute of Arbitrators (FCI Arb), a member of the London Court of International Arbitration (LCIA) and an elected Life Fellow of the American Bar Foundation.

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I would have no hesitation to use [Tim] in any future arbitration or litigation. His experience gained as a Canadian and English qualified solicitor, working on international arbitrations, provided a useful perspective. I was particularly impressed by Tim's high level of availability. Tim Ellam has set the bar high.

— CHAMBERS AND PARTNERS, DISPUTE RESOLUTION - NATIONWIDE

Transactions & Cases

- **Arbitrations and International Work** – Extensive experience in both domestic and international arbitrations involving communications, technology and energy matters, including representing a large utility in disputes under Power Purchase Arrangements (PPA). Recent involvement include: an oil & gas company in two UNCITRAL Arbitrations in London, UK against the government of an African country over the interpretation of certain stabilization clauses in a PSA between the parties (2017); a Canadian company with operations in Albania in relation to UNCITRAL proceedings regarding an oil and gas purchase agreement (2017); an LCIA arbitration over a dispute for matters related to a Joint Operating Agreement covered by a Production License in Germany (2019); advising a Japanese multi-national corporation in a multi-faceted dispute (arbitration and litigation) over a dispute relating to certain agreements (2020) and pre-arbitral relief for an ICC London based Arbitration (2021).
- **Court, Administrative Tribunal and ADR Experience** – Appearance before all levels of court in Alberta, the Federal Court of Canada (both Trial and Appeal levels), the Supreme Court of Canada, the AUEB, the Alberta Securities Commission and various international administrative bodies.
- **Intellectual Property Litigation** – Extensive experience in patent, copyright and trade-mark litigation including infringement disputes and related injunction proceedings, licensing, technology, trade secret and e-commerce disputes and Internet law. Tim also has extensive experience with cross border patent, copyright and licensing litigation. Noted cases include *NovAtel v. Harris*(2002)(a dispute relating to the manufacture of a global positioning system (GPS) equipment), *iDc v. QC Data* (2002), 261 A.R. 155 (C.A.) (mandatory injunctive relief upholding a licensing contract), *WiLan v. Morris* (2003) (Internet defamation), *Welltec ApS v. Precision Drilling* (2004), ABQB 139 (injunctive relief for passing off), *Plastifab Ltd. v. Produits Pour Toitures Fransyl Ltée* (2004) (patent infringement action), *NovAtel v. Ellis* (2005) (Internet Defamation), *ARAM v. NovAtel* (2006) ABQB 697 (injunctive relief on patent issues) *ARAM v. NovAtel* (2008) ABQB 441 (inventorship dispute trial); *Juxtacomm Technologies v. Ascential Software et al* (2007) US Dist. Ct. 2:07 CV-00359 (Canadian counsel on US patent dispute); *ARAM v. NovAtel* (2009) ABCA 262 (inventorship dispute appeal); *Sasol Technologies (Proprietary) Limited v. De Klerk* (2009) ABQB 599 (setting aside Anton Pillar Order); *ARAM v. NovAtel* (leave application to Supreme Court of Canada, 2010); award of enhanced party and party costs in a patent derivation case (*NovAtel v. ARAM Systems Ltd.* (2010) ABQB 152); successful settlement of a patent infringement case in the Federal Court of Canada for Alberta Health Services (2010); successful settlement of a technology case involving the manufacture of a drilling rig (2012),

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appeal of a judgment dismissing a claim of patent infringement (*Wenzel Downhole Tools Ltd. and William Wenzel v. National-Oilwell Canada Ltd. et al* 2012 F.C.A. 333); invalidating certain claims in a patent relating to the transportation of natural gas (*Aux Sable v JL Energy* 2019 F.C. 581); declaration of non-infringement and invalidation of a patent related to a process for heavy oil extraction (*Swist et al v MEG Energy* 2021 FC 10).

- **Commercial Litigation** - Extensive experience in technology and energy related commercial litigation. Recent noted cases include successful opposition to a major injunction proceeding (*EAD Property Holdings (103) Corp v Greyhound Canada Transportation ULC*, 2015 ABQB 239 and 2015 ABQB 425); maintaining privilege over an investigation report and whistleblower identity (*Talisman Energy Inc. v. Flo-Dynamics Systems Inc.* 2015 ABQB 561); freezing orders for assets outside Canada (*Talisman Energy Inc. v. Flo-Dynamics Systems Inc.* 2015 ABQB 340); successful settlement of a multimillion dollar conspiracy action (2016).
- **Appeals** - Frequently retained to act as appellate counsel on various matters. Recent cases include *Desoto Resources Limited v. EnCana Corporation* (2011) ABCA 100; *Wenzel Downhole Tools Ltd. and William Wenzel v. National-Oilwell Canada Ltd. et al* 2012 F.C.A. 333.

Recent presentations, conferences & publications

- Speaker; London International Disputes Week, Breaking the mould - new approaches to evidence in the digital age (2021)
- Acting as arbitrator in various Vis Pre-Moots (2021)
- Co-Author, Remote arbitration hearings: advantages, challenges and participant considerations, December 2020 | Special Report: International Dispute Resolution, Financier Worldwide Magazine
- Speaker, Virtual Hearing Tips, McGill University Annual MJDR/MASS Dispute Resolution Symposium (2021)
- Arbitrator; LSE-LCIA London Vis Pre-Moot (2020)
- Speaker, Dealing with Allegations of Illegality and Corruption in International Arbitration, International Association of Defense Counsel Conference, (2018)
- Speaker, Resolving Disputes Your Way: International Arbitration, PDAC, Toronto (2017)
- Speaker, McCarthy Tétrault Advance™: International Arbitration Practice: Going Beyond the Basics and Examining Some Complex Issues, Toronto, (2015)
- Speaker, The Internet of Things, ITU Telecom World 2014, Doha, Qatar
- Speaker, Privacy in the Digital World, ITU Telecom World 2013, Bangkok, Thailand
- Co-Author: "Dispute Resolution in the Telecommunications Sector: Current Practices and Future Directions", The World Bank and ITU (2004)

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Awards & Rankings

Benchmark Litigation Canada

Litigation Star

Acritas Stars

"Stand-out lawyer"

Intellectual Asset Management (IAM) Patent 1000

Leading Lawyer: Patent Litigation

Recent Experience

- **Aux Sable wins patent impeachment action against JL Energy at the Federal Court**
May 06, 2019

Recent Insights

- **Mining in the Courts, Vol. XI**
March 09, 2021
- **"And bad mistakes, I've made a few..." (Apologies to Queen)**
February 17, 2021
- **A New Ground to Challenge the Enforceability of Arbitration Agreements – An Analysis of the Supreme Court of Canada's Decision in Uber Technologies Inc. v. Heller**
August 12, 2020
- **A New Ground to Challenge the Enforceability of Arbitration Agreements – An Analysis of the Supreme Court of Canada's Decision in Uber Technologies Inc. v. Heller**
August 12, 2020

Events

- **Patent Litigation in the Oil & Gas Sector**
June 17, 2019