

# Rachel Thorn

Partner



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New York

Arbitration

Investment Treaty Arbitration

Commercial Litigation

Public International Law

Post Acquisition Disputes and Advisory

Rachel represents companies in commercial arbitrations, in the US and internationally, and in investment treaty disputes (under the auspices of ICSID and the UNCITRAL Rules). She has extensive knowledge of the Federal Arbitration Act (FAA) and the leading US domestic arbitration rules (AAA, JAMS, CPR) and she advises on mass arbitration issues, including strategies to mitigate mass arbitration risk and defense of companies facing mass arbitrations. Rachel also represents clients around the world in arbitrations under the rules of the major arbitral institutions – including the ICC, ICDR, LCIA, SCIA, HKIAC. Her practice includes arbitration-related litigation in US courts, including actions to compel or stay arbitration proceedings, as well as actions to vacate, confirm or enforce arbitration awards under the FAA and New York Convention. In addition, she regularly counsels clients on dispute resolution in transactional matters. Her experience spans many industries, including life sciences, technology, post-M&A disputes, disputes involving joint ventures and long-term cooperation agreements, energy and infrastructure.

Rachel has been recognized in top publications and rankings, with The Legal 500 US noting her as an “excellent advocate, writer and cross-examiner” and an “excellent strategist [], focused on case details and the broader goal,” and Chambers USA describing her as “an outstanding technical lawyer” and “a real go-to as counsel.”

In addition to frequently speaking on commercial arbitration topics, Rachel serves on the New York City Bar Association’s Arbitration and International Commercial Disputes Committees. She also serves on the Women in Law Empowerment Forum Global Advisory Board.

## Rachel’s representative matters include representing:

- The claimant in an UNCITRAL arbitration brought under North American Free Trade Agreement Chapter 11 relating to an offshore concession to extract phosphate for indirect expropriation and breaches of the Minimum Standard of Treatment and national treatment standards – *Odyssey Marine Exploration, Inc. v. United Mexican States*
- A cryptocurrency platform in a series of threatened mass arbitrations
- A financial services company in an arbitration for private injunctive relief
- Google Asia Pacific in an ICDR arbitration against a large Asian digital marketing group for breach of a master services agreement and ad terms, as well as related actions to vacate and confirm a partial award in the US District Court for the Northern District of California
- The Mid-Atlantic Sports Network in the successful vacatur of an award in favor of the Washington Nationals concerning the fair market value of telecast rights fees; the award was rendered by a committee of Major League Baseball, with MLB joining the Nationals in opposing the petition to vacate, and vacatur

of the award was unanimously upheld on appeal – *TCR Sports Broadcasting Holding v. WN Partner*, 652044/2014 (Supreme Court, New York County)

- A large privately owned US company in multiple ICC arbitrations against three European chemical companies involving a joint venture for the manufacture of a petrochemical intermediate; the claims included breaches of contract and the misappropriation of trade secrets with \$1 billion+ at issue, with French law governing and proceedings conducted in English and French
- A Fortune 500 company in an ICC arbitration in Paris against a systems integrator involving an outsourcing contract with over \$350 million in dispute; the matter settled on very favorable terms for the client
- A Fortune 500 company in an ICC arbitration in Paris and Dubai for breach of a joint venture arising out of a \$1 billion spinoff; the award settled for a fraction of the damages sought

#### **Selected publications**

- Co-author of [“International Law May Protect Foreign Investors in Russia,”](#) Law360, July 2022
- Co-author of [“How Companies Can Hedge Risk of Mass Arbitration,”](#) Cooley client alert, June 2022
- Author of [“Drafting Arbitration Clauses in IP Agreements,”](#) The Guide to IP Arbitration 2021 (World Trademark Review), March 2021
- Co-author of [“The Expansion of Discovery in Aid of International Arbitrations Under Section 1782: Recent Decisions Deepen Circuit Split,”](#) Cooley client alert, July 2020
- Co-author of [“Interim Relief Now Available in Mainland China in Support of Hong Kong-Seated Arbitrations,”](#) Cooley client alert, October 2019
- Co-author of [“Goodbye NAFTA, Hello USMCA: A New Framework for Investment, IP and the Digital Economy,”](#) Cooley client alert, October 2018

#### **Selected speaking engagements**

- Speaker, Mass Arbitrations Webinar, Association of Corporate Counsel, New York City, March 2021
- Panelist, “Inferences and Exclusionary Rules,” British Institute of International and Comparative Law, 35<sup>th</sup> ITF Public Conference, Evidence in Investor-State Arbitration, April 2021
- Panelist, “Recent Developments in International Arbitration,” Practicing Law Institute’s International Arbitration 2020, June 2020
- Panelist, “Dealing With Lost Chances and Other Uncertainties in Evaluating Lost Business Opportunities,” Eighth Annual Damages in International Arbitration: Traditional vs. Non-Traditional Approaches, Emerging Trends, Methods and Techniques Conference, November 2019
- Faculty, “Questioning of Expert Witnesses in International Arbitration,” Foundation for International Arbitration Advocacy Workshop, November 2019 and January 2014
- Co-chair, “Global Arbitration Review’s 8th Annual GAR Live New York City, October 2019
- Panelist, “Strategies to Improve Cross-Cultural Advocacy” Harvard International Arbitration Law Conference, February 2019
- Speaker, “Litigation and Arbitration Workshop for China Fund Managers,” 2018 China Fund Manager Seminar Series, May 2018
- Panelist, “Due Process in the US – Who’s in Charge Here,” Global Arbitration Review’s GAR Live Atlanta, March 2018

#### **Education**

## Education

University of Chicago Law School  
JD, 1996

University of Wisconsin, Madison  
BA, 1992

## Admissions & Credentials

New York

## Rankings & Accolades

Who's Who Legal: Recommended – Arbitration (2024)

Chambers USA: International Arbitration: Counsel – Nationwide (2021 – 2023)

Legal 500 US: International Arbitration

Benchmark Litigation: Future Star (2014)

Global Arbitration Review: Top 45 Under 45 (2011)