

Mark Vinall

“Mark combines an exceptional intellect with the ability to focus on the practical issues and the client’s needs.”

– CHAMBERS AND PARTNERS, 2022

Year of call: 2002
Degree: BA Oxon (Law with French Law) First Class
Languages: French (fluent)



Mark Vinall has a busy and varied practice, dealing principally with media & entertainment, commercial and regulatory disputes, working both as sole counsel and as part of a larger team.

Mark is ranked in Band 1 / Tier 1 for media & entertainment in both Chambers and Partners 2021 and Legal 500 2021. He is also ranked for commercial dispute resolution in both Chambers Global and Chambers and Partners 2021, and for telecommunications in Chambers and Partners 2021.

Mark has been appointed to the Attorney General's A Panel of Counsel with effect from September 2021.

EXPERIENCE

Media & Entertainment

Mark regularly acts on behalf of a wide range of clients in this sector, including artists, managers, record companies, publishers, film/TV companies, literary agents and collecting societies.

His extensive experience includes artist/manager disputes (involving artists including Harry Hill, Rebecca Ferguson, Duffy, Seal and James), copyright (including songwriting disputes, infringement claims and website blocking orders), royalty disputes, group partnership disputes, cancelled concerts, video game development and merchandising.

He also undertakes work on media regulation, for example advising in relation to the Audiovisual Media Services Directive and the Ofcom Broadcasting Code.

“e has an excellent manner and is a pleasure to work with. He is very responsive and concise in his advice and always makes himself available.”

– LEGAL 500, 2022

Cases

Lord Archer v Curtis Brown Group

Sole counsel for defendant literary agent in commission dispute with well-known author.

Musical Theatre Arbitration

(2019-ongoing)

Sole counsel for Claimant in LCIA Arbitration between the co-producers of a successful musical.

UK Hospitality Industries and British Beer and Pub Association v Phonographic Performance Limited

Junior counsel for applicants in reference to the Copyright Tribunal of PPL's proposed new tariff for "specially featured entertainment", which will substantially increase fees payable by nightclubs, pubs and bars for using recorded music with a DJ and/or dancing.

Spilt Milk Management Ltd v Amy Wadge

Sole counsel for claimant management company in dispute with songwriter about whether the management agreement covered the Ed Sheeran hit Thinking Out Loud.

Boss Cabins Ltd v Groundhog (UK) Ltd & others

Sole counsel for one of the defendants in claim raising the question whether the Business Protection from Misleading Marketing Regulations 2009 give rise to a private right of action by advertisers' competitors.

ICC arbitration - Broadcasting rights

(April 2016)

Sole counsel for an international broadcaster in an ICC arbitration about broadcasting rights to sporting events.

Blackmore v HEC Enterprises Ltd

(2016)

Sole counsel for guitarist Ritchie Blackmore in royalties dispute with companies controlling the Deep Purple catalogue.

The Really Useful Group Ltd v Options Clause Entertainment LLC

(December 2015)

Sole counsel for the Really Useful Group in successful claimarising out of the cancellation of the Jesus Christ Superstar US arena tour.

WHSmith Travel Holdings Ltd v Twentieth Century Fox Home Entertainment Ltd

(Bristol Mercantile Court, 26 September 2014)

Junior counsel for Twentieth Century Fox in a dispute about accounting for DVD sales.

Forstater v Python (Monty) Pictures Ltd

[2013] EWHC 1873 (Ch); [2013] EWHC 3759 (Ch)

Monty Python and the Holy Grail / Spamalot royalties dispute.

Straw v Jennings

[2013] EWHC 3290 (Ch)

Profit share claim concerning Eva Cassidy recordings.

Sport

Mark has appeared in a number of sports cases covering a range of contractual, regulatory and disciplinary sporting disputes. He has been involved in several contractual disputes about sports broadcasting rights, player transfers and sponsorship. He has worked on disciplinary cases in horseracing and rugby union, and selection appeals in showjumping and taekwondo. He also acted for the Rugby Football Union in London Welsh's appeal against the refusal to promote them to the Premiership because of their ground-sharing arrangements.

Cases

CMS Cameron McKenna Nabarro Olswang LLP v Messi

(February 2021)

Mark Vinall, acting on behalf of the international law firm CMS, has obtained an order requiring the footballer Lionel Messi to attend the High Court in London to be cross-examined about his assets.

ICC arbitration - Broadcasting rights

(April 2016)

Sole counsel for an international broadcaster in an ICC arbitration about broadcasting rights to sporting events.

Aaron Cook v Sport Taekwondo UK

(2012)

Sole counsel for governing body in a high-profile appeal against its decision not to select an athlete for the London 2012 Olympic Games.

London Welsh RFC v Rugby Football Union

(2012)

Acting for the RFU in an appeal by the Championship-winning club barred from promotion to the Premiership because of its ground-sharing arrangements (led by Andrew Green QC).

Commercial

Mark acts in a broad range of commercial disputes, both as sole counsel and as part of a team. Some recent cases appear below.

“He is unflappable and down to earth.”

– CHAMBERS AND PARTNERS, 2021

Cases**Ingenious Litigation**

[2020] EWHC 1731 (Ch); [2019] EWHC 3299 (Ch)

Counsel for the "Peters & Peters" group of claimants in large-scale litigation against the promoters of film investment schemes. Mark worked on the case for almost 6 years, initially as junior counsel then as sole counsel. The case settled just before trial in May 2022.

<https://www.thelawyer.com/settlement-reached-ahead-of-ingenious-mammoth-20-week-trial/>

Tecnimont Arabia Ltd v National Westminster Bank plc

Junior counsel for the Claimant company, which was the victim of a \$5m "authorised push payment" fraud, in proceedings against the recipient's bank.

CMS Cameron McKenna Nabarro Olswang LLP v Messi

(February 2021)

Mark Vinall, acting on behalf of the international law firm CMS, has obtained an order requiring the footballer Lionel Messi to attend the High Court in London to be cross-examined about his assets.

Everest Alliance Ltd v Maslovskiy

(unreported, August 2020)

Acting for Petropavlovsk plc, a FTSE 250 gold-mining company, in an urgent Companies Court application in the run-up to a Requisitioned General Meeting (with Andreas Gledhill QC).

Cole & others v Scion Ltd & others

[2020] EWHC 1022 (Ch)

Junior counsel for a group of claimants (consisting largely of ex-professional footballers) suing the promoters of film investment schemes and advisers. After the claimants defeated an application for summary judgment on limitation grounds, the case is proceeding towards trial.

Wild Brain Family International Ltd v Robson & ors

[2018] EWHC 3163 (Ch)

Acting for claimant in substantial dispute between children's entertainment media companies (ongoing). Case has so far involved:

- Successful without notice application for computer imaging order
- Successfully resisting a discharge application
- Acting as sole counsel at CMC raising issues about the disclosure pilot scheme
- Listed for trial in 2021.

Cosmetic Warriors Ltd v Gerrie

[2017] EWCA Civ 324; [2017] 2 B.C.L.C. 456

Junior counsel for companies in the Lush Cosmetics group in dispute about the construction of pre-emption provisions in articles of association.

Bin Mahfouz v Rashid

[2016] EWHC 2173 (Comm).

Junior counsel for members of a wealthy Saudi family seeking to secure assets to enforce a judgment (led by Robert Anderson QC). Obtained order from Males J for access to premises and delivery up of luxury vehicles

Copley Motorcars Corp v Bonhams 1793 Ltd and related cases

[2015] EWHC 3257 (Comm)

Junior counsel for auctioneers Bonhams in several related sets of Commercial Court proceedings concerning the sale of a 1954 Ferrari 375 Plus for £9.6 million. Settled just before trial in April 2016. Led by Ian Mill QC.

Orb a.r.l. v Ruhan

[2015] EWHC 262 (Comm)

Junior counsel for two parties to multi-party Commercial Court proceedings worth over £100 million. Hearing in February 2015 as to whether defendant's change of case was an abuse of process. Settled in May 2016. Led by Ian Mill QC.

Denton v T H White Ltd

[2014] EWCA Civ 906

Acted for one of the successful appellants (Decadent Vapours Ltd) in the leading case on relief from sanctions under CPR r.3.9. Led by Gerard Clarke.

Professional negligence claim against solicitors

2018-19

Sole counsel for Claimants in substantial negligence claim against an international law firm, arising out of a missed limitation period.

Civil Fraud, Asset Recovery & Injunctive Relief

Mark has been involved in various domestic and international fraud cases, including those involving allegations of corruption, abuse of intellectual property and theft of confidential information. He has experience of obtaining a range of forms of interim relief, including on an urgent without notice basis, and of working with forensic accountants and computer experts. He has experience as sole counsel of both obtaining and resisting freezing injunctions.

A selection of cases in which he has been involved are set out below.

Cases

Ingenious Litigation

[2020] EWHC 1731 (Ch); [2019] EWHC 3299 (Ch)

Counsel for the "Peters & Peters" group of claimants in large-scale litigation against the promoters of film investment schemes. Mark worked on the case for almost 6 years, initially as junior counsel then as sole counsel. The case settled just before trial in May 2022.

<https://www.thelawyer.com/settlement-reached-ahead-of-ingenious-mammoth-20-week-trial/>

Tecnimont Arabia Ltd v National Westminster Bank plc

Junior counsel for the Claimant company, which was the victim of a \$5m "authorised push payment" fraud, in proceedings against the recipient's bank.

Wild Brain Family International Ltd v Robson & ors

[2018] EWHC 3163 (Ch)

Acting for claimant in substantial dispute between children's entertainment media companies (ongoing). Case has so far involved:

- Successful without notice application for computer imaging order
- Successfully resisting a discharge application
- Acting as sole counsel at CMC raising issues about the disclosure pilot scheme
- Listed for trial in 2021.

Cole & others v Scion Ltd & others

[2020] EWHC 1022 (Ch)

Junior counsel for a group of claimants (consisting largely of ex-professional footballers) suing the promoters of film investment schemes and advisers. After the claimants defeated an application for summary judgment on limitation grounds, the case is proceeding towards trial.

Search and freezing orders

May 2015

Acting for respondents to search and freezing orders in international litigation involving the alleged setting-up of a competing business by an employee (led by Tom Weissenberg QC).

Hussain v Seymour

(Andrews J, 13 March 2014)

As sole counsel, successfully obtained the discharge of a freezing injunction with indemnity costs on grounds of misrepresentation and non-disclosure.

Financial Services

Mark's financial services practice includes contractual and property disputes in the banking and asset finance fields, regulatory proceedings, and civil claims for damages alleging breaches of regulatory rules.

Cases

Ingenious Litigation

[2020] EWHC 1731 (Ch); [2019] EWHC 3299 (Ch)

Counsel for the "Peters & Peters" group of claimants in large-scale litigation against the promoters of film investment schemes. Mark worked on the case for almost 6 years, initially as junior counsel then as sole counsel. The case settled just before trial in May 2022.

<https://www.thelawyer.com/settlement-reached-ahead-of-ingenious-mammoth-20-week-trial/>

Cole & others v Scion Ltd & others

[2020] EWHC 1022 (Ch)

Junior counsel for a group of claimants (consisting largely of ex-professional footballers) suing the promoters of film investment schemes and advisers. After the claimants defeated an application for summary judgment on limitation grounds, the case is proceeding towards trial.

Financial Services Compensation Scheme v Various Independent Financial Advisers

Acted for around 100 IFAs defending multi-million pound Commercial Court claims brought by the FSCS as assignee from investors who purchased Keydata traded life policy investments (led by Barbara Dohmann QC).

Arbitration

Mark has been involved in domestic and international arbitrations under a variety of different sets of rules (ICC, LCIA, UNCITRAL, ad hoc, sporting) and in UK court proceedings arising out of international arbitration awards.

Cases

AT v Oil & Gas Authority

[2021] EWHC 1470 (Comm); [2021] Bus L.R. 1232

Junior counsel for Claimant holder of petroleum production licences in claim for interim relief to restrain the circulation of a notice by the OGA. The case raised issues about the scope of the arbitration clause in the licences and whether the proceedings should be brought under s.44 of the Arbitration Act 1996 or by way of judicial review.

Musical Theatre Arbitration

(2019-ongoing)

Sole counsel for Claimant in LCIA Arbitration between the co-producers of a successful musical.

ICC arbitration - Broadcasting rights

(April 2016)

Sole counsel for an international broadcaster in an ICC arbitration about broadcasting rights to sporting events.

ICC arbitration - A guarantee

(2015)

ICC arbitration before Lord Collins of Mapesbury concerning whether a guarantee incorporated an arbitration clause

Public & Regulatory

Mark undertakes a broad range of public law and regulatory work, encompassing judicial review (including “commercial” judicial review), public procurement and professional discipline (including several cases relating to Chartered Accountants).

Cases

R (JZ) v Secretary of State for Foreign, Commonwealth and Development Affairs

[2022] EWHC 771 (Admin)

Junior counsel for the defendant Secretaries of State in application for interim relief brought by an Afghan judge challenging the refusal to consider his application for entry clearance until he had provided biometrics.

AT v Oil & Gas Authority

[2021] EWHC 1470 (Comm); [2021] Bus L.R. 1232

Junior counsel for Claimant holder of petroleum production licences in claim for interim relief to restrain the circulation of a notice by the OGA. The case raised issues about the scope of the arbitration clause in the licences and whether the proceedings should be brought under s.44 of the Arbitration Act 1996 or by way of judicial review.

Institute of Chartered Accountants in England and Wales v Duncan

(Appeal Committee, 7 September 2021)

Representing the ICAEW before the Review Committee and Appeal Committee in proceedings involving the withdrawal of a Chartered Accountant's insolvency licence.

Link:

<https://www.icaew.com/-/media/corporate/files/about-icaew/what-we-do/protecting-the-public/disciplinary-orders/a-duncan-054084-public>

Boyden & ors v Institute of Chartered Accountants in England and Wales

Acted for the Investigation Committee in proceedings before a Disciplinary Committee Tribunal involving complex allegations that Chartered Accountants had knowingly understated the financial position of their company.

The published decision is available here (p.13).

Pawson v Institute of Chartered Accountants in England and Wales

ICAEW Appeal Tribunal, 30 September 2019

Acted for Investigation Committee, successfully resisting appeals against findings and sanction imposed by the Disciplinary Committee Tribunal. The appellant was excluded from membership of ICAEW for misleading investors about the level of his remuneration as a director of "recovery" companies set up to acquire land which had previously been the subject of an illegal land-banking scheme.

The published decision is available here (beginning at p.6).

R (Gwynt-y-Mor Offshore Wind Farm Ltd) v Gas and Electricity Markets Authority

[2019] EWHC 654 (Admin)

Junior counsel for the Interested Party, the Offshore Transmission Owner (OFTO), in a dispute about whether losses from a sub-sea cable failure could be recovered under the OFTO's electricity transmission licence. Led by Michael Fordham QC.

R (Lewin) v Financial Reporting Council

[2018] EWHC 446 (Admin); [2018] 1 W.L.R. 2867

The Administrative Court found that an FRC Disciplinary Tribunal had acted unfairly by making unqualified findings that a named non-party had committed wrongdoing.

R (Virgin Trains Ltd) v Secretary of State for Transport

West Coast Main Line rail franchising procurement dispute.

Telecommunications

Mark has extensive experience of appeals under the Communications Act 2003 concerning the on the EU Common Regulatory Framework for Electronic Communications. He acted for Ofcom in the first Supreme Court case in the area, as well as on appeals concerning leased lines (*British Telecommunications plc v Ofcom* [2017] CAT 25, as well as the appeals arising out of the previous market review Business Connectivity Market Review appeals [2013] CAT 15; [2013] CAT 29), mobile termination rates (*Everything Everywhere Ltd v Competition Commission & ors* [2013] EWCA Civ 154), and local access (Local loop unbundling and wholesale line rental price control appeals [2013] CAT 8).

Mark was also involved in the leading case on awards of costs against Ofcom in electronic communications appeals (*British Telecommunications plc v Ofcom* [2018] EWCA Civ 2542).

“He is very good at digging into highly complex technical areas and distilling them into something that the court could understand.”

— CHAMBERS AND PARTNERS, 2022

Cases

British Telecommunications plc v Ofcom

[2018] EWCA Civ 2542

Junior counsel for Ofcom in successful appeal against costs order made by the Competition Appeal Tribunal. The Court of Appeal set out the correct approach to costs in regulatory appeals.

BT v Ofcom (Business Connectivity Market Review)

First junior counsel for Ofcom in wide-ranging challenge to Ofcom’s Business Connectivity Market Review. 16-day hearing in the Competition Appeal Tribunal (before Snowden J) on market definition issues in April/May 2017. Mark conducted 1.5 days of the cross-examination.

Telefónica O2 UK Ltd v British Telecommunications plc (O8 numbers)

[2014] UKSC 42

Acting for Ofcom in the first Supreme Court case on the EU Common Regulatory Framework for Electronic Communications (led by Javan Herberg QC). Also appeared in the 11-day hearing in the Competition Appeal Tribunal ([2011] CAT 24), and in the Court of Appeal [2012] EWCA Civ 1002. The case involved Ofcom’s dispute resolution powers following a challenge to BT’s “ladder pricing” termination charges for O8 numbers.

ACHIEVEMENTS

Education

BA Oxon (Law with French Law) First Class; (Chapman Scholar, Inner Temple)

Publications

- "Old games, new issues: the London Olympics Association Right" – ITMA Review June 2012.
- Contributor to LaPolt, Building your artist's brand as a business (International Association of Entertainment Lawyers, 2012).
- Contributor to Goulding, Employee Competition: Covenants, Confidentiality and Garden Leave (OUP; 3rd ed. 2016; 2nd ed. 2011; 1st ed. 2007).
- "The English Approach to Choice of Law and Jurisdiction in Employment Covenants Not to Compete" (2010) 31 Comparative Labor Law and Policy Journal 375 (with Paul Goulding QC).
- Contributor to Lang, Administrative Court, Practice and Procedure (Sweet & Maxwell 2006).
- Digester of cases for the Administrative Court Digest (Thomson Sweet & Maxwell), 2008-.

Selected earlier reported cases

Media & Entertainment

- CDV Software Entertainment AG v Gamecock Media Europe Ltd [2009] EWHC 2965 (Ch); [2010] EWHC 159 (Ch) (contractual dispute concerning video game development)
- Wadlow v Samuel [2007] EWCA Civ 155 (management dispute concerning Seal)
- British Phonographic Industry & ors v MCPS- PRS Alliance [2008] E.M.L.R. 5 (the joint online licence case)

Commercial

- Shared Network Services Ltd v NextiraOne UK Ltd [2012] EWCA Civ 1171 (White Book 52.3.7) (security for costs where permission to appeal granted because of "some other compelling reason")
- Meat Corporation of Namibia Ltd v Dawn Meats (UK) Ltd [2011] EWHC 474 (Ch) (White Book 35.3.4) (whether one party can instruct an expert who has been involved in confidential discussions with the other)
- GHSP Inc. v AB Electronic Ltd [2010] EWHC 1828 (Comm); [2011] 1 Lloyd's Rep 432 ("battle of forms" dispute)
- Seyfried v Euro-IB [2010] EWHC 553 (Ch) (terms of an oral contract and allegations of breach of fiduciary duty)
- Olafsson v Foreign and Commonwealth Office [2009] EWHC 2608 (QB) (defective service of English claim form in Iceland)
- DHL GBS (UK) Ltd v Fallimento Finmatica SpA [2009] EWHC 291 (Comm); [2009] 1 Lloyd's Rep 430 (proceedings to enforce Italian judgment obtained in breach of London arbitration agreement)
- Duarte v Black and Decker Corporation [2007] EWHC 2720 (QB); [2008] 1 All ER (Comm) 401 (applicable law in relation to covenants in restraint of trade).

Civil Fraud, Asset Recovery & Injunctive Relief

- R v Waya [2012] UKSC 51; [2013] 1 AC 294 (effect of A1P1 ECHR on Proceeds of Crime Act 2002 confiscation regime considered by 9-judge Supreme Court)
- JSC BTA Bank v Ablyazov [2013] EWHC 510 (Comm) (acted for one of the defendants at an early stage)
- BLP UK Ltd v B&Q plc [2008] EWHC 696 (QB) (resisting application for interim injunction to restrain termination of agreement for supply of goods).
- Jafari-Fini v Skillglass Ltd [2007] EWCA Civ 261 (challenge to judge's finding of bribery).

Financial Services

- Spreadex Ltd v Sekhon [2008] EWHC 1136 (Ch); [2009] 1 BCLC 102 (effect of FSA conduct of business rules on financial spread betting)
- In 2007, Mark worked with the FSA unfair contract terms team in its review of the fairness of mortgage exit administration fees.

Arbitration

- LCIA arbitration on whether computer software is "goods" for the purposes of the Commercial Agents Regulations
- ICC arbitration between film co-producers
- Sole counsel for Merchant Ivory Productions in High Court proceedings arising out of an International Film and Television Alliance arbitration.
- DHL GBS (UK) Ltd v Fallimento Finmatica SpA [2009] EWHC 291 (Comm); [2009] 1 Lloyd's Rep 430
- Acting for Danish company in LCIA arbitration relating to major art exhibition.
- Junior counsel for a Dutch company in ad hoc arbitration of oil and gas engineering dispute
- Sole counsel for administrators of a German telecommunications company in UNCITRAL arbitration proceedings.
- Republic of Kazakhstan v Istil Group [2007] EWCA Civ 471; [2007] 2 Lloyd's Rep 548; [2008] 1 All ER (Comm) 88 (residual jurisdiction of Court of Appeal)

Public & Regulatory

- R v Waya [2012] UKSC 51; [2013] 1 AC 294 (Proceeds of Crime Act and A1P1)
- Acted for the Secretary of State for Business, Innovation and Skills in a judicial review challenge to exercise of company investigation powers (2012).
- Countryliner Ltd v Surrey County Council [2011] EWCA Civ 373 (public procurement dispute relating to bus services).
- R (Morales) v Parole Board [2011] EWHC 28 (Admin) [2011] 1 WLR 1095 (whether the Parole Board's lack of coercive powers to require the production of documents was compatible with Art. 5(4) ECHR).
- R (UNISON) v Monitor [2009] EWHC 3221 (Admin); [2010] PTSR 1827 (cap on NHS Foundation Trusts' private patient income)
- R (London Borough of Hillingdon) v Lord Chancellor (Law Society and NSPCC intervening) [2008] EWHC 2683 (Admin); [2009] 1 FCR 1 (family court fees)
- R (Brooke) v Parole Board [2008] EWCA Civ 29; [2008] 1 WLR 1950, [2008] 3 All ER 289
- R (The Law Society) v Legal Services Commission [2007] EWCA Civ 1264; [2008] Q.B. 737 (successful procurement challenge to legal aid contracts)

Telecommunications

- Arqiva Ltd v Everything Everywhere Ltd [2011] EWHC 2016 (TCC) (validity of wireless telegraphy licences following Orange - T-Mobile merger)

VAT registration number: 447008068

Barristers regulated by the Bar Standards Board