



## IT and Telecoms Disputes

IT and telecommunication services are business critical. It is of paramount importance for businesses to have at their disposal lawyers who understand the IT and telecoms sector, are experienced in handling large-scale commercial, regulatory and competition disputes and who can deliver value for money.

We have a large and dedicated international team of lawyers who work to resolve telecommunications and technology disputes and cover the complete range of cases in the sector worldwide.

We are fully experienced in all methods of dispute resolution including litigation, international arbitration, mediation and expert determination. All of our lawyers are trained in alternative dispute resolution and are skilled at identifying all available opportunities to resolve disputes.

### CAPABILITIES

We advise clients on the complete range of cases in the IT and telecommunications sector including:

- Large scale contractual disputes
- Disputes over performance issues on major projects
- Interconnection and pricing disputes
- Litigation arising out of the termination of telecommunications and IT contracts
- Regulatory and competition disputes
- Freezing injunctions and search orders
- Outsourcing and public procurement disputes
- Major software disputes
- Insurance disputes
- Disputes involving the Internet and the conduct of e-business

### EXPERIENCE

- Acting in one of the largest pieces of IT litigation before the Technology & Construction Court involving claims and counterclaims totalling in excess of £400m.
- Providing a bespoke litigation managed service to a global telecoms company around the world including resolving disputes in Egypt, Nigeria, Australia, Singapore, Taiwan and Venezuela.
- Advising a Government body in connection with a failure of a business critical IT System and resolving by mediation.
- Advising an Israeli telecoms company in respect of the failed launch of a satellite over Africa.

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- Telecom

- Advising an international telecoms company in Denmark against a company in the US (allegations included premium rate and long firm fraud) by way of International Arbitration
- Acting for a global IT supplier regarding a failed implementation of IT services and telecoms equipment in the Congo.
- Advising several telecoms companies by way of simultaneous consolidated action against a telecoms group suspected of fraud (including proceedings in Ireland, Switzerland and Madeira).
- Acting for a global technology company against a provider of subsea cables in Asia following an outage affecting a significant part of its network.
- Advising NHS Connecting for Health on various contractual disputes relating to the implementation for the NHS of the £12.8 billion National Programme for IT including advising on the termination of a £1.4 billion contract and the subsequent on-going arbitration proceedings.
- Advising a Government Department concerning a significant IT programme in relation to contracts with a number of major international IT suppliers engaged on the program.
- Acting for a major telecoms operator in a claim against an Isle of Man telecoms company for in excess of £6 million for the payment of Operation and Maintenance fees payable under a 20 year contract for the provision of circuits across Europe and advising on the termination of the contract.
- Acting on behalf of a distributor for the incumbent national telecommunications services provider in bringing claims for several million UK pounds in relation to commission payments which were being withheld on the basis of retrospective amendments to the terms of business and what we argued was anticompetitive behaviour.
- Acting for a multinational telecom company in a stream of regulatory and competition disputes for alleged discriminatory pricing and margin squeeze in the market for fixed-to-mobile interconnection services.
- Assisting a telecom company in several disputes in Italy before the National Regulatory Authority regarding numbering, calls and SMS origination and termination services, and pricing.

## INSIGHTS

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### Publications

#### **Tecnimont Arabia Limited v National Westminster Bank PLC: Recipient bank not liable following APP fraud**

27 May 2022

Whilst many recent high profile examples of cybercrime have taken the form of significant extortion or encryption incidents, a recent judgment from the English High Court (*Tecnimont Arabia Limited v National Westminster Bank PLC* [2022] EWHC 1172 (Comm)) provides a reminder that business email compromise incidents can be of equal significance.

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#### **Planning ahead at the contracting stage – considering dispute resolution: Written guide**

23 May 2022

#### **NAVIGATING TECHNOLOGY DISPUTES: GET IT RIGHT!**

Finding the most effective option for a specific dispute involves careful consideration of a number of factors. Simon Kenyon, Co-Head UK & International Technology Disputes, offers alternative solutions for a more effective (and mutually beneficial) outcome.

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#### **Tulip Trading: Developers' Duties**

18 May 2022

In this article, we consider the key aspects of the Court's decision, and the implications for software developers.

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#### **Important High Court judgment impacting the viability of data breach and misuse of private information claims - Underwood v Bounty**

17 May 2022

On 13 April 2022, the High Court handed down judgment in *Underwood & Another v Bounty UK Ltd & Another* [2022] EWHC 888 (QB),

dismissing claims for misuse of private information ("MPI") and breach of the Data Protection Act 1998("DPA").

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## Top tips for effective IT dispute management - navigating breaches & termination effectively: Written guide

10 May 2022

### [NAVIGATING TECHNOLOGY DISPUTES: GET IT RIGHT!](#)

Businesses are often caught off guard and are ill-prepared when a technology contract dispute is on the horizon or actually arises. In this fourth article in our series about issues which might impact on technology disputes, we consider how best to navigate breaches and termination effectively.

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## Episode 4: When it all goes wrong - key considerations for effective IT dispute management

4 May 2022

### [NAVIGATING TECHNOLOGY DISPUTES: GET IT RIGHT!](#)

Following in-depth discussion regarding the preventative measures organisations can take to best protect themselves in relation to potential technology disputes, we now turn our focus on how to react if things go wrong and a dispute is on the horizon or actually arises. In this episode, the fourth podcast in our series: Navigating Technology Disputes: Get IT right!, Simon Kenyon (Co-Head UK & International Technology Disputes) speaks with Ben Fellows (Senior Associate in our Tech Disputes Group) about how best to navigate breaches and termination effectively.

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## Compensation for failed IT projects: CIS v IBM in the Court of Appeal

29 April 2022

IT projects can deliver transformative benefits for businesses. Although they can involve significant commitments – both in expenditure and resource – they can also deliver fundamental changes which improve a business' processes and functions. But what happens when they go wrong?

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## Being prepared for potential restrictions on tech claims

4 April 2022

### [NAVIGATING TECHNOLOGY DISPUTES: GET IT RIGHT!](#)

Businesses are sometimes unaware of the standard restrictions that might apply to a claim they wish to bring under a technology contract. In this third article in our series about issues which might impact on technology disputes, we consider some of the more common restrictions.

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## Managing technology contracts to deliver good outcomes: Written guide

21 March 2022

### [NAVIGATING TECHNOLOGY DISPUTES: GET IT RIGHT!](#)

Read more about what is discussed by Simon Kenyon and Joanna Haigh regarding the most efficient way for organisations to manage technology contracts in order to deliver the best possible outcomes.

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## Episode 2: Managing technology contracts to deliver good outcomes

14 March 2022

### [NAVIGATING TECHNOLOGY DISPUTES: GET IT RIGHT!](#)

Join us for the second episode in our series: 'Navigating Technology Disputes: Get IT right!' – this time Litigation and Regulatory Partner Simon Kenyon and Senior Associate Joanna Haigh discuss the most efficient way for organisations to manage technology contracts in order to deliver the best possible outcomes.

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### **Dispute proof your technology project: Written guide**

7 March 2022

#### **NAVIGATING TECHNOLOGY DISPUTES: GET IT RIGHT!**

Read more about what is discussed by Simon Kenyon and Dan Jones regarding the first steps to take to keep your technology project safeguarded and free from potential disputes.

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### **Episode 1: Dispute-proofing your tech**

28 February 2022

#### **NAVIGATING TECHNOLOGY DISPUTES: GET IT RIGHT!**

Safeguarding your organisation against a technology dispute might sound simple... but if you don't know how to navigate your way around the sorts of issues that can arise, you risk making a bad situation much worse. Listen to Litigation and Regulatory Partner Simon Kenyon and Senior Associate Dan Jones (both of whom are very experienced in the field of information technology disputes) as they discuss one of the most important areas of technology dispute management: Prevention.

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### **TCC sees through claim for mandatory injunction to deliver up software – Transparently Limited -v- Growth Capital Ventures Limited [2022] EWHC 144 (TCC)**

21 February 2022

The recent judgement in Transparently Limited -v- Growth Capital Ventures Limited provides important takeaways in relation to technology disputes and in particular, disputes about the delivery up of and rights in unfinished software.

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### **Johnson v Eastlight: Another important judgment on de minimis threshold in data protection compensation claims – and other key takeaways**

17 November 2021

The High Court in Emma Louise Johnson v Eastlight Community Homes Ltd declined to strike-out a claim for damages for distress following an isolated one-off data incident which was quickly remedied.

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### **Lloyd v Google – Supreme Court Judgment – report and impacts on data protection and mass claims in the UK**

10 November 2021

UK Supreme Court allowed Google's appeal against the Court of Appeal decision which had previously granted Mr Lloyd permission to serve his representative claim on Google in the United States. The judgment brings to an end to one of the most significant issues to come before the UK Courts concerning class actions and data protection regimes.

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### **ICO's provisional green light of Gambling Commission's Single Customer View raises important issues for gambling operators, their officers, and bettors**

26 October 2021

The ICO has provisionally given the green light of Gambling Commission's Single Customer View which would allow data gathered by gambling operators regarding individual player behaviours to be aggregated and shared with other operators. This article discusses the risks associated.

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### **Important judgment on de minimis threshold in data protection compensation claims – *Rolfe -v- Veale***

25 October 2021

The High Court has provided a welcome judgment dismissing claims seeking damages for trivial infringements of data protection law.

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### **Court awards damages for breach of Data Protection Act where CCTV coverage exceeded lawful basis**

21 October 2021

A recent court judgement illustrates the risks associated with the installation of security cameras at property and why it is vital to ensure a lawful basis for capturing and processing such images exists.

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### **Artificial Intelligence and the Law**

18 October 2021

Our Technology Disputes group have taken a closer look at the contractual implications of AI, and how it can give rise to legal liability by exposing businesses to financial and reputational risk. Read all three articles in the series below.

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### **Artificial Intelligence and the Law - practical measures to mitigate legal risk**

18 October 2021

Our final article sets out some practical measures which businesses can adopt to safeguard their position in relation to some of these AI issues when entering into contracts or a contractual supply chain.

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### **Artificial Intelligence and the Law - practical measures to mitigate legal risk**

18 October 2021

In this final article in the series, we outline some of the important practical measures businesses can adopt to help safeguard their position when entering into AI-related supply contracts and the three phases of commercial contracting.

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### **Man vs Machine: Legal liability in Artificial Intelligence contracts and the challenges that can arise**

7 October 2021

Our second article in the series examines a number of key legal and contractual topics that are likely to arise for companies in a constantly evolving AI landscape.

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### **Man vs Machine: Legal liability in Artificial Intelligence contracts and the challenges that can arise**

7 October 2021

In the second article of this series, we look at the key legal and contractual risk points that businesses using, or supplying, artificial intelligence need to consider .

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## Artificial Intelligence and how the courts approach the legal implications

16 September 2021

Through an analysis of significant cases, this article takes a close look at the contractual implications of artificial intelligence and how it can give rise to legal liability by exposing businesses to financial and representational risk.

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## A mirror reveals all - Imaging orders in litigation

9 March 2021

Imaging orders are one of the most draconian tools in the English court's armoury. This article explains how the use of imaging orders has arisen, and the reasons why there is an urgent need for a standard approach to be adopted.

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## Disputes & Distributed Ledger Technology: A contract, no matter how smart, still needs to be legal and enforceable in the real world

21 December 2020

In September 2020, the Law Society of England & Wales published "Blockchain: Legal & Regulatory Guidance", providing technical guidance and suggestions on practice for legal practitioners dealing with blockchain and distributed ledger technology.

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## Current trends in investor state disputes in the telecommunications sector

9 November 2020

The telecommunications sector is one of the fastest growing sectors globally, and has played a critical role during the on-going Covid-19 pandemic in keeping the world interconnected. The high levels of activity in this sector have given rise to a corresponding increase in telecoms-related #disputes, including under investment treaties.

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## The Law Commission's review of the law on digital assets and smart contracts:

9 November 2020

On 21 September 2020, the Law Commission announced that it had begun work on two projects aimed at ensuring that "English law can accommodate two emerging technologies that could revolutionise commerce: smart contracts and digital assets."

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## WIN Wise: Top Tips for contract governance and change control

5 August 2020

This note gives practical tips to assist parties to understand and be familiar with their digital transformation and outsourcing contracts, to help ensure that the parties follow the terms of the contract and that any changes are carefully considered and documented.

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## WIN Wise: Top tips for making the most of your IT contracts

20 July 2020

There can sometimes be a disconnect between lawyers who draft contracts, and those with primary responsibility for implementing them. Through smart collaboration, effective communication and shared vision, in-house lawyers and their commercial counterparts can work together to maximize value and generate extra revenue.

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## **Global Class Actions Briefing: Major developments in European consumer protection laws: Product safety and consumer class actions in Europe**

15 July 2020

The EU's proposals for a revised EU General Product Safety Directive (the GPSD) and the EU's deal for a Collective Redress Directive (the CRD) point the way to a future of heightened novel risk in Europe of collective redress or, as these claims are popularly known, "class actions".

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### **WIN Wise: Liquidated damages for delay in tech disputes**

30 June 2020

The current COVID-19 pandemic is wreaking havoc on businesses and their operations across sectors and geographies. The unprecedented spread of the virus has had, and will continue to have, a profound impact upon both suppliers and customers in delivering technology projects on time and to budget.

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## [Events](#)

### [Previous](#)

#### **AI projects: Dispute prevention and resolution**

20 October 2021

Webinar

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#### **Planning for an Uncertain World**

16 November 2020

TechLaw Event Series

Webinar

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#### **TechLaw**

31 July 2020

TechLaw Event Series

Webinar

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