

## Charlotte Thomas

YEAR OF CALL: ENGLAND AND WALES: 2013; IRELAND: 2018

*"Charlotte has a brilliant and creative legal mind. She is very in demand, and excellent" "She is outstandingly bright, an excellent lawyer, very hard working and a very positive presence on any team"*

Chambers & Partners 2024; Legal 500 2024

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## Practice Overview

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Charlotte is an in-demand senior junior whose practice covers all aspects of commercial litigation and international arbitration together with competition, EU and public law. She was Legal 500's Competition Junior of the Year in 2022.

The wide-ranging nature of her practice makes her particularly well suited to considering novel and complex factual and legal situations which may straddle multiple practice areas. She has developed particular expertise in the financial services, life sciences, energy & natural resources, and information technology sectors.

Significant current and recent instructions include:

- ***Alex Neill Class Representative v Sony*** : Acting for Sony in its defence of collective proceedings brought by a proposed class representative concerning alleged abuse of dominant position in respect of Sony's operation of the PlayStation Store said to have caused losses in the region of £5 billion (with Daniel Beard KC); one of the first cases to consider the effects of the ***PACCAR*** judgment
- Advising Microsoft in respect of its proposed \$70 billion merger with Activision Blizzard, which the CMA initially sought to block (with Lord Anderson KC)
- Acting for the Kingdom of Sweden in its civil fraud claim in respect of €120m frauds perpetrated against the Swedish Pensions Agency in Sweden and Malta (reported at ***The Kingdom of Sweden v Serwin*** [2022] EWHC 2706 (Comm.); [2020] EWHC 1251 (Comm)) (with Richard Eschwege KC)
- Acting for the Prince Estate in a challenge to the enforcement under the Brussels regime of an Italian copyright injunction (with James Segan KC)
- Acting for BDO in relation to a significant audit negligence claim brought in Hong Kong (raising issues of causation, remoteness and scope of duty) (with Simon Salzedo KC)

- Acting for a director named in significant group securities litigation under FSMA 2000 targeting Glencore Plc (with Conall Patton KC)
- Acting as sole counsel in a claim for damages concerning an alleged “cyber-attack”, in a case which gave rise to several contested applications before settlement

In addition to her led work, Charlotte frequently advises and appears unled in significant matters, and accepts instructions to appear unled in urgent applications and trials. Reported cases frequently pay tribute to the quality of her written and oral advocacy – for example, “ *very well argued on both sides* ”, in a Court of Appeal case concerning unjust enrichment of overpaid tax ([2019] EWCA Civ 972); “ *persuasive oral submissions* ” ([2018] EWHC 2297 (QB)); “ *clear and helpful* ” skeleton and “ *clear and focused* ” oral submissions ([2016] EWCA Civ 1047).

Charlotte read law at Cambridge University, then completed the LLM at Harvard Law School and the BCL at Oxford University, receiving numerous exam prizes for topping the year in her subjects at each institution. She was the 2013 Eldon Law Scholar (a substantial monetary prize awarded annually to the most promising Oxford graduate going to the Bar).

Before commencing practice, she worked as a *stagiaire* at Shearman & Sterling’s International Arbitration Group in Paris; taught contract law at UCL and KCL; and was Judicial Assistant to Lord Clarke and Lord Sumption at the Supreme Court.

Charlotte is fluent in French and German and has a working knowledge of Spanish. She enjoys learning languages for fun, with recent focus on Italian and Serbian/Croatian, and is often able to deploy her language knowledge in her cases.

## Commercial

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Charlotte accepts instructions in all areas of chambers’ commercial work, and across a range of industry sectors. She has experience of heavy commercial litigation and arbitration in which she works as part of a team, as well as of appearing as sole counsel in the Commercial Court. She also has experience of advising and appearing in relation to urgent applications and injunctions, including freezing orders.

Her experience in practice covers, in particular, securities litigation, derivative and unfair prejudice claims, claims, banking & financial services, civil fraud, energy & natural resources, data and information technology, pharmaceuticals, (re)insurance, and auditors’ negligence. Much of Charlotte’s work is international and raises issues of both public and private international law (including issues of jurisdiction, the conflict of laws, and sovereign or state immunity). A significant part of Charlotte’s commercial disputes work takes place in international arbitration, covered in the following section. She is a contributor to the Journal of International Banking & Financial Law.

Significant current and recent instructions include:

- Acting for BDO in relation to a significant audit negligence claim brought in Hong Kong (raising issues of causation, remoteness and scope of duty) (with Simon Salzedo KC)
- Acting for a director named in significant group securities litigation under FSMA 2000 targeting Glencore Plc (with Conall Patton KC)
- Acting for the Kingdom of Sweden in its civil fraud claim in respect of €120m frauds perpetrated against the Swedish Pensions Agency in Sweden and Malta (reported at *The Kingdom of Sweden v Serwin* [2022] EWHC 2706 (Comm.); [2020] EWHC 1251 (Comm)) (with Richard Eschwege KC)
- Acting for Capita resisting a claim for an injunction arising from alleged breach of contract and copyright infringement concerning education software in Northern Irish schools (with Fiona Parkin KC)
- Acting for the purchasers of a company in a prospective civil fraud claim (with Fionn Pilbrow KC)
- Acting as sole counsel in a claim for damages concerning an alleged “cyber-attack”, in a case which gave rise to several contested applications before settlement
- Acting for the Prince Estate in a challenge to the enforcement under the Brussels regime of an Italian copyright injunction (with James Segan KC)
- Acting for Watchstone in its defence of the £637m fraud and breach of warranty claims brought against it by Slater & Gordon, a case which was widely reported in the legal press and which settled on the eve of trial in October 2019 (Commercial Court) (with Tim Lord KC)
- Acting as sole counsel for two separate franchisees sued under their franchise contracts
- *Everard v Barclays Bank* : Appearing in an appeal in a case concerning the bank’s payment services obligations
- Acting for FDIC in its damages claim arising out of LIBOR manipulation (with Sue Prevezer KC and Marie Demetriou KC)
- Acting in a Chancery Division derivative action concerning breach of directors’ duties in relation to an offshore engineering project (with Anthony de Garr Robinson KC and Tony Singla KC)
- Acting as sole counsel for an embassy employee in a state immunity case (applying *Benkharbouche v S of S for Foreign and Commonwealth Affairs* [2017] UKSC 62)
- Acting for the purchaser of a copper mine in Peru in a series of hard-fought claims under a tax indemnity, including a trial in the Commercial Court ([2018] EWHC 1658 (Comm)) and appeal to the Court of Appeal ([2019] EWCA Civ 972) (with Fionn Pilbrow KC)
- Appearing as sole counsel in the Court of Appeal in a case concerning unjust enrichment of overpaid tax and the jurisdiction of the Valuation Tribunal ([2019] EWCA Civ 2206); Arnold LJ observed that “*The appeal was very well argued on both sides*” and Underhill LJ added, “*I wish to associate myself with Arnold LJ’s tribute to the quality of counsel’s submissions*”
- Acting as sole counsel in a Commercial Court claim in relation to financial advice given to an energy infrastructure company
- Appearing as sole counsel for a CMC hearing in a US\$14.5m Commercial Court claim under an SPA defended by claims for misrepresentation and breach of warranty

## International Arbitration

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A significant part of Charlotte's commercial disputes work takes place in international arbitration. Charlotte has acted in substantial arbitrations under each of the ICC, UNCITRAL, LCIA, CI Arb and ICSID rules.

Significant current and recent instructions include:

- Acting in an ARIAS reinsurance arbitration in relation to claims arising out of COVID-19 (with Harry Matovu KC)
- Acting in an arbitration under the ICC Rules concerning an offshore construction project, including examination of certain witnesses (with Richard Lord KC and Alec Haydon KC)
- Acting in a long-running US\$150m UNCITRAL arbitration concerning a joint venture for the operation of an oil plant (with Mark Howard KC, Neil Calver KC and Stephen Midwinter KC)
- Acting in an arbitration under the CI Arb rules concerning a claim for a funder introduction fee and claims of misrepresentation (with Alec Haydon KC)
- Acting in an LCIA arbitration concerning breach of contracts for sale of biodiesel raising issues of remoteness, causation and mitigation of loss (with Nicholas Saunders KC)
- Acting in an arbitration under the CI Arb rules concerning a claim for a funder introduction fee and claims of misrepresentation (with Alec Haydon KC)

## Competition

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Charlotte was Legal 500's Competition Junior of the Year for 2022.

Charlotte has substantial experience across the full range of competition work, including follow-on and standalone damages cases concerning both cartels and abuse of dominance, regulatory decisions and appeals, CPO applications on both the claimant and defendant side, and merger advice.

Charlotte enjoys cases which raise complex competition economics issues and completed the well-known post-graduate diploma in Economics for Competition Law with KCL in 2021/22.

Significant current and recent instructions include:

- *Alex Neill Class Representative v Sony* : Acting for Sony in its defence of collective proceedings brought by a proposed class representative concerning alleged abuse of dominant position in respect of Sony's operation of the PlayStation Store said to have caused losses in the region of £5 billion (with Daniel Beard KC); one of the first cases to consider the effects of the *PACCAR* judgment
- Advising Microsoft in respect of its proposed \$70 billion merger with Activision Blizzard, which the CMA initially sought to block (with Lord Anderson KC)

- *Clare Spottiswoode v Nexans & ors* : Acting for a proposed class of all UK consumers who bore the cost of higher domestic electricity bills caused by the Power Cables cartel (with Daniel Jowell KC and Gerard Rothschild)
- *Prochlorperazine*: Acting for Cinven in its appeal to the Competition Appeal Tribunal from the CMA's infringement decision in *Prochlorperazine* (concerning alleged participation in a market exclusion agreement) (with David Scannell KC)
- *Hydrocortisone* [2023] CAT 56; [2023] CAT 57: Acting for Auden McKenzie and Accord UK in their appeal to the Competition Appeal Tribunal from the CMA's infringement decision in *Hydrocortisone* (concerning alleged excessive pricing and participation in a market exclusion agreement) (with Sarah Ford KC)
- Case T-455/21 *Nomura v Commission*: Acting for Nomura in its appeal against the European Commission's cartel infringement decision in the European Government Bonds sector (with Marie Demetriou KC)
- Acting for Capita resisting a claim for an injunction arising from alleged breach of contract and copyright infringement concerning education software in Northern Irish schools, and in particular its abuse of dominance defence (with Fiona Parkin KC)
- Advising a major OEM in respect of the competition and EU law aspects of a proposed action for breach of copyright (as sole counsel)
- *Phillips v Xiaomi*: Acting for Phillips in relation to the FRAND aspects of a claim for breach of standard-essential patents (with Nicholas Saunders KC)
- *O'Higgins v Barclays & ors* [2022] CAT 16; [2023] EWCA Civ 876: Acting in follow-on collective action proceedings brought against banks concerning manipulation of the foreign exchange market arising from the European Commission's decisions finding the existence of cartels in the FX market (with Daniel Jowell KC and Gerard Rothschild) (one of The Lawyer's Top 20 cases for 2020)
- Acting as sole counsel defending a follow-on damages claim arising from a cartel infringement decision of the CMA (settled on confidential terms)
- Acting as sole counsel for Autoliv in a CMC concerning a follow-on damages claim arising from the Occupant Safety Systems cartels
- Acting as sole counsel for Samsung in a CCMC concerning a follow-on damages claim arising from the DRAM cartel
- Acting in a claim for damages against Google alleging abuse of a dominant position in the online search and shopping sector (with Helen Davies KC, Sarah Ford KC and David Bailey)
- Assisting CICRA in respect of two competition law infringement decisions
- *GlaxoSmithKline v CMA* [2018] CAT 4 (referred to the CJEU as Case C-307/18): Appeal against fine levied by the Competition and Markets Authority concerning alleged "pay-for-delay" competition law infringements arising from settlement of patent litigation (with James Flynn KC and David Scannell)
- *IMI plc & anor v Delta Ltd & ors* [2016] EWCA Civ 773: Appearing in the Court of Appeal (with Helen Davies KC) and subsequent CMC (with Robert O'Donoghue KC) in one of the only cases to consider contribution claims following settlement in a cartel damages claim

## EU, Sanctions and Life Sciences

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Charlotte is qualified as a barrister in Ireland, enabling her to give ongoing advice and representation on pure EU law matters (as well as EU competition law matters, detailed above). She is a member of the Law Library. Her fluent French often comes in useful in EU legal research.

Her EU-focused work includes sanctions issues, including, for example, advising in relation to the application of the EU Blocking Regulation (with Maya Lester KC).

Charlotte has developed a particular expertise in pharmaceutical regulatory issues. Significant instructions in this area include:

- Acting in a confidential commercial arbitration concerning contract for purchase of marketing authorisation
- Case T-570/20 *Kedrion v EMA* : Acting as sole counsel for a pharmaceutical company intervening in support of a decision by the EMA not to release marketing authorisation dossier materials under the Transparency Regulation
- Advising in a prospective representative action under CPR r 19.6 brought in respect of a mass data breach (with Victoria Wakefield KC)
- Cases T-729/15 R and C-512/16 P(R) *MSD v EMA*; Cases T-718/15 R and C-513/16 P(R) *PTC v EMA*: Acting for two pharmaceutical companies in appeals against decisions by the EMA to release marketing authorisation dossier materials under the Transparency Regulation, including in successful interim applications to the General Court (upheld on appeal) (with Jemima Stratford KC and Marie Demetriou KC respectively)
- Case T-782/17 *GE Healthcare v Commission* : Acting for GE Healthcare in its appeal against the European Commission's decision to withdraw the marketing authorisations of certain gadolinium-containing contrast agents (with David Scannell KC)
- Advising an originator company concerning a challenge to the EMA's decision to validate a generic marketing authorisation
- *Teva v MHRA (Biogen intervening)* [2018] EWHC 228 (Admin): Acting for Biogen, an originator, in its successful intervention in judicial review proceedings concerning the global marketing authorisation concept brought by two generic companies (Teva's application for permission to appeal to the Court of Appeal was refused, as was Mylan's application for permission to bring judicial review proceedings) (with Jemima Stratford KC)

## Public and Financial Services

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Charlotte worked on a wide range of public law cases during her time at the UK Supreme Court and continues to act in a wide range of public and regulatory matters in practice.

Complementing her experience in commercial and competition law matters, Charlotte has

particular expertise in complex economic appeals from decisions of sectoral regulators, and of financial services cases. Significant current and recent instructions in these areas include:

- *Advising Virgin Atlantic in its appeal from the Civil Aviation Authority's decision concerning the economic regulation of Heathrow Airport (with Lord Anderson KC)*
- *Advising Utilita in its appeal against Ofgem's new financial resilience rules for retail suppliers (with James McClelland KC)*
- *R (Donegan & Ors) v FSCS [2021] EWHC 760 (Admin):* Appearing for investors in the failed firm London City & Finance in their judicial review of the FSCS's decision to deny them compensation (amounting to some £200m in respect of all affected investors), in a case concerning the meaning of "transferable securities" under MiFID 2, the status of "non-transferable bonds", and the assessment of investment products under the Consumer Rights Act 2015 (with James McClelland KC and Tim Johnston); the judgment established that the terms of the investors' "mini-bonds" were unfair, and pending appeal of the judge's conclusion that they nonetheless did not constitute "transferable securities" eligible for compensation, HM Treasury announced that (contrary to its previous indication) it would fund compensation for all uncompensated investors to the level they would have received from the FSCS
- *Advising the FCA on a confidential financial services regulatory matter raising (in particular) AIP1 and consultation issues (with Victoria Wakefield KC)*

Other general public law instructions include:

- *Advising the Comptroller and Auditor-General in relation to certain public law duties (with Richard Gordon KC)*
- *Acting in judicial review proceedings against the British Standards Institution concerning a decision to withdraw a British Standard for steel tubing (with Maya Lester KC)*
- *Advising Liberty in relation to the Government's Principles concerning torture and information-sharing (with Martin Chamberlain QC)*
- *Advising ClientEarth in relation to a possible environmental judicial review, raising issues of public and EU law (with Martin Chamberlain QC)*

## Career & Qualifications

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### Qualifications

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- PG Dip, Economics for Competition Law, King's College London (2021-2022) – Merit
- BPTC, Kaplan Law School (2012-13) – Outstanding
- Bachelor of Civil Law, University of Oxford (2011-12) – Distinction – conflict of laws; unjust enrichment; philosophical foundations of the common law; dissertation in contract law
- Master of Laws, Harvard Law School (2010-11) – Dean's Scholar – private law; international arbitration; constitutional law; global antitrust law; negotiation; conflict of laws

- BA (Hons), Law, University of Cambridge (2007-10) – First class in all three years

## Scholarships and Prizes

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- Pupillage: Bar European Group Phoenicia Scholar (2014); ALBA Summer Conference Scholar (2014)
- BPTC: Certificate of Honour, Middle Temple (2013); Advocacy Scholar, Kaplan Law School (2012); Queen Mother Scholarship and Harmsworth Entrance Exhibition, Middle Temple (2010)
- Oxford: Eldon Law Scholar (awarded annually to the most promising Oxford graduate going to the Bar) (2013); Peter Birks Prize for Restitution of Unjust Enrichment (2012); Essex Court Chambers Scholarship (2011)
- Harvard: Dean's Prize for Conflict of Laws (2011); Joseph H Beale Writing Prize for Conflict of Laws (2011); Fellow of the Project on the Foundations of Private Law (2010-11)
- Cambridge, University Prizes : Clifford Chance CJ Hamson Prize for Contract Law (2009); ECS Wade Prize for Constitutional Law (2008); Glanville Williams Prize for Criminal Law (2008); Squire Law Scholarship (2009, 2008)
- Cambridge, Emmanuel College : Herchel Smith Scholar (full funding to study at Harvard) (2010); Honorary Bachelor Scholarship (2010); Porter Scholarship for Law (2009, 2008); Odgers Prize for Law (2010, 2009); David Williams Award (2008); Rowley Mainhood Award (2007)
- Mooting and debating : Winner of John Smith Memorial Mace (England) (English national debating championships) (2012); Winner of Gray's Inn Varsity moot (2012); Winner of Crown Office Row moot (2011); Top 10 speaker, European Universities Debating Championships (2010)

## Experience

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- Admissions Interviewer in Law/Jurisprudence, Balliol College, Oxford (2012), and Emmanuel College, Cambridge (2013-2021 inclusive)
- Judicial Assistant to Lord Clarke and Lord Sumption, Supreme Court of the United Kingdom (2014- 15)
- Pupillage, Brick Court Chambers (2013-14)
- Teaching Fellow in Contract Law, University College London (2012-13)
- Visiting Tutor and Examiner in Contract Law, King's College London (2012-13)
- *Stagiaire*, Shearman & Sterling LLP, International Arbitration Group, Paris (2011)
- Legal Intern, European Roma Rights Centre, Budapest (2011)

## Professional Memberships

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COMBAR, BEG, ALBA, LCLCBA



## Publications

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- 'Secondary obligations and disguised penalties: where does the law stand following *Makdessi?*', *Butterworths Journal of International Banking and Financial Law*, February 2022, pp 81-85
- UK chapter in *The Intellectual Property and Antitrust Review (2016-2023)* (co-authored with James Flynn KC)

## directory quotes

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"Charlotte has a brilliant and creative legal mind. She is very in demand, and excellent." (Chambers & Partners 2024)

"Charlotte Thomas has a broad knowledge base." (Chambers & Partners 2024)

"She is very gifted at taking complex matters and distilling them. Clearly she is technically very strong, but she is also very good from a client perspective." (Chambers & Partners 2024)

"Charlotte is a pleasure to work with. She is forensic, hugely knowledgeable and good-humoured throughout." (Chambers & Partners 2024)

"Charlotte is an excellent drafter and has a clear and firm control of competition and procedural law." (Chambers & Partners 2024)

"Charlotte is a very good junior and is very detail-orientated." (Chambers & Partners 2024)

"Charlotte has a very collaborative approach to the work that she does. She is very client-friendly, good at turning complex case patterns into strong submissions, and is a pleasure to work with on a personal level. She has a constructive presence." (Chambers & Partners 2024)

"She is outstandingly bright, an excellent lawyer, very hard working and a very positive presence on any team." (Legal 500 2024)

"Charlotte is smart and has a broad knowledge far beyond the remit of competition law cases." (Legal 500 2024)

"Charlotte has the ability to be all over the factual details in a case at speed is very impressive, and she is willing to roll up her sleeves throughout both before and during trial." (Legal 500 2024)

"Charlotte is very thorough and carefully evaluates every argument and its merits." (Legal 500 2024)

"Her knowledge of the law is excellent, her drafting is crisp and powerful and she has a good grasp of the client's commercial interests. I am very much looking forward to working with her in the

coming years." (Chambers & Partners 2023)

"She has an excellent grasp of common law questions and statutory interpretations." (Chambers & Partners 2023)

"Charlotte has been excellent at creating a script from a very complex set of facts and parties. She's good at analysing the underlying legal issues." (Chambers & Partners 2023)

"Charlotte is a practical and gifted junior who is commercial and excellent at pre-empting points ahead of time." (Chambers & Partners 2023)

"A very bright and knowledgeable junior, Charlotte is highly approachable and her clear and to the point drafting make her great to work with." Legal 500 2023

"She has very strong analytical ability, never misses a trick, and provides with practical and commercial advice." Legal 500 2023

"A pleasure to deal with: knowledgeable, charismatic and personable. She instils a lot of confidence." "Very diligent, dedicated, very strong and detail-oriented." (Chambers & Partners 2022)

"Incredibly easy to work with; a team player who takes on board comments from across the team and works incredibly hard." Legal 500 2022

"Extremely thorough, yet very user-friendly, she is knowledgeable yet approachable, and always available." Legal 500 2022

"Very thorough and diligent; extremely hard-working and conscientious; thinks through problems fully." Legal 500 2022

"A brilliant intellect brimming with ideas." Legal 500 2021

"A very capable junior, her work is very useful, thorough and clear." Legal 500 2021

"Charlotte is a brilliant intellect, brimming with ideas and very hard working. She is also a pleasure to work with and great with clients." Legal 500 2021