

Sarah Abram QC

YEAR OF CALL: ENGLAND AND WALES: 2006; IRELAND: 2017 **YEAR OF SILK**
: 2022

“without a doubt a star of her generation”; “a joy to work with”

Legal 500 2022

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Practice Overview

Sarah Abram QC was called in 2006 and took silk in 2022; she is described in the directories as a “without a doubt a star of her generation”.

Sarah has for some years – including prior to taking silk – been acting as lead counsel or sole advocate in the most high-profile litigation and arbitration across the fields of competition, EU and commercial law. Her wide-ranging practice involves multi-jurisdiction and multi-party cases, raising novel points of law.

In addition to commercial and competition disputes of all varieties, Sarah regularly acts in class action litigation, FRAND litigation, jurisdiction disputes and matters involving data/big tech. Examples of her current and recent case-load include acting unled in the *Rail Fares CPO* litigation; acting as sole counsel for the successful claimant in the Commercial Court trial *Acerus v Recipharm*; leading on global FRAND issues in *Nokia v Oppo*; acting for Telefonica in the litigation regarding the collapse of *Phones4U* (*The Lawyer* Top 20 case for 2022). She is instructed in substantially every large competition damages matter of the day, including *Trucks*, *FX*, *Power Cables* and *RoRo*.

Current directories include comments that Sarah is “ferociously bright”, “brings all the technical brilliance” and is a “really impressive, excellent advocate” who “is incredibly proactive, responsive and always prepared to go the extra mile”. She was nominated as EU and Competition Junior of the Year in the Legal 500 UK Bar Awards 2019 and in 2020.

Sarah speaks fluent French and some German. She is called to the Irish Bar and is a member of the Irish Law Library, enabling her to continue acting in cases before the courts of the EU post-Brexit.

Sarah won the award for Pro Bono Junior of the Year in 2021, and is a Trustee of Advocate (formerly the

Competition

- *Phones4U v Telefonica & ors* (with Mark Hoskins QC): acting for O2/Telefonica in the litigation brought by the administrators of Phones4U regarding an alleged collective withdrawal from Phones4U by mobile network operators. Listed for three-month liability trial in 2022. The Court of Appeal's important judgment on the Court's jurisdiction over documents held on personal devices for disclosure purposes is at [2021] EWCA Civ 116. The High Court's judgment on this question (Roth J) is at [2020] EWHC 1921 (Ch).
- *Rail Fares CPO application (Justin Gutmann v Stagecoach & ors)*: acting unled for one of the respondents to an application for a collective proceedings order, in the first standalone collective proceedings and the first to concern an alleged abuse of dominance. CAT judgment [2021] CAT 31; appeal to the Court of Appeal to be heard in 2022.
- *Nokia v Oppo*: instructed on the FRAND aspects of this global litigation regarding patent portfolio licensing.
- *Sisvel v Archos & ors*: instructed on the FRAND aspects of this multi-jurisdictional litigation regarding patent pool licensing. Appeared unled at numerous hearings, including before the Court of Appeal ([2020] EWCA Civ 1562; High Court judgment at [2020] EWHC 2641 Ch (Pat)); whether a pool licence may be FRAND ([2021] EWHC 1541 (Pat)); the scope of disclosure in FRAND cases ([2020] EWHC 2177 Ch (Pat)).
- *Maritime Carriers Commission Decision*: acting unled for an addressee of the Commission's "RoRo" decision, in follow-on damages claims and CPO proceedings. In a damages claim brought by Daimler, the High Court made a reference to the CJEU for a preliminary ruling: [2019] EWHC 3197 (Comm), and considered the principles applicable to split trials of liability and quantum in [2020] EWHC 525 (Comm).
- *Trucks cartel* (with Mark Hoskins QC): acting for Volvo and Renault Trucks in the UK litigation relating to the Trucks cartel. Includes High Court and CAT proceedings, and prospective CPO proceedings. Listed for six-month trial in 2023.
- *Allianz Global Investors & ors v HSBC & ors* (with Helen Davies QC): acting for HSBC in a damages claim brought by c.175 claimants concerning alleged collusion between banks engaging in foreign exchange trading.
- *Vattenfall AB & ors v Prysmian & NKT* (with Aidan Robertson QC): counsel for the Claimants in this follow-on damages claim relating to the power cables cartel, listed for trial in November/December 2022. The Defendants' unsuccessful summary determination and jurisdiction application is reported at [2018] EWHC 1694 (Ch).
- *Confidential advisory matter*: advising unled on potential standalone collective proceedings claim.

- *Mediamarkt Saturn Holdings v Panasonic & ors* [2019] EWHC 1095 (Ch): acted unled for Panasonic in this follow-on damages claim relating to the CRT cartel, with a claimed value of approximately €200 million.
- *Intercontinental Exchange, Inc v Competition and Markets Authority* [2017] CAT 6 (with Marie Demetriou QC): junior counsel for the CMA in this high-profile case, in which the CMA successfully defended its first decision requiring unwinding of a completed merger.
- *Granville v MELCO*: acting unled for a defendant to this damages claim in connection with the DRAM cartel.
- International arbitration (unled), involving a challenge to the lawfulness of a number of contractual clauses under EU competition law, including pre- and post-termination non-compete obligations.
- *Apple v Nokia* (with Jemima Stratford QC and Adrian Speck QC): junior counsel for Nokia (i.e. the patentee) in this major competition law litigation raising issues relating to FRAND terms and abuse of dominance for the licensing of intellectual property rights.
- Acting as junior counsel for Panasonic and Sanyo, defendants in the lithium ion batteries follow-on claim (*Microsoft v Sony & ors*), which had an alleged value of almost €2 billion.
- Acting unled for a bank in connection with High Court applications for disclosure of documents relating to it, including documents from the Commission file, in proceedings to which the client was not a party.
- *Thomas Armstrong Timber Ltd*: (unled) advised and represented a firm subject to an investigation into a cartel in the market for the supply of furniture parts. The firm reached a settlement with the CMA (decision issued 27 March 2017). The infringement is now the subject of follow-on damages proceedings (*Henderson & Jones v Thomas Armstrong*).
- *Whitby Seafoods/Dawnfresh Seafoods*: advised Whitby Seafoods (unled) on the CMA's investigation of its acquisition of assets owned by Dawnfresh Seafoods. The CMA issued a Phase 1 clearance decision in June 2016.
- *Unwired Planet v Huawei, Samsung and Google* (with Jemima Stratford QC and Richard Meade QC): junior counsel for the Claimant in this landmark UK FRAND litigation, leading to the judgment of Birss J, [2017] EWHC 711 (Pat).
- Case T-82/13 *Panasonic Corporation v Commission* (with Mark Hoskins QC): appeal to the General Court against the Commission's CRT cartel Decision.
- *Tomlinson v OFT* [2011] CAT 7 (with Aidan Robertson QC): successful appeal to the CAT against a penalty imposed by the OFT on one of the addressees of its September 2009 Decision concerning cover-pricing in the construction industry.
- *A Nelson & Co Ltd v Guna SpA* [2011] EWHC 1202 (Comm) (with Fergus Randolph QC): acting on behalf of the claimants, successfully contested a competition law Euro-defence, aimed at preventing enforcement of the contract which was the subject of the claim.
- *National Grid v Ofgem* [2009] CAT 14 (with Fergus Randolph QC): instructed for an intervener in National Grid's appeal against a Decision by Ofgem finding that National Grid had abused its position of dominance in the market for domestic gas metering.

- *BAGS and ors v AMRAC and ors* ([2008] EWHC 1978 (Ch); [2008] EWHC 2688 (Ch)) (with Nicholas Green QC, Pushpinder Saini QC and Mark Hoskins QC): competition law claim involving challenges to the validity of various agreements for broadcast media rights to live horseracing.
- Frequent advisory work on issues of competition law, including the law of State aid.

EU law

- Case T-9/19 *ClientEarth v European Investment Bank*: appeared unled at the hearing of a successful application for annulment to the General Court in a case relating to financing for the construction of a biomass power plant. Led to a seminal judgment on the scope and importance of the Aarhus Regulation and environmental law in the EU legal order: T:2021:42. Now on appeal to the CJEU as Case C-212/21 P. Acting pro bono.
- *Bryant v Marriott* (with Michael Silverleaf QC): acting for the Class Representative and proposed Claimant class in a high-profile data breach claim relating to the Marriott/Sheraton hotel group database under the GDPR and Data Protection Act 1998. On behalf of c.7 million class members.
- *Jukes v Facebook* (with Michael Silverleaf QC): acting for the Class Representative and proposed Claimant class in a data breach claim relating to the Cambridge Analytica scandal. On behalf of c.1 million class members.
- Case C-268/17 AY (with Maya Lester QC), judgment of 25 July 2018: acting for the defendant to national proceedings in a preliminary reference to the CJEU concerning human rights issues in the execution of a European Arrest Warrant, and the principle of *ne bis in idem*/double jeopardy.
- *Reeves v HMRC* [2017] UKFTT 192 (TC); [2018] UKUT 0293: acting for HMRC in its defence of an appeal against a tax determination, raising issues of EU free movement law. The taxpayer's appeal to the Upper Tribunal was heard in July 2018. Sarah shared the oral advocacy on behalf of HMRC with her leader in both the FTT and the Upper Tribunal.
- Challenges to Tobacco Products Directive (Directive 2014/40/EU) [2014] EWHC 3515 (Admin); [2014] EWHC 3669 (Admin) (with Mark Hoskins QC): Sarah was instructed as junior counsel for the Secretary of State for Health in the domestic judicial review claims challenging the validity of the Tobacco Products Directive. All of these claims were referred to the Court of Justice of the European Union; its judgments, dismissing the claims, were given on 4 May 2016.
- *UKPNS v GEMA* [2014] EWHC 3678 (Admin) (with Richard Gordon QC): successful claim for judicial review seeking the quashing of an Ofgem determination on the Third Package of EU law measures providing for access to electricity markets.
- *Door 2 Door Services Ltd v Burton NHS Trust* (unled): public procurement claim relating to a procuring body's withdrawal of a tender process, acting for the claimant.
- *Hargreaves Industrial Services Ltd v Yorkshire Forward*: defending a public procurement claim relating to a decision to award the contract to another tenderer.

- *JPMorgan v BVG*: jurisdiction dispute, in which the Supreme Court made a preliminary reference to the CJEU on questions of the interpretation of the Brussels Regulation (for judgments below, see [2010] EWCA Civ 390; [2010] 2 WLR 690, [2009] EWHC 1627 (Comm)) (with Tim Lord QC and Simon Salzedo QC).
- *UBS AG v Kommunale Wasserwerke Leipzig* ([2010] EWHC 2566 (Comm)) (with Tim Lord QC and Stephen Midwinter QC): also raised issues of jurisdiction under the Brussels Regulation.
- Sarah has a particular interest in public procurement and State aid law; she is frequently instructed in litigation or to advise in these fields.

Commercial

- *Acerus v Recipharm*: Commercial Court proceedings (unled) relating to breaches of contracts for the manufacture and supply of a pharmaceutical product. Successful in a preliminary issue trial in June 2021, arguing that the claim was not barred by a contractual exclusion clause: [2021] EWHC 1878 (Comm).
- *Phones4U v Telefonica & ors* (with Mark Hoskins QC): acting for O2/Telefonica in the litigation brought by the administrators of Phones4U regarding an alleged collective withdrawal from Phones4U by mobile network operators. Listed for three-month liability trial in 2022. The Court of Appeal's important judgment on the Court's jurisdiction over documents held on personal devices for disclosure purposes is at [2021] EWCA Civ 116. The High Court's judgment on this question (Roth J) is at [2020] EWHC 1921 (Ch).
- International commercial arbitration concerning contractual royalty payments in the pharmaceutical industry (with Daniel Jowell QC). Raised issues of intellectual property in addition to questions of contractual construction.
- *Canal & River Trust v Thames Water Utilities Ltd* [2016] EWHC 1547 (Ch), [2018] EWCA Civ 342 (with Sa'ad Hossain QC): Sarah was instructed as junior counsel for the Defendant in this Part 8 claim regarding payment for water abstractions from the River Lee, from the commencement of the proceedings through to the judgment of the Court of Appeal. In the Court of Appeal, the oral advocacy was split between Sarah and her leader.
- *Allianz Global Investors & ors v HSBC & ors* (with Helen Davies QC): acting for HSBC in a damages claim brought by c.175 claimants concerning alleged collusion between banks engaging in foreign exchange trading.
- *Bryant v Marriott* (with Michael Silverleaf QC): acting for the Class Representative and proposed Claimant class in a high-profile data breach claim relating to the Marriott/Sheraton hotel group database under the GDPR and Data Protection Act 1998.
- *Jukes v Facebook* (with Michael Silverleaf QC): acting for the Class Representative and proposed Claimant class in a data breach claim relating to the Cambridge Analytica scandal. On behalf of c.1 million class members.

- International commercial arbitration (unled) involving tortious and contractual claims following purchase of rights to a pharmaceutical product.
- *JPMorgan v BVI* (with Tim Lord QC and Simon Salzedo QC): credit crunch claim relating to a derivatives transaction (CDS/CDO), raising issues of jurisdiction under the Brussels Regulation. The litigation reached both the Supreme Court and the Court of Justice of the European Union.
- *Fortress Value Recovery Fund v Blue Sky Special Opportunities Fund* (with Tim Lord QC) eg [2012] EWHC 261 (Comm); [2012] EWHC 451 (Comm); [2012] EWHC 1486 (Comm): acting for the defendant managers in this dispute concerning a €200M investment structure and claims brought by certain investors and the lender. Amongst other things, the proceedings involved interim freezing injunctions and other interim relief.
- *Tata Steel UK Ltd v Metal & Waste Recycling Ltd*: acted unled for the Claimant in a claim relating to loss caused by a fire in a steelmaking plant.
- *AAH Pharmaceuticals Ltd v Birdi & ors* [2011] EWHC 1625 (QB) (with Harry Matovu QC): acting for the claimant in a fraud claim relating to allegations of diversion of funds, including claims for breach of contract and equitable and tortious wrongs. Proceedings involved (amongst other things) obtaining freezing injunctions against various defendants and dealing with complex issues of service out of the jurisdiction. Summary judgment was obtained against the defendants in June 2011.
- *A Nelson & Co Ltd v Guna SpA* [2011] EWHC 1202 (Comm) (with Fergus Randolph QC): acting for the claimants in a breach of contract claim relating to the failure by a distributor to comply with contractual obligations to transfer registrations necessary for the sale of products in Italy as homeopathic. The Claimants successfully obtained judgment on issues of liability in the Commercial Court.

Public Law

- Case T-9/19 *ClientEarth v European Investment Bank*: appeared unled at the hearing of a successful application for annulment to the General Court in a case relating to financing for the construction of a biomass power plant. Led to a seminal judgment on the scope and importance of the Aarhus Regulation and environmental law in the EU legal order: T:2021:42. Now on appeal to the CJEU as Case C-212/21 P. Acting pro bono.
- Case C-268/17 AY (with Maya Lester QC): acting for the defendant to national proceedings in a preliminary reference to the CJEU concerning human rights issues in the execution of a European Arrest Warrant, and the principle of *ne bis in idem*/double jeopardy.
- *Canal & River Trust v Thames Water Utilities Ltd* [2016] EWHC 1547 (Ch), [2018] EWCA Civ 342 (with Sa'ad Hossain QC): Sarah was instructed as junior counsel for the Defendant in this Part 8 claim regarding payment for water abstractions from the River Lee, from the commencement of the proceedings through to the judgment of the Court of Appeal. In the Court of Appeal, the oral advocacy was split between Sarah and her leader.

- *R (Bajracharya) v SSHD* [2018] EWCA Civ 277: Sarah acted pro bono in the Court of Appeal for the appellant in his challenge to a decision to refuse permission for judicial review of a refusal of a Tier 2 (General) worker's visa.
- *Speciality Produce Ltd & ors v Secretary of State for the Environment, Food and Rural Affairs* (with Aidan Robertson QC): acted for the Claimants in a *Francovich* claim relating to losses caused by the wrongful denial of payments under the Common Agricultural Policy. Settled shortly before trial in February 2019.
- *R (WXYZ) v Secretary of State for Health* [2015] EWCA Civ 1034 (with Marie Demetriou QC): Sarah acted as junior counsel for the successful Secretary of State in this claim for judicial review concerning the sharing of patient data for the purpose of imposing immigration sanctions.
- *R (Owusu) v Secretary of State for Home Department* [2015] EWHC 1102 (Admin): instructed unled for the Home Secretary in a substantive judicial review concerning a claim for leave to remain on asylum and private/family life grounds.
- *R (Linda Ellard Ltd) v Legal Services Commission*: acted unled for the LSC in a judicial review claim involving a challenge to the rules on the allocation of duty solicitor slots.
- *R (UKPNS) v GEMA* [2014] EWHC 3678 (Admin) (with Richard Gordon QC): successful claim for judicial review seeking the quashing of an Ofgem determination on the Third Package of EU law measures providing for access to electricity markets.
- *Challenges to Tobacco Products Directive (Directive 2014/40/EU)* [2014] EWHC 3515 (Admin); [2014] EWHC 3669 (Admin) (with Mark Hoskins QC): Sarah was instructed as junior counsel for the Secretary of State for Health in the domestic judicial review claims challenging the validity of the Tobacco Products Directive. All of these claims were referred to the Court of Justice of the European Union; its judgments, dismissing the claims, were given on 4 May 2016.
- Pro bono work: Sarah is a Trustee of Advocate (formerly the Bar Pro Bono Unit). She was awarded Pro Bono Junior of the Year in 2021. For instance, in *R (Bajracharya) v SSHD* [2018] EWCA Civ 277 (mentioned above), Sarah acted pro bono for the appellant in the Court of Appeal, and in Case T-9/19/Case C-212/21 P *ClientEarth v EIB* (also mentioned above), Sarah is acting pro bono for the applicant before the General Court of the EU. Sarah is a Reviewer for Advocate, in which capacity she considers whether applications for assistance are eligible for pro bono assistance.

Qualifications

- Bar Vocational Course, Inns of Court School of Law- Outstanding (2006)
- Bachelor of Civil Law, Oxford University- Distinction (2005)
- LL.B., Law and French, Bristol University- First Class Honours, finished 1st in year (2004); also finished 1st in first and second year examinations (2001 and 2002)
- University of Poitiers, Diploma of French Law- Mention Très Bien (equivalent to First Class) (2003)
- Grays Inn Tax Chambers Award for highest mark in the law of Personal Taxation on the BCL (2005)
- AHRB Postgraduate Award to fund study on the BCL (2004-2005)

- Freshfields Prize for Trusts for highest mark in Trusts Law (2004)
- Kendrick School (state school): 1993–2000

Directory Quotes

- "She brings all the technical brilliance to the team. She really rolls up her sleeves: she is incredibly proactive, responsive and always prepared to go the extra mile. Very positive and a delightful person to be dealing with, she brings real energy and positivity to the chain." (Chambers & Partners 2022)
- "A really impressive, excellent advocate who is very knowledgeable. She is excellent on her feet and went above and beyond for us in circumstances made more difficult by the COVID-19 pandemic." (Chambers & Partners 2022)
- "Sarah is ferociously bright, and you can put her in a room with anybody. She is user-friendly and very, very impressive." (Chambers & Partners 2022)
- "She is very clever and practical while being very effective in her advocacy." (Chambers & Partners 2022)
- "Sarah is without a doubt a star of her generation. Now a senior junior, she is a stand-out for her depth of knowledge and range of experience." (Legal 500 2022)
- "She provides clear concise advice, is extremely pragmatic, a real team player and a joy to work with." (Legal 500 2022)
- "Sarah is incredibly quick, helpful and a persuasive advocate." "She is a superstar – brilliant on her feet, knows the law and writes clearly and concisely." (Chambers & Partners 2021)
- "She is really brilliant." (Chambers & Partners 2021)
- "Really good on her feet and knows her stuff." "She is an excellent junior for competition disputes in particular." (Chambers & Partners 2021)
- "Very organised, pro-active, always a pleasure to work with on even the most stressful cases – very clear and articulate on her feet." (Legal 500 2021)
- "Great confidence and courtroom presence as well as expertise in this area. Her advocacy is very effective and measured." (Legal 500 2021)
- "I consider Sarah to be one of the pre-eminent senior juniors in this area. She has an unusual ability to both be on top of the detail but also provide excellent issues on strategic matters. She has excellent judgement and is unafraid to input and express her views on important decisions. She is a calm and measured, and very effective, oral advocate. Definitely a future star silk.' (Legal 500 2021)
- "Very knowledgeable on anything competition-related, and a very good advocate." "She's incredibly good at dealing with clients, and cutting through the noise on a case to pinpoint the key issues." (Chambers & Partners UK & Global 2020)

- "Is right on top of the detail in cases whilst also offering really good strategic thinking." She has "good judgement about those arguments to take forward and those to drop," and "can take decisions quickly." "Sarah is a very accomplished speaker in court and presents her case well." (Chambers & Partners UK & Global 2020)
- "An exceptional lawyer, extremely good to deal with, very sharp, with excellent drafting and presentation." (The Legal 500 2020)
- "Persuasive in conference, her advocacy on paper is extremely impressive." (The Legal 500 2020)
- "A strong junior." (The Legal 500 2020)
- "Always on top of her brief, terrifyingly clever, and someone who always keeps her eye on the client's commercial goals, she is an absolute delight to work with." "She's very bright, and engaging to debate with." (Chambers & Partners 2019)
- "Quick and efficient, and "super knowledgeable on competition matters." (Chambers & Partners UK & Global 2019)
- "Excellent technical skills allied with a fantastic capacity to analyse complex material." (The Legal 500 2018-19)
- "Hardworking and great at dealing with difficult clients (or difficult judges)." (The Legal 500 2018-19)
- "A great lawyer who has an indefatigable personality, which is particularly valuable during attritional litigation. Clients appreciate her enthusing personality." (The Legal 500 2018-19)
- "Knows how to take big decisions and is confident in her tactical approach." "She's an excellent junior for competition disputes." (Chambers & Partners 2018)
- "Her attention to detail, accuracy and ability to communicate complicated things to clients is fantastic." (Chambers & Partners 2018)
- "Highly recommended for banking disputes." (The Legal 500 2017)
- "A high-class advocate, who gets to the heart of a legal problem very quickly." (The Legal 500 2017)
- "An outstanding junior, who always sees the wood for the trees." (The Legal 500 2017)
- "She's really willing to get stuck into a case and gets to the nub of very complicated cases in a ridiculously quick time." (Chambers & Partners 2017)
- "She has very fine analytical skills, is very responsive and has the ability to absorb and digest complex facts and issues very rapidly." (Chambers & Partners 2017)
- "She is totally reliable and has excellent judgment." (The Legal 500 2016)
- "One of the most intellectually able juniors." (The Legal 500 2016)
- "Sarah is clearly incredibly intelligent and her written advocacy is really superb. She excels at becoming part of the team." (Chambers & Partners 2016)
- "Incredibly helpful, very clever and someone who always puts the instructing solicitor in the best position to advise the client." (Chambers & Partners 2016)
- "She's very approachable so you can call her any time." (Chambers & Partners 2016)
- "A fast and very hard worker, who is excellent and going places." (The Legal 500 2015)

- "Always offers extremely sound advice." (The Legal 500 2015)
- Ranked in Competition Law – UK in Chambers Global 2015.
- "Enters the table this year on the back of a consistent level of praise from the market. She is particularly singled out for her client service and advocacy skills." (Chambers & Partners 2015)
- "She was very, very good and excellent with the client." "She is beyond where she should be in terms of her litigation skills and decision making for one of her call." (Chambers & Partners 2015)
- "Has a strong commercial litigation and arbitration practice, and has expertise in EU and competition law." (Chambers & Partners 2015)
- "Highly intelligent, extremely hardworking and also great fun to work with." (The Legal 500 2014)
- "Brings a quality to her cases which is well beyond her year of call." (The Legal 500 2014)
- "She's an incredibly fast worker, seriously clever and very user-friendly and versatile" (Chambers & Partners 2014)
- "a market favourite" (Chambers & Partners 2013)
- "has been identified by a number of sources as one to watch closely. Instructing solicitors say she is 'a strong junior' who is 'very hard-working' and 'willing to get into the detail' of a case." (Chambers & Partners 2013)
- "Sarah Abram is 'very much in demand and on her way to the very top'" (The Legal 500 2012)

Languages

French and German