



THEODORE K. CHENG



Theodore K. Cheng is an independent, full-time arbitrator and mediator, focusing on commercial, intellectual property (IP), entertainment, technology, and employment disputes. He is a member of the Commercial, Large, Complex Case, and Employment arbitration and mediation rosters of the American Arbitration Association (AAA) and the International Centre for Dispute Resolution (ICDR), the Panel of Distinguished Neutrals of the CPR Institute, and Resolute Systems' Employment and Commercial panels of arbitrators and mediators. He has also served on matters administered by the ICC, on one of which he served as Tribunal President. Additionally, Mr. Cheng is a member of the American Intellectual Property Law Association (AIPLA) List of Arbitrators and Mediators, and the Silicon Valley Arbitration & Mediation Center's List of the World's Leading

Technology Neutrals. He is also an Adjunct Professor at New York Law School where he teaches ADR-related courses. Mr. Cheng is also the Past President of the Justice Marie L. Garibaldi American Inn of Court for ADR, a Past Chair of the New York State Bar Association (NYSBA) Dispute Resolution Section, and the current Vice President/President-Elect of the Copyright Society of the U.S.A. He is also a Fellow of the College of Commercial Arbitrators and a member of the National Academy of Distinguished Neutrals. The *National Law Journal* named him a 2017 ADR Champion, and he received the New Jersey State Bar Association Dispute Resolution Section's 2020 James B. Boskey ADR Practitioner of the Year Award. The readers of the *New York Law Journal* voted him one of the Top 3 arbitrators in 2022, 2023, and 2024, and the readers of the *New Jersey Law Journal* voted him the Best Mediator/Arbitrator in 2021. More information is available at www.theocheng.com.

As a neutral, Mr. Cheng has conducted over 800 arbitrations, mediations, settlement discussions, and inquests involving business disputes, breach of contract and negligence actions, trade secret theft, employment discrimination claims, wage-and-hour disputes, and IP infringement contentions. He has served as Chair/President of a tribunal in over 15 proceedings and as a wing arbitrator in over 20 other proceedings. The court in *Bartz v. Anthropic PBC*, Case No. 3:24-cv-05417-WHA (N.D. Cal.) also recently appointed him the Special Master over all claimant disputes that may arise in connection with the historic \$1.5 billion class-wide copyright infringement settlement in that action.

Representative COMMERCIAL/INTELLECTUAL PROPERTY matters:

- \$600 million dispute between pharmaceutical companies over breaches of manufacturing and supply agreements (wing)
- \$45 million dispute alleging patent infringement, theft of trade secrets, and breaches of confidentiality agreements in connection with the marketing and sale of inventory management systems (wing)
- \$40 million dispute alleging breaches of reciprocal referral agreements and other related claims (chair)
- \$27 million dispute alleging breach of intellectual property license agreement relating to oncology-related clinical development in pharmaceutical industry (wing)
- \$21 million dispute alleging breach of attorney retainer agreement, breach of fiduciary duty, and other related claims (sole arbitrator)

- \$16 million dispute alleging unauthorized use by multi-media company of over 30,000 photographs after termination of copyright license (chair)
- \$14 million dispute alleging breach of consulting agreement relating to licensing arrangement in jewelry industry (wing)
- \$10 million dispute alleging unpaid licensing fees brought by software trading platform vendor against broker-dealer (sole arbitrator)
- \$8.5 million dispute alleging breach of distributorship agreement in snack cakes/baked good industry (wing)
- \$8 million dispute alleging breach of trademark licensing agreement in fashion/retail industry (wing)
- \$7 million dispute alleging breach of consulting agreement in electrical utilities industry (chair)
- \$4.3 million dispute over alleged non-payment of invoices, along with other alleged unfair and unlawful business trade practices (chair)
- \$4 million breach of contract and false billing claims under master relationship agreement covering SaaS and other related services (chair)
- \$3.8 million dispute alleging breach of contract and fraud claims for unauthorized credit card transactions in violation of governing merchant agreement (sole arbitrator)
- \$3 million dispute over the ownership and development of a patented topical anesthetic (chair)
- \$1.7 million dispute alleging breach of finder's fee agreement claim relating to sale of company assets in natural gas facility construction and maintenance business (sole arbitrator)
- \$1.5 million dispute brought by named beneficiaries over carrier's denial of life insurance policy proceeds (sole arbitrator)
- \$700,000 breach of contract claim between artist and manager in music industry (sole arbitrator)
- \$650,000 dispute alleging violations of Carmack Amendment and other state law claims (sole arbitrator)
- \$475,000 dispute alleging breach of settlement agreement and trademark infringement and dilution claims pertaining to collaborative venture to produce and promote film in health care industry (sole arbitrator)
- \$400,000 breach of e-commerce services agreement claim (sole arbitrator)
- \$25 million copyright infringement claim brought by recording industry against owner/operator of mixtape music app (mediator)
- \$10 million copyright infringement claim over alleged unauthorized use of photographs by numerous television stations (mediator)
- Patent infringement claims arising from manufacture and sale of competing furniture product (mediator)
- Breach of a patent license agreement for failure to pay royalties (mediator)
- Breach of intellectual property license and supply agreement involving a patented taggant ink system used in a household consumer appliance (mediator)
- Trademark infringement and unfair business practices claims arising from breach of settlement agreement between pharmaceutical companies over competing skin cream products (mediator)
- Trademark infringement claims involving different products in allegedly related household consumer appliances marketplace (mediator)
- Breach of a distributorship agreement for hair care products, along with trademark infringement claims (mediator)
- Pre-litigation dispute between members of limited liability company regarding continued funding for entity developing new trading strategy and ownership of patent over that technology (mediator)
- Pre-litigation dispute between members of limited liability company regarding allegations of breach of fiduciary duty and other malfeasance (mediator)

Representative EMPLOYMENT matters:

- \$1.4 million dispute brought by a record company executive for breach of his employment and royalty agreements, racial discrimination, and other related claims, including counterclaims for breach of the employment agreement and tortious interference with contract (sole arbitrator)
- \$1.0 million dispute brought by former employee-trader for unpaid and overdue compensation pursuant to bonus agreements (sole arbitrator)
- \$775,000 dispute brought by former CEO for wrongful termination with cause under employment agreement and retaliation under anti-discrimination statute (sole arbitrator)
- Wage-and-hour and employment discrimination disputes under the FLSA, NYLL, Title VII, ADA, ADEA, NYSHRL, NYCHRL in the food & hospitality, catering, grocery, and retail industries (mediator)
- Claim for failure to reimburse advanced sales commissions pursuant to an employment contract (mediator)

For nearly 25 years, Mr. Cheng was an IP and general commercial litigator with a focus on trademarks, copyrights, patents, and trade secrets, as well as entertainment, employment, corporate investigations, securities, and bankruptcy. He has handled a broad array of business disputes in federal and state courts in industries as varied as high-tech, telecommunications, entertainment (music and motion pictures), consumer products, food and hospitality, retail, and financial services. In 2007, he was named one of the Best Lawyers Under 40 by the National Asian Pacific American Bar Association.

Representative COMMERCIAL/INTELLECTUAL PROPERTY matters:

- Tried fraud and breach of contract claims on behalf of exploited investor, resulting in \$2.4 million compensatory and punitive damages jury verdict
- Tried patent damages claim on behalf of pharmaceutical company over infringing animal vaccine, resulting in favorable jury verdict
- Defended a patent infringement litigation over patents relating to technology for the cryosurgical removal of warts and other benign skin lesions, which settled on eve of trial
- Litigated copyright infringement actions brought by classes of songwriters and music publishers against unlicensed Internet file-sharing companies Grokster and Napster
- Briefed and argued appeal before Guam Supreme Court on commercial lease dispute involving worldwide restaurant franchisee, overturning \$9 million jury verdict
- Successfully resolved accusations against on-line retailer of selling counterfeit goods
- Successfully defended software company against allegations of trademark infringement, dilution, and unfair competition brought by purported senior mark owner
- Represented a patentee in industry-wide infringement lawsuits relating to pioneering methods for locating available real estate properties on a computer
- Conducted litigation campaign to enforce telecommunications company's patent relating to data compression algorithms
- Defended health care company in suit alleging claims for patent infringement, trademark infringement, copyright infringement, and theft of trade secrets over design, development, and sale of mass-marketed medical device
- Conducted trademark portfolio due diligence in connection with the acquisition of a pharmaceutical company
- Advice regarding transfer of patent and trademark assets in connection with negotiation of sales and distribution agreement regarding textile and garment products
- Provided Digital Millennium Copyright Act (DMCA) advice and consultation to multimedia company in connection with potential acquisitions
- Conducted pre-publication review of a book for potential violations of nondisclosure agreements

- Drafted and negotiated non-exclusive licensing agreement of patent rights owned by U.S. technology university (pertaining to ligands for metals and metal-catalyzed processes) to Japanese commercial manufacturer to develop and sell licensed products and processes
- Drafted and negotiated joint research and development agreement between German and U.S. manufacturers of scientific instruments
- Drafted and negotiated research and testing agreement between U.S. technology university and Japanese manufacturer and distributor of specialty chemicals products

Representative EMPLOYMENT matters:

- Tried unpaid wages claim on behalf of domestic worker, resulting in sizeable compensatory and punitive damages jury verdict
- Dismissed lawsuit alleging employment discrimination, anti-trust infractions, and a RICO violation against a major investment bank
- Represented companies and former employees in “raiding,” non-compete, and breach of employment agreement suits
- Drafted employment agreements containing intellectual property and trade secret protections, confidentiality provisions, restrictive covenants, and non-compete and non-solicitation clauses
- Negotiated separation and severance agreements for hedge fund company employees

Mr. Cheng was previously a marketing consultant at MetLife Insurance Company, with experience in life and health insurance, annuities, brokerage sales, structured settlements, and investments. During his tenure, he obtained his Chartered Life Underwriter, Chartered Financial Consultant, and Series 7 General Securities Representative designations. Mr. Cheng also previously served as a law clerk to the Honorable Julio M. Fuentes of the U.S. Court of Appeals for the Third Circuit and the Honorable Ronald L. Buckwalter of the U.S. District Court for the Eastern District of Pennsylvania.

Mr. Cheng is a member of several bar and professional associations, for which he serves on various ADR, litigation, and intellectual property sections and committees. He frequently writes and speaks on ADR and IP issues. Mr. Cheng has a regular column called *Resolution Alley* in the *NYSBA Entertainment, Arts and Sports Law Journal*, which addresses the use of ADR in those industries. Selected publications and a listing of speaking engagements are available at www.theocheng.com.

Education

- J.D., New York University School of Law
- A.B. *cum laude* in Chemistry and Physics, Harvard University

Bar and Court Admissions/Professional Licenses

- New York, New Jersey, District of Columbia (inactive)
- Supreme Court of the United States
- U.S. Courts of Appeals: Second, Third, Sixth, Seventh, Ninth, and Federal Circuits
- U.S. District Courts: E.D.N.Y., N.D.N.Y., S.D.N.Y., D.N.J., W.D. Mich.
- Chartered Life Underwriter (CLU) (1993-present)
- Chartered Financial Consultant (ChFC) (1994-present)
- Series 7 General Securities Representative (1993-1994)

Professional Affiliations and Memberships

- American Arbitration Association (Council Member, 2016-2025; Board Member, 2015-2016)
- American Bar Association (Dispute Resolution Section, Labor and Employment Law Section)
- American Intellectual Property Law Association
- Asian American Bar Association of New York (Recording Secretary and Director, 2004-2007; Chair, ADR Subcommittee (2014-present); Co-Chair, Judiciary Committee (2011-2014); Chair, Federal Judiciary Subcommittee (2009-2011); Co-Chair, Litigation Committee (2001-2004))

- Asian Pacific American Lawyers Association of New Jersey (Director, 2016-2017; President, 2015-2016; President-Elect, 2014-2015)
- Association for Conflict Resolution Greater New York Chapter (Director, 2016-2019)
- The College of Commercial Arbitrators (Fellow, 2022-present)
- The Copyright Society of the U.S.A. (President, 2026-2028; Vice President, 2024-2026; Treasurer, 2020-2022; Secretary, 2018-2020; Trustee and Executive Committee Member, 2016-2019; Co-Chair, New York Chapter, 2015-2017)
- Federal Bar Association (Alternative Dispute Resolution Section)
- Federal Bar Council (Second Circuit Courts Committee, Secretary, 2010-2013)
- Justice Marie L. Garibaldi American Inn of Court for ADR (President, 2018-2023; Secretary/Treasurer, 2017-2019; Executive Committee Member, 2016-2017)
- National Asian Pacific American Bar Association
- National Academy of Distinguished Neutrals (Member, 2019-present)
- New Jersey State Bar Association (Dispute Resolution Section, Director, 2016-2019)
- New Jersey Supreme Court Arbitration Advisory Committee (2014-2017)
- New Jersey Supreme Court Committee on Complementary Dispute Resolution (2014-2017)
- New York City Bar Association (Federal Courts Committee, 2013-2016; Copyright & Literary Property Committee, 2010-2013)
- New York State Bar Association (Dispute Resolution Section, Chair, 2019-2020; Chair-Elect, 2018-2019; Vice Chair, 2017-2018; Co-Chair, Mediation Committee, 2016-2018)
- Silicon Valley Arbitration & Mediation Center
- S.D.N.Y. Mediator Advisory Committee (2013-2015)