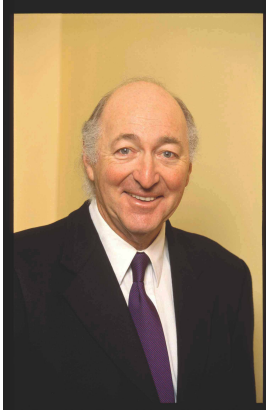




# Mediator Full Profile



## Mr Alan Limbury

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Phone: +61 (0) 2 9368 0274

Mobile: +61 (0) 41 210 4809

Website: [www.strategic-resolution.com](http://www.strategic-resolution.com)

Address:

2, Crown Street

Woolloomooloo, New South Wales, 2011

Australia

## Experience Qualification Path

Category 1: LEADR (LEADR Advanced Mediator)

## Mediation locations

Australia - NSW, United Kingdom

## Mediation languages

English, French

## Current position and background

- \* Managing Director, Strategic Resolution, an ADR consultancy.
- \* Solicitor and barrister of the Supreme Court of New South Wales.
- \* Associate Member, Crown Office Chambers, London.
- \* Mediator since 1987.
- \* 1964-1996 Commercial litigation lawyer in Sydney law firms
- \* 1976-1996 Partner, Minter Ellison, Sydney. Chairman, Trade Practices, Intellectual Property and Alternative Dispute Resolution Groups.
- \* Wide experience as a litigation lawyer at trial and on appeal in commercial disputes, including intellectual property (trade marks, patents, copyright and confidential information), restrictive trade practices, unfair competition and administrative law.
- \* Three years as a member of the Australian Administrative Appeals Tribunal, in determining appeals from governmental administrative decisions.
- \* Eight years as Chairman of the Complaints Resolution Panel established under the Australian Therapeutic Goods Regulations to determine complaints about the advertising and promotion of therapeutic goods to consumers.

## Main mediation practice areas

Alan has particular expertise in the following fields:

- \* Administrative Law
- \* Advertising
- \* Agency
- \* Dealership & Distributorship



# Mediator Full Profile

- \* Banking & Finance
- \* Building & Construction
- \* Commercial Litigation
- \* Competition Law
- \* Consumer Protection
- \* Environment
- \* Health Care
- \* Information Technology
- \* Insurance and Reinsurance
- \* Intellectual Property - including: Trade Marks, Copyright, Patents, Trade Secrets and Passing Off.
- \* Licensing
- \* Distribution & Franchising
- \* Local Government
- \* Partnership
- \* Personal injury and clinical negligence
- \* Pharmaceutical Industry
- \* Professional Negligence
- \* Retail Tenancy

## Mediation experience

\* Alan has been mediating since 1987 part time and since 1996 full time, with wide experience as sole mediator in over 2,000 commercial and intellectual property disputes of all kinds in Australia, New Zealand and the UK, in which parties are legally represented. Alan also has experience in assisting companies to devise negotiation strategies and to prepare, together with their in-house and external lawyers, for negotiations to resolve long running litigious disputes, including class actions.

Examples of Alan's intellectual property dispute mediations:

- \* Alleged infringement of a national trademark by the importation of genuine goods from the overseas owner of the same mark.
- \* Conflict between wine companies over use by a former subsidiary of the parent's trademark.
- \* Patent infringement and revocation proceedings resolved by licensing arrangements (permissible under competition law) requiring the parties to operate in different market sectors while protecting them both under the patent.
- \* Conflict in the wine industry between appellations of origin and common law trademarks.
- \* Whether the requirements entitling a winemaker to claim an appellation of origin had been met.
- \* Whether a building design infringed copyright.
- \* Whether a copy of a product no longer covered by a patent was made using trade secrets of a competitor.
- \* Whether the patent office was right to grant a patent despite numerous objections.
- \* Whether contracts to provide Information Technology to Government departments were properly performed.
- \* Franchisor/franchisee disputes.
- \* Motor vehicle dealership termination.
- \* The scope of licensed and retained technology rights.
- \* Termination of sales agency agreement.



# Mediator Full Profile

## Description of mediation style

\* Alan is a practitioner of principled negotiation and interests-based mediation taking a non-judgmental approach, while not shrinking from reality-testing and raising possible options for agreement. He is creatively facilitative, seeking a broad focus, persistent and patient throughout.

\* Alan has a calm, respectful approach, remaining ostensibly optimistic. He often rigorously tests lawyers in confidential session with their clients to obtain a realistic appraisal of their prospects in court or before an arbitrator.

\* An empathetic mediator, Alan is able to help craft a process to suit the needs of the parties while being mindful of but not rigidly bound to any format. He is strictly observant of confidences.

## Code of professional conduct

IMI Code of Professional Conduct

## Complaint process

IMI Professional Conduct Assessment Process

## Professional indemnity insurance

CGU Insurance Limited, max. A\$2 million any one claim.

## Feedback digest

Reviewer: Werksman Harold ( hwerksman@tglaw.com.au )

Latest Update: 2017-05-11 09:09:55

This feedback is based on the 58 reports from 2005 to 2014 inclusive, relating to the mediations conducted mainly in Australia but also some from overseas.

The feedback reports came from organisations as well as parties who had taken part in mediations conducted by Alan and professionals in the mediation field who had known Alan for many years.

The feedback for all the above sources has without exception been favourable and most of them very favourable.

Examples of these favourable comments by parties on his performance include the following features in relation to his approach:

- \* Excellent ability to work with disputants, good listening ability and putting people at ease
- \* He demonstrated intuition and patience as well as compassion
- \* He was very fair, helpful and impartial, allowing parties to express themselves
- \* He was very helpful in identifying alternatives
- \* Good at controlling the process
- \* Helped parties understand each other
- \* He was persuasive but not in an aggressive way
- \* He was calm and had an orderly focus on the issues



# Mediator Full Profile

- \* Was willing to make pro-active suggestions
  - \* He is a mature, careful and relaxed mediator and is perceived by the parties as non-threatening and trustworthy
  - \* He displayed a nuanced understanding of the legal tests and inherent weaknesses in each party's case and a practical view of the benefits of a settlement
  - \* He identified positive commercial benefits not apparent to the parties
  - \* He was skilled in identifying commercial risks
- . He was relaxed and clear . He acted as a guide and a re framer,he challenged the parties and reflected the issues well.
- No negative comments were made by the parties in their feedback.

Examples of the favourable comments offered by organisations included:

- \* He is a highly regarded member of the Australian mediation community
  - \* He is an extremely capable mediator and settled many matters which had commenced in court
  - \* He has particular expertise in assessing options and settlement scenarios in cases where deep-seated emotions often evident in the dispute
  - \* He is courteous, patient, pleasant in his dealings with the parties and with the members of the legal profession
  - \* He conducts mediations in a careful and professional manner
  - \* He is an effective co-mediator and works well as a team member
  - \* Even though the matter in dispute was not settled through mediation, Alan conducted himself in an exemplary manner as a mediator - a major part of the dispute did in fact settle later on.
  - \* Regardless of the mediation outcome, Alan's services and knowledge of the mediation process have been a key element in securing a successful resolution of some difficult disputes.
- I was very happy with him as a mediator and would recommend him.

Micheline Dewdney  
Harold Werksman  
Reviewers

## Professional affiliations

- \* Specialist Accredited Mediator, Law Society of NSW, 1995.
- \* LEADR (now Resolution Institute) Advanced Mediator, 1997.
- \* CEDR Accredited Mediator, 2005.
- \* Fellow (Mediation), the Chartered Institute of Arbitrators, 2008 - 2010.
- \* Professional Dispute Board Member, the Dispute Board Federation, 2008-2009.
- \* Accredited since 2008 as an Experience Qualified Mediator under the Australian National Mediator Standards.
- \* Distinguished Fellow, the International Academy of Mediators, 2016.
- \* Member of the mediation panels of the Australian Self-Medication Industry, the World Intellectual Property Organization, the National Arbitration Forum (Intellectual Property Panel), the Singapore International Mediation Centre, the Kuala Lumpur Regional Centre for Arbitration, the Hong Kong International Arbitration Centre, the Arab Center for Dispute Resolution, CEDR Solve Direct (2008-1010), The Academy of Experts (2005-1009),The



# Mediator Full Profile

Chartered Institute of Arbitrators (2005-2010), ADR Group Ltd., ADR Chambers International, Middlesex and Thames Valley Mediators, the Law Society of New South Wales, LEADR (now Resolution Institute) Advanced Panel, the Institute of Arbitrators and Mediators Australia (2004-2012), The Chartered Institute of Arbitrators (Australian Branch) (2005-2010), the Australian Disputes Centre, the Dispute Resolution Unit, Office of the Small Business Commissioner (NSW).

\* Chairman of the Practice and Standards Committee of the Chartered Institute of Arbitrators and Member of the Board of Management of the Institute (2008-2010).

\* Director and Vice-President, Mediation, The Chartered Institute of Arbitrators (Australia) Limited (2008-2010).

## Fee rate

\* In Australia, \$660 +GST per hour.

\* In the UK, £2000 preparation plus £500 per hour of preparation after 5 hours, plus £5000 per day of mediation or part thereof. A cancellation fee of £5000 applies for cancellation within 21 days prior to the mediation. No VAT applies.

## Mediation education and training

\* Master of Dispute Resolution (MDR), University of Technology, Sydney, 1997.

\* Trained in negotiation and mediation at Harvard University in 1986, 1987 and 1991.

\* Trained in mediation by ACDC, 1986; CDR Associates, Colorado, 1988; Institute of Arbitrators Australia (Advanced), 1989; Law Society of New South Wales (Advanced), 1993 and University of Technology, Sydney (Advanced), 1993.

## Mediation teaching and mentoring

\* Assisted Harvard Professor Roger Fisher in teaching negotiation in Australia in 1988 and 1994 and as a Teaching Fellow at Harvard in 1991.

\* Mediation trainer with Harvard Professor Frank E.A. Sander and mediators Linda Singer and Michael Lewis: Harvard Mediation Workshops, Sydney 1994 and Harvard June 1995.

\* Adjunct Professor in the Faculty of Law, The University of Sydney, lecturing in Mediation of Commercial Disputes (postgraduate) 2009-2010.

\* Currently teaching (with Visiting Professorial Fellow Dr. Rosemary Howell), Dispute Resolution (undergraduate) and Negotiation (postgraduate and undergraduate) at the University of New South Wales.

\* Currently Senior Fellow, Melbourne Law School, University of Melbourne, teaching (with Dr. Rosemary Howell) Mediation of Commercial Disputes

## Mediation publications

\* Hybrid Processes and Inadmissibility: Who's Who Legal Briefing, October 2016 <http://whoswholegal.com/news/features/article/33249/hybrids-inadmissibility/>

\* "Some Aspects of Mediation in Australia" Vadim Abolonin, Svetala Zagaynova (eds) Kommercheskaya mediatsia; teoria i praktika, Infotropic Media, Moscow, 2012.

\* "Should Mediation be an Evidentiary 'Black Hole'?" UNSW Law Journal Volume 35(3) 914, November 2012.

\* "Getting the best of both worlds with Med-Arb": Law Society of NSW Journal, September 2010, Vol. 48 No. 8, 62-65.



## Mediator Full Profile

- \* "Resolving IP disputes by mediation": Law Society of NSW Journal, August 2010, Vol. 48 No. 7, 75-77.
- \* "Practical Skills Workshop: Hybrid dispute resolution processes: Getting the best while avoiding the worst of both worlds?": CI Arb's Mediation Compendium (London, 2009).
- \* "Making Med-Arb work in Australia": New York Dispute Resolution Lawyer, Spring 2009, Vol. 2 No. 1.
- \* "Should there be a distinct 'Mediation Privilege'?: Chapter III, the Newsletter of the Law Council of Australia Federal Litigation Section, March 2009, Vol.2.
- \* "Compulsory ADR before proceedings begin?": LEADR Update, March 2009.
- \* "Observing mediation from the public gallery - Opes Prime": LEADR Update, December 2008.
- \* "Reaction to Amanda's corner - Mindfulness: expanding the use of mediation in public law and policy making": IBA Legal Practice Division Mediation Committee Newsletter, July 2007.
- \* "Whither confidentiality? - Some thoughts prompted by Brown v. Rice and Patel [2007] EWHC 625 (Ch) (14 March 2007)": Chartered Institute of Arbitrators Mediation Seminar "The Experts Speak", London, 11 June, 2007.
- \* "Making Med-Arb Work": ADR Bulletin, Vol. 9 No. 7, May 2007.
- \* "An Australian Perspective on Some Topical Issues in Mediation": Chartered Institute of Arbitrators Mediation Lecture Series, London, 20 September 2006, Arbitration, Vol. 73 No. 1 (2007) at p.64.
- \* "'Why judges shouldn't be mediators' and 'mandatory mediation' - an Australian perspective": The Expert & Dispute Resolver, Summer 2006, Vol. 11, No. 1.
- \* "Online Alternative Dispute Resolution": IAMA News, June 2006, p25.
- \* "Med-Arb, Arb-Med, Neg-Arb and ODR": Institute of Arbitrators and Mediators Australia Forum, 3 August 2005.
- \* "How should mediators communicate online?": Institute of Arbitrators and Mediators Australia 30th Anniversary Conference, Canberra, May 28, 2005.
- \* "Domain Name Disputes: when must trade mark rights exist?": Internet Law Bulletin, Butterworths, March/April 2005, Vol. 8, No. 1, 9-10.
- \* "Difficulties and Skills of ODR Mediation Practice": Third United Nations Annual Forum on Online Dispute Resolution, Melbourne, Australia, 5-6 July 2004.
- \* "How to Resolve Disputes Online": NSW Law Society Journal, October 2002.
- \* "Online Dispute Resolution - A Practitioner's View": Domain Name Systems and Internet Governance Conference, Sydney, May 2002.
- \* "The Regulation and Approval of Pharmaceutical Substances": Changing Dynamics in the Pharmaceutical Industry Conference, Sydney, October 1994.
- \* "Intellectual Property Litigation in Australia - The Cimetidine Example 1987-1994": ARCS Symposium, Sydney, September 1994.
- \* "Alternative Dispute Resolution: How Should it be Used?" (with G.L. Davies QC): Australian Legal Convention, Adelaide, 1991.
- \* "Application of the Trade Practices Act to Intellectual Property" (with Michael O'Bryan): Trade Practices Commission, July 1991.
- \* "A Practitioner's View of ADR": 1990 Annual Conference of the Australian Institute of Judicial Administration.
- \* "Alternative Dispute Resolution - A Better Way of Dealing with Trans-Tasman Differences": CER and Business Competition - Australia & New Zealand in a Global Economy, CCH, 1990.
- \* "Mediation and the Role of the Lawyer in Alternative Methods of Dispute Resolution": Licensing Executives Society Conference, January 1989.
- \* "Appellations of Origin": Intellectual & Industrial Property Society Conference, Melbourne, March 1989.



## Mediator Full Profile

\* "Part of the Impact of the ADR Movement: Focus on Negotiation": University of Sydney Faculty of Law Seminar, October 1987.

\* "How ADR Can Be Used in Licensing": joint meeting of LES Australia & New Zealand and the Intellectual & Industrial Property Society, April 1987.

**Note: This Mediator Profile is intended to offer guidance to users of mediation services about the competency, skills, styles and potential suitability of the IMI Certified Mediator featured above. The Reviewer, the Mediator and IMI are attempting to present fair, balanced and objective information but none are to be held responsible for reliance on the information given. Users of mediation services are encouraged to pursue further research before selecting the IMI Certified Mediator, including contacting references and conducting an interview with the Mediator before making a selection.**