

Cavinder Bull, *Senior Counsel*

B.A. (Hons), Oxford University (UK, 1992)
 M.A. Oxford University (UK, 2001)
 LL.M., Harvard Law School (USA, 1996)
 Barrister of England & Wales (1993)
 Advocate & Solicitor of the Supreme Court of Singapore (1994)
 Attorney-at-Law of the state of New York (1996)
 Appointed Senior Counsel (2008)

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Litigation and Dispute Resolution

Cavinder graduated with First Class Honours in law from Oxford University in 1992. He was called to the Bar of England & Wales the following year, placing fourth in the Bar examinations. He returned to Singapore and passed the Singapore Bar exams, winning the prize for top candidates. Cavinder worked for the Chief Justice of Singapore as a Justices' Law Clerk before joining Drew & Napier in 1994 as a litigation associate. In 1995, Cavinder was awarded the Lee Kuan Yew Scholarship and left for Harvard Law School where he received an LL.M. He passed the New York Bar exams and was admitted to practice in New York. Cavinder practiced as a litigation associate with Sullivan & Cromwell in New York until late 1997 when he returned to Singapore and Drew & Napier. Cavinder was made a partner of Drew & Napier in 1998 and a Director of Drew & Napier LLC in May 2002.

Chambers Global lists Cavinder as a leading individual and states: *"With a 'promising pedigree,' Cavinder Bull is known to interviewees as 'intelligent, thorough and good with clients.' Heavily involved in commercial and insolvency cases, Bull is forceful but commercial, say clients, and 'a key component of the firm's projected future success.' "* In another edition, the publication reinstates: *"Described as 'a cut above,' Cavinder Bull SC wins praise for his 'persuasive style and dogged determination – he fastens on to a point, and keeps going.' "*

Chambers Asia hails Cavinder as *'a rising star, going from strength to strength'*, and highlights that with his experience handling a range of general corporate commercial litigation and arbitration, he brings New York law firm experience to the table, which gives him an excellent perspective when dealing with cross-border disputes.

Asia Pacific Legal 500 recommends Cavinder for litigation as well as for international arbitration, also describing Cavinder as a *'first-rate lawyer', 'rising star'* and a *'strategic lawyer'*, saying that he is *"held in the highest esteem by clients and rivals alike"*. In one case, the High Court expressed its thanks to Cavinder for his assistance in a protracted trial, describing him in the written judgment as a *'persuasive advocate'* who *'ably prosecuted a factually complex and somewhat emotively charged case with conspicuous fairness.'*

A survey by **Asian Legal Business** in 2008 described Cavinder as *"an excellent litigator who boasts a bevy of MNCs as regular clients."*

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Cavinder is also recommended in **Who's Who Legal** for commercial litigation. **Asian-Counsel** also selected one of his successful landmark appeals to the Court of Appeal as one of the "Deals of the Year for 2007". **Practical Law Company's Which Lawyer Survey 2008** recognised Cavinder as a "*good general corporate/commercial litigator across a number of practices including competition.*"

Cavinder was appointed Senior Counsel by a committee comprising the Chief Justice, the Attorney-General and the Judges of Appeal. He was one of a handful of Senior Counsel to be appointed before the age of 40.

Areas of Practice

Cavinder practices corporate and commercial litigation and is actively engaged in trial and appellate advocacy at all levels of the Singapore Courts as well as in international arbitrations. He handles complex litigation spanning a wide area of corporate and commercial life. Some of the cases Cavinder has handled include:

International Arbitration and Cross-border Litigation

- Successfully representing German and Cayman Island parties in a landmark Singapore case on private international law where the Court of Appeal redefined the choice of law rules for claims in tort and equity. The case is reported in [2006] SGCA 39.
- Acting for a multinational paper making company in an international commercial arbitration of a US\$300 million contractual dispute concerning Export Credit Agency financing. The matter involved legal proceedings in multiple jurisdictions, including letter of credit litigation in Wisconsin USA, a successful worldwide injunction application in the Singapore Courts and arbitration proceedings in Singapore.
- Successfully representing a Swiss company in an international arbitration against an Indonesian company. The arbitration concerned an US\$11 million contractual dispute relating to a flour mill in Indonesia.
- Acting for a listed company in an international arbitration against a Cambodian corporation. The dispute related to a joint venture between the parties to construct and operate a factory in Cambodia.
- Successfully representing Lebanese parties against Saudi Arabian defendants in litigation in the Singapore High Court relating to a joint venture to deal in oil futures. The case is reported in [2004] SGHC 63. This case also involved protracted steps to serve process in a number of countries and successfully defending against applications to the Singapore Courts to set aside such service.
- Successfully representing a Singapore listed company in a High Court trial and before the Court of Appeal in a case relating to a merger and acquisition of two Japanese companies. The case, which also involved allegations of breach of fiduciary duty, was litigated in the Singapore Courts but applied Japanese law. The case is reported in [2005] SGHC 174.
- Acting for an Asian government against a company from the United States in an international arbitration arising from a contract relating to the design and delivery of a computer system for military use.

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Corporate Disputes

- Successfully representing a company in resisting an application by one of its shareholders for leave of Court to sue directors in the name of the company. The company, which is in the business of brokering wheat purchases for its clients, was successful both in the High Court and in the Court of Appeal. The case is reported in [2002] 2 SLR 198.
- Successfully representing the defendants in a derivative action commenced by some of the shareholders of a company. The case involved allegations that the defendants were de facto directors and had used undue influence in respect of the affairs of the company. The case is reported in [2001] 1 SLR 105.
- Acting in numerous cases, both in the High Court and the Court of Appeal, representing parties in shareholders' disputes concerning allegations of minority shareholder oppression.
- Giving evidence as an expert on Singapore company law before the United States District Court for the Southern District of Iowa in *Schweyer Import-Schnittholz GmbH v Genesis Southern Capital Fund*.
- Acting for main board listed United Engineers in a High Court action against main board listed Goodpack Limited and its subsidiary. The action raised issues of piercing the corporate veil. Cavinder's cross-examination of the main witness for the defence resulted in that witness withdrawing his entire Affidavit of Evidence-in-Chief after 2 days of cross-examination.

Fraud

- Acting for a Singapore listed company in respect of a \$18 million fraud perpetrated by the Chief Financial Officer of its subsidiary in India. The instructions included a fraud investigation as well as litigation with various parties.
- Successfully representing an Australian listed company in a suit against its former Managing Director in a multi-million dollar fraud and breaches of fiduciary duty. The case involved detailed consideration of the business judgment rule, the role of expert witnesses in Court as well as the appropriate measure of damages for breach of fiduciary duty and fraud. The landmark High Court case is reported in [2004] SGHC 158.
- Acting for a listed company in an investigation into a fraud perpetrated by an ex-employee on a number of banks and financial institutions. The case was the largest ever fraud case in Singapore.
- Conducting a two and a half week High Court trial defending a director who was sued for breach of fiduciary duties by the liquidator of a Singapore company. The claim concerned a business in New Zealand and the validity of various securities given by the companies. The case is reported in [2006] SGHC 31 and the appeal in [2007] SGCA 13.
- Representing various parties in the context of investigations by the Commercial Affairs Department into allegations of financial fraud and breaches of the provisions of the Companies Act.
- Speaker at seminar on: Fraud & Money Laundering Awareness for Financial Institutions where Cavinder delivered a paper on "Recovery against Third Parties".
- Speaker at seminars for the Institute of Certified Public Accountants of Singapore on "Corporate Fraud".

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Insolvency

- Acting for a major oil company in insolvency litigation in the High Court arising from the insolvency of Projector SA, a major corporation in that industry. The case concerned the locus standi required for an applicant to seek the winding up in Singapore of a foreign corporation.
- Acting for a major accounting firm in an international insolvency case relating to a computer disk drive manufacturer with subsidiary companies in Singapore, the United States, United Kingdom, France, Italy, Sweden, Japan, Germany and Thailand. One aspect of this case on how liquidators should hire and pay professionals was reported in [1998] 3 SLR 951.
- Acting for Asia Pulp & Paper in one of the largest international insolvency and restructuring cases involving more than US\$10 billion in debt. Asia Pulp & Paper's restructuring concerns subsidiaries in many countries including China, Indonesia, Singapore, Malaysia and the United States.
- Assisting clients in dealing with matters relating to Chapter 11 and Chapter 7 insolvency proceedings in the United States. Cavinder is able to use his experience gained in working on Chapter 11 cases when he was in Sullivan & Cromwell in New York.
- Successfully petitioning the High Court for an order that a foreign company be wound up in Singapore. The High Court affirmed the principle that foreign companies with a sufficient nexus with Singapore would be ordered to be wound up by a Singapore liquidator under the supervision of the Singapore Courts.
- Acting for Receivers and Managers, Liquidators and Judicial Managers in a wide range of insolvency cases and schemes of arrangements.

Competition Law

- Defending a group of companies listed on the Singapore Stock Exchange in respect of an investigation by the Competition Commission of Singapore. The investigation involved allegations of abuse of dominance and alleged breaches of section 47 of the Competition Act.
- Representing a multinational company in a cartel case before the Competition Commission of Singapore. This case involved allegations of bid-rigging and price fixing in multiple jurisdictions and required coordination with a worldwide legal team of advisors.
- Representing an American company with a Singapore subsidiary in an investigation by the United States Department of Justice's anti-trust division into an allegation of "gun-jumping" in relation to anti-trust merger issues.
- Advising the Info-communications Development Authority of Singapore in the implementation and operation of the Telecommunications Competition Code, the first piece of anti-trust legislation in Singapore. This included advising IDA in respect of numerous disputes and complaints under the Telecommunications Competition Code.
- Cavinder worked on the well-known Microsoft anti-trust litigation when he was practicing in New York with Sullivan & Cromwell.
- Cavinder worked on the Sullivan & Cromwell team seeking anti-trust approval from the United States Department of Justice for the merger of Grand Metropolitan and Guinness, at the time one of the largest mergers in the world.
- Advising on the Competition Code governing the media industry in Singapore.

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- Representing an industry player in an investigation by the Media Development Authority into allegations of anti-competitive behaviour.
- Working within the Competition Law Practice Group to prepare submissions for clients for the public consultations on the draft Competition Bill as well as on draft amendments to sectorial competition codes.
- Working with the Competition Law Practice Group to conduct Competition Law audits including the development of Dawn Raid Guidelines and other dispute related protocols.
- Delivered paper on the Ministry of Trade and Industry's draft Competition Bill titled: "Enforcement & Rights of Private Actions" at the seminar on: Competition Law in Singapore: How does it affect your business?

Private Equity Disputes

- Representing an established international private equity fund manager in a dispute with a middle-eastern investment grouping relating to a \$200 million fund. The case involved allegations of mismanagement of funds and involved issues of Singapore and Cayman Island law.
- Representing two prominent Saudi Arabian private equity investors in a dispute concerning a failed telecommunications venture. This case involved multiple litigations in the Singapore High Court for recovery of investment sums and co-ordination with related litigations in the Cayman Islands and the United States. This case resulted in two landmark decisions of the High Court, one on electronic discovery and the other on the Court's power to striking out a Defence.
- Acting and advising in respect of a failed private equity investment in a New Zealand based food business which resulted in the insolvency of the investment vehicles and multiple litigations between the investors.
- Acting for and advising a private equity investment vehicle in the high end manufacturing industry in a dispute between the investors relating to various alleged agreements relating to the respective shareholdings of the parties.

Banking

- Representing a major European bank in litigation involving allegations that the bank and its officers had been involved in a conspiracy to defraud.
- Representing an American bank in a dispute over the validity of letters of credit issued to an Indonesian party just prior to the Asian Financial Crisis in 1998.
- Representing various individuals in a multi-million dollar litigation against a bank. The matter included a successful setting aside of a world-wide Mareva Injunction.
- Advising banks in respect of banking secrecy laws and representing banks in responding to or resisting Court proceedings seeking disclosure of confidential banking information.

Telecommunications/Technology

- Acting for the National University of Singapore in a \$30 million law suit by a computer software provider. The action concerned a Project for the implementation of an organization wide student information system. This case resulted in a landmark decision of the High Court on the issue of spoliation and the destruction of documents both before and after the commencement of litigation.

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- Cavinder has significant experience in the telecommunications area having acted for the telecommunications regulator, Info-communications Development Authority of Singapore (and previously the Telecommunications Authority of Singapore), for the past 9 years. This has included advising on the whole range of telecommunications issues including 3G and interconnection.
- Acted for telecommunications companies in various advisory matters.
- Delivered a paper on “Legal Perspectives on Intangible and Intellectual Property Valuations” at a Deloitte & Touche seminar.

Trusts / Property / Restitution

- Representing a statutory body in a claim for restitution of \$388 million from a listed Government Linked company. This was a landmark case on the law of restitution in Singapore and was reported in [2002] 3 SLR 488.
- Acting in a claim for adverse possession against a charitable trust. This case dealt with issues relating to property law, adverse possession, compensation for compulsory acquisition of land, the law of charities and the concept of trustee de son tort. It was also a landmark decision in Singapore which established that adverse possession was available against charitable trusts, reported at [2001] 2 SLR 509.
- Acting in a contentious probate matter which dealt with issues of secret trusts and whether a testamentary document which failed for want of formalities could constitute a valid declaration of trust. The case is reported in [2000] 2 SLR 479 (High Court) and [2000] 3 SLR 696 (Court of Appeal).
- Cavinder co-authored a law reform paper on the law of restitution for the Law Reform Committee of the Singapore Academy of Law. The paper was relied on in the landmark case of *MCST v De Beers* [2001] 4 SLR 90.

Regulatory/Public Law

- Cavinder was on the team representing the President of the Republic of Singapore in Constitutional Reference No. 1, a unique case in which the President differed with the Government on the interpretation of a provision in the Singapore Constitution and sought the Court’s clarification of the point.
- Cavinder acted for the Monetary Authority of Singapore in the first two Court actions for civil penalties under the Securities and Futures Act. One case involved allegations of market manipulation while the other involved allegations of insider trading.
- Cavinder also has an active practice advising statutory bodies on the exercise of their public law powers. He has advised extensively on issues of natural justice, legitimate expectation and the ability of public bodies to interfere with private rights of third parties.

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Publications

- Cavinder is a co-author of Competition Law and Policy in Singapore. This book was written in conjunction with, amongst others, Professor Richard Whish of Kings College London.
- Cavinder co-authors the Singapore Academy of Law's Annual Review of Cases on Civil Procedure. See: (2000) SAL Ann Rev 56; (2001) 2 SAL Ann Rev 71; (2002) 3 SAL Ann Rev 64; (2003) 4 SAL Ann Rev 81; (2004) 5 SAL Ann Rev 97; (2005) 6 SAL Ann Rev 98; (2006) 7 SAL Ann Rev 113; (2007) 8 SAL Ann Rev 99; (2008) 9 SAL Ann Rev 143.

Appointments / Memberships

- Member of the Law Reform Committee of the Singapore Academy of Law
- Appointed by the Deputy Prime Minister to the Legal Services Review Committee (2007)
- Member of the Pro-tem Committee of the Institute of Legal Education (2009)
- Appointed as a Referee under the Industrial Arbitration Act
- Member of the Public and International Law Committee of the Law Society (2009)
- Member of the Singapore Law Committee (India Team leader)
- Vice-Chairman of ethics Sub-committee, Professional Affairs Committee, Academy of Law (2009)
- Appointed by the Chief Justice to Disciplinary Committees hearing complaints against lawyers
- Member of the Steering Committee for Singapore's 4th University
- Member of Sub-Committee of Remaking Singapore Committee (2002)
- Delegate to 8th Asia-Europe Young Leaders' Symposium
- Member of the Honourable Society of Grays Inn
- Fellow of the Singapore Academy of Law
- Member of the Law Society of Singapore

Directorships

- Director, Singapore International Arbitration Centre
- Director, Singapore Technologies Electronics Limited
- Director, National Healthcare Group
- Trustee, Singapore University of Technology and Design
- Director, Agri-Food & Veterinary Authority of Singapore (2004-2010)