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Steve White - Brief Biographical Details

Steve White is the principal and founder of the law firm [White SW Computer Law](#).

He is also a director of [Software Escrow & Copyright Agents Pty Ltd](#), [Technology Arbitrators, Expert Determiners and Mediators](#) and the [Technology Dispute Centre](#).

[White SW Computer Law](#) is a law firm which has practiced in the areas of [Intellectual Property](#), Information Technology and Telecommunications law since 1994.

It has [offices](#) in Melbourne and Sydney, which provides legal, and legal related services, to:

- the information technology industry;
- information technology customers;
- intellectual property owners and licensees; and
- the telecommunications industry.

It provides:

- commercial legal advice services;
- [litigation](#) services;
- [mediation](#) services;
- [expert determination](#); and
- [arbitration](#) services

with an emphasis on [intellectual property](#), information technology and telecommunications issues.

Mr White is:

- admitted to practice law in Australia;
- an [Accredited Commercial Litigation Specialist](#);
- a [registered trade mark attorney](#);
- a qualified [mediator](#) and [arbitrator](#);
- a council member of the [Australian Dispute Resolution Advisory Council](#);
- chair of the Law Institute's Alternative Dispute Resolution Committee;
- a member of the [Resolution Institute](#) .au domain name dispute resolution panel;
- included on the Law Society of New South Wales and the Law Institute of Victoria's independent solicitor list for the purposes of executing search warrants;
- a fellow, grade 1 arbitrator and an [accredited mediator](#) of the [Resolution Institute](#);
- a member of the [LEADR](#) .au domain name dispute resolution panel;
- a Panellist under the [auDA Registrar and Registrant Review Panels](#);
- a member of the [Law Society of New South Wales](#);
- a member of the [Law Institute of Victoria](#);
- a [fellow](#) of the [Australian Computer Society](#);
- a [fellow](#) of the [Australian Centre for International Commercial Arbitration](#);
- a member of the [WIPO Arbitration and Mediation Centre](#) general list of mediators and arbitrators;
- a member of the [Victorian Society for Computers and the Law](#);
- a member of the [Copyright Society](#);
- formerly a professional grade member of the [Insolvency Practitioners Association of Australia](#);
- a member of [LEADR](#);

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- a member of the [ACDC Arbitration Panel](#);
 - listed on the [Law Society of New South Wales](#) list of mediators and arbitrators;
 - listed on the [LIV Mediators List](#);
 - listed on the [LIV Magistrates Court external mediator list](#);
 - an author for [LexisNexis Practical Guidance](#); and
 - an author for [The College of Law](#) for its Commercial Litigation Masters subject, [Intellectual Property Litigation](#).

Mr White has:

- a bachelors degree in [Law](#);
- a bachelors degree in [Computer Science](#);
- a [Masters of Industrial Property](#);
- a professional certificate in [arbitration and mediation](#);
- completed a certificate in commercial mediation from the [Accord Group](#); and
- a certificate in [Insolvency](#).

Mr White has over 25 years of litigation experience in the [Federal Court](#), the [Supreme Court of New South Wales](#) and the [Supreme Court of Victoria](#).

Mr White served on the board of examiners for [Accredited Commercial Litigation Specialist](#) for 10 years.

Mr White has acted for a wide range of clients in involved in intellectual property, information technology and telecommunications including various government departments and agencies, universities, information technology companies and their customers and telecommunication companies and their customers.

Mr White is a regular conference speaker and has written various papers, which have been published both in Australia and internationally.

Mr White has acted as arbitrator in numerous substantial commercial disputes. [Mr White's arbitral resume can be found here](#).

Mr White was the arbitrator in four reported matters to date involving an arbitral decision under the new [Commercial Arbitration Act 2010 \(NSW\)](#) which act follows the [UNICTRAL](#) model and has been adopted in slightly different forms in each state and territory of Australia.

His award has been upheld in each case.

Those cases are:

- [Larkden Pty Limited v Lloyd Energy Systems Pty Limited](#)¹
- [Larkden Pty Limited v Lloyd Energy Systems Pty Limited](#)²
- [Larkden Pty Limited v Lloyd Energy Systems Pty Limited](#)³
- [Larkden Pty Limited v Lloyd Energy Systems Pty Limited](#)⁴

Mr White is a nationally accredited and experienced mediator acting as mediator in numerous substantial matters. For more information please visit www.mediator.com.au

Prior to commencing to practice law in 1992, Mr White worked in the IT industry for a number of years including time at [IBM Australia](#) as a software developer and as an instructor in Australia and South East Asia in:

- local area network products and services,
- operating systems,
- database design; and
- communications systems.

1. [2011] NSWSC 268
2. [2011] NSWSC 1331
3. [2011] NSWSC 1305
4. [2011] NSWSC 1567



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Reported Arbitral Decisions

Our [Mr White](#) has more reported arbitrations than any other arbitrator in Australia. In every case his arbitral decisions have been upheld by the Court and become enforceable judgments of the Court as if they were made by a Court in the first instance. His reported decisions, set out below, have included jurisdiction, specific performance, injunctions, damages, declarations, proceedings against third parties and substantial costs orders in relation to technically complicated subject matter. Third parties commentators have said in relation to Mr White's work that the brevity of the process and the positive outcome, in that the award was enforced, bodes well for the efficacy of enforcement actions pursuant to the new Act. His decisions have been cited with approval and followed by various Courts in subsequent cases.

[Larkden Pty Limited -v- Lloyd Energy Systems Pty Limited](#)¹

- Our [Mr White](#) was the arbitrator in this matter.
- [Commercial Arbitration Act s33B\(1\)](#)
- Mr White's costs award of approximately \$1m was upheld by the Supreme Court of New South Wales.
- Cited with approval in [Australian Gypsum Industries Pty Ltd v Dalesun Holdings Pty Ltd](#)²

[Larkden Pty Limited -v- Lloyd Energy Systems Pty Limited](#)³

- Our [Mr White](#) was the arbitrator in this matter.
- Commercial Arbitration Act 2010 (NSW), ss [35](#) and [36](#)
- Award by arbitrator declaring a constructive trust, ordering specific performance of a Licencing Agreement and requiring the defendant to take steps
- Recognition and enforcement opposed on the basis that part of the Award dealt with the dispute not contemplated by or falling within the terms of arbitration and that recognition and enforcement of parts of the Award would be contrary to the public policy of this State
- Orders for recognition and enforcement made
- For third party commentary about this leading decision please visit the following links:
 - [Mr Warrick Rothnie, Leading IP/IT Counsel \(formerly partner Mallesons Stephens Jaques\)](#)
 - [Allens Arthur Robinson Focus: Arbitral award enforced against a company in administration](#)

[Larkden Pty Limited -v- Lloyd Energy Systems Pty Limited](#)⁴

- Our [Mr White](#) was the arbitrator in this matter.
- Corporations Act 2001 (Cth), [s440D](#)
 - An application for leave to bring and continue proceedings against a company in voluntary administration for recognition and enforcement of an arbitral award pursuant to Commercial Arbitration Act 2010 (NSW) s 35
 - Nature of discretion to be exercised
 - Relevant circumstances
 - Leave granted
 - For third party commentary about this leading decision please visit the following links:
 - [Allen Arthur Robinson Focus: Is it easier to bring proceedings against companies in administration?](#)
 - [Ashfords Solicitors Cross Border Restructuring & Insolvency](#)

¹ [2011] NSWSC 1567

² [2014] WASC 89

³ [2011] NSWSC 1331

⁴ [2011] NSWSC 1305

- [Pmf Legal Insolvency International](#)
- Followed in
 - [Australian Competition and Consumer Commission v ACN 135 183 372 \(Administrators Appointed\) \(formerly known as Energy Watch Pty Ltd\)](#)⁵
 - [Hopkins v AECOM Australia Pty Ltd](#)⁶
 - [Kruger v Kruger](#)⁷
 - [In the matter of THO Services Limited](#)⁸
 - [Phoenix Institute of Australia Pty Ltd v Australian Competition and Consumer Commission](#)⁹
 - [Hyundai Engineering & Steel Industries Co Ltd v Two Ways Constructions Pty Ltd](#)¹⁰
 - [Pybar Mining Services Pty Ltd v Challenger Gold Operations Pty Ltd](#)¹¹
 - [Hill v Esplanade Wollongong Pty Ltd ACN 141 133 708 \(subject to a deed of company arrangement\)](#)¹²
 - [Creenaune v WorkCover Queensland](#)¹³

Larkden Pty Limited -v- Lloyd Energy Systems Pty Limited¹⁴

- Our [Mr White](#) was the arbitrator in this matter which included two substantial arbitrations involving renewable energy technology.
- This was one of the first reported cases under the leading arbitration legislative instrument in Australia namely the [Commercial Arbitration Act 2010 \(NSW\)](#) which follows the [UNCITRAL](#) model and is being adopted in slightly different forms in each state and territory of Australia.
- This case was also cited with approval in:
 - [Welker & Ors v Rinehart & Anor \(No 2\)](#)¹⁵
 - [Rinehart v Welker](#)¹⁶
 - [Lin Tiger Plastering Pty Ltd v Platinum Construction \(Vic\) Pty Ltd](#)¹⁷
- For third party commentary about this leading decision please visit the following links:
 - [Clayton Utz - LEADR legal update](#)
 - [Mr Warrick Rothnie, Leading IP/IT Counsel \(formerly partner Mallesons Stephens Jaques\)](#)
 - [Mallesons Stephens Jaques, Mr Jason Clapham, Senior Associate](#)
 - [Piper Alderman, Mr Andrew Robertson, Partner](#)
 - [AR Conolly & Company Lawyers](#)
 - [Australian Centre for International Commercial Arbitration - June 2011 Update](#)
 - [Mallesons Stephens Jaques, Adjunct Professor Max Bonnell, Partner](#)
 - [TollFree800Legal.com](#)
 - [Lexology](#)
 - [i-law](#)
 - [Supreme Court of Victoria Commercial Court](#)
 - [Bazpat IP Clauses in Licensing Agreements](#)
 - [ACICA December 2012 Newsletter, Mark Robertson, Domestic Arbitration Legislation Update](#)
 - This was the first decision under the new Act for recognition and enforcement of an arbitral award. The brevity of the process and the positive outcome, in that the award was enforced, bodes well for the efficacy of enforcement actions pursuant to the new Act.

⁵ [2012] FCA 586

⁶ [2012] FCA 1204

⁷ [2012] FamCA 760

⁸ [2016] NSWSC 509

⁹ [2017] FCAFC 155

¹⁰ [2018] FCA 1427

¹¹ [2018] SASC 156

¹² [2018] NSWSC 478

¹³ [2018] QDC 51

¹⁴ [2011] NSWSC 268

¹⁵ [2011] NSWSC 1238

¹⁶ [2012] NSWCA 95

¹⁷ [2018] VSC 221

[April 30, 2010 - Oakton Services Pty Ltd v Tenix Solutions IMES Pty Ltd](#)¹⁸

- Our [Mr White](#) did all the preparatory arbitration work for Tenix Solutions IMES Pty Ltd for over 12 months including running the dispute process which was the subject of this reported decision.

Domain Name Decisions

- [schoolinterviews.net.au, schoolinterview.com.au](#) - Sole Arbitrator
- [costumesdirect.com.au](#) - Arbitrator in three member arbitrator panel in relation to a domain monetisation dispute. This is the leading decision on domain monetisation in Australia.
- [transportworkersunion.com.au, tonysheldon.com.au, twunsw.com.au, twunsw.net.au, wayneforno.com.au](#) - Sole Arbitrator
- [jjdavies.com.au](#) - Sole Arbitrator
- [unforgettable.com.au - No Further Action pursuant to Para 4\(k\) of the auDRP](#) - Sole Arbitrator

[Redrock Holdings Pty Ltd & Hotline Communications Ltd v Hinkley](#)¹⁹, [Hotline Communications Ltd v Hinkley](#)²⁰, [A2B Telecommunications Pty Ltd v Hinkley](#)²¹

- Our [Mr White](#) acted as solicitor for Redrock Holdings Pty Ltd in relation to successful copyright infringement claims against a former employee of Redrock.
- This is the leading case in Australia in relation to, amongst other things, the ownership of software created by employees including, without limitation, class libraries.
- As part of the litigation a successful application was made to the Court to inspect software obtain using an [anton piller](#) order by a third party in its own litigation against the former employee.

[Australian Competition & Consumer Commission v Internic Technology Pty Ltd & Anor](#)²²

- Our [Mr White](#) successfully acted for Internic Technologies Pty Ltd against the [ACCC](#), the US Government and various other parties in Australia and US litigation (including class litigation).
- This is not an arbitration decision but it was a very early leading domain name decision at a very important time for the development of the internet and class litigation.

Unreported Decisions

- Typically most arbitration decisions are unreported. That is a key advantage of arbitration.
- Our [Mr White](#) has heard and made many arbitral decisions of substantial disputes including, without limitation:
 - intellectual property licences and distribution agreements
 - constructive trusts and equitable relief in relation to intellectual property
 - breach of contract (including orders for specific performance)
 - adjustments under sales agreements
 - breaches of fiduciary duty
 - unconscionable conduct in relation to lost opportunities and application of equitable relief in accordance with the principles set out in *Pallant v Morgan*²³
 - research and development agreements
 - intellectual property ownership
 - telecommunication systems and billing
 - telecommunication access
 - hardware and software implementations
 - applications for interlocutory relief (including injunctions)
 - the scope of [discovery](#) including resolution of the categories of documents to be discovered
 - the application of [Legal Professional Privilege](#) to both discovered and subpoenaed documents

¹⁸ [2010] VSC 176

¹⁹ [2001] VSC 91

²⁰ [1999] VSC 74

²¹ [1999] VSC 76

²² [1998] FCA 818

²³ [1952] Ch 43

- the application of [Common Interest Legal Professional Privilege](#) to both discovered and subpoenaed documents
- the application of [Without Prejudice Privilege](#) to both discovered and subpoenaed documents
- disclosure of confidential information to a non-arbitral party pursuant to [Section 27G of the Commercial Arbitration Act 2010 \(NSW\)](#)
- whether or not particular [discovery](#) should be permitted pursuant to [Section 19\(2\) of the Commercial Arbitration Act 2010 \(NSW\)](#)
- awards of legal costs in excess of \$2m
- whether or not [indemnity](#), [solicitor client](#) or [party/party](#) costs should apply
- whether or not costs should be immediately determined and payable or determined and paid at the end of the arbitration
- whether interest should be payable on costs awards
- whether a Tribunal should proceed with the arbitration whilst it is subject to appeal pursuant to [s16\(9\) of the Commercial Arbitration Act 2010 \(NSW\)](#)

Expert Determinations

- Our [Mr White](#) has made many expert determinations including the determination of:
 - breach of contract claims and damages in relation to hardware and software disputes.
 - breach of contract claims and damages in relation to telecommunications billing disputes.

Intellectual Property, Information Technology and Telecommunications Audits

- Our [Mr White](#) conducted many audits including
 - the auditing of whether or not information technology infrastructure has been properly decommissioned and if so when
 - the auditing of the removal of intellectual property and other electronic data.

Court Order Supervision

- Our [Mr White](#) has supervised the execution of Anton Piller Orders on behalf of the Federal Court.

Sports Disciplinary Tribunals

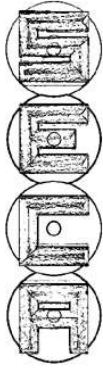
- Our [Mr White](#) is a current Disciplinary Tribunal Panel Member for the [Northern Football and Netball League](#).

Defence Force Proceedings

- Our [Mr White](#) also has experience in proceedings under the [Defence Force Discipline Act 1982](#).

More Information

- [What are Mr White's fees?](#)



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Steve White - Brief Biographical Details

I have the following computer science related qualifications and experience.

- A Bachelor Degree in Science (Computer Science) from Melbourne University (1991) which included amongst other things a formal study of operating systems and programming languages.
- In 1992, I was the founder of Software Escrow & Copyright Agents Pty Ltd (SECA). SECA provides escrow and verification services for amongst other things, the Commonwealth, State Governments and ASX listed companies. Those services involve ensuring that source code and other escrow materials are functionally complete and capable of producing the necessary code which involves complicated software build processes and scripting.
- I also previously worked for IBM as lead technical instructor in Australia in relation to operating systems and programming languages. From 1989 to 1991 I provided programming services to IBM and worked in the IBM Australian Programming Centre.
- Since 1992, I have extensively advised clients in relation to obtaining electronic evidence, and the use thereof in commercial litigation. I am currently acting as independent expert in one NSW Federal Court matter and a party appointed expert in one Victoria Supreme Court matter. I have acted as an expert in court in relation to a variety of matters including criminal matters.
- In 2005, I was elected as a fellow of the Australian Computer Society (the professional society for information technology professionals).
- Since 1992, I have conducted numerous expert determinations as expert determiner in relation to various technical computer related matters, mediations and arbitrations. Further details of my experience appears in my additional curriculum vitae.