

LYDIAN 



IP / ICT



LEGAL
INSIGHT.
BUSINESS
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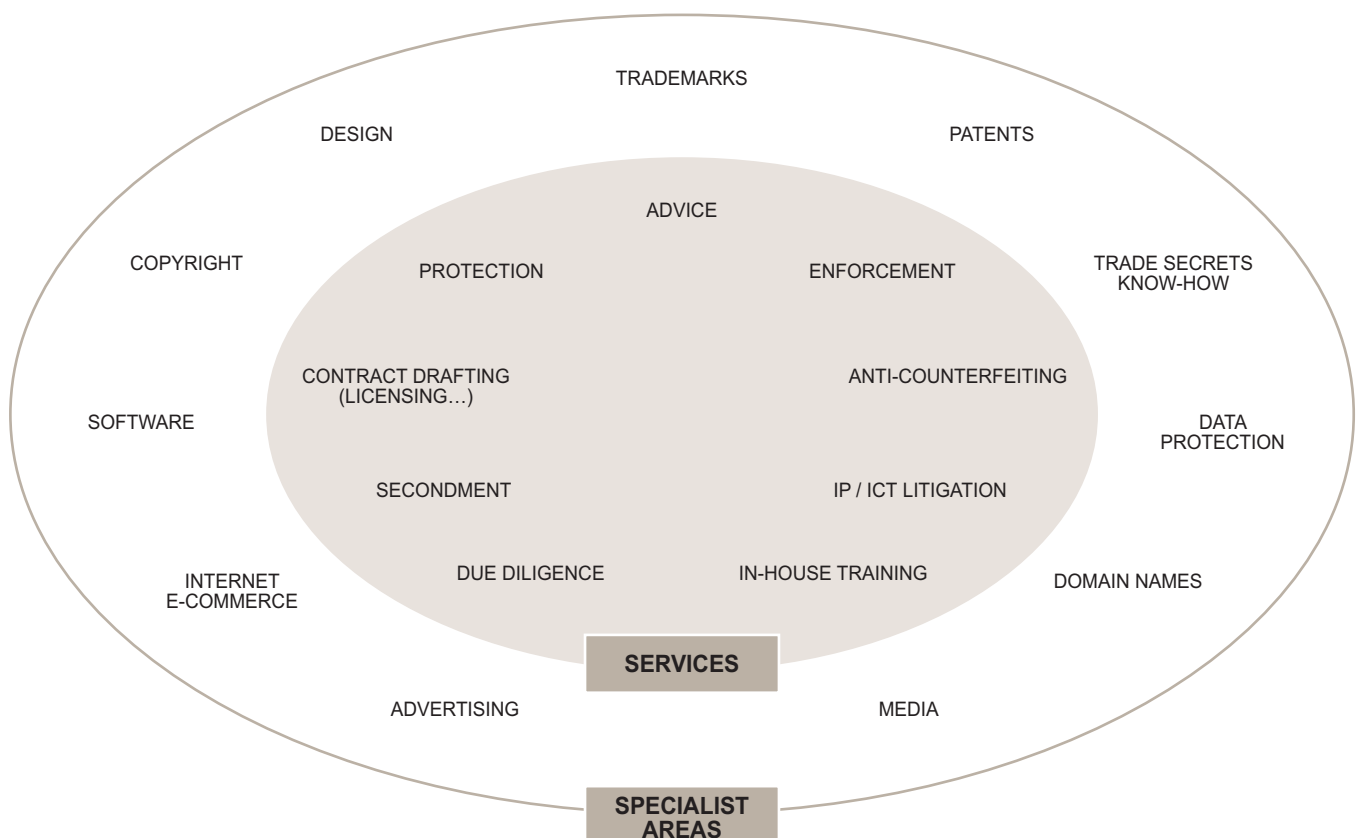


“Lydian handles all aspects of IP law but is particularly active in trade marks, where it assisted Toyota in bringing litigation against independent retailers infringing its marks. The ‘brilliant’ Annick Mottet Haugaard is ‘well versed in brand protection issues’.”

(Legal 500 – 2015)

A COMPREHENSIVE, EFFICIENT APPROACH

IP / ICT issues are extremely diverse and require expertise in many areas of practice. The size of the Lydian's IP / ICT team not only enables it to offer you a full range of services and support, but also makes sure that your question is being handled by a specialist who is dedicated to the specific practice area you need. Lydian's IP / ICT team can provide you with first-class legal expertise, combined with innovative thinking and expert knowledge of your sector of activities (fashion, pharmaceuticals, foodstuffs, insurance, retail, media, life sciences, financial services, leisure,...).



THE FULL SCOPE OF LYDIAN'S IP / ICT SERVICES

We have in-depth expertise in the following matters:

- Trademarks and Patents
- Copyright and Design
- Trade secrets and know-how
- Anti-counterfeiting
- IP / ICT litigation
- Licensing
- Data protection
- ICT, internet and, e-commerce
- Domain Names
- Media
- Advertising

TRADEMARKS AND PATENTS

Trademarks

Trademarks protect the goodwill a company has built up in its brands and ensure consumers of consistent quality standards. The business value of strong brands cannot be underestimated.

Lydian's IP team has extensive experience of advising companies on product innovation and marketing issues related notably to trademarks.

The team can assist you in drafting agreements, including license, co-existence and settlement agreements, along with providing you with strategic guidance in trademark litigation. Lydian's IP team routinely handles precedent-setting trademark litigation cases, including cases of infringement and improperly registered or unused rival trademarks.

Patents

More and more industries use patents as a protective shield in their ongoing drive to obtain or maintain a technological advance on their competitors. R&D activities and innovation have an increasing global impact and companies try to value their immaterial assets on a larger scale. The trade in patents has grown steadily over the last few years.

Lydian's IP team regularly assists its clients with respect to the transfer, licensing and enforcement of their patent rights.

This includes both advisory work on the protection and exploitation of patent rights and domestic and multi-jurisdictional patent litigation relating to eligibility for patent protection and patent infringement.

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COPYRIGHT AND DESIGN

Copyright

Lydian's IP team recognizes the value of creativity in the various forms of artistic expression. International trade in motion pictures, music, publishing, software and databases has grown steadily over the last number of years, and clients are looking for litigating skills and technical knowledge to assist them in fighting piracy and increasing their level of copyright protection worldwide.

Lydian's IP team advises companies on copyright protection and represents them in enforcing their rights. The team identifies existing copyright material and identifies ways to generate added value for its clients' businesses. In addition, the team assists its clients in negotiating and drafting legally-sound agreements for the creation, use and exploitation of copyright material or with copyright collecting societies.

Design

The models and designs of devices and their packaging often determine a customer's choice. The imitation of creative products has increased significantly in recent years and has become a growing concern for designers. Many designers see design protection as an insurance against anything that may affect or jeopardize their creations. Registration statistics show that design rights have become relevant for more and more industries: traditional design industries such as fashion and furniture have been joined by manufacturers of electronic devices, automobiles and hardware. This is partly due to the success of the Community Model.

Clients regularly call upon Lydian's IP team to litigate, mediate and arbitrate disputes involving designs. On the other hand, the team assists its clients in drafting and negotiating agreements for the creation, distribution and licensing of designs.

TRADE SECRETS AND KNOW-HOW

Lydian's IP team understands that trade secrets and know-how represent an essential commodity for many businesses, the protection of which needs careful and balanced planning. The team is adept at helping clients develop programmes for protecting their trade secrets and know-how as part of their intellectual property portfolio strategy. In collaboration with other departments, Lydian's IP professionals assist clients in drafting non-disclosure agreements as well as joint venture, consulting and employee agreements. The team's advisory work focuses on detecting and preventing the theft of trade secrets.

ANTI-COUNTERFEITING

The strength of Lydian's IP team makes Lydian the leading Belgian law firm active in the fight against counterfeiting. We act for more than 90 trademark and design owners, primarily from the fashion and luxury goods sectors but also pharmaceutical and automotive companies, in their everyday fights against counterfeiting, through border measures, civil or criminal actions.

The team handles counterfeiting files in a highly efficient manner including Pan-European actions, thanks to its excellent relationship with the Belgian and European authorities, its longstanding experience and its network of correspondent law firms specialized in that area.

IP / ICT LITIGATION

Litigation is usually a moment of crisis for a client, both when acting as a plaintiff or as a defendant.

Lydian's IP / ICT team is well aware of this and, therefore, focuses strongly on determining together with the client from the outset what would be the most suitable litigation strategy, taking into account legal analysis but also commercial and business priorities.

Lydian's IP / ICT team has experience in assisting clients before all judicial courts and arbitral tribunals in Belgium, including in summary, injunction proceedings, attachment proceedings and proceedings on the merits, both before the First Instance Courts and the Courts of Appeal as well as before the administrative jurisdictions such as the Benelux Office for Intellectual Property and OHIM.

Lydian's IP / ICT team comprises experienced Dutch and French speaking litigators who can handle cases before the Belgian courts in their native language.

Clients appreciate its approach pragmatic and aggressive whenever it is needed or demanded.

LICENSING

Intellectual property rights are valuable immaterial assets, which, like any asset, can be exploited by granting a right to use such asset to someone else. Such right to use may take different forms, such as producing, selling, importing, exporting, reproducing and communicating to the public. IP owners can maximize their IP revenues by spreading, dividing and allocating their rights through licenses.

As already mentioned, Lydian's IP team has experience in drafting and reviewing license agreements for its clients.

DATA PROTECTION

Privacy rules have always been rather complex and become even more so in today's information society: the transfer of personal data to countries on the other side of the world, direct marketing, video surveillance and monitoring of employees' internet activities and e-mails have become day-to-day activities. Lydian's IP / ICT team advises its clients with respect to all these issues and helps them to comply with all the legal requirements.

ICT, INTERNET AND, E-COMMERCE

In today's internet-based society, more and more transactions happen via the internet. This raises numerous questions with regard to the probatory force of e-mails, the electronic signature, the consequences of concluding contracts with consumers via the internet, etc. Lydian's IP / ICT team deals with these matters on a daily basis by drafting for instance general terms and conditions or other policies applicable to their specific environment.

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The IP / ICT team also deals with software (drafting of transfer and license agreements), privacy issues related to the internet or ICT outsourcing as well as with more sophisticated products of the ICT sphere (cyberrisk, cloud computing, encryption, etc.).

DOMAIN NAMES

The rise of the internet as a limitless forum of commerce and ideas has changed the way companies around the world do business. Domain names enable consumers and potential customers to enter into contact with businesses over the internet. Others take this as an opportunity to improperly benefit from other businesses' fame and reputation.

Lydian's IP / ICT team assists clients with the selection, protection, and enforcement of domain names. In doing so, the team balances the remedies desired by the client with the interest in quickly resolving any dispute.

The team drafts take-down notices and complaints in respect of improper use of search engine keywords and conduct cease-and-desist procedures against online infringers and cybersquatters. In addition to national court proceedings, the Lydian's IP / ICT team has experience in handling Uniform Domain Name Dispute Resolution Policy (UDRP) proceedings as well as national Dispute Resolution Proceedings.

MEDIA

Media, content providers and investors are today facing complex legal challenges. Globalisation and convergence of media have substantially changed the media landscape. Traditional revenue models have been replaced by new cross-media challenges. Content owners get opportunities to value their content on a larger, often international scale.

Lydian's IP / ICT team assists content owners, publishers, TV and radio broadcasters, as well as TV providers and internet companies.

The team can provide you with pre-publication advice and clearance, draft publishing and licensing agreements and advise on content licensing and rights disputes, accounting disputes and strategic portfolio development. Lydian's advisory services also cover legal assistance and transactional support in the exploitation of rights, distribution of content, technology licensing and production financing, right of reply, product placement and liability issues.

ADVERTISING

Lydian's IP team's practice encompasses the full range of areas linked to the launching and marketing of products and services, including advertising as well as lotteries and gambling.

The team assists in advertising litigation and disputes, including misleading advertising as well as in advertising and promotions advising and transactions.

A TEAM WITH EXPERIENCE

Lydian has an IP / ICT team with the experience to foresee problems and respond in an appropriate way to change.

All the lawyers of the IP / ICT team have particular areas of expertise, whether in trademarks and patents, copyright and design, trade secrets and know-how, anti-counterfeiting, IP / ICT litigation, licensing, data protection, internet, e-commerce, software, domain names, media or advertising. Together they have experience of handling every legal aspect of IP / ICT law. They are true experts in their field and have excellent contacts with the relevant authorities at European and local level.

OUR EXPERTS

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Annick is a highly reputed Belgian expert in intellectual property law. The Legal 500-Europe, the European Legal Experts, Chambers-Europe and WTR 1000 all recommend her in this area.

Annick graduated with a degree in law in 1987 from the University of Liège, and a year later obtained a postgraduate diploma in Advanced European Studies at the College of Europe in Bruges. She subsequently worked for two years as a trainee lawyer and an assistant in criminal procedure with Professor Franchimont at the University of Liège. In 1990, she joined the law firm Stibbe, where she became partner on 1 January 2000. She joined Lydian in 2006 where she is a Partner and head of the IP team.

Her practice encompasses the full range of areas linked to the launching and marketing of products and services, including privacy issues related to personal data protection, distribution, franchising, advertising, product regulations, consumer protection and intellectual property (trademark, copyright, design and patent). She acts for numerous prestigious international companies and has solid experience in litigation and negotiations, including with authorities.

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Since January 2010, she is a member of the Belgian Council for Intellectual Property.

Between July 2010 and June 2012, she was President of the European Communities Trade Mark Association (ECTA). She has been an active member of the Anti-Counterfeiting Committee of ECTA since 2000 and she has been invited to represent ECTA at the Enforcement Working Group of the EU Observatory on Infringements of IP rights since 2013.

She is also a member of the International Trademark Association (INTA), the International Association for the Protection of Intellectual Property Law (AIPPI), the French "Association des Praticiens du droit des Marques" (APRAM) and the International League of Competition Law (LIDC).

She is a frequent speaker at international conferences.

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Bastiaan specializes in all aspects of Information and Communication Technology law, with a particular focus on information governance, technology procurement and outsourcing contracts, electronic communications and e-commerce.

Bastiaan graduated in 1994 with a law degree from the Catholic University of Leuven (1994). He is a fellow of the Belgian American Educational Foundation (BAEF) (1995) and holds an LL.M. degree from the University of Chicago Law School (1996). Bastiaan has successfully completed the training to become a lawyer at the Supreme Court of Belgium, the Court of Cassation (2011). Bastiaan was admitted to the Brussels Bar in 1994.

Bastiaan advises companies in a broad range of industry sectors on data protection (privacy) matters. He has extensive experience in ICT-related transactions, including large software licensing, development and implementation projects. He advises both customers and suppliers on various types of outsourcing projects. He advises telecom-sector and other clients on electronic communications regulatory issues and has broad experience in drafting and negotiating agreements in the field of electronic communications. He assists clients on various e-commerce (B2B, B2C and C2C) and Internet projects as well as on long-term, technology-driven strategic agreements, including in the framework of M&A transactions. He has also solid experience in contentious matters.

Expert in intellectual property, Bastiaan is well-placed to understand and deal with the complicated IP issues that may arise in the context of ICT projects and transactions.

He is a regular speaker at seminars and conferences on ICT matters. He regularly authors articles published in international legal reviews such as *World Data Protection Report*, *DataGuidance*, *Computerrecht* (Computer Law) and *Privacy & Informatie* (Privacy & Information).

Bastiaan is a member of the International Association of Privacy Professionals (IAPP).

OLIVIA SANTANTONIO

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Olivia graduated in 2006 with a law degree from the Catholic University of Louvain-La-Neuve. In 2007 she completed an LL.M. in Intellectual Property Law 'cum laude' at the Catholic University of Brussels.

Olivia is specialised in IP, brand protection, dispute resolution of trade practices and in distribution law (franchising).

She's an active member of the International Association for the Protection of Intellectual Property (AIPPI) and participated in the drafting of many reports for the Belgian Section:

- L'épuisement des droits de propriété intellectuelle en cas de réparation ou de recyclage des produits, AIPPI, Question 205, 2008,
- The Protection of Major Sports Events and associated Commercial activities through Trademarks and other IPR, AIPPI, Question 210, 2009,
- The Protection against the dilution of a trade mark, AIPPI, Question 214, 2010,
- The availability of injunctions in cases of infringement of IPRs, AIPPI, Question 219, 2011,
- The interplay between design and copyright protection for Industrial products, AIPPI, Question 231, 2012.

She is also the co-author of a book on the trade practices in the insurance sector and other articles relating notably to the transfer of IP rights and IP due diligence.

MAROUSSIA VERHULST

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Maroussia is an expert in intellectual property law. She graduates with a degree in law 'magna cum laude' in 2004 from the Catholic University of Louvain-la-Neuve. She completed, three years later, an LL.M. in Intellectual Property Law 'cum laude' at the Catholic University of Brussels.

Maroussia's practice focuses on intellectual property (trademark, copyright and design) and encompasses the full range of legal practice areas linked to the launching and marketing of products and services, including privacy issues related to personal data protection, distribution, franchising, advertising and consumer protection.

She has published several articles on IP and distribution.



HIGHLIGHTS OF OUR RECENT EXPERIENCE

■ A WORLD FAMOUS ITALIAN FASHION MANUFACTURER

In addition to its every day fight against counterfeiting and numerous opposition procedures before the Benelux Office, Lydian's IP team is also assisting this company in several trademark litigation cases (action in nullity, action for forclusion of rights,...). As these often concern international trademark registrations, Lydian's IP team has to coordinate its arguments and strategy worldwide.

■ A LEADING EUROPEAN PACKAGING AND PAPER PRODUCTS COMPANY

After having successfully assisted the company in a patent infringement case, Lydian's IP team assisted the company in a copyright dispute regarding a tailor-made software which is of key importance for the operational management of the company. The IP team supported the client in settlement negotiations and the descriptive seizure regarding possible breach of intellectual property rights which took place in the premises of the client. The Lydian's IP team filed opposition proceedings against the descriptive seizure, represented the company in proceedings on the merits following the seizure, and regarding a considerable claim for damages. This case was a landmark case in the field of copyright protection of software, in particular regarding the application of evidence rules on transfer of tailor-made software between merchants and/or corporations.

■ A LEADING AMERICAN COMPANY DEDICATED IN THE COMMERCIALISATION OF MEDICAL DEVICES

Lydian's IP team is assisting this company in a dispute relating to a license agreement concluded with a Belgian Professor and its companies in view of the commercialisation in the US of two patented medical devices. The team obtained a very satisfactory judgment in 2010 as well as a conservatory attachment of all the assets owned by opposing parties. The team is now handling both matters in the appeal proceedings.

■ A RENOWNED PLAYER IN THE FIELDS OF COMPRESSION, AUTOMATION AND DRIVE TECHNOLOGY

Lydian's IP team has assisted this client in its transfer of some of its assets and more particularly of its intellectual property rights (notably patents) relating to the development and assembling of clutch systems, in particular for automotive dual clutch transmissions by drafting and negotiating the transfer and license agreements for these intellectual property rights.

■ A MULTINATIONAL HOLDING COMPANY ACTIVE IN THE MANUFACTURE AND SALE OF WATCHES AND JEWELLERY

Lydian's IP team is assisting this company in several opposition proceedings before the Benelux Office for Intellectual Property. As numerous oppositions have been filed worldwide by the client as well as litigation before the Swiss Courts, we have to coordinate our arguments and strategy.

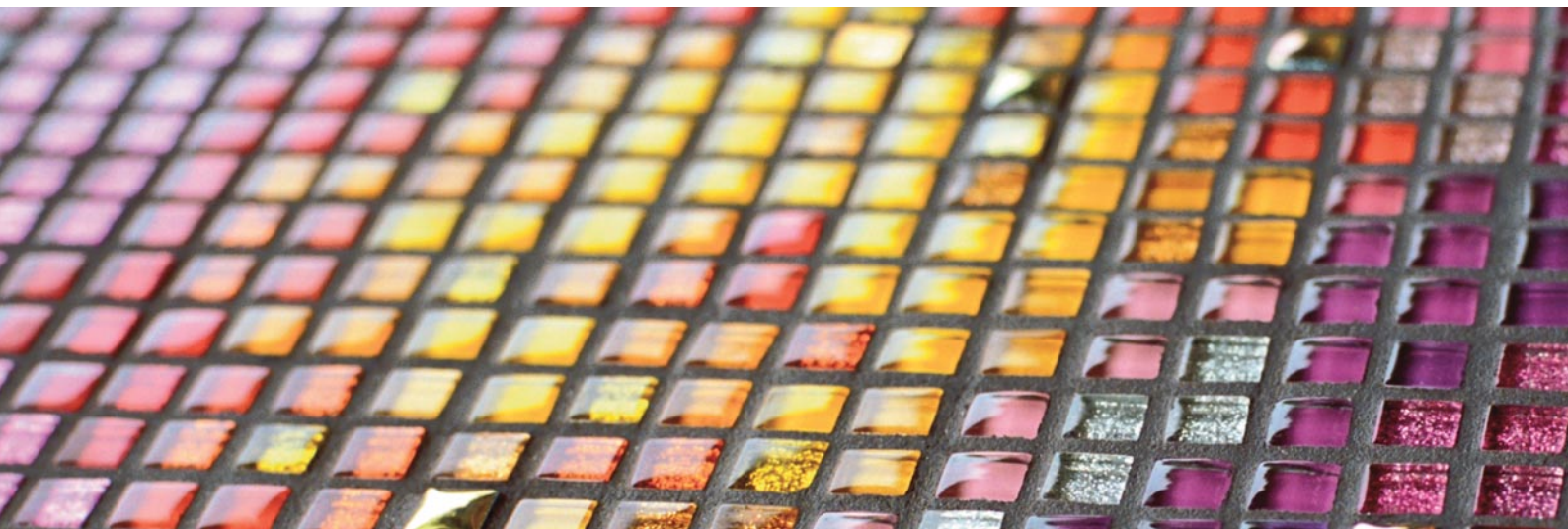
■ A BELGIAN MASTER FRANCHISEE IN THE BAKERY SECTOR

Lydian's IP team has assisted the master franchisee in drafting and negotiating the exclusive license agreements to be entered into with the franchisor regarding the exploitation of a specific bakery concept in Belgium.

“Client-centric advice is the hallmark of Lydian, which consistently places companies’ commercial realities front and centre of its thinking. With ancillary expertise in tax, corporate and capital markets on tap, it has all the resources needed to provide holistic, business-minded counsel. The IP team has leveraged this to entice titans such as Omega, Nike and SuperGroup into the fold; it recent hammered out a key franchise agreement for the latter. The “excellent” Annick Mottet Haugaard has served as president of the European Communities Trademark Association and has thus acquired extensive legislative know-how across the continent.”

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