

LYDIAN 



# Dispute Resolution



LEGAL  
INSIGHT.  
BUSINESS  
INSTINCT.



Clients are “very impressed by their work. The team has excellent litigation skills and is very good to work with on litigation matters. It also offers deep insight into how to handle the case from a strategic perspective.”  
Clients are impressed by the firm's overall service: “It is very knowledgeable, user-friendly, with a good idea of what we are looking for, and very thorough in its work.”

(Chambers Europe - 2017)

## A COMPREHENSIVE, HIGHLY EFFICIENT APPROACH

Dispute Resolution issues are extremely diverse and require expertise in many areas of practice. The size of Lydian's Dispute Resolution team not only enables us to offer you a full range of services and support, but also makes sure that your question is being handled by a specialist dedicated to the specific practice area you need.

Each question, each issue is pragmatically tackled. Our clients are looking for no nonsense answers and this is exactly what we deliver, always.



## THE FULL SCOPE OF LYDIAN'S SERVICES

We have in-depth expertise in the following matters:

- (Court) Litigation
- Arbitration
- Mediation

### (COURT) LITIGATION

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

The Lydian litigation team is well aware of this and therefore focuses on determining together with the client from the outset what would be the most suitable litigation strategy, taking into account the legal analysis and also commercial and business priorities. Bearing this in mind, our team's first priority is to avoid as much as possible court proceedings, aiming at an amicable settlement by implementing a proactive litigation management approach.

## LEGAL INSIGHT. BUSINESS INSTINCT.



We assist clients with proceedings before all courts and tribunals in Belgium, including injunction proceedings, attachment proceedings, proceedings on the merits and other summary proceedings, both before the first instance courts and the courts of appeal.

We have experienced Dutch and French speaking litigators who can autonomously handle cases before all Belgian courts in their native language.

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### ARBITRATION

Some disputes need quick, confidential and commercially-inspired decisions rendered by specialized arbitrators.

Lydian's litigators can demonstrate an impressive record of assisting clients in arbitral proceedings before national (CEPANI) and international (ICC) arbitral tribunals as well as ad hoc arbitral tribunals, notably in the fields of insurance, distribution and construction.

Some members of our team have also been appointed as arbitrators, allowing them to combine both the counsel and arbitrator experience and insights.

We also have extensive experience in judicial proceedings related to arbitration: injunction proceedings to appoint arbitrators, challenging arbitrators, annulment proceedings and enforcing arbitral awards.

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### MEDIATION AND OTHER ALTERNATIVE DISPUTE RESOLUTION METHODS

As an alternative to court litigation or arbitration, mediation may offer a cost-efficient and economic way to resolve a dispute.

Mediation aims at resolving disputes in a satisfactory and mutually advantageous manner by focusing on the parties' interests and commercial objectives. It has the great advantage that the parties remain in charge. Unlike court litigation or arbitration neither a judge nor an arbitrator will determine the outcome, but the parties themselves, with the assistance of a mediator.

The mediator often restores broken lines of communication between the parties and facilitates dialogue with a view to entering into a settlement. Mediation proceedings allow considerations other than those of a strictly legal nature to be taken into account.

Our commercial lawyers are familiar with mediation and a number of them have followed special training to act as mediators.

As we invest in seeking the best strategy for the client to meet its business needs, we can also assist clients in other ways of alternative dispute resolution such as third party adjudication, mini-trials and negotiations.

## A TEAM WITH EXPERIENCE

We have a team with the experience to foresee problems and respond in an appropriate way to any change or challenge.

All the lawyers in our team have particular areas of expertise, be it alternative dispute resolution (mediation, arbitration, etc.), constitutional and administrative litigation or conventional litigation. Together they have experience of handling every legal aspect of dispute resolution. They are true experts in their field and have excellent contacts with the relevant authorities at national and regional level.

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### OUR EXPERTS

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## LEGAL INSIGHT. BUSINESS INSTINCT.

### HUGO KEULERS

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Hugo Keulers is a partner at Lydian, where together with Annick Mottet Haugaard he heads the Commercial & Litigation Department.

Hugo graduated with a law degree from the Catholic University of Leuven (KU Leuven) in 1991. In 1995, he obtained a degree in insurance science from the IPO Management School of the University of Antwerp (UIA). In 2002 he completed a postgraduate course in financial management at the KU Leuven.

Hugo joined Lydian in 2001. Mainly because of him, our firm was quoted in the Legal 500 as 'a top name for insurance'. PLC Which Lawyer?, the Legal Media Group's Expert Guides and the European Legal Experts all identify him as one of Belgium's top lawyers in the area of insurance. Hugo is recommended by The International Who's Who Legal in The International Who's Who of Insurance & Reinsurance Lawyers 2010 and 2011 handbook as well as in the International Who's Who of Business Lawyers Handbook 2012. Hugo is named by Legal 500 as one of ten leading Dispute Resolution individuals in Belgium.

He is one of the few Belgian lawyers with experience in handling complex reinsurance disputes before the Belgian courts. Hugo's practice today is mostly focused on large and complex liability and insurance claims in areas such as all risk property, construction all risk insurance, ALOP insurance, D&O, professional indemnity and product liability insurance. He is the trusted advisor of a large number of international and Belgian insurers on complex and sensitive legal issues, often with an important financial impact. Apart from that, he is also active in corporate litigation and arbitration.

Hugo is a member of the insurance committee of the International Bar Association, of the Belgian Risk Management Association (BELRIM) and of the Belgian Association of Insurance Lawyers. He has also contributed to the 2010, 2011 and 2012 Substantive Projects of the IBA Insurance Committee. He is a visiting Professor at 'Katholieke Hogeschool Leuven' on legal aspects of international trade.

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### ANNICK MOTTET HAUGAARD

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Annick Mottet Haugaard is a reputed Belgian expert in intellectual property law. The Legal 500-Europe, the European Legal Experts, Chambers Europe and PLC Which Lawyer? all recommend her in this area.

Annick graduated in 1987 with a law degree from the University of Liège and a year later she 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.

A partner in the Commercial and Litigation Department, Annick heads the Intellectual Property 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.

She is the co-author of a reputed case-law review on the termination of distributorship agreements.

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

Between July 2010 and June 2012 she was the President of the European Communities Trade Mark Association (ECTA).

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).

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Yves is a partner in the Commercial & Litigation Department, where he heads the Ports & Logistics team.

Yves Lenders graduated with a law degree, from the University of Antwerp (UIA) in 1998. He took specialist courses at the universities of Louvain-la-Neuve (UCL) and Paris (Paris I Panthéon- Sorbonne), obtaining a DES degree in economic law and a DEA degree in business law in 1999.

In 1999, he started as an attorney at Loeff Claey's Verbeke (now Allen & Overy Belgium), where he joined the Commercial & Litigation department.

On 1 January 2002 he joined Lydian, where he specializes in commercial law, litigation, port projects and logistics. He handles complex construction litigation matters and also has experience in post-acquisition litigation work. Yves' work also includes shareholders disputes. He regularly acts as trusted advisor to his clients on commercial matters, including advising, drafting and implementing legal documentation for his clients' businesses. Furthermore, he advises clients faced with insolvent or near insolvent counterparts. He is trained as a mediator.

Yves is a member of the Defense Research Institute (DRI) and sits in the Leadership Committee of DRI International.

## LEGAL INSIGHT. BUSINESS INSTINCT.

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Jo Willems is a senior associate in the Commercial & Litigation Department.

Jo graduated in 2004 with a law degree from the KU Leuven. In 2005, he obtained a DES degree in economic law from the ULB. He was admitted to the Brussels Bar in 2005 and joined Lydian the same year.

Jo specializes in commercial law and litigation and has extensive experience of acting for clients in strategically important disputes. He assists clients in M&A litigation as well as matters of distribution, product liability and professional indemnity.

# HIGHLIGHTS OF OUR RECENT EXPERIENCE

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## ARBITRATION

- Representing a client in a multi-million euro insurance claim against foreign insurers following defects in the construction of off-shore wind turbines. This case is a landmark case closely followed by the international insurance industry concerned about construction all-risk and professional indemnity insurance disputes.
- Together with our Real Estate Department, assisting Belgian real estate developers in an arbitration proceeding concerning the interpretation of the share price calculation mechanism of a SPA of one of their projects. Our clients prevailed in their view of the terms of the SPA.

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## INSOLVENCY LITIGATION

- Advising and representing both debtors and creditors confronted with issues relating to the Act on the Continuity of Undertakings and Bankruptcy. We have advised and represented a number of our international clients under the European Insolvency Regulations. Our Dispute Resolution unit is active within Lydian's Insolvency and Restructuring team.

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## INSURANCE LITIGATION

- Representing an excess product liability insurer in a multi-million euro dispute on salvage claims against a large industrial company in a case recently initiated before the Brussels Commercial Court.
- Assisting a leading Belgian technology company and its product liability insurer in defence against liability claims by German companies and subrogation claims against the technology company's Belgian supplier in relation to a high-tech construction of a media wall 120 meters high. Our client's subrogation claim amounts to more than EUR 3 million.
- After acting successfully for a Belgian insurance company in a class action litigation initiated by 37 French-speaking agents, we assisted the client in the negotiations with more than 200 Dutch-speaking agents.

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## IP LITIGATION

- Representing and assisting a client in a EUR 10 million dispute relating to a license agreement in view of the commercialization in the US of two patented medical devices (proceedings on the merits and attachment proceedings). We won in first instance and we are now handling the appeal proceedings.

## LEGAL INSIGHT. BUSINESS INSTINCT.



- Assisting and representing a leading Italian fashion and leather goods manufacturer in a trademark litigation. The opposing party alleges the expiration of several of our client's international trademark registrations due to a claimed lack of normal use in the Benelux. We coordinate our defence with foreign colleagues as similar proceedings are taking place in several countries.

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### POST ACQUISITION AND CORPORATE LITIGATION

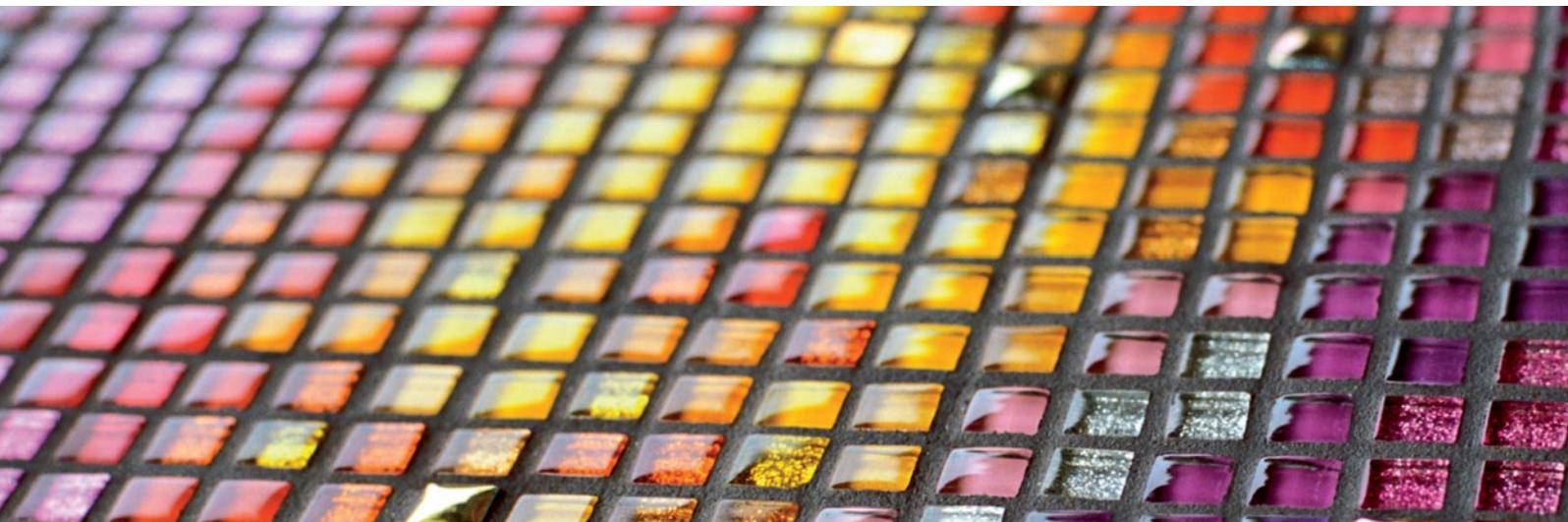
- Acting for a foreign company in a corporate litigation before the Antwerp Court of First Instance against the (former) shareholders of a Belgian company over an aborted M&A transaction in relation to all shares of the Belgian Company. International jurisdiction was one of the key issues before the Antwerp Court of First Instance.
- Representing a large banking group's real estate companies in a post-acquisition litigation. The real estate companies are active as managers of investment funds for the banking group. The represented entities, buyers of a real estate company, claim a provisional amount of more than EUR 3 million because of the breach of a contractual warranty under the SPA.
- Advising and representing a Belgian work clothing manufacturer in a post-acquisition litigation. The buyers and the target company claim a provisional amount of EUR 2.5 million from the sellers, because of breach of several contractual warranties and representations. The target company, also represented by Lydian, started legal proceedings in D&O liability.

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### WHITE-COLLAR CRIME

- In the framework of a D&O Policy, assisting a former director of a bankrupt international hotel group in criminal proceedings before the Criminal Court of Antwerp. The director was accused of having abused the assets of the Belgian subsidiary of the hotel group which also went bankrupt. The director was acquitted and no appeal was lodged.





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