



Information and Communication  
Technology (ICT)



**LEGAL  
INSIGHT.  
BUSINESS  
INSTINCT.**

# LYDIAN



**“Lydian is praised for being very knowledgeable, great value for money, as it gives useful, straight-to-the-point advice, without too many caveats.”**

(Legal 500)

**“Lydian established itself as one of Belgium's leading independent law firms.”**

(Legal 500)

**“Lydian is reliable, respects deadlines, very hands-on and a relief to work with.”**

(Legal 500)

**“Straight to the point advice is the hallmark of Lydian, a firm which regularly gains referral opportunities from City and Wall Street players.”**

(Legal 500)

**“One client believes Lydian really knows how to advise around the complex Belgian issues, especially as it gets quite political there.”**

(Chambers Europe - 2015)

**“What differentiates Lydian from others is their focus on quality, rather than quantity.”**

(Trends, Belgian business magazine - 2015)

## MULTI-DISCIPLINARY, HIGHLY EFFICIENT APPROACH

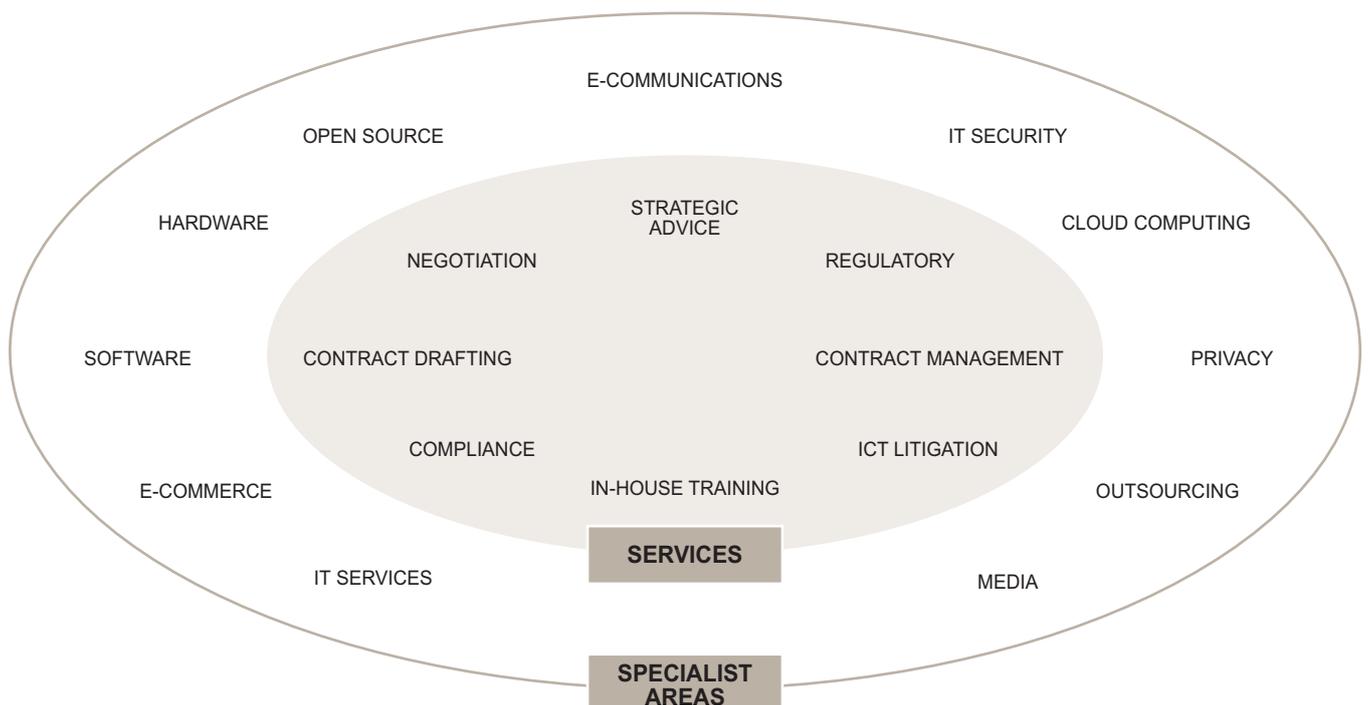
Our ICT team advises technology companies throughout the entire business life cycle, acting for companies such as developers, distributors and suppliers of hardware, software and IT services. We also advise corporate customers large and small, from all business sectors, including energy, retail, beverages, consumer staples, insurance, banks and other financial institutions, on the full spectrum of technology matters.

Lydian's ICT team is familiar with the challenges facing the technology sector and understands the dynamics of this fast paced environment. Our ICT team can demonstrate thorough industry know-how, international experience and in-depth knowledge of local law to assist its technology clients. We pride ourselves in being abreast of the latest developments and upcoming trends in the sector.

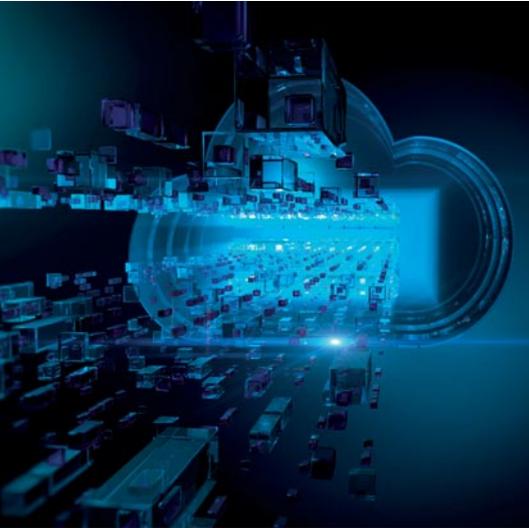
As a full-service law firm, Lydian offers a complete range of legal services tailored to the technology industry. On international projects, we work closely with local counsel to offer a multi-jurisdictional capability tailored to the technology sector. This enables us to provide our technology clients with strategic and innovative yet pragmatic and hands-on advice.

Our clients are looking for legal professionals who understand their business and technology, anticipate legal issues and know how to apply regulations and laws which are relevant to their specific industry. Our legal solutions are therefore tailored to meet each company's individual needs and requirements.

The combination of our deep industry knowledge with multi-disciplinary expertise in information technology, outsourcing and technology contracts, e-commerce, e-communications, data protection (privacy) and intellectual property enables us to offer you a full range of services and support.



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## OUR INFORMATION AND COMMUNICATION TECHNOLOGY (ICT) SERVICES

We have in-depth expertise in the following matters:

- Technology Contracts
- Outsourcing
- E-Commerce
- E-Communications
- IT Litigation

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### TECHNOLOGY CONTRACTS

Lydian's ICT team has extensive experience advising businesses on the drafting and negotiation of various types of software, hardware and technology services agreements, including in relation to development, licensing, integration/implementation, support and maintenance, manufacturing, marketing and distribution.

We also advise on cloud computing (PaaS, IaaS, SaaS) and open source software (OSS) projects and on technology-driven transactions such as strategic alliances, joint ventures and the acquisition or divestment of technology.

Due to our commercial understanding of the industry, we are well-placed to advise companies in this fast-changing sector. Our ICT specialists work alongside other specialist practices (employment, tax, corporate, regulation and data protection (privacy)) in order to provide a seamless service covering all aspects of the project.

As we represent both corporate customers and suppliers (vendors, licensors, developers, integrators, service providers) from a wide range of business sectors, we understand the commercial requirements and drivers of both parties and are able to identify and anticipate the latest trends in technology contracting.

In addition, we have experience in advising on contract management issues and handling IT contract disputes via (court) litigation, arbitration or alternative dispute resolution (ADR).

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## OUTSOURCING

In today's business environment, businesses focus on leveraging external capacities, competences, knowledge and skills. The rapid expansion of information technology and logistics networks has accelerated the growth of outsourcing. As a consequence, more strategic processes are being outsourced.

Lydian's ICT team advises suppliers as well as corporate customers in a broad range of industry sectors throughout the lifecycle of an outsourcing relationship, from the initial structuring of the project through the procurement process to contract negotiation, transition and implementation. We also advise on contract management issues during steady state and on second generation outsourcing, insourcing and exit planning. Our expertise encompasses Information Technology Outsourcing (ITO) and Business Process Outsourcing (BPO) in various delivery models including on-shore, nearshoring and offshoring.

In the field of ITO, our core competencies include data center outsourcing, application management outsourcing, network/communications outsourcing and workplace/helpdesk outsourcing. In the field of BPO, we advise on, amongst others, facility management outsourcing, logistics outsourcing, human resources outsourcing, call center outsourcing and finance and accounting outsourcing, often coupled with important technology (platform) developments and/or process redesign projects.

Lydian's ICT team has deep industry experience in a wide range of sectors, allowing us to provide clear, actionable and hands-on advice, innovative solutions and market leading know-how. Our ICT specialists quickly understand the key commercial drivers behind the project and provide solutions to address the typical concerns in the outsourcing process, including with respect to service levels, liability, benchmarking, governance, business continuity and exit management.

Lydian's integrated team combining expertise in employment, tax, corporate, regulation and data protection (privacy) provides 360° legal coverage of your outsourcing project.

We also have experience in handling outsourcing disputes via (court) litigation, arbitration or alternative dispute resolution (ADR).

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## 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, electronic signatures, the consequences of concluding contracts with consumers via the internet, etc. In addition, the laws and regulations governing e-commerce and the internet are continuously evolving.

Lydian's ICT team has broad experience in advising on all aspects of e-commerce (including mobile commerce) law and regulation in a B2C, B2B or C2C context. This includes, amongst others, advising on (online) consumer protection law, the requirements to ensure the validity of on-line contracts, the regulation of distance contracts, unfair (online) trade practices, website general terms and conditions, return and refund policies, online advertising, privacy policies, website disclaimers, privacy issues related to the internet and cookies.

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Lydian's ICT team also assists e-commerce and social media platforms, e-payment service providers, businesses and government agencies to meet their legal requirements when setting up on-line operations. We advise on e-commerce related contracts such as website development agreements, portal and hosting agreements, intrusion testing agreements, fulfilment and logistics agreements, agreements with payment service providers and on the protection of domain names and related disputes.

We further advise on e-contracting, e-archiving, e-security, e-evidence, the setting up of e-signature infrastructures, the use and regulation of e-money and e-payment services, the legal framework for e-invoicing and the use, import and export of encryption technologies.

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### E-COMMUNICATIONS

From the start of the liberalization of the electronic communications markets in the 1990s, the European Union placed a strong focus on the need for adequate market regulation. Players in the EU and Belgian electronic communications market face a wide variety of regulatory challenges, which are constantly evolving.

These regulatory issues include licensing and notification obligations, interconnection demands, price control mechanisms and tariff questions, market access, public service obligations and tax issues.

Lydian offers the right answers to your questions: we combine the specific knowledge and expertise in both the electronic communications regulation and the electronic communications sector of our ICT team with a seamless and integrated collaboration with our other practices.

Lydian's ICT team advises corporations (both telecoms and other) on telecom regulatory issues, such as interconnection tariffs, public telecoms network ownership, licensing and notification and installation and use of telecommunications equipment.

Our ICT team also offers commercial and transactional expertise in electronic communications projects. We advise clients on electronic communications contracts such as MVNO agreements, co-branding agreements, Indefeasible Rights of Use (IRU) agreements, duct sharing agreements, contracts for the provision of broadband and telecommunications services to businesses, dark fibre agreements, collocation agreements, cloud service agreements, network support and maintenance agreements and agreements relating to the provision of telecom hardware, including OEM agreements.

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## IT LITIGATION

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

Lydian's 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.

Our ICT specialists work in close cooperation with our dispute resolution specialists, which ensures we offer our clients the best combination of ICT knowledge and dispute resolution expertise.

We represent clients in legal proceedings regarding ICT contracts for software development, licensing, implementation and/or integration, support and maintenance, outsourcing, cloud, apps and e-commerce.

Lydian's ICT team has experience in assisting clients before all judicial courts and arbitral tribunals in Belgium, including in summary, injunction proceedings, seizure proceedings and proceedings on the merits, both before the First Instance Courts and the Courts of Appeal as well as before the administrative jurisdictions.

Our 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.

## A TEAM WITH EXPERIENCE

We have a team with the experience to foresee problems and respond to them in an appropriate way.

To offer our clients the best possible solutions and advice, the Lydian Information and Communication Technology (ICT) team is your ideal partner. Together with you, in an open and proactive atmosphere, we will work to find the solutions and opportunities you are looking for.

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### OUR EXPERTS

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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).

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Olivia Santantonio is a member of Lydian's Data Protection practice as well as of its IP/ICT practice.

She has a strong experience in all fields of Data Protection and Intellectual Property law.

She frequently advises and performs audits of clients' privacy strategy in order to become compliant with privacy regulations (including GDPR) and notably on the obligations and liability of data controller and data processor in case of processing, the transfer of data in and outside EU, the processing of sensitive data and the rights of the data subjects. She also often drafts and reviews privacy policies as well as data processing agreements.

Since March 2016, Olivia had been often speaker to seminars on the General Data Protection Regulation and notably at Agoria on the impact of the new regulation for the service providers and for HR. She will also be speaker during the annual Belgian Insurance Congress in November 2016.

Olivia became recently member of the International Association of Privacy Professionals (IAPP).

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Maroussia is a member of the IP/ICT practice as well as of our Commercial practice.

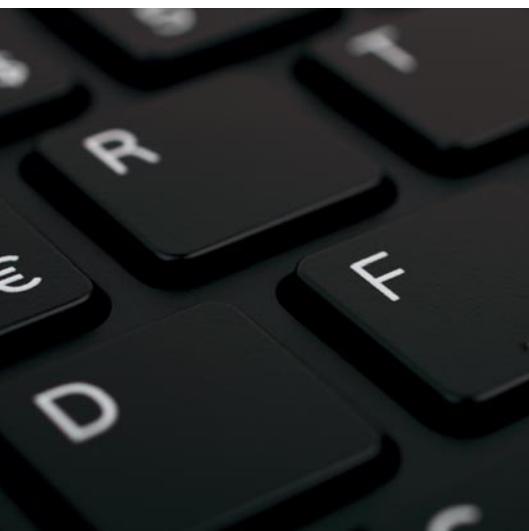
She has a strong experience in all fields of intellectual property law (trademark, copyright and design) and ICT law. Her practice encompasses the full range of areas linked to the launching and marketing of products and services, distribution, advertising, product regulations and consumer protection.

Maroussia also has broad experience in ICT law, including issues related to data protection (privacy) and information governance.

Maroussia graduated with a law degree in 2004 from the Catholic University of Louvain-la-Neuve.

She is a regular author on intellectual property issues as well as on the pre-contractual information in commercial agreements and has participated to the drafting of some resolutions for the Belgian group of the International Association for the Protection of Intellectual Property (AIPPI).

Maroussia is a member of the Brussels Bar.



## HIGHLIGHTS OF OUR RECENT EXPERIENCE

- advising a US-based IT company active in the development and servicing of IT data centre infrastructure in connection with a major project involving the sale, implementation and servicing of data storage hardware solutions for one of the main telecom operators in Belgium, including advising on the review of sales and support agreements and end-user agreements for a hardware appliances;
- advising a leading international chemical group in the context of the negotiation of a licence agreement on recent Belgian case law regarding abusive and aggressive methods of software editors towards their licensee in order to force the latter to renew their licence agreement;
- advising a well-known luxury car manufacturer on the conditions for the launch of a new version of its connectivity program, offering certain connectivity services to car users, including telecommunication advice and implementation thereof, data protection advice, terms and conditions and information about any modifications thereof, including updating the notification of services to, and regular contacts with, the Belgian Institute for Postal Services and Telecommunications (BIPT/IBPT);
- advising a leading German telecom company on the implementation of WiFi services in Belgian trains, in particular on telecom and data protection issues, including advising on the definition and interpretation of the term 'telecom service provider' under Belgian law;
- advising a worldwide leading sportswear manufacturer on the review of a series of agreements for the provision of software development and maintenance services in the context of the operation of the client's European distribution and logistics center in Belgium;
- advising the largest Belgian direct insurer and subsidiary of a major bank and insurance group on a project for usage-based insurance (aimed at giving advice to drivers to drive more carefully and profit from a discount on their insurance), notably in connection with compliance with data protection, telecom and insurance law and regulation, including meetings with the Belgian Data Protection Authority (the Privacy Commission) and contacts with the Institute for Postal Services and Telecommunications (BIPT/IBPT);
- advising and representing a leading software and app development company in the healthcare sector in various transactional matters and in a major litigation against a customer in connection with the alleged failure of a strategic project;
- advising the Belgian business unit of a German car parts manufacturer in relation to computer forensic analysis necessary in order to identify the root cause of suspicious activities originating from some employees' business computers and to proceed with disciplinary sanctions; and
- advising a UK-based company specialising in online flash sales of sports products in connection with an agreement for the acquisition of a client database of a Belgian competitor for direct marketing purposes and on direct marketing legal issues 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.”**

(WTR 1000 - 2015).





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