

# Successfully Navigating Hazardous Waters: The Second Annual Conference on Transatlantic Deals and Disputes

June 19 – 20, 2011

Sofitel Munich Bayerpost  
Munich, Germany



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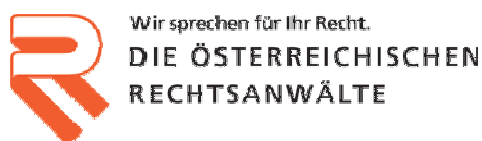
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# PROGRAM AGENDA

Sunday, June 19, 2011

7.00 p.m. **Welcome Reception** - Bayerischer Hof, Blue Spa Lounge, Promenadeplatz 2-6, Munich

Monday, June 20, 2011

8.30 – 9.00 **Registration**

9.00 - 9.30 **Opening Remarks** by U.S. Consul General Conrad R. Tribble, Consulate General Munich

9.30 - 10.30 **Plenary Session:**

## **Review of Recent Developments**

Possibly reflecting the broad differences in the legal systems, cross-border transactions and dispute resolution between the U.S. and Germany continue to be characterized by developments on one side of the Atlantic which can unexpectedly influence outcomes on the other side. Both litigators and transactional lawyers working with matters involving parties in both jurisdictions should be sensitive to these developments and their potential impact on legal strategies.

A panel of experienced lawyers and economic development officials from both the U.S. and Germany will introduce the program by exploring many of these recent developments and examining their impact on cross-border planning. These developments include: A developing trend toward making litigation in Germany more attractive to U.S. litigants and its possible impact on current forum-shopping strategies; an increasingly extra-territorial reach of certain U.S. enforcement actions, with particular reference to the Foreign Corrupt Practices Act and U.S. securities laws; "whistle-blowing" and "cloud" networks in the face of data protection statutes; and changes in the structure and focus of state investment incentive programs in the U.S.; and regulatory reactions to new technologies, business structures and methodologies affecting transnational legal practices.

### *Program Chairs*

**Dr. Holger Bielez,** LL.M., Wolf Theiss, Vienna, Austria

**O. Kip Dillihay II,** Hall, Booth, Smith & Slover, PC, Atlanta, GA, USA

**Dixon F. Miller,** Porter, Wright, Morris & Arthur, Columbus, OH, USA

### *Moderator*

**Dixon F. Miller,** Porter, Wright, Morris & Arthur, Columbus, OH, USA

### *Speakers*

**Antje Abshoff,** Managing Director, State of Georgia Europe Office, Munich; Germany

**Dr. Mark C. Hilgard,** Mayer Brown, Frankfurt, Germany

**Robert Lutz,** Professor of Law, Southwestern Law School, Los Angeles, CA, USA

**Craig Redinger,** Fulbright & Jaworski, Munich, Germany

10.30 – 11.00 **Networking Break**

11.00 - 12.30 **Transactions Track:**

## **The New Workforce – Global and Mobile**

In order to stay competitive, companies today employ workers from all around the world. Employers must be aware of divergent employment laws, privacy regulations and immigration requirements to ensure that they are in compliance with relevant laws. Employment and immigration laws can be the cause of substantial headaches and liabilities. Increasingly, companies are sued by whistle blowers or employees who complain about discrimination or harassment. Also, cross-border litigation and social media create significant privacy concerns. Failure to consider immigration laws can delay or derail a planned transfer.

Our panel of U.S. and German employment and immigration practitioners will discuss these issues, contrasting U.S., German and European laws and providing recommendations for employers to ensure they are using best practices to maintain a world-class workforce.

### *Program Chair*

**Gabrielle M. Buckley,** Vedder Price P.C., Chicago, IL, USA

**Dispute Resolution / Litigation Track:**

## **U.S. Discovery of German, Austrian and Swiss Parties and Non-Parties: A Square Peg in a Round Hole?**

One of the most significant differences between the U.S. legal system and the various Continental-European legal systems is the availability of pre-trial discovery in the U.S. The concept is completely foreign to the German, Austrian and Swiss legal systems, and enjoys a reputation akin to the plague – to be avoided at all cost. Whether its bad reputation is fully justified or not, in some cross-border disputes, discovery simply cannot be avoided. It is therefore prudent to learn the basics about U.S.-style discovery in order to be prepared for what may come and, thus, avoid costly mistakes.

A panel of experienced practitioners from Germany, Austria, Switzerland and the United States will explain the basics of U.S. discovery (including the different forms of discovery), discuss the special U.S. rules regarding discovery in international cases, describe German, Austrian and Swiss rules concerning discovery for cases pending in the United States, and give practical tips to keep costs and business disruptions to a minimum.

*Moderator*

**Gabrielle M. Buckley**, Vedder Price P.C., Chicago, IL, USA

*Speakers*

**Philip M. Berkowitz**, Littler Mendelson, New York, NY, USA

**Dr. Thomas Müller-Bonanni LL.M.**, Freshfields Bruckhaus Deringer, Düsseldorf, Germany

**Bettina Offer**, Offer & Mastmann, Frankfurt, Germany

**Teri A. Simmons**, Arnall Golden Gregory LLP, Atlanta, GA, USA

*Program Chair*

**Birgit Kurtz**, Crowell & Moring, New York, NY, USA

*Moderator*

**Birgit Kurtz**, Crowell & Moring, New York, NY, USA

*Speakers*

**Dr. Eckart Brödermann**, Brödermann & Jahn, Hamburg, Germany

**Pierre-Yves Gunter**, Python & Peter, Geneva, Switzerland

**Dr. Christian Klausegger**, Binder Grösswang, Vienna, Austria

**Torsten Kracht**, Hunton & Williams, Washington, DC, USA

**Dr. Anke Meier**, Noerr, Munich, Germany

## 12.30 - 1.30 Luncheon

### 1.30 – 3.00 Transactions Track:

#### **Sins in the Family: Piercing the Corporate Veil**

This interactive panel for both transactional attorneys and litigators will examine, through the use of a hypothetical, the legal risks under Austrian, Swiss, German and US laws posed by subsidiaries and affiliates abroad: Does a foreign affiliate subject the parent or subsidiary to suit in a foreign forum? Are the members of the Board of Directors and/or managers subject to suit if the company itself is held liable? Are US parents or subsidiaries of German companies subject to discovery and vice versa? Can you enforce judgments rendered against a parent against a subsidiary? When can the assets of a subsidiary be attached due to proceedings concerning the parent? Can you contract out of such risks? The panel will explore the risks and strategies for minimizing risks both from an operational perspective and in the context of litigation. Discussion will center on how the risks and solutions differ in civil and common law systems.

*Program Chair*

**Salli A. Swartz**, Phillips Giraud, Naud & Swartz, Paris, France

*Moderator*

**Salli A. Swartz**, Phillips Giraud, Naud & Swartz, Paris, France

*Speakers*

**Bettina Knoetzl**, WOLF THEISS Rechtsanwälte GmbH, Vienna, Austria

**Jürgen Ostertag**, Pryor Cashman LLP, New York, NY, USA

**Prof. Dr. Hanns-Christian Salger, LL.M.**, Salger, Frankfurt, Germany

## 3.00 – 3.30 Networking Break

### 3.30 - 5.00 Transactions Track:

#### **Global Privacy, Data Protection and Security Across Borders**

Based on diverse approaches to privacy and data protection, as well as differing perceptions of privacy values and security needs in Europe and in the United States, data privacy and data security laws and regulations vary greatly on both sides of the Atlantic. An

### Dispute Resolution / Litigation Track:

#### **Current Developments in Risk Management and Cartel Issues**

Until recently the area of antitrust enforcement against price fixing and other cartel conduct in Europe and other jurisdictions was more theoretical than practical. But private enforcement is rapidly awakening. With the first follow-on private damage cases being decided, several mammoth proceedings pending and studies on the quantification of cartel damages being commissioned and steps for further facilitating private enforcement being discussed by the EU Commission, the issue is now front and center. This panel will focus on the process of thoroughly evaluating risks including leniency applications and exploring possibilities to retrieve what may have been paid in excess due to a cartel.

Learn about recent developments with a panel of distinguished speakers who will discuss these topics as well as a comparison to antitrust litigation – including a case study from the automotive industry.

*Program Chair*

**Lisa Savitt**, Crowell & Moring LLP, Washington, D.C., USA

*Moderator*

**Florian Neumayr**, Bpv Hügel Rechtsanwälte, Vienna, Austria

*Speakers*

**Dr. Friedrich-Wenzel Bulst**, LL.M., Legal Service of the European Commission and formerly with the Directorate General Competition, Brussels, Belgium

**Megan E. Jones**, Hausfeld LLP Washington, DC, USA

**Thomas Paul**, Hengeler Mueller, Frankfurt, Germany

### Dispute Resolution / Litigation Track:

#### **Patent Prosecution, Litigation and Licensing in the U.S. and Germany: From Registration to Bankruptcy**

Patents grant monopolies that allow the owner to completely exclude others or to license third parties to make use of the innovation. They are, therefore, important business assets that can safeguard or generate enormous revenue if managed well. A growing and well-

interactive panel of experienced practitioners will discuss domestic and international privacy laws and policy matters governing the transnational flow of data in global commerce, cross-border transactions and international travel as well as strategies and risks.

*Program Chair*

**Wilhelm J. Ziegler**, Arnall Golden Gregory LLP, Atlanta, GA, USA

*Moderator*

**Wilhelm J. Ziegler**, Arnall Golden Gregory LLP, Atlanta, GA, USA

*Speakers*

**Michael Burke**, Williams Mullen, Washington, D.C., USA

**Pamela Jones Harbour**, Fulbright & Jaworski, L.L.P., Washington, D.C., USA

**Dr. Christian Laux**, Bratschi, Wiederkehr & Buob, Zurich, Switzerland

**Günther Leissler**, Schönherr Rechtsanwälte GmbH, Vienna, Austria

**Melanie Poepping**, Deutsche Bank AG, Frankfurt, Germany

diversified patent portfolio is a key driver and indicates that the business is at the forefront of its industry. Whether the patent holder decides to invest in further research and development or to grant licenses to others, the approach must be a global one. At the same time patents are national in nature and scope.

The United States is of paramount importance to any patent holder: The U.S. is not only one of the biggest markets, but the U.S. legal system fosters litigation, especially patent litigation. In Europe, Germany is not only Europe's largest market, but by large also the most popular forum for patent litigation.

A panel of practitioners and in-house counsel from Germany and the U.S. will provide an introduction into patent practice from prosecution to litigation and licensing, including bankruptcy risks, and discuss opportunities and pitfalls, in particular focusing on differences between the U.S. and Germany.

*Program Chairs*

**Florian Bruder, M.Jur. (Oxford)**, Kirkland & Ellis International LLP, Munich, Germany

**Iris Mok**, Intel Mobile Communications GmbH, Munich, Germany

*Moderator*

**Florian Bruder, M.Jur. (Oxford)**, Kirkland & Ellis International LLP, Munich, Germany

*Speakers*

**Florian Bruder, M.Jur. (Oxford)**, Kirkland & Ellis International LLP, Munich, Germany

**Iris Mok**, Intel Mobile Communications GmbH, Munich, Germany

**Dr. Clemens Tobias Steins, LL.M.**, Hoffmann Eitle, Munich

**Michael Tierney**, Infineon Technologies AG, Munich, Germany

**5.00 Closing Remarks**

**6.15 Guided tour to the Restaurant Hunsinger**

**7.30 - 10.00 Reception and dinner (optional)** - Restaurant Hunsinger in the "Neue Pinakothek", Barer Straße 29, Munich

# GENERAL INFORMATION

## Registration Fees\*

	Early Bird by May 20	After May 20
Standard Registration - DAV / ABA Member / Cooperating Entities	395.00 €	445.00 €
Standard Registration - Non Member	445.00 €	495.00 €
Judges, In-House Counsel, Full-Time Government or Academics	345.00 €	395.00 €
Students, Referendare, Clerks	300.00 €	345.00 €
Young Lawyers (<35) - DAV / ABA Member / Cooperating Entities	345.00 €	395.00 €
Young Lawyers (<35) - Non Member	395.00 €	445.00 €

**\* Group discounts apply when four (4) or more attendees from the same law firm register at the same time. A 50% reduction is applied to each registrant after the third full-paying registration.**

## Venue

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<http://www.sofitel.com/de/hotel-5413-sofitel-munich-bayerpost/index.shtml>

## Reception

**Bayerischer Hof** · Blue Spa Lounge · Promenadeplatz 2-6, Munich Promenadeplatz 2-6 · 80333 Munich · Germany

## Dinner *(optional)*

**Restaurant Hunsinger** · Barer Straße 29, Entrance Neue Pinakothek · 80799 Munich · Germany

Price per Person 95.00 €

## Language

The working language will be English. There will be no simultaneous translation.

## Accommodation

**Sofitel Munich Bayerpost** · Bayerstraße 12 · 80335 Munich · Germany · T +49 (0)89 / 59 94 80 · F +49 (0)89 / 59 94 81 000

Single room 179.00 €

Double room 199.00 €

*Breakfast and taxes included*

The rooms can be retrieved with the keyword „Deutscher Anwaltverein“ by using the above mentioned telephone and fax number.

## Options for Social Activities

Munich, the capital of Bavaria and gateway to the Alps, is arguably the most beautiful city in Germany. It offers first class museums (including the Pinakotheken Museums, Deutsches Museum (German Museum) and the Bavarian National Museum), traditional German architecture and a salute to Bavaria's royal past. It has been and is home to renowned painters, filmmakers, writers and musicians. The city, founded by Henry the Lion as a monastic village, has experienced a vast number of different rulers but has never let go of its traditions, including eight home-brewed beers, a uniquely welcoming Gastfreundschaft and the world-renowned Oktoberfest. Munich is also an industrial center as it serves as headquarters for both BMW and Siemens and is a significant hub for EADS. In addition, it is home to major insurance companies such as Allianz as well as various print and media groups. Though the city suffered heavily during World War II, it has come back as one of the greenest cities in Germany, including the famous English Garden, a large public park in the heart of Munich (that even offers its own version of river surfing!). The city has always had a natural admiration for sports and lively activities. It is home to one of the world's top soccer teams - FC Bayern Munich - was the host for the 1972 Summer Olympic Games (it is also one of three finalists for the 2018 Winter Games) and most recently was one of the hosts of the successful 2006 Soccer World Cup. Visitors with Wanderlust, and a little free time, can also visit the famous Neuschwanstein Castle, less than two hours away by train.

For tourism information:

<http://www.muenchen.de/home/60093/Homepage.html>

# Registration Form

Please complete and return this form by email, fax or mail to:

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## Participant Information

.....  
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## Registration Fees\*

	Early Bird by May 20	After May 20
<input type="checkbox"/> Standard Registration – Member DAV / ABA / Cooperating Entity	395.00 €	445.00 €
<input type="checkbox"/> Standard Registration - Non Member	445.00 €	495.00 €
<input type="checkbox"/> Judges, In-House Counsel, Full-Time Government or Academics	345.00 €	395.00 €
<input type="checkbox"/> Students, Referendare, Clerks	300.00 €	345.00 €
<input type="checkbox"/> Young Lawyers (<35) - Member DAV / ABA / Cooperating Entity	345.00 €	395.00 €
<input type="checkbox"/> Young Lawyers (<35) - Non Member	395.00 €	445.00 €

\* **Group discounts apply when four (4) or more attendees from the same law firm register at the same time. A 50% reduction is applied to each registrant after the third full-paying registration.**

- Welcome Reception – Sunday, June 19 (included in registration fee)
- Reception and Dinner (optional) 95.00 € x \_\_\_\_\_ person(s)  
Please reserve .....person(s) for the dinner – Monday, June 20

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Cancellation must be made in writing and received by **June 5, 2011**, for a full refund of fees, less 100.00 € (administration fee). No refund of registration or fee for a ticketed event will be granted after that date.

Date ...../...../.....

Signature.....