



## Litigation, Arbitration and Investigations

DLA Piper's lawyers are skilled in litigation, arbitration, investigations and ADR and will deploy that experience to help you devise the best strategies.

We have the local knowledge to apply the regulatory, economic, political and cultural context to legal issues and develop case strategies. We regularly handle technically challenging and complex multi-jurisdictional matters. Our global reach allows us to provide you with fully integrated teams and consistent quality wherever you do business. We work with you to manage potential risk and implement the most effective solutions to reduce costly escalation. We aim to solve complex business disputes as swiftly and effectively as possible and provide solutions which are aligned with your business objectives.

DLA Piper's global team of disputes and regulatory lawyers is the largest dedicated disputes practice globally as recognized by *The Lawyer's Top 50 Litigation* survey.

In an environment where regulation and its enforcement will only increase, we recognize that effective compliance and avoidance of regulatory intervention are business critical issues.

Globalization of world markets has brought limitless commercial opportunities. However, it has also increased the potential for legal liability by exposing corporations around the world to financial and reputational risk across multiple jurisdictions. Mitigation of those risks requires early engagement with experienced lawyers who understand the cultural as well as the legal and regulatory landscapes but who will also drive relentlessly to deliver results for their clients when a dispute or regulatory intervention is unavoidable.

### CAPABILITES

We manage every type of dispute or contentious problem, quickly marshalling national and international teams.

- Antitrust and competition
- Banking and finance litigation
- Class Actions
- Contentious M&A
- Commercial contract disputes
- Cross-border litigation
- Employment litigation and dispute resolution
- Energy disputes

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- Corporate
- Employment
- Finance
- Intellectual Property and Technology
- Regulatory and Government Affairs
- Projects, Energy and Infrastructure
- Real Estate
- Tax
- International Corporate Reorganizations
  
- Energy and Natural Resources
- Financial Services
- Insurance
- Life Sciences
- Industrials

- Environmental, health and safety disputes
- Infrastructure and construction disputes
- Insurance and reinsurance disputes
- International arbitration
- IT and telecoms disputes
- Marine and aviation disputes
- Patent and IP litigation
- Product Liability, Mass Torts and Product Stewardship
- Public international law
- Administrative law
- Real estate litigation and planning disputes
- Securities and enforcement litigation
- Tax disputes
- White collar and corporate crime

- Technology
- Infrastructure, Construction and Transport

## INSIGHTS

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### Publications

#### Blockchain and Digital Assets News and Trends

23 May 2022

#### [BLOCKCHAIN AND DIGITAL ASSETS NEWS AND TRENDS](#)

OECD releases public consultation document on crypto tax reporting in effort to increase transparency.

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#### Caught between a rock and a hard place: Dealing with blocking statutes when conducting investigations in Asia

23 MAY 2022

Dealing with “blocking statutes” has become the harsh reality for multinational corporates when conducting cross-border investigations. These statutes may apply to a corporate by virtue of their “home” jurisdiction (ie where they are incorporated or have their principal place of business), where the investigation takes place, or even where pieces of evidence may be located.

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#### Defining 'cyber crisis': The new Thai guidelines on cyberthreat levels

23 MAY 2022

Following our last article on the rights and obligations of Organizations of Critical Information Infrastructure (OCII), at the end of 2021, the Thai government issued guidelines intended to assist these organizations in classifying cyber threats they face. In this piece, we examine what these guidelines mean for OCII, and how OCII may appropriately consider these guidelines when conducting cybersecurity reviews or when responding to regulators.

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#### In the hot seat: Climate change litigation risk in Australia

23 MAY 2022

This article takes a look at trends in Australia as it has the second largest number of climate cases globally. These trends are likely to emerge throughout Asia, and Asian companies investing in Australia also need to understand these trends.

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## SEACHange Issue IV: May 2022

23 MAY 2022

### SEACHANGE

Our latest covers various developments in the disputes and cybersecurity space, touching on Australia, Singapore and Thailand.

We also examine how corporates can tackle the challenges posed by “blocking statutes” to the conduct of internal and regulatory investigations in Asian markets. This has become a hot issue given the trend of regulators and governments enforcing and enacting legislation to limit the sharing of evidence out of their respective jurisdictions.

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## Watch where you seat: Singapore High Court clarifies that Law of Seat governs subject matter arbitrability at the pre-award stage

23 MAY 2022

Subject matter arbitrability refers to the power of an arbitrator to hear certain categories of disputes as a matter of public policy. Naturally, national laws vary in the extent to which they limit arbitrable subject matter. Generally, disputes or claims relating to commercial or contractual matters are arbitrable, whereas criminal, family, bankruptcy, and insolvency matters are not.

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## Case Note - *Tushita Technologies Ltd v MJ Protective Services Group Pty Ltd* [2022] NSWSC 413

10 May 2022

DLA Piper’s Insurance team in Sydney successfully defended an application by a plaintiff in the Supreme Court of New South Wales to join the insurer of a named defendant (which was in liquidation) to the proceedings under the *Civil Liability (Third Party Claims Against Insurers) Act 2017*.

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## Africa, In The Vanguard: Africa's Role In Shaping The Future Of Investor-State Arbitration

12 April 2022

DLA Piper is delighted to have collaborated with Nairobi Centre for International Arbitration to produce an article regarding “Africa, In The Vanguard: Africa’s Role In Shaping The Future Of Investor-State Arbitration” in its Alternative Dispute Resolution Journal. The journal provides a platform for scholarly dialogue on pertinent issues relating to the reform of the investor-state dispute settlement regime.

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## Fast fraud facts: News from *Occupational Fraud 2022: A Report to the Nations*

7 April 2022

Did you know that organizations worldwide lose five percent of their revenue each year, for an estimated total of \$4.7 trillion dollars, to occupational fraud on an annual basis? In the recently published 2022 version of the *Occupational Fraud Report*, the most comprehensive global study by The Association of Certified Fraud Examiners to date, the true cost of fraudulent schemes for organizations is addressed.

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## Episode 1: Key trends across the globe in compliance and investigations

5 April 2022

### GLOBAL COMPLIANCE AND INVESTIGATIONS PODCAST

A podcast covering key global issues relating to compliance and investigations.

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## Events in Ukraine | Top tips for your commercial contracts

30 March 2022

The events in Ukraine are having a profound effect on the global economy. This article is intended to act as a guide in how to analyse a contract in order to assess what remedies or relief are available, and to take account of the risks and issues associated with the events in Ukraine.

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## Ukraine conflict: Force majeure and frustration in commercial contracts

29 March 2022

This article provides an in-depth analysis of the core legal principles of force majeure and frustration and how they can apply to contracts affected by events in Ukraine and their consequences.

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## Six ways the construction industry is innovating to deliver ESG demands

21 March 2022

Following COP26, national governments are enacting legislation to combat the effect of the climate crisis. The world's industries, construction among them, are reflecting and assessing how they can adapt to deliver the environmental, sustainability and governance (ESG) demands of the marketplace.

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## Singapore imposed sanctions on Russia

11 March 2022

On 5 March 2022 the Ministry of Foreign Affairs of Singapore announced the imposition of sanctions against Russia.

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## Reduction of French solar tariffs – how can investors protect their rights

10 March 2022

In this briefing, we summarize the key regulatory changes which will impact solar projects and identify the avenues available to investors to protect their interests, and the long-term returns on their investments.

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## Aiscension: an AI tool to ensure effective risk management by detecting anti-competitive practice

24 February 2022

Anti-competitive activity has been rife in companies for centuries and there are many who like to take the ostrich approach and bury their head in the sand. However, it is known that this approach to risk management is ineffective should the regulators come looking, and with fines of up to 10% of global turnover, it is a big risk to take.

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## A Corporate Governance “Boost” – The MAS Revises Guidelines for Financial Institutions and Insurers\*

22 February 2022

On 9 November 2021, the Monetary Authority of Singapore issued revised Guidelines on Corporate Governance for Designated Financial Holding Companies, Banks, Direct Insurers, Reinsurers and Captive Insurers which are Incorporated in Singapore. The revised Guidelines

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will take effect throughout 2022 and are designed to provide Singapore with a further improved business environment, coupling high governance standards and greater corporate management flexibility.

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### **Getting Real “Bite” in the Year of the Tiger: The New Singapore Workplace Discrimination Guidelines\***

22 February 2022

During 2022, the Singapore Government looks set to enshrine into law some or all of the principles currently contained in the Tripartite Guidelines on Fair Employment Practices in relation to workplace discrimination. With the introduction of Singapore's first workplace discrimination legislation and a newly formed discrimination tribunal, the TGFEF will finally receive their missing teeth – find out what it means for your business operations in Singapore.

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### **No Win, No Fee: Singapore Embraces Conditional Fee Arrangements\***

22 February 2022

Boosting its popularity as a global arbitration seat, Singapore has passed a law that allows conditional fee arrangements (CFA) in international and domestic arbitration proceedings, certain proceedings of the Singapore International Commercial Court and related court and mediation proceedings. A CFA is an agreement between the client and legal counsel which provides for the whole or part of the lawyer's fees and costs in dispute resolution proceedings to be payable only in specified circumstances, such as where the client succeeds in the claim, or where certain agreed outcomes are achieved. The introduction of the CFA framework aligns Singapore with other jurisdictions, such as England & Wales, Australia, and Canada, each of which have allowed CFAs in various forms for some time.

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### **Raising the Bar on Blowing the Whistle: China's New Whistleblower Rewards Measures Provide Additional Incentives (and Controls) for Whistleblowing**

22 February 2022

China's new *Whistleblower Rewards Measures* provides up to RMB1 million (approx. USD157,000) in rewards for the reporting of major violations of China's various market conduct regulations. The regulations aim to provide greater incentives to whistleblowers and deter illegal activities in the market more effectively, particularly in light of the increased importance of whistleblowing across different industries in China in recent years. In light of these new measures, companies with operations in China should implement or strengthen their internal controls and reporting mechanisms.

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### **Is litigation funding compatible with Shariah principles?**

31 January 2022

This article explores the principles of litigation funding, why it is becoming increasingly attractive and whether it is compatible with Islamic Finance principles.

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### **Tortious claims and climate change: Where are we now?**

31 January 2022

What should be the response of tort law to climate change? That starkly put is the key issue raised by this appeal.

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**Mauritius - Global bribery offenses guide**

11 January 2022

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**Angola - Global bribery offenses guide**

11 January 2022

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**Argentina - Global bribery offenses guide**

11 January 2022

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**Australia - Global bribery offenses guide**

11 January 2022

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**Austria - Global bribery offenses guide**

11 January 2022

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**Bahrain - Global bribery offenses guide**

11 January 2022

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**Belgium - Global bribery offenses guide**

11 January 2022

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**Brazil - Global bribery offenses guide**

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**Burundi - Global bribery offenses guide**

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**Canada - Global bribery offenses guide**

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**Chile - Global bribery offenses guide**

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**China - Global bribery offenses guide**

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**Colombia - Global bribery offenses guide**

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**Czech Republic - Global bribery offenses guide**

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**Denmark - Global bribery offenses guide**

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**Ethiopia - Global bribery offenses guide**

11 January 2022

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**Finland - Global bribery offenses guide**

11 January 2022

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## **France - Global bribery offenses guide**

11 January 2022

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## **Germany - Global bribery offenses guide**

11 January 2022

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## **Global bribery offenses guide**

11 January 2022

In recent decades, improved standards in the identification and enforcement of international bribery offenses have provided the backdrop to a growing appreciation and management of bribery risk within the business community.

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## **Hong Kong - Global bribery offenses guide**

11 January 2022

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## **Hungary - Global bribery offenses guide**

11 January 2022

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## **Ireland - Global bribery offenses guide**

11 January 2022

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## **Italy - Global bribery offenses guide**

11 January 2022

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## **Japan - Global bribery offenses guide**

11 January 2022

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## **Kenya - Global bribery offenses guide**

11 January 2022

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## **Kuwait - Global bribery offenses guide**

11 January 2022

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## **Luxembourg - Global bribery offenses guide**

11 January 2022

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## **Mexico - Global bribery offenses guide**

11 January 2022

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## **Morocco - Global bribery offenses guide**

11 January 2022

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## **New Zealand - Global bribery offenses guide**

11 January 2022

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## **Norway - Global bribery offenses guide**

11 January 2022

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## **Oman - Global bribery offenses guide**

11 January 2022

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## **Peru - Global bribery offenses guide**

11 January 2022

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**Poland - Global bribery offenses guide**

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**Portugal - Global bribery offenses guide**

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**Qatar - Global bribery offenses guide**

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**Romania - Global bribery offenses guide**

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**Russia - Global bribery offenses guide**

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**Saudi Arabia - Global bribery offenses guide**

11 January 2022

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**Singapore - Global bribery offenses guide**

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**Slovakia - Global bribery offenses guide**

11 January 2022

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## **Spain - Global bribery offenses guide**

11 January 2022

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## **Sweden - Global bribery offenses guide**

11 January 2022

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## **Tanzania - Global bribery offenses guide**

11 January 2022

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## **Thailand - Global bribery offenses guide**

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## **Tunisia - Global bribery offenses guide**

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## **Ukraine - Global bribery offenses guide**

11 January 2022

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## **United Arab Emirates- Global bribery offenses guide**

11 January 2022

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## **United Kingdom - Global bribery offenses guide**

11 January 2022

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## **United States - Global bribery offenses guide**

11 January 2022

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## Zambia - Global bribery offenses guide

11 January 2022

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## Zimbabwe - Global bribery offenses guide

11 January 2022

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## Supporting the health of your health system: 2022

3 January 2022

Helping you tend to healthcare system wellness throughout the business life cycle.

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## The EU's new whistleblowing regime – why it matters to UK businesses

15 December 2021

Friday 17 December 2021 marks a moment of divergence between the whistleblowing frameworks in the UK and EU, with the official implementation of the European bloc's new Whistleblowing Directive (Directive (EU) 2019/1937) (the Directive).

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## With Civil Cyber-Fraud Initiative, government sharpens focus on cybersecurity obligations for government contractors

13 December 2021

Deploying the False Claims Act to pursue cybersecurity-related fraud.

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## Google files groundbreaking civil suit to disrupt massive botnet with blockchain backup system

10 December 2021

Civil actions to take down botnets have been around for years, but the blockchain aspect adds a new twist.

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## SHE Matters

29 November 2021

### [HEALTH, SAFETY AND ENVIRONMENTAL MATTERS SERIES](#)

SHE Matters is a quarterly publication compiled by DLA Piper's Safety, Health and Environment lawyers. This autumn edition includes articles on the Environment Bill; H&S fines and sentencing; tackling biodiversity loss; UK conformity assessed marking; case law on corporate manslaughter, and much more.

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## Law applicable to arbitration agreements: UK Supreme Court confirms law of the contract generally prevails

22 November 2021

In the eagerly anticipated judgment of *Kabab-jj v Kout*, the English Supreme Court upheld the Court of Appeal's 2020 decision in the same matter that when English law is expressly chosen by the parties to govern a contract, English law will also usually govern the arbitration agreement contained in that contract.

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## Russia signs the 2019 Convention on the Recognition and Enforcement of Foreign Judgments

22 November 2021

On 17 November 2021, the Russian Federation signed the Convention of 2 July 2019 on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters (Convention).<sup>1</sup> Russia is now the fifth state to sign the Convention along with Costa Rica, Israel, Ukraine and Uruguay, although no country has ratified the Convention and it has yet to enter into force.

<sup>1</sup> Convention

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## Driving change: The decarbonisation of European transport

17 November 2021

Transport is the bedrock of modern economies. It is also a major source of carbon dioxide emissions. The purpose of this study is to examine decarbonisation strategies in three key transportation subsectors: aviation, rail and shipping.

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## New developments in the Mexican energy sector generate uncertainty

17 November 2021

A discussion of relevant measures, criticisms and comments.

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## Successful asset preservation application in Mainland China prior to the recognition of Hong Kong arbitral award

17 November 2021

Following a victory in an arbitration at the HK International Arbitration Centre lead by DLA Piper Hong Kong, we have recently succeeded in assisting the Israeli client in obtaining an order from the Ningbo Intermediate People's Court for asset preservation prior to the recognition and enforcement of the HKIAC arbitral award in Ningbo, China.

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## Lloyd v Google – Supreme Court Judgment – report and impacts on data protection and mass claims in the UK

10 November 2021

UK Supreme Court allowed Google's appeal against the Court of Appeal decision which had previously granted Mr Lloyd permission to serve his representative claim on Google in the United States. The judgment brings to an end to one of the most significant issues to come before the UK Courts concerning class actions and data protection regimes.

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## Why anti-suit injunctions may be on the rise after Brexit

27 October 2021

The departure of the UK from the EU is expected to lead to a rise in the number of anti-suit injunctions sought in the English courts. In this article we consider the four main reasons why that is likely to be the case.

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## An interview with Aldersgate Funding

11 October 2021

In this podcast, DLA Piper partner Henry Quinlan interviews Jim Holding and Matthew Lo at Aldersgate Funding Limited, who shed some light on the advantages of litigation and arbitration funding; the types of claims eligible for funding; the process of funding a case; and the jurisdictional constraints on this type of financing.

DLA Piper · Aldersgate Funding on how litigation funding can help your business

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## President of Mexico files constitutional reform bill on electricity

7 October 2021

The result may include serious consequences for private investors in the energy sector in Mexico.

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## Vale v. Steinmetz: The Court of Appeal re-emphasizes the consensual nature of arbitration and says “no” to third-party application of arbitral awards

4 October 2021

On 16 July 2021 the Court of Appeal handed down its judgment in Vale SA & Ors v. Steinmetz & Ors, dismissing an appeal to have litigation proceedings against the appellants summarily struck out on the basis of a determination in an arbitral award to which they were not parties.

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## Whistleblowing Laws in Europe: An international guide

February 2022

On September 25, 2019, the EU formally adopted the new EU Whistleblower Protection Directive (the Directive) designed to enhance protection for whistleblowers within the EU. The Directive is designed to provide common minimum standards across the Union and requires Member States to transpose it into national law by October 2021.

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## The ICC's 2020 Dispute Resolution Statistics

22 September 2021

The International Chamber of Commerce has recently published its annual Dispute Resolution Statistics for 2020. This article offers a summary of the key takeaways despite challenges posed by COVID-19.

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## Virtual Hearings 2021

21 September 2021

## VIRTUAL HEARINGS

In this latest report in the Virtual Hearings series we set out a summary of data-driven conclusions and personal observations from clients and litigators from around the globe.

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### Chambers International Arbitration 2021 Global Practice Guide – Trends and Development in China

15 September 2021

China encompasses a number of arbitral jurisdictions, the most popular of which are in Hong Kong and China. In the past year, we continued to see a significant rise in the number of arbitration cases seated in Mainland China and Hong Kong and strong development of the arbitration market despite the pandemic.

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### Learning the lessons on excessive pricing from Aspen

7 September 2021

#### ANTITRUST MATTERS

Back in April 2017, The *Times* ran a story detailing how a drug giant had a “secret plan” to destroy a cancer medicine unless large price rises were agreed to by national purchasing authorities. A month later, the European Commission opened an investigation into Aspen.

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### Pleading with care: the limits of a tribunal’s jurisdiction

31 August 2021

A recent Singapore High Court decision in *CIZ v CJA* is a useful reminder that the primary instruments for demarcating matters in dispute in an arbitration are the parties' own written submissions. Tribunals must decide cases that parties put before them, not cases that parties could (or should) have made.

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### Insights from the US: will knowledge, recklessness or negligence in Australian securities class actions actually change anything?

16 August 2021

Last week the Federal Government introduced permanent reforms to the continuous disclosure regime and misleading and deceptive conduct provisions in the *Corporations Act 2001* and *ASIC Act 2001* which provide that companies and their officers will not be exposed to civil liability unless they had a requisite mental element, being *knowledge, recklessness or negligence*. This change is in line with the recommendations of the Parliamentary Joint Committee for Corporations and Financial Services and also extends the temporary measures originally introduced at the height of the COVID-19 pandemic.

This change brings Australia's continuous disclosure regime closer to that of its counterparts in the United States and the United Kingdom, and there is much we can learn from our international colleagues.

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### Green -v- Betfred – online gaming platform unable to rely on exclusion of liability clauses to avoid pay-out to winning customer

2 August 2021

The growth of online gaming in England means that gamblers are now more likely to be found at computer screens than casino tables. This was illustrated by the case of *Andrew Green v Petfre (Gibraltar) Limited t/a Betfred* [2021] EWHC 842 (QB).

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## High Court criticises claimant law firm for seeking to load a compensation claim for a data breach with multiple heads of claim that are not appropriate

2 August 2021

As the data protection compensation claim landscape develops in the UK, the High Court in the case of *Warren -v- DGS Retail Limited [2021] EWHC 2168 (QB)* has given useful guidance as to the appropriate heads of claim.

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## Personal liability of a director and liability of an agent – the cautionary tale of *Tattersalls Limited v McMahon*

21 July 2021

Bloodstock auction sales are a common means of selling thoroughbred horses. It was such an auction that gave rise to proceedings in *Tattersalls Limited v McMahon [2021] EWHC 1629 (QB)*. The case is an important one for any agent in the sports arena and beyond - read our full analysis of the case and recommendations.

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## Third time lucky: Triple Point in the Supreme Court

20 July 2021

The Supreme Court has handed down its long awaited decision on the question of whether delay liquidated damages (LD) provisions survive termination. The case related to a dispute between the parties as to how delay LD provisions apply where an English law contract is terminated prior to its completion, and the interpretation of contractual wording seeking to limit liability.

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## Between a Rock and a hard place: *Singapore Courts decline to follow English precedent on 'No Oral Modification' clauses*

5 July 2021

The Singapore Court of Appeal has decided against strict enforcement of no oral modification clauses, taking a different approach to the English Supreme Court. We summarise the contrasting cases and what this means for businesses operating in either of these jurisdictions.

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## The DLA Piper Project Simulator – one year on

2 July 2021

Over the past year, we have delivered The DLA Piper Project Simulator to many of our construction, engineering and infrastructure clients, over a virtual platform, and client feedback has been overwhelmingly positive.

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## The UK Bribery Act: A Perfect 10 or an uninspired 5/10?

1 July 2021

From its conception, the UK Bribery Act 2010, which came into force on 1 July 2011, presented itself as a radical and comprehensive overhaul of UK anti-bribery and corruption law. So, a decade on, what does the score card look like?

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## The LCIA 2020 Annual Casework Report



21 June 2021

The LCIA published its annual casework report for 2020, the report showed that during the COVID-19 pandemic the LCIA has continued to thrive, with more disputes being referred to the LCIA in 2020 than in any previous year. We have summarised below some of the key trends which emerge from the Report.

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### **GAR guide to challenging and enforcing arbitration awards – Second edition**

15 June 2021

The Global Arbitration Review's Guide to Challenging and Enforcing Arbitration Awards addresses the applicable standards for challenging and enforcing awards globally. We have authored a chapter outlining the challenges that may arise when trying to secure the awards.

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### **Investment Arbitration in Africa**

15 June 2021

Working with the Global Arbitration Review, we have published a new chapter on Investment Arbitration in Africa. Providing an overview of recent trends and developments in investment arbitration, the rise of investment disputes and the various initiatives to reform the ISDS system.

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### **Reforms in the energy legal framework in Mexico and challenge mechanisms**

4 June 2021

The Energy Counter-Reform includes variations which aim to restore the monopoly power of CFE and Pemex.

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### **Queen's Speech 2021 – Judicial review reform**

24 May 2021

The UK Government appears intent on reforming judicial review (the means by which the High Court, pursuant to its supervisory jurisdiction, exercises control over administrative action).

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### **Cayman Islands Court of Appeal confirms availability of Norwich Pharmacal relief in foreign proceedings in *Arcelormittal USA LLC v Essar Global Fund Limited & ors***

18 May 2021

The Cayman Islands Court of Appeal has confirmed that the Norwich Pharmacal relief is available in the Cayman Islands in aid of foreign proceedings, a matter on which there was some doubt in light of recent English High Court decisions .

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### **Human rights and environmental due diligence legislation in Europe – Implications for global supply chains**

17 May 2021

This article highlights how companies with global supply chains can maintain/achieve compliance with human rights and environmental standards and safely navigate this new hard law regulatory landscape in the EU Member States France, the Netherlands, Germany and at EU level.

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## **Litigation funding: a financial solution to the pandemic**

14 May 2021

Third-party funding is not new; however, it is about to enter a period of unprecedented global growth – notably in Spain and Latin America

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## **Drastic Extension of Germany's Foreign Direct Investment Control Regime**

5 May 2021

As expected, Germany's extended foreign direct investment control regime (FDI regime) took effect with the 17<sup>th</sup> Amendment of the Foreign Trade and Payments Act on 1 May 2021.

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## **The Revised New 2021 ICC Arbitration Rules**

15 April 2021

With 851 new cases in 2019, the International Chamber of Commerce (ICC) maintained its position as a leading international arbitration institution. The ICC arbitration rules thus represent the "gold standard" of the international arbitration practice.

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## **Paris Court of Appeal finds PCA lacked power to intervene in OIC investor-state arbitration**

6 April 2021

The decision of the Paris Court of Appeal casts uncertainty on arbitrations under the OIC Agreement for which the PCA Secretary-General has agreed to act as appointing authority.

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## **Digitalisation of public administration: State aid considerations of the Recovery and Resilience Facility**

1 April 2021

The modernisation of the public sector with the adoption of new technologies aims at increasing efficiencies in the sector's activities and as such has been a priority for a number of EU Member States. What are the State Aid considerations of the Recovery and Resilience Facility?

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## **China's Expanding Economic Sanctions Regime**

31 March 2021

On March 22, 2021, the European Union (EU) and the governments of the US, Canada, and the UK concurrently imposed sanctions on individual Chinese officials and a Chinese entity based on findings of human rights violations in Xinjiang.

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## **Representing individuals in interviews – the US perspective**

30 March 2021

Determining whether to consent to an interview, and any interview itself, can be pivotal.

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## **Russia Insolvency and Arbitration Toolkit**

31 March 2021

The Toolkit on Insolvency and Arbitration covers 19 jurisdictions and provides guidance to parties, counsel and arbitrators in situations where a party to arbitration proceedings is also subject to insolvency proceedings in one or more jurisdictions.

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## Human Rights Due Diligence Legislation in Europe – Implications for Supply Chains to India and South Asia

26 March 2021

For several decades, there have been increasing demands that multinational corporations should strive to increase the positive effects of their activities and minimize their negative impact in India and South Asia.

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## Revised IBA Rules on the Taking of Evidence in International Arbitration

17 March 2021

The International Bar Association has released its revised Rules on the Taking of Evidence in International Arbitration (**2020 IBA Rules**). The 2020 IBA Rules were formally adopted on 17 December 2020 and mark the first update to the rules since the 2010 edition (**2010 IBA Rules**). The revisions to the rules reflect developments in global arbitration practice, including the emergence of remote hearings and the growing need for data protection and confidentiality.

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## Away with anonymous shell companies for good?

12 March 2021

On 24 February 2021, Transparency International submitted a global petition to the UN General Assembly preparing for the United Nation's first ever Special Session against Corruption, UNGASS 2021, which will take place in June 2021.

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## Court of Appeal agrees it is arguable that a duty of care may arise in relation to end-of-life asset disposal

12 March 2021

On 10 March 2021, the English Court of Appeal handed down its decision in Hamad Begum (on behalf of MD Khalil Mollah) v Maran (UK) Limited.

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## Reform to the Electric Industry Law: a new risk for energy projects in Mexico

10 March 2021

Foreign investors involved in energy projects in Mexico may wish to consider their rights and potential remedies under applicable investment treaties.

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## Building and Construction security of payment regime

15 February 2021

In the recent decision of *Civil Contractors (Aust) Pty Ltd v Galaxy Developments Pty Ltd*, the Queensland Court of Appeal has provided important guidance to principals, contractors and adjudicators on the strict requirements of the security of payment regime, including the strict time limit that applies to the delivery of adjudicators' decisions. The decision may have serious practical consequences for adjudicators where decisions given late can be void on the basis of being out of time and therefore without jurisdiction, and in those instances adjudicators will not be entitled to their fees. The decision also serves as a useful reminder to contractors to be appropriately licenced and to understand the potential payment implications for licencing issues.

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## Compulsory Document Production Notices – Normal Service Resumed

11 February 2021

The UK Supreme Court has handed down a judgment in *R (on the application of KBR, Inc) (Appellant) v Director of the Serious Fraud Office (Respondent)* [2021] UKSC 2 that now states the SFO will not be able to cut corners in obtaining evidence located overseas nor make it any easier to prosecute companies.

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## Corruption Perceptions Index 2020 - a regional perspective

11 February 2021

Last week Transparency International launched the 2020 edition of its Corruption Perceptions Index (CPI), which ranks 180 countries and territories by their perceived levels of public sector corruption, according to experts and business people, using a scale of zero to 100 (100 being very clean and zero being highly corrupt).

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## France Investment Treaty Arbitration

8 February 2020

The latest France chapter of the investment Treaty Arbitration presents key information needed to assess the feasibility and potential advantages of investment treaty claims against different states around the world.

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## *Rowe & ors v Ingenious Media Holdings*: the importance of capitalised funders

1 February 2021

The recent decision in *Rowe & ors v Ingenious Media Holdings* provides some important clarification of aspects of the UK adverse costs regime applicable to third party funders, an area which poses particular risks and challenges to the market.

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## Disputes, Issue 2

28 January 2021

### DISPUTES

In this issue, we look at the split among the federal circuits over what it means to "exceed authorized access" in violation of the Computer Fraud and Abuse Act; the ways in which the federal courts apply the Supreme Court's recent limitations on equitable disgorgement; ways to mitigate liability risk in unauthorized financial transfers; considerations for employers as they develop policies regarding use of cannabis in their workforce; and the critical importance of escalation protocols in corporate whistleblower programs.

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## No firing for lighting up? Cannabis in the workplace

28 January 2021

Appropriately addressing cannabis usage in the workplace while navigating anti-discrimination protections for workers.

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## Six months after *Liu*: The SEC and disgorgement

28 January 2021

In the wake of *Liu*, several open questions are only now starting to work their way through the courts.

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### **Supreme Court dives into circuit split over the Computer Fraud and Abuse Act**

28 January 2021

What does it mean to "exceed authorized access" to an Internet-connected device?

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### **The missing link in whistleblower programs – the escalation protocols**

28 January 2021

A fixed set of escalation protocols helps ensure that a whistleblower program functions efficiently.

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### **Trial attorney Buffy Mims joins DLA Piper in Washington, DC**

28 January 2021

Buffy Mims has joined DLA Piper's Litigation and Regulatory practice as a partner in Washington, DC.

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### **Unauthorized financial transaction fraud: Mitigating liability risks**

28 January 2021

Prudent financial institutions are seeking to protect themselves against liability for third-party fraud and accountholder carelessness.

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### **Enforcing arbitral awards: where does the tribunal's jurisdiction end, and the Court's begin?**

27 January 2021

The judgment in *A v B (Rev 1)* [2020] EWHC 2790 (Comm) serves as a useful reminder that, while there may occasionally be an overlap between the jurisdiction of the courts and arbitral tribunals, the final decision regarding enforcement of arbitral awards lies with the relevant court.

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### **Germany Foreign Direct Investment (FDI) Control: Massive Extension of Scope**

25 January 2021

For the fourth time within one year, Germany will broaden the reach of its foreign direct investment control system.

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### **Fatal air pollution: A subject for group actions in the UK?**

21 January 2021

It has long been recognised that air pollution, in the form of particulates, and sulphur and nitrogen oxides, has an extremely detrimental effect on health – particularly in heavily populated urban areas with high traffic densities.

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### **Data Subject Access Requests - High Court dismisses claim where DSAR regime abused**

18 January 2021

The High Court of England and Wales dismissed a claim against a bank for allegedly failing to provide an adequate response to the Claimant's data subject access request, highlighting the robust approach that the court is willing to take where it suspects the tactical deployment (or abuse) of the DSAR regime.

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### **Boardroom Brexit: What the deal means for dispute resolution**

31 December 2020

#### **BOARDROOM BREXIT**

This was one of the most contentious areas in the negotiations as both sides wanted assurances that the other party would honour the commitments contained in the TCA in the future.

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### **Boardroom Brexit: What the deal means for state aid and competition**

31 December 2020

#### **BOARDROOM BREXIT**

EU state aid law applies to assistance from state resources that is selective in its application and that has a potential effect on trade between EU member states and competition.

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### **The Pharmaceutical Corner**

22 December 2020

A precedential decision with potentially far-reaching impacts for future Hatch-Waxman litigation and generic-product launches.

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### **'Parent company' liability: from Vedanta to BHP**

18 December 2020

On 9 November 2020, the English High Court handed down its decision in *Município De Mariana & Ors v BHP Group Plc & Anor* [2020] EWHC 2930 (BHP), striking out for abuse of process what would have been the largest mass tort claim in English legal history.

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### **Brexit: The end for 261?**

17 December 2020

Currently, passengers travelling on flights into and out of an EU Member State with EU carriers, or out of an EU Member State with non-EU carriers, are afforded certain protections and rights including the right to fixed compensation in the event of cancellation, long delay, or denied boarding pursuant to Regulation 261/2004.

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### **Securing evidence during the COVID-19 pandemic (*Koldyreva v Motylev*)**

15 December 2020

The English High Court has recently handed down two separate judgments in *Koldyreva v Motylev & others*, spanning a number of applications aimed at tracing funds in support of a Russian bankruptcy order: a worldwide freezing order, a passport surrender order, Norwich Pharmacal orders, and search orders.

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## Cyberfrauds and Cyberattacks: Remote Working Posing Increased Risks and How to Stay Protected

14 December 2020

Cybercriminals are becoming more sophisticated in the ways they facilitate cyberfrauds, with the increasing use of personalised messages on instant messaging platforms such as WeChat or WhatsApp and socially engineered phishing emails to deceive recipients to transfer funds, disclose sensitive information or click on malicious links.

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## Spain Investment Treaty Arbitration

14 December 2020

This guide presents all the key information needed to assess the feasibility and potential advantages of investment treaty claims against different states around the world.

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## REACH 2.0 – New EU Chemicals Strategy for Sustainability

10 December 2020

Chemicals are omnipresent in our everyday life and play a fundamental role as building blocks in technologies, materials and products. However, chemicals with hazardous components can also cause damage to human and animal health and the environment.

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## Coronavirus: The Second Wave and Force Majeure

9 December 2020

The resurgence of COVID-19 (Coronavirus) cases has been observed in countries around the world after COVID-19 outbreaks were successfully curbed earlier this year. To flatten the curve of the second wave of the COVID-19 pandemic governments again closed non-essential businesses, restricted travel and imposed lockdowns and stay-at-home orders.

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## Practical Compliance

8 December 2020

### [PRACTICAL COMPLIANCE](#)

Q4 2020: Spotlight on real estate COVID-19 compliance.

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## China's First Measures Under New Export Control Law Target Encryption Products

7 December 2020

China's new Export Control Law took effect on December 1, 2020. The next day, the Ministry of Commerce, together with the State Cryptography Administration and the General Administration of Customs, released a circular that includes the first list of products and technologies focusing on commercial encryption products and technologies.

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## Green light for Prudential and Rothesay's transfer

4 December 2020

### INSURANCE HORIZONS

In what is a significant decision for the insurance sector the Court of Appeal has overturned the High Court's refusal to sanction the transfer of a portfolio of annuity policies from Prudential Assurance Company Ltd ("Prudential") to Rothesay Life Plc ("Rothesay") under Part VII of the Financial Services and Markets Act 2000 ("Part VII").

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## Applying two principles of Islamic finance to create meaningful ESG initiatives

2 December 2020

Environmental, social and governance matters are a burgeoning issue on the agenda for businesses, governments and individuals alike. Companies are under increasing pressure to shift their focus from maximising profits and shareholder value to maximising value for all stakeholders.

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## Running the orange light: Halliburton v Chubb

2 December 2020

### INSURANCE HORIZONS

On Friday, 27 November 2020, the Supreme Court handed down a long awaited judgment in Halliburton v Chubb that concerned the issue of when an arbitrator should make disclosure of circumstances which may give rise to justifiable doubts as to his/her impartiality.

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## Brexit: Choice of Law, Jurisdiction, Enforcement, and Service

27 November 2020

This article looks at the impact of reaching the end of the Brexit transition period (at 11pm on 31 December 2020) on governing law, jurisdiction, enforcement, and service in contracts between UK entities and EU member state entities.

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## Case Law Update: COVID-19, Force Majeure, and Aircraft Leases

27 November 2020

As we enter the coronavirus (COVID-19) pandemic's "second wave" and aspirations for a "back to normal levels" rebound in 2021 for the aviation industry look less likely, the financial pressure point is quickly spreading from airlines to those up and down their vertical supply chain, notably aviation lessors.

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## Issue 5

23 November 2020

### ENERGY AND NATURAL RESOURCES CASE LAW UPDATE

As the world adjusts to a new normal, businesses across all sectors will be anticipating significant changes to their operations and priorities. Continued disruption across the Energy and Natural Resources (E&NR) sector may, for example, see participants seek to re-visit long-term contracts, with subsequent disputes being played out in court.

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## Regulation 261/04 continues to evolve during 2020 with consequences for airlines – what has the Court of Justice



## of the European Union decided so far?

16 November 2020

In 2020, the Court of Justice of the European Union (CJEU) addressed several cases on the interpretation of Regulation 261/2004 (EC261/04) most notably on the rights of passengers in the event of cancellation or long delay.

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## Minimum standards along the supply chain - Effects of the supply chain law on German companies

12 November 2020

For internationally operating companies, new demands on their international supply chains are coming into focus. In Germany, the political debate concerning a so-called supply chain law is taking shape. A first draft is expected within the next few months. At the same time, the introduction of a similar set of rules and regulations at EU level is being discussed; a decision on this matter is expected in 2021. Other European countries such as the Netherlands and the United Kingdom have already introduced corresponding legislation.

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## Current trends in investor state disputes in the telecommunications sector

9 November 2020

The telecommunications sector is one of the fastest growing sectors globally, and has played a critical role during the on-going Covid-19 pandemic in keeping the world interconnected. The high levels of activity in this sector have given rise to a corresponding increase in telecoms-related #disputes, including under investment treaties.

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## Italian Supreme Court no. 20104 of 24 September 2020

9 November 2020

By Andrea Salvemini

According to the First Division of the Italian Supreme Court, the issue concerning the beginning of the “long time-limit” for challenging arbitration awards is open interpretation and represents an issue of particular significance worthy of submission to the Joint Division of the Italian Supreme Court, pursuant to Article 374, paragraph 2, of the Italian Code of Civil Procedure. This was stated in the order of the Supreme Court no. 20104 of 24 September 2020.

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## Milan Chamber of Arbitration Simplified Arbitration procedure

9 November 2020

By Nicola Naccari

On July 1, 2020, the Simplified Arbitration procedure introduced by the Milan Chamber of Arbitration (CAM) came into force with the aim of “offering companies and citizens a leaner and faster procedure to solve disputes, with a cheaper price list.” Nicola Naccari

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## New ICSID arbitration registered against 'Bel Paese' for presumed breaches of Energy Charter Treaty's obligations in the context of the solar energy industry: “Chronicle of a Death Foretold”?

9 November 2020

By Federica Bocci

On 6 October 2020, another case against the Republic of Italy was registered at ICSID. In the wake of the Achmea Decision and of the latest release on 29 October 2020 of the EU Advocate General's opinion within the preliminary ruling of the CJEU sought by the Court of Lazio, is this new case a "Chronicle of a Death Foretold" ?

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## Newsletter dell'Arbitration Team

9 November 2020

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### The Law Commission's review of the law on digital assets and smart contracts:

9 November 2020

On 21 September 2020, the Law Commission announced that it had begun work on two projects aimed at ensuring that "English law can accommodate two emerging technologies that could revolutionise commerce: smart contracts and digital assets."

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### A timely intervention: A drafter's perspective on the Protocol on Virtual Hearings in Africa

4 November 2020

#### [AFRICA CONNECTED](#) [VIRTUAL HEARINGS](#)

Concerned about the effects if the COVID-19 pandemic on Africa's dispute resolution landscape, the Association of Young Arbitrators (AYA), bringing together arbitration practitioners in Africa under 40 years of age, launched its Protocol on Virtual Hearings in Africa (the Protocol) in April 2020.

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### Africa Connected: COVID-19 and the evolution of dispute resolution

4 November 2020

#### [AFRICA CONNECTED](#) [ISSUE 5](#)

COVID-19 and the evolution of dispute resolution in Africa is the theme of this edition of Africa Connected. We have articles on issues ranging from third party funding and its implications in African disputes, to the use of virtual hearing platforms across the continent. Jurisdiction-specific articles cover how the pandemic has affected legal practitioners - and the court system - in Burundi, Kenya, Nigeria and Tanzania.

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### Africa rising: Virtual hearings in international arbitration

4 November 2020

#### [AFRICA CONNECTED](#)

Before the COVID-19 pandemic, the legal community was dabbling in the use of virtual hearings in certain parts of the world. However, the imposition of national lockdowns, strict social distancing measures and travel restrictions has forced lawyers to move away from the comfort of traditional, in-person hearings, towards new-age virtual hearings held on electronic platforms.

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### COVID-19: The effects on dispute resolution in Nigeria

4 November 2020

## AFRICA CONNECTED

Limited hearings, long adjournments, and restricted access to the courtrooms are some of the major effects of the COVID-19 pandemic on the delivery of justice in Nigeria. These issues have changed judges' and lawyers' attitudes towards the use of technology.

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### Civil lawsuits in Burundi during COVID-19

4 November 2020

## AFRICA CONNECTED

The outbreak of the COVID-19 pandemic is unprecedented. COVID-19 has spread worldwide, and the Republic of Burundi has adopted preventive measures that have affected institutions' activities in different ways.

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### Embracing electronic court case management systems: Lessons from the Kenyan experience during COVID-19

4 November 2020

## AFRICA CONNECTED

The Kenyan court system is anchored in common law, which is characterized by paper-based procedures and physical court appearances. The disruptions caused by the COVID-19 pandemic have shaken the very foundation of the system, forcing the judiciary to come up with measures to mitigate the effects and assure litigants of their right to a fair trial and access to courts.

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### Litigation funding in Africa: Maximizing opportunities

4 November 2020

## AFRICA CONNECTED

The measures implemented by governments in response to COVID-19, coupled with the rapid economic downturn and ongoing uncertainty arising from the pandemic, have created the perfect storm. The outlook may seem bleak, but third-party funding offers a ray of hope for beleaguered boardrooms looking to maximize cashflow in this unpredictable period.

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### Opportunities of big data in law

4 November 2020

## AFRICA CONNECTED

Across many industries, big data is being used to drive more informed and better decision-making. But despite the willingness to adopt new technologies, Africa has been slow to tap into its benefits.

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### SFO clarifies guidance on DPAs: Is the DPA model ready for take-off?

4 November 2020

On 23 October 2020, the Serious Fraud Office published a new chapter from its Operational Handbook which provides further guidance on the SFO's approach to Deferred Prosecution Agreements. Whilst the guidance does not introduce any major changes, it does provide clarity on the SFO's expectations of companies wishing to avoid prosecution.

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### Technology and the future of dispute resolution

4 November 2020

## **AFRICA CONNECTED**

Technology affects the way we interact with one another, including regarding dispute resolution: it either generates new kinds of disputes which arise out of the new capabilities it offers, or it can help in the resolution of disputes. In this article we focus on how technology can assist in the resolution of disputes and how it can be leveraged in terms of promptness and efficiency.

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### **The time is now for continental unity in African dispute settlement**

4 November 2020

## **AFRICA CONNECTED**

Africa is on the cusp of what could be a break in a decades-long cycle of poverty and economic shortcomings. Whether this cycle will be broken depends on the ability of African nations to put in place policies that attract and protect foreign and intra-African investment.

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### **Zimbabwean courts: Catching up to the future**

4 November 2020

## **AFRICA CONNECTED**

The COVID-19 pandemic has caused a global shift in the way people work all over the world. There has been greater emphasis on virtual working, putting immense pressure on countries that were not prepared to shift to working virtually in important areas of the economy, with a big spotlight being on the courts.

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### **Assessing ESG factors in the energy sector**

27 October 2020

## **ESG HANDBOOKS AND GUIDES**

A reference tool for energy companies as they discuss and refine their ESG programs.

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### **Argentina: The year in review**

26 October 2020

The last year has been a time of significant change in Argentina, including for international arbitration.

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### **Brazil: Will COVID-19 mean more arbitrations against public entities?**

26 October 2020

Recent legislative initiatives have created greater certainty for potential and existing parties looking to do business with Brazilian states or their instrumentalities.

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### **Canada: Third-party litigation funding, enforcement of arbitral awards, admissibility of fresh evidence during court review**

26 October 2020

Three recent decisions.

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## **Chile: Drafting arbitration clauses in international contracts – practical aspects**

26 October 2020

International arbitration has expanded considerably in recent years in Chile.

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## **Peru: Top developments in international arbitration**

26 October 2020

Major arbitration-related developments and cases recently decided in Peru.

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## **Puerto Rico: Legal and practical aspects of international arbitration**

26 October 2020

Parties benefit from this legal framework to solve their disputes when conducting business in Puerto Rico.

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## **Replacing NAFTA: What the USMCA means for the future of North American trade and investment – a Q&A**

26 October 2020

Contributors from the US, Mexico and Canada discuss several key considerations.

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## **US: Four significant developments in arbitration case law**

26 October 2020

US-style discovery; compelling arbitration on the basis of equitable estoppel; class-wide arbitration when the arbitration agreement is ambiguous; ongoing use of the US DDCC for ICSID award enforcement.

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## **USMCA investor-state dispute settlement provisions: Key differences for Mexico**

26 October 2020

For ISDS claims, only after the local litigation requirement is fulfilled or 30 months have elapsed may certain substantive claims be brought against a state.

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## **Venezuela: Recent, significant commercial arbitration developments include several Supreme Tribunal cases**

26 October 2020

Recent significant developments in Venezuela's arbitration landscape.

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## **China's New Export Control Law**

19 October 2020

On October 17, 2020, the Standing Committee of China's National People's Congress passed the Export Control Law (the ECL), which will take effect on December 1, 2020. The ECL establishes China's first comprehensive framework for restricting exports of military and dual-use products and technology for national security and public policy reasons.

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## Germany's New Foreign Direct Investments (FDI) Act took effect on 11 October 2020

19 October 2020

In addition to the intended amendments to the Foreign Trade and Payments Act Germany's Federal Government on 20 May 2020 has decided on a bill that broadens the scope and the scrutiny with regard to foreign investments.

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## The ICC Publishes Revised Rules for 2021

19 October 2020

The International Chamber of Commerce (the ICC) has revised its Arbitration Rules with the new set of rules set to enter into force on 1 January 2021.[1] The 2021 Rules, currently in draft form, will apply to all cases submitted to the International Court of Arbitration of the ICC from that date on (unless the arbitration agreement provides otherwise).

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## Regulatory Enforcement and Privilege – Waiver, Content, Cherry-Picking

7 October 2020

Disclosing privileged documents under a limited waiver to regulators has the potential to attract cooperation credit when regulators decide on level of penalty or, indeed, whether to undertake enforcement proceedings or prosecution. There may also be benefits in relying on privileged material in any defence to regulatory enforcement or prosecution.

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## The gathering storm: COVID-19-related disputes in the financial services sector – A transatlantic perspective

5 October 2020

COVID-19 has caused the largest shock to the global economy in living memory. Whilst economic uncertainty, financial distress and market turmoil usually trigger increased levels of commercial litigation, the extreme conditions created by COVID-19 have primed the landscape for a pan-sector surge in financial services-related disputes.

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## Constitutional challenges to inter partes review – *Arthrex, Inc. v. Smith & Nephew, Inc.*

30 September 2020

This Appointments Clause challenge to the IPR process appears to have staying power.

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## The Pharmaceutical Corner

30 September 2020

In this inaugural column, we look at the implications of IPR and PGR proceedings in Hatch Waxman litigation.

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## Disputes arising “under” a construction contract: An adjudicator's jurisdiction

28 September 2020

Most of the analysis of *Bresco Electrical Services Ltd (In Liquidation) v Michael J Lonsdale (Electrical) Ltd* [2020] UKSC 25 has deservedly been on how the UK Supreme Court reconciled the statutory regimes for construction adjudication and insolvency set-off.

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## Online Arbitration Hearings: A review of key developments in response to COVID-19

28 September 2020

### VIRTUAL HEARINGS

In this second report, we focus on arbitration and look at how arbitral institutions have adapted in response to COVID-19. We draw out some of the key legal as well as practical challenges faced, and we offer some observations on what the future may look like.

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## The landscape after Bresco: John Doyle Construction Ltd v Erith Contractors Ltd

21 September 2020

The Supreme Court's decision in *Bresco v Lonsdale* has been hailed by some as opening the floodgates to adjudications by insolvent companies. But as a series of recent judgments show, there remain a number of obstacles that will need to be overcome by insolvent entities seeking to enforce an adjudication award.

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## English High Court allows rare appeal of arbitral award on point of law

21 August 2020

The recent decision of *Tricon Energy Ltd v MTM Trading LLC* [2020] EWHC provides a rare example of the English High Court allowing an appeal against the decision of an arbitral tribunal on a point of law.

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## New Rules for a New Normal: The LCIA announces changes to its Arbitration Rules and Mediation Rules

14 August 2020

On 11 August 2020, the LCIA released an update to its LCIA Arbitration Rules and LCIA Mediation Rules (the "Rules"). The updates to the Rules will become effective on 1 October 2020, marking six years since the arbitration rules currently in force came into effect.

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## The end of Intra-EU BITs. Now what?

4 August 2020

In this second article, we will explore in more detail the fate of pending intra-EU arbitrations affected by the termination treaty and how States and claimants should deal with these arbitrations.

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## Class actions make it easier than ever to seek redress

28 July 2020

Businesses should note that they are at risk of increased exposure to claims once group proceedings are permitted in Scottish courts, write Alistair Drummond and Jen Talbot.

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## Newsletter dell'Arbitration Team

24 July 2020

This article looks at the codification of lawyers' duties in international arbitration. It covers the reasons for codification, how the duties coexist with the general obligation to defend client interests and how useful codification is.

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### **The duties of lawyers under the Code of Best Practices in Arbitration of the Spanish Arbitration Club**

24 July 2020

On June 4, 2020, I had the honor of speaking at a webinar organized by the Italian Chapter of the Club Español de Arbitraje (CEA) for the launch in Italy of the Code of Best Practices in Arbitration of the Spanish Arbitration Club (the Code) published in May 2019, of which my team and I contributed to the Italian translation.

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### **The new framework of the Italian dispute board**

24 July 2020

To face the dramatic financial consequences of the COVID-19 pandemic, the Italian government is now in the process of enacting a series of measures aimed at stimulating the recovery of the national economy. The so-called law decree *Semplificazioni* (literally *simplifications*) is one of those measures and, as the name suggests, it is aimed at simplifying the administrative procedures concerning public procurement and construction works.

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### **Commission launches inquiry into the Internet of Things**

22 July 2020

On 16 July, the European Commission launched an antitrust competition inquiry into the Internet of Things for consumer-related products and services in the EU.

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### **WIN Wise: Top tips for making the most of your IT contracts**

20 July 2020

There can sometimes be a disconnect between lawyers who draft contracts, and those with primary responsibility for implementing them. Through smart collaboration, effective communication and shared vision, in-house lawyers and their commercial counterparts can work together to maximize value and generate extra revenue.

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### **Court of Appeal confirms mining company is not liable for human rights abuses in Sierra Leone**

17 July 2020

Earlier this year, the Court of Appeal handed down its judgment in the case of *Kalma v (1) African Minerals Limited, (2) African Minerals (SL) Limited and (3) Tonkolili Iron Ore (SL) Limited*. In this case review, we consider the Court's findings in relation to (i) accessory liability and (ii) companies' duty of care when operating abroad.

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### **Reputation management during investigations: ZXC v Bloomberg LP**

16 July 2020

The Court of Appeal has upheld the decision of Nicklin J which found that Bloomberg had breached the privacy rights of a US businessman when it published an article containing confidential details about a UK criminal investigation which he was subject to.

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## **Global Class Actions Briefing: Major developments in European consumer protection laws: Product safety and consumer class actions in Europe**

15 July 2020

The EU's proposals for a revised EU General Product Safety Directive (the GPSD) and the EU's deal for a Collective Redress Directive (the CRD) point the way to a future of heightened novel risk in Europe of collective redress or, as these claims are popularly known, "class actions".

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## **One less gadget in the arbitration toolbox: International and offshore arbitrations are not entitled to US discovery in aid of foreign proceedings**

13 July 2020

A ruling that is highly relevant to the private funds and offshore dispute practice areas.

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## **Procurement Law Reform - Let's start a discussion**

9 July 2020

DLA Piper's panel discussion webinar held on 1 July 2020 had a lively debate on the merits of potential options for reform and which changes might produce a better model for procurement regulation in the UK post Brexit. This is the first of a series of bitesize summary reports providing feedback from the debate.

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## **A successful s67 challenge: Silence did not confer authority to enter into an arbitration agreement**

7 July 2020

The case *MVV Environment Devonport Ltd v NTO Shipping GmbH & Co. KG MS 'MV Nortrader'* was one of the few successful challenges to an arbitral award which we have seen before the English courts in recent years.

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## **DC Circuit issues opinion on sovereign immunity defenses to the enforcement of arbitration award against foreign states**

1 July 2020

Foreign states might not only be able to rely on the doctrine of sovereign immunity to protect themselves from final judgments, but also to avoid the burdens of litigation itself.

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## ***Allen v. Cooper*: Supreme Court affirms state sovereign immunity in copyright case**

30 June 2020

Under current copyright law, any effort by a state to provide alternate remedies for copyright infringement would be nullified by copyright preemption.

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## **Hatch-Waxman Litigation 101: The Orange Book and the Paragraph IV Notice Letter**

30 June 2020

A few of the key issues that must be addressed before a Hatch-Waxman suit is filed.

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## **WIN Wise: Liquidated damages for delay in tech disputes**

30 June 2020

The current COVID-19 pandemic is wreaking havoc on businesses and their operations across sectors and geographies. The unprecedented spread of the virus has had, and will continue to have, a profound impact upon both suppliers and customers in delivering technology projects on time and to budget.

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## **A jurisdiction too far: The English Commercial Court declines to continue freezing injunctions in support of foreign and English seated arbitrations**

26 June 2020

In *Petrochemical Logistics Ltd & Axel Krueger v PSB Alpha AG & Konstantinos Ghertsos*, the English Commercial Court declined to continue two freezing injunctions against the Defendants in support of both a London-seated LCIA arbitration and a Swiss-seated arbitration.

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## **Protecting the attorney-client privilege while under quarantine: Five tips for protecting attorney-client privilege when using online collaboration tools**

22 June 2020

With the increase in remote working comes an increased opportunity for attorney-client privilege issues to surface.

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## **COVID-19 and Aviation in Africa: An Insight**

18 June 2020

As a consequence of COVID-19 the aviation sector is experiencing a catalyst for enormous change [...] In Africa, airlines and the aviation sector must be supported if aviation is to continue to be the lynchpin that brings the world to its doorstep and with it the benefits that such an opportunity brings to the continent's economies.

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## **Diary note of a remote mediation**

16 June 2020

A colleague and I recently took part in a remote mediation over Skype. Given that there are likely to be many other litigating parties seriously contemplating the use of remote mediation (some with reservations), we thought that it might be helpful to share our own candid experience of a recent remote mediation.

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## **Non-damage business interruption test case in the English Courts**

11 June 2020

Significantly in the UK, the Financial Conduct Authority (FCA) is bringing a test action, in order to seek a declaratory judgment on a number of policy coverage questions arising from non-damage cover under business interruption (BI) policies, using the Financial Markets Test Case Scheme.

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## **A law on disputes with entities and individuals subject to sanctions or due to sanction issues has been adopted**

8 June 2020

On 8 June 2020, the Russian President signed law introducing to the Russian Arbitrazh Procedure Code provisions that have an effect on disputes.

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### **Top five factors for firms to consider when conducting remote investigations: new realities?**

8 June 2020

The COVID-19 pandemic has forced many businesses to overhaul their working practices, as normal modes of working once taken for granted. These new modes of working raise novel practical issues with traditional investigative methods such as document collection/review and interviewing witnesses.

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### **COVID-19 et protectionnisme : Quelles protections pour les investisseurs étrangers.**

28 May 2020

Face au défi de la relance économique des mesures d'aide sont prises par certains Etats en soutien à leurs nationaux et aux entreprises locales. Une attention particulière devra être apportée par les Etats sur toute mise en place non équitable ou discriminatoire de telles mesures, ou ayant pour effet de faire perdre toute valeur à un investissement.

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### **Preparing for global class actions arising from COVID-19**

28 May 2020

The risk to companies of global and cross-border class action and collective redress proceedings is rising.

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### **COVID 19 | Legal Task Force Spain: Updated publications**

25 May 2020

The coronavirus COVID-19 crisis has no similar precedent in recent times in Europe. The Spanish authorities are doing their best to approve new laws and regulations addressing the challenges created by the crisis. This summary shall not as legal advice, but only as an informative document. Stay attentive to new updates.

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### **LCIA annual casework report shows continued growth and diversity in both its caseload and its choice of arbitrators in 2019**

25 May 2020

On 19 May 2020 the LCIA published its annual casework report for 2019. The report provides a useful summary of trends in the LCIA caseload during last year, and demonstrates the global nature and variety of disputes referred to the LCIA, in particular the continued increase in the international appeal of the LCIA.

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### **Text, blood and rock 'n' roll**

27 DEC 2017

You are not a "free bird" – the duty to preserve text messages may extend to third parties.

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### **DLA Piper's 2016 Compliance & Risk Report: What CCOs need to know**

19 APR 2016

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### **Plan now to use off-band communications during an incident response: key points**

27 OCT 2015

A robust IR plan should include communications techniques that operate outside regular company communication methods.

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### **US courts affirm expansive discovery under 28 U.S.C. § 1782**

29 SEP 2015

There is increasingly clear consensus among US courts giving § 1782 expansive reach.

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### **Mexico's new National Anticorruption System: 7 key points**

20 JUL 2015

Constitutional reform regarding the creation of the National Anticorruption System

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### **Law à la Mode - INTA special edition: Dubai's d3; combating counterfeit goods online; our top 10 tips on IP protection for fashion items; and more**

4 MAY 2015

#### **[LAW À LA MODE](#)**

DLA Piper's Fashion, Retail and Design group is pleased to bring you this special edition of Law à la Mode, marking the 137th INTA Annual Meeting in San Diego.

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### **Law à la Mode: Falling foul of China's trademark system; Retailers need to prepare for the new EU Data Protection Regulation; and New developments in the framework of the copyright protection of handbags**

2 FEB 2015

#### **[LAW À LA MODE](#)**

A quarterly e-magazine from our Fashion, Retail and Design Group with the latest industry news, comment and legal updates. This edition has been edited by our Italian colleagues.

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### **Third parties: 4 FCPA takeaways for working with distributors**

24 SEP 2014

Four key challenges and related "cures"

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### **Tackling the realities of due diligence in a global setting**

24 OCT 2013

For even the most conscientious of companies, hurdles exist to conducting fulsome due diligence in a global setting

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### **Congress, Administration move forward to secure critical US infrastructure**

11 JUL 2013

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### **Growing whistleblower activity calls for close employer attention to retaliation issues**

7 MAY 2013

Careful consideration must precede adverse action against purported whistleblowers

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### **Cybersecurity and US federal public procurements: what contractors need to know**

11 MAR 2013

Practical considerations for US federal contractors

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### **What companies need to know about the Obama Administration's Cybersecurity Order**

14 FEB 2013

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### **Federal agencies, Congress accelerate defense against cyber attacks – every private company will be affected**

21 Mar 2012

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### **Whose followers are they, and how much are they worth?**

3 JAN 2012

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## **Events**

### **Previous**

#### **Using AI to monitor your compliance risks**

31 March 2022

Webinar

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#### **Shift Happens: Tech, Trends & Tensions in International Arbitration**

22 March 2022

Webinar

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## **Whistleblowing laws of Europe**

14 March 2022  
Webinar

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## **International Women's Day**

10 March 2022  
Webinar

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## **Beyond Politics: The Person Behind the Policies**

16 February 2022  
Webinar

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## **An introduction to Liability of Public Entities**

16 December 2021  
Webinar

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## **Driving change: the decarbonisation of European transport**

16 November 2021  
4:00 PM - 5:00 PM GMT  
Webinar

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## **DLA Piper's inaugural Global Construction Conference – Day 4**

11 November 2021  
DLA Piper's inaugural Global Construction Conference  
Webinar

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## **DLA Piper's inaugural Global Construction Conference – Day 3**

10 November 2021  
DLA Piper's inaugural Global Construction Conference  
Webinar

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## **DLA Piper's inaugural Global Construction Conference – Day 2**

9 November 2021  
DLA Piper's inaugural Global Construction Conference  
Webinar

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## **DLA Piper's inaugural Global Construction Conference – Day 1**

8 November 2021  
DLA Piper's inaugural Global Construction Conference  
Webinar

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## **Korean companies in the global market – best practice to protect your foreign investments**

5 November 2021  
Webinar

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## **AI projects: Dispute prevention and resolution**

20 October 2021  
Webinar

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## **White Collar Crime, Investigations and Compliance Symposium**

5 October 2021  
Webinar

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## **The essential legal update for consumer goods businesses**

29 September 2021  
Webinar

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## **What do in-house counsel expect from external firms during the arbitral process?**

28 September 2021  
Webinar

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## **Webinar: The Lure of The East – Investment Opportunity and Risk for German Investors in Asia**

21 September 2021  
Webinar

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## **Embracing Digital Evolution**

15 September 2021  
Webinar

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## Turning Your Back On The Enemy – Fighting Corruption In The Age Of COVID-19

25 August 2021

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## Payments Forum June 2021

22 June 2021

Webinar

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## Part 2 - Use of FIDIC for offshore projects

26 May 2021

Webinar

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## Shut down your investigation immediately

27 April 2021

Webinar

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## CEE Webinar: What CEE perspective offers to third-party funding?

22 April 2021

Webinar

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## Pan-European Week: International Arbitration - Perspectives from in-house counsel

20 April 2021 | 3:00 PM - 4:00 PM CET

Webinar

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## Pan-European Week: Act on Corporate Due Diligence in Supply Chains – Government Relations

20 April 2021

Webinar

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## Pan-European Week: Crime made Clear – Navigating criminal and compliance risks

19 April 2021

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## Global Disputes Forecast: What Lies Ahead in Financial Services Disputes?

13 April 2021

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## **DLA Piper Global Vis Pre-Moot 2021 St Petersburg**

18-20 March 2021  
DLA Piper Pre-Moots 2021  
Webinar

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## **FDI screening rules and EU/China Comprehensive Agreement on Investment**

17 March 2021  
Webinar

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## **Global Disputes Forecast: 2021 - what does the future hold?**

22 February 2021  
Webinar

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## **Milan Investment Arbitration Pre-moot**

19-20 February 2021  
DLA Piper Pre-Moots 2021  
Webinar

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## **Payments Forum – New Year challenges for lawyers in the payments sector**

26 January 2020  
Webinar

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## **The Brexit Deal - what does it mean for climate change and energy?**

26 January 2021  
Webinar

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## **IBDE: Clarity at last? Brexit, the US election, and the UK's post-Brexit trading future**

9 December 2020  
Webinar

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## **Essential Legal Update 2020**

12 October 2020 - 15 October 2020  
Webinar

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## **Preparing for global class actions arising from COVID-19**

## NEWS

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### **DLA Piper advises Harrison Street on sale of student accommodation assets to GSA**

12 May 2022

DLA Piper has advised Harrison Street, an investment management firm exclusively focused on alternative real estate assets, on the sale of seven purpose built student accommodation (PBSA) properties, to Global Student Accommodation (GSA).

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### **DLA Piper advises BASF on partnership with Vattenfall in offshore wind farm sector**

26 April 2022

DLA Piper has advised BASF on a partnership with Vattenfall in respect of an offshore wind farm project. BASF and Vattenfall will jointly participate in the tender process for the Hollandse Kust West (HKW) offshore wind farm.

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### **DLA Piper advises Fyllo on the acquisition of Semasio**

19 April 2022

DLA Piper has advised Fyllo, a compliance-first platform providing data-driven marketing and regulatory solutions for high-growth industries, on the signing of a Stock Purchase Agreement with Semasio, a pioneer in unified targeting for digital marketing.

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### **DLA Piper advises Ogier on its merger with Irish firm Lemnan Solicitors LLP**

13 April 2022

DLA Piper advises Ogier on its merger with Irish firm Lemnan Solicitors LLP

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### **DLA Piper advises Storskogen on the acquisition of a majority stake in Dimabay**

30 March 2022

DLA Piper has advised Storskogen on the acquisition of a majority stake in Dimabay GmbH (Dimabay), a performance-based advertising agency based in Germany that is active in 15 European countries.

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### **DLA Piper advises team.blue on acquisition of iubenda**

15 February 2022

DLA Piper has advised team.blue on the acquisition of iubenda, one of Europe's leading privacy and compliance tools. iubenda was founded in 2011 in Italy and supports SMEs with attorney-level solutions to make their websites and apps compliant with privacy laws such that the entrepreneurs can focus on their core business. iubenda is offering several integrated solutions to answer the compliance needs of organizations across multiple languages and legislations on websites and apps. These include solutions on privacy and cookie policies, the EU cookie law, terms and conditions, GDPR consent recording and CCPA disclosures, offered through a one-stop shop SaaS compliance multi-national platform.

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## **DLA Piper advises the TRATON GROUP on joint venture agreement for European high-performance charging network**

16 December 2021

DLA Piper has advised the TRATON GROUP on the formation of a joint venture (JV) with the other leading commercial vehicle manufacturers Volvo Group and Daimler Truck to install and operate a high-performance public charging network for battery electric, heavy-duty long-haul trucks and coaches across Europe.

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## **New partner joins DLA Piper's Litigation & Regulatory practice in Paris**

15 November 2021

DLA Piper is appointing Ruxandra Lazar as partner to its Litigation & Regulatory practice in Paris, joining with a team of four on 15 November. She joins the Public Law team in Paris led by Jérôme Pentecoste.

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## **DLA Piper named to *Global Investigation Review's* GIR 30 list of leading investigations practices**

11 November 2021

DLA Piper is pleased to announce that the firm has been named to *Global Investigations Review's* annual list of the 30 top investigations practices worldwide, reflecting its reputation as one of the top global law firms with broad experience in complex investigations.

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## **DLA Piper's Aiscension wins Most Innovative Use of Technology at The Lawyer Awards 2021**

3 November 2021

DLA Piper has won the Most Innovative Use of Technology category at The Lawyer Awards 2021 virtual ceremony on the 2 November for its Aiscension tool, a ground-breaking AI-enabled service designed to find cartel risks within corporations.

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## **DLA Piper helps Hellenic Republic resolve Greek electricity market dispute**

22 September 2021

DLA Piper has advised the Hellenic Republic in negotiations with the European Commission to resolve a landmark 'Greek lignite and electricity markets' antitrust case.

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## **DLA Piper's Michael Ostrove appointed as the Vice-President of the ICC International Court of Arbitration**

14 July 2021

Michael Ostrove, DLA Piper's Global Co-Chair of International Arbitration, has been appointed Vice-President of the ICC International Court of Arbitration.

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## **DLA Piper advises BASF on the acquisition of 49,5% stake in offshore wind farm Hollandse Kust Zuid from Vattenfall**

24 June 2021

DLA Piper has advised BASF on the acquisition of 49,5% percent of Vattenfall's offshore wind farm Hollandse Kust Zuid in The Netherlands. The purchase price amounts to EURO,3 billion and takes into account the achieved status of the project.

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### **Laura Ford recognised in GIR Women in Investigations 2021**

20 May 2021

DLA Piper is pleased to announce that Laura Ford, a partner in the firm's Litigation and Regulatory practice, has been named by Global Investigations Review in its list of Women in Investigations, 2021.

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### **DLA Piper launches dedicated dispute resolution service in Luxembourg**

18 May 2021

DLA Piper is delighted to announce the launch of a dedicated dispute resolution service offering in Luxembourg for its clients.

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### **DLA Piper launches Aiscension to help detect and prevent cartel activity in collaboration with Reveal**

15 March 2021

- New offering delivers cutting-edge technology from *Reveal* alongside DLA Piper's first-class legal know-how
  - Time and cost savings allow for companies to focus on detection
  - Faster, more effective and better value than traditional technology assisted and manual reviews
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### **DLA Piper advises lenders on the refinancing of the Warnow Tunnel in Germany**

26 February 2021

DLA Piper has advised the lenders on the EUR115 million refinancing of the Warnow Tunnel in Rostock (Germany), also known as the Warnow River Crossing (Warnowquerung).

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### **DLA Piper advises Kölner Pensionskasse and Caritas Pensionskasse on their reorganization**

21 January 2021

DLA Piper hat die Kölner Pensionskasse und die Pensionskasse der Caritas aufsichtsrechtlich gegenüber der Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin), bei der Gestaltung und Umsetzung des Sanierungskonzepts sowie bei dem damit verbundenen formellen Gang in den Status der Liquidation beraten.

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### **DLA Piper advises Wipro Limited on the acquisition of METRO-NOM GmbH and METRO Systems Romania**

4 January 2020

DLA Piper has advised Wipro Limited, a leading global information technology, consulting, and business process services company, on the acquisition of METRO AG's IT units – METRO-NOM GmbH in Germany and METRO Systems Romania S.R.L.

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## **DLA Piper advises Nemetschek on acquisition of DEXMA by subsidiary Spacewell**

18 December 2020

DLA Piper has advised the Nemetschek group, one of the world's leading software providers for the Architecture, Engineering, Construction and Owner-operated (AECO) industry, on the acquisition of 100% of the shares in DEXMA by its subsidiary Spacewell.

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## **DLA Piper advises Stillfront Group on the acquisition of gaming company Sandbox Interactive**

18 December 2020

DLA Piper has advised Stillfront Group AB, a leading free-to-play gaming studios company, on the acquisition of Sandbox Interactive GmbH, a rapidly growing and highly profitable gaming company based in Berlin and developer and publisher of the popular cross-platform free-to-play sandbox MMORPG Albion Online. The sellers are the four co-founders of Sandbox.

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## **DLA Piper wins TMT Finance M&A Global Telecom Deal of the Year**

8 December 2020

DLA Piper is pleased to announce that they have received the TMT Finance M&A Global Telecom Deal of the Year for their representation of T-Mobile and Deutsche Telekom in the T-Mobile-Sprint merger.

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## **'Industry standard' for use of arbitration platforms moves a step closer as pan-firm collaboration receives support**

30 November 2020

Plans to standardise the approach to online case management in international arbitration are a step closer to reality, after a draft protocol received positive feedback from an industry-wide consultation.

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## **DLA Piper advise Liverpool Football Club on sponsorship claim defence**

14 September 2020

DLA Piper has successfully represented The Liverpool Football Club and Athletics Grounds Limited (LFC) in defending a GBP1.13 million claim brought by sports intermediary Winlink Marketing Limited.

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## **DLA Piper arbitration practice recognized as world leading by Global Arbitration Review**

14 July 2020

DLA Piper has been recognized once again as having one of the world's leading international arbitration practices.

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## **Law firms collaborate on industry first to accelerate tech adoption in international arbitration**

2 July 2020

DLA Piper is amongst six international law firms which have developed a Protocol to help deliver a globally consistent approach to the use of online case management platforms in international arbitration.

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