

# MINTZ LEVIN

Our attorneys' recent **Arbitration** experience has included:

## Finance and Banking Disputes

- Obtained an award of all damages claimed (and reimbursement of all legal expenses) for a trade finance subsidiary of a U.S. bank in an *ad hoc* arbitration against a People's Republic of China bank with regard to a claim of breach of contract (and a counterclaim of fraud) in relation to banker's acceptances.
- Obtained an award of \$106.5 million (plus additional interest accruing at *ca.* \$1 million per month), as well as dismissal of counterclaims, for four international banks and an insurance company in an AAA/ICDR arbitration of disputes concerning a defaulted Eurobond issued and guaranteed by related Egyptian companies.
- Representation of one of two investment management companies in ICC arbitration regarding the ownership structure of, and distribution of profits by, a family of venture capital funds.
- Representation of a non-U.S. financier in a JAMS arbitration to enforce debt instrument.

## Securities-Related Claims

- Representation of a major private equity firm in an AAA/ICDR arbitration of a dispute, governed by Mexican law, over the control of a Mexican corporation, in which it was claimed that the issuance of a class of shares violated the bylaws of the corporation.
- Representation of a national consulting company in an AAA arbitration against a shareholder to establish stock valuation.

## Mergers and Acquisitions

- Representation of a major chemicals manufacturer in obtaining a favorable award in an AAA arbitration seeking to enforce contractual indemnity provisions following its purchase of a subsidiary corporation; the seller was required to indemnify for labor-related liabilities and expenses arising out of its refusal to assume collective bargaining agreements.
- Representation of a medical device manufacturer in an AAA arbitration, defending against a claim by another manufacturer/distributor one year after it had purchased a product division from our client; claimant sought to unwind the transaction and obtain a refund of its purchase price, but the award determined that there was no liability.
- Representation of a seller of a business in a JAMS arbitration of claims against a major communications, security and defense company for that company's failure to pay several million dollars owed in connection with the purchase of the business, and defense against counterclaims for alleged misrepresentations made as to the financial condition of the company sold; claims resolved favorably to our client.
- Representation of a leading consumer products manufacturer in a self-administered arbitration of claims and counterclaims against a brand-name house wares manufacturer, relating to the sale of our client's stationary products division to the other company.

- Representation of a major private equity firm in an AAA/ICDR arbitration of a dispute governed by Mexican law, over the control of a Mexican corporation, in which it was claimed that the issuance of a class of shares violated the bylaws of the corporation.
- Representation of a truck and automobile parts manufacturer against a precision metal fabrication company in an AAA arbitration of claims arising from the sale of a business and certain financial representations and warranties made during the transaction; our client received a favorable award for damages after proving fraud/misrepresentation as to the financial condition of the business at time of sale.

### **Strategic Alliances, Partnerships, Joint Ventures and Other Business Combinations**

- Representation of a large biotechnology company in an AAA arbitration of a contractual dispute with another large biotechnology company concerning the parties' respective rights under a collaboration agreement for the co-development of certain pharmaceutical products.
- AAA arbitration of a partnership dispute over the rights to manage and sell a \$120 million commercial real estate property in Manhattan, New York; obtained a favorable arbitration decision and fought off ancillary litigation seeking interim remedies.
- ICC arbitration of a dispute over performance under an exclusive distribution agreement between our client, a medical device manufacturer, and one of its OEM manufacturers; settled favorably.
- ICC arbitration between two investment management companies over ownership structure and distribution of profits under the terms of a family of venture capital funds; settled favorably.
- AAA arbitration between two owners concerning control of a privately held security company; settled with our client receiving 100% ownership of the company.
- AAA arbitration of a dispute between joint venturers in connection with the Boston Central Artery Project.
- Representation of a non-U.S. electronics manufacturer in ICDR arbitration regarding contract and IP disputes with a U.S. customer.

### **Business Break-ups**

- Representation of a medical device manufacturer in an AAA arbitration brought by another manufacturer/distributor one year after it had purchased a product division from our client, seeking to unwind the transaction and obtain a refund of its purchase price; our client received an award of no liability.
- AAA arbitration of a dispute over a licensing agreement whereby the opposing party was attempting to prohibit our client from making and marketing a sexual dysfunction medication, claiming that our client's efforts to develop its drug instead of theirs both infringed their intellectual property rights and violated a licensing agreement; obtained dismissal of 80% of the opposing party's case, and the parties subsequently resolved the remaining issues amicably.
- AAA arbitration of dispute between two owners regarding control of a privately held security company; settled with our client receiving 100% ownership of the company.
- AAA arbitration representing national consulting company against shareholder to establish stock valuation.

### **Intellectual Property, including Patent, Trademark, Copyright, and Technology Licensing and Transfer Disputes**

- Representation of patentee client in an AAA arbitration arising out of a patent licensing agreement, regarding alleged infringement as well as cross-border sale and importation issues concerning digital cameras, which resulted in an award for our client of several million dollars plus continuing royalties.
- Representation of patentee in a complex AAA arbitration arising out of the breach of a patent assignment agreement, resulting in the assignment of entire patent family (including patents which post-dated the assignment agreement) back to our client.
- Representation of inventor/patentee company in an AAA arbitration of breaches of contract and 93A claims against a sprinkler company for its failure to pay royalties under a long-term licensing agreement; our client received an \$800,000 damages award.
- Representation of a biotechnology company in an AAA arbitration of a contract dispute with a large pharmaceutical company concerning our client's right to receive royalties under a license agreement involving a highly successful drug product; settled on very favorable terms.
- Representation of a non-U.S. electronics manufacturer in an ICDR arbitration regarding contract and IP disputes with a U.S. customer.
- Representation of a software developer in an AAA arbitration regarding copyright protection of program source code and a related contract dispute.
- Representation of a patent-holder in an AAA arbitration to enforce a license agreement regarding laser surgery patents.

### **Construction, Engineering and Architecture**

- Representation of a Swiss general contractor in a Stockholm Chamber of Commerce arbitration regarding an alleged fraud by a former managerial-level employee in connection with an infrastructure project in Yakutsk, Russia.
- Representation of an architectural design firm in an AAA construction fraud arbitration (under Complex Commercial Construction Rules) against a construction manager who was engaged to build out a commercial leased space.
- AAA arbitration of a dispute between joint venturers relative to the Boston Central Artery Project. (Subsequent mediation of dispute during a judicial appeal of the award.)

### **Pharmaceuticals and Biotechnology**

- AAA arbitration of a dispute over a licensing agreement whereby the opposing party was attempting to prohibit our client from making and marketing a sexual dysfunction medication, claiming that our client's efforts to develop its drug instead of theirs both infringed their intellectual property rights and violated the licensing agreement; obtained dismissal of 80% of the opposing party's case, and the parties subsequently resolved the remaining issues amicably.

- Representation of a large biotechnology company in an AAA arbitration of a contract dispute with another large biotechnology company concerning the parties' respective rights under a collaboration agreement, in which the parties agreed to co-develop certain pharmaceutical products.
- Representation of a biotechnology company in an AAA arbitration of a contract dispute with a large pharmaceutical company concerning our client's right to receive royalties under a license agreement involving a highly-successful drug product; settled on very favorable terms.
- Representation of a claimant biotechnology company in an AAA arbitration challenging the respondent's attempt to reduce royalty payments retroactively. Negotiated a favorable settlement after the completion of the hearing on the merits, but before the arbitrators rendered their decision.

### **Sales of Capital Equipment, Commodities, etc.**

- Representation of a U.S. metals trader against a parastatal Indian customer in an ICC arbitration concerning breaches of contract with respect to several deliveries of metal ore.
- Representation of an Italian manufacturer in a Singapore International Arbitration Centre arbitration, and advice regarding litigation in Indonesia, concerning breaches of contract and an alleged fraudulent drawing on a performance bond by an Indonesian purchaser of capital equipment.
- Representation of a GPS golf system manufacturer, which terminated its Spanish and UK distributor and sought damages via ICC arbitration under a failed related acquisition agreement.

### **Service Contracts**

- Representation of a U.S. metals trader against a Macedonian smelter company in an ICC arbitration concerning breaches of a tolling agreement.
- Representation of a leading international medical education and research institution in an ICC arbitration in which it claimed millions of dollars in fees from a Philippine-based educational institution for certain advisory and educational services; settled favorably shortly before oral hearings.
- Representation of an international medical device company in ICDR arbitration against claims by an investment management company that our client owed it fees under the terms of an investment banking agreement for fundraising.
- Representation of a medical device manufacturer in an ICC arbitration concerning performance under an exclusive distribution agreement with one of its OEM manufacturers; settled favorably.
- Representation of an international biodiesel company in an AAA arbitration with regard to a dispute concerning the proper application of a government subsidy to the pricing in a supply contract. Negotiated a favorable settlement on the eve of a hearing on the merits.

### **Fraud and Investigations**

- Represented a Swiss general contractor in a Stockholm Chamber of Commerce arbitration regarding an alleged fraud by a former management-level employee in connection with an infrastructure project in Yakutsk, Russia.

### **Insurance/Reinsurance**

- Representation of a major multinational insurance company in JAMS arbitration of \$12 million coverage dispute arising out of a Japanese company's loss due to alleged vendor dishonesty, leading to post-hearing settlement at substantial discount to demanded amount.
- AAA (complex case panel) arbitration, on behalf of world's largest commercial insurance group, of \$25 million D&O coverage dispute with leading LBO firm, leading to post-hearing settlement for less than one-third of policy limit.
- AAA arbitration to favorable award, on behalf of world's largest insurance group, of \$10 million D&O coverage dispute with California conglomerate.
- Multijurisdictional international investigation on behalf of major insurer, pursuant to arbitration clause, of M\$550 million (approximately US\$50 million) loss suffered by U.S. multinational's Mexican subsidiary, leading to settlement of insurance claim for \$9 million.

### **Political Campaign Fundraising**

- Obtained a \$500,000 award in an AAA arbitration on behalf of a political fundraiser against an election committee for a U.S. Senate seat.

### **Miscellaneous/Other**

- Representation of a prominent agent for professional athletes in an AAA arbitration of claims for breach of contract and fraud against one of the world's largest sports and entertainment marketing companies, relating to residual player fees owed under employment contract; case resolved favorably to our client.
- Representation of the owner of leased premises in an AAA arbitration against a general contractor regarding the GC's delayed performance; obtained an award of all consequential and compensatory damages, including lost profits.
- Representation of the owner of leased premises in an arbitration against a large waste disposal company concerning a dispute over a lease agreement under which the waste disposal company operates a landfill on our client's premises.

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