Transatlantic Deals & Disputes: How to Avoid Shipwrecks in U.S. – German Business

June 20 – 21, 2010

Hilton Frankfurt
Frankfurt, Germany
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Dr. Stephan Wilske, Maître en Droit, LL.M. • Gleiss Lutz • Stuttgart, Germany
Dr. Gerlind Wissskirchen • CMS Hasche Sigle • Köln, Germany
PROGRAM AGENDA

Sunday, June 20, 2010

7.00 p.m. Welcome Reception

Monday, June 21, 2010

8.30 – 9.00 Registration

9.00 - 9.30 Opening Remarks

9.30 - 11.00 Plenary Session:

Transatlantic Cross-Border Investment – United States and Germany

Cross-border investment activities by German and U.S. companies into each others’ economies exceed $310 Billion and have created employment for more than 1.2 million people in both countries. The companies involved are too many to list, and the success stories are well known. But there are also legal pitfalls and potential risks that might derail an otherwise successful cross-border venture.

A panel of experienced cross-border experts will provide a broad overview of important current legal and practical issues that cross-border investment clients need to consider, including the impact of the Foreign Corrupt Practices Act and recent statutory changes in both countries. Subsequent break-out sessions will pick up on this discussion with additional in-depth presentations, focusing on particular aspects affecting investment flow into each country individually.

**Moderator**

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

**Speakers**

W. David Braun, Drinker Biddle & Reath LLP, Chicago, IL

Susanna K. Fuchsbrunner, Sibeth, Frankfurt

Kelvin Strausman, Chief Economic & Diplomatic Advisor, Vereinigung der Bayrischen Wirtschaft, München

**Panel Chairs**

Dr. Michael Faatz, LL.M. Eur., LL.M. Int. Com., Rechtsanwalt, Noerr LLP, Frankfurt

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

11.00 – 11.30 Networking Break

11.30 - 1.00 Transactions Track:

U.S. Investment in Germany

Germany accounts for the largest consumer market in the European Union. The U.S. is the most important investor in the Germany economy, with more than 6,000 U.S. companies having invested over $110 Billion (as of year end 2008) and having created employment for more than 600,000 people.

U.S. companies are represented in all major industry sectors, with a growing focus on information technology, health care and renewable energy.

An interactive panel of experienced cross-border specialists will discuss important legal issues to be considered while representing U.S. companies seeking to enter the German market place as well as during their ongoing and expanding operations in the Europe’s biggest economy.

**Moderator**

Dr. Mark C. Hilgard, Mayer Brown LLP, Frankfurt

**Speakers**

Dr. Markus Bauer, Rittershaus Rechtsanwälte, Frankfurt

Dr. Christian Rödl, Rödl & Partner GbR, Nürnberg

Dr. Thomas Schulz, LL.M., Noerr LLP, München

Dr. Gerlind Wisskirchen, CMS Hasche Sigle, Köln

Dispute Resolution / Litigation Track:

Finding the Truth or Finding an Acceptable Solution? The Major Differences Between U.S. and German Litigation and Their Genesis, Purpose and (Unintended) Consequences

Many in Europe (and even in the United States) believe that the U.S. litigation system is out of control. Media reports about outrageously high judgments handed down by U.S. judges or juries fan the fire and give ammunition to those who condemn the system. Class actions, punitive damages, contingency fees and discovery are among the features that make the U.S. litigation system a target of criticism by continental European lawyers and business people. Why is the U.S. litigation system the way it is? And is it really as bad as its reputation? Recent statistics show that it may not be as crazy as European media like to portray it.

A panel of transatlantic litigation experts will discuss the main differences between the German and U.S. litigation systems, explain the reasons for the different approaches and suggest solutions for parties caught in the middle.

**Moderator**

Glenn P. Hendrix, Arnall Golden Gregory LLP, Atlanta, GA
1.00 - 2.15 Luncheon

2.15 - 3.45 Transactions Track: German Investment in the United States

Germany accounts for the largest European economy with a strong presence in the United States market place. Over 3,000 German companies have invested more than $210 Billion (as of year end 2008) in the U.S., which represents a 9% share of the total $2.2 Trillion investment in the U.S. economy by foreign businesses. German companies in the U.S. employed 660,000 people (as of year end 2006).

Major German car manufacturers (Volkswagen, Mercedes, BMW) continue to open and expand manufacturing operations in the U.S., thereby creating additional highly-needed and well-paying jobs internally and through their suppliers.

An interactive panel of experienced cross-border specialists will discuss important legal issues to be considered while representing German companies seeking to enter the United States market place as well as during their ongoing and expanding operations in the world’s biggest economy.

Moderator
Gabrielle Buckley, Vedder Price P.C., Chicago, IL

Speakers
Jürgen Ostertag, Pryor Cashman LLP, New York, NY
Alexandra Seegers, CEO, Kohlbecker U.S., Atlanta, GA
Tycho H. E. Stahl, Arnall Golden Gregory LLP, Atlanta, GA

Dispute Resolution / Litigation Track: U.S. E-Discovery and EU Data Protection: Between a Rock and a Hard Place?

Experts estimate that, today, more than 90% of all information is generated electronically. Hundreds of millions of emails are sent every day – far exceeding the number of letters and faxes sent in pre-digital times. Under U.S. procedural rules, all of this electronically stored information (“ESI”) is potentially discoverable. Thus, parties to U.S. litigation must potentially hand over not only letters and contracts written or printed on paper, but also emails, any type of document or other information existing on a computer (including drafts), IMs, SMS and even voicemail messages. In several recent cases, emails supplied the “smoking gun,” and in countless disputes, parties have been forced to settle after the disclosure of unfortunate emails. In addition, EU data protection laws may put companies in an awkward position, having to choose between sanctions in the U.S. on the one hand and fines or even criminal prosecution in Europe on the other.

The speakers will explain the relatively new e-discovery rules in the U.S., give an overview of European and German data privacy laws, and then discuss ways to deal with the conflict between the two, including the creation of a document retention policy as one way to lower certain risks.

Moderator
Salli A. Swartz, Phillips Giraud, Naud & Swartz, Paris

Speakers
Dr. Jürgen Hartung, Oppenhoff & Partner, Köln
John McFerrin-Clancy, Lowenstein Sandler, New York, NY
Kenneth Rashbaum, Rashbaum Associates, New York, NY

Panel Chairs
Dr. Michael Faatz, LL.M. Eur., LL.M. Int. Com., Rechtsanwalt, Noerr LLP, Frankfurt
Wilhelm J. Ziegler, Arnall Golden Gregory LLP, Atlanta, GA

3.45 - 4.15 Networking Break
Transactions Track:
Forum Shopping in Restructuring and Cross-Border Insolvencies: U.S. and German Insolvency Regimes Compared

Forum shopping is a well known concept in international litigation but relatively new in restructuring and insolvency. Over the last decade or so, forum shopping in this field has become workable, and companies in distress and their investors should consider which forum can best serve the restructuring purpose and the interests of the parties involved. In principle, this applies to all companies independent of their size and even to self-employed individuals. In Europe, a number of cases have demonstrated that forum shopping can be achieved by migrating the company in distress or by transferring its administration to another respective jurisdiction. Recent restructuring proposals even aim at using U.S. bankruptcy proceedings to restructure German companies.

The panel will provide a comparison of the U.S. and German insolvency proceedings and give an overview of the duties of directors of U.S. and German companies during the period of distress. It will then discuss appropriate cases and ways to use this option as well as risks involved. Finally, the panel will discuss recent issues and trends in restructuring, e.g., debt to equity swaps, interests of bondholders in insolvency, and recent case law of the German Federal Court of Justice on the recognition of U.S. Chapter 11 proceedings in Germany.

Moderator
James Bonsall, Alix Partners, München

Speakers
Dr. Bernd Meyer-Löwy, Kirkland & Ellis International LLP, München
Paul Silverman, McLaughlin & Stern, LLP, New York, NY
Prof. Dr. Heinz Vallender, Presiding Bankruptcy Judge, Köln, and Director of the International and European Insolvency Law Institute, Universität Köln

Panel Chairs
Florian Bruder, M.Jur. (Oxford), Kirkland & Ellis International LLP, München
Birgit Kurtz, Crowell & Moring LLP, New York, NY

Dispute Resolution / Litigation Track:
Turning the Tables on Discovery: Using U.S. and German Proceedings to Your Advantage

Within the civil law community, one of the most feared and distrusted features of U.S. litigation is pre-trial discovery. Many German lawyers and business people have a strong aversion to the various discovery devices available under the rules: Document requests are frequently described as “fishing expeditions,” and depositions (i.e., interrogations, under oath, not by a judge, but by the opposing party's lawyer!) are viewed as a means of intimidation. Thus, many civil lawyers focus only on ways to defend against pre-trial discovery. It might come as a surprise then that they may also be able to use U.S.-style document demands and depositions against the opposing party in a case pending in a German court.

The panel of experts will give a brief overview of what exactly U.S.-style pre-trial discovery encompasses and explain how litigants in German courts can use those devices to strengthen their own case.

Moderator
Lisa J. Savitt, Crowell & Moring LLP, Washington, D.C.

Speakers
Lawrence S. Schaner, Partner, Jenner & Block, Chicago, IL
Dr. Christof Siefarth, Partner, GÖRG, Köln
Dr. Anabel Webering, Judge, High Court, Köln

Panel Chairs
Birgit Kurtz, Crowell & Moring, New York, NY
Dr. Christof Siefarth, Partner, GÖRG, Köln

5.45 Closing Remarks

7.00 - 10.00 Reception and dinner (optional)
Villa Leonhardi
GENERAL INFORMATION

Registration Fee

<table>
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<tr>
<th>Category</th>
<th>Early Bird by May 28</th>
<th>After May 28</th>
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<tbody>
<tr>
<td>Standard Registration - DAV / ABA Member / Cooperating Entities</td>
<td>345.00 €</td>
<td>395.00 €</td>
</tr>
<tr>
<td>Standard Registration - Non Member</td>
<td>395.00 €</td>
<td>445.00 €</td>
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<tr>
<td>Judges, In-House Counsel, Full-Time Government or Academics</td>
<td>295.00 €</td>
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<tr>
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Venue

Hilton Frankfurt · Hochstraße 4 · 60313 Frankfurt · Germany · T 00800 444 586 67 · F +49 69 13380 6030 · http://www.hilton.de/frankfurt

Dinner *(this is an optional event)*

Villa Leonhardi · Zeppelinallee 18 · 60325 Frankfurt am Main
Price per Person 95.00 €

Language

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

Accommodation

Hilton Frankfurt · Hochstraße 4 · 60313 Frankfurt · Germany · T 00800 444 586 67 · F +49 69 13380 6030 · E reservierungsteam.frankfurt@hilton.com

<table>
<thead>
<tr>
<th>Category</th>
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<tr>
<td>Single room</td>
<td>120.00 €</td>
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<tr>
<td>Double room</td>
<td>145.00 €</td>
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Breakfast and taxes included

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

Options for Social Activities

Frankfurt, Germany – both a cultural and a business center. Frankfurt is best known as Goethe’s birthplace and as home to the famous St. Paul’s Church (Paulskirche, where, in 1963, President John F. Kennedy gave a major speech) and the Old Opera House (Alte Oper). "Mainhattan" (as Frankfurt is affectionally known) also offers an impressive skyline that can be easily enjoyed while taking a summertime boat cruise on the Main River; these boat cruises also allow sightseers to conveniently visit the more than one dozen museums (including the famous "Staedel" Art Museum) hugging the Main River. Frankfurt, home to over 300 national and international banks including the European Central Bank, also offers excellent shopping, trendy cafés and fine restaurants in one of the largest pedestrian-only shopping streets (the “Zeil”) and just across the Main River in Sachsenhausen.

For tourism information:

To arrange a Sunday afternoon boat trip:
## Registration Form

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

Deutsche Anwalt Akademie · Mareen Uhl · Littenstraße 11 · 10179 Berlin · Germany
T +49 30 72 61 53 182 · F +49 30 72 61 53 188 · E uhl@anwaltakademie.de

### Participant Information

Name: .................................................................
Title: .................................................................
Firm / Company: ...................................................
Address: .................................................................
Telephone/Fax: .......................................................
Email: .................................................................

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</tr>
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- Welcome Reception – Sunday, June 20 *(included in registration fee)*

- Reception and Dinner (optional)
  
  Please reserve .......person(s) for the dinner – Monday, June 21
  
  95.00 € x .......person(s)

### Total invoice amount:

............................................. €

- **Payment by Bank Transfer**
  
  Deutsche Anwalt Akademie · Berliner Sparkasse · Alexanderplatz 2 · 10178 Berlin, Germany
  
  Bank Routing Code: 100 500 00  
  Swit Code: BELA DE BE
  
  Account number: 6607000469  
  IBAN: DE79100500006607000469
  
  Reason for payment: 91801-10, participant’s name

- **Payment by Credit Card**

Please charge the total invoice amount to my credit card:

- □ Mastercard
- □ Visa Card

  Credit card number: .................................................................  
  Expiration date: .......... / ..........

Date, Signature: .................................................................

### CANCELLATION CONDITIONS

Cancellation must be made in writing and received by **June 7, 2010**, for a full refund of fees, less 100.00 € (administration fee).

No refund of registration or fee for a ticketed event will be granted after that date.

Date ........../ ........../ ............  
Signature...........................................................................
