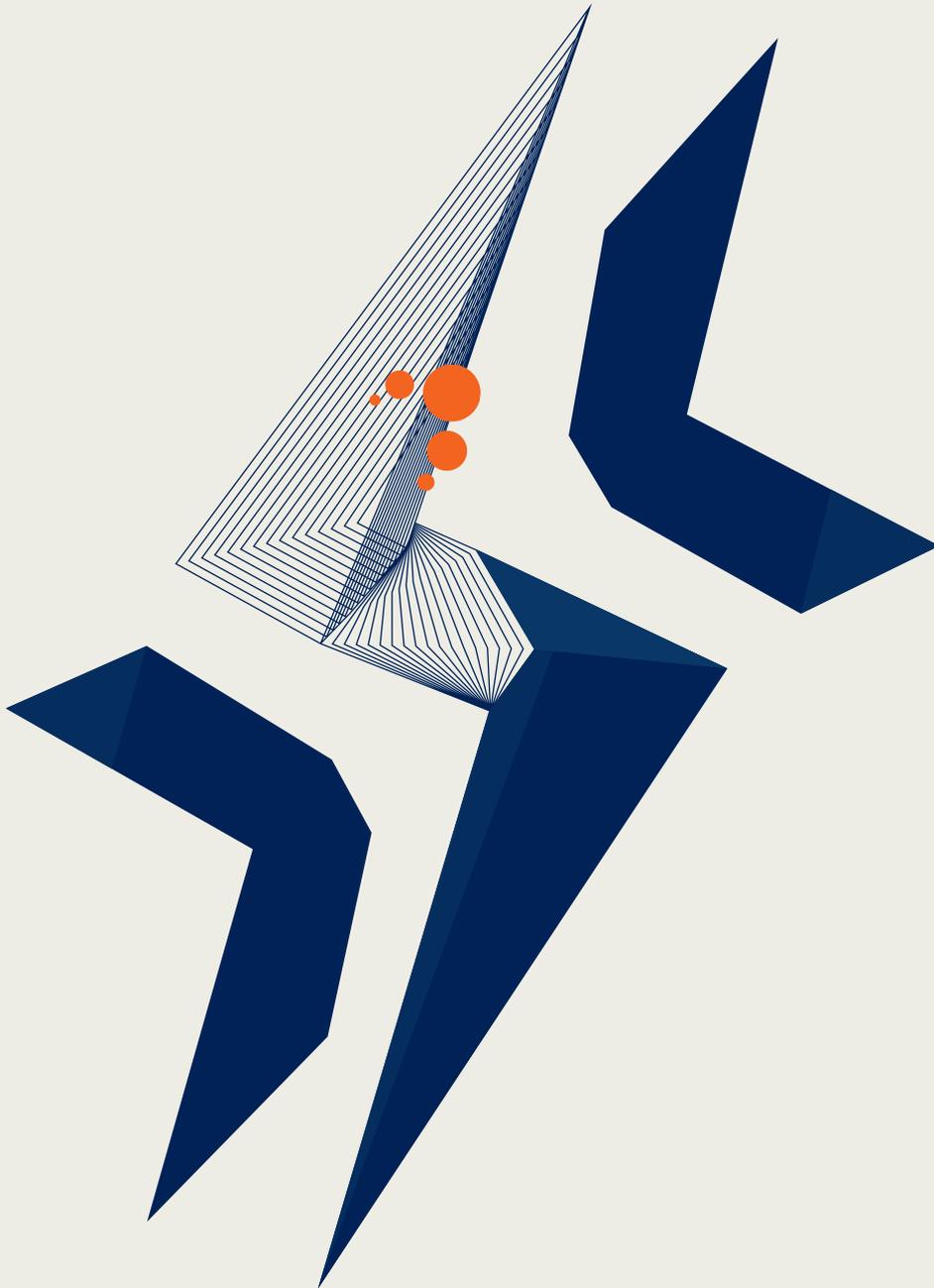


**Noerr**



**Litigation, Arbitration & ADR**





**Disputes have to be fought with passion and determination – but with a sense of proportion.**

*Michael Molitoris*



*Conflicts cannot always be avoided. In the worst case, they can even jeopardise the existence of an enterprise.*

The key to operating a successful business is therefore identifying critical issues early on and adopting a proactive approach. By doing so, even the most complex disputes can be resolved efficiently and cost-effectively.

As the largest team of litigation specialists in Germany and drawing on decades of experience, we are aware that this task has not become easier in the 21st century. The willingness to initiate proceedings is increasing and conflicts may arise around the world and at any point in the supply chain.

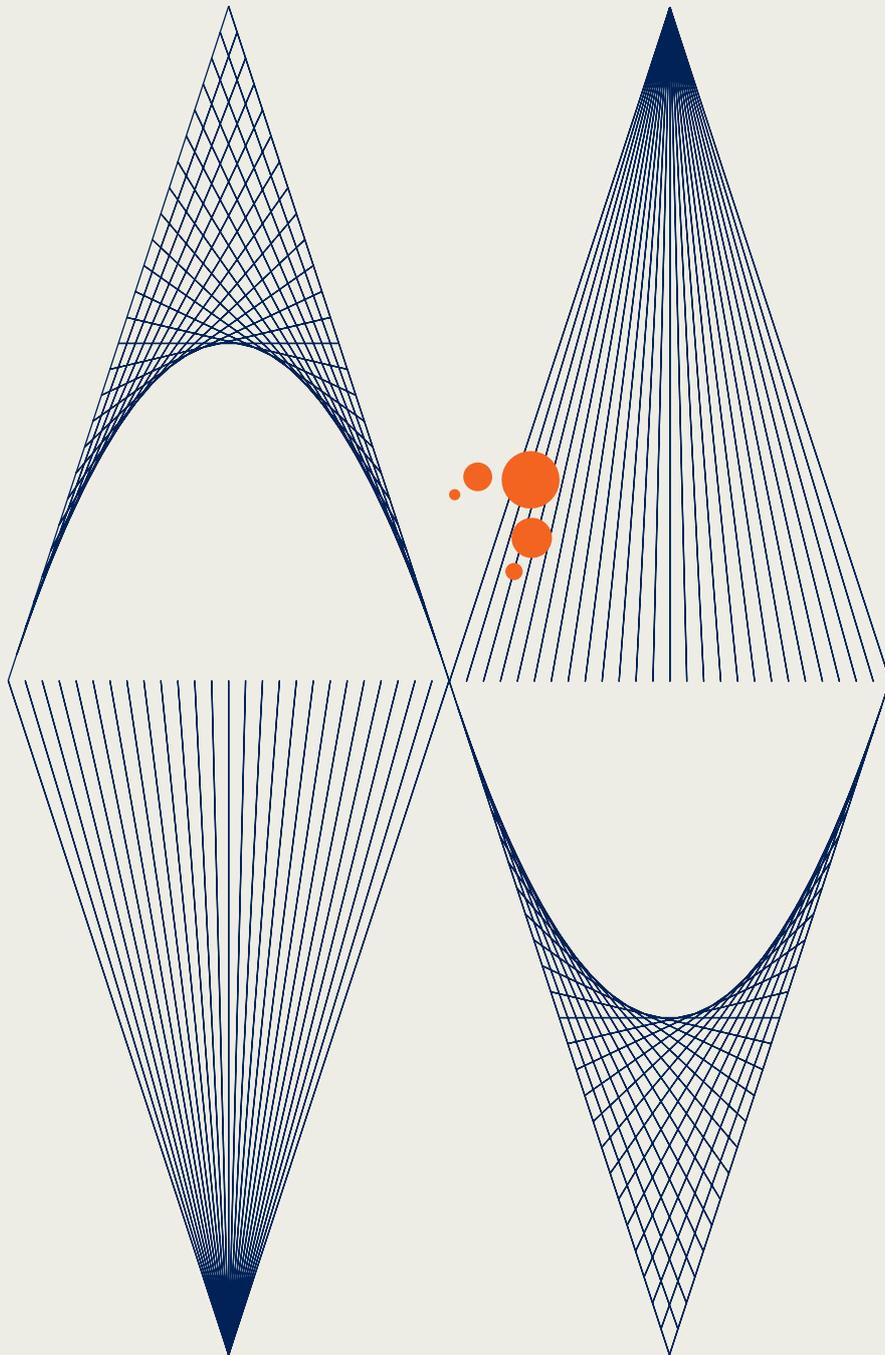
Internationally experienced lead counsel are essential to facilitate a successful outcome to any dispute.

Globalisation, technical upheavals and innovation, coupled with increased governmental regulation bring new challenges to successful dispute resolution.

The ability of prosecution authorities to conduct increasingly intensive investigations around the world by accessing digital data increases the potential risks for enterprises and individuals concerned. Cartel proceedings and product liability cases sometimes involving billions of dollars in a US context provide ample evidence of this.

Internal investigations against board members and employees are also challenging for enterprises. In the absence of proactive advice and a targeted defence strategy such investigations may escalate and ultimately destroy the reputation and capital of a company.







**Results are what counts – success has to be achieved quickly and efficiently. This is the standard we set for our services.**

*Dr Oliver Sieg*



*Over 100 litigation specialists support you comprehensively throughout Europe in successfully resolving national and international business disputes.*

## Our advisory services include:

- ADR (national and international)
- Labour and employment law disputes
- Banking proceedings
- Corporate law disputes
- Real estate law disputes
- Insolvency law disputes
- IT disputes/cyber risks
- Cartel disputes
- Media law disputes
- Patent law disputes
- Product liability, product recalls, product safety
- Litigation (national and international)
- Regulatory disputes
- Arbitration proceedings (national and international)
- Insurance and reinsurance disputes
- Distribution law disputes
- Disputes under the law governing economic offences, compliance & internal investigations

# Transnational Litigation & Arbitration

*Transnational disputes usually require a tailored and alternative approach to purely national disputes. Opportunities and risks have to be accurately assessed at an early stage and incorporated into the dispute strategy.*

All existing options have to be included in a strategy analysis

As a starting point, a dispute before the national courts (whether at home or abroad) must be considered in the context of the applicable features of procedural and substantive law. These will include the jurisdiction of the court seized of the matter, the existing evidence options as well as the question of whether in the particular jurisdiction incorruptible and qualified judges will decide the case.

As an alternative, the option of arbitral proceedings (whether ad hoc or employing the assistance of an arbitral institution) should be examined and an assessment of the pros and cons be carried out. Typical considerations include the admissibility of arbitral proceedings in the specific dispute concerned, the significance of maintaining confidentiality in the dispute and the options for enforcement of any later arbitral award compared to a court judgment.

Finally, the various forms of alternative dispute resolution (ADR) should be analysed. This may enable the dispute to be resolved in a more time and cost efficient manner but may not be suitable for all cases, particularly where the opponent is unwilling to participate.

Our litigation specialists have mastered all forms of dispute resolution and can provide strategic advice tailored to the individual needs of the dispute. They act both as litigators within Germany and our other office locations, but also as dispute lead counsel in close cooperation with our partner law firms worldwide. In addition, assistance is often provided to partner law firms in connection with disputes occurring within our national jurisdictions.

The team members also act as arbitrators in arbitral proceedings and mediators in mediation proceedings, but first and foremost as highly qualified legal counsel who protect the interests of our clients in disputes.

Our team now includes lawyers with a common law background, enabling us to set up tailor-made teams, in particular for disputes with a connection to the USA and the UK.

## Our services at a glance:

- Drafting and finalising individual dispute clauses, giving preparatory advice
- Evaluating opportunities and risks, considering options for resolving conflicts, preparing a dispute strategy
- Obtaining temporary relief – national and international
- Conducting out-of-court negotiations
- Handling litigation before national courts
- Managing and coordinating parallel proceedings in different jurisdictions as dispute lead counsel
- Assisting during the taking of evidence in Germany for foreign proceedings
- Ensuring national and international execution and enforcement of judgments
- Ensuring national and international enforcement of decisions affording temporary relief
- Guiding and supporting in UK and US proceedings
- Representing parties in arbitration proceedings (e.g. under ICC, DIS, SCC, LCIA, VIAC and Swiss Rules as well as ad hoc), also in a coordinating function in cooperation with local counsel
- Conducting investment arbitration (investment protection)
- Acting as arbitrators in national and international arbitration proceedings
- Representing parties in all kinds of ADR procedures, both national and international
- Acting as mediators

# Corporate Law Disputes

*Shareholders and board members increasingly need to enforce the legal interests of their company or their own interests by means of litigation. Executives and board members are expected as a matter of law to act strictly in the interests of the company. This encompasses both complying with legal regulations and carefully preparing and documenting entrepreneurial decisions. These duties are accompanied by extensive organisational and monitoring duties.*

Shareholders and board members not only expect to be protected against their own liability risks, but are also required to enforce claims of the company against others in the interests of the company. Conflicts between shareholders, post-M&A disputes and actions brought by shareholders are used as a means of pursuing the economic interests with all available means.

In corporate law disputes it is equally important to consider the wider picture of cross-border set-ups and to take advantage of legal possibilities in court proceedings, alternative tools of dispute resolution and arbitral proceedings to achieve a solution efficiently. In addition to long-standing expertise, we have teams of specialists who are well-versed in different industries and who cover a wide range of comprehensive legal services.

## Our individual services:

Providing advice and representation in:

- Disputes between companies, shareholders and executive directors and board members and insurers seeking to enforce or avoid D&O liability
- Disputes and proceedings under the law governing stock corporations
- Post-M&A disputes
- Evaluations and balance sheet issues within the context of corporate law disputes
- Other complex disputes which fall in the direct responsibility of the company's management

# Product Liability, Product Recalls, Product Safety

*Since current market practice usually involves products being sold worldwide, the product liability risks for manufacturers, suppliers and even commerce are also becoming increasingly global. Rapid technological progress brings with it increased regulation and large-scale monitoring of product safety and environmental compatibility. In light of this, companies must adopt the correct approach to product safety, both nationally and internationally.*

The first challenge is to address product safety at a preventative level, taking into account the legislative framework of product compliance. Noerr's product liability lawyers provide strategic advice to address this. In the event that an inherent product risk arises and damage is a possibility, we provide assistance with global product recalls and recommend other measures which can be adopted to avert associated risk. Our advisory services include managing claims for costs and notifications to the authorities as well as crisis communication with the media and stakeholders.

If the public prosecutor's office initiates criminal investigations against individuals within an enterprise, we provide guidance and support both to the enterprise and to those individuals affected as both expert advisors and defence counsel.

## Our services at a glance:

- Defending against product liability claims: Coordinating defence strategies internationally and comprehensively managing the process
- Official notification procedures: Providing advice and representing clients
- National and international product recalls: Giving strategic advice, managing legal and communications issues
- Recall costs: Enforcing and defending claims
- Prevention: Giving product safety advice, also on CE marking

# Insurance and Reinsurance Disputes

*Natural disasters, environmental catastrophes, accidents and technical failures pose major challenges to companies. Business failures or crimes against the assets of a company may also create significant financial problems. The key is therefore to clarify the facts and legal responsibilities and protect the company's interests adequately, also with insurance cover.*

We have long-standing experience in providing our clients with specialised and inter-disciplinary legal advice and in representing them in their capacity as policyholder or insurer. Should a loss be incurred, our aim is to safeguard and enforce the rights of our clients with all consequences, whether in negotiations or in domestic or international court or arbitral proceedings.

Our tailored legal services cover the following areas:

- Providing product development and advice on products
- Representing clients in insurance and reinsurance disputes and recourse proceedings before national courts and in arbitration tribunals
- Advising and representing clients regarding insurance coverage and liability in relation to the settlement of complex claim scenarios, also where a large number of parties is involved and/or in cross-border cases
- Advising and representing clients in all core corporate insurance sectors, in particular comprehensive liability, D&O, E&O, PI, cyber, M&A/W&I, fidelity, credit and contingency, legal costs, property, business interruption, technical insurance, marine and aviation
- Advising and representing clients in disputes with regulatory authorities

# Insolvency Law Disputes

*Legal advice is often needed during ongoing business operations to enforce or avert claims. The imminent threat or commencement of insolvency proceedings increases the likelihood of legal disputes.*

Creditors, debtors and other participants in insolvency proceedings are in safe hands throughout delicate situations with Noerr advisors on hand. This is also the case in personal liability claims against managing directors and shareholders arising out of alleged delays in filing for insolvency or a breach of capital maintenance rules. Our knowledge of insolvency law and the law on economic crimes enables us to ensure that a payment crisis does not escalate into a personal crisis.

## Our key areas of advice:

- Actions seeking establishment of a claim
- Actions for liability based on delays in filing for insolvency and breaches of capital maintenance rules. In this respect we represent insolvency administrators and defendants.
- Insolvency actions and actions by creditors to have certain transactions by debtors declared void: Representing insolvency administrators and opponents of creditors' actions
- Actions based on financial commitments made by shareholders
- Proceedings for the realisation of security, the disbursement of proceeds, the enforcement of creditors' preferential claims and rights of separation in insolvency cases
- Court disputes with financiers of distressed enterprises
- Court disputes between shareholders in a distressed enterprise
- Payment transactions in insolvency, such as cancellation of direct debits

# Banking Litigation

*Financial products may often turn on a single contractual clause. Should that clause be held to be defective, such as the cancellation clause in a loan agreement, this may trigger an avalanche of claims by investors.*

Litigation on behalf of banks and financial service providers in complex and strategically important court proceedings forms the core of our long-standing practice. We represent banks in disputes concerning financial market products (prospectus liability) and capital market information, in capital investment exemplary proceedings and in mass litigation brought by investors (closed-end funds, derivatives, certificates, investment funds). We offer substantial added-value to clients by providing strategic guidance throughout the course of such complex proceedings.

The procedural practice of the banking litigation team also includes the law governing loans and credit security in applicable fields (cancellation rights, processing fees), defending litigation concerning loan-financed real estate purchases, guarantees especially in international commerce, exemplary proceedings on standard terms and conditions, insolvency disputes and the national and international enforcement of claims.

## Focus of our advisory services:

- Capital investment law (investment funds, e.g. media and real estate, closed-end or open; structured credit derivatives, swaps, etc.)
- Law on loans and credit security
- Liability of banks for loan-financed real estate purchases and for accession to real estate funds
- Payment transactions (national, international)
- Guarantees, suretyships

# Cartel Disputes

*Multi-million/billion-euro fines from the European Commission in respect of cartel agreements or abuse of a dominant market position: these are often just the tip of the iceberg and may be followed by cartel damages claims. Noerr's litigation team provides comprehensive support to both cartel participants and those who have suffered harm at the hands of a cartel. We offer a rigorous litigation strategy to defend or enforce claims for damages as the case may be.*

It is not always necessary to take a case to court; settlements can often be reached in out-of-court conciliation proceedings. One of the pivotal challenges is to reach an internal settlement amongst the participants in the cartel. Whilst from the perspective of the individual cartel participants it is essential to only be held responsible for its own contribution, for those alleging damage suffered the aim is to secure the highest possible damages. Irrespective of which side we act for, we develop a strategy that best satisfies our client's interests.

We advise on the following specific areas:

- Conducting legal and economic evaluation of claims for damages due to cartels and developing a suitable litigation strategy
- Asserting or defending claims under cartel law, especially for damages, for the granting of access to essential infrastructure and for discontinuation of conduct in breach of cartel law – both out of court by way of settlement or conciliation negotiations and before the courts in Germany as well as in a coordinating capacity in international cases
- Involving and guiding highly specialised teams of competition economists when cartel damages claims have to be quantified
- Handling cases of minor and administrative offences involving fines for participation in cartel agreements
- Providing assistance and guidance throughout investigations by the cartel authorities and round-the-clock support when searches and dawn raids are conducted by the cartel authorities

# IP Disputes

*At Noerr, our IP work focuses on guiding and representing our clients in infringement proceedings, competition law cases and related areas.*

Our successful litigation specialists have many years of experience in developing strategy, negotiating tactics and matters of substantive law. Should it become necessary, they work closely with colleagues from other specialist areas, such as food law, distribution and product safety law. By doing so, they are able to form first-class teams, individually tailored to the case in hand, and customised to address both the individual legal issues involved and the specific needs of the client.

Our advisory services focus on the following issues:

- Developing the best possible enforcement strategies for registered and unregistered intellectual property rights (patents, trademarks, designs, copyrights, etc.) and for claims in the area of supplementary protection of achievements under competition law (e.g. against counterfeits)
- Representing clients in court proceedings before German courts in all areas of IP law and competition law, especially in proceedings for interlocutory injunctions
- Representing clients in proceedings before the German Patent and Trade Mark Office, the EPO and EUIPO (e.g. in opposition and invalidity proceedings) and before the German Federal Patent Court and the EU courts in Luxembourg
- Patent invalidity and opposition proceedings before the German Federal Patent Court, the German Patent and Trade Mark Office and the EPO
- Cross-border patent, trade mark and design infringement proceedings, coordination and steering of infringement proceedings abroad
- Developing strategies for know-how protection and prosecution of unlawful utilisation of trade and business secrets
- Representing clients in court in copyright disputes of all kinds (e.g. accusations of plagiarism, payment disputes arising from licensing contracts, proceedings concerning the unauthorised use of copyrights, bestseller cases)
- Prosecuting and resolving disputes out of court
- Combatting product piracy, conducting customs seizure proceedings
- Representing clients in domain disputes

# White-Collar Crime, Compliance & Internal Investigations

*Few things are worse than being suspected of an economic offence. Dawn raids, cross-border investigations and court proceedings with significant media exposure may even adversely affect an entire corporate group.*

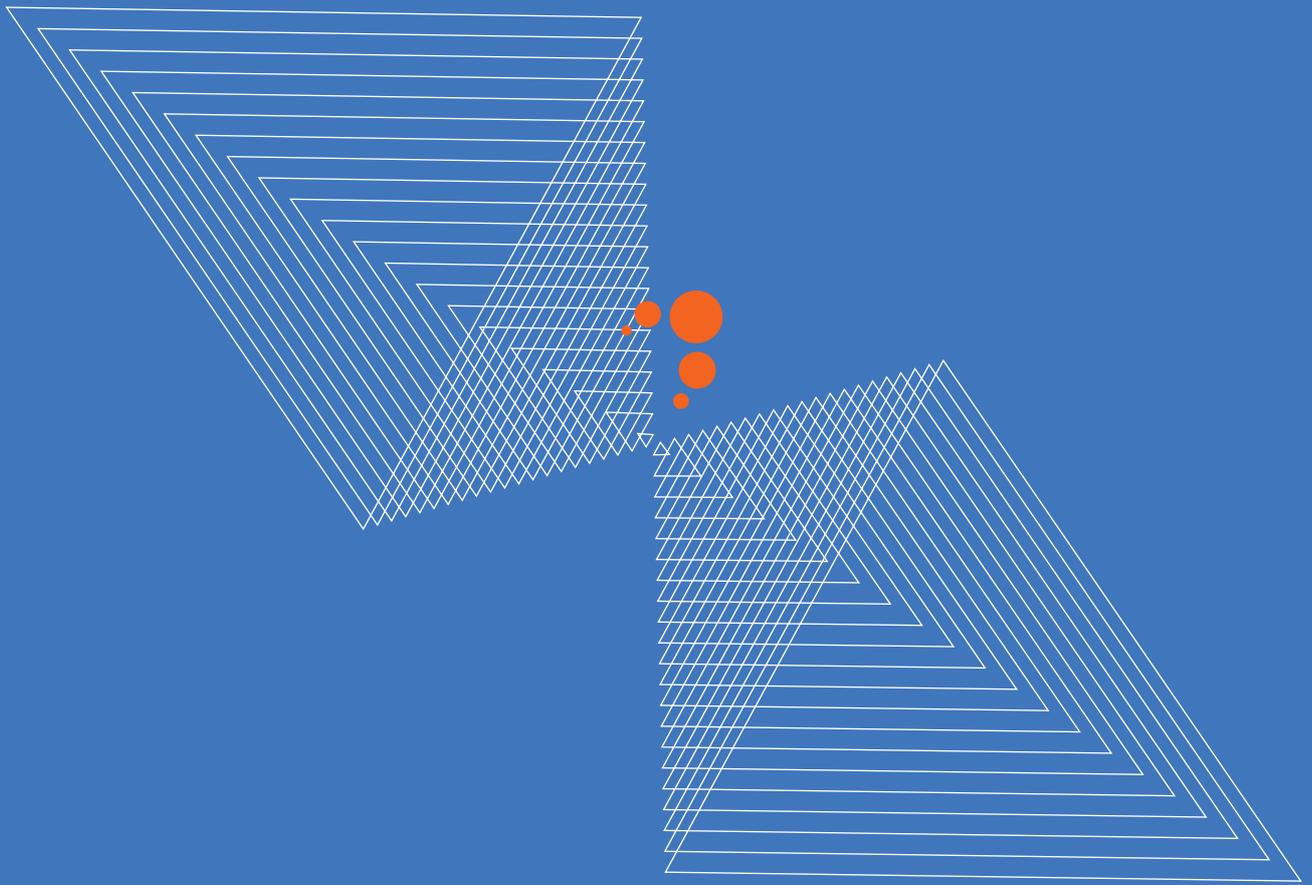
Even if there is initially only internal suspicion leading to a precautionary investigation, this consumes considerable time and energy. Management also risks exposure to breaches of the law, for example when reviewing sensitive data or questioning employees.

On the other side are those who have suffered harm as a result of corruption or other economic offences. In addition to legal advice, these parties require assistance in pursuing and recovering their assets.

In our experience, successful advice in respect of economic offences demands the highest levels of professionalism and interpersonal skills.

## Focus of our services:

- Giving preventive advice and preparing expert opinions on issues of economic crime and tax offences
- Representing enterprises in
  - search and seizure measures,
  - criminal investigations and administrative offences proceedings
- Defending board members and decision-makers in criminal investigations and criminal proceedings
- Planning and structuring internal investigations, both national and international (investigation maps)
- Deploying tried and tested analysis tools and Noerr's own e-discovery infrastructure
- Securing evidence in a form to be used in a court of law
- Conducting internal investigations as an independent investigator or as support for investigation units within an enterprise
- Evaluating investigation findings from a corporate law, employment law and criminal law perspective
- Developing amnesty programmes
- Coordinating internal and external communication and investor relations



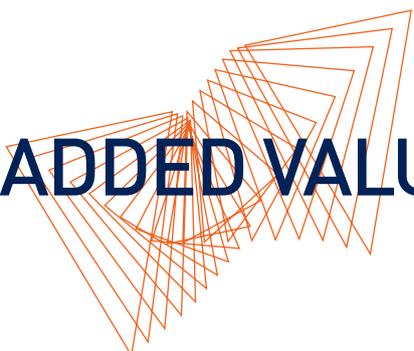


**It is our job  
to defend your  
interests  
worldwide –  
without forgetting  
what is truly  
important to you.**

*Dr Anke Meier*



**/YOUR ADDED VALUE**



*We do not litigate for the sake of it. Yet when we handle a dispute for a client (whether a major corporation, a medium-sized company or a private individual), we do so with the determination, passion and tenacity that have shaped Noerr's reputation over a number of decades. We aim to achieve the best possible outcome for our clients. In doing so, we act proportionally and take account of all of those aspects which are important to our clients.*

Drawing on experience, we know that the outcome of disputes both in and out of court cannot be controlled or predicted with absolute certainty. Nevertheless, in order to offer the best possible predictability, we proactively analyse and draw-up an individual dispute strategy for you and the particular case at hand. We provide you with a clear and open-minded assessment of the opportunities and risk at an early stage.

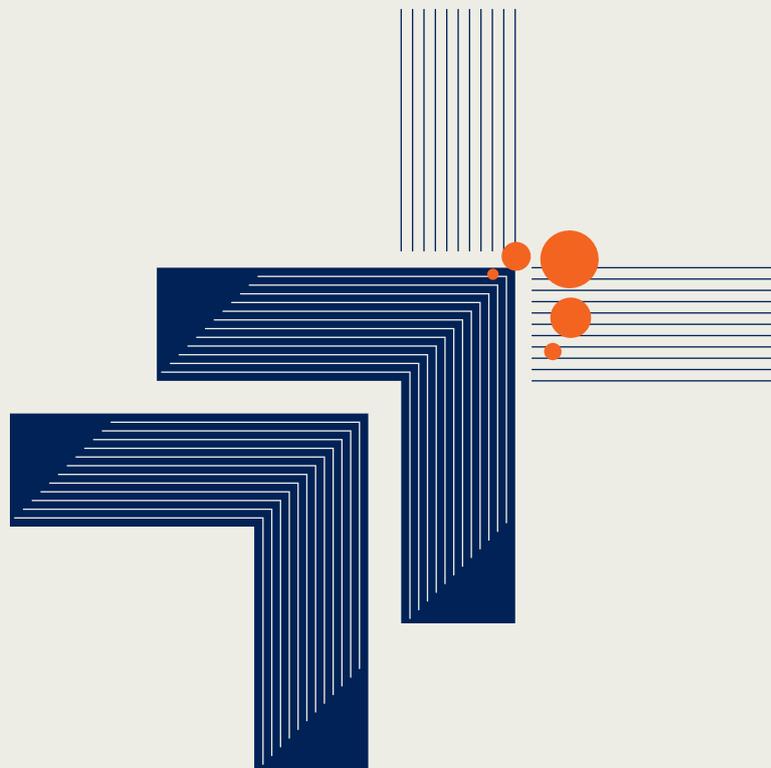
We react quickly to new developments – be that the reactions of your opponent, the court or the media – enabling us to respond effectively. Out of a number of options, we creatively select the approach which offers the best chance for our client.

We are willing to take risks, but only together with our client, and only if those risks do not jeopardise our client's good reputation.

To this end we deploy focused, customised litigation teams comprised of strong and experienced advisors and where appropriate we also consult specialists from our other practice groups such as banking, corporate, employment, insolvency, cartel and criminal law.

Noerr frequently acts as the international lead counsel, coordinating cases across numerous countries and jurisdictions. We understand what matters to you, our clients, in cross-border disputes.

Whenever necessary, we draw on our long-standing connections and memberships, such as the Lex Mundi network, to identify the most suitable local law-firms for your project. This enables us to guarantee truly global legal advice that satisfies the exacting quality standards of Noerr.



*Noerr stands for excellence and an entrepreneurial approach. With highly experienced teams of strong characters, Noerr devises and implements solutions for the most complex and sophisticated legal challenges. United by a set of shared values, the firm's 500+ professionals are driven by one goal: our client's success. Listed groups and multinational companies, large and medium-sized family businesses as well as financial institutions and international investors all call on the firm.*

#### **Entrepreneurial thinking**

Noerr's advisors make their clients' challenges their own and are always thinking one step ahead. In doing so, they assume responsibility and are at liberty to make their own decisions. The firm is committed to always going the extra mile for its clients and to resolving complex matters with the perfect mix of experience, excellence and sound judgement.

#### **Innovative solutions**

In complex and dynamic markets new approaches are regularly required – and delivered by experts who bring both the know-how and the necessary passion. This is precisely what Noerr excels at: implementing integrated and innovative solutions in the most efficient way.

#### **Global reach**

As one of the leading European law firms, Noerr is also internationally renowned. With offices in eleven countries and a global network of top-ranked "best friends" law firms, Noerr is able to offer its clients truly cross-border advice.

In addition, Noerr is the exclusive member firm in Germany for Lex Mundi, the world's leading network of independent law firms with in-depth experience in 100+ countries worldwide.

#### **Capacity in Central and Eastern Europe**

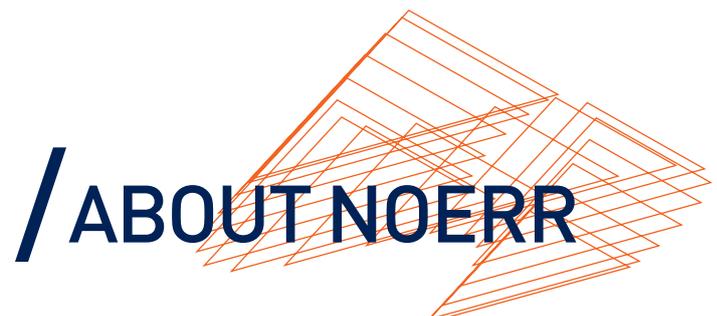
Noerr has long had its own offices in all major Central and Eastern European capitals. The firm regularly advises on greenfield investments, joint ventures, acquisitions and divestments in Central and Eastern Europe by investors from all over the world. With more than 100 professionals, Noerr is one of the leading law firms in the region.

#### **Noerr Group**

Noerr LLP – Noerr Consulting AG – TEAM Treuhand GmbH – NOERR AG Wirtschaftsprüfungsgesellschaft Steuerberatungsgesellschaft

#### **Offices**

Alicante, Berlin, Bratislava, Brussels, Bucharest, Budapest, Dresden, Düsseldorf, Frankfurt, Hamburg, London, Moscow, Munich, New York, Prague, Warsaw





**In complex proceedings you need an experienced, coordinated and efficient team to cover all aspects of the case and ultimately to prevail.**

*Hans Christian Kirchner*





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European Law Firm  
of the Year and Law Firm  
of the Year: Germany



The Lawyer European Awards 2019

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European Law Firm  
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British Legal Awards 2018

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and Distribution,  
Trade & Logistics



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**/LEGAL AWARDS**

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