




## DR MATHIAS WITTINGHOFER

PARTNER

[Germany](#)

Dr Mathias Wittinghofer is a Partner in the dispute resolution department in Germany.

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## BACKGROUND

### Associations

- [Member of P.R.I.M.E. Finance – Panel of Recognized International Market Experts in Finance](#)
- International Bar Association (IBA)
- International Council for Commercial Arbitration (ICCA)
- Deutsche Institution für Schiedsgerichtsbarkeit (DIS) (German Institution for Arbitration)
- Chartered Institute of Arbitrators, Committee of European Branch
- Law Society of England & Wales
- Deutsch-Britische Juristenvereinigung/German-British Jurists Association (DBJV)
- Bankrechtliche Vereinigung (Association for Banking Law)
- Austrian Arbitration Association

- Listed as arbitrator at the Vienna International Arbitration Centre (VIAC)
- Swiss Arbitration Association (ASA)
- Member of Panel of Arbitrators of the Kuala Lumpur Regional Centre for Arbitration

## Admission

- England and Wales, United Kingdom (2008)
- Germany (2004)

## Education

- Oberlandesgericht Frankfurt am Main (Assessor Exam) (2004)
- Westfaelische Wilhelms-Universitaet Muenster (Referendar Exam) (2000)

## Languages

- English
- German

## KEY SERVICES

Financial Services Disputes  
Commercial Litigation

## KEY SECTORS

Banks

## EXPERIENCE

Mathias is double-qualified as a Rechtsanwalt in Germany and a solicitor in England and Wales. He is also a Fellow of the Chartered Institute of Arbitrators, where he serves on the Committee of the European Branch. Mathias is a member of i.a. the German Arbitration Institution, the Austrian Arbitration Institution and the Swiss Arbitration Association; a recognized expert at P.R.I.M.E. Finance and a panellist at the Vienna International Arbitration Centre and the Kuala Lumpur Regional Centre for Arbitration. He has over 15 years' experience in handling all kinds of commercial litigations and domestic and international arbitrations, with a special focus on disputes relating to capital markets and post-M&A, as both counsel and arbitrator. In addition, Mathias has been acting, both as counsel and as arbitrator, in joint venture disputes, corporate D&O liability matters and in intellectual property cases, including patents, utility models and designs. Mathias is also representing parties with a view to and advising on follow-on cartel damage claim matters. Mathias' arbitration experience includes serving as an expert on German arbitration law in foreign court proceedings.

Mathias has completed the training required to qualify as a Fachanwalt für Bank- und Kapitalmarktrecht (specialised banking and finance lawyer). He has published several articles on banking and finance law, as well as international arbitration, and has spoken extensively on both topics. Mathias is also a lecturer on International Arbitration at the Goethe University in Frankfurt.

In 2012 and again in 2015, Mathias was awarded the prestigious ILO Client Choice Award as Germany's best litigation counsel, based on a survey among more than 2,000 in-house counsels worldwide.

In *Who's Who Legal: Arbitration (2020)* Mathias is recognised as one of the world's leading commercial arbitrators and counsel, stating: "Mathias Wittinghofer is 'an outstanding colleague with a great attitude', effuse peers who distinguish him as 'an insightful counsel who is always very responsive". In the 2017, 2018 and 2019 editions of the book, Mathias was named a global "Future Leader", with the guide stating: "Mathias Wittinghofer impresses with his impeccable legal skills, outstanding character and great judgment". The guide also says: "Mathias Wittinghofer gains recognition as 'an exceptionally good strategist' who impresses with his 'extremely engaged and client-oriented approach'. Sources comment that he has 'a strong presence, especially in banking, finance and corporate disputes'".

In *Who's Who Legal: Germany (2020)*, Mathias is recognised as one of Germany's highest ranked lawyers in arbitration and litigation. He 'is distinguished as a "very hardworking" lawyer who excels when it comes to handling corporate liability, joint ventures and IP disputes.' "Mathias is recognised as a standout figure in the German litigation space thanks to his expert handling of a range of disputes". Since 2018, Mathias has been recognised as one of the top "leading lawyers" in the field of arbitration by *Who's Who Legal: Germany*, which stated: "The 'very dynamic' Mathias Wittinghofer is internationally recognised for his 'effective, excellent counsel and cogent presentation of facts and law' and is "fast and professional". The guide also recognised him as a leading lawyer in the area of TMT ("Mathias Wittinghofer is a disputes guru who is recognised for his invaluable counsel on technology-related matters.").

*JUVE*, the leading German legal directory, lists Mathias as a frequently recommended dispute resolution and litigation expert ("rhetorically strong", "brilliant strategist", "strong counsel in arbitrations", "mastermind").

*The Legal 500 Germany* acknowledges Mathias as a 'very experienced' arbitration specialist. Since 2018, Mathias has also been listed by "Best Lawyers Germany" and *Handelsblatt* as "DEUTSCHLANDS BESTE ANWÄLTE" for his litigation work and since 2021 additionally for arbitration and mediation as well as international arbitration.

Mathias' experience includes:

- acting as a party-appointed arbitrator in a DIS post-M&A arbitration about post-closing purchase price adjustment in the metals and aluminium business
- acting as party-appointed arbitrator in a DIS post-M&A arbitration concerning inter alia tax and litigation indemnifications and product liability in the automotive and engineering industry
- advising a global household name IT hardware and services provider in dispute over design of e-sales platform with multinational engineering conglomerate
- acting for a German corporate against its former managing directors and the D&O insurer in lawsuit over liability of managing directors for failing to secure relief under German Renewable Energy Act
- representing and advising a truck manufacturer with a view to cartel follow-on damage claims being brought in Germany
- representing and advising a French innovation and engineering consulting firm in dispute

arising out of purchase of various European subsidiaries of Austrian holding in automotive industry

- advising and acting for German bank in the German courts in connection with wide-spread fraud and embezzlement scheme
- acting as party-appointed arbitrator in ad hoc arbitration concerning the dissolution of a medicinal joint venture
- acting for Korean manufacturer of children's safety equipment in suit of lawsuits over patents, utility models and designs acting as party-appointed arbitrator in a DIS post-M&A arbitration in the paint and coatings industry
- acting as party-appointed arbitrator in a DIS arbitration dealing with alleged rights of recourse in the context of an insolvency following an M&A arbitration in the logistics and shipping industry
- acting for a Russian bank in insolvency and reorganization proceedings of German film distributor
- representing a Russian investment bank in proceedings obtaining an ex parte order to attach bank accounts in Germany held by an East-European bank to secure a €10+ million claim in parallel with concurrent attachment proceedings in the U.S., the U.K., France and Russia
- successfully defending a Portuguese government agency in a litigation about the acceleration of a €75 million bond due to alleged cross-defaults and breaches of information covenants under the loan documentation ([More information](#))
- representing a leading European logistics company in a post-merger dispute under the DIS rules
- representing a German sickness funds in EUR 270 million dispute over establishing integrated care centres in DIS arbitration and parallel proceedings to have arbitration declared inadmissible by Frankfurt Court of Appeals
- acting as presiding arbitrator in a DIS arbitration between a bank and a real estate funds in dispute about validity and operation of debtor warrant
- representing a German bank in a dispute with a municipal company regarding a €295 million CDO portfolio swap transaction

## Publications

- Extensively quoted in: "[Adjudikation – Unbekannte Alternative zum Gerichtsprozess](#)", Handelsblatt, July 2020
- Author: "[One year of Model Declaratory Action in Germany- taking stock and outlook](#)" – Lexology, November 2019
- Co-Author: "[Derivatives Disputes: ISDA revises Arbitration Guide, expanding the model arbitration clauses](#)", 19. December. 2018
- Author, Chapters "Die Beweisaufnahme", "Schiedsverfahren vs Schiedsgutachten" and "England & Wales", in Salger/Trittmann (eds) "Internationale Schiedsverfahren", Beck, 2018
- Co-author, "Ihr Klägerlein kommet?! – Anmerkung zum Urteil des BGH in Sachen *Grauzementkartell II*", NZKart 2018, 334, August 2018
- Author, "[Erste Erfahrungen mit der europäischen Kontenpfändungsverordnung – Sorgfältige Planung und Geduld erforderlich](#)", Die Bank, Zeitschrift für Bankpolitik und Praxis, March 2018
- Author, "Negative interest on existing cash deposits imposed by change in terms and conditions unlawful", International Law Office (ILO) Banking Newsletter, February 2018
- Author, "[The DIS Rules of Arbitration of 2018](#)", Kluwer Arbitration Blog, February 2018
- "[Financial Services Litigation - Germany](#)" in: Getting the Deal Through, Law Business Research, 2017
- "[Alternative Streitbeilegung: Geschwindigkeit zählt](#)", PLATOW Recht, Nr. 57, 17. May 2017
- Author, "'[No Risk, no Fun](#)' – A Counsel's Remarks on Integrity", Schieds VZ 2017, Heft 3
- Author, "[Neue ISDA-Standard-Klausel für Schiedsverfahren bei OTC-Geschäften](#)", Risiko Manager, February 2017
- Author, "Chancen nutzen, Risiken minimieren", Die Bank, Zeitschrift für Bankpolitik und Praxis, January 2017
- Author, "[The Race Towards Predictability](#)", Austrian Yearbook, 2017
- "Financial Services Litigation - Germany" in: Getting the Deal Through, Law Business Research, 2016
- Author, "[A Never Ending Story: Claudia Pechstein's Challenge to the CAS](#)", Kluwer

Arbitration Blog, June 2016

- Interview, "[Klagen gegen Aufsichtsbehörden nehmen auch in Deutschland zu](#)", Recht und Kapitalmarkt, Börsen-Zeitung, 28.05.2016
- Author, "[Arbitration and intra-EU BITs – German Bundesgerichtshof weighs in on the discussion](#)", Herbert Smith Freehills - Arbitration Notes Blog, May 2016
- Author, "[The German Federal Supreme Court dismisses claim by bondholders against Greece, denying jurisdiction on grounds of state immunity](#)", Herbert Smith Freehills - Public International Law Blog, April 2016
- Author, "[Germany intensifies fight against corruption abroad and at home](#)", Herbert Smith Freehills - Financial Services Regulation and Corporate Crime Blog, December 2015
- Author, "[Application to Have Arbitration Declared \(In\)Admissible – A German Torpedo to Arbitral Proceedings?](#)", Kluwer Arbitration Blog, November 2015
- Author, "[Arbitrations seated in Germany: Due to the dynamics within arbitral tribunals, an award can be set aside even if only one of the arbitrators was successfully challenged in the German courts and the decision was made unanimously](#)", Herbert Smith Freehills - Arbitration Notes Blog, July 2015
- Author, "[German Federal Supreme Court: No suspension of limitation by generic model applications for conciliation](#)", Herbert Smith Freehills - Dispute resolution e-bulletin, June 2015
- Author, "[CJEU confirms validity of jurisdiction clauses agreed electronically by “click-wrapping”](#)", Litigation Notes Blog, 2015
- Author, "[Argentina cannot evade payments under its government bonds: German Court rejects suggestion of a general rule of international public law obliging all creditors to participate in debt restructuring with states in economic crisis](#)", PIL Notes Blog, 2015
- Author, "German Federal Supreme Court Underlines Non-Intervenistic and International Approach of German Arbitration Law", Kluwer Arbitration Blog, 2014
- Author, "[BGH legt zivilrechtliche Informationspflicht von Banken über Innenprovisionen bei Kapitalanlage fest](#)", Herbert Smith Freehills - Dispute resolution e-bulletin, July 2014
- Author, "Finanzbranche entdeckt Schiedsgerichte", Börsen-Zeitung, Recht und Kapitalmarkt, No.201, October 2013
- Author, "Wenn Promis für Anlageprodukte haften," Börsen-Zeitung, No. 20, January 2012
- Author, "Verbietet das AGG die Auswahl von Schiedsrichtern aufgrund ihrer

Nationalität?", RIW 2011, 527-531

- Author, "BGH dehnt Haftung ausländischer Brokerhäuser aus" (Federal Supreme Court Extends Liability of Foreign Brokers), NZG, 2010
- Author, "Neue Pflichten für Onlinebroker" (New Duties for Online Brokers), Frankfurter Allgemeine Zeitung, March 2010
- Author, "Zur Berechnung des Schadensersatzes nach Art. 76 UN-Kaufrecht," (On the Calculation of Damages under Art. 76 UN Sales Law), Internationales Handelsrecht, 2010
- Author, "Emmott v. Michael Wilson & Partners Ltd: Der englische Court of Appeal meint es ernst mit der Vertraulichkeit im Schiedsverfahren - oder nicht?" (Emmott v. Michael Wilson & Partners Ltd: The English Court of Appeal is Serious About Confidentiality in Arbitration - Or is it?), SchiedsVZ, 2009
- Author, "Schiedsklauseln in Allgemeinen Geschäftsbedingungen", SchiedsVZ 2005, at 217-229

## Presentations

- Speaker, "Arbitration, Financial Services and Banking Disputes: An Update" at 9th P.R.I.M.E. Finance Annual Conference, The Hague, 4 February 2020
- Speaker, BRG Conference, London, 17 October 2019: Debating the Upsides and Downsides of Party- or Tribunal-Appointed Experts in Arbitrations
- Speaker, 3rd IBA Litigation Committee Conference on Private International Law - The latest on Brexit, International Commercial Courts and Sanctions, Milan, 25 October 2019
- Speaker, 8th Hanseatischer GmbH-Beratertag, 9 November 2018: The new DIS Rules of Arbitration
- Speaker, Annual Meeting of the German-Korean Legal Association, 27 October 2018: The new DIS Rules of Arbitration
- Speaker, 5th GAR Live Frankfurt, 12 June 2018, "Lies, fraud and deceit - what are counsel's duties in arbitration's defence?"
- Speaker, Working Group Day 2018, German-American Lawyers' Association, 2 March 2018, Frankfurt: "The new 2018 DIS Rules - a comparison with the ICC and the LCIA



## Rules"

- Chair, Panel "Arbitration for Finance Lawyers" at 7th P.R.I.M.E. Finance Annual Conference, The Hague, 23 January 2018
- Speaker, "Model Disputes in Capital Markets Law – The German Class Action Model", International Bar Association Annual Meeting, Sydney, 12 October 2017
- Speaker, "Arbitration and Iran", 19th Euro Finance Week, 3rd Banking and Business Forum Iran Europe, Frankfurt, 16 November 2016
- Speaker, "[No Risk, No Fun – A Counsel's Remarks on Integrity in International Arbitration](#)", Deutsche Institution für Schiedsgerichtsbarkeit/German Institution of Arbitration, Fall Conference, 28 September 2016
- Speaker, "Sovereign debt and enforcing it in the (German) courts – from Argentina to Greece", Workshop at the European Central Bank, Frankfurt, May 2016
- Speaker, "[Arbitration and the State Courts](#)", Video Post in Observations on Arbitration series, Herbert Smith Freehills - Arbitration Notes Blog, April 2016
- Speaker, "The race for predictability: is it a threat to modern arbitration?", Vienna Arbitration Days, Vienna, 22-23 January 2016
- Chair and Speaker, "[Regional trends in international arbitration](#)", CDR Autumn Arbitration Symposium, London, 2015
- Speaker and Presenter, "Towards a unitary patent law in Europe: The unified patent court and the unitary patent", Samsung Legal Technique Training conference, Seoul, September 2015
- Speaker and Presenter, "Private antitrust enforcement in Europe: The new EU directive on antitrust damages actions", Samsung Legal Technique Training conference, Seoul, September 2015
- Speaker and Presenter, "The uncitral model law – On international commercial arbitration and proceedings under the uncitral regime", 8th Duesseldorf International Arbitration School and Conference, Duesseldorf, September 2015
- Speaker and Presenter, "Pitfalls in M&A arbitration", 8th Duesseldorf International Arbitration School and Conference, Duesseldorf, September 2015
- Speaker and Presenter, "Arbitration in Banking & Finance Disputes", Duesseldorf International Arbitration Conference, Panel Discussion, 27 September 2013
- Lecturer "National and International Arbitration", Goethe-Universität, Frankfurt
- Speaker, "Arbitration and Adjudication in International Construction Projects,"

Association of the Turkish Construction Industry (INTES), Ankara, March 2010

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