

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

June 20 – 21, 2010

Hilton Frankfurt
Frankfurt, Germany



© Tom Bayer - Fotolia.com



Deutscher Anwaltverein
Arbeitsgemeinschaft
Internationaler Rechtsverkehr



ABA Section of
International Law
Your Gateway to International Practice

Cooperating Entities



Sponsors

ABA Section of International Law Primary Corporate Sponsor



ABA Section of International Law Strategic Research Partner



Luncheon Sponsor



Silver Partner



Meeting Supporters



JENNER & BLOCK

OPPENHOFF & PARTNER

Rechtsanwälte



PLANNING COMMITTEE

SECTION CHAIRS

Glenn P. Hendrix • Arnall Golden Gregory LLP • Atlanta, Georgia, USA
Prof. Dr. Friedrich Graf von Westphalen • Graf von Westphalen • Köln, Germany

CONFERENCE CO-CHAIRS

Prof. Dr. Hanns-Christian Salger, LL.M. • Salger • Frankfurt, Germany
Birgit Kurtz • Crowell & Moring LLP • New York, New York, USA
Dixon F. Miller • Porter Wright Morris & Arthur LLP • Columbus, Ohio, USA
Wilhelm J. Ziegler • Arnall Golden Gregory LLP • Atlanta, Georgia, USA

STEERING COMMITTEE

Jenny Abreu • American Bar Association Section of International Law • Washington, DC, USA
Dr. Markus Bauer • Rittershaus • Frankfurt, Germany
Florian Bruder, M.Jur. (Oxford) • Kirkland & Ellis International LLP • München, Germany
Gabrielle M. Buckley • Vedder Price P.C. • Chicago, Illinois, USA
Yee Wah Chin • Ingram Yuzek Gainen Carroll & Bertolotti LLP • New York, New York, USA
Dr. Michael Faatz, LL.M. Eur., LL.M. Int. Com. • Noerr LLP • Frankfurt, Germany
Katrin Frank • German Bar Association • Berlin, Germany
Susanna K. Fuchsbrunner, LL. M. • SIBETH Partnerschaft • Frankfurt, Germany
Dr. Hans-Michael Giesen, LL.M. • GÖRG • Berlin, Germany
Dr. Jürgen Hartung • Oppenhoff & Partner • Köln, Germany
R. Duane Propst • American Bar Association Section of International Law • Washington, DC, USA
Jörg Rehder • Jones Day • Frankfurt, Germany
Jessica L. Smith • American Bar Association Section of International Law • Washington, DC, USA
Karin Spangenberg • German Bar Association • Berlin, Germany
Ursula Sticker • German Bar Association • Berlin, Germany
Mareen Uhl • DeutscheAnwaltAkademie • Berlin, Germany
Dr. Christof Siefarth, LL.M. • GÖRG • Köln, Germany

PLANNING COMMITTEE

Dr. Jan M. Bauer • Gleiss Lutz • Frankfurt, Germany
Matthias Berger, LL.M. • Harmsen Utescher • Hamburg, Germany
Christiane Burrell • Echternacherbrück, Germany
Kelley A. Day • Hamburg, Germany
Peter H. Dehnen • Dehnen Lawyers • Düsseldorf, Germany
Dr. Lutz-Peter Gollnisch • Luckau, Germany
Dr. Wilhelm Hartung • K&L Gates LLP • Berlin, Germany
Prof. Dr. Hans-Jürgen Hellwig • Hengeler Mueller • Frankfurt, Germany
Karl G. Herold • Caduceus Global Advisors • Frankfurt, Germany
Dr. Mark C. Hilgard • Mayer Brown LLP • Frankfurt, Germany
Wolfgang M. Kau • Kau Attorneys • Düsseldorf, Germany
Andreas Klein • Chmielorz • Wiesbaden, Germany
Dr. Eberhardt Kühne • K&L Gates LLP • Berlin, Germany
Prof. Dr. Richard Kreindler • Shearman & Sterling LLP • Frankfurt, Germany
Jason Lindbloom • Foyer International • Leudelange, Luxembourg
Dr. Robert Loef • Noerr LLP • New York, New York, USA
Dr. Rudolf Pietzke • Salger • Frankfurt, Germany
Prof. Dr. Martin Reufels • Heuking Kühn Lüer Wojtek • Köln, Germany
Jan Rudolph • Noerr LLP • Frankfurt, Germany
Lisa J. Savitt • Crowell & Moring LLP • Washington, DC, USA
Dr. Marcus Schriefers • Kleiner • Stuttgart, Germany
Dr. Claudia Seibel • IUR REALIS • Frankfurt, Germany
Teri A. Simmons • Arnall Golden Gregory LLP • Atlanta, Georgia, USA
Tycho H. E. Stahl • Arnall Golden Gregory LLP • Atlanta, Georgia, USA
Prof. Dr. Gerhard Wegen, LL.M. • Gleiss Lutz • Stuttgart, Germany
Dr. Hariolf Wenzler • Bucerius Law School • Hamburg, Germany
Dr. Stephan Wilske, Maitre en Droit, LL.M. • Gleiss Lutz • Stuttgart, Germany
Dr. Gerlind Wisskirchen • 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

Adi Seffer, Heymann & Partner, 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. Dirk Uwer, LL.M., Mag.rer.publ., Hengeler

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

Mueller, Düsseldorf
Dr. Gerlind Wisskirchen, CMS Hasche Sigle, Köln

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

Speakers

Prof. Dr. Siegfried Elsing, Orrick Hölters & Elsing,
Düsseldorf

Birgit Kurtz, Crowell & Moring, New York, NY

Thomas M. Mueller, Morrison & Foerster, New
York, NY

Prof. Dr. Hanns-Christian Salger, Salger
Rechtsanwälte, Frankfurt

Panel Chairs

Birgit Kurtz, Crowell & Moring, New York, NY

Prof. Dr. Hanns-Christian Salger, Salger
Rechtsanwälte, Frankfurt

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

Matt Morley, K&L Gates LLP, Washington DC

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

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

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

Lydia Schulze Althoff, Bayer AG, Leverkusen

Dr. Jürgen Hartung, Oppenhoff & Partner, Köln

John McFerrin-Clancy, Lowenstein Sandler, New
York, NY

Kenneth Rashbaum, Rashbaum Associates, New
York, NY

Panel Chairs

Birgit Kurtz, Crowell & Moring, New York, NY

Dr. Jürgen Hartung, Partner, Oppenhoff & Partner,
Köln

Jörg Rehder, Jones Day, Frankfurt

3.45 - 4.15 Networking Break

4.15 - 5.45 **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

Peter H. Hoegen, Allen & Overy LLP, Frankfurt

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

Hon. Sidney I. Schenkier, United States District Court, Northern District of Illinois, 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 Fees*

	Early Bird by May 28	After May 28
Standard Registration - DAV / ABA Member / Cooperating Entities	345.00 €	395.00 €
Standard Registration - Non Member	395.00 €	445.00 €
Judges, In-House Counsel, Full-Time Government or Academics	295.00 €	345.00 €
Young Lawyers (<35) - DAV / ABA Member / Cooperating Entities	295.00 €	345.00 €
Young Lawyers (<35) - Non Member	345.00 €	395.00 €

** Group discounts apply when four (4) or more attendees from the same law firm register at the same time. A 50% reduction is applied to each registrant after the third full-paying registration.*

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 · T 1 800 446 6677 · F +49 69 13380 6030 ·
E reservierungsteam.frankfurt@hilton.com

Single room 120.00 €
Double room 145.00 €

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:

http://www.frankfurt-tourismus.de/cms/tourismussuite/en/sightseeing_frankfurt_rhine_main/sights_travel_guide/

To arrange a Sunday afternoon boat trip:

http://www.primus-linie.de/007/cnt/kiosk/SFP_2010Screen_en.pdf

Registration Form

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

DeutscheAnwaltAkademie · 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

Registration Fees*

	Early Bird by May 28	After May 28
<input type="checkbox"/> Standard Registration – Member DAV / ABA / Cooperating Entity	345.00 €	395.00 €
<input type="checkbox"/> Standard Registration - Non Member	395.00 €	445.00 €
<input type="checkbox"/> Judges, In-House Counsel, Full-Time Government or Academics	295.00 €	345.00 €
<input type="checkbox"/> Young Lawyers (<35) - Member DAV / ABA / Cooperating Entity	295.00 €	345.00 €
<input type="checkbox"/> Young Lawyers (<35) - Non Member	345.00 €	395.00 €

** Group discounts apply when four (4) or more attendees from the same law firm register at the same time. A 50% reduction is applied to each registrant after the third full-paying registration.*

☐ Welcome Reception – Sunday, June 20 (included in registration fee)

☐ Reception and Dinner (optional) 95.00 € x _____ person(s)
Please reserveperson(s) for the dinner – Monday, June 21

Total invoice amount:

.....€

☐ Payment by Bank Transfer

DeutscheAnwaltAkademie · Berliner Sparkasse · Alexanderplatz 2 · 10178 Berlin, Germany

Bank Routing Code: 100 500 00

Swift 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.....