

THE FRANCHISE LAW
REVIEW

SIXTH EDITION

Editor
Mark Abell

THE LAWREVIEWS

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REVIEW

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This article was first published in February 2019
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Published in the United Kingdom
by Law Business Research Ltd, London
87 Lancaster Road, London, W11 1QQ, UK
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ISBN 978-1-83862-002-8

Printed in Great Britain by
Encompass Print Solutions, Derbyshire
Tel: 0844 2480 112

ACKNOWLEDGEMENTS

The publisher acknowledges and thanks the following for their assistance throughout the preparation of this book:

ARAMIS

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PREFACE

Since the publication of the fifth edition of *The Franchise Law Review*, there have been yet more major economic and geopolitical developments that have had a significant impact on world trade; the Sino-American trade war, the renewal of Iranian sanctions and Brexit being only three of these. Through all this, however, the apparently inexorable march towards the globalisation of commerce has continued unabated. Despite the slow emergence of a few economic bright spots, the global economy is not performing as well as it might, and there are concerns that the US economy may be approaching a crash.

As a consequence, businesses are often presented with little choice but to look to more vibrant markets in Asia, the Middle East and Africa for their future growth. At the same time, South–South trade is on the increase, perhaps at the expense of its North–South counterpart. All of this, coupled with the unstable wider geopolitical landscape, presents business with only one near certainty: there will be continued deleveraging of businesses in the coming years and, thus, growing barriers to international growth for many of them. All but the most substantial and well-structured of such businesses may find themselves facing not only significant difficulties through reduced access to funding for investment in their foreign ventures, but also challenges arising from their lack of managerial experience and bandwidth.

Franchising, in its various forms, continues to present businesses with one way of achieving profitable and successful international growth without the need for either substantial capital investment or a broad managerial infrastructure. In sectors as diverse as food and beverages, retail, hospitality, education, healthcare and financial services, franchising continues to be a popular catalyst for international commerce and makes a strong and effective contribution to world trade. We are even seeing governments turning to it as an effective strategy for the future of the welfare state as social franchising gains still more traction as a way of achieving key social objectives.

Given the positive role that franchising can play in the world economy, it is important that legal practitioners have an appropriate understanding of how it is regulated around the globe. This book provides an introduction to the basic elements of international franchising and an overview of the way that it is regulated in 37 jurisdictions.

As will be apparent from the chapters of this book, there continues to be no homogenous approach to the regulation of franchising around the world. Some countries specifically regulate particular aspects of the franchising relationship. Of these, a number try to ensure an appropriate level of pre-contractual hygiene, while others focus instead on imposing mandatory terms upon the franchise relationship. Some do both. In certain countries, there is a requirement to register certain documents in a public register. Others restrict the manner in which third parties can be involved in helping franchisors meet potential franchisees. No two countries regulate franchising in the same way. Even those countries that have

a well-developed regulatory environment seem unable to resist the temptation to continually develop and change their approaches – as is well illustrated by the recent changes to the Australian regulations. The inexorable march towards franchise regulation continues, with countries such as Argentina, which previously had not specifically regulated franchising, adopting franchise-specific laws over the past 12 months.

Many countries do not have franchise-specific legislation but nevertheless strictly regulate certain aspects of the franchise relationship through the complex interplay of more general legal concepts such as antitrust law, intellectual property rights and the doctrine of good faith. This heterogeneous approach to the regulation of franchising presents yet another barrier to the use of franchising as a catalyst for international growth.

While this book certainly does not present readers with the complete answer to all the questions they may have about franchising in all the countries covered – that would require far more pages than it is possible to include in this one volume – it does seek to provide the reader with a high-level understanding of the challenges involved in international franchising in the first section, and then, in the second section, explains how these basic themes are reflected in the regulatory environment within each of the countries covered. I should extend my thanks to all of those who have helped with the preparation of this book, in particular Caroline Flambard and Nick Green, who have invested a great deal of time and effort in making it a work of which all those involved can be proud. It is hoped that this publication will prove to be a useful and often-consulted guide to all those involved in international franchising, but needless to say it is not a substitute for taking expert advice from practitioners qualified in the relevant jurisdiction.

Mark Abell

Bird & Bird LLP

London

January 2019

PORTUGAL

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Dzhamil Oda and Diogo Pinto¹*

I INTRODUCTION

The Portuguese Franchising Association and the Institute for Information in Franchising (IIF) – currently part of the International Faculty for Executives (IFE) – were created to provide information about franchising and to help overcome difficulties resulting from the lack of specific rules applicable to franchising. Both entities encourage contact between the various groups with an interest in franchising, namely franchisors, companies looking for business partners, franchisees, potential investors and suppliers of goods and services for networks.

The IFE monitors the development of franchising in Portugal through its franchising census, which it carries out regularly. According to the 23rd franchising census, organised by the IFE, in 2017, Portugal has experienced marked growth in the franchise market, with a significant increase in the number of brands and the diversification of business areas. In 2017, 40 new business concepts were developed in the national franchise market, which now consists of 610 franchise brands (66 per cent of them from Portugal).

II MARKET ENTRY

i Restrictions

Foreign investment is permitted in almost all economic sectors open to private investment in general, there being virtually no barriers to foreign-owned or foreign-directed enterprises.

Foreign investment operations do not need to be registered with, or authorised by, the Portuguese central or local authorities. Administrative requirements concern only specific matters such as trademarks, intellectual property rights and certain sector-specific regulation. However, for EU-based investors these requirements cannot constitute restrictions to the right of establishment set out in the Treaty on the Functioning of the European Union (TFEU).

In addition, the Portuguese government may grant benefits to large investment projects – to both national and foreign investors – such as financial incentives and tax benefits or public funding. AICEP Portugal Global is the government business entity entrusted to manage and attract foreign investment, and it is entitled, on behalf of Portugal, to receive, assess, negotiate and contract large investment projects eligible to benefit from state aid.

¹ Magda Fernandes is a partner, José Maria Montenegro is a senior lawyer, Vasco Stilwell d'Andrade is a senior associate and Dzhamil Oda and Diogo Pinto are associates at Morais Leitão, Galvão Teles, Soares da Silva & Associados. Parts of this chapter originally appeared in Dennis Campbell (ed.), *International Franchising* (Huntington, New York 11743: Juris Publishing, Inc, 2012).

Nevertheless, as member of the EU, the Portuguese government must comply with state aid rules established in the TFEU; thus, the award of such benefits may require prior approval by the European Commission.

ii Foreign exchange and tax

Corporate income tax (IRC) is applicable to income obtained both by resident and by non-resident entities. Portuguese law taxes non-resident entities only on the income obtained in Portugal, and taxes resident entities on global income, either from internal or external sources.

Resident entities are normally taxed on the basis of the relevant periodic tax return on their global income. Non-resident entities may be taxed either by means of a definitive withholding tax or, in some situations (i.e., capital gains), are required to submit a periodic tax return on income. For non-residents, the following rates are applicable:

- a* capital gains, 25 per cent;
- b* dividends, 25 per cent;²
- c* interest, 25 per cent;³
- d* royalties, 25 per cent;⁴
- e* other services, 25 per cent, except for transport, communications and financial services;⁵ and
- f* investment income (including dividends, interest and royalties) paid to an entity domiciled in a tax haven listed in the Portuguese blacklist of offshore jurisdictions is taxed at 35 per cent.

Portugal has signed double-taxation treaties with 77 countries and two others are pending ratification.

III INTELLECTUAL PROPERTY

i Brand search

There are currently millions of registered trademarks in the world and several hundred thousand of them are in force in Portugal. Determining the ability to use a trademark in the Portuguese market is essential before large investments are made in marketing and packaging, and, importantly, before entering into a franchise agreement.

Registered trademarks can be searched in a number of public databases or, alternatively, it is possible to hire specialised companies to conduct in-depth clearance searches. Two of the most popular public databases used in Portugal are TMview and the database of the National Institute of Industrial Property (INPI).

In performing a trademark clearance search, it is necessary to bear in mind the criteria used for assessing the likelihood of confusion, namely issues of priority, similarity of goods

2 This tax rate may, however, be reduced, to as little as 5 per cent, according to double-taxation treaties.

3 This tax rate may, however, be reduced, to as little as 5 per cent, according to double-taxation treaties, and under Directive 2003/49/CE payments to qualifying EU recipients are exempt.

4 See footnote 3.

5 This tax may be reduced or eliminated according to double-taxation treaties.

and services and similarity of the marks from visual and phonetic perspectives. One should remember that no search provides a 100 per cent guarantee that the trademark application will proceed to grant nor that there will be no third-party opposition.

Indeed, in assessing the viability of a trademark application, it is important to remember that, *inter alia*, company names may be used as basis for opposition and that foreign trademarks often benefit from a six-month priority period, during which they can claim protection in Portugal. Unregistered trademarks that are used in commerce also have limited protection for an initial period of six months and may be invoked in opposition proceedings.

Furthermore, given that Portugal is a Member State of the Madrid Agreement and Protocol and of the EU, it is necessary to remember that European Union and international trademarks may also be in force in Portugal.

Whereas the process of searching and clearing a trademark is a well-understood and common procedure, verifying the non-existence of conflict in other areas (image rights, business process, etc.) is highly complex and carries with it significantly more risk. These risks should be duly taken into consideration in franchise agreements.

ii Brand protection

The 'brand' is normally considered to be the central element of a franchise deal. Indeed, it is the brand that franchisees use and exploit in a certain territory to attract more customers and increase sales. The franchisor must, consequently, authorise the franchisee to use one or more brands and ensure that they are protected and maintain their value and attractiveness. Registration of the brand is fundamental to provide the franchisee with comfort in relation to the rights it is using.

The Portuguese trademark registration process is governed by the Portuguese Industrial Property Code, approved by Law-Decree No. 36/2003 of 5 March 2003. The 2003 Industrial Property Code is set to be replaced (for the most part) by a new Industrial Property Code as of 1 July 2019 (approved by Law-Decree No. 110/2018 of 10 December 2018).

The relevant authority for registering Portuguese trademarks or patents is the INPI. In brief, the request to register a trademark is filed and subsequently published in the official Industrial Property Bulletin. There is a two-month period in which the application may be challenged by any interested party.⁶ The applicant has a further two months in which to contest the challenge, as provided by Article 17 of the Industrial Property Code.⁷

INPI will only start examining the application after the two or four-month period referred to above; the purpose of the examination being to ascertain and confirm whether the application meets the criteria foreseen in the law (the 'absolute grounds of refusal') and that the trademark is not likely to be confused with an already existing registered trademark (the 'relative grounds of refusal'). The application is only approved following this examination, after which it is registered and published in the official Industrial Property Bulletin. These decisions can be appealed to the Intellectual Property Court, currently seated in Lisbon, or, if all interested parties agree, to an arbitral court set up at the ARBITRARE centre.

6 With the entry into force of the new Industrial Property Code on 1 July 2019, it will also be possible to file third-party observations within this same deadline.

7 Upon the entry into force of the new Industrial Property Code, the applicant will have the opportunity to request proof of genuine use of the mark concerned in the reply.

Decree-Law No. 125/2006 of 29 June 2006 created the ‘on-the-spot trademark’ regime, according to which it is possible to buy a pre-approved trademark equivalent to the company name chosen at the same time that an ‘on-the-spot company’ is incorporated.⁸

Article 316⁹ of the Industrial Property Code establishes that industrial property benefits from the same protections as those established for property in general. An owner of a registered trademark may file a claim against anyone infringing the owner’s trademark rights, namely using, without authorisation, in the course of trade, a mark that is identical or similar to the one registered, on products and services identical or similar to those included in the aforementioned registration and, as a consequence, causing a risk of confusion in the market.

Special protection exists in Portugal for well-known or prestigious marks. An owner of an unregistered trademark also may file a claim under the unfair competition chapter of the Industrial Property Code or under the general rules of non-contractual or contractual liability set forth in the Civil Code.

Article 317¹⁰ of the Industrial Property Code establishes that certain behaviour by competitors may be considered unfair competition, including any acts that mislead consumers as to the identity of the company and origin of the products or services.

Furthermore, Article 318 establishes that the unlawful acquisition, disclosure or use of a competitor’s trade secrets is considered illegal.¹¹

As with Portuguese trademarks, which are registered in a manner almost identical to that seen in other European Union countries, other intellectual property rights such as patents and designs also follow approval procedures closely based on EU legislation or international treaties.

In Portugal, it is standard practice for the obligation to protect the brand to fall on the franchisor, since that is one of the essential aspects of the franchise agreement.

iii Enforcement

The types of action available to a foreign trademark holder will largely depend on the circumstances of such a trademark being registered or in force in Portugal. If the trademark is in force in Portugal, the foreign trademark holder may file a civil trademark infringement proceeding against the infringer, requesting that the infringement cease and, additionally, requesting compensation in cases where damage has occurred. In situations of great urgency, it is possible to request a preliminary injunction for the cessation of the infringing activity.

The foreign trademark holder may instead or in addition file a criminal complaint against the infringer, given that trademark infringement constitutes a crime under Portuguese law. Such a complaint would be investigated by the Portuguese public prosecutor and it is for the latter to decide to bring a case to court. The plaintiff also can request compensation under this procedure. The criminal complaint would have to be filed by the trademark owner within six months of him or her becoming aware of the infringing actions.

8 Decree-Law No. 318/2007 of 26 September 2007 established the possibility of obtaining an on-the-spot trademark independently of the incorporation of a company. All the relevant administrative services start and finish the procedural formalities on the same day, and just one personal visit is required. A registered trademark also can be bought online, via a public-access website.

9 The same rule is contained in the new 2018 Industrial Property Code, namely in Article 310.

10 The same rule is contained in the new 2018 Industrial Property Code, namely in Article 311.

11 The new 2018 Industrial Property Code transposes the Trade Secrets Directive (Directive (EU) 2016/943).

Furthermore, a foreign trademark holder may file a complaint of unfair competition, which is considered a misdemeanour under the Industrial Property Code. The complaint is filed with the Economic and Food Safety Authority, a police agency, and it is then decided by the INPI. In the context of franchise agreements, the improper use of a trademark generally gives rise to a breach of contract, the consequences of which are typically resolved by either a judicial court action or arbitration (depending on what is stipulated in the agreement). In relation to third-party infringements, it is customary for the franchise agreement to stipulate the parties' obligations and the mechanisms agreed for pursuing enforcement through the courts.

iv Data protection, cybercrime, social media and e-commerce

Personal data is often a vital component of a franchise agreement, and customer lists and supplier contacts are often valued information that the franchisee wishes to access when entering into a franchise agreement. Conversely, the franchisor is often interested in having access to information on sales and other financial matters that may contain personal data (e.g., invoices).

The importance of personal data protection has been growing considerably in Europe and, naturally, also in Portugal. Great care should be taken to ensure that personal data are collected in a legal manner and that any transfers of personal data (particularly across borders) are done lawfully. Direct marketing is also tightly regulated and it is necessary to ensure that the legal criteria for sending marketing materials are in place. The main law regulating personal data processing in Portugal is the General Data Protection Regulation,¹² which entered into force on 25 May 2018. Former Portuguese Law No. 67/1998 of 26 October, which also regulates personal data protection, is also still in force.

Another important aspect of franchising deals is the access to common IT systems or databases. This access should be regulated since unlawful access to these IT systems may constitute a crime. Law No. 109/2009 of 15 September approved the Cybercrime Law, transposing into Portuguese law Council Framework Decision 2005/222/JHA of 24 February on attacks against information systems, and it has also adapted Portuguese law to the Council of Europe Convention on Cybercrime. Pursuant to Law No. 109/2009 of 15 September, several software infringements are punishable as criminal offences. These include, by way of example, computer sabotage and unlawful hacking or unlawful copying of a protected program. Companies and any equivalent legal entities may be held liable for the crimes established in this legislation.

The protection of software and the general consequences for software infringement are foreseen in the Copyright and Neighbouring Rights Code (as amended) and also in Law-Decree No. 252/94 of 20 October (as amended). E-commerce is regulated in Portugal primarily under Law-Decree No. 7/2004 of 7 January (as amended).

12 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), also known as the GDPR.

IV FRANCHISE LAW

i Legislation

In the area of commercial distribution, only agency agreements are specifically regulated. Neither distribution nor franchise agreements are subject to specific regulation in Portugal, even though certain legal provisions are especially relevant to franchise agreements. Considering the lack of a specific legal regime applicable to franchise agreements, no licence is required for franchise salespersons.

In the absence of imperative legal provisions, the parties are free to determine their own governing rules and clauses as long as these are consistent with generally applicable contractual principles.¹³ In particular, when interpreting and applying contractual rules, Portuguese courts will give due consideration to pre-contractual liability principles that require parties to act in good faith during negotiations.

ii Pre-contractual disclosure

Portuguese courts have often decided in this area that parties are required to provide all necessary information prior to execution of a franchise agreement, failing which statutory civil liability may arise under Portuguese law, in particular under Article 227 of the Civil Code. Notwithstanding the fact that there is no specific legislation applicable to franchising, general rules of trademark law, company law, product liability law, standard contract terms law, agency law, employment law and consumer protection law are fully applicable to franchise agreements. Franchising is also subject to national and EU competition rules.

General contractual principles prohibit the use of false and misleading expressions concerning one's own business operations or those of another party that are of a character tending to affect the supply of, or demand for, a commodity. These principles also may be regarded as applying to franchise agreement negotiations (i.e., the franchisor must provide an accurate description of its operations). If a franchisor infringes this requirement and gives a prospective franchisee an untrue or misleading impression, this may constitute grounds for rescinding or terminating the entire agreement based on pre-contractual liability established in the Civil Code.

iii Registration

Apart from the acquisition of a Portuguese company, establishing a company or a branch is the most common method of business organisation employed in Portugal. The most common types of company in Portugal are the limited liability company (SA) and the limited liability partnership (SQ), which have in common the fact that shareholders' liability is generally limited to their interest in the capital share of the company.

Although less often used, there are other ways of investing in Portugal (e.g., through joint ventures and partnerships). A franchisor may directly license franchisees where it is not necessary to control or supervise franchisees' activity in depth. This has the advantage of reducing the franchisor's set-up costs in the franchisee's location.

A limited liability company is, in principle, required to have at least five shareholders, but a single shareholder is allowed when that shareholder is a company. Registration with fiscal and commercial registry authorities is required for such a company. The minimum capital share is €50,000, which may be paid in cash or in kind.

13 The principle of freedom of contract is generally established in the Civil Code, Article 405.

An SQ tends to be used for smaller investments, with no capital share minimum required by law. A minimum of two shareholders is required, although it is also possible to set up an SQ with only one shareholder, which is designated as a *sociedade unipessoal por quotas*, or SUQ. Registration with the commercial registry and fiscal authorities is also required for such a partnership.

iv Mandatory clauses

Imperative rules and essential principles of Portuguese law are mandatory and thus also applicable. Franchising operations in Portugal are also bound by directly applicable EU legislation governing franchising.

v Guarantees and protection

In franchise agreements drafted in Portugal, the shareholders of the corporate franchisee often guarantee its obligations, by bank guarantee or, alternatively, by personal guarantee secured against particular assets of the guarantor or against all the guarantor's assets.

Article 6 of the Industrial Property Code establishes that the rights from patents and utility models, as well as designs or models and other trademarks, are subject to seizure and attachment and can be pledged or subject to other seizure of property.

A lender may seek a collateral assignment of the franchise agreement itself that enables the lender to succeed in the rights and interests of the franchisee upon the loan's default.

To avoid such a result, franchisors should object to the use of collateral assignments, whether by generally forbidding such an assignment of the franchise agreement, or by imposing specific conditions on such an assignment. The franchisor may not be left in a position where the lender continues to run the franchisee's business.

Therefore, it is useful to include in the franchise agreement clauses providing for the prohibition of the assignment of rights without the prior consent of the franchisor.

V TAX

i Franchisor and franchisee tax liabilities

In Portugal there is no specific tax legislation regarding franchising contracts and relationships between franchisors, franchisees and other parties who may be involved. Therefore, the general tax system is applicable to franchisor and franchisee liabilities.

Since the franchisor and the franchisee can opt to act as an individual or a corporation, it is important to summarise the most common and relevant taxes of the Portuguese tax system.

Tax on corporations

Company profits are subject to IRC, which is supplemented by a municipal surtax levied on the IRC by some municipalities, and by a state surtax.

IRC is levied on profits derived by resident entities or non-resident entities with a permanent establishment in Portugal. Moreover, non-residents that obtain Portuguese-sourced income are also subject to IRC (see Section II.ii). To qualify as a Portuguese resident, a company or other entity must have its head office or its place of effective management in Portugal. Any corporation or other entity that does not fulfil these requirements is treated as a non-resident company for IRC purposes (including offshore companies). Non-resident companies that have a permanent establishment in Portugal are

liable not only to IRC, but also to state and municipal surtaxes, and all taxes with respect to income and gains attributable to the permanent establishment. Portuguese subsidiaries of non-resident companies are also considered resident for tax purposes and, consequently, taxed on their worldwide taxable income in the same way as any other Portuguese-resident legal entity.

The taxable base is defined as the net annual profit (the difference between the income and gains and costs and losses), plus certain positive and negative asset variations during the tax year that are not included in the net annual profit, plus some tax adjustments (additions or deductions). The general rule on business expenses is that a deduction is allowed for all expenses incurred for the purpose of generating or guaranteeing the taxable income. Furthermore, to be deductible, expenses must be substantiated.

Capital gains realised by resident companies, including non-resident companies with Portuguese permanent establishments, are generally included in taxable income and are subject to the normal tax rate. Capital gains include both voluntary capital gains (i.e., gains realised from the sale or exchange of fixed assets or the appropriation of a company's fixed assets for any purpose unrelated to the operation of the business) and involuntary capital gains (i.e., gains realised on compensation for expropriation and on compensation claimed for a disaster or theft). Fifty per cent of the capital gains on the disposal of tangible fixed assets, intangible assets and biological assets (which are not consumable) held for more than one year are exempt from IRC if the total amount received is reinvested the year before or within two years of such a disposal in the purchase, manufacture, or construction of other tangible fixed assets, intangible assets, or biological assets (which are not consumable), provided that they are not purchased by related entities. Beyond that, a full exemption is applicable to capital gains derived from the sale of shares in the capital of a company if the shares are held uninterruptedly for a minimum period of 12 months, the taxpayer owns at least 10 per cent of the share capital or voting rights of the company and does not reside in a blacklisted jurisdiction and is subject to – and not exempt from – corporate income tax.

Tax losses can be offset against tax profits of the next five periods or, for companies that carry on primarily an activity of a commercial, industrial or agricultural nature, of the next 12 years (special rules apply to tax losses deduction for companies under a tax group special regime or in the event of business reorganisations).

The general IRC rate for resident companies and non-resident companies with Portuguese permanent establishments is 21 per cent for taxable amounts exceeding €15,000 and 17 per cent for taxable amounts under that value. In addition, a municipal surtax of 1.5 per cent can be levied on taxable profit prior to the deduction of carry-forward tax losses in certain municipalities. Furthermore, a state surtax also applies prior to the deduction of available carry-forward tax losses at the following rates: 3 per cent applicable to taxable profit above €1.5 million up to €7.5 million; 5 per cent applicable to taxable profit above €7.5 million up to €35 million; 9 per cent applicable to taxable profit above €35 million.

Tax on individuals

Individuals are subject to personal income tax (IRS) levied at a national level throughout the Portuguese territory. Other taxes are imposed on individuals, such as the 10 per cent stamp duty on inheritances (although transfers in favour of spouses, descendants, and ascendants are tax exempt) or gifts, and the annual municipal real estate tax. Resident employees and self-employed individuals are required to pay social security contributions.

The tax rates applicable to overall income for 2017 are progressive (from 14.5 per cent – for results above €7,091 – up to 48 per cent – for results above €80,640).¹⁴ Moreover, an additional ‘solidarity’ income tax rate applies at the following rates: 2.5 per cent on the part of the taxable income exceeding €80,000; 5 per cent on the part of the taxable income exceeding €250,000.

Value added tax

Value added tax (VAT) is regulated by the Portuguese VAT Code, which was introduced to bring Portuguese legislation into line with the Sixth VAT Directive¹⁵ and subsequently with the recast VAT Directive.¹⁶

VAT is an indirect tax on the consumption of goods and services and is normally paid by the final consumer. VAT also applies to the importation of goods by any person. In any event, a taxable person may be able to treat VAT as an input tax and offset it against the output tax payable on any subsequent supply of those goods.

The standard VAT rate in Portugal is 23 per cent (the standard VAT rate in Madeira and the Azores is 22 and 18 per cent, respectively). In addition, an intermediate rate of 13 per cent and a reduced rate of 6 per cent are currently applicable to a specific range of goods and services (in the Azores the intermediate and reduced rates are levied at 9 per cent and 4 per cent, while in Madeira these two rates are levied at 12 per cent and 5 per cent respectively on the same supplies).

In general terms, any person who independently carries out any economic activity in any place, whatever the purpose or results of that activity – including all the activities related to franchising agreements – is taxable for VAT purposes. According to the Portuguese VAT Code, any individual or corporate entrepreneur subject to IRC or IRS on their business or professional activities is also a VAT taxable person. Additionally, such entities (franchisors or franchisees) are also taxable persons for VAT purposes whenever they acquire intra-Community goods and services from a VAT taxable person with no headquarters, permanent establishment, or domicile in Portuguese territory and that has not appointed a tax representative in Portugal.

VAT liability is incurred on supplies of goods and services by an entrepreneur within the Portuguese territory in the course of his or her business enterprise or during the exercise of his or her professional practice or artistic activity. VAT liability is also incurred on the importation of goods into Portugal by any person (i.e., importation is in itself a taxable event and is liable to VAT regardless of whether or not the importer of the goods is an entrepreneur).

VAT liability is also incurred on intra-Community acquisitions of goods and services by a taxable person.

As regards common franchising agreements, the distinction between the supply of services and the supply of goods could be relevant in determining the location of the operation for VAT purposes. However, some current activities (intellectual property rights, technical assistance, general assistance services) are considered as services supplied for that purpose.

14 Resident individuals must include 50 per cent of the gross domestic dividends received in their taxable income for progressive income tax purposes (partial imputation system).

15 Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes.

16 Directive 2006/112/EC on the common system of value added tax.

Both residents and non-residents without a permanent establishment in Portugal are subject to some formal procedures related to VAT payment and compliance obligations.

Customs regulation and excise taxes

After joining the EU in 1986, Portugal adopted the EU common customs tariff, which required the removal of all tariff and non-tariff barriers with other Member States and the setting up of the common customs duties uniformly applied in the European Economic Community (EEC). Portugal also adopted Commission Regulation (EEC) No. 2454/93 of 2 July 1993, which laid down provisions for the implementation of the Regulation establishing the Community Customs Code. Furthermore, the implementation of the internal Community markets led to free movement within the EU territory of manufactured tobacco, alcohol, alcoholic beverages and petroleum, although these products are subject to excise taxes. The EU harmonisation of legal provisions concerning the holding, movement and control of products subject to excise taxes has led to the establishment in Portuguese law of the juridical-fiscal notion of 'tax or excise warehouse' to be applied to any place where the taxable products are produced, processed, held, received or dispatched by the authorised depositary in the exercise of his or her activity, under the excise tax procedure scheme and according to the conditions established in the Portuguese Excise Taxes Code.

Products will be chargeable to tax from the start of production or from their importation into the Portuguese territory or the territory of another Member State, provided that, in the latter case, they are dispatched into the Portuguese territory.

Also subject to tax within the domestic territory are those products that have already entered into consumption channels in another Member State and that were purchased for one's own use or for commercial purposes. The free movement of such products between the territory of other Member States and the domestic territory will require an accompanying document.

Liability to tax will occur within the domestic territory upon the entry of the products into consumption channels or once goods that should be taxed are reported to be lost.

Local taxes

The main local taxes – which should also apply to the parties in a common franchising agreement – are the municipal tax on real estate, municipal tax on real estate transfer and municipal vehicle tax.

ii Tax-efficient structures

For tax purposes, as mentioned, there is no specific tax legislation regarding franchising contracts and relationships between franchisors, franchisees and other parties who may be involved.

Therefore, tax incentive schemes are totally applicable to franchising investments, provided they comply with the legal requirements.

Investment incentives

Incentives for investments in less developed regions

An incentive programme is available to qualifying companies, such as those involved in agriculture, fisheries, the coal industry or tourism, for the setting up of operations in listed, less developed areas in mainland Portugal. To benefit from these incentives, a company

must, *inter alia*, create net permanent jobs attached to the underlying investment and not be deemed to be in 'financial difficulties'.¹⁷ The incentive programme includes a corporate income tax deduction of 25 per cent of capital expenditures up to €5 million and 10 per cent of capital expenditure over that amount in investment conducted in areas where the standard of living is abnormally low or where there is serious underemployment.

Also included in the incentive programme is an annual municipal real estate tax exemption or, at least, a reduction related to immovable property held within the scope of the investment for a period of up to 10 years, and also a real estate transfer tax exemption or reduction and a stamp duty exemption on all immovable property acquisitions that constitute capital expenditure.

Contractual tax incentive

Contractual tax incentives are granted for industrial investment projects carried out before 31 December 2020 if they involve an investment of at least €3 million and are deemed to be of strategic interest to the domestic economy and encourage job creation, technological innovation, and domestic scientific research. These incentives are granted by the central government on a case-by-case basis for a maximum period of 10 years, and include a 10 per cent to 25 per cent investment tax credit and an exemption.

Incentive scheme for Madeira and Azores free zones

Portugal has two free trade zones (International Business Centres): Madeira and Santa Maria (Azores). Under the state-aid rules of the EU, Portugal was authorised to enact a socio-economic programme aimed at overcoming the structural underdevelopment of the autonomous regions of the Azores and Madeira.

Qualifying industrial, shipping and international services, and financial entities licensed to operate in the Madeira free trade zone or within the Santa Maria Island (Azores) free trade zone are eligible for specific tax exemptions and low taxation.

Patent Box

In the context of the corporate tax reform that came into force in 2014, a Patent Box regime was created for certain industrial property rights, such as patents, designs and registered industrial models. According to the regime, only 50 per cent of income arising from the temporary assignment or use of the rights is taxable, while costs are fully deductible.

VI IMPACT OF GENERAL LAW

i Good faith and guarantees

Because of the lack of specific law applicable to franchise agreements, the means of protection available to the franchisee are those established by general statutory regimes. Therefore, rules on the freedom to contract,¹⁸ principles of good faith¹⁹ and public order should generally apply to franchise agreements.

17 As defined in the Commission communication published in the Official Journal of the European Union No. C 249, of 31 July 2014.

18 Civil Code, Article 405.

19 Civil Code, Articles 227, 334, and 762.

ii Agency distributor model

In the absence of particular law applicable to franchising, courts and doctrine have widely considered that the agency regime should be applicable to franchise agreements in relation to termination of the contract.²⁰

iii Employment law

Franchising contracts clearly state that the franchisee is legally independent from the franchisor and that, consequently, the franchisor cannot be held liable for actions or omissions of the franchisee.

Employees may hold only their employers liable, which means they cannot sue the franchisor for actions or omissions of the franchisee.

iv Consumer protection

Because of the lack of specific law applicable to franchise agreements, franchisees have commonly resorted to the protection available under the Agency Law (i.e., as to the rights applicable to the franchisee upon termination of a franchise agreement). In addition, Portuguese courts have provided that unreasonable, abusive or unfair clauses, or entire contracts may be modified or be declared null and void. This may happen when the contract has not been negotiated but rather presented by the franchisor to the franchisee as a standard form.

The Law of General Contractual Clauses²¹ applies to all contracts that include general conditions (i.e., clauses not subject to negotiation). Thus, a franchisor presenting the franchisee with an agreement containing general conditions that are not expressly negotiated between them may be subject to the Law of General Contractual Clauses.

The Law of General Contractual Clauses sets out a number of items that are not permitted under national law and others that must be included or expressed within the agreement. For example, an agreement cannot exclude the right to damages or include penalty provisions for defaults that are disproportionate to the damage or loss suffered.²² As indicated above, these types of clause may be deemed unreasonable and modified or rejected by Portuguese courts. Furthermore, such general provisions in franchise agreements may be subject to competition law, in particular rules on the abuse of economic dominance.

Finally, other general aspects of Portuguese civil law may be applicable, such as that relating to usury, which considers voidable any contract under which a party takes advantage of the other party's inexperience, weakness or dependency.²³

v Competition law

Franchise agreements often contain restrictions to competition (e.g., exclusivity, selectivity and non-compete clauses) that may raise issues under competition law. Breach of national competition law results in the nullity of the agreement (or the anticompetitive clauses), in addition to potential imposition of fines on the parties in the agreement pursuant to antitrust proceedings conducted by the Portuguese Competition Authority.

20 Decree Law No. 178/86 of 3 July 1986, as amended (the Agency Law).

21 Decree-Law No. 446/85 of 25 October 1985 (the Law of General Contractual Clauses).

22 Law of General Contractual Clauses, Articles 18 and 19.

23 Civil Code, Article 282.

From a competition point of view, there are no major substantive differences between national and European law applicable to franchise agreements and to its specific contractual provisions, such as price- and quantity-fixing, territorial and customer provisions, exclusive dealing, tie-in and other restrictive clauses.

In principle, territorial restrictions are banned by Article 9(1) of the Competition Act, which prohibits the division of markets and supply sources, as well as other anticompetitive conduct such as price-fixing and limiting production and technical development of investment.

Although clauses may be justified when the conditions set out in Article 10 of the Competition Act²⁴ are fulfilled, prohibition of parallel imports, passive sales or the ban of cross-supplies between distributors are considered to eliminate intra-brand competition and, therefore, do not fulfil the exemption conditions.

Resale price maintenance provisions, which are commonly used under franchise agreements, may also be caught under Article 9 of the Competition Act, especially since the article prohibits any agreement, concerted decision or practice whose effect is directly or indirectly to set prices or to interfere in price determination, whether to increase or decrease them.²⁵

vi Restrictive covenants

It is common in franchise agreements to include a restriction that prevents the franchisee from developing a similar or competitive business while the agreement is in force and for a certain period after its termination. The validity of such clauses is not, in general, contested in Portuguese courts, as long as the clauses do not entail a violation of competition rules.

According to the Agency Law, the principal may establish a clause of non-competition to last a maximum of two years after termination, limited to the area in which the contract has been executed, but such a clause will entail a right of indemnity for the non-competition covenant.²⁶ The clause also should provide for payment of a non-compete indemnity.

vii Termination

In general terms, franchise agreements contain a clause specifying the circumstances in which such an agreement may be terminated before the contract term, which will normally include events such as insolvency proceedings, failure to meet payment obligations, criminal convictions or a relevant breach of contractual obligations set forth in the franchise agreement.

In the event of a breach of contract, termination is permitted without a right to an indemnity beyond general contractual principles of damages for losses and what has been contractually agreed between the parties.

24 Notably in the case of agreements that contribute to improving the production or distribution of goods or services, or promoting technical or economic progress, if cumulatively they: (1) allow the users of these goods or services an equitable part of the resulting benefit; (2) do not impose on the undertakings concerned any restrictions that are not indispensable to the attainment of these objectives; and (3) do not afford the undertakings the possibility of eliminating competition from a substantial part of the market for the goods or services at issue. Also, *prima facie* prohibited agreements that do not affect trade between Member States but fulfil all the other requirements provided for in block exemption regulations adopted in accordance Article 101(3) of the Treaty on the Functioning of the European Union may also be considered justified by the Portuguese Competition Authority.

25 As observed by the Portuguese Competition Authority in a case involving a retailer in the context of the relationship with its franchisees, Case No. PRC 2014/03.

26 The Agency Law, Articles 9 and 13(g).

Some legal commentators have, however, argued that the rules on termination of agency agreements should apply to franchise agreements, arguing that the goodwill indemnity payment due to the agent on termination of the contract is also due under the same conditions (where new clients or business has been generated) on termination of a franchise agreement.²⁷

There is some case law to support this view in other EU countries; however, Portuguese courts have generally rejected it. The view taken by the courts has been that the franchisee is generally participating in an existing organisation, thereby benefiting from an established client base or following its name, brand, know-how, methods and marketing, and should not be entitled to a goodwill indemnity on termination.

With regard to the consequences of termination, the franchise agreement will normally establish that, upon termination, the franchisee will no longer be entitled to use the licensed trademarks or other intellectual property rights and will be obliged to immediately return all manuals and other confidential documents provided by the franchisor.

Regarding expiration of the agreement, it is a matter left for the parties to agree upon. Portuguese doctrine and case law have, however, been of the understanding that the length of the franchise agreement should be enough to enable the franchisee to recover its investments. Furthermore, there are a substantial number of court decisions, based on the principle of good faith and cooperation, that have established a right of indemnity for the franchisee when a franchisor has not given a reasonable notice period prior to the termination of contracts of undetermined length. Competition rules may also be of importance in this matter, in particular Article 12 of the Competition Act,²⁸ which establishes the prohibition of abuse of economic dependence in cases of unjustifiable termination of the agreement.

viii Anti-corruption and anti-terrorism regulation

In 2008, Law No. 25/2008 of 5 June was enacted establishing measures to combat money laundering and the financing of terrorism, transposing into Portuguese law Directive 2005/60/EC of the European Parliament and the Council of 26 October and Commission Directive 2006/70/EC of 1 August on the prevention of the use of the financial system, and of activities and specially designated professions, for the purpose of money laundering and terrorism financing.

In Portuguese law, money laundering is a criminal offence,²⁹ as is terrorism financing by virtue of the provisions laid down in Article 5-A of Law No. 52/2003.³⁰

27 Several court decisions have held that, in the event of termination, prior notice given by the franchisor to the franchisee to terminate the franchise agreement should be similar to that established in agency law (decisions of the Appeal Court of Lisbon, of 18 May 2004, Case Number 3589/2004-7, and of 2 February 2006, Case Number 9219/2004-6). However, other court decisions have held that adequacy of prior notice should be determined on a case-by-case basis, so that agency law provisions may not be applied as such (decision of the Appeal Court of Lisbon, of 25 March 2004, Case Number 497-2004-2). The Supreme Court of Justice ruled, on 9 January 2007, Case Number 06 A 4416, that, in a franchise agreement, the loss of clientele is subject to indemnity only when the franchisee shows that it has contributed in a significant way to an increase in the number of the clients of the franchisor.

28 Law No. 19/2012 of 8 May 2012.

29 Article 368-A of the Portuguese Penal Code.

30 Law No. 52/2003 of 22 August (as amended by Article 62 of Law No. 25/2008 of 25 June).

ix Dispute resolution

In practice, a franchise agreement will determine the party's choice of law and jurisdiction, which will govern the rights and obligations of the parties and settle any disputes that arise out of or in connection with the franchise agreement. Portuguese civil procedure law establishes that parties are free to agree on the jurisdiction that will decide on their disputes. According to the Civil Procedure Code,³¹ choice of jurisdiction must be contained in a written jurisdiction clause and the following cumulative prerequisites should be met:

- a* the election of a given jurisdiction must relate to a dispute over available rights;
- b* it must be accepted by the law of the designated court;
- c* it must be justified by a serious interest of both parties or one of them, as long as it does not involve major inconvenience to the other;
- d* it may not fall under the exclusive competence of Portuguese courts; and
- e* it should be contained in a written agreement or confirmed in writing, making explicit mention of the competent jurisdiction.

EU Council Regulation (EC) No. 44/2001³² will also be applicable if one of the parties in the contract is domiciled in a contracting state. Often, a franchise agreement will provide for mediation or arbitration as an alternative method of resolving the dispute, since it provides a greater flexibility and expertise. Furthermore, according to civil internal rules, Regulation (EC) No. 44/2001 and the 1958 Rome Convention, Portuguese courts will enforce a foreign judgment or foreign arbitral award.

As long as mandatory arbitration national rules are respected, foreign arbitral awards will be recognised by the Portuguese courts.

VII CURRENT DEVELOPMENTS

According to the conclusions of the 23rd annual franchise census, organised by the IFE, in 2017, franchising was responsible for around 129,280 jobs in Portugal, representing about 2.72 per cent of total employment in Portugal.

By sectors, services was the dominant sector, with 57.7 per cent, making it the most important segment in the national franchising market.

31 Civil Procedure Code, Article 94.

32 Council Regulation (EC) 44/2001, of 22 December 2000.

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Cândida Ribeiro Caffé is an attorney, industrial property agent and partner at Dannemann Siemsen Advogados. Cândida Caffé earned her Bachelor of Laws degree from the school of law of the Federal University of Rio de Janeiro (UFRJ) and holds a postgraduate degree in intellectual property law from the Pontifical Catholic University of Rio de Janeiro (PUC-Rio), and she has completed specialist courses in corporate law and capital markets, and tax law, at the Getúlio Vargas Foundation in Rio de Janeiro. She has extensive high-level experience in intellectual property agreements, especially in the preparation, revision, negotiation and analysis of agreements involving trademarks, patents, copyright, know-how, technology transfer, technical assistance, research and development, software, licensing, franchising, agency agreements and dealership deals, as well as in the production of legal opinions addressing corporate, tax and civil matters in these practice areas. Cândida Caffé was elected vice president of the Brazilian chapter of the Licensing Executive Society (LES) in 2011 and served as general counsel for the Rio de Janeiro chapter of the Brazilian Franchising Association from 2008 to 2011. Identified as one of the most admired intellectual property attorneys by the magazine *Análise Advocacia* in the years 2010 and 2012, Cândida Caffé was also ranked one of the best franchise attorneys in Brazil by *Who's Who Legal: Franchise* from 2009 to 2013. She was a guest professor on the PUC-Rio postgraduate intellectual property agreements programme during 2006 and 2007, and a guest lecturer on the postgraduate intellectual property programme of Rio de Janeiro State University (UERJ) in 2009. She is the author of several articles published in specialist magazines and journals. Cândida is fluent in Portuguese, English and Spanish.

GILES A M CARMICHAEL

Chancery Chambers

Giles Carmichael is a graduate of Durham University in England, where he studied law. He furthered his studies by obtaining a Master of Laws from Suffolk University Law School in Boston and completed his MBA at the IE Business School in Madrid.

Giles Carmichael is admitted to practise in Barbados and has been called to the New York Bar.

Mr Carmichael is a partner at Chancery Chambers and works on corporate and commercial matters, advises on regulatory issues in Barbados and overseas, and is responsible for the overall management of the firm. Mr Carmichael is also the principal at Carmichael Law PC in New York.

Giles Carmichael is a member of the American Bar Association, the Institute of Directors, the International Tax Planning Association, the New York State Bar Association and the New York City Bar Association.

MICHELLE CHAN

Bird & Bird

Michelle Chan is a partner in the corporate and commercial practice based in Hong Kong. She has more than 19 years of experience in working on corporate, commercial and regulatory matters in the Asian region. She also has considerable experience in advising clients on data protection issues and non-contentious IP projects.

Her clients include leading regional and international sporting groups, online fashion brands, telecom operators, media companies, technology companies and institutional investors.

VOJTĚCH CHLOUPEK

Bird & Bird s.r.o. advokátní kancelář

Vojtěch Chloupek is a partner and head of Bird & Bird's intellectual property and technology and communications groups in the Czech Republic and Slovakia. He specialises primarily in intellectual property law, technology law and competition law. His expertise covers both contentious and non-contentious aspects of various IP rights, including copyright, trademarks, designs, patents, unfair competition, information technology, domain names, trade secrets and data protection. He also regularly assists clients in connection with various antitrust matters, including anticompetitive practices and abuse of dominance. Mr Chloupek has significant industry expertise in a number of sectors, including aviation, electronics, financial services, food and beverages, gaming, media, life sciences and software. He joined Bird & Bird in 2009 having previously worked in a leading international law firm. In 2007, he was admitted to the Czech Bar, and in 2017 to the Slovak Bar. Mr Chloupek gained a *magister juris* degree at the University of Oxford (St Peter's College). He also studied law at Charles University in Prague and theatre management at the Academy of Performing Arts in Prague. From 2013 to 2017, he served as the president of the Czech and Slovak chapter of the Licensing Executives Society International. He is a member of the Franchise Club in the Czech Republic. Mr Chloupek is consistently highly ranked by major legal directories, including *Chambers Europe*, *The Legal 500* and *World Trademark Review*. He was awarded International Law Office's Client Choice award for intellectual property, and he has been repeatedly recognised by *Managing IP* as an 'IP star'.

CHONG KAH YEE

Tay & Partners

Chong Kah Yee is an associate at Tay & Partners. She practises in the area of intellectual property and technology. She advises clients on the protection of IP rights and IP-related transactions involving licensing, assignment and franchising as a model for business expansion.

She also advises on domain names, data protection, franchising, telecommunications and various regulatory laws. She read law at the University of Liverpool and was admitted as an advocate and solicitor of the High Court of Malaya in 2015.

PHILIP COLMAN

MST Lawyers

Philip Colman is a partner at MST Lawyers in Melbourne, Australia, a firm with one of Australia's most extensive and experienced franchising practices. MST Lawyers acts for a large number of successful Australian franchisors and master franchisees and has advised and acted for many inbound foreign franchisors. While currently heading his firm's litigation and dispute resolution practice, Mr Colman headed the franchising practice from 1996 to 2007. Mr Colman has practised substantially in franchising since 1985, and since 2007 his practice has focused on litigation and dispute resolution in the franchising sector. Since 1993, Mr Colman has been accredited by the Law Institute of Victoria as a specialist in commercial litigation, and he is also an accredited mediator. Mr Colman is a member of the Legal Committee of the Franchise Council of Australia and has on a number of occasions spoken at, and been on the organising committee for, legal symposia conducted by the Franchise Council of Australia. Mr Colman was also a member of the four-member Expert Legal Committee that assisted the Franchise Council of Australia with its submissions to the Australian government in respect of the Franchising Code of Conduct. Mr Colman was a panellist at the IFA-IBA Joint Conference in 2013, 2015, 2016 and 2017. He is the author of many papers and articles touching on franchising and has participated in writing the Australian chapter in other publications dealing with franchising throughout the world.

DANIEL DEANE

Nixon Peabody LLP

Dan Deane is a leader of the Telephone Consumer Protection Act (TCPA) team and the class actions and aggregate litigation group at Nixon Peabody. His practice focuses on defending businesses and individuals in high-exposure, complex civil and criminal litigation and government investigations before state and federal courts, arbitral tribunals and regulatory agencies. His clients include national and international businesses and franchises across a variety of industries with a focus on consumer-facing business, such as retail products and services, healthcare and pharmaceuticals, financial services and education. Dan has experience defending lenders and franchisors and other consumer-facing businesses against claims of unfair and deceptive business practices, unfair debt collection practices and invasion of privacy under statutes such as the TCPA, Fair Debt Collection Practices Act (FDCPA), Fair Credit Reporting Act (FCRA) and state consumer protection laws. He has been listed in *The Best Lawyers in America* since 2016.

BEATRIZ DÍAZ DE ESCAURIAZA

Bird & Bird (International) LLP

Beatriz Díaz de Escauriaza is a senior associate in the intellectual property practice of Bird & Bird (International) LLP based in Madrid.

Mrs Díaz's practice covers the full range of intellectual property matters, including litigation, prosecution, negotiation, licensing and administration of intellectual property

assets. Her expertise comprises all types of matters in relation to trademarks, domain names, designs, patents and utility models. She has also wide experience in advertising, unfair competition and product compliance issues. As a litigator, she has represented clients in civil litigation matters related to nullity and infringement of trademarks and patents (either pharmaceutical or mechanical patents) and unfair competition.

Mrs Díaz obtained a degree in law from the Comillas Pontifical University in 2001 and completed her studies with a master's degree in intellectual property and information society law from the University of Alicante in 2004.

She regularly writes for specialist journals and has co-authored books regarding intellectual property rights. Mrs Díaz often speaks at conferences and seminars on this subject at universities and private foundations.

ALEXANDER DUISBERG

Bird & Bird LLP

Alexander Duisberg is a partner at Bird & Bird LLP (Munich office). His main focus is online distribution, technology and privacy laws. He advises clients on the implementation and restructuring of distribution models, including the contentious resolution of existing models. Alexander Duisberg is admitted to the Bar in Germany.

STEVEN FEIRMAN

Nixon Peabody LLP

Steven Feirman practises franchise and distribution law, where he focuses on helping franchisors expand their franchise systems in the United States and in foreign jurisdictions. He has gained renown for his work at the intersection of franchising and antitrust, including pricing strategy and supply-chain matters. Steven is a frequent speaker and contributor to legal publications on franchising topics and he has served as an editor of some of the leading publications in the field, including *Franchise Law Journal* and *Franchise Legal Digest*. Steven was selected by his peers for inclusion in *The Best Lawyers in America 2019* in the field of franchise law, is recognised for exceptional standing in the field of franchising in the current edition of *Chambers USA*, and is recognised as one of the top franchise lawyers in the United States and internationally in the current edition of *Who's Who Legal: Franchise*. He also has been recognised for the past 12 years as a 'Legal Eagle' by *Franchise Times*. Steven is a former enforcement attorney with the Federal Trade Commission, where he received the FTC's Meritorious Service Award.

ZOE FELLER

Bird & Bird LLP

Zoe Feller is a solicitor and tax partner in the London office of Bird & Bird LLP. She specialises in corporate and business taxation, both domestic and international. She has acted for a wide variety of clients across a broad spectrum of the firm's sectors, including advising a number of franchising clients on their international structures from both a direct and indirect tax perspective. Zoe joined Bird & Bird in January 2016 from another large international law firm, and has spent time on secondment with two international banks.

MAGDA FERNANDES

Morais Leitão, Galvão Teles, Soares da Silva & Associados

Magda Fernandes, partner, joined Morais Leitão in 2007. She is a member of the litigation and arbitration team. Before she joined the firm, she worked in the areas of civil and commercial litigation and arbitration. She represents domestic and foreign clients with a particular focus on construction, technology, infrastructure, consumer law, media and advertising, distribution, agency and international franchises. She also has experience in corporate and maritime law.

ECKHARD FLOHR

LADM Lawyers

Eckhard Flohr is of counsel and was one of the heads of the franchise department of LADM Lawyers, supervising the offices in Düsseldorf (Germany) and Kitzbühel (Austria) until December 2017. His practice focuses on the national and international aspects of franchising, licensing and distribution, and trade agency contracts.

Prof Dr Flohr was admitted to the German Bar in 1976 and as a certified specialist in tax law in 1978. He was one of the founder members of the legal committee of the German Franchise Association and an Association member for more than 22 years. He was also a member of the Austrian and Swiss Franchise Associations and the European Franchise Lawyers' Association, as well as the Canadian-German, Swiss-German and Austrian-German Lawyers' Associations. He has been retained by the German federal Ministry of Labour and Economy as an expert on franchising. Prof Dr Flohr is currently an 'honour member' of the Bulgarian and German Franchise Associations.

Prof Dr Flohr has spoken and written extensively in German and English on franchising, including in books such as *Der Franchise-Vertrag*, *Franchise-Recht*, *Masterfranchisevertrag*, *Handbuch des Vertriebsrechts*, *Formularbuch Vertragsrecht*, *Handbuch der EU-Gruppenfreistellungsverordnungen* and *Kommentar Vertriebsrecht*. He is also counsel to a number of German, Austrian and international franchisors, start-up businesses and manufacturers.

Prof Dr Flohr has been a lecturer in company, distribution and private law at universities since 1992 and is a lecturer in international economic law at the Munich University of Applied Sciences. He was appointed to an honorary professorship at the Dortmund University of Applied Sciences in 2006. He is also a lecturer in national and international franchising law at Chemnitz University and in franchise and EU cartel law at the University of St Gallen in Switzerland. He speaks English and German.

STEVEN FROST

WorkBuzz

Steven Frost is the founder and CEO of Smith & Henderson – a research agency that has specialised in serving established franchisors. Since 2011, Smith & Henderson has helped over 100 leading franchise brands, including McDonald's, O2 (Telefónica Europe) and Mac Tools, a subsidiary of Stanley Black & Decker, measure, benchmark and improve their support, franchisee relations and network performance. Following completion of the firm's first round

of external funding in late 2017, Smith & Henderson changed its name to WorkBuzz in September 2018 to better reflect its entrepreneurial spirit, employee-engagement expertise and tech focus.

Mr Frost is a British Franchise Association affiliated consultant and regularly writes for the UK franchise trade magazine *Franchise World*. Mr Frost is also a regular speaker at the annual Best Franchise Conference, which brings together hundreds of franchise professionals to share best practice.

JAMES FROUD

Bird & Bird LLP

James Froud is a London-based partner in Bird & Bird's international HR services group. He specialises in employment and partnership law, and has particular interest and experience in conducting high-value litigation involving trade secrets issues, including actions to prevent misuse of confidential information, and restrictive covenant disputes. He sits on the steering committee of the firm's international trade secrets group.

Mr Froud has a diverse practice, supporting a broad range of clients, many of which are household names in a variety of sectors, and he advises on contentious and non-contentious issues at all stages in the employment cycle. His expertise extends to large international restructuring projects, corporate transactions, and executive severances.

During his career, Mr Froud has undertaken client secondments, meaning that he understands both the need for commerciality in the advice he delivers, and how his guidance may be applied in practice.

Mr Froud has participated in panel discussions and lectured extensively on HR law subjects. He has also written for and been quoted in the UK national press and industry publications, and has appeared on BBC World News. He is a member of the Employment Lawyers Association and the European Employment Lawyers Association.

MICHAEL GASSNER

Bird & Bird LLP

Michael Gaßner works as an associate for Bird & Bird LLP (Munich Office). He is focused on advising clients on all questions of distribution-related commercial law, especially agency and franchise law, as well as corporate law. His work includes drafting and negotiating agreements as well as representing clients before the German courts. Michael Gaßner is admitted to the Bar in Germany.

STEWART GERMANN

Stewart Germann Law Office

Stewart Germann founded Stewart Germann Law Office (SGL) in 1993 as a boutique law firm in Auckland, New Zealand, specialising in franchising, licensing and business law.

Stewart Germann has over 35 years' experience in franchising law and acts for franchisors in New Zealand, Australia, the United States and the United Kingdom. SGL also acts for franchisees and provides legal advice. Stewart has spoken at franchising conferences in New Zealand, Australia, Italy and the United States, and he was on the board of the Supplier Forum of the International Franchise Association (IFA) for six years until March 2007.

Stewart has extensive franchising contacts worldwide and locally. He is actively involved in international franchising and has written many articles that have been published overseas, including in the *International Journal of Franchising Law*. Stewart is included in *Who's Who Legal: Franchise 2018*.

Stewart is a past chairman of the Franchise Association of New Zealand (FANZ) and wrote the original Franchising Code of Practice for the FANZ. He has also written many published articles on franchising. In October 2018, Stewart received an award from the Franchise Council of Australia in recognition of his outstanding contribution to franchising for over 30 years.

NICK GREEN

Bird & Bird LLP

Nick Green is an associate in the commercial group, based in London.

He advises on a range of commercial contracts focusing on the food and beverage, retail and technology sectors. Nick has worked with UK and international clients on a wide range of commercial areas, with a particular focus on franchising, distribution and agency agreements and other hybrid growth strategies. He regularly works with lawyers in other jurisdictions to ensure agreements and structures comply with local regulations.

Nick's recent project experience includes working as part of a team providing drafting and strategic legal support to a major US restaurant brand on the sale of its UK franchise business, and advising a multinational workspace provider on its international strategy and in-country arrangements.

Nick has published articles in the *International Journal of Franchising Law* and authored chapters in *The Franchise Law Review* on Africa and Kazakhstan.

NIPUN GUPTA

Bird & Bird LLP

Currently, as co-head of Bird & Bird's India strategy group, Nipun Gupta advises the firm on its international strategy. She is a regular speaker in India and in the United Kingdom on M&A matters facing companies investing in emerging markets.

Ms Gupta qualified as a solicitor in England and advised international clients on both inbound and outbound mergers and acquisitions and disposals, with a particular focus on emerging markets. She was previously a partner at White & Case (where she was recognised as being 'a driving force behind the India practice', *Chambers Global*, 2005/6) and was also the global head of legal at Ispat International (now rebranded ArcelorMittal), the world's largest steel manufacturing group.

Ms Gupta was named in *The Lawyer's* Hot 100 in the United Kingdom 2001, she was profiled in *The Lawyer* as general counsel of Ispat, LNM Group (November 2000) and she received the prestigious National Law Day award from the Indian prime minister in recognition of her outstanding contributions in the field of law and to acknowledge her as a 'role model for women lawyers in India and abroad' in 2006.

SARA HEIKFOLK

Hannes Snellman Advokatbyrå AB

Sara Heikfolk is an associate in the intellectual property (IP) and technology practice at Hannes Snellman's Stockholm office. Her focus is on data protection and privacy, IT, telecoms, intellectual property, media, marketing and consumer laws, e-commerce and commercial agreements.

She has advised several clients, operating in various industries, on their GDPR preparations, including review of processing operations, data flow mapping and gap analysis, as well as data protection impact assessments and data processing agreement negotiations. She also advises on M&A in the IP and technology field.

VICTORIA HOBBS

Bird & Bird LLP

Victoria Hobbs is a partner in the international dispute resolution group at Bird & Bird LLP, based in London. She advises companies who have expanded (whether domestically or globally) via multichannel strategies, including franchising, licensing, distribution and agency relationships on all stages of the dispute avoidance and resolution process. She works with clients on pre-contractual disclosure documents and audits of recruitment materials (to minimise the exposure to misrepresentation and breach of contract claims), termination rights, managing franchisee or licensee performance issues, and strategies to avoid escalation of network-wide franchisee or licensee unrest, as well as general dispute-avoidance strategy advice. She also has extensive experience of mediation and enforcing post-termination obligations and restrictions through injunctive relief, litigation and arbitration.

In addition to her significant expertise in UK disputes, Ms Hobbs also regularly advises clients on disputes arising out of global multichannel expansion programmes and has managed such disputes throughout the EU, Middle East, India, China and South America.

She also has experience of both bringing and defending franchisee class actions and has successfully represented large groups of franchisees to renegotiate their franchise agreements, obtain damages and free themselves from contractual restrictions.

Ms Hobbs is rated as a leading franchise lawyer in the *Chambers and Partners*, *Who's Who Legal: Franchise* and *Best Lawyers* directories.

She is a regular contributor to industry publications such as *Franchise World*, *Franchising Business & Law Alert*, *International Journal of Franchise Law* and *Business Franchise Magazine*, and regularly speaks at trade events and seminars.

BEN HUGHES

Bird & Bird LLP

Ben Hughes is a senior associate in Bird & Bird LLP's commercial group, based in London, who draws on his experience of working as a non-lawyer in managing the production of websites and online software development projects. He writes about and advises clients on the legal issues relating to e-commerce as well as high-profile multisourcing ICT projects, including in the retail, banking, financial services and public sectors.

JIN WOO HWANG

Yoon & Yang LLC

Jin Woo Hwang is a partner in the antitrust practice group at Yoon & Yang LLC. His antitrust expertise covers all areas of the field, including cartels, abuse of dominance, unfair trade practices, business combinations, franchise law and subcontracting law. In addition, he has expanded his practice into antitrust issues in the media, communications, medical and pharmaceutical sectors. Further, Hwang provides major Korean and international companies with legal service for legal risk management. He obtained his BA in economics from Yonsei University and an LLM from Northwestern University Pritzker School of Law. He was a visiting jurist at UCLA School of Law and worked at Steptoe & Johnson LLP in Century City, Los Angeles.

IAN JACOBSBERG

Hogan Lovells (South Africa) Inc

Ian Jacobsberg's skill set covers all aspects of corporate law, including public and private mergers, and acquisitions and disposals, as well as giving advice on franchising, product distribution, advertising and sponsorship, consumer law and the protection and licensing of intellectual property and branding.

He has advised companies in diverse industries, including life sciences, food and agriculture, and the automotive sector, in regard to the regulatory and competition laws affecting their businesses.

Ian acts for numerous South African and international household names in the franchising industry and has prepared franchise and related agreements for franchises in diverse industrial and commercial sectors. He has advised several local and international companies on data protection obligations.

In addition, he has advised many international companies on the protection of foreign intellectual property rights in South Africa, including trademarks, copyright and know-how. This includes the drafting of licensing agreements and assignments of all forms of intellectual property rights, both registered and unregistered.

Ian is a past chairman of the Franchise Association of South Africa and sits on its council and executive committee. He is also a commissioner of the small claims court.

JIRI JAEGER

Bird & Bird LLP

Dr Jiri Jaeger is a partner in Bird & Bird's Düsseldorf office. He is the head of the German dispute resolution group and a member of the international commercial and dispute resolution practice groups.

Jiri advises on a wide range of commercial contracts focusing on the life sciences, retail and fashion sectors.

He has particular expertise in all aspects of franchising and general commercial contracts, including drafting and negotiating franchising, licensing and distribution agreements and other hybrid growth strategies.

Jiri's practice also focuses on contentious commercial litigation. He conducts complex litigation and arbitration proceedings in a national and international context. This includes post-M&A litigation, joint ventures and sales structures, as well as licensing agreements.

JASON SANGOH JEON

Yoon & Yang LLC

Jason Sangoh Jeon is a partner at Yoon & Yang LLC and his practice focuses on antitrust and fair trade laws (including subcontracting law and franchise business law, etc.), international contracts, corporate consulting services and international litigation. He specialises in advising on Korea Fair Trade Commission investigations regarding various cartel cases, unfair trade practice cases, subcontracting law and franchise business law. His experience covers claims for damages for violation of antitrust law and administrative litigation against dispositions of the Korea Fair Trade Commission. He also has represented foreign companies in their international lawsuits, domestic and overseas companies in international contracts and general corporate matters, and various franchise headquarters regarding litigation and legal matters. He has provided compliance training for major domestic and foreign companies.

PAUL JONES

Jones & Co

Paul Jones's practice is broadly focused on the national and international distribution of goods and services. Paul helps clients develop franchise systems and licensing and distribution programmes, including preparation of disclosure documents and agreements, and he negotiates disputes. He assists many foreign businesses expanding into Canada and internationally. He regularly advises on national and multi-jurisdictional trademark applications and disputes, including counterfeiting matters, and on copyright protection issues. Paul has developed significant expertise in marketing and pricing practices and advises clients on the interaction between intellectual property and competition law.

Paul is familiar with both common law and civil law systems. In addition to his Canadian law expertise, Paul is internationally known for his expertise in Chinese franchising, intellectual property and competition law.

FARID KANI

Atieh Associates Law Firm

Farid Kani is a partner at Atieh Associates Law firm. He is a licensed attorney admitted to the Iranian Central Bar Association. Farid has an LLB from Allameh Tabataba'i University and an LLM in international trade law from Queen Mary University of London. He holds a separate LLM in international commercial law from Shahid Beheshti University and an LLM in public international law from the University of Tehran. His main areas of practice include corporate transactions, the automotive sector, logistics, transportation, labour, pharmaceuticals and franchising. Farid has also been recognised as a leading lawyer by international publications such as *IFLR1000*, and he is fluent in Farsi and English.

EDUARDO KLEINBERG

Basham, Ringe y Correa, SC

Eduardo Kleinberg has been a partner at Basham, Ringe y Correa, SC since 2003. His practice focuses on matters related to intellectual property and franchising. Eduardo has been practising law in the field of intellectual property since 1993 and he has been a managing partner at Basham, Ringe y Correa, SC since 2014. He is head of the firm's trademark and

licensing practices and has extensive experience in domestic and international matters, including in advising clients in IP matters in general; negotiating and drafting licence, franchise, copyright and confidentiality contracts; filing and prosecuting trademarks and patents before the Mexican Institute of Industrial Property (IMPI); filing copyrights with the National Copyright Institute (INDAUTOR); due diligence in IP matters; classifying and registering product and service trademarks for Mexican and leading foreign companies; registering trademarks in South and Central America, Europe, Asia and the United States, working with local counsel in each of those regions; counselling Mexican and international clients in intellectual property-related e-commerce issues; and registering and cancellation of domain names.

Eduardo is president of the Intellectual Property Commission of the Confederation of Industrial Chambers of Mexico (CONCAMIN), and is designated by CONCAMIN as the representative of the Mexican private sector with respect to the intellectual property chapter of the Trans-Pacific Partnership Agreement (TPP). Among other positions he has held, he is a past president of the Mexican Association for the Protection of Intellectual Property (AMPPI); of the Mexican chapter of the International Association for the Protection of Intellectual Property (AIPPI); and of the Copyright Committee of the International Chamber of Commerce Mexico. He is a member of the Association of European Trade Mark Owners (MARQUES), the Mexican Franchise Association and the International Franchise Association (IFA).

Eduardo is ranked in the principal legal directories, including *The Legal 500*, *Chambers* and *Who's Who Legal*, and by the International Legal Alliance Summit. He is the contributor in charge of the Mexican chapter in *International Licensing* published for the Center for International Legal Studies in Salzburg, Austria by BNA International Inc.

Eduardo graduated from the Ibero-American University and has a master's degree from the University of Chicago. He speaks Spanish and English.

MARTINE DE KONING

Kennedy Van der Laan

Martine de Koning studied law at the University of Utrecht, graduating in 1995. She studied and lectured in the United States and Australia. In 1997, Martine joined Kennedy Van der Laan, where she started in information technology law and has in the past 15 years developed a practice in EU and Dutch competition law and international franchising, agency, distribution, sales, procurement, logistics and other commercial contracts and disputes. Martine has extensive experience with cross-border franchising in the EMEA region and competition law compliance issues in this context. In particular, North American clients seek her out for her experience in working with Anglo-American partners. She works for multinationals, as well as strong national players with an international business or ambition. Martine handles the drafting and negotiating of contracts, as well as litigation and (international) arbitration in national and international courts and arbitration institutes. Martine receives praise for her hands-on, pragmatic approach and sharp strategic vision. Martine regularly publishes articles and lectures on competition law, international franchising and related subjects.

MARKUS KÖRNER

Bird & Bird LLP

Markus Körner is a partner at Bird & Bird LLP (Munich office). His main focus is intellectual property, copyright and unfair competition law, in particular in contentious matters. He advises clients on IP and advertising strategies and coordinates international projects and proceedings. Markus Körner is admitted to the Bar in Germany.

BETTINA KÖVECSES

Siegler Bird & Bird Ügyvédi Iroda

Bettina Kövecses is a senior associate working in the IP and corporate teams in Bird & Bird's Budapest office. She has in-depth experience in intellectual property matters, including contentious and non-contentious trademark and patent issues, commercial and transactional IP matters and customs measures. She regularly advises multinational companies, and also small fashion labels and design and architectural companies, on patent law, copyright law, branding, licensing, know-how and trade secrets protection. She has advised leading stakeholders in the Hungarian film industry on intellectual property matters such as screenplay, production and performers' agreements. She also supports clients with general corporate issues, corporate housekeeping and division and merger agreements, with special emphasis on protection and transfer of IP rights in start-up funding. Dr Kövecses graduated from the Eötvös Loránd University faculty of law in Budapest in 2010. Before commencing university she studied English in Auckland, New Zealand for two years. In 2008/2009, she also participated in a scholarship programme at the Saarland University in Saarbrücken, Germany; at the Europa-Institut, the university's postgraduate and master's studies institution, she studied, among other topics, EU and German civil law. She also holds a postgraduate certificate in intellectual property law from the Hungarian Intellectual Property Office. A member of the Hungarian Trademark Association, the Hungarian Association for the Protection of Industrial Property and Copyright, the Licensing Executives Society International (LESI), the Licensing Executives Society Hungary group (LES Hungary) and the Budapest Bar, Dr Kövecses speaks Hungarian, English and German.

LEE LIN LI

Tay & Partners

Lee Lin Li is a partner at Tay & Partners, where she is the head of the intellectual property and technology department. She handles contentious matters involving patent, trademark, copyright and industrial design infringement, and passing off, including seizure and anti-counterfeiting actions, and notably provides strategic advice on settlement negotiations. She also advises on domain name registration issues and disputes. Ms Lee regularly advises clients on cross-border transactions involving licensing, technology transfer, assignment and franchising as a model for business expansion. She also advises on applications to register foreign and local franchises. A major part of her practice consists of advising and working closely with local and international clients on the management, protection and commercialisation of their IP portfolio in various sectors. She regularly speaks at seminars and workshops on franchising and personal data protection. Ms Lee read law at the University of Leeds and was admitted as an advocate and solicitor of the High Court of Malaya in 2001.

ANDREW LOEWINGER

Nixon Peabody LLP

Andrew Loewinger helps franchise clients expand their businesses in the United States and abroad. He regularly advises clients on a wide variety of franchise system, franchise sales compliance, corporate and IP issues in various industries, including food and beverage and travel and leisure. Andrew has worked on hundreds of international franchise transactions in more than 85 countries, from Mongolia to Qatar, and from South Africa to Macao. He co-authored and co-edited the book *International Franchise Sales Laws*, published by the American Bar Association. Andrew has been selected by his peers for inclusion in *The Best Lawyers in America 2019* for franchise law in Washington, DC. In addition, he has been recognised for the past 11 years as a 'Legal Eagle' by *Franchise Times* and was inducted into its 'Hall of Fame' in 2013.

KATYA LOGUNOV (STEPANISHCHEVA)

Jones & Co

Katya Logunov (Stepanishcheva) is an international business lawyer experienced in both civil law and common law systems. Katya's practice is focused on franchising law, intellectual property licensing and corporate commercial law. Katya holds a master's degree in international business law from Osgoode Hall Law School (Toronto, Canada) and a law degree from the Moscow State University (Russia). Prior to joining Jones & Co, Katya practised corporate law and mergers and acquisitions with Moscow offices of major international law firms.

KERI MCWILLIAMS

Nixon Peabody LLP

Keri McWilliams is a co-leader of Nixon Peabody's franchise team. She represents franchisors across numerous industries, including restaurants, retailers, education providers and health and fitness concepts. She provides strategic counselling on expansion and growth, and domestic and international sales and compliance. Keri was selected by her peers for inclusion in *The Best Lawyers in America 2019* in the field of franchise law and has been named in *Who's Who Legal* as being among the world's leading franchise lawyers. Keri is a leader in the franchise industry, serving as an associate editor of *The Franchise Lawyer* since 2015. She is also a regular writer and presenter on franchise law topics, contributing chapters to the ABA's 2018 publication *Franchise Desk Book* (3rd edn) and the ABA's 2017 publication *Exemptions and Exclusions under Federal and State Franchise Registration and Disclosure Laws*.

SERGEY MEDVEDEV

Gorodissky & Partners

Sergey Medvedev, PhD, LL.M. is a senior lawyer working in the Moscow office of the law firm Gorodissky & Partners (Russia). He specialises in various legal issues related to legal protection, ownership, acquisition, exploitation, licensing, franchising, litigation and enforcement of IP and IT rights in Russia and CIS.

Sergey deals with various types of IP and IT matters, including copyrights and related rights, software and databases, patents and designs, trademarks, brands and domain names. He also deals with know-how and confidential information, as well as privacy and data protection.

Sergey provides legal support to clients in connection with various transactions related to disposal and conveyance of IP and IT assets. He is regularly in charge of developing, reviewing, negotiating and perfecting assignment deeds, licence agreements, franchise contracts, security agreements and other contractual arrangements. Sergey is also involved in heavyweight M&A, joint venture and investment projects, master development and franchise transactions, IP and IT legal due diligence and IP and IT transfer processes.

Sergey litigates IP and IT rights and combats unlawful or unauthorised use of IP and IT as well as illegal content on the internet, unfair competition and false advertising. He also tackles parallel imports and grey market goods, and fights against counterfeit goods and piracy. He represents the interests of clients in the courts and before law enforcement agencies on a variety of IP and IT infringement matters. Sergey participates in extra-judicial and judicial dispute resolution actions, civil and litigation procedures, and administrative and criminal proceedings.

Sergey frequently delivers speeches at national and international seminars and conferences. He is the author of a number of articles and works, including on franchising, published by the leading Russian and international publishing houses.

Sergey is a registered member of EuroFranchise Lawyers (EFL), the Licensing Executives Society International (LESI) and the International Distribution Institute (IDI), and he is an official attendee of the International Franchise Association (IFA). Sergey is also a registered trademark, design and software attorney in Russia.

RAPHAËL MELLERIO

Aramis

Raphaël Mellerio is one of the founding partners of Aramis, which was established in 2006. He formerly worked for the firm Clifford Chance in London and Paris, where he spent 10 years and became counsel in 2003.

Mr Mellerio is the partner in charge of the corporate and mergers and acquisitions practice at Aramis. His main activities relate to mergers and acquisitions, restructurings and joint ventures. He also represents companies on a regular basis in the setting up of complex agreements in the field of franchising and industrial transactions. He also deals with certain issues of economic law and international commercial law.

In the field of franchising, Mr Mellerio regularly assists French and foreign franchisors in the areas of retail distribution, restaurants and services, and he is a regular contributor to various legal publications on the subject. He is also a member of the IBA International Franchising Committee.

JOSÉ MARIA MONTENEGRO

Morais Leitão, Galvão Teles, Soares da Silva & Associados

José Maria Montenegro joined the firm in 2005. He has been very active in a wide variety of tax matters, namely in tax litigation, and also in advising both national and multinational

corporations, covering a wide range of subjects related to double-taxation treaties, VAT, corporate and personal income tax, and criminal tax law. He is also a member of the sports law team – an internal team that, on a daily basis, provides expert advice on sport matters.

Since 2010, José Maria has been an invited professor at the Polytechnic Institute of Porto, teaching the courses Tax Law I, Tax Law II and Legal Simulation. Before joining the firm, he worked with a multinational consultancy company and a national law firm in the tax field.

Between 2003 and 2004 José Maria Montenegro served as legal counsellor to the Minister of Justice in the XV Constitutional Government.

STEFAN MÜNCH

Bird & Bird LLP

Stefan Münch is a partner at Bird & Bird LLP (Munich office). His main focus is corporate and M&A law. He also advises clients on related commercial aspects, including distribution, franchise and agency agreements. Stefan Münch is admitted to the Bar in Germany.

MELISSA MURRAY

Bird & Bird (MEA) LLP

Melissa Murray holds the position of partner in Bird & Bird's Abu Dhabi and Dubai offices, having practised in the United Arab Emirates since 2006. She provides advice to international businesses on commercial and corporate matters relating to their operations in the UAE and the wider Middle East region. Her experience includes advising on franchising, hospitality, IT, IP, data protection, privacy, consumer protection, food, healthcare and regulatory matters.

Before moving to the UAE, she worked with an Australian national commercial firm in private practice and as an in-house lawyer with Australia's largest childcare company, providing a range of corporate and commercial advice.

Ms Murray has published articles on a variety of topics, including franchising, distribution and agency matters, in publications such as the International Bar Association (IBA) Newsletters, *Gulf News*, *Legal Week* and the *Dubai Chamber of Commerce Guide to Franchising*.

Ms Murray is admitted to the Supreme Court of Queensland (2003), and holds an LLB from the Queensland University of Technology and a graduate diploma of applied corporate governance (Australia). She is a member of the Australian division of the Institute of Chartered Secretaries and Administrators, the Middle East representative for the Franchising Section of the IBA and a member of a number of UAE and Australian business associations.

SHELLEY NADLER

Bird & Bird LLP

Shelley Nadler is a member of Bird & Bird's franchising, licensing and multichannel strategies team based in London.

She is a specialist franchise lawyer with over 20 years' experience in advising on all aspects of franchising.

Shelley is retained as counsel for a number of household names in the retail and food and beverage sectors.

She also advises a wide variety of businesses in the leisure and services sectors including start-ups and established brands looking at multicountry expansion strategies. Shelley's particular expertise is in the structuring and development of franchise networks in the United Kingdom and new markets including India, the Middle East, the Far East, South East Asia, Russia and South America.

In addition, Shelley advises on multichannel expansion strategies, intellectual property ownership, protection and exploitation structures and general commercial contracts including agency, distribution, wholesale, supply, confidentiality and know-how agreements, together with domestic and international terms and conditions of sale.

The author of many articles for the franchise trade press, Shelley also writes a monthly 'ask the experts' column in *Making Money* magazine. She has spoken at a number of national and international franchise and licensing seminars and British Franchise Association conferences and workshops. Recently Shelley spoke on franchising in the United Kingdom for a webinar for the Franchise Association of India. Shelley is recognised as an expert in franchising in the *Legal Business Guide to Legal Experts*.

Shelley co-wrote the UK section of *The International Encyclopaedia of Franchising* published by Kluwer.

DZHAMIL ODA

Morais Leitão, Galvão Teles, Soares da Silva & Associados

Dzhamil Oda joined Morais Leitão, Galvão Teles, Soares da Silva & Associados (Morais Leitão) in February 2011. He is a member of the European law and competition team. He is also a member of the 'Team Genesis', sports law and life sciences teams.

Previously, Dzhamil worked with the litigation and arbitration team and also with the corporate and commercial and capital markets teams.

In the context of the European law and competition practice, among other matters, Dzhamil works in merger control, antitrust compliance and state aid (including in matters related to the European structural and investment funds and major projects), as well as in competition-related litigation. Dzhamil also provides, on a daily basis, legal advice in the energy sector (on regulatory matters, compliance and litigation).

In the Morais Leitão sports law practice, Dzhamil provides legal advice in relation to football players' transfers, UEFA Financial Fair Play and football intermediation matters, and he is also active in litigation before international sports organisations (in particular, FIFA and the AFC) and before the Court of Arbitration for Sports, Lausanne, Switzerland. Dzhamil is also a member of the Justice Council of the Portuguese Bridge Federation.

Within Team Genesis – created by Morais Leitão to instruct start-ups and SMEs and advise business angels, venture capital and private equity – Dzhamil is responsible for non-dilutive fundings (both national and European Union).

ZSÓFIA OTTÓFFY

Siegler Bird & Bird Ügyvédi Iroda

Zsófia Ottóffy is a junior associate in the intellectual property team at Bird & Bird's Budapest office. Zsófia has been advising clients since 2017, and specialises in IP law and data protection. She assists clients with patent litigation matters, copyright issues, EUTM applications and data protection (GDPR) questions. Prior to joining the firm in 2016, she worked as a legal intern for an international law firm, mainly advising on IP and information

technology matters. Zsófia graduated from the Eötvös Loránd University faculty of law in Budapest in February 2017. From 2011 to 2016, she was a member of Mathias Corvinus Collegium, which offers interdisciplinary education for outstanding university students. In 2013, she was an Erasmus exchange student at the Pablo de Olavide University faculty of law in Seville. She has also conducted research into the legal regimes governing intellectual property rights in East Asia, and she won the civil law section of the National Scientific Students' Associations Conference in 2014 with her study of the issues surrounding trademarks and geographical indications in China. She works in Hungarian and English, and speaks conversational Spanish and Korean.

FERNANDA SOUTO PACHECO

Dannemann Siemsen Advogados

Fernanda Souto Pacheco is a partner at Dannemann Siemsen Advogados and joined the firm in 2008. Fernanda obtained her bachelor's degree in law from the University of Rio de Janeiro State University (UERJ) in 2003 and also holds a postgraduate degree in business law from UERJ. She deals with contracts, aspects of corporate law, corporate reorganisation, due diligence proceedings, the preparation and analysis of different types of agreements and corporate matters in general. Fernanda has had an active part in several corporate reorganisations. Prior to joining Dannemann, she worked with the firm of Pinheiro Neto Advogados. She is a member of the International Association of Young Lawyers (AIJA). She is fluent in Portuguese, English and French.

GUSTAVO PAPESCHI

Beccar Varela

Gustavo Papeschi has been a senior lawyer with Beccar Varela since 2014. He started his career there in 2007. His practice areas include general corporate advice, banks and financial institutions, class actions, distribution law and private international law. He received his law degree from the University of Belgrano (graduated as an attorney with first-in-class Academic Merit Recognition in 2006), and obtained his LLM in international and comparative law from SMU Dedman School of Law at Southern Methodist University (Dallas, Texas, United States, 2013). He worked as a foreign associate at Haynes and Boone, LLP (Dallas, Texas, 2013) and Holland and Knight, LLP (Miami, Florida, 2014). He is a member of the Buenos Aires Bar Association and the New York State Bar Association (2017), where he is admitted to practise. Gustavo has authored several articles and lectured on distribution and franchising law, as well as on the Civil and Commercial Code (which entered into force in 2015).

GRAEME PAYNE

Bird & Bird LLP

Graeme Payne is a partner in Bird & Bird's global franchising, licensing and multichannel strategies team. He works closely with businesses to determine and develop the most commercially appropriate expansion models and routes to market.

Mr Payne's practice focuses on the retail, leisure, food and beverage, services and healthcare sectors. He is retained as counsel by a number of leading and up-and-coming brands in these sectors. He has particular expertise in advising businesses on the use of franchising as a tool for strategic growth and expansion.

In addition to advising on appropriate multichannel expansion strategies, he advises on intellectual property ownership, protection and exploitation structures, technology transfer licensing and general commercial contracts including agency, distribution, wholesale, supply, confidentiality and know-how agreements together with domestic and international terms and conditions of sale.

Mr Payne's clients range from individual entrepreneurs, early-stage ventures and SMEs to multinationals. He has particular experience in assisting businesses expand into new markets including India, the Middle East, the Far East, South East Asia, Russia and South America.

He has written numerous articles for *Franchise World*, and has spoken at a number of national and international franchise and retail seminars, and British Franchise Association conferences and workshops.

Mr Payne has contributed to a number of publications including 'Alternative Corporate Re-engineering: Building Businesses through Third-Party Relationships and Expansion into New Markets' (*European Lawyer*, 2011) and *International Business Transactions: Standard Forms and Documents (Franchising)* (Wolters Kluwer).

DIOGO PINTO

Morais Leitão, Galvão Teles, Soares da Silva & Associados

Diogo Pinto joined the firm in September 2016. He is currently a member of the litigation and arbitration team, working mainly in civil and commercial litigation and arbitration, and he is also a member of the sports law team. Previously, Diogo worked with the tax team.

CRISTÓBAL PORZIO

Porzio, Rios, Garcia

Cristóbal Porzio joined Porzio, Rios, Garcia in 1993 and has been a partner since 2002. He was admitted to practise in 1994 after gaining his JD at the Pontifical Catholic University of Chile in 1993. His practice areas include intellectual and industrial property, distribution law and franchising, and corporate law.

He advises local and foreign clients in matters related to patents, trademarks and technology transfer. Moreover, he participates on the boards of directors of companies and acts as local counsel for foreign companies in Chile.

He is a professor at the School of Law of the Pontifical Catholic University of Chile and he is the immediate past president of the Chilean Association of Intellectual Property (ACHIPI). He is the Chilean expert for the International Distribution Institute, a member of honour of the International Association of Young Lawyers (AIJA), and a member of the Chilean Bar Association, AIPPI, AIPLA and INTA. Cristóbal Porzio is also an accredited International Distribution Institute (IDI) arbitrator and an appointed member of the IDI IDArb list of arbitrators (providing dispute resolution in the field of international distribution).

ALLAN POULTER

Bird & Bird LLP

Allan Poulter is a partner based in Bird & Bird's London office.

He has particular expertise in all aspects of international brand management, protection and enforcement with a specific focus on portfolio management, legal clearance searches, contentious registry proceedings and advising on global branding strategies. He has represented the owners of many of the most recognised and valuable international brands.

Mr Poulter has experience as a barrister, trademark attorney and solicitor, and in-house, having spent three years as a director of the world's largest branding consultancy, Interbrand.

Mr Poulter is a member and former chair of the International Trademark Association's publications committee and has written and contributed to numerous leading publications on trademark law and branding issues. He is a regular speaker at international conferences.

ARTHUR PRESSMAN

Nixon Peabody LLP

Arthur Pressman has more than 30 years of experience helping franchise clients resolve disputes. He has tried many cases before juries, judges and arbitration panels. His practice now emphasises the resolution of franchise disputes through arbitration and mediation, and he sits on neutral panels with the American Arbitration Association and the CPR Institute. Arthur is often approached by other lawyers to serve as an expert consultant or to testify on franchise-related issues, including joint employment, legal malpractice, adequacy of disclosure, vicarious liability and application of franchise regulations to business arrangements. Regularly featured as one of the top lawyers in *Who's Who Legal*, Arthur has also been named as one of the top 100 franchise lawyers in the country by *Franchise Times* since its inception. He was selected by his peers for inclusion in *The Best Lawyers in America 2019* in the field of franchise law and has been listed in *Best Lawyers* since 2007. Arthur has been recognised for the past 11 years as a 'Legal Eagle' by *Franchise Times* and was inducted into its 'Hall of Fame' in 2013.

JACOB ØRSKOV RASMUSSEN

Plesner Law Firm

Jacob Ørskov Rasmussen is head of Plesner's commercial contracts team and also of the franchise and automotive teams, and he has years of experience in advising Danish and international clients on contractual relationships, both nationally and internationally.

Jacob has acquired in-depth knowledge of and experience in a broad spectrum of commercial contract types, including sales and distribution agreements, agency agreements, franchise agreements, logistics and warehousing agreements, facility management agreements and supply agreements, as well as purchasing contracts.

Jacob has extensive experience in franchising, including comprehensive experience in the drafting and negotiation of franchise agreements, Danish and EU competition law related to franchising, and setting up franchise systems in Denmark. Jacob has, among other things, been involved in franchise matters concerning the following brands: Starbucks Coffee, Carl's Jr. Restaurants, KellyDeli (Sushi Daily), Joe & The Juice, Gucci, Pret A Manger and Flying Tiger Copenhagen.

Jacob has been designated by the International Distribution Institute (idiproject.com) as country expert regarding franchising in Denmark. He is also an expert in relation to distribution and agency law and has years of experience in advising national, international and multinational clients within this legal field.

Jacob furthermore provides legal advice on export control and trade sanctions, contract management, compliance and legal risk management.

The automotive industry is also one of Jacob's special areas of expertise and he has in-depth knowledge of this industry. Jacob's clients include car factories and factory-owned and private car importers, as well as banks and financing companies.

Jacob is listed by *The Legal 500 EMEA* 2016 and 2017 as a 'recommended lawyer' in the commercial, corporate and M&A practice area.

In addition, Jacob is listed by *Who's Who Legal: Franchise 2017* and the 2018 edition as a 'leading franchise lawyer': 'Jacob Ørskov Rasmussen receives wide-ranging endorsements for his outstanding contractual practice and specialist experience in the retail sector;' and 'Jacob Ørskov Rasmussen stands out as "a commercially orientated and responsive lawyer" and earns plaudits for his "impressive knowledge of franchise law and his commitment to the assignments".'

CLAUDIA RICCIARDI

Studio Legale Bird & Bird

Claudia Ricciardi joined Bird & Bird in April 2003; she primarily focuses on intellectual property and information technology, copyright, telecommunications and advertising law.

Before joining Bird & Bird, Ms Ricciardi worked for three years in the IP department of Andersen Legal and for some months at the Studio Legale Tributario associated with Ernst & Young.

Her experience includes advising on issues relating to trademarks and patents, drafting deeds and opinion, and, in particular, advising in judicial proceedings related to trademarks and patents; drafting and reviewing trademark licence and transfer agreements; patent licence agreements, know-how licence agreements, domain-name transfer agreements, franchising contracts, software development and licence agreements, distribution and supply agreements, advertising agency agreements, outsourcing contracts and internet-related contracts (general conditions for access and use of websites, and lease of advertising spaces); legal advice in the course of the realisation of websites, with specific reference to the examination of the various issues connected to the supply of products and services through the web; and due diligence relating to immaterial goods (trademarks, patents, etc.).

Ms Ricciardi is a native Italian speaker and is fluent in English.

PÉTER RIPPEL-SZABÓ

Siegler Bird & Bird Ügyvédi Iroda

Péter Rippel-Szabó is an experienced adviser on commercial agreements, such as supplier agreements, contracts for works and services, franchising, property leases and joint ventures, as well as complex international litigation providing advice to clients in various industries, including the IT, energy, food and media sectors. Péter also advises several sports industry stakeholders on broadcasting matters; organisation of events; enforcement of rights; marketing, sponsorship, endorsement, ambassador, cooperation and player contracts; regulatory issues; e-sports; disciplinary procedures; and day-to-day operations, as well as

on sports federations' own internal regulation. He is often invited to speak at national and international conferences and expert workshops on sports law. As the national expert for Hungary, he contributed to the 'Study on sports organisers' rights in the EU' and the 'Study on assessment and management and prevention of conflicts of interest in the prevention and fight against betting-related match-fixing' for the European Commission. Péter is the author of numerous articles and studies analysing the many crossovers between sport and the law. He is co-author of the textbook *Sports Law – The Civil Law of Sports*. His articles on sports law are regularly published by prestigious law journals, leading business newspapers and prominent websites. He is the lecturer for the Sport: Law and Business course at the Mathias Corvinus Collegium. According to *The Legal 500* (2016): 'Péter Rippel-Szabó is a key name for broadcasting and sports law.' Péter is an editorial board member for the Europe division of LawInSport. He graduated from the University of Pécs, having completed the LL.M programme at the University of Erlangen–Nuremberg as a DAAD scholarship holder, where he studied German law and sports law from 2008 to 2009.

FLORENCIA ROSATI

Beccar Varela

Florencia Rosati has been a partner at Beccar Varela since 2015 and specialises in intellectual property, telecommunications, media and technology. She began her career at EBV in 1993, before graduating as lawyer. Her practice areas include litigation and advice to clients on trademarks, patents, copyright, entrepreneurship, entertainment, communications and new technologies, and she has extensive experience in data protection and privacy. She received her law degree and her postgraduate degree in telecommunications from the University of Buenos Aires, in 1997 and 2001 respectively, and her postgraduate degree in new technologies from the Pontifical Catholic University of Argentina (2009–2010). She is a registered patent and trademark agent. She is a member of the Buenos Aires Bar Association, the International Trademark Association (INTA) and the International Technology Law Association (ITechLaw). In 2011, She received the INTA Volunteer Service Award for Pro Bono Services by an individual. In 2016, Florencia was included in the *The Legal 500* TMT ranking, and was recognised as a 'notable practitioner' in the IP ranking of *Chambers Latin America*, which stated that she 'is very experienced in trademark law. Sources highlight her as "an excellent, intelligent and credible lawyer who is committed to providing practical solutions for her client".'

KUBA RUIZ

Bird & Bird Szepietowski i wspólnicy sp.k.

Kuba Ruiz is head of the business transactions practice at Bird & Bird's Warsaw office. He has been advising clients since 2004 and has extensive experience in new technology and IT-related legal practices, transactional and commercial law, and dispute resolution, including litigation and court administrative disputes, arbitration and mediation.

He has advised on, drafted and negotiated all manner of contracts and commercial arrangements, including contracts for supply of goods or services, contracts relating to telecoms equipment, networks, agency, distribution, franchising, licensing, outsourcing, content, sponsorship, media and entertainment, IP and leasing and maintenance.

He studied law at the University of Warsaw faculty of law and administration. He also obtained a second Master of Laws degree from the Amsterdam Law School at the University of Amsterdam (specialisation: international trade law and international investment arbitration).

DIVYA SHARMA

DBS Law, Corporate legal advisers

Ms Divya Sharma is dual qualified to practise in England and India. After spending over six-and-a-half years at Bird & Bird in London, where she was part of the India group at Bird & Bird, Divya is now based in Mumbai and advises Indian and international clients on corporate, commercial, franchising, joint ventures, company law and related matters in India.

SEUNG HYEON SUNG

Yoon & Yang LLC

Seung Hyeon Sung is a partner in the antitrust practice group at Yoon & Yang LLC. His practice focuses on antitrust and fair trade laws (including subcontracting law and franchise business law). He received his BA in law from Seoul National University and he previously worked at Deacons (Hong Kong).

LORRAINE ANNE TAY

Bird & Bird ATMD LLP

Lorraine Anne Tay is the joint managing partner and head of the intellectual property group at Bird & Bird in Singapore.

Lorraine focuses primarily on non-contentious intellectual property (IP) and general IP advisory work. She works closely with numerous clients across various industries to manage and protect their portfolio of intellectual property rights, which include trademarks, patents and designs, and covering multiple jurisdictions worldwide. She is also very experienced in handling complex cross-border IP issues, as well as disputes, including oppositions and negotiations.

She also manages commercial transactions involving IP issues (such as mergers and acquisitions, licensing, franchising and the sale and purchase of intellectual property rights), and has experience in managing global due diligence and clearance exercises, negotiations and the drafting and preparation of related documentation. Aside from these areas, Lorraine also regularly advises clients on regulatory and advertising-related issues.

Lorraine actively participates on various committees with the International Trademark Association (INTA) and is consistently recognised as a leading IP lawyer by clients and top legal directories, including *The Legal 500*, *Chambers Asia-Pacific*, *Managing Intellectual Property*, *World Trademark Review* and *Expert Guides*. She regularly presents on intellectual property issues at seminars and events. Lorraine is also a registered Singapore patent agent.

KENDAL TYRE

Nixon Peabody LLP

Kendal Tyre is a co-leader of Nixon Peabody's franchise team. With over 25 years of experience, he handles domestic and cross-border transactions, including mergers and acquisitions, joint ventures and strategic alliances. Kendal counsels companies expanding

through master franchising, area development franchising, international franchising, management contracts, joint venture agreements, licensing agreements and product distribution arrangements throughout the world. Kendal has earned recognition as a 'Legal Eagle' by *Franchise Times* magazine. He has been named in *Who's Who Legal* as being among the world's leading franchise lawyers and was selected by his peers for inclusion in *The Best Lawyers in America 2019* in the field of franchise law. Kendal serves on the editorial advisory board of the *International Journal of Franchising Law* and is an author and editor of *International Franchising 2016: Legal and Business Considerations*, a 600-page publication that covers 41 countries and was a collaboration of over 60 legal practitioners across the globe, published by LexNoir Foundation.

ALFONS UMSCHADEN

Deschka Klein Daum Lawyers

Alfons Umschaden is a lawyer at Deschka Klein Daum Lawyers. He has a Master of Laws from the University of Graz, a Master of Business from the University of Salzburg and a Master of Business Administration. He joined the Austrian Bar Association in 2007.

Alfons Umschaden was previously an associate at Baker & McKenzie in Vienna, and at Raists Ebner Lawyers in Salzburg, and a counsellor at the Austria International Chamber of Commerce. He speaks English, German and Polish.

ELIZABETH UPTON

Bird & Bird LLP

Liz Upton is a legal director in the commercial group based in London. She has been practising data protection law since joining Bird & Bird in 2000. Her areas of expertise include general compliance and GDPR strategies for organisations, as well as specific matters, such as drafting policies and data processor agreements, direct marketing, individual rights and international data transfers.

ELISABETH VESTIN

Hannes Snellman Advokatbyrå AB

Elisabeth Vestin is a partner and heads the intellectual property (IP) and technology practice at Hannes Snellman's Stockholm office. Her fields of expertise include IT, outsourcing, telecoms, data protection, IP, marketing, consumer law, e-commerce and distribution, sports, media, music and entertainment law, as well as general commercial law. Innovation, technology, know-how, data, e-commerce, trademarks and other intellectual property rights are often central to the businesses that Elisabeth advises.

Her practice includes drafting, interpreting, negotiating and disputing commercial agreements. She also advises on M&A in the IP and technology field.

In addition, Elisabeth has worked with corporate sustainability, bribery, anti-corruption and compliance matters for over a decade. She regularly conducts presentations and training in these areas.

JUST WANG

Bird & Bird ATMD LLP

Just Wang is an associate in the intellectual property group at Bird & Bird in Singapore.

Mr Wang has been involved in a variety of both contentious and non-contentious matters, with a focus on intellectual property litigation work across all levels of intellectual property courts in Singapore. In particular, he assisted in Singapore's first shape mark infringement trial and appeal. Mr Wang is also regularly involved in intellectual property enforcement work, with experience in anti-counterfeiting activities and private prosecutions against intellectual property infringers.

Mr Wang graduated from the National University of Singapore with an LLB (Hons.) in 2013 and was admitted as an advocate and solicitor of the Supreme Court of Singapore in 2014 after completing his training contract with the firm.

SVEN-MICHAEL WERNER

Bird & Bird

Dr Sven-Michael Werner has almost 20 years' experience of practising law in China. His extensive experience includes M&A and foreign direct investment transactions, with a strong focus on advising European clients in relation to their inbound investment into China.

Dr Werner joined Bird & Bird in January 2014 as a partner in the international corporate group based in Shanghai.

He has been living and working in China since 1999, and has been based in Shanghai since 2003. During his career he has also been based in both London and Munich, with a remit to develop inbound and outbound work for the Chinese market.

In addition to his extensive experience in M&A and foreign direct investment transactions, Dr Werner also regularly advises European and US clients in the automotive, technology, media, life sciences, consumer goods, high-end retail and services sectors in relation to commercial, compliance and anti-bribery matters.

Dr Werner was admitted to practise law in Germany in March 2004, and is fluent in German and English, and proficient in Mandarin Chinese.

In October 2003 Dr Werner obtained a PhD degree (Dr. iur.) in Chinese and Hong Kong law. Prior to this, he studied law and business administration in Hamburg followed by a Master of Laws programme at the University of Hong Kong in the field of Chinese business law and international financial transactions.

ROBERT WILLIAMS

Bird & Bird LLP

Robert Williams is a partner and co-head of the UK intellectual property group of Bird & Bird.

He has significant experience in both contentious and non-contentious IP work, advising on the full range of issues relating to patents, copyright, trademarks, designs and trade secrets and confidential information.

Mr Williams has particular experience of complex IP disputes, advising clients from a range of IP-rich industries, including life sciences, energy and utilities, speciality chemicals, mechanical engineering and electronics on strategic IP issues, including life-cycle management.

He was a member of the teams acting for Pfizer in patent cases concerning Viagra and Lipitor, and acted for Synthon in its action against GSK concerning paroxetine mesylate, which resulted in one of the leading House of Lords judgments on the law of novelty in the United Kingdom.

RISTI WULANSARI

K&K Advocates

Risti Wulansari is one of the co-founding partners at K&K Advocates. Risti's main role in the firm is to oversee the non-contentious division and the commercial intellectual property (IP) division. Risti has extensive expertise in the field of IP and has been actively involved in providing assistance for both Indonesian and foreign clients in a variety of IP projects, including trademark, industrial design, copyright and patent matters, enforcement of IP rights and also IP commercial works and projects, such as providing advisory services relating to franchising, licensing, distributorship, telecommunication and data protection and privacy issues. Risti has been practising law, and specialising in the IP practice area, for the best part of 18 years.

Risti is a member of INTA, APAA and the Indonesian Association of Intellectual Property Consultants (AKHKI).

Risti obtained his licence as an IP consultant in 2006, and is also a licensed advocate and a member of the Indonesian Advocates Association (Peradi).

VOLODYMYR YAKUBOVSKYY

Nobles

Volodymyr Yakubovskyy is a partner at Nobles. He has a trusted reputation for representing major international corporations and leading national market participants in various transactional, investment and commercial matters. He regularly advises companies on business projects with a particular focus on corporate, labour, distribution, franchising and intellectual property issues. Mr Yakubovskyy's areas of expertise include such industries as retail, e-commerce, agriculture, media, pharmaceuticals, regulated industries and financial institutions.

Mr Yakubovskyy has written a number of articles on franchising, e-commerce, and corporate and commercial matters. He is the member for Central and Eastern Europe of the editorial advisory board of the *International Journal of Franchising Law*.

Mr Yakubovskyy has an LLM in corporate and commercial law from the University of Cambridge (2010), an LLM in American and international business law from Boston University (2009) and degrees in law and international law from Lviv University (2005).

Mr Yakubovskyy speaks Ukrainian, Russian, English and German.

Appendix 2

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ISBN 978-1-83862-002-8