

## THE BREXIT SPECIAL ISSUE

**COVER** SEPARATION ANXIETIES: BRITAIN'S ROCKY ROAD AHEAD

**MARKETING** WHERE TO PUT YOUR BLOG FOR THE BEST POSITION

**SOCIAL MEDIA** WHICH TO CHOOSE: FACEBOOK GROUPS OR LINKEDIN

**INTERVIEW** IVÁN DELGADO ON THE SPANISH LEGAL MARKET

# BREAKING UP IS HARD TO DO

**Britain's referendum on an EU exit has caused much angst, but the end of the story has not been written**



**BREXIT COVERAGE • Theresa May's high-wire act •  
What Brexit means for: ADR, Middle Eastern issuers,  
European patent applications • Checklist for companies**



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# Editor's note



"What are we gonna do now?" Joe Strummer of The Clash wrote that line about Britain in 1979 on the album "London Calling" and it is perhaps more applicable today than ever. It was soon after London's, "winter of discontent" and now many are worried about what Britain just did in voting to leave the European Union.

With the June 23 vote the United Kingdom has put itself on an unknown situation that could have drastic implications for the world economy.

Despite 75 percent of Londoners voting to remain and most Scots ready to jump ship from England, the UK voted to leave the EU and lost more money in one day than all the money they contributed to the EU in 15 years, despite the EU kickbacks.

So now the UK, and particularly England, has a serious amount of work ahead in regards to the future. And no one behind the "Leave" campaign seems to have thought about the ramifications that much. Too add to that, most just ran away after the vote was in.

But yet this whole strange scenario gets stranger every day. It is hard to keep up. Depending who you talk to the result is dire, not so bad or good.

There are more questions it seems than answers about how a country leaves from a trading pact after 50 years, particularly one as intertwined as the EU. The simple answer is, it won't be easy. The real answer is, nobody really knows.

New Prime Minister Theresa May has said she will honor the referendum. So what it boils down to is not whether there will be a Brexit, but rather, what will that Brexit look like. May not only has to concern herself with the economic implications, but also her own popularity at home.

The exit language, which Britain wrote, is ambiguous and Article 50 as it is known, can be blocked by any other member state, which is why the British don't want to trigger it. This has led to a lot of work for lawyers, which should continue for two years or so.

Stay tuned.

Sincerely,

**Kevin Livingston**  
Editor-in-Chief  
GC Grapevine Magazine



# Focus on Brexit

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## BREXIT ISSUES

# Theresa May's high-wire act

## Will it be Brexit light?

**F**ormer British Home Secretary Theresa May's ascension to 10 Downing Street July 13 was not exactly a shock to most legal observers who have been closely following Britain's vote to exit the EU.

But where she goes from here is the subject of every dinner party conversation, according to London Lawyers.

While May, Britain's new prime minister, was not exactly a cheerleader for "Leave" she has said she will honor the referendum. But now May is in the precarious position of trying to negotiate the best exit deal she can while not offending the 17.5 million voters who cast their ballots for a Brexit.

Susan Laws, co-head of the London Office of Duane Morris. Laws said how May handles the negotiations will determine if there will be a true Brexit.

May has said she will not compromise on free movement of labor and Laws said she believes May is pretty much bound to those statements now.

"She will be punished in 2020 if she backs down," Laws said. "She cannot afford to alienate all the people who voted Brexit."

"She will be pragmatically Brexit," Laws said.

The question now is just how far May is willing to go and what she might be willing to concede to make a deal with the European Union.

"There will be a lot of negotiation," Laws said. "What does she have to give up?"

Laws said it won't be as cut and dried as a Brexit or a non-Brexit. It is "what color Brexit. She can't give the 52 percent [who voted Leave] absolutely everything. It will be Brexit light. But the question is, just how light?"

While Article 50 is supposed to be triggered at the end of the year — how that will be done is still not clear — May can request an extension.

"There is a lot of political wiggle room," Laws said. "It depends on the economy. If it has completely tanked she will make all sorts of concessions."

■



FREDERIC LEGRAND-COMEQ/SHUTTERSTOCK.COM  
Theresa May has insisted "Brexit means Brexit" and there will be no second referendum on the issue. She says official talks on leaving, which will begin when the UK triggers Article 50, won't begin until the end of 2016 at earliest.

## Brexit brings legal challenges

**T**he June 23 UK referendum to break with the European Union is already sparking legal challenges in London as at least one top law firm is demanding, on behalf of clients, that Parliament must approve the vote and, in particular, Article 50 of the Lisbon Treaty.

The formal start to Brexit talks is likely to be the triggering of Article 50 of the Lisbon Treaty. Law firm Mishcon de Reya said in a statement that this process could only begin with parliament's consent. The UK government's position is that it's a decision for whoever is prime minister after David Cameron tendered his resignation.

"The result of the referendum is not in doubt, but we need a process that follows UK law to enact it," Kasra Nouroozi, a partner at the firm, said in a statement. "Everyone in Britain needs the government to apply the correct constitutional process and allow parliament to fulfill its democratic duty, which is to take into account the results of the referendum along with other

factors and make the ultimate decision."

The decision of British voters to cut the country off from the EU in a referendum has already had a major impact on the currency, global markets and British political parties.

It's not yet clear how and when the government will trigger Article 50 and start the two-year timeline to Britain's exit.

"There is a desperate need here for legal clarity," Jeff King, a senior law lecturer at University College London, told Bloomberg. He said there is support in the legal and academic communities for the idea that only Parliament, as the UK's legislative body, has the power to invoke Article 50.

"I don't think this will be batted out of court," he said. "There seems to be a good chance of it going up to the Supreme Court."

Any lawsuit would likely result in a judicial review, where judges assess the legality of the government's actions, said King to Bloomberg. He said he is still hopeful a political solution can be found without the need for judicial intervention. ■

## BREXIT ISSUES

# What Brexit means for ADR and Middle Eastern issuers

## Brexit and ADR

**W**ith ADR and a push for more mediation, in particular, taking a larger role in resolving disputes in Europe could a British exit from the European Union speed up the need for a greater reliance on ADR.

While some it means there is definitely a need and ADR should increase as a way to solve what are likely to now become cross-border disputes, many of the same people are skeptical about whether it can work in practice.

"I think that as legal relations between the UK and EU are unwound (and there is a range of ways this might be achieved), we will inevitably be left with a more complex environment for cross-border disputes, including in relation to the recognition and enforcement of judgments," said Herbert Smith Freehills partner Alexander Oddy.

Oddy, a London-based ADR specialist was instrumental in putting together the new mediation guide for Europe, which was recently released by CPR Institute for Conflict Prevention & Resolution.

He said before the British referendum that in common law jurisdictions such as in England

and Wales the time taken for resolution matters which can be somewhat quicker but the cost of dispute resolution is materially higher than in the civil law jurisdictions. The costs then provide their own incentive for parties to resolve at least some matters.

"The Member States in a variety of ways implemented the EU Mediation Directive of 2008 in 2011," he said. "Some Member States, like the UK, opted for the minimum requirements so as to apply to cross-border disputes only where disputing parties are in different Member States. Other jurisdictions like the Netherlands, France, Germany and Italy implemented the directive to apply to cross-border and domestic disputes. Anecdotally, however, the adoption of the Mediation Directive to apply to domestic disputes in those jurisdictions has not necessarily had a profound effect on behavior patterns in terms of ADR use." With recent developments he adds, "as a result there ought to be yet greater value put on ADR processes that facilitate consensual negotiated outcomes to mitigate risk and uncertainty.

"But given the wide variations in the adoption of ADR across the EU, it would be a brave commentator to predict that this will in fact happen in practice." ■

AGIF AGIF / SHUTTERSTOCK.COM  
Storm clouds gather over the Union Jack, Big Ben and the Houses of Parliament in Westminster, London.

## Brexit and Middle Eastern issuers accessing the British and European Capital Markets

**M**any companies and other entities in the Middle East tap the UK and/or European debt and equity capital markets as part of achieving their corporate funding and broader strategic objectives. While the precise legal and regulatory impact that the UK's recent decision to leave the European Union (EU), dubbed Brexit, will have on the corporate finance market will depend on a number of factors, most notably the terms of withdrawal that are negotiated with the EU and the consequential impact on applicable legislation.

Regulatory regime and "Passporting"

Many issuers in the Middle East elect to list their debt or equity securities on European exchanges, particularly in London. Currently, the prospectus disclosure, listing and reporting regime is harmonized across the EU, by virtue of the Prospectus, Transparency and Market Abuse Directives, providing many advantages for issuers, most notably allowing for prospectuses to be "passportable".

The prospectus "passporting" regime currently allows issuers to use their prospectus approved by the competent authority in one member state to offer equity or debt securities into another

European Economic Area (EEA) member state or to list securities on a regulated market in another EEA member state (or vice versa).

For example, a United Arab Emirates-based issuer that wanted an IPO and listing in London would currently be able to use its Financial Conduct Authority approved prospectus to offer securities in any other member state. As a result of Brexit, in the absence of any analogous mutual recognition system negotiated with the EU, such "passporting" would no longer be available. If no such mutual recognition arrangement is negotiated, different prospectus and listing requirements in the UK from those in the EU would make it difficult and costly for issuers to make public offers of equity and debt securities both in the UK and Europe.

However, the European Commission does have the power to approve a non-EEA prospectus if it meets international standards which are equivalent to EU requirements, and so could make a finding of "equivalence" with respect to any future UK prospectus, albeit this would depend on whether the UK Treasury left in place the existing UK implementing legislation which mirrors the EU regime. This may become problematic over time, however, in case the two sets of rules deviate. ■ KING & SPALDING

## BREXIT ISSUES

# What Brexit means for European Patent applications

## An exit will affect the up-coming Unitary Patents and the Unified Patent Court system

**F**rom a patent prosecution and patent litigation perspective, Brexit will not have an effect on the existing avenues for filing and prosecuting patent applications in Europe, but will affect the up-coming Unitary Patents and the Unified Patent Court system.

### The current patent filing and prosecution regime

At present, two avenues are available to obtain patents in countries in Europe. First, one can file patent applications directly with the patent offices of each European country for which patent protection is desired. This avenue will continue to be available after Brexit.

Second, one can file a European patent application with the European Patent Office (the EPO). The EPO was created to examine and grant patents under the European Patent Convention (the EPC). Upon grant, one can validate the patent in one or more of the thirty-eight contracting states under the

EPC. This second option also won't be affected by the UK's eventual exit from the EU. The EPC is not an EU agreement. In fact, several of the current contracting members of the EPC are not members of the EU. The UK is a contracting member under the EPC and will remain so after exiting the EU.

Therefore, current filing and prosecution strategies will not directly be affected. Of course, as the process of Brexit proceeds, one's patent prosecution strategies may need to be revised in light of changes to the markets and in light of corollary legal principles such as patent exhaustion, both of which can affect the value of a patent in a given European country.

### The up-coming EU patent litigation regime

On the other hand, Brexit is likely to delay Unitary Patents and the Unified Patent Court system because the three underlying agreements that implement both are EU agreements. At a minimum, the Unified

Patent Court system is unlikely to enter into force until after the UK has left the EU. At present, in order for Unitary Patents and the Unified Patent Court system to come into effect, both the UK and Germany need to ratify the agreements together with at least one additional EU contracting member state.

It is very unlikely that either the UK or Germany would ratify the agreements before the UK has exited (though some commentators have suggested that the UK could ratify the UPC Agreement while still a member of the EU and negotiate a way remain a member of the UPC system post-EU exit akin to the non-EU members of the European Economic Area agreement). Once the UK has exited, per Article 89(1) of the Agreement on a Unified Patent Court (the UPC Agreement), Italy will replace the UK as the third member state whose ratification is needed for entry into force of the UPC Agreement.

But even after the UK has exited, the UPC Agreement will require amendment before it enters into force. Article 7(2) of the UPC Agreement specifies that London will be the location of one of the sections of the central division of the Unified Patent Courts. Having a court seated in a non-UPC member state makes no sense. The remaining twenty

three member states of the UPC agreement will need to decide to move the location of that section of the central division, to reallocate the subject matter presently assigned to the London section between the seat in Paris and the other section in Munich, or to have a single central division court. Only after this amendment will it be possible for Unitary Patents and the Unified Patent Court system to come into effect.

On July 1, 2016, the chairmen of the UPC Preparatory Committee and the EPO Select Committee dealing with the Unitary Patent issued a communication acknowledging that, "it is too early to assess what the impact of [the UK's vote to exit the EU] on the Unified Patent Court and the Unitary Patent Protection eventually could be." Despite the uncertainty, the chairmen confirmed that the ongoing work on the technical implementation should continue pending clarity on the effect of the UK's vote.

The delay will allow more time to prepare for the possibility of Unitary Patents and the Unified Patent Court system and to develop strategies for future patent prosecution and patent litigation in light of both.

### ■ OTIS LITTLEFIELD

Partner in the San Francisco office of Morrison & Foerster

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European Union flags wave  
outside parliament in Brussels,  
Belgium.



# Brexit: A checklist for companies

Is your business covered?



**D**eveloped by White & Case, this checklist is designed to set out some of the key questions, which businesses will need to consider in their initial planning phase as they evaluate their existing structures and operations and the potential impact of Brexit on them.

Any such review of the issues at this stage has to be conducted against a background of uncertainty. The impact on businesses will be highly dependent on the final form of the post-Brexit relationships, which the UK has with the EU and with other non-EU nations.

Multiple negotiations will need to take place with different parties and negotiating structures

on, potentially, different timelines. Those negotiations will need to cover not only the terms of the new relationships, but also the terms of the UK's withdrawal from the EU and transitional arrangements.

The extent to which UK and EU laws will ultimately diverge will also depend on future political decisions in the UK as to which elements of EU-derived/mandated law should be retained in its domestic legislation.

Nonetheless, as the picture progressively clears over the coming weeks and months, the number of scenarios, which businesses need to consider in their contingency planning, will reduce and, even before full clarity is achieved, various potential impacts can be identified.

## Freedom of movement

- How would your business be impacted by restrictions on freedom of movement of workers between the EU and the UK and the potential need for visas or residence permits, possibly even before Brexit becomes effective?
- Will your ability to recruit or second staff be affected?
- How might that impact your operations and costs?
- Should you consider adapting your recruitment policies going forward?

## Supply of services

- To what extent do your operations or legal structure and the location of your people depend on existing passporting or similar regimes enabling financial or other services to be provided from the UK to other EU member states or vice versa?
- To what extent do your operations depend on liberalized access to the services markets of other non-EU countries pursuant to free trade agreements (FTAs) to which the EU is a party?
- Will you need to consider relocation to another EU member state?
- What challenges would you face in implementing relocation – for example, client or commercial counterparty consents, or tax or regulatory consents?
- What sort of timelines could they involve?



## Supply of goods

- To what extent does your business or supply chain involve supplies of goods between the UK and other EU member states or other countries with which the EU has trade agreements?
- Will you need to consider relocation to another EU member state if your ability to supply goods between the UK and the EU could be compromised, for example due to CE marks requirements or due to equivalency arrangements on product safety not being in place?
- How would your business be impacted by the imposition of tariffs or non-tariff barriers if post-Brexit arrangements do not preserve the status quo in relation to those?



## Existing contracts

- What issues could arise under your existing contracts?
- Might they need amendment and how do they allocate the risks?



Issues to consider could include:

- Do they contain specific references to EU territories, laws or regulators?
- If there is a concern over whether the contract can continue to be performed in the manner originally contemplated, what would the impact be of force majeure, change in law or similar provisions?
- Might there even be a risk that the contract could be treated as frustrated entirely?
- Could additional tariffs or costs arising due to Brexit render the contract uneconomic to perform on current terms?
- If you have M&A transactions waiting to close, what conditions or termination rights could be triggered, allowing either party to refuse to close?
- Could there be an impact on your ability to enforce against assets in other EU member states?

## Public procurement

- If you are a UK business, do you participate in public procurement tenders in other EU member states relating to industries where non-EU parties may be excluded from the process?
- To what extent do your operations depend on liberalized access to the procurement markets of other non-EU countries pursuant to the public procurement chapters of FTAs to which the EU is a party?

## Financing

- If you have financings that have yet to close, what conditions, termination rights or drawstops could be triggered? What Brexit flex rights ("Flexit") do your creditors have?
- Could exchange rate or interest rate movements or other market impacts of the UK's vote to leave or subsequent developments have a sufficiently adverse impact on your business to create a risk of breach of financial covenants in financing agreements?
- How are your financial ratios determined and could exchange rate movements and volatile spot rates affect these (in particular if the testing mechanism does not provide for the use of average rates)?
- Does your current financing contain material adverse effect clauses and could these be triggered?
- If you have upcoming financing or refinancing needs, what alternative finance provider options might be available if the general European loan and debt capital markets are suffering disruption or dislocation?
- Does your current financing provide committed (or uncommitted) acquisition lines?
- If the UK's vote to leave or subsequent developments give rise to M&A opportunities for you (e.g. as others exit markets or businesses), do you have available financing to take advantage of this?
- Would any change to the UK's credit rating affect your credit rating and what impact might this have on your business?



## EU funding

- What sources of grants or other funding from the EU are relevant to your business?
- Do you currently have the European Investment Bank, the European Investment Fund or any other EU institution as a lender, investor or guarantor?

## Data protection

- Do you transfer personal data (e.g. customer data or HR data) between the UK and other EU member states?
- Are the major data processing decisions for your business (i.e. decisions about how and why personal data are processed) taken in the UK, another EU member state or a jurisdiction outside the EU?
- Does your business engage service providers in other EU member states to process personal data on its behalf (e.g. payroll service providers or cloud storage solutions)?



### Tax

- To what extent does the tax efficiency of your business operations, your capital structure or your profit repatriation strategies depend upon EU Directives and EU law?
- How might future capital raising involving clearance services or depository receipt systems be affected in the absence of an applicable Capital Duties Directive?

### Environmental law

- Does your business currently benefit from emissions allowances under the EU Emission Trading System (ETS)?

### Internal controls and compliance policies

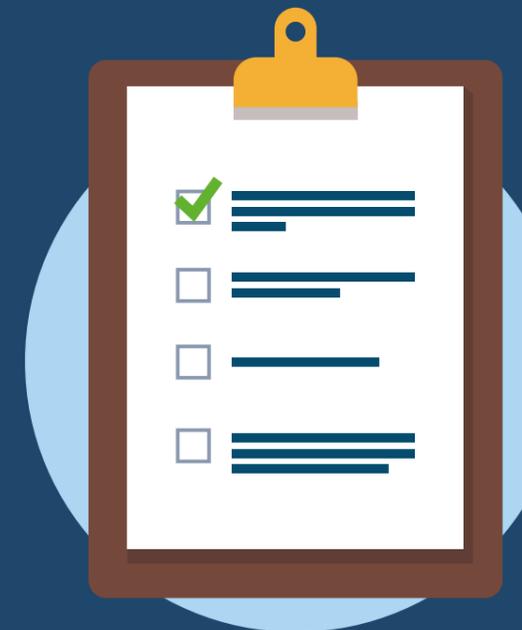
- To what extent are your compliance policies or strategies or your internal controls tailored to EU laws and regulations?
- Might they need to be adapted going forward to accommodate divergence between EU and UK requirements and enforcement approaches going forward?

### Your counterparties

- How are your suppliers, customers and commercial partners likely to be affected by the issues outlined above and the other implications of Brexit?
- What impact could that have on your business?

### Disclosure and communications

- Consider whether you need to make any public statements or disclosures in relation to the potential impact of Brexit on your business under any applicable listing rules.
- Do you need to say anything in your annual report or interim financial statements?
- Do you need to start talking to suppliers, customers and commercial partners about the issues?
- What is your strategy for communicating with your staff about the potential impacts on your business and the implications for them?



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## BREXIT FEATURE

# Separation anxieties: Britain's rocky road ahead

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How May handles  
a Brexit will have  
implications for  
years to come



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**S**ince 52 percent of British voters opted out of the European Union June 23 there has been much speculation as to the ramifications of such an unprecedented referendum. In the five-decade history of the EU no country has ever split.

Now lawyers in London and elsewhere are scrambling to advise clients on issues that are essentially uncharted territory.

While the impact is likely to affect varying industries and social classes differently the political climate will play the most major role in how things shake out and what a Brexit will eventually look like.

Will it be a true exit, a Norway-type arrangement or just

"Brexit light" – a political bluff to get further concessions on free movement of EU labor into the UK without much else changing?

There are other factors to consider in the scenario set out by the Tory Conservative party. England could be left alone without Scotland, Gibraltar and perhaps Northern Ireland, according to experts. London's economy has already contracted and despite some positive news on exports, the referendum has so far been hurting Britain more than it has helped despite interest rate cuts.

The recent developments have created much uneasiness and newly minted Prime Minister and former Home Secretary Theresa May said she will create a new post

“

[The impact of the drop in the pound] varies from client sector to client sector. Some are more affected. We have to look on a client-by-client basis of where the threats are.

SUSAN LAWS

Co-head of Duane Morris in London

”

of “Brexit” minister to oversee talks on a British EU exit from the 28-nation EU.

That key job went to veteran Conservative lawmaker David Davis – a longstanding advocate of leaving the EU – and he will lead at least two years of negotiations with the bloc.

The 59-year-old May has been in charge of immigration and law and order for the past six years and free movement of labor is basically the key to a Brexit. But first she has to reassure the country and global financial markets after the upheaval that followed the referendum.

While there has been talk of reversing or ignoring the referendum results, Dorothy Livingston, a consultant at London law firm Herbert Smith Freehills, called the reversal scenario “highly unlikely.”

While the percentage of the “Leave” vote was slim it was still almost one million votes. That said, many lawyers have also said that the 52 percent of the voters who punched a ticket for “Leave” are not going to get everything they wanted.

“It is not legally binding,” she said, “But the government has said it will [honor the vote].”

Livingston said it would take about two years for the country to exit the EU. In Britain’s Conservative Party, she said, “mainstream means out.” Still, they can always ask for an extension depending on whether political winds begin to shift.

Britain has been in the EU for more than four decades and the EU buys half of the UK’s exports. Still, by June 24 the pound had dropped to a 30-year low.

“[The impact] varies from client sector to client sector,” said Susan Laws, co-head of Duane Morris in London. “Some are more affected.



Above: Conservative MP Boris Johnson, the former London mayor who led the Brexit campaign, accepted the post of foreign secretary in Theresa May’s new government. Left: French President Francois Hollande, German Chancellor Angela Merkel and Italian Prime Minister Matteo Renzi react to the Brexit result at a press conference June 27. SHUTTERSTOCK.COM

We have to look on a client-by-client basis of where the threats are.”

As an example, she said, financial services firms are already acting now to hedge against potential fallout.

It can be argued that a drop in the pound perhaps helps exports short term and law firms short term since someone needs to figure this out for clients.

**An upside?**

Laws said some industries would benefit.

“We have been absolutely strangled by regulations,” Laws said.

She said not having to comply with the often-overbearing EU regulations means companies would save money. She said tariffs will be punitive, but that will be offset by

fewer regulations.

She said the key questions she receives are in regard to employment law. For example, she said, mandatory five-week vacations will be a thing of the past.

“A lot of our clients are looking at the upside,” she said.

She added that remaining part of the single market means not much will change. “I don’t think Germany will impose punitive measures because they are the largest seller of cars,” Laws said. “A weak pound is great for encouraging trade.” No one knows about free movement of labor, one of the major issues that tipped the referendum and likely the ultimate Brexit battleground.

An estimated 330,000 immigrant went to the UK last year to work



DAVID MUSCROFT / SHUTTERSTOCK.COM  
 Above: MEP Nigel Farage, campaigned for decades with UKIP for Brexit.  
 Left: In the days following the referendum, Remain supporters held protests against Brexit in front of the Houses of Parliament as well as around the country.

DRIMAFILM / SHUTTERSTOCK.COM

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Clients are obsessed with Article 50. The constitution is not a very precise thing and there is no constitutional principal that is a position they are well suited to adapt to.

**DOROTHY LIVINGSTON**  
 Consultant at London law firm Herbert Smith Freehills

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and Laws said whatever immigration changes take place it will be much more difficult for EU citizens to work there.

"It is becoming increasingly difficult for skilled workers to come from outside the EU," she said, meaning skilled workers from places like the United States and India.

"We will have access to a more global labor pool," Laws said. On the lower end of the financial spectrum low-skilled workers have been accused of bringing down the averages blue-collar wages and a main argument is that those jobs

will now be restricted.

She said new rules will simply mean one has to have a reason for working in the UK and can't just enter and work because they are part of the European Union.

**Law firms**

For law firms in the UK there is really no change, at least for the larger ones. They just apply for a passport visa to operate on the continent.

"Financial institutions operate on an EU passport," Livingston said. "They can simply transfer the relevant registration. Law firms

will carry on as before." She said it is no different than what the big firms in the United States do.

It also means they can recruit from beyond the EU.

"A Brexit means a non-EU lawyer no longer has to go to the back of the queue," Laws said. "It will allow access to a global pool of talent."

**Unanswered questions**

Big issues remain, including intellectual property and a centralized IP registration system, which will likely move from London to Paris.

A workable IP registration sys-

tem is a huge question mark. Other issues include European arrest warrants.

There are issues to sift through. "It's like a complicated crossword puzzle or Sudoku," Laws said.

As for civil suits, forum shopping will have to be thought through.

**Article 50**

Article 50 of the Lisbon treaty remains the most difficult question for lawyers to answer. "[May's] negotiations will determine if there will be a true Brexit," Laws said. "She will be pragmatically Brexit. It will likely be Brexit light."

Article 50 is hands-down the main legal issue that lawyers say clients need guidance on. The EU exit clause, which Britain wrote is ambiguous and can be vetoed by any EU member state, which is why Britain is trying to avoid triggering the clause.

"Clients are obsessed with Article 50," Livingston said. "The constitution is not a very precise thing and there is no constitutional principal that is a position they are well suited to adapt to."

Britain is not exactly Greece. It is a major economy and a key source of EU funding. It also had the sweetest financial deal in the EU and that involved getting the biggest kickbacks of all EU countries.

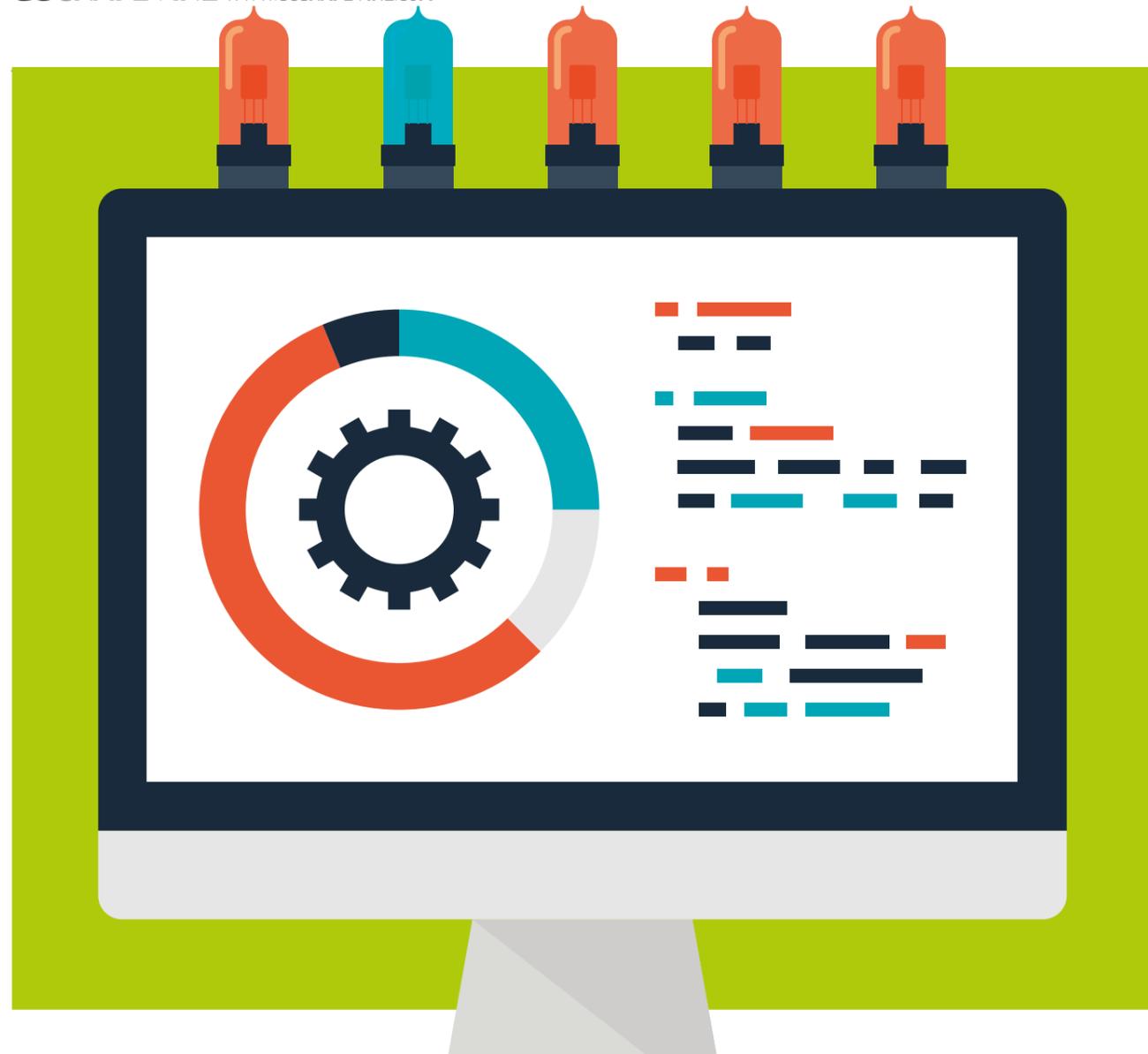
The European Union was founded on the ashes of post-world War II Europe as a trading bloc and a way to keep peace in Europe. Given that history the recent developments are a bit shocking for many and likely hurtful for years to come.

Perhaps Britain will stay calm and carry on. It is really up to Theresa May at this point to negotiate the best deal with Brussels and German Chancellor Angela Merkel.

While pro-Brexit enthusiasts have called for May to move on Article 50, she is likely to not rush into what amounts to a massive decision for her country.

■ **KEVIN LIVINGSTON**  
 Editor-in-Chief, GC Grapevine Magazine  
 Kevin can be reached at kevin.livingston@gcgrapevine.com





## MARKETING BLOGS

# Why your blog should be a stand-alone site

Build trust, engagement, relationships, your reputation and your business

If you are a lawyer looking to blog to demonstrate your knowledge of the law, enhance your reputation in your field and grow your business as a result, your blog belongs on a standalone site outside of your law firm website.

If you are a lawyer looking to advertise your services, akin to tele-

vision or yellow page ads, through "blogging," then you have a page or section of your website, indistinguishable from the other sections in layout and features, designated as a "blog."

That's the gist of a Final Opinion just released by the State Bar of California Standing Committee on Professional Responsibility and

Conduct ("Bar").

By its very nature, blogging raises First Amendment free speech issues. As with newspaper and magazine articles, practice guides, books, law review articles and presentations, lawyers could reasonably expect that blogging would not be subject to the restrictions, which govern lawyer advertising.

The Bar agreed.

"Most 'traditional' blogs expressing the blogger's knowledge and opinions on various topics and issues, legal and non-legal will be regarded as core or political speech.

But what about blogs placed inside of websites to garner website traffic or showcase knowledge along side lawyer bios or practice group descriptions?

The Bar had already decided that a website and any information included in it to be an advertisement.

Professional websites maintained by attorneys and law firms consistently have been found to concern their availability for professional employment and, thus, are attorney advertising subject to regulation.

The Committee further expressed the belief that "this conclusion is not altered by the inclusion in the web site of information and material of general public interest."

Accordingly, the Bar found that blogs inside of websites to be ad-

vertising.

What's the big deal? Just throw the disclaimer that your blog is attorney advertising at the bottom.

From Avvo's General Counsel, Josh King:

"...[I]f a blog is subject to bar regulation as "advertising," lawyers suddenly need to worry about their expression being regulated under the lesser standard of intermediate scrutiny. Their competitors can file grievances with the bar over what would ordinarily be editorial content, and as "advertising" that writing will also be open to attack on publicity rights grounds.

Lawyers likely lose the protection of California's anti-SLAPP law to defend their free speech rights, as well as most fair use defenses to copyright actions. In short, they'll need to consider the fact that anything they write is putting their license at risk. Under such a regime, it's a fair bet that many legal bloggers will censor themselves.

More important is acknowledging that blogs inside of a website

are not as effective when it comes to business development.

Again from King:

"[In] my view legal blogs are more authoritative and have more opportunity to develop a "voice" when they live somewhere other than a staid old law firm website. If lawyers need an ethics-based excuse to move to that structure, so much the better.

Law blogs are effective because they establish a lawyer as a reliable and trusted authority. Trust, engagement and relationships are stifled when you place text called a blog inside of a website.

Most lawyers have grown their business through relationships and word of mouth, not advertising.

If you're one of these lawyers, you don't place your blog inside a website so as to begin advertising.

Now the largest legal ethics body in the United States even tells you so.

■ KEVIN O'KEEFE

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# Running with the bulls

INTERVIEW IVÁN DELGADO

Economic conditions and the political environment have not negatively affected the interests of international legal firms in Spain. And that is good news for clients

**The Spanish legal market has become one of Europe's most expansive and competitive landscapes in recent years despite tumultuous economic conditions. What accounts for Spain's continued allure for international firms?**

Yes, it seems that the economic conditions and the political environment have not negatively affected the interests of international legal firms in Spain. However, we need to keep working as a country in order to maintain and consolidate foreign confidence and investment in Spain.

**Can you discuss the post-recession landscape of the Spanish legal market? Who have the winners and losers been?**

In the post-recession scenario, clients are more demanding. Legal firms have had to improve the quality and efficiency of their services, in terms of specialization, availability, etc. In addition, as a result of increasing competition, due to, among other reasons, the increasing presence of the big four in the legal market, clients have benefited from a more competitive environment.

The winners are the clients, who have benefited from improved services and a more competitive market, which usually involves better fee arrangements. However, firms have been forced to go to great lengths to adapt and improve their services to new market demand.

**Restructuring/insolvency, tax, litigation and employment appear to remain the most active areas of law. How have firms adapted to these changing demands? What challenges remain?**

As in any other sector, legal firms

have always had to adapt their services to market needs in order to be competitive. In this regard, in the last few years, law firms have strengthened the teams related to these practice areas, both by hiring experts and recycling/reorienting their professionals, in order to satisfy market demand.

Firms have adapted to these changes by having international and flexible structures in order to be competitive regardless of market trends and, of course, to be prepared and able to adapt to the digital era.



**IVÁN DELGADO**

Partner at Pérez-Llorca

Iván Delgado is a resident partner in the New York office of Pérez-Llorca

**The CPR Institute for Conflict Dispute and Resolution recently released a report about increased use of mediation. Is this happening in Spain and, if so, why?**

We are seeing more interest in Spain for mediation services but we would still need more time to reach a conclusion.

**Spanish firms are establishing or developing presences in Latin America. Can you explain the increased focus and impetus for investment in the region?**

As an emerging market, Latin America is an interesting opportunity for Spanish firms, which have been always present in this market due to the cultural and linguistic similarities. However, after a decade of robust expansion (2003–2012), in recent years regional economies have experienced lower growth averages. This deceleration is linked to a slowdown in the Chinese economy, decreasing commodity prices and shrinking investments. However, the slowdown in important economies such as Brazil has not affected the potential growth of other regional economies such as Mexico, Colombia, Panama or Chile, which are still very attractive for foreign investors.

**What trends and/or challenges do Spanish law firms face in delivering their services to clients in the Latin American markets?**

In recent years the main Spanish firms are strengthening their presence in Latin America by opening new offices in countries such as Colombia and Chile (e.g. merging or collaborating with traditional local firms). In addition, local firms are increasingly competitive and USA and UK firms are also increasing their presence in the region. As a result, there is fierce competition. Furthermore, the recent general slowdown of the region's economy

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Latin America is an interesting opportunity for Spanish firms, which have been always present in this market due to the cultural and linguistic similarities.

**IVÁN DELGADO**

Partner at Pérez-Llorca

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has reduced the activities in which the firms are involved.

**What kinds of opportunities are available to Spanish firms in light of Cuba opening up? Are there any other factors contributing to the Internationalization of Spanish law firms in Latin America?**

Although Spanish companies have always been present in Cuba (especially in the tourism sector) the opening up of the Cuban economy will attract and increase Spanish investments, giving the firms the opportunity to accompany their clients in this market. In addition, other foreign companies might be interested in the advice provided by Spanish firms, possibly being as more experienced advisers working for international clients.

**Do you have a view on the diverging strategies firms are taking in this regard?**

In general, legal firms usually open their own office, merge/collaborate with a local firm or accompany their clients through a local friend's network. Pérez-Llorca has always accompanied its clients abroad through an international friend's network. The fact that we are not linked to any particular network gives us the freedom to always choose the service provider best suited to the client's need in every jurisdiction and in every situation. ■

# On the move

Roundup of lateral moves and appointments



## Firm moves

### Dentons opens office in Rome, its second Italy office in a year

Less than a year after launching an office in Milan, Dentons has announced that the firm is opening a second Italy office in Rome, bringing its total number of lawyers in the country to 50.

"When we entered the Italian market last October, we had a clear vision to build Dentons into a full service firm within two years and one of the top international law firms in Italy within three years," said Managing Partner Federico Sutti "Opening an office in the capital city of Rome is one of the cornerstones of that strategy."

Sutti will lead both the Rome and Milan offices as Dentons' Italy Managing Partner. The initial team in Rome will include Antitrust Partner Michele Carpano and Corporate Partner Luca Pocobelli along with a team of associates. The firm said the team would grow over the coming year as Dentons continues to recruit local talent. In addition, several Milan-based partners, who serve a large portfolio of clients in Rome, such as Stefano Speroni, Matteo Falcione and Federico Sutti himself will split their time between the two offices.

Tomasz Dąbrowski, Chief Executive Officer for Dentons Europe said, "Under Federico Sutti's strong leadership, Dentons has transformed the legal market in Italy. In less than a year since we opened the Milan

office, our team has more than doubled in size and we have added a wide range of practice capabilities. I am confident that Federico and his team will continue to build the momentum in Rome."

"This investment was very much driven by our clients," said Global Chairman Joe Andrew. "Although Rome is Italy's largest city and second largest legal services market, many international law firms have reduced their presence in Rome, meaning companies cannot benefit from the same legal offering as in Milan. "By opening in Rome, we will give our clients access to Dentons' truly global reach."

Elliott Portnoy, Global CEO, added, "Dentons' poly-centric model is about being present in the key markets where our clients do business. Many major Italian companies are headquartered in Rome, including several state-controlled enterprises, as well as large infrastructure and energy companies. Opening an office in Rome is the natural next step in our efforts to offer more to clients."

Dentons now has more than 50 lawyers in Italy including 12 partners, and the main practice areas are Corporate, M&A, Real Estate, Energy, Litigation and Arbitration, Employment Competition and Antitrust and Tax.

### Andrew Fraiser joins Ashurst in New York

Ashurst announced the appointment of Andrew Fraiser as a partner in its New York infrastructure team, effective September 2016. Andrew joins from Allen & Overy where he is currently a partner in its banking department. Specializing in infrastructure projects for nearly 20 years, Andrew has advised public authorities, private equity investors, developers, contractors, operators and debt providers on some of the most complex and high profile projects in the U.S. and European markets.

### Eddie Frastai joins Clifford Chance as a partner in New York

Clifford Chance announced that Eddie Frastai joined its Real Estate practice as a partner in New York. He brings with him a broad array of domestic and international experience that will benefit the firm's expansive real estate sector client base. Frastai, who joins Clifford Chance from Dentons, has more than a decade of experience advising real estate owners, developers, operators, managers and financial institutions on a broad range of real estate transactions.

### Simon Baskerville joins Latham & Watkins as a partner

Latham & Watkins announced that Simon Baskerville will join the firm as a partner in the Finance Department. Over the years, he has developed a formidable reputation in the UK for advising on a broad range of complex restructuring and insolvency matters. Baskerville has more than 17 years' experience representing debtors, administrators/administrative receivers and creditors in UK-based restructurings and UK aspects of international restructurings.

### Samantha Maddern joins Norton Rose Fulbright

Norton Rose Fulbright announced that experienced employment and labor lawyer Samantha Maddern has joined as a partner in Perth. Ms Maddern joins from Herbert Smith Freehills, where she worked for nearly five years managing a wide range of workplace relations matters for clients in industries such as oil and gas, mining and tertiary education.

### White & Case LLP adds Jeffrey Rubinoff as a new partner

White & Case LLP expanded its Global Banking practice with the addition of leading real estate finance lawyer Jeffrey Rubinoff as a new partner in London. He advises a wide range of clients including investment banks, private equity funds, real estate in-

vestors, hotel companies and sovereign wealth funds on national and cross-border real estate transactions.

### Filip Kurkowski joins Baker & McKenzie as a partner

Baker & McKenzie announced that Filip Kurkowski joined as a partner in the Banking & Finance practice on July 1. He comes from Allen & Overy, where he worked since 2001 (as Counsel since 2008) in the finance practice. Kurkowski specializes in international real estate and asset financings. In the area of real estate finance he advises banks and investors on the acquisition of commercial or residential real estate portfolios.

### Paul Dudek joins Latham & Watkins

Latham & Watkins announced that Paul Dudek will join the firm as Counsel in the Corporate Department and as a member of the Capital Markets practice group and the firm's national office. His practice covers all aspects of cross-border capital markets transactions involving non-U.S. companies and sovereigns, as well as related regulatory matters. Dudek comes to Latham after having worked for the past 26 years at the U.S. Securities and Exchange Commission (SEC), 23 years of which he served as Chief of the Office of International Corporate Finance in the SEC's Division of Corporation Finance.

### James Crooks joins Sidley Austin in London

Sidley Austin announced that James Crooks joined the firm as a partner and member of its Global Finance practice in London. Mr. Crooks has an established practice in debt finance with particular experience in private equity, capital markets and debt restructuring transactions. The leader of the London finance practice at his prior firm, Crooks has represented major private equity sponsors, their portfolio companies and investment firms on syndicated lending, leveraged acquisitions, asset-backed financings, debt restructuring and general banking arrangements.

### Jason Tomita joins White & Case in its Silicon Valley office

White & Case announced that Jason Tomita will join the Firm's Global Mergers & Acquisitions (M&A) practice as a partner in its Silicon Valley office. The addition of Tomita supports the firm's strategy to vigorously grow the M&A practice generally, and the tech-focused practice particularly. Tomita joins White & Case from Skadden, Arps, Slate, Meagher & Flom's Silicon Valley office, where he was a lead adviser on many notable public and private M&A transactions for some of the world's most well-known tech companies.

# Big deals



## Baker & McKenzie advises global manufacturing and technology company Emerson Electric on \$5 billion in deals

**B**aker & McKenzie advised global manufacturing and technology company Emerson Electric on the \$1.2 billion carve-out and sale of its Leroy-Somer and Control Techniques businesses to Nidec Corporation and on the \$4 billion carve-out and sale of its Network Power business to Platinum Equity. The sales are expected to close by December 31, 2016, subject to regulatory approvals.

London-based partner Peters Strivens and senior associate Phelim O'Doherty led on the Leroy-Somer and Control Techniques business transaction, while London Partner Jannan Crozier and senior associate Richard Needham led on the Network Power business transaction.

Both were highly complex transactions, according to the firm, involving the coordination of many jurisdictions and multiple work-streams, including corporate, real estate, IT, employment, and pensions and cash repatriation.

Commenting on the deals, Peter Strivens said: "This was a great opportunity for us to work with our long-standing client Emerson on these highly strategic transactions for its business. Both transactions involved a highly complex planning process to extract

the integrated business ready for successful sales. Our cross-border team of experts in over 40 countries was able to provide both the strategic M&A advice with integrated carve-out and project management capability. It is a demonstration of our international presence and expertise and confirms our position as market leading advisors on complex carve-out transactions."

Vanessa McKenzie, VP – M&A Group Leader of Emerson, commented: "Baker & McKenzie's carve-out team played a critical role in our proposed divestitures of Network Power and Leroy-Somer and Control Techniques businesses. Their expertise in planning and executing complicated carve-out structures gave us the flexibility to pursue a spinoff and sale of Network Power in parallel. During this same period, Baker & McKenzie also helped create the carve-out plan to sell Leroy-Somer and Control Techniques, which speaks to their bench strength. Over the years, we've built tremendous trust and confidence in the Baker & McKenzie carve-out team."

For more than 30 years, Leroy-Somer and Control Techniques have been leading manufacturers and a supplier of alternators, drives, and motors, with approximately 9,500 employees around the world.

### Thomas Eggar advised private equity firm Halifax on Pirtek Group deal

UK law firm Thomas Eggar advised U.S. private equity firm, The Halifax Group, on its acquisition and investment in the Pirtek Group from Vision Capital.

The international private equity investor headquartered in London, has exited its investment in Pirtek. The acquired group provides a comprehensive range of fluid transfer solutions, specializing in fast response replacement of hydraulic hoses, throughout Belgium, the Netherlands, Luxembourg, Germany, Austria, the UK and Ireland. The franchise operation, which has over 170 franchise centers features prominently across a wide range of industries.

The Thomas Eggar team, led by corporate partner Matthew Newman, included Mark Williams and George De Silvo (Corporate), Conor Brindley (Tax) and Matthew Irvine (Employment).

Speaking about the deal, Matthew Newman said 'The transaction showcased a number of areas that typify our private equity expertise – international structuring, complex tax issues and commercial advice.'

### Milbank, Weil and Paul Weiss advise on \$870m Elizabeth Arden takeover

US-based Revlon sought advice from Milbank, Tweed, Hadley & McCloy and Paul, Weiss, Rifkind, Wharton & Garrison for the bumper acquisition, while takeover target Elizabeth Arden turned to Weil, Gotshal & Manges.

With a strong presence in the anti-aging luxury skincare and fragrance markets, the acquisition of Elizabeth Arden is designed to expand Revlon's market presence beyond its hair color and cosmetics mainstays while also consolidating both brands' presence in emerging cosmetics markets, such as the Asia-Pacific region.

Priced at \$870m with \$419m in equity and the remainder in debt, the deal is expected to generate \$140m in savings by removing overlap, integrating manufacturing and distribution networks, and giving the united brands greater purchasing power in the face of tough rivals like New York-based Estée Lauder and Paris-based L'Oréal.

It is anticipated that the takeover will go through by December of this year.

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### Dentons Ashurst advised the Mayor of London on residential development approval

Ashurst advised the Mayor of London on the grant of planning approval for the £500 million residential-led redevelopment of the Westferry Printworks site.

The application for the redevelopment of the site, on the edge of the Millwall Outer Dock, was one of the last to receive approval under former Mayor Boris Johnson but the decision has since been ratified by Sadiq Khan's new team of advisors.

The approved scheme consists of 722 flats in nine blocks, four of which are up to 30 stories high, along with a new secondary school, retail and offices.

Ashurst advised the Mayor's team within the Greater London Authority on the section 106 agreements that secures up to 50 percent affordable housing through the use of phased viability reviews. Up to 35 percent of the affordable housing provision is to be located within the site.

### Dutch firm De Brauw Blackstone Westbroek handles The Ingredient Company deal for Caldic

De Brauw Blackstone Westbroek advised Caldic on the acquisition of The Ingredient Company, a leading distributor of savory and nutrition ingredients to food manufacturers.

Caldic is an international distributor and producer of food ingredients, chemicals and technical products.

The completion of this agreement strengthens Caldic's strong position in Canada in its aim to become a leading North American food ingredient solution provider.

Other advisors included Blake, Cassels & Graydon LLP, local counsel to Caldic Canada and Cognition LLP, which acted as legal counsel to the sellers. The De Brauw lead partner was Anja Mutsaers assisted by Wiebe Dijkstra and Inge Doomen.

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# Diversity and Inclusion at CMS

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