

HKA COMMERCIAL DAMAGES & VALUATION GLOBAL

Who we are

HKA is one of the world's leading privately owned, independent providers of consulting, advisory and expert services to law firms, corporate clients and government agencies.

This profile document highlights a representative selection of our experts' experience advising clients on the economic impact in complex commercial and investment treaty disputes across all industries. HKA is also a global leader in providing expert, consulting and advisory services for the construction, manufacturing, process and technology industries.

For almost 50 years, HKA has been a global leader providing dispute resolution services to our clients, initially through a parent entity and since 2017 as a privately owned organisation.

We have a proud record of excellent service and high achievement, and our clients have access to leaders and problem-solvers who decode complexity through collaborative working and innovative thinking.

The quality of our brand and our market reputation is showcased by the following:

- HKA is recognised as one of the world's leading expert witness practices according to Who's Who Legal (WWL).
- HKA is consistently ranked highly in the Global Arbitration Review (GAR) Top 100.
- HKA is the largest Corporate Provider of Expert Services with The Academy of Experts (TAE).

How we do it

We work collaboratively with our clients. Our success revolves around building individual relationships and trust. We believe in offering a steady hand to our clients through careful thinking and analysis.

At the same time, we strive to deliver a responsive service allowing us to bring our knowledge to bear in any situations that arise with innovation and inventive thinking underpinning our service offering. We always seek to provide superior solutions by asking the right questions.



Our commercial damages offering

Clients choose HKA because of our accomplished track record and our ability to develop “outside the box” solutions to complex disputes. Our experts develop high quality financial and economic analyses in order to deliver credible opinions and persuasive testimony in high-profile disputes and investigations.

Our experts consult and testify on a wide range of engagements and subject matters.

ECONOMIC DAMAGES

We assess:

- Lost profits
- Economic benefits
- Consequential damages
- Wasted costs
- Lost investment opportunities

For engagements including:

- Breach of contracts
- Insured events
- Business interruptions
- Professional malpractices / negligences
- Post-aquisition disputes

VALUATION

We assess:

- Business values
- Share values
- Asset values
- Diminution in value

For engagements including:

- Shareholder disputes
- Investor-state disputes
- Joint venture disputes
- Tax disputes
- Employment disputes
- Divorces
- Contract terminations
- Post-M&A disputes

INTELLECTUAL PROPERTY

We assess:

- Reasonable royalties
- Intangible asset values
- Economic damages

For engagements including:

- Breach of patents or licencing agreements
- Trademark infringements
- IT disputes
- Breach of trade secrets

How we can help

Our experts are knowledgeable in all phases of the dispute resolution lifecycle, from providing strategic consultation early in the process, to analysing issues and producing expert reports, assisting with settlement negotiations and providing oral testimony. We have testified before national courts, arbitration tribunals and regulatory boards, and presented in other forums, such as mediation.

1 Pre-dispute

- Early assessment of damages to assist with potential funding considerations
- Analysis of categories of loss to assist with case strategy

2 Filings

- Independent expert reports
- Critical review of opposing expert reports and analyses
- Financial modelling and analysis
- Verification of costs
- Investigation and review

3 Settlement

- Scenario analysis
- Financial modelling and analysis
- Internal investigation and review

4 Testimony

- Experienced and persuasive oral testimony
- Identification of areas for cross examination of opposing experts

‘The persuasive arguments were, from the outset, entirely complementary to and fully integrated with the theory of the case being advanced by the legal team. The impressive symmetry between these aspects of the case could only be achieved through the analytical prowess of the experts. In addition to the superb analysis of tens of thousands of individual inputs of information, the team’s clairvoyance in the overall assessment of the case was unmatched by any other expert analysis in the case.’

- Instructing Lawyer, Major Oil & Gas Project, Canada

Industry expertise

Our commercial damages experts have been engaged on a variety of projects around the world and possess specialist industry experience. We have regularly consulted on behalf of both listed and private global companies, governments, claimants and respondents, across various industries, including:



Aerospace & Defence



Construction



Finance



Healthcare



Manufacturing & Agriculture



Media, IT & Telecommunications



Mining



Oil & Gas



Power & Utilities



Real Estate & Development



Retail



Transportation Infrastructure

Our commercial damages experts work both independently and in conjunction with our global delay, quantum and engineering experts to present evidence, both written and oral, before courts, arbitration tribunals and in mediations.

Aerospace & Defence

Construction

Aerospace & Defence Government Contractor

North America

Breach of Trade Secret

Evaluated damages related to a breach of contract and misappropriation of trade secrets claim against a government contractor in the aerospace and defence industry.

Aircraft Manufacturer

North America

Professional Negligence

Calculated damages of over US\$100 million related to a fleet of alleged defective heavy helicopters from one of the largest aircraft manufacturers in the world in the context of fraud, breach of warranty, negligent misrepresentation, and unjust enrichment claims.

International Airline

Europe

Employment dispute

Preparation of an expert report and giving of oral testimony as to the proposed employment contract amendments to be implemented by a leading international airline in respect of its employees in the region of Europe.

Aircraft Manufacturer

Europe

Breach of Contract

Assessed damages claimed by a major European aircraft manufacturer in regard to allegedly sub-standard materials that were used to make aircraft components.

Defence Contractor

North America

M&A Dispute

Performed valuation of a technical engineering defence contractor in the context of a breach of representations and warranties claim as part of its acquisition by a large, private-equity backed US government contractor.

Airline

Europe

Business Interruption

Prepared expert reports and joint statement on the lost profits to a low-cost airline from the non-availability of an aircraft in an ICC arbitration.

Aviation Company

Europe

Business Interruption

Undertook a valuation of a European business aviation company for the purposes of a business extinguishment claim against a UK bank in High Court litigation.

Global travel retailer

MENA

Breach of Contract

Expert reports in an ICC arbitration on the value of the lost opportunity to bid for an airport duty-free concessions.

Road & University Projects

Africa

Investor State Dispute

Quantified claims against an African country for the expropriation of assets, non-payment of fees, losses on unperformed contracts and interest claims.

Road Project

Oceania

Breach of Contract

Acted as the expert for the government of an Oceanian country in an arbitration to assess claims against the government relating to construction works for a highway upgrade project.

Petrochemicals Plant

Asia

Breach of Contract

Evaluated loss of profits caused by delay as well as impact of certain alleged technical issues on profitability of the plant.

Road Project

Europe

Professional Negligence

Acted as the expert for a consultant in relation to alleged negligence claimed on a road building project in Europe.

Construction Company

Middle East

Shareholder Dispute

Appointed as expert accountant in a Guernsey Court case in regard to a Director's application for inspection of company records.

Consumer Goods Company

Europe and India

Shareholder Dispute

Provision of valuation analysis and advice to a party entering into mediation in relation to a shareholder dispute concerning shares in various UK and Pakistan construction materials and consumer goods companies.

Major Retail Chain

Europe

Business Interruption

Assessed the damages for a major retail chain as a result of construction problems at one of their stores.

Polypropylene Plant

Russia

Breach of Contract

Appointed as expert accountant and provided evidence in a London ICC arbitration in respect of a financial damages claim as a result of an incomplete US\$220 million construction project for a Polypropylene plant in Russia.



Finance

Specialty Finance Company

North America

Professional Malpractice

Analysed the causes of failure for a specialty finance company in the business of originating and securitising non-conforming mortgage loans in the context of an auditing malpractice matter.

Exchange Programme

North America

Shareholder Dispute

Submitted an expert report analysing the financial and accounting records related to an IRS-qualified, like-kind exchange programme amidst allegations of embezzlement by a large public utility against its intermediary.

Wrongful Termination Claim

North America

Employment Dispute

Calculated lost wages resulting from a wrongful termination claim involving a large financial institution in a Financial Industry Regulatory Authority (FINRA) arbitration.

Capital Adequacy

Asia

Breach of Contract

Appointed in two arbitrations and four intended arbitrations under UNCITRAL rules to opine on the capital adequacy of the respondent and its ability to meet any potential awards against it.

Infrastructure Contractor

Middle East

Breach of Contract

Calculated financial costs to a contractor caused by substantial delay on a large infrastructure dispute in the Middle East.

Brokers

Europe

Employment Dispute

Assessed the claimed damages resulting from a team move between inter-dealer brokers for a UK High Court matter.

Retail Bank

Russia and CIS

Investor-State Dispute

Prepared expert reports and assistance at the hearing in an UNCITRAL arbitration relating to the sequestration of a start-up Central Asian retail bank by the government. This engagement included valuing the bank at different dates under different “but for” scenarios.

Finance Advisory Company

Europe

Divorce

Acted as single joint expert reports in the Family Division in relation to the value of shares in an unquoted specialised corporate finance advisory company in the context of a divorce.



Healthcare

Medical Products Manufacturer & Distributor

North America

Trademark Infringement

Analysed damages regarding a trade dress infringement claim against a medical products manufacturer and distributor.

Consumer Healthcare Products

Europe

Joint Venture Dispute

Assessed the losses in an ICC arbitration in Paris to a joint venture in the consumer healthcare products market in France.

Medical Device Company

Middle East

Joint Venture Dispute

Assessed the losses suffered by a medical device company as a result of the alleged non-cooperation of a joint venture partner and the launching of competing products.

Generic Pharmaceuticals

Asia

M&A Dispute

Assessed claims in a Singapore arbitration in regard to damages allegedly suffered as a result of misrepresentations made by the vendor of a major international pharmaceutical company.

Healthcare Services

Europe

Contract Termination

Acted on calculating damages for termination of a PPP contract to supply treatment centres.

Specialty Healthcare Services Company

North America

M&A Dispute

Valuation of a specialty healthcare services company in the context of a breach of representations and warranties claim by its corporate IT buyer.

Healthcare Product Launch

China

Joint Venture Dispute

Expert report in a HKIAC arbitration on the value of the lost opportunity to launch a healthcare product in China.

Healthcare Services

Middle East

Joint Venture Dispute

Acted as expert in an ICC arbitration case relating to the valuation of quantum meruit in the context of an aborted JV in the healthcare sector between a local agent and a foreign investor in MENA.

Manufacturing & Agriculture

Chemical Manufacturer

North America

Breach of Trade Secret

Performed a valuation of a chemical manufacturer as part of a post-transaction dispute involving a private-equity buyer based on allegations of an improper trade secret disclosure.

Telecoms Equipment Manufacturer

Europe

Insured Event

Prepared a US\$30 million property loss insurance claim as a result of damage to stock in a flooded warehouse.

Patent in Agriculture

Europe

Professional Negligence

Prepared expert report estimating losses in a professional negligence case relating to patent applications in the agricultural sector. This engagement included the valuation of the opportunity and the patents.

Hydroponic Farm

Oceania

Contamination Class Action

Calculated the diminution in value of one of Australia's largest planned hydroponic farms due to the impact of land contamination, resulting in delayed completion and the lack of customers due to potential contamination.

Fishing Company

Latin America

Investor State Dispute

Calculated damages related to an Investor State Dispute against Ecuador for alleged changes to its taxation regime for a fishing company based in a free zone.

Building Products Manufacturer

Middle East

Agency Dispute

Calculated damages to manufacturer and distributor of equipment used in buildings as a result of alleged failures of an agent/distributor and termination of the agreement.

Dyes and Chemicals

Global

Minority Oppression

Expert appointed to value shares in DyStar, a major global dyestuff and chemicals group, in a minority oppression litigation at the Singapore International Commercial Court (Kiri vs. Senda).

Solar Panels Manufacturer

Asia

Breach of Contract

Calculated damages for a dispute with a supplier in relation to damages caused to a solar panel manufacturing company by a failure to supply.

Media, IT & Telecommunications

Media Company

Asia

M&A Dispute

Assessed the impact on the value of a media company post-acquisition due to the alleged subsequent misappropriation of the business by the seller.

Telecommunications Company

Oceania

Breach of Contract

Calculated the losses arising due to the failed implementation of a new IT system. Calculated the wasted costs incurred in the attempted implementation of the system.

Outdoor Advertising

Europe

Breach of Contract

Acted for the claimant in proceedings related to one of the largest outdoor advertising contracts in the world.

Telecommunications Company

Africa

Joint Venture Dispute

Calculated the losses to one of the joint venture partners from actions of the other partner, considering issues of intra group transactions, financial structuring and overall profitability.

Software Provider

Middle East

Breach of Contract

Provided expert reports and joint statements in an ICC arbitration case relating to the termination of a reseller agreement between a global specialised software provider and its exclusive reseller in parts of MENA. This engagement included the valuation of the software reseller.

IT Services Company

Europe

Post-acquisition Dispute

Preparation of expert report for London litigation relating to alleged breach of warranty following the sale and acquisition of an IT services company.

Telecommunications Company

Africa

Joint Venture Dispute

Calculated the losses to one of the joint venture partners from actions of the other partner, considering issues of intra group transactions, financial structuring and overall profitability.

Mobile Telecommunications Industry

Asia

Investor State Dispute

Appointed to act in an ICSID arbitration involving a US\$500 million claim in the mobile telecoms industry.

Mining



Oil & Gas



Copper Mining

Africa

Breach of Contract

Acted in evaluating solvency of a copper mine as part of ancillary proceedings to an arbitration.

Aggregate Mining

Latin America

Investor State Dispute

Early stage analysis of investor state dispute against a government in relation to an investment in aggregate mining.

Coal Mining

Asia

Shareholder Dispute

Valued the shares of an Asian coal mining company, where damages were sought for diminution in value because a failure to transfer shares prevented the development of a mining concession.

Mining Company & International Subsidiary

North America

M&A Dispute

Acted in evaluating solvency in a fraudulent conveyance matter involving a multi-billion-dollar mining company and an international subsidiary.

CIS Mining Company

Russia and CIS

Fraud Investigation

Undertook an investigation into large scale fraud at a CIS mining company over the allegations of overcharging and false representation.

Sand & Gravel Mining

North America

Investor State Dispute

Valued an operating sand and gravel mine as part of a municipal dispute.

Iron Ore Mine

Asia

Divorce

Expert report in the Family Division in relation to the value of unquoted iron ore companies in the context of a divorce.

AIM Listed Mining Company

Africa

Fraud Investigation

Undertook an investigation into the financial affairs of an AIM-listed mining company where a large scale fraud relating to false assets was uncovered.

LPG Import Terminal

Asia

Investor State Dispute

Appointed by the government of a South Asian country in two bilateral investment treaty disputes under UNCITRAL rules to value the business of an LPG import terminal and related Autogas and LNG import activities.

Oil & Gas Industry

Europe

Breach of Contract

Assessed damages in respect of a breach of contract in the oil and gas industry, leading to US\$500 million claim in Swedish arbitration proceedings.

Gas Exploration & Production

Middle East

Shareholder Dispute

Acted on a multi-billion dollar shareholder dispute in relation to the operations of a joint venture exploration and production company in the Middle East, evaluating profitability and value under various assumptions.

Gas Concession

Africa

Investor State Dispute

Acted for the respondent in evaluating the valuation and viability of a gas concession in Africa, including considering comparable companies, the particularities of that concession and what was required to deliver it.

Downstream Determination

Africa

M&A Dispute

Involved in determining the appropriate position on an acquisition of downstream oil and gas assets in multiple African jurisdictions.

Oil Exploration & Production

Russia CIS

Investor State Dispute

Acted in valuing an oil and gas concession which was alleged had been expropriated by a Commonwealth of Independent States (CIS) government.

Gas Supply Contract

Middle East

Breach of Contract

Assessed losses suffered by a Middle Eastern oil refinery as a result of the non-supply of gas under a Gas Sales Agreement (GSA).

Oil & Gas Company

Asia

Joint Venture Dispute

Undertook a wasted costs exercise over validity of expenditure and a loss of profits calculation in the context of an LCIA arbitration between joint venture parties over an oil and gas exploration project in Central Asia.



Power & Utilities



Real Estate & Development

Hydroelectric Power Plant

South America

Business Interruption

Calculated the lost profits due to interrupted electricity production, including a consideration of the likely demand for electricity, and claims for lost interest.

Geothermal Power Plant

Oceania

Breach of Contract

Assessed the damages arising from the delayed commissioning of a geothermal power station.

Coal-fired Power Plant

Asia

Contract Termination

Acted for the claimant in an arbitration to quantify the damages arising from the termination of a contract to supply turbines and condensers for a power plant in India.

Strategic Water Storage & Recovery Facility

Middle East

Joint Venture Dispute

Reviewed claims of excessive cash calls and fraud against the operator of a joint venture to construct a strategic water storage and recovery facility.

Diesel-fired Power Plant

Africa

Investor State Dispute

Acted for the claimant in related claims against an African government and its state-owned utility in relation to an independent power plant which had not been able to operate as expected, causing significant losses to profits and to value of the plant.

Waste-to-energy Plant

Europe

Negligence Claim

Acted for the claimant in demonstrating the impact of negligent advice on value of a waste-to-energy plant.

Electricity Distribution

Europe

M&A Dispute

Appointed to value two Turkish electricity distribution and retail companies in an SIAC arbitration. The dispute related to the breach of a share purchase agreement as the purchaser withdrew from the agreement without cause.

Power Plant

Europe

Business Interruption

Assisted in performing a valuation of a European power plant in the context of an arbitration due to delays in construction of the power plant.

Global Convergence Development Project

North America

Intellectual Property Dispute

Calculated damages related to a partnership dispute in a large global convergence development project.

Medical Park Lease

North America

Real Estate Dispute

Determined the value of a medical park lease following allegations of an improper asset sale to calculate damages for minority shareholders in the real estate development project.

Land Contamination

Oceania

Class Action

Assessed the potential impacts of contamination on property values across two locations in Australia.

Real Estate Development

Russia CIS

Investor State Dispute

Acted in evaluating the potential claims of a property developer in relation to a large planned development in a CIS country, considering project viability and ability to finance.

Touristic Complex

Middle East

Negligence Claim

Acted for the respondent in evaluating potential losses as a result of alleged negligence in development of part of a touristic complex in the Middle East.

Property Company Valuation

Europe

Shareholder Dispute

Assessed the loss of value in shares of property companies as a result of a property liquidation policy being undertaken.

Mixed-use Redevelopment

North America

Breach of Contract

Evaluated damages to a publicly traded US real estate investment trust associated with delayed redevelopment efforts due to allegations of interference by the owner of a neighbouring property.

Hotel Development

Europe

Real Estate Dispute

Supported expert in valuation of a family-owned London hotel for an expert determination following High Court ruling.



Retail

High Street Retail Chain

Europe

Professional Negligence

Appointed to value a high street retail chain, including its internet business, in a dispute with its bank over the withholding of finance and being put into liquidation.

International Retailer

Middle East

Employee Dispute

Led an investigation for the head of internal auditing at an international retailer and assisted in identifying a channel-stuffing scheme perpetrated by the manager of the retailer's Middle East operations.

Retail Business

Asia

Investor State Dispute

Leading an investigation into a retail business extinguishment and developing business models to quantify losses suffered as a result for an investment treaty arbitration.

Consumer Products Market

Europe

Joint Venture Dispute

Appointed as expert accountant in an ICC arbitration in Paris to assess the losses to a joint venture in the consumer products market in France. Assessed a claim of EUR€300 million of lost profits because of certain products not being introduced to the JV, allegedly in breach of the JV agreement.

Clothing Industry

Europe

Breach of Contract

Appointed as expert accountant in the assessment of damages as an expert in a dispute in clothing industry.

Printing Company

Europe

Breach of Contract

Appointed as expert accountant and provided evidence as an assessment of damages claimed by a printing company because of an alleged breach of contract by a national hotel group.

Luxury Goods

Global

Shareholder Dispute

Provided expert reports and joint statements, and preparation of the expert for testifying in a litigation relating to the loss by a private equity (PE) fund of an opportunity to invest in a luxury goods start-up business. This engagement included the valuation of the business and brand and the returns to the PE fund.

Restaurant Chain

Europe

Expert Determination

Valuation of a UK-based restaurant chain for an expert determination under the Company's articles.



Transportation Infrastructure

Port

Middle East

Breach of Contract

Evaluated damages on behalf of a services provider in a port for breach of contract and exclusion from providing the services.

Airport Operator

Asia

Investor State Dispute

Prepared the case for an airport operator in its damages claim for expropriation of an airport in Asia.

Transportation Contractor

Europe

Breach of Contract

Assessed head office costs for a government entity, relating to a transport contractor's claims for cost overruns and delay issues, on multiple construction projects.

Concession Vendors

North America

Breach of contract

Assessed claims relating to the opening of the concession area in addition to a reduced area inside of the terminal at an airport in New Mexico.

Infrastructure

Russia CIS

Investor State Dispute

Assessed claims in an infrastructure related investor state dispute in the CIS.

Semi-submersible Drilling Ships

North America & Canada

Business Interruption

Evaluated incurred construction amounts and developed estimates of anticipated future project costs associated with the construction of two of the world's largest semi-submersible drilling ships.

Infrastructure Development

Russia CIS

Investor State Dispute

Evaluated the value of a company involved in delivering infrastructure in a CIS nation alleged to have been expropriated.

Rail & Utility Infrastructure

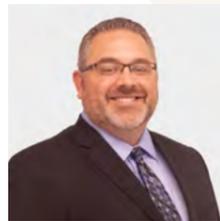
Oceania

Tax Valuation

Prepared a valuation of a rail and utility infrastructure company in Australia for tax purposes.

Key contacts

Our experts are leaders in their field with significant testifying experience on claims ranging from US\$1 million to US\$50 billion.



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