

WHAT'S

 **AVRIO** ADVOCATI
Managing legal risks in Europe and beyond.

HOT



**LATEST NEWS
FROM AVRIO** 

FIRST EDITION 2017



WELCOME

to the revamped "What's Hot in Avrio"

"What's Hot in Avrio", a publication that we intend to make available to our members on a six-monthly basis. This magazine will provide information on business referrals between our members, latest news from some of our member firms, feedback and photos from recent events and details/date reminders of forthcoming events.

This is "our" publication, showcasing the work that we do, both as individual member firms and between our respective firms within Avrio. We need your input and so would be grateful if you could all provide stories or information which you would like published in "What's Hot" to our General Secretariat, Heather Williams at info@avrioadvocati.com. Our next edition of "What's Hot" will be published in October 2017 and so your stories /news should be sent to Heather by end September 2017. We hope that you enjoy this first "new" edition and look forward to your feedback.

Avrio Directors



We hope that you all enjoyed Edinburgh and have fully recovered from the dancing and odd glass of whiskey at the ceilidh!

The feedback has been tremendous and once again, we wish to thank John and his team at CCW for their wonderful hosting in this beautiful City. We would be very grateful if you could continue to send all your photos of the event to Heather to include on our Avrio database. Also, we would welcome any feedback from the conference, good and bad, so that we can build on these conferences and get better with each occasion.



Save the Date – Autumn General Meeting September 29th-30th 2017:

Our next General Meeting will take place in the beautiful city of Sofia, Bulgaria where Manev and Partners will be hosting us.

Kostadin is already busy building up our programme of business and social activities and we hope that you will all be able to join us in what we are sure will be another fantastic meeting.

The conference will commence at 2pm on Friday 29th September and finish at 1pm on Saturday 30th September with the usual array of social activities in between the serious conference learning. We hope that you will all be able to join us – further details will follow soon.



NEW MEMBERS

We are always interested in potential new members in other jurisdictions.

If you have a contact in jurisdictions in which we are not currently represented and that you think would be a "good fit" for Avrio, please let Heather know details of the firm and any contacts which you may have.

WEBSITE:

We hope that you all like the new website. Whilst this is a "live" site, it is still very much work in progress which we wish to continuously improve – please help us to do so by forwarding your comments, testimonials and any changes to your firm details.



DR. TOMASZ KOZLOWSKI Kozlowski & Partnerzy



Avrio's Member Firm in Poland has received a referral from Irwin Mitchell, UK.

The advice has been sought in the area of cross-border on-line sales of medical products.

The Client has a website in Polish language and actively targets Polish customers. The on-line sale of particular types of medical products is not allowed in Poland. However, there is an interesting interplay of the ban on on-line sales in Poland with the naturally borderless e-commerce and the fact that Polish authorities do not have jurisdiction over entities based in UK.

They do however control customs on Polish borders, where the e-commerce meets the reality. There is an interesting exception to the overall ban, related to import of a limited number of packages for personal use. But, since the cross-border on-line sales are becoming controversial in Poland, the authorities attempt to narrow the interpretation of the exception and have on their side important practical issue of customs.

Since the value of goods, seen from the perspective of each separate customer is not significant, having them stopped at the custom, the customers are reluctant to challenge the customs view on the interpretation of the exception. The situation has obviously direct impact on the selling policy of the UK's firm and requires monitoring of the Polish legislative environment and adaptation to the changes.

COMPENSATION FOR NON-PECUNIARY DAMAGES CAUSED BY MENTAL PAIN DUE TO LOSS OF ENJOYMENT OF HOLIDAY

The injured party may request reimbursement of only legally recognized damage. In Slovenian legal system this is enshrined in various acts, a special form of damage is also recognized by the acts of the European Union. Thus, the injured party is on the ground of the Council Directive 90/314 / EEC of 13 June 1990 on package travel, package holiday and package tours entitled to receive compensation for specific forms of non-pecuniary damages caused by mental pain due to loss of enjoyment of holiday.

Directive No. 90/314 / EEC was implemented in the Slovenian legal system with Article 1.a of the Consumer Protection Act, therefore the Slovenian courts must respect it and take it into account when they make a decision. The court must consider the relevant case law of the EU Court as well, irrespective of the fact that the Directive has not been properly implemented into Slovenian legislation.

In this respect, the European Court of Justice in the case *Leitner v TUI* decided that all consumers in EU countries are entitled to compensation for non-pecuniary damages for loss of enjoyment of holiday, because as long as this form of compensation exists in one of the member states, it should also be recognized in other member states.

That was confirmed by the Supreme Court of the Republic of Slovenia in the case in which it decided that the injured party's appeal is justified and ruled that the injured party is entitled to receive compensation for non-pecuniary damages resulting from the loss of enjoyment of holiday.

Non-pecuniary damages as a result of loss of enjoyment of holiday is of particular importance for consumers. Annual leave is meant to restore psychophysical and working abilities of the worker. If that purpose is not fulfilled by holiday organizer's fault, the consumer is deprived and suffers non-pecuniary damages in terms of loss of pleasure of holiday. For non-pecuniary damage to occur, it is enough that the consumer hasn't relaxed as expected.

The amount of compensation for loss of enjoyment of holiday was determined by system of daily compensation. The Court focused on Slovenian case-law of compensation for unjustified detention, as well as the practice of other member states. The injured party was awarded a compensation of 60 EUR per day for each day of lost pleasure of holiday.

FEATURED PROJECTS AT LEECH TISHMAN: 1ST QUARTER 2017

By: A. Bruce Bowden, Esq.



In the first quarter of 2017, Leech Tishman's corporate portfolio included a range of projects representing firms ranging in size from small start-ups to large multinational companies. Noteworthy representations included those listed below:

- Restructuring of a U.S. company involved in distribution and sales of foreign-manufactured consumer products in order to reduce state taxes and transportation costs.
- Represented Peruvian steel product interests in obtaining payment from a customer in Florida
- Representing a U.S.-domiciled architecture/engineering firm with respect to contracting for services related to design of two university projects in Chile.
- Assisting a Fortune 500 company with various real estate matters across the U.S. including purchases and sales, environmental matters, easements, land development, resolving title issues, industrial and office leases.
- Assisted a highly ranked non-U.S. golfer with cross-border tax and asset protection planning including structuring of entities, structuring and restructuring of contracts, establishment of trusts, and other estate and asset protection planning documents to make maximum efficient use of tax treaties and the U.S. tax code in order to minimize U.S., foreign and state and local taxes for this individual.
- Representing multinational French metallurgical company in filing for Chapter 11 Bankruptcy protection in Pennsylvania and ancillary matters relating to:
 - A senior secured debt facility related to a loan transaction between parent company and subsidiaries
 - A senior secured debtor-in-possession (DIP) financing facility between parent company as DIP lender and subsidiaries as borrowers
 - A settlement that involves the dismissal of all claims against Leech Tishman's clients
- Represented President and CEO of a US\$1B+ trust and financial services company allegedly terminated for breach of fiduciary duty in wake of regulatory compliance event.
- Represented international financial services firm defending against federal securities law and state blue sky enforcement actions for failure to supervise investment advisor engaged in fraudulent outside business activities.

- Obtained dismissal of patent infringement action against exercise machine industry client upon Leech Tishman serving a motion for attorney fees showing lack of infringement.
- Filed and prosecuted several U.S. patent applications that originated from prior applications filed by foreign clients in foreign countries.
- Obtained a patent for a client regarding the use of robots to process items randomly placed on a conveyor belt.
- Obtained a very strong patent portfolio for Asian clients manufacturing a hair styling device
 - Successfully stopped sales of counterfeit product on Amazon.com.
- Representing a developer of five- and six-star hotels worldwide including
 - Branding relationships with designers of high-end consumer goods
 - Relationships with financing partners
 - Relationships with sublicensee project developers
- Represent general aviation aircraft owners and lessees
- Represent acquirer of commercial and residential real estate in connection with debt and equity financing of clients' activities.
- Assisted an AVRIO member firm in acquisition of assets in South America, the intermediate owners of which were U.S. companies.
- Representing a pharmaceuticals company seeking to license vaccine technology from the U.S. government.
- Representing offshore insurers in reorganizing and repatriating to the U.S.
- Assisted a diagnostics provider in regulatory aspects of the nationwide launch of a new product
- Representing a major food products importer in connection with debt and equity working capital financing.
- Representing an importer of alcoholic beverages from Northwestern Europe

Attorneys in the Corporate Practice Group have extensive experience in planning, transactions, and consulting for domestic and international businesses throughout their life cycle. For more information on how Leech Tishman can assist your company with its next step, please contact Bruce Bowden in the Corporate Practice Group at abbowden@leechtishman.com or 412.261.1600.