

# KVdL

# Way of Litigating



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Kennedy Van der Laan started out as an IT law firm and has since grown to a full-service firm, including a dedicated commercial and corporate litigation and arbitration team.

Given our ample, hands-on experience with project management in the technology sector, it struck us that litigation, despite often being equally complex as an IT project, is still conducted without any proper project management and advance planning in The Netherlands today. As a result, litigation is often seen as a bottom-less project where costs explode and unforeseen developments result in unexpected delays.

### **New approach to litigation in The Netherlands**

Against this background, we have developed a new approach to doing litigation in The Netherlands. This approach is based on predictability, efficiency & cost control, and transparency.

### **In a nutshell**

The KVdL Way of Litigating is a refreshing and innovative way of conducting legal proceedings that serves the needs of today's businesses which require a clear, transparent and practical approach to resolving disputes in court or arbitration. As such, it is also in line with the way litigation is done on an international level, notably in the US and the UK with their long-standing tradition of highly specialized litigators.

Our approach combines our in-depth knowledge of substantive law matters and vast experience with procedural matters with professional project management.

As a result, you will have, from the outset, a clear picture and idea of the complexity of legal proceedings, the allocation of tasks between you, your dedicated litigation team and possible third parties (such as experts), the time-lines and, last but certainly not least, the costs of litigation.

## Advantages in a nutshell

### **1 Predictability**

Well before a litigation starts, we will guide you through the various steps and establish the strategy considerations with you. A detailed Litigation Plan facilitates an efficient way of working as you will know exactly what your required input is and what the responsibilities of all other parties involved are.

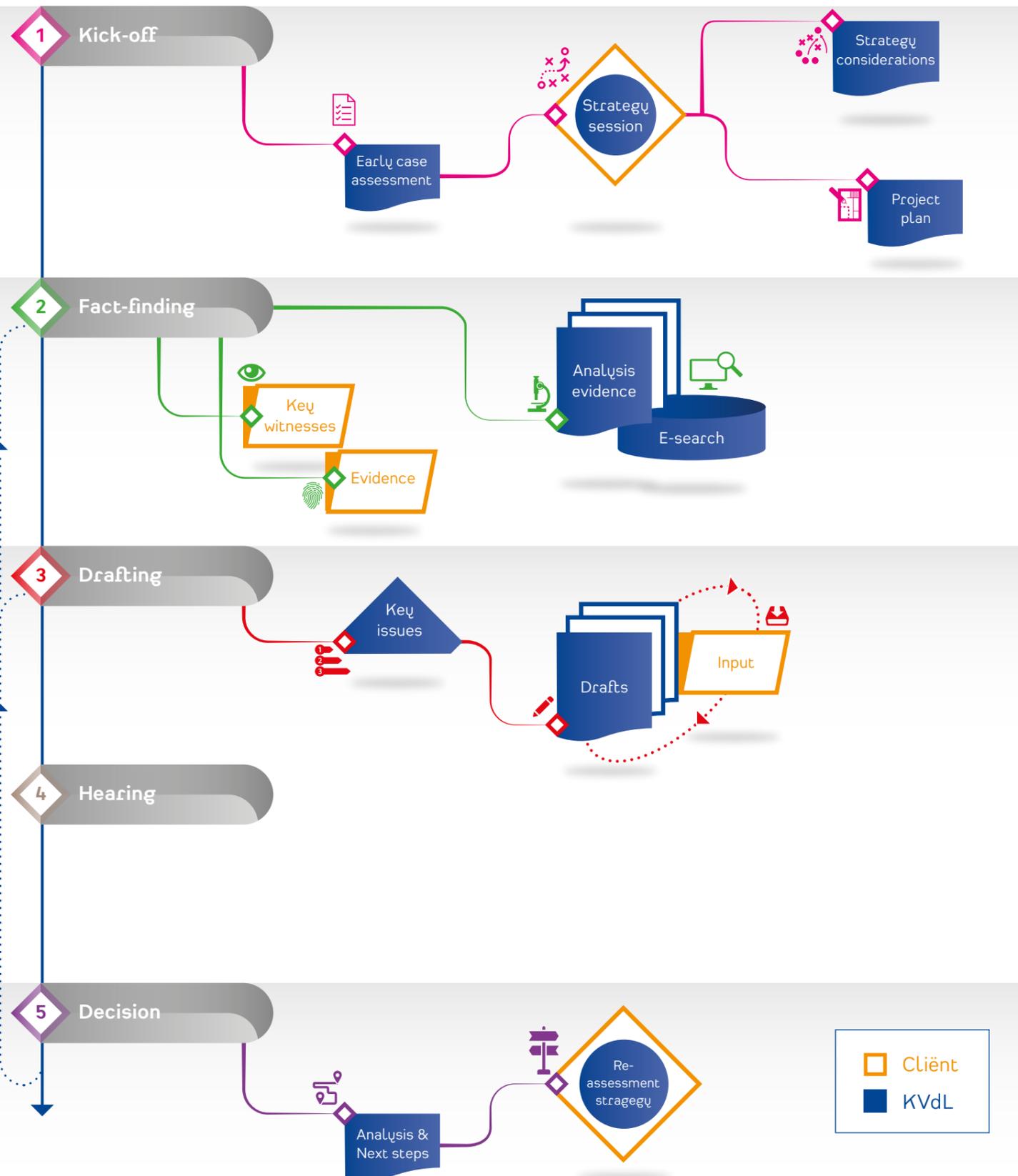
### **2 Efficiency & cost control**

Based on a break-down of the litigation into various phases, we will provide you with reliable cost estimates per phase. We also do not shy away from agreeing fixed fees for certain phases beforehand. This approach to pricing makes costs predictable and, at the same time, more manageable.

### **3 Transparency**

The status of the litigation is constantly updated in the Litigation Plan. This may trigger quick interventions to prevent delays or remove other constraints. If requested, we can make all relevant documents (such as drafts, possible evidence, etc.) available on an online Litigation Platform. This allows you to monitor the progress at any time and provides a means of collaboration beyond e-mail.

## Phases & tools



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## Our litigation approach Phases & Tools

We achieve these goals by applying various **tools that allow us to think through the entire litigation process** before it has started. We start with an Early Case Assessment followed up by a Strategy Workshop to establish and identify the end game of litigation and other strategy considerations beforehand (such as means of pressure, delay, or settlement). The strategy thus established will be used as a yardstick throughout the litigation.

Based on this pre-litigation analysis, we map out the various stages of the litigation from A to Z (e.g., writ of summons all the way to enforcement) in a **Litigation Plan which describes the timing, deliverables, tasks and responsibilities**. This, in turn, allows us to break down the entire litigation into pre-defined phases and to provide reliable cost estimates (or fixed fees) per phase. The Litigation Plan also serves as the blue print for the implementation of the litigation strategy, which will be re-visited at each major step in the litigation to make sure that it is still aligned with the then current business objectives. In addition, the Litigation Plan will be continuously updated, thus providing an overview of the progress of the litigation.

As part of the kick-off, we **identify and then interview the key players** in the litigation with a view to obtaining written witness statements (as oral testimony is not an 'automatic' feature of litigation in The Netherlands). This **fact-finding is combined with automated document and e-mail search** to establish the paper trail that may be used in litigation. This allows a careful assessment of the available evidence and possible weaknesses, not least as there is no full discovery under Dutch law.

We also offer a **Litigation Platform** where we make all submissions and other information related to the litigation available to the client (such as evidence, drafts and progress reports). This online tool makes collaborating possible by exchanging information and enables monitoring of the status and progress at any time.

# Cornerstones of our approach to litigation:

## 1 Dedicated core team of litigators

Experienced litigators who are not only well-versed in the law, but also have ample experience with the various facets of commercial disputes and, thus, a practical understanding of the relevant business issues at stake in litigation.

## 2 Alignment of litigation with business objectives

Getting prepared long before the actual litigation by identifying strategy considerations which serve as yardstick during the entire litigation process when having to make choices or having to adapt to business changes.

## 3 Re-assessment during different stages of litigation

Execution based on a jointly developed Litigation Plan (including an overall planning, resources, costs and tasks) and revisiting strategy if and when demanded by changing business requirements.

## 4 Fact-based

Interviewing key players in the litigation in order to obtain witness statements and fact-finding combined with automated document and e-mail search to assess available evidence.

## 5 Project management & (online) tools

Using rigorous project management to manage planning, resources and costs related to litigation and deploying tools to support the litigation process, to share information and to communicate the project status, including an online Litigation Platform.

*We were excellently guided through an arbitration process by Kennedy Van der Laan. It proved to be a tough time, trying to find our way through very complex issues. I was very happy with their guidance during the process and their help and efforts to continually simplify very complex matters and their being able to work efficiently in a complex environment.*

Helen van Laarhoven, Legal Counsel van Trans Link Systems B.V.

## Our dedicated Litigation and Arbitration Team

Our core team consists of six litigators who operate in English, German and Dutch. If need be, this team will be extended with one of the other litigators from Kennedy Van der Laan who have a specific expertise in litigation (such as IP, competition law, real estate, etc.).

Our litigators are not only experienced in all procedural matters, but are also well-versed in matters of substantive law. In addition to working as commercial and corporate litigators, each team member also practises at least one specific field of litigation. Our team also has ample experience with the various facets of commercial disputes (such as contract drafting, negotiations, and in-house work), thus providing a practical understanding of the relevant business issues at stake in litigation. Our litigators are also active with teaching or writing about litigation matters; some also act as arbitrators or sit as deputy judges at the Appeal Court level.

Our firm has formed reliable relationships with individual attorneys and law firms in other jurisdictions, inter alia by taking part in several international networks of law firms. These contacts allow us to assist clients in an international context, for example by coordinating and executing cross border litigation strategies.

## Lead contacts

### Arbitration

### Commercial litigation

### Corporate litigation

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