KVeL Way of Litigating
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Starting as a boutique IT firm in the early ‘90s, Kennedy Van der Laan has grown into a full-service law firm including a dedicated commercial and corporate litigation and arbitration team.

Our extensive, hands-on project management experience in technology naturally prompted us to notice the absence of advance planning, control mechanisms and proper project management in the everyday Dutch litigation practice. That, in spite of litigation projects being just as complex as in IT. We normally see clients treat litigation as a bottomless budget line, often exceeding forecasts and unfolding in multiple unforeseen ways, affected by unexpected delays.

We make litigation controllable and predictable by planning ahead, focusing on the best possible outcome for our client and putting the client in control of the process and its costs.

A new approach to litigation in the Netherlands
We have developed a new way of litigating based on predictability, efficiency, cost control and transparency.

Manageable and predictable

The KVdL Way of Litigating is a refreshing and innovative method.

We combine a strategic and goal-oriented approach with innovative legal tech tools, providing foreseeable costs, control and predictability.

Instead of bogging you down in a long, difficult, expensive and uncertain legal maze, we give you a bird’s eye view of the issue. At the very start, you and our team draw a clear picture of the way ahead, or around it, including strategies, timelines, allocation of tasks and, obviously, costs.

We assemble fit-for-purpose teams of expert litigators for each project, blending industry-specific knowledge with ample experience in commercial disputes, litigation and arbitration.

Our approach offers our clients a transparent, business-oriented approach to resolving disputes, bringing it closer to how litigation is done in the Netherlands and internationally, notably in common-law jurisdictions and their long-standing traditions of using highly specialised litigators.
Why?

1. **Predictability**
   Well before litigation starts, we take a step back and analyse your case with your team. Think of flying a drone over the legal maze in front of you. Our team and yours identify all possible outcomes to establish strategies and prevent surprises. We build a detailed Litigation Plan together, leading to efficiency and predictability. From then on, you always know exactly what the following steps will be and how the process will unfold going forward.

2. **Efficiency and cost control**
   We break down every litigation or arbitration project into various phases, just like proper project management, so you have reliable cost estimates for each phase. Our predictable approach combined with cutting edge technology to monitor costs, makes litigation predictable and manageable.

3. **Transparency**
   Unlike an static blueprint, the Litigation Plan is updated continuously through the process, so our team and yours can act quickly together. Naturally, we can make all relevant documents, including drafts, evidence, etc., available in electronic form on your own Litigation Platform, allowing you to monitor progress and providing an extra venue for collaboration among all the professionals involved.
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 revisited 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.
Phases & Tools

1. Kick-off
   - Early case assessment
   - Strategy session

2. Fact-finding
   - Analysis evidence
   - E-search
   - Key witnesses
   - Evidence

3. Drafting
   - Key issues
   - Drafts
   - Input

4. Hearing

5. Decision
   - Analysis & Next steps
   - Re-assessment strategy

Kennedy Van der Laan
Cornerstones of our approach to litigation

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.

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

Reassessment 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.

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

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.
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 specializes in 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. Furthermore, our litigators are active with teaching or writing about litigation matters; some also act as arbitrators or sit as deputy judges at the Appellate 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.

“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 of Trans Link Systems B.V.
Lead contacts

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