

## Commercial Litigation

LK represents public and private companies and organisations in complex commercial and financial disputes and inquiries across a broad range of sectors, including banking and finance, defence, construction and engineering, infrastructure, government, trade and investment, mining and energy, agriculture and commodities.

With a deep understanding of the administrative, regulatory and court procedures in each of the jurisdictions in which we operate, we apply the best of local and international litigation practice to each project. We have conducted successful appeals in the highest courts internationally, including the High Court of Australia, Hong Kong Court of Final Appeal and Privy Council.

### Current Projects

#### Royal Adelaide Hospital Construction Dispute

Representing the South Australian State Government in litigation and arbitration proceedings regarding various strategic, legal and commercial issues concerning defaults, delays and disputes arising out of the AU\$2.5 billion PPP arrangements for the design, construction and operation of the State's major health facility.

#### Peregrine Corporation

Representing Peregrine group entities in various disputes in the Supreme Court of South Australia regarding contracts for the supply of fuel to retail fuel sites, and advising on ongoing contractual rights and obligations. Acting in relation to intellectual property and trademark disputes in the Federal Court of Australia.

#### Adelaide Brighton Cement

Representing Adelaide Brighton Cement in relation to a multi-million dollar fraud perpetrated against the company by one of its former employees, assisting with the forensic investigation into the scope and effect of the fraud, liaising with the authorities regarding possible offences and successfully pursuing recovery proceedings against the beneficiary of the fraud.

#### Property Development Dispute

Representing a major developer in three Supreme Court of South Australia actions arising out of a joint venture dispute involving the development of a luxury residential apartment building.

#### HBF Health Limited

Representing a major beneficiary of the Vale Cash Management Fund to recover property from the former trustee of the fund. The fund was terminated but subsequently reinstated to pursue a funded class action to recover property of the trust. Led the investigation of the terms of funding and pursuing proceedings in the Supreme Court of New South Wales and the Supreme Court of Western Australia to recover excessive funder premiums paid by the trustee from the trust.

### Completed Projects

#### Actial Farmaceutica Lda v Professor Claudio De Simone & Ors

Represented Actial, a Portuguese pharmaceutical company, in the High Court and Court of Appeal in England in a dispute over intellectual property rights, royalties and the 'know-how' in a probiotic medical food. Secured interlocutory mandatory injunctions, enabling Actial to continue to supply its distributor with the product.

#### Confidential Construction Dispute

Represented a distributor of cement products and services in a construction dispute relating to the construction and subsequent collapse of silos. The dispute was initially subject to an adjudication pursuant to the Building and Construction Industry Security of Payment Act 2009 (SA) and our client then commenced proceedings in the Federal Court of Australia against the builder for breach of contract, negligence, and misleading or deceptive conduct.

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### **Banco Santander Totta v Companhia Carris De Ferro de Lisboa SA & Ors**

Represented four Portuguese transport companies in the wake of the global financial crisis in a €1.5 billion claim brought by a Portuguese bank in relation to nine interest rate swap transactions in the English Commercial Court.

### **Challenger Financial Services v Leighton**

Represented Challenger Financial Services in the Supreme Court of Victoria in disputes over a multi-storey office building acquired on the basis of certain income guarantees which Leighton subsequently sought to challenge.

### **Australian Agricultural Company Ltd v AMP**

Represented Australian Agricultural Company Ltd in Federal Court proceedings concerning an alleged breach of contract and misleading and deceptive conduct leading to loss of opportunity as a result of an allegedly inappropriately conducted tender sale process in respect of Stanbroke Pastoral Company.

### **Elders Limited v IPL**

Represented Elders Limited in proceedings arising out of the proposed restructuring of the Australian fertiliser industry. This involved advising on proposed shareholder and joint venture agreements, legal and strategic issues relating to the termination of existing contractual arrangements and on the form of proceedings. In the litigation that followed, urgent injunctive relief was obtained to ensure continuity of supply pending determination of the dispute, followed by an expedited commercial list trial in the Supreme Court of South Australia.

### **Elders Rural Services & Anor v The Registrar of Plant Breeder's Rights & Anor**

Represented the holder of plant breeders' rights over a variety of potato in an application for a declaration and injunctive relief against the Australian Commonwealth Government concerning the duration of the rights. The case turned on the proper construction of transitional legislative provisions, and the relief sought was granted by the Full Court of the Federal Court of Australia.

### **ITC v Timbercorp**

Represented ITC Limited in urgent proceedings to enforce its option rights against Timbercorp Ltd (in liquidation) and its secured creditors relating to a shareholding in a major industrial facility joint venture.

### **Confidential Commercial Disputes**

Advising a listed resources company on a range of commercial risks and disputes, including in connection with a dispute over the construction of a mine site and a dispute regarding a procurement contract.

### **Confidential Product Liability Dispute**

Advised a large Australian winemaker on a product liability dispute in relation to export contracts to China.