

Luther.



Information Tech & Telecommunications

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Information Tech & Telecommunications

The digital revolution is in full swing. In a highly competitive market where new business models are constantly being developed and existing processes are continually challenged, small start-ups, well-established medium-sized businesses and worldwide groups of companies are looking for the best possible solutions. Our experienced, multi-disciplinary team of advisors for technology, media and telecommunication can provide tailor-made solutions to meet these challenges. In close cooperation with our colleagues from the practice group IP & Copyright Law and our Data Protection team, we can comprehensively assist you with all related matters, from the drafting and negotiation of contracts, such as software licence agreements, ASP contracts, SaaS contracts and other cloud computing contracts, to (regulated) IT outsourcing projects up to and including contracts with contracting authorities based on Supplementary Terms of Contract for the Procurement of IT Supplies/Services (EVB-IT).



When dealing with agile software projects, we are familiar with the challenges of copyright and contract law in the drafting of contracts as well as with employment law issues, which enables us to optimally consider the interests of the client or contractor.

We advise industry 4.0 projects from the production industry with regard to, for example, the marketing of predictive maintenance services and the intelligent control and networking of processes and facilities in the smart factory using the new 5G mobile radio standard, where applicable. This enables our clients to optimally design their supply chains.

When deploying artificial intelligence (AI)-based systems, our team can help you benefit from the advances in AI across all industries. When it comes to using AI technologies, such as machine learning or deep learning, we are familiar with the complex issues involved, including the protection of performance outcomes and data models and the rights to use data as well as liability, enabling us to properly assess the opportunities and risks associated with the use of AI.

Some of the services that we provide

IT purchase and licence agreements

- Software and hardware supply contracts (application service providing (APS), software as a service (SaaS), platform as a service (PaaS) or infrastructure as a service (IaaS) agreements)
- Maintenance and support agreements, service level agreements (SLAs)
- Project and service agreements concerning the development, implementation and customisation of software, including drafting “sale and lease backs”
- Escrow and deposit agreements
- Operating data processing centres and shared service centres
- Distributing hardware and software (e.g. OEM agreements, end-user licence agreements, reseller agreements)
- Application/use of open source software and “used” software
- Advising and drafting agreements relating to agile software development projects

Awarding IT contracts

- Needs analysis and determining needs taking into account legal issues (e.g. data protection or e-government)
- Proof of economic efficiency before and during the procurement measures
- Assisting with invitations to tender for IT contracts
- Choosing and applying the appropriate “Supplementary Terms of Contract for the Procurement of IT Supplies/ Services” (EVB-IT) contract templates
- Reviewing service descriptions

IT litigation

- Advising on how to deal with hardware or software defects
- Examining/handling defects in close cooperation with IT experts
- Providing representation in IT disputes before courts or conciliation committees (German Association of Law and Informatics (DGRI))

IT outsourcing

In the context of IT outsourcing projects, we can advise on the entire process, if so requested, starting with the needs analysis, the invitation to tender, the award of the contract and

the drafting and negotiation of the contract documents and service descriptions, of course also taking into account employment and licensing law issues, IT security and data protection aspects and regulatory requirements, where applicable. This applies in particular to cloud-based solutions.

- IT and business process outsourcing
- Project agreements regarding complex IT systems
- Advising on cloud computing services
- Exit management
- Advising on the spin-off of individual IT divisions into subsidiaries and related issues (e.g. rights and obligations in the event of a transfer of business)
- Drafting contracts for the outsourcing of essential and non-essential functions, taking into account financial regulatory requirements
- Advising on regulatory requirements for IT (German Prudential requirements for IT (BAIT)/European Banking Authority (EBA) Guidelines, European Securities and Markets Authority (ESMA) Guidelines)

Advising on IT security and IT compliance

- Legal requirements regarding IT security and IT compliance
- Advising on implementing the German IT Security Act (e.g. critical infrastructure requirements for the energy, information technology and telecommunication, transport and traffic, health, water supply, food, and finance and insurance industries)
- Assisting with IT audits
- IT security in the employment relationship, e.g. drafting works agreements and company policies regarding the use of e-mail systems and the internet within the scope of the employment relationship
- Legal support for cyber security incidents

Data protection law

As the legally compliant processing of personal data is increasingly becoming the focus of companies and supervisory authorities, companies need to find their way around the conflict between their business interests and the legal requirements by ensuring their data protection is very well organised. Our pragmatic and solution-oriented team that specialises in data protection law can help you ensure that this succeeds.



- Carrying out data protection audits to assess the level of data protection in the company
- Appointment as an external data protection officer and providing support as such
- Implementing the requirements under data protection law in the company (data protection compliance)
- Advising on how to set up processes and design processing operations in conformity with data protection law
- Advising on the introduction of new business models, including data protection by design and Big Data, in conformity with data protection law
- Drafting the data protection documentation, such as privacy notices, data protection reports or records of processing activities
- Drafting agreements under data protection law, such as data processing agreements, including the EU standard contractual clauses, or joint controller agreements
- Reviewing and, if necessary, revising the documentation or agreements under data protection law
- Advising, for example, on the introduction of whistleblowing programmes
- Assisting with works agreements on the basis of the EU GDPR and the German Federal Data Protection Act (BDSG)
- Training courses and workshops (e.g. employee workshops)
- Data protection-compatible design when using new technologies, such as smart home, car data or health apps
- Advising on setting up websites, online shops and cookie walls and using tracking and analysis tools

- Advising on cross-border data processing when exchanging data within the group or with external parties (implementation of ECJ judgments “Schrems II” and new EU standard contractual clauses)
- Advising on the introduction of binding corporate rules
- Carrying out national and international data protection audits

Licensing law, including open source

- Advising on licence models, licence compatibility
- Liability and warranty when using open source software, public domain software, freeware, shareware
- Drafting licensing conditions
- Asserting and defending against licence infringement claims
- Advising on introducing open source project management
- Assisting with licence audits
- Managed licence compliance services
- Representation in claims for subsequent licensing
- Advising on questions of indirect or automated licence use

FinTech

In the field of financial technology (FinTech), we advise companies from the financial sector, technology providers and providers of new technology-based business models on innovative technologies and digitalisation strategies. This includes, inter alia, the structuring of legal relationships for platform transactions or electronic market places, identification services and authentication requirements or payment services. We provide strategic legal input to ensure the necessary compliance in a highly regulated legal environment.

Our lawyers understand the technological interrelationships, for example, when using open APIs and open banking structures and when using mobile apps and payment systems, including the near field communication (NFC) standard, and deal with “data ownership” issues in a manner that serves the respective interests.

- Smart contracts/blockchain-based services
- General terms and conditions for electronic platforms/ market places
- Advising on payment services/e-money/voucher services
- Investment products (including robo-advice)

Electronic archiving and data deletion concepts

- Identifying retention periods and deadlines for deletion relevant in the industry, including advising on the permissibility of storing in digital form
- Advising on the application of relevant limitation periods
- Advising on the implementation of the requirements for audit-proof archiving (in accordance with the German Principles for the Proper Management and Storage of Books, Records and Documents in Electronic Form, as well as Data Access (GoBD))

Media

As a result of the rapid progress in digitalisation, convergence of media and challenges resulting from new formats and hybrid forms of marketing, the media landscape is also undergoing significant change: hitherto unknown business models must be based on a solid legal foundation and new forms of distribution, marketing and evaluation have to be contractually secured. Our media-savvy team’s creativity and competence help ensure that our clients are once again provided with the best possible solutions.

- Advising on how classic business models can be transformed for use in the area of digital media
- Advising on the licensing and acquisition of content
- Licensing of TV stations
- Advising on media antitrust law
- Advising on the distribution and marketing of content through diverse platforms, including pay TV and on-demand services
- Advising on feed-in agreements with cable companies

- Advising on the purchase and marketing of advertising capacities
- Acting as litigators upon infringement of rights on the internet (legal online reputation management, theft of content)
- Advising on using social media for corporate communications
- Designing legally compliant online gambling services
- Advising on all aspects of press law and the law governing the right to express one’s opinion and make public statements
- Assisting with enforcing and defending against claims for unlawful advertising
- Drafting the contracts needed for reality TV shows

Telecommunication law

In particular the telecommunication sector continues to be highly regulated. Our team ensures that our clients comply with new regulatory requirements and, what is more, that they can operate as best as possible within the limits defined by these requirements. For this is the standard we have set for ourselves: providing top-quality advice that will ultimately make the difference for our clients.

- Advising on regulatory issues (e.g. amendments to the German Telecommunications Act (TKG), obligation to register, use and allocation of frequencies)
- Drafting and negotiating contracts for WAN, managed network services, mobile services
- Drafting end-user agreements
- Providing telecommunication and public procurement law advice with regard to broadband expansion
- Providing advice and drafting contracts for the creation of infrastructure facilities (e.g. lines, networks, transmission stations)
- Advising on regulatory, data protection and contract law issues regarding the Internet of Things (IoT), smart devices and connected cars
- Advising on over-the-top services
- Advising on data protection in the area of telecommunication and secrecy of telecommunications

Your contact



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Dr Michael Rath studied law at the University of Saarbrücken and in Cologne (Germany), working as a research assistant at both universities. While working full time, he completed his doctorate with an emphasis on Internet search engines at the University of Würzburg. He joined Luther's predecessor firm in 1999 and has remained with the firm since.

Areas of practice

Dr Michael Rath is a German lawyer, a certified specialist in information technology law and coordinates the Information Tech & Telecommunications sector at Luther. He is also a Certified ISO/IEC 27001 Lead Auditor.

The focus of his advisory services is on IT law, data protection law and the protection of intellectual property. Dr Michael Rath also advises on telecommunications law, assists with tenders and IT outsourcing / regulated outsourcing and the implementation of (IT) compliance requirements. He frequently holds seminars on these topics and publishes articles on current IT and data protection law issues.

Hits the mark. Luther.

Luther Rechtsanwaltsgesellschaft mbH is one of the leading corporate law firms in Germany. With some 420 lawyers and tax advisors, we can advise you in all fields of German and international corporate law. In addition to having offices in every economic centre throughout Germany, we are also present in 11 locations abroad: in Brussels, London and Luxembourg in Europe, and in Bangkok, Delhi-Gurugram, Ho Chi Minh City, Jakarta, Kuala Lumpur, Shanghai, Singapore and Yangon in Asia.

Our advisory services are tailored to our clients' corporate goals. We take a creative, dedicated approach to achieving the best possible economic outcome for each of our clients. The name "Luther" stands for expertise and commitment. With a passion for our profession, we dedicate all our efforts to solving your issues, always providing the best possible solution for our clients. Not too much and not too little – we always hit the mark.

We know how crucial it is to use resources efficiently and to plan ahead. We always have an eye on the economic impact of our advice. This is true in the case of strategic consulting as well as in legal disputes. We have complex projects on our agenda every day. At Luther, experienced and highly specialised advisors cooperate closely in order to offer our clients the best possible service. Thanks to our fast and efficient communication, permanent availability and flexibility, we are there for you whenever you need us.

Luther has been named "Law Firm of the Year: Germany 2021" and also "European Law Firm of the Year 2021" by The Lawyer, one of the most well-known legal magazines worldwide.

<p>Lawyers and tax advisors</p> <p>420</p>	<p>Locations</p> <p>21</p>	<p>Long-standing connections to commercial law firms worldwide</p> 	<p>Offices in international financial centres and investment locations</p> 
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About unyer

unyer, founded by Luther and Fidal in 2021, is a global organisation of leading international professional services firms. Besides law firms, unyer is also open to other related professional services, especially from the legal tech sector. unyer is based in Zurich as a Swiss Verein. unyer is globally connected but has strong local roots in their respective markets.

unyer has an exclusive approach and only accepts one member firm from each market. unyer members offer its clients full services across all jurisdictions with a compelling industry focus. The organisation has an annual turnover of more than EUR 650 million and includes over 2,500 lawyers and advisors in more than 10 countries in Europe and Asia. In September 2021, Pirola Pennuto Zei & Associati joined the international organisation.

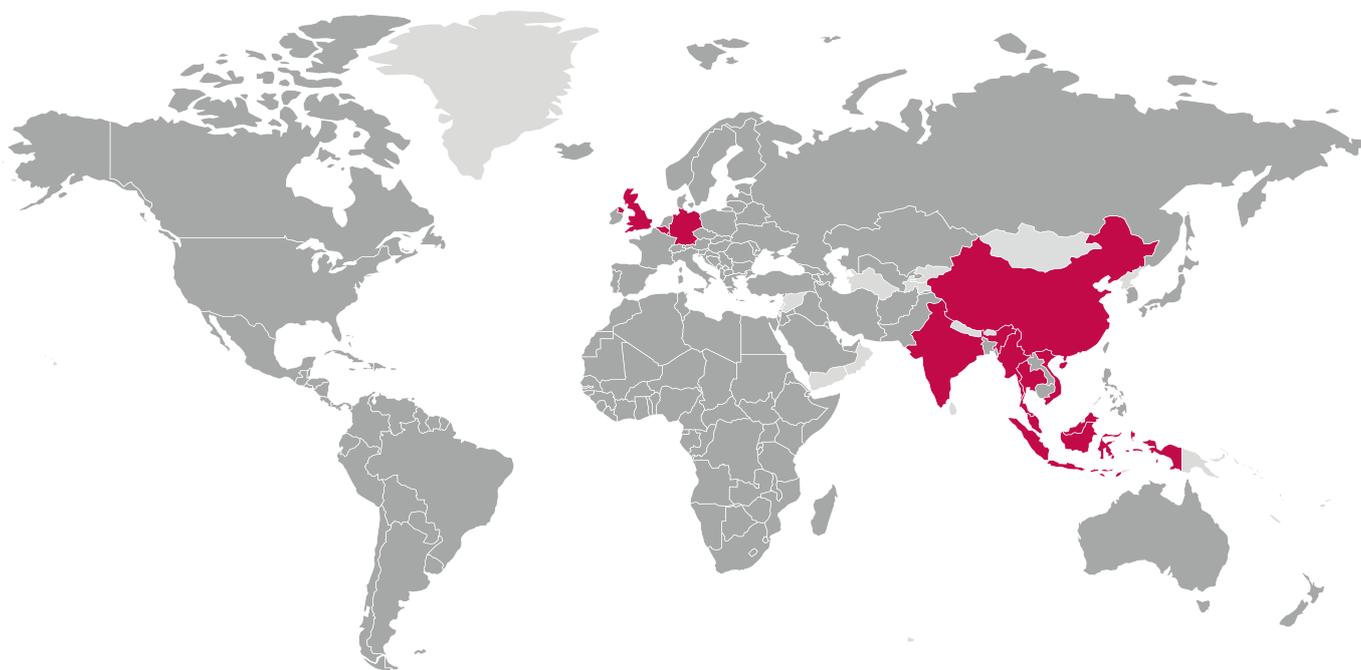
www.unyer.com



Our locations

We have a global outlook, with international offices in 11 key economic and financial centres in Europe and Asia. We also maintain close relationships with other commercial law firms in all relevant jurisdictions. Luther is a founding member of unyer (www.unyer.com), a global organisation of leading professional services firms that cooperate exclusively with each other. This way, we ensure a seamless service for our clients throughout their demanding international projects.

Our partner firms are based in Africa, Australia and New Zealand, Europe, Israel, Japan and Korea, the Middle East, Russia and the CIS, South and Central America, the US and Canada.



- Luther locations
- Best friends

Our locations

- | | |
|------------------|--------------|
| Bangkok | Jakarta |
| Berlin | Kuala Lumpur |
| Brussels | Leipzig |
| Cologne | London |
| Delhi-Gurugram | Luxembourg |
| Dusseldorf | Munich |
| Essen | Shanghai |
| Frankfurt a.M. | Singapore |
| Hamburg | Stuttgart |
| Hanover | Yangon |
| Ho Chi Minh City | |

Our industries

We focus on advising transactions with respect to targets in five industries.

Energy



Conventional or renewable energies: We work efficiently and sustainably.

Health Care & Life Science



With our expertise, we have our finger on the pulse of time.

Information Tech & Telecommunications



We connect today with tomorrow.

Mobility & Logistics



We understand what gets you moving and can set you on the right course.

Real Estate & Infrastructure



We lay the foundation for you to build on.

Our practice areas

Antitrust Law

Capital Markets &
Banking

Commercial &
Distribution Law,
Product Liability/
Product Compliance

Complex Disputes

Compliance &
Internal Investigations

Corporate/M&A

Data Protection Law

Employment Law

Energy Law

Environment &
Planning Law
Regulatory

Financial Services
Investment Funds &
Alternative Investments

Insurance Law

International
Trade Law

IP & Copyright Law

IT Law

Media & Entertainment

Notarial Services

Public Procurement
Law

Public Subsidies/
State Aid Law

Real Estate

Restructuring &
Insolvency

Start-ups & Venture
Capital

State, Administration,
Public Undertakings

Tax Law

Telecommunications
Law

White-Collar Crime &
Tax Offences

Our awards



The Lawyer European Awards

Luther has been named “Law Firm of the Year: Germany 2021” and also “European Law Firm of the Year 2021” by The Lawyer, one of the most well-known legal magazines worldwide.



JUVE

In the 2021/2022 JUVE Guide to Commercial Law Firms, 45 lawyers from Luther were recommended, and 11 of these were also listed as “leading advisors”. The legal publisher JUVE published rankings for a total of 28 areas of law. In 2021, Luther was nominated for the JUVE award “Antitrust Law” and was named “Law Firm of the Year” by JUVE in 2019. In the past, Luther has already won “Law Firm of the Year 2017 for Environmental and Regulatory Law”.



The Legal 500

The Legal 500 Germany 2022 recommends Luther in 28 areas of law, with “Top Tier” rankings in two of these areas. 76 lawyers are being recommended, 10 of whom have been specially recognised as “Leading Names” or “Next Generation Names”. Luther has also been included for Germany in the first edition of **The Legal 500 Green Guide EMEA 2022**. This guide provides an overview of law firms’ engagement with sustainability, including both work for clients as well as firms’ own best practices and initiatives.



Chambers

In 2022, Luther was recognised by Chambers Europe for 12 practice areas in Germany as well as in two practice areas in Luxembourg. Moreover, 15 partners were included in the Individual Ranking. Additionally, in 2022, Luther was recognised by Chambers Global in four advisory areas in Germany, Luxembourg and Myanmar, while six partners were also included in the Individual Ranking.



Kanzleimonitor

Kanzleimonitor 2021/2022 recommends Luther in 22 areas of law and has also included 16 Luther lawyers among the recommended lawyers mentioned by name.

Best Lawyers

“Best Lawyers in Germany 2023”

For the year 2023, 111 lawyers have been recommended by Luther as “Best Lawyers in Germany 2023”, an award presented by the US publisher “Best Lawyers” in cooperation with the German *Handelsblatt*, including three partners as “Lawyer of the Year” for their area of law and 12 colleagues who have received the recommendation “Best Lawyers - Ones to Watch”.



WHO'S WHO LEGAL

WHO'S WHO LEGAL listed 18 lawyers in June 2022, four of whom have been recognised as Thought Leaders, which is the highest award, and two of whom have been named Future Leaders.



Global Arbitration Review

In 2021, the English professional journal Global Arbitration Review (GAR) included Luther once again in its global “GAR100” list of arbitration practices rated by GAR.

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For reasons of better legibility, the simultaneous use of gender-specific language forms is dispensed with. Corresponding terms apply in principle to all genders in the sense of equal treatment. The abbreviated form of language has editorial reasons and does not imply any valuation.

Release: August 2022

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**Bangkok, Berlin, Brussels, Cologne, Delhi-Gurugram, Dusseldorf, Essen,
Frankfurt a.M., Hamburg, Hanover, Ho Chi Minh City, Jakarta, Kuala Lumpur,
Leipzig, London, Luxembourg, Munich, Shanghai, Singapore, Stuttgart, Yangon**

You can find further information at:

www.luther-lawfirm.com

www.luther-services.com

