

KordaMentha



# Independent experts in arbitration

[kordamentha.com](http://kordamentha.com)



## Our independent experts are entrusted with some of the most complex arbitration disputes.

KordaMentha has one of the largest and most experienced groups of expert witnesses in Australia and the Asia-Pacific region. We have been involved in numerous major arbitration matters arising from construction and major project disputes, as well as contractual, joint-venture and intellectual property ('IP') disputes resolved through domestic and international arbitral bodies.

Clients rely on the expertise and specific experience of our team to provide clarity around the relevant facts and issues, bringing structure to these often overwhelming situations. Working with clients, their legal specialists and industry

and other subject-matter experts, we analyse all available information to get to the heart of a situation. Combining the right balance of our extensive expertise in forensic accounting, damages assessments, business valuations, data analytics, eDiscovery and financial investigations, our multi-disciplinary team applies a holistic view to each engagement.

When the stakes are high and the facts are unclear, we bring a fresh, objective approach and a focus on action to deliver successful outcomes.

# What makes us different?

We leverage multi-disciplinary expertise to solve complex and critical matters.

When the stakes are high, finding an expert with the most appropriate experience is critical. Complex matters also increasingly require a multi-disciplinary team.

With a choice of experts, our senior team applies the appropriate mix of skills tailored to address the complex commercial and financial issues our clients face.

Forensic technology and data teams are often integral to our approach as arbitration cases can generate vast amounts of documents and disparate data. Identifying the facts from amongst the proliferation of data and information is a complex exercise. Our specialists extract crucial insights from complex accounting records, operational data, business records, time records, metadata, external data or verbal recollections of key witnesses.



# How we can help you

Clients involved in arbitration cases typically call on our deep expertise in the analysis or monetisation of a claim. We provide expert input concerning the assessment of damages, quantifying the value of business opportunities or putting into evidence the quantum of costs incurred or profits derived. Our work includes, but is not limited to:

## Construction and major project disputes

Chaos is costly in large-scale, complex projects. When claims and disputes arise or investigations are required, clients rely on our expertise to provide clarity around the relevant facts and issues.

We combine the use of data analytic technologies with detailed knowledge of financial and accounting systems to provide robust verification and analysis of expansive and disparate information. It could be quantifying the nature and timing of costs incurred during the construction process, clarifying the

detail underlying a large number of claims in the context of a dispute or clarifying the often confusing question of what the contracted rates actually cover.

From bid-rigging to falsified change orders, the construction sector also brings unique fraud and corruption risks. Our forensic investigators, data analysts and forensic technology specialists identify, obtain and analyse key information for use in investigations and arbitral proceedings.

## Contract and joint-venture disputes

We provide an independent opinion on the quantification or valuation of the financial impact any contract or joint-venture dispute has on businesses or individuals. We uncover the story behind the numbers and use technically sound methodologies and analysis, helping our clients understand the financial aspects of the matter.

Where breach of contract or joint-venture failure has occurred, our forensic accountants work with clients and their legal specialists to analyse liability and quantum. We provide valuation of businesses, shares and other equity, including projected future cash flows or earnings, and quantification of loss or damages.

## Intellectual property disputes

In arbitration proceedings, KordaMentha experts are often called upon to evaluate IP damages. We cover a range of disputes, including patent, trademark and copyright infringements and breach of technology agreements.

IP disputes often involve cross-border elements, including geographically dispersed parties or various applicable laws.

With experience across multiple jurisdictions, we help clients navigate complex issues, including:

- Valuation of IP assets and any lost revenue as a result of IP infringement.
- Cross-border investigations involving IP infringement and theft.

# Our experience sets us apart

The Forensic team at KordaMentha includes one of the largest and most experienced groups of expert witnesses in Australia and the Asia-Pacific region.

Each of our experts has several decades of experience, bringing familiarity with the requirements and rules of the major arbitral bodies and experience in delivering expert testimony, both in person and virtually.

Our focused and transparent approach helps clients turn chaos into clarity.

Working closely with the key stakeholders involved in major claims, KordaMentha's forensic experts present a true, independent measurement of cases at arbitral tribunals.

## Case studies

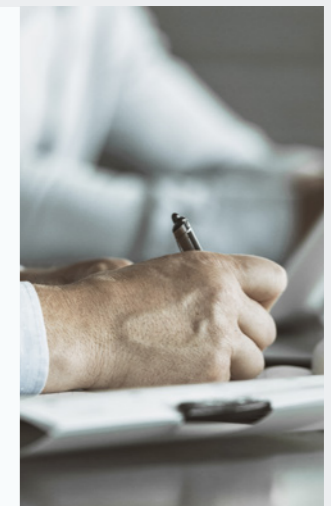


### Cost verification for major construction project

KordaMentha was engaged to provide expert witness services relating to the extent and nature of costs incurred in respect of a major marine construction project in Western Australia. The costs incurred on the project were said to have been over \$2 billion. We provided independent verification of the costs incurred using a robust sampling methodology that focussed on significant suppliers. We also conducted further verification work regarding amounts charged by related entities to assess the extent to which, if any, there were uplifts and other allocations in those costs. In addition to expert reports and joint reports, the partner involved provided oral testimony during the arbitral proceedings.

### Expert assistance for international consumer products dispute

KordaMentha's forensic services were sought in a consumer products industry matter referred to the International Chamber of Commerce (ICC). The dispute arose from the termination of a Master Franchise Agreement awarded by an Australian entity to a Chinese entity covering most major territories in China. We prepared expert reports and a Joint Expert Statement responding to the claimant's expert reports on damages. The partner involved provided oral evidence at the hearing in London before a three-member arbitral panel.



### Breach of an exclusive manufacturing licence agreement

KordaMentha was engaged to provide expert witness services in relation to a loss of profit claim which resulted from the alleged breach of an exclusive manufacturing license agreement. The agreement was between manufacturers based in Europe and China and related to the production of aircraft. The partner involved provided expert reports in response to the applicant's claim for damages and oral testimony (via video link) in ICC international arbitral proceedings seated in Singapore.

“KordaMentha gave a strong and polished performance in delivering complex technical evidence (both written and oral) in a set of high-value private arbitrations. The KordaMentha team were knowledgeable, strategic and pragmatic in a difficult dispute involving significant commercial sensitivity.”

Partner, Law Firm

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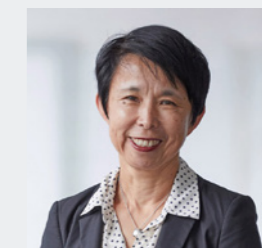
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