

International Litigation & Dispute Resolution

STATEMENT OF CAPABILITY

2011

Nishith Desai Associates

Legal & Tax Counseling Worldwide

Mumbai • Silicon Valley • Bangalore • Singapore • Basel • New Delhi

Nishith Desai Associates (NDA) is a research based international law firm with offices in Mumbai, Bangalore, Silicon Valley, Singapore, Basel and New Delhi. We specialize in strategic legal, regulatory and tax advice coupled with industry expertise in an integrated manner. We focus on niche areas in which we provide significant value and are invariably involved in select highly complex, innovative transactions. Our key clients include marquee repeat Fortune 500 clientele, of which over 60 per cent are US corporations.

Core practice areas include International Tax, International Tax Litigation, International Litigation & Dispute Resolution, Fund Formation, Fund Investments, Capital Markets, Employment and HR, Intellectual Property, Corporate & Securities Law, Competition Law, Mergers & Acquisitions, JVs & Restructuring, General Commercial Law and Succession and Estate Planning. Our specialized industry niches include financial services, IT and telecom, education, pharma and life sciences, media and entertainment, real estate and infrastructure.

Our Tax, Investment Funds and Technology-Media-Telecom (TMT) practices have been consistently ranked in tier 1 by Legal 500, while Chambers & Partners have ranked us # 1 for Tax, TMT and Real Estate - FDI. We've received honorable mentions in Asian - Counsel Magazine for Alternative Investment Funds, International Arbitration, Real Estate and Taxation for the year 2010. We have been adjudged the winner of the Indian Law Firm of the Year 2010 for TMT by IFLR. We have won the prestigious "Asian-Counsel's Social Responsible Deals of the Year 2009" by Pacific Business Press, in addition to being Asian-Counsel Firm of the Year 2009 for the practice areas of Private Equity and Taxation in India. Indian Business Law Journal listed our Tax, PE & VC and Technology-Media-Telecom (TMT) practices in the India Law Firm Awards 2009 as also Legal 500 (Asia-Pacific) that has ranked us #1 in these practices for 2009-2010. We have been ranked the highest for 'Quality' in the Financial Times – RSG Consulting ranking of Indian law firms in 2009. The Tax Directors Handbook, 2009 lauded us for our constant and innovative out-of-the-box ideas. Other past recognitions include being named the Indian Law Firm of the Year 2000 and Asian Law Firm of the Year (Pro Bono) 2001 by the International Financial Law Review, a Euromoney publication. In an Asia survey by International Tax Review (September 2003), we were voted as a top-ranking law firm and recognized for our cross-border structuring work.

Our research oriented approach has also led to the team members being recognized and felicitated for thought leadership. Consecutively for the fifth year in 2010, NDAs have won the global competition for dissertations at the International Bar Association. Nishith Desai, Founder of Nishith Desai Associates, has been voted 'External Counsel of the Year 2009' by Asian-Counsel and Pacific Business Press and the 'Most in Demand Practitioners' by Chambers Asia 2009. He has also been ranked No. 28 in a global Top 50 "Gold List" by Tax Business, a UK-based journal for the international tax community. Nishith Desai is listed in the Lex Witness 'Hall of fame: Top 50' individuals who have helped shape the legal landscape of modern India.

Our International Litigation and Dispute Resolution Practice Expertise

Dispute Resolution is an integral part of judicial systems all over the world. Globalization and the growth of international commerce have created an unprecedented need to efficiently resolve cross-border disputes. With the evolution of effective and efficient arbitration systems and fora, arbitration continues to gain prominence as a mode of dispute resolution. Issues relating to enforcement of foreign arbitration awards and judgments are constantly being

deliberated upon and require an in-depth analysis of the various legal issues arising therein. Mediation is also gaining popularity.

At Nishith Desai Associates (“NDA”), we have developed a strong expertise and carved a niche in the area of litigation and dispute resolution with a strong focus on complex cross-border disputes. NDA strives to provide its clients with creative and pragmatic solutions and effective dispute resolution strategies.

We are an intensely research-based organization and place tremendous emphasis on trends and predictive research in line with our philosophy to anticipate trends, prepare in the context and deliver. A key output of our research-based approach and knowledge dissemination initiatives is the detailed analysis we provide to an extensive repertoire of clients and subscribers on contemporary issues in all areas of practice. Our research paper ‘**Dispute Resolution in India**’ provides incisive analysis of key imperatives in the litigation space and, has been extensively well received along with the articles we routinely publish in key international and Indian journals and media.

We are actively involved in various matters related to Corporate Laws, Intellectual Property Laws, Employment Laws and Commercial Laws; and have advised on several litigation matters and pre-litigation strategies to clients involved in fields such as media, entertainment, infrastructure, franchising, machinery & equipment manufacturing, outsourcing and financial services with respect to their disputes before the Supreme Court, various High Courts, various lower courts, the Company Law Board, the Copyright Board, Securities and Exchange Board of India, IPR Tribunals, etc.

Some of our accolades include:

- Listed in the Asian Legal Business Watch list of ‘Top 10 Firms to Watch in 2009’
- Recognized by Chambers and Partners as the ‘Most In-Demand Practitioners’
- Within a decade of setting up, NDA was honored with the ‘Indian Law Firm of the Year’ and in the next year, with ‘Asian Law Firm of the Year (*Pro Bono*)’ awards by the International Financial Law Review, a Euromoney publication

Scope of Services

We advise clients on -

- Pre-litigation strategies
- Dispute resolution strategy
- Negotiations, litigation, arbitration, conciliation and mediation
- The enforcement of intellectual property rights, including patents.
- Trademarks, copyrights, designs and trade secrets
- HR related disputes
- Disputes related to mergers and acquisitions
- Issues relating to international commercial arbitration
- The enforcement of foreign judgments and awards in Indian courts
- The choice of law and jurisdiction issues with a focus on the principles of Private International Law and reconciling the conflicts between various laws
- Transactional documentation on the various choices of dispute resolution rules and venues and providing them an analysis of the benefits and limitations of each

We have represented our clients and are legal counsel on several complex and intricate matters. Listed below are some examples of our work.

Pre-Litigation Strategy

- Represented a client in an international mediation under the American Arbitration Association (AAA) and negotiated a successful settlement
- Advised a leading Indian BPO company with respect to cross-border litigation and assisted in drawing up the settlement
- Advised a leading international event management company with respect to infringement of their intellectual property rights and passing off
- Advised a leading infrastructure provider in relation to their dispute with an international conglomerate arising out of an infrastructure contract
- Advised a prominent French bank in relation to its challenge of the scheme of amalgamation of a large Indian conglomerate
- Advised a well known IT company against one of the world's largest software companies with respect to a dealership contract.

International Commercial Arbitration

- Represented clients in commercial arbitrations.
- Assisted clients in negotiations and in drawing up settlements
- Represented a client in arbitration proceedings with respect to a dispute arising out of an investment agreement which included questions relating to confidentiality and non-compete issues.
- Advised an engineering company on the enforceability of an ICC arbitration award passed in London against a US company
- Represented an international publishing group in arbitration with respect to a dispute arising out of a Master Franchise Agreement
- Successfully represented a multinational media fund against a large international media conglomerate with relation to a satellite broadcasting contract.

Intellectual Property and Media Laws:

- Represented clients in a number of intellectual property litigations including patent, trade mark, design and copyright
- Successfully represented a client in a cross-border copyright action for rights relating to Tintin books in the Bombay High Court
- Represented a number of clients in their domain name disputes before bodies such as World Intellectual Property Organization (WIPO)
- Advised a satellite radio company in relation to notices received from the regulatory authorities.
- Advised an international satellite company in relation to disputes with Indian regulatory bodies
- Advised a leading film distribution company with respect to disputes relating to films Ghajini, Golmaal and Singh is King

- Advised a leading theater and film director in India with respect to intellectual property disputes
- Advised a client in the software space with respect to a dispute with its employees relating to ownership of intellectual property in certain patents
- Successfully represented a film production company in its dispute with suppliers before the Bombay High Court
- Represented an emerging Indian IT company against an established competitor with respect to copyright infringement

Corporate and Securities Litigation:

- Successfully represented a client in an election related corporate litigation
- Advised a foreign institutional investor with respect to proceedings before the Enforcement Directorate
- Successfully representing clients before various regulatory bodies and forums such as the Company Law Board, SEBI, SAT for matters regarding various corporate & securities regulations such as the SEBI Takeover Code and the SEBI Insider Trading Regulations etc.
- Represented a UK company with respect to a winding-up petition against an Indian listed company.

Human Resource Laws:

- Successfully represented a radio jockey in a litigation seeking to restrain him from working for competitors of his former employer.

General Commercial Laws:

- Advised a leading international financial services company in a property dispute in India
- Advised clients in respect of disputes arising out of endorsement contracts
- Advised several venture capital investors, private equity investors and Indian Companies in respect of dispute related to restructuring of the investments and possible exits arising out of the Share Subscription/Purchase Agreements and Shareholders Agreements
- Advised a French fund manager regarding a white collar crime/ economic offence in relation to an Indian investment

Representative Clients

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| • Adventity BPO | • Flextronics |
| • Bluestar | • Franklin Templeton |
| • Bristol Myers | • Hayman |
| • Collabnet | • Indian Newspaper Society |
| • DBS Bank | • Indiana Gratings |
| • Digital Radio (Red FM) | • India Properties |
| • Digital Partners | • India Deep Value Fund |
| • Eurokids International | • Indian Film Company (Studio 18) |
| • Epicenter Technologies | • Idream Productions |
| • Fursa Funds | • i-Flex Solutions |

- Johnson & Johnson
- Lokhandwala Builders
- Measat
- Mellon India
- Music Choice
- New Star Management
- Nicholas Applegate Capital Management
- Nvidia Orbit Corporation
- Reva Electric
- Sanjay Leela Bhansali Films
- Schlumberger Asia Services
- Silicon Valley Bank
- Transocean Offshore
- The George P. Johnson Company
- Teamasia Sahara
- Semiconductors (India)
- Toonz Animation India
- Ultra Motors
- US Pizza
- Voltas India
- Warner
- Worldspace

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