

## Spotlight: Morgan Lewis takes on the war in the sky

By Annabel Tinson 16 February 2024

This week on Spotlight, we check out the aviation disputes team at Morgan Lewis & Bockius as it brings a large number of operator policy claims against insurers in the mammoth Russian aviation litigation, which featured in *The Lawyer's* top 20 cases of 2024.

**The market:** Aviation is both an extremely international and consistently high-value industry. An issue with an aircraft engine could be a \$10m-\$20m expense, whereas one reasonably new commercial jet could turn into a \$100m problem. So, when trouble strikes, it's expensive trouble. If a plane causes an accident, an industry review can be triggered of that particular fleet of aircraft.

Globally, the industry swings from feast to famine. During the pandemic, the concern was how many planes were out of action. It has now rebounded as the world's public wants to travel, and there are waiting lists to buy planes. The world's supply of commercial aircraft is dominated by Boeing and Airbus; the other players are minnows in terms of scale. Both of these companies have order backlogs that stretch for years.

As airlines are so short of capacity, every time a plane comes off lease, as many as 10 airlines can be clamouring over one plane. The airline that currently has the plane is reluctant to

**The team:** Key partners in the London aviation disputes team include **Peter Sharp, David Waldron** and **Paul Mesquitta**. Key associates include **Dannielle Hamer, Anthony O'Driscoll, Ed Brown-Humes, Polina Sizikova, Christina Lewes** and **Kevin Regan**. In the US, key partners include **Sergio Oehninger, Charles Malaret, Jeff Raskin,** and **Mike D'Agostino**, in addition to associate **Josh Singh**.

The London team works closely with non-disputes lawyers in the aviation group globally to deal with the transactional side of the market. Key transactional colleagues include **Dr Manuela Krach** in London; **James Bradley**, who leads a team in Singapore; **Bruce Silvers**, who leads in the US; and **Sidanth Rajagopal**, who leads the Middle East aviation practice.

give it back due to short supply, but the owner might have already pre-sold it to the next lessee, making for intense three-way battles.

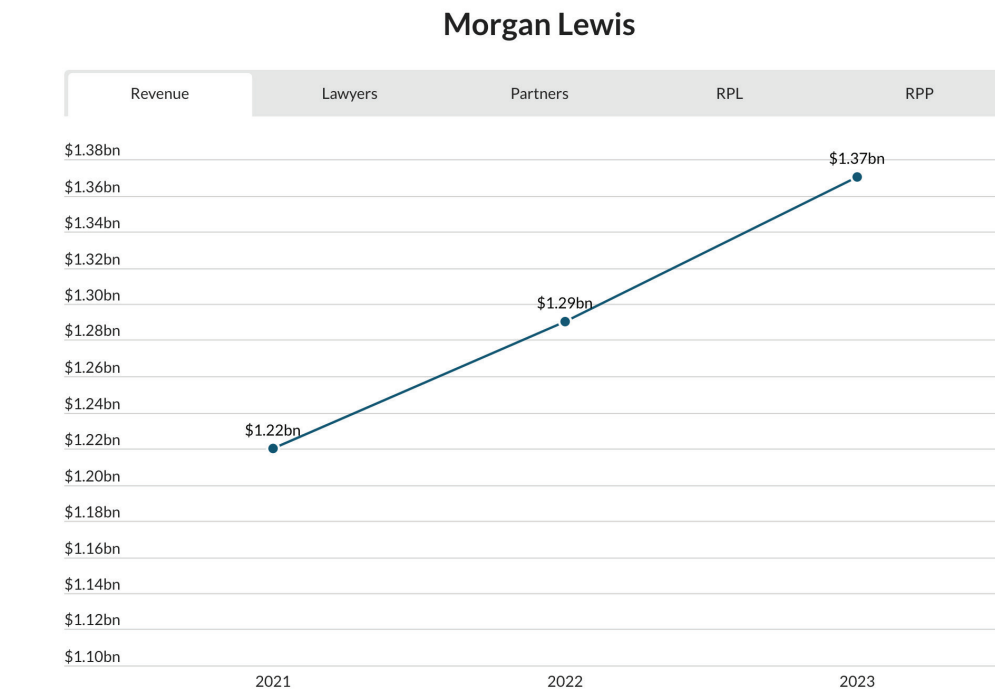
It is also an industry that uses technology extensively. The industry is investing hugely in clean aviation and trying to develop alternative fuels – meaning technology and ESG issues are driving this industry.

**Morgan Lewis's aviation disputes practice:** Globally, the firm has 997 disputes lawyers, including 371 partners. It organises itself “vertically” on a departmental basis, meaning every one of those 997 lawyers is in the litigation department. It then has “horizontal” industry groups, of which aviation is one and includes lawyers from across the firm, including non-disputes lawyers.

Key partners working on aviation disputes in London include Peter Sharp and David Waldron, who have both been at the firm for over a decade and whose practices straddle international arbitration and litigation. More recently, Paul Mesquitta took on aviation work, having previously leaned towards insurance. They are supported by six associates.

When the tanks rolled across the border at the time of Russia's invasion of Ukraine, the phones at Morgan Lewis started ringing off the hook. The team rapidly found themselves being asked to help many aircraft leasing clients who shared a common problem: they were the owners of aircraft on lease to Russian airlines and couldn't get them back.

After an initial attempt to get the actual planes back – of which there was some success as the team chased aircraft around the globe that landed in various countries – attention rapidly turned to



Source: *The Lawyer* Global Litigation 50

insurance. The team found that there were typically two different types of insurance policies: the one clients took out themselves, and the ones that the airlines took out. These have come to be termed as “LP” (lessor policy), which is the subject of the October trial, and “OP” (operator policy), which has been the subject of this month's trial regarding jurisdiction.

In the Russian aviation litigation, the team works closely with partners in New York, Washington and California. This is because the firm has clients with policies that are relevant to them in London and various other US jurisdictions.

The team typically acts in disputes regarding the repossession of aircraft, engineering and repair issues and supply and demand problems. The aviation industry as a whole is now a strategic focus for Morgan Lewis, and it is also gearing up for technology-related aircraft disputes as aircraft leasing giants have recently been the target of security breaches. The firm recently added Vishnu Shankar to its ranks in October 2023, an expert

in cybersecurity and formerly head of legal at the Information Commissioner's Office.

In terms of counsel, the team frequently works with 3VB's Tom Weitzman KC, 7KBW's Stephen Hofmeyr KC, Josephine Higgs KC and Michael Holmes KC, Quadrant's Robert-Jan Temmink KC and Chirag Karia KC and Fountain Court's Alex Milner KC and Brick Court's Harry Matovu KC. Sought-after juniors for the team include 3VB's Phillip Hinks and Kate Holderness.

### Hires and exits

According to *The Lawyer's* Practice Analysis tool, three disputes associates left Morgan Lewis in London in 2023, two of whom departed for Hausfeld and HSBC, while one partner left for Jones Day. The firm hired data protection expert Vishnu Shankar last October, who was the former head of legal at the Information Commissioner's Office.

