Ronen Hazarika

The chief executive officer of Energenics in Singapore, a supplier of alternative energy technologies, talks about where he likes to seat arbitration, his preferred firms, and the amazing billing practices that have turned him into an active case manager

"**I am not a qualified lawyer.** However, I am an experienced high-usage user of legal services and I take a hands-on approach to running commercial disputes. Our lawyers even have a running joke that I like to do my own litigation!

We do not have any active international arbitrations at the moment, although we have a potential arbitration seated in the US. We recently settled a major series of disputes at the High Court and Court of Appeals in London that took three years. Our business operations in the clean fuels sector are worldwide, so our contracts tend to provide for arbitration as the dispute resolution mechanism, and we will normally have one or two active international arbitrations at any particular time.

We do not have any explicit policies on where to seat an arbitration, but I usually defer to the advice provided by my external lawyers. In each contract there will be a number of different factors to take into account, and the counterparty may have its own preference as to the seat. However, I would generally try to have a geographically convenient seat, such as Singapore or Hong Kong. For business operations in Europe, I tend to try to adopt London as the seat, but this is negotiable.

As a user of arbitration, I would tend to choose ad hoc arbitration, principally because it avoids the upfront fees charged by some of the institutions. But I would not be dogmatic about this. I think the main beneficiaries of institutional arbitration are the tribunal members, who get the benefit of administrative support, rather than the parties.

I make all the decisions on policies. Since I also negotiate major transactions, there is no problem ensuring the policies are understood and observed.

We instruct the London office of O'Melveny & Myers for most of our international dispute work. Since we also use that firm for a lot of our transactional and restructuring work, both in the US and Europe, they are probably also our regular external counsel. Because the firm has specialist experts in international arbitration, such as David Foster and James Barratt in London, the issue of having another more specialist firm does not really arise. I have also used Raja Bose, an international arbitration specialist at K&L Gates. Bose knows David Foster well, so it helps to get advice from both of them and where necessary they work together. I tend to instruct individuals with whom I have worked successfully in the past, rather than placing a great deal of weight on a firm's reputation.

My own notion of a "specialised firm" is one where a number of dispute resolution partners and lawyers have expertise in international arbitration. Also a firm with a reputation as one focusing strongly on international arbitration and cross-border litigation.

We prefer to use the firm that drafted the disputed contract for arbitration proceedings. However, each decision depends on the situation, and if there were to be any questions over the contract being flawed or subject to criticism, then I would usually retain a different firm from the one that drafted it.

I have become more pragmatic and open to early settlement discussions, and will probably be more focused on ADR at all stages of the case than I was a few years ago. I am also more sensitive to the costs of protracted litigation and arbitration, and now have a greater awareness of the way in which legal costs can escalate if not properly scrutinised and monitored by the client. One of the law firms I worked with – which was not one of the ones I already mentioned – charged me for having the team around for dinner at my house once, and also put the senior partner's holiday flight to Italy on my bill!

The more time and effort you devote to managing a dispute, the greater the chances are of achieving a favourable outcome. Do not adopt a "hands-off" approach. No matter how good the external counsel may be, there should always be scope for questioning them, having a candid discussion about the strategy to adopt and raising new ideas. However, you can only do this fruitfully if you have immersed yourself in the case.

I would recommend O'Melveny & Myers in both London and the US. I have used David Foster, the head of the London office's international arbitration practice, for several years, and the firm has recently achieved some very good results for us in connection with disputes in London and the US.

If they were conflicted out, I'd choose Raja Bose of K&L Gates.

I take it for granted that external counsel will be technically excellent and highly experienced in the kind dispute on which he is advising. In addition, I prefer to work with people who are user-friendly and accessible and have a good sense of humour. It's always essential for my disputes!

Arbitrators who stick to a procedural timetable and ensure both parties comply with procedural orders always make a good impression on me. Also if they produce an award promptly and, of course, in my favour!

There are many things that could be improved in arbitration, such as time, cost and arbitrator availability. But I think these are issues with which everyone is already familiar.

Although I advocate the "hands-on" approach, I would still prefer to spend less time with our lawyers, while still having the protection that a close working relationship can bring to contractual relationships with third parties."