

## Deal Report

### **Hengeler wins for Flender principle judgement before BGH on hidden contribution in kind**

A. Friedr. Flender AG (Flender AG) has, in the last instance, won a legal battle before the German Federal Court (Bundesgerichtshof - BGH) against the insolvency administrator of a former subsidiary who had filed a claim against Flender AG on the basis of a so-called hidden contribution in kind. The BGH, in its principle judgement of 12 February 2007 (AZ. II ZR 272/05), has taken a clear stance on previously unresolved issues relating to hidden contributions in kind in corporate situations, which are of great relevance to everyday practice. The decision is of fundamental significance and will therefore be published in the official law digest of the BGH.

Hengeler Mueller provided comprehensive advice to Flender AG out of court and in all instances. Advice was provided by partner Daniela Favocchia and associate Jan Heinemann.

Flender AG was represented before the BGH by Hermann Büttner (Büttner & Baukelmann, Karlsruhe), who is admitted to plead before the BGH.

Michael Pehlke, General Counsel of Flender AG, was responsible for this matter within Flender's legal department.

Contact: Keith D. Bain  
– PR Manager –  
Hengeler Mueller  
Partnerschaft von Rechtsanwälten  
Bockenheimer Landstrasse 24  
60323 Frankfurt  
Tel.: 00 49 69 17095-207  
Fax: 00 49 69 725773  
Email: [keith.bain@hengeler.com](mailto:keith.bain@hengeler.com)

13 March 2007