

INTERACTIVE EDITION

asian-mena Counsel

Volume 14 Issue 7, 2017



IP REPORT



The thing about ...

Yoon & Yang
founding partner,
Seung Soon Lim

**New IP & Online
Landscape in
China**

**Reshaping the
perception of
Indian IP**





Nick Ferguson – Managing Editor
nick.ferguson@inhousecommunity.com

Brian Chun – Design Manager
brian.chun@inhousecommunity.com

Wendy Chan – Regional Head of Events
wendy.chan@inhousecommunity.com

Gigi Ma – Events Manager
gigi.ma@inhousecommunity.com

Rahul Prakash – Associate Publisher
rahul.prakash@inhousecommunity.com

Yvette Tan – Head of Research and
Development Manager
yvette.tan@inhousecommunity.com

Yannie Cheung – Office Administrator
yannie.cheung@inhousecommunity.com

Tim Gilkison – Managing Director
tim.gilkison@inhousecommunity.com

Patrick Dransfield – Publishing Director
patrick.dransfield@inhousecommunity.com

Arun Mistry – Director

Editorial Enquiries

Tel: (852) 2542 4279
editorial@inhousecommunity.com

Advertising & Subscriptions

Tel: (852) 2542 1225
rahul.prakash@inhousecommunity.com

Published 10 times annually by
Pacific Business Press Limited
Room 2007, C C Wu Building,
302-8 Hennessy Road, Wan Chai,
Hong Kong S.A.R.

Publishers of

- **ASIAN-MENA COUNSEL™**
Magazine and Weekly Briefing
- **IN-HOUSE HANDBOOK™**

Organisers of the

- **IN-HOUSE CONGRESS™** events

Hosts of

- **www.inhousecommunity.com**
- **www.mycareerinlaw.com**

Forums for the In-House Community
along the New Silk Road

© 2017 Pacific Business Press Limited
and contributors

Opinions expressed herein do not constitute
legal advice, and do not necessarily reflect the
views of the publishers.

ISSN 2223-8697

Feature contributors

Ai-Leen Lim is chief executive and principal counsel of *AWA Asia*. Based in Beijing, she manages the firm's Asia offices, its headquarters in Hong Kong, as well as its wholly owned IP consultancy, *AWA IP* in Beijing, a licensed trade mark agency that is able to file and enforce trade marks in China directly before the Trademark Office and administrative authorities. Lim advises clients on IP portfolio management in China, Hong Kong and internationally, with a special focus on strategic brand management and social media. She is experienced in contentious and non-contentious IP matters, as well as regulatory issues in conjunction with market entry and product promotion. Lim's diverse client base ranging from IP rich fast growing start-ups to Fortune 500 companies.



Pravin Anand is managing partner of *Anand and Anand*. He has been a counsel in several landmark IP cases involving the first Anton Piller order, the first Mareva injunction order, the first Norwich Pharmacal order, moral rights of artists, the first order under the Hague Convention and several significant cases for pharma clients such as Novartis, Pfizer and Roche. He was the past president of FICPI India, AIPPI Indian National Group, APPA India and Asia Euro Forum. He is co-author of the two volumes of Halsbury's Laws of India on Intellectual Property and author of the India chapter in *Copyright Throughout the World* (Thomson Reuters).

Vaishali Mittal is a partner at *Anand and Anand*. She works in the firm's litigation department and has more than 13 years of experience in IP, spanning a wide range of subjects in highly contested IP litigation matters. Her role includes training younger lawyers in the art of litigation and playing a leadership role in the department. She has been involved in several landmark judgments and her handling of seriously contested IP matters has won several accolades from clients. A contributor to professional law journals on intellectual property matters, Mittal is also a member of the (AIPPI) Association Internationale pour la Protection de la Propriete Intellectuelle and the International Trademark Association.



About the IN-HOUSE COMMUNITY

A mutually supportive community of In-House Counsel helping In-House Counsel and Compliance Professionals meet their ethical, legal and business commitments and responsibilities within their organisations.

The In-House Community comprises over 21,000 individual in-house lawyers and those with a responsibility for legal and compliance issues within organisations along the New Silk Road, who we reach through the annual IN-HOUSE CONGRESS circuit of events, ASIAN-MENA COUNSEL magazine and WEEKLY BRIEFING, and the In-House Community online forum.



Empowering In-House Counsel along the New Silk Road

IP REPORT



28 The new IP and online landscape in China

By Ai-Leen Lim, *AWA Asia (part of the Awapatent group)*

32 Reshaping the perception of Indian IP law

By Pravin Anand and Vaishali Mittal, *Anand and Anand*

27

4



JURISDICTION UPDATES

Key legal developments affecting the In-House Community along the New Silk Road

4 Didi and Uber China's merger from an Anti-monopoly Law perspective

反垄断视角下滴滴收购优步中国

By Amy Yuan of *Martin Hu & Partners*

6 Regulatory challenges for Vodafone Idea merger




By Gaurav Wahie and Lovejeet Singh of *Clasis Law*

10 Recent changes to Indonesia's coal and mineral resources regulations

By Dini Retnoningsih and Indra Aditya Pambudy of *Lubis Ganie Surowidjojo*

10



- 12  **Cyber bullying in the Philippines**
By Cyndy P. dela Cruz of *ACCRA Law Offices*
- 14  **Unfair competition in Korea**
By Myung-Cheol Chang of *Lee International IP & Law Group*
- 16  **New capital adequacy regulations in Vietnam**
By Luu Thi Ngoc of *Indochine Counsel*



18 The Briefing

Along with the latest moves and jobs, we put the spotlight on Bombay Stock Exchange's IPO, speak to recruiters Lewis Sanders about the outlook for 2017 and review our latest event

26 Investigative Intelligence:

Protecting IP in three dimensions

Intellectual property is multi-faceted and practitioners have to think in three dimensions – mental, physical and digital – to fully grasp the potential vulnerabilities



36 The thing about ... Seung Soon Lim

Recently in Seoul, *Asian-mena Counsel's* Patrick Dransfield photographed **Seung Soon Lim**, managing partner of *Yoon & Yang*, and also asked him a series of questions on behalf of the In-House Community.



41 Asian-mena Counsel Direct

Important contact details at your fingertips.



Asian-mena Counsel is grateful for the continued editorial contributions of:





CHINA



By Amy Yuan
袁明悦



8F, Kerry Parkside Office, 1155 Fang Dian Road, Shanghai 201204, P.R. China
Tel: (86) 21 50101666*912 / Fax: (86) 21 50101222
E: amy.yuan@mhplawyer.com • info@mhplawyer.com
W: www.mhplawyer.com

Didi and Uber China's merger from an Anti-monopoly Law perspective

On August 1, 2016, which happened to be the eighth anniversary of the Anti-monopoly Law, Didi announced its merger with Uber China. The Ministry of Commerce (Mofcom) has not yet launched any investigation into operator concentration, but the merger has sparked heated debate.

Debate over self-declaration

As provided in Article 3 of the Provision of the State Council on the Declaration Threshold for Concentration of Undertakings, if during the previous fiscal year, the total global turnover of all business operators participating in the concentration exceeded RMB10 billion (or RMB40 million in mainland China), and at least two of the operators each had a turnover exceeding RMB400 million within mainland China, a declaration must be lodged in advance before the concentration is implemented. However, relevant provisions fail to further specify "turnover".

As to the merger of Didi and Uber China, one argument holds that it should be gross turnover, including all fees customers paid on Didi and Uber's platforms. A different opinion holds that turnover should be net income, excluding fees paid on such platforms as pass-through in light of Didi and Uber's special business models.

Nevertheless, while the requirements for self-declaration may be unclear, Mofcom can still initiate a monopoly investigation based on Article 4 of the Provision if it judges that the merger would eliminate or restrict competition. However, Article 4 has remained a dormant clause since its effectiveness.

The question of monopoly

Although it is unclear whether an investigation will be launched in this case, heated debate has arisen on whether the merger will in essence constitute a monopoly. To reach the conclusion, it is necessary to first determine the relevant market.

“As to Didi and Uber China, although they are established under company names, they are more like markets for deal making. Rather than being operators in the marketplace, they may constitute a market”

Traditional viewpoint

The traditional viewpoint is based on the Guidelines on Relevant Market Determination promulgated by the Anti-monopoly Commission of the State Council, which relies on demand-side substitution, hypothetical monopolist test, etc to determine relevant market.

Demand-side substitution

The Guidelines pointed out that price factor can be considered in the demand-side substitution test. In light of the merger of Didi and Uber China, the choice of transportation vehicles is often driven by different consump-

tion demand with different price sensitivity. For traditional public transportation vehicles, prices are subject to regulatory control and thus are below the price of car-hailing services, which are subject to the market price and provide differentiated services. Consequently, car-hailing constitutes an independent market from the market of public transportation vehicles.

Hypothetical monopolist test

The hypothetical monopolist test starts with the assumption that the business operator is a monopolist (the "hypothetical monopolist"). Provided that the sales conditions of all other products remain unchanged, if the hypothetical monopolist can continuously increase the price of the target product by a small rate while the business is still lucrative, the target product will be deemed as constituting a relevant market. Apparently, Didi and Uber China currently increase the price continuously at a small rate. If its business is still lucrative, such service shall be deemed as a relevant market.

To sum up, the traditional viewpoint is inclined to hold car-hailing services as a relevant market. However, the modern market viewpoint thinks differently.

Market viewpoint

The modern market viewpoint is borne of the internet age. It holds that large internet companies whose major function is to facilitate deal making should be defined as a market. To take a step further, if the large internet company is defined as a market, it would also be unnecessary and unfeasible to determine the relevant market that is being monopolised.

As to Didi and Uber China, although they are established under company names, they are more like markets for deal making. Rather than being operators in the marketplace, they

may constitute a market. Take Taobao for example. There is little debate on whether Taobao is a monopoly. From the market viewpoint, it is because the mass society has already viewed Taobao as a market, rather than an operator. Like Taobao, if Didi and Uber China each constitutes a market, their

merger will be a merger of two markets, rather than operator concentration. Thus, investigation of the merger would be unnecessary and it would not constitute a monopoly.

As seen from the above, it is debatable on the merger of Didi and Uber China. In light of the macro environment, the internet

platform industry still enjoys a policy bonus, which may be one of the considerations that explains why Mofcom has not yet launched an investigation. Nevertheless, as this industry matures, it will be necessary to promulgate detailed regulation to address the above debate and avoid ambiguity.

反垄断视角下滴滴收购优步中国

2016年8月1日，在《反垄断法》生效的8周年纪念日，滴滴宣布与优步中国合并。但商务部至今尚未对该合并作出经营者集中审查。外界对滴滴与优步中国合并不乏争议，其中，既包括企业是否应主动申报的程序性争议，也包括是否构成垄断的实质性争议。

一、程序上是否应当主动申报

按照《国务院关于经营者集中申报标准的规定》（“《规定》”）第三条所规定的营业额标准，参与集中的所有经营者上一会计年度在全球范围内的营业额合计超过100亿元人民币（或在中国境内的营业额合计超过20亿人民币），并且其中至少两个经营者上一会计年度在中国境内的营业额均超过4亿元人民币，经营者应当事先向国务院商务主管部门申报，未申报的不得实施集中。但相关规定并未对“营业额”作出更明确的解释。

对于滴滴与优步中国合并，就如何判断“营业额”，存在以“流水额”还是以“净收入”为准的争议。有观点认为“营业额”应作严格解释。对于滴滴及优步中国的营业额，应包含乘客向网约车平台支付的全部费用（即流水额）。但另有观点认为因网约车行业模式的特殊性，滴滴与优步中国仅作为中介平台，司机并非公司员工，对于其营业额考察应衡量公司的净收入而非流水额，即应为乘客向平台支付的全部费用中，最终由滴滴或优步中国净收入的部分。

但即便主动申报尚存争议，商务部依旧可根据《规定》第四条主张滴滴收购优步中国案涉嫌排除、限制竞争，因而依职权调查是否涉嫌垄断，对滴滴与优步中国合并发起实质性审查。遗憾的是，自《反垄断法》生效以来，商务部至今从未适用《规定》第四条，也没有为其使用制定配套规范。

二、实质上是否构成垄断

尽管滴滴与优步中国合并尚未步入实质审查环节，外界对滴滴与优步中国合并是否构成垄断依旧讨论热烈。而确定是否构成垄断的关键在于相关商品市场界定。以不同的市场边界作为标准，得到的结论往往大相径庭。

■ 传统观点

传统观点依据《国务院反垄断委员会关于相关市场界定的指南》（“《指南》”），提出需求替代、假定垄断测试等方法界定相关商品市场。

（一）需求替代

《指南》提出在界定相关市场时，可以基于商品的特征、用途、价格等因素进行需求替代分析。就需求替代分析中的价格因素而言，不同出行方式对应的是不同的消费需求，以及对价格敏感度不同的消费群体。出租车、公交和地铁都属于价格管制行业，且在政府补贴下，价格通常低于网约车。而网约车则实施市场调价，提供差异化服务，其显然不应与出租车、公交和地铁划入同一相关商品市场。

（二）假定垄断测试

假定垄断测试首先假设该经营者是以利润最大化为经营目标的垄断者，在该前提假设下进一步分析，在其他商品的销售条件保持不变的情况下，垄断者能否持久地（一般为1年）小幅（一般为5% 10%）提高目标商品的价格。若目标商品涨价后，垄断者仍有利可图，则目标商品就构成相关商品市场。对于滴滴与优步中国的网约车服务，显然在其合并后存在小幅且非短期的涨价，若其仍有利可图，则其提供网约车服务应构成相关商品市场。

由此可见，传统观点倾向于判断网

约车服务构成相关商品市场。但市场观点却对此抱有截然不同的看法。

■ 市场观点

市场观点为互联网时代的产物。其认为对于大型互联网公司，本身便具有拥有撮合交易的市场实质，在其体量足够大时，应将其本身定性为市场，而非经营者才更为准确。进一步而言，若将大型互联网公司本身定性为市场，则判断相关市场显然没有必要，也是不可实现的。在大型互联网公司本身为市场而非经营者的情况下，因其本身并非经营者，判断其构成经营者集中，从而存在垄断之嫌也是无本之木。

对于滴滴与优步中国，尽管其同样以公司的名义设立，具有法人实体，但其与传统意义上的公司显然已有分别，更多的是扮演撮合交易这一市场作用。与其将其定性为传统意义上的经营者，不如说其自身已构成市场。另一个典型案例为淘宝。很显然，社会公众对淘宝是否构成垄断关注度很低，市场观点认为究其原因在于社会大众都已将淘宝看做市场，而并未将其作为经营者看待。若滴滴与优步中国各自被认定为市场而非经营者，则其合并后本质为两个市场的合并，而非经营者集中。显然对于该等合并不应发起经营者集中事先申报，在实质上也不应认定构成垄断。

由此可见，认定滴滴与优步中国合并是否构成反垄断尚存诸多争议。从政策上看，对于互联网平台这一新兴事物，国家对其发展是宽容的，商务部也暂未对滴滴与优步中国合并作出明确表态。但随著互联网平台日趋成熟，我们期待有关部门可以尽快出台相关措施，明确互联网并购反垄断相关问题，以节约因不确定性导致的企业交易成本，提升市场效率。



INDIA



By **Gaurav Wahie** and
Lovejeet Singh



14th Floor, Gopal Das Bhawan, 28, Barakhamba Road, New Delhi 110 001 India
Tel: (91) 11 4213 0000 / Fax: (91) 11 4213 0099

Email: gaurav.wahie@clasislaw.com • lovejeet.singh@clasislaw.com Web: www.clasislaw.com

Regulatory challenges for Vodafone Idea merger

Vodafone India is in discussions with Idea Cellular for an all-share merger. It appears that the intense competition the Indian telecom industry is facing due to freebies offered by the new entrant, Reliance Jio, has nudged this consolidation move. If the merger goes through, it will create India's largest telecom company. However, regulatory challenges could impede a smooth merger.

The proposed deal will require approvals from several regulators, such as the Department of Telecommunications (DoT), Competition Commission of India (CCI) and National Company Law Tribunal (NCLT).

Approval from DoT

The DoT's M&A guidelines (Guidelines for Transfer/Merger of various categories of Telecommunication service licence/authorisation under Unified Licence on compromises, arrangements and amalgamation of the companies) provide that companies should notify the proposal of a merger to the DoT as filed before the NCLT.

The guidelines lay down that the merged entity cannot hold more than 25 percent of the total spectrum assigned for access services and 50 percent of the spectrum assigned in a given band in the concerned service area. The M&A Guidelines further provide that the merged entity must surrender the excess spectrum within a period of one year from the permission being granted.

In the alternative, the merged entity can either sell or share the excess spectrum with other telecom operators.

Further, the M&A guidelines provide

that the merged entity can have up to 50 percent market share in any service area calculated on the basis of the subscriber base and adjusted gross revenue. In case the market share exceeds 50 percent, then it should be reduced to the specified limit within a period of one year from the date of approval of merger.

It is expected that the Vodafone Idea merged entity may exceed the prescribed limits for spectrum and market share in several circles as both the companies have significant market share in India.

Approval from CCI

The proposed merger would also require approval from CCI as it is likely that the merger will exceed the assets or turnover thresholds prescribed under the Competition Act, 2002.

Considering that the proposed merger will make the largest telecom company in India, the merged entity may enjoy a dominant position in a few circles. CCI, while granting the approval, will closely consider that there is no appreciable adverse effect on competition by the merged entity.

Though CCI has a good track record in terms of approving mergers, there have been instances where CCI has recommended certain modifications, including divestiture before approving the merger, where it felt that there may be an appreciable adverse effect on competition.

In the merger of Sun Pharma and Ranbaxy Laboratories, CCI was of the prima facie opinion that the merger will likely cause appreciable adverse effect on

competition as there were horizontal overlaps between the products.

In this matter, CCI investigated relevant markets on the basis of combined market share and incremental market share of the merged entities, and market share of the competitors and significant players, among other factors.

CCI proposed certain modifications and approved the merger subject to the parties carrying out divestiture of their products relating to seven relevant markets.

Similarly, in the acquisition of the film exhibition business of DLF Utilities by PVR, CCI proposed divestment of certain assets. However, the parties proposed amendments saying divestiture was unviable, and the CCI approved the combination without the requirement of making any divestiture.

Considering the above precedents and the fact that Vodafone and Idea are significant market players, CCI may consider approving the merger with riders and modifications.

Approval from NCLT

The proposed merger will be dealt with by the newly constituted NCLT and will be governed by the provisions of the Companies Act, 2013 as the provisions relating to compromises, arrangements and amalgamations were notified in December 2016. Prior to this, such schemes were approved by the High Courts in India.

Conclusion

While the merger is still in the discussion stage, the parties can expect regulatory hurdles as discussed above in the event they decide to proceed with the transaction. In addition to this, Vodafone's unresolved tax dispute could be another challenge for the merged entity.

The JLegal



Personality
Questionnaire
Experience

Every month, JLegal examines the PQE of a senior in-house counsel. This month we speak with Maija Burtmanis, who may well be able to motivate us before we run our next marathon.

- What is on your mind at the moment?
"Global Disorder", starting with elected (self-proclaimed) "Leaders".
- What secret talent do you have?
Dabbling with my kids in home arts & crafts.
- If you weren't a lawyer you would be a ...
Motivational coach for elite athletes.
- Where is the best place you have ever been to?
A hard one - Halong Bay, Vietnam.
- What is your idea of misery?
Living in a cold, sun-less climate.
- What is the strangest thing you have seen?
Global Geo Politics (gone mad).
- What is your motto?
"Arise, go forth and conquer!" Lord Tennyson.
- Top 3 favourite movies of all time?
Another hard one - Gallipoli, The Godfather, Shutter Island.
- If you could have one superpower it would be ...?
To fly like an eagle.
- What do you consider the most overrated virtue?
Assertiveness.
- What irritates you?
Corporate misspeak.
- What was your last Google search?
Corporate governance (sigh).
- If you could time travel, where would you go?
WWII - Latvia - to meet my great grandparents.
- What's the one food you could never bring yourself to eat?
Offal (of any sort).
- Which of the Seven Dwarfs is most like you?
Doc.

Maija Burtmanis

Healthcare Compliance
Officer, Asia Pacific
Medical Sciences
at **Johnson & Johnson**

jlegal

your global recruitment partner



Contact Us

visit our website or contact us: t | +65 6818 9701 e | singapore@jlegal.com

www.jlegal.com find jlegal  

singapore hong kong japan australia new zealand united kingdom



10th
ANNIVERSARY

Lewis Sanders
Legal Recruitment

In-House

HEAD OF LEGAL - REAL ESTATE HONG KONG 10-15 years

A listed conglomerate seeks a Head of Legal for its real estate business. You will advise senior management on legal & risk matters and manage the Group's property development & M&A projects. Prior in-house experience & fluent English, Cantonese & Mandarin are required. AC6343

ED - FUNDS HONG KONG / SHANGHAI 9-12 years

Asset management arm of top US investment bank seeks a senior legal counsel at ED level. Experience in authorized & private funds & regulatory matters, & prior PRC-related experience are needed. Fluent Mandarin skills are required. AC6212

LITIGATION & INVESTIGATIONS HONG KONG 6-10 years

Global investment bank is looking an experienced litigator to handle litigation & contentious regulatory matters. Prior financial services litigation experience & ability to conduct complex investigations are essential. Fluent Chinese skills are essential. AC6317

COMMERCIAL / TMT HONG KONG 3-10 years

Major internet/technology company is looking for a general commercial lawyer. Solid corporate experience gained from reputable law firm & fluent Mandarin are essential. Exposure to internet, e-commerce, or TMT matters will be advantageous. AC5546

AVP - DERIVATIVES HONG KONG 3-5 years

Global bank seeks a derivatives lawyer with experience in the APAC region. You will cover a mix of transactional & regulatory work with an emphasis on equity derivatives & structured products distribution. Chinese language skills advantageous. AC6339

VP - FUNDS HONG KONG 6-8 years

Bulge bracket bank with a strong investment management business seeks a mid to senior funds lawyer in a business facing role. You will be familiar with the drafting & negotiation of fund documentation with clients & funds service providers. Chinese language skills preferred. AC6352

FUNDS / PE HONG KONG 7+ years

Financial services company seeks a legal counsel to provide legal support to its investment function. Experience in asset management/private equity & regulatory/corporate governance matters required. Commonwealth qualification & ability to work independently are essential. AC6336

ACQUISITION FINANCE HONG KONG 5-10 years

A well-known PRC financial institution is looking for a mid-senior level lawyer to sit with the business & advise on outbound M&A financing transactions. Both HK & PRC qualified lawyers will be considered. Fluent spoken & written English and Mandarin are essential. AC6300

CORPORATE / COMMERCIAL SHANGHAI 4+ years

An international gaming company is looking to hire a dynamic, confident lawyer in Shanghai. A law degree from a top university and international firm training essential. You will have commercial & transactional experience. Mandarin language skills are essential. AC5436

EQUITIES HONG KONG 2-6 years

Bulge bracket bank seeks a junior to mid-level lawyer with a finance or derivatives background from a top tier firm. You will work closely with the traders in a dynamic environment with high calibre individuals. Chinese language skills are not essential. AC6309

Private Practice

ARBITRATION COUNSEL/PARTNER HONG KONG 8+ years

Top tier US firm seeks a senior arbitration lawyer with extensive APAC arbitration experience from an international firm in HK/Asia to join its team. A book of business is preferred but not required to join this team. No Asian language skills needed. Good compensation package. AC6312

REAL ESTATE M&A HONG KONG 2-4 years

Market-leading real estate practice is seeking an experienced junior to mid-level lawyer. Excellent opportunity to work with well-regarded partners in the region. At least 2 years' relevant experience from a reputable real estate practice in HK and Chinese language skills essential. AC6150

DCM HONG KONG 2-4 years

Magic Circle firm seeks a junior to mid-level lawyer with DCM experience to join the DCM team. Great opportunity to join a strong practice with a good working environment. Those with UK qualifications will also be considered. Fluent English and Mandarin language skills are required. AC6331

M&A PARTNER HONG KONG 10-15 years

US firm is seeking an M&A Partner to build and lead a team. Some book of business would be helpful & culture fit is key. Solid deal experience in cross border transactions is required. Chinese language skills helpful but not essential. Entrepreneurial environment & US rates on offer. AC4892

INSOLVENCY LITIGATION HONG KONG 2-4 years

A US law firm is looking for an associate to do a mixed commercial & insolvency litigation role. The team is reputable in the restructuring/insolvency space & experience with either commercial litigation / insolvency litigation will be considered. Proficiency in Mandarin is essential. AC6275

M&A HONG KONG 1-3 years

Reputable UK firm is looking for a junior corporate associate to join its growing team. You will have M&A experience gained from an international law firm as well as fluent English and Chinese language skills. Excellent opportunity to gain exposure to high quality work in a busy team. AC6041

This is a small selection of our current vacancies. Please refer to our website for a more comprehensive list of openings. Please contact Emily Lewis, elewis@lewissanders.com + 852 2537 7408 or Eleanor Cheung, echeung@lewissanders.com + 852 2537 7416
Karishma Khemany, kkhemany@lewissanders.com + 852 2537 0895 or email recruit@lewissanders.com



10th
ANNIVERSARY

Lewis Sanders
— Legal Recruitment —

In-House

CORPORATE / REAL ESTATE HONG KONG 10+ years

A listed conglomerate seeks a HK qualified senior lawyer with excellent experience in M&A, corporate finance & general commercial matters. Experience in commercial lending & exposure to the real estate market advantageous. Fluent English and Cantonese are essential. AC5357

COMMERCIAL / CONSTRUCTION HONG KONG 6-10 years

Reputable hospitality MNC seeks a mid to senior level corporate lawyer. This role will cover corporate, commercial contracts and construction. Corporate/commercial experience & exposure to the construction industry required. Attractive benefits on offer. Chinese language required. AC5992

LITIGATION HONG KONG 3-6 years

Regulatory body seeks a junior to mid-level litigator who is looking to gain good contentious & non-contentious financial services/regulatory exposure to join its well-established team. Competitive salary & good work/life balance on offer. Fluent written & spoken Chinese essential. AC3767

FUNDS HONG KONG 5-10 years

Top tier global asset manager seeks a legal counsel to join its team. You will have experience in a broad spectrum of funds work, including both authorized and private funds, distribution, regulatory, and general commercial work. Mandarin would be a bonus but not essential. AC6148

ADVISORY COUNSEL HONG KONG 2-4 years

Excellent opportunity for a lawyer to join a regulator to focus on commercial & regulatory work. Strong academics & solid experience gained from an international firm are essential. Regulatory / corporate M&A background candidates will be considered. HK qualification is essential. AC6290

PRIVATE BANKING HONG KONG 6-10 years

Top tier bank seeks a lawyer to support the business team of its private banking business. Private banking or loans and finance experience is preferred, and familiarity with securities lending would be a plus. Chinese language skills are not essential. AC6334

M&A HONG KONG 6-10 years

Leading MNC is looking for a mid to senior level corporate/commercial lawyer. You will advise on M&A, JVs, financial services, regulatory & general commercial matters in the region. Commonwealth qualification is essential. Chinese skills not required. AC6051

CORPORATE FINANCE HONG KONG 4-8 years

A listed financial services entity seeks a corporate legal counsel in HK. You will have experience in corporate finance, M&A, funds formation or DCM. Business level Mandarin skills & HK qualification are essential. Both private practice & in-house candidates will be considered. AC6347

DERIVATIVES / REGULATORY HONG KONG 3+ years

International bank is looking for a legal counsel who has a good understanding of China legal and regulatory matters together with exposure to corporate, derivatives or finance transactions to join its China coverage desk in HK. Fluency in written & spoken Mandarin is required. AC6324

CORPORATE / COMMERCIAL HONG KONG 3-6 years

PRC conglomerate seeks a HK qualified mid-level lawyer with solid experience to handle commercial contracts, listing compliance, general corporate & litigation matters. Native Mandarin speaker with fluent Cantonese preferred. Competitive package on offer. AC6274

Private Practice

LITIGATION HONG KONG 5-8 years

Top UK law firm seeks a senior disputes lawyer with HK qualification & experience in commercial litigation matters. Prior experience in contentious regulatory, tax disputes/high net worth contentious probate matters advantageous. Native Cantonese & Mandarin preferred. AC6305

IP HONG KONG 3-5 years

Well-established international law firm is looking for a mid-level IP associate to join its team. Ideal candidates should have contentious and non-contentious IP experience particularly involving trademarks. HK qualification and Mandarin languages skills are required. AC6342

CORPORATE HONG KONG 1-9 years

Law firm with strong global network & in expansion mode seeks senior & junior general corporate/commercial lawyers. You will focus on cross-border M&A transactions, commercial matters and post-IPO compliance work. Excellent work/life balance & career prospects on offer. AC6337

BANKING & FINANCE HONG KONG 3+ year

International law firm is seeking a mid-level lawyer with strong general banking experience from an international or reputable HK law firm to join its team. This role will include a broad range of banking & finance work. Fluent level Mandarin skills are essential. AC1448

DERIVATIVES/STRUCTURED FINANCE HK 2-5 years

Magic Circle firm seeks a derivatives & structured finance associate to join its well-regarded practice. You will have strong academics & relevant experience from international firms. Mandarin language skills would be a bonus but not required. Quality work on offer. AC6332

CORPORATE FINANCE HONG KONG 1-3 years

US firm is seeking a junior corporate finance associate to join its Hong Kong team. Ideal candidate should have training from an international law firm and experience advising on HK IPO matters. Good opportunity to join a quality practice with a good working culture. Mandarin is required. AC6295

This is a small selection of our current vacancies. Please refer to our website for a more comprehensive list of openings.
Please contact Lindsey Sanders, lsanders@lewissanders.com +852 2537 7409 or Jenny Law, jlaw@lewissanders.com +852 2537 7448
Chris Chu, cchu@lewissanders.com +852 2537 7415 or email recruit@lewissanders.com



INDONESIA



By Dini Retnongsih and Indra Aditya Pambudy

LUBIS • GANIE • SUROWIDJOJO
The Law on Your Side

Menara Imperium, 30th Fl. Jl. H.R. Rasuna Said Kav. 1 Jakarta 12980, Indonesia
Tel: (62-21) 831-5005, 831-5025 Fax: (62-21) 831-5015, 831-5018
E: dini@lgslaw.co.id • indra@lgslaw.co.id W: www.lgslaw.co.id

Recent changes to Indonesia’s coal and mineral resources regulations

On January 11, 2017, the Government of Indonesia enacted Government Regulation No. 1 of 2017 on Fourth Amendment of Government Regulation No. 23 of 2010 on Implementation of Mineral and Coal Mining Business Activity (Government Regulation No. 1/2017).

Government Regulation No. 1/2017 governs three key areas, namely domestic processing obligations, procedure to obtain export recommendation and divestment obligation. To further detail the provisions set out under Government Regulation No. 1/2017, the Minister of Energy and Mineral Resources issued three implementing regulations, namely:

- 1. Minister of Energy and Mineral Resources Regulation No. 5 of 2017 on Enhancement of Minerals Additional Value through Mineral Processing and Refining Activity in Indonesia (Minister Regulation No. 5/2017);
2. Minister of Energy and Mineral Resources Regulation No. 6 of 2017 on Procedure and Requirement of Issuance of Mineral Export Recommendation Resulting from Processing and Refining (Minister Regulation No. 6/2017); and
3. Minister of Energy and Mineral Resources Regulation No. 9 of 2017 on the Procedure for Share Divestment and Share Divestment Pricing Mechanism in Coal and Mineral Mining Business Activity (Minister Regulation No. 9/2017).

Domestic mineral processing and export

One of contentious area of Indonesia’s mining law is the restriction on export of unrefined minerals. Government Regulation No. 1/2017, Minister Regulation No. 5/2017 and Minister Regulation No. 6/2017 have the

combined effect of maintaining the prohibition on the export of unrefined minerals.

Under the current regime, there are two mineral purity bands, namely “processed” and “purified”. All minerals are subject to in-country processing and/or purification as an export precondition, irrespective of whether the requisite purity level is listed or not. Minister Regulation No. 5/2017 further provides that mineral commodity whose processed-band and/or purity-band level are not yet set under the current regulation will not be eligible for export until after such requisite processed-band and/or purity-band level has been set.

Minister Regulation No. 5/2017 prohibits holders of Contract of Works (CoW) (previous generation contract-based mining concession) from exporting processed minerals in certain amount without first converting their concessions to the current licence-based IUP regime. The legal justification for imposing such restriction is not immediately clear, although one possible reason is the government’s desire to force holders of CoW to convert to IUP. Even after conversion, the export of processed minerals in certain amount is allowed for only five years as of the enactment of Minister Regulation No. 5/2017 (ie, until January 11, 2022). CoW holders are, however, permitted to export minerals that have been processed up to purified-band purity level.

Divestment obligation

While divestment obligation was mandated from as far back as 2009 when the current mining law regime was enacted, the divestment mechanism has always been contentious. Under Government Regulation No. 1/2017 and Minister Regulation No. 9/2017,

the divestment mechanism was streamlined across foreign-owned coal and mineral mining companies, as opposed to differentiation between minerals adopted previously.

The divestment obligation applies to all companies with foreign-owned shares therein, whether or not such company is undertaking in-country mineral processing, and becomes applicable on the fifth anniversary of commercial (production) operations. A company subject to divestment obligation is required to gradually sell shares therein to Indonesian party, such that by the 10th anniversary of the commercial (production) operation, 51 percent of the company’s shares is owned by the Indonesian party.

An Indonesian party for the purpose of the divestment obligation comprises:

- a. The central government;
b. Provincial or municipal/regency government;
c. State-owned enterprise and regional government-owned enterprise;
d. National Indonesian private business entity (which must be 100 percent Indonesian-owned to qualify).

The divestment is to be undertaken gradually (see table).

Table with 2 columns: Year, Amount of shares that must be divested to Indonesian party (from the total of shares). Rows: 6th (20 percent), 7th (30 percent), 8th (37 percent), 9th (44 percent), 10th (51 percent).

Price determination is based on fair market value. It, however, excludes the values of mineral or coal reserves contained within the concession at the time of the share offer being divested.

**Legal Director
Building Systems**
[A41028]

**15+ PQE
Singapore**

- Regional legal head for SEA
- Construction or industrial experience would be regarded very favourably
- Admission to the Singapore bar is a must
- Some travel required

**Structured Finance Lawyer
Commodities**
[A41042]

**10+ PQE
Singapore**

- SG / UK qualified
- Experience in structured finance required
- Trade finance, shipping litigation and treasury experience would be advantageous
- Global coverage
- Mandarin language ability (spoken and basic reading) essential as this role covers the PRC market
- Travel to UAE is expected

**Corporate Governance Counsel
Insurance**
[A41035]

**10+ PQE
Singapore**

- Lead lawyer for corporate governance and all matters relating to the board of directors and running of board/committee meetings for group entities in Singapore and the APAC region
- Accustomed to interfacing confidently with independent directors and senior management
- Experience liaising with MAS and some familiarity with relevant MAS regulations and guidelines

**Compliance Counsel
Energy and Commodities**
[A41036]

**7-10 PQE
Singapore**

- Standalone role, reporting to the Head of Compliance based in Geneva
- Relevant compliance experience with commodities trading houses or from the oil & gas industry strongly desired
- Mandarin abilities required as this role will cover the PRC market

**Legal Counsel
Investment Bank**
[A41043]

**3+ PQE
Singapore**

- Must be Singapore qualified, with at least 2 years' practice experience and 1 year in-house experience with a financial institution
- Banking and/or capital markets (in particular, DCM) experience required
- To provide transactional legal support, legal and regulatory advice on all aspects of the bank's business as well as corporate secretarial services

**ISDA Lawyer
Financial Institution**
[A41041]

**3+ PQE
Singapore**

- Part of a mid-size legal team, reporting to the Head of Legal
- ISDA experience required
- General banking candidates with some familiarity with ISDA/treasury work will also be considered

**Legal and Compliance Counsel
Hedge Fund**
[A41047]

**3+ PQE
Singapore**

- To advise on all legal, regulatory and compliance matters relating to the hedge fund
- Funds and/or ISDA experience would be ideal but not a strict pre-requisite
- Candidates with general banking and/or financial services experience will be considered

**Legal Counsel
Technology**
[A41046]

**3-5 PQE
Singapore**

- Must be called to the Singapore Bar
- Strong private practice or prior in-house experience, preferably in ICT sector
- To negotiate and prepare a range of technology related agreements including IT services outsourcing, provision of managed services/professional services, data centre co-location, and system integration
- A dynamic, fast paced environment

**Legal Counsel
US MNC**
[A40501]

**15+ PQE
Bangalore, India**

- A key member of the leadership team of a leading MNC
- Responsibilities entail negotiating high value, complex deals and general executive support
- Team management and strong leadership skills required
- IT industry experience ideal
- Competitive remuneration package on offer

**Legal Director
European FMCG**
[A40946]

**10+ PQE
Shanghai, PRC**

- Standalone role supporting business and strategic development with a strong focus on Chinese operations
- Reporting is to APAC Legal Head based outside China
- Key to this hire is someone who is pro-active and strategic, and able to work well with the local management team

**Senior Legal Counsel
US MNC**
[A41049]

**10+ PQE
Kuala Lumpur, Malaysia**

- Prior experience in partnering with HR and business to advise and craft creative, pragmatic solutions to employment issues
- Develop and execute strategies that are reflective of company policy and compliant with applicable laws in each of the jurisdictions the company operates
- Travel within the APAC region is anticipated

**Regional Counsel
Construction**
[A41031]

**8-12 PQE
Singapore/ Thailand/ Vietnam**

- Solid construction experience
- Experience gained at a large law firm and in-house in the construction or related industry
- International experience preferred
- Common law qualification
- Thai, Vietnamese or Indonesian language ability a plus

Singapore
+65 6236.0166
License No: 16S8074

24 Raffles Place,
#17-06 Clifford Centre,
Singapore 048621

Hong Kong

Room 1402, 14/F,
Wanchai Central Building
89 Lockhart Road,
Wan Chai, Hong Kong

Email: resume@legallabs.com



PHILIPPINES



By **Cyndy P. dela Cruz**



ACCRALAW Tower, 2nd Ave. Cor. 30th St., Bonifacio Global City
Taguig City, Metro Manila, Philippines
Tel: (63) 82 224 0996, / Fax (632) 4037007 or (632) 4037008
E: cpdelacruz@accralaw.com W: www.accralaw.com

Cyber bullying in the Philippines

The pen is mightier than the sword or so the adage goes. When this was once said, it was to highlight the power of thoughts and ideas over brute force and violence as a way to effect change. Today, the pen can very well be a tap of a button, as social media has reinvented our way of life anew — for good or for bad.

Regardless of political affiliation or social philosophy, it is undeniable how the power of social media has shaped recent events. The perceived anonymity that social media brings tends to shed people's normal sensibilities or even basic civility. We therefore sometimes see posts or commentaries meant to embarrass competence and intelligence, gender or just plain rumour mongering.

Such acts done behind the cloak of a social media platform may have legal implications under Philippine Laws.

The Anti-Bullying Act of 2013 (RA 10627)

This law finds applicability in school-related bullying, student-student bullying in particular, which covers those uttered in social media. "Bullying", as defined, refers to any severe or repeated use by one or more students of a written, verbal or electronic expression, or a physical act or gesture, or any combination thereof, directed at another student that has the effect of actually causing or placing the latter in reasonable fear of physical or emotional harm or damage to his property; creating a hostile environment at school; infringing on the rights of another; or materially or substantially disrupting the education process. (Sec. 2, RA 10627) These acts are collectively called "cyber bullying" when committed online. (Sec. 2-D, RA

10627) This covers social bullying aiming to belittle another individual or group or gender-based bullying that humiliates another on the basis of perceived or actual sexual orientation and gender identity. (Sec. 3, B-1, RA 10627, Implementing Rules).

The Revised Penal Code and the Cybercrime Prevention Act

One who publicly or maliciously imputes to another a crime, vice, defect, real or imaginary, or any act, omission, condition, status or circumstance tending to cause the dishonor, discredit or contempt of a natural or juridical person, or blacken the memory of one who is dead may be liable for libel under this Code. (Art. 353, RPC) These acts are more severely punished when done online in addition to the civil action for damages which may be brought by the offended party. (Sec. 4(c-4), RA 10175) Cyberlibel holds liable only the original author of the post (Sec. 5(3), Implementing Rules of RA 10175). Likers or sharers of a post cannot be held liable under this law.

Slander may also be applicable to one who, in heat of anger, utters statements that are highly defamatory in character. (Art. 358, RPC) Intriguing Against Honour may also find applicability when the principal purpose is to blemish the honour or reputation of a person. (Art. 364, RPC) However, the requirement is that the post be directed to a specific person. Hence, a blind item is not as actionable as a named-post in social media.

The Civil Code on Damages

One who is aggrieved by a defamatory post in social media may find refuge in the provisions of the Civil Code on Damages. (Art.

2176, Civil Code) One who posts in social media, causing damage to the reputation of another may be liable to the subject for damages and this can be a valid cause of action under the law. Such posts must tend to pry to the privacy and peace of mind of another, meddle or disturb the private life or family relations of another, intrigue to cause another to be alienated from his friends or vex or humiliate another on account of his religious beliefs, lowly station in life, place of birth, physical defect or other personal condition. (Art. 26, Civil Code)

The Labour Code on Just Causes for Termination

An employee who spreads rumors or intrigues against a co-worker or his superior or vice versa, or who does any act similar to cyberlibel, slander, intriguing against honour or even prying into the privacy of another may be a just cause for termination if embodied in the company policy in addition to all other causes of action available to him under the laws mentioned. (Sec. 5.2(g), D.O 147-15)

However, all these will only be a valid cause of action to one who is the subject of the post and who is aware of the post directed to him.

Freedom of speech must not be infringed but this right is not without any limitations. In the end, it is always best to devote the stroke of our fingers and the clicks of our mouse to intellectual discourse that matter rather than risk being held liable under the law. After all, the power of our minds should be mightier than any sword there is.

Note: This article was originally published in Business World, a newspaper of general circulation in the Philippines

Pure Search

A global candidate network of unrivalled quality, a consistently superior service, over 30 years combined recruitment experience.

Pure Search: **Your Trusted Recruitment Partner.**

Liam Richardson | In House FS Hires

+852 2499 9794 | liamrichardson@puresearch.com

Michael Allen | In House FS Hires

+ 852 2499 9796 | michaelallen@puresearch.com

Mike Wright | Private Practice Hires

+ 852 2520 5298 | mikewright@puresearch.com

Sherry Xu | In House C&I Hires

+ 852 2520 5072 | sherryxu@puresearch.com



puresearch.com

Pure Search International Pte Ltd, Level 61, Unit 09 The Center 99, Queen's Rd Central, Hong Kong





SOUTH KOREA



Poongsan Bldg. 23 Chungjeongro, Seodaemun-gu, Seoul 03737, Korea
Tel: 82 2 2262 6288 / Fax: 82 2 2279 5020

By Myung-Cheol Chang E: mcchang@leeinternational.com W: www.leeinternational.com

Unfair competition in Korea

The Korean government has taken steps to protect trade secrets more effectively by easing the requirements for trade information to become trade secrets and by enabling broader protection for such information.

Announced in August 2016, the revised version of the Unfair Competition Prevention and Trade Secret Protection Act (Unfair Competition Act) was a response to the increasing damage suffered by Korean companies from the theft of trade secrets.

To facilitate better enforcement, the Korea Intellectual Property Protection Agency would be authorised to investigate violations and offer corrective recommendations. Additionally, the Act would have increased teeth, allowing victims damaged by the unauthorised disclosure of their confidential technologies to recover up to treble damages, and intentional violations of the law could be restrained. This is in sharp contrast with the existing Act, which allows unauthorised disclosure of trade secrets to go unpunished in the absence of an express provision regulating such violations. The revision also would broaden the types of acts that would be considered trade secret violations.

The main points of the proposed revisions to the Unfair Competition Act are as follows:

Definition of trade secrets

Under the existing Unfair Competition Act, the term "trade secrets" includes production methods, sales methods or other useful technical or business information, which information is not known publicly, which has independent economic value and which has been "maintained as confidential based on reasonable efforts".

Article 2 of the proposed Act deletes the phrase "reasonable efforts" and recognises as

trade secrets: production methods, sales methods and other useful technical or business information, as long as the confidentiality of the information has been maintained.

This represents a further loosening of the standard. The deleted phrase "maintained as confidential based on reasonable

"If the proposed Act becomes law, any technical or business information of a company could be considered to constitute a trade secret as long as it had been kept confidential, even without 'reasonable efforts' made to maintain the confidentiality"

efforts" was actually the result of a revision dated January 2016, modifying the earlier phrase "maintained based on considerable efforts". Therefore, the proposed Act would significantly lower the threshold for information to become a trade secret and it would expand the range of protection by deleting "reasonable efforts". If the proposed Act becomes law, any technical or business information of a company could be considered to constitute a trade secret as long as it had been kept confidential, even without "reasonable efforts" made to maintain the confidentiality.

Treble damages

Article 14-2(6) of the revised Act contains a new provision in which damages arising from

the intentional violation of the trade secrets law could be increased up to three times the actual loss. This is also a departure from the existing Unfair Competition Act, which provides that any person who has suffered damage from theft of trade secrets may be compensated only for the amount of his/her actual loss, with the amount of compensation estimated under a provision of the Act.

The revised version considers a number of relevant factors, such as the intent of the violator, how long the violation of the law persisted and how many times the law was violated. Depending on the circumstances, if the law was violated intentionally, the damage award could be considerably heavier under the new Act.

Penal provisions

While the existing Unfair Competition Act prescribes possible imprisonment or a fine for those who have acquired, used or leaked trade secrets to any third party (knowing that they will be used in another country), the revised version specifies and increases the types of acts that would be considered violations, to further enhance protections afforded by the law.

Article 18 of the revised version expands the acts that would constitute a violation of the trade secrets laws from "an act of acquiring, using or disclosing to a third party, trade secrets", to also include "an act of disclosing or maintaining trade secrets beyond the scope of given authority", "an act of obtaining trade secrets such as through embezzlement, fraud, threat or any other way that is illegal", and "an act of refusing or avoiding the request of a trade secret holder to delete or return such trade secrets or keeping copies of the foregoing even after the authority to use or maintain such trade secrets has expired".

If enacted, the revised version of the Act is likely to significantly improve protection of trade secrets in Korea.

TRUSTED
ADVISORS

Legal & Compliance recruitment across Asia

Taylor Root has been operating in Asia since 1998. We work with an extensive client base and an incredible range of talented lawyers, legal professionals and compliance specialists. We have a reputation for excellence, providing an exceptional and consultative service. The wide range of industry sectors we work across include Media, IT, Pharmaceutical, Energy, Construction, Real Estate, Aviation, Banking, Financial Services and Professional Services. If you are looking to hire, or wish to discuss your own career, please get in touch.

Contact the Taylor Root Hong Kong team on **+852 2973 6333**

Contact the Taylor Root Singapore team on **+65 6420 0500**

taylor root
SPECIALIST SEARCH & RECRUITMENT

Part of the SR Group



taylorroot.com

[@TaylorRootLegal](https://twitter.com/TaylorRootLegal)

[taylor-root](https://www.linkedin.com/company/taylor-root)



Global reach

Taylor Root operate all over the world.
Contact us to find out more.



VIETNAM



By **Luu Thi Ngoc**



Indochine Counsel
Business Law Practitioners

Ho Chi Minh City Office – Unit 305, 3rd Floor, Centec Tower
72-74 Nguyen Thi Minh Khai, Ward 6, District 3, Ho Chi Minh City, Vietnam
Tel: (848) 3823 9640 / Fax: (848) 3823 9641 / Mobile: (84) 937 319 915

E: ngoc.luu@indochinecounsel.com

Hanoi Office – Unit 705, 7th Floor, CMC Tower, Duy Tan Street, Cau Giay District, Hanoi, Vietnam
Tel: (84) 4 3795 5261 / Fax: (84) 4 3795 5262

E: hanoi@indochinecounsel.com W: www.indochinecounsel.com

New capital adequacy regulations in Vietnam

The State Bank of Vietnam (SBV) recently released regulations requiring banks and foreign bank branches in Vietnam to maintain a minimum capital adequacy ratio (CAR) of 8 percent from 2020.

Circular No. 41/2016/TT-NHNN, dated December 30, 2016, is effective from January 1, 2020 and is oriented towards Basel II standards, including many changes compared to Circular No. 13/2010/TT-NHNN, dated May 20, 2010 on adequacy ratios of credit institutions. Under the Basel II standards, the minimum CAR of the banks is required at 8 percent, the same ratio required under Basel I. However, the CAR under Basel II is calculated under a new formula, which is also applied by Circular 41.

Presently, the minimum CAR required for banks in Vietnam is 9 percent (ie, higher than the CAR of 8 percent under Circular 41). According to banking analysts, the current CAR of some of the largest banks in Vietnam stands at about 9 percent and, therefore, their CAR will be reduced under Basel II standards. Under Circular 41, the minimum CAR of 8 percent required for banks in Vietnam is defined by the following formula:

“A higher rate of capital and control of liquidity will affect loan interest rates. This increases capital costs and, as a result, the net profit of banks will decrease”

Specifically:

C: *the bank's capital (equity)*

RWA: *Risk weighted assets*

K_{OR}: *The capital requirements for operational risk*

K_{MR}: *The capital requirements for market risk*

Following Circular 41, CAR is calculated more rigidly to meet Basel II standards. Accordingly, 8 percent CAR under Basel II is an increase of the current application of 9 percent by Vietnamese banks.

The application of Circular 41 will help the banks to:

- (i) plan their business operations and strategy more safely;
- (ii) operate with less risk because risk management is strengthened, while funds are managed more efficiently;
- (iii) attract more foreign investors because the banks operate in an environment of international standards.

However, Circular 41 also has negative impacts on the banking system, particularly when applying the Basel II standard, in which a higher rate of capital and control of liquidity will affect loan interest rates. This increases the capital costs and, as a result, the net profit of banks will decrease. At the same time, Vietnam's banks would face such challenges as:

- (i) a need to improve risk management;
- (ii) the requirement of reliable data systems of high precision;
- (iii) a demand to meet the huge deployment costs.

The Basel II application in Vietnam will be a challenge for local banks, but it is expected to make Vietnamese banks healthier.

$$CAR = \frac{C}{RWA + 12,5 (K_{OR} + K_{MR})} \times 100\%$$

Find the **ASIAN-MENA COUNSEL** JURISDICTION UPDATES archived at
www.inhousecommunity.com

Professionals Recruiting Professionals

Specialising in Legal, Financial Services, and Commerce

Hong Kong • Singapore • Beijing • Shanghai

Legal & Compliance Director **Singapore 8-15 PQE+**
Fast growing insurance company is looking for a director of legal and compliance to advise senior management on all legal and compliance matters, including any regulatory obligations, in Singapore as well as the APAC region as the business expands. Due to the nature of their business and regional needs, proficiency in English and Mandarin is required. (IHC 14855)

Senior Legal Counsel **Hong Kong 15+ PQE**
Conglomerate based in Hong Kong seeks an experienced commercial lawyer to advise on a wide range of commercial legal matters with legal implications for various business units within the company, and manage a medium-sized team of lawyers and support staff. Strong in-house experience, handling commercial and contentious matters, as well a proven track in people-management is necessary. Cantonese required. (IHC 14379)

Legal Director **Singapore 8-10 PQE+**
Global US bank with strong presence in Asia Pacific is looking for a legal counsel to be responsible for advising the business on a broad range of corporate banking transactions relating to their institutional banking and global markets business in Asia. The ideal candidate should have at least 8-10 years of experience in transactional banking work. (IHC 14942)

Legal Counsel **Hong Kong 8-10 PQE**
Investment firm seeks experienced senior funds lawyer to handle their asset management space. Funds experience essential (funds structures and distribution), Mandarin preferred but not essential. In-house experienced lawyers preferred. (IHC 14936)

Legal Counsel **Hong Kong 6-10 PQE**
Global business with its HQ in Hong Kong seeks additional senior lawyers to support its various business units. Work involves advising the international business on general commercial work covering contracts, IP, and HR issues. Lawyers from private practice as well as in-house will be considered. (IHC 14710)

Legal Counsel **Singapore 4-8 PQE**
Well-known international bank seeks a legal counsel to join their legal team for securities services. This lawyer will work closely with the heads of business and partner, and provide legal and regulatory advice to the business new products and services, take part in the negotiation with clients, identify and mitigate legal risk within the business and review, develop and oversee of legal policy implementation. Experience in the financial services sector or from a top tier law firm in Singapore is required. (IHC 14953)

Legal Counsel **Hong Kong 4-8 PQE**
Leading global insurance group seeks a corporate lawyer to join their regional legal team. You will be responsible for a wide range of cross-border corporate projects including internal restructuring, portfolio management and acquisition matters. Knowledge in corporate insurance and regulatory issues is good to have, but not a must. Chinese language is not required. (IHC 14869)

Legal Counsel **Hong Kong 5+ PQE**
Conglomerate with a growing in-house team seeks a commercial lawyer with experience in handling IT and IP related agreements and dealing with vendors. Someone who is able to work independently and advise the business on strategic projects and with commercial astuteness is highly desirable. Cantonese speaking skills preferable. (IHC 14786)

Legal Counsel **Hong Kong 3-5 PQE**
Opportunity to join a well-regarded financial institution, providing legal support across the Asia region to the brokerage and its investment banking business. Ideal candidate will be a HK-qualified lawyer with solid experience in advising financial services. Mandarin is required. (IHC 14752)

Senior Legal Officer/Counsel **Hong Kong 3+ PQE**
A reputable logistics company is looking for a senior legal officer/counsel in Hong Kong. This position will lead two subordinates and mainly focus on general corporate matters. The ideal candidate should be familiar with the Hong Kong law. Fluency in Chinese and English is essential. (IHC 14820)

Legal Counsel **Hong Kong 2-4 PQE**
Financial Institution seeks an experienced lawyer to work in-house within private wealth management. Ideally suited for lawyers with a tax, PWM or estate planning background. Opportunity to move in-house and take on a business/legal position managing trust relationships. (IHC 14745)

Junior Legal Counsel **Hong Kong 2-4 PQE**
Fast-growing FinTech company has a vacancy for a junior corporate lawyer to support their further expansion. You will work closely with the senior management as well as the global development team assisting with the implementation of a market expansion strategy. You will also advise on a wide range of commercial and corporate legal matters. Experience in financial services is highly preferred. (IHC 14895)

Legal Counsel **Hong Kong 1-4 PQE**
Investment bank seeks experienced junior lawyer to join their fixed income derivatives legal team. Excellent opportunity to move from private practice to in-house. Mandarin preferred but not essential. (IHC 14917)

Legal Counsel **Singapore 1-3 PQE**
An international technology company seeks a junior lawyer to support their business. This lawyer will work closely with the head of legal and be involved in a wide range of commercial legal matters, including IP, IT, data protection, commercial contracts, and more. Experience in M&A would be good to have. The ideal candidate should be a qualified lawyer in either civil law or common law jurisdiction. Due to the nature of their business, candidates who can speak fluent Spanish/ French would be in advantage. (IHC 14888)

To apply, please send your updated resume to als@alsrecruit.com, or contact one of our Legal Consultants:

Hong Kong
Claire Park
Tel: +852 2920 9100
Email: c.park@alsrecruit.com

Singapore
Jason Lee
Tel: +65 6557 4163
Email: j.lee@alsrecruit.com

Beijing
Kevin Gao
Tel: +8610 6567 8728
Email: k.gao@alsrecruit.com

Shanghai
Dora Cai
Tel: +8621 6133 7946
Email: d.cai@alsrecruit.com



EVENT REPORT

In-House Congress Dubai

The 11th In-House Congress Middle East, Dubai took place on February 22 and was attended by more than 230 delegates. Around 50 percent were general counsel and 40 percent of the remaining were also from legal in-house teams.

The day began with London-based general counsel veteran Evangelos Apostolou urging our distinguished panel to explore what “cost, quality and value” means to each of them. He introduced the topic by using a metaphor of three stone masons, each performing the same task of chiselling a piece of marble. The first, when asked, believed he was simply earning a living; the second that he was supporting his family; and the third answered that he was building a mosque. The point of the analogy being that our motivation determines the success, or otherwise, in our engagement in our careers. The discussion continued to explore the effect of technology and

legal practice, and also established the “pizza test” for in-house counsel to help demonstrate the comfort, or otherwise, an in-house counsel team can draw from their external providers through breaking bread with them.

The day continued with top of the drawer Workshops from the following firms:

BSA Ahmad Bin Hezeem & Associates; Clyde & Co; Conyers Dill & Pearlman; Gibson, Dunn & Crutcher; Hade & Partners; Hogan Lovells; Kroll; Reed Smith, and Tritonian Law Advisors covering the topics listed below:

A Practical Guide to Handling Commercial Regulatory Issues in the UAE Legal Market

- Cracking the Contract — Do’s and don’ts when drafting and reviewing UAE legal contracts
- Drafting Sound Contracts — Developments in English contract law in the last year

- Dubai Expo 2020 — The legal story so far
- Legal and Regulatory Changes Affecting the Investment Outlook in 2017
- Offshore Meets Onshore — How the offshore jurisdictions integrate with and complement onshore jurisdictions, including DIFC SPCs
- The Role of the Legal Team — Before and after a cyber breach
- Sanctions in the Trump Era — From Iran to Russia and beyond

The general evaluation of the day as provided by our delegates was overwhelmingly encouraging, with more than half indicating that the content of the day was “excellent”. Andrew Glendenning, senior legal counsel at PwC summed up the general sentiment very aptly: “The 2017 In-House Congress Middle East, Dubai was a great success. As always the sessions were very informative and the event provided a great opportunity to meet and network with other in-house lawyers.”



A special thanks on behalf of the *In-House Community*™ to all our speakers, which included:



Evangelos Apostolou
President, EMEA, SirionLabs, ex-General Counsel, Asia-Pacific, and Partner, Ernst & Young and ex-General Counsel, Asia-Pacific, British Telecom



Patrick Dransfield
Publishing Director ASIAN-MENA COUNSEL and Co-Director In-House Community



Teegan Lindsay
VP – Legal (Projects) ACWA Power



Andrew Beckett
Managing Director Kroll



Fawaz Elmalki
Director Conyers Dill & Pearlman



Patrick Murphy
Partner Clyde & Co



Rindala Beydoun
Founder and Managing Partner Tribonian Law Advisors



Charles Fuller
Partner Hogan Lovells



Tarek Nakkach
Region Legal Counsel, Middle East and North Africa Hewlett Packard Enterprise



Imtiaz Shah
Partner Hogan Lovells



Deepa Tharmaraj
Legal Director EMEA Dell EMC



Dr Ahmad Bin Hezeem
Senior Partner BSA Ahmad Bin Hezeem & Associates LLP



Vince Gordon
Middle East Managing Partner Reed Smith



Anthony Pallett
Partner Hogan Lovells



Oliver J. Simpson
Associate Conyers Dill & Pearlman



Warren Thomson
Partner Hogan Lovells



Vineet Chaudhary
Senior Manager – Legal Wockhardt Ltd.



Sadiq Jafar
Managing Partner Dubai Hade & Partners



Sai Pidatala
Associate Reed Smith



Adam Smith
Partner Gibson, Dunn & Crutcher LLP



Kayaan Unwalla
Senior Associate Reed Smith



Tania De Swart
Partner Reed Smith



Nick Jennings
Senior Associate Hade & Partners



Justine Reeves
Head of Knowledge Management Clyde & Co



Andrew Tarbuck
Partner Hogan Lovells

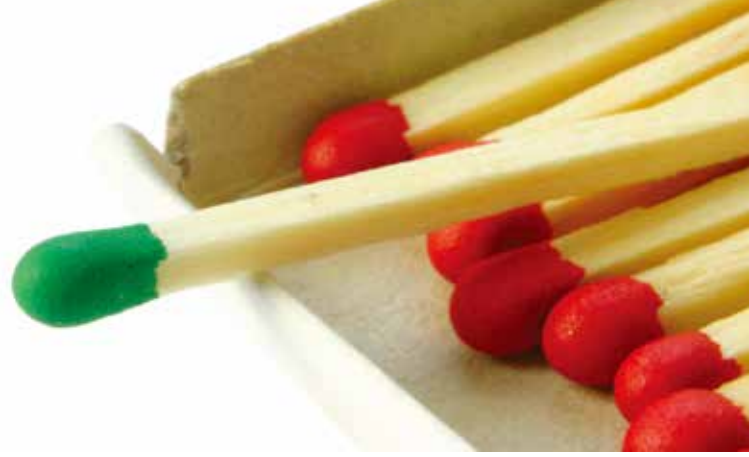


Victoria Woods
Head of Commercial Hade & Partners

“As always the sessions were very informative and the event provided a great opportunity to meet and network with other in-house lawyers”

– Dubai Congress delegate

Stand Out With Hughes-Castell



In-house

Senior Counsel, Indonesia | 12-15 yrs exp | Jakarta REF: 13552/AC

Excellent opportunity for an astute lawyer with business acumen to take on a senior role at this Fortune Global 500 industrial conglomerate in Jakarta. You will be responsible for supporting the General Counsel EAJ based in Singapore, providing legal support to its business units on all legal matters in Indonesia. You are also required to manage litigation and to oversee corporate compliance measures. You must be an Indonesian qualified lawyer with over 12 years' experience in general corporate work, ideally handling projects, compliance, M&A, managing dispute resolution and legal risk management. Candidates who are confident, dynamic, self-sufficient and have the skills to communicate with the management and commercial teams will excel. You must have fluent English skills.

Senior Legal Counsel | 10-15 yrs pqe | Hong Kong REF: 13927/AC

This Fortune 500 technology company is seeking a Senior Legal Counsel covering Asia Pacific to be based in Hong Kong. Working with external counsel, you will primarily be responsible for leading all transactional matters, and be either Common Law qualified with good knowledge of PRC law or PRC qualified with a Common Law background. You ideally have around 10 to 15 years' PQE, strong experience in M&A and also general commercial matters, obtained from reputable law firms and/or MNCs. A proven ability to work both independently and in a team is required, in addition to fluency in English and Mandarin.

Legal Director | 10+ yrs pqe | Shanghai REF: 13925/AC

Fantastic opportunity for a senior corporate and commercial lawyer with fluent written and spoken English to head up the China legal team of this Swiss MNC in

Shanghai. You will be a vital member of the senior management team and be responsible for leading the legal team to provide support to all divisions in China. You are also required to oversee strategic projects, commercial agreements, corporate governance, company secretarial activities and litigation. Ideally, you are a PRC-qualified lawyer with an overseas LLM plus a minimum of 10 years' PQE in corporate and commercial law within the FMCG industry. A strategic thinker with a strong ability to work independently and to prioritize tasks is preferred.

Senior Legal Counsel | 10+ yrs pqe | Kuala Lumpur REF: 13942/AC

This Fortune 500 consumer goods corporation is seeking an experienced Malaysian qualified employment lawyer to join its Kuala Lumpur office to cover the Asia Pacific region. You will mainly be responsible for providing legal and compliance support to the HR department and to business units on employment and labour issues. You ideally have a minimum of 10 years' PQE in employment and labour law at an MNC or at a law firm. Leadership experience in an international FMCG company is highly desirable; fluency in English and an Asian language is mandatory.

Chief IP Counsel | 10+ yrs pqe | Malaysia REF: 13934/AC

Tremendous opportunity to take on the top leadership role in the Malaysian IP legal team at this world leading building materials company based in Petaling Jaya. You will be responsible for providing legal advice and counsel on all aspects of IP assets, disputes and management. Ideally, you are a Malaysian qualified lawyer with a science degree and over 10 years' PQE in IP law with a focus on patent and trademarks at a top-ranked law firm and/or an MNC. Fluency in English and Bahasa Melayu is essential.

Private Practice

Junior IP Partner | 10+ yrs pqe | Jakarta REF: 13912/AC

A highly regarded US law firm urgently seeks a senior Intellectual Property Lawyer with a strong portable book of business to join its Jakarta office. You will have the opportunity to work with multinational corporation on IP portfolios, trademark and industrial design. The ideal candidate must be locally Indonesian qualified with over 10 years' PQE in registration, litigation and enforcement at top-ranked law firms. Experience in commercial and IPT matters is highly desirable. Fluent English and Bahasa Indonesian language skills are required.

IP Lawyer | 3-6 yrs pqe | Singapore REF: 13913/AC

A leading US law firm is seeking a Copyright/Media Lawyer with 3 to 6 years' PQE to join its Singapore office. This is a unique chance to join one of the premier names in the field and work focusing on copyright and media matters. The ideal candidate must be Singaporean qualified with relevant experience from a top-ranked IP team. Strong academic credentials and excellent legal writing skills are highly desirable.

Senior Enforcement Attorney | 9+ yrs pqe | Beijing REF: 13905/AC

This international law firm with leading IP practice is seeking a Senior Enforcement Attorney to lead a small team in Beijing. This role covers trademark infringement and enforcement matters. The ideal candidate will be PRC qualified with at least 9 years' PQE in trademark litigation and enforcement in an international law firm. Hand-on knowledge of trademark law is essential. You must have fluent English and Mandarin language skills.

Dispute Resolution Associate | 2-3 yrs pqe | BVI REF: 13914/AC

An outstanding opportunity for a Mandarin-speaking Dispute Resolution Lawyer to join a thriving off-shore firm in either the British Virgin Islands and/or Cayman. You will be working closely with its global teams across a range of contentious commercial issues and disputes. The ideal candidate must have commercial dispute resolution experience gained in top-ranked law firms. Fluency in English and Mandarin is essential.



To find out more about these roles
& apply, please contact us at:
T: (852) 2520-1168
E: hughes@hughes-castell.com.hk
www.hughes-castell.com



Your privacy and the privacy of others are important. By you supplying us with your personal data, which includes your CV and/or details of your referees, you have agreed to our collection, use and disclosure of such data to assist you in finding a job now or in future, as well as for marketing purposes. You agree that you have obtained appropriate consent to provide to us data from other person(s).

NEWS

Norton Rose Fulbright and Chadbourne & Parke to merge

By Nick Ferguson

Norton Rose Fulbright and Chadbourne & Parke have agreed to a merger that will create a law firm with more than 4,000 lawyers in 58 offices and 32 countries.

The combination is set to take place in the second quarter of this year. The merged firm will reportedly be known simply as Norton Rose Fulbright, marking the end of the Chadbourne & Parke name 115 years after the firm was founded in New York as Chadbourne, Babbit & Wallace.

“Chadbourne has a proud history,” said Peter Martyr, Norton Rose

Fulbright’s global chief executive, as he acknowledged the firm’s strengths in energy, infrastructure, banking and financial services. “Joining forces with our new colleagues, we can offer our clients significant new capabilities in New York and Washington, DC. We will benefit from new offices in Mexico City, Sao Paulo and Istanbul, and we will be able to offer our clients expanded capabilities in London, Dubai, Latin America and other key markets.”

Andrew Giaccia, Chadbourne & Parke’s managing partner, said the two

firms are a good fit. “Our firms share a strategic vision and client focus, and we have highly complementary practice and industry strengths.”

Norton Rose has grown ambitiously during the past decade, most notably through its 2013 merger with Fulbright & Jaworski. It has also struck deals with Canadian firms Bull Houser & Tupper, Macleod Dixon and Ogilvy Renault, South Africa’s Deneys Reitz and Deacons in Australia.

Such tie-ups partly reflect a paradigm shift in the market for legal services, as we previously reported in our article *The new spectrum of legal services*.

Accustomed for so long to genteel competition from their peers, law firms are under pressure from a new generation of competitors that are challenging the established business model and putting pressure on fee revenue.

For example, the latest AmLaw rankings showed the weakest annual growth, excluding the financial crisis years of 2008 and 2009, since 1993 — and a widening gap between those firms at the top of the list and, basically, everyone else. The pie is shrinking.

“We do appear to be in a legal services revolution,” said Beaton Capital’s Nick Seddon in our earlier report. “The root cause is the dissatisfaction of the buyers of legal services and the feeling that the traditional law firms have just not been really listening. The clatter we hear now is the sound of clients taking to the streets!”

Far-sighted firms have responded to these challenges with significant investments in technology and processes, as well as through partnerships with legal startups and tech players.

For its part, Norton Rose says that it differentiated itself from the rest of the traditional legal marketplace by becoming the first global law firm to be organized by industry sector.

As the pressure on fees globally looks set to continue, expect more familiar old law firm names to go the same way as Chadbourne.



Photo: Patrick D'ransfield

Legal recruiters forecast busy year

By Nick Ferguson

We spoke to Lindsey Sanders and Emily Lewis, co-founders of recruitment specialist Lewis Sanders, about the outlook for the legal recruitment market in Hong Kong and China. The firm celebrated its 10th anniversary at the end of 2016.

How would you summarise the current state of the legal recruitment market in Asia?

The market on the law firm side is extremely active at both associate and partner level. Most firms in Hong Kong and China have multiple openings with particular area of focus in corporate M&A/PE, disputes, regulatory and banking. The IPO market was quiet last year but we have seen an increased demand for corporate finance lawyers with Mandarin during the past three months.

There was a significant number of partner moves in 2016 and we expect this activity to continue into this year. While many firms have particular mandates at partner level, most are opportunistic and will look at individuals with a good business case, strong client relationships and track record.

The in-house market is very buoyant as multinational companies and financial institutions continue to expand their legal teams in order to broaden their capability in Asia and reduce external costs. We receive new instructions for in-house roles on a daily basis from both existing and new clients and the overwhelming preference for most associate level candidates is still to move in-house. Partnership at a law firm is no longer viewed as the ultimate career objective for most lawyers in Hong Kong, who place more value on working closely with the business line and more flexibility around working hours.

Are salaries and bonuses on the rise?

In 2016 US law firms raised base salaries across the board in line with the US

increases with first year lawyers now starting on US\$180,000. The gap between the UK and US firms has widened further causing both retention and hiring issues for the UK firms whose pay scale has remained fairly flat in comparison over the last few years. We do not expect to see much movement on law firm base salaries or bonus payments this year.

For in-house, financial institutions and MNCs tend to be on par with UK firms in terms of base. Bonuses with the banks are between 10 percent to 15 percent down on last year and have been more varied this year based on individual performance. We are still seeing some redundancies amongst the legal teams of banks at senior level but these are few in number.

What types of specialisations are most in demand?

There is high demand in M&A and PE at the mid to senior associate level, particularly with Mandarin language skills. Lawyers with contentious regulatory experience also have a range of options with roles coming up in law firms, financial institutions and also with the regulators.



Emily Lewis



Lindsey Sanders

How has cost-cutting at banks and corporations affected the in-house market?

The global investment banks have made a number of redundancies at senior level in legal over the last few years as part of a cost-cutting exercise but generally these roles have been replaced with new headcount at a more junior level. We have seen a significant number of new roles across the banks since the start of the year compared to last year, which was relatively quiet during the same period. We have not seen cost-cutting affect legal hiring in the commerce and industry sector, and there is an increased number of roles arising year on year.

What is your outlook for 2017?

Given current levels of activity, we are optimistic that this year will be busy with plenty of new opportunities coming through. There are likely to be a range of options for good quality lawyers with Mandarin language skills both with law firms and in-house.



MOVES

The latest senior legal appointments around Asia and the Middle East



AUSTRALIA

K&L Gates has strengthened its corporate and transactional team with the appointment of **Matthew Cridland** as a partner in the Sydney office. Joining from DLA Piper, Cridland has over 17 years of experience working as an indirect tax lawyer in Australia, with a focus on complex goods and services tax matters. He also advises on customs and state tax matters, including stamp duty, payroll tax and land tax. His experience encompasses advising clients across a wide range of sectors, such as real estate, financial services, corporate (including M&A, IPO and other securities transactions), energy and resources, infrastructure (including PPP and joint ventures), government, telecommunications and retail.



CHINA

Kirkland & Ellis International has added **Paula Liu** as a partner in the corporate practice group of its Shanghai office. Liu concentrates on M&A transactions with a focus on private equity. She has built a reputation as one of the leading young corporate and private equity lawyers in Shanghai. Liu joins from the Shanghai office of Clifford Chance, where she advised private equity funds and multinational companies on their investments, acquisitions, disposals and strategic transactions in China.



HONG KONG

Ashurst has added **PH Chik** as a partner in its corporate practice, based in Hong Kong. Chik was a partner in Linklaters' Beijing office from 2012. Prior to that, he was a partner in Baker McKenzie's Beijing office from 2007 to 2012. Chik specialises in Hong Kong listing work, including IPOs, secondary offerings and post-listing compliance, with a particular focus on Chinese state-owned enterprises. He has over 20 years of experience and a market-leading reputation.

Baker McKenzie has added **Paul Teo** as a partner in the dispute resolution practice group based in Hong Kong. Focusing on international and domestic arbitration and dispute resolution, Teo handles commercial disputes and disputes arising out of projects spanning the energy (oil and gas, power, renewables), infrastructure, construction, offshore and marine, and telecommunications sectors in Hong Kong and across the region. During his career, he has worked on matters across a variety of jurisdictions, including China, Hong Kong, Singapore, Japan, Philippines, Malaysia, Thailand, Vietnam, Indonesia, India and Mongolia, as well as the US, Latin America and Africa. Teo was previously a partner with Hogan Lovells, where he was joint head of the firm's international arbitration practice in Southeast Asia. He has almost 20 years of experience advising and representing parties in major disputes involving arbitration, adjudication, alternative

dispute resolution and court proceedings. He is also a chartered arbitrator and sits regularly as arbitrator on ad-hoc and institutional cases.

Seyfarth Shaw has opened an office in Hong Kong as it continues to expand its international employment law practice in the Asia-Pacific region. **Julia Gorham** joins from DLA Piper, where she was partner and head of the firm's Asia employment law practice, to lead the employment team in the new office.

White & Case has expanded its banking capabilities in Asia with the addition of **Andrew Bishop** as a local partner in the firm's global banking practice in Hong Kong. He works with financial sponsors, corporate borrowers and banks and has significant experience advising borrowers and sponsors on structuring and negotiating complex cross-border financing transactions.



Andrew Bishop

Bishop also advises investment banks, private equity funds, venture funds, institutional and strategic investors on a wide range of financing transactions, including leveraged acquisition finance, real estate finance, refinancings and restructurings, debt buy-backs, bank/bond transactions, bridge finance, margin loans and back-leverage financings, as well as subscription and capital call financings. He joins from Ropes & Gray and brings nine years of experience.

Skadden, Arps, Slate, Meagher & Flom has added **Geoffrey Chan** as a partner to lead its Asia Pacific investment management practice to be based in the firm's Hong Kong office. Previously a partner and head of the Asia private investment funds practice at another global law firm, Chan focuses on the formation and structuring of Asia-based US dollar-denominated private investment funds, particularly in Greater China. Fluent in Mandarin and Cantonese, he regularly represents sponsors and investors of a wide variety of fund types, ranging from private equity and venture capital to co-investment and real estate funds. Chan advises on issues, including fundraising and holding company structuring, as well as internal fund issues and investment activities. Prior to attending law school, he was an investment banker and financial analyst at a major global investment bank. Chan is a member of the New York bar and the Law Society of Hong Kong.

Walkers has added **Jenny Nip** as a partner in the corporate and investment funds group at the firm's Hong Kong office. With substantive offshore experience and a focus on the Hong Kong and China markets, Nip specialises in all areas of corporate transactions, including capital market transactions, M&As and

downstream private equity financing and investment deals. She has extensive experience in representing issuers, arrangers and investors on pre-IPO financings and listings of BVI and Cayman Islands companies on global stock exchanges. She also has significant expertise advising international banks, financial institutions, leasing companies and corporations on bank finance and debt capital market transactions.

 **MALAYSIA**

Rahmat Lim & Partners has added **Dzuhairi Jaafar Thani** as a partner in the energy, infrastructure and projects practice, with effect from February 13, 2017. Thani has extensive experience in privatisations and the development, construction, operations and maintenance of railway and highway infrastructure projects. He has advised on civil aviation laws and regulations, including on the purchase, sale and leasing of commercial passenger aircraft. He has also advised on various engineering, procurement, construction and commissioning contracts, including those for refinery and petrochemical plants, and other oil and gas-related facilities. Prior to joining the firm, Thani was the co-head of the construction and infrastructure projects department in another Malaysian law firm.

Wong & Partners, the member firm of **Baker & McKenzie International** in Malaysia, has strengthened its projects practice with the addition of **Lim Siaw Wan** as a partner in the finance and projects practice. Lim was formerly a partner in the construction and projects department of Christopher & Lee Ong.

 **SINGAPORE**

Bird & Bird has added **Anan Sivanathan** as a partner in the IP group, based in Singapore. Sivanathan joins from Creative Technology, where he was associate vice president and head of the global legal team. He has worked at Creative since 2000, initially as director of legal services and subsequently promoted to associate vice president in 2007. His particular experience lies in patent litigation, anti-counterfeiting and IP management and monetisation, as well as trademark litigation and other high value IP dispute resolution matters in many countries. He has also handled many commercial disputes. Prior to working at Creative, Sivanathan was an IP litigation associate and subsequently a partner at Drew & Napier. He originally trained as a barrister and was called to the Bar of England and Wales in 1991. He returned to Singapore and was called to the Singapore Bar in 1992.

 **THAILAND**

SCL Law Group has added **Sorraya Boonsongprasert** as a partner in SCL Tax Consultants in January 2017. Prior to joining the group, she was a country tax manager of Unilever (Thailand), where she headed the tax team of Unilever Thailand, Cambodia and Lao PDR. Before that, she was an assistant tax director at HNP Counselors, on top of successful stints at Ernest & Young (EY) Australia, EY Thailand Corporate Services and KPMG Phoomchai Tax & Legal (Thailand). With over 15 years of experience as a professional tax advisor, Boonsongprasert brings with her in-depth knowledge and expertise in various areas of taxation. Her extensive experience includes transfer pricing, tax compliance, business liquidation, tax due diligence, settlement of tax audit issues and EBT transactions.

 **UAE**

Clyde & Co has expanded its shipping practice with the addition of **Ian Chung** as partner in its Dubai office. Chung brings a wealth of transactional, non-contentious experience which will complement the firm's existing contentious shipping/transportation and offshore marine practice in the Middle East. He has worked in the Middle East since 2008, where he specialises in corporate and finance work in the international trade, maritime and oilfield services sectors. He joins from Holman Fenwick Willan in Dubai, where he was a partner in the corporate group. Chung acts for regional and international financiers and operators and has been involved in and led many of the largest transactions in those sectors in recent years.



Simmons & Simmons has expanded its dispute resolution practice with the addition of **Payam Beheshti**, who joins the Dubai office as a partner on January 22, 2017. Beheshti joins from Clifford Chance, where he specialised in commercial disputes, contentious regulatory and investigations, particularly in the financial institutions sector. He also advises on cyber-crime, data protection, anti-corruption and insolvency litigation.



Empowering In-House Counsel along the New Silk Road

DEAL OF THE MONTH



asian-mena Counsel Deal of the Month

Bombay Stock Exchange IPO

Asia's oldest stock exchange started out as an informal gathering of stockbrokers under the shade of a banyan tree at Horniman Circle in south Bombay in 1875. Now, 142 years later and still based in the same part of the city, the Bombay Stock Exchange has finally gone public itself.

The US\$184 million initial public offer was the first listing of a stock exchange in India. Due to a prohibition in India on self-listing, the stock exchange had to list on the main board of its bigger rival, the National Stock Exchange, which is currently preparing to return the favour by launching its own IPO on the BSE.

BSE is one of the biggest stock exchanges in the world in terms of the number of companies listed on it — some 5,500 companies with a total market capitalisation of US\$1.5 trillion.

Investors responded well to the deal



and placed subscriptions for 50 times more shares than were on offer, allowing the underwriters to price at the top of the marketed range and value the company at US\$645 million.

The 262 selling shareholders included Singapore Exchange, George Soros's Quantum, Atticus Mauritius, GKFF Ventures and Acacia Banyan Partners.

Together, they put up 15.4 million shares up for sale, representing roughly 28% of the company.

Due to BSE's significant investment portfolio, the deal was structured to allow sales in the US while complying with the Volcker Rule (which prohibits proprietary trading) and the US Investment Company Act, rare requirements for Indian listed companies.

Clifford Chance advised the underwriters on the international aspects of the IPO. Partner **Rahul Guptan**, supported by partner **Johannes Juette**, led the transaction.

AZB & Partners advised BSE, while **Nishith Desai Associates** represented the underwriters: Edelweiss, Axis Capital, Jefferies, Nomura, Motilal Oswal Investment Advisors, SBI Capital Markets and SMC Capital. **Crawford Bayley & Co** provided legal counsel to the selling shareholders.

Other deals during the past month:

Khaitan & Co advised **Hindustan Motors** on the sale of its iconic Ambassador brand to Peugeot Citroen for Rs800 million (US\$12m). The firm also advised **CK Birla Group companies** (Avtec and Hindustan Motor Finance) on two joint ventures with Peugeot Citroen for the manufacture of powertrains and vehicles in India. Partners **Haigreve Khaitan** and **Bharat Anand**, supported by partners **Sanjay Sanghvi**, **Arvind Jhunjhunwala**, **Ashwin Bishnoi** and **Diwakar Maheshwari**, led the transactions.

Kirkland & Ellis advised **SoftBank** on its controversial US\$3.3 billion acquisition of Fortress Investment Group. The deal attracted headlines after the SEC launched an investigation into a series of orders for Fortress shares and derivatives through Maybank Securities in Singapore and RJ O'Brien in London. **Paul, Weiss** advised Fortress. Partners **Ariel Deckelbaum**, **Marco Masotti** and **Ellen Ching** led the transaction, which is expected to close in the second half of 2017. **Skadden, Arps, Slate, Meagher & Flom** and **Paul, Weiss, Rifkind, Wharton & Gar-**

ison also advised Fortress while **Davis Polk & Wardwell** advised the Special Committee of Fortress's Board of Directors. **Weil, Gotshal & Manges** and

Sullivan & Cromwell (Hong Kong) is representing **Aviva** on its agreement with Hillhouse Capital and Tencent to develop an insurance company in Hong Kong focused on digital insurance. Hong Kong corporate partners **Chun Wei**, **Garth Bray** and **Kay Ian Ng** are leading the transaction.

For a full list of recent deals and their advisers, see inhousecommunity.com



Be it a case of wanting to spice things up or break the pattern, every now and then, it's nice to know there's something else. Whether you do so casually or stringently, take a look below to see what the legal sector can offer you.

Head of Legal, Real Estate

10-15 yrs PQE, Hong Kong

A listed conglomerate is seeking a head of legal for its real estate arm. Reporting directly to the chairman, the candidate will advise senior management on legal and risk matters as well as managing the group's property development and M&A projects in Hong Kong and China. Prior in-house experience is essential. Strong business acumen and fluent English, Cantonese and Mandarin are required. [Ref: PBP6343]

Contact: Eleanor Cheung

Tel: (852) 2537 7816

Email: echeung@lewissanders.com

Trade Finance Lawyer, Banking

5+ yrs PQE, Hong Kong

A leading international bank is seeking an experienced trade finance/ transaction banking lawyer to support its Asia-Pacific trade business. The successful candidate will have at least 5 years' PQE with reputable law firms or at another financial institution. You should have extensive experience in banking and finance, international trade finance or transaction banking. Chinese language skill will be preferred but not necessary. [Ref: 212240]

Contact: Carmen Mok

Tel: (852) 2951 2117

Email: CarmenMok@TaylorRoot.com

In-House Counsel, Consumer Goods

5-10 yrs PQE, Hong Kong

A UK-listed fast-moving consumer goods company with significant growth plans for Asia Pacific has headcount to appoint its first in-house counsel in Hong Kong to support the regional management team covering Asia Pacific. Work will involve negotiating a range of commercial agreements and providing general in-house advice. This is a great opportunity to support a dynamic and young executive team in a business that is one of the sector's best global performers. [Ref: IHC 11472]

Contact: Claire Park

Tel: (852) 2920 9134

Email: c.park@alsrecruit.com

Legal Counsel, FinTech

4-6 yrs PQE, Singapore

A fintech startup is seeking a financial services regulatory lawyer who is very much interested in being part of its foundation. This role will require you to work autonomously and support the growth of the organisation. Key responsibilities will include drafting and reviewing a variety of contracts, ensuring corporate governance and liaising with regulators on all legal/regulatory issues and various government agencies. [Ref: JGB — IS 1705]

Contact: Benedict Joseph

Tel: (65) 6818 9707

Email: benedict@jlegal.com

AVP/VP Legal Counsel, Private Banking

4-8 yrs PQE, Singapore

In line with its growth plan in the Asia-Pacific region, a top-tier global bank is looking to expand its private banking legal team in Singapore with new headcount. The ideal candidate will be a Singapore-qualified lawyer with 4 to 8 years' PQE in a reputable law firm or an in-house legal counsel role with a peer financial institution. Experience within private banking/wealth management would be highly preferred, but experienced lawyers with solid general banking experience may be considered as well.

[Ref: JO-1702-167270]

Contact: Claudia Dumitru

Tel: (65) 6407 1205

Email: ClaudiaDumitru@puresearch.com

Senior Legal Counsel, Employment and Labour

10+ yrs PQE, Malaysia

A global leader in fast-moving consumer goods seeks to hire a senior lawyer to join its employment and labour relations group. Based in Kuala Lumpur but supporting the entire Asia-Pacific region (including China, India, South-East Asia and Australia/New Zealand) the successful candidate must have a demonstrated track record of partnering HR in crafting creative and pragmatic solutions to HR issues. The lawyer will also develop strategies and execute HR strategies that are consistent with global company policy and consistent with local laws in each country. Strong leadership skills and willingness to travel in the region are essential. [Ref: A41049]

Contact: Surene Virabhak

Tel: (65) 6236 0166

Email: resume@legallabs.com

Legal Counsel, Healthcare

10+ yrs PQE, Singapore

A Fortune 500 healthcare company is seeking an astute commercial lawyer to join its Singapore office, covering the Asean region. You will be responsible for providing advice and support on business transactions. With more than 10 years' PQE and admission to the bar in an Asean country, you ideally have solid experience in commercial work gained in the medical device or pharmaceutical industry. A capable team player with excellent cross-functional and cross-cultural communication skills is preferred. Fluency in English and an Asean language is mandatory. [Ref: 13857/AC]

Contact: Neha Hari

Tel: (65) 6220-2722

Email: hughes@hughes-castell.com.sg



Ilya A. Umanskiy,
Associate Managing Director

Protecting IP in three dimensions

Managing and protecting intellectual property (IP) can be a complex undertaking. Often, IP is viewed too narrowly – in many cases only as something intangible. Yet experience shows that IP is quite multi-faceted and practitioners have to think in three dimensions – mental, physical and digital – to fully grasp IP’s potential vulnerabilities. Our mobile phones are a good example. Their manufacturers certainly have people who know about highly sensitive attributes of the product (mental); proprietary information about the phone’s design and manufacturing most likely exists in printed form (physical); and nearly all of the aforementioned information about the device is stored on the network and personal computers within the organisation (digital). Protection of IP can be consistent only when sufficient controls are applied in all three dimensions.

Streamlining IP management

Think of IP in terms of information, the processes entailed in its creation, equipment used, and its distribution both inside and outside of your organisation, including unique tangible assets. Knowing where IP exists in three dimensions will help make the definition as inclusive as possible.

Consider reverse-engineering each IP asset to understand potential gaps in definition and scope. For example, if a perfume designer creates a new scent, such process of creation can be traced back to understand where sensitive information and ingredients are stored (or sourced from) as well as where they travel and how.

Assign IP asset ownership to specific functional roles within your organisation to ensure accountability. Train IP asset owners at least quarterly on their responsibilities. It is prudent to isolate IP asset ownership assignments among multiple functional leaders to avoid a total loss during a single attack.

Carefully curate IP asset movement and sharing both within and particularly outside of your organisation.

Foster frequent interaction among IP asset owners so that they could learn from each other with the objective of optimising IP asset management.

Streamlining IP protection

Focus on preventing IP loss. Once an IP asset is compromised / lost, some of the damage (operational, financial, and reputational) cannot be undone. It is crucial to make control processes consistent and continuing. Lack of incidents should not lead to complacency. Aligning protection levels with IP asset criticality levels (operational, financial, and reputational) as well as known risks and threats is the best and proven strategy.

Monitor behaviours of those with access to IP assets to identify any “red flags”. This can be done through collaboration between security, investigations, and HR functions. For example, an employee’s pattern of declining emotional health as well as occasional outbursts triggered by seemingly trivial issues should be viewed through the lens of his or her access to IP assets.

Consider frequently changing locations of IP assets on the network

to help confuse internal and external attackers. Be mindful to avoid patterns.

Codify, password-protect, and encrypt your IP asset data. For example, one IP asset owner should not know the codename for, or have access to, IP assets of another owner.

Implement exception-based monitoring of IP assets in all three dimensions. For example: consider what is not right about the current or past state of an IP asset?

Train all who touch IP assets frequently and in different formats (lecture, mobile, visual triggers, active questions, etc.) to foster vigilance. At a minimum, training should be delivered on a monthly basis.

Managing IP loss incidents

Your incident management plan should be actionable and practised at least quarterly. Remember: role-playing and visual workflows are better than a volume of dry text.

Establishing the extent of loss and its severity is key and should be done no later than in the first 30 minutes after an incident is first reported. This can only be achieved by building a robust IP asset inventory and classification system.

Understanding dimensions in which an IP asset has been compromised is critical as it will help optimise your remediation efforts.

Performing a root-cause analysis after each incident will help establish prudent mitigation measures to avoid recurring incidents.

iumanskiy@kroll.com
www.kroll.com

IP REPORT



28 The new IP and online landscape in China

By Ai-Leen Lim, *AWA Asia (part of the Awapatent group)*

32 Reshaping the perception of Indian IP law

By Pravin Anand and Vaishali Mittal, *Anand and Anand*

The new IP and online landscape in China

By Ai-Leen Lim, chief executive and principal counsel,
AWA Asia (part of the Awapatent group)

The past 12 months have brought several significant developments in the IP and online environment in China, many of which are game-changers in the way IP portfolios are managed and business is conducted online and offline.

Trademark owners, patentees, advertisers, platform operators, webstore owners, online key opinion leaders and celebrity endorsers are affected. It is no wonder that the international business community is watching these developments unfold with bated breath, while figuring out their compliance and risk-mitigation strategies, and also positioning themselves to reap the potential benefits from the changes.

China's 13th five-year plan, which commentators see as the economic blueprint of what it aspires to achieve within the five-year period between 2016 and 2020, had foreshadowed this chain of legislative and administrative pronouncements. Its focus on economic growth through innovation, boosting of local consumption and the internet economy as an engine of growth have no doubt brought about this flurry of legislative and administrative rulings.

This article provides an overview of the important changes (and impending changes) to the legal landscape that reveals China's recent active and swift intervention in regulating its internet economy and cyberspace, while it seeks

to update the requisite regulatory infrastructure aimed at supporting an innovative society through strengthened IP protection and enforcement.

Key changes to watch

1. The enactment of China's Cyber Security Law (June 2016)
2. The announcement by the State Intellectual Property Office's (SIPO) of the latest amendment to the Patent Examination Guidelines which relaxes patentability criteria on business method patents and software patents (WEF April 2017)
3. The introduction of the draft E-commerce Law (December 2016)
4. Updates on the Examination Criteria of Trademarks which clarifies important provisions of the last amendment of the Trademark Law by the State Administration of Industry & Commerce (SAIC) (December 2016)
5. The release of the latest version of the draft amendment to modernise and overhaul the Anti-Unfair Competition Law which was passed in 1993 (February 2017)
6. The amendments to the Advertising Law that have been clarified by the SAIC's Interim Measures for the Administration of Internet Advertising to cover online advertising as well (WEF September 2016)

Cyber security

China's Cyber Security Law was enacted on June 7, 2016 and will take effect from June 1, 2017.

Under this new law, data collected in China is required to be stored in China unless it is necessary to save this data offshore, but this needs to go through a security approval processes, the implementation details of which are still not announced. Network operators are obliged to provide technical support and assistance in criminal investigations and those relating to national security, and to save weblogs for not less than six months. The law also regulates the technology that is used in China's internet space, through the requirement of prior certification of critical network equipment and specialised security products. This could result in very local technical standards being erected thereby creating a barrier in achieving global

interoperability of IT systems. Also, critical information infrastructure systems are subject to national security reviews.

This new piece of legislation has been the subject of much speculation and uncertainty, which is not helped by its imprecise language. These provisions clearly present a challenge to one's proprietary information and trade secrets, and also raise question marks over whether these measures are protectionist in nature to help safeguard the interests of Chinese businesses and offer them an advantage over foreign entities operating in China.

Finally, the new law echoes China's online publishing regulations in extending the authorities' long arm of reach in governing Chinese online matter, which disallows the publication of content that pose threats to the reputation or interests of the state, on the basis of the protection of national security interests through such control. These terms are broad and undefined, which allows for much room for interpretation by the authorities.

Patent examination

The State Intellectual Property Office (SIPO) issued its Revisions to the Patent Examination Guidelines on March 1, 2017, which take effect on April 1, 2017.

The amended guidelines are generally pro-patentee and are much welcomed by the IP community, although it is not clear how these will apply to pending applications and granted cases.

The amended guidelines have confirmed the current practice that business method patents are allowed if there is a technical element to the novel business method. Such inventions were previously rejected if the examiner could not find any claim more than rules and methods for mental activity, with no inventive technical effect.

Similarly, the amended guidelines have relaxed the examination criteria for software patents, through the introduction of two additional types of claims that applicants can



Ai-Leen Lim

“The international business community is watching these developments unfold with bated breath, while figuring out their compliance and risk-mitigation strategies, and also positioning themselves to reap the potential benefits from the changes”

“It is not just the large internet retailers that need to comply – companies handling online payments, logistics, deliveries, cross-border sales or anyone with access to customer data could be affected”

consider, namely medium combined with computer programs, and apparatus claims that cover both hardware and computer program elements. Notwithstanding the above, the amended guidelines confirm that software per se is not patentable subject matter as they are in the nature of rules and methods for mental activities.

The amended guidelines also allow the patentee in an invalidation action to add to a claim one or more elements from other granted claims. In such cases, the party initiating the invalidation may apply to add new grounds in support of the invalidation in relation to the amended claims, but without the right to adduce new evidence.

E-commerce

China's draft E-Commerce Law was published in December 2016 to solicit public opinions.

The draft law applies to e-commerce activities occurring within China or activities involving the participation of e-commerce operators or customers within China. If this draft law is passed, the affected companies will be required to ensure that they comply with the following personal data protection provisions:

- Notifying customers from whom they are collecting personal data that they are doing so, including how this data will be used, and also allowing customers to correct errors in their data so collected.
- Maintaining records for at least three years.
- Establishing internal control systems to securely manage data.
- Having a contingency plan should a data breach occur.

So it is not just the large internet retailers like Tao Bao/Tmall and JD.com and that need to comply. Companies handling online payments, logistics, deliveries, cross-border sales or anyone with access to customer data could be affected.

The draft law deals with the requirements for electronic contracts and lists prohibited activities that constitute unfair competition or manipulation of credit rating. Further, it contains consumer protection requirements concerning the authenticity of information, the quality control of goods and services, and security deposits. The draft law also contains provisions on IP protection and procedures for addressing complaints of IP infringement. Under the draft law, breaches result in serious consequences such as Rmb500,000 in fines and the suspension of the company's business licence.

Trade mark examination and adjudication

Updates on the Chinese Trademark Examination and Adjudication Criteria were issued by SAIC on January 4, 2017.

The criteria confirm and reaffirm the practices before the Chinese Trade Mark Office and the Trademark Review and Adjudication Board, which trade mark practitioners had observed even before January 2017. The key revisions to the criteria seek to strengthen the protection of prior right holders and to curb bad faith registrations and fraudulent trade mark squatting.

For instance, the criteria clarifies what constitutes “prior use” in the context of registrations (in bad faith) by third parties that had contractual or other business relationships with the mark owners – this means that the goods bearing the mark in question have been sold or promoted in China or even in cases where preparatory activities have been undertaken to launch the products in China. There is no need to prove a high degree of fame in this case. Nor is there a need to show that the mark is well known, as long as it can be proven that the third party falls within the numerous defined categories of contractual or business relationships.

Also, “interested parties” who are entitled to file oppositions and invalidations under Articles 33 and 45 respectively of the Trade Mark Law include licensees, successors in title, pledgees of the relevant prior rights. Further, even if a person did not have any interest at the time of the application, as long as he is vested with an interest at the time of adjudication, he shall be treated as an “interested party”.

Unfair competition

The latest version of the Draft Amendment to modernise and overhaul the 1993 Anti-Unfair Competition Law was issued for public consultation in February 2017.

The draft amendment expands the scope of unfair competition to cover commercial bribery, false or misleading marketing practices, theft of commercial secrets by employees or ex-employees, using technological tactics to force target jumping such as inserting a link without consent in web pages that are offering goods or services by other business operators, fraudulent prize awards, etc. Further, it protects against the unauthorised use of others' names, trade marks (including unregistered well-known trade marks), domain names or web page content. It also contains provisions against products or services that are deliberately designed not to be compatible with other products. Breaches of the provisions could in serious cases result in fines of up to Rmb3 million or the revocation of business licences. Violations could also be recorded in a credit tracking system.

Internet advertising

The provisions of the amended Advertising Law were clarified in September 2016 by SAIC's Interim Measures for the Administration of Internet Advertising to cover online advertising.

The measures have made it clear that the latest amendments to the Advertising Law extend to internet advertising, which is defined to cover product promotion via text, pictures, videos and links, email advertising, paid search advertisements and advertisements within commercial presentations. The groups that are most affected by these measures are internet advertisers and platform operators, but key opinion leaders and celebrities who endorse products online also need to comply with these regulations.

Any digital content placed on any online platform intended for the promotion of a product or service will be governed by the measures, which identifies individuals or groups who are online "publishers", and these include any entity that displays or submits internet advertisements or that verifies or moderates submitted advertisements for publishing, who are all caught by the regulations. Hence content creators, platform operators (including search

engines or content-sharing platforms that host third-party advertisements) are all affected.

Under the amended Advertising Law, terms such as the words "national", "highest", "best" or similar superlative claims are not allowed in advertising matter addressing Chinese consumers.

The measures also reiterate that online advertisements are prohibited for prescription drugs and tobacco products. Also, online advertisements on the products below require review before being published online:

- Medical treatments
- Pharmaceuticals
- Foods for special medical purposes
- Medical devices
- Pesticides
- Veterinary drugs
- Dietary supplements

Final reflections

It has been an eventful past 12 months for those who have been tracking the changes to the IP and internet landscape in China. These developments are certainly keeping in-house IP, legal and compliance teams busy as they review their IP and IT policies for China in light of these changes.

With the vast potential afforded by the Chinese market, businesses are acknowledging that it is a worthwhile exercise, which they also see as an opportunity to reconsider and refresh their business strategy for China given its continued importance as a key market for the world's business community and as a manufacturing location. The role of e-commerce (and the convergence of social networking and e-commerce) as a driving force in the Chinese online space is also not to be ignored. Companies today are more than ever before alert to this reality and taking all necessary steps to take advantage of these changes while mitigating the minefields that come with these new regulations.



ai-leen.lim@awapatent.com
www.awapatent.com

Reshaping the perception of Indian IP law

By Pravin Anand and Vaishali Mittal, Anand and Anand

“In a progressive country change is constant; change is inevitable.”—

Benjamin Disraeli

The past few years have seen plentiful developments in the Indian IP regime. The judiciary has consistently delivered landmark decisions in every field of IP, be it patents, copyright or trade marks, and the government has gained widespread global appreciation for its numerous initiatives to strengthen IP, while the legislature has passed new laws that not only prioritise IP disputes (due to their commercial importance), but ensure that they are adjudicated swiftly through specialised forums.

However, these instrumental gains seem to have been lost on authorities ranking India’s performance in comparison with other nations. The Special 301 Report issued by the US Trade Representative (USTR) places India on its priority watch list, while the index published by the Global Intellectual Property Center (GIPC) ranks India 37 out of 38 economies.

Although India does have ground to cover before it can be said to have one of the strongest

IP regimes in the world, even with the current IP infrastructure, there are no such glaring drawbacks to deserve such a ranking. In fact, certain facets of legislation, policy and the practice of IP law in India are so unique that they are unmatched anywhere else.

The strengths of Indian IP law

The Commercial Courts Act, 2015 classifies all IP disputes as commercial and thus entitled to swift, expert adjudication. Meanwhile, the executive branch of government dedicated substantial resources to the improvement of IP, with the introduction of campaigns such as Make in India, Digital India, Start-up India along with the National IPR Policy.

Through these campaigns, the government provides incentives to innovators to manufacture, invest and set up businesses here. These efforts ensure that not only is doing business made easier, but grievances of IP holders are given quality adjudication by expert bodies sensitive to their needs and interests, irrespective of their nationality.

Such developments on the judicial front are unprecedented, with the judiciary spearheading the campaign of invigorating IP. Landmark decisions, in sync with internationally established principles, have resulted both in the strengthening of IP, and in exponentially increasing the faith of IP holders in the judicial system.

Various aspects showcasing the true strengths of IP in India are assessed below.

“Evaluation of the regimes of countries by ranking agencies such as USTR and the GIPC have a significant impact since they help rights-holders invest in regimes based upon such evaluation”

General aspects of IP litigation

It is not only statutory provisions regulating IP, but also the manner in which courts help litigants implement them, that showcase the strengths of the Indian system. The judiciary has single-handedly improved jurisprudence by such leaps and bounds that previously unheard of legal principles have become regular features today.

With an extremely relief-centric approach, the courts have a healthy practice of Anton Piller, Mareva and ex parte injunction orders. Conducting cross-examinations of witnesses through video recordings and setting strictly fixed timelines for trials are some steps that are taken specifically to protect the interests of international entities.

Trade marks

It can be safely stated that Indian trade mark law can stand its ground against any other regime in the world, in addition to having factors in its kitty which are unique to India.

While trans-border reputation of trade marks and their declaration as being well-known have been established for years now, recent decisions have extended this status to unregistered marks too. Moreover, when only a few regimes confer protection to unconventional trade marks, India does that and a lot more, being one of the few countries to have declared even colour-marks as well-known.

Brand-owners have also been given the liberty to institute lawsuits at those forums where they reside or conduct business. This is a special privilege offered only in trade mark and copyright law, since every other field of law requires one to institute suits at forums where the defendant resides, among other grounds.

Copyright, piracy and trade secrets

The 2013 amendments to the Copyright Act, 1957 led to the implementation of several provisions that strengthened the law and brought it closer to established international practices. Added provisions on the extension of moral rights to authors, mandatory payment of royalty to different entities involved in a copyrighted work, extended protection terms to photographs and other works have bolstered the regime further.

Moreover, the established practice de-hors these amendments had ensured that the menace of counterfeiting and online piracy was

well addressed. India has been home to website blocking orders and restraining infringing activities of hyperlinking, meta-tagging, phishing, framing, etc. The fact that these orders were passed at a time when India was warming up to the notion of the internet showcases the constantly proactive approach of the judiciary.

Patents

Patent law has grown the most among all fields, with immediate steps being taken to reshape perception whenever it turned sour.

Strengths of Indian IP practice in courts	
1.	Award of compensatory and punitive damages in litigation
2.	Award of recovery of actual costs of litigation
3.	Frequently awarded ex parte interim injunctions
4.	Frequently awarded Anton Piller orders
5.	Frequently awarded Mareva injunctions
6.	Frequently awarded John Doe orders against unidentified Defendants
7.	Establishment of Commercial Courts for speedy and efficient adjudication
8.	Speedy adjudication through Fast Track Trials
9.	Enforcement of the Hague Convention for transmission and recordal of evidence from countries abroad
10.	Strong precedent on consumer protection
11.	Easy recordal of evidence from countries abroad
12.	Neutral, active and strong media reporting of litigation
13.	Efficient Training Institutes for Judges
14.	Use of English as the first language in the judiciary
15.	Establishment of electronic courts to reduce paper, enhance network and infrastructure
16.	Strong contempt jurisdiction
17.	Strong system on substantiating judgments with reasons
18.	Strong system on following established precedent: Stare Decisis
19.	Infrastructure facilitating easy enforcement of foreign decrees
20.	Healthy support for Alternate Dispute Resolution (ADR) procedures

Strengths of Indian trade mark law	
1.	Strong protection of unconventional trade marks
2.	Recognition of trans-border reputation without physical presence of the mark in India
3.	Establishment of prima facie validity of registered trade marks
4.	Availability of common law remedy of passing off for unregistered trade marks
5.	Protection of marks used prior in time against subsequently registered trade marks: Prior Use trumps Registration
6.	Recognition of partial assignment of trade marks, either with or without goodwill
7.	Reversal of normal rule for jurisdiction – Plaintiff entitled to sue where he resides or conducts business
8.	Strong practice of recognizing well-known trade marks

Strengths of Indian IP law	
1.	Healthy practice of orders blocking websites hosting infringing content
2.	Various orders preventing impermissible internet activities such as hyper-linking, framing, phishing
3.	Legislative protection and judicial enforcement of Moral Rights
4.	Healthy record of copyright protection to characters
5.	Infrastructure in place for Digital Rights Management, Data Privacy and Disclosure
6.	Effective protection of trade-secrets through Judicial orders
7.	Effective formation of confidentiality clubs in litigation to prevent dissemination
8.	Authority with powers of self-regulation code for advertisements (ASCI)
9.	Legislative protection for and judicial enforcement of broadcasting production rights
10.	Legislative protection and judicial enforcement of performers' rights
11.	Copyright protection extended to unregistered works
12.	Availability of resale royalty rights
13.	Reversal of normal territorial jurisdiction – Copyright holder permitted to institute a lawsuit at a forum of residence or business

Strengths of Indian patent law	
1.	Effective injunctions based on Quia-timet actions
2.	Conclusive determination of patent infringement after fast-track trial
3.	India is a signatory to Paris Convention Treaty
4.	India is a signatory to Paris Convention
5.	India is a signatory to the Budapest Treaty on Deposit of Microorganisms
6.	India a signatory to the Hague Treaty on Industrial Designs
7.	Legislative Bolar Exemptions to patent infringement
8.	Facilitation of post-grant amendment in patents including by infringement courts
9.	India was ranked the 17th International Search Authority and International Preliminary Examining Authority by WIPO

India's international assessment

	Special 301 Report	GIPC Index
COPYRIGHT		
1.	High online piracy requires appropriate cam-cording legislation.	High rates of online and video piracy exist
2.	Statutory licenses in line with Berne Convention required and under-reporting of cable subscriptions need addressing.	Exemption from liability to intermediaries resulting in weak notice-and-take-down procedures.
TRADE MARKS		
1.	High rates of counterfeiting leading to immense revenue loss.	High rates of counterfeiting highlighted.
2.	Delays in trade mark prosecution and opposition causing grievance to proprietors.	Inability of brand-owners to protect their mark swiftly and effectively causes concern.
TRADE-SECRETS		
1.	Lack of legislation protecting trade-secrets without contractual provisions.	Lack of legislation protecting trade secrets without contractual provisions.
2.	Difficulty in claiming damages in litigation.	
PATENTS AND RELATED RIGHTS		
1.	Section 3(d) prohibits patent protection of incremental inventions.	Section 3(d) prohibits protection of incremental inventions.
2.	Pre-grant and post-grant oppositions lead to duplicity.	Computerized-implemented-inventions need patent protection.
3.	Government's emphasis on Compulsory License Regime.	Compulsory Licensing detrimental to investments.
4.	Cumbersome disclosure requirements for patentees.	

Difficulties caused to patentees due to delays in prosecution of patents saw the judiciary directing the Patent Office to mandatorily increase its workforce and improve resources. Recent trends have seen India rejecting applications for compulsory licenses at the very outset, such as in case of Lee Pharma. Disclosure requirements of international prosecution of patents were heavily toned down and their non-compliance no longer necessarily leads to patent revocation. Moreover, the judiciary has enforced patent rights even in situations where the patentee apprehends sale of infringing products. This concept of quia timet actions, a regular feature in India today, was unheard of previously.

More importantly, India witnessed its first final decisions in contested patent litigation,

where a finding of infringement was conclusively given by the judiciary in the Merck and Roche litigation cases. These decisions have clarified that the controversial section 3(d) does not provide a defence to patent infringement and that it is only a patent eligibility criterion.

Geographical indications and plant varieties

India has a very strong infrastructure protecting geographical indications and plant varieties. Besides dedicating specialised legislations for these fields, India is one of the few countries to maintain a database of traditional knowledge. The Traditional Knowledge Digital Library (TKDL), containing information on more than two million medicinal formulations, is a tremendous success and has greatly assisted patent examiners while searching for prior art and has also enabled India to bring about the cancellation or withdrawal of 36 patent applications for traditionally known medical formulations.

Executive's incentives to startups

Against the backdrop of a strengthening IP system, the National IPR Policy, along with other campaigns, offers several incentives to entrepreneurs to ensure that India receives greater investments. Such incentives include reduced fee for patent filings for startups, accelerated examination of patent applications on payment of higher fees, etc.

International analysis of Indian IP: Overlooking its strengths?

While the assessment of the weaknesses that India's regime suffers from is correct to a large extent, the evaluation of its strengths isn't. The main areas facing criticism in the 301 Report and the GIPC Index are given in the table above.

India's assessment

In addition to the table above, the Special 301 Report has critiqued the government's initiatives as favouring localisation and indigenous products and services.

Improvements needed in Indian IP law

A recent interview by the senior director of IP at GIPC predicted an increase in India's performance on the Index by 2020. Mere

compliance with TRIPS objectives wasn't found sufficient and India was urged to ensure that its regime employs safeguards in sync with international practices today. Such criticism will undoubtedly paralyse the growth of the Indian regime.

Certain facets warranting legislative and executive action are outlined below:

(i) Trade marks

- a) Consistency is required on parallel importation to enhance revenue;
- b) Delays in the prosecution of trade marks need to be reduced.

(ii) Copyright

- a) Loss of copyright protection on articles registrable under design law (but where registration wasn't secured) upon production of more than 50 articles needs to be done away with.
- b) Responsibility of intermediaries for de-listing infringing content must be tightened.

(iii) Patents

- a) Either pre-grant or post grant oppositions to a patent must be eradicated;
- b) Restraints on patentability of inventions imposed by section 3(d) and section 3(k) must be addressed;
- c) Grant of compulsory licences must depend upon stricter thresholds;
- d) Prima facie validity of granted patents can be considered;
- e) Patent term extensions must be facilitated; and
- f) Disclosure requirements for working of a patent, its international prosecution and consequences of its non-compliance must be relaxed.

Conclusion

The strength of every regime lies in the balance struck between national interests and international expectations, and the past few years have seen India excel at it. Any favour extended to domestic entities by the executive is balanced by the judiciary's protection of international interests and vice versa. India's regime is robust not only when compared to its past performance, but also in comparison to the existing regimes of several countries.

Evaluation of the regimes of countries by ranking agencies such as USTR and the GIPC have a significant impact since they help rights-holders invest in regimes based upon such

“Certain facets of legislation, policy and the practice of IP law in India are so unique that they are unmatched anywhere else”



Pravin Anand

“While the assessment of the weaknesses that India's regime suffers from is correct to a large extent, the evaluation of its strengths isn't”



Vaishali Mittal

evaluation. A true and fair evaluation of India's regime is crucial to India to help prevent loss of investments from misconceptions.

Therefore, future assessment of Indian IP by GIPC, USTR or any other agency must definitely take into account its numerous strengths, to enable the world to see it is a robust system. Not the strongest of the strongest, but certainly not the weakest!



ANAND & ANAND

pravin@anandandanand.com
vaishalimittal@anandandanand.com
www.anandandanand.com

The thing about ... Seung Soo

Recently in Seoul, Asian-mena Counsel's Patrick Dransfield photographed **Seung Soon Lim**, managing partner of *Yoon & Yang*, and also asked him a series of questions on behalf of the In-House Community.

ASIAN-MENA COUNSEL: You were actively involved in the merger of Yoon & Partners and Roh & Yang in 2003 and have been managing partner of Yoon & Yang since 2010; can you share any tips regarding successful mergers in the legal sphere and also law firm management, especially for our senior external counsel audience?

SSL: With the purpose of creating a global law firm based in South Korea, Yoon & Yang was established by the merger of Yoon & Partners and Roh & Yang in 2003. Since its establishment, Yoon & Yang has proven to be the most democratic and ethical law firm amongst the major law firms in Korea, and I take great pride in this fact.

All the managing partners of Yoon & Partners and Roh & Yang, and Yoon & Yang after the merger, worked closely together to establish Yoon & Yang as it stands today. In the short period of 13 years since its establishment, Yoon & Yang has become a leading law firm in Korea with more than 360 professionals, including lawyers, and more than 300 staff members employed at the firm. Furthermore, the establishment of the Yoon & Yang Pro Bono Foundation and the Hwawoo Education & Training Centre, as well as the firm's designation of "Law Firm of the Year" in various Korean and international press, showcases the rapid success and development of Yoon & Yang both qualitatively and quantitatively.

Prior to the merger, Yoon & Partners and Roh & Yang were two very distinct law firms. Yet, the synergy created by the merger of the two firms is a considerable feat unheard of in Korea before this time. I believe such unprecedented success was only possible due to the fixed determination and sacrifices made by the managing partners and founding partners of both firms, including putting aside their vested rights, to create a leading law firm in Korea.

AMC: What do you see as the major challenges for both Korean and international law firms with offices in Seoul?

n Lim



Photo: Patrick Dransfield



Photo: Patrick Dransfield

SSL: This year is anticipated to be a challenging one for both Korean and international law firms. Particularly, the ever-growing competition with international law firms following the drastic increase in Korean lawyers and the continuing liberation of the Korean legal market will undoubtedly exacerbate the difficulties and challenges facing Korean law firms. In such circumstances, Korean law firms should strive to provide high-quality service with top-notch skills and expertise to distinguish themselves from other law firms. Furthermore, Korean firms should not solely seek profitability but also focus on enhancing their role as reliable and trusted partners for their clients.

AMC: South Koreans are famous for engineering and innovation: do you see such innovation prevalent in the Korean domestic legal market and are there new players that are different from the traditional law firms?

SSL: As we live in an era where we face a deluge of information and all types of information can be searched at our fingertips, innovation in legal thinking is crucial to providing high-quality legal services to clients. While South Koreans are exceptionally innovative and such innovative characteristics are undoubtedly mirrored in each and every member of Yoon & Yang, I believe

innovation must constantly be improved upon. For this reason, we at Yoon & Yang emphasise the importance of innovation and the spirit of collaboration in choosing professionals we strive to help develop and grow at our firm. We constantly reinforce the idea that “it is important to train one’s thoughts and opinions by thinking ahead to all possibilities prior to searching and deliberate once again on the findings after the search is complete”.

Recently, Yoon & Yang published a book called “Proficiency in Legal Writing” with the publisher Parkyoungsa, and this book was well-received by the legal community. The importance of competence in one’s thinking – ie, innovation – is strongly emphasised in the book. The fact that more and more Korean law firms are emphasising such innovation is, I believe, an encouraging trend in the further development of Korea’s legal culture. As a contributor to this book, I take great pride in the fact that I could partake in the development of Korea’s legal culture.

AMC: When you first began as a lawyer in private practice how was the in-house community at that time? How has the in-house legal community developed? Do you think that there are special challenges facing South Korean in-house counsel?

SSL: After serving as a judge for 18 years, I entered into private practice in 2000. During this time, there were not too many in-house lawyers; in fact, I remember some companies did not even have proper legal departments. Yet, as more and more international companies with in-house lawyers began opening their offices in Korea and the number of lawyers has grown by 1,000 lawyers per year, the number of in-house lawyers also increased rapidly. Following this increase, conglomerates including Samsung and

“We stress the importance of “competence” and “consideration of others” in not only our firm’s rising lawyers, but also in each and every member of our firm”

LG began placing lawyers in business divisions, such as their sales and human resources departments. Further, the increase in the number of in-house lawyers also saw the launch of the Korea In-House Counsel Association (KICA), which has been active since its formation. The fact that Samsung Electronics and the Financial Supervisory Service employ as many lawyers as major law firms in Korea bears witness to the fact that lawyers occupy an important role in Korean society.

Furthermore, it is my belief that this increase in the role of in-house lawyers will be the catalyst to the development of Korea’s legal culture and the rule of law, and will also accelerate cooperation between in-house counsel and law firms, and the division of roles between the two.

AMC: In what ways does Yoon & Yang attempt to provide an integrated service for clients and how do you link up with other law firms, both regionally and internationally? How well do you think the firm succeeds and what are the challenges peculiar to the region?

SSL: Yoon & Yang has an office in Tashkent, Uzbekistan and recently opened another office in Ho Chi Minh City, Vietnam, in November 2016. Yoon & Yang’s Vietnam office will act as a bridge for advancement into the South-East Asian legal market and our Vietnam office will maintain a close network with not only the local law firms, but also the local accounting firms, consulting firms, investment banks and more to provide strategic solutions to companies.

With the vision of providing integrated and comprehensive one-stop legal services to clients, Yoon & Yang has been continuously investing time and resources. We have specialised teams of renowned experts, including our healthcare, TMT [technology, media and telecoms), international trade, legislative consulting, energy and natural resources, and aerospace and defence teams, to provide our clients with comprehensive top quality legal services.

AMC: How should a new major client engage with Yoon & Yang to ensure the best results? Is the firm offering any special arrangements beyond the usual?

SSL: As mentioned above, Yoon & Yang not only provides service to clients in litigation, criminal law, anti-trust, tax and counselling matters, but we also provide comprehensive services and

strategic solutions for all legal issues businesses regularly face. Furthermore, we at Yoon & Yang strive to maintain “client-first, client-centric” thinking in rendering our professional services. Overall, I believe Yoon & Yang’s strength is in the democratic and ethical mindset of our employees as well as our principal goal to provide the highest quality legal services to clients.

AMC: On training, what qualities do you think make a good Yoon & Yang lawyer and how does the firm attempt to mould such a person? How does the Hwawoo Education & Training initiative launched by Yoon & Yang fit into the vision of the firm generally?

SSL: We at Yoon & Yang have always recognised the importance of education for lawyers. Therefore, we established the Hwawoo Education & Training Centre eight years ago to provide education to people in the legal profession. The Hwawoo Education & Training initiative provides seminars and education to not only Yoon & Yang lawyers, but also to other legal professionals. One representative example of the education we provide through the Hwawoo Education & Training Centre is the seminars for newly-hired in-house lawyers that commence every May. As a part of this education process, the Hwawoo Education & Training Centre continuously publishes a series of practice guides for all practice areas. Furthermore, it is my fervent belief that knowledge must be shared. By improving people’s knowledge of the law through the Hwawoo Education & Training initiative, we at Yoon & Yang endeavour to contribute to the development of Korea’s legal culture.

Furthermore, the firm also provides senior associates, who have built up experience working at our firm and are soon to be promoted to partners, an opportunity to study abroad. While many associates opted to study in the US in the past, many associates now choose to study in different countries. Moreover, we broaden our associates’ opportunities to allow them to work at overseas law firms before or after their studies as well.

AMC: As well as being a leading authority on South Korean tax, you also advise on succession planning. By that token, where do you hope the firm will be in five years and what do you think are the strengths of the firm’s culture that will take it to the next generation of partners and beyond?

SSL: We at Yoon & Yang stress the importance of “competence” and “consideration of others” in not only our firm’s rising lawyers, but also in each and every member of our firm. We believe the foregoing virtues are essential components in the development of not just the individual lawyer, but the firm and even our society at large.

I believe Yoon & Yang’s strength lies in the fact that Yoon & Yang’s members, especially junior partners, are high-character employees. In this connection, it is my desire that the name Yoon & Yang becomes synonymous with such high-character qualities that are undoubtedly prevalent in our firm’s members.

AMC: What are your interests outside of the firm? How do you control your time so that you can pursue them?

SSL: I enjoy hiking in the mountains, playing golf, reading, listening to music and playing the occasional game of baduk [ie, Go] online. I am also very interested in volunteer work so I try to participate in the volunteer programs provided by the local religious organisations whenever time permits.

Seung Soon Lim is the representative managing partner at Yoon & Yang. Lim is recognised as one of the most prominent tax lawyers in Korea and has led the firm’s tax practice group for more than 10 years. Significant tax cases he has handled include LS-Nikko Copper’s tax evasion case, which was named “South Korea Case of the Year” by International Tax Review in 2010. Before entering private practice in 2000, he handled numerous tax cases during his service as a judge at the Seoul High Court and as a research judge at the Supreme Court of Korea. He also served as a professor at the Judicial Research & Training Institute.

Lim has been recognised as a Who’s Who Legal Expert in tax advisory area for three consecutive years (2013, 2014 and 2015). He was also named “Leading Lawyer” (Chambers & Partners, Asialaw Leading Lawyers), “Best Lawyer” (The Chosunilbo) and “Best of Best Lawyer” (The Korea Economic Daily) in the area of tax law.

He is an author of a textbook, Tax Law, that has been in print for 18 years and which has been most frequently referenced among tax experts. He held positions such as legal adviser for the Seoul Regional National Tax Service, commissioner of the Tax Systems Committee for the Korean Bar Association, counsellor for the Jungbu Regional Tax Office, and commissioner of the National Tax Regulation Examination Committee for the Ministry of Strategy and Finance.

Your 'at a glance' guide to some of the region's top service providers.

AMC Indicates an ASIAN-MENA COUNSEL Firm of the Year. **2014** **2015** **2016**

MR An ASIAN-MENA COUNSEL Most Responsive Firm of the Year.

MR An ASIAN-MENA COUNSEL Honourable Mention Most Responsive Firm of the Year.

● One of this firm's five largest practice areas in this jurisdiction.

● **FS** Indicates a full service firm in this jurisdiction.

Practice Area key:

INV Alt' Investment Funds (inc. PE)

COM Antitrust / Competition

AV Aviation

BF Banking & Finance

CM Capital Markets

CMA Corporate & M&A

E Employment

ENR Energy & Natural Resources

ENV Environment

IA International Arbitration

IP Intellectual Property

IF Islamic Finance

INS Insurance

LS Life Sciences

LDR Litigation & Dispute Resolution

MS Maritime & Shipping

PF Projects & Project Finance

(inc. Infrastructure)

RE Real Estate / Construction

REG Regulatory / Compliance

RES Restructuring & Insolvency

TX Taxation

TMT Telecoms, Media & Technology

— LAW FIRMS — ASIA

CAMBODIA/LAOS/MYANMAR

CAMBODIA:

Siam City Law Offices Limited (SCL Law Group)

Tel: (856) 21 222 732-3
Email: varavudh@la.scl-law.com
Contact: Varavudh Meesaiyati
Website: www.siamcitylaw.com

BF **CMA** **IP** **RE** **TX**

Tilleke & Gibbins

Tel: (855) 23 964 210
Email: cambodia@tilleke.com
Contacts: John E. King
Website: www.tilleke.com

CMA **IP** **LS** **REG** **TMT**

LAOS:

LS Horizon (Lao) Limited

Tel: (856) 21 217 762, (856) 21 217 768
Email: information@lshorizon.com
Contact: Mr. Sunpasiri Sunpa-a-sa
Website: www.lshorizon.com

BF **CMA** **LDR** **PF** **RE**

Siam City Law Offices Limited (SCL Law Group)

Tel: (856) 21 222 732-3
Email: info@la.scl-law.com
Contact: Nilobon Tangprasit
Website: www.siamcitylaw.com

BF **CMA** **IP** **RE** **TX**

MYANMAR:

LawPlus Myanmar Ltd.

Tel: (95) 92 6111 7006, (95) 92 6098 9752
Email: kowit.somwaiya@lawplusltd.com
prasantaya.bantadtan@lawplusltd.com
khinhwemyint@lawplusltd.com
khinkhinzaw@lawplusltd.com
Contacts: Kowit Somwaiya
Prasantaya Bantadtan
Khin Htwe Myint
Khin Khin Zaw

Website: www.lawplusltd.com

BF **CMA** **ENR** **LDR** **RE**

LS Horizon (Myanmar) Limited

Tel: (951) 860-3435 Ext. 6001
Email: information@lshorizon.com
Contact: Mr. Sunpasiri Sunpa-a-sa
Website: www.lshorizon.com

CMA **ENR** **LDR** **PF** **RE**

Myanmar Legal Services Limited

Tel: 951-657792; 951-650740
Email: info@mslyangon.com
Website: www.myanmarlegalservices.com

Contacts:

Daw Khin Cho Kyi (kckyi@mslyangon.com)
Jutharat Anuktanakul (jutharat@ctlo.com)

CMA **ENR** **LDR** **PF** **RE**

Siam City Law Offices Limited (SCL Law Group)

Tel: (951) 653348-49
Email: info@schlegal.com
Contact: Vira Kammee
Website: www.siamcitylaw.com

BF **CMA** **IP** **RE** **TX**

CHINA

East & Concord Partners

Tel: (86) 10 6590 6639
Email: Beijing@east-concord.com
Contact: Mr. Qi Zhou
Website: www.east-concord.com

BF **CM** **CMA** **IP** **LDR**

Guantao Law Firm

Tel: (86-10) 6657 8066
Email: xuling@guantao.com
Contact: Xu Ling, Partner
Website: <http://www.guantao.com/>

BF **CM** **CMA** **LDR** **RE**

HONG KONG

P.C. Woo & Co. **AMC** 2013

Tel: (852) 2533 7700
Email: pcw@pcwoo.com.hk
Website: www.pcwoo.com

BF **CM** **LDR** **RE** **RES**

INDIA

Anand and Anand **AMC** 2014 2015 2016

Tel: (91) 120-4059300
Email: pravin@anandandanand.com
Contact: Pravin Anand (Managing Partner)
Website: www.anandandanand.com

IP **LDR**

INDONESIA

Ali Budiardjo, Nugroho, Reksodiputro **AMC** 2013 2014 2015

Tel: (62) 21 250 5125/5136
Email: info@abnrlaw.com
infosg@abnrlaw.com

Contacts: Emir Nurmansyah
Nafis Adwani
Agus Ahadi Deradjat

Email: enurmansyah@abnrlaw.com
nadwani@abnrlaw.com
aderadjat@abnrlaw.com

Website: www.abnrlaw.com

MR **FS** **BF** **CM** **CMA** **ENR** **PF**

Assegaf Hamzah & Partners

AMC 2014 2015 2016

Jakarta Office:

Tel: (62) 21 25557800
Email: info@ahp.co.id
Contacts: Fikri Assegaf (ahmad.asegaf@ahp.co.id)
Bono Adji (bono.adji@ahp.co.id)
Eri Hertiawan (eri.hertiawan@ahp.co.id)
Eko Basyuni (eko.basyuni@ahp.co.id)

Surabaya Office:

Tel: (62) 31 5116 4550
Contact: Yogi Marsono (yogi.marsono@ahp.co.id)

Website: www.ahp.co.id

MR **BF** **CM** **CMA** **LDR** **PF**

Kudri & Djamaris

Tel: (62) 21 5225453
 Email: office@kndlawyers.com
 Contact: Fadriyadi Kudri & Defrizal Djamaris
 Website: www.kndlawyers.com

BF CMA E LDR RES

Lubis Ganie Surowidjojo

AMC 2014 2015 2016
 Tel: (62) 21 831 5005, 831 5025
 Email: lgs@lgslaw.co.id
 Contacts: Timbul Thomas Lubis, Dr. M. Idwan ('Kiki') Ganie, Arief Tarunakarya Surowidjojo, Abdul Haris M Rum, Harjon Sinaga, Rofik Sungkar, Dini Retnoningsih, Mochamad Fajar Syamsualdi and Ahmad Jamal Assegaf.

Website: <http://www.lgsonline.com>

MR BF CMA LDR PF RES

Makarim & Taira S.

AMC 2014 2015
 Tel: (62) 21 252 1272, 520 0001
 Email: info@makarim.com
 Contact: Rahayu Ningsih Hoed

Website: www.makarim.com

FS BF CMA ENR PF RE

Mochtar Karuwin Komar

AMC 2010 2011 2015
 Tel: (62) 21 571 1130
 Email: mail@mkklaw.net / ek@mkklaw.net
 Contact: Emir Kusumaatmadja

Website: www.mkklaw.net

AV BF ENR LDR PF

SSEK Legal Consultants

AMC 2014 2015 2016
 Tel: (62) 21 521 2038, 2953 2000
 Email: ssek@ssek.com
 Contact: Rusmaini Lenggogeni (Managing Partner)

Website: www.ssek.com

Blog: Indonesian Insights
 (<http://blog.ssek.com/>)

Twitter: @ssek_lawfirm

FS BF CMA E ENR PF

MALAYSIA

Raja, Darryl & Loh

AMC 2014 2015 2016
 Tel: (603) 2694 9999
 Email: rdl@rdl.com.my
 Contact: Dato' M. Rajasekaran

Website: <http://www.rajadarrylloh.com>

MR CMA IP LDR TX TMT

Shearn Delamore & Co.

AMC 2014 2015 2016
 Tel: (603) 2027 2727
 Email: info@shearndelamore.com
 Contact: Robert Lazar - Managing Partner

Website: www.shearndelamore.com

MR BF CMA IP LDR RE

Messrs Shook Lin & Bok

AMC 2014 2015 2016
 Tel: (603) 2031 1788
 Email: (603) 2031 1775/8/9
 Contact: Managing Partner
 Website: www.shooklin.com.my

BF IP LDR

Trowers & Hamblins LLP

AMC 2015 2016
 Tel: (601) 2615 0186
 Email: nwhite@trowers.com
 Contact: Nick White, Partner
 Website: www.trowers.com

BF CMA ENR IP PF

ZUL RAFIQUE & partners

AMC 2014 2015 2016
 Tel: (603) 6209 8228
 Email: zrp@zulrafique.com.my
 Contact: Ms Mariette Peters

MR BF CMA E LDR RE

PHILIPPINES

ACCRALAW (Angara Abello Concepcion Regala and Cruz Law Offices)

AMC 2015 2016
 Tel: (632) 830 8000
 Email: accra@accralaw.com
 Contacts: Emerico O. De Guzman
 Neptali B. Salvanera

Website: www.accralaw.com

MR CMA E IP LDR TX

Esguerra & Blanco Law Offices

AMC 2015 2016
 Tel: (632) 840-3413 to 15
 Email: bleslaw@bleslaw.com
 Contact: Atty. Abela T. Alcantara

Website: <http://bleslaw.com>

CMA E IP LDR TX

Morales Justiniano Peña & Lumagui

Tel: (632) 834 2551; (632) 832 7198;
 (632) 833 8534
 Email: ramorales@primuslex.com
 Contacts: Mr. Rafael Morales - Managing Partner

Website: www.primuslex.com

BF CM CMA IP LDR

SyCip Salazar Hernandez & Gatmaitan

AMC 2011 2015 2016
 Tel: (632) 9823500; 9823600; 9823700
 Website: www.syciplaw.com

MR BF CMA E ENR PF

TAN ACUT LOPEZ & PISON Law Offices

Tel: (632) 635-3671
 Email: talfirm@talfirm.com
 Contact: Martin Pison
 Website: www.talfirm.com

CMA E IP LDR TX

Villaraza & Angangco

Tel: (632) 9886088
 Email: fm.acosta@thefirmva.com
 Contacts: Franchette M. Acosta
 Website: www.thefirmva.com

CMA IP LDR REG TX

SINGAPORE

Aequitas Law LLP

Tel: (65) 6535 0331
 Email: lim.tat@aequitasllp.com
 Contacts: Lim Tat

Website: www.aequitasllp.com

CMA IA LDR RE REG

Joseph Tan Jude Benny LLP

Tel: (65) 6220 9388
 Email: info@jtjb.com
 Contact: K Murali Pany (Managing Partner)

Website: www.jtjb.com

CMA INS LDR MS RE

Providence Law Asia LLC

Tel: (65) 6438 1969
 Email: abraham@providencelawasia.com
 Contact: Abraham Vergis, Managing Director

Website: www.providencelawasia.com/

IA LDR RE REG RES

Straits Law Practice LLC

Tel: (65) 6713 0200/(65) 6220 7779
 Email: contact@straitslaw.com.sg
 Contact: N. Sreenivasan SC

Website: www.straitslaw.com.sg

BF CMA IA LDR RES

SOUTH KOREA

Bae, Kim & Lee LLC

AMC 2014 2015 2016
 Tel: (82 2) 3404 0000
 Email: bkl@bkl.co.kr
 Contact: Kyong Sun Jung

Website: www.bkl.co.kr

MR FS BF CMA IA LDR RE

Cho & Partners

AMC 2012
 Tel: (82-2) 6207-6800
 Email: ihseo@cholaw.com
 Contact: Tae-Yeon Cho, Ik Hyun Seo

Website: www.cholaw.com

IP LDR

Jipyong

AMC 2012 2016
 Tel: (82-2) 6200 1600
 Email: hglee@jipyong.com
 Contact: Haeng-Gyu Lee (Partner)

Website: www.jipyong.com

FS COM BF CMA E LDR

Kim & Chang  2014 2015 2016

Tel: (82-2) 3703-1114
 Email: lawkim@kimchang.com
 Website: www.kimchang.com

Lee International IP & Law Group

 2012 2014 2015

Tel: (82 2) 2262 6000
 Email: law@international.com
 Website: www.leeinternational.com







Shin & Kim  2014 2015 2016

Tel: (82 2) 316 4114
 Email: shinkim@shinkim.com
 Contact: Senseob Kang – Managing Partner
 Website: www.shinkim.com

Yoon & Yang LLC  2014 2015 2016

Tel: (82 2) 6003 7000
 Email: yoonyang@yoonyang.com
 Contacts: Seung Soon Lim; Seung Soon Choi;
 Jinsu Jeong
 Website: www.yoonyang.com

Yulchon LLC  2014 2015 2016

Tel: (82 2) 528 5200
 Email: mail@yulchon.com
 Website: www.yulchon.com


      

TAIWAN**Deep & Far Attorneys-at-Law**

Tel: (8862) 25856688
 Email: email@deepnfar.com.tw
 Contact: Mr. C. F. Tsai
 Website: www.deepnfar.com.tw

THAILAND**Chandler MHM Limited**

 2014 2015 2016

Tel: (66) 2266 6485
 Email: jessada.s@chandlermhm.com
 niwes.p@chandlermhm.com
 Contacts: Jessada Sawatdipong;
 Nives Phancharoenworakul

Website: www.chandlermhm.com

LawPlus Ltd.  2012 2014 2015

Tel: (66) 2 636 0662
 Fax: (66) 2 636 0663
 Email: kowit.somwaiya@lawplusltd.com
 prasantaya.bantadnan@lawplusltd.com
 Contacts: Kowit Somwaiya
 Prasantaya Bantadnan

Website: www.lawplusltd.com

LS Horizon Limited

 2014 2015 2016

Tel: (66) 2627 3443
 Email: information@lshorizon.com
 Contact: Mr. Khemajit Choomwattana

Website: www.lshorizon.com


    

**Siam City Law Offices Limited
(SCL Law Group)**  2016

Tel: (66) 2 676 6667-8
 Email: siamcitylaw@siamcitylaw.com
 Contact: Chavalit Uttasart

Website: www.siamcitylaw.com

VIETNAM**Indochine Counsel**  2015**Ho Chi Minh Office:**

Tel: (848) 3823 9640
 Email: duc.dang@indochinecounsel.com
 Contact: Mr Dang The Duc
 Website: www.indochinecounsel.com

Hanoi Office:

Tel: (844) 3795 5261
 Email: hanoi@indochinecounsel.com

LuatViet Advocates & Solicitors

Tel: (848) 38248440
 Email: canh.tran@luatviet.com
 Contact: Mr TRAN Duy Canh
 Website: <http://luatviet.com/>

Russin & Vecchi  2015 2016**HCM City:**

Tel: (848) 3824-3026
 Email: lawyers@russinvecchi.com.vn
 Contacts: Sesto E Vecchi – Managing Partner
 Nguyen Huu Minh Nhut – Partner
 Nguyen Huu Hoai – Partner

Hanoi:

Tel: (844) 3825-1700
 Email: lawyers@russinvecchi.com.vn
 Contact: Mai Minh Hang - Partner
 Website: www.russinvecchi.com.vn

Tilleke & Gibbins

Tel: (84) 4 3772 6688
 Email: vietnam@tilleke.com
 Contacts: Thomas J. Treutler
 Website: www.tilleke.com

**— LAW FIRMS —
MIDDLE EAST****BAHRAIN****Trowers & Hamlins**

Tel: (973) 1 751 5600
 Email: bahrain@trowers.com
 Contact: Tracey Bulger, Office Manager
 Website: www.trowers.com

OMAN**Trowers & Hamlins**

Tel: 968 2 468 2900
 Email: oman@trowers.com
 Contact: Tracey Bulger, Office Manager
 Website: www.trowers.com

UAE**Abdelaziz Alhanaee Advocates and
Legal Consultancy**

Tel: (971) 4 3809666
 Email: info@alhanaee.com
 Contacts: Mr. Abdelaziz Alhanaee –
 Founding/Managing Partner

Website: www.alhanaee.com

Addleshaw Goddard (Middle East) LLP

 2016

Email: a.elson@aglaw.com
 Tel: (971) 4 350 6450
 Contact: Amanda Elson,
 Head of Business Development – GCC

Website: www.aglaw.com

Afridi & Angell  2016

Tel: (971) 4 330 3900
 Email: dubai@afriidi-angell.com
 Contact: Bashir Ahmed, Partner
 Website: www.afriidi-angell.com


    

Alsuwaidi & Company

Tel: (971) 4 321 1000
 Email: info@alsuwaidi.ae
 Contact: Mr Mohammed Al.Suwaidi,
 Managing Partner

Website: www.alsuwaidi.ae

Trowers & Hamlins LLP 

Dubai office:
Tel: (971) 4 351 9201
Email: dubai@trowers.com
Contact: Jehan Selim, Office Manager

Abu Dhabi office:
Tel: (971) 2 410 7600
Email: abudhabi@trowers.com
Contact: Jehan Selim, Office Manager

Website: www.trowers.com



— LAW FIRMS —
NORTH AMERICA

CANADA

Fasken Martineau
Tel: (416) 366-8381
Email: mstinson@fasken.com
Contact: Mark Stinson, Primary Contact

Website: www.fasken.com



— LAW FIRMS —
AFRICA

JOHANNESBURG

Fasken Martineau
Tel: (27) 11 586 6000
Email: johannesburg@fasken.com
Contact: Blaize Vance, Regional Managing Partner

Website: www.fasken.com



— ARBITRATION —
SERVICES

**Beijing Arbitration Commission /
Beijing International Arbitration Center**
(Concurrently use)

Tel: (86) 10 65669856
Email: xujie@bjac.org.cn
Contact: Mr. Jie Xu (許捷)
Website: www.bjac.org.cn

**Hong Kong International
Arbitration Centre**

Tel: (852) 2525 2381
Email: adr@hkiac.org
Website: www.hkiac.org

— DUE DILIGENCE —
RISK & INVESTIGATION

FTI Consulting

Tel: (852) 3768 4500
Contact: David Holloway
Email: david.holloway@fticonsulting.com
Website: www.fticonsulting.com

Kroll

Tel: (852) 2884 7788
Contacts: Tad Kageyama: tkageyama@kroll.com
Colum Bancroft: cbancroft@kroll.com
Website: www.krolladvisory.com

— RECRUITMENT —

ALS International

Tel: Hong Kong – (852) 2920 9100
Singapore – (65) 6557 4163
Beijing – (86) 10 6567 8729
Shanghai – (86) 10 6372 1098
Email: als@alsrecruit.com
Website: alsrecruit.com

Hughes-Castell

Tel: **Hong Kong** (852) 2520 1168
Tel: **Singapore** (65) 6220 2722
Tel: **Beijing** (86) 10 6581 1781
Tel: **Shanghai** (86) 21 2206 1200
Email: hughes@hughes-castell.com.hk
Website: www.hughescastell.com

JLegal

Tel: (65) 6818 9701
Email: Singapore@jlegal.com
Website: www.jlegal.com

Legal Labs Recruitment

Tel: **Singapore** (65) 6236 0166
Tel: **Hong Kong** (852) 2526 2981
Email: resume@legallabs.com
Website: www.legallabs.com

Lewis Sanders

Tel: (852) 2537 7410
Email: recruit@lewissanders.com
Website: www.lewissanders.com

Pure

Tel: (852) 2499 1611
Email: liamrichardson@puresearch.com
Website: www.puresearch.com

Taylor Root

Tel: **Singapore** (65) 6420 0500
Tel: **Hong Kong** (852) 2973 6333
Email: jamieneubold@taylorroot.com
Website: www.taylorroot.com

— TRANSLATION —

Pacific Legal Translations Limited

Specialist translators serving the legal community.
Tel: (852) 2705-9456
Email: translations@paclegal.com
Website: www.paclegal.com

— OTHER SERVICES —

APPAREL

Zen Tailor
Shop No.B.2/F., Entertainment Building,
30 Queen's Road Central. Hong Kong
Tel: (852) 2868 2948
* Show your copy of ASIAN-MENA COUNSEL (or this page)
to receive a 10% discount at Zen Tailor!

MEDITATION

Kadampa Meditation Centre Hong Kong
KMC HK is a registered non-profit organisation. We offer systematic meditation and study programmes through drop-in classes, day courses, lunchtime meditations, weekend retreats and other classes.
Tel: (852) 2507 2237
Email: info@meditation.hk
Website: <http://www.meditation.hk>

MANDARIN

Hong Kong Mandarin School
Hong Kong Mandarin School— for business Putoghua.
Tel: (852) 2287 5072
Fax: (852) 2287 5237
Email: info@mandarinlearning.hk
Website: www.mandarinlearning.hk

SPORT & LEISURE

Splash Diving (HK) Limited
Learn to Dive and Fun Dive with the Winner of the PADI Outstanding Dive Centre/Resort Business Award!
Tel: (852) 9047 9603 / (852) 2792 4495
Email: info@splashhk.com
Website: <http://www.splashhk.com/>

— CHARITABLE —
ORGANISATIONS

Impact India Foundation

An international initiative against avoidable disablement. Promoted by the UNDP, UNICEF and the World Health Organization in association with the Government of India.
Tel: (91) 22 6633 9605 -7
Email: nkshirsagar@impactindia.org
Website: www.impactindia.org



The In-House Community Counsels of the Year Awards & Celebration 2017

Thursday May 11th, 6.30 pm till late

THE HONG KONG JOCKEY CLUB,
HAPPY VALLEY CLUBHOUSE, HONG KONG, S.A.R.

An exclusive black-tie evening celebration, including:

- 5 course gourmet banquet with wine / beverages
- Live Music courtesy of the Early Music Society of Hong Kong Orchestra and acclaimed jazz pianist Allen Youngblood
- Magic from a world-class illusionist

On the night, we will announce our **Industry Teams of the Year**,
and the overall winning *In-House Community*:

- In-House Team of the Year
- In-House Counsel of the Year
- External Counsel of the Year
- Visionary Firm of the Year
- In-House Achievement Award

For further information, please contact Patrick Dransfield
T: 852 2854 3458 F: 852 2575 0004 E: patrick.dransfield@inhousecommunity.com

With thanks to our valued sponsors:



ANNUAL TM
IN-HOUSE
Congress
CIRCUIT

Now in its nineteenth year, the In-House Congress is region's original and largest circuit of corporate counsel events, bringing together almost 3,000 corporate in-house counsel and compliance professionals along the New Silk Road each and every year.

The nineteen annual gatherings of the *In-House Community* along the New Silk Road



- Abu Dhabi
- Bangkok
- Beijing
- Delhi
- Dubai
- Ho Chi Minh City
- Hong Kong
- Jakarta
- Kuala Lumpur
- Manila
- Mumbai
- Seoul
- Shanghai
- Singapore
- Tokyo

Do you have a regular dialogue with your peer **In-House Counsel** along the New Silk Road?

"In-House Community provides a unique combination of best practice sharing, networking, news and technical updates that all practitioners need in order to meet the competing pressures of legal coverage, compliance and commerce.

In-House Community empowers the modern lawyer to work smarter and become a trusted business partner"

Trevor Faure, Global Adviser, Legal Transformation.
Former General Counsel, Ernst & Young Global,
Tyco International, Dell & Apple EMEA.
Author of "The Smarter Legal Model: more from less"



Join your colleagues at an
In-House Congress near you

For more information email us at:
congress@inhousecommunity.com



FORUMS FOR THE
In-House Community TM
www.inhousecommunity.com



mycareerinlaw.com

The best opportunities from
the region's best recruiters

Market Trends

Job Search

Job Alerts

Career Advice



Sister site to the *In-House Community* at:

www.inhousecommunity.com