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Plus:
In-House Insights
MTR Corp's
Gill Meller

Legal Innovation & Technology

SPECIAL REPORT

Korea's Patent Act
Increasing the value of Korean IP

New Law Q&A
Kirsty Dougan of Vario

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Legal Innovation & Technology

SPECIAL REPORT

24. DISRUPTING THE LAW

The way that legal services are being delivered is changing rapidly

26. NEWLAW TAKES-OFF IN SOUTHEAST ASIA

Rob Shakespeare of KorumLegal discusses the market for flexible and innovative legal solutions in one of the world's fastest-growing regions

30. THE FIVE STAGES OF THE BOARD MANAGEMENT MATURITY MODEL

The tools boards use to communicate should be simple to use, meet their needs (and no more) and be secure, writes Jay Shaw of Praxonomy

32. PIONEERING NEW LAW IN ASIA

Kirsty Dougan, managing director of Vario Asia, lays out her vision for the company in Asia and how she has seen the legal industry change.



08



JURISDICTION UPDATES

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



4 Sun, wind and water stir up Africa's energy mix
By LEXAfrica



6 Regulating the sale and provision of digital content through mobile cellular networks
By Maria Sagrado and Ghaliva Nadira Sjarif of Makarim & Taira S.

- 8  **Compulsory investment of branch offices**
By Mara Kristina O Recto of ACCRALAW
- 10  **Amended Patent Act to increase value of Korean IP**
By Myung-Cheol Chang of Lee International
- 12  **Use of public property as payment in build-transfer projects**
By Huynh Hoang Sang of bizconsult Law Firm
- 14 **OFFSHORE UPDATE**
The blockchain effect on investment funds
By James Twigg and Daniel Lo of Walkers
- 16 **THE BRIEFING**
Along with the latest moves and jobs, we take a closer look at Tokio Marine's US\$3bn Pure acquisition and review our events in Manila, Seoul and Singapore
- 23 **SPOTLIGHT ON CIA**
(COLLECTIONS, INVESTIGATIONS & AUDIT)
Bringing eDiscovery In-House? Four Tips to Get You Started
By Sarah Bell of Law In Order
- 36 **In-House Insights**
Gill Meller
The legal and European business director for MTR Corporation talks about the challenges of providing legal advice in a constantly changing environment
- 38 **ASIAN-MENA COUNSEL DIRECT**
Important contact details at your fingertips



10



12



23



36



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Sun, wind and water stir up Africa's energy mix

During July and August of 2019, engineers were hard at work installing solar panels on the roof of Jubilee House in the Ghanaian capital of Accra — the office and residence of President Nana Akufo-Addo.

Across the African continent to the east, another president, Kenya's Uhuru Kenyatta, snipped a ribbon in the rocky desert landscape of Lake Turkana to officially open Africa's largest wind-power installation. The giant blades of 365 turbines add 310 megawatts of reliable, low-cost energy to the national grid.

These two initiatives reflect the drive to light up the whole of Africa from renewable energy sources — to tackle climate change by cutting emissions from coal-burning power stations and to meet rapidly growing energy demand on a developing continent.

More than 640 million people in sub-Saharan Africa, more than 42 percent of the population, have no access to electricity. The World Bank highlights how this situation stunts economic growth, with 2-4 percent knocked off countries' GDP every year.

Now, with prices of renewables falling below that of coal, and given Africa's abundance of green energy potential, more than 40 of the continent's 54 countries have penned renewable power targets.

The greatest need is in rural areas and low-cost, rapidly installed solar and wind systems — which can be combined into mini-grids — offer a common-sense solution. The International Energy Agency sees such systems being 70 percent of new connections over the next 25 years.

A target for Africa has been set: 300 gigawatts (GW) of renewable energy capacity by 2030. This ambitious number was determined by the African Renewable Energy Initiative, led by the African Union and the United Nations.

To get there will require a 680 percent

Benefits of renewables include cleaner air, better energy security, lower energy import bills and a diversification and de-risking of the energy mix

increase in the current deployment rate, according to the International Renewable Energy Agency (Irena). At the moment the sustainable sector is dominated by hydropower from a few giant dams, with other renewables making up just 5 percent of total generation.

"Africa's energy supplies are not meeting the needs and aspirations of its people," concludes a 2016 study by The Economist Intelligence Unit, adding that renewables must play a greater role alongside the burning of fossil fuels. Benefits of renewables include cleaner air, better energy security, lower energy import bills and a diversification and de-risking of the energy mix, say researchers.

The Economist reports a "growing appetite for renewable energy in Africa" and point to the continent's plentiful resources, from Ethiopia's natural geothermal phenomena, to gales blowing between Mount Kulal and Mount Nyiru in Kenya's Wind Corridor, to the massive hydropower potential of the mooted Inga Dam in Democratic Republic of Congo (which could power half of Africa with its 40GW).

In Ghana, where panels glint atop the president's roof, solar irradiation levels of up to 6kWh/m² hold great promise of power from the sun, according to a recent newsletter from law firm and Lex Africa partner Bentsi-Enchill, Letasa & Ankomah.

This promise has attracted investment, with more money going into solar than any other

power technology in Ghana over the past three years, and has encouraged the government to draw up an investment-focused Renewable Energy Master Plan. This plan aims to ensure renewable energy supplies constitute 10 percent of the national energy mix by 2030.

The Economist talks of Africa's "pipeline of high-quality projects" being rolled out throughout Africa. It speculates that Africa's power sector can "leapfrog" heavy infrastructure — in a similar way to mobile communications in the late 2000s — thanks to innovative pay-as-you-go strategies and the expansion of small-scale technologies into "bottom-up" networks.

A key recommendation of The Economist study is for countries to design competitive renewable procurement programmes, rather than going for one-off projects. It singles out South Africa's programme — emulated by Zambia and Uganda — as being transparent, standardised and competitive, thereby reducing risks for developers and costs for government.

South Africa's programme stalled after four bid rounds due to political interference in favour of an ill-conceived nuclear plan and trade union pressure at state-run power utility Eskom. However, the way in which wind and solar tariffs fell over the period of the four rounds — from nearly 30 US cents per kWh in 2011 to less than seven cents in 2014 — makes a compelling case for a jump-start.

As it is, 62 projects are up and running in South Africa, contributing 3,773 megawatts (MW) to the national grid in 2018 — compared to the 43,485MW delivered by fossil fuels.

Obstacles to faster development of green energy abound everywhere, notably in the areas of finance and political will, but the trend is clear and the renewable momentum unstoppable.

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INDONESIA



By Maria Sagrado and
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Regulating the sale and provision of digital content through mobile cellular networks

With the continuous and rapid advancement of technology and the increase in the use of digital technology, the provision and sale of digital content has become more and more appealing. This is evident from the emergence of a plethora of businesses the activities of which include engaging in the sale of digital content such as video games, ring back tones, music and videos as well as the rise in the demand for digital content sold through mobile phones. As the world's fourth most populated country with over 120 million active smart phone users, according to Hootsuite, Indonesia has naturally become an attractive place for investment in the digital content sector. Given the size of the potential market and the growing business interest, the Indonesian government try to protect the interests of both consumers and content providers by issuing Minister of Communication and Informatics Regulation No. 9 of 2017 on The Administration of Content-Providing Services in Mobile Cellular Networks ("MOCI Reg 9/2017") on the sale of digital content.

MOCI Reg 9/2017 covers the provision of digital content, with payment for the purchase being deducted from mobile phone credits or invoiced to the mobile phone user in a post-paid mobile services arrangement. This regulation does not regulate digital content with payment not being paid through Indonesian telecommunications services (such as Telkomsel, XL, Indosat etc). Under MOCI Reg 9/2017, 'digital content' is defined as all forms of information which may be in the form of writing, images, sounds, animations, or any combination of them, in digital form, including software applications to be downloaded. This includes the sale of among other things, ring back tones (RBT), online game credits/vouchers, music, and short message service (SMS) subscriptions. As digital content constitutes

goods that can be sold remotely, MOCI Reg 9/2017 regulates not only digital content providers targeting the Indonesian market that are located in Indonesia ("local digital content providers"), but also those located outside of Indonesia ("foreign digital content providers").

Under MOCI Reg 9/2017, digital content may be provided from within Indonesia by local digital content providers which are Indonesian legal entities in the form of a state-owned enterprise, region-owned enterprise, private enterprise or cooperative (koperasi). Public institutions, government institutions and universities and schools may provide digital content for their own interests. Local digital content providers require a licence to provide digital content from the Directorate General of Telecommunications of the MOCI. While for the provision of digital content by foreign digital content providers, the party that has to obtain approval in Indonesia is the telecommunications service provider that distributes the content to the customers/users, not the foreign content provider.

To provide digital content, the digital content providers (either local provider or foreign provider) that are not Indonesian telecommunications services providers require cooperation with an Indonesian telecommunications services provider. The cooperation must be governed by a cooperation agreement, which must cover, among other things:

- i. the scope of the cooperation;
- ii. the rights and responsibilities of the parties;
- iii. the limit of each party's responsibility to the customers/users;
- iv. the type of services provided; and
- v. the business scheme and the fee structure of the business.

This cooperation agreement must be submitted to the MOCI for approval.

In addition, foreign digital content providers must submit a written statement to the effect that they are willing to comply with MOCI Reg 9/2017 and an explanation of the telecommunications service fees and universal service obligations related to their gross income paid to the telecommunications services provider. Compliance with MOCI Reg 9/2017 includes, among other things, not providing content that is prohibited under the regulation, such as content that is contrary to the Indonesian Constitution, contains gambling or pornographic images /or violates the intellectual property rights of another party, and making sure that the agreement/arrangement with the Indonesian telecommunications service provider covers this prohibition.

For failing to obtain the required approval from MOCI, progressive sanctions may be imposed starting with a written warning, followed by a temporary suspension, and finally, the revocation of the telecommunications service provider's business licence. MOCI has formed a special monitoring committee that monitors activities of digital content distribution in Indonesia.

Other requirements must also be complied with, including having a contact centre in the form of a call centre, SMS centre or customer service website. Digital content providers are also prohibited from providing initial information or digital content offers that contain difficult to understand statements, misleading information, or try to coerce them to receive digital content and information that violates the applicable laws and regulations.

Although MOCI Reg 9/2017 is indeed not a new regulation, it is becoming more and more relevant as more foreign and local investors are interested in the Indonesian digital content market. Going forward, it will be interesting to see what kinds of new technology or content created by new players will fall under the scope of this regulation.



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Compulsory investment of branch offices

The Revised Corporation Code (RCC), which took effect on February 23, 2019, introduced amendments to the otherwise outdated Corporation Code. One of the amendments can be found in Section 143 of the RCC which prescribed the amount of required securities deposit for branch offices of foreign corporations. Pursuant to such amendment, the Securities and Exchange Commission (SEC) issued Memorandum Circular No. 17, Series of 2019 (SEC MC No. 17-2019) on the revised guidelines on securities deposit of branch offices of foreign corporations, which superseded the guidelines set in Memorandum Circular No. 2, Series of 2012 (SEC MC No. 2-2012).

SEC MC No. 17-2019 now requires foreign corporations to deposit securities satisfactory to the SEC in the actual market value of at least P500,000 (previously, under the Corporation Code, the SEC required a deposit of at least P100,000), within 60 days after the issuance of a licence to transact business in the Philippines.

The securities deposit requirement is geared for the benefit of the present and future creditors of the foreign corporation as a fund for the protection of their claims. Consequently, the law attempts to foster social and economic development of the country by requiring the investment in Philippine securities. It must be noted, however, that certain foreign corporations are exempted from the investment requirement, particularly, foreign banking corporations, including offshore banking units, foreign insurance corporations, foreign non-stock corporations, including foreign religious corporations, foreign corporations with representative offices in the Philippines, regional or area headquarters or operating regional headquarters of multinational companies.

The amount of investment varies throughout the years the branch conducts business. Within six months after the end of each fiscal year, the SEC will look into the gross income of the branch generated in the Philippines. If the gross income exceeds P10 million (previously, under the Corporation Code, P5 million), the branch shall be required to deposit additional securities equivalent to two percent of the increase in gross income. Additional securities will be required if the actual market value of the securities deposit or financial instrument has decreased by at least ten percent from the time it was deposited to cover the decrease. Upon submission, the SEC will issue a certificate of deposit of additional securities.

SEC MC No. 17-2019 introduced changes to SEC MC No. 2-2012 only insofar as the amount of the securities deposit conform with the revisions under the RCC. In hindsight, the SEC could have considered including more elbow room for branch offices with respect to the allowable deductions in determining the gross income. "Gross income", which is the basis of the additional securities, has been defined as synonymous to "gross revenue". MC No. 17-2019 defines gross income as the "gross inflow of economic benefits during the period arising in the course of the ordinary activities of an entity when those inflows result in increases in equity, other than increases relating to contributions from equity participants". Similar to MC No. 2-2012, no deductions are allowed except for sales returns, allowances and discounts and direct costs and expenses incurred with foreign entities and related parties. Claiming such deductions is likewise subject to approval by the SEC after submission of the audited special or annual income statement showing separately the

amounts of direct cost and expenses actually incurred.

On the other hand, the SEC may allow partial release of securities upon application of the branch if there is more than ten percent decrease in gross income of the branch or if the actual market value of the total securities deposit has increased by more than ten percent of the actual market value of the securities at the time they were deposited. The SEC likewise allows the branch to substitute other securities for those already on deposit as long as it is solvent, in which case, the SEC will issue a certificate of substitution of securities deposit. In case the foreign corporation decides to withdraw its business in the Philippines, the SEC shall return the securities deposit upon written application and issue a certificate of return of deposit.

Effectively, the securities deposit became a mandatory additional investment in the Philippines on top of the assigned capital required of a particular foreign branch office. While the increase in the amount of securities deposit may be a welcome change for creditors and suppliers of goods and services of a branch, the monitoring and reporting of the additional security can be burdensome for the branches. It is also worth noting that MC No. 17-2019 is unclear whether branch offices which have previously been issued a licence are required to provide additional securities. Perhaps, the SEC could reconsider the composition of gross income and allowable deductions in the gross income to provide more leeway for compliance of branch offices.

This first appeared in Business World, a newspaper of general circulation in the Philippines. The views and opinions expressed in this article are those of the author. This article is for general informational and educational purposes and not offered as, nor does not constitute, legal advice or legal opinion.

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Data Privacy 18+ Years | Hong Kong

A regulatory body is looking for an experienced data privacy lawyer to join its legal team. You must have a minimum of 18 years of post-qualification experience with exposure to data privacy/regulatory matters. English, Cantonese and Mandarin language skills are required. AC8106

Head of Legal 9+ Years | Hong Kong

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Head of Fintech Legal 15+ Years | Hong Kong

A global bank is looking for a senior financial services technology lawyer to be its lead person on digital banking. You should have strong experience from private practice as well as IP, data privacy, and laws relating to digital financial services in Hong Kong. Chinese language skills are not required. AC8088

Private Practice

Corporate Partner 10+ Years | Hong Kong

Exciting opportunity for a senior corporate lawyer to join a strong International firm to grow its M&A practice. You should have experience in public and private practice M&A, listing compliance and the desire and motivation to grow the practice. Mandarin language skills essential. AC8072

DCM 2+ Years | Hong Kong

A leading UK firm is looking to add a DCM lawyer to its team in Hong Kong. Candidates must have excellent experience in capital markets from another strong International law firm. Fluent Mandarin is required. Excellent opportunity to work with well-renowned partners in the industry. AC8105

Litigation 5+ Years | Hong Kong

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A top tier real estate practice at a US firm is looking to hire a PSL/knowledge lawyer to support its team. Opportunity to shape the knowledge strategy for the team, as well as provide legal and practical expertise to support the practice. Fluent English, Mandarin and Cantonese essential. AC8058

Corporate Knowledge Lawyer 7+ Years | Hong Kong

Leading International firm is looking for a knowledge lawyer for its corporate team. You will work closely with the existing knowledge counsel to drive knowledge sharing across the corporate team. You should have experience in IPO and M&A. Chinese language skills essential. AC8078

Employment 3+ Years | Hong Kong

Exciting opportunity to join a leading employment practice within a well-known International firm. This role will offer exposure to a wide range of both contentious and non-contentious employment work. You must have prior employment law experience. Mandarin not essential. AC8104

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Amended Patent Act to increase value of Korean IP

The Patent Act of the Republic of Korea has recently been amended, primarily to introduce punitive damages and to relieve patentees of some responsibility to prove acts of infringement. This amendment was passed in the Assembly plenary session on December 7, 2018 and is currently in force, having taken effect on July 9, 2019.

To date, the meagre amount of damage awards in Korean patent litigation has encouraged widespread infringement. The implementation of punitive damages is intended to promote an environment where the cycle of intellectual property infringement is broken and the value of intellectual property rights are properly and reasonably assessed in the market.

The amended Patent Act also relieves patentees of their burden of proving infringement in some cases by imposing an obligation on defendants to deny the patentee's allegations by explaining in detail how the defendant's invention operates, when the patentee makes a detailed claim of infringement in litigation. Additionally, the amended Patent Act establishes a new method for determining compensatory damages for infringement.

The imposition of punitive damages for patent infringement, the patentees' relief from responsibility to prove patent infringement, and the new method for determining damages apply only to acts of infringement and litigation filed after the enforcement date of the amended Act.

Introduction of punitive damages that can result in treble damages awards

The amended Patent Act introduced punitive damages which provide for the award of up to three times the amount of compensatory damages that are proven. Such treble damages are permitted when the patent infringement activity

is found to be intentional. The amended Act stipulates that eight factors must be considered when determining the amount of compensation, including the social or financial position of the infringer in relation to the patentee, whether the infringer recognised their infringement, the size of economic benefit/damage and so on.

The above provisions were introduced to better protect patentees. Given this amendment, anyone who develops technology will need to pay more attention to compliance issues, incorporating more stringent measures to prevent infringement, such as implementing an internal pre-inspection process, obtaining a legal review and opinion on the possibility of patent infringement from external professionals, and documenting the history and methodology by which the technology was developed, to help establish that it was developed independently.

Reduced burden of proving infringement

To relieve rights holders of some responsibility for proving infringement in patent infringement lawsuits, the Patent Act introduced a system for the court to "order submission of materials" in 2016. But in practice, proper production of evidence ordered to be submitted has rarely occurred.

Faced with this, the amended Patent Act now relieves patentees of the burden of proving the alleged infringement by requiring the party who denies the patent infringement to provide a detailed explanation as to how the challenged technology operates, essentially proving that it does not infringe as alleged, after the patentee presents its detailed assertion of infringement. If the party that denies the patent infringement claim argues that it has a lawful reason not to present the details as to how the challenged technology operates, then the court may order "submission of materials" to the court to deter-

mine the appropriateness of such argument. On the other hand, if the party that denies the patent infringement fails to provide the detailed explanation of the technology without any justifiable reason, then the court may accept the patentee's claim of infringement as correct.

The above provision is expected to relieve a patentee's burden of proving patent infringement in some cases by preventing the party who denies the infringement from being able to refute the patentee's allegation simply by denying it. But given the provision that the party denying the infringement still may avoid submitting a detailed explanation of its technology by asserting a justifiable reason for doing so, it remains to be seen how this will operate in practice and the extent to which patentees actually will be relieved of their burden of proof in these cases.

Change in the criteria for the royalty amount determination

The amended Patent Act also changed the amount of royalties that can be claimed against the infringer from an amount that is "usually" received to an amount that can be "reasonably" received. This opens the possibility that rights holders may receive far higher awards than in the past.

For royalty rates, courts may now determine such rates that they deem to be reasonable, even if there is no prior history of actual royalties that have been paid involving the same or similar technologies to use as a reference. This change is expected to raise the royalty recognition rate from a mere 2-5 percent at present, to a range as high as 12-13 percent.

Enforcement of the amended Act is expected to significantly enlarge the value of intellectual property in Korea, and application of punitive damages is also likely to deter infringement in the future. Collectively, it is hoped that these measures will further demonstrate Korea's commitment to protecting intellectual property rights.



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Use of public property as payment in build-transfer projects

The Government recently promulgated Decree No.69/2019/ND-CP on the utilisation of public property for making payment to investors upon execution of construction projects in the form of build-transfer contracts (BT Contract) (Decree 69/2019). Decree 69/2019 replaced Decision No. 23/2015/QĐ-TTg (Decision 23) and takes effect from October 1, 2019.

In the past, Decision 23 allowed the State to make payment only by land funds to investors executing construction investment projects in the form of build-transfer (BT Project). Otherwise, Decree 69/2019 provides that the State could expend the public property including (i) land funds; (ii) land, houses and other assets on land; (iii) infrastructure assets used for the national interest, public interest; and (iv) other types of public properties (according to the Law on management and use of public property). The expansion of the extent of public properties under Decree 69/2019 is reasonable and in line with the Law on management and use of public property 2017 and further adaptable to the need of BT Projects. Besides that, proceeds from public properties auctions could also be used to pay investors for execution of BT Projects in accordance with the Law on Public Investment and Law on State Budget. The expansion of subject of properties used for payment to investors undertaking BT Projects will provide more tools for payment in such projects and encourage the development of BT Projects in the future.

The use of public property for payments to

investors undertaking BT Projects is implemented under the principle of parity — the value of the BT Project is equivalent to the value of public properties expenditure. Accordingly, the value of public property shall be determined based on market price as per the regulations at the time of payment and the value of the BT Project shall be determined based on the result of the auction. In case the value of the paid land funds is larger than the value of the BT Project, investors shall pay the difference to the State budget. Otherwise, if the value of the paid land funds is smaller than the value of the BT Project, the State shall choose to pay the difference in cash or through land funds at the time of finalisation of the BT Project.

Decree 69/2019 provides the valuation method and payment schedule for each type of public properties. However, payment made from the public properties as mentioned above always requires an approval from the Prime Minister.

One noteworthy point in Decree 69/2019 is that the payment through land funds for investors shall be enforced in two methods as follows: (i) allocating land with collection of land use fees or (ii) leasing land with collection of a one-off lump sum payment of rent for the entire lease term. The land fund paid for investors includes non-clearance lands or land with completion of clearance. Noting that the use of land with completion of clearance for making payment to investors must be reported by Provincial People Committee (PC) to the Prime Minister for considering and deciding before the issuance of the decision on in-principal approval of the BT Project.

In contrast, in terms of non-clearance lands, based on (i) approved plan 1/500 or 1/2000 and (ii) request from competent authorities who signed the BT Contract, the Provincial PC shall commit with investors in writing on the use of land funds for the payment to the BT Project. In such case, investors should pay attention to the advance payment for compensation, clearance expenses under the approved plan on compensation and clearance, and such advance payment amount shall be put in the price of the BT Contract. One critical thing to note is that the advance payment amount shall not be accounted for loan interest charges in capital mobilisation of the BT Project. After receiving the deposit, the State shall implement compensation and clearance works as per the approved plan. In this situation, investors should expect that the compensation and clearance works may take a long time and, in the worst case, may be long-term delayed, hence the capital cost of the BT Project may be materially affected due to the non-interest in loan of capital mobilisation of the BT Project from the advance payment amount.

The time of payment for the BT Project shall be calculated from the date the authorities issue a decision on land allocation, land lease or property transfer to the investor. The handing-over of public properties for payment to the investor shall be enforced after the BT Project is completed or under the schedule determined by the authorities in accordance with the Law on investment and construction.

Under this new and favourable regulation, we think that BT Projects in Vietnam will not only be developed steadily but also attract more investor interest from across the region.

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Senior Legal Counsel

Hong Kong 9-12 PQE

A cutting edge consulting firm with an impressive growth trajectory seeks a Legal Counsel to be based in Hong Kong. The successful candidate will augment their growth by supporting the consulting teams on a variety of legal matters. MNC and commercial experience is preferred. M&A experience is a plus. (IHC 17692)

Senior Legal Counsel

Singapore 8-12 PQE

Global consulting company seeks a senior legal counsel to join their legal team based in Singapore. The ideal candidate should be Singapore qualified with strong corporate experience gained in a top tier law firm or in-house doing regional work. (IHC 17526)

Head of Legal

Hong Kong 8+ PQE

Well known business services firm is looking for a head of legal to manage a range of commercial matters including numerous contractual negotiations covering Asia Pac. Excellent communication skills and fluency in Chinese is critical. Applicants should have in-house experience. (IHC 17944)

Head of Legal

Hong Kong 7+ PQE

Newly created position with an international asset manager. Our client seeks a head of legal to support their expanding business. Lawyers with good experience of advising investment management businesses and with China experience sought. Chinese language skills required. (IHC17879)

IT Lawyer

Hong Kong 7+ PQE

Entertainment company has created a new role for a senior IT lawyer with personal data experience to join its legal team in Hong Kong. As the counsel responsible for all IT issues for the group you will need to have enjoyed good experience drafting and reviewing a range of contracts from an IT perspective. No language skills required for this role. (IHC 17842)

Legal Manager

Hong Kong 4-9 PQE

Leading property developer in Hong Kong is looking for a legal counsel to join their team in Hong Kong. Candidates trained at an international law firm with PE and M&A experience are welcome to apply. (IHC 17795)

Commercial Litigation

Hong Kong 4-8 PQE

A rare opportunity for a litigator to move in-house with this international consulting business. Work involves a mix of regulatory, data privacy and HR issues. General commercial litigators will be considered for this role. Fluency in Mandarin is important. (IHC 17792)

Dispute Resolution

Beijing 8+ PQE

A well-known private company in China seeks an experienced dispute resolution lawyer to lead its litigation team to handle a range of commercial disputes. Candidates should possess good communication and management skills. PRC Bar is essential. (IHC 16145)

Corporate Attorney

Beijing 8+ PQE

A global Machinery company seeks an experienced corporate lawyer to join their global legal team. You will have experience in general corporate affairs and M&A transactions in the PRC and internationally. Business friendly, high proficiency and team spirit are expected. US Bar is essential and PRC bar is a plus. Very competitive salary on offer. (IHC 17774)

Data Privacy Officer

Hong Kong 8+ PQE

A leading real estate company seeks a data privacy officer to perform a role that will report into the General Counsel and the Company Secretary. A legal background is required but the successful applicant does not need to be a lawyer currently. Data privacy experience is essential, as is the ability to communicate clearly, in both English and Mandarin. (IHC 17735)

Shipping Legal Counsel

Singapore 5-10 PQE

One of the world's largest ship charterers seeks a legal counsel to provide support to their business across the regions. The ideal candidate should be qualified in a common law jurisdiction and have experience in shipping and disputes work gained in private practice or in-house with a shipping company or PSI club. (IHC 17861)

Contracts/Compliance Manager

Singapore 3-7 PQE

Global consulting company seeks a Contracts/ Compliance Manager to provide support in risk and regulatory compliance as well as contracts management support to their advisory businesses across the region. The ideal candidate should have a law degree or diploma with at least a few years of experience in contracts and/or risk compliance management matters. (IHC 17903)

Trademark

Hong Kong / Hangzhou 6+ PQE

A leading technology company seeks a senior trademark counsel with solid experience in domain name and copyright (non-contentious, contentious, commercial and compliance related). Ideal candidate should have team management skills and solid experience in intellectual property worldwide outside of China and Hong Kong qualified. (IHC 17361)

Legal Counsel

Singapore 2-5 PQE

Major regional media group seeks a mid-level lawyer to join its organization. The ideal candidate should have 2-5 years PQE, be admitted to a common law jurisdiction and currently based in Singapore. Prefers someone with good corporate experience and open to consider lawyers with good commercial litigation experience. (IHC 17916)

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

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The blockchain effect on investment funds

Blockchain was originally considered to be the innovative technology that only supported cryptocurrencies like bitcoin and ethereum. Recently the technology has been garnering attention from investors and companies as an infrastructure solution capable of bringing disintermediation to all industries through the execution and recording of transactions.¹ Although the idea of a fully decentralised public permissionless blockchain may be miles away, in the interim, blockchain technology still has the potential to transform a wide variety of practices and products due to reduced costs, enhanced risk mitigation and greater efficiency through the use of private blockchains and trusted third parties.² The Cayman Islands investment funds industry can capitalise on this opportunity to retain its funds-sector dominance through the adoption of blockchain components such as tokenisation, digital identities and smart contracts. While the market has already seen the emergence of tokenised funds, a fully blockchain investment fund is still at the theoretical stage — but what would one look like?

Fund interests and the subscription process

When an investor wants to subscribe for interests into a Cayman Islands investment fund, they will generally submit subscription documents to the fund, at which point the administrator will clear compliance on the investor and record the interest onto a register which it maintains. The investor typically receives its interest in the form of a share or limited partnership interest. This subscription process is ripe for disruption. The investment funds industry may one day do away with intermediaries such as transfer and distribution agents. In the future, investors and issuers may be able to directly operate peer-to-peer. The investor may use a dedicated program to

send subscription requests in digital currency to a smart contract which will verify that certain required conditions are fulfilled such as AML/KYC checks and sufficient digital currency in a digital wallet. Focusing on blockchain projects that facilitate the sharing of information on tax residencies and beneficial ownership identities of potential investors (discussed below) is a useful first step. Subsequently this may open the doors to the recording of interests on a public or private blockchain which would act as a verifiable register of members. A tokenised investment fund can then issue tokens instead of shares and limited partnership interests. An investor's rights and obligations pertaining to an investment fund could eventually be derived from a smart contract that would replace standard fund documents such as the memorandum and articles of association, limited partnership agreement and private placement memorandum. The smart contract would be able to feed information collected at the subscription stage to generate certain metrics necessary to facilitate fund entry such as the net asset value for an open-ended fund, which will then trigger the smart contract to be completed and automatically exchange the subscription digital currency with fund tokens.

AML/KYC

Blockchain can streamline AML/KYC checks and potentially avoid duplication of efforts, increase transparency and enhance compliance. At the onboarding stage, an investor would provide the necessary identification information to a trusted party, who in turn will either register and create a digital identity for the investor or verify their digital identity if already on the identification blockchain. Trusted parties are reliable entities authorised by legislation to perform AML/KYC verifications (eg, watch lists, updating KYC docu-

mentation, risk analysis, etc) and would operate within an identification blockchain that creates and facilitates the management of unique digital identities. The digital identity would then be spread to trusted parties and applications that need to verify an individual's information before authenticating and validating a transaction through a smart contract. The digital identity that the investor now has can be used in other transaction later and would facilitate a faster and more efficient processing of their AML/KYC information, as well as save investment funds on the costs of verification and onboarding turnaround times.

The Cayman advantage

The Cayman Islands is a well-placed jurisdiction for cryptocurrency and blockchain projects because of a number of benefits including: (a) the robust and flexible legal framework, (b) stable political climate, (c) high quality service providers, (d) proven record as a world leading financial centre, (e) leading jurisdiction for investment funds and SPVs, and most importantly (f) the government's willingness to develop the technology industry. The Cayman Enterprise City is a special economic zone introduced by the government to encourage the development of industries like technology by granting incentives for technology companies to relocate physically to the Cayman Islands, and now hosts over 250 companies (approximately 60 blockchain-focused companies).³ CIMA established a working group in March 2018 (in which Walkers participates) to drive the development of a regulatory framework for digital assets.⁴

1. Deloitte, *Impacts of the Blockchain on fund distribution* (June 2016)
 2. Dave Dowsett and Heather Wied, *Blockchain and the reshaping of investment management*.
 3. Walkers, *2019 Chambers Global Practice Guide – Cayman Islands: Law & Practice*
 4. *Ibid.*



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In-house

Senior Corporate Counsel | 8-13 yrs ppe | Shanghai REF: 15314/AC

This international luxury group is seeking a Senior Group Corporate Counsel to be based in Shanghai covering China. You will be responsible for providing support on corporate commercial matters including various kinds of retail-related contract review and drafting, across procurement, wholesale distribution, e-commerce, regulatory compliance, cybersecurity, and other technology innovations. Ideally, you are PRC qualified with over 8 years' PQE with experience gained from top tier law firms (plus in-house preferably). Knowledge of commercial law, data protection, E-commerce practice is highly desirable. Excellent communication and contract drafting skills are required. You must have fluent English and Mandarin for the role.

Legal Counsel/Senior Counsel | 7-12 yrs ppe | Shanghai REF: 15304/AC

This global chemical manufacturer is seeking a PRC-qualified commercial/corporate lawyer with 7+ PQE to support its China and APAC operations on a base of Shanghai. You will provide legal advice and support on commercial agreements, business transactions, regulatory compliance, claims, and litigation. You must have 7-12 years' PQE, 6 of which have worked in a leading law firm or an MNC. Experience in the manufacturing industry is required. Candidates with experience in the chemical industry and overseas legal education/work experience are preferred. You must have native Mandarin and fluent English skills for the role.

Legal Counsel | 5-7 yrs ppe | Singapore REF: 15219/AC

Our client is the market leader in the fragrance and flavor industry, and they are seeking an experienced lawyer to join their Singapore office, supporting the growing business in the South East Asia region. Reporting to the Legal Director, you will be responsible for providing legal advisory on business and transaction matters, managing general commercial and documentation work, advising on business risks and regulatory compliance requirements, and managing internal investigations. The ideal candidate will be a 5-7 years' PQE lawyer with sound business acumen, attention to detail, excellent communication, and interpersonal skills. You must be hands-on and proactive and able to work in a fast-paced environment with the ability to manage stakeholders within the organization both in Asia and globally. In return, you will be joining a dynamic international firm with high-quality work and excellent exposure to offer.

Regulatory Lawyer | 8+ yrs ppe | Shanghai REF: 15276/AC

This tech unicorn is seeking a Regulatory Lawyer with a keen interest in financial services regulation to join its dynamic legal team based in Melbourne. You will primarily provide legal and regulatory support on new product launches and product features across multiple jurisdictions, in addition to advising on data protection matters. You ideally have a JD/law degree and/or an LLM with over 3 years' PQE. A practising certificate in Australia is essential.

Private Practice

Corporate Partner | 15+ yrs ppe | Shanghai REF: 15282/AC

This top 50 US law firm seeks a Corporate Partner for its Shanghai office. With a worldwide reputation in corporate, disputes, regulatory and international trade practices, the firm has a roster of US clients, including both Fortune 500 and SME and startups. Your work will focus on providing legal advice on general corporate, FDI, and labor/employment matters to their US clients who have business in China. The right incumbent must have no less than 12 years' experience in general corporate and commercial issues. A US qualified lawyer with native-level Mandarin skills is required and the ability to build ties to the Chinese business community is preferred. Fluency in written and oral English is required.

Senior Associate, M&A | 6+ yrs ppe | Hong Kong REF: 15279/AC

This international law firm is seeking a high caliber M&A lawyer to join its market-leading team in Hong Kong. You must be Hong Kong qualified and well-versed in Hong Kong company law, corporate administration, and compliance matters. You will also be required to manage a team of paralegals. An HKICS/ICSA member along with excellent English drafting and interpersonal skills, is preferred. Fluency in English is essential, and Mandarin skills are a plus.

General Representative | 5+ yrs ppe | Shanghai REF: 15315/AC

This international corporate law firm is seeking a General Representative for its Shanghai office. The ideal candidate must be a Chinese citizen with a US Bar admission plus more than 2 years' overseas practice experience. Experience of practicing law in PRC is highly desirable. You must have fluent English and Mandarin for the role.

Trademark Associate | 3+ yr ppe | Beijing REF: 15317/AC

Excellent opportunity for an experienced trademark lawyer to join a highly regarded intellectual property and technology practice at this leading international law firm in Beijing. You will advise various high-profile MNCs on trademark related matters including strategic advisory, prosecution, and administrative litigation matters. You must be PRC qualified with 3-5 years' relevant PQE from an international law firm. Excellent communication skills in English and Mandarin are required.

Paralegal, Banking & Finance | 1+ yr exp | Hong Kong REF: 15286/AC

This Magic Circle law firm has a 2-year contract role for a Paralegal to support its banking and finance department in Hong Kong. The role will provide legal and administrative support to the team on document drafting, billing, due diligence, business development, and database maintenance. A detail-oriented candidate with good research capabilities, strong writing ability and excellent organizational skills is preferred. Communication and interpersonal skills plus fluent Mandarin and English are required.

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EVENT REPORTS

In-House Community Congress update

Over three busy weeks, three In-House Community Congresses brought together our members in Korea, the Philippines and the Lion City respectively.

First up on August 29 was our seventeenth annual gathering in Seoul, which opened with an appropriately eye-opening presentation by legal innovator, Carl Im, chief technology officer at Yulchon law firm, entitled “From Tsunami Stones to Python: A Journey”. As with all our Congresses this year, our two panel discussion topics were on Technology and Talent Management for the Legal Team, with contributions from Chungjin Chung, legal counsel at Korea Gas Corporation; Yun Choi of LG Chem; Sue Hyun Lim, secretary general of KCAB International; Chan Woo Sung, senior foreign attorney with D’LIGHT Law Group; Bob Babbish, senior product manager for LexisNexis; Carl Im of Yulchon; Laurie Lebrun, partner at Major, Lindsey & Africa; and Vincent Connor, partner at Pinsent Masons. Both discussions were moderated by In-House Community director Patrick Dransfield.

A day of engaging workshops followed from Herbert Smith Freehills, Bae, Kim & Lee, the Hong Kong International Arbitration Centre, Clyde & Co, Reed Smith, Control Risks, Vietnam firm LNT & Partners and Pinsent Masons, with thanks also to D’LIGHT Law Group, Frontoe, KCAB International, LexisNexis and Major, Lindsey & Africa for their support.

Then, on September 5, we hosted our ever-vibrant Philippines gathering. The sixth edition of the Manila Congress opened with a presentation on “Leadership in Whistleblower Response Investigations” from Michael Olver, managing director of Pacific Strategies & Assessments Group.

Our Technology and Talent Management panel discussions benefited from the valuable insights of Joseph Trillana T Gonzales, general counsel & compliance officer for Aboitiz Power Corporation; Cathy Marsh, assistant general counsel at the Asian Development Bank; Siegfred B Mison, general counsel and compliance officer for Philippine Airlines; Leland R Villadolid, senior partner at Angara Abello Concepcion Regala & Cruz Law Offices; Alain Charles Veloso, partner at Quisumbing Torres; and Michael Olver of PSA. In-House Community founding director Tim Gilkison chaired the discussion.

From updates in employment law, to drafting an effective arbitration clause and online business in the Philippines, delegates were given plenty to absorb from our co-hosts: ACCRA Law, DivinaLaw, Pacific Strategies & Assessments Group and Quisumbing Torres. With thanks to all the above, as well as our grand prize sponsors Nurture Wellness Village.

Busy three weeks closed out with our 20th annual Singapore In-House Community Congress. David Llewelyn, managing director of David Llewelyn & Co and professor at Singapore Management University’s School of Law and King’s College London, opened the technology part of the discussion with a thought-provoking and, at times, humorous introduction to where we really are, and what is perhaps to come.

A discussion on both technology and talent management followed with John Cordova, director and regional counsel, corporate finance/mergers and acquisitions, Grab; Paul Fredrick, general counsel for East Asia & Japan with Schneider Electric; Priya Bains, head of product for Luminance Technologies; and Jay Shaw, executive chairman of Praxonomy keeping things interesting, and ably moderated by our own Patrick Dransfield.

A packed day of engaging sessions followed, with our thanks going to the presenting teams from Angara Abello Concepcion Regala & Cruz Law Offices, Debevoise & Plimpton, Luminance Technologies, DFDL, LOD, NAVEX Global, Pacific Strategies & Assessments Group, Russin & Vecchi, Eversheds Harry Elias and Eversheds Sutherland, as well as our friends from Hughes-Castell, Praxonomy and Taylor Root.

SEOUL



MANILA



SINGAPORE



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

*“Excellent and informative, with practical and meaningful insights”
“Great to be here!” — Seoul delegate*

2019
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Chris Kim
Senior Foreign Attorney
Bae, Kim & Lee LLC



David MacArthur
Senior Foreign Attorney
Bae, Kim & Lee LLC



Avryl Lattin
Partner, Sydney
Clyde & Co



Joyce Chan
Partner, Hong Kong
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Justin Tan
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Seongeun Kim
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Kyle Wombolt
Global Head of
Corporate Crime &
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Herbert Smith Freehills



Kellie Yi
Counsel & Chief
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Hong Kong International
Arbitration Centre



Sue Hyun Lim
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KCAB INTERNATIONAL



Chungjin Chung
Legal Counsel
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Bob Babbish
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Junho Bae
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Vincent Connor
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Alex Andrews
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Shareena Edmonds
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Reed Smith



Shourav Lahiri
Partner
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Carl Im
Chief Technology Officer
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Partner
LNT & Partners



Laurie Lebrun
Partner
Major Lindsey & Africa



Patrick Dransfield
Publishing Director
Asian-mena Counsel
and Co-Director
In-House Community

*“We appreciate the In-House Community organising an event like this.
Please keep it up!” — Manila delegate*

2019
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Joseph Trillana T. Gonzales
FVP - General Counsel &
Compliance Officer
Abotiz Power
Corporation



Emerico O. De Guzman
Senior Partner and
Managing Partner
Angara Abello
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Partner
Quisumbing Torres



Reena Mitra-Ventanilla
Partner
Quisumbing Torres



Tim Gilkison
Founding Director
In-House Community

*“Topical subjects, good sessions providing useful, practical points”
— Singapore delegate*

2019
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SINGAPORE



Eric R. Recalde
Partner
Angara Abello
Concepcion Regala &
Cruz Law Offices
(ACCRAALAW)



David Llewellyn
Managing Director
David Llewellyn & Co
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Gareth Hughes
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Philip Rohlik
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Paul Fredrick
General Counsel - East
Asia & Japan
Schneider Electric



Patrick Dransfield
Publishing Director
Asian-mena Counsel
and Co-Director
In-House Community



Tim Gilkison
Founding Director
In-House Community

MOVES

The latest senior legal appointments around Asia and the Middle East

 AUSTRALIA

Norton Rose Fulbright has hired construction and engineering partner **Laura Walton**, who will be based in the firm's Brisbane office. Walton has broad experience acting for public and private sector clients on construction projects across the energy, infrastructure, mining, transport and real estate sectors. She provides clients with strategic advice during project delivery and post-completion, including on contract administration, claims and claims preparation, dispute avoidance and minimisation strategies, and dispute resolution. She joins from Clayton Utz and returns to Norton Rose Fulbright after spending five years working in the firm's construction and engineering team between 2011 and 2016.



Laura Walton

K&L Gates has added **Kane Barnett** as a partner in its financial services team in Sydney. Barnett joins K&L Gates from Clifford Chance, where he led that firm's Australian funds practice. Barnett has extensive experience acting for Australian and international clients on fund formation, investments in funds, and investments by and transactions involving funds. He advises across a broad range of asset classes including listed and unlisted real estate, infrastructure and private equity funds. Barnett regularly assists foreign investors with structuring their investments in Australian infrastructure and real estate assets, and advises on Australia's financial services regulatory regime generally. Barnett's clients have included many leading Australian and international asset managers as well as sovereign wealth funds and large pension funds from Asia, North America, Europe and the Middle East.



Kane Barnett

 HONG KONG

Maples Group has expanded its global shipping team with the addition of **Jonathan Silver** as a partner in its law firm in Hong Kong. He brings nearly 20 years' experience in the fields of shipping and banking and finance, having previously led the shipping group at Norton Rose Fulbright for the North Asia region, where he also co-led the Republic of Marshall Islands law practice. Silver will lead the group's Asia shipping team, providing BVI, Cayman Islands and Marshall Islands advice, entity formation and fiduciary services to clients worldwide. His vast experience covers shipping finance and other shipping matters, including loans, leasing, private equity, sale and purchase, building contracts, charter parties, guarantees, joint ventures, pooling and management.



Jonathan Silver

He also has substantial experience advising on general banking and finance transactions, such as unsecured lending, working capital loans and structured trade and commodity finance. Silver is proficient in Mandarin Chinese and speaks conversational Cantonese. He is also a notary public appointed in Hong Kong.

Reed Smith has hired disputes lawyers **Peter Glover** and **Nick Austin** as partners in its transportation industry group. Glover joins from Norton Rose Fulbright and will be based in the firm's Hong Kong office, specialises in shipping, international trade, arbitration, regulation and marine insurance. He comes from a maritime background having served at sea with the oil majors, is a qualified Master Mariner and will enhance the firm's growing shipping and casualty team in the wider Asia Pacific region. He is qualified to practice law in the jurisdictions of Hong Kong, England & Wales and Queensland, Australia. Austin joins the London office from Clyde & Co, specialises in shipping and international



Peter Glover



Nick Austin

trading disputes in the court, arbitration and mediation arenas. He is a well-known and highly regarded practitioner with more than 20 years' experience advising shipowners, operators, charterers and traders on a wide range of predominantly dry shipping and commodities disputes, including charterparty and bill of lading issues. Austin also works closely with several commodity trading and mining clients, and maintains strong and enduring links in the Japanese and wider Asian markets.

Sidley Austin has hired **Meng Ding** as a partner in its China corporate and finance group based in Hong Kong. He joins from Kirkland & Ellis, where he was a partner in the firm's capital markets practice group. Ding has extensive experience in a broad spectrum of capital markets and M&A transactions, especially in the TMT, healthcare, financial institutions, hard-tech and other emerging technology fields. He has advised on numerous Hong Kong and US IPOs and follow-on offerings, pre-IPO investments, US public company going-private transactions and Rule 144A and Regulation S bond offerings (investment grade and high-yield). He also regularly advises US-listed companies on SEC compliance, exchange reporting and other general corporate matters. Ding received a PhD in physics from Massachusetts Institute of Technology and holds 31 issued US patents. Earlier in his career, he was a high-tech research and development technologist in Silicon Valley, where he focused on new product development.



Meng Ding



MALAYSIA

Zaid Ibrahim & Co has added **Jonathan Lim Hon Kiat** as a partner effective August 1, 2019. His practice focuses on fintech, venture capital, blockchain technology, payment systems, digital remittance and initial coin offerings. He currently serves as the secretary of the Fintech Association of Malaysia; legal counsel and mentor for the Founders Institute, a pre-seed start-up accelerator; and contributing member to LawTech Malaysia, a corporation that aims to promote effective and long-term digital transformation in the legal industry in Malaysia. He has advised various local and foreign clients on a wide range of corporate transactions, including M&A, corporate structuring, IPOs and takeovers, as well as private funds.



Jonathan Lim

venues. His clients include vessel owners and charterers, offshore service contractors, oil majors, mining companies, traders, bunker suppliers, P&I Clubs, and other marine and offshore insurers.

King & Spalding has added international arbitration specialist **Peter Chow** as a partner. Chow joins from Squire Patton Boggs, where he led the international dispute resolution practice in Asia-Pacific. He focuses on complex arbitrations across Asia-Pacific, with particular emphasis on disputes arising out of large energy and construction projects. He has represented clients in some of the largest arbitrations in Asia involving multi-billion-dollar claims. As a bilingual Mandarin speaker from Singapore, Chow also focuses on Chinese commercial disputes. He sits on the ICC Commission on Arbitration and ADR and the ICC (Hong Kong) arbitrator nomination committee, and serves as chair of the Energy & Resources Committee of the Inter-Pacific Bar Association.



Peter Chow



SINGAPORE

CNPLaw has added **Jimmy Yap** as a partner effective September 2, 2019. Admitted to the Singapore bar in 1991, Yap was appointed as Magistrate and Deputy Registrar at the State Courts in 1996. This distinguishes him as a lawyer with experience spanning both the bar and the bench. As a judge, he has presided and mediated over a wide spectrum of civil and commercial disputes. Shortly after resuming practice, he joined CNP (then known as Colin Ng & Partners). In 2012, he was appointed VP (Legal) of Changi Airports International for almost two years. Then he joined Singapore-listed Boardroom, providing corporate services to private and Singapore-listed companies on regulatory and compliance matters. Prior to returning to CNP, he was a senior legal consultant with Angeline Suparto Law, focusing primarily on Indonesia-related investment and commercial transactions. Yap is currently on the panel of accredited adjudicators with the Singapore Mediation Centre (since 2006), arbitrators with the Singapore International Arbitration Centre and a fellow at the Singapore Institute of Arbitrators.

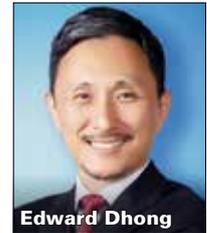


Jimmy Yap



SOUTH KOREA

Yoon & Yang has hired **Edward Dhong**, a seasoned corporate attorney from IBM. Prior to joining the firm, Dhong spent 15 years at IBM as head of legal investigations for Asia Pacific, Greater China Group and Japan, where he supervised lawyers and investigators in investigations on potential fraud, corruption, conflict of interest and other corporate misconduct. His earlier role at IBM included oversight of all legal matters in Korea, as senior regional counsel / general counsel leading a team of lawyers and other professionals. He was also IBM's Trust and Compliance Officer, responsible for implementing IBM's corporate compliance programs and initiatives throughout Korea, as well as the lead lawyer managing litigation and M&A activities across Asia Pacific and complex service transactions in Korea. Prior to IBM, Dhong was a corporate and commercial attorney at the San Francisco / Silicon Valley offices of Baker & McKenzie and Coudert Brothers. His practice focused on strategic M&A, investments and corporate finance activities. Dhong has been a member of the California Bar Association since 1996. He served as the chairman of the In-House Counsel ForUm, Korea's largest in-house lawyers group, from 2017 to 2018, and as a co-chair of the Compliance & Ethics Committee of the American Chamber of Commerce in Korea from 2015 to 2016. He was appointed as an adviser to the Korean government's Anti-Corruption and Civil Rights Commission in 2016, during the final adoption of the Improper Solicitation and Graft Act in Korea. Dhong is also currently a director of the International Association of Korean Lawyers and an adviser to Korea University's American Law Centre.



Edward Dhong

HFW has boosted its shipping practice with the hire of Singapore partner **Christopher Metcalf**, who joins this September from Clyde & Co, subject to local regulatory approvals. Metcalf's practice spans a wide range of contentious and non-contentious matters in the shipping, offshore and oil and gas sectors, including charter party, COA, bills of lading and other commercial agreements. He also advises insurers throughout South East Asia on coverage and subrogation, and has significant experience on litigation, mediation and arbitration in local and international



Chris Metcalf

DEAL OF THE MONTH



Asian-mena Counsel Deal of the Month

Tokio Marine's US\$3bn Pure acquisition

The Japanese insurer continues its successful international diversification.

Tokio Marine continued its global expansion in October with the US\$3.1 billion acquisition of Pure Group in the US, following recent deals in Malaysia, Singapore and Thailand.

The Japanese insurer has been diversifying its portfolio away from Japan for more than a decade, but it has accelerated its efforts during the past year in the wake of continued large natural catastrophe losses at home and is targeting even more M&A going forward. It is particularly keen to find opportunities in Asia and other emerging markets.

Pure has seen its premiums increase by around 30% a year during the past five years and reported US\$963 million in managed premiums last year. The company targets high-net-worth individuals in the US — one of the few business segments in the US insurance market experiencing high growth as the number of HNW individuals is increasing at a faster rate than the overall population.

The deal is also attractive as it pro-



vides stable fee-based business, has low capital intensity and limited overlap with Tokio Marine's existing US business. Indeed, the expansion into the niche high-net-worth business will further diversify its portfolio in terms of revenues, profits and customer segments.

Pure's projected 2020 profit is US\$95 million, implying that Tokio Marine is paying around 33 times earnings.

Tokio Marine's international purchases have served it well so far, with AM Best praising its "disciplined merger and acquisition strategies". It has spent US\$18 billion on four major M&A in developed

markets during the past decade or so, starting with the acquisition of Lloyd's member Kiln in the UK in 2008, followed by major US acquisitions of Philadelphia Insurance also in 2008, Delphi in 2012 and HCC in 2015. The expansion of its developed-market portfolio has been led by a strategic focus on specialty primary business.

More recently it has been looking to opportunities in emerging markets that can help it to continue deliver growth in the medium to long term. The IAG deal also included a property-casualty business in Indonesia and the company's presence in Asia includes IFFCO-Tokio General Insurance in India, Tokio Marine Insurans in Malaysia and Malayan Insurance in the Philippines. All of those are top 10 players locally, except the Indonesia business.

The acquisition of Pure is scheduled to be completed by March 2020.

Sullivan & Cromwell advised Tokio Marine, while **Skadden, Arps, Slate, Meagher & Flom** represented Pure.

Other recent transactions from around the region:

Clifford Chance has advised **JP Morgan** and **Morgan Stanley**, as the joint sponsors, and the **underwriters** on the US\$5 billion IPO and listing in Hong Kong of Budweiser Brewing Company APAC, the largest and a fast growing beer company in Asia Pacific. Budweiser APAC is the Asian business of Anheuser-Busch Group. Partners **Virginia Lee** and **Jean Thio**, supported by partner **Amy Lo**, led the firm's team in the transaction, which is the second biggest IPO globally this year, and the largest in Hong Kong so far.

Ashurst has represented the joint book-runners and lead managers and **JP Morgan Securities**, as lead green structuring agent, on the offering of US\$950 million senior notes by Greenko Solar (Mauritius), a subsidiary of Greenko Energy Holdings. The notes comprise two tranches: US\$500 million 5.55 percent senior notes due 2025 and US\$450 million 5.95 percent senior notes due 2026. Global head of high-yield partner **Anna-Marie Slot**, assisted by partner **Jeffrey Koppelle**, led the firm's team in the transaction, which was the largest high-yield bond issuance from India this year and the largest corporate green bond issuance from Asia.

Kirkland & Ellis is advising **Hammer Capital**, as a member of an investor consortium with Tencent Holdings, on a proposed going-private transaction to acquire all of the outstanding ordinary shares of New York-listed Bitauto Holdings not already owned by the consortium or their affiliates for US\$16 in cash per American depositary share, as well as advising the consortium on the consequential mandatory general offer for the shares of Hong Kong-listed Yixin Group, pursuant to the chain principle under the Hong Kong Takeovers Code. Bitauto is a leading provider of internet content and marketing services, and transaction services for China's fast-growing automotive industry. Yixin, a subsidiary of Bitauto, is a leading online automobile finance transaction platform in China, which provides transaction platform services, as well as self-operated financing services. Tencent and JD.com are key shareholders of Bitauto and Yixin. Corporate partners **Nicholas Norris**, **Daniel Dusek**, **Xiaoxi Lin** and **Carmen Lau** and investment funds partners **Justin Dolling** and **Jennifer Feng** led the firm's team in the transaction.

Bringing the In-House Community together along the New Silk Road

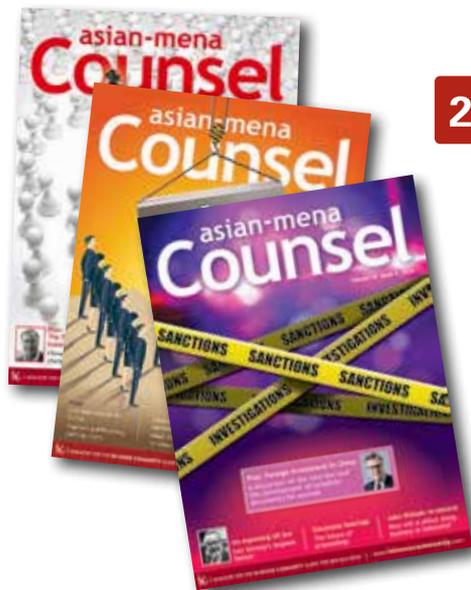
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“The future of legal services lies very much in the hands of in-house counsel. To bring change, it is imperative that they form themselves, globally, into professional networks.

The *In-House Community* provides one such forum”

Professor Richard Susskind, OBE



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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.

Senior Legal Counsel – Investment

4 yrs PQE, Hong Kong

This role is for a Hong Kong-based private investment group that provides capital and investment strategies for multiple listed companies and established fintech entities. Over the years, the investment team strives to identify the best investment strategies, takes a patient view that seeks to maximise long-term value. It is now seeking an experienced lawyer to work closely with the founder and the investment team, advising on a range of legal and compliance matters, including M&A, alternative investments, direct investments, equities and fixed income. You should have at least four years' post-qualification experience gained in an international law firm or related investment management business. Experienced in advising corporate finance transactions or funds. Possess strong commercial acumen, confident, articulate and able to balance business interest with law and risk. Written and spoken Cantonese or Mandarin is a must. [Ref: JO-1907-175402]

Contact: Tina Lu
Tel: (852) 2520 5877 / (852) 9012 2217
Email: tinalu@puresearch.com

Legal Counsel – Hospitality

7+ yrs PQE, Hong Kong

A well-known regional hospitality company is looking to hire a lawyer with extensive experience in matters relating to technology and data privacy. Candidates with Mandarin language skills and/or experience in an in-house function will be at a distinct advantage. Ideal opportunity for lawyers looking for a dynamic and broad in-house role with an established and stable platform. [Ref: AC8117]

Contact: Roshan Hingorani
Tel: (852) 2537 7416
Email: rhingorani@lewissanders.com

Head of Compliance – Banking

12-15+ yrs EXP, Hong Kong

Outstanding opportunity for a senior compliance professional with no less than 12 years' experience in the financial industry to take on a pivotal position at a global fintech company's rapidly growing subsidiary, based in Hong Kong. You will lead a compliance function in Hong Kong and oversee its operations in the NEA regions. The ideal candidate needs considerable legal and regulatory compliance experience gained in the financial services industry, along with knowledge of fintech, payment systems, e-commerce, and stored-value licensing industry. Strong leadership and communication skills are necessary. Must have fluent English and Mandarin language skills. [Ref: 15357/AC]

Contact: Doreen Jaeger-Soong
Tel: (852) 2520 1168
Email: djaeger@hughes-castell.com.hk

Legal Counsel – Entertainment

4-6 yrs PQE, Singapore

This role is for a premier global entertainment streaming site where millions of people discover and consume primetime shows and movies subtitled in more than 200 languages. An exciting opportunity has arisen for a talented lawyer with a passion for digital media and internet-based distribution models to join our client's legal team in Singapore. Reporting to the head of legal and business affairs, responsibilities will include: advising business units and stakeholders on legal and risk management issues; supporting the roll-out of new product features and innovations; drafting, reviewing and negotiating legal documentation and contracts; working with internal/external counsel; assist in administration of corporate policies and procedures; and supporting the business on a breadth of compliance, privacy and legal matters related to our client's worldwide business operations.

The ideal candidate is a proactive and decisive legal counsel who possesses excellent organisational, interpersonal and cross-cultural communication skills. The ability to work cross-functionally and effectively under pressure, and the willingness to learn and to deal with ambiguity, in a dynamic and fast-paced environment is essential. Minimum 4 — 6 years of relevant legal experience (preferably in-house at an international media, technology or internet company) and licensed to practice law in Singapore, other Commonwealth jurisdictions and/or US. Experience in media, content acquisition/production, OTT, intellectual property, technology licensing, dispute resolution, corporate governance, compliance and regulatory regimes, and/or privacy and data protection preferred. Substantive knowledge and demonstrated expertise of US and/or international laws dealing with content regulation, intellectual property, advertising, data protection and privacy frameworks (including GDPR and CCPA), and consumer protection is also preferred. [Ref: HZ 109-00015]

Contact: Jessica Deery
Tel: (65) 6808 6635
Email: jessica.deery@horizon-recruit.com

Head of Legal – Business Services

8+ yrs PQE, Hong Kong

Well-known business services firm seeks a head of legal to manage a range of commercial matters including numerous contractual negotiations covering APAC. Excellent communication skills and fluency in Chinese is critical. Applicants should have in-house experience. [Ref: IHC 17944]

Contact: Krystina Schippers
Tel: (852) 2920 9113
Email: k.schippers@alsrecruit.com



Sarah Bell
Director, Hong Kong
sarah.bell@lawinorder.com

Bringing eDiscovery In-House? Four Tips to Get You Started

With an increase in litigation and in costs for document review, more and more companies are considering bringing parts, if not all, of the eDiscovery process in house. Insourcing eDiscovery can give legal teams the opportunity to manage and review data prior to briefing an external law firm, provide more transparency with regards to costs and process, and skill up your in-house team in eDiscovery techniques and technologies.

However, with eDiscovery spanning from Information Governance to Data Collection and Forensic Analysis, Early Case Assessment, Document Review and Document Production, and with a plethora of available technologies in the market, understanding where and how to start can be overwhelming. Here are our four tips to get you started.

Understand Your Requirements

Firstly, ensure you have a thorough understanding of your organisation's eDiscovery requirements. If you're a company that rarely litigates or investigates – or is subject to investigation – then your eDiscovery requirements will be ad-hoc. At most, you may just need to engage an information governance specialist on a project basis to get your data in order.

If your company is regularly involved in litigation, scope the following:

- The number of matters run each year and the average length of time they run for.
- The volume of data of each matter and the average matter size.

- The overall cost of discovery, including document review.

Scope Technologies and Experts

Next, you'll need to evaluate the available eDiscovery tools and technologies, and the people you'll need to support them. In terms of the available technologies, there are many. However, quality eDiscovery professionals that can support your team and tools are becoming harder and harder to find, and without the right support your investment in an in-house data processing or document review platform could end up costing you more than it's worth. Finding the right person or people as early as possible can inform how much you invest in eDiscovery tools, which tools you invest in and which parts of the process you in-source. A cost-benefit analysis, taking into account the cost of software licences and the people required to support any tools you bring in house, is crucial at this stage.

Establish Your Process

There is no one-size fits all approach to managing eDiscovery. Your company's eDiscovery requirements may be satisfied by having an eDiscovery expert educating your team internally and briefing legal service providers to manage, cull and review your data externally. This approach enables you to reduce the legal costs of discovery without having to invest in expensive software and technology.

If your organisation is regularly involved in litigation and the legal costs

associated with discovery are significant, investing in the technology and people to manage data processing and document review in house can be beneficial. When matters with complex data collection or document review requirements arise you can still call in external forensic collection experts or engage a document review provider to provide support.

Educate

Your company can have the best eDiscovery process in the world, but it can be worthless if the right stakeholders don't know how to follow it or leverage it. Take the time to educate your legal team, your IT Support, your Executives and any relevant employees on your information governance and data retention policies, when and how to engage your eDiscovery expert internally or providers externally, and of any technological developments that can drive cost-savings.

Law In Order is the premier provider for eHearing Services in Asia, located within Maxwell Chambers Suites Singapore and close to the Hong Kong Arbitration Centre.

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Disrupting the law



Michael Lew
 Founder, LegalComet;
 COO, Rajah & Tann Technologies

The way that legal services are being delivered is changing rapidly.

By Nick Ferguson, In-House Community

Technology has been changing the world of work since the dawn of the industrial revolution, but it is only in the past decade or so that technological innovations have truly started to disrupt the way that legal services are delivered.

The reason for this is both extremely complex and startlingly simple. Artificial intelligence, machine learning, the internet of things, blockchain and many other relevant developments are all enabled by a continual, evolutionary improvement in computer processing power, as predicted by Gordon Moore back in the 1960s.

But there is nothing evolutionary in the changes that are taking place within the legal industry.

“While emerging technologies such as blockchain and AI are constantly disrupting ‘business as usual’ across all industries, it is anticipated that the impact within the legal industry will be most significant given that this sector is traditionally conservative and averse to change,” says Michael Lew, founder of LegalComet and chief operating officer of Rajah & Tann Technologies, a firm at the forefront of legaltech innovation in Asia. “The underlying push to embrace innovation and, to a certain extent, disrupt the law firm’s current profitable business is driven by the shifting dynamics and expectations from the future clients of legal services.”

As the new economy has become mainstream and companies such as Facebook, Apple and Google – or Alibaba, Huawei and Tencent – have grown into multi-billion dollar global enterprises, the inefficiencies of traditional legal practice have become increasingly frustrating to modern clients.

Trusted advisers and dynamic rainmakers are still as relevant as ever, but everything about the way their services are delivered is fair game for disruption.

“Those who wish to maintain the status quo will be left behind, while a whole new spectrum of opportunities awaits those who choose to reinvent themselves to remain relevant in the business of law,” says Lew.

Now that we have crossed the threshold into technologies that can displace traditional legal roles, the developments will keep coming and will continue to fundamentally change the way that law is practised. The role of a corporate lawyer in 2019 is not very different to the role in 1999, but you can be sure that the role in 2039 will be starkly different.

“Technology has re-cast the definition of legal work,” says Preeti Balwani, general counsel of Hindustan Coca Cola Beverages, a wholly owned bottling subsidiary of Coca Cola. “Legal delivery is no longer the exclusive domain of the



Preeti Balwani
 Vice President and
 General Counsel,
 Hindustan Coca Cola Beverages

legal practitioner but a combination of the law, technology and business expertise. It is essential for legal departments to challenge perceptions around the work they do and use technology to improve legal delivery. Effective legal delivery supported by legaltech will in turn foster a more robust tech culture within organisations.”

While many of the innovations within the legaltech sector are emerging from Europe and the US, Asia is starting to catch up as governments, regulators and industry bodies begin to understand the benefits and encourage change.

“It is very encouraging to witness the growing momentum by law firms in Singapore in redefining the roles of legal professionals from solely the practice of law to skill-based positions such as legal engineer, e-discovery specialist, innovation manager, legal data analyst and others,” says Lew.

Indeed, embracing innovation could be even more important in emerging Asia than in the developed world. All the same forces driving adoption of legaltech innovations in more developed markets exist in Asia – in addition to the region’s rapid economic growth. That means lawyers in Asia are getting busier at an even higher rate than in the US or Europe, where growth is slow in comparison and the legal profession is mature.

“The Australian and Asian markets are growing rapidly, which creates challenges for organisations with the ever-increasing amount of data being generated and the need to comply with evolving regulations,” says Stuart Hall of e-discovery company Relativity.

At the same time, budgets are always under pressure. In the past, investing in technology invariably meant new servers, data centres, staff and training, all at great cost. For law firms and legal departments alike, the size of such investments has traditionally been difficult to overcome for all but the most tried-and-tested products, such as e-discovery. But the development of cloud computing is making new tools more accessible.

“Customers are increasingly looking for solutions to their unique data demands,

regulatory requests and areas outside of e-discovery,” says Hall. “Our SaaS [software-as-a-service] platform, RelativityOne, allows us to better serve these demands with its scalability and performance, without the significant challenges of investing and maintaining IT infrastructure.”

In private practice, law firms are responding to the needs of their clients by changing the way they are structured and how they hire. Internal incubators, innovation labs and legaltech consulting arms are becoming more common, and so are non-legal and tech-focused roles.

“Market-leading firms are developing and producing new solutions by leveraging disruptive technologies, often in concert with multidisciplinary and client-facing legaltech teams that are effectively in-house solution vendors,” says Eric Chin, a strategy consultant at Alpha Creates. “Hiring innovation consultants, process engineers, developers and design thinkers into fee-earning roles is unprecedented. Those few firms have launched their legal operations’ consulting arms as a means to elevate the relationship from solving legal issues to operational and strategic issues for general counsels.”

In Asia, firms such as Rajah & Tann Technologies are among those pushing the boundaries. The firm offers a range of legaltech expertise, from e-discovery and digital forensics to consultancy, training and data breach readiness and response.

“We are the go-to legal team for data protection and cybersecurity in Singapore because of our ability to understand clients’ needs as they transform themselves to embrace technology and navigate the digital economy, as well as our unwavering pursuit of quality and efficiency in our services,” said Steve Tan, a partner specialising in technology, media and telecoms.

This kind of approach is increasingly important. Unlike the Luddites who smashed textile machinery during the first industrial revolution, today’s young lawyers will need to embrace technology to stay relevant. For law firms and legal departments alike, it is a matter of disrupt or be disrupted.



Stuart Hall
Manager Asia Pacific,
Relativity



Eric Chin
Principal,
Alpha Creates



Steve Tan
Partner,
Rajah & Tann



NewLaw takes-off in Southeast Asia

Rob Shakespeare of **KorumLegal** discusses the market for flexible and innovative legal solutions in one of the world's fastest-growing regions.

What's driving the demand for NewLaw in Southeast Asia?

Most legal teams face cost and resourcing constraints and their response in recent history has tended towards bringing more work in-house. However, despite this growth in numbers of corporate legal teams, their lawyers are more stretched than ever, inundated with the demands of an increasingly regulation-heavy environment and fighting to keep up with the pace of business which, powered by technology, is accelerating dramatically. A business delivering instant fulfilment to its customers needs the same from its legal department; a huge challenge which most corporate teams will need to innovate to solve.

“What NewLaw brings to the market to help businesses with these kinds of pain points is an innovation-driven, cost-efficient and price-certain, flexible alternative to further insourcing and traditional outsourcing”

Southeast Asia itself also presents a few characteristics that showcase how NewLaw adds value. The region encompasses numerous legally and culturally diverse jurisdictions where local market knowledge is vital. Many of the world's fastest growing tech businesses are

here, with business models that can scale quickly across borders, so their legal teams are challenged to manage legal and regulatory hurdles without being an anchor on expansion. Such obstacles point to solutions comprising multi-jurisdictional legal expertise allied with project management and technology skills, which can be scaled up and down across jurisdictions at a moment's notice, often for short term projects.

What NewLaw brings to the market to help businesses with these kinds of pain points is an innovation-driven, cost-efficient and price-certain, flexible alternative to further insourcing and traditional outsourcing. It can maximise efficiencies by harnessing process and technology expertise to legal and cultural know-how and is able to deliver support tailored to the client's time and budgetary constraints. Simply put, it delivers legal solutions in a different way and is a market response to limitations of the more traditional service providers.

In-house legal departments are under constant pressure to 'do more with less'. How do NewLaw legal solutions help their clients achieve more?

Legal teams are not revenue generating so their contribution to business profitability is principally through increased efficiency.

However, on a daily basis we see how enhancements in our client's legal operations can improve collaboration and contribute to revenue generation. Take an IT outsourcing business, for example, and think about the length of time it might take to negotiate and execute a high-value, complex customer contract. By shortening this process, and speeding up revenue recognition, a legal team can have a measurable and significant impact on enterprise value.

With its focus on helping legal teams to identify and add value by combining people, process and technology, NewLaw can help deliver these kinds of innovative and transformational changes to the legal operations. The suite of solutions obviously varies but NewLaw companies such as KorumLegal, can provide flexible people solutions through to tailor made process and technology consulting for key work streams. The solutions often work well as a "managed legal service" where it will end-to-end project manage the repeatable, sometimes lower value work freeing the in-house team to focus on higher value-add work streams and strategic projects.

What are the most important questions an in-house legal team should ask before talking to a NewLaw solutions provider?

Many NewLaw providers can offer a range of solutions, from the relatively straightforward resourcing support through to full-blown digital transformation. Our recommendation therefore is always to start by clearly identifying the pain point(s) and, to the extent known, the end goal or intended operating model. There should also be an agreed definition of what constitutes 'value' from both the perspective of the legal team and, probably more importantly, from the business perspective. This will involve self-interrogation, involving representatives from the legal and business teams, which many NewLaw providers will have the expertise to help with.



Rob Shakespeare

You can then explore the possible solution. There may be a technology application available that could be a game-changer, but we also emphasise to our clients that technology should not be viewed as a panacea nor looked at in isolation from people and process.

NewLaw's differentiator is its ability to harness people, process and technology and to deliver the optimum combination of those; in our experience they are often inextricably linked and the 'secret sauce' is finding the right proportion for that mix which involves a bespoke approach based on a deep understanding of the problem itself.

“NewLaw’s differentiator is its ability to harness people, process and technology and to deliver the optimum combination of those; in our experience they are often inextricably linked and the ‘secret sauce’ is finding the right proportion for that mix”



Singapore has an ever-growing reputation in the SEA region as a legaltech hub. What are you seeing in the legaltech area?

I would argue that this reputation is now global, not merely regional. Singapore has demonstrated what it is capable of through its promotion of other innovative sectors such as fintech and healthtech, and its success in those areas was primarily down to the presence of stakeholder support, skills and funding. In my view, legaltech has the same pillars of support here.

The legal industry stakeholders here are generally very forward-thinking and we saw back in 2017's Report on the Future Economy that digital advancement of the legal industry was high on the list of the Singapore government's priorities. There are now several incubators and accelerators run by institutions such as the Singapore Academy of Law and the Law Society of Singapore and those bodies have also undertaken projects to support the buy-side's adoption of legal tech, including cost subsidisation and consulting advice. By offering support to players on both buy and sell side, local and foreign, it is creating an open, competitive environment; the hallmark of a well-functioning ecosystem.

Thought has also gone into ensuring that all market segments are catered for. So, we have seen emphasis on helping small law firms, where the focus is on baseline solutions rather than the more transformational AI powered applications that larger firms are looking at. Overall, I would say the in-house teams are ahead in terms of embracing what technology has to offer and embarking on the digital transformation. Many GCs in the region see that technology can radically transform the way their teams operate and collaborate within their businesses, and many understand the value of quality data in the way their finance or sales teams do.

“Change is a continual process and all stakeholders need to be realistic about what can be achieved, so expectations must be managed and those involved need to have the right mindset”

What are some of the challenges you face in working with in-house legal departments?

It depends on the scope of work but a good example would be our approach to a client's digital transformation journey. We are sensitive to the fact that legal teams have limited and unpredictable bandwidth but we do need the legal team to commit time transferring knowledge to us so we can deliver our expertise.

Change is a continual process and all stakeholders need to be realistic about what can be achieved, so expectations must be managed and those involved need to have the right mindset. Often the individual leading the charge will 'get' it but other members of the team may not be as committed to the journey; culture is really important and cannot be changed overnight. Some lawyers can be slow to embrace change, though I tend to think that any reluctance to change is often an organisational construct rather than a personality trait somehow peculiar to lawyers.

Finally, obtaining support for investment in a cost centre such as a legal team or having the freedom to effect change is rarely easy. Effective communication with all stakeholders, both legal and business teams, is required so you get that buy-in and commitment to the objectives, without which even the best solutions won't reach their full potential as they are unlikely to be widely adopted.

In your experience working with legal consultants, what is driving lawyers to leave traditional jobs and join the NewLaw space?

For some it is the opportunity to break out of the traditional way of practising law and to experience variety in terms of business and working environment; and it can be a way for private practice lawyers to get in-house experience without committing to a single role. Flexibility and control over working hours is a pull, particularly those who want to pursue other business or academic interests. Some are returners from career breaks. There are some who find traditional practice frustrating; they want to work with people of an aligned mindset. Overall though, I would say that with few exceptions, the consultants we work with can see the changes happening in the legal industry and want to be more than a spectator; they want to learn new multi-disciplinary skills and be exposed to the innovation that is happening across the industry.

“It occurs to me regularly that, unlike most other industries, ‘the law’ has barely changed in our lifetimes and yet suddenly here we on the cusp of (or even in the midst of) an enormous market shift”

For me, I was driven by several of these and a few others. I enjoyed private practice but realised that the legal industry was evolving rapidly and I didn’t want to stand still and fail to upskill myself. I concluded that to acquire and develop those skills and open my mind to the possibilities I needed to move away from a traditional environment. Lastly, I became hugely excited about the opportunity to be involved in the ‘innovative’ side of the business of law and the more I learnt about NewLaw, the more I became convinced that these new and innovative business models had enormous potential and were going to be the big growth story in the coming years – and I wanted to play a part in that story.

What should a lawyer consider before becoming a legal consultant? What are the implications in terms of a career?

Individuals will have their own motivations and expectations of NewLaw, but I think there are a few considerations and character traits that are relevant. The words are bandied around but agility and curiosity are important; being agile in the sense that one needs to adapt to different cultures and work environments quickly; and being curious in the sense that one needs to explore new ways to add value and acquire new skills, including familiarity with what legaltech has to offer. That can be novel for traditionally trained lawyers who are raised in an environment where precedent is king and there is usually a ‘way of doing things’. I think it is widely accepted now though that what it means to be a lawyer or legal adviser is going to look very different in the future and it is going to require more than just legal skills.

From a career perspective then, the arrival in the market of NewLaw legal businesses is undoubtedly shaking things up and will open-up all sorts of alternative pathways and trajectories beyond those that the traditional career offers. It occurs to me regularly that, unlike most other industries, ‘the law’ has barely changed in our lifetimes and yet suddenly here we on the cusp of (or even in the midst of) an enormous market shift that is going

to change everything from the way lawyers are educated and trained, to the way in which legal problems are solved and advice delivered, to the look and structure of the service providers. Whilst for some it may feel uncomfortable and not without perceived risk, with new types of legal businesses emerging, offering novel ways of working, in my view these kinds of fundamental changes will present incredible opportunities for current or prospective lawyers.

What are KorumLegal plans for Southeast Asia in the coming year?

We believe that the demand for NewLaw solutions will continue to grow and so our focus is on positioning ourselves to meet that growth. Since I joined KorumLegal in May, Estefania Altuve, our head of client solutions, has relocated from our Hong Kong office to join me in Singapore.

We expect to grow our managed legal services offering. It has experienced incredible growth in other parts of the world and I think both corporates and law firms in this region are starting to recognise the value that it can add to their teams and see huge potential for it.

We also see more focus on legal process as a discipline, which is reflected in the increase of dedicated legal operations executives (following the US where such roles are more commonplace). Finally, we continue to see evidence of how overwhelmed people are about how to choose and implement legal tech; there is now so much out there and not enough people that have these skills, so helping tech buyers navigate that market will keep us busy too.





The five stages of the board management maturity model

The tools boards use to communicate should be simple to use, meet their needs (and no more) and be secure.

By Jay Shaw, Praxonomy

Though boards differ considerably in regard to how they communicate with and support their members, the approaches boards adopt to organise meetings, circulate reports (and other documents) and manage minutes and records tend to evolve in predictable ways over time.

This article lists five typical approaches in terms of a board management maturity model and discusses some of the benefits and costs of each. The approaches are:

1. Printed Documents
2. Emails and Attachments
3. Network or Cloud File Storage
4. Mass-Market Collaboration Solutions
5. Dedicated Board Management Portal Solutions

“Each of the maturity model stages entails trade-offs and every company, committee, board of trustees and senior leadership team can identify where they currently sit”

Not all boards start at the beginning. Neither do all boards move smoothly from one stage to the next. In fact, some boards stay at one stage for decades, some skip stages and some deploy hybrid strategies – ie, email plus network storage – and may never entirely make the jump from one stage to the next. Various factors affect progress, including changing regulatory requirements, willingness to try new technologies, company size and board composition itself, all of which affect the shape and timing of next-step choices.

Nevertheless, there are global commonalities.

For boards currently printing board-books (and many boards still do), print shops are everywhere. The post office is reliable. Most directors are more than capable of carrying stacks of papers into meetings. Many prefer to work with printed documents. On the downside, printed board-books are hard to update (especially at the last minute), tend not to be the best option for the environment and do not lend themselves to a “single source of truth” treatment for record-keeping and audit purposes.

For boards using email attachments, the printing issues are lessened (though not eliminated), delivery is virtually immediate and updates can be distributed via new attachments. However, updates and version control are still problematic and there is growing awareness of the security risks created by the distribution of sensitive documents as email attachments.

For boards using network or online document storage solutions such as Dropbox or DocSend or mass-market collaboration solutions such as Confluence, SharePoint or Slack, board reports and other documents can be stored online and replaced with new versions as required. This is a step forward.

However, none of these solutions is optimised for the ways board members work and communicate with each other nor are the solutions ideal in regard to board-level security, compliance and audit needs. As importantly, all of the solutions carry substantial costs. They can also create confusion and delays at various points in board work-cycles, often because of their lack of version control, adequate audit logs and archive functionalities.

In contrast, dedicated portal solutions are optimised for how boards work. A Board Management Portal, or Board Portal, is a secure application designed to facilitate meeting management, communication and collaboration within a board of directors. Board Portals are designed to meet board-specific regulatory requirements, are far more convenient for board members to use and are generally just faster, better and cheaper than the alternatives.

To illustrate, a board secretary can print and mail 10 or 12 or more copies of a 200-page board-book every quarter for years. But in the end, technology improvements themselves push behaviour change, which is why directors read and write far more texts and emails on their phones, tablets and laptops these days than read and write formal letters on paper. It is also why the board management maturity model exists. Things change.

Each of the maturity model stages entails trade-offs and every company, committee, board of trustees and senior leadership team can identify where they currently sit. Admittedly, change is not always easy and the adoption of any new technology to help improve board work merits careful consideration.



Jay Shaw

Whatever approaches boards decide to take, they should look for solutions that are simple to use, meet the board's major needs (and no more) and ensure that whatever directors do is and stays secure.

Daedal Research sized global technology spend on board portals at US\$3.2 billion in 2018 and forecasts fast growth for at least the next five years, which suggests that board portal adoption will likely reach critical mass amongst small-cap and mid-cap companies, as it has already done amongst large-cap companies.

The portal approach is the fifth and, for now, final stage in the board management maturity model. It is already here for many companies, is coming soon for many more and, whether boards are ready or not, looks likely to become a standard operating requirement, at which point portal use will have become the "new normal" for boards of all quoted companies, big and small.

This will be a change for the better.





Pioneering New Law in Asia

Kirsty Dougan, managing director of Vario Asia, lays out her vision for the company in Asia and how she has seen the legal industry change.

What's your background and how did you end up in Asia?

My career started at the University of Strathclyde, where I was a lecturer teaching European law, international law and IP. However, an opportunity arose to relocate to China and that's where I joined Diageo as regional counsel. Following a move to Hong Kong, I spotted an opportunity in the market and founded my own business called Asia Counsel providing legal consultants to clients. I later sold this business to Axiom and led the business through an exceptional period of growth over eight years. It was an exciting time and one which has left me with many friends and happy memories, but after eight years I felt ready for a new challenge. Vario seemed like the obvious next step for me – to be able to build a legal consultancy business with the support of an international law firm was highly compelling.

What are your plans for developing Vario in the region?

We are seeing a huge amount of demand for services such as Vario at this time in the region. This applies both for clients and also for legal professionals working in Asia. As a result, it is the right moment to capitalise on this. I naturally have big plans for us in Asia! A lot of work has already been completed, we have built a high-quality bench of legal professionals who are seeking a new way of working and I have been rapidly appointing a team able to lead this business as we grow.

There is much to do though. We will continue to grow the Vario bench and I will continue to build my team. Vario is busy sponsoring various conferences and meanwhile our Varios are being invited to a range of events such as mindfulness and a sleepposium. Vario is quickly becoming a global brand and that means offering the same high-quality service regardless of the location. Finally, I am reaching out to clients across the region who I hope will be attracted to working with me again and this high-quality, flexible and cost-effective business I am building at Vario.

How is the role of the modern GC changing, and how can legal consultants address these challenges?

Having worked as a GC myself, it's really interesting to see the changes taking place and to reflect on how they differ nowadays. The global financial crisis changed the world of business for everyone, including GCs. We are still seeing the effects of those changes 10 years on. Business now expects more for less from everyone and the legal department isn't immune. A GC is expected to manage an increasing workload and produce ever greater results, although often there is no corresponding budgetary increase to manage this workload.

Another shift is the way that legal is now so closely intertwined with every part of the business. "Be careful what you wish for," they say – and this is very true! GCs for years have been talking about how they want to be closer

to business and it's happened. More than ever, businesses now want their legal teams to be involved in projects, to offer advice and to be a part of the team. GCs often find themselves dealing with the CFO and CEO on a daily basis. Their expertise as a legal professional is still valued, but alongside that their business acumen and reflections are sought.

GCs are also managing a more complex workforce than ever. A GC's team would once have comprised a number of people in the office on permanent employed contracts working five days per week. Now they will lead a disparate team of people working remotely across numerous locations. Some will work full-time, others part-time. Some will be secondees, others legal consultants from a provider such as Vario. They will be instructing their law firm on a matter, whilst pulling in resource. Alongside this, there is a change in attitudes very much present nowadays. More junior employees don't have the same aspirations as those from earlier generations and the GC is managing all of this!

As the legal consulting business has matured, have you noticed a change in the attitudes of legal professionals who want to work in the sector?

Without a shadow of a doubt. This ties into my earlier point. More junior generations have shaken up the way that the market operates. They want to work hard and complete challenging work, whilst they also want to progress and develop. But this isn't enough. They want to do all of this whilst still exploring the world, having a personal life, following their dreams and living their best life! More senior generations have seen this and thought: "Hold on a second, I want some of that too." And why not! So, what started as something of an anomaly, to work as a legal consultant, is becoming a mainstream career choice.



Kirsty Dougan

“Having worked as a GC myself, it's really interesting to see the changes taking place and to reflect on how they differ nowadays. The global financial crisis changed the world of business for everyone, including GCs. We are still seeing the effects of those changes 10 years on.”



“A wave of inspired lawyers now have more choice than ever before, they see a whole range of options opening up before them and can choose whether to take a more traditional path, or whether to tread a more untested track through life”

I’m sure that there used to be a stigma attached to work as a legal consultant, the attitude might have been: “Oh, they couldn’t cut it, so they’re a legal consultant these days.” That’s gone now. Working as a legal consultant is a career choice, not a fall-back. I look at people such as a Vario called Jenny and see someone who is completing an incredibly demanding piece of work, whilst she is completing psychotherapy qualifications, coaching people and building a reputation as a jazz singer! Or Nicola, someone who lives in Mexico, but works as a Vario remotely and when not working as a Vario, she’s a freelance illustrator. I spoke to a trainee a couple of months ago, who said how much she was looking forward to qualifying and applying to work as a legal consultant. There are still many who want to work their way up to Partner in a law firm and that’s a career choice which suits lots of people. However, a wave of inspired lawyers now have more choice than ever before, they see a whole range of options opening up before them and can choose whether to take a more traditional path, or whether to tread a more untested track through life.

How does Vario’s connection to Pinsent Masons affect the services you can offer?

Vario is proudly part of Pinsent Masons. It provides us such a significant advantage to be part of this great international law firm. Our legal consultants here in Hong Kong and Singapore can access the same support as those sitting in London or Sydney. That’s the unique advantage of a large law firm backing you. Pinsent Masons can offer the Varios

knowledge systems, professional support lawyers, professional indemnity cover, high-quality work, internal assignments back in the law firm, Partner access, use of the research teams and many other advantages. This means two things: one, that we can attract the best; two, that we can back them in a way like no other. In turn, this means that our clients can use the best legal consultants in the industry, people who are motivated and supported to offer our clients the very best service but they have the comfort of an international law firm behind them and having met hundreds of lawyers in Asia over the years, that backing is important to clients and consultants alike.

Kirsty Dougan is responsible for strategy, all operations and business development in Asia. She has overseen significant growth in her time at Vario and established the Hong Kong office in early 2019. She possesses a wealth of experience in this sector, having pioneered alternative legal services in Asia. Prior to this, she served as senior counsel to Diageo, where she built the company’s first legal function for the Greater China region.

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Gill Meller



The legal and European business director for MTR Corporation talks about the challenges of providing legal advice in a constantly changing environment.

Can you describe your professional background and your current role?

My current role with MTR is legal and European business director and so I get to both utilise my legal background (I qualified as a solicitor many moons ago!) in my role as the leader of MTR's legal, risk management and insurance functions and company secretary, and also to develop my commercial skills as the executive director responsible for overseeing and growing our European business. All I can say is thank goodness for time differences!

I first worked in public transport some 20 years ago and laughed at the time when someone told me that, once you got into railways, they were very difficult to get out of!

How big is the team you manage and how is it structured?

In Hong Kong, we have a team of around 20 lawyers and support staff and, in addition, we have lawyers in most of our mainland and international subsidiaries. In Hong Kong, I think of us in medical terms – we have the property and company secretarial specialists and then a large team of GPs who, while they have their own specialisms and areas of expertise, manage a broad range of work covering litigation and regulatory compliance, intellectual property, employment, construction and financial issues and provide support to our mainland and international businesses.

What are the biggest challenges you face in this role?

In Hong Kong at the moment, MTR's challenges are very visible and our team is supporting the business in addressing these. More broadly in in-house counsel, I think the key challenge is to provide commercial legal

advice in an environment where the business is constantly changing and (hopefully) growing, where the regulatory environment is changing (in all of the geographies in which you operate) and, most difficult of all, public sentiment is changing in terms of what is the “right thing” for companies to do – compliance with the law is often no longer good enough.

What are the most important qualities of a good general counsel?

You should probably ask my team, rather than me! Legal skills are obviously a given but, on top of this, I think good general counsel have to be able to successfully lead and develop their teams and also have to be able to contribute to the management or leadership team which they are a part of on both legal and non-legal issues.

In terms of personal qualities, a willingness to get stuck in and advise the business what they should do (while pointing out the associated risks) is key. In order to do this, general counsel need to be able to see the broader picture and provide advice in this context. Resilience is also incredibly important.

Has the in-house legal function changed significantly during your career?

I’m not sure that the function has changed, but I think that the recognition (both internally and externally) of the role that the in-house legal team can play has changed enormously, making the role more challenging but, at the same time, more rewarding.

What do you look for in external counsel?

Legal expertise, of course. Responsiveness. People that are easy – and fun – to work with and willing to act as an outsourced part of the in-house team, to understand what I need from them (which may differ from issue to issue) and to make it easy for me (and my executive team and CEO/chairman/board) to understand the issues and the advice. Oh, and cost efficiency.

What type of work do you outsource to external firms?

To be honest, it depends. We generally outsource either where we need the manpower or where we don’t have the expertise in-house. Also, it is sometimes easier for a message to be delivered by an external, rather than the in-house, team.

How is technology changing the way you work?

I am a healthy sceptic when it comes to technology! There are solutions that we are exploring, particularly in relation to areas such as contract management, but

there are also developments (such as AI contract reviews) where I am not sure that the business case will stack up. Legal operations (including, but not limited to, technology) is something we are investing in though – as a team, we’re as sizeable as many small law firms and it can be challenging for lawyers in the team to find the time (and have the skills) to do the day job in terms of advising the business, but also to manage recruitment and people development, fee negotiations and law firm management, internal know-how, training etc etc.

“I think good general counsel have to be able to successfully lead and develop their teams and also have to be able to contribute to the management or leadership team which they are a part of on both legal and non-legal issues”

Looking forward, what changes do you foresee in the way that legal services will be provided in the future?

Maybe I am naive, but I think there will still be a role for lawyers to play in the future. I do think that some of the more flexible approaches to the provision of legal support will gain traction.

What advice can you give to young lawyers starting out in their careers today?

Lawyers will always need strong legal and analytical skills, together with the ability to communicate well – in writing or verbally and to get on with people. However, on top of those skills, the best lawyers will need to be prepared to understand their clients’ (whether internal or external) businesses and to help them to decide what they should do. In their careers, younger lawyers should be prepared take calculated risks and then to jump in with two feet and make the best of the opportunities presented to them.

What are your interests outside of the legal profession?

I captain my hockey team and try and keep fit – whether through boot camp or yoga or hiking the many fabulous trails in Hong Kong. I also enjoy travelling – for work but, particularly, for pleasure. And I try and make the most of the cultural opportunities in Hong Kong – whether that be theatre, music, art or cinema.

MTR Corp won the In-House Community’s ‘Asia In-House Legal Team of the Year’ for 2019.



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