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PLUS

CLIENTS PICK THEIR TOP
OFFSHORE LAWYERS

THAILAND'S IPO MARKET
TO KEEP SHINING

IT'S NOT ALL FUN FOR
GAMING INDUSTRY GCs



ASIA IP RANKINGS 2023

BEST FIRMS FOR PATENT, COPYRIGHT AND TRADEMARK WORK



中国国际经济贸易仲裁委员会（简称“贸仲”，英文简称CIETAC）是依据中央人民政府政务院决定于1956年设立的、以仲裁的方式解决国际、涉外和国内商事争议的常设仲裁机构。

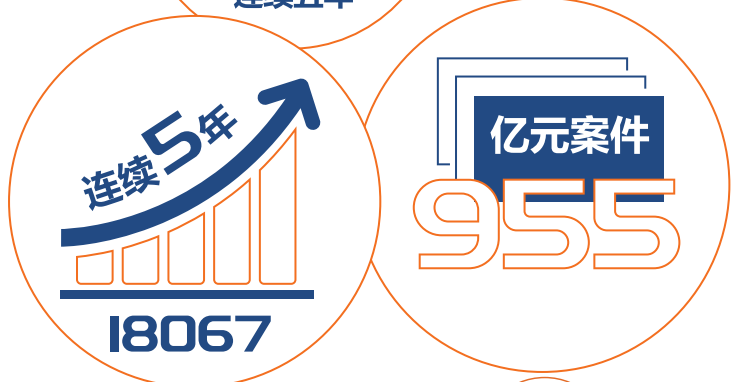
经历60余年的发展，贸仲已成为世界上最重要、最有影响力的国际仲裁机构之一，形成具有自身特色的、以商事仲裁为主的多元化争议解决服务格局，被誉为“中国仲裁的国际品牌，国际仲裁的中国经验”。60多年来，贸仲共受理了5万 multiple 案件，案件当事人遍及世界150多个国家和地区，仲裁裁决在全球范围内得到广泛承认与执行。多年来，贸仲以其悠久的历史、卓越的业绩奠定了中国仲裁的领先地位，打造了中国仲裁的国际品牌，是世界上主要的常设国际仲裁机构之一。2021年，贸仲被业界权威的《国际仲裁调查报告》评为全球最受欢迎的五大仲裁机构之一。



选择贸仲——中国仲裁的国际品牌

主要业务数据：持续增长，国际前列
受案数量逐年增长，争议标的大幅增加

- 仲裁案件数量**连续五年**保持增长，2018-2022年共受理案件**18067**件
- 其中涉外案件共计**3156**件，平均每年受理涉外案件数量近**650**件
- 争议标的额**连续五年**突破**千亿元**大关，2018-2022年受理案件标的额**5857**亿元，其中2022年达**1269**亿元
- 2018-2022年受理标的额超**亿元**案件共计**955**件，标的额超**十亿元**案件近百件，其中2022年受理上亿元案件**188**件，含**10亿元**以上案件**17**件，同比增长**6%**



1897
仲裁员名册现有仲裁员**1897**名

1306
中国内地仲裁员**1306**名

591
外籍及港澳台仲裁员逾**591**名

144
来自**144**个国家和地区

全覆盖
实现中国内地各省市全覆盖

112
包括**112**个与中国签署
共建一带一路合作文件的国家

国际化因素不断提高 案件类型复杂多样



- 案件累计涉及**150**余个国家和地区的境外当事人，包括**60**余个“一带一路”沿线国家，其中2022年共受理涉及**32**个“一带一路”沿线国家的案件，覆盖**东盟全部10国**
- 2018-2022年，贸仲受理的双方均为境外当事人的国际案件数量为**313**件，争议金额**突破百亿元**，其中2022年受理的双方均为境外当事人的国际案件数量**83**件，同比增长**36%**，争议金额**54**亿元，同比增长**47%**
- 2018-2022年，外籍仲裁员共**396**人次参与审理**377**件案件，约定适用英文、中英文作为仲裁语言的案件共计**511**宗，其中，2022年外籍仲裁员共**87**人次参与审理**83**件案件，约定适用英文、中英文作为仲裁语言的案件共计**115**宗
- 受理案件复杂多样，仅以2022年为例，案件类型多达**20**种，靠前争议类型分别为建设工程、机电设备、货物买卖、股权投资转让、服务合同、自然资源和金融争议

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As the Asian region reopens after three years of the COVID-19 pandemic, the role of intellectual property remains more important than ever. This is reflected in the approaches of the best law firms for IP work, which have gone above and beyond when it comes to servicing their clients in these times of transition.
By Asian Legal Business

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Thailand's IPO market has shown robust growth in recent years. In 2022,

a total of \$3.6 billion was raised on the Stock Exchange of Thailand SET – the highest level of funds in Southeast Asia. With an even better 2023 on the cards, lawyers share with ALB what's in store for capital markets work this year and what clients should look out for.

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India today has the world's third-largest and fastest-growing aviation market, one that is also a hotbed of dealmaking activity, as shown by Air India's recent plan to purchase 470 aircraft from Airbus and Boeing for \$70 billion. As a result, lawyers in the aviation space are finding themselves more in demand than ever.

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Lawyers 2023**
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Client Choice**
As in other years, Asian Legal Business has continued its annual tradition of recognising exceptional lawyers working with offshore law firms in Asia. These legal experts have excelled in their field, providing top-notch advice and support that have not only met but exceeded clients' expectations.

Plus:
- *Ogier*

**30
Come to play**
Emerging technologies such as blockchain and artificial intelligence have not only reshaped the interface of videogames, but also given rise to novel legal issues by calling into questions traditional

legal concepts while raising risks of online safety and data privacy. General counsel at videogame companies discuss the opportunities and challenges posed by these shifting consumer behaviours and regulatory hurdles.

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IP in the spotlight

Intellectual property has become a cornerstone of Asia's economic growth in recent years, driving innovation and investment across the region. The protection and enforcement of IP rights are key factors in attracting foreign investment, stimulating local innovation, and ensuring that Asia remains at the forefront of technological development.

Asia's rise as a hub of innovation and technology has been fuelled by the emergence of home-grown tech giants such as Alibaba, Baidu, and Tencent, as well as the influx of foreign investment from global players like Google, Amazon, and Microsoft. These companies have brought with them a wealth of IP expertise, creating a vibrant ecosystem of patent filings, licensing agreements, and cross-border collaborations.

However, protecting and enforcing IP rights in Asia remains a complex and challenging task. With diverse legal systems and cultural norms, the region can be difficult terrain for businesses seeking to safeguard their IP assets. This is where law firms play a crucial role in supporting their clients' IP strategies, providing expertise and guidance on navigating the complexities of IP law in Asia.

The ALB Asia IP Rankings 2023 provide a comprehensive guide to the best law firms for IP in the region, highlighting the firms that are leading the way in providing top-quality legal services to businesses operating in the Asia-Pacific. These firms are at the forefront of driving innovation and investment, helping their clients to protect their IP assets and stay ahead of the competition.

As the region's economy continues to grow, and innovation and technology continue to reshape the business landscape, the importance of IP protection and enforcement will only increase. Law firms will continue to play a vital role in supporting businesses operating in Asia, ensuring that they have the legal expertise and guidance they need to succeed in this dynamic and ever-changing environment. 

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BRIEFS



THE BRIEFING: YOUR MONTHLY NEED-TO-KNOW

QUOTE UNQUOTE

“CALLING A COLLEAGUE ‘SAYANG’ OR ‘DEAR’ IS DEEMED TO BE A FORM OF SEXUAL HARASSMENT IN LIGHT OF SEVERAL INDUSTRIAL COURT CASES RECENTLY.”

Malaysian lawyer Chia Swee Yik tells a local newspaper about the country’s Anti-Sexual Harassment Act 2022, which recently came into force.

LAW FIRMS AND CORPORATE LAW DEPARTMENTS FIND STRATEGIC PARTNERS IN ALSPs

(Reuters) As the market for ALSPs matures, law firms and corporate law departments are seeing the advantages to enlisting ALSPs as strategic partners. Once regarded as last-minute stand-ins for overflow commodity work, alternative legal services providers (ALSPs) have quickly become strategic partners to both law firms and corporate law departments. And as ALSPs continue to mature, their outside perspective, ability to select and implement technology to drive efficiency, and commitment to improving outcomes by improving processes has helped them carve out a unique role in the legal services marketplace. This growing trend was highlighted recently by a report produced by the Thomson Reuters Institute. ALB

NEW REPORT ON GENERATIVE AI IN LAW FIRMS SHOWS OPPORTUNITIES ABOUND

While generative AI-powered tools such as ChatGPT have become widely known to legal professionals in recent months, most law firm lawyers and staff are holding off on using the emerging artificial intelligence technology in their work. Just 3 percent of survey respondents said they are already using generative AI or ChatGPT for law firm operations, and another 2 percent said they are planning to use such tools, according to a Thomson Reuters Institute report. Slightly more than one-third of respondents (34 percent) said they are still in the consideration phase for using generative AI technology, which can generate different types of content based on a variety of inputs. The remaining 60 percent of legal professionals said they have no plans for generative AI use in law firm operations. The survey, conducted in late March, gathered insight from more than 440 respondent lawyers at large and midsize law firms in the U.S., UK, and Canada. ALB

37

Percentage of Generation Z attorneys and law students who would like to work for an Am Law 200 firm, according to a report from Major, Lindsey & Africa, down from 59 percent in 2020. ALB

IN THE NEWS



Struggling law firm Ince Group has been acquired out of administration, after Axiom DWFM agreed to buy the insolvent law firm’s legal business and associated assets. The successor entity will be called Ince & Co, and operate separately from Axiom DWFM.

48

48% - Proportion of general counsel that would ditch law firms that do not keep them informed of relevant legal developments, according to a survey of U.S. and UK GCs by content marketing platform Passle.

IN THE NEWS



Legal research companies vLex and Fastcase vLex are merging in a deal they say will speed up the creation of AI tools for lawyers. The combined entity, known as vLex Group, has collated over one billion legal documents across 100 countries.

OPEN HOUSE

Big tech companies are famously fond of open-plan offices believed to show flattening hierarchy and workplace camaraderie. In recent years, law firms have also been increasingly embracing this trend to promote a more inclusive culture and enhance collaboration. Leaders of those firms share with ALB what inspires their decision to go open and what difference it makes for talent and clients.

WHAT DROVE YOUR FIRM'S MOVE TO AN OPEN-PLAN DESIGN, AND WHAT BENEFITS OR POTENTIAL DOWNSIDES HAVE YOU SEEN WITH THIS ARRANGEMENT?




CALVIN TAN

CALVIN TAN, partner, Simmons & Simmons

We acknowledge and appreciate the importance of collaboration, flexibility, and reinforcing the open-door policy integral to any cohesive workplace. That's why in 2022, we introduced an open plan concept with a flexible desk-sharing initiative, which has proven to be a great success.

Our teams now have the opportunity to work even more closely with one another, share ideas, and collaborate on projects more effectively across the different practice groups. This has not only improved overall productivity and efficiency as a firm, but it has also helped create a more sociable work setting for our colleagues to interact and get to know one another better.

This initiative has fostered precious friendships among colleagues and greatly supported the development of stronger team dynamics and cross-team collaboration across the various practice groups, putting us in the best possible position to collectively support our clients.

This close network of teams formed, and creating a social workplace is vital to our success as a law firm as colleagues look forward to coming into office. As we continue to scale up our Singapore team in 2023 and the coming years, this approach to open offices will not only allow us to optimise the space available to accommodate our growth as an office. However, it will continue to encourage collegiality, and increase social interactions among colleagues, all to produce a unified and harmonious office. 

WEI ZHANG, Hong Kong managing director, Withers

As many industries adapt to an open-office workplace to bring people together, Withers has accomplished this in its fit-out in favour of a more collaborative and creatively engaging workspace environment.




WEI ZHANG



STEPHEN KITTS

We have partners sitting amongst the junior lawyers and support staff, which really leads to spectacular results. Working in a fast-paced environment in the legal field, many of our partners and staff enjoy sitting next to or opposite each other, where they can easily bounce ideas off each other. The open plan concept ignites productivity; communication thrives; and it encourages sharing ideas while building camaraderie. This especially works very well for staff who want to be part of a culture or community, as the open environment can boost morale and optimise workflow.

Our W Café is one of a kind, with its vast area based right next to our front house conference room suites. It has a spectacular view of Victoria Harbour, high-spec renovation and adequate seating. Withers hosts many events for clients and organises regular team-bonding meals and drinks at the cafeteria. There are also magazines, newspapers, and TV channels for those who want a quiet read during their coffee break. Our lawyers and business support not only have the ability to share updates and information continually, spark creativity and increase the potential of collaboration projects, but also to bond and establish rapport in such a welcoming communal space.

Our global operations teams across the Withers brand strives to be different and move with the times. Although lawyers have a reputation for being conservative, there is certainly no sign of this trend slowing down and we hope to see further enhancements in our workplace experience. 

STEPHEN KITTS, Asia chair, Eversheds Sutherland

Eversheds Sutherland's modern, open-plan office environment in Hong Kong supports better team connectivity and maximises how the workspace available is used. The design uses "best-in-class" fixtures and fittings to create an agile working environment,

with all partners, lawyers and business services colleagues sharing a number of “flexible-working” spaces.

The progressive design in Hong Kong delivered several benefits and reflects the firm’s core values, including enhancing cross-team communication, improving collaboration and boosting creativity. We quickly established a “one-team” culture that has created a “win-win” outcome for the business. Health and well-being were also high on the agenda, with a “Wellness” room installed for meditation, short breaks and nursing mothers.

The approach to modernising the office layout took everyone out of their “comfort zones” as we set about creating a better and more progressive working environment. Extensive consultation involved the Hong Kong partners and staff with the architects to create a “state-of-the-art” and

agile working space with excellent environmental credentials.

A key behavioural change was the move to a paper-lite environment to support the firm’s Responsible Business commitments and meet our client’s expectations that their advisers will improve their commitment to the green agenda.

The Hong Kong office’s move to open plan set a benchmark for the firm’s other office refurbishments to improve the physical working environment of all our colleagues in support of the development and expectations of our people and clients. Significant change is always unsettling for some people, combined with the wider anxieties around the current global situation, but our “state-of-the-art” office is now well placed to support our colleagues by providing them with a substantially improved working space. ^{ALB}

DEALS

\$5.9 BLN

Astellas Pharma’s acquisition of Iveric Bio

Deal Type: M&A

Firms: Jones Day; Skadden, Arps, Slate, Meagher & Flom; Wilmer Cutler Pickering Hale and Dorr

Jurisdictions: Japan, U.S.

\$3.9 BLN

Telkomsel’s merger with IndiHome

Deal Type: M&A

Firms: HHP Law Firm; MHP Law Office; NKN Legal; Purbadi & Associates; Skadden, Arps, Slate, Meagher & Flom

Jurisdiction: Indonesia

\$2 BLN

Temasek’s acquisition of additional stake in Manipal Health Enterprises

Deal Type: IPO

Firms: AZB & Partners; JSA; Shardul Amarchand Mangaldas & Co; Trilegal

Jurisdictions: India, Singapore

\$1.2 BLN

Kirin Holdings’ proposed acquisition of Blackmores

Deal Type: M&A

Firms: Herbert Smith Freehills; Thomson Geer

Jurisdictions: Australia, Japan

\$812 MLN

ZJLD Group’s IPO

Deal Type: IPO

Firms: Cleary Gottlieb Steen & Hamilton; Davis Polk & Wardwell; Haiwen & Partners; King & Wood Mallesons

Jurisdictions: China, Hong Kong

\$776 MLN

SEGA Europe and SEGA’s acquisition of Rovio

Deal Type: M&A

Firms: Hannes Snellman; Roschier

Jurisdictions: Finland, Japan

\$586 MLN

Merdeka Battery Materials’ IPO

Deal Type: IPO

Firms: Assegaf Hamzah & Partners; Latham & Watkins; Linklaters

Jurisdiction: Indonesia

\$527 MLN

Mankind Pharma’s IPO

Deal Type: IPO

Firms: AZB & Partners; Cyril Amarchand Mangaldas; Shardul Amarchand Mangaldas & Co; Sidley Austin

Jurisdiction: India



EXPLAINER

WILL FINES AND AN ADDED COMPLIANCE BURDEN COLOUR SOUTH KOREA GREEN?

■ South Korea has emerged as a regional pioneer in regulating corporate greenwashing as it becomes the first country in Asia to mull monetary punishment for deceptive environmental claims in advertising.

The fourth-largest Asian economy is proposing legislation to impose a fine of three million won (\$2,270) on companies deemed misleading investors in their environmental credentials and commitment. The phenomenon is partially spurred by the rise of shareholder activism in businesses' ESG considerations and practices, which are increasingly believed to be linked to the companies' long-term resilience and core competitiveness.

Lawyers keeping track of the draft law agree the move is a step in the right direction in fulfilling South Korea's pledge to climate change mitigation and bolstering oversight. But they have also noted criticisms, including the ambiguity in wording, effectiveness of enforcement, and perceived insufficient financial deterrence.

▶ **WHAT ARE THE KEY CHANGES AND CRITICISMS?**
Currently, South Korea has existing rules to regulate companies' unfair

labelling or advertising practices, which may deceive or mislead consumers about their product's environmental impacts and information.

The new regulations are proposed as part of the amendments to the current Environmental Technology and Industry Support Act, which has been implemented since 2011.

Soyoung Lee, a partner at Bae, Kim & Lee, points out that the proposed administrative fines make the draft law stand out from the existing regulatory regime as "forward-looking."

"Under the new proposal, a company could be fined up to three million won for using greenwashing advertisement if it states 'false, exaggerated, or deceptive labelling or advertising relating to the environmental performance of its products,'" says Lee.

"If the proposal is enacted, it signals a stricter rule compared to Article 37 of the current Act, under which administrative fines do not apply to greenwashing advertisement," she adds.

The Ministry of Environment (MOE) will also be empowered to issue corrective measures, such as

ordering a company to correct an advertisement found to contain a misrepresentation. But Lee is concerned that neither the level of monetary penalties nor the corrective measures can serve as an effective deterrence.

"It is not strong enough to prevent greenwashing advertisement, and calculations for fines are complicated, which could cause delays in procedures such as indictment and trial," she says.

Apart from that, Lee also fears a proposed mandate for public disclosure of greenwashing doesn't have enough teeth because of a lack of "specifics and thus implementation force".

"Even if the MOE takes administrative measures against greenwashing advertisement, their effectiveness is low if the details of the measures are not disclosed to the public," she explains, noting that the MOE currently enjoys discretion to order any disclosure.

▶ **WHAT ADDITIONAL COMPLIANCE BURDEN WILL BE CREATED?**

Lee believes that due to the relatively insignificant fines, companies will be more likely to be compliant due to concerns about their reputational risks or potential legal woes, as opposed to monetary damage.

"Unlike corrective orders or monetary penalties, administrative fines for negligence can be imposed without official hearings. When a company believes that the

administrative decision was unfair or a sufficient opportunity to mount a defence was not available, the company may bring forth a legal action against the supervisory authority in court," she explains.

In addition, the absence of clear, systematic definitions of "greenwashing" behaviours can risk creating an enforcement conundrum even though administrative fines can be imposed with relatively fewer hurdles.

"In the case of greenwashing, the standards the supervisory authority applies to reach a judgment require interpretation of keywords such as 'false,' 'exaggeration,' and 'deception.' As such, both the supervisory authority and suspected companies may need legal assistance during the process of greenwashing-finding and penalty imposition," says Lee.

▶ HOW WILL THE GROWING ANTI-GREENWASHING REGULATIONS AFFECT LEGAL WORK IN KOREA?

Noting the continued efforts by the MOE to reinforce surveillance and monitoring of greenwashing and enhance consumer awareness by sharing more information on green and safe products, Lee is confident that demands for latest compliance know-how will rise as a result.

However, "it will no longer be relevant if lawyers provide advisory to their clients only with superficial understanding of ESG and its emerging directives, laws, and regulations. Lawyers shall acquire in-depth knowledge of the mechanism, the origins, progress, and requirements of each EGS factor," says Lee.

"ESG requires a multifaceted approach. It spans various stakeholder issues where legal experts must be prepared to guide clients with specific, stage-based approach solutions for ESG-related matters given the long-time horizon of ESG and climate change transition," she adds. ^{ALB}

LEGAL AI RACE DRAWS MORE INVESTORS

(Reuters) With more and more lawyers at major law firms using fast-advancing generative artificial intelligence tools, legal AI startup Harvey said recently that it raised \$21 million in fresh investor cash.

Sequoia Capital, which is leading the Series A fundraising round, said more than 15,000 law firms are on a waiting list to start using Harvey. OpenAI Startup Fund, Conviction, SV Angel and Elad Gil also participated in the funding round, Harvey said.

Harvey, founded in 2022 and built on OpenAI's large language model GPT-4, raised \$5 million in a round led by the OpenAI Startup Fund last year. The company says it builds custom large language models for law firms.

Technology companies and investors have rushed to embrace large language model-based generative AI since Microsoft-backed OpenAI's ChatGPT debuted in November. The models are trained on large, customisable data sets to produce text or other outputs that can closely mimic human creativity and analysis. Researchers used GPT-4 to pass the bar exam.

Global law firm Allen & Overy said in February that 3,500 lawyers and staff would use Harvey to automate some document drafting and research.

In March, accounting giant PricewaterhouseCoopers said it would give 4,000 legal professionals access to the platform.

Harvey co-founder Gabriel Pereyra and representatives for Sequoia did not respond to requests for comment.

Several other major firms have signed deals to adopt new AI products just in the past few months — a remarkable pace for a profession that was slow to abandon the fax machine.

"This is an arms race, and you don't want to be the last law firm with these tools," Daniel Tobey, chair of DLA Piper's AI practice, said of AI products. "It's very easy to become a dinosaur these days."

DLA Piper is one of several large firms that has said it will use a new AI tool from legal research company Casetext, one of a growing number of established legal technology companies that have rushed to roll out generative AI-powered tools.

Casetext in March released its AI legal assistant product, CoCounsel, which uses GPT-4 to speed up tasks like legal research, contract analysis and document review.

Law firms Orrick, Herrington & Sutcliffe, which has about 1,150 lawyers, and Fisher Phillips, with more than 500 lawyers, are also using CoCounsel.

Some firms are developing capabilities in-house. Holland & Knight is creating an AI tool that it hopes will help lawyers review and modify credit agreements, partner Josias Dewey said.

Baker McKenzie has been baking large language models into existing services on a client-by-client "pilot" basis, according to Danielle Benecke, head of the firm's machine learning practice.

Even law firms that are early adopters of AI are quick to say that testing and guardrails are needed to protect confidential client data and avoid errors, however, and others are still evaluating how and whether to use the technology.

"We're being cautious and thoughtful, but with the recognition that we expect it to be a big deal, and that we will use it," said David Cunningham, chief innovation officer at Reed Smith. ^{ALB}



THAILAND: EX-BLUMENTHAL PARTNERS LAUNCH NEW FIRM

Ittinant Suwanjutha, Anuwat Ngamprasertkul, and Siripen Kulworakulpitak, former partners at Thailand's Blumenthal Richter & Sumet, have left to set up a new law firm called IAS Advisory.

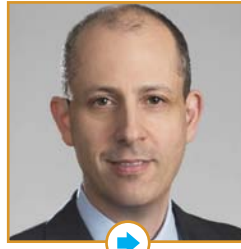
IAS provides advice on corporate/M&A, foreign direct investment, real estate, litigation, dispute resolution and arbitration, employment management, banking and finance, data privacy and protection, bankruptcy, restructuring and business reorganisation.

Ittinant specialises in real estate, corporate and commercial, and banking and finance matters as well as M&A, bankruptcy, restructuring and business reorganisation. Having started his career at International Legal Counsellors Thailand, Ittinant practiced independently from 2007 to 2013 before joining Blumenthal in 2013.

Anuwat focuses on litigation, dispute resolution and arbitration. Before joining Blumenthal, he was a legal advisor at PwC from 2004 to 2020.

Meanwhile, Siripen advises Thai and foreign businesses and investors on establishing operations and risk management in infrastructure, real estate, construction, hospitality, and labour and employment issues. ^{ALB}

APPOINTMENTS



DAVID BLUMENTHAL

LEAVING
Latham & Watkins

JOINING
Simmons & Simmons

PRACTICE
Energy & Infrastructure

LOCATION
Hong Kong



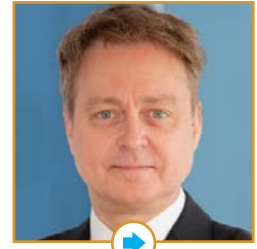
PETER COLES

LEAVING
Clyde & Co

JOINING
HFW

PRACTICE
Aerospace

LOCATION
Hong Kong



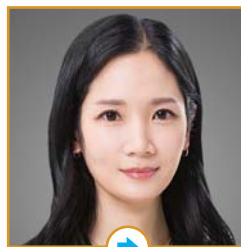
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Carey Olsen

PRACTICE
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WONSUN JUNG

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PRACTICE
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LOCATION
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KENNY KWAN

LEAVING
Baker McKenzie Wong & Leow

JOINING
Allen & Overy

PRACTICE
Capital Markets

LOCATION
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CARYN NG

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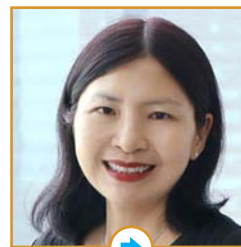
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HyAxiom

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PRACTICE
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Q & A

CHARTING A NEW COURSE

After spending 15 years or more at Singapore's domestic legal giant Rajah & Tann, disputes specialists **Danny Ong** and **Wern-Jhien Yam** decided to break away to blaze their own trail. The duo founded Setia Law, which prides itself as innovative and solutions-driven while boasting expertise in crypto disputes and restructuring. ALB finds out how they intend to make their own mark in Singapore's intensely competitive legal market.

ALB: How is the evolving crypto regulatory landscape in Singapore shaping your strategy for disputes advisory in this space?

Danny Ong & Wern-Jhien Yam: Much of the work we've done in this space, particularly in the early "wild west" years of crypto's growth, has been focused on private law disputes. Whilst the crypto regulatory landscape has always been a pertinent consideration, it largely operated in the periphery of our cases, informing the way parties and the Courts frame various crypto-related issues.

Moving forward, we expect that the maturation of the crypto market will see cases moving in the direction of the more traditional financial regulatory type of work. Regulatory and investigations matters in the crypto sphere loom large on the horizon, particularly given Singapore's maturing regulatory regime coupled with its status as a crypto hub.

We consider our lawyers well placed to deliver effective counsel in this space given our extensive experience in both contentious financial services work and digital assets litigation.

ALB: How do you navigate and mitigate risks while injecting momentum into this nascent practice area of cryptocurrency and digital assets litigation?

Ong & Yam: The cryptocurrency and digital assets space presents unique challenges for firms. From a KYC and AML risk perspective, it's common to run into potential difficulties, particularly when you are faced with potential clients who have a long history in crypto,

or who built their wealth or business in this area.

The traditional approach of paying close attention to source of wealth and source of funds remains highly relevant and prudent, but in threading the line between over and under-conservatism, it's important to have a deeper understanding of how potential clients from the crypto sphere operate.

We've learned a lot about the industry from having operated in this space for a number of years ourselves, and we've come to recognise that "non-traditional" doesn't necessarily mean "high risk." In order to facilitate the work we do in this industry, we have to be alive to the realities of modern crypto clients whose funds might entirely exist in digital space, while maintaining the high standards of risk management that we set for ourselves.

After all, there may well come a time when issuing invoices denominated in bitcoin becomes common practice. We aren't quite there yet, but maintaining a deep commercial understanding of the industry will go a long way towards adjusting to the seismic shifts that digital assets represent.

ALB: On the other hand, what are some trends and developments you are predicting in restructuring and insolvency

and how is your firm planning to fit into the landscape?

Ong & Yam: The collapse of Silicon Valley Bank and the emergency rescue of Credit Suisse has further fuelled concerns of a looming global recession and financial crisis. As a financial and legal services hub, there is growing expectation that Singapore will see significant action as the country continues to cement itself as the jurisdiction of choice for resolving cross-border financial disputes and debt restructuring.

Due to its ever-progressive legal framework, Singapore's attractiveness for restructuring and insolvency will demand specialist advisors, with the experience and track record to service a global clientele, and the ability to move quickly. Setia's lawyers' credentials in managing large-scale, cross-border financial crises, together with their multi-dimensional expertise, position Setia well to provide clients with the necessary support to manage corporate fallouts.



DANNY ONG



WERN-JHIEN YAM

ALB: What kind of clientele are you targeting? Also, facing rising geopolitical tensions and macroeconomic turbulence, what are you doing to serve those clients looking for safeguards in Singapore effectively?

Ong & Yam: Singapore's robust legal system and rule of law are critically important factors that draw investment and legal work to Singapore. They also make Singapore an easy sell to international clients, particularly in the areas of restructuring and insolvency, as well as cross-border commercial litigation.

These are the areas where we see a growing desire in clients for localised legal knowledge and technical speciality applicable across multiple jurisdictions. These are the clientele that Setia hopes to capture, i.e., clients who recognise and wish to leverage on Setia's capabilities in navigating complex cross-border disputes and corporate distress. ALB

BRIGHT SPOT

Thailand's IPO market has shown robust growth in recent years. In 2022, a total of \$3.6 billion was raised on the Stock Exchange of Thailand (SET) – the highest level of funds in Southeast Asia. With an even better 2023 on the cards, lawyers share with ALB what's in store for capital markets work this year and what clients should look out for. **BY SARAH WONG**



REUTERS/Damir Sagolj

■ Persistent macroeconomic headwinds have continued to suppress global IPO volume as companies cautiously weather entrenched inflation, tightening credit conditions and fast-spreading contagions in the financial system.

The Asia-Pacific region remains the bearer of good news, dominating the fundraising landscape with 59 percent of global listings in the first quarter. But compared to the same period last year, APAC IPO activities declined by six percent, with proceeds plummeting by 70 percent, according to EY.

Greater China's IPO market, which has long been the engine driving the

region's IPO issuance, has been struggling to claw back its usual vigour, with wary investors weighing the sustainability of China's bumpy economic rebound. The mainland market, although bagging more than 40 percent of all global IPO proceeds in the first quarter, has undoubtedly seen better days.

As such, exchanges in Southeast Asia stepped in to fill the void, with Indonesia outstripping Japan and Hong Kong in global IPO market share. And all eyes are also on Thailand's IPO market, which with a total of \$3.6 billion, raised the highest level of funds in Southeast Asia last year.

As of the end of February 2023, there have been 12 IPOs on the Stock Exchange of Thailand (SET) – already higher than the same period last year. With petrochemical conglomerate SCG Chemicals seeking to raise as much as \$3 billion in what could be Thailand's largest-ever IPO as soon as this year, analysts are confident that the second-largest ASEAN economy is staring at an even better year for IPOs. And coming with it are opportunities for Thailand's capital markets lawyers to shine.

Worapan Wuttisarn, a counsel at Chandler MHM, projects a hectic year ahead, not only because of buoyant investment sentiment.

"A large number of companies are accelerating their IPO process this year in order to list their shares on the SET within next year. This is due to the requirement of the Securities and Exchange Commission of Thailand (SEC) regarding financial statements that companies applying for IPO filing in 2024 must submit annual financial statements for the period of three previous years (as opposed to the current requirement of one previous year's financial statements) and the last quarterly financial statement," explains Worapan.

"Therefore, it is expected that there will be a great number of IPO applications submitted to the SEC within this year and the first quarter of 2024 at the latest in order to enjoy the current requirement," she adds.

According to the SEC, there have already been at least 75 cases in the process of pre-consultation, and 20 were under review for filing or already approved. Businesses looking to float shares in Thailand are likely to face longer preparation period under the new SEC rules.

THE ROAD AHEAD

Worapan says the updated regulations will not upend Chandler's approach to IPO advisory because "the new Investment Promotion Strategy does not alter the fundamental privileges, but merely updates the details of certain promoted businesses," she says.

Instead, Worapan believes that by promulgating the new regulations, the

Evolving capital markets in Thailand

During the first and second quarters of 2023, there were two main developments in relation to capital markets regulations in Thailand as follows:

1. Amendments to the regulations related to initial public offerings (IPOs) regarding issuer's qualifications (the "IPO Issuer's Qualifications Amendments"); and
2. Amendments to the regulations for newly issued share offerings of listed companies through private placement (PP) (the "PP Amendments").

The IPO Issuer's Qualifications Amendments, which became effective on 1 February 2023, are related to the qualifications of a company applying for an IPO, which shall have some requisite characteristics, e.g. not involved with businesses which severely violate the law, e.g. money laundering, drug trafficking, human trafficking, etc. These amendments alleviate the ambiguity of the previous regulation, which only prescribed that the Company must not be involved in any illegal businesses, in respect to which concrete guidelines were never launched.

With respect to the PP Amendments, the following key changes will be effective from 1 July 2023.

1. Cancellation of the SEC approval application



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procedure which will be changed to a deemed approval procedure, but other requirements still remain, including requirements for approval by a shareholders' meeting;

2. Requirement for an opinion from an independent financial advisor (IFA) in the event of major changes, e.g. the offer price is lower than the market price, the offering of PP shares will cause the earning per share or the control dilution to be not less than 25%, etc.;
3. Permittance of the remaining shares from a preferential public offering (PPO) to be offered through PP; and
4. Revision to the market price calculations to avoid any inconsistencies due to different criteria for different types of securities offerings, and revision to the offer period for the offering of PP shares, which are listed out for each relevant case to improve clarity and practicality.

Other Updates

Many companies also carry out fundraising by way of a Real Estate Investment Trust (REIT). Recently established REIT IPOs have invested in new types of assets; for example, the Bangkok Airways Real Estate Investment Trust ("BAREIT"). BAREIT invested in the Bangkok Airways Samui Airport-based asset. This is the first REIT in Thailand to invest in an airport asset. BAREIT will receive income from the sublease of its assets to Bangkok Airport Management Co., Ltd. (a subsidiary of Bangkok Airways).

SEC intended for businesses listing on the Thai bourse to brush up on corporate governance.

"For instance, ESG is increasingly recognised and has become one of the key factors for investors' investment decisions. Consequently, listed companies adopt sustainability management policies for the benefit of their stakeholders and shareholders," says Worapan.

"In our recent IPO cases, we have assisted our clients in preparing sustainability management policies as part of the IPO filing. It is therefore important to keep ourselves up to date with not only the new regulatory framework but also the key global trends," she adds.

Although the volume of IPO is expected to pick up this year with a dash for relatively easier cash before regulations tighten, Worapan doesn't foresee much difference in deal value and sectors from the previous year.

"Many companies in sectors such as food and beverage have been

significantly affected by COVID-19, so their IPO plans have been delayed. Conversely, most companies in the logistics and hospital sectors have enjoyed increased revenues as a result of the pandemic environment, and we will likely see them speeding up their IPO plans," she explains.

Looking ahead at Thailand's IPO scene, "we have seen that technology, food and beverage, logistics, health care services, and consumer products are largely the sectors in the pipeline, while there are few in the energy and industrial sectors," says Worapan.


Apart from the SET – the dominant IPO cradle in Southeast Asia in terms of accumulated raised funds – an alternative fundraising venue has emerged. LiVE Exchange (LiVEx), a new bourse targeting small and medium-sized enterprises and start-ups with greater funding flexibility, has been mustering traction.

As a result, Chandler MHM has been stepping up to fill the compliance

knowledge gap, which proves not too onerous as "the IPO and listing requirements on LiVEx are more relaxed and mainly rely on a disclosure basis," says Worapan.

But she cautions against overoptimism, and one way to stay on top of the fast-changing regulatory environment is to keep track of the development of regulatory frameworks. "[This] will help to anticipate major hurdles of IPO work and to understand the SEC's focus in relation to our work for the pre-IPO process or post-IPO requirements," she says.

As the economic tides continue to shift with a general election disrupting political winds, the path ahead in Thailand's fundraising scene is not without hurdles.

"Considering the government election in May, the volume of IPO applications this year, and the economic growth in other markets, it is likely that Thailand's IPO market will face intense competition domestically and regionally," says Worapan. 



ASIAN LEGAL BUSINESS

ASIA IP RANKINGS 2023

As the Asian region reopens after three years of the COVID-19 pandemic, the role of intellectual property remains more important than ever. This is reflected in the approaches of the best law firms for IP work, which have gone above and beyond when it comes to servicing their clients in these time of transition. **BY ASIAN LEGAL BUSINESS**

■ The effective protection of intellectual property rights (IPR) remains a key pillar of economic growth and is often seen as the Achilles heel of economies across Asia. Over the last few years, however, protection has improved significantly across Asia.

From fine-tuning in Japan, which has a well-developed system of IP protection, to China's efforts to strengthen rules and enforcement and India's ongoing rapid growth, all the way to the dis-

crepancies across the 10 members of the Association of Southeast Asian Nations (ASEAN), IP laws and regulations remain of paramount importance for business and economic growth.

With the largest population in the world and plenty of upside market potential, Asian countries continue to generate new and innovative domestic businesses while remaining attractive for global businesses across all sectors. Many, if not most, of these businesses

produce and rely on intellectual property (IP).

IP is often the most valuable asset businesses have. A constant challenge for regulators is how to ensure IP is protected while creating an environment that facilitates and encourages innovation, is in line with global standards and remains attractive enough to attract new businesses.

In recent years, economies across Asia have seen significant developments

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in copyright, trademark and patent protection. Governments and organisations throughout the region continue to work to strengthen IP-related laws and regulations and improve enforcement.

A significant step forward in 2020, for example, was the signing by 15 countries of the Regional Comprehensive Economic Partnership (RCEP). This advanced and forward-looking free trade agreement is the first among the largest Asian economies and covers about a third of the world's population.

However, across Asia, different countries have seen various levels of development in their IP protection infrastructure, with recent developments pointing to some of the still-existing disparities.

JAPAN: FINE-TUNING

In the first half of 2023, Japan was expected to approve guidelines for new legislation, first proposed in December 2021, to pay companies to keep secret

any patents with potential military applications, including compensation equivalent to about 20 years of licensing income.

The new patent protection was expected to take the force of law by May 2024 and mark a significant change for sensitive patents, usually made public a year and a half after publication.

The new law would further strengthen Japan's IP protection system, which was developed earlier than most in the region and is regarded as more mature and robust in its ability to protect intellectual property rights (IPR) related to patents (utility models and designs), trademarks, copyrights, and trade secrets. Separate legislation protects each one.

The Japanese government has established various laws and regulations to protect IP, and it has also signed international agreements and treaties to ensure that IP rights are recognised and protected globally.

Patents are protected in Japan by the Patent Act, which provides for both utility and design patents. The Japan Patent Office (JPO) administers patents, and the country is a member of the Patent Cooperation Treaty (PCT). A Trademark Act and participation in the Madrid Protocol support trademark protection, and a Copyright Act does the same for copyrights, while the Unfair Competition Prevention Act protects trade secrets. Japan also has specialised courts for IP disputes, including the Intellectual Property High Court and the Tokyo District Court Intellectual Property Division.

Still, Japan has ramped up efforts to strengthen IP legislation in recent years and better protect IPR. For example, in 2021, Japan strengthened Article 102 of the Japanese Patent Act, which deals with the presumption of damages, and the changes allow patentees to prove serious damages more easily.

Since then, the success rate of patent owners that head to court has

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COVER STORY

increased rapidly in the past few years, and financial compensation has also increased over the same time.

CHINA: FORWARD MOVEMENT

China has, over the last few years, made significant progress in strengthening its IP protection system. However, there are still myriad challenges in effectively enforcing IP rights, particularly in the areas of patent and trademark infringement, copyright piracy and thefts of trade secrets.

To address these challenges, China has established specialised IP courts to handle IP disputes, including the Beijing Intellectual Property Court, Shanghai Intellectual Property Court, and the Guangzhou Intellectual Property Court, which was founded in 2014. These courts have been working to improve IP enforcement in China.

In April 2023, the Intellectual Property Court of the Supreme People's Court (SPC-IPC) released its report for 2022,

which suggested that courts had dealt with 6,183 cases throughout the year, up 18 percent from a year earlier. This included 4,405 new cases.

The increase in cases represented a slowdown in the growth of cases, and this was mostly related to a fall in patent grant and invalidation disputes, as the IPC stopped hearing appeals on technology-related IP contracts on May 1, 2022, according to the report.

Overall, China's patent protection system has improved significantly over the past couple of decades.

A Patent Law provides for both invention and utility model patents, and the State Intellectual Property Office (SIPO) is responsible for administering the system, including the examination and granting of patents. A Trademark Law in China allows trademark and service trademark registration, which are administered by the Trademark Office of the State Administration for Industry and Commerce (SAIC). A Copyright Law pro-

tections literary, artistic, and musical works, as well as software and databases. The National Copyright Administration is responsible for administering China's copyright system, and the Anti-Unfair Competition Law protects trade secrets.

A revised Patent Law took effect on June 1, 2021. The top-down reforming of the IP system incorporates both judicial and legislative updates.

The revision of the Patent Law strengthened the protection of the rights and interests of the patentee, promoted the implementation and application of patents, and improved the patent licensing system.

For example, the law raised the potential damages for malicious infringement, raising the lower limit of statutory damages from RMB10,000 to RMB30,000 and the upper limit from RMB1 million to RMB5 million, significantly increasing penalties for offenders. In the first decade of the century, by contrast, IP rights could only have expected

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to receive no more than \$20,000 (about RMB150,000 at the time) in damages in infringement lawsuits.

The new law also establishes a drug patent linkage system with parallel judicial and administrative procedures, enabling patent owners of innovative drugs to stop infringing generic drugs from entering the market as soon as a drug is approved.

It also extends the term of protection for design patents to 15 years, and includes partial design patents in the scope of protection, and provides domestic priority for design patents.

More forward-looking, the amendment also considers job inventions, rewards and remuneration, an open licensing system and patent rights abuses.

China has also strengthened the administrative protection of IPR.

Data from the State Intellectual Property Office showed that China handled 58,000 administrative cases

of patent infringement disputes in 2022, up 16.8 percent year-on-year; received 71,000 applications for rights protection assistance; and accepted 88,000 mediation cases.

China is also deeply involved in international rulemaking on big data, artificial intelligence, gene technology, and genetic resources under the framework of the World Intellectual Property Organisation (WIPO) and acceded to the Hague Agreement and entered into force on May 5, 2022.

INDIA: RED TAPE

India has made significant progress in developing its intellectual property (IP) protection system in recent years. The Indian government has taken various initiatives to strengthen IP protection and enforcement.

A report for 2021-2022 by the Intellectual Property Office released in April 2023 suggests ongoing growth in IP filings, with patent applications rising

13.57 percent through the year, design applications up almost 60 percent, trademarks rising by 2.1 percent and copyright filings up by 26.74 percent. Altogether, 66,440 new patents were filed in the 2021-2022 year.

The country has a Patents Act that covers both product and process patents, a Trade Marks Act, a Copyright Act and the Indian Contract Act that protects trade secrets. It also has in its books the Protection of Plant Varieties and Farmers' Rights Act provides for the protection of plant varieties in India. India has established specialised IP courts to handle IP disputes, including the Intellectual Property Appellate Board and the Commercial Courts and Commercial Division.

Aware that a big challenge for the country's IPR protection system is a massive amount of red tape, the government has taken steps to streamline the patent examination process, including the introduction of a fast-track patent

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examination system for certain categories of patents and the implementation of a comprehensive e-filing system for patent applications.

India has signed several international agreements and treaties to enhance cooperation with other countries on IP protection and enforcement, including the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty in 2018.

Overall, India's efforts to strengthen its IP protection and enforcement system have helped to create a more conducive environment for innovation and creativity.

ASEAN: BETTER PROTECTION

The ASEAN countries include Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam. Participation in the Association of Southeast Asian Nations and the close trade relationship have facilitated some unified IPR standards for the 10 countries, but there are also some significant differences in the levels of IPR protection in each.

Still, ASEAN countries are trying to accommodate international norms with regional and national rules, and some have taken significant steps to improve protection.

In January 2023, for instance, significant changes to Vietnam's Intellectual Property Law took effect. The changes were first introduced in January 2022 and ratified in June 2022. The changes brought the law closer to international standards and marked the most comprehensive amendments since the law was first introduced in 2005.

The changes clarify the rules around co-authorship, moral rights, property

METHODOLOGY

OUR RESEARCH

- The research covers the period spanning from February 2022 to February 2023. This includes both ongoing work (contentious and non-contentious) and matters that were closed during this timeframe.
- ALB will draw information from firm submissions, interviews, editorial resources and market suggestions to identify and rank the top firms for Intellectual Property in Asia. Interviews will be conducted only if needed.
- The IP rankings will be separated into two tables: "Patent" and "Trademark/Copyright". The rankings will also be divided into tiers, with the first tier identifying the strongest IP firms in each jurisdiction.
- The rankings will cover the following jurisdictions: Hong Kong, India, Indonesia, Japan, Malaysia, Philippines, Singapore, South Korea, Taiwan, Thailand and Vietnam. There will be no Asia-wide table.
- The rankings will feature both domestic and international firms. The following jurisdictions will have separate tables for domestic firms and international firms: Japan.
- Our research does not cover Australia and New Zealand.

OUR RANKINGS

Our rankings are based on the following metrics:

- The volume, complexity and size of work undertaken
- Presence across Asia and in individual jurisdictions
- Key personnel hires and growth of the practice group
- Key clients and new client wins
- Firm's visibility and profile in the region
- Year-on-year development and momentum

rights, and copyright in movies, theatre, and computer programs, protecting them as literary works.

ASEAN countries have taken significant steps to improve IP protection as a group.

The regional group does have a specific initiative called the ASEAN Intellectual Property Rights Action Plan 2016-2025, which sees IP as central to building the region's socio-economic goals. The ASEAN IPR Action Plan and other initiatives aim to address these challenges and promote the development of a robust IP protection system throughout the region.

The plan aims to strengthen IP protection and enforcement across all ASEAN member countries.

The ASEAN IPR Action Plan includes several initiatives to improve IP protection and enforcement in the region, including establishing regional IP agreements, capacity-building programs for ASEAN member countries, and cooperation with international organisations. It tries to get all member countries in ASEAN to accede to all the major IP treaties such as the PCT, TRIPS, Paris Convention, Madrid Protocol, and the Hague System.

All of ASEAN's member countries, except Myanmar, are PCT, Paris Convention, and Madrid Protocol members. The PCT enables countries to benefit applicants that seek international patent protection by providing a unified procedure for patent applications across its contracting states.

Most ASEAN countries, again with the exception of Myanmar, joined the ASEAN Patent Examination Cooperation (ASPEC) deal, launched in 2009. As a regional patent work-sharing program among all the ASEAN member countries except Myanmar, ASPEC shares search and examination results between participating member countries' IP offices.

This program could save substantial time and cost for those who seek

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We are always stand by ready for supporting our clients with expert knowledge and experiences in intellectual property. We are ready to support corporate activities by making proposals, acting flexibly at the turn of the tide, and making decisions of what to do or not to do now, and strategically advancing processes to reach solutions advantageous to our clients.

Some of ABE & PARTNERS' achievements in high-profile IP cases:

1. Baxalta's antibody patent infringement case against Chugai Pharmaceutical in Japan **ABE & PARTNERS represented Baxalta**, and filed the lawsuit while Chugai was conducting a clinical trial. This was a **first antibody patent infringement case** in Japan.
2. Biopharmaceutical Company against Pharmaceutical Company at AAA Arbitration **Takanori ABE was retained as an expert for the Japanese Patent Law** and has submitted an **expert opinion** and testified at deposition.
3. Japanese Pharmaceutical Company's acquisition of Shire **ABE & PARTNERS represented Shire in Due Diligence in \$62 billion deal M&A.**
4. Nichia's white LED patent infringement cases against Everlight in US, Germany, China **Takanori ABE's article** was cited in PETITION FOR WRIT OF CERTIORARI Nichia submitted



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to the **U.S. Supreme Court**. **ABE & PARTNERS assisted Nichia**, and **won the case** at the **Federal Court of Justice in Germany** and **Beijing IP Court**.

5. Mitsubishi Tanabe Pharma's free radial scavenger patent lawsuit against Nisshin Pharmaceutical in Japan **ABE & PARTNERS represented Mitsubishi Tanabe** and **settled the case by a resolution** with Nisshin.

Our Policy

1. **Providing specific solutions from viewpoints shared with clients and based on thorough legal research**

We at ABE & PARTNERS share the perspectives of our clients by fully understanding their business goals. Our firm thoroughly and comprehensively investigates all legal issues and technical matters from clients' perspectives and propose specific solutions.

2. **Supporting clients' global strategies based on abundant experience in global litigation**

We at ABE & PARTNERS solve issues arising from global business developments of our clients with help from our experience in litigating international cases, and the networks we have forged with overseas law firms.

3. **Providing timely services in dog-year business developments**

We at ABE & PARTNERS strive to improve the speed and efficiency of our services on all fronts to adapt to today's rapidly changing economy and society.

patent protection in multiple ASEAN countries.

The ASEAN Common Guidelines for the Substantive Examination of Trademarks were developed to provide a common approach to examining trademark applications across ASEAN member countries. The guidelines aim to improve the region's efficiency and consistency of trademark examination.

The ASEAN Copyright Framework was established to promote the development of copyright industries in ASEAN member countries and to strengthen copyright protection and enforcement. The framework includes initiatives to improve copyright laws, promote the use of technology to protect copyright, and provide capacity-building programs for copyright enforcement agencies.

ASEAN countries also seek cooperation with countries with developed IPR systems. On September 16, 2022, the Japan Patent Office (JPO) announced its IPR Action Plan for 2022 with the Association of Southeast Asian Nations

(ASEAN). The plan is an annual measure based on the ASEAN IP Action Plan 2016-2025, which is dedicated to improving the IP environment in the ASEAN region. The plan provides training to the ASEAN Intellectual Property Academy.


It holds the 3rd Japan-ASEAN Patent Experts Meeting to discuss the improvement of patent examination standards in advanced technologies, sharing issues regarding patent mistranslation, etc. It continues the survey on patent examination and the activation of patent information in advanced technologies by East Asia and the ASEAN Economic Research Center (ERIA).

The plan also promotes the joining and operational cooperation of the international filing system (Madrid Agreement/Hague Agreement).

Each ASEAN member country also has laws and regulations governing IP protection, including patents, trademarks, copyrights, and trade secrets. Many ASEAN member countries have

also signed international agreements and treaties, such as the World Intellectual Property Organisation (WIPO) treaties, to ensure their IP protection systems are recognised and protected globally.

Take Malaysia as an example. The Intellectual Property Corporation of Malaysia (MyIPO), the patent office responsible for the provision of IP registration services and administration of IP registries, currently has patent prosecution highway (PPH) agreements with four foreign patent offices – the Japan Patent Office (JPO) since 2014, the European Patent Office (EPO) since 2017, the China National Intellectual Property Administration (CNIPA) since 2018 and, most recently, with the Korean Intellectual Property Office (KIPO) since 2020.

Under the PPH, a patent applicant may request accelerated examination by the MyIPO based on favourable examination results of a corresponding application in Japan, Europe, China, Korea, or a PCT application. 



SKY'S THE LIMIT

India today has the world's third-largest and fastest-growing aviation market, one that is also a hotbed of dealmaking activity, as shown by Air India's recent plan to purchase 470 aircraft from Airbus and Boeing for \$70 billion. As a result, lawyers in the aviation space are finding themselves more in demand than ever. **BY SACHIN DAVE**

■ In February this year, Indian carrier Air India, recently acquired by the Tata Group, set the aviation world abuzz after unveiling deals for a record 470 jets from Airbus and Boeing. According to Reuters, the provisional deals, which included 220 planes from Boeing and 250 from Airbus, eclipsed previous records for a single airline.

The announcement spotlighted the abundant potential of India's aviation sector, which has shown steady growth of late. In the last three years, the number of passengers carried by Indian airlines increased by 6.4 per cent as the government introduced 78 new routes. There has also been a substantial increase in the fleet size of the aircraft, from 620 to 765 aircraft, in the last five years. The Indian Maintenance, Repair and Overhaul (MRO) industry is currently pegged at \$1.7 billion and is expected to reach \$4.0 billion by 2031, registering an annual growth rate of 8.9 per cent.

Needless to say, the sector is creating significant demand for the legal industry, and the Air India deal is an ideal case in point. "The new fleet acquisition plan of Air India and, for that matter, all other carriers is bound to lead to increased business opportunities for the airlines and all related businesses involved in the entire supply chain," says Atul Sharma, executive chairman of Link Legal. "This would logically lead to enhanced demand for legal services, for example, in the areas of purchase, financing/re-financing, leasing, acquisition, deal structuring, imports, registration, insurance/re-insurance, commercial contracting, tax advisory, regulatory compliances, restructuring, dispute resolution, passenger claims and more."

Poonam Sengupta, a partner at JSA, points out that effective aircraft utilisation will be key to assessing the deal's success. "At this stage, the focus should be on choosing the most viable

model for financing the deal (for each of the 470 aircraft and which leaves enough bandwidth to ensure liquidity), i.e., either cash, equity, sale or leasebacks or a combination of all and understanding the legal and regulatory compliances for operating such aircraft in India," she says. "In addition, the growth/ capacity additions enabled by this deal will also provide employment opportunities for Indian aviation professionals like pilots, cabin crew, etc. Hence, there is a need to utilise legal services/ advisory on aircraft leasing/ financing and corporate issues. This will also create demand for legal services/ advisory relating to employment matters in Air India."

BUMPY RIDE

The Indian civil aviation sector is currently experiencing a robust demand, with growth expected to surpass pre-COVID-19 levels. While upgrading and modernising existing aircraft fleet is a step in the right direction, it could be a while, however, before India is able to establish itself as a regional hub like Singapore or various countries in the Middle East.

To achieve this goal, airlines and airports - both government-owned and private - must work together to create a seamless aviation network in India. "This would require building new airports in tier-I/tier-II under the Regional Connectivity Scheme, upgradation of the supporting infrastructure, training personnel, building good maintenance/ Maintenance Repair Overhaul (MRO)

facilities in India, addressing structural challenges like high aviation turbine fuel prices. The success of the regional connectivity scheme would depend on the assessment of passenger traffic demand on those routes and cooperation between governments, local bodies, airport operators and airlines," says Sengupta.

Sharma feels that if India has to become regional aviation hub it would require not only huge investments but also a dynamic regulatory approach by all stakeholders including the government. "Amongst many factors that had a negative impact on the airline business in the last few years is the uncertainty around international fuel prices with an inherent currency risk. This is a big impediment in the airlines ability to have a reliable business plan," he notes.

Despite the growth, most lessors are cautious about setting up a base in India due to the legal hassles, say lawyers. "One of the other reasons why lessors are apprehensive to set up a base in India is also because of the time taken in litigation related to repossession of aircraft. For that reason, mostly contracts signed between Indian carriers and lessors are governed by other laws," says Sengupta. To resolve this issue, the government should aim to implement a law creating a system of fair legal procedures to provide for the repossession of aircraft and transfer of aircraft out of India in case of a financial dispute with an Indian airline, she explains.

India is a signatory to the Cape Town Convention and Protocol, an international treaty to resolve risks for aircraft lessors and financiers but has not yet passed a law to implement it. Tax is also another challenge the sector faces. The airline industry has been seeking the intervention of the central government to review the GST structure, which does not allow airlines to claim pass-through input credit for the GST paid on aviation turbine fuel.

"Besides fuel cost, engineering constitutes the second biggest area where airlines can innovate their procurement and regulatory compliance strategies. Other areas require industry knowledge

and creative thinking from legal advisors advising the airlines, for example, familiarisation with cost-effective engineering practices (like maintenance contracts and securing the best maintenance reserve terms for leased aircraft). This is only an illustrative example, and there are many other operational areas where legal service providers can provide effective solutions to their clients," says Sharma.

"The new fleet acquisition plan of Air India and, for that matter, all other carriers is bound to lead to increased business opportunities for the airlines and all related businesses involved in the entire supply chain. This would logically lead to enhanced demand for legal services, for example, in the areas of purchase, financing/ re-financing, leasing, acquisition, deal structuring, imports, registration, insurance/re-insurance, commercial contracting, tax advisory, regulatory compliances, restructuring, dispute resolution, passenger claims and more."

— Atul Sharma, Link Legal

SPECIALIST EXPERTISE

The aviation sector's multi-dimensional growth is set to create higher demand for legal services in all areas, including aircraft financing and leasing, regulatory compliance, market insights, commercial contract, and policy decisions.

As the demand for legal services in the aviation sector increases, firms are preparing to expand their teams

and practice to service their clients and remain competitive.

However, aviation law is a specialised branch of law, necessitating a comprehensive understanding of its interconnected aspects.


Take, for instance, this Air India deal for 470 jets. It is important to understand the multi-fold consequences of this deal. With the introduction of new types of aircraft in the Indian aviation market, such as Airbus A350 and Boeing 777X, regulatory compliances may require a re-look. Further, being the biggest transaction in aviation history, Sengupta explains that this deal will necessarily require analysis of legal issues related to leasing and financing aircrafts, FDI and RBI policies, complex commercial deals, and more.

To avail of the growth opportunities, law firms must stay updated on the latest developments and trends as that will impact legal work.

"We monitor and disseminate all regulatory updates to keep our team abreast of the sector's developments. We achieve this through regular interaction with all stakeholders. We ensure that all our practice group members are updated with the technological advancements in the sector, for example, the proliferation of the new breed of aircraft like drones," says Sharma.

Law firms are also addressing the gaps in the capabilities of their lawyers when it comes to specific skills and expertise.

Aviation law practice, being specialised and highly complex, requires legal professionals to understand the nuances of its technical and commercial aspects. Today in this competitive atmosphere, knowing the specific laws within aviation is not enough. It is equally important to understand the interplay of different fields of law with aviation laws, says Sengupta.

"In any event, continuous learning and keeping abreast with the latest developments is vital for all lawyers, within and outside the legal aviation industry. We at JSA make a conscious effort to inculcate our team with a habit of acquiring and passing on information for the benefit of our entire team and our clients," she adds. 

ASIAN LEGAL BUSINESS

ASIA TOP 15 M&A LAWYERS 2023

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In a complex M&A landscape this year, Asia's corporate lawyers had to go the extra mile for their clients as they looked to get deals through. This second annual list celebrates 15 of the best dealmakers in the region.

RANKINGS AND TEXT BY ASIAN LEGAL BUSINESS

With COVID-19 beginning to recede into the background, M&A activity is poised to pick up throughout Asia.

Factors such as rising financing costs and interest rates, weak equity markets, and inflation have all put pressure on dealmaking, and the war in Ukraine have all battered transactions, which led to deal totals for 2022 coming in at eight-year lows.

The value of deals executed by Asia-Pacific companies between the year 2022 to December 15 totalled \$1 trillion, a 41 percent decrease compared to the full-year figure in 2021, according to Refinitiv data. The 2022 figure was the lowest deal value since 2014. Private equity deals, a key factor

in driving M&A activity, totalled \$139 billion, a 52 percent decline compared to all of 2021.

The sole outlier from this downward trend was India, the only market in Asia to record growth in 2022, with total M&A deal values up 33 percent from 2021, at \$164 billion, according to Reuters, which quoted Refinitiv data.

China, the second largest economy in the world and Asia's biggest M&A market, saw deal value for 2022 fall to a nine-year low of \$352.7 billion, down 39 percent year-on-year.

And this downward trend continued into the first quarter of 2023. There was little growth in Q1 2023, with total deal values for the quarter shrinking to

A conversation with Pramudya A. Oktavinanda

What would you say are the most significant M&A transactions you have worked on, and what made them particularly memorable or challenging?

It is hard to pinpoint one in my career as I have a lot of favourite deals. One of them is the USD3.2 billion acquisition of PT Bumi Resources Tbk. and PT Berau Coal Energy Tbk. by Vallar Plc., a British public company owned by Rothschild family. This is one of the largest corporate transactions by value in Indonesian history, creating the first Indonesian vessel to be listed at the London Stock Exchange and we closed this complex deal in just 2 weeks! Another recent favourite deal that I close was the IDR6.6 trillion corporate restructuring for the establishment of the largest data center and IT service companies in Indonesia via (i) spin-off of Telkom Sigma data center assets to Telkom Data Ekosistem and (ii) acquisition via new investments by Telkom to both companies. It is one of the most complex M&A transactions given the large amount of transferred third parties contracts and liabilities, creating a new precedent for spin-off transactions in Indonesia.



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In your opinion, what is the key to successfully navigating the complex legal and business issues that arise during M&A deals?

Deal management skills. Seriously, if you fail to plan, you plan to fail. Exceptional

M&A lawyers must be able to provide a proper step-by-step plan of closing a deal to their clients, ensuring that any material issues that may affect the closing timeline are quickly identified and mitigated. After call, nothing is more hated by clients than a bad surprise just when they are about to close a deal.

How do you approach balancing your role as a legal advisor with the business objectives of your clients, particularly when there are competing interests or potential conflicts of interest?

Finding a compromise or win-win solution for parties with competing interest is definitely an important role of M&A lawyers. Having deep commercial understanding is indeed essential. Yet, lawyers must also avoid pushing their clients to take a deal at all costs just for the sake of closing that deal. We must provide them with an independent and clear assessment of the costs and benefits of doing a transaction from legal perspective so that they have a complete picture before making the final decision.

the lowest level in more than a decade, as rising interest rates, high inflation, and fears of recessions in many markets, along with uncertainties about the outlook for China’s rebound, all soured the appetite of companies for dealmaking.

M&A volumes across the region in Q1 2023 slumped 48 percent year-on-year to \$575.1 billion as of March 30, according to data from Dealogic.

Adding to the troubles is that many factors are still weighing on M&A activities going forward into the year, such as the fact that many countries have tightened regulations on foreign investments, especially for sensitive industries such as energy, technology and communications. For instance, the Committee on Foreign Investment in the U.S. (CFIUS) has broadened its review of foreign investments to include newly formulated national security factors.

However, despite the headwinds, bankers expect the sector to grow in 2023.

SUBMISSION BREAKDOWN

Jurisdiction	Submissions	Winners
Hong Kong	7	2
India	11	3
Indonesia	5	2
Japan	7	2
Singapore	3	2
South Korea	6	2
Thailand	1	1
Vietnam	2	1
Total	42	15

Deal appetite for high-quality assets globally will continue in 2023 despite fears of a possible recession, according to the co-head of Asia mergers and acquisitions at UBS Group AG. A positive sign is that economies in the region have shown signs of growth. For example, China’s Q1 GDP grew 4.5

METHODOLOGY

Lawyers were evaluated on the following criteria:

1. Significant M&A deals throughout candidate’s career
2. Significant M&A deals handled in the last 18 months
3. Key clients
4. New clients
5. Significant accolades or recognition
6. Client recommendations and comments
7. Comments from managing partner or colleague

percent year-on-year, which beat market expectations.

Analysts expect a considerable uptick in transactional activity into the latter half of the year and a substantial increase in cross-border deals over the next couple of years and beyond.

TECH ASPIRATIONS

In a bid to capitalise on the economic potential of the fast-growing tech sectors, Hong Kong has rolled out new listing rules for specialist technology companies hoping to court the “firms of tomorrow” to raise capital in the recovering financial hub. **BY SARAH WONG**

■ Hit by a prolonged IPO slump induced by three years of strict pandemic curbs, Hong Kong has been struggling to get its magic back as a listing powerhouse. UAE, Indonesia, and Japan eclipsed the Asia financial hub in first quarter IPO proceeds this year, as more Chinese companies opt to look inwards by floating their shares in Shanghai, Beijing, or Shenzhen.

However, Nicolas Aguzin, the CEO of Hong Kong Exchanges and Clearings, remains unfazed, touting several new connections and schemes to bolster Hong Kong’s capability to attract capital. One of those schemes is the Specialist Technology Company listing regime, which provides a new listing pathway for the rapidly growing tech sector, or as the HKEX put it, “the companies of tomorrow.”

With Aguzin bullish about the prospects of Hong Kong becoming “Asia’s premier biotechnology fundraising market,” the new listing rules in Chapter 18C of the Main Board Listing Rules cover five “specialist technology industries.”

Those industries range from next-generation information technology, including cloud-based services and artificial intelligence, to new energy protection and agriculture technologies. Companies under these categories will be eligible to apply for listing on the Hong Kong Stock Exchange (SEHK) even if falling short of existing financial track record requirements.

“The new regime significantly relaxes the amount of revenue a company must have to be eligible to list in Hong Kong, where that company is operating in a specialist technology business.

Specialist technology companies at the pre-commercial stage, who have not yet recorded any revenue, are now permitted to list. Previously, only pre-revenue biotech companies were permitted to list in Hong Kong,” explains Kai Sun, a corporate partner at Skadden, Arps, Slate, Meagher & Flom.

“In addition, specialist technology companies at the commercial stage, who have recorded revenue of at least HK\$250 million [\$32 million] for the most recent financial year, will also be permitted to list and will be subject to more relaxed rules compared with pre-commercial specialist technology companies,” Sun adds.

NOVEL MEASURES

Bosco Yiu, a corporate partner at Paul, Weiss, Rifkind, Wharton & Garrison, deems the absence of minimum profit requirement as the most significant provision. In addition, “the minimum revenue requirement is half of that, which is under the ordinary regime for ‘commercial companies,’ and no minimum profit nor revenue requirement for ‘pre-commercial companies,” notes Yiu.

Yiu believes early-stage specialist tech companies will reap the most benefits from such a framework, especially those with a matured incubation with a solid investor base to support their undertakings in research and development.

Image: Guitart photography/Shutterstock.com



“A Hong Kong IPO would expand their funding base to further their R&D efforts towards or enhance commercialisation,” he adds.

Furthermore, measures including the introduction of requirements regarding free or public float are also seen as something novel, according to Donnelly Chan, a corporate partner at Linklaters.

“Free float” refers to the shares of a company that can be publicly traded in secondary market, as opposed to restricted shares and closely held shares. The new listing regime requires a portion of the stock’s shares with certain market capitalisation value not to be subject to any disposal restrictions at the time of listing.

“We acknowledge the SEHK’s rationale of introducing this requirement, which is to ensure liquidity in the shares of specialist tech companies post-listing to aid price discovery for these companies where there are inherent difficulties to form a valuation, and also to ease market manipulation and price volatility concerns,” explains Chan.

“While the SEHK has decided not to adopt a percentage-based minimum free float requirement, the SEHK has indicated that it is reviewing the current requirements on public float and is finding ways to optimise the IPO price discovery process. These novel features in the regime may pave the way for wider implementation across all listings,” Chan adds.

TARGETING STAR

Lawyers believe the launch of the new listing regime aims to sharpen the comparative advantage of a traditionally popular listing venue intensely squeezed by the tech-heavy Shanghai STAR Market, which aspires to rival Nasdaq on Wall Street.

“The categories of specialist technology adopted by SEHK in formulating these rules were based on the existing categories under the STAR Market rules,” explains Paloma Wang, co-head of Skadden’s China practice.

As such, the new listing rules “do ensure that Hong Kong will remain competitive vis-à-vis other regional markets and be able to offer opportunities for various types of companies to access

the capital markets in Hong Kong,” adds Wang.

John Moore, a capital markets partner at Slaughter and May, points out that some listing qualifications under the specialist tech regime are indeed more stringent than those of the STAR market, including higher market capitalisation thresholds and requirements on sophisticated independent investments.

However, “we expect Hong Kong’s unique mix of international investor base, market liquidity, and potential access to the Stock Connect schemes will make it an attractive option for emerging

“The new regime will enable the SEHK to capture the upcoming specialist tech listing candidates, and perhaps also attract those listed in foreign exchanges to migrate their listing or achieve a secondary listing in Hong Kong. This will enhance concentration of investors and funds in the Hong Kong capital markets as the regional fundraising hub.”

— **Bosco Yiu,**
Paul, Weiss, Rifkind, Wharton & Garrison

companies,” says Moore, adding that the new regime should burnish SEHK’s reputation as the regional face of innovation and the new economy.

Moore is pleased that companies falling outside the listed sectors may still be eligible to list if certain attributes, including high-growth potential, the use of new technology, and substantial R&D expenditure, are demonstrated. This flexibility is imperative for Hong Kong to shore up its competitiveness especially when markets such as Nasdaq are not restricted to an exhaustive list of sectors, Moore adds.

Yiu of Paul, Weiss also expects the new rules to lead to diversification of the Hong Kong bourse. “The new regime will enable the SEHK to capture the upcoming specialist tech listing candidates, and perhaps also attract those listed in foreign exchanges to migrate their listing or achieve a secondary listing in Hong Kong. This will enhance concentration of investors and funds in the Hong Kong capital markets as the regional fundraising hub,” he says.


IMPROVEMENTS NEEDED

While being stamped with plentiful votes of confidence, the 18C regime is not without areas where improvement is hoped for.

Yiu is wary that a rule regarding price-setting independent investors may undercut the regime’s application. “As the regime starts rolling, the SEHK should consider the market responses to the requirement that at least 50 per cent of the total number of IPO shares be allocated to independent price setting investors, as similar requirement under the SPAC listing regime may have contributed to its relatively slow development,” he says.

Moore believes greater attention is needed when advising pre-commercial companies, whose commercial revenue is below HK\$250 million, “to demonstrate, with evidence, a credible path to commercialising their specialist tech products and achieving the relevant commercialisation revenue threshold.”

Adds Yiu, “law firms can respond to the new regime by designating a speciality team with experience in investments and/or M&A in these early-stage specialist tech companies and members who have worked with the SEHK in earlier new listing regimes to facilitate an efficient process.”

Chan of Linklaters underscores the thorough understanding of the relevant technologies developed by the potential IPO applicant as instrumental in the listing process. Also, “law firms with capabilities in advising pre-IPO investments would also be well placed to serve potential applicants who will need to secure pathfinder sophisticated independent investors,” he adds. 

ASIAN LEGAL BUSINESS

OFFSHORE CLIENT CHOICE 2023

As in other years, Asian Legal Business has continued its annual tradition of recognising exceptional lawyers working with offshore law firms in Asia. These legal experts have excelled in their field, providing top-notch advice and support that have not only met but exceeded clients' expectations. The list is in alphabetical order, and certain lawyers have been profiled.

LIST BY ASIAN LEGAL BUSINESS, TEXT BY BINGQING WANG



LIN HAN
partner, Ogier

Lin Han is an investment funds specialist and partner at Ogier in Hong Kong. Focusing on clients based

in China, Han provides advice relating to the British Virgin Islands and Cayman Islands law.

Han's expertise spans several areas, including private equity, real estate, infrastructure, regulatory and equity capital markets. She specialises in fund formation and capital raising and supports PRC clients to achieve their investment goals through innovative Cayman and BVI structures.

As an integral part of Ogier's multi-disciplinary private equity team, Han brings a wealth of experience. Before joining Ogier, she worked as an associate in the investment management group at Davis Polk's New York office for almost six years and later moved to Freshfields in Hong Kong, where she worked on Hong Kong regulatory and FCPA matters from 2014 through late 2016.

Han is also a regular columnist for industry journals on international investment law, including The American Review of International Arbitration and the Handbook of International Investment Law and Policy.

Her exceptional work has earned her clients' admiration and acclaim. One client praised her for "insightful, resource-

- CHRISTOPHER BICKLEY**
Conyers, Hong Kong
- VINCENT CHAN**
Appleby, Hong Kong
- LIN HAN**
Ogier, Hong Kong
- NORMAN HAU**
Conyers, Hong Kong
- KATE LAN**
Carey Olsen, Singapore
- PAUL LIM**
Conyers, Hong Kong
- IAN MANN**
Harneys, Hong Kong
- JAMES NOBLE**
Carey Olsen, Singapore
- ANTHONY OAKES**
Ogier, Hong Kong
- NICHOLAS PLOWMAN**
Ogier, Hong Kong
- NATHAN POWELL**
Ogier, Hong Kong
- ROBERT SIT**
Travers Thorp Alberga,
Hong Kong
- PETER VAS**
Loeb Smith, Hong Kong
- HELEN WANG**
Carey Olsen, Singapore
- MARK YEADON**
Conyers, Hong Kong

ful and excellent communication", while another lauded that she "possesses a combination of legal expertise, communication skills, responsiveness and attention to detail. These attributes can set her apart from others in the legal field and help her provide high-quality legal services to her clients."



KATE LAN
counsel, Carey Olsen

Kate Lan is a litigation, insolvency and restructuring Counsel in the Singapore office of leading offshore firm Carey Olsen.

Her main practice areas include commercial litigation, trust and estate disputes, shareholder's disputes, insolvency and restructuring. Qualified in four jurisdictions (Singapore, England and Wales, BVI and Bermuda), Kate advises clients in high-value, complex cases before the Privy Council, Eastern Caribbean Supreme Court, and Courts of the Cayman Islands and Bermuda.

She also has extensive experience in international arbitration and has been appointed sole arbitrator by the Singapore International Arbitration Centre.

Clients describe Lan as "the powerhouse of the Carey Olsen Singapore dispute resolution team". She is fluent in English, Mandarin Chinese and conversant in Bahasa Indonesia and Japanese.



JAMES NOBLE
partner and head of litigation, insolvency and restructuring in Asia, Carey Olsen

James Noble is the Asia Head of Litigation, Insolvency and Restructuring at leading offshore firm Carey Olsen.

Based in Singapore, Noble advises on Cayman, British Virgin Islands (BVI) and Bermuda law, and is the only Cayman and BVI admitted (and Bermuda registered) litigation partner in the market.

A specialist in complex and high-value shareholder litigation, asset

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Corporate and Fiduciary,
Consulting.

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British Virgin Islands
Cayman Islands
Guernsey
Hong Kong
Ireland
Jersey
London
Luxembourg
Shanghai
Singapore
Tokyo

recovery, cross-border enforcement and insolvency, Noble has over 20 years of experience working in various commercial, trust and estate disputes and private wealth matters. He regularly acts in high-profile and market-leading cases, particularly in connection with listed companies.

Noble is also consistently ranked as an offshore law expert by leading legal directories, including Chambers Asia, The Legal 500 Asia and Who's Who Legal. ^{ALB}



ANTHONY OAKES
Partner, Ogier

Anthony Oakes is the head of Ogier's finance practice in Asia and has more than 27 years of experience in finance law. He specialises in providing BVI and Cayman legal advice on financing transactions and restructurings, and his practice covers a range of finance-related matters, including refinancing, bond restructurings, private equity and more.

Oakes has advised on several notable transactions, including acting as Cayman Islands counsel to the International Finance Corporation (the IFC) on launching a \$100 million 10-year social bond - the Philippines' first-ever social bond in the healthcare sector. He also provided BVI legal advice to Contemporary Amperex Technology on its \$1.5 billion debt offshore bond issuance, which was the largest U.S. dollar bonds issuance made by a Chinese private enterprise and was nominated in the Debt Market Deal of the Year (Premium category) at ALB China Law Awards 2021.

Oakes is highly regarded by his clients, who praise his empathy, perspective, care, and conscientiousness. One client noted that he was "solution-driven and commercially creative. Also, a delight to deal with."

With his extensive experience and impressive track record, Anthony is a respected member of the finance legal community in Asia, and his expertise is highly sought after by clients and colleagues alike. He is among the few lawyers featured in the ALB Offshore Client List for seven consecutive years (2016-2022). ^{ALB}



NICHOLAS PLOWMAN
Hong Kong practice partner, Ogier

Nicholas Plowman is a founding member of Ogier's Hong Kong office and has more than 16 years of experience in the offshore legal sector in the region.

As head of Ogier's investment funds team in Asia, Plowman specialises in BVI and Cayman Islands law and is renowned for his private equity, hedge fund, and venture capital expertise. He has advised many high-profile clients, including LionRock Capital, TT Bond Partners, and All-Stars Investment Cayman. Significant transactions include advising LionRock Capital on its acquisition of a 31.05 percent share in Italian football club Inter Milan and acting as BVI counsel to All-Stars Investment Cayman concerning the establishment and offering of a private equity fund-raising vehicle investing in a \$1.1 billion capital raising by Xiaomi Corporation.

Among the numerous awards and accolades he has received, Plowman has been named one of the top offshore lawyers in Asia by ALB on the Offshore Client Choice list for six consecutive years (2016-2021).

Clients have praised Plowman for his "proactive approach with respect to managing potential complexities which inevitably occur with launching and managing funds". One client said: "While focused on legal matters, Nick applies his deep experience to work with us on a holistic basis, which enables us to address other non-legal matters and develop stronger propositions for our clients." ^{ALB}



NATHAN POWELL
Partner and global head of corporate legal services, Ogier

With a broad corporate finance practice and expertise in BVI, Cayman and Jersey companies, the Hong Kong-based Powell works on various projects, including capital markets, IPOs, mergers and acquisitions (public and private),

consortium acquisitions, private equity structures and joint ventures. He specialises in the downstream corporate advisory work of acquisitions, investments and exits. Additionally, Nathan has a strong focus on bank financing and restructuring.

Since joining Ogier, he has worked on several key transactions, including advising an investor consortium on the \$1.582 billion take-private of New Frontier Health Corporation, a company listed on the New York Stock Exchange, and acting as the Cayman Islands legal counsel to Blue Safari Group Acquisition Corp, a publicly traded special purpose acquisition company. He also acted as BVI counsel to Geely Automobile Holdings in its \$3 billion secondary listing on Shanghai's STAR stock exchange.

One client commented: "Nathan is a great lawyer with excellent knowledge in his practice, and he fully understands the client's need and can provide useful solutions within a very short turnaround time. He is our best offshore lawyer, and his team members really understand how the Chinese clients work." ^{ALB}



HELEN WANG
partner, Carey Olsen

Helen Wang is a litigation, insolvency and restructuring Partner in the Singapore office of leading offshore firm Carey Olsen.

She specialises in cross-border and complex commercial litigation, high-value disputes, fraud and investigatory cases and insolvency and restructuring matters. Her clients cover a broad range of sectors, including banking and financial services, crypto, energy and resources, insurance and high net-worth individuals.

Fluent in English, Cantonese and Mandarin, Wang is a highly accomplished litigator with an excellent reputation in Asia, particularly with Mainland Chinese clients and Mandarin-speaking clients from other locations such as Malaysia, Indonesia and Taiwan. Her strong track record makes her the ideal appointment to fortify Carey Olsen's litigation offering in Singapore and the region. ^{ALB}

A conversation with Ogier

Can you share some work highlights from the past year?

Lin Han: The end of 2022 was a tough period for the PRC/HK market. Many funds experienced liquidity issues as their originally liquid assets turned illiquid. Continuation funds are an innovative way to deal with the issue and I did do some restructurings of this nature.

Anthony Oakes: In recent years, we have seen an increase in the size and sophistication of the private credit market in Asia. Accordingly, we have worked with private credit funds and onshore firms on transactions which required innovative solutions under tight timeframes. For example, we acted for Ares SSG on a joint venture with New World Development for the construction, development and sale of a commercial complex in Cheung Sha Wan, Hong Kong. At the same time, we have seen an uptick in the amount and complexity of fund financing. We have partnered with our Jersey and Luxembourg teams on some of these transactions. In terms of award nominated deals, we acted for Blackrock on a US\$300 million secured financing to Traveloka, an Indonesian-based online travel agency.

Nicholas Plowman: There have been several highlights in the last year, including advising Siegfried Capital Partners on the establishment and launch of Siegfried Global Trade Finance Fund SPC, a CIMA regulated mutual fund, and its first segregated portfolio, Siegfried Global Trade Finance Fund SP I – this fund was awarded Best Emerging Hedge Fund in Asia by Bloomberg in March this year. An associated Siegfried managed fund, VTeam Siegfried Supply Chain Finance Fund – nicknamed “SCP5” – also recently won the performing hedge fund award in the category of Specialist Finance and



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Credit at the HFM Awards in November 2022. Ogier also acted as Cayman legal counsel for this fund.

Nathan Powell: The HK corporate space saw a tough market in 2022 against a year of testing market conditions – ongoing rates hike, inflation and geopolitical tensions. However, our firm's emphasis on complex, cross-border matters and our collaboration across our jurisdictions has helped us to overcome these challenges. In 2022, we advised on a number of cross-border M&A transactions, de-spac business combinations and a take private transaction.

How would you describe your approach to providing exceptional client service?

Lin Han: I try to put myself in the client's shoes and think how I can make their life easier. With that in mind, the solutions I come up with and my presentation of the solutions will hopefully be more helpful to the client.

Anthony Oakes: Early in my career, I worked in-house for a period. In that role, I experienced, first hand, being the recipient of legal advice. Since then, I have been focussed on keeping advice as clear, concise and practical as possible. To ensure the practicality of advice, one needs to understand the client's business and the circumstances which they currently face. For client service, it is also vital to have a strong team. Over my nearly ten years at Ogier, I have been lucky enough to hire some excellent team members and, together, we are able to advise clients effectively in English, Cantonese and Mandarin.

Nicholas Plowman: Ogier's Hong Kong funds team is now the largest offshore funds team in the Hong Kong market and provides a hands-on approach, with timely responses, and specialises in guiding newly formed asset managers. Our lawyers provide advice across a very wide sphere of investment fund work including private equity, hedge funds and venture capital work, which means we have deep experience in respect of the investment funds structures and terms being utilised and offered throughout the market. We also have excellent relationships with the key service providers in the funds industry as well, and we like to cultivate those networks through mutual referral relationships. This has proved really successful for us in building our own ecosystem of top tier service providers for our clients.



COME TO PLAY

Emerging technologies such as blockchain and artificial intelligence have not only reshaped the interface of videogames, but also given rise to novel legal issues by calling into question traditional legal concepts while raising risks of online safety and data privacy. General counsel at videogame companies discuss the opportunities and challenges these shifting consumer behaviours and regulatory hurdles pose. **BY SARAH WONG**

ALB: How do you anticipate legal and regulatory challenges, such as intellectual property disputes, privacy concerns, and gaming regulations, impacting the gaming industry in your jurisdiction(s), and what strategies are you implementing to address them?

YIP WENG, legal vice president, Razer:

Over the years, we have seen an increasing awareness of consumer safety and protection need. Gamers may be minors and/or vulnerable children, and some games may carry unwholesome images or excessive violence. The game industry

has been relatively self-regulating, and rating standards tend to be voluntarily adopted by game publishers (e.g., ESRB in U.S. and PEGI in Europe). By contrast, censorship standards and ratings for scripted content (e.g., movies and TV shows) are more structured.

In recent years, we have seen regulators become increasingly interventionist. There have been games banned outright or censored in certain jurisdictions. In this connection, some new laws and regulations seek to regulate undesirable content (such as games promoting gambling and/or other addictive elements).

From the privacy and data protection perspective, games are increas-



support the gamers' lifestyle surrounding the games. Hence, we perceive these issues from an ecosystem perspective, not an in-game perspective.

BRITTANY MIAO, general counsel, Long Tech Network: Intellectual property protection has always been a priority of the legal work for video game companies. Video games involve complex elements such as computer programs, artwork, written works, music, trademarks, UI designs, unique gameplay that may be patentable, and more. Violations of these elements can occur in the business operations of game developers and publishers in many ways, such as reselling game skins and props, plagiarising advertisements, and skin-changing games.

To address these challenges, I usually recommend that game companies prepare for intellectual property protection before the game goes online. This includes trademark application for the game name, filing and registration of software copyright, and copyright registration of artworks for game characters and scenes. These preparations can prevent counterfeiting and infringement and prevent unfair competition when necessary. Additionally, when game companies release games through channels such as the App Store and Google Play, these channels strictly review the IP of the package submission, and the IP ownership documentation or authorisation chain shall be intact and complete so as not to delay the launch time of the games on these channels.

As governments of various countries have issued laws and regulations to protect privacy and because of the relevant publication, I can clearly feel players' awareness of privacy protection has increased in recent years, and we have taken steps to protect our players' privacy. For example, we collect and process only the minimum necessary

information from our players, and we generally do not collect personal information for playing our games unless required by policies and regulations in certain jurisdictions. For jurisdictions that curb gaming addiction and require age verification, we collect relevant personal information, which is carefully managed through an information management system with the highest level of security protection. Furthermore, we have set up a dedicated team to handle privacy protection-related requests and developed an efficient process with

the customer service team. By proactively addressing these legal and regulatory challenges, we can ensure that our gaming operations comply with these regulations while providing a seamless and enjoyable experience for our players.

KAPIL CHAUDHARY, general counsel, Jungle Games:

There are several legal and regulatory challenges in the gaming industry in India. Intellectual property disputes can arise over game titles, character designs, game mechanics, IP licensing, usage rights, exclusivity, sub-licensing rights, assignment of rights, and IP ownership, among others. Privacy concerns may arise due to the collection, storage, and use of users' personal data.

Parental consent in the case of minor users is of paramount importance. While

India does not have a comprehensive data protection law yet, we have ensured that we are transparent with our users regarding their data usage and that we comply with the requirements under the law. India's new central regulations envision self-regulation as the way forward for the online gaming industry in India.

Gaming regulations can pose challenges to the industry, especially when dealing with state-specific legal compliances, central regulations, foreign investments, advertising, etc. We



Yip Weng



Brittany Miao



Kapil Chaudhary

ingly integrated across separate but connected platforms (e.g., social media platforms; live streaming platforms, and payment platforms.) This way, consent to and/or justification of personal data usage increasingly involves cross-platform issues. From a privacy perspective, this means that data registers become increasingly complex. Often, it is far simpler (and wiser) not to collect or process any personal data at all.

At Razer, we take these issues very seriously as a participant in the gaming ecosystem, though not as the game operator or creator directly responsible to the end user. This is because Razer offers the customer an ecosystem of hardware, software and services that

believe in proactively addressing these challenges by staying updated on the latest legal developments and regulatory requirements. We work closely with our partners, stakeholders, and the government to ensure compliance. Our legal team has created a robust end-user licensing agreement/term of use and regularly reviews our policies and guidelines to ensure they align with the latest legal requirements. We also engage with industry groups and relevant stakeholders to stay informed about latest industry developments and challenges. Finally, we have a robust internal process for addressing legal issues and disputes, including working with outside counsel when necessary.

ALB: As the general counsel of a company in the video game industry, how has your role evolved in recent years to adapt to the changing landscape of the industry, including emerging technologies, global markets, and shifting consumer expectations?

WENG: The “video game lawyer” – if indeed such a creature exists – is, in my view, a technology lawyer with a sense of fun and curiosity. He (or she) must understand game design, and the whole game ecosystem to which it relates.

Apart from encompassing a target audience comprising the gamer community, a game ecosystem would include other elements such as online social media and communication platforms, hardware game peripherals, and in-game payment services. It is a largely B2C business.

Such a lawyer must be very sensitive to legal issues surrounding the end user who is a gamer. Like all forms of entertainment, games have evolving trends, genres, and business models, referred to as the “flavour of the month.” There is a need to embrace constant change.

MIAO: As the legal landscape of the video game industry continues to evolve, the role of in-house legal experts must adapt accordingly. In the face of emerging technologies, global markets, and changing consumer expectations, legal compliance must be a continuous and

dynamic process, tailored to the needs of the business.

Technological innovation drives the promotion of games, such as newsfeeds and game live broadcasts, and necessitates compliance obligations that are distinct from traditional marketing methods. Legal professionals are suggested to collaborate closely with colleagues in operation and marketing, who are at the forefront of using these technologies, to gain an understanding of the business links involved and identify the underlying legal issues that require attention.

Overall, the goal is to provide players with a better gaming experience while respecting local laws and regulations. Legal professionals shall be adaptable, collaborative, and forward-thinking to successfully navigate the rapidly changing video game industry.

CHAUDHARY: The first aspect is embracing emerging technologies. With the advent of new technologies such as virtual reality (VR), augmented reality (AR), and blockchain, my role involves closely monitoring these advancements and assessing their legal implications. Then, there is the navigation of global markets. The gaming industry has become increasingly globalised, and as general counsel and part of Flutter International’s Legal, Risk and Compliance teams, I play a vital role in navigating the legal complexities of operating in multiple jurisdictions. This includes understanding and complying with various countries’ local laws, regulations, and cultural sensitivities.

Additionally, I’m managing regulatory compliance. With the growth of the gaming industry, regulatory bodies have strengthened their oversight. I actively monitor and interpret gaming regulations, ensuring our company remains compliant. Another aspect is addressing consumer expectations. Consumer expectations have shifted towards increased transparency, fairness, and data privacy. I work closely with other departments to ensure our company’s practices align with these expectations. Finally, I need to handle IP issues, as intellectual property is a critical asset for gaming companies.

ALB: What are some key legal considerations in negotiating and drafting licensing agreements, publishing contracts, and other business arrangements within the video game industry?

WENG: Typical issues include intellectual property and consumer protection requirements.

In recent years, GDPR and similar data protection laws have seen an increase in privacy and information security considerations. With the increasingly cloud-based nature of games-as-a-service, unauthorised copying, or piracy has become less acute. Rather, nowadays, marketing rights clearances can be very rigorous, and in this respect, game studios can often be similar to content studios in their marketing scrutiny and approvals.

Digital marketing campaigns are also increasingly complex; apart from traditional eyeball attention-seeking ads, nowadays there are subtler forms of marketing such as (a) live game streamers who act as KOL influencers; (b) in-game item rewards, and (c) other forms of loyalty programmes that keep the gamer “sticky.” In these examples, creative drafting is needed to describe technology in the form of a legal obligation.

At the same time, legal drafting often has to be “agile.” Not every milestone or deliverable can be comprehensively described in an agreement. Often, game-related agreements may involve a preliminary “proof of concept” phase and/or some experimentation. So, in the spirit of agile contracting, sometimes the lawyer must focus on an enforceable procedure to allow parties sufficient flexibility to be creative, instead of rigidly defining the exact substance of the contractual obligation.

To mitigate against the obvious risks of such an approach, we try to scenario plan to allow “easy exit” termination, and/or generally cater for a mutually acceptable “plan B” in the agreement. Obviously, a limitation of liability clause would help – if mutually agreeable! These all mean that the contracting process would require parties to foresee both success and failure.

MIAO: From my perspective, for differ-

ent business arrangements in the video game industry, there are various factors to consider. For instance, when collaborating with a popular U.S. TV series, we needed to obtain prior authorisation for using the series' content and trademarks from the copyright owner to adapt into the game. However, we noticed that this licensing agreement did not authorise the use of the actor's likeness. We assessed the similarity between the to-be-made game characters and the actors' likeness in the show and concluded that we indeed require to use the actor likeness and should obtain actors' consent in advance. Our goal is to avoid any unauthorised situations during adaptation and marketing.

To ensure that our company's interests are protected while fostering collaborative relationships with partners, we implement a KYC review and Code of Conduct for partners, conduct business ethically and transparently, and jointly check with business departments, finance experts, and legal experts to determine the rationality of the business. We clarify our expectations for partners, control risks, and honour our agreements to create a win-win situation for both parties.

CHAUDHARY: Negotiating and drafting licensing agreements within the gaming industry requires careful consideration of several legal issues. One of the most important legal considerations in video game licensing agreements is the ownership and protection of intellectual property rights. Ensuring that the company has the exclusive rights to use, modify, and distribute the licensed content is essential. It is crucial to establish a clear and concise royalty structure (if applicable), including the percentage of revenue to be paid to the licensor, the timing of payments, and the payment method. Representations and warranties regarding the ownership of the licensed content, the absence of third-party rights, and the accuracy of any financial or performance data have to be carefully drafted and negotiated.

To ensure that the company's interests are protected while fostering collaborative relationships with partners, it is important to approach negotiations

collaboratively and respectfully. This involves establishing a positive relationship with the other party, listening to their concerns and needs, and proposing mutually beneficial solutions to any issues. It is also important to thoroughly understand the other party's business and industry, including their goals, challenges, and competitive landscape.

ALB: With the increasing prevalence of online multiplayer games, virtual reality experiences, and e-sports competitions, what legal and regulatory challenges do you anticipate in the areas of user-generated content, player behaviour, and virtual property rights, and how do you plan to navigate these complex issues?

WENG: Games are becoming ever more realistic and interactive on a massively multiplayer scale. Virtual environments online increasingly reflect "virtual equivalents" of legal issues in our physical world. For example, (a) in-game conduct may amount to online harassment or cyberbullying; (b) in-game loot boxes may, in certain jurisdictions, be considered a form of online gambling; (c) in-game AI can be capable of impersonation; and (d) game-related transactions and payment services evolve to become financial services.

With blockchain-based games, the notion of property inside a game environment has been gathering steam. As with all property rights, you can imagine disputes relating to legal title, and related concepts such as misappropriation. Although sums at stake inside games are typically small and long tail in nature, the advent of the blockchain has shown us that parties may litigate in the courts for huge amounts relating to NFTs. It remains to be seen where the commercialisation of blockchain-based games will lead to high-stakes legal disputes.


MIAO: User-generated content and player behaviour are not easy to supervise, as they are beyond game companies' control. Users may unknowingly upload content that violates copyright and privacy issues, leading to legal disputes. One strategy is to prohibit specific behaviours in the guideline and

ask users to agree before uploading the content and remind users regularly.

For certain events and campaigns, internal review can approve submissions before going online. If an infringement is later found after going online, it shall be taken down. Trading game accounts, or properties through a third party is strictly prohibited in the Terms of Services of the game to prevent account theft or loss, noting that the remedies after disputes are limited. Players are encouraged to report illegal transactions of virtual properties.

CHAUDHARY: In the area of user-generated content, there is a risk of copyright infringement and other intellectual property violations. Gaming companies must implement effective policies and procedures to ensure that user-generated content does not infringe on the rights of third parties. This includes implementing automated content recognition technologies, establishing clear guidelines for user-generated content, and providing clear and conspicuous notice of copyright infringement policies. The users are required to be made aware of the consequences of creating unlawful content.

Player behaviour is also a significant concern, with issues such as cyberbullying, hate speech, and cheating. Similarly, virtual property rights are another complex issue, as players may invest significant time and money into acquiring virtual assets. Gaming companies must establish clear ownership rights and transferability rules for virtual assets, as well as provide clear and conspicuous notice of these policies.

To navigate these complex issues, our legal team works to develop comprehensive policies and procedures that address these concerns. This includes implementing effective technological solutions, providing clear and conspicuous notice of policies to the user, and enforcing penalties for violations. It also involves staying up to date with the evolving legal and regulatory landscape and adopting policies and procedures accordingly. Ultimately, by taking a proactive approach to these challenges, gaming companies can foster and promote safer and responsible gaming. 

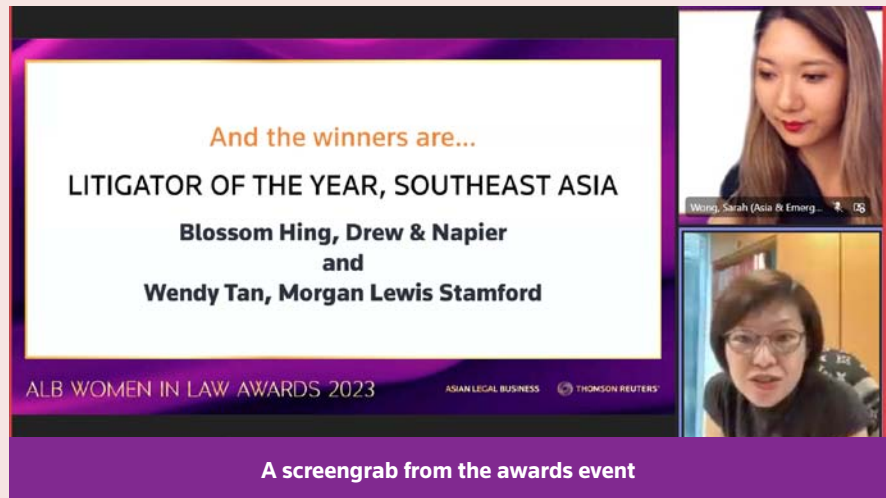
2ND ALB WOMEN IN LAW AWARDS CELEBRATES FEMALE ACHIEVEMENT

The 2nd ALB Women in Law Awards, held online on March 2, celebrated the work done by leading female legal professionals across law firms and in-house departments, as well as initiatives to drive gender diversity in the industry.

“With these awards, we continue to place the spotlight on the people, firms, and corporate legal departments striving relentlessly to create a more equitable legal industry across the Asian and Middle East regions,” said Amantha Chia, senior director of Thomson Reuters’ Legal Media Group in her welcome address. “Many of our participants tonight serve as pillars that not only galvanise others to join this cause, but also hold leaders and stakeholders accountable. With the Women in Law Awards this year, we hope to push these remarkable individuals and firms to even greater heights.”

Japanese firm Nishimura & Asahi had three of its lawyers win awards, namely, Maya Ito (Woman Lawyer of the Year, North Asia), Masako Yajima (Litigator of the Year, North Asia), and Chié Nakahara (Arbitration Lawyer of the Year).

“It is such an honour to receive this award. To be included among the distinguished nominees in this category alone is a privilege by itself. ALB Women in Law Awards 2023 is a major highlight of the year. We would like to extend heartfelt congratulations to all the winners and nominees for their tremendous achievements over the past year,” said Ito. Added Yajima: “It is an immense privilege to receive this award. We would like to express profound gratitude to our clients and their significant transactions that have been a privilege to work on. We would



A screengrab from the awards event

also like to extend our sincere congratulations to the other winners and nominees.” Said Nakahara: “I am tremendously pleased to be selected for this award. The most profound recognition goes to my colleagues at our firm. I also would like to thank the judges and organisers for this prestigious award and salute all the nominees for their outstanding achievements.”

Rajah & Tann Singapore’s Kala Anandarajah was awarded Woman Lawyer of the Year, SE Asia. “Deeply grateful for this recognition and a tremendous shout-out to all who have supported and continue to do so - you help me grow. I say I am passionate and driven,” she said. “Yet, it is hard work, perseverance, and a ‘never say die’ attitude that gets you going. There is no substitute. It is not waiting for a leg-up. It is about standing up and showcasing your skills and abilities. Recalling doors shut on me in my journey, it was nevertheless to stand tall and just work. It’s about working with and recognising the team effort. Finally, it is about not compromising other facets of life

important to you; for me, it is my hubs and twins; and the tiny group of friends who keep me grounded. It is tough, but ladies, you can balance. And that much easier when we support and lift each other.”

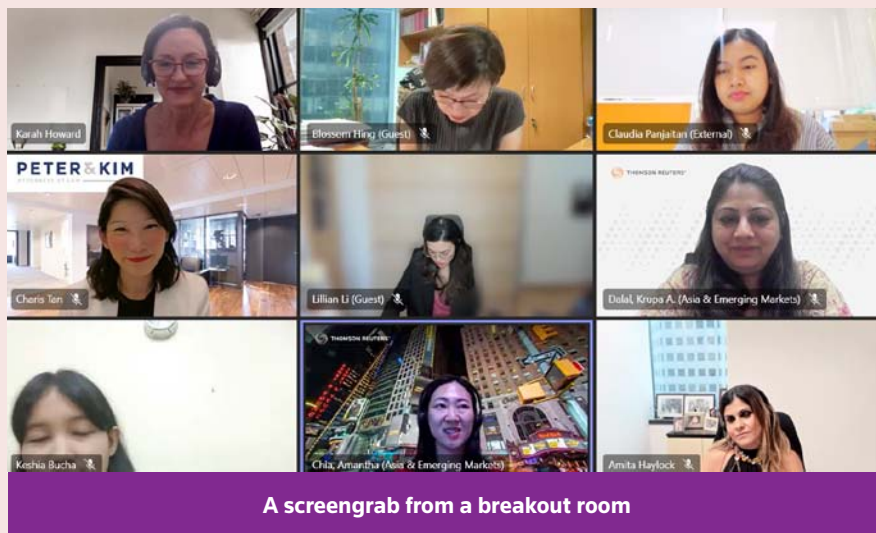
The award for Managing Partner of the Year went to Naina Krishna Murthy of Krishnamurthy & Co. “Through the course of my 22-year journey in building K Law, I have endeavoured to cultivate a culture that fosters a sense of belonging and inclusivity amongst my team, consisting of both lawyers and staff alike,” she said. “At the core of our ethos lies the belief that K Law is driven by a higher purpose, one that is anchored in serving our clients. To fulfil this purpose, we strive to connect with our clients on a deeper, more intuitive level, engaging not just our analytical faculties, but also our emotional intelligence and intuition. This enables us to deliver legal services that are not only of the highest quality, but that are also tailored to the unique needs and circumstances of each client. This award is not just for me but for every

member of our team who has helped build this firm into what it is today.”

Meanwhile, Benita Yu from Slaughter and May received Deal-maker of the Year, North Asia. “Special thanks to ALB for bestowing me with this honour,” she said. “The past year has continued to be difficult given the numerous challenges that we have faced and the risks affecting deal origination, approval, execution and completion. What stands out is the dedication and perseverance of everyone I have worked with, be it our clients, other advisers, our colleagues or the regulators. Without anyone of them, no deal could have been done. I am grateful for their invaluable support and this award goes to every one of them,” she says.

The winner of General Counsel of the Year was Millicent Joie L. Desiderio-Dime of Accenture. “The past year has been very challenging from a professional as well as personal perspective but, as they say the prize for dependability is being depended on. And so despite the challenges, I was lucky to be able to continue doing what I loved best with the support of what I believe to be the world’s best legal team,” she said. “This award from ALB Women in Law is a validation and recognition of the hard work my whole team has put in this year. To me it is not an individual award – but a recognition of the people who allow me to lead and mentor them. My warmest and most wholehearted thanks to ALB for this very great honour, this is a shining light in what has been a dark year,” she notes.

Deal-maker of the Year, India and the Middle East went to Adity Chaudhury from Argus Partners. “I’m truly humbled to receive the Female Deal-maker of the Year (India and Middle East) and to be recognised among such talented and accomplished lawyers. I’ve been privileged to have advised on some of the biggest and complex deals, and I’m happy that all the hard work is paying off,” she said. “Needless to mention that behind a deal, it’s not an individual but an entire team,




A screenshot from a breakout room

and this recognition is for the fantastic team at Argus Partners who have worked tirelessly and have developed industry leading expertise. And finally, a big thanks to all our clients who have supported Argus, and have become a part of our family.”

The award for Litigator of the Year, SE Asia, was shared by Blossom Hing from Drew & Napier and Wendy Tan from Morgan Lewis Stamford. “Thank you, ALB, for recognising me as Litigator of the Year, SE Asia for the second year in a row! Big thanks and much gratitude to my fabulous team, colleagues and clients for their unstinting support over the years. Winning the award again is definitely a team effort and I want to shine a spotlight and recognise the talented and wonderful people in my team, each of whom has worked so hard to strive for excellence,” said Hing. Added Tan: “It is an honour to be named SE Asia Litigator of the year by the prestigious ALB Women in Law Awards. I’m appreciative of our clients for their partnership and of our fantastic colleagues here in Singapore and our global litigation team throughout Asia, the United States, Europe, and the Middle East, who work together every day to assist our clients,” she says.

The Private Practitioner of the Year, North Asia award went to Julianne Doe from Dentons. “I’m of course hugely honoured to be named Private

Practitioner of the Year, North Asia. I think that the award of Private Practitioner of the Year looks at the work and person of practitioner as a whole – not only expertise and knowledge, client dedication, and significance of a particular deal, but also innovativeness and agility in the practice and the ability to generate meaningful impact to the community. I keep this in mind to make sure that what I do can make a difference. These awards are an incredible platform for women to inspire women. I have been humbled to be amongst titans, all of whom have showcased amazing talents and achievements in their fields,” she said.

Sheetal Sandhu of Virtus Law received Rising Star of the Year, SE Asia. Sandhu said: “I’m so pleased to have been recognised with this award, made even more valuable because the programme focuses on celebrating women’s contributions. It’s an exciting time to be a woman in business – we’re seeing some fantastic projects really taking off, and it’s a real honour to be involved in work which makes a tangible impact on underrepresented groups. Doing so while working for an organisation which also places such an emphasis on supporting its women to achieve their full potential is the cherry on top; I know I wouldn’t be here if it weren’t for the support of so many people at the firm.” 



IN-PERSON LAW AWARDS RETURN TO MALAYSIA AS ALB MARKS 10TH YEAR

■ The 10th ALB Malaysia Law Awards, which celebrated the work done by leading law firms, in-house teams and individuals in the country, was held in-person on March 9 at the Pavilion Hotel Kuala Lumpur, following three online editions during the pandemic.

"The Malaysia Law Awards 2023 marks the first time that we are resuming the event in person following the pandemic. We are thrilled to resume this ceremony in person, and look forward to reconnecting with our loyal supporters and making new connections in the region," said Amantha Chia, Senior Director of Thomson Reuters'

Legal Media Group in her welcoming remarks.

Some 500 submissions were made by law firms and in-house teams for this year's awards, which featured 33 categories in total. The coveted Malaysia Law Firm of the Year award went to Adnan Sundra & Low, which was named West Malaysia Law Firm of the Year and Islamic Finance Law Firm of the Year.

Another key award, Managing Partner of the Year, went to Zul Rafique & Partners' Zulkify Rafique. "I am humbled and truly honored to be named Managing Partner of the Year by the Asian Legal Business at the recently

concluded Malaysia Law Awards 2023. It is certainly a very proud moment, not just for me but the firm as a whole. I believe that this award is a testament to all the amazing work done by each and every one at Zul Rafique & Partners. To our clients and friends, thank you for your loyal support throughout the years," he said.

The firm also won Banking and Financial Services Law Firm of the Year. "This prestigious award is a testament to the hard work and dedication of our team as well as our commitment to continue to deliver high quality advice and service to our clients. We dedicate this award to each and every team



Malaysia Law Firm of the Year:
Adnan Sundra & Low



Malaysia In-House Team of the Year:
Lazada Malaysia



Malaysia In-House Lawyer of the Year:
Susheel Kaur,
Mercedes-Benz Financial



Rising Law Firm of the Year:
Gan Lee & Tan



East Malaysia Law Firm of the Year:
David Allan Sagah & Teng Advocates



West Malaysia Law of the Year:
Adnan Sundra & Low

member. We would also like to thank all our clients for their continued trust and support in making this success possible," Rafique added.

Meanwhile, Rahmat Lim & Partners won Litigation Law Firm of the Year, Energy and Resources Law Firm of the Year, ESG Advisory Law Firm of the Year, and two individual awards: Woman Lawyer of the Year (for Kamilah Kasim) and Dispute Resolution Lawyer of the Year (for Jack Yow). Said the firm's head of projects, Chong Yee Leong: "We are very honoured to have won the Energy and Resources Law Firm of the Year award and I wish to thank all our clients for their trust and confidence in our ability. I also wish to commend our team for this success which would not have been possible without their hard work and dedication." Added Yow, who heads its litigation practice: "We are grateful to our clients and ALB for this recognition. This is indeed a timely and welcomed encouragement for us to continue to provide innovative and

practical dispute resolution solutions for our clients. Thank you for recognising us as the Litigation Law Firm of the Year."

And Kasim commented: "I am honoured for the recognition given and most grateful to everyone who has supported me on what has become a rather fulfilling journey of sweat and tears. To all clients, thank you for the trust and confidence reposed. To my colleagues and especially to the young lawyers whom I have worked with closely, a special thank you for your unwavering diligence and dedication, without which I would not have made it here," she comments.

Christopher & Lee Ong received three awards: Malaysia Deal Firm of the Year, Construction and Real Estate Law Firm of the Year and Technology, and Media and Telecommunications Law Firm of the Year. "We are deeply honoured to have won these awards, and are immensely grateful to all our clients for their trust and confidence

over the years. This achievement would not have been possible without the hard work and dedication of our excellent team of lawyers and support staff," said Kuok Yew Chen, managing partner.

And Lee Hishammuddin Allen & Gledhill won two, namely Arbitration Law Firm of the Year, and Young Lawyer of the Year (for Crystal Wong Wai Chin. Also winning two awards was Shearn Delamore & Co, which picked up the Intellectual Property Law Firm of the Year and Labour and Employment Law Firm of the Year awards. And the Matrimonial and Family Law Firm of the Year award was won jointly by Jazzmine Khoo & Associates and MahWengKwai & Associates.

Gan, Lee & Tan was chosen as Rising Law Firm of the Year, while East Malaysia Law Firm of the Year was awarded to David Allan Sagah & Teng Advocates. "In this highly competitive decade, and with the impact of the pandemic the last three years, our



Woman Lawyer of the Year:
Kamilah Kasim, Rahmat Lim & Partners



Matrimonial and Family Law Firm of the Year:
Jazzmine Khoo & Associates, MahWengKwai & Associates



Transactional Boutique Law Firm of the Year:
KhaiLing Yau Chambers



Young Lawyer of the Year:
Crystal Wong Wai Chin, Lee Hishammuddin Allen & Gledhill



TMT In-House Law Firm of the Year:
Lazada Malaysia



Litigation Law Firm of the Year:
Rahmat Lim & Partners

firm has learned to adapt and found innovative ways to serve our customers better. We continued to build and maintain our network while staying relevant and consistent in our business. Winning this prestigious ALB Awards – East Malaysia Law Firm of the Year is a validation and recognition of our team's efforts throughout the year. We are extremely delighted that our hard work and dedication has proven to be a success; and we will continue to strive for excellence for many years to come," said David Toh, managing partner of David Allan Sagah & Teng Advocates.

Meanwhile Raja, Darryl & Loh received Fintech Law Firm of the Year. "We at Raja Darryl & Loh are absolutely thrilled to have been named ALB Fintech Law Firm of the Year. This prestigious award serves as a testament to our Fintech team's hard work, dedication, and commitment to deliver innovative, effective and client-focused solutions to assist our clients to navigate the complex and rapidly evolving world of

fintech. We thank ALB for this award. Moving forward, we will continue to leverage on our extensive experience, expertise and knowledge to deliver outstanding legal services and contribute to the growth of the local fintech industry," said managing partner Chew Phye Keat.

Gan Partnership won Dispute Resolution Boutique Law Firm of the Year, while KhaiLing Yau Chambers was selected as Transactional Boutique Law Firm of the Year. Said founding partner KhaiLing Yau: "Being a relatively new firm on the scene, we were thrilled just to be named as one of the finalists for the category. So it was a definitely a surprise, but a pleasant one, when we heard our firm being announced as the winner. We are truly honoured to receive this monumental recognition from ALB among our peers in the Malaysian legal industry, which serves as a testament to the capabilities and dedication of our small but mighty all-girl team at the Firm. A big thank you

to all our esteemed clients, and we look forward to achieving greater heights!"

In the in-house categories, Lazada Malaysia won the Malaysia In-House Team of the Year and Technology, Media and Telecommunications In-House Team of the Year. "On behalf of Lazada Malaysia, we are very happy to be clinching the Technology, Media and Telecommunications (TMT) In-House Team of the Year Award and the Malaysian In-House Team of the Year Award at the recent Thomson Reuters 10th Asian Legal Business Malaysia Law Awards. This recognition is just one of the many testaments to the trust that Lazada has built over the years with our buyers, brands, sellers, and partners. We take this opportunity to thank the team for their hard work and dedication over the past year and hope they will achieve greater height in the new year!" the team commented. Meanwhile, the In-House Lawyer of the Year winner was Susheel Kaur of Mercedes Benz Services Malaysia. 

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LAW FIRMS NEED MORE PLANNING TO PUSH CLIENT ESG ACHIEVEMENTS

BY NATALIE RUNYON

As ESG begins to carry more weight with clients, their outside law firms should use this opportunity to expand their ability to advise and execute clients' ESG initiatives.

The rise of environmental, social and governance (ESG) amid converging crises is spurring the need for law firms to use more effective legal foresight by way of contextual and detailed scenario-planning and transformation governance, according to an online, cross-regional gathering of law firm leaders and legal futurists that was hosted by Inside Practice.

One consistently reinforced message from the group involves the interconnectedness of the ever-increasing pain our collective human decisions are putting on the planet and the continued degradation of nature's ecosystems, which in turn is worsening the negative multiplier effects on the most vulnerable communities around the world. Indeed, the climate crisis is leading to irrevocable harm to the air we breathe, our food supply, and our habitable land, all of which instigate human migration patterns, geopolitical conflicts, and increased spending on reactions to the crises instead of proactive prevention.

The connection between these converging crises and the rise of institutional investor interest in ESG — including around climate transition risk — is clear. "Firms with trillions under management have become too big to let the planet fail," stated a 2019 Harvard Business Review article. Yet, at the same time, the standing power of the hope and commitment of legal and justice strategists, leaders, and futurists is a fundamental element needed to support the

ambitions for positive actions now and in the future.

The legal community plays a pivotal role in the outcome and transformational governance, a concept defined by the United National Global Compact. For "business to be more accountable, ethical, inclusive, and transparent to drive responsible business conduct, improve ESG performance, and strengthen public institutions, laws, and systems. This means fostering a culture of integrity, fairness, and inclusion beyond legal formality — asking not just what is legal, but what is right," the Compact states. Indeed, it underpins the UN Sustainable Development Goal 16: Peace, Justice, and Strong Institutions.

Pushing for transformation


Law firms' commitments to their own internal ESG strategies and their guidance and advice to companies are critical ingredients for transformational governance. For example, Timothy Wilkins, global partner for client sustainability at Freshfields, describes how his firm looks at the role of its lawyers in its holistic ESG strategy. Actions the firm urges lawyers to consider include:

- **Working responsibly within the firm's internal operations:** seeking net zero and environmental targets, diversity, equity & inclusion (DEI) objectives, and sustainable procurement practices
- **Collaborating for impact:** joining leading climate change and DEI initiatives and collaborations with governments on responsible business policy
- **Offering strategic advice and thought leadership:** advancing ESG agendas and supporting the transition of business and finance

In providing strategic guidance to clients, law firms have a central role in legal foresight through issue-spotting and horizon-scanning across the four common areas of strategy on which law firms often advise on ESG-related matters: finance, regulation, disputes, and transactions. In addition, firms' guidance cuts across a number of corporate clients' ESG concerns, opportunities and issues.

Law firms positioned to play a key role

The collective experience of providing strategic legal guidance across government, private sector clients, and other public sector institutions covering multiple matters and practice areas — including antitrust, labour and employment, litigation, tax, M&A due diligence, sustainable finance, corporate governance, shareholder activism, and regulatory and compliance disclosure and reporting — leaves firms positioned well to convene multilateral stakeholders to influence transformational governance.

The planet, the human race, food systems, and habitats are on the verge of irreversible harm. Whether or not we meet the moment as humans and the instigators of most of the harm is yet to be seen. In the meantime, the legal community and especially law firms worldwide have the ability and opportunity to lead from a position of strength, now more so than ever in the last 50 years. 

Natalie Runyon is the director of ESG content and Advisory Services within the Thomson Reuters Institute.

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