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WHAT MAKES THE BEST IN-HOUSE TEAMS TICK

THE REGION'S MOST SOUGHT-AFTER OFFSHORE LAWYERS

THAILAND CRACKS DOWN ON CRYPTOCURRENCIES

THE **BEST** FIRMS FOR PATENTS, TRADEMARKS AND MORE

ASIA IP RANKINGS 2022

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ALB 2022 VIRTUAL MASTERCLASS CALENDAR

Masterclass Name	Category	Date
ALB Virtual Legal Essentials to Corporate Finance - Mastering Private Equity Deals Making and Structuring	Legal-Finance	19 - 20 May
ALB Virtual Legal Essentials to Corporate Finance - Mastering M&A Deals Making and Structuring	Legal-Finance	1 - 2 June
ALB Virtual Malaysia HR & Employment Law Masterclass	Employment	9 - 10 June
ALB Virtual China HR & Employment Law Masterclass	Employment	28 - 29 July
ALB Virtual Blockchain, Distributed Ledger & Smart Contracts Masterclass: Understanding the Law & Regulation For "Industry 4.0"	Legal	11 - 12 August
ALB Virtual Indonesia HR & Employment Law Masterclass	Employment	25 - 26 August
ALB Virtual Vietnam HR & Employment Law Masterclass	Employment	15 - 16 September
ALB Virtual Joint Ventures and Alliances – Guide to Negotiating Commercial Terms, Legal Structures and Documentation	Legal	15 - 16 September
ALB Virtual Managing and Drafting Liabilities, Damages, Disputes Clauses in Cross-Border Contract	Legal	28 - 29 September
ALB Virtual Drafting and Negotiating Public Private Partnership Contracts - Structuring Legal Frameworks, Documentations and Risks Management	Legal	6 - 7 October
ALB Virtual India HR & Employment Law Masterclass	Employment	6 - 7 October
ALB Virtual Successful Cross-Border Virtual Contract Negotiations - Essential Strategies, Styles and Practical Tool Kit	Legal	3 - 4 November
ALB Virtual International Contract Drafting Masterclass	Legal	10 - 11 November

**Dates are accurate at the time of publication and maybe subject to change*

CPD accreditations will and have been applied for the above masterclasses with the Singapore Institute of Legal Education (SILE). For more details, please visit the event website: https://www.legalbusinessonline.com/webinars.

For any registration enquiries, please contact: **Jessy at jessy.koh@tr.com / Romulus at romulus.tham@tr.com**

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Even as the COVID-19 pandemic shook up the world, the IP landscape in the Asian region remained buoyant thanks to its agility and digital readiness. This was reflected in the best law firms for IP work, which went above and beyond when it came to servicing their clients in difficult times.
By Maricel Estavillo and Bingqing Wang

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FROM THE EDITOR

As the world rebounds, Asia is leading in innovation.

International patent applications filed via World Intellectual Property Organisation's (WIPO) Patent Cooperation Treaty (PCT) grew by 0.9 percent in 2021 to reach 277,500 applications – the highest-ever level, according to the WIPO. It added that Asia manifested its lead as the largest origin of international patent applications, accounting for 54.1 percent of all applications in 2021, up from 38.5 percent in 2011. While the leader continued to be China (69,540 applications in 2021, +0.9 percent year-on-year growth), other Asian countries in the top five were Japan (50,260 applications, –0.6 percent), and the Republic of Korea (20,678 applications, +3.2 percent). Also showing strong growth was Singapore (1,617 applications, +23 percent). Among educational institutions, China's Zhejiang University (306 applications) and Tsinghua University (201) were in the top five.

Asian filers were prominent in trademark applications as well, found WIPO, with 5,272 China-based applicants filing international trademark applications using WIPO's Madrid System in 2021, the third-highest among all countries. Among companies, China's Huawei Technologies (98) was the fourth-biggest filer. Huawei was also the top filer of patents, with 6,952 published PCT applications in 2021.

IP protection and enforcement are of course two sides of the same coin, and the number of IP litigation cases have also increased, as have the complexity of disputes. What this means is the IP lawyers in the region have been kept quite busy, and thus our annual rankings of the best law firms in Asia for IP comes at an ideal time. ALB spent months of research compiling this list, and the rankings have yielded an interesting mix of the usual suspects and up-and-coming contenders. Congratulations to all the firms that made the list, and we hope that it serves as a useful guide to our in-house readers whenever they are on the lookout for IP lawyers.

RANAJIT DAM
Managing Editor, Asian Legal Business, Thomson Reuters

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MAY

BRIEFS

2022

THE BRIEFING: YOUR MONTHLY NEED-TO-KNOW

20%

Size of pay cut being offered by Stephenson Harwood in the UK in exchange for employees working from home full-time, according to a report in CNBC.

APAC CLIENTS SEEK FIRMS THAT 'CONNECT THE DOTS'

According to the Thomson Reuters Asia-Pacific Law Firm Brand Index, one of the biggest strategic challenges driving legal demand in the region is the still-changing regulatory environments in which global clients operate. APAC-based GCs are therefore looking for strategic legal partners who can help identify and manage these challenges across boundaries, citing that localized legal knowledge that is applicable across multiple jurisdictions is one of the main factors they look for in selecting their outside counsel. The report found that clients looking to allocate more of their budget to cross-border work and seeking access to key markets across the region have increased in the last 12 months.

IT'S NOT JUST MONEY THAT MAKES LEGAL TALENT STAY

According to the "Law Firms Stay-Go Report" recently released by Thomson Reuters Institute and Georgetown University, some law firms face the dismal prospect of losing 125 percent of their associates over the next five years. However, while it may be a commonly held belief in the industry that compensation alone determines which lawyers will stay where, the report find that there are other factors, such as level of support from other professional fee-earners, firm finances, and overall lawyer satisfaction with their jobs. The report also found that lawyers are looking for signals from their law firm management as to whether they should stay or go, and will likely decide rather quickly whether remaining at a firm that offers a higher paycheck, but little else, will solve their longer-term concerns and address their long-term career aspirations.

15 PERCENT

Proportion of general counsel respondents who believe that their business leaders truly appreciate the risks to their organizations relating to environmental issues, according to a study from EY Law and Harvard Law School.

IN THE NEWS

I

Harvard University has the best law school in the world, according to QS World University Rankings, followed by Oxford and Cambridge. The National University of Singapore (11th) has Asia's best law department.

QUOTE UNQUOTE

"REDEMPTION CANNOT BE CLAIMED BEHIND THE MASK OF ANONYMITY, BUT BY BARING ONE'S FACE AND LOOKING EVERYONE IN THE EYE."

Singapore High Court judge Choo Han Teck reveals the names of six trainee lawyers who had cheated during the Bar exams, after previously redacting their names from his written judgement.

IN THE NEWS

II

Hong Kong law firm Vidler & Co, which handled protest-related cases, is set to close on June 3, according to a report in Hong Kong Free Press. The firm was set up by senior partner Michael Vidler about 19 years ago.

FORUM

PAYING IT FORWARD

Pro bono work sends a message about law firms' values and priorities, while providing highly skilled lawyers with an avenue to support the causes they care most about. For many law firms, pro bono work also provides an opportunity to engage with their community positively and support those in need.

HOW DO YOU CHOOSE WHAT KIND OF PRO BONO INITIATIVES YOUR FIRM TAKES ON? AND WHAT ARE THE POSITIVE KNOCK-ON EFFECTS FOR YOUR TEAM?

IP

KWAN

WAH

LAM

ALFRED IP, founding partner, Hugill & Ip

Generally speaking, we focus Hugill & Ip's pro bono efforts on causes we feel passionate about — personally or as a firm. We team up with several NGOs on continuous support on legal matters related to our core practice areas: employment, discrimination, LGBTQ rights, corporate, probate and family, as well as rolling out specific initiatives which include fundraisers or spreading legal awareness in the community. Most recently we have joined hands with PathFinders to raise funds to benefit the many unsupported children and their migrant mothers in Hong Kong.

We surely see many positive effects of our social responsibility commitment: from talent attraction and retention to the appreciation by many of our clients – both corporate businesses and individuals – who prefer to retain a law firm that is deeply involved within our community. It's been inspiring how pro-bono work can be contagious, in fact through the most recent years we see increased participation of our staff at all levels, but also of many smaller businesses which start to understand the importance of giving back to society.

JAMES KWAN, partner and pro bono partner for APAC, Hogan Lovells

We are proud to be active pro bono participants, with a long tradition of supporting ground-breaking social developments with our legal expertise. In fact, we were one of the first law firms to have a pro bono legal department.

Pro bono work is one of our strategic priorities — we not only build it into our training, but also our bonus policy. All of our employees are asked to contribute at least 25 hours annually to support their communities, leveraging their legal expertise. We see providing pro bono services as immensely beneficial to our people. It enables them to have the opportunity to explore new areas and industries, as well as build experience in topics they may not have access to otherwise. Most importantly, it is an opportunity for them to put their expertise to use and 'do good' at the same time – a powerful motive as people want to work with purpose.

An example of a piece of work we are very proud of is a global case spanning five years, working in collaboration with our clients, Lotus Flower Charity, Global Survivors Fund and Redress where we supported victims from the Yazidi minority group who were seeking compensation for human rights crimes committed by a former Australian national ISIS fighter in Iraq and Syria. In another case, our global teams across the U.S. Europe, and APAC worked to support major evacuation efforts for at-risk women from Afghanistan. The project illustrates our commitment to supporting women empowerment and justice in global crises. Lastly, we created HL BaSE, a mini-MBA style course for trainee and junior lawyers in which we develop their commercial skills to help drive social impact. Through HL BaSE, we provide pro bono support for social enterprises, create strong partnerships, and at the same time build knowledge and insights through the creation of innovative solutions.

TERENCE WAH, partner, Dentons Rodyk

The pro bono initiatives that our firm decides to take on will have to meet the following values: (i) it should have a positive social objective such as furthering a particular public good, correcting a perceived injustice or otherwise addressing issues which are of broad community concern; and (ii) the intended beneficiary should be a person or class of persons who otherwise deserve public support such as the marginalised or disadvantaged.

The pro bono initiatives that the firm takes on give our lawyers a better appreciation of and integration with the community that they serve. The initia-

tives also provide our lawyers with the opportunity to work on cases involving diverse legal issues which then help further develop our lawyer's legal skills.

To further our pro bono efforts, in 2022 our firm launched a philanthropy and non-profit practice group to help clients — who themselves have a charitable objective — to achieve those objectives.

BILLY LAM, partner and co-chair of the Asia Pro Bono Committee, Mayer Brown

With a longstanding commitment to access to justice, pro bono is a strategic priority for Mayer Brown in Asia. We select pro bono initiatives based on what the community needs and what we can provide. Knowing when to say "no" is also key to ensuring we are utilising our strengths to benefit the community and not do a disservice to them. While an NGO might come to us for pro bono assistance, we also look to see how we can provide holistic assistance in other forms such as through donations or volunteering. By listening to our NGO and community partners, we identify what legal assistance is needed and how we can support their initiatives.

Pro bono contribution is a rewarding experience for us. Knowing that we have made a difference brings immense joy and satisfaction. Our lawyers gain invaluable knowledge about the issues the community faces and the opportunity to further hone their legal skills. From junior lawyers looking to enhance their knowledge to senior lawyers who are looking to do more than just their day-to-day work, pro bono provides a win-win situation for everyone.

DEALS

$40 BLN

HDFC Bank's acquisition of HDFC
Deal Type: M&A
Firms: Argus Partners; AZB & Partners; Cravath, Swaine & Moore; Singhi & Co; Wadia Ghandy & Co
Jurisdiction: India

$1.6 BLN

Axis Bank's acquisition of Citibank's consumer business
Deal Type: M&A
Firms: AZB & Partners; Clifford Chance; Khaitan & Co; Linklaters
Jurisdictions: India, U.S.

$1.25 BLN

Coincheck's SPAC merger with Thunder Bridge Capital Partners
Deal Type: M&A
Firms: Anderson Mori & Tomotsune; Allen & Overy; De Brauw Blackstone Westbroek; Littler Mendelson; Mori Hamada & Matsumoto; Nelson Mullins Riley & Scarborough; Simpson Thacher & Bartlett
Jurisdictions: Japan, U.S.

$1.1 BLN

GoTo's IPO on IDX
Deal Type: IPO
Firms: Assegaf Hamzah & Partners; Davis Polk & Wardwell
Jurisdiction: Indonesia

$700 MLN

Acquisition by Mohalla Tech and ShareChat of MX TakaTak from MX Media
Deal Type: M&A
Firms: Induslaw; Shardul Amarchand Mangaldas & Co; Touchstone Partners
Jurisdiction: India

$660 MLN

Mitsui's investment in RTC renewable energy JV with ReNew Power
Deal Type: M&A
Firms: DSK Legal; Trilegal
Jurisdictions: India, Japan

$631 MLN

Mitsui's investment in Mainstream Renewable Power
Deal Type: M&A
Firms: Arntzen de Besche; BAHR; Herbert Smith Freehills; PJS Law; VILAF
Jurisdictions: Japan, Norway, Philippines, Vietnam

$300 MLN

Xpressbees' fundraising
Deal Type: PE/VC
Firms: Anagram Partners; AZB & Partners; Cyril Amarchand Mangaldas; Induslaw; Shardul Amarchand Mangaldas & Co; Trilegal
Jurisdiction: India

JAPAN'S PUSH TO DIGITALISE COURTS FACES SPEED BUMPS

As Japan becomes the latest major Asian economy to digitalise its court systems, critics say the changes aren't happening quickly enough. While more tech-savvy business hubs Singapore and Hong Kong have adapted to digitalised disputes during the pandemic, Japan is still playing catch up.

Japanese businesses are famously paper-reliant, with fax machines still in regular use across the country, despite attempts to stamp them out. While the government has announced technology initiatives and programmes over the years, it was only in 2021 that Japan's Supreme Court launched a division tasked with promoting digital reform. But some business leaders remain hesitant.

Considering the developments, Akihiro Hironaka, a partner at Nishimura & Asahi says that Japanese practitioners generally take a conservative approach, and are slow to implement drastic changes to the existing systems to which they are accustomed.

"Digitalisation and modernisation of the litigation process will force practitioners to change their old-fashioned practices: filing paper documents, sending them via facsimile, and attending court hearings physically - even if only for five minutes, to schedule the next hearing," Hironaka says.

Hironaka says the "digitalisation and modernisation movement" will send a message that practitioners must adapt to new technology, "surrender their long-standing faith in paper documents, and familiarise themselves with information and communication technology, regardless of their age or generation."

Compared to the digitalisation progress seen in Hong Kong and Singapore, Hironaka says that Japan is unique in part because the population is "litigation-averse, and most people do not have the opportunity to experience the inefficiency of the old-fashioned litigation process in Japan."

"Furthermore, Japanese judges and lawyers have not been motivated to change their working practices from those with which they are familiar. For these reasons, until recently, the Japanese government has prioritised budgeting and using resources in areas other than modernising the Japanese litigation system," he says.

There remains, Hironaka says, a sense of trust in physical paperwork, "and less in electronically stored information."

"While remote hearings have become common in international arbitration, some Japanese practitioners still cling to the strong belief that judges may not be able to discern the truth in witness testimony delivered through a screen. Such beliefs cannot be changed easily," he says.

Additionally, Hironaka says the digitalisation process faces practical hurdles — including concerns around transparency.

"Compared with some advanced non-Japanese court systems, the Japanese court process may be seen as lacking transparency, in terms of both the process and the resulting judgments," Hironaka says, noting that third parties are unable to read court records without visiting the court, and "can learn about hearings only thorough summaries written by court clerks, except in the case of witness examinations."

"In addition, not all judgments are published and available to third parties. Digitalisation of the litigation process using ICT will enable the general public to access the litigation process and judgements much more easily in the long run; however, judges, lawyers, and parties to litigation may fear excessive transparency, and try to prevent attempts to increase it. While business secrets and privacy must be preserved, it is important to achieve transparency in the litigation process, and in judgments, to provide more predictability and fairness in the Japanese judicial system," he adds.

Still, regardless of challenges, COVID-19 has provided a strong motivation for firms to embrace greater connectivity — particularly where international work is concerned.

"It is desirable to improve international cooperation in judicial processes involving multiple jurisdictions to expedite cross-border litigation. It is well known that service of process in cross-border litigation takes significant time," Hironaka says.

"Furthermore, it is common to encounter significant difficulties when attempting to take and obtain the testimony of witnesses who reside outside Japan, due to recent restrictions on cross-border travel arising from the COVID-19 pandemic. The same is true for Japanese witnesses attempting to attend proceedings outside Japan," he adds.

Image: posteriori/Shutterstock.com

Q & A

'WE HAVE MORE WORK TO DO TO MAKE JAPAN AN ARBITRATION HUB'

With international arbitration growing in importance in recent years, the Japanese government has announced an ambitious goal to make the country one of the major arbitration centres of Asia. The Japan Commercial Arbitration Association (JCAA) has been involved in efforts to help the government meet this goal. **Masato Dogauchi**, chief arbitration and mediation officer at JCAA, talks about what has been accomplished so far, and the road that lies ahead.

ALB: What have been some of your major achievements in the past few years?

MASATO DOGAUCHI: JCAA has implemented measures to make its arbitration services more appealing and to acquaint more users with the merits of JCAA arbitration.

First, we have made revisions and new additions to our arbitration rules. In 2019, we revised the JCAA's standard set of rules, the Commercial Arbitration Rules, and introduced a new set of rules called Interactive Arbitration Rules. The latter rules make one-off arbitration more secure by allowing the parties to be informed about the tentative views of the arbitral tribunal with respect to key contested factual and legal matters. Also, we made further revisions in 2021 with the aim of offering quicker resolution at a more reasonable price for small-claims cases. For disputes of 300 million yen ($2.3 million) or less, an arbitral resolution will be rendered within six months following the appointment of the arbitrator, with the timeframe cut to within three months if the amount in dispute is 50 million yen or less.

Second, while the coronavirus pandemic has made it difficult to appear in court in person, we have gained a wealth of expertise in arranging online hearings and preparatory meetings, such as how to provide the necessary platforms and arrange appropriate interpreters. This will enable us to ensure efficient and affordable arbitration proceedings even after the pandemic.

Third, since 2019, we have been utilizing the help of external attorneys to develop online seminars to promote JCAA's achievements and the appeal of Japan as a seat of arbitration to companies and legal practitioners within and outside Japan. We held a total of 26 seminars from 2020 to 2021, with a cumulative total of approximately 7,500 participants.

ALB: What are your important goals in the next few years, and how do you plan to achieve them?

DOGAUCHI: Our goal is, by further increasing the diversity and transparency of the JCAA, to let companies - especially foreign ones - understand the benefits of JCAA arbitration and to encourage the inclusion of JCAA arbitration clauses in their contracts even when both parties are foreign companies.

The first concrete measure toward this goal is the establishment of an International Advisory Board consisting of domestic and foreign arbitration experts. The committee will have a diverse makeup, with two-thirds of the members being foreign nationals and half of the committee members being women.

Second, although two-thirds of the approximately 400 arbitrators registered in the JCAA's roster of candidates for arbitrator are foreign nationals, we will work to further diversify the nationalities and expertise of our candidates so that we can quickly appoint suitable arbitrators for every type of case.

Third, we plan to publish a guide of our arbitration rules that explains each provision and introduces its practical application so that arbitrators can handles proceedings smoothly under these rules.

ALB: What are your thoughts on the government's plan to raise the profile of Japan as an arbitration hub?

DOGAUCHI: The Japanese government is strongly pushing for policies to promote international arbitration, and JCAA is working closely with this initiative in various ways so that Tokyo may become an international arbitration hub. Many measures have been implemented and more will be in due course. For instance, the law regulating foreign lawyers in Japan has been amended to ensure that they will not be impeded in providing legal services in arbitration proceedings held in Japan. Also, amendments to the Arbitration Act will give enforceability to provisional preservation measures taken by arbitral tribunals, and allow for the submission of written evidence in English to the court in such types of litigation as petitions for revocation of arbitral awards. In addition, with government funding, facilities for arbitration hearings have been established in Tokyo and Osaka.

MASATO DOGAUCHI

But we have more work to do to make Japan an arbitration hub. We will find new paths to develop JCAA arbitration by seeking opinions from the market. It seems that there is room to grow in the Japanese domestic market, since the Japanese lawyers in general are not so familiar with arbitration as a reasonable way to resolve disputes.

GREENBERG TRAURIG EYES SINGAPORE AFTER HIRES FROM HOGAN LOVELLS

U.S. law firm Greenberg Traurig has set its sights on Singapore after hiring three lawyers from Hogan Lovells' Tokyo and Hong Kong offices: Partner Joseph Kim, counsel William Wu, and associate Da Woon Jeong. All three join as shareholders.

Also joining the team as a shareholder is former Hogan Lovells lawyer Jared Raleigh; he was most recently senior legal counsel at Australia's Acciona Infrastructure. The team will initially be located in Tokyo, with the plan of soon moving to Singapore to lead the opening of Greenberg's office in the city-state.

According to a statement from the firm, the team will focus on energy transition matters and environmental, social, and governance (ESG) investments in the renewable power and infrastructure sectors.

Kim, who joined Hogan Lovells in 2014 from Paul Hastings, will become head of Greenberg's Asia energy and infrastructure practice. He has more than 20 years of experience in those sectors.

The Singapore office will be Greenberg's fourth in the Asian region; the other two are in Tokyo, Seoul and Shanghai.

Greenberg's plans to open in Singapore show how important the city-state is becoming for international law firms keen to build an Asia presence. ALB

APPOINTMENTS

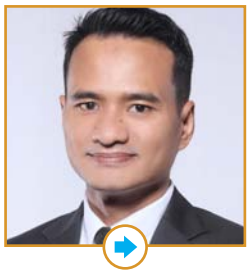
NILS ELIASSON

LEAVING
Shearman & Sterling

JOINING
King & Spalding

PRACTICE
International arbitration

LOCATION
Singapore



IRFAN GHAZALI

LEAVING
Sarana Menara Nusantara

JOINING
Hiswara Bunjamin & Tandjung

PRACTICE
TMT

LOCATION
Jakarta

RICHARD GRASBY

LEAVING
Facey & Associates

JOINING
Appleby

PRACTICE
Private client, trusts

LOCATION
Hong Kong

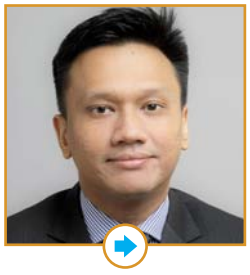
SHU MIN HO

LEAVING
Sidley Austin

JOINING
McDermott Will & Emery

PRACTICE
White-collar crime

LOCATION
Singapore



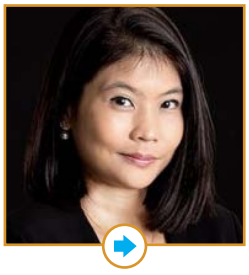
ABIMATA PUTRA

LEAVING
HHP Law Firm

JOINING
Hiswara Bunjamin & Tandjung

PRACTICE
Corporate/M&A

LOCATION
Jakarta



JOANNA SEETOH

LEAVING
LVM Law Chambers

JOINING
Harry Elias Partnership

PRACTICE
Construction arbitration

LOCATION
Singapore

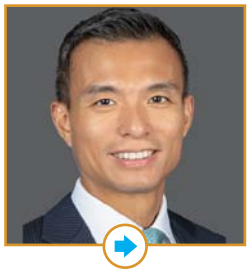
YUET MING THAM

LEAVING
Sidley Austin

JOINING
McDermott Will & Emery

PRACTICE
White-collar crime

LOCATION
Singapore



JUSTIN TAN

LEAVING
Clyde & Co

JOINING
Mayer Brown

PRACTICE
Energy

LOCATION
Singapore

ING LOONG YANG

LEAVING
Latham & Watkins

JOINING
Akin Gump Strauss Hauer & Feld

PRACTICE
International arbitration

LOCATION
Hong Kong

EXPLAINER

ISLAND IN TURMOIL

A state of unrest remains in Sri Lanka, as mass protests continue following severe inflation, daily blackouts of 10 to 13 hours, and shortages of fuel and many essential items. With immense foreign debts and forex reserves almost depleted, the South Asian island nation is on the verge of bankruptcy. In April, Sri Lankan officials said the country will temporarily default on its foreign debts as it faces its worst economic crisis in more than 70 years, according to the BBC. Businesses have closed, public transport has faced disruptions, and medical professionals have warned of essential-supply shortages.

Since March, Sri Lankans have responded by striking and demonstrating, holding President Gotabaya Rajapaksa and his family responsible for the crisis. Businesses too have added their voices in protest, with leaders from 23 business associations gathering in Colombo to call for an end to political instability, according to the Associated Press.

WHAT ARE SOME OF THE UNDERLYING ECONOMIC FACTORS THAT BROUGHT SRI LANKA TO THIS CRISIS POINT?

Aloka Nandasena, a partner at law firm DL&F De Saram, says the present economic crisis "is mainly attributable to economic mismanagement, both monetary and fiscal."

Tax cuts in 2019, she says, "significantly reduced government revenue and failed to stimulate the economy as anticipated. Unsustainable monetary policy, in the form of low-interest rates, money printing and fixing of exchange rate by decree - without permitting the floating of the U.S. dollar – have further compounded the crisis."

With Sri Lanka essentially an imports-driven economy, Nandasena says the pegged exchange rate caused a shortage of foreign exchange reserves "as foreign exchange remitters and exporters chose not to convert at the decreed rate of exchange which became significantly lower than the black-market exchange rate."

In turn, the forex shortage resulted in the government's "inability to settle monies due for the importation of even essentials, such as fuel medicines etc. causing severe shortages," she adds.

FOR INVESTORS AND BUSINESSES IN THE MARKET, WHAT ARE THE IMPLICATIONS, AND WHAT CAN THEY DO TO PROTECT THEMSELVES?

Nandasena says the prevailing forex shortages, inflation and currency depreciation are major concerns for investors.

"However, as a result of the prevailing crisis, the government is now forced to implement key monetary and fiscal policies that will benefit the country immensely in the mid to long term," she says, noting such policy changes "are likely to cause considerable difficulties in the short term."

However, entities and sectors that earn foreign currency still remain very attractive to investors, Nandasena notes.

The country has also sought assistance from the IMF and several other bilateral and multilateral organisations. Nandasena says there is an expectation on the IMF to impose stringent terms that are likely to benefit Sri Lanka in the mid to long term.

"IMF will also provide Sri Lanka with much-needed credibility in the eyes of foreign investors and credit rating agencies," Nandasena says.

HOW THIS SITUATION IS LIKELY TO EVOLVE?

In the meantime, in Sri Lanka, protesters are continuing to list their demands, targeting criticism at the government.

Nandasena says the road map to recovery for the country is "clear and narrow." "Irrespective of the Government in power the path remains the same," she says, noting there is "little choice now."

It will be the country's vulnerable population who are most at risk, Nandasena says.

"Unfortunately, the short-term effects might be significant particularly on the vulnerable population of Sri Lanka. Hopefully, the government will provide a safety net to protect them during these difficult times. But if we are able to push through, the present economic reforms will have far-reaching and beneficial effects on Sri Lanka as a whole, hence we are hopeful," she adds.

Image: MrCapture/Shutterstock.com

SG CONTINUES TIGHTENING OF CRYPTO SCRUTINY WITH NEW BILL

In April, Singapore extended its oversight of virtual assets with a law that expands its cryptocurrency regulations to companies that have a local presence in the market but offer digital token services outside of Singapore. The Financial Services and Markets Bill 2022, which has gained approval from lawmakers, marks higher regulatory scrutiny on digital assets.

While cryptocurrency operations that target the local market are regulated by the central bank, up until now, those who provide services outside Singapore had not been subjected to the same scrutiny.

But the approach is now changing. Alvin Tan, a board member of the MAS, said that Singapore could be "exposed to reputational risks brought by digital token service providers created in Singapore, and which provide services relating to virtual assets such as bitcoin outside Singapore," according to a report in Asia Nikkei Asia.

This comes at a time when Asian governments have been tightening oversight on cryptocurrency. Singapore itself published guidelines in early 2022 instructing the market to halt the adverting of offerings to retail investors in public spaces, citing concerns about the "risky" nature of such investments. Meanwhile, Thailand recently issued a ban against payments using cryptocurrencies and other digital assets.

Mike Chiam, a partner at Singapore law firm PDLegal, says an extension of regulatory oversight for cryptocurrencies has been in the works for some time.

"The introduction of omnibus legislation to supervise and regulate Virtual Asset Service Providers or VASPs was discussed on or about December 2019 when FATF released guidance on regulating virtual asset (VA) activities. This was anticipated to be passed into law in 2020-2021, so, it appears that the regulator took more time to consider putting in place the additional restrictions," he notes.

Essentially, Chiam says, Singapore's regulator "needed to have administration, supervisory and regulatory powers — including the right to issue prohibition orders," in order to safeguard reputational risks of VASPs incorporated and registered in Singapore, "but operating virtual asset activities outside of Singapore — or globally."

Additionally, says Chiam, MAS proposes to issue prohibition orders based on specified criteria "similar to the conditions for key executives in Singapore's financial institutions."

"MAS is also imposing requirements to mitigate cyberattacks, technology risks, critical system and administration risks in relation to digital token services and VASPs," Chiam says.

Striking the right balance is critical for regulators. Chiam notes there have been "mixed reviews from the crypto-community and professionals in the crypto markets."

"On the one hand, Singapore has been paving the regulatory path, a regulation-lite innovation space for fintech entrepreneurs with the fintech regulatory sandbox since 2017/2018," he says.

"Singapore has been consistently seen as 'crypto-friendly' and more traditional financial institutions 'TradFi' players have started taking inroads to develop crypto and blockchain capabilities."

There is speculation in the market and in media, that the developments could result in a boost in Dubai, which has courted blockchain and cryptocurrency firms recently. Chiam says that some market players have withdrawn from Singapore and announced their plans to move to the Middle East "where the regulatory status is less defined," says Chiam, adding that "jurisdiction shopping" is a common theme in the fintech and crypto industry.

Chiam says digital assets, including NFTs, is gaining popularity amongst the young millennials in Singapore, with the Straits Times reporting that close to 16 percent of Singaporeans own cryptocurrency.

"The incoming legislation will boost awareness of technological risks and jurisdictional risks amongst users of DT services and VASPs," Chiam says.

Image: smolaw/Shutterstock.com

NORTH ASIA AND SOUTHEAST ASIA/SOUTH ASIA LEAGUE TABLES

North Asia Announced M&A Legal Rankings

Rank	Legal Advisor	Value ($MLN)	Deals	Market Share
1	Simpson Thacher & Bartlett	18,009.0	7	9.0
2	Nishimura & Asahi	14,643.8	40	7.3
3	Kirkland & Ellis	13,400.2	13	6.7
4	Mori Hamada & Matsumoto	12,235.6	23	6.1
5	Paul, Weiss	10,337.6	5	5.2
6	Sidley Austin LLP	8,782.6	5	4.4
7	AZB & Partners	8,085.8	4	4.0
8*	Mannheimer Swartling Advokatbyra	7,477.6	1	3.7
8*	Advokatfirman Vinge	7,477.6	1	3.7
10	Kim & Chang	7,148.2	31	3.6

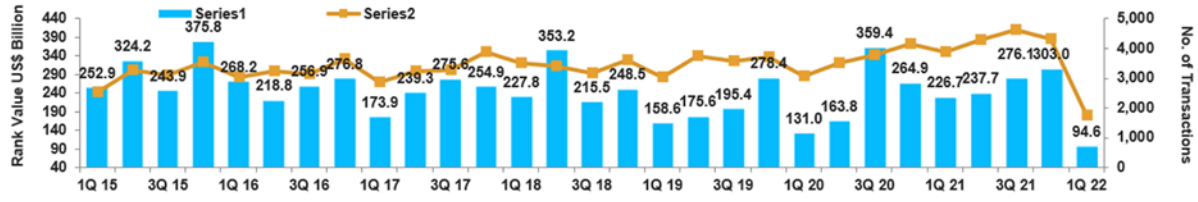
(*tie) Based on Rank Value including Net Debt of announced M&A deals (excluding withdrawn M&A)

North Asia Announced M&A Financial Rankings

Rank	Legal Advisor	Value ($MLN)	Deals	Market Share
1	Morgan Stanley	31,669.2	27	15.8
2	Goldman Sachs & Co	19,054.8	18	9.5
3	UBS	13,075.6	9	6.5
4	Sumitomo Mitsui Finl Grp Inc	11,841.4	37	5.9
5	JP Morgan	10,352.6	3	5.2
6	China International Capital Co	9,292.9	27	4.6
7	Mizuho Financial Group	9,271.3	32	4.6
8	Nomura	7,102.9	29	3.6
9	BofA Securities Inc	5,985.1	6	3.0
10	Citi	5,255.4	4	2.6

(*tie) Based on Rank Value including Net Debt of announced M&A deals (excluding withdrawn M&A)

Any North Asia Involvement Announced M&A Activity - Quarterly Trend*



Southeast Asia / South Asia Announced M&A Legal Rankings

Rank	Legal Advisor	Value ($MLN)	Deals	Market Share
1	AZB & Partners	76,551.4	70	50.4
2	Sullivan & Cromwell	65,992.9	5	43.5
3	Freshfields Bruckhaus Deringer	65,961.4	4	43.5
4	Cravath, Swaine & Moore	63,725.1	3	42.0
5	S&R Associates	62,131.2	9	40.9
6*	Argus Partners	60,390.1	1	39.8
6*	M.M. Singhi & Company	60,390.1	1	39.8
6*	Wadia Ghandy & Co	60,390.1	1	39.8
9	Khaitan & Co	8,596.2	39	5.7
10	Cyril Amarchand Mangaldas	7,072.5	37	4.7

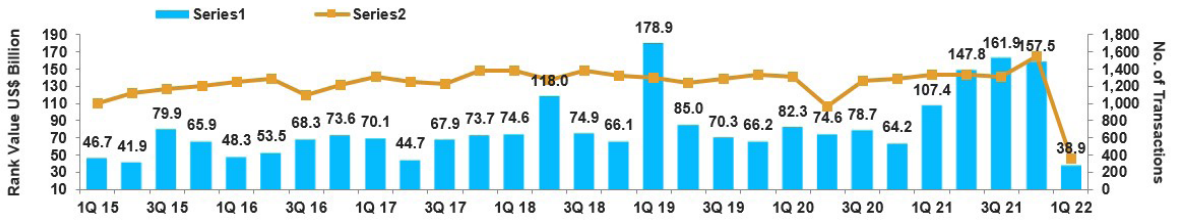
(*tie) Based on Rank Value including Net Debt of announced M&A deals (excluding withdrawn M&A)

Southeast Asia / South Asia Announced M&A Financial Rankings

Rank	Legal Advisor	Value ($MLN)	Deals	Market Share
1	Citi	75,546.9	9	49.8
2	JP Morgan	72,541.3	9	47.8
3	Credit Suisse	72,126.0	10	47.5
4	Morgan Stanley	70,621.5	13	46.5
5	Goldman Sachs & Co	69,531.6	8	45.8
6	Axis Bank Ltd	63,729.6	5	42.0
7	HSBC Holdings PLC	62,365.7	2	41.1
8	BofA Securities Inc	61,201.9	4	40.3
9	Jefferies LLC	60,571.5	3	39.9
10	Edelweiss Financial Svcs Ltd	60,561.2	2	39.9

(*tie) Based on Rank Value including Net Debt of announced M&A deals (excluding withdrawn M&A)

Any Southeast Asia / South Asia Involvement Announced M&A Activity - Quarterly Trend*



*League tables, quarterly trends, and deal lists are based on the nation of either the target, acquiror, target ultimate parent, or acquiror ultimate parent at the time of the transaction. Announced M&A transactions excludes withdrawn deals. Deals with undisclosed dollar values are rank eligible but with no corresponding Rank Value. Non-US dollar denominated transactions are converted to the US dollar equivalent at the time of announcement of terms. NORTH ASIA: China, Hong Kong, Japan, South Korea, Taiwan; SOUTHEAST ASIA: Singapore, Malaysia, Philippines, Thailand, Vietnam, Brunei, Cambodia, Indonesia, Laos, Myanmar, Timor-Leste; SOUTH ASIA: India, Afganistan, Bangladesh, Bhutan, Maldives, Nepal, Pakistan, Sri Lanka. Data accurate as of 5 May 2022.

ASIAN LEGAL BUSINESS

ASIA IP RANKINGS 2022

Even as the COVID-19 pandemic shook up the world, the IP landscape in the Asian region remained buoyant thanks to its agility and digital readiness. This was reflected in the best law firms for IP work, which went above and beyond when it came to servicing their clients in difficult times.

BY MARICEL ESTAVILLO AND BINQING WANG

Two years into the disruptive pandemic, global intellectual property (IP) activities began to pick up speed and with Asia keeping its dominance in producing and protecting innovations.

Based on the latest statistics from the World Intellectual Property Organization (WIPO), global IP filings across patents, trademarks and industrial design posted record levels of annual growth in 2021.

Last year, global patent applications were filed through the WIPO's Patent Cooperation Treaty (PCT) grew by 0.9 percent to reach the highest record yet at 277,500 applications. International trademark applications filed through its Madrid System increased by 4.4 percent to reach 73,000, another record annual growth achieved since 2005. Global industrial design applications filed through its Hague System made a recovery from the 2020 level and grew by 20.8 percent to 22,480, the fastest annual growth recorded since 2010.

Commenting on the 2021 results, WIPO Director General Daren Tang said: "These figures show that human ingenuity and entrepreneurial spirit remain strong despite the disruptions caused by the pandemic."

In PCT filings, Asia accounted for 54.1 percent of the total applications, a notable increase from the previous year's 38.5 percent share. China was the consistent largest user of the PCT. Two other innovation powerhouses in the region, Japan, and South Korea, joined China in the top five largest users of the PCT system, along with the U.S. and Germany. China's Huawei Technologies was the top company filer in 2021.

In global trademark applications, China in third place and Japan in seventh place were among the top ten country filers. The U.S. was the top country filer of international trademark applications. China's Huawei Technologies and Japan's Shiseido Company were among the top ten Madrid applicants.

Image: arda savasciogullari/Shutterstock.com

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TIER 2
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- SCL Nishimura
- Tilleke & Gibbins
- ZICO IP

TIER 2
- Apisith & Alliance
- Chavalit & Associates
- LawPlus
- Rajah & Tann
- Satyapon & Partners
- Siam Premier International
- TMI Associates
- Vidon & Partners

TIER 3
- Ananda IP
- Dej – Udom & Associates
- Dharmniti Law Office
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TIER 3
- Ananda IP
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VIETNAM

PATENTS

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- Pham & Associates
- RHTLaw Vietnam
- Tilleke & Gibbins
- Vision & Associates

TIER 2
- Hogan Lovells
- Indochine Counsel
- InvestConsult Group
- Rajah Tann
- Rouse
- SB Law
- ZICO Law

TIER 3
- Allen & Gledhill
- Bross & Partners
- IPMAX Law
- Lee & Ko
- Mayer Brown
- Nishimura & Asahi
- Phuoc & Partners
- Shin & Kim
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- SB Law
- ZICO Law

TIER 3
- Allen & Gledhill
- LNT & PARTNERS
- Lee & Ko
- Mayer Brown
- Nishimura & Asahi
- Shin & Kim
- Phuoc & Partners
- TMI Associates

In international industrial design filings, South Korea, Japan, and China were among the top ten country filers. Samsung Electronics of South Korea was the consistent top company filer. Other Asian companies joining the top list were LG Electronics and Beijing Xiaomi Mobile Software.

PANDEMIC-DRIVEN INNOVATION

The COVID-19 pandemic has accelerated the speed of innovation, especially in pharmaceuticals.

In a separate report, WIPO reported that about 5,300 patent applications relating to COVID-19, covering therapeutics and vaccines, were filed globally in the first 21 months of the pandemic.

For COVID-19-related vaccine filings alone, the volume of patent applications filed by universities and public research organizations at 44 percent of the total almost matched the share of companies at 49 percent, the report showed.

China, South Korea, and India were among the top applicant locations for vaccine filings. They joined the U.S., Russia, the U.K., Germany, Austria, Switzerland, and Australia. For COVID-19 therapeutics, China and India were among the top origins for patent applications.

"This report underscores that the pandemic triggered an unprecedented mobilization of the global scientific community, and it shines a light on the complementary and reinforcing roles played by companies, startups, universities and research institutions in the development of COVID-related treatments," said WIPO's Tang.

In Hong Kong, Tier 1 firm Ropes and Gray handled such COVID-19-related deals for Everest Medicines. The firm managed the company's two separate agreements with Providence Therapeutics to license rights to Providence's mRNA COVID-19 vaccine candidates in emerging markets in Asia and to establish global partnerships for mRNA products.

In South Korea, Tier 1 firm Shin & Kim successfully defended SD Biosensor (SDB), a COVID-19 antigen rapid test kit manufacturer, against domestic companies which filed for patent infringement over its client's diagnostic kits. "This case is the largest patent damages case ever filed in Korea, with only a partial claim amount reaching $70 million. Also at stake is the availability of critical

COVID-19 diagnostic kits should the aforesaid patent cannot be invalidated or avoided by SDB," the law firm shared.

In Japan, while acknowledging the adverse effects of the COVID-19 pandemic on patent applications, a big blow for this patent powerhouse, Japan Patent Office (JPO) Commissioner Kasutani Toshihide said in JPO's 2021 Annual Report that COVID-19 countermeasures have also brought in new business opportunities, in particular, acceleration of digitisation.

In Thailand, Tier 1 firm Tilleke Gibbins assisted Chulalongkorn University in filing for a patent application in the U.S. and the subsequent conversion to a PCT application for a COVID-19 diagnostic kit.

These COVID-19-related deals added to the usual portfolio of IP prosecution, enforcement, invalidation, and overall IP management activities handled by IP law firms across the region in 2021.

"We have always maintained a dominant position in IP. Drew is a market leader in trademark, patent and design filings, thanks to the long-time support from our clients who come from a wide spectrum of industries."

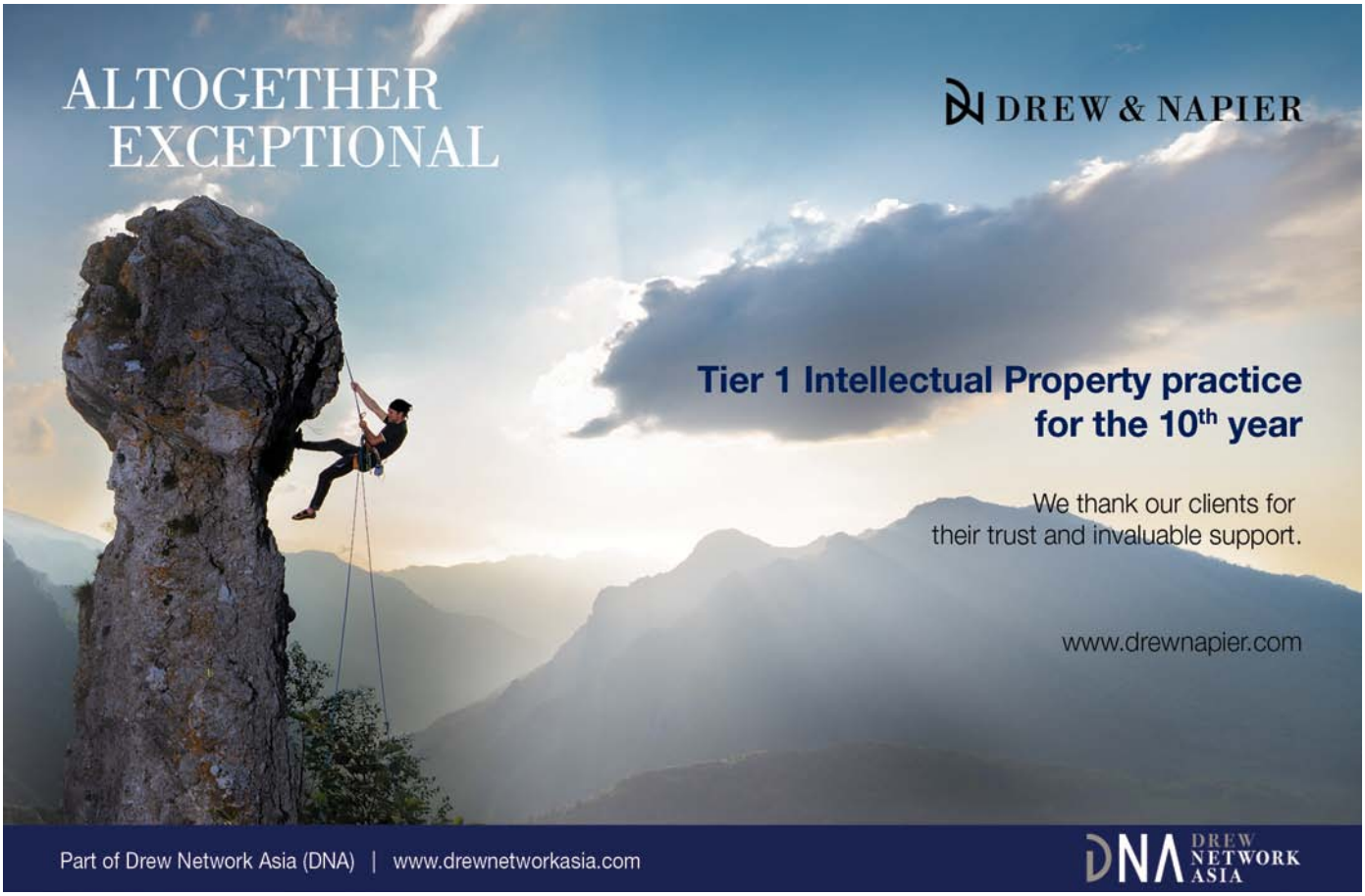
— Tony Yeo, Drew & Napier

YEAR OF MANY FIRSTS

For the law firms handling IP cases in Asia, 2021 also saw many unprecedented deals and court decisions.

In Singapore, Tier 1 firm Shook Lin Bok has accepted an unprecedented case for Zenyum, an invisible orthodontic aligner product and service provider, against allegations of trademark infringement and breach of common law trademark rights. The trial is set for May 2022. "This case will be the first case in Singapore dealing with whether the use of a hashtag constitutes trademark infringement, which is a growing concern to businesses given the prevalence of social media and online advertising," it shared.

In South Korea, Tier 1 firm Lee & Ko is handling a case for Novartis described as the first case in the country over complex patent, a new invention type for patents. Several domestic generic companies have filed patent non-infringement confirmation actions over



Novartis' Entresto, a heart failure drug. "A new Ministry of Food and Drug Safety (MFDS) guideline regarding the generic approval criteria based on the complex invention is expected, in which case a new precedent will be established about how the scope of the patent rights for complex invention should be interpreted," according to the firm. The decision on this case is seen to have an impact on similar patent litigations over the Entresto patents in key jurisdictions abroad.

Another South Korean Tier 1 firm Yulchon successfully defended Chong Kun Dang Health in blocking the issuance of an injunction for a patent infringement case filed by Bayer over the manufacture and sale of a generic version of Bayer's Xarelto drug. This makes the Korean pharmaceutical firm the sole generic manufacturer allowed to market Liroxia, a Xarelto generic before the expiration of Xarelto substance patents. "We expect this case to have significant precedential effect, as this case was the first decision by a court on whether a patent term extension extends to indications other than those listed in the regulatory approval for which the extension was granted," Yulchon said. Generic pharmaceutical manufacturers are now banking on the decision in their go-to-market strategies.

In Malaysia, Tier 1 firm Wong Partners handled a landmark case for media operator Astro. The Kuala Lumpur IP High Court ruled that the sale of TV boxes and illicit streaming devices (ISDs) constitutes copyright infringement. "As a result of this important decision, civil action for copyright infringement can now be taken against those selling these TV boxes/ISDs which can provide unauthorised access to copyrighted works," shared the law firm.

All these cases proved that despite the lingering pandemic, IP across the region has stayed resilient and vibrant.

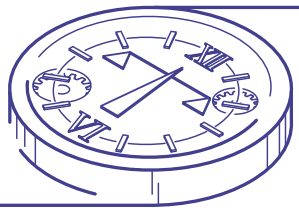
HONG KONG

In 2021, Hong Kong's IP Department granted the first standard patent under the new original grant patent (OGP) system that creates a direct route for innovators to seek standard patent protection in the city. This is considered a milestone in the development of Hong Kong's patent system.

"The fact that a standard patent can be obtained directly in Hong Kong without going through first the registration process outside Hong Kong provides a convenient, direct and expeditious route for patent applicants and helps attract and facilitate more such applications," Hong Kong's secretary for commerce and economic development Edward Yau said.

INDIA

Amid the COVID-19 pandemic, India, along with South Africa, have taken



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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 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.

Takanori Abe
Managing Partner
Attorney at Law, Admitted in Japan and New York, Patent Attorney, Admitted in Japan
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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.

the lead in demanding before the World Trade Organization for an IP rights waiver for COVID-19 vaccines and supplies.

While no progress has been made yet, due to strong opposition from developed countries two years into the proposal, this highlights India's role in global pharma. Already it's the largest producer of generic drugs in the world.

At home, India's Supreme Court weighed in and ordered the central government to review its vaccine policy and raised questions on the differential pricing of vaccines for the central government.

Despite the pandemic, top law firms continued to handle a myriad of cases that range from prosecution, licensing, and enforcement.

India's PCT filings in 2021 slightly increased to 2,100 from 1,907. Its international trademark applications also recorded some improvement to 343 from 336.

INDONESIA

Having the largest economy in Southeast Asia, Indonesia has a growing number of homegrown companies tapping overseas markets. IP prosecution and management for this type of firm has become a staple in top firms' IP portfolios. Tier 1 firm Inter Patent Office handled one for Dexa Medica Group, one of the country's largest pharmaceutical companies. It managed the client's trademark portfolio in the country and overseas, in Southeast Asian countries, Middle Eastern countries, African countries, European countries, Canada and the U.S.

Top firm Assegaf Hamzah, representing PT Sekolah Cikal, handled a rare and complicated case that involved transferring the client's trademark to the government, its Ministry of Education and Culture.

"It is very rare for a private entity to transfer IP rights to the government and indeed, this is one of such transactions. Besides being uncommon, this deal is also complicated as the client and ourselves had to attend multiple discussions with government officials to determine the right transaction scheme," said the firm.

Enforcement also took up some of the law firms' time especially those with multinational clients. KK Advocates has done work for Procter & Gamble and Gillete Company. The work included filling custom recordation, conducting investigations, drafting and sending clarification and warning letters, active online monitoring and filling take-down letters to the relevant marketplace; conducting the raid actions, and conducting negotiations with the infringer all for taking action against the allegedly infringing client's products.

JAPAN

Based on WIPO's latest PCT numbers, the patent-heavy jurisdiction saw its global patent filings slightly dip to 50,260 in 2021 from the previous year's

DR & AJU LLC

A Q&A with DR & AJU LLC's Jong Seon CHOI

What are the ingredients to building a successful IP practice?

DR & AJU's IP Practice Group consists of lawyers who served as judges in the IP departments within the Patent Court of Korea and lawyers and experts with technical backgrounds. As technology is not approached from merely a legal perspective, we provide legal services of preciseness that penetrate on a deeper level, based on a thorough understanding of the technology industry in general. This allows us to maximize client satisfaction in areas where the technology issue is particularly thorny, such as patents, trade secrets, unfair competition, IT, and information and communication.

With our strategic partnership with DAE-A Intellectual Property Consulting, we are uniquely positioned to provide one-stop services, from registering exclusive rights to IP items to IP enforcement issues at pre-litigation and litigation stages.

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Who have been your standout personnel in the past year in terms of IP work? Can you talk about their contributions?

Jong Seon CHOI and Jeong Eun KIM recently won a lengthy copyright infringement and claim for damages lawsuit, representing two golf course design companies against a screen golf company. The Seoul Central District Court ruled that the defendants should not use screen golf videos based on the golf course designed by the plaintiffs, and should compensate the plaintiffs for approximately KRW 2.8 billion in damages.

What are your plans to develop your IP practice in the next few years?

We will continue to develop and grow with the aim to provide the best legal services in not just the traditional technology fields but also in new technologies such as blockchains, NFTs, and healthcare.

50,578 applications. Mitsubishi Electric Corp., Sony Group Corp. and Panasonic IP Management were the Japanese companies among the top 10 PCT applicants last year.

Aside from IP prosecution, the top law firms handled the usual load of cases such as infringement actions, licensing of IPs, trade secrets and patent term extension applications. Among the Supreme Court IP decisions last year was the dismissal of the appeal by MRS Holdings in a patent infringement suit against mobile wallet company LINE Pay. This was a win for Tier 1 firm Abe, Ikubo &Katayama which represented LINE Pay.

There were also not common cases handled such as those connected to patent brokerage and cases related to the patent linkage system and SEPs.

Some firms also handled patent applications for AI, an increasing priority for Japan. In June 2021, the JPO hosted the virtual meeting of the IP5 Offices (with the U.S., the European Patent Office, China, and South Korea) that paved the way for a roadmap of cooperation in the fields of new emerging technologies and AI and launched new projects aimed at harmonising patent prosecution procedures and practices.

"Our firm has an internal Data Science Lab, which provides specialized services in forensics, big data, MyData, and metaverse. This allows us to provide tailored solutions to a wide range of IP cases."

— Jong Seon CHOI, DR & AJU

Commenting on the noteworthy developments in the past year, Masaru Nakajima, partner in charge of IP Information section at Seiwa Patent & Law, says that there have been significant changes in the IP landscape in Japan mainly via various reforms brought about by the 2021 revisions to the IP laws. "These include (a) In response to the expansion of COVID-19, various procedures at the JPO have been computerized and digitalized rapidly; (b) In view of the globalization and digitization of corporate behaviours, protection of IP rights have been enhanced via, e.g., tightening of regulations relating to counterfeit products from overseas and relaxation of requirement for reinstatement of IP rights; (c) The foundations of the IP system has been strengthened via, e.g., introduction of a system calling for

third-party comments (so-called amicus briefs) and establishment of an inspection system as an evidence collection method in patent infringement lawsuits (introduced by the 2019-revisions to the IP Laws); (d) Harmonization of the IP system with overseas via, e.g., prohibition of multiple claim dependency from another multiple dependent claim in a patent application (introduced by the 2022-revisions to the METI ordinance); (e) Following the latest two IP high court decisions in 2019 and 2020, the articles stipulating the methods for calculating damages in IP infringement lawsuits were revised by the 2019-revisions, in an attempt to increase the amounts of damages," he notes.

When asked about the impact of such reforms and strengths of Seiwa Patents and Law, Nakajima adds, "In accordance with the rapid computerization and digitalization of the JPO procedures, our firm has increased IT investment and increased the business efficiency significantly. We have also shared information about the JPO's various reforms to enhance the user convenience with our clients on time, and have advised our clients as to how to keep up with the JPO's such changes. In fact, we have succeeded in reinstating several IP rights at the JPO. We believe that our strength lies in our ability to respond to such changes quickly and appropriately."

"Our firm has increased IT investment and increased the business efficiency significantly... We believe that our strength lies in our ability to respond to such changes quickly and appropriately."

— Masaru Nakajima, Seiwa Patent & Law

MALAYSIA

Malaysia made notable updates to its IP regulatory framework last year. Its Dewan Negara, the upper house of Malaysia's Parliament, passed three IP bills, namely the Patent (Amendment) Bill 2021, the Copyright (Amendment) Bill 2021 and the Geographical Indications Bill 2021.

The patent amendments consider Malaysia's commitments in the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement on public health, the Regional Comprehensive

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Over the five decades since our founding 1966, in the heart of Tokyo's IP district, Seiwa has earned an outstanding reputation as one of Japan's top IP-specialized firms.

Seiwa currently offers a range of services covering substantially all IP-related activities, including IP prosecution, litigation, and consultation.

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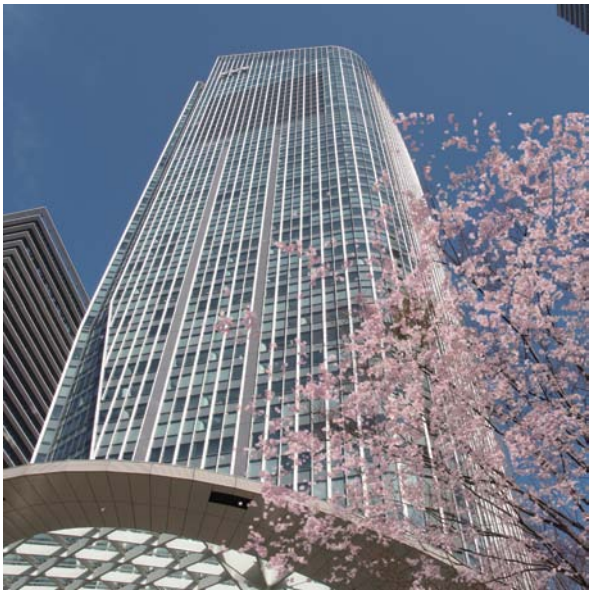

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Economic Partnership Agreement (RCEP) and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and include the provisions of the Budapest Treaty. The copyright amendments seek to ensure that the copyright law provides more efficient and effective protection in line with current demands and to fulfil the needs of the business community and stakeholders. The Geographical Indications Bill 2021, meanwhile, provides updates to the regulatory framework that considers the requirements in the TRIPS Agreement.

Among the cases handled by top law firms last year, the case handled by Rahmat Lim for Shopee, a leading e-commerce platform in Southeast Asia, stood out. Shopee is faced with back-to-back civil lawsuits launched simultaneously by local production film companies who filed direct copyright infringement claims for the alleged unauthorised sale and distribution of locally produced films by certain users on the platform. "These are landmark lawsuits as for the first time in Malaysia, a giant e-commerce platform is being sued directly for copyright infringement flowing from the acts of its users. These lawsuits are significant and will become precedent setting in determining whether e-commerce platforms can be held directly liable as an intermediary for the infringing acts of its users. These lawsuits also explore the concepts of contributory and/or vicarious liability in the context of indirect copyright infringement and also the safe harbour provisions," said the firm.

PHILIPPINES

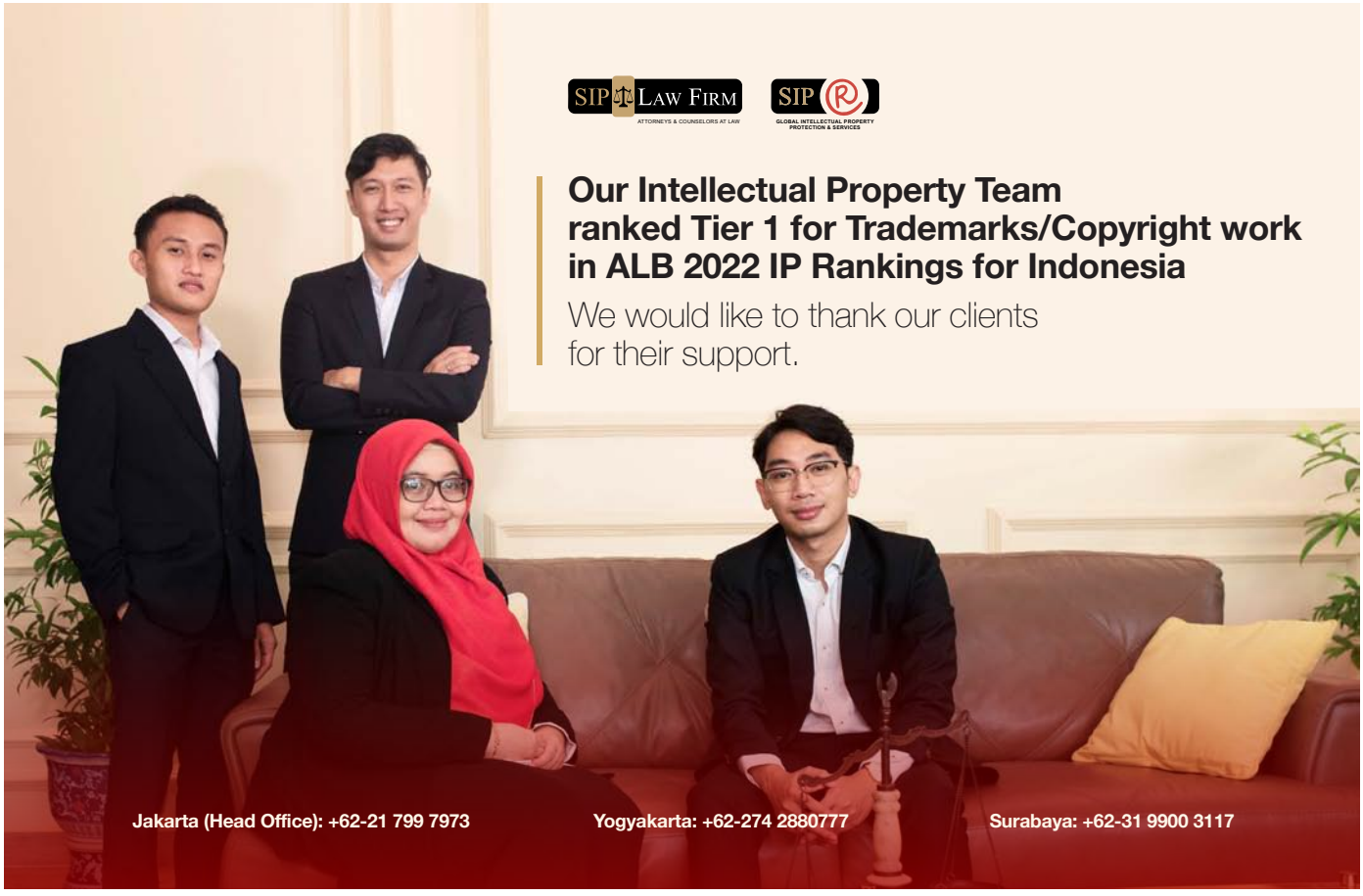
The IP Office of the Philippines reported that in 2021 it received the highest number yet of counterfeiting and piracy reports and complaints from consumers and right owners at 151, a 25 percent increase from the previous year. Popular social media and sales platforms were tagged in the alleged IP violations.

In IP applications, the Philippines is more trademark heavy. Last year, it received its highest number of PCT filings yet at 45, a 137 percent increase from the year ago. "With the continued reopening of the economy, we hope to encourage more local inventors and companies to seek global opportunities," the director general of the Philippine IP Office Rowel Barba said.

SINGAPORE

Singapore launched its IP Strategy 2030, its 10-year blueprint to strengthen its position as a global intangible assets and IP hub. This builds on its 2013 IP Hub Master Plan and recognizes the role of innovation, IA, and IP in driving economic growth.

The city-state also has a new copyright law. Updates include granting creators default ownership of certain types of commissioned works, setting a requirement for the identification



of creators and performers whenever their works or performances are used in public and outlawing the sales of devices and services used to access copyright-infringing work.

Since the establishment of Singapore's new GI registry, GI-related cases increased. One such case was handled by Bird & Bird for the Consortium for Prosecco DOC Wines, the consortium of producers and winemakers of the Italian sparkling wine, against opposition to the GI registration in Singapore by the Association of Australian wine producers. The case is the first GI dispute that reached the Singapore High Court and is set to be similarly the first to be heard by the Appellate Division of the Singapore High Court.

Tony Yeo, managing director of Drew & Napier's intellectual property practice, shares his view on some of the noteworthy development in the past year. "There have been so many changes in the IP landscape in Singapore. The Copyright Act 2021 came into force on Nov. 21, 2021. Major changes include that Collective Management Organisations must be licensed in order to continue operations (intended for further rounds of public consultation on CMOs in 2022 before these provisions come into force). The Intellectual Property (Amendment) Act 2022 came into force on Apr. 29, 2022, introducing changes to the Patents Act, the Trademarks Act, the Registered Designs Act, the Plant Varieties Protection Act, and the Geographical Indications Act 2014 to make it easier for businesses to protect and manage their intangible assets and intellectual property. The Intellectual Property (Dispute Resolution) Act 2019 partially came into force on Apr. 1, 2022. Most importantly, the recent changes amend several IP-related legislations, as well as the State Courts Act, to grant the High Court exclusive jurisdiction over most civil IP disputes, such as infringement of all forms of IP and passing off. The Supreme Court of Judicature (Intellectual Property) Rules 2022 came into force on Apr. 1, 2022. The effect of these SCJ(IP) Rules is to consolidate procedural rules for IP disputes." Yeo talks further about changes in IPOs, "On May 4, 2022, IP Digital Hub will replace IP2SG as IPOS' IP filing system. IPOS has introduced fee changes, which are effective from Apr. 29, 2022."

As for the impact of such developments, Yeo says, "The changes to the Copyright Act have been very substantial. In essence, it is a new statute. In time, practitioners will be familiarising themselves with the new provisions in the Copyright Act. We at Drew & Napier have studied these changes and are advising our clients on the implications to their businesses and interests. The changes from the Intellectual Property (Amendment) Act 2022, Intellectual Property (Dispute Resolution) Act 2019 and Supreme Court of Judicature (Intellectual Property) Rules 2022 will only be felt when they all come into force in April and the months to come. These changes are also substantial and will affect the enforcement of IP rights in Singapore. Again, we have studied and continue to study these changes and will be advising our clients on any impact on their enforcement rights. As for the official fee changes at IPOS, we do not expect much impact as the changes are not substantial. So far, we have not had any negative feedback from clients on the official fee changes."

When asked about the ways that Drew & Napier's IP practice sets itself apart in the market, Yeo explains, "Drew & Napier has the largest and most established Intellectual Property (IP) practice in Singapore. We have always maintained a dominant position in IP. Drew is a market leader in trademark, patent, and design filings, thanks to the long-time support from our clients who come from a wide spectrum of industries. Besides Singapore, we are also able to assist our clients with IP filings throughout Southeast Asia through our Drewmarks offices in the region. We have also been singled out for our in-depth experience in contentious IP matters and our lawyers are regularly instructed in high profile matters. As Drew is a full-practice law firm, we are also able to tap on the expertise of our colleagues from the other areas of specialisation, if required. In short, we present a holistic experience to our clients which completely addresses all their needs when they come to us."

SOUTH KOREA

South Korea kept for the second year its fourth top ranking in global PCT applications in 2021. Despite the pandemic, it registered the highest rate of increase at 3.2 percent in total global patent applications among the top five countries, China, the U.S., Japan, and Germany.

Patent cases in pharmaceuticals were some of the biggest cases heard by the courts last year. One of these cases was the Supreme Court appeal by Tier

Image: Tapati Rinchumrus/Shutterstock.com

1 firm Kim & Chang for Bristol-Myers Squibb for a patent on the drug apixaban in an invalidation filed by generic companies. In an April 2021 decision, the high court reversed the decision of the lower court and found the patent inventive and valid. "We expect this decision to significantly impact how selection inventions can be patented and enforced in Korea, affecting not only the pharmaceutical field but various other industries," said the law firm.

On the noteworthy developments in South Korea in the past year, Jong Seon CHOI, head of DR & AJU's Intellectual Property PG says that, "The Unfair Competition Prevention and Trade Secret Protection Act was amended to introduce an enhanced damages system, which allows the court to determine the number of damages pertaining to intentional infringement on trade secrets and misappropriation of ideas within the scope of three times the original amount, and add unfair use of unstructured data not being kept confidential and unauthorized use of distinctive signs of celebrities to the scope of acts of unfair competition. These amendments strengthened the law as a protective device for victims of acts of unfair competition."

On the impact of such amendments, CHOI explains: "We have expertise in unfair competition prevention with our accumulated experiences in the field. We are able to provide more satisfactory infringement prevention and damage recovery services to clients in line with the strengthening trend of unfair competition prevention."

When asked about the ways that the firm sets itself apart in the market, CHOI says, "Our firm has an internal Data Science Lab, which provides specialized services in forensics, big data, MyData, and metaverse. This allows us to provide tailored solutions to a wide range of IP cases."

TAIWAN

In 2021, Taiwan's overall patent applications increased by 1 percent to 72,613 cases. Invention patent applications grew year-on-year by 5 percent and with the number of resident applications at 19,547 reaching the highest on record since 2014. "This was due to a 6 percent rise in the number of applications by corporations, with those filed by large enterprises alone increasing by 9 percent," said its IP office. TSMC was the top domestic applicant for invention, utility model, and design patents, with a total of 1,950 applications filed. The company has held on to its lead for the sixth consecutive year now.

The total number of trademark applications at 95,917 cases were filed—the highest number recorded ever since TIPO was founded in 1999.

METHODOLOGY

OUR RESEARCH

- The research covers the period spanning from February 2021 to February 2022. 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

THAILAND

In Thailand's patent filings, Tier 1 firm Tilleke Gibbins which handles prosecution work for a leading Thai university observed an increase in the number of Thai universities and professors collaborating with private investors to create and commercialize innovations. "In turn, these help boost the university's national, regional, and global rankings," it said.

Among companies, Tier 1 firm Backer McKenzie secured a favourable decision for a client from the IP & IT Court which agreed with its argument that a mark can contain an invented word which does not lead consumers to immediately understand the nature of the applied goods and, when used with the device, can allow consumers to distinguish goods under the mark from those of others.

Most law firms also got their hands dirty in IP enforcement actions. Based on its enforcement statistics, the Royal Thai police had 1,381 raids, with 920 related to trademark infringement. Customs seizures reached 484.

VIETNAM

Last year, the IP Office of Vietnam made an unprecedented move to cut by 50 percent the industrial property administration fee for a limited period and implemented automatic extension on expiring procedures such as renewal, submission of supplementary documents and responding to decisions and notifications to provide support to those affected by the pandemic.

In 2021, based on WIPO data, international trademark applications from Vietnam slightly decreased to 137 from 175 the previous year. Its PCT filings increased to 35 in 2021 from 23 in 2020.

IP enforcement was one area that kept the top law firms busy last year. Tier 1 firm Vision Associates handled a successful seizure for the right owner of the LYN trademark owned by a Thai corporation Jaspal Company that has a subsidiary in Vietnam. Counterfeit products were found sold on a website (lyn.vn). Over a thousand counterfeit products were seized in warehouse raid.

SEEKING A BALANCE

In April, Thailand issued a ban against payments using cryptocurrencies and other digital assets that is set to go into effect this month. While the aim has been to maintain stability in financial markets, lawyers say Thailand's digital asset industry may grow more slowly due to the restrictions. **BY ELIZABETH BEATTIE**

Regulators across Asia have been cracking down on cryptocurrency in the past few months as they aim to reduce risks for the broader public. In April, for example, Singapore extended its cryptocurrency regulatory oversight when lawmakers approved the Financial Services and Markets Bill 2022. The law allows Singapore to exercise domestic regulatory oversight on digital token service providers that provide services overseas but operate from the city-state. (See Page 10 for a more detailed analysis).

Thailand has been making moves to reign in crypto use as well. In March, the country issued rules banning digital assets from being used to pay for goods and services from April 1. According to Reuters, the move was in line with earlier discussions between the Securities and Exchange Commission (SEC) and the Bank of Thailand (BOT) on a need to regulate such activity by digital asset business operators as it could impact the country's financial stability and overall economy.

Wongsakrit Khajangson, partner, Panupan Udomsuvannakul, counsel, Tantigar Hutamai, senior associate, and Kanchana Suchato and Shaswat Weeramongkolkul, associates, at Chandler MHM tell Asian Legal Business the new regulations were brought in to limit the widespread use of digital assets as a means of payment "by prohibiting a regulated digital asset business operator from undertaking the activities of operating and facilitating the use of digital assets for means of payment purposes."

The new regulations, the lawyers say, have come on the heels of growing domestic popularity of digital assets in Thailand's payment space.

"Some business operators have expanded their businesses to cover services relating to the settlement of payment of goods and services by digital assets," the lawyers say, noting operators have "provided systems to facilitate certain customers in accepting digital assets as means of payment for goods and services. These developments subsequently raised concerns from the regulatory authorities," they explain.

Regulatory authorities are concerned too, that widespread use of digital assets as a means of payment could impact the country's financial stability.

"The use of digital asset as a means of payment will create a unit of account or unit of pricing other than Thai baht which will increase the cost of economic activities, and reduce the efficiency in maintaining the country's economy, finance, and monetary policy transmission," say the lawyers.

A VARIETY OF RISKS

Another area of concern for regulators in Thailand is that widespread use of digital assets as a means of payment for the general public could trigger a variety of different types of risks. The Chandler MHM lawyers say these include, "a risk on the price fluctuation of digital assets, information technology risks with no specific standard or safety measures for payments that may results in cyber espionage, risks on suspension or delay in providing services, and risks due to the possibility of digital assets being used as a money laundering tool and terrorist financing."

As regulators focus on these potential risks and examine regulatory blind spots, their aim, say the lawyers, is to restrict business operators from using digital assets as a means of payment, "and prevent the impact on financial stability and overall economic systems due to the use of digital assets as a means of payment."

But while mitigating against risk is a priority for regulators globally, striking a good balance that allows for innovation and business attractiveness while protecting the public, is no easy task. Since the enactment of the new regulations, Thailand's regulators have faced a range of criticism from the public, Khajangson, Udomsuvannakul, Hutamai, Suchato and Weeramongkolkul say.

According to the public view there is a risk the recent development may hamper the cryptocurrency market. There is a concern that "Thailand's digital asset industry may grow more

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Cryptocurrency Controls and Prospective Regulations on Digital Assets in Thailand

Introduction

Digital assets (including cryptocurrency and digital tokens), currently governed by the Emergency Decree on Digital Asset Business B.E. 2561, have been adopted widely in Thailand both as a means of payment ("**MOP**") for goods and services, and investments. The dramatic growth of the use of digital assets has been a concern for the Thai authorities, particularly the use of digital assets as a MOP. From the authorities' point of view, the use of digital assets for such purpose may lead to various negative impacts, including cyber espionage and money laundering. Thus, on 18 March 2022, the Thai Securities and Exchange Commission issued a new Notification of the Capital Market Supervisory Board to regulate such matters (the "**New Regulation**"), which came into effect on 1 April 2022.

Overview of the Regulation

From the New Regulation's effective date, regulated digital asset business operators under the law will be prohibited from undertaking the activities of operating and facilitating the use of digital assets as a 'MOP' (the "**Prohibited Activities**"). The operators that engaged in Prohibited Activities must have ceased such activities before 30 April 2022.

Prohibited Activities include:

(1) advertisements, solicitation, or expressions of readiness to provide services to accept digital assets as MOP;
(2) providing systems or tools that facilitate the use digital assets as a MOP;
(3) providing digital-asset wallet services for the use of digital assets as a MOP;
(4) providing services of transferring Thai Baht from customers' accounts to account of others;
(5) providing services of transferring digital assets from customers' account to the account of others that are not the customer's account for the use of digital assets as a MOP; and
(6) any other services having the characteristics of supporting the use of digital assets as a MOP.

If a digital asset operator discovers that their clients use their digital asset accounts for payments of goods and services, they must notify the customer of the misuse and violation of the terms of services of the operator. If such action continues, the digital asset operator must take actions against such customer (e.g., temporarily suspend services, cancel the services).

The enactment of the New Regulation requires a dramatic change in the relationship between digital asset business operators and their clients. Investors exploring operations in Thailand should be aware of how the New Regulations may impact their operations.

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slowly due to the harsh restrictions," note the lawyers.

"Additionally, some real estate developers have discontinued plans to accept digital assets as a means of payment for home purchases," they say.

But while there is interest in cryptocurrency, regulatory developments are only likely to impact a portion of the businesses market, the lawyers explain.

"Since the price of Bitcoin surged 2017, cryptocurrencies have attracted massive media attention that ultimately drove large number of Thai investors into investing in digital assets. Although entrepreneurs have expanded their business models to serve growing trends by collaborating with business operators to accept digital assets as means of payments, only a handful of Thai business operators and customers have used digital assets as a means of payment," they say.

"Cryptocurrency is used as an investment rather than a payment option in Thailand. The new regulation was implemented as a tool to stop the widespread use of digital assets as a means of payment but not the use of digital assets for investment purposes," they add.

LEGAL ISSUES

While the average consumer may not be significantly affected by the changes, lawyers say for business owners and operators in Thailand say that new regulatory developments may spell changes for relevant business operations as they take steps to become compliant with the changes. The changes are likely to affect those who provide goods and services that allow for payment using digital assets.

"This could create legal issues for business operators and their customers, which should be considered and tackled," Khajangson, Udomsuvannakul, Hutamai, Suchato and Weeramongkolkul say.

To avoid potential risks, and to ensure validity and legality of transactions, business operators should "revisit their operations and relevant agreements entered into or to be entered into with its customers," the lawyers note.

"Additionally, in cases the said commitment between the business operator and its customers have been established and are still effective on the effective date of the new regulation, advice and solutions on the possible consequences from failure to comply with such commitment should be sought," they add.

Despite authorities continuing to flesh out Thailand's regulatory framework, the work in this area is far from complete. While Chandler MHM lawyers say there have been "considerable developments on regulations surrounding digital assets in Thailand," many activities fall out of the scope of regulations and are not legally recognised under Thai laws, leading to some ambiguity.

Advising caution in such cases, the lawyers tell ALB that for those unsure, "proper consultation with local counsel is necessary to avoid any legal implications this uncertainty may cause."

ASIAN LEGAL BUSINESS

ASIA TOP 15 IN-HOUSE TEAMS 2022

The role of in-house teams has become more strategic over the course of the COVID-19 pandemic. The best ones are those that have demonstrated not just leadership and innovation, but also the ability to reshape themselves to better support their business in a changing world.

RANKING BY ASIAN LEGAL BUSINESS, TEXT BY ELIZABETH BEATTIE

ALB: We're seeing much discussion around the transformation of ways of working as a result of the pandemic, what is the biggest shift you have observed in your organisation and from your team?

Emi Takeda, managing director and Japan legal director, Accenture: We had been doing remote work even before the pandemic, thus shifting to full remote work in March 2020 was without major problems. However, we started to observe another issue caused by full remote work, which was the team's sense of belonging. For example, since the pandemic, even job interviews are being done via Teams, and after joining us, team orientation and new joiner training are also conducted virtually. As a result, the percentage of people who have never come into the office is gradually increasing. Therefore, in order to build a sense of belonging, we are now trying to shift to a hybrid working style. We are still experimenting, but we may set an office working day on a regular basis, and create more opportunities for team members to come into the office and meet colleagues.

Shogo Osaka, managing director, legal, North Pacific Region, FedEx Express: One of the biggest changes in our industry is the e-commerce boom. E-commerce has brought business growth and growing digitization for the customer. Our lawyers have to learn about the dynamic e-commerce business model and ecosystem so as to be able to identify potential issues, advise and propose solutions. One example is the FedEx Compatible and Alliance program which enables e-merchants to plug seamlessly into FedEx shipping solutions.

Damini Bhalla, general counsel, Zomato: It has undoubtedly been the shift to a hybrid workplace. Going completely virtual was a test for everyone, all the more for us since we take great pride in being a technology-first company. This was also a diligent time for everyone at Zomato since we were preparing to go public. All planning, collaborations and launch happened while working from home. This was also the first time that survival was core – not just for the business but for all our employees as well as the community. This was one war we didn't want to lose, and neither did we want to compromise on even one employee's wellbeing. This was possible with an employee taskforce built to help align resources for everyone at Zomato and their families. And we took this live to the community with our not-for-profit friends at Feeding India. In April 2020, Feeding India – our collaboration with Hunger Heroes - distributed 78 million meals to daily-wage earners across the length and breadth of the country. During the second wave of COVID-19, Feeding India was again the first to act. We were able to source over 9,000 oxygen concentrators and distributed them for free to government hospitals across the country. This helped save several lives during one of the worst humanitarian crises faced by India in recent times.

SUBMISSION BREAKDOWN

Country	Submissions	Winners
Hong Kong	10	2
Singapore	8	3
Japan	6	2
Korea	3	2
India	6	2
Indonesia	6	2
Philippines	2	1
Thailand	1	1
Total	42	15

Julie Prickett, legal and compliance development officer and Cindy Tong, general counsel and head of compliance, AXA Asia & Africa: The pandemic has accelerated thinking around ways of working – something that we, at AXA were already doing. In our

case, we have fully implemented what we call Smart Working, which is aimed at creating a working culture that maximizes our potential, while also improving our wellbeing. In business-as-usual mode, employees can work two days a week remotely and for the other three come together in the office to ensure we all still have those important spontaneous exchanges and can build on relationships and team cohesion. We are very proud of how well we have adapted, and employees really appreciate the flexibility as this style of working maximizes our energy, productivity, collaboration, creativity, technology and individual wellbeing.

For the legal and compliance teams we have seen an increase in leveraging the use of technology coupled with even more agility. We have integrated into our way of working, changes made within the industry which are particularly focused on process digitalisation such as electronic filings, virtual conferences, and new working platforms. We have also moved further toward being paperless which is an important contribution toward going green.

Rose Kong, chief legal officer, RGE: Our experiences during the pandemic reaffirmed our decade-long digital transformation strategy and commitment to continuous improvement, which has allowed RGE to operate, adapt, remain competitive and grow in the resource industries we operate in.

ALB: In-house teams are increasingly tasked with doing more with less and maintaining efficiency. How do you mitigate burnout?

Prickett and Tong: First is to create a workplace environment that supports employee well-being. AXA has a strong focus on mental health and recently published the second edition of its study on Mind Health and Well-Being. In Asia, the study was campaigned as Fit to Flourish to offer in-depth research on the building blocks of mental well-being and identified ten skills that can help people thrive in their daily lives. The campaign was modified for employees as a mental health assessment linked to provide individual personalized reports to each employee with guidance on how to improve. We have introduced a raft of initiatives that included ramping up staff health benefits during the pandemic, ensuring all markets in Asia have employee assistance programmes in place, and developing a guide for employers to support the mental health of their people. Having all of this in place really provides the teams with a great deal of comfort and as leaders, we encourage empathy and compassion.

Second, is to look at the way we work by finding avenues to be efficient as well as strategic. We really want the teams to focus on the high-value topics that are important for the business and create more impact. These are also more interesting for the teams and give a higher sense of employee satisfaction. This prioritization approach accompanied by automating lower-value tasks and our Smart Working approach, all help at promoting individual well-being.

Osaka: It is important to build and maintain a safe place for the team where they can seek help across the regions and functions. In order to deepen the personal connections among the members located in different countries, my team is holding monthly check-in video meetings to just chat about non-work topics such as food, books, movies and hobbies.

We also continue to reduce the workload itself by adopting a more streamlined process, automating repetitive tasks and promoting internal customer self-help with standardized documents and procedures.

Takeda: We sense it is harder than before to capture signs of stress, or the troubles team members may be facing, in this fully remote working environment. There is no one size fit all solution, but we take multiple measures to catch signs in advance, such as (i) having a regular one-on-one call between career counsellor and counselee to check on workload and any other issues; (ii) sharing status of each project and its workload with team members, (iii) shifting work among team members so that work volume of each members is more

ACCENTURE JAPAN
JAPAN

ASIAN DEVELOPMENT BANK
PHILIPPINES

AXA
HONG KONG

DIAGEO KOREA
KOREA

EQUINIX
SINGAPORE

FEDEX EXPRESS
HONG KONG

FLIPKART GROUP
INDIA

GOJEK
SINGAPORE

IBM JAPAN
JAPAN

MAYBANK INDONESIA
INDONESIA

NWP RETAIL
INDONESIA

PTT
THAILAND

RGE
SINGAPORE

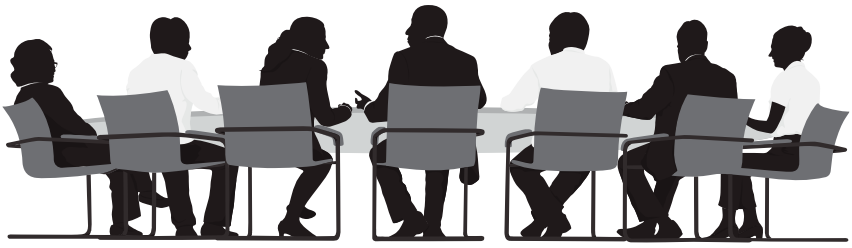
SAMSUNG SDS
KOREA

ZOMATO
INDIA

equal; (iv) proactively sharing knowledge in special areas (such as IP, AI, Security, M&A), in order to prevent a situation where certain members could monopolise this area of work; (v) for large deals which require intensive workload, assigning two members so that they can share workload and provide backup when another member takes time off. We also encourage members to take long holidays (ideally more than a week), and make sure they are not checking emails or responding to these during time off.

Bhalla: This statement holds absolutely true for Zomato. Specifically, the dynamic business landscape that Zomato operates in requires the team to take calls on nuanced legal propositions within a limited time. This necessitates a team which has diverse experience. Accordingly, the team consists of lawyers who have experience in multiple fields, including investment, e-commerce, fintech, commercial, litigation and real estate which results in a lean but efficient team. Also, as a general counsel, I spend a lot of time in strategy meetings with the team which make it easier for them to function and efficiently apply their interests and experience. In addition to the above, as an organisation, Zomato truly believes that a person performs better professionally if they have a conducive environment to professional as well as personal goals. The hybrid work culture actually makes it easier for the team to manage their personal life while having an active professional life. This has helped reduce burnout in the team substantially.

Kong: There is no formulaic way to prevent burnout in the team. As department head, I have to understand the personalities and needs of each individual in my team whilst managing them in a consistent yet equitable manner. I have to remain open to and aware of the needs of each contributor. One approach I have adopted is to appropriately apply a hybrid work arrangement and also offer part-time work to staff based on their needs. Camaraderie goes a long way to alleviating burnout. We, therefore, encourage a lot of teamwork and working together. Members of RGE's legal teamwork in a buddy system, which builds our communal spirit, sense of shared purpose and ownership.



METHODOLOGY

- **Team's significant achievements**
- **Involvement in enhancing the department's operational efficiency and business development**
- **Team's contribution towards quality and innovative internal transactional work, new value-added initiatives, embracing change through innovative solutions**
- **Arbitrations/lawsuits won**
- **Deals completed which increased the organisation's reputation and profit**
- **Other accomplishments/activities**

ALB: How do you balance strategic big picture work with the day-to-day demands of the role?

Bhalla: All day-to-day demands contribute to the strategic big picture - otherwise the "always-on" would not have to always be on. Every task, no matter how small, contributes to getting a step closer to the larger goal. I spend time with teams and department heads across Zomato to ensure our line of sight towards the company's larger goal is enabled through each corresponding task or challenge we take on.

Takeda: It can be easy to be undermined by day-to-day demands, and many people may not be able to see the strategic big picture. However, I believe having a strategic big picture is very important to understand the meaning and importance of day-to-day work. I try to invest about 20 percent of my time in new and creative things, such as thinking about and understanding the big picture, and learning in new areas. I would like everyone, even junior members, to have a strategic big picture perspective. By doing so, we can build ownership of what we are doing and start thinking positively and proactively about what steps are necessary next and how we can contribute.

Prickett and Tong: We are incredibly lucky to have wonderful teams whom we can rely upon not only to do the day-to-day work, but also to exchange with on strategic topics. It is important to have diverse viewpoints which assist with working through the big picture. Additionally, setting aside time in your agenda to do the real thinking is key, as well as being quite strict in managing and prioritizing your time. Finally, keep a learning mindset and be curious as it is imperative to read and learn more broadly to spur innovative thinking.

Osaka: Both the strategic work and the baseline work are equally important to support the business in a sustainable and impactful way. We need to maintain a good fit-for-purpose organization design to optimize the team's functionality and capacity. For example, my team currently assigns each geographical responsibility to a lawyer and a paralegal. This allows the pair to divide their focuses between the strategic work and the baseline work, handle work efficiently, support each other and upscale appropriately.

Kong: Supporting the RGE Group, which operates in the heart of the global bioeconomy, I have to be very clear in our vision, mission, core values and goals. RGE operates in complex industries, across multiple jurisdictions, geographies, legal and regulatory environments, so I have to have clarity of mind to flex between strategic and tactical demands so as to deftly and effectively steer the enterprise, the business groups, the functions and day to day work.

Image: Rawpixel.com/Shutterstock.com

Gender diversity among lawyers in Japan

Akiko Yamakawa (AY): Congratulations for being ranked in the Asia's Top 15 In-house Teams. Vanguard Lawyers Tokyo (Vanguard) has had the pleasure of working very closely with your team, and we are very excited with the news. I would like to take this opportunity to discuss gender diversity among Japan qualified (*bengoshi*) lawyers in Japan. The percentage of female lawyers is currently around 19%, which I find shockingly low. Can you tell us what your team looks like, and what you are doing to enhance gender equality?

Emi Takeda (ET): Thank you! Inclusion and diversity are fundamental to our culture and core values of fostering an innovative, collaborative and high-energy work environment, and so we have been actively working to achieve these goals. Within the Japan Legal team, we have achieved a male to female ratio of 50:50. Also 37% of the management level within our team is female, and I lead the team.

AY: That is impressive! How have you been able to develop such gender diversity within your team?

ET: Accenture has created several initiatives for legal globally. One of these initiatives is the implementation of the Mansfield Rule which has been very helpful in achieving our diversity and inclusion goals.

AY: Could you clarify the Mansfield rule for me?

ET: Sure. The Mansfield Rule actually was one of the winning ideas from the 2016 Women in Law Hackathon. The Mansfield Rule creates guidelines and measurements for developing and promoting diversity with the legal field. Within Accenture whenever there is an opening such as a new job opening, an open leadership position, an available promotion, or a development opportunity, we require that 50% of the applicants be of a diverse background. In other words, we want to make sure that at least 50% of the pool of candidates is not homogenous.

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AY: And this diversity includes not only women, but other diverse backgrounds as well?

ET: Correct. Women are of course part of the diverse candidate pool, but diversity could also extend to other groups such as ethnic minorities, self-identified LGBTQ+, and persons with disabilities. By using the Mansfield Rule, Accenture Japan Legal has been able to diversify the candidate pool which has allowed us to obtain such gender diversity in Japan despite the low numbers of practicing female attorneys in general in Japan.

AY: What are some of those other initiatives at Accenture Legal?

ET: Some of the other initiatives include measuring leadership expectations and having outside counsel diversity.

AY: What do you mean by measuring leadership expectations?

ET: At Accenture, every Legal Managing Director is required to be accountable for fostering inclusion and diversity. In practice this means that every Legal Managing Director is required to come up with and support the advancement of at least one inclusion and diversity action to help promote inclusion and diversity within the company. This initiative ensures that inclusion and diversity are not just something that "we would like to have but will get around to when we have time", but rather the initiative creates the requirement for action. Without action goals cannot be achieved.

AY: You also mentioned that Accenture expects outside counsel diversity. What does this mean?

ET: This means that Accenture Legal does not only value promoting diversity and inclusion from within, but also externally as well. We want to lead by example. So, when we work with outside counsel we also look for diversity and inclusion as well, and we want to signal to firms that we work with that we value diversity within their firms as well. I believe that your firm, Vanguard, has been trying to achieve diversity. Could you tell me what your ratio of male to female attorneys is?

AY: At Vanguard, we have three partners two of whom are men and then me as a woman partner. We also currently have 10 associates and of those 10, 4 associates are women, and 6 associates are men. We are making it a priority to further enhance diversity, with particular focus on making sure that we have a diverse pool of future partner candidates.

ET: Vanguard is a wonderful example of the type of outside counsel that we want to work with. Your firm not only has female attorneys at the associate level, but also at the partner level. By choosing to work with outside counsel that also prioritizes diversity, we hope to signal to the industry that this is important, and hopefully down the road, this also means that more women in Japan feel empowered to go into the area of law.

AY: I couldn't agree more. I truly appreciate all of the insights you have provided showing how Accenture is striving to help achieve gender diversity in the workplace in Japan.

OUTBOUND CHALLENGES

As Japanese companies continue to shift their business models from export-oriented domestic production to FDI-driven overseas production, Japan has become one of the world's largest sources of outbound investment. Lawyers assisting Japanese companies in their forays into Asia and the Middle East talk about both the opportunities and risks in these regions. **BY ASIAN LEGAL BUSINESS**

The global pandemic may have slowed down Japanese companies' plans to invest overseas, but as the COVID threat recedes, the outbound push is set to resume in earnest. According to a PwC report, 65 percent of Japanese companies are seeking opportunities abroad for their medium-term growth, with 54 percent planning to reinforce or expand their overseas businesses.

Junzaburo Kiuchi, managing partner, and Dan Matsuda, partner at EY Law, says that while the U.S. continues to be the top country for acquisitions and expansions by Japanese clients, other popular places include western Europe, China, Australia, Southeast Asia, and India.

Another high-growth region drawing hundreds of Japanese companies is the Middle East. Christopher Gunson, partner at the Dubai office of Amereller, says that there are about 500 Japanese companies with a presence in the United Arab Emirates or Saudi Arabia. Many companies have been drawn to set up their regional headquarters in Dubai thanks to its geographical convenience.

"Dubai is a hub for not just the Gulf and the Middle East, but the broader region, and many major multinationals cover as many as 80 countries from a Dubai regional headquarters (all of Africa, Turkey, Pakistan, Central Asia, the Caucasus, since 2022 some companies cover Russia and Belarus from the UAE)," notes Gunson. In addition, Dubai's zero income tax and other low tax regimes also are an advantage.

Also, major industries such as oil and gas in the Middle East are appealing to Japanese companies. "Many companies in the oil and gas sector are present in Saudi Arabia, Qatar, Abu Dhabi, and other countries that are major hydrocarbon producers," says Gunson.

Close to the Middle East is India, which has also become a popular destination for Japanese companies.

Gaurav Dani, senior and founding partner, and Saurav Kumar, partner, at IndusLaw, say that the primary sectors Japanese investors have invested in India are automobile and auto components, electronics system design and manufacturing, consumer goods, and chemicals.

Given the rise of the green economy, some new sectors have also seen investment opportunities, such as green energy, digital economy, textiles, and electric vehicles.

With the spurt of innovation and a growing start-up culture in India, Japanese investments have increased multi-fold in Indian start-ups.

"In particular, Japanese private equity and venture capital funds have been investing in technology and communications, health-tech, fintech, mobility sectors," say Dani and Kumar.

DEALING WITH COMPLEXITIES

However, the complexities of local markets have also brought some pain points for such business expansion plans. "This is always a big challenge when clients enter a new market," note Kiuchi and Matsuda. "Differences in business practices and legal systems, speed and complexity, negotiation dynamics, and post-merger integration and governance" have always been the challenges for Japanese clients."

Gunson echoes this. "Each region has its challenges and characteristics, and the Middle East is a very different environment from many other regions," he says, adding that the biggest area of support that Japanese companies require in the Middle East concerns distribution and agency agreements. His law firm deals with issues regarding distribution, agreements, and related issues.

"Given the high per capita GDP and high income of the Gulf region, many businesses in the automotive to watches industry have the region as a major market, per capita spending

Image: Vit-Mar/Shutterstock.com

on automotive is reported to be more than 20x per capita that of India," says Gunson.

When Japanese companies take the area as a target market for high-end goods, they are selling products through plenty of distributors, with different distributors for each country, product, and brand.

"One Japanese company could have an office in Dubai and looking at more than 100 distributors, and even to parts of the world. There are some Japanese companies which have set up an office in Dubai and cover more than 80 countries and that include a lot of Africa, Central Asia, sometimes even India and sometimes even Eastern Europe and the CIS," said Gunson.

Gunson added when expanding the business, the direct investment, or pure M&A, which means acquiring 100 percent of the shares of a company is not common in the Middle East. The area is both geographically and culturally far from Japan. Instead, setting up joint ventures is usually the approach to expanding their businesses.

"That could be a so-called 'greenfield' set-up. We set up a new company with a Japanese company with a majority of 51 percent ownership, and 49 percent is controlled by some of the local investors," says Gunson.

For India, challenges lie in aspects such as infrastructure, legal compliance, and land acquisition.

In the case of infrastructure, there is a dearth of developed and technologically advanced infrastructural avenues in India. But Dani and Kumar notes that the government has put effort to address such shortcomings by developing Japanese Industrial Townships (JITs), which provide various incentives to provide a congenial environment for Japanese investments.

The legal compliance for acquiring an entity requires registrations and permits from multiple authorities, which could be time-consuming. "To resolve this, the government has undertaken initiatives such as updating its incorporation form for providing a single-window clearance for several registrations," say Dani and Kumar.

Land acquisition is another concern in India. "For a foreign investor, land acquisition in India can be arduous. For instance, agricultural land cannot be used for setting up a factory, unless consent for changing its land-use pattern is obtained from authorities," they add. "Further, acquisition of private land can also be challenging due to issues like land fragmentation and compliance with local land ceiling laws."

Therefore, industrial parks have been introduced, which provide land ready for industrial use and are equipped with basic infrastructure amenities like power, water, and internal roads.

India also has a requirement that FDI can be made only to the extent of the percentage as specified in the FDI policy for the relevant sectors.

"Such investments can be made either through the automatic route (where no approval is required from the government) or the government route (where prior approval of the government is required)," say Dani and Kumar.

In addition, when investing in specific industries, companies may need to comply with specific laws requiring seeking licenses and registrations. Therefore, a company needs to plan holistically when making an investment decision.

KEY TAKEAWAYS

In the era of globalisation, governments are trying to attract Japanese companies to expand in their market, and to exchange business and ideas. Lawyers have their own two cents about how Japanese companies should approach local markets.

Dani and Kumar of IndusLaw suggest that Japanese investors consider the benefits offered in the form of incentives when they are making investment decisions and structuring their transactions.

In recent years, the Indian government has undertaken various initiatives to improve the investment regime in India, which includes "offering a range of fiscal incentives and easing compliance issues."

In addition, the government "is working with t Japan International Cooperation Agency, a government body of Japan, which provides assistance with loans and grants as well as technical cooperation, for various projects in India across sectors such as healthcare, transportation, power, energy," say Dani and Kumar.

Gunson of Amereller says an appropriate approach to due diligence and working with local partners should be priorities for Japanese clients who wish to seize the opportunities in the Middle East area.

Kiuchi and Matsuda say that picking the right advisors is vital. "Choose advisors who are not only good at their area of expertise but also good at collaborating with other advisors so that the client can make informed decisions promptly, manage its internal stakeholders' expectations at the right level, have upbeat conversations with the other side to create a momentum, and foresee and plan for the post-merger phases," they say.

When making a deal, try to "manage internal stakeholders' expectation and allow room for flexibilities as to the pricing, timing, structuring and other terms and conditions of the deal," they add. "Try to make them ready to be called upon at a short notice to make key decisions."

Also, making it clear to the other party how serious one is a key factor in closing a deal. "Demonstrating your seriousness to the other side by having conversations frequently, bringing senior-level people and advisors to key meetings, keeping the other side warm even if you are facing an internal delay," said Kiuchi and Matsuda.

ALB Japan In-House Legal Summit 2022 will be held in **Tokyo** on **June 1 & 2**, and speakers from organisations such as Amereller, IndusLaw and EY Law will be there to share their expertise. To find out more, visit **www.legalbusinessonline.com/node/82412**.

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AGENDA AT A GLANCE

- Redefining the GC Role - Insights and Major Trends [Session conducted in English]
- How Can the Modern Day GC Maximize the Value of Legal Operations [Session conducted in Japanese]
- Compliance Risk Hot Spots for 2022 [Session conducted in English]
- Surviving the ESG Tsunami - New Challenges for the GC in Japan [Session conducted in English]
- Latest Update on Business Law in the UAE and Saudi Arabia [Session conducted in Japanese]
- Looking Ahead: Cross border M&A Trends [Session conducted in English]

**Please note that the agenda is subject to change*

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OFFSHORE CLIENT CHOICE LIST 2022

In its annual list, ALB highlights some of Asia's distinguished lawyers working with offshore law firms. These legal professionals have outperformed the peers and earned wide recognition from their clients with high-quality advice and support. The lawyers in the list were selected based on client recommendations sent directly to ALB. Some lawyers have been profiled.

LIST BY ASIAN LEGAL BUSINESS, TEXT BY BINGQING WANG

VINCENT CHAN
APPLEBY, HONG KONG

NICHOLAS DAVIES
WALKERS, HONG KONG

JAMES GADEN
WALKERS, HONG KONG

NORMAN HAU
CONYERS, HONG KONG

KATE HODSON
OGIER, HONG KONG

JEREMY LIGHTFOOT
CAREY OLSEN, HONG KONG

PAUL LIM
CONYERS, HONG KONG

JENNY NIP
CAMPBELLS, HONG KONG

JAMES NOBLE
CAREY OLSEN, SINGAPORE

ANTHONY OAKES
OGIER, HONG KONG

NICHOLAS PLOWMAN
OGIER, HONG KONG

SAM ROBERTSON
FORBES HARE, SINGAPORE

DANIELLE ROMAN
MOURANT OZANNES, HONG KONG

ROBERT SIT
TRAVERS THORP ALBERGA, HONG KONG

PETER VAS
LOEB SMITH, HONG KONG

KATE HODSON

partner and head of ESG (legal), Ogier

As the head of ESG (Legal) of Ogier, Hodson advises GPs and fund managers on the establishment and structuring of private equity funds and hedge funds as well as advising on their fund investments.

Hodson, who has more than 14 years' experience, joined the Ogier partnership in 2015 when she was 34, becoming the youngest partner in the firm and the first female partner in the Hong Kong office. She was appointed to lead the ESG (Legal) practice upon her competition of Masters in Energy and Environmental Law from the Chinese University of Hong Kong.

Hodson is believed to be the only private practice investment funds lawyer in Asia with environment law expertise and launched the first of its kind Sustainable Investing and Impact Funds practice for an offshore law firm at Ogier. She is also one of a small number of offshore lawyers working in the Japan market.

She represented a large number of sponsors and fund managers as well as their onshore counsel on fund formation and capital raising advice, including advising WWF-Hong Kong on the restructuring and updating of the fund legal documents for the Climate Impact Asia Fund SP; and advising on the launch of 8F Aquaculture Fund Southeast Asia LP (Fund) closed with capital commitments of $61 million for the first close with a target total capital commitments of $120 million.

Clients of Hodson include investment houses, high-profile fund managers and family offices, such as RRJ Capital, Nomura Bank (Luxembourg) S.A, Daiwa Asset Management, Grand Alliance Asset Management, Mirae Asset Global Investments (Hong Kong) Limited.

"Kate is technically excellent, so clever and commercially minded. She is so fast at grasping complex issues and practically finding solutions," says a client. Adds praises her as being "very commercially practical, with a strong associate bench, quick turnaround time, and good negotiation skills."

JEREMY LIGHTFOOT

partner, Carey Olsen

Lightfoot joined Carey Olsen in February 2020 and has more than 15 years of legal experience. As the head of the dispute resolution and litigation practice in the firm's Hong Kong office, his practice is focused on high-value and complex commercial and corporate litigation, insolvency and restructuring matters under the laws of Bermuda, the British Virgin Islands and the Cayman Islands.

Prior to joining Carey Olsen, Lightfoot was based in the British Virgin Islands with another offshore law firm before relocating in 2017 to lead its litigation, insolvency and restructuring practice in Hong Kong. Before moving offshore, he practiced for a decade as a barrister at a leading chamber in London.

Among his most noteworthy work, Lightfoot acted for a key shareholder in a high-value (more than $300 million) and high-profile shareholder dispute concerning a Cayman Islands-registered company involving some of the largest allegations of fraud ever made in respect of a HKSE-listed company. He also represented the successful claimant in securing enforcement in the British Virgin Islands of a PRC judgment, which is believed to be the second reported time that such result has been achieved.

During the period of 2020 to 2021, Lightfoot has acted as lead partner for the majority shareholders in a complex dispute with proceedings in three jurisdictions regarding control of a Cayman incorporated company with a valuation of $40 billion.

Lightfoot was listed by ALB in 2021 as one of the Top 15 Offshore Litigators in Asia in consideration of his outstanding performance in several notable cases.

"Jeremy is one of the most professional lawyers I've ever worked with. We can trust him with many difficult problems," says a client. Another says Lightfoot has "excellent knowledge of the law, he anticipates what the next moves of the opponents will be, thus he can guide us properly and bring successful results."

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CONYERS

A Q&A with Norman Hau, one of ALB Asia's Offshore Client Choice List

Hau has spent almost 20 years in the legal industry. He joined Conyers in 2012. Hau is a seasoned commercial litigator with extensive experience in restructuring and insolvency matters and shareholders disputes in Hong Kong, Bermuda, the British Virgin Islands and Cayman Islands. He has also been recognised in the 2020 Edition of IFLR1000, named among the "Top 15 Offshore Litigators 2021" by Asian Legal Business Magazine, and "The A-List Top 50 Offshore Lawyers 2022" by Asia Business Law Journal.

Can you tell me about your notable work in the past year?

Some of the significant disputes that I have advised on in the past year include: acting for Fang Holdings Limited (NYSE: SFUN) a leading real estate Internet portal in China in defending a winding up petition on the just and equitable grounds and an application for appointment of provisional liquidators in the Cayman Grand Court; acting for the minority shareholder claimants in King Bun Limited & others v. Lau Man Sang, James & others (BVI Commercial Court) in obtaining a judgment on liability (dated 11 August 2021) against its Hong Kong based directors for damages caused to Vanway International Group Limited (BVI company) as a result of breaches of fiduciary duties, fraud on the minority and a grossly undervalued sale of its asset to its majority shareholder; acting for displaced directors in Re Titan Petrochemicals Group Limited in their appeal against a winding up order made against the company in Bermuda based on the defence that the petitioning debt arose out of a fraudulent scheme orchestrated by former management of the Company.

I also continue to be active in the debt restructuring space. I advised various Hong Kong listed companies in their debt restructuring/liquidation proceedings in offshore jurisdictions, including GTI Holdings Limited (3344), Silver Base Group Holdings Limited (0886), Sun Cheong Creative Development Holdings Limited (1781), China Animal Healthcare Limited (0940) and Moody Technology Holdings Limited (1400).

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What are some of the attributes that clients look for in their offshore lawyers?

The ability and determination to navigate through any given complex legal situation involving offshore laws in an effective manner.

What motto or philosophy do you live by?

"Those who cannot change their minds cannot change anything." George Bernard Shaw

JENNY NIP

partner and head of PRC Group, Campbells

As the Hong Kong-based Head of PRC Group at Campbells, Nip is dedicated to all areas of corporate transactions, including capital market transactions, M&A, take-private deals, downstream private equity financing and investment deals. Nip has represented issuers, arrangers and investors in pre-IPO financings and listings of BVI and Cayman Islands companies on stock exchanges around the globe. IPOs she has advised on include Mediwelcome Healthcare, Keymed Biosciences and UNQ Holdings Limited on the Hong Kong Stock Exchange; and Hywin Holdings and Infobird on NASDAQ. She has also been closely involved in equity and debt transactions, including the Series A financing for HT Flying Car, Series D financing for Rainmed Medical Limited, bond issuance and listings of XD and Huafa 2021 I Company Limited on the Hong Kong Stock Exchange, and the acquisition of Smithfield Foods by Shuanghui Group.

Nip has been named on the ALB Offshore Client Choice list in 2016, 2019, 2020 and 2021, and featured as a Notable Mention in 2017. A few of her clients include New World Development Company Limited, Wharf (Holdings) Limited, Akeso, Peijia Medical Limited, Zhuhai Huafa Group, Hywin Holdings, XD, Mediwelcome Healthcare Management & Technology, Yonghe Medical Group, and Jiangxiaobai Holdings.

One client is quoted as saying: "She is quite familiar with Chinese clients and their way of thinking and handling things. She always makes efforts to address clients' concerns." Another adds: "In addition to her solid technical skills, she is also highly innovative and practical in terms of provision of legal solutions. She is also a very hard-working lawyer, reachable 24/7."

CONYERS

A Q&A with Paul Lim, one of ALB Asia's Offshore Client Choice List

Lim has spent 35 years in the legal industry. He joined Conyers in 2007. A corporate and commercial law specialist, he advises on capital markets, corporate, finance, mergers and acquisitions, mortgage backed securities transactions, MTN programmes, tender offers, consent solicitations, IPOs and pre-IPOs in the Hong Kong, London and the US exchanges involving Cayman Islands, Bermuda and British Virgin Islands offshore companies.

Can you tell me about your notable work in the past year?
Some of the significant matters that I have advised on include acting for Agile Group Holdings Limited on various debt capital transactions involving, amongst others, high yield Reg. S senior notes, green bonds, exchangeable bonds with complex cross border multi-jurisdiction third party security package and intercreditor arrangements; acting for Ebang International Holdings Inc. following its US listing and its follow on offers for sale of shares and share purchase warrants; acting for Kingsoft Cloud Holdings Limited on its pre- and post-merger structures and merger transaction.

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What are some of the attributes that clients look for in their offshore lawyers?
Expected attributes are responsiveness; managing expectations on deal flow; the ability to evaluate and provide creative and bespoke solutions to issues arising on transactions; and sound practical and commercial advice to achieve the desired result in a transaction.

What motto or philosophy do you live by?
"Made weak by time and fate, to strive, to seek, to find but not to yield."

JAMES NOBLE

partner and head of litigation, insolvency and restructuring, Asia, Carey Olsen

Noble, formerly the Singapore managing partner of another leading offshore firm, joined Carey Olsen in 2019 as its Asia head of the litigation, insolvency and restructuring team. Carey Olsen now has the largest offshore litigation team in Singapore.

A specialist in complex and high value shareholder litigation, asset recovery, cross-border enforcement and insolvency, Noble has over 20 years of experience advising on a broad spectrum of commercial, trust and estate disputes and private wealth matters.

Noble regularly acts in market-leading cases. He recently represented an ASX listed mining entity in ICC arbitration proceedings, as well as on a first-of-its-kind Part XIX application in the BVI. He has also represented major stakeholders in a worldwide dispute relating to the largest timber company in Malaysia. One of the appeals in the proceedings was recently heard in the Privy Council in London.

Caldicott Worldwide, KPMG, China Huarong International Holdings, China National Offshore Oil Corporation, Hillhouse Capital Management, Deutsche Bank, and Ernst & Young are some of his prominent clients.

Noble is the only litigator in Singapore to be admitted in both Cayman and BVI. He is also a registered Bermuda practitioner. Noble was named by ALB in its list of Offshore Client Choice lawyers of 2021. He was also recognised as one of ALB's Top 15 Offshore Litigators in Asia.

"James is an excellent lawyer who remains highly responsive and pragmatic in the most challenging circumstances," says a client. Another says he is "deeply experienced in offshore disputes, able to provide quick advice, and very astute on strategy."

ANTHONY OAKES

partner and head of banking & finance, Asia, Ogier

Oakes, who joined Ogier's Hong Kong office in January 2014 and became partner in 2015, is the head of finance practice in Asia, providing BVI and Cayman legal advice pertaining to financing transactions and restructuring. He has more than 27 years of experience.

Oakes has worked extensively on refinancing, schemes of arrangement, investor/shareholder rights and actions, bond restructurings, private equity, cross-border leveraged and acquisition financing transactions, M&A and IPO.

Since joining Ogier, Oakes has advised on several notable transactions, including assisting as BVI counsel to Contemporary Amperex Technology on its $1.5 billion debt offshore bond issuance, which was the largest US dollar bonds issuance made by a Chinese private enterprise and nominated in the Debt Market Deal of the Year(Premium category) at ALB China Law Awards 2021; and acting as Cayman Islands counsel in connection with a tender offer by Lenovo Perpetual Securities Limited for its outstanding $1 billion on 5.375 percent perpetual securities in the form of cumulative preferred shares, which also made the finalist in the Debt Market Deal of the Year (Premium category) at the ALB China Law Awards 2021.

Oakes' clients include world-renowned financial institutions and consulting firms, such as Credit Suisse, ICBCI and PwC. He is recognized as one of the leading lawyers in the related fields by multiple awards in the industry. He has been among the only few lawyers that have been featured in the ALB Offshore Client List for six consecutive years (2016-2021).

"Tony is a fine operator who is the perfect blend of attributes that any lawyer should have - empathy, perspective, care and conscientiousness," says a client. "Tony has been pivotal when we have faced a very difficult structure and his proposed approach facilitated the deal going ahead – for which our own clients were very grateful. He is also just a wonderful person, which matters."

NICHOLAS PLOWMAN

Hong Kong practice partner and head of Investment Funds - Asia, Ogier

Plowman, a founding member of Ogier's Hong Kong office, has more than sixteen years of experience working in the offshore legal sector in the region. Under his leadership, Ogier's Hong Kong office has grown to more than 120 people, including 62 in the legal team.

Plowman is widely regarded as one of Hong Kong's finest private equity, hedge fund and venture capital lawyers specializing in BVI and Cayman Islands law. Among some of his most significant cases in recent years, he advised his longstanding client LionRock Capital on its acquisition of a 31.05 percent share in Italian football club Inter Milan; advised TT Bond Partners on the establishment and structuring of joint venture arrangements in respect of the acquisition by Gopher Investments of Finalto from Playtech plc for $250 million; acted as BVI counsel to All-Stars Investment Cayman Limited in relation to the establishment and offering of a private equity fund raising vehicle investing in a $1.1 billion capital raising by Xiaomi Corporation by way of series F financing, which marked China's largest TMT deal of 2014 and the largest ever private placement of a China-based technology company.

Plowman has represented a number of high-profile fund managers in Asia, including Partners Capital, C Ventures, Janchor Partners, All Stars Investment Limited, Bosera Asset Management, Complus Asset Management, Lion Financial Group, Misaki Capital, RV Capital, and GCI Asset Management.

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

A client praises Plowman as being "incredibly collaborative and I know I am going to receive the best offshore advice in the market when I turn to Nick." Another adds that he "consistently delivers to the highest standard... collaborative, commercial and client -focused."

Q&A with Nicholas Plowman, Anthony Oakes and Kate Hodson - who feature on ALB Asia's Offshore Client Choice List

1

2

3

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*2 - **Anthony Oakes**, Partner*
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*3 - **Kate Hodson**, Partner and Head of ESG (Legal)*
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Nicholas Plowman

Can you tell me about your notable work in the past year?

We have been busy with a broad diet of investment funds work in both the Cayman Islands and BVI. With the recent advent of the private funds law in both jurisdictions, we have seen a number of single investment project vehicles being established, generally domiciled in the BVI. We have also seen a real rebound in crypto-related work structured through Cayman and BVI using Cayman foundations and BVI SPVs. We are also seeing the evolution of decentralised autonomous organisations (DAOs) in this space and the demand for Cayman vehicles to represent the legal personality for these organisations. We expect to continue to see the evolution of these types of blockchain arrangements in Asia, with Cayman and BVI being at the forefront as domiciles in this context.

What are some of the attributes that clients look for in their offshore lawyers?

An intimate knowledge of the law combined with genuine commerciality, so the client is getting the best outcome they possibly can. The best offshore lawyers don't advise in a vacuum and have to understand the onshore requirements in detail as well, working with onshore counsel to get the best result.

What motto or philosophy do you live by?

Enjoy what you do or you will suffer the consequences.

Anthony Oakes

Can you tell me about your notable work in the past year?

There continues to be a mixture of work – both new money deals and some downmarket aspects. The downmarket work has included liquidations, sales of assets of distressed clients and opportunistic mergers and acquisitions around distressed or undervalued assets. As the effects of Covid continue in Hong Kong, much of my focus has been internal – checking that colleagues and team members are well motivated and happy.

What are some of the attributes that clients look for in their offshore lawyers?

I think some of the main attributes are responsiveness, willingness to help and the ability to explain concepts clearly. I find that the ability to tailor responses, depending on the client, is also important. As offshore lawyers, we are lucky that many of our clients are knowledgeable and experienced, often being lawyers themselves. Accordingly, their questions will typically be quite specific – for example, how does Cayman/BVI law differ from, say, Hong Kong or English law, on a particular point. However, less experienced clients seem to appreciate it if you set out more background and colour in your response. Remaining calm and focussed is also helpful, closer relationships with clients are often forged when challenging issues arise.

What motto or philosophy do you live by?

I am currently reading the new autobiography of Billy Connolly, the famous Scottish comedian and actor. One of his philosophies that I like is, "Do what makes you happy, be what makes you happy." Finding what makes you happy is not always easy. However, if you are lucky enough to find it, then I think it is really worthwhile to follow through with it, even if others disapprove. Within Ogier, I have seen lawyers become happier just through pivoting their roles – whether it be having employer support to work remotely more often, joining an internal committee (in relation to diversity and inclusivity, or ESG, for example) or taking on some pro bono work.

Kate Hodson

Can you tell me about your notable work in the past year?

Demand in Asia for offshore investment fund structures (predominantly Cayman and BVI) has remained strong over the last year, despite headwinds arising from the challenges of the pandemic and competition from other onshore fund products. Notably, we have seen a rise in interest in BVI fund structures, particularly in the closed-ended context. Our work with funds focused on or incorporating sustainability themes into their investment strategies has really picked up over the last year and this topic is probably one of our most well attended webinars. Working with such clients has been particularly rewarding as Ogier is in a position to provide a value-add which is unique in the offshore context. Namely, combining sustainability expertise with legal expertise and backed up by our ability to advise on European sustainability related regulations given our Luxembourg offering (which is soon to be further enhanced following our merger with Leman Solicitors in Ireland).

What are some of the attributes that clients look for in their offshore lawyers?

Clients need lawyers who can adapt to the specific needs of that client. Lawyers that can spot potential issues, thereby helping to allay challenges down the line, as well as being creative in helping to solve problems. Giving to the point and commercial advice is also key. An approach I encourage my team to take is to put themselves in the shoes of the client; have we told them all they need to know, in a manner which is clear and concise, and in good time?

What motto or philosophy do you live by?

Don't do things by halves, and if you say you're going to do something, do it.

ROBERT SIT

counsel, Travers Thorp Alberga

Sit, who joined Travers Thorp Alberga following more than ten years of legal experience gained from both onshore and offshore law firms in Hong Kong and Australia, specializes in corporate law, capital markets, open-end and closed-end funds.

Sit is qualified to practice in multiple jurisdictions, including Australia (West Australia and New South Wales), New Zealand, Republic of Ireland, Hong Kong, England & Wales and the Greater Bay Area of the Mainland China (admission pending). He is also an expert in providing to-the-point solutions and versatile offshore legal advice to clients based in Mainland China with multilingual proficiency and in-depth knowledge of the market and business culture.

He has acted extensively on general corporate matters, including initial public offerings of shares of Cayman issuers on both Hong Kong Stock Exchange and New York Stock Exchange, M&A, joint venture formation and start-ups. Examples are acting for PFC Device (a listed Cayman company in Hong Kong) in connection with its privatization by way of scheme of arrangement; acting for Dafeng Port Heshun Technology Company Limited on the issuance of a credit enhance-guaranteed bond due 2024 backed by Bank of Jiangsu's Yangcheng Branch; and acting for the creditor and filing a winding up petition on behalf of the creditor in the Grand Court of the Cayman Islands against a Cayman company listed in Hong Kong.

Sit advises clients across a broad spectrum of industries, ranging from multi-national banks and financial institutions, asset management companies, to state-owned and privately-owned companies in mainland China and overseas, including AMTD IDEA Group and PFC Device Inc.

"Robert is responsive, practical and brings a commercial approach to matters," says a client. Adds another: "He knows what clients want and can always deal with issues in a simple and commercial way, even if the issues may not fall within his areas of expertise."

PETER VAS

partner, Loeb Smith Attorneys

Vas, who has been in the industry for around a decade, joined Loeb Smith in its Hong Kong office in 2020 with a focus on banking and finance, corporate and restructuring transactions.

Earlier in his career, Vas worked for a major U.S. firm in London, and then relocated to the Channel Islands to join an international offshore law firm. In 2015, he was seconded to Hong Kong and has practiced there ever since. During his time at Loeb Smith, he has been heavily involved in broadening the firm's presence in the banking and finance areas outside of its traditional strong areas of investment funds and blockchain technology transactions in Asia.

Vas has acted on some of the largest and most complex banking and financing and corporate and restructuring transactions in the Asian market. These have included providing BVI and Cayman Islands law advice in connection with China Vanke's participation in a consortium to take Global Logistic Properties private in a transaction valued at around $11.6 billion, which was Singapore's largest M&A deal on record and Asia's largest private equity buyout at the time; and providing offshore law advice to M&G and MetLife in connection with a 514-million-pound ($672 million) loan to refinance Dolphin Square, which involved more than 500 SPV companies.

Some of Vas' clients include Canada Pension Plan Investment Board, Caldera Pacific, China Shipbuilding Industry Corporation, China Vanke Co., Ltd., CTBC Bank Co., Ltd., ICBC, Ping An Bank Co., Ltd., Shanghai Pudong Development Bank Co., Ltd., and Citicorp International Limited.

"Peter is very practical and listens carefully to what is needed, and therefore able to provide pragmatic advice," says a client. "He is always available, which is exceptionally rare for offshore counsel." Another client calls him "consistently excellent."

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