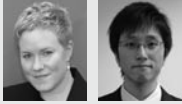


**HONG KONG**

## Hong Kong litigation guide



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Clifford Chance, Hong Kong**

**C L I F F O R D  
C H A N C E**

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**H**ong Kong is the international financial and commercial capital of Asia, benefiting from an excellent infrastructure and super efficient airport. Hong Kong is also a popular dispute resolution forum. It has retained its well-respected common law legal system and has a highly regarded legal profession and judiciary, as well as being a jurisdiction where parties can work in English. Recent reforms look set to improve the territory's reputation further.

In February 2000, a Working Party was appointed by the Chief Justice of Hong Kong with a mandate to: "...review the civil rules and procedures of the High Court and to recommend changes thereto with a view to ensuring and improving access to justice at reasonable cost and speed."

The Civil Justice Reform (CJR) legislation came into effect on April 2 2009 implementing piecemeal changes to Hong Kong's existing court rules and procedures. The aim of the reform is to improve the cost-effectiveness of the Hong Kong system of civil procedure, reduce its complexity and lessen the delays encountered in litigation, always subject to the fundamental requirements of procedural and substantive justice. The key feature of the CJR is the courts' duty to take a proactive approach in case management.

These reforms should serve to increase Hong Kong's attractiveness as a place for dispute resolution. Notably, following Hong Kong's handover to the People's Republic of China in 1997, Hong Kong was guaranteed a high degree of autonomy for 50 years as a Special Administrative Region of the PRC. Thus, Hong Kong continues to use a common law system based closely on the English common law system, and will do so until at least 2047.

Litigation advocacy in Hong Kong is largely undertaken by barristers, who enjoy unlimited rights of audience. Solicitors have limited rights of audience at present, although the Chief Justice has established a working party to consider granting full rights of audience to solicitors with the requisite experience.

Foreign judgments can be enforced in Hong Kong either by registration under statute or, if statutory registration is not applicable, under common law. Following the handover, reciprocity between Hong Kong and the UK no longer exists. As such, UK judgments can only be enforced in Hong Kong under common law.

The statutory registration procedure does, however, appear to remain available for judgments emanating from countries listed in the *Foreign Judgments (Reciprocal Enforcement) Order*, which has not been amended following the handover.

In respect of the enforcement of judgments between Hong Kong and the PRC, there has been a recent positive development: on July 14 2006, the Supreme People's Court of the PRC and the Government of the Hong Kong SAR entered into an arrangement for the reciprocal recog-

nitition and enforcement of judgments in civil and commercial matters. The arrangement came into effect on August 1 2008 and provides for the enforcement of PRC judgments in Hong Kong, and vice versa. To be eligible for enforcement, the judgment must be final and conclusive, enforceable in the place rendered, be given on or after August 1 2008 in connection with a written exclusive choice of court agreement and order the payment of a sum of money in a civil or commercial matter.

### Arbitration

Arbitration is popular in Hong Kong. The number of cases in which the Hong Kong International Arbitration Centre (HKIAC) was involved grew to a new high of 602 in 2008.

Arbitration in Hong Kong is governed by the *Arbitration Ordinance*, which provides for two distinct regimes: domestic and international. The significant difference between the two regimes is that the domestic regime provides the Hong Kong courts with additional powers, not available under the international regime, to intervene in and assist with the arbitration process. The international regime is based on the UNCITRAL *Model Law on International Commercial Arbitration* and follows the principle that the Hong Kong courts should support, but not interfere with, the arbitration process.

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Reform, however, is underway and a draft Arbitration Bill is expected to become law in 2009. The new Bill abolishes the distinction between domestic and international arbitrations and essentially applies the Model Law (with only necessary amendments) to all arbitrations in Hong Kong. By adopting the Model Law for all arbitrations in Hong Kong, the territory is bringing its entire arbitration regime in line with international best practice.

Hong Kong is a party to the 1958 New York Convention by virtue of the PRC's accession on its behalf. The Hong Kong courts are pro-enforcement and have an excellent record in enforcing foreign arbitration awards in accordance with the New York Convention.

The New York Convention does not apply as between Hong Kong and the PRC (because they are not different contracting states). Arbitration awards are enforced between the PRC and HK pursuant to an arrangement which came into force in early 2000 and upon terms more or less the same as the New York Convention. Parties to arbitration can be represented by anyone they choose; solicitors often represent their own clients in arbitration.

## Recommended firms at a glance

<b>BANKING &amp; FINANCE</b>
<b>Tier 1</b>
Allen & Overy
Clifford Chance
Linklaters
Slaughter and May
<b>Tier 2</b>
Baker & McKenzie
Herbert Smith
Latham & Watkins
Lovells
Mallesons Stephen Jaques
Richards Butler in association with Reed Smith
<b>Tier 3</b>
Davis Polk & Wardwell
Freshfields Bruckhaus Deringer
JSM
Mallesons Stephen Jaques
Norton Rose
Paul Hastings Janofsky & Walker
Shearman & Sterling
Sidley Austin
Skadden Arps Slate Meagher & Flom
<b>Tier 4</b>
DLA Piper
Fried Frank Harris Shriver & Jacobson
O'Melveny & Myers
Orrick Herrington & Sutcliffe
Simpson Thacher & Bartlett
Sullivan & Cromwell
White & Case
Woo Kwan Lee & Lo

<b>DISPUTE RESOLUTION</b>
<b>Tier 1</b>
Clifford Chance
Herbert Smith
<b>Tier 2</b>
Deacons
Linklaters
Richards Butler in association with Reed Smith
<b>Tier 3</b>
Allen & Overy
Barlow Lyde & Gilbert
Baker & McKenzie
Freshfields Bruckhaus Deringer

<b>CORPORATE/M&amp;A</b>
<b>Tier 1</b>
Clifford Chance
Freshfields Bruckhaus Deringer
Linklaters
Skadden Arps Slate Meagher & Flom
Slaughter and May
<b>Tier 2</b>
Davis Polk & Wardwell
Herbert Smith
Latham & Watkins
Shearman & Sterling
Simpson Thacher & Bartlett
Sullivan & Cromwell
<b>Tier 3</b>
Allen & Overy
Baker & McKenzie
Lovells
JSM
Milbank Tweed Hadley & McCloy
Norton Rose
O'Melveny & Myers
Paul Weiss Rifkind Wharton & Garrison
Richards Butler in association with Reed Smith
Sidley Austin
<b>Tier 4</b>
Cleary Gottlieb Steen & Hamilton
Mallesons Stephen Jaques
Minter Ellison
Morrison & Foerster
Orrick Herrington & Sutcliffe
Paul Hastings Janofsky & Walker
Woo Kwan Lee & Lo

<b>INTELLECTUAL PROPERTY</b>
<b>Tier 1</b>
Baker & McKenzie
Lovells
Wilkinson & Grist
<b>Tier 2</b>
Bird & Bird
Deacons
JSM
<b>Tier 3</b>
Clifford Chance
Freshfields Bruckhaus Deringer
Jones Day

## Banking & Finance

### RECOMMENDED FIRMS

#### Tier 1

Allen & Overy

Clifford Chance

Linklaters

Slaughter and May

#### Tier 2

Baker & McKenzie

Herbert Smith

Latham & Watkins

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Mallesons Stephen Jaques

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#### Tier 4

DLA Piper

Fried Frank Harris Shriver & Jacobson

O'Melveny & Myers

Orrick Herrington & Sutcliffe

Simpson Thacher & Bartlett

Sullivan & Cromwell

White & Case

Woo Kwan Lee & Lo

### Allen & Overy

Magic circle firm Allen & Overy has a varied practice that highlights one of the strongest finance offerings of the teams in this top tier. Acknowledged by the market for its banking, project finance, debt capital markets and structured finance prowess, the teams in these areas are highly-skilled and specialised. Although the firm lost a handful of top corporate partners in September 2008 to Latham & Watkins, its capital-raising talent managed to

remain relatively unscathed. Its leading status in all the aforementioned areas kept the firm active on numerous transactions, from acquisition financings to MTN programme establishments to derivatives advisory work and loan reschedulings.

Prominent deals include advising Bank of China on a US\$158 million bridge loan to Jade Green Investments and representing the lenders and guarantee provider in the US\$210 million Cai Mep international terminal project financing. On the capital markets side, Allen & Overy assisted the Kowloon-Canton Corporation on forming its US\$3 billion MTN programme, and advised Standard Chartered Bank on the establishment and issuance of its US\$115 million Start V CLO notes and underlying swap arrangements.

Hong Kong finance specialist Thomas Brown was recently appointed managing partner of the firm's Asian offices and he leads a team that includes leading lawyers Joseph Tse, Vickie Liu, Andrew Harrow, Matthew Hebburn, Catherine Husted, Yvonne Siew, David Kidd, James Grandolfo and David Johnson.

### Clifford Chance

As the world's largest firm by number of lawyers and revenue, Clifford Chance is a major player in the Hong Kong banking and finance space. The firm houses some of the most respected and experienced specialists in the region across financing, projects, debt capital markets, and structured finance. These include Huw Jenkins, Anthony Wang, Connie Heng, Alex Lloyd, Amy Lo, Cherry Chan, Geraint Hughes and Paget Dare Bryan. In addition, finance partner Andrew Hutchins relocated to Hong Kong in May from London.

The team's broad and varied practices had a busy year despite the market downturn and especially saw success on banking and project financing matters. For example, a team acted for Credit Suisse on its US\$60 million loan to West China Cement to partially fund a cement production plant in China. Another exemplary transaction saw the firm advising lead arranger China Development Bank in the US\$11 billion financing of a new natural gas pipeline linking Central Asia to China. A high yield debt highlight involved Alex Lloyd guiding a team for issuer Noble Group on its US\$500 million notes offering. The firm additionally was called upon by various domestic participants on their exposure to Lehman Brothers' collapse with regards to various derivatives agreements.

### Linklaters

Linklaters shines across all capital-raising fronts. Arguably the best of the top-tier practices, this UK firm

boasts highly sought after specialists in every practice area and excellent relationships with every major financial participant. Linklaters' teams are often found on the most novel and cutting-edge transactions, from complex refinancings and debt restructurings to mega-project financings and innovative securitisations. This year, an engulfing matter that spanned all teams' expertise was advising Lehman Brothers and KPMG on the Asia elements of the investment bank's insolvency.

On the equity capital markets side, the firm advised an underwriting syndicate on HSBC's US\$17.7 billion rights issue, which was the largest ever by a Hong Kong or UK listed company. Linklaters' debt capital markets group is heralded for its equity-linked and convertible bond work. This year, joint lead managers HSBC and Morgan Stanley hired the firm in relation to the US\$1 billion guaranteed notes issue by Hong Kong and China Gas Company. Of additional note is the structured finance group's role advising 26 banks on the 2009 version of the China Inter-bank market financial derivative transaction master agreement documentation, which was published by the National Association of Financial Market Institutional Investors.

The team includes luminaries Trevor Clark, Keith Johnson, Chris Kelly, Celia Lam, Teresa Ma, Andrew Malcolm, Nigel Pridmore, Jeremy Webb, Chin-Chong Liew, Mary Matson and John Maxwell. The latter led the Hong Kong team that advised Sakhalin Energy Investment Company on the phase two US\$20 billion financing of the Sakhalin II Phase 2 LNG project in Russia.

### **Slaughter and May**

The smallest firm in the top tier, Slaughter and May has upheld a prestigious reputation in the market. Its leading lawyers are all 'multi-specialists,' each highly-skilled and experienced across various practice areas including those on the financing side. This strategy has buoyed the firm during the recent economic turmoil, with the team able to shift its client-driven focus at ease unlike some competitors.

Long-time clients include Hong Kong mainstays MTR Corporation, Swire Pacific and Standard Chartered. The firm prides itself on winning sophisticated and market-leading mandates with top financial institutions, which repeatedly solicit the firm for advice. Examples of these include Morgan Stanley, JPMorgan, Goldman Sachs, Deutsche Bank, Merrill Lynch and UBS. Richard Thornhill serves as office managing partner, leading an illustrious lineup that includes Neil Hyman, George Goulding, Benita Yu, and Pdraig Cronin.

Last December, the team advised Fubon Bank on its US\$120 million open offer of preference shares. Yu was

instrumental for Morgan Stanley Asia and Cazenove Asia in relation to SinoMedia Holding's IPO and listing on the Hong Kong Stock Exchange. The firm additionally acted for Morgan Stanley as placing agent in relation to the placing of shares in Citic Pacific.

### **Baker & McKenzie**

Baker & McKenzie can be counted on as a standout choice for financing work with renowned banking, structured finance and capital markets practices. The consistency of the firm across the capital-raising spectrum is impressive and has won it many loyal clients. These include Goldman Sachs, Citibank, ICBC, MTR Corporation, China Eastern Airways, China Railway Construction, Champion Real Estate and Macquarie Securities.

Baker & McKenzie is a corporate favourite, boasting long-established ties with many local and PRC-based companies. The firm has a leading aircraft finance practice and is uniquely involved in domestic non-energy related projects like Ocean Park and Hong Kong Science & Technology Parks. Key partners include Andrew Lockhart, Stephen Eno, Gary Seib, David Smith, Cheung Yuk Tong, Elsa Chan, CY Leung and Barry Cheng.

A notable transaction saw the firm advising Bank of China and a syndicate of lenders on their US\$600 million loan to Huawei Technology. The US\$11 billion project financing of the Uzbek-China section of a dual-gas pipeline saw Barry Cheng and company acting for sponsor China National Petroleum Corporation. In the high profile SJM Holdings US\$500 million IPO and global share offering, the firm acted for the issuer. Another significant instruction involved Bank of China on a US\$141 million structured financing facility to finance the acquisition of a US pharmaceuticals company.

### **Herbert Smith**

Even though Herbert Smith only recently relaunched its banking practice, the firm's high position in the rankings owes largely to its weight in capital markets and project financings. It has been steadily gaining prominence in the equity capital markets space and remains a 'go-to' choice for many leading clients including Goldman Sachs, Morgan Stanley and Chinese issuers Maoye International and Xtep. The firm houses a very solid offering across Hong Kong, UK and US law. Its project financing work falls under the jurisdiction of its energy practice, which is hailed by the market as one of the region's best.

Herbert Smith's work includes representing joint bookrunners China International Capital and Macquarie Capital Securities on the US\$613 million H-Share listing and Rule 144A/Reg S global offering of China South Locomotive & Rolling Stock. The firm also played a key

role for two global investment banks in relation to the pre-IPO investment in China Stationery via a US\$30 million convertible notes subscription. Meanwhile the projects team advised China Development Bank on the US\$1.34 billion financing of an iron ore mining project in Australia.

Top practitioners Ashley Alder, John Moore, Matt Emsley, Kevin Roy, Alexander Aitken, Michael Barker and Anna Howell form the bulk of the leadership in the practice.

### **Latham & Watkins**

It has been a year of maturation and decisiveness for Latham & Watkins. It boldly announced its new tripartite platform by luring away seven leading corporate partners from Allen & Overy in September 2008. Now fully stocked with top practitioners capable of advising on UK, US and Hong Kong law, the firm climbs into the top echelons of legal service providers.

The firm's financing offering is very solid, with excellent capital markets partners and a project finance team widely regarded by clients as one of the best in the region. Stanley Chow, Michael Liu, Simon Berry, Cathy Yeung and Kenneth Chan join managing partner Joseph Bevas, John Otoshi and David Zhang to round-out the team. One notable loss however was US capital markets specialist Julie Gao to rival Skadden Arps Slate Meagher & Flom.

The firm acted for issuers China Zhongwang Holdings and Real Gold Mining on their IPOs and global offerings, valued at US\$1.2 billion and US\$133 million respectively. Another standout transaction saw the team advising Lion Power Holdings on the bridge credit facilities and refinancing for the US\$2.76 billion acquisition of Singapore's Senoko Power. Also notable was the firm's role representing the lenders on the financing for the Paiton III coal-fired power project in Indonesia.

### **Lovells**

With several key additions to an already-solid team, the banking and finance practice at Lovells continues to impress upon the market its consistency as a quality capital-raising shop. It is particularly noted for its leveraged and acquisition finance expertise.

During the past year, Owen Chan and structured finance specialist Vincent Sum teamed up with Gary Hamp, Fred Chang, Neil McDonald, Jamie Barr and Terence Lau to provide clients with a formidable outfit. Highly favoured by Hong Kong players, the team won enviable mandates this year including the privatisations of PCCW and Nord Anglia Education. Main clients of the firm include HSBC, Barclays, Morgan Stanley, Bank of China and BNP Paribas.

Issuer mandates include advising on 2009's first substantial IPO, the Silver Base Group Holdings' US\$133 million listing. The firm also advised Central China Real Estate on its US\$176 million offering on the Hong Kong Stock Exchange. Other work includes acting for JPMorgan, Macquarie and UBS in relation to BBMG's US\$770 million Hong Kong IPO, as well as its role for the lead arranger in a US\$113 million syndicate loan to Korea Exchange Bank.

### **Mallesons Stephen Jaques**

Australian firm Mallesons Stephen Jaques has notably robust practices in banking, debt capital markets, and structured finance and securitisation. In recent years, the firm's profile has substantially increased with clients recognising an alternative to the magic circle and Wall Street firms for banking and raising funds. The firm is also home to highly-praised lawyers Steven Christopher, Richard Mazzochi, Minny Siu, Dieter Yih and Adrienne Showering. The team has an exceptional knowledge of sophisticated financing products on the market and complex structuring techniques. Regular clients include Credit Suisse, GE Capital, Deutsche Bank and ABN Amro.

A recent prominent mandate for the firm was in advising the Lehman Mini-bond Task Force, formed under the Hong Kong Association of Banks, in relation to the proposed buyback of mini-bonds. The team also represented a global financial corporation on a US\$1 billion loan facility to a Korean consumer finance business. Other major instructions saw it acting for China Eximbank on its financing of Sinosteel's US\$1.3 billion successful bid for Australian iron ore miner Midwest Corporation, and representing Hong Kong Electric in the establishment of its US\$2 billion MTN programme.

### **Richards Butler in association with Reed Smith**

One of the local Hong Kong powerhouse firms, Richards Butler in association with Reed Smith retains a commendable presence in the Hong Kong banking and finance market with three partners and over 10 fee-earners. Its team, led by leading lawyer Andrew Brown, boasts one of the top aircraft and ship finance practices. Other areas it covers with finesse include various types of lending, acquisition and leveraged finance, asset financings and banking regulatory. The firm has substantial experience on complex, big-ticket financing transactions and in advising foreign banks and the PRC branches of foreign banks. A local corporate favourite, the firm is a well-established domestic firm that has recently merged with Reed Smith to offer clients a broader

network of service. Active clients include Cathay Pacific Airways, Barclays, Noble Group, Standard Chartered Bank and China Shipping Group.

Citic Group enlisted the team as counsel on its US\$1.5 billion standby facility. Other highlights include representing Philippine company Smart Communications on the Phase 10 Swedish and Finnish export-credit supported roll-out financing of its GSM telecom network. And the firm advised arranger BNP Paribas on a US\$185 million syndicated loan to Shinhan Bank. On the borrower front, the team was active in the US\$1.75 billion Melco Crown Gaming project financing.

### **Davis Polk & Wardwell**

Davis Polk & Wardwell is known for its US capital markets excellence, particularly in the debt capital markets and high yield space. It provides quality advice on investment grade bonds, equity-linked and convertible debt, liability management, rights offerings, IPO listings, sovereign bonds and debt restructurings. William Barron, Show Mao Chen and James Lin are key figures of the team.

### **Freshfields Bruckhaus Deringer**

Freshfields Bruckhaus Deringer has one of the most trusted Hong Kong IPO practices in the market, led by Teresa Ko and including Kay Ng Ian. Its banking and project finance practices are slightly less prominent but have had success nonetheless. Former Singapore resident Bruce Cooper heads up the finance department. A recent triumph for the firm was advising underwriters HSBC and Morgan Stanley in Bawang Group's US\$213 million IPO and global offering.

### **JSM**

JSM has a large and experienced banking and finance group which particularly showcases strengths in asset finance, asset-backed lending, construction and real estate finance, and derivatives. The firm's restructuring and insolvency, and regulatory, offerings are also highly recommended. Alistair MacAulay leads the banking and finance team that regularly advises clients such as ICBC, HSBC, Hang Seng Bank and the Hong Kong Mortgage Corporation.

### **Norton Rose**

Norton Rose offers a small but high-quality financing outfit. A highlight instruction for the team this year was its representation of loyal client HSBC on its US\$17.8 billion rights issue. The firm had a strong year on structured finance and commodities finance work. Partners Peter Haslam, Freeman Chan and David Stannard are highly-regarded by the market.

### **Paul Hastings Janofsky & Walker**

Paul Hastings Janofsky & Walker excels in leveraged and acquisition finance, especially in the real estate sector. Brett King remains the big name on staff for banking and finance work. This year, the team represented the joint lead arrangers of the financing to support KKR's US\$1.8 billion bid to purchase Oriental Brewery from Anheuser-Busch InBev.

### **Shearman & Sterling**

Shearman & Sterling has a top-notch US law capital markets practice. Partners Matthew Bersani and Won Lee are market favourites and the team typically focuses on cutting-edge and innovative capital-raising transactions. In a premier deal, the firm played a crucial role for the joint lead managers and trustee in Vedanta Resources' US\$1.25 billion Rule 144A/Reg S bond offering in India. This was the largest-ever bond offer by an Indian corporate and the largest high-yield offer by an Asian corporate.

### **Sidley Austin**

Sidley Austin offers clients one of the most consistent capital markets practices in Hong Kong and a triple platform of US, UK and Hong Kong law. The firm acts on a high volume of Hong Kong IPOs and quality debt capital markets transactions including convertible bond issuances and hybrid securities work. The firm's debt structuring skill is highly recommended by clients. Constance Choy, Matthew Sheridan, Jason Elder and Timothy Li are the main partners of these groups.

### **Skadden Arps Slate Meagher & Flom**

Skadden Arps Slate Meagher & Flom excels in the capital markets with a premier tripartite offering of Hong Kong, UK and US law. Leadings names Dominic Tsun, Alec Tracy, Nicholas Norris and Jonathan Stone form the backbone to the corporate finance group at this Wall Street firm. Tracy in particular is known as one of the few true high yield specialists and the practice's clients include a long list of leading issuers and underwriters. Two major deals for the team include acting for issuer China Fundamental Acquisition Corporation on its IPO, and advising Merrill Lynch as the sole dealer manager in tender offers made by Galaxy Entertainment Finance Company to purchase several tranches of senior floating rate notes.

### **DLA Piper**

DLA Piper has been bulking up its financing practice with numerous hires from other leading competitors. Most significant was luring Martin David from Linklaters to lead its projects and finance group. The firm offers a wide

range of advice on all capital-raising types of transactions. Significant mandates include advising China Merchants Bank on the US\$2.2 billion privatisation of Wing Lung Bank, and representing the Republic of Indonesia on the formation of its US\$3 billion global MTN programme.

### **Fried Frank Harris Shriver & Jacobson**

Fried Frank Harris Shriver & Jacobson opened its doors in 2007 and is partnered with local firm Huen Wong & Co. The merged entity is a one-stop-shop offering that brings a quality UK, US and Hong Kong law capability to clients. The firm has an enviable roster of leading clients such as Merrill Lynch, Credit Suisse and UBS. One of its partners, Joshua Wechsler, was an attorney in the US Securities and Exchange Commission's division of corporate finance.

### **O'Melveny & Myers**

O'Melveny & Myers' capital markets partner Colin Law is well-regarded in Hong Kong legal circles. The firm also offers top-notch securitisation advice under the guidance of leading light Neil Campbell. This year, the firm advised the underwriters on two major transactions. One was the US\$100 million IPO of Hong Kong's Little Sheep Restaurant, and the other was China Communications Services Corporation's US\$242 million secondary offering and listing of H-Shares on the Hong Kong Stock Exchange.

### **Orrick Herrington & Sutcliffe**

Orrick Herrington & Sutcliffe has a solid capital markets team, including one of the most recognised and successful securitisation practices in the region led by Michelle Taylor. The firm is another of the few that offer advice across Hong Kong, US and UK law and is focused on representing corporates. Examples of the firm's capital-raising triumphs were its roles on four recent IPOs for leading issuers: Xtep, Sinomedia Holdings, A8Digital Music Holdings and Shandong Chenming Paper Holdings.

### **Simpson Thacher & Barlett**

Simpson Thacher & Barlett is one of the leading Wall Street capital markets firms in Hong Kong and can boast a prominent IPO record that includes Alibaba.com and China Railway. Last year, the firm had a strong track record of working for Greater China-based issuers with partners Chris Lin and Leiming Chen on board. For example, the firm advised Pou Sheng International Holdings in its US\$301 million Hong Kong-listed IPO, as well as acting for China Medical Technologies on its US\$276 million convertible senior notes offering.

### **Sullivan & Cromwell**

Sullivan & Cromwell has excellent credentials offering US advice on sophisticated and high profile capital markets transactions. For example, it played a crucial role on the IPO of Alibaba.com a few years back. This year, the team advised the underwriters in relation to Vision China Media's US\$101 million SEC-registered follow-on offering of six million ADSs. It also counseled Goldman Sachs on Excelcomindo Finance Company's US\$250 million guaranteed notes issuance. William Chua and Chun Wei are leading partners of the finance practice.

### **White & Case**

White & Case is noted for its fortitude in banking and project finance. Led by notables John Hartley and Hallam Chow, the practice offers in-depth services on a broad range of finance transactions. This includes leveraged finance, derivatives, restructuring, and syndicated lending. On the capital markets side, a highlight deal saw the team representing the Republic of Indonesia on its US\$1.5 billion sovereign bond issue, which was the largest global bond offering of 2008.

### **Woo Kwan Lee & Lo**

Woo Kwan Lee & Lo is a well-respected domestic firm that has excellent ties with local corporates and individual clients, and strong China experience. Clients include leading blue chip, red chip, public and private companies in Hong Kong, and state-owned and private enterprises from the PRC. The banking and capital markets teams have had a prolific year, acting on numerous capital-raising transactions. These include representing Samson Paper Holdings on the proposed open offer of convertible non-voting preference shares in the company valued at US\$150 million.

### **Other active firms**

#### **Dorsey & Whitney**

Dorsey & Whitney offers a full-service financial and corporate practice that covers foreign direct investment, corporate finance and securities, and project finance. The team is led by Steven Nelson and comprises seven partners and nine associates. The Hong Kong practice is neatly integrated with the firm's Shanghai office and specialises in Hong Kong and PRC regulations affecting international investment, financing and trade, and establishing and strategic planning of foreign branches of US companies' subsidiaries.

#### **P.C. Woo & Co**

P.C. Woo & Co was established in 1945 and has a solid banking and finance practice that includes governmental

departments and agencies, corporate, non-governmental organisations, institutions and private clients. Its corporate finance practice offers quality advice on rights issues, warrants and convertible bonds, restructurings, and the listing of securities and derivative products of companies on the Main Board and the Growth Enterprise Market of the Hong Kong Stock Exchange.

#### **Vivien Chan & Co**

Vivien Chan & Co provides a full-service offering covering all areas of banking, finance, corporate, M&A and securities matters. Its practices include China direct investment, corporate governance and venture capital. It was one of the first law firms licensed by the PRC Ministry of Justice to open up in China in 1993, and it now has offices in Beijing, Shanghai, Chongqing and Shenzhen. Principal Vivien Chan is the senior partner at the firm which includes George Ribeiro, Patty Chan, Eddie Ng and Dominic Hui.

## Corporate/M&A

### RECOMMENDED FIRMS

#### Tier 1

Clifford Chance  
Freshfields Bruckhaus Deringer  
Linklaters  
Skadden Arps Slate Meagher & Flom  
Slaughter and May

#### Tier 2

Davis Polk & Wardwell  
Herbert Smith  
Latham & Watkins  
Shearman & Sterling  
Simpson Thacher & Bartlett  
Sullivan & Cromwell

#### Tier 3

Allen & Overy  
Baker & McKenzie  
Lovells  
JSM  
Milbank Tweed Hadley & McCloy  
Norton Rose  
O'Melveny & Myers  
Paul Weiss Rifkind Wharton & Garrison  
Richards Butler in association with Reed Smith  
Sidley Austin

#### Tier 4

Cleary Gottlieb Steen & Hamilton  
Mallesons Stephen Jaques  
Minter Ellison  
Morrison & Foerster  
Orrick Herrington & Sutcliffe  
Paul Hastings Janofsky & Walker  
Woo Kwan Lee & Lo

### **Clifford Chance**

Clifford Chance offers an integrated Hong Kong-China M&A practice that has been active for over 25 years and focuses on handling complex cross-border transactions within the region. This year particularly it found a lot of success advising Chinese companies expanding overseas and has developed a solid reputation for advising on China outbound work. One key feature is the team's size, which at

over 75 practitioners focused on M&A is one of the largest in Asia. Its sector specialties are financial services, energy and resources, TMT, retail and manufacturing. For private equity investors, the firm's specialised practice stands out as one of the best in the market. Morgan Stanley, the Kuok Group, CVC Asia Pacific and the Bank of Tokyo-Mitsubishi UFJ are active clients of the team. Roger Denny, Amy Lo, Andrew Whan, and Terence Foo are part of the leading team. Experienced M&A and private equity specialist Simon Cooke recently relocated to Hong Kong from the firm's London office.

Clifford Chance represented Aluminum Corporation of China (Chinalco) on its US\$19.5 billion strategic partnership with the Rio Tinto group. This was the largest outbound investment by a Chinese company. The team is also working for Morgan Stanley on its disposal of shares in United Industrial Corporation to United Overseas Land for US\$1.1 billion.

### **Freshfields Bruckhaus Deringer**

This magic circle firm has one of the most highly-regarded M&A practices in Hong Kong. This is based on its top-tier partners and its involvement on many of the market's largest and most significant transactions. Freshfields is also known for its prominent China practice. This past year, the team represented China Unicom on the US\$6.42 billion disposal of its CDMA business to China Telecom, and served as counsel to the same client on its US\$23 billion merger with China Netcom. Another high profile deal saw it advising Huiyuan Juice and its shareholders in the proposed US\$2.5 billion buyout by Coca Cola.

Historically the firm has excelled in public M&As but in recent years has picked up an increasing amount of work from private equity clients such as Sequoia Capital and Bain Capital. An example of its work in this area is when it advised Warburg Pincus on its US\$50 million cornerstone investment in Hong Kong-listed property company Renhe Commercial. The corporate practice is led by Robert Ashworth and includes well-known practitioners Teresa Ko, Kay Ng Ian and Chris Wong.

### **Linklaters**

Linklaters has a deeply-honed M&A practice that features 40 lawyers including 11 partners. It offers high quality advice on groundbreaking and complex cross-border transactions and its team can usually be found on the market's most important deals. The firm's M&A offering is supported by its leading practices in other financial and non-transactional areas like banking and dispute resolution. Some of the leading lights include Keith Johnson, Teresa Ma, Chris Kelly, Betty Yap, Kunal Thakore and Sanghoon Lee.

A major instruction for the team came from China Netcom on its US\$23 billion merger with China Unicom. The firm also represented China Telecom on its US\$15.8 billion acquisition of China Unicom's CDMA business. Rio Tinto hired Linklaters for advice on its US\$19.5 billion strategic partnership with Chinalco. In another highlight, the team acted for The Royal Bank of Scotland Group on the HK\$18.4 billion sale of its 4.26% equity stake in Bank of China. This is the largest block trade in Hong Kong history.

### **Skadden Arps Slate Meagher & Flom**

As the first Wall Street law firm to launch a Hong Kong law practice in 2005, Skadden Arps Slate Meagher & Flom leads the way as being the only US firm in the top tier for corporate/M&A work. This investment has paid off well for the team, which advises on domestic and cross-border M&A transactions including public company takeovers governed by the Hong Kong Takeovers Code. The firm's depth of experience and breadth of its corporate finance practice is reflected in the type of deals it secures. Clients such as Nomura, JPMorgan and Coca Cola trust its partners to deliver. One illustration involved representing Coca Cola on its US\$2.5 billion attempted acquisition of China Huiyuan Juice Group.

Other noteworthy transactions include advising Nomura Holdings on its acquisition of the Asia-Pacific operations of Lehman Brothers, and acting for JPMorgan Securities as financial adviser to China Unicom on its multi-billion dollar merger with China Netcom. The practice includes star partner Nicholas Norris. A recent valuable addition to the team came in the form of former Latham & Watkins partner Julie Gao.

### **Slaughter and May**

Slaughter and May has done well in the market to solidify its position at the top. Its small but capable team of high-quality lawyers are multi-specialists with a diverse range and depth of skills. The team barely felt a blip from the market turmoil and has had a very busy year drawing on its significant corporate client base. The firm focuses on high-end premium work and is highly sought-after by major market participants. It advises on all aspects of domestic and cross-border M&A transactions and has extensive experience on a broad range of corporate and commercial work. This includes general advice on listings, corporate governance matters, joint ventures, restructurings and other strategic endeavours. Of note is the firm's opening of a Beijing office in late 2009.

An example of the team's work is advising Japan-based NYK Lines on its share swap with Hutchison Port Holdings Group. Another solid transaction saw the firm representing

Hong Kong Aircraft and Engineering Company in relation to its equity joint venture with Sichuan Airlines. Also a highlight, Slaughters advised China Resources Logic in relation to its conditional acquisition of China Resources Gas from its parent company for US\$488 million. Leading partners consistently singled out by the market are Neil Hyman, Benita Yu, George Goulding, Richard Thornhill, Jason Webber and Padraig Cronin.

### **Davis Polk & Wardwell**

Davis Polk & Wardwell's M&A practice is relatively young but has shown a great commitment to the regional market in recent years. It has first-class lawyers and remains a reliable choice for leading clients such as Goldman Sachs, Reliance Industries, PCCW Limited and Shanda Interactive. The firm is keen to develop its India practice and has relocated M&A specialist Kirtee Kapoor from its New York office to focus on this market. The team is formed by corporate generalists and each lawyer has significant experience on corporate matters. An important feature of the firm is its top-tier capital markets advice, especially in the debt sphere. Familiar name William Barron manages the group, which includes Show-Mao Chen and recently appointed partner Mark Lehmkuhler.

Davis Polk acted for Goldman Sachs on its exit from its investment in SpiceJet Airlines to purchasers affiliated with Wilbur Ross. The firm also advised Reliance Industries on its US\$1.7 billion merger with its subsidiary Reliance Petroleum. Another highlight was the representation of China-based Cofco Group in its acquisition of 4.95% of the common stock of US meat processor and marketer Smithfield Foods for US\$122 million. This was a rare example of a PRC state-owned enterprise making a strategic investment into the US.

### **Herbert Smith**

Herbert Smith maintains a well-regarded corporate/M&A practice with strong industry experience in key sectors like TMT, energy and financial services. The practice has been in increasing demand from Asian companies making outbound investments and private equity firms acquiring stakes in listed PRC companies. Other busy areas include privatisations and public M&As. A major highlight for the team this year was advising Citigroup Global Markets Asia as financial adviser to China Netcom Group on its US\$24 billion merger with China Unicom.

Led by its energy practice group, the firm advised Thai national oil company PTT Exploration & Production on its US\$170 million purchase of Australia's Coogee Resources. Shaw Brothers enlisted the firm for its US\$172 million privatisation. China Agri-Industries Holdings, CNOOC, China Merchants Bank and Sinopec, among

others, routinely retain the firm for general commercial advice. The corporate practice includes leading lawyers Ashley Alder, Matt Emsley, Anna Howell, Tom Chau, John Moore and Andrew Tortoisshell. Jeremy Xiao, formerly the managing partner of the firm's Beijing office, recently returned to Herbert Smith as a part-time senior consultant after a two year stint at Credit Suisse in China.

### **Latham & Watkins**

The M&A practice at Latham & Watkins offers comprehensive services on complex, high profile transactions in Hong Kong and China. This year, it received a major boost through the hiring of seven corporate partners from Allen & Overy. Each newly-arrived practitioner has a wealth of experience and is well-regarded by the market. With its expanded capacity, the firm is expecting to increase its volume of quality deals for leading clients. An example of the firm's work is its role advising Credit Suisse Securities as financial adviser to Focus Media Holding on the US\$1.37 billion sale of its digital out-of-home advertising assets to Sina Corporation.

Jiangsu Five Star Appliance shareholders hired the firm for its US\$185 million sale of remaining equity interests in Five Star to Best Buy. A highlight deal that incorporates the firm's traditional M&A and project strengths was representing a Marubeni Corporation-led consortium in Lion Power Holdings' US\$2.5 billion acquisition of Senoko Power in Singapore from Temasek Holdings.

Major corporate players on the team include David Zhang, Stanley Chow, Michael Liu and senior associate Tim Gardner. The firm lost corporate specialist Julie Gao to Skadden Arps Slate Meagher & Flom in June.

### **Shearman & Sterling**

Open for more than 30 years, the Hong Kong office of Shearman & Sterling has gained a reputable profile in the market for quality service on significant and innovative regional and cross-border M&A transactions. The corporate team offers stellar US and English law advice and benefited this year with the arrival of top M&A specialist, and former O'Melveny & Myers' regional M&A head, Gregory Puff. Another key hire was that of top India specialist Sidharth Bhasin from Debevoise & Plimpton. The firm also has offices in Beijing and Shanghai, enabling a thoroughly integrated corporate practice for the Greater China region. The well-regarded Paul Strecker leads the group.

A major highlight for the team was in representing China Netcom on its US\$24 billion merger with China Unicom. Another noteworthy transaction was when the firm advised Sina Corporation on its proposed acquisition of Focus Media for US\$1.37 billion. United Energy Group

turned to Paul Strecker and team for advice on its proposed acquisition of Transmeridien Exploration.

### **Simpson Thacher & Bartlett**

This high quality Wall Street firm's M&A department houses an expert team that specialises in sophisticated and prominent deals. Additionally, Simpson Thacher & Bartlett's private equity and Korea practices are regarded as one of the best by the market.

The firm has a wealth of experience representing US clients in their inbound investments and increasingly is servicing Asia-based clients on major outbound transactions. Clients include leading corporates, financial institutions and premier private equity and strategic buyers and sellers. In the Hong Kong office, leading partners include Patrick Naughton and Korea specialists Jin Hyuk Park and Youngjin Sohn.

Prime deals for the firm this year include acting for Blackstone Group in relation to its US\$600 million investment into China National Bluestar, and representing Chinalco in connection with its US\$19.5 billion alliance with Rio Tinto. Most recently, Naughton and his team advised KKR on its US\$1.8 billion leveraged buyout of Oriental Brewery in Korea from Anheuser Busch InBev.

### **Sullivan & Cromwell**

With excellent M&A credentials, Sullivan & Cromwell brings a highly-experienced and talented practice to the table. The Hong Kong corporate practice has grown its client base from its historic US ties to now service a greater portion of Asia-based clients. These include government and sovereign entities, leading domestic and international banks, and major corporates. Of note is the strength of the firm's capital markets practice.

The team has deep roots in the Greater China region and its Hong Kong office runs an integrated practice that has been very active this year on a spate of the market's most high-profile M&A transactions. One illustration is its role representing China Unicom on its US\$56.3 billion acquisition of China Netcom. The team also acted for the same client in its sale of its CDMA business to China Telecom for US\$15.9 billion. Anheuser-Busch InBev enlisted the group for the US\$1.8 billion sale of its shares in Oriental Brewery to KKR. Chun Wei, Michael DeSombre and William Chua are three star partners.

### **Allen & Overy**

Allen & Overy has a new corporate team this year after losing a bulk of its partners to Latham & Watkins in September 2008. The firm continues to focus on high end cross-border M&As and has brought in talent from all over the region to service clients. Last year, the firm

advised Macquarie Media Group on the sale of its 60% interest in Taiwan Broadband Communications. Jeremy Hunt is a leading lawyer of this group.

### **Baker & McKenzie**

Baker & McKenzie boasts possibly the largest M&A group in Asia, with over 100 lawyers working in an integrated Hong Kong-China practice across three offices in Shanghai, Beijing and Hong Kong. The firm retains excellent ties with local Hong Kong companies and gears its business towards corporates. An example of the team's work was its roles on two of Hong Kong's most high-profile attempted privatisations, those of PCCW and Natural Beauty.

### **Lovells**

Lovells has one of the largest regional corporate groups in Asia spread out over eight offices. With over 80 lawyers focused on cross-border M&A matters, the firm has handled a breadth of transactions including privatisations, disposals, joint ventures and numerous public and private M&As. For example, the Hong Kong team advised HSBC on the proposed US\$2.1 billion privatisation of PCCW. Another highlight was acting for Hong Kong Electric on its US\$733 million acquisition of Outram from Cheung Kong Infrastructure Holdings. Jamie Barr heads up the Hong Kong corporate team.

### **JSM**

JSM completed its merger with Mayer Brown last year and has a corporate practice that includes 11 partners specialising in public and private M&A transactions. It offers clients an embedded strength of committed competition and tax practitioners within the core of the M&A team. A top local firm, it boasts established relationships with many of Hong Kong's most prestigious corporates such as Li & Fung and Towngas.

### **Milbank Tweed Hadley & McCloy**

Milbank Tweed Hadley & McCloy recently closed this year's largest China M&A transaction. The firm acted for GCL Solar on its US\$3.4 billion acquisition by Hong Kong-listed China power co-generation company GCL Poly. Milbank's corporate team is led by luminary Anthony Root, who is highly recommended by the market for private M&A work but additionally has an excellent record on public deals. For example, last year the team advised Citigroup as financial adviser to China Netcom in its US\$24 billion merger with China Unicom.

### **Norton Rose**

Norton Rose's corporate head David Stannard is a highly-regarded practitioner in the market. Eight partners make

up the firm's Hong Kong corporate finance team, which enjoys a long-standing relationship with key client HSBC. A recent highlight for the firm was acting for Shaw Holdings on its US\$1.33 billion privatisation.

### **O'Melveny & Myers**

O'Melveny & Myers' Hong Kong corporate team is led by Colin Law and offers UK, US and Hong Kong law advice. Many of the group's practitioners are well-versed in PRC law and regulation, and routinely handle complex cross border public M&A transactions. A noteworthy deal for the team saw it advising GST Holdings in the US\$247 million takeover bid from United Technologies for all of its outstanding shares and options.

### **Paul Weiss Rifkind Wharton & Garrison**

Paul Weiss Rifkind Wharton & Garrison is a market leader in private M&As and houses a specialised private equity practice. For example, its lawyers have worked with KKR and Carlyle to execute hallmark cross-border transactions in Asia. On the public front, the firm recently advised Microsoft on an equity investment in a foreign-invested enterprise by shares majority-owned by Tata Consultancy services. Leading lawyers John 'Jack' Lange and Jeanette Chan head up the corporate team.

### **Richards Butler in association with Reed Smith**

Richards Butler in association with Reed Smith offers an experienced corporate practice that has been a fixture in the Hong Kong market for nearly 30 years. Its dominance as a local firm was increased through the international network that came about as a result of its merger with US firm Reed Smith in 2007. The team boasts strong corporate ties and an illustration of its work this past year includes acting for Citic Group on its US\$923 million share sale in Citic International Financial Holdings and China Citic Bank to Spanish Bank BBVA. David Norman, Graham Winter and Christopher Williams are well-regarded partners in the corporate group.

### **Sidley Austin**

Sidley Austin is a US firm with a triple law platform and its M&A group is supported by its market-leading capital markets practice. With an office of over 60 practitioners, its corporate finance team is well-staffed and offers integrated services to local, regional and international clients in relation to domestic and cross-border M&As. The team regularly represents multinational companies and Asia-based ones, and has particular experience on a spread of industries including finance, energy, telecommunications, transportation, technology, media, pharmaceutical and food and beverage.

### **Cleary Gottlieb Steen & Hamilton**

Cleary Gottlieb Steen & Hamilton has a modestly-sized M&A offering yet punches well beyond its weight. Top practitioners Filip Moerman, David Hirsch and Clayton Johnson head the Greater China team. Operating a regional practice across its two offices in Hong Kong and Beijing, the firm is well-known for its private equity work. Recently, the team advised ING Group in the US\$600 million sale of its Taiwanese life insurance business to Fubon Financial Holdings. Another highlight was representing Barclays Capital in its New China Trust investment.

### **Mallesons Stephen Jaques**

Mallesons Stephen Jaques' M&A lawyers are able to provide clients with more than 20 years of experience. The Australian firm's Hong Kong office houses more than 100 practitioners and is quickly rising in status for its quality. The team has a clientele that includes multinational and Asia-based companies, and offers a full-range of advice on various transaction types for corporates. These include private and public M&As, hostile takeovers, and foreign direct investment. The group also has experience across a broad sector of key industries such as mining, insurance, healthcare and media.

### **Minter Ellison**

Minter Ellison has an experienced corporate team with a dedicated sector focus on energy and infrastructure, gaming and leisure, financial services, real estate and government. Its M&A lawyers have enviable international experience and a strong track record of advising companies establishing operations in China – either through incorporated and unincorporated joint ventures, foreign direct investment, and public or private M&As. Fred Kinmonth heads the group that can count Wah Kwong Shipping Holdings, Winnington Capital and Toll Group as clients.

### **Morrison & Foerster**

Morrison & Foerster is highly-regarded for its PRC venture capital practice. Its Hong Kong office is part of an integrated China practice that amalgamates senior PRC regulatory expertise with a solid track record of international transactional experience. The M&A practice services a number of leading private equity investors, including Warburg Pincus and Goldman Sachs, and focuses on complex strategic investments, buyouts and recapitalisations in traditional industries as well as the technology sector. Other corporate clients include Angang Steel Company and ChinaHR Holdings. Tien-Yo Chao and Thomas Chou are the two resident M&A partners in Hong Kong.

## Orrick Herrington & Sutcliffe

Orrick Herrington & Sutcliffe recently advised Korea's Gmarket on its US\$1.2 billion complete purchase via cash public tender offer by eBay. The firm has one of the oldest corporate practices in the market through legacy firm Coudert Brothers. Today, the practice offers a full-range of corporate M&A advice with growing private equity experience. It recently hired a number of tax, intellectual property, real estate and competition lawyers to add value to its corporate offering.

## Paul Hastings Janofsky & Walker

Paul Hastings Janofsky & Walker brings an established M&A team to the table with deep experience advising on some of the region's most significant cross-border transactions. Many of these include private equity, leveraged finance and debt elements. Key practitioners of the group include Phoebus Chu, David Grimm, Sammy Li and Neil Torpey among others. A recent highlight for the practice was in acting for Traxon Technologies on its agreement to sell a majority interest to Osram.

## Woo Kwan Lee & Lo

Woo Kwan Lee & Lo has an established reputation as the leading local Hong Kong firm. Its corporate M&A practice consists of over 30 lawyers providing advice to clients on M&As, joint ventures, and private equity transactions. As most of the team is conversant in Putonghua, the team has a strong mainland Chinese client base. Recently, the firm advised Cross-Harbour Holdings on its acquisition of an additional 13% shareholding interest in Western Harbour Tunnel Company for US\$460 million.

## Other active firms

### P.C. Woo & Co

P.C. Woo & Co's M&A practice is led by Henry Lai. The corporate team provides reliable counsel on M&A structuring, risk analysis, compliance issues, joint ventures, private equity and cross-border matters. It houses particular expertise on M&As between Hong Kong and the PRC and has a regular roster of mainland China clients. The team utilises the integration of its finance, tax, employment and IP specialists to ensure thorough advice on complex M&A transactions.

## Dispute Resolution

### RECOMMENDED FIRMS

#### Tier 1

Clifford Chance

Herbert Smith

#### Tier 2

Deacons

Linklaters

Richards Butler in association with Reed Smith

#### Tier 3

Allen & Overy

Barlow Lyde & Gilbert

Baker & McKenzie

Freshfields Bruckhaus Deringer

## Clifford Chance

Martin Rogers heads Clifford Chance's Asian litigation and dispute resolution practice, and is co-head of the firm's regional regulatory group. The five-partner, 28-fee earner practice is the largest dedicated operation in Hong Kong and includes the impressive James Wadham, as well as former JSM stalwarts Brian Gilchrist and Elaine Chen. Although the Hong Kong practice did lose the services of Tokyo-bound regional arbitration head Jim Jamison, it has countered this somewhat with the hires of former SFC senior counsel Lisa Chen and former Linklaters senior associate Joseph Chu.

Particularly strong on the financial services regulatory side, the firm has been one of the key beneficiaries of under-pressure financial regulators increasing the scale and aggression of their investigations. But the practice also covers arbitration, financial services litigation, corporate litigation (including shareholder and joint venture disputes), intellectual property, tax, trusts, insolvency and employment.

Key work over the last 12 months includes advising on one of the largest investigations against a listed company as legal advisers to CITIC Pacific. The practice is also advising Pacific Century Group on privatisation related issues. Another key high profile mandate was the firm's work on the dispute as to the entitlement to Nina Wang's estate and the Chinachem empire, which is estimated at about HK\$100 billion.

Key clients of the practice include ABN Amro/RBS, Bank of China (Hong Kong) Limited, Hong Kong University, HSBC and Sun Hung Kai properties.

## Herbert Smith

Herbert Smith's dispute resolution practice offers clients a

comprehensive service that includes commercial litigation and arbitration, insurance, employment and regulatory related disputes. It has enjoyed a very busy 12 months across all areas of the practice, and its profile has been maintained partly as a result of its role on the ongoing dispute between Dr Stanley Ho and his estranged sister Winnie Ho – which caused a three year delay in the listing of SJM Holdings. The firm successfully defended Dr Ho and Ambrose So against Winnie Ho's last-minute judicial review, the last in a series of 30 odd lawsuits that she filed.

Another high profile matter was the representation of former InvestHK director-general Mike Rowse in respect of disciplinary proceedings under the Public Service (Administration) Order against alleged misconduct brought by the Civil Service Bureau in Hong Kong. Other work includes advising a local bank on mis-selling claims concerning Lehman Brothers' structured products, and American International Assurance on proceedings for defamation and wrongful interference with its business. Hong Kong-based Mark Johnson heads the regional practice and is ably supported by Tim Mak, Gareth Thomas and Gavin Lewis, with the latter returning to the firm after a stint in-house at UBS.

### **Deacons**

The 17-partner dispute resolution practice at Deacons is one of the largest in Hong Kong and covers commercial litigation, insurance litigation and construction and arbitration. The group acts for major banks, government departments and statutory bodies, local and international insurers, property developers and local and multinational corporations. Key clients include MGM Grand, Bank of China, ICAP (HK), Hitachi Cable and Hudson STAR Group.

Work over the last year includes acting for one of the largest developers in relation to the purchase of a hotel to be constructed. The Deacons team addressed issues under Hong Kong's Buildings Ordinance, with the Court of Final Appeal unanimously ruling in favour of the firm's client. The defendant was ordered to refund a HK\$321 million (US\$41 million) deposit plus interest and costs.

The firm also acted for a major bank in successfully striking out two writs with claims against the bank for misrepresentation and damages involving HK\$5 billion (US\$645 million). The commercial litigation practice is headed by Alex Lai.

### **Linklaters**

The practice at Linklaters was boosted by the January 2009 arrival of partner Tom Lidstrom who relocated from the firm's London office. Although experienced in cross-border litigation, international arbitration and alternative dispute resolution, Lidstrom has been

brought in to add depth to the firm's litigation response to suspected fraud and other forms of corporate misconduct in particular.

In September 2008, a matter that had been rumbling on since July 2004 came to a close when the High Court of Hong Kong dismissed 98% (in value) of an audit negligence case against Linklaters client Ernst & Young. The case had been brought by the New China Hong Kong (NCHK) group companies, which went into liquidation in 1999, against its former auditors.

Linklaters also advised LG Household and Healthcare Limited on a case in the High Court against Coca-Cola Amatil Limited and CCKBC Holdings Limited in respect of a dispute over a breach of seller warranties. The case was settled in May 2009.

In addition to Ernst & Young, key clients of the firm include Bank of America Merrill Lynch, Credit Suisse, HSBC, Jardine Matheson, Standard Chartered Bank and UBS.

Marc Harvey heads the three-partner practice, which also includes China disputes practice head Melvin Sng. Harvey himself is an adviser to the Hong Kong government.

### **Richards Butler in association with Reed Smith**

The 14-partner litigation practice at Richards Butler in association with Reed Smith is divided into commercial, corporate/regulatory litigation, medico-legal, professional indemnity, employment, shipping and international trade, cargo recoveries and freight forwarders, marine personal injury litigation and the PRC shipping practice.

Significant matters over the last year include acting for the former chairman of a listed company in an appeal to the Hong Kong Court of Final Appeal. The appeal was against a conviction under the Securities and Futures Ordinance for reckless conduct in failure to ensure the accuracy of information publicly disclosed by the listed company.

The UK firm also acted on the collapse of Ocean Grand, advising a former director in regulatory and criminal proceedings arising from the collapse. And it represented a listed company, which operates hotels and restaurants, in their dispute with some tenants during the redevelopment of a hotel and in setting aside an injunction obtained in the UK.

Key individuals in the practice include: senior partner Chris Howse, who established the medico-legal team in Hong Kong; Andrew Horton, who heads the cargo recoveries and freight forwarders team; and Lianjun Li, who leads the China shipping practice.

### **Baker & McKenzie**

Partner Gary Seib heads the seven partner practice at Baker & McKenzie. The firm is acting for Avery Dennison Corporation and its subsidiaries in China in defending trade secret and unfair competition claims by Taiwanese company

Four Pillars Enterprises (4P) in different PRC courts. This case was recognised as one of 50 exemplary cases in 2008 by China's Supreme People's Court. Bakers is also advising a European Fortune 500 company on contractual rights and strategy in relation to a major investment in northern China, the investigation into the affairs of the company, potential shareholders' disputes and liquidation issues including the recovery of assets in China.

### Other active firms

#### DLA Piper

Appointed in March 2009, partner Satpal Gobindpuri heads the eight-partner practice at DLA Piper that includes Christopher Clarke.

#### Sidley Austin

Partner Charles Allen heads Sidley Austin's team of 10 lawyers, which includes regional managing partner William Fifield and Allen Kim, handling complex international litigation and arbitration out of Hong Kong. Recent work includes successfully acting for China Life Insurance in connection with the securities fraud class actions brought against it. The plaintiffs' complaint was eventually dismissed in September 2008. And Kim served as an arbitrator in an AAA/ICDR arbitration in which US company Claimant sought to recover US\$100 million in alleged damages against a Korean pharmaceutical respondent for alleged breaches of a licensing agreement.

in Hong Kong, Baker & McKenzie represents the owners of many of the world's best known trade marks and brand names. The practice covers all aspects of IP portfolio management, including acquisition, protection, enforcement and exploitation of IP rights.

Representative clients of Bakers include Starbucks, LVMH, Calvin Klein, British American Tobacco, Dell, Body Shop and Unilever.

Bakers recently advised Nokia on various injunctions for design patent infringements in China. In June 2007, the firm advised Nokia in suing a major mobile handset manufacturer in Shenzhen based on Nokia design patent rights. Nokia requested a permanent injunction and compensation of Rmb1 million (US\$146,000).

The Shenzhen Intermediate Court granted orders to conduct evidence preservation and to freeze the deposit of the defendant bank account. The court conducted a hearing in September 2007 and a final judgement was issued a year later.

Key lawyers include department head Loke Khoon Tan, Joseph Simone, Shih Yann Loo, Winston Zee and Maria Smith.

#### Lovells

Housing one of the largest IP groups in Asia of any international law firm, Lovells is known for its depth of practice – covering areas such as patent litigation, trade mark portfolio management, copyright, the protection of IP rights online and the relatively new area in Asia of competition law in relation to IP.

Matters that have kept the group busy over the last year include managing the global and regional trademark portfolio for Prudential in over 200 jurisdictions. This includes the filing and maintenance of trade mark applications and registrations as well as opposition and cancellation actions in China, Vietnam, Malaysia, Philippines, South Africa, India, Bangladesh and Australia.

The firm also continues to act for Alibaba.com on domain name recovery and a range of IP issues including trade mark applications, trade mark infringement / passing-off actions and patent applications in Hong Kong and China. Other significant international clients whose global and regional trade mark portfolios are managed by Lovells include Toys R Us and Citigroup.

Key partners in the group include the very experienced Henry Wheare and Gabriela Kennedy.

#### Wilkinson & Grist

For many years Wilkinson & Grist has been one of the top e-filers in Hong Kong for trade mark, design and patent applications. The Hong Kong firm handles and manages the IP portfolio of many multinational corporations

## Intellectual Property

### RECOMMENDED FIRMS

#### Tier 1

Baker & McKenzie

Lovells

Wilkinson & Grist

#### Tier 2

Bird & Bird

Deacons

JSM

#### Tier 3

Clifford Chance

Freshfields Bruckhaus Deringer

Jones Day

### Baker & McKenzie

Long considered to house one of the leading IP practices

including Wyeth, Philips, Johnson & Johnson, Hutchison, Ikea and CK Life Sciences International Inc.

On the enforcement front, the firm's key clients include Richmond International, Panasonic Corporation and Chanel.

The firm recently advised entrepreneur and philanthropist Li Ka-shing, Cheung Kong (Holdings), Cheung Kong Infrastructure Holdings and Li Ka Shing Foundation in filing complaints against over 40 top level and country level domain names incorporating the names or trade marks of the above clients.

Partners Anne Choi, Yvonne Chua and Andrea Fong enjoy an excellent profile in this area.

### **Bird & Bird**

UK IP boutique Bird & Bird has been a long time player in Asia, but has recently stepped up its commitment to the region. Apart from establishing a licensed Shanghai office, the firm has hired former Motorola in-house counsel James Luo in Beijing and formed a global association in Singapore with Alban Tay Mahtani & de Silva.

The Hong Kong office acts as a base for Bird & Bird's IP litigation practice across the region, and works with multinational clients in jurisdictions such as China, Indonesia, Malaysia, the Philippines, Taiwan and Thailand. A range of big-name clients, including Apple, Sanofi-Aventis, Creative Technology, Techtronic and DTS, instruct the firm to manage their trade mark portfolios.

The practice is led by the experienced long-time Hong Kong resident Matthew Laight, and includes the well respected Shirley Kwok. A recent addition to the team is partner Ai-Leen Lim, who specialises in strategic IP counseling, infringement matters, IP commercialisation, and licensing work.

### **Deacons**

Following up on wins in 2005, 2006 and 2007, Deacons once again this year was awarded the top Hong Kong government award for electronic filing in Hong Kong. The firm has acted as IP adviser to the Hong Kong Trade Development Council (HKTDC) for the last 10 years, and this year successfully tendered for patent work with the Hospital Authority.

It has been an exceptionally busy year for Deacons' litigation practice, with the firm acting in a copyright and passing off action for Yeo's against its distributor and competitor for copying its drinks packaging and designs. Another matter was its work for Tradeeasy in a complex action against its employees and a competitor for copyright infringement in its database and confidential information/trade secrets.

On both occasions, Deacons was successful in

obtaining interlocutory injunctions against the defendants – with the firm obtaining a mareva injunction against the infringers in the Tradeeasy case.

Partner Lindsay Esler heads Deacons' IP department.

### **JSM**

The IP practice at JSM advises and manages trade mark portfolios and other IP registrations for a range of clients, including HSBC, Hang Seng Bank, Cathay Pacific Airways, Swire Group, Procter & Gamble, Kodak, Shell, Alcatel, Sega and The 3M Company.

A key development came in March 2009, when the firm opened a trade mark agency in Beijing enabling it to assist clients in their PRC trade mark registration and renewal, copyright registration and domain name registration needs. In its first month of operation, the agency filed over 100 trade mark applications.

The Hong Kong practice was kept busy over the last 12 months on the Wong To Yick and Wood Lock Ointment case. This was an unfortunate family saga involving a father and some of his children that included contempt proceedings and an appeal regarding the ownership of certain shares of the company (which was heard in late July 2009).

Partner Kenny Wong heads JSM's IP team, which includes key partner Rosita Li who advises blue-chip clients like Cathay Pacific, Swire Properties and Li & Fung.

### **Clifford Chance**

Ling Ho heads the regional IP group and China L&DR practice at Clifford Chance. The eight-lawyer team, which includes senior associate Audrey Shum, covers IPR protection and counselling on strategies, complex licensing programmes, IP-related investment and R&D programmes, sale and acquisition of IPR portfolios, anti-counterfeiting enforcement programmes and IPR infringements, and conflict actions. Recent work includes advising Taiwanese electronics and computer component manufacturers Foxconn International on actions in Hong Kong regarding trade secrets and confidential information. The firm also provides general IP advice, and assists with IP infringements in Hong Kong and mainland China, for Goldman Sachs. Over the last 12 months, the firm has added Chinese power producer Huadian Power and Pfizer to a client list that already includes Airbus and Star TV.

### **Freshfields Bruckhaus Deringer**

The Hong Kong IP practice at Freshfields Bruckhaus Deringer is heavily geared towards mainland China. The firm specialises on the IP aspects of mergers and

acquisitions, spin-offs, joint ventures and IPOs, but it also covers commercial and contentious IT matters such as outsourcing. Practice head, and former Mallesons Stephen Jaques partner, Connie Carnabuci is particularly strong on the telecoms and IT side and the firm enjoys a fruitful relationship with Alibaba.com, whose in-house team is headed by former Freshfields partner Timothy Steinert. Other key clients include Homeland, Morgan Stanley, Star Group and UPS.

### Jones Day

The IP practice at Jones Day was significantly boosted in 2008 with the lateral hiring of a team of three partners from Baker & McKenzie. Anita Leung, Peggy Cheung and Chiang Ling Li receive many plaudits from peers and clients alike. Recent work includes executing an interim evidence preservation order in China for the first time. The firm successfully convinced the court to waive the bond requirement and persuaded the court to discover evidence from various Chinese government departments in support of its client's case.

## Other notable areas of law – recommended firms

Further information available online at [www.asialawprofiles.com](http://www.asialawprofiles.com)

### CONSTRUCTION & REAL ESTATE

#### Tier 1

Mallesons Stephen Jaques

Pinsent Masons

#### Tier 2

Baker & McKenzie

Deacons

JSM

Minter Ellison

#### Tier 3

Lovells

### TAX

#### Tier 1

Baker & McKenzie

DLA Piper

#### Tier 2

Clifford Chance

Deacons

JSM

#### Tier 3

Withers

### IT, TELCO & MEDIA

#### Tier 1

Freshfields Bruckhaus Deringer

Morrison & Foerster

#### Tier 2

Allen & Overy

Clifford Chance

DLA Piper

Minter Ellison

Simmons & Simmons

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