

**VIETNAM**

## Vietnam litigation guide



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Vietnam has seen an increasing flow of investment capital from foreign entities, and Vietnamese companies have become more active in international trade, since the country joined the WTO in 2007. However, more transactions and contracts mean a higher likelihood of transactional and contractual disputes. To keep pace with these changes, the Vietnamese government has made great efforts to improve the legal framework in general and legislation for dispute resolution in particular.

Vietnamese laws provides for three forms of dispute resolution: (a) conciliation; (b) litigation or court settlement; and (c) arbitration. Separate proceedings apply for each form.

### Conciliation

As with other Asian countries, informal dispute resolution remains common for business disputes in Vietnam. The laws of Vietnam also encourage parties to a dispute to settle their dispute by conciliation and mediation by themselves. However, no formal system of conciliators and mediators has been developed to date.

Conciliation is an informal process, and may be mandatory or voluntary before legal proceedings depending on the type of dispute. In general, the decision of conciliation is not binding unless the parties in question reach a settlement agreement, which is then treated as a contractual arrangement with remedies available for breach of its terms.

### Litigation

Litigation is still the most common formal channel for resolving commercial disputes in Vietnam when the parties cannot reach an agreement via an informal mechanism.

Commercial disputes are considered part of civil disputes in general and can be submitted to a competent court for settlement. The procedures for court proceedings are provided for in the Civil Proceedings Code (CPC), which took effect on January 1 2005. The CPC consolidates major provisions of previous laws on the procedures for civil, economic and labour disputes, and those on recognition and enforcement of foreign judgements and foreign arbitral awards.

### Court system

The court system of Vietnam, known as people's courts, comprises three tiers, including the District, Provincial and Supreme People's Courts.

The Supreme People's Court is composed of one Council of Supreme People's Court Judges and separate specialist courts. Apart from acting as appellate court for the Provincial People's Court's first-instance cases, the Supreme People's Court is empowered to review trials of cases with judgments that have already taken legal effect, but have been protested due to changes/new discovery of proof and facts materially related to the case. The Council is also the highest body for issuing guidance on uniform application of laws, especially litigation laws.

A Provincial People's Court is composed of one Committee of

Provincial People's Court Judges and separate specialist courts. Unlike the Supreme People's Court, it is empowered to hold both trials of first instance and trials of appeal. The Court acts as appellate court for the District People's Court's first-instance cases.

A District People's Court has the power to hold first-instance trials in civil, commercial, and labour cases, except for those under the Provincial People's Court's jurisdiction or selectively taken into jurisdiction by the Provincial People's Court.

### Arbitration

Though legislation for arbitration in Vietnam has been significantly improved, the selection and use of arbitration as a dispute resolution forum remains uncommon among business entities. The operation of commercial arbitration centres is also quite moderate. The major legislation for arbitration is the Ordinance on Commercial Arbitration, dated February 25 2003, which came into force on July 1 2003. Commercial disputes may be resolved by an arbitration tribunal established by an arbitration centre or set up by the parties (ad hoc arbitration).

The Vietnam International Arbitration Centre (VIAC), which is attached to semi-governmental agency the Vietnam Chamber of Industry and Commerce (VCCI), is the most popular arbitration centre in Vietnam. The Pacific International Arbitration Centre (PIAC), which was established by a group of experienced lawyers in 2006, is also quite active.

Under Vietnamese law, such as the 2005 *Investment Law*, parties to a transaction involving foreign elements may choose foreign arbitration for settlement of disputes arising from the transaction. The CPC sets forth specific regulations for recognition and enforcement of foreign arbitral awards. In 1995, Vietnam ratified the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

### Foreign court judgments

Foreign courts' judgments are not enforceable in Vietnam. Under the CPC, Vietnamese courts will only consider recognition of such judgments in countries that have entered into bilateral judicial agreements with Vietnam for enforcement of such judgments. So far, only Russia, Cuba, Bulgaria, Hungary and France have signed such a treaty. For all other countries, the CPC allows Vietnamese courts to recognise and enforce foreign court verdicts on the basis of reciprocity. This is yet to be tested in practice.

### Foreign arbitral awards

Under the CPC, foreign arbitration awards mean awards made either outside of Vietnam or within Vietnam by a mutually appointed foreign arbitrator. Accordingly, a foreign arbitral award rendered in, or by arbitrators of, a country that is party to the New York Convention can be recognised and enforced in Vietnam. Where the relevant country is not a member of the Convention, Vietnamese courts may recognise and enforce an award on the reciprocity basis.

## Recommended firms at a glance

<b>BANKING &amp; FINANCE</b>	<b>CORPORATE/M&amp;A</b>
<b>Tier 1</b>	<b>Tier 1</b>
Allens Arthur Robinson	Allens Arthur Robinson
Freshfields Bruckhaus Deringer	Baker & McKenzie
Mayer Brown JSM	Freshfields Bruckhaus Deringer
YKVN	YKVN
<b>Tier 2</b>	Vilaf-Hong Duc
Baker & McKenzie	<b>Tier 2</b>
Frasers Law Company	Frasers Law Company
Gide Loyrette Nouel	Mayer Brown JSM
Vilaf-Hong Duc	<b>Tier 3</b>
<b>Tier 3</b>	InvestConsult Group
Ngo Miguérès & Associés	Ngo Miguérès & Associés
Vietbid	Vietbid
Vision & Associates	Vision & Associates
<b>DISPUTE RESOLUTION</b>	<b>INTELLECTUAL PROPERTY</b>
<b>Tier 1</b>	<b>Tier 1</b>
Allens Arthur Robinson	Pham & Associates
Baker & McKenzie	<b>Tier 2</b>
DC Lawyers	Baker & McKenzie
Gide Loyrette Nouel	Vision & Associates
<b>Tier 2</b>	<b>Tier 3</b>
Freshfields Bruckhaus Deringer	Invenco
Vilaf-Hong Duc	Investconsult Group
<b>Tier 3</b>	Le & Le
Mayer Brown JSM	Lovells
Vision & Associates	Rouse
YKVN	Tilleke & Gibbins

## Banking & Finance

### RECOMMENDED FIRMS

#### Tier 1

Allens Arthur Robinson  
Freshfields Bruckhaus Deringer  
Mayer Brown JSM  
YKVN

#### Tier 2

Baker & McKenzie  
Frasers Law Company  
Gide Loyrette Nouel  
Vilaf-Hong Duc

#### Tier 3

Ngo Miguèrès & Associés  
Vietbid  
Vision & Associates

### Allens Arthur Robinson

With a long presence in the country, Allens Arthur Robinson has a solid international client base including banks and corporate investors.

This year it has worked on a number of confidential project financing and M&A transactions. Discloseable deals include its counsel for Holcim on the US\$40 million acquisition of COTEC cement. ANZ and the Commonwealth Bank of Australia (CBA) also turned to the firm for regulatory issues and banking operations in Vietnam. It also assisted PPF Finance Company on the establishment and operation in the consumer finance industry in Vietnam. Its corporate activities also saw transactions in industries ranging from pharmaceutical, real estate, securities to brewing, electronics and media.

Bill Magennis and Nigel Russell are key partners at the firm. Thomas Miller has been very active leading a number of deals this year.

### Baker & McKenzie

Baker & McKenzie has often been found in large and highly complex deals and projects. International clients often turn to the firm for investments in Vietnam as well as regulatory advice.

This year saw the firm working on the financing for the country's first oil refinery, acting for BNP Paribas on the US\$300 million loan for the construction of the project, which is completed in February 2009 and cost a total of US\$2.5 billion.

M&A practice highlights include its representations

## Corporate/M&A

### RECOMMENDED FIRMS

#### Tier 1

Allens Arthur Robinson  
Baker & McKenzie  
Freshfields Bruckhaus Deringer  
YKVN  
Vilaf-Hong Duc

#### Tier 2

Frasers Law Company  
Mayer Brown JSM

#### Tier 3

InvestConsult Group  
Ngo Miguèrès & Associés  
Vietbid  
Vision & Associates

for foreign clients in inbound investment deals, such as RHB Investment Bank's acquisition of 49% shares in Vietnam Securities. It also advised a steel maker on the formation of a joint venture to develop a steel complex in Vietnam, which will take 10 years to build at a cost of US\$5 billion. Asian Coast Development also mandated the firm on the application for a license for the construction of an integrated resort, such as a casino in Ho Tram, valued at US\$4 billion.

More samplings include counselling a Japanese client on the acquisition of the solvent business of Shell Vietnam. It also assisted a foreign brewery maker on a US\$24 million acquisition of a stake in Vietnam's Saigon Beer Alcohol-Beverage Corporation. The firm's M&A activities range from pharmaceutical, engineering, cosmetics to electronics, petrochemicals and consulting industries.

Fred Burke is a favourite for clients. Oanh Nguyen has also led a number of deals this year.

### Frasers Law Company

Frasers Law Company enjoys a well-recognised reputation for its solid advice in financial and corporate transactions, led by name partner Mark Fraser. This year saw it provide advice to International Finance Corporation (IFC), Asian Development Bank and Proparco on the restructuring and transfer of loans to the owner of a foreign owned hospital Franco-Vietnamese Hospital.

Also in real estate related deals, the firm worked for an international investment fund management company over acceptable structures for the provision of assets-

backed short- and long-term loans to Vietnamese property developers and other borrowers.

M&A activities saw Nippon Steel mandate the firm in the acquisition of an equity stake in a Vietnamese steel manufacturer, totalling US\$1.2 billion. Private Equity New Market also offered the firm roles in a US\$26 million purchase of shares in a steel manufacturer and construction company Hoa Phat Group as well as an equity acquisition in the International Consumer Products Corporation.

Acting as counsel for local clients saw Fraser's representation for NCM Vietnam on the US\$350 million formation of a property investment fund, which involved issues such as the development of eight seed projects, contractual arrangements with Vietnamese developers and preparing a fund for a potential Aim listing.

In addition to Mark Fraser, this year saw the return of a Vietnamese lawyer Pham Ba Linh from his secondment with Freehills, the firm's associated firm Australia.

### **Freshfields Bruckhaus Deringer**

Having a solid leading position across financial and corporate, Freshfields Bruckhaus Deringer is a favourite for international and local clients for its consistent quality and sound advice.

Notable projects this year highlight its involvement in the shipping sector, where the firm represented Cai Mep International Terminal on the financing of a container facility. It also worked for an international financing company on a US\$200 million financing for a port project, as well as a US\$60 million loan for the expansion of a cement project.

Deutsche Bank sought the firm's counsel on the US\$25 million purchase and sale of bonds issued by Vietnam Construction & Import-Export Joint Stock Corporation (Vinaconex), a state-owned company. More samplings saw its counsel for Prudential, a shareholder of Vincom joint stock company on a US\$13.5 million loan for the financing of the property investments by Vincom.

Tony Foster, who is highly recognised in the market, heads up the practice, supported by Nguyen Quang Vu, Jerome Buzenet and Milton Lawson in corporate transactions and banking and finance with the assistance of Jan Johansson and Bui Thanh Tien.

### **Gide Loyrette Nouel**

The long-established French firm Gide Loyrette Nouel receives mandates from its loyal client base including local and international financial institutions, investment banks and multinational corporations.

This year saw the firm's counsel for a French consumer banking subsidiary on the formation of a financial leasing company. Clients also turn to the firm for banking

regulatory advice when merging offshore credit and finance institutions.

Other examples saw its advice for foreign investors, such as an American investment fund on forex issues for its investment in listed and unlisted securities in Vietnam. It also assisted a French-Italian aircraft manufacturer on a novel lease agreement in connection with the implementation of the Law and Civil Aviation.

Corporate transactions include the representation of French oil company Total, which is one of the six supermajor non-state-owned energy company on issues such as re-registration of its subsidiary in Vietnam and a capital assignment to the Vietnamese party.

Francois d'Hautefeuille and Jesse Lieberman are two key partners at the firm.

### **Mayer Brown JSM**

Renowned for its expertise in real estate transactions, Mayer Brown JSM also enjoys a highly-recognised reputation in capital markets work.

For example, Bank for Investment and Development of Vietnam (BIDV) mandated the firm to advise its role as arranger in the D2 trillion (US\$112 million) bond offering by Vinpearl Tourism and Trading Joint Stock Company (Vinpearl). BIDV also retained the firm in the D1 trillion (US\$56 million) bond issuance by Hoang Anh Gia Lai.

Highlights of banking deals saw HSBC offered the firm roles in syndicated lending deals such as the US\$150 million syndicated loan facility agreement with the state-owned PetroVietnam Drilling Investment as well as the D112 billion (US\$6.3 million) term loan facilities for the SonKim Land Corporation. Other banking clients include Standard Chartered Bank, ABN Ambro, Bank of Tokyo-Mitsubishi and BNP Paribas.

The firm is also working on private equity deals such as equity investments and arranging exits by way of trade sales, IPOs or repurchase by founders. Dao Nguyen, Hoang Anh Nguyen and Phuong Nguyen are key partners of the firm.

### **Vilaf-Hong Duc**

Vilaf-Hong Duc has had a successful year, attracting roles across capital markets, project finance as well as M&A transactions.

Notable projects include its counsel for two Korean banks, Woori Bank and Kookmin Bank on the US\$350 million offshore loan for the development of Keangnam Hanoi Landmark Tower, a residential and office property which cost a total of US\$1 billion. Highlights of capital markets deals saw an overseas IPO where the firm acted for VinaCapital Hospitality Portofino on the Singapore Stock Exchange at the end of 2008.

In M&A, the firm worked for Russian mobile Vimpel Communications on the formation of a joint venture with GTel Mobile as well as the acquisition of the Vietnam company's global telecommunication mobile project, totalling US\$1.8 billion. In the shipping sector, the firm acted on PV Transportation's US\$175 million acquisition of three Aframax tankers to transport crude oil and petroleum products to Vietnam's first refinery, representing a consortium of lenders led by Citibank Tokyo.

Tran Tuan Phong and Dang Duong Anh co-head the corporate team. Banking practice is led by Nguyen Quang Hung.

### **YKVN**

As one of the largest local law firms, YKVN has had an exceptionally impressive year, gaining great exposure for its role on a number of banking, project financing and private equity transactions.

No less active is its capital markets practice. In a US\$1 billion bond offering deal, the firm acted as counsel for lead managers including Barclays, Citigroup and Deutsche Bank in the issuance of Vietnam sovereign bonds under the Rule 144/Regulation S. It also assisted Techcombank on the proposed D1 trillion bond issuance.

Notable projects saw the firm's counsel for foreign investors such as China Southern Power Grid International and China Power International Development on the US\$1 billion financing of a build-operate-transfer (BOT) coal fired power plant. It also provided advice to Viet-Lao Power Joint Stock Company on the US\$237 million financing of a hydroelectric plant, which was partly funded by a US\$131 million facility from Natixis guaranteed by the Vietnamese government.

More samplings highlight representation for IFC and Proparco on Techcombank's mortgage loans in Vietnam, totalling D320 million and US\$15 million respectively. Foreign investors often turn to the firm for advice on strategic investment in Vietnam, such as the advice to Mekong Capital on the stake acquisition in computer distributor digiworld and its sale of shares in a local LPG trading company.

Truong Nhat Quang heads up the banking and finance team. M&A practice is led by Diep Hoai Nam. Other leading individuals include Vu Dzung and Duong Thu Hua.

### **Vietbid**

Vietbid has been found in several power projects and has had a steady deal flow this year with roles in several financing deals. For example, Asian Development Bank sought the firm's counsel on a program loan for financial leasing companies in Vietnam. It also assisted Glowtec

Vietnam on the offering of a straight interest corporate bond.

The firm also maintains a close relationship with government bodies and official department. This could be seen from its representation for the Ministry of Finance on the development of securitisation in Vietnam by studying the implications of laws in other countries. It also assisted the Ministry of Trade and Industry on the project contracts for the development of Mong Duong 2 BOT (Build-Operate-Transfer) power project with AES.

Nguyen Thanh Ha and Tran Duc Hoai are leading partners of the firm.

### **Vision & Associates**

Vision & Associates caters to a panel of local banks, state-owned enterprises as well as government bodies.

With solid experiences in local banking regulations, foreign banks and local government department often turn to the firm for regulatory advice, such as the Ministry of Finance, the State Securities Commission and the State Bank of Vietnam on the development of debt, equity and monetary markets. The World Bank also consulted the firm on issues such as securitisation of sub-loans to finance infrastructure, prevention of credit risks and advice on a range of authorised products. The state-owned Vietcombank has consulted the firm on corporate governance issues

M&A activities saw the firm's counsel for Prime Group on its stake acquisition and subscription of convertible bonds of a Vietnamese company. It also worked for State Capital Investment on a proposed acquisition of shares in one of its subsidiaries by a foreign investor.

Leading individuals include Pham Nghiem Xuan Bac and Luu Tien Ngoc.

### **Other active firms**

#### **Audier & Partners**

A newly-formed firm, the practitioners at Audier & Partners are no strangers to the market. Led by managing partner Nicolas Audier, formerly a leading lawyer at Gide Loyrette Nouel, the full-service firm offers services ranging from banking and finance, and corporate to dispute resolution and labour and employment. Its core group of practitioners all followed Audier from Gide, including partners Bernadette Fahy, Etienne Laumonier, Nicolas Picard and Hadrien Wolff.

Since the firm's establishment in late 2008, the team has been working on major infrastructure financing and noteworthy M&A deals such as advising a leading European Bank on its acquisition of a strategic shareholding in a state-owned commercial bank.

### Bizlink Lawyers & Consultants

Bizlink Lawyers & Consultants offers a full-range of financial and corporate services. It has experience working on both local and cross-border banking and finance and M&A transactions including general lending, asset finance, project finance, debt restructuring, public and private M&A, and joint ventures. For financing work, the firm provides advice on tax, foreign exchange control, governing laws, dispute resolution and administrative procedures. For M&A, the team conducts due diligence, drafts contractual documents, applies for licensing requirements and other issues concerning corporate transactions. The leadership comprises Do Trong Hai, Tran Duc Son, Vu Cat Tuong, and Nguyen Thang Cong.

### Indochine Counsel

Indochine Counsel is a growing force within the legal market as a full-service firm that earlier this year formed a strategic alliance with Leadco Vietnam Legal Counsellors. Another highlight was its hiring of financial and corporate specialist Bui Ngoc Hong who was formerly at Frasers Law Company, Roedel & Partners, and most recently Allens Arthur Robinson. Offering clients quality legal solutions in areas such as banking and finance, corporate and M&A, securities and tax among many other sector-specific niches, Indochine Counsel has been seen on some significant deals recently. For example, at the end of July 2009 the firm advised Seaf Blue Waters Growth Fund in an equity-linked debt investment of US\$1.7 million through a convertible bond subscription to be issued by Hoa Binh Corporation. Dang The Duc is the managing partner of the firm and he is supported by three partners Le Nguyen Huy Thuy, Phan Anh Vu, Bui Ngoc Hong and 14 other associates, of counsels and consultants.

### Investip

Investip's practice focuses on two main areas: IP and investment consultancy. The firm is a full-service investment consulting firm that has offices in Hanoi and Ho Chi Minh City. Offering assistance to clients on every step of the investment process, from market entry strategy, requisite document filing, to navigating tax concerns and finally implementation and execution, the consultants at Investip have over two decades' experience in this field.

### Leadco

Leadco Vietnam Legal Counsellors (Leadco), established in 1992, is based in Hanoi and is a full-service firm offering counsel on all financial and corporate, and industry-specific areas. Phan Nguyen Toan is the firm's managing

partner and the leadership is rounded out with Alexandre Legendre. Core services include assisting foreign clients to set up businesses and establish operations in Vietnam, localise contracts and agreements to comply with domestic regulations, M&As, restructurings, equity and debt financing, and litigation and managing dispute resolution cases through arbitration or mediation.

### Tran Son & Associates

Tran Son & Associates is a full-service domestic law firm that has a long list of foreign and domestic clients, providing legal advice on local and cross-border transactions. The team has abundant experience on financial and corporate matters, including assisting overseas clients on investment procedures such as completing necessary documents, mergers, restructurings, share and business acquisitions, project and trade financing, drafting loan and security documents, and rendering legal opinions on regulatory, financing and banking issues.

In addition to its financial and corporate work, the firm has considerable strengths in employment law, dispute resolution and litigation, and IP rights.

## Dispute Resolution

### RECOMMENDED FIRMS

#### Tier 1

Allens Arthur Robinson

Baker & McKenzie

DC Lawyers

Gide Loyrette Nouel

#### Tier 2

Freshfields Bruckhaus Deringer

Vilaf-Hong Duc

#### Tier 3

Mayer Brown JSM

Vision & Associates

YKVN

### Allens Arthur Robinson

Australian firm Allens Arthur Robinson's litigation and dispute resolution practice remains at the top of the table. The firm has been present in the market for over three decades and has two offices in Vietnam, one in Hanoi and another in Ho Chi Minh City. The latter is managed by Nigel Russell and the former by energy and disputes

specialist Bill Magennis. The firm's sector specialties include construction and energy, where it has gained a strong market foothold.

### **Baker & McKenzie**

Baker & McKenzie's dispute resolution practice offers strategic litigation analysis, litigation services, alternative dispute resolution and corporate compliance. The firm is experienced in cross-border work and has argued cases before the World Trade Organization (WTO). The firm boasts a host of leading individuals such as Fred Burke, Ha Tran, Hung Manh Tran and James Lockett.

### **DC Lawyers**

A strong local player, DC Law has a solid litigation and arbitration practice headed up by experienced litigator Le Cong Dinh. With a track record acting in local courts and on international arbitrations, the firm has played decisive roles in prominent cases for multinational corporates in labour, corporate, commercial, competition and construction disputes before the Vietnamese courts. Clients of the practice include Sun Wah Properties, American Coffee and Bureau Veritas.

### **Gide Loyrette Nouel**

As one of the large international firms present in Vietnam for the past decade, Gide Loyrette Nouel brings quality litigation advice to international investor clients. In a recent international arbitration, the team was appointed as legal adviser to the State of Vietnam. The firm has two offices, one in Hanoi and another in Ho Chi Minh City. The group services multinational corporate and governmental clients, and has long-standing relationships with energy and construction companies. Cases handled recently include breach of contract and non-competition agreements, medical malpractice suits and shareholder actions.

### **Freshfields Bruckhaus Deringer**

With two offices in the country, Freshfields Bruckhaus Deringer's dispute resolution practice is well-regarded by the market. The team is led by three partners including practice head Milton Lawson who is a commercial disputes specialist. The firm focuses on finance sector-related arbitrations and negotiations. Clients include leading banks, industrial corporates and domestic goods manufacturers.

### **Vilaf-Hong Duc**

Vilaf-Hong Duc has a strong dispute resolution practice with emphasis on the maritime and construction industries in matters like letters of credit, construction

contracts, vessel collisions, cargo damage and commercial contracts. Recent high-profile work has seen the firm represent Radiant Investments in a dispute with United International Corporation over a 2% share. Vilaf helped settle the dispute and another issue between the boards of directors of the company.

Crown Agents used the firm in its disagreement with a former employee over the termination of their employment. Vilaf defended Vietnam International Assurance in a dispute over insurance for damaged goods. Nguyen Duy Linh is the firm's head of litigation. Ngo Thanh Tung and Le Phan Thuy Anh are two other standout names.

### **Mayer Brown JSM**

The litigation and dispute resolution practice at Mayer Brown JSM has been developing on the back of its existing corporate and financial work. The team has been active representing its current commercial and investor clients in contentious matters, particularly on the IP, shareholder and employment front. The firm has been a presence in the market for 15 years and is led by Dao Nguyen.

### **Vision & Associates**

Vision & Associates brings domestic capabilities with international experience to its clients when handling dispute resolution matters. Clients of the team include Hanoi Vietnamese-French Hospital, Fujita and Ready-mix Concrete. Le Quynh Anh is a respected litigator that leads a team of practitioners dealing with litigation, arbitration and mediation. Services cover legal advice, warning letter drafting, negotiations, defence before the Vietnamese courts, commercial arbitrations and enforcements.

One recent case for the firm had it advising Asahi Glass in a debt recovery from a Vietnamese company. The lawyers drafted a warning letter and engaged in negotiations which resulted in a conciliation between the debtor and its client.

### **YKVN**

A domestic legal stronghold, YKVN is not only known for its financial and corporate law prowess, but offers a solid dispute resolution practice that represents clients at all levels of the Vietnamese court system and in international arbitration centres. The practice focuses on litigation and arbitration in foreign investment and international commercial disputes. Recent clients include Vietcombank, Saigon Petro and DMBM, a US clothing manufacturer. Leading names of the practice include Diep Hoai Nam and Truong Nhat Quang.

In a recent major trade controversy between Vietnam and the US, the firm advised Vietnam Association of Seafood Exporters & Producers and its members in

relation to US anti-dumping proceedings targeted at imposing antidumping duties on imports of fish fillets from Vietnam. This was a high-profile case that had the team working around the clock with the individual companies in the Mekong Delta to prepare them for the US Department of Commerce verification.

### Other active firms

#### Bizlink Lawyers & Consultants

The dispute resolution practice at Bizlink Lawyers & Consultants covers a range of areas, assisting clients on their financial, commercial, corporate, shipping, insurance, IP and employment dispute matters. The lawyers in the practice advise on negotiations, legal representation of clients before the local courts, arbitration and alternative proceedings. Managing partner Do Trong Hai has experience across the spectrum of services Bizlink offers, and combines his transactional experience with that of being a litigation barrister.

#### Detech & Associates

IP boutique Detech & Associates specialises in dispute resolution related to IP matters. Founded in 1991, its lawyers work with clients on IP infringements, and advise and represent clients in appeals and objections, litigations, and conducting searches and evidence collections or actions against IP rights infringements.

#### Phuoc & Partners

Phuoc & Partners' dispute resolution and litigation practice group offers clients advice on traditional litigation, private mediation, arbitration and alternative dispute resolution processes. The firm recently gained litigation specialist Dinh Quang Thuan and his joining bolsters the practice's expertise. The group covers a range of legal sectors such as maritime, employment, insurance, construction, corporate and commercial. Key clients include Prudential Vietnam Assurance Private, Hagen O'Connell, New World Fashion Group and Electronic Samsung Vina.

A notable case for the firm had it representing the defendant Schlumberger Vietnam Services in a labour dispute brought on by a former employee for a claim in the amount of US\$987,000. The Vietnamese appeal court completely rejected the claim of the plaintiff.

#### VCI-Legal

The dispute resolution team at VCI-Legal predominantly handles IP enforcement and litigation involving commercial, property, employment and maritime legal issues. Its clients span a range of industries from local businesses to multinational conglomerates. Examples include Coca Cola, Shell, Prudential and Unilever.

## Intellectual Property

### RECOMMENDED FIRMS

#### Tier 1

Pham & Associates

#### Tier 2

Baker & McKenzie

Vision & Associates

#### Tier 3

Invenco

Investconsult Group

Le & Le

Lovells

Rouse

Tilleke & Gibbins

### Pham & Associates

Pham & Associates offers services in practice areas like corporate and banking, but it is its IP practice that has gained it most attention. And with good reason. The firm is the standout IP practice in Vietnam, with a roster of international clients like Johnson & Johnson, Honda R&D and BMW Group. Its IP service covers everything from litigation, to patent work and licensing. One high-profile court case saw Pham & Associates argue the case for International Consumer Products, a Vietnamese cosmetics company, against US company Marvel Characters. The US company alleged that ICP's use of X-Men on cosmetic products infringed its copyright, but Pham & Associates successfully argued this was not the case in Vietnam.

Honda used the firm to establish the enforcement of its trade mark rights in Vietnam. The case was mainly against unauthorised dealers in Vietnamese cities using the Honda name. In total, Pham & Associates handled more than 40 cases successfully on this matter. Other recent cases have seen the firm represent the Rough Guides travel guidebooks and confectionary maker Perfetti Van Melle. The firm's managing partner Pham Vu Khanh Toan is one of the best known patent practitioners and IP lawyers in Vietnam. He is ably backed up by Duong Tu Giang.

### Baker & McKenzie

Baker & McKenzie brings all the nous expected of an international firm to this market. The firm has a broad IP practice that includes copyright work, IP enforcement, lobbying, patent prosecution and litigation. Baker & McKenzie has also started a commercial IP group, to help

franchisers looking at the Vietnam market. Microsoft employed the services of Baker & McKenzie in a case before the World Intellectual Property Organization (WIPO) Arbitration and Mediation Center. The dispute was over the registration of the domain name microsoftvietnam.net by a Vietnamese individual. Baker & McKenzie successfully argued the case that Microsoft had the trademark rights no matter where the case was located.

Singaporean company FJ Benjamin used the firm in filing an opposition against the trade mark application of a Vietnamese company. The dispute was over use of the name Raoul, which the Vietnamese company had registered before FJ Benjamin in Vietnam. Baker & McKenzie successfully proved that its client's trade mark was well known. Hung Manh Tran is the group leader for IP at Baker & McKenzie and is considered a leading expert in contentious IP matters, licensing and franchising. Other standout names include Hong Yen Vu, Kieu Hoa Tran and Hai Hoang Nguyen.

### **Vision & Associates**

Vision & Associates is a Vietnamese firm that offers local and international IP legal advice. The firm is adept in areas like IP rights prosecution, anti-counterfeiting and copyright infringement. Vision & Associates also has offices in Cambodia and Laos, given it a unique presence. Recent years has seen the firm defend international clothing groups such as Lacoste. The firm argued the case for Lacoste over the use of its crocodile logo by another company called Crocodile.

Sony Corporation used the firm for copyright advice and on the legal aspects of the End User License Agreement. Western Union Holdings used Vision & Associates for advice on a domain name dispute and for representation in anti-cyber squatting in Vietnam. Pham Nghiem Xuan Bac is the managing partner of the firm and leader in this practice area. Do Quang Hung is a leading partner at Vision & Associates.

### **Invenco**

Invenco is an IP boutique formed in 1991 that also goes by the name Vietnam International Trademark & Patent Agent. It offers a full range of services on IP-related matters and the protection of IP rights. The core areas of the firm are divided into invention, industrial design, trade mark, copyright, technology transfer and the enforcement of IP rights in the country.

### **Investconsult Group**

The Investconsult Group predominantly focuses on corporate and commercial work, but it does have a solid offering on domestic IP law. Its senior lawyers are

members of the Asian Patent Attorney Association and the group provides consultancy services on proceedings and IP violation resolution. Core services the firm provides include assisting clients check the status of registering protection of their IP rights in the country, preparing registration documents, advice on IP rights transfer, and dispute resolution in IP infringement cases.

### **Lovells**

Lovells can call on the experience of the Lovells network, including its large practice in Hong Kong. Highly-rated partner Henry Wheare leads the Vietnam team from Hong Kong, while Gregory Buhoff is the on-the-ground leader. Recent cases have seen Lovells represent blue-chip clients like Anheuser-Busch, Ford Motor Company and Prudential Vietnam.

### **Rouse**

Rouse has a strong Vietnamese presence, aided by its association with Doan Hong Son Law Offices. The firm has fostered strong links with some large beverage companies. Recent work has seen it represent the Scotch Whisky Association and international drinks company Diageo, over an infringement with its Johnnie Walker brand. Chris Vale heads the firm's IP operation.

### **Tilleke & Gibbins Consultants**

Tilleke & Gibbins has a presence in Vietnam and Thailand, giving it good Southeast Asia coverage. The firm offers wide-ranging IP services and has been used by firms such as Diageo, Lacoste and Liberty Gold to defend their IP rights. Nga Thi Phi Nguyen is the head of the IP department, while Thomas Treutler is internationally recognised.

### **Other active firms**

#### **Detech & Associates**

Detech & Associates fields a team of 20 IP professionals and offers clients nearly 20 years of experience as a reliable IP boutique firm. The practice concentrates on representing foreign and domestic clients in the establishment of their IP rights in the country and enforcing them within the country and overseas. The firm has a long-standing track record of experience in the consultation and prosecution of licensing agreements, and technology transfer arrangements.

#### **Investip**

Investip is a domestic IP firm that handles legal matter relating to copyrights, patents, industrial designs, trade marks, domain names, licensing, technology transfer, and IP litigation and enforcement. Founded in 1988, the

practice is led by Le Tu. In addition to its IP expertise, the firm is an investment consultancy.

#### VCI-Legal

VCI-Legal's IP practice is led by managing partner Phung

Anh Tuan and concentrates largely on enforcement and strategic management. Its clients span a variety of industry sectors and range from domestic small- and medium-sized enterprises to international corporates.

## Other notable areas of law – recommended firms

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

### CONSTRUCTION & REAL ESTATE

#### Tier 1

Allens Arthur Robinson

Mayer Brown JSM

Vilaf-Hong Duc

#### Tier 2

Baker & McKenzie

Freshfields Bruckhaus Deringer

Gide Loyrette Nouel

YKVN

#### Tier 3

DC Lawyers

Lovells

Vision & Associates

### ENERGY & NATURAL RESOURCES

#### Tier 1

Allens Arthur Robinson

Freshfields Bruckhaus Deringer

#### Tier 2

Baker & McKenzie

Frasers Law Company

Gide Loyrette Nouel

Mayer Brown JSM

Vilaf-Hong Duc

YKVN

### TAX

#### Tier 1

Allens Arthur Robinson

Baker & McKenzie

Freshfields Bruckhaus Deringer

Gide Loyrette Nouel

YKVN

#### Tier 2

Vilaf-Hong Duc

Vision & Associates