

Jisung Horizon Newsletter

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(Firm News)

Jisung Horizon Consults KITMC on Korea's 1st Carbon Fund

Jisung Horizon participated as the legal advisor of Korea Investment Trust Management Co. in its creation of the largest carbon fund in Korea. The signing ceremony of the Korea Carbon Fund was held at Chosun Hotel on Sep. 29, 2009. The size of the fund amounts to 100 billion to 150 billion won and is the very 1st carbon emission trading fund in Korea. Among the investors of the fund are the Export-Import Bank of Korea, listed companies and public enterprises, 13 institutions in all.

The Korea Carbon Fund, unlike other funds, consists only of strategic investors (SI), without any financial investors (FI). The Korea Investment Trust Management will be managing the fund.

[Korean Article Reference]

- [Maeil Economy - Debut of The Export-Import Bank of Korea Carbon Fund](#)
- [Korea Economy - Debut of the 100 Billion Won Carbon Credit Fund](#)
- [Digital Times - Debut of The Export-Import Bank of Korea Carbon Fund](#)

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(Firm News)

Ranked 6th in "M&A Legal Advisor Ranking for 3rd Quarter of 2009"



Jisung Horizon ranked 6th place in the Completed Category and 6th place in the Announced Category in terms of deal count and deal volume for the third quarter of 2009, according to thebell M&A Legal Advisory League Table published by Money Today.

[Korean Article Reference]

- [Money Today - \[M&A Legal Advisor Ranking for the Third Quarter of Year 2009\] Jisung Horizon Attorneys at Law Ranked 6th](#)

(Firm News)

Legal Advisor of Boston Investment Company Consortium for Acquisition of Korea Asset Investment Trust

Jisung Horizon conducted the preliminary due diligence and advised Boston Investment Company Consortium for the bidding in relation to the acquisition of Korea Asset Investment Trust.

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(Firm News)

Jisung Horizon Consults POSCO on Acquisition of ASC in Vietnam

Jisung Horizon conducted the legal due diligence and provided consulting services to POSCO in its acquisition of Asia Stainless Corporation, a stainless production company in Vietnam.

[Korean Article Reference]

- [JoongAng Ilbo – POSCO, Galvanized Steel Sheet Plant in India](#)
- [Financial News – POSCO Quenches Its Thirst for Cold Rolled Stainless](#)
- [DailyAn – POSCO Acquires Cold Rolled Stainless Company in Vietnam](#)

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(Firm News)

Appointed as Counsel for KDB and KAMCO for the Return of DSME M&A Performance Bond

On June 19th, Hanwha Group said that it has filed a claim with the Seoul Central District Court against Korea Development Bank and Korea Asset Management Corporation asking for the return of 315 billion won worth of performance bond in its failed bid to acquire Daewoo Shipbuilding & Marine Engineering.

Jisung Horizon, together with Lee & Ko, has been appointed as counsels for Korea Development Bank and Korea Asset Management Corporation in relation to the above claim.

[Korean Article Reference]

- [Chosun Ilbo - Hanwha calls for return of 315 billion won bond put down for acquisition of Daewoo Shipbuilding & Marine Engineering](#)
- [JoongAng Ilbo - Hanwha requests return of Daewoo Shipbuilding & Marine Engineering performance bond](#)
- [Maeil Business Newspaper - "Even if a contract is cancelled during the MOU stage, confiscation of performance bond is proper"](#)

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(Firm News)

Australian Attorney Seung-Hyuk Edward HAN Selected as Legal Advisor for Ministry of Foreign Affairs and Trade



(Jisung Horizon [Australian Attorney Seung-Hyuk Edward HAN](#))

On July 1st 2009, Jisung Horizon's Australian Attorney Seung-Hyuk Edward HAN was selected as the legal reviewer and legal advisor for the negotiation and conclusion of South Korea-Australia Free Trade Agreement of South Korea's Ministry of Foreign Affairs and Trade.

Australia is ranked as the 8th biggest trading partner of South Korea as well as the biggest importing partner and foreign investment partner in the field of mineral resources. It is anticipated that through the Korea-Australia FTA, Korean export will not only expand, but cooperation with Australia will strengthen in various fields such as energy resources, service and investment.

[Reference Link]

- [Website of South Korea's Ministry of Foreign Affairs and Trade](#)

(Firm News)

Business Tie-up of Jisung Horizon Attorneys at Law and Hanyang International Patent & Law Firm

The two firms concluded a memorandum of understanding for business tie-up at Jisung Horizon's main office conference room on June 30th.

The tie-up will allow us to provide services based on the so called 'One-Stop Service Process,' for domestic and foreign clients as a leading specialist in the intellectual property law practice market.

The 25 year old Hanyang International Patent & Law Firm has 106 staff supporting 22 patent lawyers, foreign legal consultant and employees. It was ranked 5th in nation in the number of application category (4,912 applications) in 2008.

During the signing ceremony, Dong Young Park, a managing partner of Jisung Horizon, delivered his congratulatory speech, noting that "the copyrights field requires proficiency more than in any other area of law. If a lawyer and a patent attorney do not cooperate efficiently, they will not be able to satisfy the client's needs. We can now expect to provide more improved services because of this business tie-up." Representative patent attorney of Hanyang International Patent & Law Firm, Yeon Su Kim welcomed the move to "provide more stable legal services to clients."

[Korean Article Reference]

- [Seoul Economic Daily - Jisung Horizon Attorneys at Law and Hanyang International Patent & Law Firm Sign MOU on Business Tie-up](#)
- [Financial News – Strategic Alliance of Jisung Horizon Attorneys at Law and Hanyang International Patent & Law Firm](#)
- [Asia Today - Business Tie-up of Jisung Horizon Attorneys at Law and Hanyang International Patent & Law Firm](#)
- [Yonhap Infomax - Jisung Horizon Attorneys at Law - Hanyang International Patent & Law Firm Sign MOU on Strategic Business Tie-up](#)



(Columns)

Global Economic Crisis and the Chinese Economy - Matters Concerning Foreign Investment in China -



(Jisung Horizon [Korean Attorney Han-Seok MYUNG](#))

The global economy has been suffering from the financial crisis since the second half of last year. It has been affecting not only Korea but others such as the U.S., Europe and South East Asia. However, amid the crisis, China has been continuing to see its economic growth. While prospects are mounting over negative growth all around the world, China has been forecast to see 7~8% economic growth. Rather, the Chinese authorities have been mentioning possibilities of taking preemptive measures against inflation. The fast increasing impact of China on the global economy has produced a coinage, “G2,” based on such rapid growth. Bloomberg quoted George Soros on its July 8th edition as saying China will help drive growth as the world emerges from the current economic crisis and presenting the country as a positive force.” The growth can be explained to be caused by its strong growth engine but also by proper and prompt measures taken by the Chinese authorities during the financial crisis last year in a number of events, such as the lowering of the interest rate and an investment plan worth up to 4 trillion yuan. The move seems to be geared towards recovery of the economy by expanding domestic consumption, amid the reduction of exports due to the global economic crisis.

In light of such economic growth of China, Korean investment in China should presumably have increased a great deal. However, based on my experiences to date, the investment on the contrary has decreased. The first reason I should note is the trend of avoiding risk-taking as well as funds crunch of domestic businesses and financial institutions. In other words, no matter how positive the prospects over the Chinese market are, investors do not have enough capacity for investment due to a shortage of capital. Even if there is enough capacity, they will avoid investments due to prevailing uncertainties. Secondly, the foreign exchange rate has also played a significant role. In the past, 1 yuan was equivalent to 120~130 won. However, nowadays, it is hovering at 200 won or higher. In other words, even if the price level remains stagnant, the amount domestically supplied now doubles the same investment, resulting in difficulties for making profits. In any case, the domestic financial institutions who used to play a significant role in investments in China have rarely participated in the investment from the second half of last year to the first half of this year. (Obviously, there has not been any additional investment.) However, lately there are signs of seeking opportunities for

investment in China in various sectors. This is so because countries are undoubtedly making strong economic growth and the yuan is forecast to be stronger based on the growth.

In relation to this, I have thought about a couple of matters in legal perspectives. First of all, China is a country with a strong legal system. When opening a business in a country, sometimes one will have a legal basis but for others this may not be the case. In China, such legal basis has been more bolstered than you would expect. This means that there are not many deficiencies regarding whether one can open a business or not in China. Of course, this does not necessarily mean one would always find it convenient to open a business under the legal system. And, in case the concerned business is banned or prohibited by the laws or it attempts to evade taxes, there are sufficient regulations to avoid such violations of laws. Often, China is known as a country of 'guan-xi,' (meaning relationship in Chinese) implying that networking will make every business possible. But, this is not so in reality. If there is no legal ground, no matter how great one's guan-xi is, one will not be able to open a business in China. Secondly, Chinese acts and subordinate statutes are frequently amended. This has to do with their unique legislative system. In Korea, any matter affecting the rights and obligations of people must be legislated by the National Assembly, and the administration only regulates matters specifically delegated by the National Assembly. To this end, in case of legislation of new issues or legislation under changed conditions, a fair amount of time is needed. However, in China, such matters can be regulated by the administration. In other words, the uniqueness of Chinese law is that important matters may be regulated through legislation by the administration and to this end a prompt process for such legislation is possible. For example, consider legislation regarding real estate properties, after the enforcement of restrictions on ownership of real properties by foreigners in 2006, regulations on foreign debts have been in effect for companies developing the real estate properties built with foreign capital in 2007. However, these regulations have been eased lately. It was done by legislation of the administration. In short, for one to open a business in China, it is very important that one should take interest in the enactment, amendment and modification of acts and statutes at all times. Thirdly, local governments are given a fair degree of independence. This may be realized through the legislative power of local governments, but it is also done by legal interpretation and accumulation of precedents. In case of acts and statutes with room for interpretation, one cannot expect to see uniform regulation for every local government. Thus, it will be required to check how acts and statutes are interpreted and operated in a particular local area of the business. The proverb, "the night is darkest before dawn" has never sounded as relevant as nowadays.

(Columns)

Each Nation's ID Protection Plan



(Jisung Horizon [Korean Attorney Eun-Woo LEE](#))

What is the 13 digit number, a number that the cartoon character “Dooly” and the Robot Tae Kwon V has? What is the number that every Korean citizen has? It is the Resident Registration Number. The number that is given to every citizen in the world is called a National ID. This National ID has become a target of ID theft in many countries. For this reason, each nation has declared war against ID theft, putting a great deal of effort into protecting the National Identification Number.

In the United States, citizens do not have a Resident Registration Number as in Korea. However, since the use of the Social Security Number (“SSN”) from 1936, the SSN has been distributed to and is currently functioning as de facto national ID of 227 million U.S. citizens. Although the SNN was implemented for social security purposes, there is no doubt, it is currently being used as a personal identification number for various purposes such as opening of accounts, issuance of credit cards, and other various transactions. The SNN also functions as a password for authentication. For these reasons, the SNN is also known as the “key to the kingdom,” and has become a target for ID theft. According to a professional research agency report, around 8.4 million people in the U.S. have been damaged due to ID theft in only one year, 2007, and the damage amount was estimated to exceed 4.93 billion dollars.

In May 2006, President Bush placed an agency under the president called the “President’s Identity Theft Task Force” (“PITTF”) for ID Theft control. PITTF, putting a great emphasis on SSN protection, published the 31 Strategic Plan in April 2007 and published recommendations on using the SNN in the civil sector on December 2008. It addressed issues such as restricting use of SSN, restricting public display and internet transmission of SSN, coming up with a national standard for SSN protection, and strengthening the notification system should there be a leak or violation of such information, as well as educating consumers and businesses. For the past several years each state and federal district has been diligently preparing the legislation addressing these issues. It is also noteworthy that the first bill passed in the U.S. 111th National Assembly after the inauguration of President Obama was the legislation concerning the protection of the SSN. However the conclusive view is that this is not enough. In order to restrict the use of the SSN, the strongest view is that we must list each specific case for authorizing the use of the SSN as in Canada or

Australia. The petition that the Positive List should be adopted is gaining greater support.

In Canada, no citizen has a personal identification number because the Social Insurance Number ("SIN") which was issued since 1964 has been de facto used as an Identification Number, just like in the United States. ID theft is also a huge problem with almost 2 billion dollars estimated in damage costs. Hence in Canada, the limited cases of authorized use of the SIN are stipulated by law, and a Positive List is in place so that the SIN may not be used unless permitted by law. The cases listed as authorized use of the identification number are limited to applying for pension, senior insurance or unemployment insurance, sale of financial products that accrue interests, receiving veteran soldier benefits, student loans or student financial aid. The Canada Privacy Commission has also issued a corrective measure so that the mobile-phone operators cannot refuse the application solely because the customer did not provide the SIN. Canada has implemented much stronger SIN protection than the United States.

In Australia, there are no identification numbers that are compulsory. However there is the Medicare Care Number in the medical field and the Tax Filing Number related to taxes, which are both strictly regulated in similar ways as the Positive List in Canada.

Likewise, since the identification number is becoming more and more a target for ID Theft, countries worldwide have been restricting its use, and have enacted diverse plans for its protection.

How about Korea? Although it may not be leveled with Canadian or Australian regulations, the careful use of Resident Registration Number has been regulated by law and the scope of protection is continuously expanding. The Act on Promotion of Information and Communications Network Utilization and Information Protection in Korea requires the Resident Registration Number to be coded when being filed. It also requires establishing a secure server in case of transmitting or receiving the number through the information and communications network. In addition, a business that prefers an alternative method of identification other than the Resident Registration Number such alternative method must be provided to the business. This will enable a reduction in the use of the Resident Registration Number. These duties apply to information technology service providers, education institutes, airlines, hotels, gas stations, hospitals, real estate agents, etc. If businesses uphold all these duties, the cost is formidable. Also should the Resident Registration Number ever be leaked, the business will be responsible for a huge amount of damage. Hence, it is better for the business to gather identification numbers as few as possible.

The problem in Korea is that businesses have been customarily gathering customer's Resident Registration Numbers. For example, the most popular Twitter or U-Tube services do not ask for one's identification number for registration, whereas according to the 2007 Korean Consumer Agency Survey, 91.9% of Korea's

main websites do. Businesses consider Resident Registration Number as “useful information” when they collect it, however they must face the reality that the gathered identification numbers will become more and more of a burden to them. Furthermore, we must remember that users dislike businesses that ask for identification numbers. According to a study conducted in 2003, 75% of users in Korea chose the Resident Registration Number as the #1 information they are most reluctant to give away.

However, the Real-Name System in Korea has left businesses caught between a rock and a hard place. In order to operate a website where the users can leave their own comments, one must undergo a real name verification process. There are 153 such websites and almost all of the main internet websites fall under this category. Such businesses have to bite the bullet and conduct this verification process through the Resident Registration Number or some alternative method, keep on file the gathered information for 6 months after coding them, and must be very, very careful in handling the information.

Where other countries are restricting the use of identification numbers, we can only say that the Internet Real-Name System, is a step going backwards. As long as this system is enforced, internet users and businesses will always be at risk of personal information exposure. The Real-Name System must be abolished and groundbreaking legislation similar to that of Canada and Australia limiting the use of identification numbers is indeed advisable.

(New Laws)

**Cash Grants for Foreign Investments That Create Jobs
- Revision of the Enforcement Decree of the Foreign Investment Promotion Act -**

The Foreign Investment Promotion Act was revised to include specific provisions with regards to supplementing the incentive system such as cash grants for foreign investments that create jobs and has become effective as of July 31, 2009. The Enforcement Decree of the same Act has been revised in order to stipulate the requirements for the cash grants.

Article 19 Paragraph 4 Subparagraph 1 of the Enforcement Decree has been revised in order to increase rent reductions for foreign investors engaged in the parts and materials sectors.

Article 20-2 Paragraph 3 has been newly added to lay out the standard and requirement for foreign investors eligible to receive cash grants.



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