

Jisung Horizon Newsletter

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(Firm News)

Seminar for Practicing in the Carbon Dioxide Market and New Alternative Energy Industry

“Seminar for Practicing in the Carbon Dioxide Market and New Alternative Energy Industry” is under way, jointly organized by Jisung Horizon, Korea Energy Management Corporation, Korea Investment and Securities, and Keimyung University.

The seminar will be held at Level B2 of the Korea Chamber of Commerce and Industry Building, on June 25, 2009 at 2 p.m. It is scheduled to run for three hours.

Jisung Horizon aims to provide information on various aspects of this emerging industry which experts have been citing as one of the most promising markets of the near future.

The speakers will include a government official, a professor, a finance expert, and two of Jisung Horizon's partners who will lecture on the legal issues arising from this potentially lucrative industry.

(Firm News)

‘Russia Energy Legal System Seminar’ Held with Great Success

Jisung Horizon Attorneys at Law has successfully held the ‘Russia Energy Legal System Seminar.’ Organized by the Korea Chamber of Commerce & Industry and Korea Investment & Securities Co., Ltd., on April 28, 2009, the seminar thoroughly presented information regarding all aspects of successful investment by and expansion of Korean companies in Russia.

Lecturers were government officials, a private institutional investor and Russian legal experts, making for a concise and to-the-point, yet enriching experience for participants.

The Department Chief Byung-Chul Lee of the Ministry of Knowledge Economy delivered his presentation titled ‘Strategies for Overseas Resource Development,’ after which Chul-Hwan Kwon from Korea Investment & Securities Co., Ltd. unveiled ‘Strategies for Russian Resource Energy Project.’

In the second half, led by Jisung Horizon members, Russian Attorney Seung-Min Lee and Korean Attorney Hye-Jung Ryu showcased their in-depth knowledge on ‘Russian Resource Development Legal System’ and ‘Participation Plan of Korean Companies for Russian Resource Development Project.’

Jisung Horizon says the event is merely the beginning of more lectures to come. It will continue to make great efforts for its clients by holding seminars that are practically helpful for their domestic and overseas operations and help them to undertake their businesses successfully.

■ Summary of Seminar

Session 1: Strategies for Overseas Resource Development (Department Chief Byung-Chul Lee of the Ministry of Knowledge Economy)

The global crude oil prices are expected to hover between 80 and 100 dollars for a long term due to worsening systematic demand and supply imbalance. Interest rates, foreign exchange rates and prices of raw materials similarly continue to experience fluctuations. To this end, the countries, that have been labeled as major consumers of natural resources, have been making full-scale efforts including political and economic measures to secure energy sources, while the supplying countries are faced with weakening nationalism due to dropping oil prices and slumping economies.

Meanwhile, the incumbent administration has decided that the overseas natural resources development will be its pan-government agenda and is fully striving for successful development. In other words, it is pushing for aggressive and speedy investment to fight the current crisis with the following strategies:

- (1) M&A and Purchase of Mining Areas
- (2) Active Cooperation for Energy Source Development
- (3) Raising Funds and Financing for Natural Resources Development
- (4) Revitalization of Investment and Improvement of Infrastructure

Session 2: Strategies for Russian Resource Energy Project (Department Manager Chul-Hwan Kwon of Korea Investment & Securities Co., Ltd.)

With Russia renowned as a resource rich nation, Sakhalin has been recently receiving attention as Russia's rich repository of natural resources. As the area is filled with oil, gas, and coal, a mid to long-term plan for infrastructure development is currently being made.

Financial institutions provide services including drawing up investment structure, risk-hedging through derivatives, as well as providing various exit measures with regard to investment in resources and energy. Korea Investment & Securities has been drawing up and implementing various plans for investment strategies by closely studying the qualities of this area. An example is an investment in "Uglegorskugol" LLC, which possesses a coal mine where a 'resources + SOC Package Scheme,' implemented through a simultaneous project for petroleum, bituminous coal and SOC development, will maximize the growth potential of the area and energy self-sufficiency as well as profits.

Session 3.1: Russian Resource Development Legal System (Russian Attorney Seung-Min Lee of Jisung Horizon Attorneys at Law)

Fifty-nine laws and ordinances are in force to regulate the development of resources in Russia. Of those, the core law governing the general use of minerals including coal and gas is the "Federal Law (hereinafter "FL") on Subsoil" (hereinafter referred to as 'Subsoil Law'). The Subsoil Law provides a guideline for regulations with regard to designation and use of subsoil.

In addition, "FL on Production Sharing Agreement" regulates all aspects for mining areas in relation to product distribution agreements such as geological surveys, exploration, development and production between the state and a private contractor (applicable for both Russians and foreigners). However, in current practice this law is generally not applied.

Meanwhile, the "FL on Continental Shelf in Russian Federation" regulates geological surveys, exploration, and mining of minerals buried in other outside jurisdictions of Russia such as inland seas, continental shelves, and exclusive economic zones. The "FL On Procedures for Foreign Investments in

Companies of Strategic Significance for National Defense and Security” touches upon restrictions on share acquisitions by foreign investors in companies operating within 42 strategic industries related to national defense and security.

Other state laws relating to resource development include “FL on Concession Agreement, ‘FL on Gas Export,’ ‘FL on Gas Supply,’ ‘FL on Depopulated Traditional Ecological Areas such as North, Siberia and Far East,’ ‘FL on Social Protection of Laborers and Mining of Coals,’ ‘FL on Exploitation of the Atomic Energy.’ ‘FL on Energy Efficiency,’ ‘FL on Natural Monopoly,’ ‘FL on Electric Industry’.

Session 3.2: Participation Plan of Korean Companies for Russian Resource Development Project (Korean Attorney Hye-Jung Ryu of Jisung Horizon Attorneys at Law)

Methods commonly used for participating in resource development projects in Russia include creating product distribution agreements, License/Royalty agreements, and M&As with local developers. Each of them has its own pros and cons, bearing legal risks under the Russian laws.

A rising issue with regard to obtaining licenses is that the government is recently restricting opportunities for foreign investors to obtain such license through various laws and regulations.

Therefore, there is a call for reviews and cooperation by experts, as legal and business issues are mounting at each stage - from preliminary studies to due diligence, signing master agreement, acquiring license for and prior to contract implementations, and implementation and registration of agreements.

■ Reference materials

1. [Information for the Seminar](#)

2. Korean Article Reference

[Yonhap News - The Korea Chamber of Commerce and Industry holds ‘Russia Energy Legal System Seminar’](#)

3. Photos



Session 1: Strategies for Overseas Resource Development



Session 2: Strategies for Russian Resource Energy Project



Session 3,1: Russian Resource Development Legal System



Session 3,2: Participation Plan of Korean Companies for Russian Resource Development Project



JISUNG HORIZON 'Russia Energy Legal System Seminar' (2009. 4. 28)

(Firm News)

Jisung Horizon Consults Mirae Asset PEF on Takeover of Yedang Online

Korea's leading newspapers have reported that Yedang Online Corp. an online game company, has been sold to an affiliate of Mirae Asset Private Equity Fund.

Maeil Business Newspaper, one of the nation's most read dailies, and news wire Yonhap News Agency reported on March 3, 2009 that shares held by the CEO of the online game company, representing 36.48% of the entire capital of the company, were purchased by the domestic fund at 54.2 billion won.

Yedang Online has reportedly acquired over 100 million members for just one of its most successfully sold games, "Audition," in 30 countries.

For the sale, Jisung Horizon has been representing and providing legal consulting services to Mirae Asset Private Equity Fund of Mirae Asset Maps Investment Management Inc.

[Korean Article Reference]

- [Yonhap - Yedang Online Sold to Mirae Asset](#)
- [Maeil Business Newspaper – Mirae Asset PEF Buys Yedang Online](#)
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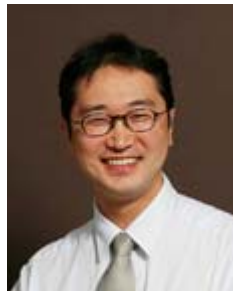
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(Firm News)

Jisung Horizon Selected as Legal Advisor in Sale of Hyundai Corporation

The nation's two leading business newspapers reported that Woori Investment & Securities, Development Bank M&A team Consortium, and NH Investment & Securities Co., Ltd. had been jointly selected as the sale advisors for the sale of Hyundai Corporation.

The Maeil Business Newspaper and the Hankyung said on February 2, 2009 that Korea Exchange Bank announced the decision made by a task force management committee, which had been evaluating candidates with a 'table for evaluation of sale manager candidates.'

Meanwhile, Jisung Horizon Attorneys at law has been selected as the legal advisor, due to its experience and competence in various large-scale projects such as the acquisitions of Jinro Ltd., Daewoo Shipbuilding & Marine Engineering, Ssangyong Engineering Construction Co., Ltd. and C&M Co., Ltd., etc.,

The firm has also recently participated as a legal consultant in the sale of Bellwave.

[Korean Article Reference]

- [Maeil Business Newspaper - Organizer for Hyundai Corporation Sale Selected](#)
- [Hankyung - Woori, KDB and NH Selected as Organizers for Hyundai Corporation Sale](#)

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(Firm News)

Asian Legal Business - Jisung Horizon, 10 firms to watch in 2009

Jisung Horizon is one of the 10 law firms to watch for 2009, says the Asian Legal Business.

In its January publications of this year, the internationally renowned monthly journal selected ten law firms that would “dictate the play in the year ahead.”

It explained, while the prospect for this region was “ebullient or brazen even,” the 10 firms “managed to balance the often-competing concerns of ambitions, risk and growth with pragmatism,” to discover what would distinguish them from the rest.

It added their lawyers unanimously agree that the change in client behavior and expectations amid the global economic slump presents the area of untapped, boundless opportunities for growth to challenge against their larger rivals and poach more high-end clients.

Jisung Horizon was the only Korean law firm on the list.

[Korean Article Reference]

- [Asian Legal Business - 10 firms to watch in 2009 \(PDF\)](#)

(Columns)

Around the Time of the Capital Market Act Enforcement



(Jisung Horizon [Korean Attorney Haeng-Gyu Lee](#))

The Financial Investment Services and Capital Market Act (hereinafter the “Capital Market Act”) came into force on February 4, 2009. Due to the acceleration of the global economic recession that started from last year’s financial crisis in the U.S., the Capital Market Act that was enacted to foster the global IB has struggled through many difficulties. There have been numerous amendments even before the law was enforced and an amendment that recommends the deferment of the Capital Market Act’s enforcement has even been proposed. Due to the KIKO situation, an amendment that classified a listed corporation as an ordinary investor for the sale of derivatives products, which used to be classified as a professional investor unitarily in the past has been passed and enforced together.

A change to a negative system regarding the financial product to promote the advent of various financial investment products has been made by the Capital Market Act. Such measure was intended for the development of various derivative products inside and outside the market. However, since such derivative products were indicated as the main cause of the global financial crisis, considerable doubts arose as to whether the advent of such various derivative products is desirable to Korea’s financial system.

Another major change following the Capital Market Act is that due to the extension of the scope of the financial investment work, a side job is allowed in full measure if it is classified within the scope of the financial investment work. Unlike in the past, such financial investment work is regulated under the same measure according to its functions. Particularly, a financial investment business entity can carry on investment dealing, brokerage business together with collective investment business (former asset management) under the Capital Market Act. Such combination of management of another business was not allowed under the Indirect Investment Asset Management Business Act, which was incorporated into the Capital Market Act. This has been controversial during the enactment process due to the conflict of interest considerations.

In order to prevent the possibility of such conflict of interest, the Capital Market Act has implemented various

types of measures to protect investors such as imposition of fiduciary duties, installation of the Chinese Wall, ban on holding more than one office, imposition of various regulation on conduct, establishment and operation of conflict of interest management systems, etc. However, above all, it is important that the financial investment business entities themselves make efforts to prevent the conflict of interest and win confidence of the market through such efforts. The entire business will suffer if one persists in short term objectives or creating profits.

On the other hand, the Capital Market Act made clear that the financial investment shall be made on one's own risk and at the same time established new institutional measures to help investors make rational judgments. Before recommending or selling financial investment products, the financial investment business entities (i) shall confirm whether the investor is an ordinary investor or a professional investor; (ii) shall grasp information regarding the investment purpose, financial condition and the investment experience of the ordinary investor, etc. through interviews or questions before recommending investment to ordinary investors and shall receive written confirmation from such ordinary investors; (iii) shall not recommend inappropriate investment to such ordinary investors; and (iv) shall explain about the financial investment products when recommending investment to ordinary investors so that they may understand (so called, 'Know-Your-Customer Rule,' 'Suitability Rule'). In addition, conclusive judgment on false or uncertain matters, solicitation by real-time conversation such as visitation and telecommunications without a request for solicitation, and unsolicited calls are strictly prohibited. If such regulations on solicitation under the Capital Market Act are complied with properly, the sale of fund, which only used to take 10 minutes for the completion of the sale in the past, may take about an hour. However, in order to recover confidence of the market and for the system to be put into practice, such inconveniences must be endured.

The implementation of the Capital Market Act does not automatically mean that the global IB will be fostered in Korea. Moreover, a developed financial market, which was the model and was referred to at the time of enacting the Capital Market Act, has failed in many ways. Nevertheless, it is unreasonable to disregard the last one and a half year period of preparation for the enforcement of the Capital Market Act and defer its enforcement without an alternative plan. The Act has come into force and whether the Capital Market Act will contribute to the development of the national economy by promoting fairness, confidence, and effectiveness of the capital market as set forth in Article 1 of the Capital Market Act depends on us. We should face up to the reality of the financial market and take note of the restructuring flow of the world financial system.

(Columns)

Economic Crisis and Fair Trade



(Jisung Horizon [Korean Attorney Hyung-Sam PARK](#))

It is hard to predict at this point what the consequences of the global economic crisis, which started with the bankruptcy of Lehman Brothers Holdings on September 1, 2008, will be. Korea's economic growth rate has also fallen into the negatives in the fourth quarter of 2008 for the first time after the 1997 Asian Currency Crisis, and the dominant view is that such a trend will be difficult to overturn. Recently, the International Monetary Fund (IMC) has adjusted this year's economic growth rate of Korea from 2% to -3.7%.

In the midst of such economic conditions, the Fair Trade Commission has released its "2009 Policy Plan" on December 18, 2008. It mostly states that it will prevent economic damages on common people and small and midsize companies, continuously improve corporate regulations in order to overcome economic crisis, and actively cope with the issues regarding the improvement of consumer rights and the globalization of law enforcement on competition.

The Monopoly Regulation and Fair Trade Act is a regulatory Act with the primary purpose to prevent abuse of market-dominating positions by enterprisers and any excessive concentration of economic power, as well as to regulate unjust collaborative acts and unfair trade practices. As this Act indicates, issues regarding monopolistic market structure or unfair competition cannot be neglected simply because of the economic crisis. On the contrary, it is true that there is a higher possibility of concentration of economic power or rationalization of anti-market conducts under the pretext of resolving the global economic crisis. Nevertheless, the authority that should focus its administrative capacity on prioritizing the enforcement of competition laws cannot ignore such national economic conditions. From that perspective, it seems that the FTC's policy plan for this year has been made by considerably reflecting such economic conditions.

Looking at the policy plan of the FTC and etc. collectively, it is advised that much attention is required for the following:

First, it is expected that inspections will be focused on price fixings in areas that are closely connected to the

lives of the common people. It has been reported that a secret investigation of the FTC on the price fixing of school uniforms has already commenced early this year. Last year, the private education, automobile, mobile communication, gas oil, and medical sectors have been designated as the five main supervisory business areas, and collusion has been found in bank fees, insurance premiums, movie tickets, LPG, and oils sectors. According to the parliamentary inspection data of the FTC, it has imposed a correction order in connection with 80 collusion cases and KRW 17,570,000,000 of fines in connection with 53 collusion cases including 5 cases that involved criminal prosecutions, since September 30, 2008. In sum, inspection on price fixing will continue to be the main duty of the FTC in the future.

Second, an inspection on the areas that may have damaging effects on the common people (such as illegal multilevel marketing, funeral service business, loaning business, etc.) and franchise businesses such as small capital self-employed enterprises is expected. The illegal multilevel marketing, funeral service business, loaning business and the franchise business is closely related to the deterioration of the economic condition and the increase in the unemployment rate. Experts expect a loss of 180,000 jobs if the economic growth rate falls to -2%. If this year's economic growth rate falls to the level of the IMF's forecast (-3.7%), then almost 400,000 jobs will disappear. The official number of the unemployed was just shy of 780,000 by the end of December, 2008 and is expected to eventually exceed 1,000,000. However, this is only the official estimate of the unemployed and the actual number of the jobless is estimated to be over 2,000,000. Common people who are suffering from the difficult economic conditions will be attracted to the illegal multilevel marketing or high income franchise business to start a small-capital enterprise or loans. As a result, there is a high probability that the common people will suffer damages from profiteers. The recent unfair agreements of the funeral service business, bankruptcy, vanishing after closing business, etc. that have become a social issue are good examples.

Thirdly, a regular inspection on unfair subcontracting and unfair trade practices of the distribution industries, such as department stores and large retail outlets, is expected in order to protect small and midsize companies. A business that is in a superior position in transactions, such as large corporations, may pass expenses to the businesses in inferior positions when the economy deteriorates. Therefore, unfair practices in subcontracting (such as unjust reduction in unit cost, usurpation of technology and payments in substitutes) and unfair practices in department stores and large retail outlets (such as unjust returning of goods, etc) may occur. The FTC has arranged for the creation of the fair trade agreement between 79 large corporations and around 27,000 partner firms thus far and is continuously inspecting the performance of the agreement.

Lastly, the mitigation of corporate regulations will continue. Especially regarding M&A, the intent of the FTC is to minimize corporate burden through a corporate merger review. The threshold for selecting large

business groups that will be subject to the investment ceiling has already been raised last year, but it is uncertain whether the amendments to the laws regarding the abolition of the investment ceiling and the softening of regulations regarding the holding company and private equity fund may be passed by the National Assembly.

The current economic crisis should be overcome by the cooperation of all economic entities. In the process of overcoming an economic crisis, it is difficult if only certain economic entities are coerced to make unjust sacrifices. The legislative purpose of the Fair Trade Act - which encourages creative corporate activities, protects customers, and pulls together a balanced development of the national economy by promoting fair and free competition - is a virtue that should be complied with in all economic circumstances.

(Columns)

Debate on New Intellectual Property Right Demands Systematic Management



(Jisung Horizon [Korean Attorney Beom-Hee KIM](#))

In the past, the debate on intellectual property rights centered on industrial property rights and copyrights such as patents, practical devices, trademarks, designs, etc. Recently, however, there has been a rise in the debate over so-called “new intellectual property rights,” which includes trade secrets, rights on work-for-hire invention, and unfair competition practices.

In Korea, there has been an increase in attention to work-for-hire invention rights since the lawsuit against a cell phone manufacturer demanding compensation for work-for-hire inventions on “cheonjiin,” a Korean character text message input system. The work-for-hire invention right covers employee’s duties regarding patents on new devices and creations of invention designs within the scope of the employer’s official role. Each country has different rules on whether this work-for-hire invention right belongs to the company (employer-centered approach) or the employee/inventor (inventor-centered approach). Korea, like Germany and Japan, takes the inventor-centered approach where the inventor acquires the right first.

In the past, the regulation on work-for-hire inventions was provided separately from the Patent Act, Utility Model Act, Design Protection Act, and Invention Promotion Act. After March 3, 2003, however, an amended Invention Promotion Act regulates the work-for-hire invention right in its entirety. According to the amended Invention Promotion Act, when an employee of a company completes a work-for-hire invention, he or she must promptly notify the company in writing and upon receiving such notice the company must notify the inventor within 4 months whether the company will acquire such work-for-hire invention right or not. The company may, through an employment contract or employment regulation, make a pre-agreement in advance with the employee to transfer and acquire the work-for-hire invention right. The required procedures and the work-for-hire invention right of the company will differ depending on the existence or absence of such an agreement. Generally, it is more advantageous for the company to enter into a pre-engagement succession agreement in advance.

In any event, when a company has obtained the work-for-hire invention right, the inventor has the right to ask

the company for just compensation. There have been no regulations on what constitutes a just compensation, so the courts calculated it at its own discretion. Now, the amended Invention Promotion Act provides that if the employer has thoroughly collected opinions and discussed the compensation standards on the work-for-hire invention with its employees, then the law acknowledges such compensation as being just (Section 15.2 of Invention Promotion Act).

Since the amended Act provides an unprecedented standard on just compensation, an increase in disputes regarding the work-for-hire invention compensation is expected to arise, namely on whether the compensation standard provided by the company is established through sufficient discussion procedures between the employer and the employee. Therefore, even if an employer has established the rules for compensation, it should provide evidence proving that the rules have been established after full discussion with its employees.

The core issue in the dispute over work-for-hire invention compensation is the standard that courts will use to come up with just compensation. In cases where the user himself has created the work-for-hire invention, the issue becomes a matter of calculating compensation based on the user's benefit. This is because even if the user does not succeed in acquiring the work-for-hire invention right, it has been understood that he has the free and nonexclusive right to use what he has invented. Japan has already established the laws regarding this issue through a series of cases decided by its courts. Korean courts have rendered judgments based on similar standards.

On the other hand, in cases where the employer has succeeded in acquiring the work-for-hire invention right and does not apply for industrial property such as a patent, etc. and keeps it as business property, the employer is still responsible for compensation. An important aspect of business property is 'secrecy,' but when a certain technology has been publicized through patent registration it cannot be protected as a business property to the extent of that publicity. Therefore, the employer has to choose whether to acquire a patent for the work-for-hire invention technology or to keep it as business property. Even in cases where the employer seeks to keep it as a business property, the Act provides for compensation of work-for-hire inventions to protect the inventor's rights.

As can be seen, there are various problems that may arise from the conflict of interest between companies and their employees in relation to managing and compensating for work-for-hire inventions. Companies must therefore think strategically and establish a comprehensive system to manage work-for-hire inventions.

(New Cases)

Judgment Regarding Cancellation of Imposition of Registration Tax, etc (Case No. 2007Du26629)

1. Summary of Facts

Star Holdings, a Belgium corporation, purchased the stocks of the Plaintiff (a corporation established in 1996 under the name of 'C&J Trading Co., Ltd.', but currently not in business), and on the same day changed Plaintiff's name to 'Star Tower Co., Ltd.' (which again changed to its current name, Gangnam Finance Center Co., Ltd. in 2006). After terminating the employment of all former directors and auditors, the Plaintiff appointed new directors and auditors, drafted new articles of incorporation, and completed the registration reflecting such changes.

The Plaintiff increased its capital to KRW 5,368,750,000 around June 2001 and completed the registration thereof. Around August 2001, Plaintiff purchased from Hyundai Development Company a piece of land located in 737 Yeoksam-dong Gangnam-gu, Seoul as well as the building on such land (hereinafter the "real property of this case"), completing the registration for the real property of this case. In registering the above-mentioned capital increase and the real property of this case, Plaintiff applied a general tax rate and reported and paid its registration tax and local education tax accordingly.

2. Tax Imposition

The Defendants (the administrative offices) imposed the registration tax and local education tax on the Plaintiff on May 29, 2006, applying a heavier tax rate than the one previously reported and paid by the Plaintiff. Their reason for such heavy taxation was that the Plaintiff should be deemed a newly formed corporation, since (1) all of its corporate stocks that remained unprofitable after the closing down of its business was transferred, (2) the corporate name and all of its directors and auditors were changed, and (3) the Plaintiff was no longer identical to the previous corporation. The Defendants thus regarded the transactions above as a capital increase and acquisition of real property within five (5) years of incorporation in a metropolis (Local Tax Act, Article 138) and thereby applied the heavy tax rate.

3. Summary of Decision

According to the 'principle of taxation' provided in the Constitution of Korea, an expanded construction of that principle for mere administrative convenience is not allowed, notwithstanding the necessity of tax imposition. Taxpayers are entitled to select one law over others for the purpose of pursuing their economic interests in conducting their business. Furthermore, a separate and specific prohibition clause is required in order for the administrative office of taxation to negate the effectiveness of such conduct under the 'principle of actual taxation.'

According to Korean Civil Law and Commercial Law regarding incorporation, both an act of incorporation and registration of incorporation are generally required for the incorporation to be complete. Therefore, incorporation cannot be effected without registration, and once incorporation has been accomplished through such registration, there cannot be a new incorporation through the same registration unless such corporation becomes extinct.

Under the legal principles discussed above, it is impermissible to construe the tax regulation expansively or analogically without reasonable cause and to impose heavy registration tax on the Plaintiff by deeming the Plaintiff's conduct as 'incorporation' under the Local Tax Act. This is true even if it is necessary to regulate the Plaintiff's conduct that is considered an evasion of heavy registration tax. Any action to the contrary will require a separate provision which is different from the aforementioned general legal principles (or a specific legal provision that invalidates the Plaintiff's conduct of avoiding tax).



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Jisung Horizon Newsletter

October 2009 Vol.1. No.2

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- Ranked 6th in "M&A Legal Advisor Ranking for 3rd Quarter of 2009"
- Legal Advisor of Boston Investment Company Consortium for Acquisition of KAIT
- Jisung Horizon Consults POSCO on Acquisition of ASC in Vietnam
- Appointed as Counsel for KDB and KAMCO for the Return of DSME M&A Performance Bond
- Australian Attorney Seung-Hyuk Edward HAN Selected as Legal Advisor for MOFAT
- Business Tie-up of Jisung Horizon Attorneys at Law and Hanyang International Patent & Law Firm

10 Columns

- Global Economic Crisis and the Chinese Economy (Korean Attorney Han-Seok MYUNG)
- Each Nation's ID Protection Plan (Korean Attorney Eun-Woo LEE)

15 New Laws

- Cash Grants for Foreign Investments That Create Jobs

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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.

[Attorneys]



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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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· Foreign Attorney



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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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JISUNG HORIZON Newsletter



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· Partner



Haeng-Gyu LEE
· Partner



Seung-Hwa HWANG
· Partner



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· Partner

(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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Jisung Horizon Newsletter

December 2009 Vol.1. No.3

01 Firm News

- Legal Advisor of Credit Financial Institution in Relation to Sale of Hyundai Corporation
- Jisung Horizon and Laos LLC Establish Joint Venture Law Firm, JSH-LLC
- Jisung Horizon Consults LS Nikko on Acquisition of Shares of ERI, an E-scrap Recycler
- Jisung Horizon Receives Favorable Reviews from In-house Counsels According to Survey by Legal Times
- Jisung Horizon Receives Outstanding Reviews from 2010 Edition of IFLR1000
- Legal Advisor of SK Energy in Relation to the 1st Oil Refinery in Vietnam
- Jisung Horizon Consults Mnet Media and CJ on Issuance of 30 Billion Won CB and BW

08 New Laws

- Standard for Conversion of Foreign Corporation's Total Assets

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(Firm News)

Legal Advisor of Credit Financial Institution in Relation to Sale of Hyundai Corporation

Jisung Horizon is acting as the legal advisor of the credit financial institution of Hyundai Corporation in relation to its sale.

[Korean Article Reference]

- [Financial News – Sale of Hyundai Corporation at 235 Billion Won](#)
- [Maeil Economy – Hyundai Heavy Industries Signs Definitive Agreement for Acquisition of Hyundai Corporation](#)

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· Partner



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(Firm News)

Jisung Horizon and Laos LLC Establish Joint Venture Law Firm, JSH-LLC



Jisung Horizon signed an exclusive collaboration agreement with the largest law firm in Laos, [Lao Law & Consultancy Group \(LLC\)](#) on November 3, for establishing the joint venture law firm, JSH-LLC.

The establishment of JSH-LLC will serve as a momentum for Jisung Horizon to not only provide services related to the Laos capital market but also provide complete and speedy service to Korean

corporations expanding their businesses to Laos.

[Korean Article Reference]

- [Yonhap News - Signing Ceremony of Jisung Horizon and Laos Law Firm](#)
- [Legal Times - Jisung Horizon, 1st Law Firm to Open Office in Laos](#)
- [Vientiane Times\(PDF\) - Joint venture to help firms with stock market listing](#)
- [Vientiane Mai Newspaper\(PDF\)](#)

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(Firm News)

Jisung Horizon Consults LS Nikko on Acquisition of Shares of ERI, an E-scrap Recycler

LS Nikko has acquired a 10% interest of ERI, a PCB collector in the U.S. at 5 million dollars. ERI is California's largest e-scrap recycler and holds 22.8% market share in the U.S.

Jisung Horizon advised LS Nikko in relation to their acquisition of ERI's shares.

[Korean Article Reference]

- [Maeil Economy – LS Nikko Acquires 10% Interest of ERI](#)
- [Korea Economy – LS Nikko Acquires Shares of ERI and Secures PCB](#)

[Attorneys]



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(Firm News)

Jisung Horizon Receives Favorable Reviews from In-house Counsels According to Survey by Legal Times

According to a recent survey by Legal Times for their 2nd anniversary special edition with regards to the level of satisfaction that in-house counsels have for law firms in Korea, Jisung Horizon ranked 7th in the category of 'most favored law firms' and also ranked 7th in the category of 'brand recognition.'

[Korean Article Reference]

- [Legal Times November Edition - Survey on Preference for Korean Law Firms](#)

(Firm News)

Jisung Horizon Receives Outstanding Reviews from 2010 Edition of IFLR1000



Jisung Horizon received excellent reviews from the 2010 edition of IFLR1000, a financial magazine issued by Euromoney, well recognized by in-house counsels at the world's most prominent financial institutions and companies, as well as the leading lawyers in each legal market.

Jisung Horizon ranked 2nd in banking and project finance, mergers and acquisitions and restructuring and insolvency and ranked 3rd in capital markets.

[Korean Article Reference]

- [IFLR – Jisung Horizon Receives Outstanding Reviews from the Newest Asian Edition](#)

(Firm News)

Legal Advisor of SK Energy in Relation to the 1st Oil Refinery in Vietnam

SK Energy entered into an operation and maintenance service agreement with BSR, a subsidiary of Petro Vietnam (PVN), which is a public oil company of Vietnam. BSR's oil refinery is the first oil refinery established in Vietnam and SK Energy will be responsible for the overall operation of the refinery, including BSR's operation, maintenance and repair of equipments.

Jisung Horizon acted as the legal advisor of SK Energy in relation to the agreement between SK Energy and BSR.

[Korean Article Reference]

- [Hankook Daily – SK Energy Transfers Knowhow to Oil Refinery in Vietnam](#)
- [Herald Economy – SK Energy Transfers Knowhow to Vietnam's 1st Oil Refinery](#)

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(Firm News)

Jisung Horizon Consults Mnet Media and CJ on Issuance of 30 Billion Won CB and BW

Mnet Media, a music entertainment enterprise, issued convertible bonds (CB) and Bond with Warrant (BW) amounting to a total of 30 billion won to its largest shareholder, CJ and Standard Chartered Private Equity (SCPE), which is a subsidiary of the global financial group, Standard and Chartered.

Jisung Horizon acted as the legal advisor of Mnet Media and CJ for the issuance of the CB and BW.

[Korean Article Reference]

- [Financial News - Mnet Media Issues 30 Billion Won CB and BW](#)
- [Herald Economy - Mnet Media Issues 30 Billion Won CB and BW](#)

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(New Laws)

**Standard for Conversion of Foreign Corporation's Total Assets
– Revision of the Enforcement Decree of the Framework Act on Small and Medium Enterprises –**

The Framework Act on Small and Medium Enterprises was revised to include specific provisions with regards to the standard exchange rate for converting the total assets of a foreign corporation into Korean won. Foreign investment corporations can now elect from the closing exchange rate of the immediately preceding year and the average exchange rate of the immediately preceding year when calculating the total assets of a foreign corporation for determining whether it is a small and medium enterprise. Thanks to this revision of the law, foreign investment corporations will be prevented from suddenly being disqualified as small and medium enterprises due to a change in the exchange rate. This new provision has become effective as of November 19, 2009.

Article 3 Paragraph 2 Subparagraph 2 of the Enforcement Decree has been revised in order to induce investments in small and medium enterprises by acknowledging corporations as small and medium enterprises in case a large enterprise with assets of 500 billion won or more holds 30% or more of the shares of a small and medium enterprise, provided that, the large enterprise is not the largest shareholder or if a financial institution holds the shares of a small and medium enterprise for the purpose of investment.



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Jisung Horizon Newsletter

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01 Firm News

- Jisung Horizon Advises New Pride Corporation, 1st U.S. Company to be Listed on Korea Exchange
- Legal Advisor of Hyundai AMCO for the 25 Million Dollars Pnom Penh PF
- Legal Advisor of Mirae Asset Securities and Daeshin Securities on Establishment of SPAC
- Legal Advisor of Korea Fair Trade Commission in the Lawsuit filed by Qualcomm
- Legal Representative of KAMCO in Warrant Lawsuit Filed by French Financial Institutions
- Contribution of Article in 'Korean Business Law: The Legal Landscape and Beyond'
- Legal Advisor of Universal Studio Korea Resort Development
- Jisung Horizon Receives High-Ranking in 2009 IB Market M&A Advisory Sector

09 Columns

- Introduction of Special Purpose Acquisition Company (SPAC)

11 New Laws

- Persons Subject to Punishment in Disclosure of Domestic Technology

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(Firm News)

Jisung Horizon Advises New Pride Corporation, 1st U.S. Company to be Listed on Korea Exchange

Jisung Horizon is advising on the listing on the Korea Exchange (KOSDAQ) of New Pride Corporation, the first U.S. company that has obtained the authorization for its listing on March 12, 2009.

At present, ten Chinese companies and one Japanese company are listed on the Korea Exchange (the "KRX"). New Pride Corporation obtained the authorization for the listing as the first U.S. company.

In particular, Jisung Horizon resolved very complex and strict regulatory issues under the U.S. Securities Act and the differences in the legal systems between Korea and U.S., issues with different systems of the KRX and the Korea Securities Depository that have been raised in the course of listing of New Pride Corporation on the KRX by digging into foreign cases of foreign exchanges, such as the Australian Stock Exchange and the London Stock Exchange. Moreover, Jisung Horizon has advised the Financial Supervisory Service several times and has coped with diverse issues in the course of listings of U.S. companies on the KRX. Jisung Horizon's IPO Team is providing advisory services for the listing on the KRX of several Chinese, Japanese and Laos companies and is equipped with the best expertness and teamwork.

[Korean Article Reference]

- [Maeil Economy – New Pride, a U.S. Company, Passes Listing Eligibility Review](#)
- [Asia Economy – New Pride, a U.S. Multi-logistics Company, Passes Listing Eligibility Review](#)

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(Firm News)

Legal Advisor of Hyundai AMCO for the 25 Million Dollars Pnom Penh PF

Jisung Horizon is acting as the legal advisor of Hyundai AMCO for the office project finance of 25 Million Dollars in Pnom Penh, Cambodia.

[Korean Article Reference]

- [Money Today - Hyundai AMCO Finances 25 Million Dollars in Pnom Penh PF](#)

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(Firm News)

Legal Advisor of Mirae Asset Securities and Daeshin Securities on Establishment of SPAC

Jisung Horizon advised on the establishment of each SPAC by Mirae Asset Securities and Daeshin Securities.

SPAC is a special purpose acquisition company formed by private individuals to facilitate investment through an initial public offering (IPO). SPACs are shell companies that have no operations but go public with the intention of merging or acquiring a company with the proceeds of the SPAC's IPO.

[Korean Article Reference]

- [Korea Economy – Mirae Asset SPAC Records Ceiling Price on 1st day of Listing](#)
- [Financial News – Daeshin Securities Completes Registration of 'D-ONE SPAC'](#)
- [Newsis – Mirae Asset Establishes SPAC](#)

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Eun-Young LEE
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(Firm News)

Jisung Horizon Consults Korea Fair Trade Commission in Lawsuit filed by Qualcomm

Jisung Horizon was selected as the legal advisor of the Korea Fair Trade Commission ("KFTC") in the administrative lawsuit filed by Qualcomm against the KFTC.

On July 23, 2009, the KFTC imposed a record-high penalty charge of KRW260 billion against Qualcomm, which owns the original technology for CDMA, for allegedly violating the Monopoly Regulation and Fair Trade Act by abusing its market dominant position as a supplier of core parts used in the domestic mobile phones. Qualcomm filed an administrative lawsuit against the KFTC with the Seoul High Court by quoting that "we cannot agree on the ruling of the KFTC."

[Korean Article Reference]

- [Yonhap News – KFTC’s Fine on Qualcomm of KRW260 billion](#)
- [Electronic Times – KFTC serves its official resolution to Qualcomm](#)
- [Seoul Economy – KFTC Imposes on Qualcomm Record-high Fine of KRW260 billion](#)

[Attorneys]



Dong-Young PARK · Managing Partner Yong-Whan CHO · Managing Partner Gee-Hong KIM · Partner Han-Sa SONG · Associate Byung-Joo LEE · Associate Stephen Suhan KONG · Foreign Attorney

(Firm News)

Legal Representative of KAMCO in Warrant Lawsuit Filed by French Financial Institutions

Jisung Horizon was selected as the legal representative of KAMCO in the appellate warrant lawsuit filed by French financial institutions.

KAMCO had promised to deliver warrants in the process of purchasing the claims from the overseas creditors not bound by the workout agreement during Daewoo Group's workout. When Daewoo Group was normalized earlier than expected, a dispute occurred between the foreign creditors that received the warrants and KAMCO concerning the terms and conditions of such warrants.

[Korean Article Reference]

- [Yonhap News – KAMCO's Lawsuit with Daewoo's Overseas Creditors for KRW10 billion](#)
- [Financial News – KAMCO's Lawsuit with Daewoo's Overseas Creditors for KRW10 billion](#)

[Attorneys]



Dong-Young PARK
· Managing Partner



Gee-Hong KIM
· Partner



Seong-Jin BAE
· Partner

(Firm News)

Contribution of Article in 'Korean Business Law: The Legal Landscape and Beyond'

Kenny K. Kang and Sang Hee Lee, attorneys of Jisung Horizon, contributed an article on 'Shareholder Rights' as co-authors to the 'Korean Business Law: The Legal Landscape and Beyond' published in January 2010.

'Korean Business Law: The Legal Landscape and Beyond' provides clear and concise explanations of what the law means relating to South Korea's often complex and changing business law environment. This book is written for a diverse global audience, from lawyers to business leaders, from professors to students, both inside and outside of Korea.

[Article Reference]

- [Korean Business Law: The Legal Landscape and Beyond](#)
- [The Korea Times - Recent Books](#)



This book written by Jasper Kim, a professor of Ewha Graduate School of International Studies is the first of its kind in English that explains Korean business laws for business leaders, bankers, students and academics as well as lawyers.

[Attorneys]



Kenny K. KANG
· Partner



Sang-Hee LEE
· Foreign Attorney

(Firm News)

Legal Advisor of Universal Studio Korea Resort Development

Jisung Horizon is acting as the legal advisor of USKRD, a special purpose corporation set up by Lotte Group, POSCO E&C and others for the creation of Universal Studio Korea Resort (USKR) in Hwasung.

USKR will be the largest global theme park in Asia and will also accommodate condominium, mega shopping mall, premium outlet, hotel, silver town and a golf course. Construction of USKR is expected to commence in March 2011 and the theme park will open in March 2014. The total investment amounts to KRW 3 trillion, of which KRW 1 trillion will be used to create the theme park. Eight companies will participate in the development of USKR, including Lotte Asset Development as the largest investor (26.7%), POSCO E&C as a construction investor (24.4%), USK Property Holdings as a strategic investor (13.5%), and Korea Investment & Securities (10.1%) as the financial investor.

[Korean Article Reference]

- [Donga Ilbo - Korea's First Overseas Theme Park, 'Universal Studio' to Begin Construction Next March](#)
- [Maeil Economy - Hwasung Universal Studio to Commence Construction Next Year](#)
- [Seoul Economy - Construction of Hwasung Universal Studio to Commence Early Next Year](#)

[Attorneys]



Han-Seok MYUNG

· Partner



In-Young HWANG

· Partner



Hyung J. PARK

· Foreign Attorney

(Firm News)

Jisung Horizon Receives High Ranking in 2009 IB Market M&A Advisory Sector

한국경제

Korea Economy published an article on the rankings of financial and legal advisors in the 2009 IB Market.

Jisung Horizon was ranked 8th among the legal advisors in the M&A sector.

[Korean Article Reference]

- [Korea Economy\(PDF\) - 2009 IB Market Ranking](#)

(Columns)

Introduction of Special Purpose Acquisition Company (SPAC)



(JISUNGHORIZON [Hee-Suk CHAI](#) · Associate)

The first Korean SPAC*, Daewoo Securities Green Korea Special Purpose Acquisition Company, was established in December 2009 and was listed on the securities market this month.

SPACs have been in the spotlight in the capital market as it has many merits in diverse aspects. Firstly, from the point of view of general investors, the SPAC will guarantee a return that is equivalent or close to the principal amount, enable the enjoyment of profits accruing from a successful merger and acquisition with small investments and allows high liquidity. Secondly, from the perspective of a corporation that is subject to a takeover, the SPAC can enjoy the effect of becoming a listed corporation through relatively simple procedures and the effect of improvement of financial structure is much larger than that from back-door listing because the merger is targeted to a special purpose company (SPC) that has no contingent liabilities. Lastly, from the view of the financial investors investing in the SPAC (so-called “sponsors”), the SPAC is an investment vehicle that includes all sorts of businesses, such as investment, acquisition, M&A, etc. conducted by investment banks. Therefore, the SPAC is anticipated to be beneficial for the improvement of their profit structure.

In general, the following are pointed out as the major characteristics of the SPAC: (i) the SPAC is formed in a double investment structure in which the management of the SPAC will find the target corporation and its shareholders will decide whether or not to acquire the target, and (ii) the SPAC’s profit structure enables the investors to earn profit from their investment by selling the shares of the merged corporation in the stock market, the value of which is increased through the public offering because the target corporation is acquired within a certain period after the establishment of the SPAC.

In the meanwhile, the Korean SPAC is different from the U.S. SPAC in the following aspects: (i) the shareholding ratio of the equity securities investment traders with KRW100 billion or more of equity must be maintained at a level of 5% or more, (ii) the method of financing is limited to the stocks or stock-related bonds (in particular, the issuance of stock-related bonds is prohibited once the SPAC is listed), and (iii) the method of business combination is limited to a merger. On the whole, the characteristics of the Korean SPAC as above are viewed positively from the perspective of its necessity to take root in the Korean market

by minimizing any side effects from efforts to harmonize with the current system and laws, such as the Commercial Code the Financial Investment Services and Capital Markets Act, and the introduction of the SPAC.

It is my hope that, as in the case of the private equity fund (PEF) which is judged to be a successful introduction, the SPAC will be also introduced with success and become a mainstay of the capital market.

* A special purpose acquisition company (SPAC) is a corporation formed by private individuals to facilitate investment through an initial public offering (IPO). SPACs are shell companies that have no operations but go public with the intention of merging or acquiring a company with the proceeds of the SPAC's IPO.

(New Laws)

**Punishment for Disclosure of Domestic Technology
- Partial amendment of the Unfair Competition Prevention and Trade Secret Protection Act -
(Act No. 9895, to be enforced as of March 31, 2010)**

There is a necessity to expand the persons subject to punishment in order to prevent the leakage of existing technology to foreign countries which results in tremendous loss of national interest and decline of national competitiveness. For this purpose, Article 18 paragraph 1 of the Unfair Competition Prevention and Trade Secret Protection Act was revised to expand the persons subject to punishment under the Act to persons that have acquired and used the trade secret knowing that such information will be used in a foreign country. The current law only subjects persons that have disclosed the information to a third party to punishment.



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- Jisung Horizon Advised on Matters relating to Investment Approval and Other Legal Issue in connection with the Construction Project of New Rolling Mill in Vietnam on behalf of POSCO Specialty Steel Co., Ltd.
- Jisung Horizon receives high rankings in four categories in ASIALAW 2010 edition
- Jisung Horizon hosts public lecture on 'Fair Trade'
- Legal Representative of Private Consortium in a dispute over Dohwa District Urban Development Project Financing
- Jisung Horizon's lawyer Choon-Won LEE, selected as the Leading Lawyer in the Shipping and Maritime field for South Korea by Asialaw Leading Lawyers 2010 Edition
- Legal Representative of Shinhan Bank, in Signing the MOU for \$500 Million with KMG
- Global Business Seminar hosted with Great Success
- The Establishment of Jisung Horizon Global Business Center
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JISUNG HORIZON

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(Firm News)

Legal Advisor of IBK Securities for IBKS SPAC

Jisung Horizon advised on the establishment of a special purpose acquisition company by IBK Securities Co., Ltd., named IBKS SPAC, which was completed in success at the end of April, 2010. Further, Jisung Horizon is advising IBK Securities Co., Ltd. on related legal issues.

For the establishment of IBKS SPCA., other financial institutions such as Industrial Bank of Korea, IBK Capital Corporation, Q Capital Partners Co., Ltd., Shinhan Capital Co., Ltd., KEB Capital Inc., Sun Myung Investment, CKD Venture Capital Corporation participated as joint promoters.

IBKS SPAC intends to find small and medium-sized enterprises with high potential for growth then acquire or merge with the company for the purpose of listing them on the stock market. Jisung Horizon will continue to provide various legal and consulting services with respect to the management of the company so that the corporate value of the target company can be maximized.

[Korean Article Reference]

- [Maeil Economy - IBK Securities' SPAC to go public in or around July \(April 29, 2010\)](#)
- [Korea Economy - IBK Secuties establishes SPAC \(April 29, 2010\)](#)
- [Financial News - IBK Securities establishes IBKS SME SPAC \(April 29, 2010\)](#)

[Attorneys]



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Yully KANG
· Partner



Hee-Suk CHAI
· Associate



Eun-Young LEE
· Associate



Yong-Hyun RYU
· C.P.A.

(Firm News)

Jisung Horizon Advised on Matters relating to Investment Approval and Other Legal Issues in connection with the Construction Project of New Rolling Mill in Vietnam on behalf of POSCO Specialty Steel Co., Ltd.

On May 19, 2010, POSCO announced that POSCO Specialty Steel Co., Ltd., one of its 100% subsidiaries, had obtained an investment approval for the construction project of electric furnace and rolling mill with an expected annual production volume of 1 million tons at the project site located at 2 Phu My, Vung Tau, Vietnam. POSCO Specialty Steel plans to invest approximately USD 620 million and produce steel products for the construction.

Jisung Horizon advised POSCO Specialty Steel Co., Ltd. on matters relating to obtaining investment approval for construction project of new rolling mill and other legal issues.

[Korean Article Reference]

- [Yonhap News - POSCO Specialty Steel obtains investment qualification for rolling mill in Vietnam \(May 19, 2010\)](#)
- [Seoul Economy - POSCO to construct rolling mill in Vietnam \(May 19, 2010\)](#)
- [Money Today - POSCO to construct rolling mill in Vietnam \(May 20, 2010\)](#)

[Attorneys]



Seung-Hyuk Edward HAN
· Foreign Attorney



Ho Chi Minh City
Office

(Firm News)

Jisung Horizon receives high rankings in four categories in ASIALAW 2010 edition

Jisung Horizon received well-deserved appraisals from the leading legal journal ASIALAW in its 2010 Edition, receiving high rankings in four categories.

Jisung Horizon was placed 1st in the 'Shipping, Maritime & Aviation' category, 2nd in 'Mergers and Acquisitions' and 'Banking and finance' categories, and 3rd in the 'Dispute resolution' category.

In particular, Jisung Horizon's attorney Choon-Won Lee was selected as the Leading Lawyer of South Korea's Shipping & Maritime category.

ASIALAW is the Asian edition of IFLR1000, published by the international finance and banking magazine Euromoney, and is highly appreciated by the professionals in the realm of international finance. Its annual Asian law firm rankings in particular provide perceptive guidelines for selecting quality law firms.

[Additional Information]

- [Asialaw Profiles – South Korea Law firm rankings](#)
- [Jisung Horizon's lawyer Choon-Won Lee, selected as the Leading Lawyer in the Shipping and Maritime field for South Korea by Asialaw Leading Lawyers 2010 Edition](#)
- [Jisung Horizon Receives Outstanding Reviews from 2010 Edition of IFLR1000](#)

[Asialaw Profiles - South Korea Law firm rankings]

	Shipping, Maritime & Aviation	Mergers and acquisitions	Banking and finance	Dispute Resolution
Tier 1	Choi & Kim Jisung Horizon Kim & Chang Lee & Ko	Bae Kim & Lee Kim & Chang Lee & Ko Shin & Kim Yulchon	Bae Kim & Lee Kim & Chang Lee & Ko Shin & Kim	Bae Kim & Lee Kim & Chang

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Tier 2	Aurora Law Offices Yulchon	Jisung Horizon Yoon Yang Kim Shin & Yu	Jisung Horizon Yulchon	Hwang Mok Park Lee & Ko Shin & Kim Yoon Yang Kim Shin & Yu Yulchon
Tier 3	Bae Kim & Lee Kim Chang & Lee Yoon Yang Kim Shin & Yu	Hwang Mok Park Kim Chang & Lee	Evergreen Law Group Kim Chang & Lee Kim Choi & Lim Yoon Yang Kim Shin & Yu	Barun Law Jisung Horizon Kim Chang & Lee Kim Choi & Lim

(Firm News)

Jisung Horizon hosts public lecture on 'Fair Trade'

On April 22, 2010, Jisung Horizon hosted a public lecture on 'Fair Trade' with guest speaker Kang-Baek Lee, the head officer of the socially responsible enterprise 'Beautiful Store'.

Mr. Lee gave a visual presentation on the fair trade of coffee, followed by a talk on the development of fair trade movements in South Korea and its future direction.

In particular, Mr. Lee defined fair trade as 'an ethical movement encouraging consumers of developed nations to purchase correctly priced products from developing nations which is the most effective solution to problems of poverty in developing nations'; he further emphasized the need to protect both the rights of producers and consumers through fair trade.

This public lecture was hosted to expose the professionals and attorneys of Jisung Horizon to the concept of fair trade, and to seek ways to support socially responsible enterprises.

[Additional Information]

- <http://www.beautifulcoffee.com/>



Mr. Lee is giving a lecture on 'Fair Trade' (April 22, 2010)

(Firm News)

Legal Representative of Private Consortium in a dispute over Dohwa District Urban Development Project Financing

Jisung Horizon has been appointed to represent the Consortium of 21 private companies with respect to a claim raised by Incheon Urban Development Corporation over Dohwa District Urban Development Project Financing (the "Project") of two trillion Korean Won.

Incheon Metropolitan City has been pursuing the Project since 2006, and it is the largest urban development project in Incheon to date. However, the implementation of the Project has been postponed due to the delay in obtaining city development plan approved, resulting in the litigation between Incheon Urban Development Corporation, the developer, and the private Consortium over the liability for the delay of the Project.

[Korean Article Reference]

- [Money Today](#) – Incheon Dohwa District PF, led to the legal litigation (December 10, 2009)
- [Asia Economy](#) – SK Engineering & Construction Consortium, withdraw from the Incheon Dohwa District Development Project (November 9, 2009)

[Attorneys]



Ho-Won LEE

Sung-Jun HONG

Young-Joo PARK

Gee-Hong KIM

Chan-Wook CHOI

· Managing Partner

· Partner

· Partner

· Partner

· Associate

(Firm News)

**Jisung Horizon's lawyer Choon-Won LEE,
selected as the Leading Lawyer in the Shipping and Maritime field
for South Korea by Asialaw Leading Lawyers 2010 Edition**



(JISUNGHORIZON [Choon-Won LEE](#) · Partner)

Asialaw Leading Lawyers 2010 Edition selected Maritime specialist attorney Choon-Won LEE of Jisung Horizon as the Leading Lawyer in South Korea's Shipping & Maritime category.

Published by Euromoney, Asialaw Leading Lawyers are selected through a vigorous selection process which includes nominations from 9500 legal practitioners from domestic companies and companies overseas. The selected leading lawyers of their respective fields in the Asia-Pacific region are then further assessed against individual performance and client reviews.

A biography of Choon-Won LEE will be published later this year in the 2010 Edition of Asialaw Leading Lawyers.

(Firm News)

Legal Representative of Shinhan Bank, in Signing the MOU for \$500 Million with KMG

On behalf of Shinhan Bank, Jisung Horizon is currently carrying out a transaction related to the preparation and execution of the memorandum of understanding (MOU) between Shinhan Bank and Kazakhstan's state-owned energy company, KazMunaiGaz (KMG) for the financing of \$500 million.

Shinhan Bank has been granted preferred and exclusive rights to be the financial advisor and arranger in providing various financial investment services, including the construction of crude oil loading terminal in the Caspian Sea and Kuryc Port, which KMG intends to promote as a national project of Kazakhstan; Shinhan Bank will also provide services for any other development projects and project financing for the next one year.

Kazakhstan, as a member of the CIS (Commonwealth of Independent States), is a country which has rich natural resources including oil and gas, and its exponential potential in the energy sector is attracting the attention of many foreign investors.

[Korean Article Reference]

- [Maeil Economy](#) - MOU between Shinhan Bank and Kazakhstan's state-owned energy company, KazMunaiGaz (KMG) on financing for \$500 million (April 21, 2010)
- [Financial News](#) - Shinhan Bank-Kazakhstan, signing of MOU on financing for \$500 million (April 21, 2010)

[Attorneys]



Young-Tae YANG
· Managing Partner



Haeng-Gyu LEE
· Partner



Hee-Suk CHAI
· Associate



Seung-Min LEE
· Foreign Attorney



Jean HONG
· Foreign Attorney

(Firm News)

Global Business Seminar hosted with Great Success



"Global Business Seminar" (April 15, 2010)

On April 15, 2010, Jisung Horizon hosted the "Global Business Seminar" at the international conference hall in The Korea Chamber of Commerce & Industry Building. With over 350 participants, the seminar ended in great success.

These four seminar sessions were held in celebration of the establishment of Jisung Horizon's "Global Business Center." Thirteen lawyers - including representatives from the five foreign branches and a representative lawyer from the Laos partner law firm - spoke on fourteen topics including international tax, cross-border M&A and international project finance, as well as on countries such as Vietnam, Cambodia, Laos, Philippines, China and Russia.

The seminars were followed by an additional consultation session, where more in-depth questions and answers were exchanged. The participants gave positive feedback: "it was immensely helpful to have the necessary legal details for international business specified and explained" and expressed words of support and encouragement for future networking of information.

Jisung Horizon would like to thank all the clients who participated in this seminar. We will continue our endeavors to provide accurate information regarding important trends and issues of the rapidly changing international markets.

■ Photographs



Opening address from the managing
Yong-Whan CHO · Managing Partner



Hee-Kyung BYUN · Associate (Head, JS HORIZON Vietnam)
giving a presentation
on 'Critical Issues on Vietnam's Opening Markets'



Ju-Hyun KIM · Partner (Head, JS HORIZON Vietnam - Hanoi Office)
giving a presentation on 'Real Estate Developments in Vietnam
and Regional Investments in Hanoi'



Siri Sayavong (managing partner of JS Horizon's
collaborating firm, JSH-LLC) giving a presentation
on 'Foreign Investment in Laos'



Jeeung-Hoon YOO · Associate (Head, JS HORIZON Cambodia Office)
giving a presentation
on 'Investment Strategies in Cambodia'



Young-Tae YANG · Managing Partner
introducing the Global Business Center



Sang-Su KU · C.P.A giving a presentation on 'Taxation Issues in Foreign Investment'



Jeong-Sig CHOI · Partner (Head, JS HORIZON Shanghai Office) giving a presentation on 'Changes in the Chinese Market Environment and Investment Strategies'

(Firm News)

The Establishment of Jisung Horizon Global Business Center

For many years Jisung Horizon has been recognized as a leading international law firm; our services span the globe, providing professional consultation in the area of international investment, merger and acquisition and project finance in South Asian countries such as Vietnam, Cambodia, Laos, Philippines, Indonesia as well as other countries such as China, Japan, Russia and the USA.

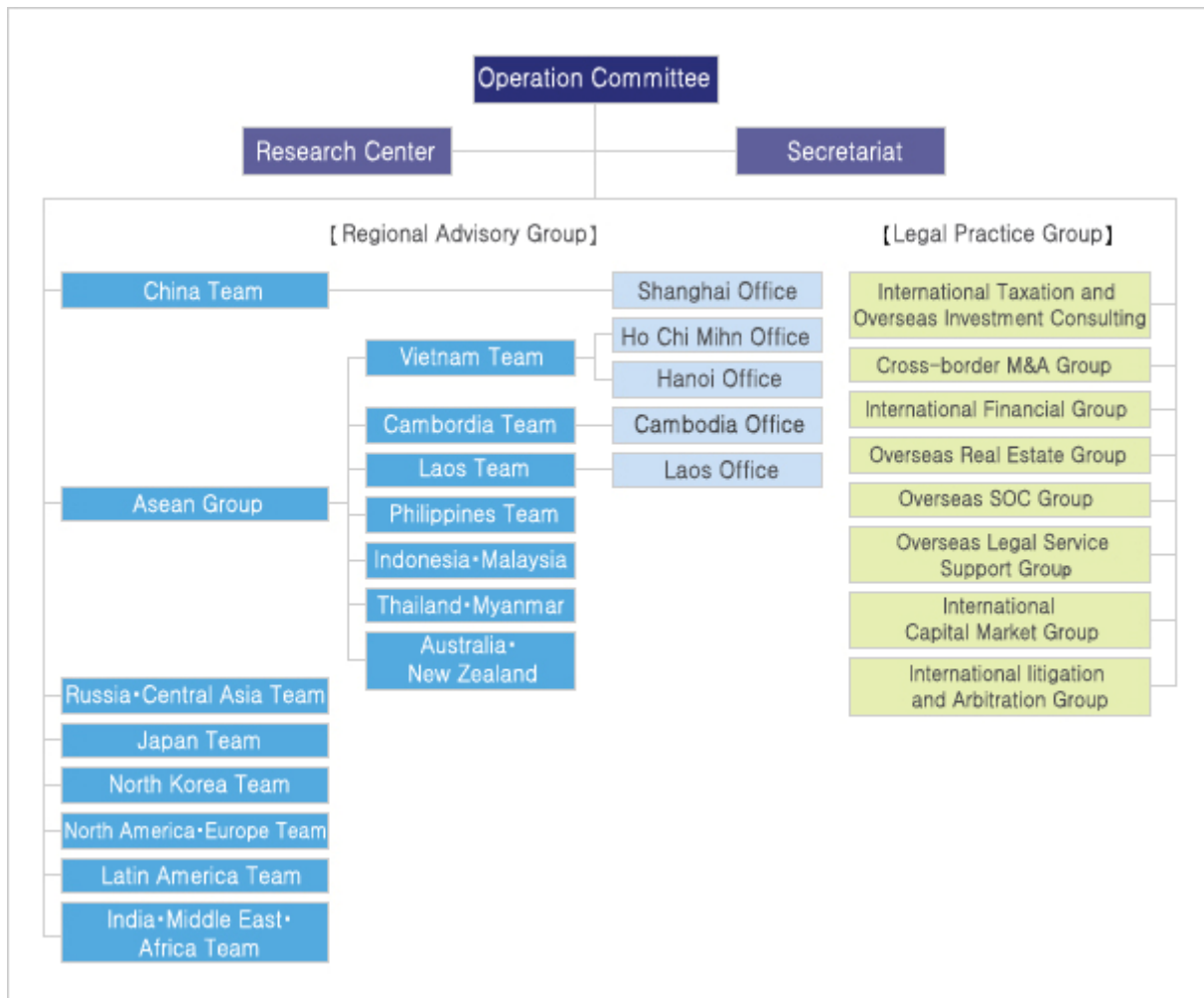
Jisung Horizon's new Global Business Center is based upon our competence in international law, built over years of experience in the field and comprised of regional specialists with a view to providing high quality professional service.

Rather than relying on local law firms when the need arises, the Global Business Center facilitates the provision of timely and on-site advice based on information accumulated by specialist attorneys' hands-on experience and from our regional branches. The five regional branches, moreover, provide on-site service at each location, continuously working in collaboration with local law firms, as necessary. Our services range from merger and acquisitions, project finance, real estate, social overhead capital, resource development, and capital market.

Many leading financial institutions and companies in Korea now conduct international business around the globe, and there is a growing demand for an international law firm with the capacity to provide a comprehensive one-stop legal service that covers many jurisdictions. Jisung Horizon's Global Business Center will satisfy this need with our strong presence in China, Japan, South East Asia, Russia, North America, Europe, South America, India, Middle East and Africa.

Jisung Horizon will continue our endeavors to provide high quality service that will assist the international business success of our clients.

[Organization]



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[Additional Information]

- [\[Homepage\] 'Jisung Horizon Global Business Center'](#)

(Firm News)

Jisung Horizon Represents and Advises Hansung Airlines Co., Ltd. for the Approval of Rehabilitation Plan

On March 5, 2010 the Bankruptcy Division of the Seoul Central District Court approved the rehabilitation plan of Hansung Airlines Co., Ltd., the nation's first low cost airlines.

Hansung Airlines Co., Ltd. suspended its service in October 2008 and filed for corporate rehabilitation proceeding to the Seoul Central District Court on August 31st, 2009 after being acquired by a company set up and invested by Tomato Savings Bank.

The Court's decision to approve the rehabilitation plan of Hansung Airlines Co., Ltd. is considered as a new model case, illustrating how financially challenged companies, may apply for rehabilitation at an early stage after being merged and acquired by another entity.

Jisung Horizon represented and advised Hansung Airlines Co., Ltd. on various aspects of M&A procedures and the rehabilitation proceedings as well as facilitating the court's approval of the rehabilitation plan.

[Korean Article Reference]

- [Financial News](#) – Investor of Tomato Savings Bank purchased the shares of Hansung Airlines (April 5, 2010)
- [Money Today](#) – Hansung Airlines' Rehabilitation Plan was approved (March 9, 2010)
- [Newsis](#) – Seoul Central District Court actively promoted the corporate rehabilitation proceedings of Hansung Airlines (January 26, 2010)

[Attorneys]



Young-Tae YANG
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Sung-Jun HONG
· Partner



Young-Ju KIM
· Associate

(Firm News)

Jisung Horizon advices on Project Financing for Yeoido Parc 1

Jisung Horizon advised on the project financing of 160 billion Korean Won in connection with a bridge loan financing for Yeoido Parc 1.

Parc 1 is a large-scale property development project in Yeoido, Seoul which, upon completion, is expected to change the skyline of Yeoido. The 2.3 trillion Korean Won project includes plans to construct office buildings, hotels and shopping malls. Mirae Asset Group has already entered into a contract to purchase one tower building and the other towers are also scheduled to be on sale.

Jisung Horizon's project team conducted a thorough due diligence for the financing of the bridge loan and the same team will continue to work closely for the lenders of the main financing transaction, offering various legal solutions and advice.

[Korean Article Reference]

- [Money Today - Yeoido Parc 1, organized the lenders about 200 billion Korean Won in connection with a bridge loan financing \(April 5, 2010\)](#)

[Attorneys]



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JISUNG HORIZON Newsletter



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Jung-Han YOO
· Associate

Jean HONG
· Foreign Attorney

Ju-Young Susie IM
· Foreign Attorney

(Columns)

Construction Companies and Rehabilitation Process



(JISUNGHORIZON [Sung-Jun HONG](#) · Partner)

We recall how, after the collapse of Lehman, a large number of our domestic construction companies were faced with imminent threats of bankruptcy during the second half of 2008.

Because of the close relationship between the construction companies and corporations from a range of other industries, the bankruptcy of construction companies has not been the sole concern of the construction industry. Accordingly the creditor banks and other financial institutions have led and implemented a variety of restructuring programs in the past year. Despite their efforts, the issues of restructuring process of domestic construction companies have once again become the center of current media's attention as Sung Won Corporation was put in the danger of bankruptcy and applied for rehabilitation process on March 16, 2010 and other construction companies began to grow anxious of their chances of survival. As a former judge and a lawyer currently specializing in corporate rehabilitation, I firmly believe that supporting rehabilitation of companies in financial difficulties helps our economy function more efficiently and effectively. In light of my personal experience, however, the reality of the construction industry structure and the rehabilitation procedures makes it difficult to believe that companies can resume their normal operation of business after going through the rehabilitation process for the following reasons.

First of all, construction companies often face grave difficulties due to their frequent use of project financing. Under normal circumstances, there is no doubt that project finance is a useful way to raise large sum of capital necessary for construction projects. However, project financing is structured to minimize the risks of the lenders, including but not limited to separating the lenders' interests from the risk of the developers going bankrupt and maximizing the highest return possible for the lenders. Despite the lenders' participation in the project financing based on their independent assessment of the profitability of the project, notwithstanding the low credit rating of developers and their lack of capital, the construction companies bear the sole responsibility to discharge the liabilities of the developers in the events of their defaults. The companies have no protection mechanism for themselves, while the lenders are fully insulated from the insolvency and bankruptcy risks of the developers.

Further, although not only limited to construction companies, the society does not provide an environment

where construction companies can effectively overcome their economic hardships on their own. As can be commonly observed, corporations in financial difficulties are rarely given the opportunity to play a lead role in rehabilitation process by restructuring themselves; instead they are often involuntarily subject to programs collectively led by lenders and creditors, pursuant to which they are granted an extension of loans and at times, the promise of funding. While they are exhausting their options agreed with the lenders and creditors, the companies lose their best opportunity to begin the rehabilitation process. By the time they turn to their last chance of rehabilitation process, it is simply too late. On a personal note, I have not come across a single case, for a period of more than ten years after the IMF, during which time a construction company which voluntarily entered into rehabilitation process, succeeded in restructuring the company, and resumed its business. As of now, the only way to conclude the rehabilitation process of a construction company is to delay the fall in value of the company by selling its assets until a third party acquires the company.

Lastly, another problem is the delay of shareholders or board of directors in deciding to apply for rehabilitation process, which is undoubtedly closely related to the reasons discussed above. The shareholders and the board of directors often focus their decisions on the protection of their own interests and give insufficient consideration to a broad range of stakeholders, such as creditors, employees, and customers. The rehabilitation process requires the stakeholders to suffer a certain degree of loss so as to maintain the value of the company by way of keeping the employees and minimizing the loss of the creditors and other parties-which will in turn ensure that the shareholders' interests are protected to the greatest possible extent. The delay in the rehabilitation process, due to the unwillingness to give up the decision-making power over the management of the company, not only contributes to further depreciation of the value of the corporation and such delay affects all stakeholders, including the shareholders themselves. On the other hand, early entry into the rehabilitation process will prove to be more effective and beneficial to the stakeholders.

I do not think it is easy, although not impossible, for the business to get back on track by going through the rehabilitation process, which takes a lot of time and effort. However, I believe that it is desirable for the construction companies to begin their rehabilitation process in the early phase of financial difficulties, without any delay, when the foundation of business is still intact. In order to have sufficient funding available for the implementation of all the required process, the company should also consider early M&A before the value of the company depreciates any further. It is fortunate that in recent years, the courts are becoming more and more familiar with this type of M&A.

It cannot be stressed enough that the shareholders and the creditors should both strive to make the best decision that will protect and maximize both of their interests.

(Columns)

The Role of IPO and Law Firms



(JISUNGHORIZON [Haeng-Gyu LEE](#) · Partner)

As of March, 2010, there are eleven foreign corporations listed on the Korea Exchange (the “KRX”) in total, of which ten are Chinese and one is Japanese. Soon, the New Pride Corporation of the USA is expected to be listed on the KRX, along with other corporations from China, Japan, Britain, Vietnam, and Indonesia. A notable feature in this surge of foreign corporations on the KRX is the active role of Korean law firms.

As a matter of fact, Korean lawyers do not have much of a role in initial public offering (“IPO”) of domestic corporations. Most of the work that may utilize the services of lawyers, such as establishing internal control system, conducting due diligence, and preparing applications for listing eligibility review and securities registration statements, has been carried out by the managing underwriters. This is a stark contrast to the general practice in the capital markets of the USA and other developed countries, where lawyers and law firms play a significant role in the IPO of domestic corporations. In the USA, for example, representing issuers and underwriters in IPO is an exclusive domain reserved for lawyers, and many law firms derive their important source of income from this line of service.

There are a number of reasons which may explain why Korean law firms’ role in the domestic IPO market has been kept to a minimum. First of all, the various applications and reports to KRX for IPO do not require the applicants to submit a legal opinion, and the due diligence of the applicant corporations is of arbitrary nature. Because lawyers’ participation in the process of IPO of domestic corporations is not mandatory, the issuing companies do not wish to pay expensive legal fees to hire lawyers for IPO matters.

However, when foreign corporations wish to list themselves on the Korean stock exchange, the engagement of Korean law firms is essential, as they are required by law to provide legal opinions of both a law firm in their country of origin and a Korean law firm. To issue such legal opinion, law firms must perform due diligence on the issuing company or its stockholders, which necessitates active involvement of Korean law firms in the process of IPO of foreign corporations. Moreover, the issuing companies need legal advice of Korean law firms on various aspects of Korean law, and they also need Korean law firms to prepare their articles of incorporation that are acceptable by the KRX and are in accordance with the applicable Korean law.

Hence, the managing underwriters consider the engagement of domestic law firms crucial in determining and minimizing the legal, institutional, tax, and foreign-exchange related risks. Many cases in which problems arise from the exposure to these risks cannot be solved without the involvement of Korean lawyers, due to the fact that these matters are specific to the Korean market, Korean laws and regulations. Because foreign corporations require legal service of Korean law firms for listing maintenance, such as public announcements and capital increases, Korean law firms' continued presence in the IPO market is ensured. Due to these reasons, the practice of listing foreign corporations on the Korean stock market has become a profitable niche market for many Korean law firms.

In the case of listing Korean corporations on the overseas stock exchange market, the role of domestic law firm is limited to the role of a local counsel to large international law firms based in Hong Kong. However, domestic law firms now engage foreign law firms as their sub counsels to list foreign corporations on the Korean stock exchange market. This is the result of the enormous efforts put in by the KRX, Korea Securities Depository, and domestic securities companies to attract foreign corporations into the domestic capital market. And it is not an overstatement to say that Korean law firms and accounting firms are beneficiaries of this development. In order to attract many more foreign corporations to our domestic stock market to realize Korea's ambition to become the financial hub of Northeast Asia, Korean law firms should recognize their unique and, important role as a gatekeeper in maintaining and enhancing investors' confidence and trust in the Korean capital market for its long term growth.

(New Laws)

Preparation, etc. of Method to Activitize Indirect Investment in Real Estate - Partial Amendement of the Real Estate Investment Company Act - (Act No. 10269, enforced as of April 15, 2010)

1. Under the amended Real Estate Investment Company Act, the paid-in capital of the real estate investment company (the "REIC") shall be lowered to not less than 500 million Korean Won (Article 6). Furthermore, the minimum capital of the real estate investment company for which six months have passed after obtaining the business permit shall be decreased to 7 billion Korean Won in case of self-management REIC and 5 billion Korean Won in case of consigned-management REIC (Article 10). Thus, the investment target of the REIC is expected to extend to small and medium sized real estate and there will be more investment opportunities for the real estate development projects.

2. The ratio of public offering of the REIC shall be lowered from not less than 30/100 to not less than 20/100 and the ratio of share ownership restriction shall be raised from not less than 30/100 to not less than 35/100 until December 31, 2012 (provisos to Article 14-3 (1) and Article 15 (1)). It is expected that the investment in the REIC is to be activated and the equity with the indirect real estate investment vehicle is to be secured through the reduction of public offering expenses of the REIC and the inducement of institutional investors.

3. Rights in the use of real estate, such as superficies and leasehold right and beneficiary interests in real estate trust by which all of the properties in trust are reverted to a beneficiary upon termination of the trust shall be added to the property to be invested in kind to the REIC (Article 19 (2)). It is expected that the minimum capital of the REIC will be more easily secured by expanding the scope of property to be invested in kind to the REIC.

4. In the event where the REIC is not able to respond to the call option of shareholders due to lack of funds to purchase the shares, it may postpone the purchase of shares by obtaining the approval of the Minister of Land, Transport and Maritime Affairs (Article 20 (3)). It is expected that stable operation of the REIC will be possible by allowing the REIC to purchase the shares in consideration of its status of funds.

(New Laws)

**Preparation, etc. of Method to Expand Assistance to Foreign-Invested Enterprises
- Partial Amendment of the Foreign Investment Promotion Act -
(Act No. 10272, to be enforced as of October 15, 2010)**

1. Under the amended Foreign Investment Promotion Act, more land will be subject to private contracts and decrease of rent for foreign-invested enterprises (Article 13). Thus, the land, etc. that has been created under the Urban Development Act or the Act on the Development and Management of Logistics Facilities will be leased or sold on the basis of private contracts, the term of lease will be increased and the rent will be reduced for foreign-invested enterprises.

2. Of the requirements for the assistance in cash to foreign investment, the 'requirement of the foreign invested amount of not less than USD10 million' was deleted and the scale of full-time research staff shall be lowered from 10 to 5 persons (Article 14-2 (1)). Thus, small-scaled foreign investment will also be able to receive financial support in cash if the effect of such investment can be proved to be of benefits to the national economy.

3. The scope of regions to which Mayor/Do Governor may designate as foreign investment zone shall be expanded in order to promote the inducement of foreign-invested enterprises that are engaged in research and development and high value- added service (Article 18 (1)).



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