

Wong & Partners.

Member Firm of
Baker & McKenzie International



Chew Kherk Ying

Partner

Kuala Lumpur, Malaysia
+603 2298 7933
kherkying.chew@wongpartners.com

Global areas of practice

Commercial Litigation
Arbitration
Dispute Resolution
Risks and Compliance
IP/Technology

Languages

English
Bahasa Malaysia

Wong & Partners

Level 21, The Gardens South Tower
Mid Valley City, Lingkaran Syed Putra
Kuala Lumpur 59200
Malaysia

Practice focus

Chew Kherk Ying heads the Intellectual Property & Technology and Dispute Resolution practice groups, with over 30 years of experience in the area of intellectual property (IP), commercial litigation, corporate compliance, information technology, data privacy, pharmaceutical and Internet regulatory matters.

Kherk Ying is involved in the various stages of dispute management in both Court and arbitration proceedings. In respect of civil litigation, she appears before the High Court and the appellate courts up to the Federal Court. She handles all aspects of commercial disputes, technology and IP disputes, disputes arising from and/or relating to winding-up, restructuring schemes involving capital reductions, breach of directors' duties, liquidation, and a variety of contentious agreements. She is also experienced in obtaining ex parte injunctions, mareva injunctions and other interim reliefs, contracts, and torts including negligence, misrepresentation, nuisance, and defamation.

Her portfolio also comprises of the drafting of various pleadings for court proceedings, which includes summary judgment, security for costs, third party proceedings, reciprocal enforcement of judgments, committal and garnishee proceedings.

Kherk Ying acts as counsel and has extensive experience in advising multinational corporations on risk-related issues, and has assisted companies in developing internal policies and procedures, as well as managing their corporate compliance programmes, particularly in internal investigations, audits and necessary trainings in mitigating risks of non-compliance with anti-corruption and anti-money laundering regulations.

Kherk Ying is recognised as a 2018 Acritas Star in Dispute Resolution, she has been named among Asia IP Experts 2018, 'Top Litigators in Asia Pacific 2018' by Asia IP, Commended External Counsels of the Year, 2017 by the In-House Community and the "Best in IP Litigation" by Euromoney Asia Women in Business Law Awards 2017. She has garnered praise from clients for her responsiveness and expertise. According to Chambers Asia, Kherk Ying is "an acclaimed figure in the sector, drawing praise as a lawyer who is 'really commercial, very practical' and 'knows her subject impressively well'". Kherk Ying is highly

regarded for her IP litigation expertise as Asia Pacific Legal 500 had previously commented that she is "highly respected for contentious and non-contentious work" and has won "an important precedent-setting case for Malaysian software copyright law". She was the recipient of 'Women Lawyer of the Year' by Asian Legal Business for both Malaysia and Southeast Asia, 2019.

Kherk Ying is an appointed panel arbitrator and mediator for the World IP Organisation (WIPO) and a panel arbitrator for the Asian Domain Name Dispute Resolution Centre (ADNDRC) Domain Name Dispute Resolution Panel. She is an appointed panelist by the Kuala Lumpur Regional Centre for Arbitration (KLRCA) to specifically handle disputes for the Malaysian Domain Name Dispute Resolution Policy (MYDRP) service, and is on KLRCA's Panel of Uniform Rapid Suspension (URS) Examiners, which handles quick and cost-effective take down of websites that infringe IP rights. Kherk Ying is also a certified Adjudicator with the Kuala Lumpur Regional Centre for Arbitration (KLRCA) for disputes under the Construction Industry Payment and Adjudication Act (CIPAA) 2012.

Representative cases

Dispute Resolution

- Representing a Dutch multinational company to defend a complex civil claim amounting to USD 1.3 billion relating to land acquisition by the State Government for the purpose of developing an oil storage terminal.
- Advising and assisting a Malaysia public transport operator on a dispute relating to the operations and maintenance of a mass transit system in Saudi Arabia.
- Representing the Malaysian subsidiaries of a leading multi-national technology company in defending a civil claim initiated by a Malaysian based office & stationary supply company in relation to the termination of its status as a reseller for the client.
- Assisting a multinational technology company in resisting a defamation claim involving a blog containing numerous defamatory and offensive/inflammatory articles, statements and comments created under our client's online platform.
- Appointed as counsel for the Indonesian and Malaysian entities of a global technology company to recover payments which have been diverted from the Indonesian entity by fraudsters into a bank account held with a Malaysian Bank.
- Appointed to defend Iris Koto (M) Sdn Bhd in a civil suit commenced by Prestimex-CI SA for breach of a Joint Venture Agreement between Iris and Prestimex.
- Represented the subsidiary of a multinational jeweler and luxury brand company, and employees of the company, listed on the New York Stock Exchange in a civil suit filed by a former Managing

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- Director of its Malaysian entity before the High Court of Malaya in Kuala Lumpur for the sum of MYR 8 million being damages for defamation, malicious falsehood and conspiracy.
- Represented one of the largest furniture distributors in North America in an action against its local contract manufacturer for breach of an exclusivity agreement in respect of a popular line of bedroom furniture, defamation, and unlawful termination of the agreement.
 - Represented an airline company in Malaysia's first litigation matter involving the breach of personal data privacy.
 - Represented a Japanese multinational company in defending a claim by the client's former Managing Director at the Industrial Court on ground of unfair dismissal involving misconduct arising from improper payments made to government officials in a Southeast Asian country.
 - Acted for a French automotive manufacturer in a successful appeal before the Court of Appeal against the decision of the High Court judge in refusing stay of proceedings pending arbitration. In an important decision on construction of arbitration clauses, the Court of Appeal held that tortious claims and claims which included allegation for fraud were matters which can be referred arbitration together with the contractual dispute.
 - Represented an international oil well fishing company against its joint venture partner in Malaysia both at arbitration and in the High Court in relation to the termination of the joint venture and takeover of valuable oil services contracts and specialised equipment.
 - Acted for global direct sales company dealing in cosmetics in a product liability dispute.
 - Advised a cosmetic company in a consumer tribunal complaint.
 - Acting for a foreign car manufacturer in its dispute with its previous local distributor.
 - Acted for global oil company is one of the first contested adjudication before the Communications and Multimedia Content Forum of Malaysia (CMCF) in respect of a broadcast advertisement.
 - Acted for a chemical manufacturing in a product liability dispute.
 - Represented a local website developer for a B2B e-marketplace for website infringement case and obtained injunction against a company from reproducing its website.
 - Represented a German bank on a litigation suit against a local company for breach of letter of comfort and to seek for repayment of indebtedness involving a claim value of USD 19.75 million.
 - Represented a local dotcom company on a debt recovery matter against a local communication company involving a debt amounting to more than USD 36.9 million.

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- Represented a local computer company on a debt recovery and winding up suit against a local company for repayment of debt amounting to MYR 5.3 million.
- Acted for an energy management company for breach of contract involving a claim of MYR 2.24 million.
- Represented an electronic company in a dispute on sale of shares involving a claim amounting to MYR 3.4 million.
- Represented a hotel operator in a litigation suit against client on mismanagement and non-performance of contract.
- Represented a construction corporation in a construction dispute for breach of contract in a transaction deal amounting to MYR 17.8 million.
- Represented a global technology provider in a defamation suit for a claim amounting to GBP38 million.
- Acted for Chevron in defending a broadcasting advertisement concerning the unbeatable cleaning power of Techron in a complaint by Shell. This is the first adjudicated advertising dispute which tested the provisions of the Content Code before the Complaints Bureau of the Communications and Multimedia Content Forum of Malaysia (CMCF).
- Acted for Clorox in respect of two television broadcasters' complaints against Reckitt Benckiser. This is the second adjudicated advertising dispute which clarified the provision of the Content Code on comparative advertising in Malaysia.
- Representing a Japanese telecommunications company in arbitration against a local conglomerate for breach of a share subscription agreement.

Arbitration Associations and Membership

- Asian Domain Name Dispute Resolution Centre (ADNDRC) Domain Name Dispute Resolution Panel – Member
- The Malaysian Institute of Arbitrators - Member
- KLRCA (Kuala Lumpur Regional Centre for Arbitration)'s Construction Industry Payment and Adjudication Act (CIPAA) 2012 - Certified Adjudicator
- KLRCA's Panel of Uniform Rapid Suspension (URS) Examiners - Appointed Panellist
- Cambridge Commonwealth Society – Fellow
- Malaysian Bar - Member

Awards and rankings

- Recognised as a 2018 Acritas Star in Dispute Resolution.

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- Recognised as a Dispute Resolution Star by Benchmark Litigation Asia Pacific 2018
- Named among the Commended External Counsels of the Year, 2017 by the In-House Community.
- Recognised as a Market-leading lawyer for Dispute Resolution & Litigation, Intellectual Property by Asialaw Leading Lawyers, 2017.
- Ranked as a Leading Lawyer for Dispute Resolution by Asialaw Profiles, 2016.
- Ranked as Dispute Resolution Star in Commercial and transactions and Intellectual Property by Benchmark Litigation, 2019.

Education and admission

Kherk Ying holds a LLM (First Class Hons) from the University of Cambridge and a LLB from the National University of Singapore. She was called to the Singapore Bar in 1988 and to the Bar of Malaysia in 1997.

Academic achievements

- Law Society of Singapore Book Prize Recipient
- Leow Chia Heng Prize - for outstanding academic performance (National University of Singapore)