



ganpartnership

## Dispute Resolution and Litigation Practice Profile





## ganpartnership

Advocates & Solicitors  
Arbitrators  
Adjudicators  
Mediators  
Registered Patent Agents  
Registered Trade Mark Agents  
Registered Industrial Design Agents

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## About

Gan Partnership is a dispute resolution law firm based in Kuala Lumpur, specialising in dispute resolution and intellectual property. Our partners sit as arbitrators in international and domestic arbitrations. With the practice experience of one of the largest law firms in Malaysia, our partners have seen how the wants and needs of clients can be addressed in a result-driven and cost-effective manner. Our strength and experience in handling complex matters and providing solution-oriented legal services, all in timely fashion, are what set us apart.

Within the first year of the firm's inception in 2011, we were recognised as a key dispute resolution practice by Legal 500. A testament to the expertise and high standards set by counsels that make up our firm.

*"Gan Partnership's dispute resolution practice is led by litigator Gan Khong Aik, who handles industrial relations matters for clients such as Exxon Mobil. The practice has also been instructed on disputes related to the PKFZ scandal."*

----- **Legal 500 Asia Pacific, 2012 Publication**

We are further recognised by top international legal directories and independent research houses where the skills and expertise of our teams have been acknowledged by **Legal 500, Chambers and Partners, Who's Who Legal, Benchmark Litigation and World Trademark Review.**

With wide access to a network of eminent international and local technical consultants and experts, the resourceful and multilingual team has all the resources to deliver comprehensive and innovative solutions to our clients - from prominent individuals to listed companies, from startups to multinational Fortune 500 entities.

## Philosophy

**Integrity** is our core value and forms the basis of our legal practice.

We are driven by our **Passion** for the law, which is the foundation for a civil society.

What sets us apart is our **Solution-Driven** approach in providing legal services to our clients.



## Capabilities

### Dispute Resolution

Our litigation partners' expertise spread across most areas of advisory and dispute resolution within and beyond our borders, including:

- Arbitration
- Anti-Bribery & Corruption
- Antitrust & Competition
- Banking & Finance
- Boardroom Risk & Reputation
- Construction, Engineering, Infrastructure & Projects
- Corporate Governance & Compliance
- Corporate Litigation & Risk Management
- Crisis Management
- Cyber Security
- Employment, Benefits and Incentives & Industrial Relations
- Energy & Resources
- Healthcare & Life Sciences
- Insurance & Reinsurance
- Intellectual Property
- Mediation
- Real Estate
- Regulatory & Compliance
- Restructuring & Insolvency
- Sports
- Technology, Media & Telecommunications

## Intellectual Property

We provide comprehensive and dynamic legal services in respect of intellectual property (IP) rights:

- All aspects of IP work with a strong focus in contentious matters
- Securing protection of trademarks, patents, industrial designs, copyright and more
- Branding strategies
- Management, protection, commercial exploitation and enforcement of IP rights
- Confidential information and trade secrets
- Documentation for commercialisation of IP ranging from licensing to complex transfer of technology
- Enforcement of IP rights in all forms, from litigation to working together with government authorities for enforcement actions and criminal prosecution
- Information Technology (IT), Telecommunications and Multimedia
- Alternative solutions



## Notable Transactions

### Arbitration

- Regularly appointed as arbitrator or act as party representative in local and international arbitrations concerning commercial, construction, infrastructure, engineering, and energy disputes.
- Acted as a party representative for a claim concerning a breach of a technical warranty in relation to a Waste Water Treatment Plant for a sum of approximate RM7 million.
- Acted as a party representative for a claim concerning a construction dispute between main contractor and employer for an integrated development in East Malaysia for a principal claim of approximate RM66 million and a principal counterclaim of RM44 million.
- Acted as a party representative for a claim concerning a construction dispute between main contractor and subcontractor for the construction of a university campus for a sum of approximate RM240 million.
- Acted as a party representative for a claim concerning a Power Purchase Agreement in relation to a Power Plant in East Malaysia for a sum of approximate RM102 million and a counterclaim of RM180 million.
- Acted for an international conglomerate in an international arbitration against a foreign equity fund.
- Acted for the Asian International Arbitration Centre (AIAC) including the first reported constitutional challenge on statutory adjudication.
- Acted in a multi-million dollar arbitration in AIAC (including subsequent recovering proceedings in the Commercial Court of Nanterre, France) arising from the collapse of an offshore crane in the Malaysia-Thailand Joint Development Area.
- Acted in an international arbitration against a billion-dollar Chinese conglomerate in a construction dispute.



- Appeared before the apex court in a challenge against an arbitration award concerning novel constitutional and jurisdictional issues.
- Appeared before the apex court on significant legal points concerning limitation periods in arbitration.
- Appeared before the apex court to set aside a multi-million dollar arbitration award involving key questions on Arbitration Act 2005.

### Corporate Litigation and Risk Management

- Frequently acts in corporate and commercial disputes and highly experienced in disputes concerning directors, shareholders and governance.
- Acted as a co-counsel before the apex court for the breach of a charter party agreement claiming for damages in the sum of approximately USD3.1 million.
- Acted as a lead counsel for a company in health food industry before the apex court in a matter concerning the exercise of the right of option to sell its shares pursuant to the joint venture agreement.
- Acted as a lead counsel in a highly publicised dispute involving Chinese Educationist in Malaysia over a shareholder oppression claim.
- Acted as a lead counsel in disputes involving renowned properties construction developers in Malaysia where one of the suits was against a state government for damages over RM25 million.
- Acted as one of the lead counsels in an appeal where the Court of Appeal decided over the power of liquidator vis-à-vis the power of minority shareholder for the first time and the subsequent leave application to the apex court was dismissed.
- Acted for a company in a suit to recover a sum of RM8.61 million against its director for breach of fiduciary duty and duty of fidelity.



- Acted in a matter concerning re-assessment of damages of a land worth more than RM12 million before the Court of Appeal.
- Acted in a RM1.3 billion dispute over a corporate sale deal which spans between Malaysia and Singapore.
- Acted in an action arising from a deadlock in a family-run company which tested the new company law regime.
- Acted in an action concerning a breach of contract arising from the damage to a gas turbine at a co-generation plant.
- Acted in multiple actions arising from the complex disputes between directors and shareholders of a company operating in the nature of a quasi-partnership.
- Advised and acted for a director in a dispute arose from the sale of a company which involved a claim sum in excess of RM640 million.

### **Employment, Benefits and Incentives & Industrial Relations**

- Acted for a government-linked telecommunication enterprise in defending a claim by an employee who was on a fixed-term renewable contract for termination without just cause or excuse.
- Acted for an international-based banking institution in defending a claim by a former employee for forced resignation.
- Acted for an international-based manufacturing enterprise on unjust dismissal claim involving a retrenchment exercise arising from employment and operational restructuring.
- Acted for an oil and gas multinational company in a judicial review proceeding before the High Court relating to the Minister's reference for unjust dismissal claim.
- Acted for tertiary educational group of companies in defending an unfair dismissal claim lodged by its former employee involving issue pertaining to conflict of interest.

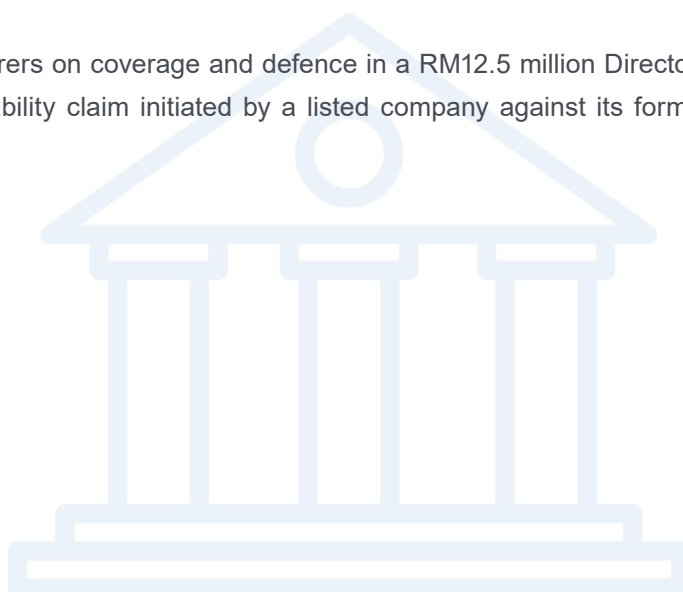
- Advised group of companies in hospitality and entertainment industry relating to their employment issues.
- Advised on the employee's code of conduct in light of the newly enforced corporate corruption liability.

### Engineering, Construction and Energy

- Acts for stakeholders in the construction industry in a broad spectrum of litigation matters in Malaysian courts, in arbitration and adjudication.
- Acted for a subcontractor in a construction claim in the oil and gas sector against the main contractor for a claim of about RM40 million.
- Acted for the developer to challenge the claims made by the contractor for earthworks and pavement works carried out by the latter, in two separate adjudications for sums in the region of RM36 million and RM9 million respectively.
- Acted for the developer to defend a claim brought by a piling contractor under the Construction Industry Payment and Adjudication Act 2012 (CIPAA) for a sum exceeding RM70 million.
- Acted in a series of disputes arising from a bridge collapse in Malaysia involving leading engineering experts from Europe and Asia.
- Acted in a state commission inquiry for a highly publicised hill slope failure.
- Acted in the Federal Court and the Court of Appeal in a dispute involving the interplay between insolvency laws and a direct payment provision of the CIPAA, resulting in a landmark decision in the construction dispute resolution industry.
- Acted in the oft-cited landmark decision of the apex court on jurisdictional issues concerning CIPAA.

## Insurance and Reinsurance

- Advises and acts for Insurers and Reinsurers in a wide range of issues relating to insurance policy, claims and disputes.
- Advised and acted for Insurers and Reinsurers in a RM125 million Machinery Breakdown/Loss of Profit claim arising from an aluminium smelter incident.
- Advised and acted for Insurers in a reinsurance claim on a Civil Engineering Completed Risks Insurance Policy over a collapse of folded plate retaining wall.
- Advised and acted for Insurers in a reinsurance claim over RM22 million involving fraudulent cheque payment by a bank.
- Advised and acted for Insurers in a RM16 million recovery arising from a slippage incident at a port.
- Advised and acted for Insurers in an occupier liability claim in respect of a high-profile escalator incident happened at a renowned shopping mall in Malaysia.
- Advised and acted for Insurers in respect of a RM20 million recovery arising from a hotel fire.
- Advised Insurers on coverage and defence in a RM12.5 million Directors & Officers liability claim initiated by a listed company against its former directors.





## Intellectual Property

- Represents domestic and international IP owners ranging from multinational companies to local listed conglomerates in full spectrum of IP work including protection, enforcement, portfolio management, risk assessment, technology transfer, monetisation, advertising, franchising and transactional matters. Sought out for strength in handling contentious matters and strategy.
- Wealth of experience in copyright, trademark, industrial design, trade secret and breach of confidence disputes. Litigated complex cross-border IP disputes, high-value multi-jurisdictional cases and validity issues.
- A first in Malaysian history, obtained a trade description order for a parallel import situation.
- Acted for the largest telco in Malaysia in a sophisticated dispute covering laws on domain names, trademark infringement, passing off, breach of contract, fraud and inducement.
- Acted in a defamation suit arising from the abused use of social media involving active communication of defamatory materials.
- Advised a foreign embassy on protection of trademarks denoting origin.
- Advised a multinational luxury goods conglomerate on media and advertising law.
- Advised an American multinational IT company in a technology joint venture agreement with a Malaysian company involving provision of tech services.
- Advised an oil & gas multinational corporation on a technology dispute pertaining to undersea scanning/diagnostics technology.

- Advised one of the largest European mobile network operators on a dispute pertaining to wrongful use of telecommunications equipment and services.
- Drafted a software agreement for a Big Four accounting firm.
- Represented a German premium automobile brand against counterfeit goods in Malaysia.
- Represented an American global aerospace and advanced technologies company in a global dispute pertaining to laser guided weaponry.
- Represented an American 20+ time Grammy Award winning artist on image rights.
- Represented foreign entities including embassy before Malaysian courts in several multi-jurisdictional IP rights disputes.
- Represented the largest government-linked Malaysian telecommunications company in the largest trade mark infringement action in its history, against an American manufacturer of telecommunications hardware.
- Represented the largest Malaysian automobile-maker in a trade mark infringement and copyright dispute.
- Represented the world's largest restaurant chain (revenue) in various trademark and advertising disputes.
- Represented Malaysia's largest oil & gas company in a breach of confidential information and copyright claim.
- Represented the world's largest technology company and third-largest mobile phone manufacturer in a global trademark dispute against the largest Swiss Watch group.

## Partners

### Gan Khong Aik *FCIArb*

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Gan Khong Aik is a dispute resolution partner with over 25 years' counsel experience before all levels of Malaysian courts. He is a Fellow of the Chartered Institute of Arbitrators (CIArb), United Kingdom, who sits on the panel of arbitrators in various Chinese arbitration institutes include international arbitration court. He is also a mediator with the Malaysian Mediation Centre.

Khong Aik's extensive practice experience includes corporate and commercial disputes, insurance and reinsurance claims, insolvency and liquidation, land and property disputes, defamation, anti-bribery and corruption, and employment and industrial relations disputes with specific reference to restrictive covenants, protection of trade secrets and confidential information. His notable matters include a landmark apex court decision which led to the significant developments in the arbitration landscape. Building on his wealth of knowledge and experience in corporate disputes, he advises companies on corporate governance and corporate liabilities since the enforcement of section 17A of Malaysian Anti-Corruption Commission Act 2009 on 1 June 2020.

Khong Aik has been recommended by Legal 500 and Benchmark Litigation for his depth of legal knowledge and troubleshooting skill complemented by a meticulous and solution driven approach in managing the dispute strategy. In the 2010/2011 issue of Legal 500 Asia Pacific, Khong Aik was described as *"an 'experienced litigation lawyer' who has a 'depth of knowledge' and 'trouble shooting skills' that are complemented by a 'meticulous and thorough approach'. This expertise extends to industrial relations."*

Khong Aik's continuous commitments to deliver the best of himself in serving his clients' cause are seen in the clients' feedback to the 2019 issue of Benchmark Litigation – *"Very professional, effective and efficient"* and *"Extremely knowledgeable, effective and practical"*. He has been listed as a *Litigation Star in Commercial and Transactions, Dispute Resolution, and Labor and Employment* by Benchmark Litigation in 2020.

Khong Aik co-authored a chapter for International Arbitration in Global Legal Insights series. He has penned several articles for Inter-Pacific Bar Association Journal and International Bar Association. He contributes to the Litigation Newsletter of International Law Office.

Khong Aik is recently appointed to chair the International Conventions and Trade Agreements Subcommittee of International Commerce and Distribution Committee, International Bar Association.

**Bahari Yeow Tien Hong**

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With over 20 years' experience in the fields of Intellectual Property (IP) and litigation, Bahari built and headed a Legal 500 Tier 1 Intellectual Property, Technology, Media and Telecommunications team. Bahari also led his previous firm to debut on WTR 1000 as the Top IP Firm in Malaysia notwithstanding being a fresh entry, before joining Gan Partnership together with his team.

Bahari is ranked a Legal 500 Leading Individual. Legal 500 described him as *"undoubtedly very knowledgeable in his field of practice — his commitment, passion and enthusiasm are commendable"*.

Chambers Asia Pacific who ranks Bahari as a *Ranked Lawyer* described him as *"often engaged by leading global and domestic brands on trade mark infringement cases", noted for his expertise in all types of IP litigation, "particularly hands-on and very conversant with IP matters in Malaysia," and "customer-centric approach and adaptability to economic changes"*.

Due to his humble, approachable but solution driven personality, he was awarded *Commended External Counsel of the Year* by In-House Community.

A natural-born litigator, Bahari brings with him years of litigation experience applied onto the field of Intellectual Property. Bahari and his teams advise on every aspect of Intellectual Property.

Bahari has been invited to speak at numerous events including talks, lectures and discussions organised by Lawasia IP, the International Malaysian Law Conference, Legal 500, Malaysian Intellectual Property Association, Asian International Arbitration Center, Institute for Democracy and Economic Affairs, University Malaya, the Malaysian Bar and State Bars. Bahari writes and publishes extensively in intellectual property laws and civil procedures.

Bahari is a qualified patent, trade mark and industrial design agent. He also sits as a Panellist at the Asian International Arbitration Centre (Domain Name Dispute Resolution). He currently serves as a member of the Group Standing Committee for Copyright (2015-2018) of the Asian Patent Attorney Association (APAA) Malaysia.





**Foo Joon Liang** FCIArb, FSIArb, FHKIArb

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Foo Joon Liang was called to the Malaysian Bar in 2000. He is a partner of Gan Partnership, a firm he co-founded in 2011. He is a Fellow of the Chartered Institute of Arbitrators (CIArb), United Kingdom, Singapore Institute of Arbitrators (SIArb), and Hong Kong Institute of Arbitrators (HKIArb).

Joon Liang is the Chairman of the Malaysian Branch of CIArb. He sits on the panel of arbitrators and adjudicators of the Asian International Arbitration Centre (AIAC), and is one of the first 10 Malaysian appointees to the panel of arbitrators of the Hainan International Arbitration Court. He also sits on the Securities Industry Dispute Resolution Center (SIDREC)'s Panel of Mediators and Adjudicators.

Joon Liang is listed as a Future Leader in Construction by Who's Who Legal (WWL) and ranked as a Future Star in Construction, Dispute Resolution and International Arbitration by Benchmark Litigation. WWL noted *"Foo Joon Liang has impressive experience in high-value construction disputes across litigation and arbitration proceedings."*

Joon Liang has spent the past 20 years building upon an active dispute resolution practice in arbitration, litigation and more recently in adjudication. He regularly appears as counsel in arbitration as well as at all levels of the Malaysian courts. He has advised and acted in a broad spectrum of disputes, from engineering, construction, power, contract, securities, to company and shareholder disputes.

In the past several years, Joon Liang has been increasingly involved in engineering related incidents in construction projects. Amongst the more notable matters he was involved in were the highly publicised failure of a hill slope in Penang and a bridge collapse in the Klang Valley. He has acted in some of the leading cases in construction adjudication, including the first Construction Industry Payment & Adjudication Act 2012 (CIPAA) matter heard at the Federal Court.

Joon Liang also authored several publications, including the Malaysian chapters for the *"Arbitration"* and *"Dispute Resolution"* issues of the *"Getting the Deal Through"* international publication over several years. He also co-authored a chapter for International Arbitration in Global Legal Insights series.

**Tan Min Lee**

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Min Lee focuses her practice on dispute resolution, particularly civil litigation, commercial litigation and arbitration in commercial and construction disputes. Having represented various stakeholders in a wide range of construction related disputes, she is very adept at dealing with issues arising from the construction industry and advising on the commercial aspects of real estate development projects.

An adjudicator certified by and impanelled with the Asian International Arbitration Centre (AIAC), Min Lee is recognised for her skills and experience in resolving disputes under the Construction Industry Payment & Adjudication Act 2012 (CIPAA) since its enforcement in April 2014. She acted for the main contractor in one of the first few adjudications commenced under CIPAA which became the first contested matter decided in the apex court.

Min Lee also has extensive experience in banking and finance disputes with an emphasis in assets and debts recovery. She advises and acts for leading financial institutions, from pre-litigation to enforcement and execution. She was, among others, involved in a complex matter commenced in Court, representing one of the leading financial institutions against a public listed company along with its subsidiaries for the recovery of debt exceeding RM180 million, made pursuant to multiple facility agreements, security documents and guarantees.

Min Lee reviews corporate documents, including joint venture agreements, share sale agreements and tenancy/lease agreements. She is solution-oriented when advising her clients and plays an instrumental role in achieving their desired commercial results. She advises one of the largest providers of flexible workspaces in Malaysia in respect of tenancy related issues. Her wealth of dispute resolution experience has made Min Lee a good representative for negotiations with landlords.

Min Lee obtained her Bachelor of Laws degree (Hons) from the University of Malaya and was admitted as an Advocate and Solicitor of the High Court of Malaya. She is an Associate of the Chartered Institute of Arbitrators, United Kingdom.

**Lim Zhi Jian**

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The youngest practitioner in Malaysia to be named Recognized Practitioner by Chambers Asia Pacific in 2018, Lim Zhi Jian who was also ranked *Next Generation Lawyer* by Legal 500 that same year handles complex and contentious litigation with a wealth of experienced focus in Intellectual Property, having trained it in since his first year of practice.

Zhi Jian began his career in Lee Hishammuddin Allen & Gledhill. He was made Partner in 2018 before joining Gan Partnership 3 years later. In addition to litigation, he advises on protection, management, and monetisation of IP for his clients which include Fortune 500 entities, domestic and international public listed companies, government linked companies, and tech startups.

Zhi Jian went on to be awarded further recognition the following year when he was ranked *Next Generation Lawyer* by Legal 500, *Up and Coming Lawyer* by Chambers Asia Pacific, *Future Star* by Benchmark Litigation and together with Bahari Yeow formed part of the team that won *Firm of the Year* by World Trademark Review who also named Zhi Jian an *Expert Individual in Prosecution and Strategy* and ranked *Silver-tier Individual in Enforcement and Litigation*.

Among others, Zhi Jian has been recognised by independent rankers and client testimonials as, inter alia, “*first rate*”, “*subject matter experts who provide fast responses, customized service and flexible arrangements*”, and “*go the extra mile in order to secure the most favorable outcomes*”.

Notably, Zhi Jian who “*thinks outside the box*” has been regarded as “*the kind of lawyer who “open to discussing legal arguments and ideas with clients and render well-considered and commercially attuned advice”. “With a detailed understanding of the client’s business and how various areas of law are interconnected, they show a high degree of agility and creativity, with robust expertise in industry-specific regulations and consumer protection to boot”*”. Other significant testimonies about Zhi Jian’s capabilities include “*resourceful, efficient, accommodating, committed and solution-driven*”.

Zhi Jian has authored/co-authored various numerous publications in intellectual property laws, Trade Marks Act chapter of the Malaysian Civil Procedure; Intellectual Property, Global Comparative Guide; Media, Advertising, and Entertainment Law Throughout the World; Expert Guide - Intellectual Property; Trademark Navigator; Patent Litigation Guide; The In-House Lawyer; Corporate Disputes Magazine – Trademark; Trademarks 2020 Law and Practice in Malaysia; Copyright 2020 Law and Practice in Malaysia; and Patent Litigation 2020 Law and Practice in Malaysia

In his pro bono capacity, he is a panel judge for an annual international moot competition.

## Counsel Experience

Some of the clients for whom we act as Counsel are:

- AmBank Group of Companies
- Asian International Arbitration Centre
- Bina Puri Holdings Bhd. Group of Companies
- Celcom Axiata Berhad Group of Companies
- Chubb Insurance Malaysia Berhad
- DiGi Telecommunications Sdn. Bhd.
- Etiqa General Insurance Berhad and Etiqa General Takaful Berhad
- ExxonMobil Exploration & Production Malaysia Inc.
- Genting Berhad Group of Companies
- Great Eastern Life Assurance
- Hong Leong Group of Companies including GuocoLand (Malaysia) Bhd.
- IWG Group of Companies
- Kumpulan Wang Simpanan Pekerja
- Lockheed Martin
- Lonpac Insurance Berhad
- Maxis Berhad
- Malaysian Communications and Multimedia Commission
- Mitsubishi Electric
- MSIG Insurance (Malaysia) Berhad
- Orange S.A.
- OSK Group
- Perodua Group of Companies
- Petronas Group of Companies
- Philip Morris Group
- Repsol
- RHB Group
- Schlumberger WTA (Malaysia) Sdn. Bhd.
- Sunway Berhad Group of Companies
- Target Energy Co. (M) Sdn. Bhd.
- Telekom Malaysia Berhad Group of Companies
- Titijaya Land Bhd. Group of Companies
- TPPT Sdn. Bhd.
- United Overseas Bank (Malaysia) Bhd.







## Connect With Us

We invite clients to our client education events including webinars and dialogue sessions where our partners will share their insights in respect of the latest legal developments and emerging legal issues.

Our partners also write and share legal updates with our clients on various latest legislative and judicial developments.

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