

# ACQUISITION

## INTERNATIONAL

The Voice of Corporate Finance

In this Issue/

- 6 DEAL GURU:  
*The English Legal Market*
- 8 SECTOR TALK:  
*Travel & Leisure Deals*
- 28 SECTOR SPOTLIGHT:  
*Corporate Immigration Review*



## DOING BUSINESS IN HUNGARY

— Ranked 10th among the world's leading 60 economies on consultancy / 10

### 2012 CORPORATE TAX REFORM

— The global fiscal crisis still continues to reshape the economic landscape / 12

### OFFSHORE REPORT

— AI speaks to John Westwood of Blacktower Financial Management Group / 13

ACQUISITION INTERNATIONAL

### SECTOR SPOTLIGHT:

*Managing & Protecting Intellectual Property Through M&A*

# MANAGING & PROTECTING

— Intellectual Property Through M&A

Mrs Biljana Cakmakova is Managing Partner and Attorney at Law at CAKMAKOVA Advocates Skopje, Macedonia.

● PLEASE GIVE A BRIEF SYNOPSIS OF YOUR PERSONAL, AND YOUR FIRMS, EXPERIENCE ADVISING ON IP LAW.

ČAKMAKOVA Advocates is a Macedonian advocates partnership, which provides a full range of legal services to international and domestic corporate clients. ČAKMAKOVA Advocates is founded and registered under the Macedonian Law on Advocacy, within the Macedonian Bar Association, as well as a Representative for protection of industrial rights in the State Office for Industrial Property under the Law on Intellectual Property. ČAKMAKOVA Advocates is composed of highly trained and experienced professional advocates, with licenses to practice law, each dedicated specifically to an area of the Law, to give the best legal assessment and assistance possible. The team of nine advocates, five associates and one administrative assistant is committed to excellence and providing the best service to the clients legal needs. Three of the attorneys at law, namely Mrs. Biljana Cakmakova, Ms. Maja Jakimovska and Mr. Ilija Nedelkoski are also registered as Representatives for protection of industrial rights in the State Office for Industrial Property, as well. Mrs. Cakmakova is amongst the first certified Representatives for protection of industrial property rights to be registered in 1995. ČAKMAKOVA Advocates is a member of the Intellectual Property Rights Committee within the American Chamber of Commerce in the Republic of Macedonia and cooperates closely with the International Development Law Organization (IDLO). Mrs. Cakmakova is one of the co-founders of the International Development Law Organization (IDLO) Alumni Association in the Republic of Macedonia.

WHO IS A TYPICAL CLIENT FOR CAKMAKOVA ADVOCATES?

“ČAKMAKOVA ADVOCATES is dedicated to providing professional legal services to varieties of the clients, both domestic and international and is an authorized representative of Mc Donald's Corporation USA, Viagra, Company for production, trade and services VIVAKS Risto and others LLC export-import Skopje, Teknoxgroup Macedonia export-import LLC, Galijano MG Macedonia, Trakparts Gevgelija, Masonite International Corporation Ontario Canada, Special Protectors Taiwan, Sidenor Steel Products Manufacturing Greece, Stomana Industry Bulgaria, Synavant Gorgija, Peek and Clopenburg Germany, Ansons Germany, ICN Pharmaceuticals, INC USA.”

WHAT AREAS OF INTELLECTUAL PROPERTY LAW DO CAKMAKOVA YOU SPECIALISE IN; AND WHAT INDUSTRY SECTORS DO YOU FOCUS ON?

“The main legal activities which CAKMAKOVA Advocates undertakes in the intellectual property area are, amongst other, registration of new Intellectual Property Rights (IPR), such as trademarks, industrial designs, patent registration or extension of the already registered IPR, as well providing legal assistance in the protection against infringement of IPR before the State Office for Industrial Property, the Customs Administration and the relevant Macedonian courts.”

HOW DOES CAKMAKOVA STAND OUT FROM COMPETITORS?

“Acting in the whole legal areas through the 15 years working experience, the members of CAKMAKOVA Advocates' team have undoubtedly concluded that IPR can be considered as one of the most valuable assets one company can have and when used strategically and properly the IPR can substantially increase the competitiveness of the company in the market, as well as its overall value.

ČAKMAKOVA Advocates is involved and contributes to the continous training of relevant authorities in the Republic of Macedonia and the private sector by organizing seminars, workshops and other similar trainings together with cooperation of the International Development Law Organization (IDLO), Property Rights Committee within the American Chamber of Commerce in the Republic of Macedonia and the Coordinative Body for Protection of Intellectual Property of the Government of the Republic of Macedonia.”

WHAT DOES AN IP ADVISER BRING TO THE DEAL TABLE AND HOW IMPORTANT IS THEIR ROLE?

“The role of IPR and their protection seems to be very important especially at the time of rapid development of information technology and technology transfer. Namely, in some cases we noted that the term brand and the term high price are synonyms. Namely, sometimes the value of the IPR can be higher than the value of the other assets the company owns and that is the one of the many reasons why CAKMAKOVA Advocates strongly advises to its clients to properly register their IPR.

For the owners of certain companies it is very crucial to understand what IPR really means and to engage qualified legal Representatives for protection of industrial property registered in State Industrial Property Office.”

WHY IS A COMPANY'S INTELLECTUAL PROPERTY SUCH A VALUABLE ASSET? WHAT STEPS SHOULD A COMPANY TAKE IN PROTECTING THEIR IP?

“Sometimes the value of the registered IPR may be

significantly higher than the capital of the firm. The registered brands may be used as security for a certain monetary claim by a way of pledging the registered IPR. The use of IPR may be licensed to third parties in exchange for payment of royalty, thereby creating a valuable income stream for the brand holder. IPR, and the goodwill attaching to them, contribute substantially to the value of a company. A company owner is well advised to register its IPR, such as trademarks and to conduct a valuation of its brands.”

COMPANIES INVOLVED IN M&A OFTEN OVERLOOK THE INTRINSIC VALUE OF THEIR OWN IP... WHY IS THIS? HOW IS CAKMAKOVA ABLE TO ASSIST PROSPECTIVE CLIENTS IN THIS WAY?

“It is true that the companies involved in M&A often overlook the fundamental value of their own IP due to their lack of knowledge for the fact how much the value of the IP could impact the price of the company. Exactly in these cases the participation of the legal counsel is of big significance to lead the client in right direction of protection of IPR and their evaluation. Thus, with the clients involved in M&A shall increase the value of the companies and establish the IPR even more.”

WHAT ARE YOUR PREDICTIONS FOR IP LAW IN YOUR JURISDICTION OVER THE COMING 12 MONTHS?

“The Republic of Macedonia is continuously harmonizing its IP legislation with the acquisition of the EU, ratification of international conventions or treaties, thus providing the state organs and authorities and the IPR bearers to more efficiently protect the infringement of IPR, prevention of such infringement and to be more actively involved in these procedures.”

Company: CAKMAKOVA Advocates, Skopje  
Name: Mrs. Biljana Cakmakova  
Email: cakmakova@mlca.com.mk  
Web: www.cakmakova.com.mk  
Address: 8-ma Udarina Brigada no.43/3 Skopje, Republic of Macedonia  
Telephone: +389 2 3233 599 +389 2 3111 521

### SECTOR SPOTLIGHT: *Managing & Protecting Intellectual Property through M&A*

Karen Abraham is partner in the firm Shearn Delamore & Co and jointly heads the Intellectual Property and Information Technology Practice in Malaysia. Shearn Delamore & Co is the largest law firm in Malaysia and one of the oldest full service firms in the country.

● “I have more than 20 years of IP experience covering IP Litigation, Mediation, Enforcement and Brand Consultation and Management relating to the full gamut of Intellectual Property related matters,” Karen explains.

I have represented in the Malaysian Courts and have crafted numerous brand management programmes for many leading multinational companies both locally and throughout the world and have designed anti-counterfeiting and anti piracy programs and strategies for global IP brands.”

Shearn, Delamore & Co specializes in Intellectual Property, particularly the following areas of expertise: Confidential Information, Copyright, Domain Names, Enforcement of IP Rights, Franchising, Protection of Geographical Indications, Industrial Design, Patents and Trade Marks. Karen tells us a little more about the firm, its history and the discerning factors that make it stand out from the rest.

“The firm is more than 100 years old and the Intellectual Property Department is a pioneer in Malaysia.”

“The IP Department works very closely with the tax and corporate departments of the firm and thus the advice given to the client is very strategic not only on the intellectual property aspect but also on all other legal and commercial aspects. Further the firm has won many International Global Awards.

The lawyers in the firm including the IP Department are actively involved in the Malaysian Bar Council, work closely with the Customs Department and are in various committees which work with the Ministerial Departments in lobbying for legislative reforms. With regard to IP, we manage our IP portfolio with the assistance of various technological aids to ensure efficient management of client's trademarks, patent and design matters.

The Partners within the Practice Group are also Registered Trade Mark, Patent and Industrial Designs Agents. Some of our lawyers are also trained in the field of science and technology. We also pride ourselves in having amongst our staff members, technical associates who are qualified in the various fields of science. We also work hand in hand with the relevant government agencies in enforcing clients' rights. Our team has a good rapport with the

officers from the Malaysian Intellectual Property Office and public enforcement agencies. Our team also files and prosecutes trade mark applications in Singapore and Brunei and often acts as coordinating agents for the international and regional filings for trade mark, industrial design and patent protection. It is prevalent from the above that our firm has the relevant professionals and specialists in all the areas of Intellectual Property and an all encompassing practice which deals with registration up until commercialization and exploitation of Intellectual Property assets. Therefore it can be said that our firm is a One-Stop Center for the client with respect of the handling of their Intellectual Property matters.

Our Head of Department Wong Sai Fong and Karen Abraham hold positions in international bodies and use their position to advocate reform on the IP legal framework. Karen Abraham sits on the Board of Directors of INTA and is the 1st Malaysian to sit on the Bureau of the Association International Pour La Protection De La Propriete Intellectuelle (International Association for the Protection of Intellectual Property) AIPPI where she holds the position of Assistant Secretary General. Mr Wong Sai Fong is a International Counsel member of the Asian Patent Attorneys Association.”

Karen believes that an IP adviser should be able to assist in identifying the client's Intellectual Assets, and should be able to strategize and implement a system to manage and exploit the IP assets in the company.

“The IP adviser is a crucial contributor to any deal or negotiation he/ she is able to identify,” she says. “The IP adviser, having identified the Intellectual Assets, should be able to devise ways of maximizing the value of the IP through methods of exploitation such as licensing, franchising, assigning or other transactions that guarantee revenue from the IP Asset. The IP adviser also provides a framework to safeguard the IP from violations and dilution.”

Karen goes on to explain the steps that a company should take to protect its Intellectual Property Assets and just how important they are.

“In today's world the IP of a company is a commodity that can be valued and used as collateral. IP is the intellectual capital of the company, it basically gives value to the company through the goodwill generated from it,” she explains.

Different types of Intellectual Property are protected through different means. A company will save itself a lot of hassle and trouble if they approach an Intellectual Property specialist to assist them

in determining what are the relevant IP assets the company has and thereafter advise them on the necessary course of action they ought to take in protecting their Intellectual Property rights. There are 6 steps a Company ought to observe when protecting their IP and they are as follows:-

1. Identify and know your IP;
2. Implement IP Management Strategy;
3. Protect your IP through registration/ recordation;
4. Exploit your IP;
5. Ensure proper use of your IP; and
6. Enforce your IP vigilantly.”

Karen has predictions for the IP jurisdiction over the next 12 months, including the enforcement of the Industrial Designs (Amendment) Regulations 2012 which is due to take effect on 15 February 2012.

“With the recent emergence of the Competition Act 2010 in Malaysia which has come into force on 1 January 2012, we will see an interface between Intellectual Property Rights (IPR) and Competition law and its enforceability,” she adds.

“Further there is a possibility of Malaysia acceding to the Madrid Agreement and its Protocol thus introducing new features in the Malaysia Trade Mark System.”

Company: Shearn Delamore & Co  
Name: Karen Abraham  
Email: karen@shearndelamore.com  
Web: www.shearndelamore.com  
Address: 7th Floor, Wisma Hamzah-Kwong Hing, No. 1 Leboh Ampang 50100 Kuala Lumpur, Malaysia  
Telephone: 603 2027 2893