

# Jisung Horizon Newsletter

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(Firm News)

## Korea Exchange to participate in management of Laos' Stock Exchange



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

Article on Attorney Haeng-Gyu LEE titled 'Lao's Capital Market Opening... the Korea Exchange to Participate in its Management' was posted on the Hanyung Business Weekly No. 717.

### [Korean Article Reference]

- [Hankyung Business Weekly – Lao's Capital Market Opening ... The Korea Exchange to Participate in Management \(PDF\)](#)
- [Hankyung Business Weekly – Lao's Capital Market Opening... The Korea Exchange to Participate in Management \(Internet\)](#)

(Firm News)

## Jisung Horizon, Chosen for Asian-Counsel's 'Firm of the Year 2010'



Jisung Horizon's Employment/Labor and Maritime & Shipping areas were chosen for Firm of the Year 2010 by Asian-Counsel's Representative Corporate Asia Survey.

Asian Counsel conducted a survey of about 15,500 in-house counsels across Asia Pacific and Middle East (UAE) on 'preeminent law firms in each region by professional area.'

Asian Counsel is a monthly issued magazine published by Pacific Business Press in Hong Kong and those law firms chosen for Firm of the Year 2010 will be included in the Asian In-House Handbook 2011.

### [Article Reference]

- [Asian Counsel \[Articles & Reports\] - Representing Corporate Asia 2010 \(Internet\)](#)
- [Asian-Counsel Special Report - Representing Corporate Asia \(PDF\)](#)

## (Firm News)

### **Jisung Horizon Advises Woori Bank on Cosmo Chemical's Purchase of Saehan Media**

Woori Bank, a principal creditor bank of Saehan Media, announced on August 31, 2010 that Cosmo Chemical Consortium entered into a definitive agreement to merge and acquire Saehan Media for 100 billion Korean Won.

Jisung Horizon advised Woori Bank in connection with Cosmo Chemical Consortium's purchase of Saehan Media.

Saehan Media was selected as a workout company in May 2000 and the joint management procedure by its creditor financial institutions is expected to be terminated sometime in October after the completion of the sale procedure.

#### **[Korean Article Reference]**

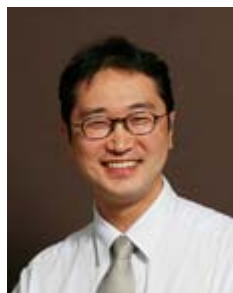
- [Korea Economy – Saehan Media meets a new owner in ten years...Cosmo Chemical purchased Saehan for 100 billion Korean Won \(August 31, 2010\)](#)
- [Maeil Economy – Saehan Media is purchased by Cosmo Chemical, an affiliate of LG GS \(August 31, 2010\)](#)
- [Seoul Economy – Consortium of Cosmo Chemical becomes a new owner of Saehan Media \(August 31, 2010\)](#)

#### **[Attorneys]**



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(Firm News)

## Jisung Horizon expands into Overseas Market with Customized Legal Service



(JISUNGHORIZON Young-Tae YANG · Managing Partner)

The interview with Mr. Young-Tae YANG, the managing partner of Jisung Horizon, titled 'Advance into Overseas Market with Customized Legal Service' was posted on the Hankyung Business Weekly No. 770.

### [Korean Article Reference]

- [Hankyung Business Weekly No. 770 – 'Expansion into Overseas Market with Customized Legal Service' \(PDF\)](#)
- [Hankyung Business Weekly No. 770 – 'Expansion into Overseas Market with Customized Legal Service' \(Internet\)](#)

## (Firm News)

### **A Lawsuit Won Against the Government Requesting Purification in the U.S. Military Base**

Seoul Central District Court Civil Trial Division 14 ruled in favour of Kyeongki-Do in a lawsuit brought by Kyeongki-Do against the government by deciding that the government is responsible for removing soil contaminants so as not to exceed the contaminated soil purification standard and dangerous substances under the soil.

Jisung Horizon successfully represented Kyeongki-Do in this lawsuit. Although there had been a ruling that the government should provide the relevant costs for the local government to solve the problems caused by oil spills from the U.S. military base, which eventually contaminated the neighboring land, the decision on August 11th is meaningful as it was the first case for the court to decide that the central government was responsible for recovering the contaminated soil which had been used as the U.S. military base before returning the such site.

#### **[Korean Article Reference]**

- [Yonhap News - Kyeongki-Do scores big win in a lawsuit against the government over soil contaminants \(August 12, 2010\)](#)
- [The Hankyoreh - The Ministry of National Defense has responsible for pollution purification of the US military base before returning such site to the local autonomous government \(August 12, 2010\)](#)
- [Seoul Economy - The Court ruled, "The Ministry of National Defense has responsible for purification of polluted and contaminated land at the US military base" \(August 12, 2010\)](#)

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## (Firm News)

### Represented KT in a Lawsuit for Confirmation of the Absence of Obligation

On August 6, 2010, the Supreme Court reversed the judgment of the original court in favor of the plaintiff in a lawsuit against KT brought by A, who was demanded by KT to terminate a contract and pay the purchase price of the supplied handset. The Plaintiff applied for a decision by the court for confirmation of the absence of obligation. The court of the first instance ruled in favor of KT while the court of the second instance ruled in favor of A. And the Second Division of the Supreme Court (Chief Judge Ji-hyeong Kim) subsequently reversed the judgment of the lower court in favor of KT and sent the case back to Seoul Central District Court.

Jisung Horizon successfully represented KT in this lawsuit. Attorney Gee-Hong Kim and Attorney Won Jeong have shown a high rate of success in obtaining judgments to quash the decisions of the lower court, three so far in the past year.

#### [Korean Article Reference]

- [Newsis - KT, litigation over unsold mobile phone units \(August 6, 2010\)](#)
- [The Segye Times - Supreme Court rules "Mobile phone agency must pay for unsold mobile phone units even if out of business" \(August 6, 2010\)](#)
- [The Herald Business - What happens to mobile phone agency's unsold mobile phone units whose agency agreement with the mobile phone carrier is terminated? \(August 6, 2010\)](#)

#### [Attorneys]



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Won JEONG

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(Firm News)

## Behind Stories on IPO of an US Corporation on Korea Exchange



Jean HONG · Foreign Attorney, Young-Min KIL · Associate, Haeng-Gyu LEE · Partner

Article on the behind stories of the initial public offering of an American corporation, New Pride, on Korea Exchange was posted on Maekyung Economy No. 1567.

### [Korea Article Reference]

- [\[Case & Winner\] Behind Stories on the IPO of an US Corporation \(New Pride\) on Korea Exchange \(Internet\)](#)
- [\[Case & Winner\] Behind Stories on the IPO of an US Corporation \(New Pride\) on Korea Exchange \(PDF\)](#)



## (Firm News)

### Jisung Horizon Advises LIG Investment & Securities Consortium on Fund relating to Unsold Real Estate

Jisung Horizon advises on the establishment of fund for unsold real estate units initiated by a consortium led by LIG Investment & Securities.

The consortium of LIG Investment & Securities was selected as a finance lead manager of the Korea Land & Housing Corporation's second fund for unsold real estate units. The consortium had previously launched 'Eugene Pooreun Housing Private Real Estate Investment Trust Fund No. 1', the first fund for unsold real estates.

Attorneys Haeng-Gyu LEE, Young-Min KIL, Tae-II KIM, and Yoo-Kyung LEE in the finance and securities team and C.P.A. Yong-Hyun RYU are in charge of this project. Jisung Horizon advised on the successful launch of the first fund for unsold real estate units last year.

#### [Korean Article Reference]

- Donga Daily – Release of Fund for Unsold Real Estate, 'Eugene Pooreun Housing Fund No. 1' Next Month (June 30, 2010)
- Maeil Economy – Release of Fund for the First Unsold Apartments This Year (June 29, 2010)
- Asia Today – Consortium of LIG Investment & Securities was Selected as Lead Manager for REIT and Fund related to Unsold Real Estate (May 31, 2010)

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Yong-Hyun RYU  
· C.P.A.

## (Firm News)

### **The Business Alliance Agreement for 'Designated Facilities for Construction Workers' Welfare**

Jisung Horizon entered into the business alliance agreement for the '2nd Designated Facilities for Construction Workers' Welfare Support with the Korea Construction Workers Mutual Fund (the "CWMF") at the conference room of the CWMF located in the Construction Hall, Nonhyeon-dong, Seoul, Korea.

'Designated Facilities for Construction Workers' Welfare Support' is a system to enable daily construction workers to use various types of cultural, life and welfare facilities at low expenses for improvement of their quality of life. 17 companies such as Shinhan Card, Kyung Hee University Medical Center, the Korean Teachers' Credit Union, E-Xanadu and Kumho Resort as well as Jisung Horizon participated in this business alliance agreement.

Jisung Horizon will provide legal advice on issues of employment, wages and industrial accidents and act as the legal representative in the administrative claims, administrative appeal and lawsuits.

#### **[Additional Information]**

- [Homepage of the Korean Construction Workers Mutual Fund](#)

#### **[Korean Article Reference]**

- [CNEWS – Welfare facilities for construction works are increasing \(July 13, 2010\)](#)
- [CNEWS - <Capmaign for Worker's Welfare> Expansion of 'Designated' Welfare Facilities and Service \(July 20, 2010\)](#)

#### **[Attorney]**



Sung-Soo KIM

· Partner

(Columns)

## Decision on whether or not Mobile Phone Agency has a duty to pay for unsold mobile phone handsets



(JISUNGHORIZON [Won JEONG](#) · Partner)

A Mobile Phone Agency ("Agency") which had entered into the Consignment Agency Agreement ("Agreement") with Mobile Phone Carrier A ("Mobile Phone Carrier") refused to pay the purchase price for one hundred thirty seven (137) units of mobile phone handsets (worth fifty-three million Korean Won (KRW 53,000,000)) provided by Mobile Phone Carrier during the agreed term. Agency refused to pay the purchase price in the belief that they did not owe any obligation to pay for the unsold handsets. The court of first instance upheld the Mobile Phone Carrier. However, the court of appeal reversed the decision of the court of first instance.

The court of first instance ruled on the basis of the following considerations 1) the fact that main duty of Agency is to recruit subscribers, and sales of mobile phone handsets is incidental to their main duty of subscriber recruitment, ② the fact that Mobile Phone Carrier A has accepted mobile phone handset inventory from other mobile phone agencies whose consignment agreements with the Mobile Phone Carrier were cancelled, ③ the fact that even though the Agreement requires that Mobile Phone Carrier and Agency decide the supply price of mobile phone handsets upon mutual consultation, no agreement as to the price was reached by plaintiff of the first instance and defendant of the first instance, and ④ the fact that according to marketing policy, Mobile Phone Carrier may adjust price of mobile phone handsets by providing sales subsidies in addition to commission at times of frequent fluctuation of mobile phone handset price. The judge provided that "Taking all these facts into consideration, it is reasonable to conclude that the Plaintiff and the Defendant agreed that the Plaintiff pays the price for mobile phone handsets upon consultation with the Defendant especially considering the fact that sales subsidies were provided by the Mobile Phone Carrier only when the mobile phone handset was actually sold to the subscribers."

The ground of appeal and the reasons for the original decision to be annulled were of my biggest concerns when I was appointed as a legal representative of the Mobile Phone Carrier. The increasing dismissal rate of appeal to the Supreme Court requires just one or two effective and reasonable grounds for appeal rather than a number of stereotypical grounds for appeal such as insufficient examination or violation of rule of evidence or violation of rule of thumb. Citing several grounds for appeal as a fishing expedition is the shortcut to a dismissal of appeal to the Supreme Court.

My ground of appeal for this case was to argue error in legal principle in interpreting the legal document which proves the performance of the legal acts between the Plaintiff and the Defendant. The legal principle established by the Supreme Court is that when the authenticity of such legal document is admitted in evidence and accepted by the court, the court must rule on the details and the intentions of the relevant parties as shown in and proven by the legal document and such details and intentions are not to be excluded in deliberation of the court's judgment without reasonable grounds. The Agreement sets forth that "Upon delivery of the goods, Agency shall pay the whole price for goods in cash." There is no room for other interpretation. Nevertheless, the court of first instance presented the aforementioned reasons and delivered that Agency was only to bear payment liability when actual sales occurred.

In efforts to confute such judgment of the court of first instance, I focused on the fact that the Agreement had special legal value and characteristic which was different from those of other ordinary legal documents defining legal relationship between plaintiffs and defendants. The Agreement was signed by Mobile Phone Carrier and Agency who are both merchants. Also it is specially prepared for Mobile Phone Carrier to manage contractual relationship with one thousand or more mobile phone agencies around the country. I highlighted that the Agreement is of significant importance to the Mobile Phone Carrier from economic point of view as it deals with transactions of about thirty to forty- thousand (30,000~40,000) units of mobile phone handsets worth fifteen to twenty billion Korean Won (KRW 15,000,000,000~20,000,000,000) per month. I further pointed out that for commercial transactions in which more than one thousand contracting parties are involved and whose trade volume reaches tens of billions of Korean Won, special clauses not stipulated in legal documents which attest the legal acts and relationship between parties shall not be admitted.

In addition to these grounds of appeal, I noted that the social and economic effects of the decision of the court of first instance must be fully considered. The Supreme Court conducts judicial review and therefore it gives careful consideration to the matters which have huge social and economic effect. So I needed to persuade the court that the case brought to the Supreme Court has effect not only on the law but also on many market players. I insisted that if the decision of court of first instance is maintained, mobile phone agencies may deploy undue and unjust business practice where they receive mobile phone handsets as many as possible from Mobile Phone Carrier and then return unsold and stocked handsets causing unreasonable cost to Mobile Phone Carrier.

The Supreme Court considered the grounds of appeal mentioned above, and reversed the decision of court of first instance and remanded it to the lower court. The Supreme Court confirmed that existence of indication of intent and the contents written in the Agreement shall be upheld unless contrary intent clearly appears in the Agreement and such intention and contents of the Agreement should not be denied for

reasons considered and accepted by court of first instance.

In my opinion, one of the main reasons for the court of first instance to have reached what I consider to be an incorrect conclusion is that the court failed to fully understand the essence of the trade relations between Mobile Phone Carrier and Agency. The responsibility to explain the real facts to the court is the job of a lawyer, in other words, it is a lawyer's duty to bring not only legal aspect of a case in dispute but also its inherent implications for the concerned trade relationships as well.

(New Laws)

**Imposition of Liability to Explain Important Matters of Insurance Contract**  
**- Partial Amendment of the Insurance Business Act -**  
**(Act No. 10394, enforced as of January 24, 2011)**

1. In order to strengthen the protection of insurance consumers and prevent improper sales of insurance products, Article 95-2 of the Insurance Business Act (the "Act") has been newly established, imposing liability on insurance companies to explain important matters of the insurance contract and confirm that consumers understand such explanation by having them sign to that effect, etc, when selling insurance products.
2. Article 96-5 of the Act has been newly established, under which insurance companies or their employees should check whether consumers who wish to enter into the insurance contracts they are soliciting are already covered by other insurance contracts they had already entered into and upon such finding, they should immediately inform the insurance contractors thereof.
3. Article 96 (2) of the Act has been newly established, under which insurance contractors may terminate the insurance contract by using the means of telecommunications in case they have consented to the termination of insurance contracts by using such means prior to the execution of the contract.



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