

## CHINESE LITIGATION & DISPUTE RESOLUTION

### AT A GLANCE

McDermott Will & Emery is strategically allied with MWE China Law Offices, a leading Chinese law firm based in Shanghai. Through this alliance, our Chinese Litigation & Dispute Resolution Group is able to provide our clients with comprehensive and sophisticated international advice on resolving any type of commercial dispute involving a Chinese entity. Whether a client is in need of counselling to resolve a Chinese dispute before it goes to litigation, or whether a client needs to commence a litigation in the Chinese courts or an international arbitration for or against a Chinese company, our Chinese dispute resolution lawyers stand ready to produce the best and most efficient resolution of the dispute at hand.

The attorneys in our Chinese Litigation and Dispute Resolution Group have a deep understanding of all aspects of Chinese commercial and regulatory laws. This knowledge, combined with the group's extensive courtroom and arbitration experience, gives our lawyers the ability and insight to accurately assess the strength of a client's position in any Chinese dispute, as well as to advise on the potential legal and business risks of pursuing such a dispute. The group follows a prudent and targeted philosophy. The group generally does not recommend the commencement of legal proceedings where, by Chinese custom or tradition, the dispute can be more efficiently and cost-effectively resolved out of court. However, when litigation or arbitration is necessary, the group determines which arguments are most likely to prevail in the legal proceeding, and it aggressively pursues these targeted arguments to maximise the client's chances of victory.

### Experience

Our Chinese Litigation & Dispute Resolution Group offers a wide range of dispute resolution activities:

- ***Pre-dispute counselling:*** Western companies that become involved in disputes with Chinese companies are not always wise to rush to court. Our Chinese dispute lawyers regularly counsel clients on ways to negotiate and resolve disputes before the commencement of a potentially costly legal proceeding. The ability to head off a Chinese legal proceeding before it begins depends on a sophisticated understanding of Chinese business practices and sensitivity to Chinese cultural practices. Our lawyers know how to pursue the early settlement of a dispute in a manner that maximises good will and does not engender a further erosion of trust between the parties.
- ***International arbitration:*** Our Chinese dispute resolution lawyers have extensive experience arbitrating a broad range of commercial disputes, including those relating to mergers and acquisitions, commodities, distribution, finance and real estate, as well as disputes arising out of failed investments in the Chinese economy. The group regularly arbitrates cases (for both Western and Chinese clients) under the arbitration rules of the leading international arbitration institutions, including the China International Economic and Trade Arbitration Commission, the Hong Kong International Arbitration Center, the Beijing Arbitration Commission, the London Court of International Arbitration, the International Chamber of Commerce and the Stockholm Chamber of Commerce. Working closely with McDermott Will & Emery's international dispute avoidance and resolution lawyers, the group also regularly advises clients on how to draft arbitration clauses in commercial contracts with Chinese entities, including advice on what special provisions must be included in a "Chinese arbitration clause" to maximize future enforceability.
- ***Chinese litigation:*** The lawyers of MWE China Law Offices are fully licensed to practice in the Chinese courts. As such, they have the authority to represent our clients in courtroom proceedings throughout China, as well as in Chinese administrative proceedings. Our litigators have ample experience in all varieties of commercial litigation, including contract disputes, product liability lawsuits and patent infringement cases, as well as court proceedings to enforce arbitration awards or non-Chinese court judgments against Chinese defendants. They also have the skills to convey unfamiliar legal concepts, business practices and cultural issues in a manner that the local courts of China will most easily understand.

### Scope of Services

- Arbitration & alternative dispute resolution
- Complex commercial litigation
- Human resources & employment litigation
- International dispute resolution
- Real estate litigation
- Termination of international distribution arrangements

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- *International litigation:* In addition to litigating cases in the Chinese courts, our group has extensive experience litigating “Chinese disputes” in courts outside of China, whether that involves prosecuting a lawsuit on behalf of a Chinese company in a US or European court, or assisting non-Chinese companies in finding courts outside of China that may provide a more reliable forum for relief. Our group also has experience managing complex multi-jurisdictional litigations, when clients may need co-ordinated legal representation in both the courts of China and the courts outside of China.

## International Reach

McDermott Will & Emery, together with MWE China Law Offices, offers a complete solution for global clients with interests in China. Other international law firms must coordinate their Chinese activities with separate local law firms, with consequent complications for in-house counsel. Our approach of offering all necessary legal services with a single point of contact offers clients with potential disputes in China simplicity, efficiency and, most importantly, clear lines of responsibility. Together as a global firm, we are able to deliver seamless service to our clients anywhere in the world with the depth, experience and language capabilities they expect.

## Recent Engagements

- Successfully represented a US-based global private equity investment company against the shareholders of one of China’s largest horticultural companies in an arbitration before the Hong Kong International Arbitration Centre
- Successfully obtained a verdict in favor of a multinational automotive conglomerate in a product liability lawsuit against a Chinese supplier, as well as in a separate intellectual property rights infringement lawsuit against a local car manufacturer
- Successfully obtained verdicts in favor of a leading US pharmaceutical manufacturer in several patent disputes along with another US pharmaceutical manufacture giant, in the Chinese courts
- Successfully assisted the Chinese branch of a global banking concern in obtaining a winning verdict in a Chinese litigation concerning the effectiveness of a US\$8 million guarantee, and provided legal advice on enforcing the winning verdict against the Chinese defendant
- Successfully represented a recreational property developer in one of the most complicated and long-lasting real estate litigations in China
- Successfully represented a global film and electronics concern in an arbitration arising out of a multimedia project
- Successfully represented a Chinese industrial client in an arbitration before the Arbitration Institute of the Stockholm Chamber of Commerce regarding a contractual dispute with an Australian company
- Successfully represented a Chinese chemical producer in a Chinese lawsuit against a global petrochemical company regarding unfair competition and trade secret infringement
- Successfully represented a leading global software company in a copyright infringement lawsuit against a Chinese computer manufacturer in the Chinese courts
- Successfully represented another leading global software company in obtaining a winning verdict on a series of tort claims arising out of counterfeiting and unlicensed software activities in the Chinese market
- Successfully represented a Chinese high technology client in a dispute against its joint venture partner

## Our Firm

McDermott Will & Emery is a leading international law firm with a diversified business practice. We represent a wide range of commercial, industrial and financial enterprises, both publicly and privately held. Our clientele include some of the world’s largest corporations, small and medium-sized businesses, and individuals. With currently more than 1,100 lawyers, we have offices in Boston, Brussels, Chicago, Düsseldorf, Houston, London, Los Angeles, Miami, Munich, New York, Orange County, Rome, San Diego, Silicon Valley and Washington, D.C.

MWE China Law Offices offers a full range of legal services and business advice to Chinese and multinational corporations doing business in China. Based in Shanghai, our lawyers are licensed to practice in the People’s Republic of China. MWE China Law Offices has a strategic alliance with McDermott Will & Emery.