

**Welcome Remarks of Mr Clifford Tavares  
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**12<sup>th</sup> Business of IP Asia Forum  
“Creating New Value, Discovering New Frontiers”**

**Concurrent Breakout Session –  
*“IP and Dispute Resolution in the new frontiers – metaverse,  
NFTs and GBA”***

**1 December 2022 (Thursday)**

Distinguished guests, ladies and gentlemen,

It gives me great pleasure to welcome you all to this breakout session entitled “*IP and Dispute Resolution in the new frontiers – metaverse, NFTs and GBA*”, co-organised by the HKSAR Government and the Hong Kong Trade Development Council.

2. Nowadays we hear the word “Metaverse” almost everyday. With virtual reality technology and electronic devices, one can engage in wide-ranging activities from socializing, working to trading digital artworks and virtual parcels of land. Virtual assets such as non-fungible tokens (“NFTs”) are becoming increasingly popular over the past few years. They are mostly used for storing digital artworks, games and other collectibles. For businesses, many start to use NFTs as new marketing tool to entice customers and build brand loyalty. These new technologies have indeed opened up immense opportunities for business organisations to create new value and introduce innovative ways to engage with their customers.

3. While these technologies could be an asset to businesses, some novel and complicated legal issues may entail, particularly questions relating to intellectual property (“IP”) rights. For example, some NFTs may resemble real objects or materials in the physical world. Will they constitute infringement of the relevant patent, trademark or copyright? When users of the metaverse are behind the screen, how can we identify the infringers and enforce the relevant IP rights against them if there are IP rights infringement activities? I am sure these potential legal issues and risks arising from the metaverse and NFTs will be further discussed by our experts today.

Online Dispute Resolution

4. The tech revolution has opened up new dimensions in dispute resolution as well. These days, disputes may be resolved online. In this regard, the Government has been taking active steps to promote and contribute to the development of online dispute resolution in order to capitalize on the benefits brought by technological advances.

5. With the support of the Department of Justice (“DoJ”), eBRAM International Online Dispute Resolution Centre (“eBRAM”) officially launched its Online Arbitration platform and Online Mediation platform in October this year. These new platforms aim to provide parties with an affordable and secure means to resolve

their disputes amicably and cost-effectively by online mediation or by online arbitration, utilising the latest technologies, including blockchain and Artificial Intelligence. eBRAM also plans to introduce an online deal-making platform towards the end of this year with a view to providing a one-stop-shop online platform for deal-making, dispute avoidance and dispute resolution.

6. Looking forward, the DoJ will seek to set up an online mediation platform in the Greater Bay Area (“GBA”) next year to provide Hong Kong and Mainland residents with a time and cost-effective online option for resolving cross-border disputes. We hope that this platform can also help promote the use of mediation by individuals and enterprises in the GBA.

## Initiatives in the GBA

7. At today's breakout session, the legal challenges and business opportunities arising from the GBA will be discussed. In recent years, the DoJ has been striving for more favourable measures in the GBA for the Hong Kong legal and dispute resolution sector. One important measure is to allow wholly-owned Hong Kong enterprises to adopt Hong Kong law and choose Hong Kong as the seat of arbitration in their contracts in the absence of "foreign-related elements", or commonly known as "港資港法港仲裁". This measure, which has already been implemented in specified part of the GBA, could provide business enterprises with more dispute resolution options

and at the same time, bring more business opportunities for the Hong Kong legal and dispute resolution sector. We will continue to seek the support of the Central Government in extending the above measure to the entire GBA.

8. Another significant measure is the establishment of the Guangdong-Hong Kong-Macao Bay Area Legal Departments Joint Conference (“Joint Conference”) in 2019. The Joint Conference, which has been held annually since then, provides an excellent platform for Guangdong, Hong Kong and Macao to explore harmonization of the systems and laws in the GBA. At the Joint Conference held last year, the three parties endorsed both the GBA Mediator Accreditation Standards

and the GBA Mediator Code of Conduct Best Practice.

These two standards will drive the professional development of the mediators and enhance the confidence of the public to use mediation in the GBA.

Latest developments in dispute resolution

9. Turning to the latest developments in dispute resolution, one must mention about the arrangement concerning reciprocal recognition and enforcement of judgments in civil and commercial matters signed in January 2019. This Arrangement establishes a more comprehensive mechanism for reciprocal recognition and enforcement of judgments in civil and commercial matters between the Mainland and Hong Kong. It reduces the



need for re-litigation of the same disputes in both places and offers better protection to the parties' interests. It is noteworthy that the Arrangement has expressly included judgments given in respect of certain types of disputes over IP rights. This signifies a major breakthrough as the Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters concluded in July 2019 expressly excludes IP matters. Hong Kong is the first and only jurisdiction to have such an arrangement with the Mainland with such a wide coverage, reflecting our unique advantages under "One Country, Two Systems". I am pleased to inform you that the Bill seeking to implement the Arrangement has just been passed by the Legislative Council in October this year.

10. On the arbitration front, Hong Kong signed a groundbreaking interim measures arrangement with the Mainland in April 2019. Under this arrangement, parties to arbitral proceedings seated in Hong Kong and administered by one of the qualified arbitral institutions would be able to apply to the Mainland courts for interim measures. Hong Kong is the first and only jurisdiction in the world outside of the Mainland where this is possible. This arrangement certainly makes Hong Kong more attractive as a seat of arbitration.

11. Recently, in June this year, the Arbitration Ordinance was amended to allow outcome related fee structures for arbitration. It permits clients and their

lawyers to have greater autonomy in devising flexible fee arrangements as they deem fit, thereby strengthening Hong Kong's competitiveness as a leading international arbitration centre.

12. With respect to mediation, it is worthwhile to mention that the Arrangement on the Establishment of the International Organization for Mediation Preparatory Office has just been signed in October this year. The Mainland and various foreign states previously signed the Joint Statement on the Future Establishment of the International Organization for Mediation. This will be an inter-governmental organisation aiming to provide mediation services for international disputes. Under the Joint Statement, a preparatory office will be set up in Hong

Kong. It is expected that, from next year, this office will commence the negotiation of the relevant international convention and other preparatory work. After the signing of the international convention, the Preparatory Office is then expected to be transformed into its Secretariat and Headquarter. The setting up of the Secretariat and Headquarter in Hong Kong is clearly a vote of confidence in Hong Kong as a leading centre for international legal and dispute resolution services.

13. Ladies and gentlemen, these latest developments have created enormous opportunities for our legal and dispute resolution sector. Further, with all these excellent legal infrastructure in place, I am confident that Hong Kong's legal and dispute resolution experts can

assist our clients to excel in any new frontier, be it metaverse, NFTs or GBA. With these remarks, may I wish this session and this forum every success. Thank you very much.