

DOING BUSINESS IN THE UNITED STATES

*Emerging Opportunities for
China-based Companies*

Duane Morris®

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A NOTE FROM THE CHAIRMAN

In the post-pandemic era, China-based companies face unprecedented challenges and, but at the same time, a plethora of opportunities that may not have been readily apparent as recently as a year ago. The corona virus pandemic has essentially accelerated a range of geopolitical tensions that have made even traditionally fraught relationships more strained, particularly as it relates to China's relationship with the United States. This relationship is placing new pressures on PRC-produced goods, which is also of obvious concern for those U.S. companies with significant sourcing from China.

These dynamics simply serve to underline the strategic inflection point that China and U.S. companies now face: how to remedy the myriad of supply chain challenges. Or, in the more intriguing and possibly most insightful reset, is the U.S. poised to resume some measure of its historical capacity as a high-functioning R&D and manufacturing locus, in which market China needs to participate? None of these decisions are easy, nor should they be. The factors at play implicate every aspect of the Chinese and U.S. economies, as well as the destiny of companies confronted with such tactical decision points.

At Duane Morris, our lawyers are highly versed in assisting China-based clients in analyzing and executing their strategic sourcing decisions, whether in Southeast Asia through our offices in Shanghai, Singapore, Vietnam and Myanmar, and especially in the United States, where our firm offers deep coverage of the economy and geography through our 24 U.S. offices located in virtually every major business-center city. Our firm is organized through industry lines - meaning that we have attorneys who have helped clients think through, and then act upon, precisely the kinds of questions your company is likely to face in tracking your commercial strategies, particularly as it relates to the legal and regulatory framework of the United States.

Doing business in the U.S. can be daunting for China-based companies more accustomed to the legal and political environment in the PRC, yet more and more China-based companies are choosing to make the U.S. their choice for expansion, or in some instances, to simply replace facilities elsewhere in the world. For instance, Duane Morris has represented one of China's premier pharmaceutical companies, Zhejiang Huahai Pharmaceutical Co., Ltd., and its three U.S.-based affiliates in a wide variety of matters, including generic drug patent litigation, contract preparation and other commercial engagements, transactional acquisitions and product development.

Most recently, Duane Morris has led one of the largest multidistrict litigations pending in America, resulting from the recall of an important and widely prescribed anti-hypertensive medication. And there are many more.

With this publication, we invite your interest in exploring the potentials in the U.S., as well as in Singapore, Vietnam and Myanmar. In each instance, Duane Morris is a leader in facilitating the transactions and compliance regime that China-based companies must navigate as they evaluate options. Please get in touch with any of lawyers listed on the back page of this publication, and we will get the conversation started.



MATTHEW A. TAYLOR

Chairman and Chief Executive Officer

ABOUT DUANE MORRIS

Duane Morris LLP, a law firm with more than 900 attorneys in offices across the United States and internationally, provides innovative solutions to today's legal and business challenges to a broad array of clients. Throughout its more than 115-year history, Duane Morris has fostered a collegial culture, where lawyers collaborate to leverage our collective knowledge and experience. Our lawyers are leaders in a wide range of legal disciplines and are as diverse as the clients they serve.

DUANE MORRIS & SELVAM SHANGHAI

Duane Morris' office in Shanghai serves domestic and international clients with business interests involving the PRC. Managed through our Asian joint-law venture, Duane Morris & Selvam, the Shanghai office marks the firm's continued expansion in Asia, adding to the existing platform of offices in Singapore, Ho Chi Minh City, Hanoi and Yangon, Myanmar. Duane Morris & Selvam attorneys in Shanghai focus on assisting Chinese corporations with a range of investment and transactional services, including advice on outbound investment, foreign direct investment, mergers and acquisitions, international taxation and regulatory compliance. Additionally, the Shanghai office offers guidance on corporate and growth issues, including entering the Chinese market, assisting Chinese companies expand regionally and internationally, licensing and joint ventures, and intellectual property matters.

The firm's Asia offices in Singapore, Yangon, Hanoi, Ho Chi Minh City and Shanghai are backed by a global infrastructure of offices across the United States and in Europe.





OUR CAPABILITIES IN DEVELOPING SOUTHEAST ASIAN MARKETS

Duane Morris' major expansion into Asia started in 2007, and we now have offices in Shanghai, Singapore, Vietnam (Hanoi and Ho Chi Minh City) and Myanmar. Singapore is a major business hub for fintech, and our office there presents a unique advantage as a springboard into the Southeast Asia market. From our Asia offices, we serve a wide range of clients throughout the region and the world. With our global platform, Duane Morris also works with companies based in Asia looking to expand into new markets in the United States, the United Kingdom and beyond.

Our clients benefit from:

- ▶ Duane Morris' broad experience and established presence in Asia
- ▶ Experienced, multilingual lawyers who understand your industry and can navigate international business cultures and practices
- ▶ Our ability to serve clients throughout Asia through our network of dedicated country desks for India, Vietnam, China, Hong Kong, Nepal, Indonesia, Korea, Japan, Thailand, Myanmar and Malaysia
- ▶ Longstanding working relationships with government offices and agencies, industry groups and the business community in Singapore, the commercial hub of Southeast Asia, as well as in the emerging markets of Vietnam and in Myanmar

Duane Morris has 40 lawyers who are fluent in the languages, business customs and cultures of both the East and the West.



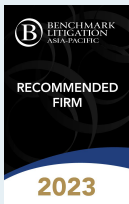
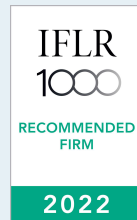


HARVARD BUSINESS SCHOOL

The second HBS case study of the firm, titled “Duane Morris: Collaborating for Growth,” was part of the Harvard Business School curriculum and made available to business schools around the world for course study.

ACCOLADES

Our practices in Asia have received numerous accolades and recognition for industry publications, including:



OUR SERVICES

OUR APPROACH AND SERVICES

Duane Morris provides a full range of services to help China-based companies seeking to stabilize and to enter new markets in the United States, in the emerging economies of Southeast Asia or elsewhere in the world. As a full-service law firm, we offer clients a single source for addressing the complex business, legal and regulatory challenges of establishing new facilities for research and development or manufacturing in the United States. Our attorneys work closely with you to understand your business goals and develop the legal strategy needed to achieve them. Drawing on industry experience, our attorneys carefully analyze the opportunities and risks that China-based companies face in entering or expanding into the United States or Southeast Asia and provide practical guidance and advice that spans multiple legal areas, including:

- ▶ Intellectual Property
 - IP Licensing & Transactions
 - IP Portfolio Monetization
 - Trademark & Copyright
 - Trade Secrets
 - IP Litigation
 - Patent Prosecution
- ▶ Corporate, Securities and M&A, including SEC and SPACs
- ▶ International Taxation & Transactions
- ▶ Regulatory Compliance, including Export Control, CFIUS and HSR (Mergers and Acquisitions)
- ▶ Governmental Relations and International Trade Issues, including Tariffs, Sanctions, Executive Orders, Human Rights and Social Security
- ▶ Foreign Direct Investment
- ▶ Real Estate
- ▶ Employment, Labor, Benefits & Immigration
- ▶ Business Reorganization & Financial Restructuring
- ▶ Cybersecurity, Privacy & Data Protection
- ▶ Private Clients/Family Office



INDUSTRY EXPERIENCE AND FOCUS

Duane Morris organizes our legal services to match our clients' industry sectors. We have extensive experience in many of China's key industries, including technology, life sciences, biotechnology, information technology, energy, manufacturing, consumer and industrial products and medical devices.

- ▶ Life Sciences & Medical Technologies
- ▶ Technology, Media & Telecom
- ▶ Manufacturing
- ▶ Fashion/Retail/Consumer Branded Products
- ▶ Energy
- ▶ Minerals & Natural Resources
- ▶ Transportation, Automotive & Logistics
- ▶ Construction
- ▶ Banking & Finance
- ▶ Fintech
- ▶ P3 and Project Development
- ▶ Private Equity



LIFE SCIENCES & MEDICAL TECHNOLOGIES

Duane Morris attorneys have decades of experience guiding clients from startups to publicly traded companies, as well as academic and research institutions, working in a broad range of technologies at all stages of the product life cycle, from discovery through clinical development and commercialization. Our team provides full-cycle services to established brand names in key segments and fields, such as medical devices, compounding pharmacies, precision medicine and diagnostics, biologics and biosimilars, immuno-oncology, stem cell technology, transgenic plants and cells, nanotechnology, nutraceuticals, CRISPR and other cutting-edge technologies. In addition to affiliations with life sciences incubators in hot innovation markets, the firm regularly manages a stream of early and clinical stage financings, as well as licensing deals and exits. The firm's Asia practice is a conduit for steadily building cross-Pacific pharma volumes.

TECHNOLOGY, MEDIA & TELECOM

Our intellectual property, corporate, regulatory, privacy & data security and media lawyers combine to offer seamless representation for industry leaders, prominent infrastructure services providers and early stage entrants. The nationally recognized patent group covers the process end-to-end from initial application to portfolio management, licensing and extensive patent litigation, featuring the leading IPR group in the U.S. On the transactional side, the firm is active throughout the United States, China and in Asia.

MANUFACTURING

For every stage of the business cycle, Duane Morris provides the legal services manufacturers need. From the client's interest in finding initial financing, securing a facility, negotiating contracts with suppliers and distributors, protecting intellectual property and proprietary manufacturing processes, to handling employment and immigration, products liability defense, domestic and international taxation issues, environmental issues, mergers and acquisitions or possible reorganization, Duane Morris attorneys understand the complex and intertwined issues manufacturers encounter in today's challenging environment, particularly when entering new markets. We represent manufacturers in almost every industry, including retail products, aerospace and defense, automotive, chemicals and gases, electronics, semiconductor, pharmaceuticals, heavy machinery, telecommunications and more.

FASHION, RETAIL & CONSUMER BRANDED PRODUCTS

Duane Morris represents e-commerce and physical operators and entrepreneurs across the spectrum of brand marketing, manufacturing, retail real estate, and hospitality and entertainment brands in the United States, Canada, Asia, Europe, Mexico and South America. The firm also represents regional brands, family owned companies, designers, fashion houses, art dealers, manufacturers, distributors and importers, lenders and investors, including banks and private equity funds in the fashion, retail, luxury and consumer goods industries. Duane Morris clients operate in all aspects of the fashion, apparel, luxury and consumer goods

markets, including high-end and major brands; luxury watches, jewelry, fragrance, hair care and cosmetics; sports apparel and athletic shoes; and fine china, artwork, digital brands, collectibles and NFTs.


ENERGY

With clients in all sectors of the renewables, electricity, oil and natural gas, and petrochemical and energy services industries, Duane Morris has the experience and geographic reach to guide our energy clients through the challenges they face. With industry depth and physical presence in Asia, particularly in Vietnam, Singapore, Myanmar and China, Duane Morris is strategically positioned to provide sophisticated assistance to international project developers, government-owned and private utilities, energy market operators and foreign energy regulators. Our lawyers also have considerable experience in energy project finance and have represented a number of major international power developers in a variety of complex transactions throughout the world. Our lawyers have worked on many significant international energy matters, including projects funded by the World Bank, the U.S. Agency for International Development

(USAID) and other multilateral organizations, as well as supported by the U.S. Export-Import Bank or the Development Finance Corporation (formerly the Overseas Private Investment Corporation). They have advised clients in many countries, including the Philippines, Indonesia, Vietnam, Myanmar, Russia, Brazil and Mexico, on matters ranging from electricity markets reform to power purchase contract renegotiation.

MINERALS AND NATURAL RESOURCES

Duane Morris provides a full range of legal experience to complete sophisticated, highly structured domestic and international project financings and project development. Our lawyers have been active in project finance, project development and adaptive reuse transactions for decades, representing public-private partnerships, private owners and governmental entities. We counsel clients engaging in a wide range of industrial, commercial and infrastructure projects, including power generation, waste management, water and mineral resources, air and surface transportation facilities, ports, railroads, airports and other infrastructure projects.



Duane Morris has the experience and geographic reach to guide our energy clients through the challenges they face.



Duane Morris has an established client roster of major automobile manufacturers, airlines, railroads and rail equipment manufacturers.

Together with the support of environmental, tax, public finance, real estate, securities and insurance lawyers, we deliver an integrated capability to developers, issuers, project lenders, underwriters and governmental/regulatory bodies.

TRANSPORTATION, AUTOMOTIVE & LOGISTICS

Duane Morris has an established client roster of major automobile manufacturers, airlines, railroads and rail equipment manufacturers, and scores of new entrants, technology disruptors, electric vehicle innovators and more. The team's broad mandate extends into shipping, logistics and supply chain issues (including blockchain-enabled smart contracts) and related infrastructure in each of these

sectors. On the automotive side, Duane Morris addresses the entire value chain, ranging from manufacturers and suppliers to dealers, franchisees and companies involved in AI, design, engineering, logistics, finance, testing and more.

CONSTRUCTION & ENGINEERING

The Duane Morris Construction practice has a long-established reputation as the unquestioned leader in the field by *Chambers USA*, *U.S. News & World Report/Best Lawyers* and virtually every other ratings organization. Our Construction attorneys provide transactional, real estate, employment and other related legal services required by our deep client roster of major construction, engineering, architectural and

consulting firms. Duane Morris has managed the legal aspects of numerous signature projects, including Hudson Yards in New York City (the largest privately financed project in the United States), the expansion of Columbia University, the Miami Dolphins stadium and many more high-profile examples.

BANKING & FINANCE

Our Banking & Finance Industry Team serves more than half of the top 50 U.S. banks, as well as a broad range of alt lenders and commercial finance companies. We also assist foreign banks with U.S. offices.

In addition to its core front-end lending functions (including syndicated, asset-based loans and leveraged), our Banking & Finance lawyers are involved in complex, large-scale litigation, including class actions, as well as banking M&A and capital markets, and regularly work with the firm's Real Estate, Business Reorganization and Financial Restructuring and other practices groups to help our clients complete transactions and reach their goals.

FINTECH

Duane Morris attorneys have extensive experience representing clients in the fintech sector, from fintech startups offering a wide range of innovative and disruptive technologies, to established industry players, including banks, payment processors, credit card issuers, mobile payment providers, stored-value card processors, healthcare payment providers, insurance companies, investment research publications, e-commerce and online retailers, broker dealers, nonexchange trading venues and investment advisers. We are adept at helping financial institutions and startups

with joint venture, licensing and merger and acquisition (M&A) deals; addressing payment, clearing and settlement issues; and navigating companies, foundations and individuals through the shifting legal and regulatory environment regarding cryptocurrencies, utility, private equity, NFTs and security tokens and other digital assets. We also assist fintech startups in acquiring state and national banking licenses.

PROJECT DEVELOPMENT & P3

Duane Morris provides a full range of legal experience to complete sophisticated, highly structured domestic and international project financings and project development. Our lawyers have been active in project finance, project development and adaptive reuse transactions for decades, representing public-private partnerships, private owners and governmental entities.

PRIVATE EQUITY

An established core competency for the firm, private equity, particularly in the middle market, is the luminary component of the firm's Corporate Practice, attributable to high levels of activity in the market as well as the firm's long-standing lead sponsorship of ACG, which has elevated our brand to high-recognition stature. With a long roster of clients – among them private equity sponsors, LPS, investment managers, SFOs and MFOs, strategics and private company owners – the firm has a broad view and deep perspective into the entire private equity ecosystem, and possibly the most visible marketing in the industry. The firm routinely handles buyouts, add-ons, SPACs, direct listings, growth capital investments, sell-side transactions, fund formations and portfolio

REPRESENTATIVE EXPERIENCE FOR CHINA-BASED COMPANIES



ZHEJIANG HUAHAI PHARMACEUTICAL CO., LTD AND AFFILIATES

For many years, Duane Morris has been honored to represent one of China's premier pharmaceutical companies, Zhejiang Huahai Pharmaceutical Co., Ltd., and its three U.S.-based affiliates in a wide variety of matters, including generic drug patent litigation,

contract preparation and other commercial engagements, transactional acquisitions and product development. Most recently, Duane Morris led one of the largest multidistrict litigations (MDL) pending in America resulting from the recall of an important and widely prescribed antihypertensive medication. For each of these engagements, Duane Morris assembled a diverse, skilled and responsive team of lawyers and other professionals who

worked efficiently and collaboratively with our clients to address their objectives and achieve the best results.

In our many engagements for the Huahai companies, our lawyers and company representatives enjoyed a close working relationship, sharing thoughts on ultimate goals in each matter, and, through frequent conference calls, ensured that these engagements were appropriately staffed and that all important developments were shared. In the MDL, for example, the Duane Morris team enjoyed a highly productive and collaborative relationship with China-based attorneys engaged by Zhejiang Huahai in developing strategies and in the preparation of important submissions to the court. In this

complex litigation, Duane Morris attorneys utilized technology effectively, not only in communications with our clients and its China counsel, but also in the preparation of company witnesses in China for deposition, and, during the pandemic, their remote depositions as well. The litigation progressed exceptionally well, all deadlines were met and the MDL court was complimentary of the efforts expended by the Huahai companies in satisfying their litigation obligations, notwithstanding the unanticipated difficulties created by Covid-19 travel and other restrictions. Circumstances eventually led Huahai to transfer this litigation to a second firm, but the work performed by Duane Morris provides the foundation for a positive outcome.

TSMC

TAIWAN SEMICONDUCTOR MANUFACTURING COMPANY, LTD.

- ▶ *TSMC Technology, Inc. et al. v. Zond LLC*, 1:14-cv-721 (D. Del. 2014). Represented plaintiff **TSMC NORTH AMERICA CORP.** in a patent infringement matter relating to a high-density plasma source, high deposition rate sputtering, high-power pulsed magnetically enhanced plasma processing, aromatic nitrogen-containing six-membered ring compounds and their use and methods and apparatus for generating strongly ionized plasmas with ionizational instabilities.
- ▶ Extensive *inter partes* review experience for **TAIWAN SEMICONDUCTOR MANUFACTURING COMPANY, LTD.** concerning a two-stage sputtering technique in which a so-called strongly ionized plasma is generated from a weakly ionized plasma in a manner that avoids arcing.
- ▶ Represented TSMC in conducting prior art review and developing invalidity positions for *inter partes* review request filed against patents owned by a nonpracticing entity.

- ▶ Represented Shandong Shinho in an action involving trademark infringement of the CONG BAN LV mark for use with soybean paste and other processed food products.
- ▶ Represented HNC Innovation Limited in filing and prosecuting U.S. trademark applications based on Chinese trademark application NOS. 23048316 (CLASS 9); 23048075 (CLASS 35); 23047836 (CLASS 38).
- ▶ Represented Malouf Sleep in trademark registration in China.
- ▶ Represent BYD Energy LLC in a range of matters, including sublease negotiation and review for EV charging facility, preparing and prosecuting U.S. trademark

applications concerning marks to be used in connection with healthcare products, contract disputes and negotiations, and lease renewals.

LIFE SCIENCES & MEDICAL TECHNOLOGIES

- ▶ Represented the Institute of Biophysics, Chinese Academy of Sciences (CAS) in filing patent applications.
- ▶ Represented IPSUNNY, a Chinese law firm, in filing three patent applications for the National Institute of Biological Sciences, Beijing.





CORPORATE

- ▶ Advised a Chinese company in its proposed acquisition of an Indian pharmaceutical company.
- ▶ Represented Trafigura Group Pte. Ltd., a market leader in the global commodities industry, in connection with the establishment of its new RMB 3 billion Panda Bond programme, which will distribute the Panda Bonds both domestically in China and Internationally through Bond Connect, a new mutual access scheme developed between China and Hong Kong that allows investors from China and internationally to trade in one another's bond markets.
- ▶ Counseled Sinopec Engineering Group America LLC on EPC (engineering, procurement and construction) of the jumbo project in Corpus Christi, Texas.

CONTACT INFO

To learn more about our services for Chinese-based companies interested in reshoring to the United States or to emerging markets in Southeast Asia, please contact:



LEON YEE

Chairman

Duane Morris & Selvam

+65.6311.0057

lyee@duanemorrisselvam.com

SINGAPORE



WANG BEI

Senior Associate

Duane Morris & Selvam

+86.21.5068.3147

+65.8287.6161

bwang@duanemorrisselvam.com

SHANGHAI / SINGAPORE



LINXI XU

Patent Agent

Duane Morris & Selvam

+86.21.5068.3146

lxxu@duanemorrisselvam.com

SHANGHAI





Duane Morris - Firm and Affiliate Offices | New York | London | Singapore | Philadelphia | Chicago | Washington, D.C.
San Francisco | Silicon Valley | San Diego | Los Angeles | Boston | Houston | Dallas | Austin | Hanoi | Fort Worth
Ho Chi Minh City | Shanghai | Atlanta | Baltimore | Wilmington | Miami | Boca Raton | Pittsburgh | Newark
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