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## Evaluating China's Intellectual Property Situation

By Jim J. Zhang

*Self-awareness of IP protection among Chinese pharmaceutical companies is increasing*

Intellectual property (IP) protection is one of the major concerns that western pharmaceutical and biopharmaceutical companies have while deciding whether to collaborate with Chinese companies. However, the IP protection situation has changed dramatically in China in the recent years.

It is true that the IP protection history in China is very short. For centuries, the Chinese people had not had any sense of protecting their own inventions or respecting the inventions of others, until 1984, when the Chinese government established its first patent law. The Chinese government has realized that creating a positive IP protection environment is not only important to protect the rights of foreign companies collaborating with their Chinese partners, but also critical to foster a creative environment for technology advancement of Chinese companies.

The government, mainly through the State Intellectual Property Office (SIPO) has made tremendous efforts to promote the IP protection environment. These include: amending the patent law numerous times to make it more acceptable to the rest of the world; enhancing the law enforcement capabilities so that every county and city in China has a local IP protection office in order to more effectively implement the law; increasing the fine and punishment for any breach of IP (IP violation in China is considered a criminal action and anyone who is convicted faces both fine and prison time); promoting the awareness and self-consciousness of IP protection among the Chinese people through nationwide educational TV programs; collaborating with US and European governments to establish the IP protection guidelines; and inviting foreign government officials and journalists as guest speakers at various IP protection forums held in China.

Years of education have made the Chinese people more self-conscious about the IP issue. Recently, 12 Chinese pharmaceutical companies together challenged the validity of Pfizer's Viagra in China. Instead of pirating the rights of production and sales of Viagra in China, these companies decided to lawfully challenge the product in a Chinese court. In another example, Shanghai Sunway Biotech, Inc., recently in-licensed the worldwide rights to Onyx-015, a potential anticancer drug, from Onyx Pharmaceuticals, Inc. Onyx-015 is structurally



the same type of compound as Nexavar, a novel anticancer drug co-developed by Bayer and Onyx, and approved by US and European authorities. Onyx once abandoned this compound. After conducting testing and observation of its potency in certain cancer cell lines, however, Sunway decided to in-license this drug and continue its development.

The above examples show the self-awareness of IP protection among the Chinese pharmaceutical companies and their willingness to follow the international rules of business conduct. Today, all Chinese pharmaceutical service companies are fully committed to protecting their customer's IP and have practical operation procedures in place to safeguard it. As the Chinese government strengthens the IP regime and its enforcement in the country, western companies will become more confident about intellectual property protection in China.

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