

China's Supreme Court Establishes First Judicial Guidance on Patent Inventorship Standards

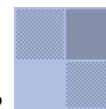
China's Supreme People's Court (SPC) has handed down its first publicly available decision addressing how inventorship should be determined under Chinese patent law, giving companies and research institutions a rare piece of concrete guidance on a question that, until now, had barely been tested in the courts.

The case pitted Dr. Guo, a critical care physician and hospital vice president, against Suzhou X Pharmaceutical Co., Ltd. In early 2020, Dr. Guo identified that proxalutamide, an androgen receptor inhibitor, could potentially be used to treat COVID-19, and shared this insight with the company without any written collaboration agreement in place. The company went on to file a patent application for the treatment, but did not list Dr. Guo as an inventor. During prosecution, it also deleted claims covering the wild-type virus, a move that both the trial court and the SPC found was a deliberate attempt to sidestep Dr. Guo's contribution and avoid acknowledging his role.

At the heart of the ruling is a distinction that is easy to miss but matters a great deal in practice: Inventorship is not the same question as inventiveness. A person doesn't need to have contributed something that, standing alone, would clear the bar for patentability over the prior art. The SPC held that identifying the technical problem and proposing the inventive concept, effectively the starting point of the R&D process, can itself amount to a substantive creative contribution sufficient to establish inventorship. By contrast, the Court reaffirmed that routine experimental work, administrative support, or help implementing someone else's idea does not, on its own, make someone an inventor.

Applying that standard, the SPC found that Dr. Guo's role went well beyond incidental assistance and upheld the finding that he should have been named. The Court ordered the company to correct the inventorship record with CNIPA within 30 days and to publish a correction notice, prominently, on its website and social media for 30 days, in addition to bearing the litigation costs.

The decision carries real weight beyond this one case. It signals that Chinese courts are prepared to scrutinize how companies handle contributions from outside collaborators, particularly in loosely structured or informal research arrangements, and to treat attempts to draft around an inventor's role as bad faith. For companies working with external researchers, clinicians, or academic partners, the case is a reminder that verbal or informal input at the concept stage can carry legal weight later. It's also worth noting that correctly identified inventors in China may be entitled to statutory



remuneration, which in some cases can extend to a share of profits under the country's science and technology transformation rules, so getting inventorship right isn't just a formality but has real financial consequences.

For businesses and research institutions operating in China, the case underscores the importance of documenting contributions early, particularly in collaborative or cross-institutional settings where the line between "idea" and "execution" can otherwise become a source of dispute long after a patent has been issued.

