

Animal Science Products, Inc. v. Hebei Welcome Pharmaceutical Co.

by Ray Liu Esq.

On April 24, 2018, the Supreme Court of the United States will hear arguments on the issue of whether a court may exercise independent review of the meaning of a foreign country's domestic law, or whether a court is "bound to defer" to a foreign government's characterization of its own law as a matter of international comity, whenever the foreign government appears before the court. Dorsey & Whitney LLP had the privilege of filing an [amicus brief](#) on behalf of leading Chinese academics in this important case.

The question before the Supreme Court arises from an antitrust class action that United States vitamin C purchasers (petitioners Animal Science Products, Inc., et al.) brought against companies incorporated under the laws of China (respondents Hebei Welcome Pharmaceutical Co., Ltd., et al.), alleging that they conspired to fix the price and supply of vitamin C. The Chinese Government – specifically the Ministry of Commerce (or MOFCOM) – for the first time ever made an appearance as an *amicus curiae* in the United States, explaining the requirements of Chinese law on the defendants, stating that the defendants could not comply with both Chinese and U.S. law, and urging dismissal of the action on international comity grounds. The district court "decline[d] to defer to the Ministry's interpretation of Chinese law," which ultimately led to a \$147 million jury verdict. The Second Circuit reversed, finding that "[t]he official statements of the Ministry should be credited and accorded deference."

One of the challenges raised by petitioners in their brief to the Supreme Court was to the Ministry of Commerce's assertion that it "has unquestioned authority to interpret applicable Chinese law." The Chinese law professors' *amicus* brief directly responds to that charge, by explaining that "a foundational principle underlying the Chinese system of legal interpretation is the concept that 'the rule-maker has the authority to interpret the rule,'" and that deference extends to the Ministry of Commerce here.

The case is *Animal Science Products, Inc. v. Hebei Welcome Pharmaceutical Co., Ltd.*, Sup. Ct. No. 16-1220. The Brief of Chinese Professors of Administrative Law as *Amici Curiae* in Support of Respondents was filed on behalf of YING Songnian, MA Huaide,

Related People

- Ray Liu Esq.

Related Capabilities

- China
- Antitrust & Competition Law
- Class Action Litigation

JIANG Ming'an, YU An, YANG Jianshun, and LI Honglei. Dorsey & Whitney's representation on this *amicus* brief was an effort across the firm's international platform, involving attorneys from the firm's New York (Geoffrey Sant, Nick Akerman, Lanier Saperstein, Jeremy A. Schlosser, Michelle Ng, Carol Lee), Beijing (Ray Liu), and Minneapolis offices (Timothy J. Droske).