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**gLAWcal
Comment #325**

**EXCEPTIONS TO PATENT LAW FOR
BIOTECH**

Based on

Jianqiang Nie “The Relationship between the TRIPs Agreement and the Convention on Biological Diversity (CBD): Intellectual Property and Genetic Resources, Traditional Knowledge and Folk Protection from a Chinese Perspective”



gLAWcal
Global Law Initiatives for Sustainable Development



A gLAWcal comment on Jianqiang Nie “The Relationship between the TRIPs Agreement and the Convention on Biological Diversity (CBD): Intellectual Property and Genetic Resources, Traditional Knowledge and Folk Protection from a Chinese Perspective” in Paolo Davide Farah and Elena Cima (Eds.) **China’s Influence on Non-Trade Concerns in International Economic Law**

Chinese tradition can inform how the idea of liability may be seen in a very different light compared to other developed nations. From Confucian traditions, it is seen that man and nature are often at odds with one another, and man should take every exploit and advantage over nature that is afforded to them. This can result in destructive practices that may benefit an individual or corporation, like resource extraction. On the other hand, there are often a host of individuals that receive no benefit, even or negative consequences of that same action. Add this to a second tradition that nearly all legal concerns are resolved through what would be identified as mediation, instead of jury trials. The

Chinese meditation practices allow for parties to make an agreement before it ever arrives for review by a judicial or administrative agency. This could be an opportunity for a greater represented party to be able to take advantage of a victim that does not have as much knowledge about the process as the other party. There is of course no mechanism to review these actions by a third-party or government agency. Issues that fall into civil law are often resolved by individuals in the community who are promoted to these positions without specific legal training. This is an opportunity to prevent an excessive burden on the judiciary system, but there still must be an opportunity to make administrative review of the actions in mediation.

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The gLAWcal comments are insight and short analytical pieces written by the gLAWcal team. The gLAWcal comments are based on, and inspired by, the books and chapters published within one of the [gLAWcal book series](#) published by Routledge Publishing (New York/London).

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OUR MISSION

To collaborate with Government, Civil society and business community to balance the excess of globalization with Non Trade Concerns.

OUR GOALS

To influence policymakers, to raise awareness over Non Trade Concerns, to encourage stakeholder participation, and to disseminate gLAWcal’s publication results.



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