



## ANTOINETTE F. KONSKI



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Antoinette F. Konski is a partner with Foley & Lardner LLP. She is a member of the Biotechnology & Pharmaceutical Practice and the Life Sciences, Nanotechnology and Stem Cell Industry Teams. Her practice focuses on intellectual property. Ms. Konski currently serves as the firm's Silicon Valley IP office chairperson.

Ms. Konski was recognized in the *Legal 500 US 2009 Edition* and in the *Legal 500 US: Volume II: Intellectual Property, Media, Technology, and Telecom 2007 Guide* as a top attorney for patent prosecution.

Ms. Konski works with life science clients, creating and optimizing value in intellectual property portfolios encompassing technologies that include personalized medicine, regenerative and stem cell biology, antibodies, immunology, gene therapy, nanotechnology, diagnostics, small molecules and drug delivery. She represents public and private companies and universities.

Ms. Konski practice includes:

- Identifying diverse commercial applications for early stage technologies
- Developing, prosecuting and managing global intellectual property portfolios
- Advising clients on preparing for due diligence investigations and conducting due diligence of target intellectual property
- Providing inventorship; patent invalidity, freedom to operate and non-infringement opinions
- Advising clients on domestic and foreign IP acquisitions
- Assisting clients resolve intellectual property disputes in non-litigious forums





Ms. Konski earned her J.D. degree from Fordham University School of Law where she was a member of the *Urban Law Journal*. She earned her Bachelor of Science degree from the University of Delaware where she was elected to Omicron Nu Honor Society. Before entering the legal profession, Ms. Konski was employed by Penn State Medical College in a molecular virology laboratory and later by Memorial Sloan-Kettering Cancer Center in a tumor immunology laboratory.

She is a member of the State Bar of California, the State Bar of New York, the Biotechnology Section of the American Bar Association and the American Intellectual Property Lawyers Association. She is registered to practice before the U.S. Patent and Trademark Office.

Ms. Konski is an active member of BayBio, Northern California's life science trade organization, where she serves as co-chair for the program committee. She is a frequent speaker and author on issues pertaining to global IP protection in the life sciences.

Selected Publications:

- Konski and Spielthener, "Stem Cell Patents, A Landscape Analysis," *Nature Biotechnology* (Vol. 27(8), pages 722-726, 2009)
- Konski, Brinckenhoff, Nie, "Genes Under the Microscope – Novel or Not?" *Intellectual Property Today* (July, 2009)
- Konski, "IP Strategies to Combat Distribution of Counterfeit Drugs," *BioProcess International* (Vol. 6(3), pages 14-18, 2008)
- Konski and Dombach, "Strategies For Meeting the Challenge of Patenting Nanobio Inventions," *Global Intellectual Property Asset Management Report* (August 2007)
- Konski, "The IP Due Diligence – A User's Guide," *Burrill Stem Cell Report* (pages 68-71, March 2007)



- Medd and Konski, "Workplace Programs To Protect Trade Secrets," *Nature Biotechnology* (Vol. 21, pages 201-203, 2003)
- Konski, "The Utility Rejection in Biotechnology and Pharmaceutical Prosecution Practice," *Journal of the Patent and Trademark Office Society* (Vol. 76(11), page 821, 1994)

Selected Speeches and Presentations:

- "Fast Track to Action – A Look at the Patent Prosecution Highway," Palo Alto, California (May 1, 2009)
- "Antibody Patents: Getting the Scope You Deserve," San Diego, California (January 16, 2009)
- "Four Weeks to Go – Are You Current with Recent USPTO Rule Changes? A Closer Look at the New Written Description and Proposed Appeal Rules," Palo Alto, California (November 19, 2008)
- "Introduction to Adult and Embryonic Stem Cells," ABA Teleconference and Panel Discussion (November 18, 2008)
- "Stem Cell Patents: An Analysis," The Stem Cell Partnering Series conference, Fostering Business Collaborations & Careers in Stem Cell Science, San Diego, California (February 28, 2008)
- "Finding Value in the Most Overlooked Elements of the Due Diligence Process," Dive Deeper into Due Diligence: Enhanced Value for Life Sciences Companies, San Mateo, California (December 4, 2007)
- "A Paradigm Shift: Planning for and Coping with the Recent USPTO Rule Changes," San Mateo, California (September 19, 2007)
- "Strategic Alliance of Patent Portfolios with Nanotech Company Business Objectives," The 2<sup>nd</sup>



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International Congress of Nanobiotechnology & Nanomedicine (NanoBio2007), San Mateo, California (June 18-21, 2007)

- "Current Issues in Patenting Gene Sequences," ACI 8th Advanced Forum on Biotech Patents, Analysis, Insights and Strategies for New Challenges in Biotech Patent Practice, Menlo Park, California (April 18-19, 2007)
- "CIRM's IP Policy Moves Forward," The Stem Cell Meeting, Burrill & Co., San Francisco, California (March 12-13, 2007)
- "Creating a Practical and Useful Due Diligence Checklist," ACI 3rd National Conference on Life Sciences IP Due Diligence, Menlo Park, California (January 22, 2007)
- "Extra-Territorial Enforcement of US Patents," ACI 6th Advanced Forum on Biotech Patents, San Francisco, California (February 16-17, 2006)
- "The Changing Landscape of Chemical Patents and Related Intellectual Property," Panelist, Annual Meeting of American Chemical Society, Anaheim, California (March 28, 2004)

Commentary:

- Quoted in "Knives Come Out on Stem Cell Bill," Cheryl Miller, *The Recorder* (April 2, 2007)
- Quoted in "Stem Cell Agency Faces Thorny Questions Of Law," Eric Young, *San Francisco Business Times* (December 2, 2005)



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## GEORGE C. BEST



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George C. Best is a partner with Foley & Lardner LLP. A member of the firm's IP Litigation and Appellate Practices, Dr. Best focuses on litigation and client counseling.

Dr. Best has been involved in all aspects of numerous patent, trade secret and business tort cases. He has argued at the U.S. Court of Appeals for the Federal Circuit. In U.S. District Courts, Dr. Best has conducted direct and cross-examinations of witnesses in bench and jury trials. He also has argued portions of several claim construction and summary judgment hearings. Dr. Best also has extensive experience in expert discovery, document discovery, depositions and motions practice.

Dr. Best is a graduate of the University of Chicago (S.B., chemistry, with honors; S.B., biological chemistry, 1989); the California Institute of Technology (Ph.D., chemistry, 1995); and the Law School of the University of Chicago (J.D., with honors, 1997), where he was the managing editor of the *University of Chicago Legal Forum*.

Dr. Best is co-author of the article "Accelerated FDA Review: Risks to Patent Term," published in the July/August 2009 issue of *Update* magazine (a publication of the Food and Drug Law Institute).

Before joining Foley & Lardner, Dr. Best was a law clerk for the Hon. Randall R. Rader of the U.S. Court of Appeals for the Federal Circuit.

### Representative Cases:

- *Hall v. Cargill Inc.*, U.S. District Court for the Southern District of Georgia. Dr. Best was the lead associate on a team of Foley & Lardner attorneys representing Cargill in a case involving food processing technology and allegations of





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patent infringement, improper inventorship, trade secret misappropriation, tortious interference, and unfair competition. As part of the team, Dr. Best worked with the technical experts, took and defended numerous depositions, and prepared summary judgment and other motions. Dr. Best also wrote and argued Cargill's motions for summary judgment with respect to several of the claims asserted by the plaintiffs. The District Court either dismissed or granted summary judgment in Cargill's favor with respect to all claims asserted by the plaintiffs. The case has been appealed to the U.S. Court of Appeals for the Federal Circuit.

On appeal, Dr. Best wrote briefs and argued in successful defense of Cargill's summary judgment wins in the District Court. *Hall v. Cargill, Inc.*, No. 06-1076, 2006 WL 2883086 (Fed. Cir. Oct. 5, 2006) (summary affirmance).

- *In re SIBIA Neurosciences, Inc.*: Dr. Best argued this Federal Circuit appeal from an adverse decision of the Board of Patent Appeals and Interferences. *In re SIBIA Neurosciences, Inc.*, 156 Fed. App. 314 (Fed. Cir. 2005).
- *Goldenberg v. Cytogen Inc.*: As the principle author of the appellant's briefs in this appeal involving a patent for a tumor imaging agent, Dr. Best successfully argued that the Federal Circuit should vacate summary judgment against Foley & Lardner's client. See *Goldenberg v. Cytogen Inc.*, 373 F.3d 1158 (Fed. Cir. 2004).
- *Corning Incorporated v. SRU Biosystems LLC*: Dr. Best was the lead associate representing Corning in this case involving optical biosensor technology and allegations of patent infringement, trade secret misappropriation, tortious interference, and unfair competition. As part of the Foley & Lardner team, Dr. Best argued at the claim construction hearing, worked with technical experts, took and defended depositions, and prepared summary judgment and discovery



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motions. See *Corning Inc. v. SRU Biosystems LLC*, 292 F. Supp. 2d 583 (D. Del. 2003); *Corning Inc. v. SRU Biosystems, LLC*, 223 F.R.D. 191 (D. Del. 2004), reconsideration denied by 2004 WL 1822121 (D. Del. Aug. 13, 2004) (ordering production of documents); *Corning Inc. v. SRU Biosystems, LLC*, 223 F.R.D. 189 (D. Del. 2004) (compelling production of opinions of counsel); *Corning Inc. v. SRU Biosystems, LLC*, No. 03-633, 2004 WL 1553575 (D. Del. July 9, 2004) (construing claims), reconsideration denied, 2004 WL 2348089 (D. Del. Oct. 13, 2004). At trial, Dr. Best conducted the direct examination of one of Corning's technical experts and cross-examined SRU Biosystem's CEO.

After trial on the merits and post-trial briefing, the District Court found that Corning's patent was valid and infringed. *Corning, Inc. v. SRU Biosystems*, 400 F. Supp. 2d 653 (D. Del. 2005), reconsideration denied, No. 03-633, 2006 WL 155255 (D. Del. Jan. 20, 2006). The District Court has entered a permanent injunction against SRU. *Corning, Inc. v. SRU Biosystems*, 418 F. Supp. 2d 596 (D. Del. 2006).

- *Reiffin v. Microsoft Corp.*: Dr. Best prepared briefs and successfully argued the Federal Circuit appeal of a decision dismissing claims asserted against Microsoft's co-defendant under Fed. R. Civ. P. 12(b)(6). The Federal Circuit affirmed the dismissal of the claims against Dr. Best's client. *Reiffin v. Microsoft Corp.*, No. 01-1380, 2002 WL 1587032 (Fed. Cir. July 17, 2002) (summary affirmance).
- *Cargill Incorporated v. LGX LLC*, U.S. District Court for the Eastern District of Pennsylvania. Dr. Best was the lead associate representing Cargill in a patent infringement, inventorship, trade secret misappropriation, tortious interference, and unfair competition case involving food processing technology. In this case, Dr. Best supervised document production, took and defended



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depositions, worked with the technical experts, and prepared summary judgment and other motions. This case was stayed due to bankruptcy of LGX LLC.

- *Automotive Systems Laboratory, Inc. v. Breed Technologies, Inc.*, U.S. District Court for the District of Delaware. In this patent infringement case involving gas generants for automobile airbags, Dr. Best prepared the claim construction briefs and argued a substantial portion of the claim construction hearing. He also worked with the technical and damages experts, took and defended depositions, and handled all aspects of motions practice. This case settled prior to trial.
- *Bridgestone/Firestone Research, Inc. v. Automobile Club de L'Ouest de la France*: Co-authored Federal Circuit briefs and developed strategy for successful appeal of decision from the Trademark Trial and Appeal Board. *Bridgestone/Firestone Research, Inc. v. Automobile Club de L'Ouest de la France*, 245 F.3d 1359 (Fed. Cir. 2001).
- *Incyte Corp. v. Gene Logic Inc.*, U.S. District Court for the Northern District of California. Dr. Best was the principle associate in this patent litigation involving nucleic acid amplification technology. In this role, he oversaw a voluminous document production, assisted with depositions, and worked with technical experts. This case settled prior to trial.
- *Barnes Jewish Hospital v. Merial Animal Health Inc.*, U.S. District Court for the Eastern District of Missouri. Dr. Best was the principle associate in this litigation over an antibody-based diagnostic test for canine heartworm. In this role, he oversaw document production and the preparation of mediation briefs. This case settled prior to trial.
- *Old Town Canoe Co. v. Glenwa, Inc.*: Dr. Best wrote motions filed with the Federal Circuit in



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connection with this appeal. *Old Town Canoe Co. v. Glenwa, Inc.*, No. 02-1144, 2003 WL 124523 (Fed. Cir. Jan. 14, 2003).

- *Ecolab, Inc. v. Gardner Manufacturing. Co.*, U.S. Court of Appeals for the Federal Circuit. Dr. Best wrote motions filed with the Federal Circuit in connection with this appeal.
- *Zevo Golf Co. v. Karsten Mfg. Corp.*: Dr. Best assisted in preparation for oral argument in this Federal Circuit appeal. *Zevo Golf Co. v. Karsten Mfg. Corp.*, No. 01-1617, 20002 WL 31175474 (Fed. Cir. Oct. 1, 2002).
- *Nutrinova Nutrition Specialties & Food Ingredients GmbH v. Int'l Trade Comm'n*: Dr. Best contributed to the briefs and preparation for oral argument in the Federal Circuit appeal involving chemical synthesis of artificial sweeteners. *Nutrinova Nutrition Specialties & Food Ingredients GmbH v. Int'l Trade Comm'n*, 224 F.3d 1356 (Fed. Cir. 2000).
- *Sobstad Corp. v. Windway Capital Corp.*: Dr. Best wrote motions filed with the Federal Circuit in connection with this appeal.
- *Takata Corp. v. AlliedSignal Inc.*: Dr. Best worked with the technical experts and help prepare the claim construction briefs in this case involving automobile seat belt retractors. This case settled prior to trial. *Takata Corp. v. AlliedSignal Inc.*, No. 98-94, 1999 WL 787896 (D. Del. Aug. 19, 1999).



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## ANNA M. HAN



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Anna M. Han is a Law Professor at Santa Clara University, School of Law. She teaches Business Organizations, Chinese Trade and Investment Law, Technology Licensing and Legal Issues of Start Up Businesses. She writes extensively on China's legal developments. Her works include law review articles on China's company law, technology licensing, the Basic Law of Hong Kong, franchising and tax. Her most recent work is four chapters on China's intellectual property laws in "Business Law in China: Trade, Investment and Finance" published in 2008 by ICC Publishing, a subsidiary of the International Chamber of Commerce in Paris. She is currently working on a casebook about doing business in China.

Professor Han is a graduate of University of California with honors in Political Science and Economics and received her law degree from UC Hastings College of the Law.

She has over 25 years of experience representing multinational companies in China in all manners of transactions, including joint ventures, technology licensing and establishing retail operations. She was the first foreign attorney to represent an U.S. law firm in Shanghai. She is fluent in writing and reading Chinese and speaks multiple dialects. For the last three years, she served as Counsel to White & Case based in Palo Alto. Before becoming a fulltime academic, she was a partner at McCutchen, Doyle (now Bingham McCutchen), managing its China practice.

She has been an invited speaker about Chinese law and policy by a variety of forum, including local, state and national bar associations, the Licensing Executive Society, the World Affairs Council, U.S. - China Business Council, Commonwealth Club, University of California- Boalt Hall, Stanford University and other Bay Area law schools.

Professor Han is also the Director of Santa Clara University's Shanghai Summer Program for US law students based at Jiao Tong University. She founded the program in 2006.

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## XU WEN



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Xu Wen is one of the pioneers of intellectual property in the Chinese mainland with 25 years of related experience. He now works as chairman of Beijing Scihead Intellectual Property Agent Co., Ltd., chairman and general manager for Guangzhou Scihead Patent Agent Co., Ltd., lawyer and chief partner of Scihead & Partners, professor of the Intellectual Property College of Jinan University, and also as a guest research fellow of the Institute for International Intellectual Property of Peking University.

Professor Wen once held the position as vice-director of the All-China Lawyer Society IP Committee for three terms and is now the vice chief-syndic of China University IP Research Institute, director of Guangdong Lawyers Society IP Committee, arbitrator of Guangzhou Arbitration Commission, executive syndic of IP Research Institute of Guangdong Province, and chairman of Association for IP Promotion.

Professor Wen has studied in famous universities, such as Sun Yat-sen Medical College, Sun Yat-sen University, Renmin University of China, South China Normal University. Professor Wen obtained his IP master degree of international economic law from Peking University in 1991, the first person to obtain an IP master in China. In 1999, Professor Wen also studied at the Law School of University of Washington at Seattle for one year.

Professor Wen is a well-known IP lawyer in China who has even worked as an agent in famous cases, including:

- trade secret dispute for Foshan ceramic sticks
- design patent infringement dispute for action from Guangdong Canbo against more than 20 companies



- series disputes for *TCL vs. Wu and Jiang* about the ownership of patent right, the exploitation fee, and patent infringement
- series patent infringement disputes for action from *Zhuhai Jingyi Co. vs. Guangzhou Baiyun Airport, Shenzhen Baoan Airport and Xi-an Airport*
- patent dispute for *Guangdong Bubugao v. Sony.Co. JP*
- series disputes of trademark infringement and unfair competition for *Sichuan Jiangkouchun Co. v. Qiannian Co.*
- unregistered famous trademark infringement dispute for *Hongkong Wing Wah Cake Shop Ltd. v. Zhongshan Chaowei, Zhongshan Jinming, and person Su*
- series disputes in trademark, trade name and unfair competition for action from *Guangzhou XingQun Pharmaceutical Co. vs. Guangdong Xingqun Foods & Beverage Co., Ltd.*

Professor Wen was awarded the *Young and Middle-aged Professor with Outstanding Contribution* by State Council, and received honors such as *Outstanding Young in Guangdong Province, Top10 Lawyers Satisfied by Guangzhou Citizens*, etc.

Professor Wen has published more than 10 works such as *Defend Intelligence-battlefield without Gunpowder, Strategies and Skills in Intellectual Property Protection* and near 100 papers. *Defend Intelligence-battlefield without Gunpowder* was awarded one of top 10 IP works by the IP Committee of All China Lawyers Association in 2009.



## DAVID MCINTYRE

David McIntyre is currently an Assistant General Counsel at Johnson & Johnson.

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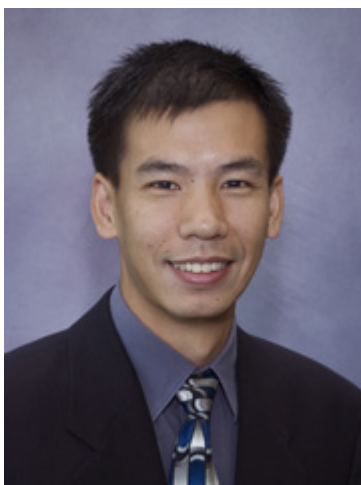
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Mr. McIntyre has been practicing law for over 20 years, having worked on numerous patent, trademark and trade secret litigations, as well as product liability and compliance matters. He served as a Judicial Law Clerk to the Honorable William H. Timbers of the US Court of Appeals for the Second Circuit, and later for the Honorable Irma E. Gonzalez of the US District Court for the Southern District of California.

Mr. McIntyre has a B.S. degree in Biology from Cornell University and a J.D. from Fordham University School of Law, where he served as senior articles editor for the Fordham Law Review.



## ALEX Y. NIE



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Alex Y. Nie, an associate with Foley & Lardner LLP, is a member of the firm's Biotechnology & Pharmaceutical Practice and the Life Sciences Industry Team.

Dr. Nie's practice entails the procurement of patents and related counseling in matters in the biological and chemical arts, particularly in the areas of personalized medicine, computational biology and chemistry, *in vitro* diagnostics and stem cell technology in addition to conventional biotechnology and pharmaceuticals.

Dr. Nie is also a member of the firm's China initiative. He published articles relating to China's Third Amendment of Patent Law and spoke about China's patent enforcement at the 2009 U.S.-China Legal Exchange, hosted by the U.S. Department of Commerce and China's State Council Legislative Affairs Office, in Los Angeles.

Prior to his legal career, Dr. Nie was a senior scientist with Johnson & Johnson Pharmaceutical R&D, L.L.C. During his seven year-tenure at the company, Dr. Nie developed new biomarkers for drug safety evaluation. He was a Johnson & Johnson representative to the Critical Path Institute, an industry-wide collaborative effort to improve the drug approval process and he participated in the company's China initiative.

Dr. Nie earned his J.D. degree from Rutgers School of Law – Newark. He is a graduate of Rutgers – New Brunswick (Ph.D. in biochemistry and M.S. in computer science). Dr. Nie received an M.S. degree in molecular biology from the University of Science & Technology of China and a B.S. degree in biochemistry from Wuhan University.

Dr. Nie has published 24 peer-reviewed scientific articles and two book chapters. He received an NIH grant and has served as a committee member for various scientific





organizations, including the International Life Science Institute/Health and Environment Sciences Institute (ILSI-HESI), the Critical Path Institute, and FDA's HL7/CDISC/I3C Pharmacogenomics Data Standards Committee. He was a session chairman and invited speaker at the Drug Information Association's 2006 annual conference in Paris.

Dr. Nie is a member of the State Bar of California, and is registered to practice before the United States Patent and Trademark Office.

Dr. Nie's selected publications include:

- Wright Bonnilla, Brinckerhoff, Konski and Nie, "Patent Eligibility of Personalized Medicine Method Claims Confirmed by Federal Circuit in *Prometheus Labs., Inc. v. Mayo*," published in *Foley & Lardner LLP Legal News Alert: Biotechnology & Pharmaceutical* (September 2009)
- Konski, Brinckenhoff and Nie, "Genes Under the Microscope – Novel or Not?" published in *Intellectual Property Today* (July 2009)
- Nie, "Introduction to the U.S. Patent Reform Act of 2009," published in *Foley & Lardner LLP Summer 2009 Eye on China Newsletter* (August 2009)
- Zhao, Nie and Tang, "PRC Supreme People's Court Patent Infringement Enforcement Guidance: The "Draft" Published for Comments by the Patent Community," published in *Foley & Lardner LLP Legal News Alert: China* (July 2009)
- Fielden and Nie *et al.*, "Interlaboratory evaluation of genomic signatures for predicting carcinogenicity in the rat," published in *Toxicological Sciences* (vol 103, pages 28-34, 2008)
- Nie *et al.*, "Predictive Toxicogenomics Approaches Reveal Underlying Molecular Mechanisms of Nongenotoxic Carcinogenicity," published in *Molecular Carcinogenesis* (vol 45, pages 914-933, 2006)



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- Nie, McMillian and Lord, "Toxicogenomics in Drug Safety Evaluation: Bridging Drug Discovery and Development," published in Carmen and Hardiman eds. *Biochips as Pathways to Drug Discovery*. Florida: Taylor & Francis Group (pages 69-96, 2006)

Speeches and Presentations:

- "U.S. Perspective of Patent Enforcement in China," 2009 U.S.-China Legal Exchange, Los Angeles, California (October 12, 2009)
- "An Analysis of the Characteristics of Licensed Clean Tech Patents from Publicly Announced Commercialization Deals," the 5th International Congress of Nano-Bio Clean Tech 2008 conference, San Francisco, California (October 27-30, 2008)
- "Preparing the Critical Path to Acceptance of Toxicogenomic Data in Drug Safety Evaluation," the 2007 Joint Statistics Meeting, Salt Lake City, Utah (July 26 – August 2, 2007)
- "Bioinformatics Lighting a New Path to Better Drug Development," the Drug Information Association 18th Annual EuroMeeting, Paris, France (March 6-8, 2006)



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