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3 Lessons From Google's China Fiasco

Law360, New York (April 16, 2010) -- Google's announcement on March 23, 2010, to pull out of China's online search business brought its high-profile dispute with the Chinese government to a sad conclusion. Without commenting on the political and ethical nature of Google's decision to quit censoring searches, this guest column analyzes the Google fiasco from a business perspective and provides three lessons for American companies doing business in China.

According to some observers, Google's dispute with the Chinese government might have been motivated largely by its business desire to gain market shares rather than by political and ethical concerns. From a business perspective, however, Google could not have done worse.

Undeniably, Google's decision crippled its entire business operations in China. For example, China Mobile and China Unicom, the two largest cellular communications companies in China, were reported to have canceled cell-phone-related deals with Google under government pressure. It may take years, if not decades, for Google to reestablish itself in the lucrative Chinese market.

For many other American companies, Google's exit from China provides three valuable lessons regarding doing business in China.

Lesson 1: Be Patient With Social Progress in China

Keep in mind that China is still a "socialist" country with one governing party. Although China has embraced free-market economics since the early 1980s and its economy has improved beyond anyone's imagination, China's social progress has not kept pace with its economic growth.

Critics are frustrated with China's political regime. No one can deny, however, that China has made significant social progress. For example, under the "one country, two systems" framework proposed by late President Deng Xiaoping, the Chinese government has allowed regions like Hong Kong and Macau to keep, to a large extent, their capitalist economic and political systems.

We all hope that the economic growth will spur more social progress. Nonetheless, one must be patient. Certainly, the priority for most American companies doing business in China is to make profit for their shareholders and gradually help Chinese society improve economically and socially; it

is not to change China's political landscape overnight.

Lesson 2: Avoid Getting Caught in Political Cross Fire

We advise our American clients to avoid politics in China as much as possible. Unfortunately, to do business in China, one cannot totally avoid dealing with central, provincial and/ or local Chinese governments.

The solution is simple: Be politically neutral and keep a low profile in China. Keeping a low profile does not mean that the company cannot be visible businesswise. Rather, if a dispute with a state-owned enterprise or the Chinese government arises, keep the dispute at a low profile.

Keeping a low profile allows a solution to be worked out quietly behind the scenes. In Google's case, its dispute with the Chinese government became a high-profile case watched by the entire world. Under these circumstances, many otherwise workable solutions became nonoptions, because the Chinese government was concerned that it could lose face in front of its people and the world if it gave in to Google's demand.

Had the dispute been kept at a low profile, the Chinese government could have entertained options to ease some of the restrictions. It would not be a complete victory for Google, but it could have allowed Google to continue its operations in China while simultaneously improving Chinese people's access to more information.

Lesson 3: Be Aware of Unspoken Chinese Rules

Not surprisingly, doing business in China carries many risks. For American companies, these risks include trade secret theft, technology leaks and IP infringement. Although many American companies can implement sophisticated legal, organizational, and technical procedures and strategies to minimize such risks, some risks may nevertheless remain.

The test of an American company doing business in China, therefore, is not how well it minimizes the risks beforehand, but how well it deals with crisis afterward. Without a well-planned crisis management strategy, many American companies will mistakenly take a short-sighted approach and jeopardize their long-term business interests.

The key component of any well-planned crisis management strategy is to be aware of unspoken Chinese rules. One such rule is to not lose face with respect to yourself or other parties that may provide you strategic value.

In Google's case, it became apparent in the months leading to Google's exit announcement that either Google or the Chinese government would lose face after the highly publicized dispute between

the two. And it was inevitable that Google would end up quitting its Chinese online search business.

In comparison, General Motors handled its predicament very well after Chery Automobile, a Chinese automaker, allegedly copied the design of the Chevrolet Spark developed by GM's Daewoo subsidiary in 2004. At the time, GM was producing a similar model with its two Chinese joint venture partners when the alleged technology leak took place. And interestingly, Chery was partially owned by a key Chinese joint venture partner of GM. After much silence, GM eventually proceeded to sue Chery in a Chinese court and the case was settled.

Initially, industry observers were puzzled that GM seemingly took a very low-profile approach, and appeared to be reluctant to enforce its legal rights. GM's subsequent commercial success in China, however, proves that GM's crisis management strategy, counterintuitive at the time, paid off handsomely. In 2005, the year after the alleged incident, GM's Chinese market share grew 35.2 percent. In 2009, GM's sales in China surged 67 percent, selling more than 1.8 million cars and trucks.

As a latecomer to the Chinese automobile industry, without the support of its key joint venture partners and the Chinese government at all levels, GM would not have achieved its success today if it had enforced its legal rights against Chery aggressively.

Therefore, one must be aware of unspoken Chinese rules and implement a holistic crisis management plan.

While American companies have a tendency to exercise legal options when dealing with technology leak and IP infringement, it may not always be the best way to do business in China. Sometimes, a loss today can turn into a big win tomorrow in China!

--By Lei Mei (pictured) and Reece Nienstadt, Mei & Mark LLP

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