

A Study on the Ownership of Inventions Made in the Course of Employment: The Taiwan Approach

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Abstract

Nowadays the intellectual property portfolio generated by the employed personnel is main capital for most enterprises. On one hand, employees engaging in R&D activities shall be given every encouragement and recognition. On the other hand, the employers taking risks with enormous investment in R&D also play a major role in promoting innovation. Therefore, the proper balance of rights of employed inventors and employers needs to be considered. This issue embraces contradictory legal principles, including patent law, contract law and labor law, which are somewhat controversial and discussed recently at international level. This article focuses upon the legal framework of patent law regarding inventions invented by employees in Taiwan. Important issues in this field, including the definition of employees' inventions and free inventions, employer's shop right to use the free inventions and enforceability of contracts relating to employees' inventions, are reviewed in detail. Proper solutions and suggestions are also submitted.

Keywords: employees' invention, employer's shop right, shop right, patent right, employment contract

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