

Political Culture with Chinese Characteristics

Patent Law of the People's Republic of China

第三条

省、自治区、直辖市人民政府管理专利工作的部门负责本行政区域内的专利管理工作。

Article 3

The departments in charge of patent affairs under the people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall be responsible for the administrative work concerning patents within their respective administrative areas.

第六条

执行本单位的任务或者主要是利用本单位的物质技术条件所完成的发明创造为职务发明创造。职务发明创造申请专利的权利属于该单位，申请被批准后，该单位为专利权人。该单位可以依法处置其职务发明创造申请专利的权利和专利权，促进相关发明创造的实施和运用。

利用本单位的物质技术条件所完成的发明创造，单位与发明人或者设计人订有合同，对申请专利的权利和专利权的归属作出约定的，从其约定。

Article 6

An invention-creation that is accomplished in the course of performing the duties of an employee, or mainly by using the material and technical conditions of an employer, is a service invention-creation. For a service invention-creation, the right to apply for a patent belongs to the employer. After such application is approved, the employer shall be the patentee. The employer may, in accordance with the law, dispose of the right to apply for a patent for its service invention-creation and the patent right, thereby facilitating the exploitation and utilization of the relevant invention-creation.

For an invention-creation that is accomplished by using the material and technical conditions of an employer, if the employer has concluded a contract with the inventor or designer providing the ownership of the right to apply for the patent or the ownership of the patent right, such provision shall prevail.

第七条

对发明人或者设计人的非职务发明创造专利申请，任何单位或者个人不得压制。

Article 7

No entity or individual may prevent the inventor or designer from filing a patent application for a non-service invention-creation.

第八条 两个以上单位或者个人合作完成的发明创造、一个单位或者个人接受其他单位或者个人委托所完成的发明创造，除另有协议的以外，申请专利的权利属于完成或者共同完成的单位或者个人；申请被批准后，申请的单位或者个人为专利权人。

Article 8

For an invention-creation accomplished by two or more entities or individuals in collaboration, or accomplished by an entity or an invention-creation accomplished by an entity or individual in execution of a commission given to it or him by another entity or individual, the right to apply for a patent belongs, unless otherwise agreed upon, to the entity or individual that has accomplished the invention-creation, or to the entities or individuals that have accomplished the invention-creation in collaboration. After the application is approved, the entity(s) or individual(s) that has(have) filed the application shall be the patentee(s).

第四十九条

国有企业事业单位的发明专利，对国家利益或者公共利益具有重大意义的，国务院有关主管部门和省、自治区、直辖市人民政府报经国务院批准，可以决定在批准的范围内推广应用，允许指定的单位实施，由实施单位按照国家规定向专利权人支付使用费。

Article 49

Where any patent for invention of a State-owned enterprise or institution, is of great significance to the interest of the State or to the public interests, the relevant competent departments under the State Council and the people's governments of provinces, autonomous regions or municipalities directly under the Central Government may, after approval by the State Council, decide that the patented invention be spread and applied within the approved scope, and allow designated entities to exploit the invention. The exploiting entity shall, in accordance with the regulations of the State, pay a royalty to the patentee.

Copyright Law of the People's Republic of China

第十八条

自然人为完成法人或者非法人组织工作任务所创作的作品是职务作品，除本条第二款的规定以外，著作权由作者享有，但法人或者非法人组织有权在其业务范围内优先使用。作品完成两年内，未经单位同意，作者不得许可第三人以与单位使用的相同方式使用该作品。

Article 18

A work created by a natural person in the fulfillment of tasks assigned to him by a legal person or unincorporated organization is a work for hire. Unless otherwise provided in the second paragraph of this Article, the copyright in such a work shall be enjoyed by the author; but the legal person or unincorporated organization shall have priority to use the work within the scope of its professional activities. Within two years after the completion of the work, the author shall not, without the consent of the legal person or unincorporated organization, authorize a third party to use the work in the same manner as the legal person or unincorporated organization does.