

Research Department

Information Leaflet

Regarding the regulation of rights in connection with inventions in the context of additional occupation contracts in the civil service, following the changes in the law regarding privileges for university lecturers (section 42 new version of the German Act on Employees' Inventions)

1. Introduction

Inventions arising out of work done as part of occupational activity, additional occupation or research funded by third parties need to be registered before publication, and, in the case of employment inventions, can be claimed by the university. The former construct, whereby professors were entitled to deal freely with their inventions, is no longer possible in the case of employment inventions, even when made as part of additional occupation.

2. Legal Position

Since the change to the law regarding privileges for university lecturers of 2002 (section 42 new version of the German Act on Employees' Inventions), the university can also make use of inventions by lecturers if they are employment inventions. These are covered by the requirement to notify the employer.

An invention is assumed to be a employment invention if:

- the invention was made in connection with the work done in line with their job responsibilities, even if it occurred "accidentally", or
- if it can be classed as an invention that arises from knowledge gained in connection with the employment or from knowledge of third parties and is therefore to be attributed to the employer.

An invention is assumed to be a free invention if:

- it was invented without work done or knowledge obtained in the course of the employment, and thus can be attributed to the external sphere.

As a rule, it is only the free inventions that inventors can deal with as they please. These too need to be notified, so that the employer can scrutinise the inventor's assessment as to whether it is a free invention. The advisory work involved in additional occupation generally takes place in the area in which the person is employed researching or teaching at the university, so that it is hardly to be expected that a free invention would occur in additional occupation.

3. Interests of the Humboldt-Universität

The Humboldt-Universität has an active patent policy. The interest of the university lies in resolving possible conflict situations in advance through consultancy contracts and to offer support with the contractual arrangements in order to ensure legal certainty for all parties.

4. Contact Person for questions regarding regulation of rights

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Please check whether your existing contracts have already been adapted to the new legal situation or whether they may still need to be adapted.