

Legal Conditions for Employee Inventions

The [Arbeitsnehmererfindungsgesetz \(Employee Inventions Act\) - ArbNErfG \[de\]](#) regulates the rights and duties for inventions which are made during employment or service, so-called service inventions. § 42 ArbNErfG includes special regulations for universities.

The most important regulations and the procedure for dealing with inventions can be summarised as follows:

Notification of an Invention

- In accordance with § 5 ArbNErfG, employee inventions must be reported immediately.
- However, due to the freedom of science, as anchored in the Basic Law, inventions at universities are subject to the so-called **negative freedom of disclosure**, § 42 No. 2 ArbNErfG: that means that you, as a scientist, can decide yourself as to whether you wish to keep your invention secret or announce it.
If you decide not to announce the invention, the duty of reporting is cancelled. However, if this is the case, the invention may not be published, nor may third parties be informed. If the invention is to be announced at a later date, the duty of reporting is renewed.
- The invention has to be described in the notification so precisely that the invention is understandable and the patentability can be examined.
- Please use the intended [Form \[de\]](#) for the notification of an invention.

Preliminary Confidentiality

- ***It is important to keep the invention confidential at first*** as patents will only be granted if the invention is still “new” at the time of applying for a patent and not state of the art, §§1 and 3 *Patentgesetz* (Patent Act).
- State of the art includes all knowledge that has been made accessible to the public in any manner – therefore, not only written publications, but also presentations, for example, can infringe novelty status.
- ***Thus, please make sure to inform the University of any planned publication so that the protection of patents can be ensured on time.***

Claiming of Rights

- After the notification of an invention has been submitted, the documents will be passed on to the Universität Rostock Service GmbH (URS), which is commissioned by the University to check the patentability and the potential of exploitation.
- Based on a recommendation by the URS, the University then decides whether it wants to claim the rights of the invention.
- The ArbNErfG proposes a time frame of 4 months for this process - if the invention is to be published or made accessible to third parties sooner (e.g. as part of research projects), please inform the University or the URS; if necessary, the evaluation of the invention and the submission of an application for a patent can be made within a few days.

Submission and Preservation of Patent Applications

- If the University claims the rights of an invention, they must submit at least a German patent application.

- One year after submission of the first patent application which defines the right of priority, a decision has to be made as to whether and in which countries subsequent registrations should be made - for the countries in which the University decides not to submit a subsequent registration, the inventors are given approval to submit subsequent registrations at their own cost, § 14 ArbNErfG.
- If the University would like to renounce a patent, the inventors are first asked if they would like to assume possession so that they can sustain the patent at their own cost, § 16 ArbNErfG.
- The inventors will be included in the decision-making processes listed above, by both the University and the URS - in order to make this possible, ***please leave your contact details with the University if you leave the University.***

Share of the Exploitation Yield

- In case the exploitation of the invention/patent is successful, inventors must be granted a share of 30 % of the exploitation yield (if it is a joint invention, this depends on the inventor's proportion of the invention), § 42 No. 4 ArbNErfG.
- The University will inform you of any income - ***therefore, we ask you to pass on your current contact details if you are to leave the University.***
- The payment of the inventor's share occurs according to a remuneration agreement, which must be written in advance, § 12 ArbNErfG.
- Payment should be treated in terms of tax and social security payments as part of the salary, so that payment occurs subject to the legal deductions.

Role of the URS

- The URS supports the University (and the state's other universities) as a service provider by looking after the inventions and patents through the examination of the invention with regards to its patentability and exploitation potential, initiating and accompanying the patent procedure in cooperation with the respective commissioned patent lawyer and searching for exploitation partners.
- ***Inventions and patents are not transferred to the URS, they remain property of the University; binding decisions are also only made by the University.***

Further Rights of the Inventor

- The inventor has the right to be named in the patent application, § 37 Sub-Section 1 *Patentgesetz* (Patent Act)
- The inventor has the right to use the invention as part of his teaching or research work, § 42 No. 3 ArbNErfG

Contact:

Responsible contact person for all notifications of inventions and patents, as well as the cooperation with the URS, for both the University and University Medicine Greifswald, is:

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