

Report Q183

in the name of the United States Group
by Daniel D. FETTERLEY, Judith M. SAFFER, Morton David GOLDBERG

Employers' rights to intellectual property

Questions

1. The State of positive Law

1.1 *The Groups are invited to present the legal framework governing relations between employers and employees in the field of intellectual property rights.*

In particular, the Groups are invited to state whether these rules arise from provisions concerning labour law or whether these rules arise from provisions concerning intellectual property rights.

In addition, the Groups are invited to state whether these rules may be considered as being public policy rules (i.e. mandatory rules) or whether, on the contrary, they may be modified by contractual relations between employees and employers.

a) Introduction

While the Question calls for a presentation of the legal framework "governing relations" between employers and employees, the following analysis on behalf of the U.S. Group is more specifically and essentially directed to the right of an employer to own intellectual property rights in intellectual creations made by employees. Also, this report deals primarily with private sector or research organization employers-employees. It mentions only in passing circumstances involving government employees.

Importantly, with respect to the foregoing right, the U.S. is a country in which one of disparities noted in the Introduction to the Question exists. This disparity is based on the type of intellectual property right that is involved. That is, an employer's right to own intellectual property rights in the intellectual creations of employees is treated disparately depending on whether the intellectual property rights in question are in the nature of patent rights or in the nature of copyrights.

b) General Legal Framework for Positive Law in the United States

The legal framework for positive law in the United States has two major components. These are:

- a) National or federal law comprising legislation or statutes of the U.S. Congress and judicial court decisions of the U.S. or federal courts applying and interpreting those statutes.
- b) State laws of the 50 states that comprise the United States. State law comprises state statutes and state court decisions applying and interpreting state statutes and providing rules of law in situations not covered by statutes. State law is the controlling law in all areas that are not preempted by national law.

c) Principles of Legal Framework Relating to Intellectual Property Rights

- 1) The national law of the U.S. governs the creation and exercise of intellectual property rights. In the case of intellectual property rights in technical subject matter (patents, etc.) the national law is mainly the statute comprising the U.S. Patent Act, Title 35 of the United States Code of laws (35 U.S.C. et seq.). In the case of intellectual property rights in artistic subject matter (copyrights, etc.) the national law is mainly the U.S. Copyright Act, Title 17 of the United States Code (17 U.S.C. et seq.).
- 2) An employer's intellectual property rights in the intellectual creations of an employee are determined by state law or by national law depending on whether the intellectual property rights involved are in the nature of patents or in the nature of copyrights. This creates the disparity noted above.
 - a) For patents, the determination of employer ownership rights is largely a matter of state law.
 - c) For copyrights, the determination of employer ownership rights is largely a matter of national law.
- 3) Certain types of intellectual creations are amenable to protection as trade secrets. The establishment, protection, and ownership of trade secrets is generally determined by state law in the United States. Trade secrets are not discussed further in the remaining portion of this report.

d) Employer Rights in Patents

- 1) In the United States, ownership rights in patents are largely a matter of state law, not national law. State law concerning the ownership of intellectual property rights arises from two general sources. These are:
 - a) Judicial court decisions relating to the ownership of intellectual property rights. A collected body of court decisions on a given subject is often referred to in Anglo-American jurisprudence as the "common law" of the subject.
 - b) State legislative statutes. The legislatures of some states of the United States have enacted statutes relating to employer ownership or use of intellectual property rights in intellectual creations of employees.
- 2) Summary of State Common Law Concerning Employer Ownership or Use of Intellectual Property Rights in the Nature of Patents.
 - a) The basic rule is that an inventor (employee) initially owns his/her invention by virtue of the act of creation. This is often said to be a matter of the "natural rights" of an inventor.
 - b) An inventor (employee) may make an express agreement to assign his/her rights in an invention and the associated intellectual property rights to an employer. In the vast majority of applicable circumstances, the express assignment is contained in an employment contract between the inventor (employee) and the employer by which the inventor assigns inventions relating to the employee's work or relating to the business of the employer to the employer in return for salary or other compensation payments.
 - c) In certain circumstances and in the absence of an express agreement, the common law implies a transfer (assignment or license) of intellectual property rights from an employee to an employer so that the employer has such rights. Whether a transfer will be implied depends on numerous factors including the nature of the employee's employment, the subject matter of the invention, and the contribution of resources by the employer. For example, when an employee is hired to create a specific invention or to solve a specific problem, inventions made by the employee belong to

the employer even in the absence of an express assignment agreement. Or, where an invention is made using materials and equipment of an employer, the employer will usually have at least a license to use the invention. Officers and directors of a business occupy a special relationship to the business and are also often under an implied duty to transfer intellectual property rights to the business (employer).

- 3) State Statutes - In many cases, state statutes dealing with the ownership of patent rights in the inventions of employees merely codify the state common law. In other cases they alter the common law.

e) Employer Rights in Copyrights.

In the United States, ownership rights in copyrights are essentially exclusively a matter of national law and are governed by the U.S. Copyright Act (17 U.S.C. et seq.). This act has specific provisions (Sections 101 and 201) dealing with the ownership of copyrights.

Section 201 establishes the rule as to when an employer may be deemed the copyright owner, even in the absence of an assignment of copyright. The copyright will belong to the employer at the outset if the subject matter of the copyright is created by an employee within the scope of his/her employment. Such subject matter is termed a "work made for hire" (Section 101). The employer is deemed the author of such a work. Subject matter that is not a work for hire is owned by the author as is the attendant copyright and an employee may assign the copyright in such a work to an employer or other person in accordance with the general provisions for transfer of copyright provided in the Copyright Act, if the assignment or other transfer is in writing.

f) Source of Law Governing Employer Rights - Labor Law or Intellectual Property Rights Law.

Patents - As noted above, the creation and exercise of patent rights is established by national intellectual property laws so that state law relating to these aspects of patents tends to be rudimentary. However, ownership of patents is a matter of state law and this law is better developed. Rules governing the ownership of patent rights as between employers and employees can be found in state laws relating generally to the ownership of all forms of property, in any existing state law relating specifically to intellectual property rights, or in state laws relating to employment.

For copyrights, disputes between employers and employees as to who owns a copyright are governed primarily by intellectual property rights law, that is, the U.S. Copyright Act (17 U.S.C. et seq.), and secondarily by the state law of contracts or property ownership.

g) Are Rules Mandatory or Modifiable?

Patents - Some rules set out in state common law or statutes are mandatory. Others may be in the nature of "default" rules - i.e. govern if no express or implied agreement exists. Beyond mandatory rules, rights between employees and employers may be established or modified by contract.

Copyrights - Within limits prescribed by the national U.S. Copyright Act, the ownership of copyrights may be established or modified by contractual agreement between an employer and an employee.

1.2 *The Groups are invited to specify, for each of the intellectual property rights (patents, plant variety rights, copyright or authors' rights, patterns and models, and software rights, it being recalled that trademarks and brand rights are expressly excluded from the scope of the study in question) what are the legal solutions concerning ownership of rights over intellectual creations:*

- *Do these rights originally belong to the employer or the employee?*
- *If these rights belong to the employer from the outset, what are the conditions for this attribution?*

- *And if these rights originally belong to the employee, does the employer have the right to have them transferred to it and under what conditions?*

And the Groups are also invited to specify, as far as it concerns patents, if it is the employer who is the owner, from the outset, of the intellectual property rights over inventions made by employees in the context of their employment contract and in the performance of their tasks.

The Groups are invited to give replies both with respect to moral rights and economic rights for each type of intellectual property rights.

- a) For intellectual creations that are primarily technical in subject matter, intellectual property rights originally belong to the employee. Intellectual property rights may be transferred to the employer by an express agreement or implied assignment or license from the employee.
- b) For intellectual creations that are primarily artistic in subject matter and comprising a work for hire, the intellectual property rights originally belong with the employer.
- c) The United States recognizes moral rights, based on a combination of national and state law, but generally not in the same manner as they are commonly understood in other jurisdictions, particularly the European Union. For example, a recent decision of the Supreme Court of the United States (2003) appears to hold that no right of attribution attaches to a work that is in the public domain.

1.3 *The Groups are also invited to provide information on procedures concerning potential disputes concerning the ownership of intellectual property rights over employees' creations.*

Are these disputes within the jurisdiction of labour courts or, on the contrary, are they within the jurisdiction of the courts which are usually competent for intellectual property disputes?

Is there a prior conciliation stage and if so, does it take place before the same court as the one having jurisdiction over disputes concerning the ownership or conditions for use of intellectual property rights over creations made by employees?

Does the termination of the employment contract have an influence on the action which an employer can bring to obtain the attribution of rights over an employee's creation?

Is there a limitation or statute-barring of the exercise of an action concerning the attribution of ownership rights over an invention or creation made by an employee in the context of an employment contract?

Can the employee require the filing of a patent application in order to protect his invention or his other creations (registering patterns and models, etc.)?

- a) Courts Having Jurisdiction.

For patents, most disputes regarding ownership are resolved in state courts of general jurisdiction, but in some circumstances can also be resolved in the national, or federal, courts. Both sets of courts use the same procedures as are used for other types of business disputes.

For copyrights, disputes that arise under the federal statute and concern ownership over employees' creations are within the exclusive jurisdiction of the national, or federal, courts, where the copyright jurisprudence is well developed. But ownership issues that do not arise under the federal statute can be resolved in either state courts of general jurisdiction or, in some circumstances, the national courts.

b) Prior Conciliation Stage in Court Proceedings.

Most courts in the U.S. do not have a formal prior conciliation stage. Individual courts vary in the extent to which they demand/encourage efforts toward out of court settlements of disputes pending before them.

c) Does Termination of the Employment Contract Influence an Action Employer Can Bring?

For patents, in most employment contracts, the requirements to assign intellectual property rights to the employer or maintain the trade secrets of the employer survive termination. Hence, with respect to technical subject matter created during employment, an employer will have the same rights with respect to the ownership of intellectual property rights after contract termination as when the contract was in force.

For copyrights, the subsequent termination of an employee's employment, whether under contract or at will, does not have any influence over whether the employer is considered the author, and hence the owner, of the copyright in subject matter that comprises a work for hire.

d) Time Limitation of Exercise of an Action Concerning Attribution of Ownership Rights

With respect to the limitation or barring of action under an employment or other contract dealing with intellectual property rights, in the United States such contracts are generally treated in the same manner as other types of contracts. Time limitations to the exercise of an action are usually a matter of state law. State laws bar action on a contract after a certain period of time commencing from the occurrence of a breach of the contract. Six years is a typical period of time.

Any civil action pursuant to the U.S. Copyright Act must be commenced within three years of the time the claim accrued.

e) Can Employee Require Filing of a Patent Application/Registration of a Copyright?

Most employment contracts give employer control over filing of patent applications, i.e. employee cannot require filing of a patent application. If there is no employment contract, employee may file a patent application but the employer may have implied rights in same.

Copyright registrations are permissive rather than mandatory in securing intellectual property rights. Unless there is a contractual agreement to the contrary, an employee cannot compel his/her employer to file an application for copyright registration.

1.4 *The Groups are also invited to state whether there is a difference in status between employees in the private sector and researchers in universities or research institutes which receive public funding from the point of view of the employers rights.*

For research that is technical in nature, a majority of the public funding is provided by the national government and is subject to national laws and rules relating to such funding. To receive public funding from the national government, a research organization is obligated to have written agreements with its researchers-inventors requiring the disclosure and assignment of inventions. The research organization must share with the inventor a portion of any revenue received from licensing an assigned invention.

For artistic subject matter, there is no distinction between publicly funded employees and private sector employees as to the ownership of copyrights between employer and employee. Copyright protection is not available for works prepared by an officer or employee of the national government as part of that person's official duties.

1.5 *An important question in practice is whether compensation is due to employees in return for the rights of employers over the creations made by employees.*

Moreover, it is in this field that the greatest disparities are currently observed in the world.

The Groups are therefore invited to specify whether their domestic laws provide employees with a right to compensation (financial or in nature) in return for the transfer of rights over their creations to their employers.

How is this compensation calculated?

What is the time limit for prescription or statute-barring of a claim for payment of this compensation?

- a) For technical subject matter, there are few statutes in the U.S. mandating compensation to employees for the transfer of rights in their creations to their employers. See Paragraph 1.4, above. In most employment situations, there will be an employment contract between the employee and employer. This contract determines the compensation due the employee for transfer of rights in his/her creation to his/her employer. If the employer has rights in an employee's creation by virtue of an implied transfer, compensation depends on the circumstances but there is usually no specific compensation for this type of transfer of rights.
- b) If artistic subject matter is a work made for hire no compensation need be given to the employee for the employer to become owner of the copyright in the work. This may be altered by contract between the parties by which compensation is the subject of private negotiation between the parties.

- 1.6 *Finally, the Groups are invited to state whether there is a significant level of dispute in their countries concerning the ownership and use of rights over intellectual creations made by employees, and to give a general opinion on the effectiveness and/or efficiency of the national system.*

The relatively low level of disputes concerning employer ownership and use of intellectual property rights in the intellectual creations of employees is handled by the national and state courts with the same effectiveness/efficiency as other adjudicated disputes coming before them.

2. Suggestions with respect to International Harmonisation

- 2.1 *Do the Groups think that such harmonisation is desirable on the international level for each of the types of intellectual property rights?*

Do the Groups wish such harmonisation to be undertaken through labour law rules or through rules of intellectual property law?

a) General

In view of the globalization of economic relations noted in the Introduction to this Question, the U.S. Group of AIPPI believes that harmonization of the status of employers' rights to intellectual property rights in intellectual creations made by their employees would be highly beneficial and desirable. The U.S. Group further believes that AIPPI is one of the few organizations in the world having the structure, talent, and knowledge base necessary to initiate efforts at such harmonization. At the same time, the U.S. Group recognizes the difficulty in achieving harmonization because of factors such as the following.

- 1) Differences in philosophical views regarding (a) the relationship of a creator to his/her intellectual creation, (b) the relationship between employer and employee, (c) appropriate levels of governmental regulation of the employment relationship, and the like.
- 2) Differences currently existing in national laws. For example, as noted above, there is currently a fundamental difference in U.S. law between the treatment of employers' rights in patents and employers' rights in copyrights.

- 3) Differences in the laws of different countries. Thus, while harmonization of copyright laws has been accomplished to a certain degree under the Berne Convention, TRIPS, the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT), given the disparities between civil law and common law countries, particularly the United States, it is unclear whether employer rights with respect to copyrights can be fully harmonized. For example, the U.S. is among the minority of nations that recognize the “work for hire” concept.
- 4) The number, agendas, and political strengths of entities that will be impacted by changes necessary to carry out harmonization including those of employees, employee organizations (unions), employers, employer organizations (trade associations), and governments (technological and artistic policy and funding).

b) Harmonize Through Labor Law or Intellectual Property Law?

The U.S. Group of AIPPI believes that AIPPI can uniquely and most usefully promote the harmonization of employer’s rights to intellectual property rights by providing an analytical framework by which the subject may be studied. As alluded to in the Question, the matter of harmonization of employer’s rights stands at a crux of intellectual property law and labor laws governing employer-employee relations. While it would be preferable to accomplish harmonization through intellectual property laws, it is realized, as a practical matter, that harmonization must also take into account labor law.

- 2.2 *The Groups are requested to state whether as a general rule it is the employer who is to be the owner, from the outset, of the intellectual property rights over creations made by employees in the context of their employment contract and in the performance of their tasks, or whether, on the contrary, it is the employee who must conserve his rights, but with the possibility for the employer to have them attributed to it under certain conditions.*

As noted above, the United States is a country that currently has a disparity regarding whether the employer or employee is the owner, from the outset, of intellectual property rights in creations made by an employee. For intellectual property rights in the nature of patents, the employee is the owner from the outset. For copyrights in creations made within the scope of an employee’s employment, the employer is the owner from the outset.

Notwithstanding the foregoing disparity, the U.S. Group of AIPPI feels that to achieve harmonization, it would be preferable to move in the direction that the employer is the owner, from the outset, of all types of intellectual property rights in creations made by an employee in the context of his/her employment and in the performance of his/her tasks.

- 2.3 *If the employer was to be considered as owner from the outset of the intellectual property rights over creations made by employees, do the Groups think that the employee should receive a particular reward, in addition to his salary, for these creations, or do they think that such a reward is not justified?*

If, on the contrary, the employer is not vested from the outset in the intellectual property rights over creations made by employees, what would be the conditions for the attribution of these rights and, in particular, what could the remuneration be, corresponding with the possibility of having the intellectual property rights in question attributed to the employer?

Do the Groups consider that the adoption in principle of a reward could have an influence over the general system of intellectual property rights and if so, what would that influence be?

- a) As noted above, the current dominant view in the United States is that whether an employee should receive a particular reward as additional compensation for intellectual creations made within the scope of his/her employment is a matter of private contract between the employer and the employee. As a practical matter, the established practice

in the United States is generally that an employee does not receive a particular reward beyond his/her salary for intellectual creations. Some employers do provide payments as recognition/incentives. The practice of payments to an employee based on the use to which the intellectual creation is put or profits earned by the employer from the creation is not widespread.

- b) In general, the U.S. Group feels the present system in the United States is working well, although there have been complaints that technical employees are not compensated as well as management/executive employees for work having corresponding economic benefits to an employer. A practical problem seen by the U.S. Group is how to determine a fair, and mutually equitable, amount for remuneration to be paid to the employee, while at the same time recognizing the contributions of other employees and the employer to the commercial success of an intellectual creation.
- c) Inasmuch as the practice in the United States is that an employee does not receive a particular reward beyond his/her salary for intellectual creations, it is difficult to determine the influence on the general system of intellectual property rights that the adoption of such a principle might have. The U.S. Group is cognizant of problems with approaches to invention rewards found in other countries in the world, such as unpredictable court awards in some countries and overly bureaucratic and burdensome administration procedures in other countries. There have been comments in the professional, technical, and popular literature in the United States that improving rewards for employed inventors could have a positive influence on technological innovation. The influence of such rewards over the general system of intellectual property rights is seen as less direct.

2.4 *The Groups are also invited to present their opinions on the organisation of disputes concerning the attribution of intellectual property rights over employees' creations and concerning their use by employers.*

Are the Groups of the opinion that such disputes should be governed by the courts which have jurisdiction in labour law matters, or are they more of the opinion that these disputes should be subject to those courts which judge intellectual property disputes?

It should be recalled that the disputes may concern various aspects of relations between employers and employees: attribution of ownership of such rights; decisions concerning the means of protection and, finally, any compensation as may be due.

- a) The approach used in the United States is one in which disputes between employees and employers relating to ownership and compensation for intellectual creations and property rights are handled in courts of general jurisdiction in the same manner as other business disputes. For disputes involving the ownership of patents, this is usually a state court. For copyrights, generally a national court will hear disputes as to whether an employer or an employee owns the copyright. If there is a dispute as to ownership based merely on a contractual assignment of copyright, that dispute can also be resolved in a state court of general jurisdiction. In all events, the use of courts of general jurisdiction permits consideration of all various aspects of relations between employees and employers.
- b) In as much as the approach in the U.S. is to use courts of general jurisdiction, rather than specialized courts, for disputes concerning relations between employers and employees, it is difficult to express a preference for use of a specialized court having jurisdiction in labor law matters or a specialized court having jurisdiction in intellectual property disputes.

2.5 *The Groups are also invited to give their opinion on the existence of differences, if any, between the status of private sector employees and researchers in universities and in research institutes which are financed by public funds.*

Are there any grounds for providing for a difference in treatment in the hypothesis of international harmonisation or, on the contrary, should all employees and researchers be treated in the same way?

As noted above in Paragraph 1.4, national law and rules concerning the granting of public funds to research organizations govern the relation of employer and employee with respect to intellectual creations made using public funds. This is contrasted to the approach taken for private sector employees wherein the relationship between employer and employee with respect to intellectual property rights is a matter of private contract between the employer and the employee.

The U.S. Group is of the view that there is clearly a basis for a difference in treatment between researchers using public funds to make intellectual creations and employees using the private funds of an employer to make such creations. The difference inevitably arises because of the interest and right of the public to achieve access, to a greater or lesser extent, to intellectual creations made using public monies.

Summary

In the United States, there is a disparity in employers' rights to patents and to copyrights. For patents, the employee is ordinarily the owner at the outset and the employer must obtain intellectual property rights from the employee by express or implied assignment. For copyrights, the intellectual property rights in creations made by an employee within the scope of his/her employment originally belong to the employer as a "work made for hire."

Most disputes concerning the ownership of intellectual property rights are determined by non-specialized courts of general jurisdiction in the United States. For patents, this is most often a state court. For copyrights, it is usually a national court.

Compensation due employees in return for the rights of employers in creations made by employees is usually determined by an employment contract between the employer and the employee. Generally, there are no statutes requiring specific compensation to employees for the rights of employers in the intellectual creations of employees.

The U.S. Group of AIPPI believes harmonization is desirable but recognizes practical difficulties in achieving same. Harmonization could be achieved by moving in the direction that the employer is considered to be the owner, from the outset, of intellectual property rights in employee's creations made within the scope of his/her employment. While the U.S. Group is willing to explore the topic of additional compensation to the employee for the attribution of intellectual property rights to the employer, it has reservations regarding the feasibility of same and lacks experience in designing effective compensation plans.

Résumé

Aux États-Unis, il existe une disparité des droits des employeurs vis-à-vis des brevets et des copyrights. Pour les brevets, l'employé est généralement le propriétaire au départ et l'employeur doit obtenir les droits de propriété intellectuelle auprès de l'employé par assignation expresse ou tacite. Pour les copyrights, les droits de propriété intellectuelle portant sur les créations d'un employé dans le cadre de son emploi appartiennent au départ à l'employeur à titre de "travail effectué dans le cadre d'un emploi".

La plupart des litiges concernant la propriété des droits de propriété intellectuelle sont décidés par des tribunaux non spécialisés de juridiction générale aux États-Unis. Pour les brevets, il s'agit le plus souvent d'un tribunal d'État. Pour les copyrights, il s'agit le plus souvent d'un tribunal national.

La compensation due aux employés en échange des droits des employeurs sur les créations faites par des employés est généralement déterminée par un contrat de travail entre l'employeur et l'employé. Généralement, il n'existe aucune loi exigeant la compensation spécifique des employés pour les droits des employeurs sur les créations intellectuelles de leurs employés.

Le groupe américain d'AIPPI juge qu'une harmonisation est souhaitable, tout en étant conscient des difficultés pratiques que cela pose. Une harmonisation serait possible en allant dans la direction suivante: en considérant que l'employeur est considéré comme le propriétaire, dès le début, des droits de propriété intellectuelle sur les créations d'un employé effectuées dans le cadre de son emploi. Même si le groupe américain ne s'oppose pas à étudier la question d'une compensation supplémentaire pour l'employé pour l'attribution de droits de propriété intellectuelle à l'employeur, il émet des réserves concernant sa faisabilité et manque d'expérience dans la conception de systèmes de rémunération efficaces.

Zusammenfassung

In den Vereinigten Staaten gibt es eine Disparität zwischen Arbeitgeberrechten und Patent- und Copyright-Rechten. Bei Patenten ist in der Regel zu Beginn der Arbeitnehmer der Eigentümer und der Arbeitgeber muss die Rechte an geistigem Eigentum durch eine ausdrückliche oder implizierte Abtretung vom Arbeitnehmer erhalten. Beim Copyright stehen die Rechte an geistigem Eigentum für Erfindungen/Verfassungen durch einen Arbeitnehmer, der diese innerhalb seiner normalen Arbeitsaufgaben erzeugt, anfänglich dem Arbeitgeber zu, da dies als "vertragliche Arbeit" angesehen wird.

Die meisten Rechtsstreitigkeiten bezüglich des Eigentums von geistigem Eigentum werden durch die allgemeine Rechtssprechung in den Gerichten der USA geregelt. Bei Patenten ist das in den meisten Fällen ein bundesstaatliches Gericht. Bei Copyright-Streitfällen ist es gewöhnlich ein Bundesgericht.

An Arbeitnehmer für die Abtretung von Rechten an Werken, die diese innerhalb ihrer Arbeitsaufgaben erstellt haben, gezahlte Entschädigungen werden in der Regel durch einen Arbeitsvertrag zwischen dem Arbeitnehmer und Arbeitgeber geregelt. Im allgemeinen gibt es keine Statuten, die eine bestimmte Entgeltung von Arbeitnehmern für die Arbeitgeberrechte an intellektuellen Werken der Arbeitnehmer vorschreiben.

Die US-Group AIPPI ist der Ansicht, dass eine Harmonisierung wünschenswert ist, erkennt jedoch die praktischen Schwierigkeiten einer solchen Harmonisierung. Diese könnte dadurch erreicht werden, dass der Arbeitgeber von Anfang an der Eigentümer der intellektuellen Werken eines Arbeitnehmers ist, die dieser im Rahmen seiner normalen Arbeitsaufgaben erzeugt. Die US-Group ist zwar bereit das Thema der zusätzlichen Entgeltung von Arbeitnehmern als Gegenleistung dafür, dem Arbeitgeber die Rechte an geistigem Eigentum zuzuerkennen, zu erforschen, hat jedoch Bedenken hinsichtlich der Durchführbarkeit dieser und verfügt über keine Erfahrung bei der Erstellung effektiver Entgeltungspläne.