

Guidelines on Employee Inventions and Inventions Made in Higher Education Institutions were published

18 Aug 2020

Turkish Patent and Trademark Office ("**TPTO**") published "Guidelines on Employee Inventions and Inventions Made in Higher Education Institutions" ("**Guidelines**") on its website by virtue of Industrial Property Law numbered 6769 ("**IPL**") and Regulations on Employee Inventions and Inventions Made in Higher Education Institutions and Inventions Emerging in Public Supported Projects numbered 30195 ("**Regulation**") on 30 June 2020.

With the Guidelines, the headlines regarding the Employee and Inventions and Inventions in Higher Education Institutions were examined in detail both in procedure and principal manners in terms of the IPL numbered 6769 and the Regulation numbered 30195. You may reach our article dated 25 October 2017 regarding the Regulations on Employee Inventions and Inventions Made in Higher Education Institutions and Inventions Emerging in Public Supported Projects is available at this [link](#).

The key matters highlighted in the Guidelines are as follows:

- The rights and obligations arising from the employee invention will still in continue even in the event of the termination of the employee's employment contract or a change of employment,
- If the invention is made by staff or students affiliated with institutions or by use of institution resources, the inventors should notify their institutions.
- The third parties (companies) operating in Technology Development Zones (TGB), can collaborate with the instructor within the scope of R&D projects.
- An agreement to be signed between faculty members and firms can determine the right ownership of the industrial property that will emerge as a project output. If the agreement does not contain regulation regarding the right ownership in the contract, the followings will apply:
 - If the invention is made as a result of the previous studies of the company, the company will be the right holder.
 - If the invention emerged as a scientific study and research output conducted by the academic staff at the university, and by use of institution resources, the invention is regarded as the "invention made in higher education institutions". The inventors are obliged to inform the university.
- In case more than one institution is involved in a single invention, they can organize their ownership shares proportionally in line with the agreement they will conclude.

Key points regarding the applications are follows:

- For changes that exceed the first application's scope, the higher education institution will be able to apply for additional patent applications. The higher education institution will be able to apply for a new application by taking advantage of the priority right of the first application.
- In order to prevent possible problems, the Guidelines recommend informing academics and students in the higher education institutions about the proceedings regarding the invention and its notification once they enroll to the institution.

Guidelines also explain the coefficient system regarding the fees envisaged in the Regulation. Key matters clarified under Guidelines are as follows:

- The payment should be lump sum and one-timed.
- For the rights arise before the employment relationship is ended, the IPL and the Regulations will apply.
- The Regulations explicitly state that if employees demand full rights regarding the service invention, the employer must give the employee an incentive reward, apart from the price they paid. Therefore, the price does not include the incentive reward within its scope.
- There is no national or international earning distinction in the calculation.
- In terms of higher education institutions: the share of income derived from the invention to foreign personnel cannot be granted within the scope of the provisions of the IPL related to the inventions made in the higher education institution.
- In an example where the contributions of academics in different universities varies, the right ownership will be determined according to the contribution rates of the inventors who are the members of the higher education institutions, unless there is any other regulation stated in the agreement. If these rates are not specified in the application, right ownership is evaluated according to the joint ownership provisions.
- Agreements pertaining to the sharing of right ownership for international multi-partner inventions should include provisions on the emerging intellectual and industrial property rights.

The full text of the Guideline on the Employee Inventions published on 30 June 2020 on the official website of the TPTO is available at this [link](#) (only available in Turkish.) The full text of the Guideline for Inventions Made in Higher Education Institutions published on the same date in the official website is available in this [link](#). (only available in Turkish.)

Related Practices

- [Patents and Utility Models](#)
- [IP Litigation](#)

Related Attorneys

- [EZG? BAKLACI GÜLKOKAR, LL.M.](#)
- [MERVE ALTINAY ÖZTEK?N](#)