



Employees' inventors compensation in France influence on public private collaboration

French Inventor Employees Association (AIS)

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- In France according to the INPI (French National Patent Office) 90% of the inventors are employees.
- All employees' inventors have a legal mandatory right to a financial compensation since 1990

Article L611-7 from the French Intellectual property law



Employee's invention are divided in three categories according to the French Law

Mission Invention

Execution of a work contract comprising an inventive mission corresponding to the employee's effective functions explicitly entrusted to the employee. **Such an invention devolves upon the employer automatically**

Non-mission invention

business-related inventions made out of a mission, and belonging to the employee.

A non-mission invention may be assignable to the employer (license or ownership) if the invention was made during the execution of the employee's functions within the sphere of activity of the employer, by reason of knowledge or use of technologies or specific means of the employer.

free invention

which are without any relation to employment



Employee's invention are divided in three categories according to the French Law

Mission Invention

Such an invention devolves upon the employer automatically and a salary compensation is mandatory

Non-mission inventions

A non-mission invention may be assignable to the employer (license or ownership) and a fair compensation price must be given to the inventor.



Employee's invention compensation for public sector inventor

Employee inventors in the public sector (research organisation, universities, etc) have a compensation for mission inventions, **which is a royalty scheme.**

The level of remuneration is actually 50% of net revenues received with a maximum around €65,000, and above this maximum, **25% of the net revenues received by the public entities.**

The employee is always granted a fixed bonus for the patent application since 2005.

Employee's invention compensation for public sector inventor

The CNRS French National Research Organism received in 2009 license fees revenue of 60 Meuros for a patent cost of 7 Meuros.

- The employee inventors are granted 15 Meuros as inventor compensation.
- Inventor compensations can be between thousands to millions euros annually.



Employee's invention compensation for public sector inventor

- 4% of the research scientist were applying for patent in 2000
- 12.7 % were applying in 2009.
- Patent applications increase from nearly 0 in 1980 to 15000 in 2010.
- Patent application were multiplied by 3 since 1990 according to CNRS.
- Financial incentive were efficient.

Employee's invention compensation for private sector inventor

Employee inventors in the private sector have a compensation for mission inventions which is determined by :

- Collective Industry agreements
- Company agreements
- individual employment contract

Employee's invention compensation for private sector inventor

No calculation methods for determining additional remuneration is given by law.

Collective agreements and Industry agreements were no up-dated since the 1990 law.

Few labour contracts were also updated since the 1990 law

Employee's invention compensation for private sector inventor

Many companies in the private sector apply a compensation scheme based on an internal reglement.

- An employee inventor receive usually a standard sum (a few hundred Euros) when a patent is filed in France.
- Some employers give an additional amount when the commercial utilization of the invention begins.
- The sums remains small (few thousand euros at the maximum) and vary a lot from one company to an other

Employee's invention compensation for private sector inventor

In December 2000, the Supreme Court awarded two employee inventors in the chemistry industry an exceptionally large amount as additional remuneration for an invention relating to a pharmaceutical composition for the treatment of prostate cancer (600 Keuros)

Since that date much more litigations were put to either the conciliation commission or the court.

Cases with a remuneration above **100 Keuros** are not unusual with a case up to 1Meuros.

Public Private collaboration

In France during the last 10 years the major fact is the increase of public entities in the patent application.

Patent application in 2011

Atomic research Agency 541 patents

CNRS 383 patents

IFP (Oil agency) 193 patents



Public Private collaboration

- According to CNRS publication **40% of their patents** are in co-ownership with a private company showing the collaboration weight.
- Patent valorization rate is published at 18%

Public Private collaboration

- Research collaboration between public organism and private company are sometimes jeopardized by the difference of financial expectation between researchers.
- For private inventor patent application is taken a lot of time with no real rewards

Public Private collaboration

Potential issues when inventors public and private

- Private company get the full patent ownership.

What about the compensation of public inventors ?

- Public and private bodies get a co-ownership

What about the compensation of public and private inventors which are very different ?

- Public company get the full patent ownership

What about the compensation of public inventors ?



Public Private collaboration

- Research collaboration between public organism and private company are sometimes jeopardized by the difference of financial expectation between researchers.
- For private inventor patent application is taken a lot of time with no real rewards which is a very important incentive for inventors

“The inventors of the private firms, who have the greater preference for monetary compensation, produce more patents”

Employees' Invention Regulation as Determinants of Patent Quality and Quantity: Findings of Korea's Inventor Survey

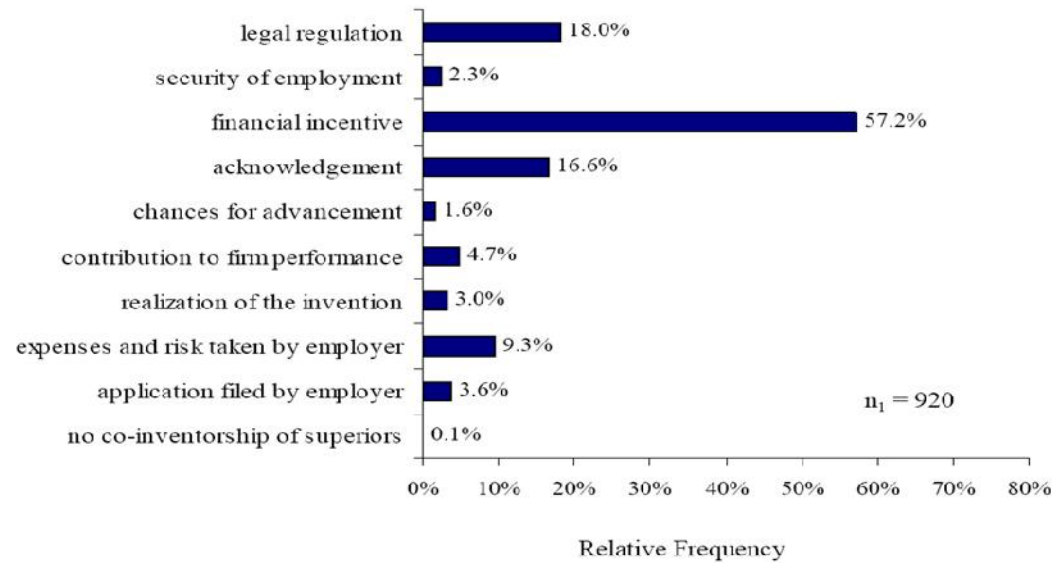
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The 5th EPIP Conference Sept. 20-21, 2010, Maastricht, the Netherlands



Public Private collaboration

Incentive effect on private inventors



Harhoff, D. and Hoisl, K. (2007) Institutionalized incentives for ingenuity: Patent value and the German Employees' Inventions Act, *Research Policy*, 36(8), 1143-1162.



Public Private collaboration

in 2008 Albert FERT Physics Nobel Price (2007) was explaining that though the Nobel Price was shared with the German researcher Peter Grünberg, the patent on the giant magnetoresistance (GMR) was granted only to the German laureate .

Albert FERT team was at the time collaborating with Thomson-CSF company and because of **the lack of attractive financial rewards expectation**, Thomson-CSF researchers were more focused on technical issues solving rather than on patent application.



Public Private collaboration

Conclusion

The innovation would gain efficiency from an equal inventor compensation rewards between public and private.

The reluctance to patent invention from the private sector can jeopardized a commercial success by leaving an other competitors on the market.