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Does The Intellectual Property Rights Belong To Me Or My Employer?

[Kristie Prinz](#)

Q. I have an invention that is not a product that my employer provides but helps me at my work. This invention could be applied to many other industries as well. It troubles me to hand this over to my current employer, when I feel that this could be a highly profitable product. Do I have the legal right to pursue a patent on my invention?

-- *Too creative for my own good*

A.

Without more information about the specific facts of your situation, it is difficult to make a definitive statement as to whether you do or do not have the rights to pursue the **patent**.

As a general rule, an employee owns the patent rights to his or her inventions conceived or reduced to practice during the course of employment. However, the employer will own the patent rights to those inventions if the employee has signed an assignment agreement to transfer the rights to the inventions to the employer, or if the employee was hired or directed to resolve a problem by conceiving the invention (i.e. his or her job was to conceive or reduce to practice the invention).

Also, even if the employee owns the rights to the patent but developed the invention using the employer's resources, then the general rule is that the employer is entitled to a nonexclusive, royalty-free, nontransferable license to make and use the invention.

You should consult with a [patent attorney](#) in you area to determine whether or not in your specific case you have the rights to file a patent on your invention. Also, you need to consult with such an attorney in order to determine whether your invention is even going to be patentable. After you make these determinations, you will be in a position to make a decision on how to proceed.

-- *Kristie Prinz*

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