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Title

Auswirkungen der Novellierung des § 42 ArbEG auf den Umgang der nordrhein-westfälischen Hochschulen mit ihrem geistigen Eigentum / David E. F. Slopek, Hartmut Pausewang und Margarete Beye

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Abstract

On February 2nd, 2002, section 42 of the German Employee Invention Act (ArbEG = Gesetz über Arbeitnehmererfindungen) was amended and the so called university professors privilege abolished. The legislator wanted to make it possible for the universities to systematically exploit all university inventions. This amendment was critically regarded at first by those involved. It presented the universities with the challenge of familiarizing themselves with their new functions - the patenting and exploitation of university inventions -, of overcoming the present reservations held by the university staff and the economy and establishing an efficient exploitation structure. This article presents the interim results. On the basis of numerous interviews with employees of the universities own technology transfer posts, university inventors and those responsible for the patent exploitation agencies, the article describes what success has already been achieved and what requirements for

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further action exist. The study reaches the following essential conclusions: the cultivation of patents has only just begun its development in universities in the length and breadth of North Rhine Westphalia. At present, there is not only disinterest in the subject but in some cases even clear rejection. In all probability it will take two to three generations of research until all participants have taken the importance and the practice of the exploitation of university inventions to heart. In contrast to this, immense progress has been made in the last few years at the universities of North Rhine Westphalia in regard to the areas of structural and organizational measures. In the meantime, the daily business of the consulting agencies and the cooperation with the university management runs smoothly. In North Rhine-Westphalia the practice of distributing work between the universities and external patent exploitation agencies has been a model of success. The public authorities provide valuable support, whereby special mention must be made of the work of the so called PatentScouts. It can be said with regard to the sensitization and support of the university staff that many universities show a commendable success whilst others still have to follow suit. Critical points are the development of a patent strategy, support for university employees and the systematic imparting of basic knowledge in questions of intellectual property. In respect to the avoidance strategies employed by patent active professors, the study discovered that the 'flight to part-time jobs' discussed in literature does not, in fact, play any significant role. All in all, the conclusion reached by the study was that the transfer of knowledge and technology in the universities is becoming to be seen less and less as a burden laid down by the legislator but rather as a strategic course of action that is becoming increasingly more successful. (HRK / Abstract übernommen)