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45
→ (Same wording)

GENERAL ORDER NO. 31

Navy Department, Washington, D. C., May 13, 1935

INVENTION BY OFFICERS AND MEN IN THE NAVAL SERVICE AND EMPLOYEES CONNECTED WITH THE NAVAL ESTABLISHMENT

1. So far as affects rights pertaining to inventions and patents, the status of persons in the naval service is similar to that of persons in other occupations, and in connection with such rights the relation between the Navy Department and each person in its service, whether officer, enlisted person, or civilian employee (all referred to hereinafter as employee) is the relation between employer and employee; and the Navy Department recognizes the rights of the employees in and to inventions and patents as established by the law pertaining to employer and employee, with certain exceptions incident to Government service.

2. Those rights in each case must be determined by the facts in the particular case. For the purpose of illustration, however, there are described below certain assumed situations based on facts and circumstances that frequently occur, in which the respective rights of the parties may be clearly defined.

(a) The title to the invention and to any patent secured on it by the employee vests in the employer when

An employee is directed to make or improve a specific device, means, method, or process, and in the performance of such duty he makes an invention directly bearing upon that particular device, means, method, or process, or

The complete control of the invention is necessary in order for the employer to realize all the benefits which he anticipated would flow to him by the employment of the employee.

(b) The title to the invention and to any patent secured on it by the employee, including all commercial and foreign rights, resides in the employee, but subject to a license to the employer when

An employee not assigned to duty as in (a) makes an invention and uses the employer's time or facilities or other employees in the development of the invention. In such case the Navy Department required a nonexclusive, irrevocable, and unlimited right to make and use, and have made for the Government's use, devices embodying the invention, and to sell such devices as provided for by law regarding the sale of public property.

(c) The title to the invention and to any patents secured on it by the employee is the property of the employee, subject to no right of the employer when

An employee makes an invention not within the circumstances defined in (a) or (b) or concerning which he is not otherwise obligated to the employer.

3. Where the Navy Department does not have the title to or right to use the invention, compensation to the employee for any use of the invention by the Navy Department will be proper matter for an agreement conformable to law between the Navy Department and the employee.

4. In the interest of the Government every person in the naval service and every employee of the Naval Establishment who makes an invention is hereby urged to furnish information thereof to the Navy Department promptly through official channels. To assist the Navy Department in determining the rights of the Government and the inventor, a summary of the circumstances should be included in the indorsement of the commanding officer. Such information should be furnished irrespective of the rights of the individual. In cases

where the Government has the title to or right to use the invention, the Navy Department will proceed with the application for letters patent in the name of the inventor in order to protect the interests of the Government. In cases where the Government has no title or right to use the invention, but the invention is deemed useful to the Government, the Navy Department will, on request of the inventor, undertake the prosecution of the application for letters patent upon execution of a license, of the scope previously defined, to the Government. Under other circumstances the inventor will be left free to secure a patent in such manner as he may choose.

5. In the event an employee makes an invention that appears to be of such military character that in the interest of the national defense the invention should be kept secret, the inventor is hereby required to make a full and complete disclosure thereof to the Secretary of the Navy direct. If the Navy Department should decide after consideration that such invention should be kept secret, the matter of compensation will be the subject of agreement between the inventor and the Navy Department conformable to law. If an invention of military value is made and is adopted as part of the national defense, the disclosure of the invention to persons not authorized to receive the information may involve a violation of the national defense act.

6. The foregoing is not to be understood as conflicting in any way with the provisions in the act of July 1, 1918, for compensating civilians for valuable suggestions, which reads as follows:

"That the Secretary of the Navy is hereby authorized, in his discretion and under such rules and regulations as he may prescribe, to pay cash rewards to civilian employees of the Navy Department or the Naval Establishment or other persons in civil life when due to a suggestion or series of suggestions by them there results an improvement or economy in manufacturing process or plant or naval material; Provided, That such sums as may be awarded to employees or other persons in civil life in accordance with this act shall be paid them out of current naval appropriations in addition to their usual compensation: Provided, further, That no employee or other person in civil life shall be paid a reward under this act until he has properly executed an agreement to the effect that the use by the United States of the suggestions or series of suggestions made by him shall not form the basis of a further claim of any nature from the United States by him, his heirs, or assigns" (40 Stat. 718).

7. It must be remembered that it should be the first thought of every officer and man and every civilian employee to perform the duty to which he is assigned to the best of his ability; and if in this performance improvements in a device, means, method, and process are made, it is a sign of ability and devotion to service, and this the Navy Department will recognize, giving due credit therefor on the official record.

8. The Navy Department is bound to respect the property rights of persons in the naval service and employees connected with the Naval Establishment under their patents, but no restrictions can be placed on the right of the Government, irrespective of the question of compensation, to use any invention for public purposes whether it is protected or not by patent. If agreement cannot be effected with the owner before the use, the matter of compensation will be left to subsequent determination.

Claude A. Swanson,
Secretary of the Navy.