

Research on Enterprise Service Invention Incentive Mechanism

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Abstract: Since the beginning of this century, most domestic enterprises have suffered a big shock from China's accession to the WTO. There are two main reasons. First, foreign companies are fiercely competitive. Second, China's enterprises have insufficient innovation capabilities. The strength of enterprise innovation ability mainly depends on two aspects: talent and incentive mechanism. Through the analysis of the status quo and incentive mechanism of service inventions in China's patent law, it points out the shortcomings and puts forward some suggestions, in order to promote the further improvement of the incentive mechanism for enterprise service inventions.

1. Introduction

With the advent of the era of knowledge economy, the competition among enterprises has gradually turned into the competition of knowledge innovation. The number of patents owned by enterprises has become an important indicator to measure the competitiveness of enterprises, and the service inventions have a significant effect on the ability of enterprises to improve their independent innovation. [1] China's related work on intellectual property rights is relatively late, which has led to a general lack of understanding of the importance of intellectual property rights in Chinese companies. Domestic companies that focus on patent work include Huawei, Haier, etc. If Huawei invests huge funds and increases scientific research, it is to fight for patent wars and seize the market. Now Huawei has become the patent leader of domestic enterprises, and is also equivalent to Apple and Samsung. A strong competitor to foreign companies in the industry.

2. Definition and Status Quo of Job Inventions

To put it simply, the service invention mainly refers to the invention created by the inventor in this unit to complete the work task or to utilize the material conditions of the unit's funds and hardware facilities. In order to complete a high-quality patent, the inventor needs to invest a lot of energy and financial resources. This is not done by one's own efforts, so the cooperation between the inventor and the unit is crucial. Enterprise employees rely on the funds, advanced equipment and teams provided by the company to complete inventions and creations, and bring considerable benefits to the company, while the staff also realize their own value.

According to the "2016 Patent Statistics Annual Report" issued by the China Intellectual Property Office, the proportion of patent applications in China's service inventions has reached 74%, [2] an increase of 15 percentage points over 2010. This data shows that Chinese enterprises pay more attention to innovation and intellectual property protection, but compared with developed countries, the number of service invention patents in China is still at a low level. At the same time, along with the increase in the number of authorizations for service invention patents and the enhancement of the benefits of promotion and implementation, disputes between enterprises and inventors regarding job remuneration are also increasing year by year. On the other hand, SMEs have developed slowly or have no progress in service inventions, reflecting a major shortcoming in the status quo of China's service inventions. These phenomena embodies two major shortcomings. First, the construction of the incentive mechanism for service inventions is imperfect. Second, the existing regulations on service inventions in China, especially the reward system, are flawed.

3. The Theory of Service Invention Incentive Mechanism

In order to encourage invention and creation, the state must not only stimulate individual desire for invention, but also give some encouragement to the unit that supports the inventor to invent and create. This mechanism has strict requirements for legislators and patent holders, that is, enterprises. In the distribution of rights and interests, there is a contradiction between the two main bodies of service inventions. In order to solve the contradiction between employees and enterprises on the ownership and distribution of service inventions, each country is designed in the service invention system. Most of the process is to measure its scientificity and rationality from the theory of natural rights, labor theory, incentive theory and interest balance theory. [3]

The motivation theory of service invention is to look at the reward system of service invention from the perspective of stimulating intellectual creation, and provide incentives for creative intellectual labor to promote social development. [4]

The motivation function of incentive theory in the incentive mechanism of service invention has two aspects: First, it plays an encouraging role for the inventor or designer of the service invention. The purpose of the incentive is to let the service invention subject send more intellectual potential. It will create more advanced scientific and technological achievements, so that enterprises can benefit and benefit the society. Second, the service inventions can realize their value after implementation. The incentive function can promote the transformation of scientific and technological achievements by the main body of service inventions. Maximize value. It can be seen that the motivation theory emphasizes not only the protection of rights holders, but also pays more attention to empowering rights holders through the law, and inspiring the intellectual creators to carry out more inventions and creations, so that the whole society can benefit from it and promote the development of the whole society. [5]

The service invention mainly involves two stakeholders: the enterprise and the service inventor, so the design of the incentive mechanism should balance the problem of the distribution of interests between the enterprise and the service inventor. Most of the service inventions are relatively large in the early stage, and are linked to the interests of the company, market operation and commercialization. Therefore, in the legislation, the company is given certain job invention rights, so that it can recover the previous investment and obtain a certain profit, which can better motivate the enterprise. Invest in more funds and manpower in service inventions. At the same time, the intellectual and physical exertion of the job inventor is also the key to the application and authorization of the service invention and creation. Therefore, it is also very important to give the inventor a certain right to the invention of the service and to receive the reward.

4. The Main Reason for the Loss of Corporate Service Inventions

The inventor has been driven by certain interests, and has privately applied for a service invention as a non-service invention, "transfer" a service invention to another person, or use an improper method to "disarm" a service invention.

In reality, it is sometimes the case that a company or a unit employee applies for a service invention as a non-service invention in his or her own name. For example, Guizhou University of Technology projected and provided funds to complete the expertise of a synthetic reactor. The inventor applied for the invention patent in advance under the name of "reformed face", and then the inventor went through the formalities of leaving the salary and began to establish this patented technology. A company based on operations. [6]

Some job inventors will choose a more "smart" approach, applying for patents that should be invented in the name of others or by their relatives, and the assignee has nothing to do with his original unit, which is a good way to avoid risks and get The corresponding benefits. For example, in a patent dispute between a health care company in Shenzhen and its staff, the employee applied for a patent for a service invention in the name of his daughter.

Article 12 of the Implementing Rules of the Patent Law of the People's Republic of China clearly

stipulates the resignation, retirement or job transfer of the employees of the company. If the employee makes the invention related to his or her own work or assignment in the original unit within one year of the above circumstances, The scope of the service invention shall be attributed to the original unit. The original intention of this regulation is to protect the interests originally belonging to the original unit, but the reality is more complicated. Most service inventors are quite familiar with the legislative provisions, and the progress of their work is difficult to be mastered by their work units. Therefore, the inventors deliberately use illegal means. If the job invention is concealed and not reported, the application time will be delayed to achieve the purpose of legally "non-duty" of the service invention.

Most of the reasons for the above phenomena can be attributed to the imperfection of the reward system for job inventions and the inadequacy of rewards for job inventions. The current standard of reward system for job inventions is too low. Enterprises can choose not to apply for patents so that the rewards of inventors cannot be honored. These undesirable factors make the inventors who have paid a lot of intellectual labor and painstaking efforts not get and pay. A similar material interest. This unfair phenomenon also led the inventors to choose to use some inappropriate means to make the service invention "non-duty" in order to obtain the corresponding benefits.

First of all, enterprises have low awareness of intellectual property rights, especially the lack of patent awareness and weak awareness of senior leaders, which leads to the loss of corporate job inventories and the loss of their interests. If the enterprise does not pay attention to the protection of intellectual property rights, and the inventor understands the patent-related laws, it is likely that the service inventions that should belong to the enterprise belong to the inventor, and the enterprise suffers losses of profits. Secondly, the company lacks follow-up management for a series of activities of job invention and creation, or does not pay attention to follow-up patent fees for patented service inventions, resulting in patent invalidation. Finally, enterprises pay too much attention to their own interests, but they are not concerned about the construction of the reward system for service inventions. The imperfection of this system or the inability of the inventors to receive corresponding rewards for service inventions will definitely dampen the enthusiasm of the employees of enterprises. Creating initiative is not good for business development.

First of all, China's legislation overprotects the enterprise in terms of the right to belong to the service invention. Whether it is the patent application right or the patent right after the successful application is owned by the unit to which the job inventor belongs, this provision is too singular and is not conducive to the protection of the inventor. The rights and interests have also spurred their creative enthusiasm to a certain extent. There is no effective decentralization mechanism between enterprises and inventors. The imbalance of interests between the two sides has led to frequent cases of service invention disputes. Compared with developed countries such as Japan and Germany, their legislation is more inclined to take into account the interests and rights of both parties. For example, Japan advocates "employee priority", that is, an employer cannot have a patent right for a service invention, and can only enjoy the ordinary enforcement right for a service invention; Germany, which has the most complete legislation, also advocates "employee priority", but it is different from Japan. It refers to the right of the employer to request the invention of the service after paying a certain amount of compensation. When the two sides of the enterprise and the inventor have equal status and have a check and balance mechanism, the interests of both are fully guaranteed, and the creative enthusiasm of the inventor is fully mobilized.

Secondly, the standard of the legal reward for service inventions is relatively low, and the benchmark amount of rewards is difficult to determine. The amount of statutory rewards is not ideal. In reality, the rewards are not satisfactory. Most of the inventors are not entitled to the statutory rewards they deserve, and there is no relevant statutory reward. In addition, the amount of reward is calculated based on the actual profit created by it. However, due to the lack of uniform and operative calculation methods, the actual profit is difficult to measure, resulting in uneven rewards.

5. Avoid the Loss of Job Inventions

Enterprises can inspire their employees to inspire their creativity and creativity. Although our

country's legislation recognizes the principle of "employer priority", companies can sign contracts with inventors to stipulate their rights in the service invention, such as the right to authorship and the right to apply for patents. Secondly, before the service invention patent right is implemented, the enterprise can recognize the inventor's intellectual creation work, such as awarding the inventor and awarding the certificate. For example, the IBM China Research Center has written the name of the inventor who obtained the patent within one year on the "patent wall" to encourage it, which has played a very good spiritual incentive.

After the implementation of the service invention patents, the company's income will gradually increase compared with the past. At this time, the enterprise can no longer be limited to the spiritual incentives for employees, and can also be added with material incentives to become a service invention incentive system. An important part of the inventor has a substantial incentive effect on the inventor. The key to implementing material incentives is the timeliness of redemption, the fairness of the redemption amount, and the humanization of reward implementation. [7] Enterprises can establish an internal reward system for job inventions with the help of intellectual property personnel, and reasonably set the amount of rewards, the method of distribution and time. For example, Mitsubishi has set up a system of "multiple lifetime rewards" for employee inventions. This system has different salary incentives for each link from patent application to patent termination. The rewards of each link are different and highly targeted. [8]

Enterprises should also strengthen the management of intellectual property rights, increase supervision, and impose penalties on employees' behaviors of "non-competition" of service inventions, such as administrative penalties and payment of penalties, etc., increasing their illegal costs and reducing the chances of illegal acts.

From the corporate culture, we can see the intellectual property atmosphere of a company and create a good intellectual property atmosphere. The leaders pay attention to protecting intellectual property rights and employee service creation and creation, ensuring that employees can work under a good leadership environment and atmosphere, so that every invention The results of human intellectual creation have been fully and timely affirmed. In this regard, the company needs to form a cultural atmosphere that respects, values and protects intellectual property rights. It is also necessary to train employees on intellectual property rights so that they have a certain understanding of intellectual property rights and job inventions. For example, every new employee of ZTE Corporation must receive intellectual property training. All levels of the company's leaders, all R&D personnel and some market personnel must also conduct intellectual property training. [9]

Some scholars believe that the requirement for the ratio of reward amount to remuneration should be a range of amplitude, and should not be a single fixed amount or ratio. In addition, the current stage of enterprises is not conscious of the payment of rewards for service inventions. It is necessary to increase the statutory remuneration. The amount of compensation and the proportion of rewards motivate employees' creativity.

First, the remuneration standard in the case where the service invention is not authorized is clarified. Some enterprises may choose not to apply for a patent for a service invention for reasons such as protecting trade secrets, evading patent application and not paying the inventor, but the invention is still applied to the production of the enterprise and brings benefits. People reward. For example, in the relevant legislation, the United Kingdom stipulates that whether an enterprise applies for a service invention patent, it should pay the inventor compensation for the service invention that has actual benefits to the enterprise.

Secondly, the method of calculating the reward after the implementation of the patent authorization should be standardized. Germany is the most detailed in terms of calculating rewards for job inventions. Three methods of calculation are specified in the Employees Invention Act. The most widely used method is the license fee calculation method. This calculation method is uniformly fixed and has great flexibility. The calculation base points in the formula are specified in detail. In our legislation, China can learn from relevant German legislation and enhance the practical operability of calculating rewards.

6. Conclusion

If Chinese enterprises want to occupy an advantageous position in the market and enhance their core independent innovation capabilities, they must pay attention to service inventions. To this end, Chinese enterprises should first establish corresponding incentive mechanisms for service inventions, and secondly improve and improve them in actual operation, so as to achieve the purpose of protecting the rights and interests of service inventors and increase corporate profits. Secondly, China's legislation should balance the interests of enterprises and job inventors, and provide a good legal environment for service inventions.

References

- [1] Yu Fenglei, Xie Jing. On the improvement of the incentive mechanism for business inventions in China [C] //Scientific development • Benefiting the people's livelihood – Excellent papers of the 8th Annual Academic Conference of Tianjin Social Sciences (中). Tianjin, 2012: 485-490.
- [2] National Intellectual Property Office of the People's Republic of China. 2016 Annual Patent Statistics [EB/OL]. <http://www.sipo.gov.cn> .2018-09-03.
- [3] Deng Yukun. Comparative Study on the Ownership and Reward System of Chinese and Foreign Service Inventions [D]. Changsha: Hunan University, 2013:10-13.
- [4] Shen Wei. Research on the reward system of service inventions in China [D]. Nanjing: Nanjing Normal University, 2016:11.
- [5] Feng Xiaoqing. Intellectual Property Law Philosophy [M]. Beijing: China University of Political Science and Law Press, 2003: 8.
- [6] Wang Chunfei. Research on Enterprise Service Invention System [J]. China Management Information, 2017(22): 81-83.
- [7] Yang Chen, Dong Ying. Research on the Benefit Incentive Mechanism of Enterprise Service Invention Innovators [J]. Science and Technology Management Research, 2006(11): 142-144.
- [8] Yu Fenglei, Wang Guangna. On the Intellectual Property Driving Policy of Binhai New Area from the Revision of Japanese Patent Law [J]. Tianjin Law, 2011(3): 36-42.
- [9] Wang Yuzhong. Exploring the New Model of Enterprise Intellectual Property Work[J]. Electronic Intellectual Property, 2002(8): 28-30.