AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
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(4) Information concerning any past or prospective publication, oral presentation or public use of the invention;

(5) The problem which led to the making of the invention;

(6) The objects, advantages, and uses of the invention;

(7) A detailed description of the invention;

(8) Experimental data;

(9) The prior art known to the inventor(s) and the manner in which the invention distinguishes thereover;

(10) A statement that the employee:

(i) Is willing to and does hereby assign to the Government:

(*a*) The entire rights (foreign and domestic) in the invention;

(*b*) The domestic rights only, but grants to the Government an option to file for patent protection in any foreign country, said option to expire as to any country when it is decided not to file thereon in the United States, or within six months after such filing;

(ii) Requests, pursuant to §6.2(e), a determination of the respective rights of the Government and of the inventor.

(e) If the inventor believes that he is not required by the regulations in this subpart to assign to the Government the entire domestic right, title, and interest in and to the invention, and if he is unwilling to make such an assignment to the Government, he shall, in his invention report, request that the Solicitor determine the respective rights of the Government and of the inventor in the invention, and he shall include in his invention report information on the following points, in addition to the data called for in paragraph (d) of this section:

(1) The circumstances under which the invention was made (conceived, actually reduced to practice or constructed and tested);

(2) The employee's official duties, as given on his job sheet or otherwise assigned, at the time of the making of the invention;

(3) The extent to which the invention was made during the inventor's official working hours, the extent use was made of government facilities, equipment, funds, material or information, and the time or services of other government employees on official duty;

(4) Whether the employee wishes a patent application to be prosecuted under the Act of March 3, 1883, as amended (35 U.S.C. 266), if it should be determined that he is not required to assign all domestic rights to the invention to the Government; and

(5) Whether the employee would be willing, upon request, to voluntarily assign foreign rights in the invention to the Government if it should be determined that an assignment of the domestic rights to the Government is not required.

§6.3 Action by supervisory officials.

(a) The preparation of an invention report and other official correspondence on patent matters is one of the regular duties of an employee who has made an invention and the supervisor of such employee shall see that he is allowed sufficient time from his other duties to prepare such documents. The supervisor shall ascertain that the invention report and other papers are prepared in conformity with the regulations of this part; and, before transmitting the invention report to the head of the bureau or office, shall check its accuracy and completeness, especially with respect to the circumstances in which the invention was developed, and shall add whatever comments he may deem to be necessary or desirable. The supervisor shall add to the file whatever information he may have concerning the governmental and commercial value of the invention.

(b) The head of the bureau or office shall make certain that the invention report is as complete as circumstances permit. He shall report whatever information may be available in his agency concerning the governmental and commercial value of the invention, and the foreign countries in which it is likely that the invention would be most useful and would have the greatest commercial value.

(c) If the employee inventor requests that the Solicitor determine his rights in the invention, the head of the bureau or office shall state his conclusions with respect to such rights.

(d) The head of the bureau or office shall indicate whether, in his judgment, the invention is liable to be used in the public interest, and he shall set

out the facts supporting his conclusion whenever the employee's invention report does not contain sufficient information on this point.

§ 6.4 Action by Solicitor.

(a) If an employee inventor requests pursuant to § 6.2(e), that such determination be made, the Solicitor shall determine the respective rights of the employee and of the Government in and to the invention. His determination shall be subject to review by the Commissioner in proper cases under Executive Orders 10096 and 10930 and the rules and regulations issued by the Commissioner with the approval of the President.

(b) If the Government is entitled to obtain the entire domestic right, title and interest in and to an invention made by an employee of the Department, the Solicitor, subject to review by the Commissioner in proper cases, may take such action respecting the invention as he deems necessary or advisable to protect the interests of the United States.

§ 6.5 Rights in inventions.

(a) The rules prescribed in this section shall be applied in determining the respective rights of the Government and of an employee of the Department in and to any invention made by the employee.

(b)(1) Except as indicated in the succeeding paragraphs, (b) (1) through (4), of this section, the Government shall obtain the entire domestic right, title, and interest in and to any invention made by an employee of the Department

(i) During working hours, or

(ii) With a contribution by the Government of facilities, equipment, materials, funds, or information, or of time or services of other government employees on official duty, or

(iii) Which bears a direct relation to or is made in consequence of the official duties of the inventor.

(2) In any case where the contribution of the Government, as measured by any one or more of the criteria set forth in paragraph (b)(1) of this section, to the invention is insufficient equitably to justify a requirement of assignment to the Government of the entire domestic right, title, and interest in and to such invention, or in any case where the Government has insufficient interest in an invention to obtain the entire domestic right, title, and interest therein (although the Government could obtain same under paragraph (b)(1) of this section), the Solicitor, subject to the approval of the Commissioner, shall leave title to such invention in the employee, subject, however, to the reservation to the Government of a nonexclusive, irrevocable, royalty-free license in the invention with power to grant sublicenses for all governmental purposes, such reservation, in the terms thereof, to appear, where practicable, in any patent, domestic or foreign, which may issue on such invention.

(3) In applying the provisions of paragraphs (b) (1) and (2) of this section to the facts and circumstances relating to the making of any particular invention, it shall be presumed that any invention made by an employee who is employed or assigned (i) to invent or improve or perfect any art, machine, manufacture, or composition of matter, or (ii) to conduct or perform research, development work, or both, or (iii) to supervise, direct, coordinate, or review Government financed or conducted research, development work, or both, or (iv) to act in a liaison capacity among governmental or nongovernmental agencies or individuals engaged in such work, falls within the provisions of paragraph (b)(1) of this section, and it shall be presumed that any invention made by any other employee falls within the provisions of paragraph (b)(2) of this section. Either presumption may be rebutted by a showing of the facts and circumstances in the case and shall not preclude a determination that these facts and circumstances justify leaving the entire right, title and interest in and to the invention in the government employee, subject to law.

(4) In any case wherein the Government neither (i) obtains the entire domestic right, title, and interest in and to an invention pursuant to the provisions of paragraph (b)(1) of this section, nor (ii) reserves a nonexclusive, irrevocable, royalty-free license in the invention, with power to grant sublicenses for all governmental purposes,