

Employee Inventions

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The rules governing the ownership of patents on inventions made by employees vary radically by jurisdiction. How should each country address disputes like the one described below?

Japanese Company to Pay Ex-Employee \$8.1 Million for Invention

By Todd Zaun
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TOKYO, Jan. 11 - The inventor of a revolutionary lighting technology has reluctantly agreed to a record settlement from his former employer in a dispute that challenged the idea that the fruits of the labor of Japanese workers belong only to companies.

Shuji Nakamura, now a professor at the University of California, Santa Barbara, will receive 840 million yen (\$8.1 million) from his former employer, the Nichia Corporation, for inventing blue-light-emitting diodes. Nichia secured lucrative patents for Mr. Nakamura's invention, which allowed the creation of more vibrant video billboards and traffic signal lights and helped lead to the development of blue lasers, which are used in the latest DVD players. His invention was also useful in creating white-light-emitting diodes, which may someday replace incandescent bulbs as a source of indoor lighting.

The case has been closely watched in Japan as a test of long-held notions that employees should sacrifice everything for their companies and the idea that there is something unseemly about individual workers, even the most productive ones, seeking a bigger cut of profits than their co-workers.

Traditionally, in Japan, corporate engineers and scientists are treated just like less-skilled employees. It is unusual for Japanese companies to sign contracts with their researchers that specify how profits from their inventions will be shared, as is often the practice in American companies.

The amount of the settlement was significantly smaller than the 20 billion yen, nearly \$200 million, that a lower court ordered Nichia to pay Mr. Nakamura last year. The lower court said that would be a fair amount, given that his invention was worth about 60 billion yen, or roughly \$580 million, to Nichia. Tuesday's settlement came after the company appealed that ruling.

Mr. Nakamura sued his former employer four years ago, seeking a share of the royalties from his invention after the company gave him an award of 20,000 yen, or less than \$200, for his work.

The payment to Mr. Nakamura under the settlement, which was coordinated by the Tokyo High Court, would be the largest ever made to the employee of a company for an invention, Kyoto News and Nihon Keizai Shinbun said. A court representative said it did not maintain records on such matters.

"This kind of money didn't exist four years ago, so this is a great incentive for Japanese corporate engineers," said Mr. Nakamura's lawyer, Hidetoshi Masunaga. "Japanese society is starting to dramatically change."

Mr. Nakamura said he was not satisfied with the amount but accepted it on advice from his lawyer, according to Nikkei News. Mr. Nakamura did not respond to calls or e-mail messages seeking comment on the agreement. A Nichia spokeswoman declined to comment on the settlement.

Mr. Nakamura's case is one of the first of a recent string of lawsuits by Japanese researchers against their companies. Last year, the electronics giant Hitachi was ordered to pay more than \$1 million to an engineer who developed crucial technologies for DVD players. Also last year, Ajinomoto, a large maker of instant foods and spices, was ordered to pay more than \$1 million to an employee who invented an artificial sweetener.

The litigation is part of a broader change in Japan, as both individuals and companies focus increasingly on the value of intellectual property. Japanese companies, including Toshiba and the Matsushita Electric Industrial Company, are dropping their traditional reluctance to sue and are using the courts to protect their patents.

"The focus in Japan on intellectual property is changing, not just on the inventor level, but companies, too, are focusing on the value of their intellectual property in ways they have not done in the past," said A.C. Johnston of the Tokyo office of the law firm Morrison & Foerster.