

GOVERNMENT PATENTS BOARD

Office of the Chairman

Administrative Order No. 1

Sept.
August 6, 1950

INTERIM RULES AND REGULATIONS FOR THE
ADMINISTRATION OF A UNIFORM PATENT POLICY FOR THE GOVERNMENT

Section 1. Purpose:

The purpose of this order is to define the organization for the administration of a uniform patent policy for the Government with respect to inventions made by Government employees and to prescribe interim rules and regulations for implementing and effectuating such policy.

Section 2. General:

(a) Authority for the administration of a uniform patent policy is provided in Executive Order 10096, which reads in part as follows:

"3. (a) A Government Patents Board is established consisting of a Chairman of the Government Patents Board, who shall be appointed by the President, and of one representative from each of the following:

- Department of Agriculture
- Department of Commerce
- Department of the Interior
- Department of Justice
- Department of State
- Department of Defense
- Civil Service Commission
- Federal Security Agency
- National Advisory Committee for Aeronautics
- General Services Administration

Each such representative, together with an alternate, shall be designated by the head of the agency concerned.

"(b) The Government Patents Board shall advise and confer with the Chairman concerning the operation of those aspects of the Government's patent policy which are affected by the provisions of this order or of Executive Order No. 9865, and suggest modifications or improvements where necessary.

"(c) Consonant with law, the agencies referred to in paragraph 3 (a) hereof shall as may be necessary for the purpose of effectuating this order furnish assistance to the Board in accordance with section 214 of the Independent Offices Appropriation Act, 1946, 59 Stat. 134, 31 U.S.C. 691. The Department of Commerce shall provide necessary office accommodations and facilities for the use of the Board and the Chairman.

*(d) The Chairman shall establish such committees and other working groups as may be required to advise or assist him in the performance of any of his functions.

"(e) The Chairman of the Government Patents Board and the Chairman of the Interdepartmental Committee on Scientific Research and Development (provided for by Executive Order No. 9912 of December 24, 1947) shall establish and maintain such mutual consultation as will effect the proper coordination of affairs of common concern."

(b) This order applies to any invention made by a Government employee on or after January 23, 1950, and any action taken with respect thereto, and with respect to paragraph 2 (b) of Section 4, below, this order applies to all rights of the United States or any Government agency in and to inventions made by Government employees, regardless of date when made.

Section 3. Definitions for the Purpose of this Order:

(a) "Government agency" is hereby defined as any executive department or any independent commission, board, office, agency, authority, or other establishment of the Executive Branch of the Government of the United States (including any such independent regulatory commission or board, any such wholly-owned corporation, and the Smithsonian Institution), but excludes the Atomic Energy Commission.

(b) "Government employee" is hereby defined as any officer or employee, civilian or military, of any Government agency, including, until further order, any part-time consultant or part-time employee except as otherwise may be provided by contract or by agency regulation or practice.

(c) "Invention" is hereby defined as any art, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the patent laws of the United States.

Section 4. Uniform Patent Policy:

Executive Order 10096 states:

"NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes, and as President of the United States and Commander in Chief of the armed forces of the United States, in the interest of the establishment and operation of a uniform patent policy for the Government with respect to inventions made by Government employees, it is hereby ordered as follows:

"1. The following basic policy is established for all Government agencies with respect to inventions hereafter made by any Government employee:

"(a) The Government shall obtain the entire right, title and interest in and to all inventions made by any Government employee (1) during working hours, or (2) 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 (3) which bear a direct relation to or are made in consequence of the official duties of the inventor.

"(b) In any case where the contribution of the Government, as measured by any one or more of the criteria set forth in paragraph (a) last above, to the invention is insufficient equitably to justify a requirement of assignment to the Government of the entire right, title and interest to such invention, or in any case where the Government has insufficient interest in an invention to obtain entire right, title and interest therein (although the Government could obtain same under paragraph (a), above), the Government agency concerned, subject to the approval of the Chairman of the Government Patents Board (provided for in paragraph 3 of this order and hereinafter referred to as the Chairman), shall leave title to such invention in the employee, subject, however, to the reservation to the Government of a non-exclusive, irrevocable, royalty-free license in the invention with power to grant licenses 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.

"(c) In applying the provisions of paragraphs (a) and (b), above, to the facts and circumstances relating to the making of any particular invention, it shall be presumed that an 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, (ii) to conduct or perform research, development work, or both, (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, or made by an employee included within any other category of employees specified by regulations issued pursuant to section 4 (b) hereof, falls within the provisions of paragraph (a), above, and it shall be presumed that any invention made by any other employee falls within the provisions of paragraph (b), above. Either presumption may be rebutted by the facts or circumstances attendant upon the conditions under which any particular invention is made and, notwithstanding the foregoing, shall not preclude a determination that the invention falls within the provisions of paragraph (d) next below.

"(d) In any case wherein the Government neither (1) pursuant to the provisions of paragraph (a) above, obtains entire right, title and interest in and to an invention nor (2) pursuant to the provisions of paragraph (b) above, reserves a non-exclusive, irrevocable royalty-free license in the invention with power to grant licenses for all governmental purposes, the Government shall leave the entire right, title and interest in and to the invention in the Government employee, subject to law.

"(e) Actions taken, and rights acquired, under the foregoing provisions of this section, shall be reported to the Chairman in accordance with procedures established by him.

"2. Subject to considerations of national security, or public health, safety, or welfare, the following basic policy is established for the collection, and dissemination to the public, of information concerning inventions resulting from Government research and development activities:

"(a) When an invention is made under circumstances defined in paragraph 1 (a) of this order giving the United States the right to title thereto, the Government agency concerned shall either prepare and file an application for patent therefor in the United States Patent Office or make a full disclosure of the invention promptly to the Chairman, who may, if he determines the Government interest so requires, cause application for patent to be filed or cause the invention to be fully disclosed by publication thereof; Provided, however, That, consistent with present practice of the Department of Agriculture, no application for patent shall, without the approval of the Secretary of Agriculture, be filed in respect of any variety of plant invented by any employee of that Department.

"(b) Under arrangements made and policies adopted by the Chairman, all inventions or rights therein, including licenses, owned or controlled by the United States or any Government agency shall be indexed, and copies, summaries, analyses and abstracts thereof shall be maintained and made available to all Government agencies and to public libraries, universities, trade associations, scientists and scientific groups, industrial and commercial organizations, and all other interested groups of persons."

Section 5. Functions of the Chairman of the Government Patents Board:

The Chairman of the Government Patents Board will:

- (a) Consult and advise with Government agencies concerning the application and operation of the policies outlined in Section 4, above.
- (b) After consultation with the Government Patents Board, formulate and submit to the President for approval such proposed rules and regulations as may be necessary or desirable to implement and effectuate the aforesaid policies, together with the recommendations of the Government Patents Board thereon.
- (c) Submit annually a report to the President concerning the operation of such policies and from time to time such recommendations for modification thereof as may be deemed desirable.
- (d) Determine with finality any controversies or disputes between any Government agency and its employees, to the extent submitted by any party to the dispute, concerning the ownership of inventions made by such employees or rights therein.
- (e) Review the action of the Government agency concerned in any case falling within the scope of paragraph 1 (b) or paragraph 1 (d) of Section 4, above.
- (f) Subject to considerations of national security, or public health, safety or welfare, and in accordance with paragraph 2 (a) of Section 4, above, cause application for patent to be filed or cause the invention to be fully disclosed by publication thereof if the Chairman determines that the interest of the Government so requires.
- (g) Subject to considerations of national security, or public health, safety or welfare, arrange for all rights of the United States or any Government agency in and to each invention made by a Government employee, including licenses, to be indexed.
- (h) Subject to considerations of national security, or public health, safety or welfare, and under arrangements made and policies adopted by the Chairman, as to each invention made by a Government employee which is owned by the United States or any Government agency and as to each invention made by a Government employee in or to which the United States or any Government agency has a right or interest and which has been patented or published, make available copies, summaries, analyses and abstracts thereof to all Government agencies and to public libraries, universities, trade associations, scientists and scientific groups, industrial and commercial organizations, and all other interested groups of persons.
- (i) Be responsible for the functions and duties of the Secretary of Commerce and the Department of Commerce under the provisions of Executive Order 9865 of June 14, 1947, which were transferred to

the Chairman by paragraph 5 of Executive Order 10096 of January 23, 1950. The whole or any part of such functions and duties may be delegated by the Chairman to any Government agency or officer.

Section 6. Responsibilities of Government Agencies:

Each Government agency will:

- (a) For the purposes of this section, designate a liaison agent at the agency level to deal with the Office of the Chairman: Provided, however, That the Departments of the Army, the Navy, and the Air Force may each designate a liaison agent.
- (b) Determine whether the results of research, development or other activity within the agency constitute invention and, if so, whether or not patent protection will be sought therefor.
- (c) Subject to considerations of national security, or public health, safety or welfare, report to the Chairman, immediately upon filing an application for patent, the following information concerning each invention made by a Government employee in and to which the Government has any right, title or interest, including licenses:
 - Item 1. Brief description of the invention.
 - Item 2. Name of inventor or inventors and his or their employment status.
 - Item 3. Serial number, title of invention, and filing date of application.
- (d) Report to the Chairman, immediately upon issuance of the patent, the following information concerning each invention made by a Government employee in and to which the Government has any right, title or interest, including licenses, and on which a patent hereafter issues:
 - Item 1. A copy of the patent.
 - Item 2. Employment status of inventor or inventors.
- (e) Subject to considerations of national security, or public health, safety or welfare, report to the Chairman, immediately upon agency determination, the following information concerning each invention made under circumstances defined in paragraph 1 (a) of Section 4, above, giving the United States or any Government agency the right to title thereto, and for which the Government agency concerned has determined not to cause an application for patent to be filed:
 - Item 1. Description of the invention in sufficient detail to permit a satisfactory review.
 - Item 2. Name of inventor or inventors and his or their employment status.
 - Item 3. Statement of agency determination and reasons therefor.

- (f) Subject to considerations of national security, or public health, safety or welfare, report to the Chairman, immediately upon agency determination, the following information concerning each invention wherein the Government agency concerned proposes to leave title with the employee by reason of the circumstances defined in paragraph 1 (b) or paragraph 1 (d) of Section 4, above:
- Item 1. Description of the invention in sufficient detail to permit a satisfactory review.
 - Item 2. Name of inventor or inventors and his or their employment status.
 - Item 3. Statement of agency determination and the reasons therefor.
- (g) Report to the Chairman, when submitting a dispute or controversy pursuant to paragraph (d) of Section 5, above, the following information concerning each invention involving such dispute or controversy:
- Item 1. Description of the invention in sufficient detail to permit a satisfactory review.
 - Item 2. Name of inventor or inventors and his or their employment status.
 - Item 3. Detailed statement of the nature of such dispute or controversy concerning the ownership of the invention made by such employee or rights therein, together with agency decisions, agreements, briefs, arguments, statements and evidence submitted by the employee, and other relevant material.
- (h) Submit to the Chairman the reports specified under paragraphs (c), (d), (e), (f), and (g) last above in accordance with procedures established by the Chairman.
- (i) Make appropriate arrangements for the dissemination of this order to its employees.

[Signature]
Chairman

Approved:

[Signature]
President

Oct. 6, 1950