Comparison between the Draft Regulations on Service Invention for Public Comments in March of 2014 and the Draft for SCLAO's Review in 2015

The Draft for Public's Comments in March of 2014	The Draft for SCLAO's Review in 2015
Chapter I General Provisions	Chapter I General Provisions
the purpose of protecting the legal rights and interests of the inventor of service invention and the entity, fully mobilizing the creative enthusiasm of the inventor of service invention and the entity, improving the ability to innovate, promoting the application and implementation of its intellectual property right (IPR),	intellectual property rights (IPR) management level, promoting the application and implementation of its IPR, promoting the
_	Article 2 The State encourages service invention and the creation, implementation, protection, and management of its IPRs.
related competent department in charge shall actively take effective measures to increase the intensity of promotion and popularization of the service invention system, strengthen the guidance and assistance to entities and inventors in implementing the Regulations, support and promote application and	The people's governments at all levels and their related competent administrative department in charge shall actively take effective measures to increase the intensity of promotion and popularization of the service invention system, strengthen the guidance and assistance to entities and inventors in implementing these Regulations, support and promote application and implementation of service invention and its IPRs.
science and technology administration department, and labor resources administration department under the State Council are responsible for country-wide supervision and	country-wide supervision and administration of implementation of the service invention system

their respective responsibilities, supervision and respective responsibilities, in their respective administrative regions.

In the Regulations, "IPR competent In departments" departments, agriculture departments, and forestry departments.

The IPR competent departments, science and The IPR competent departments, science and technology administration departments, and technology administration departments, and labor labor resources administration departments of resources administration departments of local local people's governments at or above the people's governments at or above the county county level are responsible for, according to level are responsible for, according to their supervision administration of the service invention system administration of the service invention system in their respective administrative regions.

> these Regulations, "IPR competent include patent administration administration departments" include patent administration administration departments, agriculture administration administration departments, forestry and administration departments.

matter which is the result of intellectual intellectual creation. creation.

Article 4 In the Regulations, "invention" refers Article 4 In these Regulations, "invention" refers to the achievement of intellectual-creation, to the achievement of intellectual-creation, which which is made within the territory of People's is made within the territory of People's Republic Republic of China and is eligible subject matter of China and is eligible subject matter of patent of patent right, right of new varieties of plants, right, right of new varieties of plants, or exclusive right of integrated circuit layout exclusive right of integrated circuit layout design, or know-how protection of subject design of subject matter which is the result of

to the substantive features of an invention.

Any person who, during the course of Any person who, during the course considered as an inventor.

Article 5 In the Regulations, "inventor" refers Article 5 In the Regulations, "inventor" refers to to any person who makes creative contributions any person who makes creative contributions to the substantive features of an invention.

accomplishing the invention, is responsible accomplishing the invention, is responsible only only for organizational or management work, or for organizational or management work, or who who only offers facilities for making use of only offers facilities for making use of material material and technical means, or who takes part and technical means, or who takes part in other in other auxiliary functions, shall not be auxiliary functions, shall not be considered as an inventor.

Article 6 The State encourages enterprises and Article 6 The State encourages enterprises and specialized departments management, agencies to manage IPR-related affairs on affairs on behalf of the entities.

institutions to establish IPR management institutions to establish IPR management systems systems for service invention and set up for service invention and set up specialized designate departments or designate specialized staff to be specialized staff to be responsible for IPR responsible for IPR management, or commission commission professional professional agencies to manage IPR-related

behalf of the entities.

and timely determine the ownership of the the invention in a timely manner. rights and interests relating to the invention.

invention or reach an agreement with inventors remuneration. on awards and remuneration.

and remuneration system to research staff and relevant persons. other relevant persons.

An enterprise or institution engaging in research An enterprise or institution engaging in and development shall establish an invention research and development shall establish an reporting system, or reach an agreement with invention reporting system, or reach an inventors to clarify the rights, obligations, and agreement with inventors to clarify the rights, responsibilities of the entity and inventors upon obligations, and responsibilities of the entity completion of an invention, and determine the and inventors upon completion of an invention, ownership of the rights and interests relating to

An enterprise or institution engaging in research An enterprise or institution engaging in and development shall establish an award and research and development shall establish an remuneration system for service invention or award and remuneration system for service reach an agreement with inventors on awards and

When an entity establishes the above systems, it When an entity establishes the above systems, it shall seek and consider the opinions and shall seek and consider the opinions and suggestions of relevant persons, and disclose the suggestions of relevant persons, and disclose invention reporting system and the award and the invention reporting system and the award remuneration system to research staff and other

Chapter II Ownership of Invention

Article 7 The following inventions are service Article 7 The following inventions are service invention:

- inventor;
- employs the inventor;
- (3) Invention made within one year since the (3) Invention made within one year since the inventor's retirement or termination employment, termination since State:

Chapter II Ownership of Invention

invention:

- (1) Invention made in execution of the duties (1) Invention made in execution of the duties assigned by the entity which employs the assigned by the entity which employs the inventor;
- (2) Invention made in execution of any task, (2) Invention made in execution of any task, other than the inventor's own duties, which was other than the inventor's own duties, which was assigned to the inventor by the entity which assigned to the inventor by the entity that employs the inventor;
- of inventor's retirement termination or of employment, or since termination of employment employment or organizational relationship with or organizational relationship with the entity the entity which employed the inventor, where which employed the inventor, where the the invention relates to the inventor's own invention relates to the inventor's own duties or duties or the other task assigned to the inventor the other task assigned to the inventor by the by the entity which employed the inventor, with entity which employed the inventor, with the the exception of new varieties of plants which exception of new varieties of plants which shall are subject to other provisions made by the **be governed by** other provisions made by the State:

for verification or testing upon completion.

(4) Invention made mainly by using the capital, (4) Invention made mainly by using the capital, equipment, parts or raw material of the entity to equipment, parts, raw materials or propagating which employs the inventor, or by using materials of the entity which employs the technical materials which are not disclosed to inventor, or by using technical materials which the public by the entity which employs the are not disclosed to the public by the entity inventor, unless there is an agreement on which employs the inventor, unless there is an returning funding or fees for the usage to the agreement on returning funding or fees for the entity which employs the inventor, or the use of usage to the entity which employs the inventor, the material or technical means of the entity or the use of the material or technical means of which employs the inventor belongs is merely the entity which employs the inventor is merely for verification or testing upon completion.

Article 8 For a service invention, the entity is Article 8 For a service invention, the entity is entitled to the right to apply for the IPR, protect entitled to the right to apply for IPRs, protect the awards and remuneration.

the invention as know-how, or publish the invention as know-how, or publish the invention, invention, and the inventor is entitled to the and the inventor is entitled to the right of right of inventorship and the right to obtain inventorship and the right to obtain awards and remuneration.

know-how, or publish the invention.

For a non-service invention, the inventor is For a non-service invention, the inventor is entitled to the right of inventorship and the right entitled to the right of inventorship and the right to apply for the IPR, protect the invention as to apply for IPRs, protect the invention as know-how, or publish the invention.

Article 9 The entity may specify in its policy Article 9 The entity may specify in its rules and above mentioned agreement or policy.

formulated in accordance with law or in its bylaws formulated in accordance with law or in agreement with the inventor the ownership of its agreement with the inventor the ownership of the invention that is made using the material or the invention that is made using the material or technical means of the entity. The provisions in technical means of the entity. The provisions in this Chapter shall apply in the absence of the this Chapter shall apply in the absence of the above mentioned agreement or rules and bylaws.

Chapter III Report of Invention and Chapter III **Application for Intellectual Property Right**

Report of Invention **Application for Intellectual Property Right**

completed.

Article 10 Unless otherwise stipulated in Article 10 Unless otherwise stipulated in an provisions or an agreement between an inventor agreement between an inventor and the entity and the entity to which the inventor belongs, the to which the inventor belongs or in the entity's inventor shall report an invention relevant to the rules and bylaws formulated in accordance business of the entity to the entity within two with law, the inventor shall report an invention months from the date the invention is relevant to the business of the entity to the entity within two months from the date the invention is

Where the invention is made by two or more completed.

inventors, the report shall be made by the Where the invention is made by two or more inventors.

inventors jointly or a representative of the inventors, the invention report shall be made by all the inventors or a representative of the inventors. The invention disclosure report submitted by the representative of the inventors shall be approved by all the inventors.

following information:

- (1) Names of all inventors;
- (2) Title and content of the invention;
- or a non-service invention and the reason following information: thereof:
- (4) Other matters to be stated based on the (2) Title and content of the invention; entity or inventor's requirements.

agreement on the report content, the agreement reason thereof; shall prevail.

Article 11 An invention report shall specify the Article 11 Unless otherwise stipulated in an agreement between an inventor and the entity to which the inventor belongs or in the entity's rules and bylaws formulated in accordance (3) Whether the invention is a service invention with law, an invention report shall specify the

- (1) Names of all inventors;
- (3) Whether the invention **belongs to** a service If the entity and inventor have made an invention or a non-service invention and the
 - (4) Other matters to be stated based on the entity or inventor's requirements.

agreement shall prevail.

Where entity claims counterclaim within two months from the Where the inventor

Article 12 Where an inventor claims the Article 12 Unless otherwise stipulated in an invention reported by the inventor is a agreement between an inventor and the entity non-service invention, the entity shall provide a to which the inventor belongs or in the entity's written reply within two months from the rules and bylaws formulated in accordance receipt of the report that is in conformity with with law, where an inventor claims that the Article 11 of the Regulations. Failure to provide invention reported by the inventor is a such a reply within the above mentioned time non-service invention, the entity shall provide a period is deemed as the entity's acceptance of written reply within two months from the receipt the invention as a non-service invention. Where of the report that is in conformity with Article 11 the entity and inventor have made an agreement of these Regulations; failure to provide such a on the above mentioned time period, the reply within the above mentioned time period is deemed as the entity's acceptance of the the reported invention as a non-service invention.

non-service invention to be a service invention Where the entity claims that the reported in the written reply, the grounds shall be stated. non-service invention is a service invention in inventor presents a written the written reply, the grounds shall be stated.

presents receipt of the reply from the entity, the parties counterclaim within two months from the receipt involved may resolve the dispute in accordance of the reply from the entity, the parties involved with Article 40 of the Regulations; failure to may resolve the dispute in accordance with present the counterclaim is deemed as the Article 40 of these Regulations; failure to present inventor's acceptance of the entity's claim.

the counterclaim is deemed as the inventor's acceptance of the entity's claim.

the agreement shall prevail.

paragraph, the inventor may send a written inventor of the decision in a written notice. inquiry to urge the entity to reply; where the entity fails to reply within 1 month after the [The second paragraph is deleted.] inventor sent the written inquiry, the invention shall be deemed to be protected as know-how by the entity, and the inventor is entitled the right to obtain compensation in accordance with Article 24 of the Regulations. Where the entity applies for and obtains domestic IPR of this invention afterwards, the inventor is entitled to the awards and remuneration according to the Regulations.

Article 13 The entity shall decide, within 6 Article 13 Unless otherwise stipulated in an months from the receipt of a service invention agreement between an inventor and the entity report that is in conformity with Article 11 of to which the inventor belongs or in the entity's the Regulations, whether to apply for the IPR in rules and bylaws formulated in accordance China, to protect the invention as know-how, or with law, where the inventor claims that the to publish the invention, and shall inform the reported invention is a service invention, the inventor of the decision in a written notice. entity shall decide, within six months from the Where the entity and inventor have made an receipt of a service invention disclosure report agreement on the above mentioned time period, that is in conformity with Article 11 of these Regulations, whether to apply for IPRs in China, Where the entity fails to inform the inventor to protect the invention as know-how, or to within the time limit specified in the above publish the invention, and shall inform the

Article 14 Where the entity applies for IPR of Article 14 Where the entity applies for IPRs of IPR.

the progress from the entity.

the service invention, it may seek the opinion of the service invention, it may seek the opinion of the inventor on the application documents the inventor on the application documents intend to be filed. The inventor shall actively intended to be submitted. The inventor shall cooperate with the entity for the application for actively cooperate with the entity in applying for IPRs.

During the application for the IPR, the inventor During the application for IPRs, the inventor is is entitled the right to request information about entitled to request information about the progress from the entity.

Article 15 Where the entity intends to stop the Article 15 Where the entity intends to stop the process of applying for IPR or abandon the IPR process of applying for IPRs or abandon IPRs of of a service invention, it shall inform the a service invention, it shall inform the inventor inventor 1 month in advance. The inventor may in advance. The inventor may negotiate with the negotiate with the entity to obtain the right to entity to obtain the right to apply for IPRs or apply for the IPR or obtain the IPR of the obtain IPRs of the service invention. Where the service invention. The entity shall assist the inventor obtains the aforesaid right through inventor actively to complete the assignment negotiation, the entity shall assist the inventor formalities.

service invention or its IPR free of charge.

or assign to any third party on its own.

to complete the assignment formalities.

After the inventor obtains the relevant right in Where the inventor obtains the relevant right in accordance with the above paragraph free of accordance with the above paragraph free of charge, the entity is entitled to implement the charge, the entity is entitled to implement the service invention or its IPRs free of charge.

Article 16 The inventor has the confidentiality Article 16 The inventor has the confidentiality obligation on service invention the inventor obligation on service invention the inventor made, and shall not disclose it to the public made, and shall not disclose it to the public without authorization of the entity, or apply for without authorization of the entity, or apply for IPR or assign to any third party on his/her own. IPRs or assign to any third party on his/her own. The entity has the confidentiality obligation for The entity has the confidentiality obligation for the non-service invention disclosed thereto, and the non-service invention disclosed thereto, and shall not disclose it to the public without shall not disclose it to the public without authorization of the inventor, or apply for IPR authorization of the inventor, or apply for IPRs or assign to any third party on its own.

Service Invention

inventor in a timely manner.

Where the entity assigns or allows others to Where the entity assigns or licenses others to level of contribution made by the inventor.

Chapter IV Award and Remuneration of Chapter IV Award and Remuneration of **Service Invention**

Article 17 Where the entity is granted the IPR Article 17 Where the entity is granted IPRs of a of a service invention, it shall award the service invention, it shall award the inventor in a timely manner.

exploit, or exploits on its own the service exploit, or exploits on its own the service invention that is granted the IPR, it shall pay invention that is granted IPRs, it shall pay the the inventor an reasonable remuneration in time inventor a reasonable remuneration in a timely based on the economic benefits yielded and the manner based on the economic benefits yielded and the level of contribution made by the inventor.

Article 18 The entity may enter into an Article 18 The entity may enter into an agreement with the inventor, or provide it in its agreement with the inventor, or provide it in its policy formulated in accordance with law, on policy formulated in accordance with law, on the the procedure, manner and amount of the award procedure, manner and amount of the award and

the Regulations.

implementation of the said right is invalid.

and remuneration. The agreement or policy remuneration. The agreement or policy shall shall inform the inventor of the right the clarify the rights the inventor is entitled to and inventor is entitled to and the way to seek relief, the way to seek relief, and be in accordance with and be in accordance with Articles 19 and 22 of provisions of Articles 19 and 22 of these Regulations.

Any agreement or policy eliminating the right Any agreement or policy eliminating the rights that the inventor is entitled in accordance with that the inventor is entitled to in accordance with the Regulations or imposing unreasonable these Regulations or imposing unreasonable conditions to the inventor's possession or conditions on the inventor's entitlement to or implementation of the aforesaid rights are invalid.

Article 19 When the entity decides the Article 19 When the entity decides the manner the opinion of the inventor.

information about the economic benefit earned by the entity by exploiting, assigning, or licensing of the service invention.

processmanner and amount of the award and amount of the award and remuneration given remuneration given to the inventor, it shall seek to the inventor of service invention, it shall seek the opinion of the inventor.

The entity shall, inform the inventor of the (See the second paragraph of Article 40.)

as a bonus.

Article 20 Where the entity has not entered into Article 20 Where the entity has not entered into an agreement with the inventor on the award to an agreement with the inventor on the award to the service invention, and has not specified the the service invention, and has not specified the award to the service invention in its policy award to the service invention in its policy formulated, it shall, for the service invention formulated in accordance with law, it shall, for granted an invention patent or the right of new the service invention granted an invention patent varieties of plants, award all the inventors a or the right of new varieties of plants, award all sum of money not less than 200% of the the inventors a sum of money not less than 200% average monthly wage of the entity's employees of the average monthly wage of the entity's as a bonus; and for the service invention employees as a bonus; and for the service granted IPRs other than invention patent or the invention granted IPRs other than invention right of new varieties of plants, award all the patent or the right of new varieties of plants, inventors a sum of money not less than the award all the inventors a sum of money not less average monthly wage of the entity's employees than the average monthly wage of the entity's employees as a bonus.

it shall, upon the exploitation of the IPR granted remuneration in its policy formulated to the service invention, provides remuneration accordance with

Article 21 Where the entity has not entered into Article 21 Where the entity has not entered into an agreement with the inventor on remuneration an agreement with the inventor of service and has not specified remuneration in its policy, invention on remuneration and has not stipulated in it shall, law,

ways:

- other than invention patent or the right of new of exploiting other IPRs; varieties of plants;
- varieties of plants, or not less than 0.3% from other IPRs; plants:
- determine the amount of annual remuneration the amounts in the above two items; by reasonably multiplying the personal salary (4) Determine the lump sum amount of the above two items:
- (4) Determine the lump sum amount of |2|. remuneration to be paid to the inventor by The accumulated amount of the remuneration

The accumulated amount of the remuneration IPRs. mentioned above shall not be more than 50% of Where the entity has not entered into an the IPR.

third party, shall pay inventor a sum of money licensing as a remuneration. not less than 20% from the net income of assignment or licensing as a remuneration.

to all related inventors in one of the following exploitation of the service invention granted IPRs, provide remuneration to all related (1) Within the valid period of the IPR, pay inventors in one of the following ways:

- inventor a sum of money not less than 5% from (1) Within the valid period of the IPRs, pay the the operating profit of exploiting the inention inventor a sum of money not less than 5% from patent right or the right of new varieties of the operating profit of exploiting the invention plants, or a sum of money not less than 3% patent or new varieties of plants, or a sum of from the operating profit of exploiting IPR money not less than 3% from the operating profit
- (2) Within the valid period of the IPRs, pay the (2) Within the valid period of the IPR, pay inventor a sum of money not less than 0.5% from inventor a sum of money not less than 0.5% the sales revenue of exploiting the **invention** from the sales revenue of exploiting the patent or new varieties of plants, or not less invention patent right or the right of new than 0.3% from the sales revenue of exploiting
- the sales revenue of exploiting IPR other than (3) Within the valid period of the IPRs, invention patent or the right of new varieties of determine the amount of annual remuneration by reasonably multiplying the personal average (3) Within the valid period of the IPR, monthly wage of the inventor with reference to
- of the inventor with reference to the amounts in remuneration to be paid to the inventor by reasonably multiplying the amount in Item 1 or

reasonably multiplying the amount in Item 1 or mentioned above shall not be more than 50% of the accumulated operating profit of exploiting the

the accumulated operating profit of exploiting agreement with the inventor on remuneration and has not specified remuneration in its policy Where the entity has not entered into an formulated in accordance with law, it shall, upon agreement with the inventor on remuneration assigning or licensing the IPRs to a third party, and has not specified remuneration in its policy, pay the inventor a sum of money not less than it shall, upon assigning or licensing the IPR to a 20% from the **incomes** of assignment or

Article 22 When deciding the amount of Article 22 When deciding the amount of remuneration, factors such as the economic remuneration, the entity shall consider factors contribution to the entire product or process such as the economic contribution to the entire made by each service invention, and the product or process made by each service every inventor shall be considered.

contribution to each service invention made by invention, and the contribution to each service invention made by every inventor.

paid in stock, the entity shall pay dividend in the accordance with laws, regulations, and the regulations, and the entity'spolicy. entity's policy.

Article 23 Where the entity has not entered into Article 23 Where the entity has not entered into an agreement with the inventor on the time an agreement with the inventor on the time limit limit for paying award and remuneration and for paying awards and remuneration and has not has not specified the time limit in its policy specified the time limit in its policy formulated in formulated in accordance with law, it shall, pay accordance with law, it shall, pay the bonus the bonus within three months since the within three months since the granting of the granting of the IPR; where the IPR of a service IPRs; where the IPRs of a service invention are invention is assigned or licensed to others, the assigned or licensed to others, the entity shall pay entity shall pay the remuneration within three the remuneration within three months after the months after the assignment or license fee is assignment or license fee is received; where the received; where the entity exploits the service entity exploits the service invention on its own invention on its own and pays the remuneration and pays the remuneration yearly in cash, it shall yearly in cash, it shall pay the remuneration pay the remuneration within three months upon within three months upon the expiration of each the expiration of each accounting year. Where the accounting year. Where the remuneration is remuneration is paid in stock, the entity shall pay dividend in accordance

know-how to the entity.

Article 24 Where the entity decides to protect Article 24 In respect of the achievement of the service invention as know-how, it shall pay intellectual-creation which could be applied a reasonable compensation to the inventor in for patent, new varieties of plants, and accordance with the provisions of this Chapter integrated circuit layout design, but was based on the economic contribution of the decided being protected as know-how by the entity, it shall, based on the economic contribution of the know-how to the entity, enter into an agreement with the inventor or refer to the provisions of this Chapter topay a reasonable compensation to the inventor.

Article 25 Where the employment organizational relationship between invention that is generated before remains entitled to the inventorship and to inventorship

or Article 25 Where the employment or the organizational relationship between the inventor inventor and the entity is terminated, the and the entity is terminated, the inventor shall inventor shall fulfill the obligations to the fulfill the obligations regarding the invention the completed before the termination and relevant termination and is relevant to the business of with the business of the entity in accordance with the entity as provided in Articles 10, 14, and 16 Articles 10, 14, and 16 in these Regulations, in the Regulations, while the inventor shall while the inventor shall remain entitled to the receive

receive awards and remuneration.

awards and remuneration.

remuneration.

Where the inventor is deceased, his/her heir or Where the inventor is deceased, his/her heir or devisee is entitled to the right of receiving devisee is entitled to the right of receiving awards and remuneration.

revocation took effect are irrevocable.

Article 26 Unless otherwise stipulated in an Article 26 Unless otherwise stipulated in an agreement between the entity and the inventor agreement between an inventor and the entity or or in the entity's policy formulated in in the entity's policy formulated in accordance accordance with law, where the IPR granted on with law, where the IPRs granted to the service the service invention is announced invalid or invention are announced invalid or revoked, the revoked, the awards and remuneration provided awards and remuneration provided for the for the inventor before the invalidation or inventor before the invalidation or revocation took effect are irrevocable.

accounting book in accordance with related with related regulations. regulations.

Article 27 The awards and remuneration given Article 27 The awards and remuneration given to to the inventor by an enterprise may be the inventor by an enterprise may be calculated calculated as costs of the enterprise in as costs of the enterprise in accordance with accordance with related regulations. The related regulations. The awards and remuneration awards and remuneration given by entities other given by entities other than the enterprise shall be than enterprise shall be categorized in the categorized in the accounting book in accordance

Intellectual **Property Right of Service Intellectual** Invention

Chapter V Facilitate the Exploitation of Chapter V Facilitate the Exploitation of Right **Property** Service Invention

development institutions and institutions of development institutions and colleges neither exploit or make necessary preparation **preparation** for benefit in accordance with an agreement with accordance with an agreement with the entity. the entity.

Article 28 Where state-owned research and Article 28 Where state-owned research and higher learning, without any justifiable reasons, universities, neither exploit or make necessary exploiting for exploiting the service invention nor assign invention nor assign or license the service or license the service invention to others within **invention to others** within a reasonable period a reasonable period after obtaining the IPR for after obtaining the IPRs for the service invention, the service invention, the inventor, under the the inventor, under the situation that the situation that the ownership of the service ownership of the service invention is not invention is not changed, may exploit or license changed, may exploit or license others to exploit others to exploit the IPR and enjoy the relevant the IPRs and enjoy the relevant benefits in remuneration received by the inventor.

Article 29 The State applies a preferential tax Article 29 The State applies a preferential tax policy to the income from transformation and policy to the income from transformation and implementation of the service invention and its implementation of the service invention and its IPR by the entity and the awards and IPRs by the entity and the awards and remuneration received by the inventor.

Article 30 Where the relevant administrative Article 30 Where the relevant authorities of the measures following the standards as a factor for examination or evaluation.

department of the State formulates policies and State formulate policies and measures following of the standards of examination and evaluation of examination and evaluation of IPR management IPR management of entities, it shall, consider the of entities, it shall, consider the implementation implementation of the service invention system of the service invention system by the entities by the entities as a factor for examination or evaluation.

evaluating the performance of the entity's of the performance of the entity's principal. principal.

Implementation of the service invention system Implementation of the service invention system by the entity shall be considered when by the entity shall be considered in the evaluation

Article 31 The State shall establish funds to Article 31 The State shall establish funds to the implementation of promote sponsored by fiscal funds.

service promote the implementation service inventions made by the science and technology inventions made by the science and technology fund projects and science and technology plans fund projects and science and technology plans sponsored by fiscal funds.

Legal Responsibility

Chapter VI Supervision, Inspection, and Chapter VI Supervision, Inspection, and Legal Responsibility

departments supervise and inspect by entities in accordance with law.

Article 32 The supervision and management Article 32 The supervision and management the departments supervise and inspect implementation of the service invention system implementation of the service invention system by entities in accordance with law.

During the supervision and inspection, the During the supervision and inspection, the the authority to examine the inventor shall provide relevant authentic inventor materials and situation description.

supervision and management departments have supervision and management departments have employment the authority to examine the employment contracts, entity policies, and other materials contracts, entity policy, and other materials relevant to the service invention, and inquire relevant to the service invention, and inquire the the parties involved. Both of the entity and the parties involved. Both of the entity and the provide shall relevant authentic materials and situation description.

Article 33 While personnel supervision and management departments and during the process supervision of inspection.

warn the entity and order the entity to make corrections within a time limit. corrections within a time limit.

from the Article 33 While personnel from the supervision management departments perform perform supervision and inspection, they shall supervision and inspection, they shall present present identification cards, conduct their duties identification cards, conduct their duties in in accordance with law, and keep the business accordance with law, and keep confidential of the secrets of which they are informed confidential business secrets acquired during supervision and and inspection.

Where it is found in supervision and inspection Where it is found in supervision and inspection that an entity does not implement the service that an entity does not implement the service invention system in accordance with law, the invention system in accordance with law, the supervision and management departments may supervision and management departments may warn the entity and order the entity to make

inventor shall be returned to the entity.

be returned to the inventor.

Article 34 Where the inventor violates the Article 34 Where the inventor, in violation of the provisions of the Regulations and applies for provisions of the Regulations, applies for IPRs of the IPR of a service invention, the entity is a service invention, the entity is entitled the right entitled the right granted under the application, granted under the application, and all the relevant and all the relevant benefits obtained by the benefits obtained by the inventor shall be returned to the entity.

Where the entity violates the provisions of the Where the entity, in violation of the provisions of Regulations and applies for the IPR of a the Regulations, applies for IPRs of a non-service non-service invention, the inventor is entitled invention, the inventor is entitled to the right the right granted under the application, and all granted under the application, and all the relevant the relevant benefits obtained by the entity shall benefits obtained by the entity shall be returned to the inventor.

as infringement of inventorship:

- (1) Failure to list the name of the inventor;
- (1) Listing a non-inventor as an inventor.

Article 35 The following behaviors are deemed Article 35 The following behaviors are deemed as infringement of inventorship:

- (1) Failure to list the name of the inventor;
- (2) Listing a non-inventor as an inventor.

in front of the People's Court.

Where an infringement of right to inventorship Where an infringement of right to inventorship

Article 36 Where the inventor believes that Article 36 Where the inventor believes that his/her right to inventorship has been infringed, his/her right to inventorship has been infringed, the inventor may request the IPR administration the inventor may request the IPR administration department under the people's government at department under the people's government at the the county level to intervene, or to file a lawsuit county level to intervene, or to file a lawsuit to the People's Court.

causes serious negative impacts, the inventor causes serious negative impacts, the inventor

county level to intervene.

ruling.

more times, the IPR and publicly announce the infringement.

infringement right over inventorship the **IPR** administration department under the people's government at the county level, and the department receiving the report shall investigate and handle the case timely manner. in a timely manner.

liable for compensation.

Article 39 Where an entity fails to provide compensation. awards and remuneration in a timely manner Article 39 Where an entity fails to provide department under the people's government at these Regulations,

may request the IPR administration department may request the IPR administration department under the people's government above the under the people's government above the county level to intervene.

Where the IPR administration department under Where the IPR administration department under the people's government or People's Court the people's government or People's Court affirms the infringement of inventorship, it shall affirms the infringement of inventorship, it shall order the infringer to stop the infringement, to order the infringer to stop the infringement, to apologize, and to compensate damages. The apologize, and to compensate for the damages authority for granting or registering intellectual incurred. The authority for granting or registering property rights shall correct the inventorship intellectual property rights shall correct the recorded in the relevant documents and make a inventorship recorded in the relevant documents public announcement based on the effective and make a public announcement based on the effective ruling.

Where an infringer infringes inventorship twice Where an infringer infringes inventorship twice administration or more times, the IPR administration department department under the people's government at under the people's government at the county level the county level shall impose a penalty between shall impose a penalty between RMB 5,000 and 5,000 RMB and 50,000 RMB on the infringer RMB 50,000 on the infringer and publicly announce the infringement.

Article 37 Any organization or individual may Article 37 Any organization or individual may of report rightof infringement over inventorship the **IPR** administration department under the people's government at the county level, and the department receiving the report shall investigate and handle the case in a

Article 38 Where an entity's policy or an Article 38 Where an entity's policy or an agreement between an entity and inventor is not agreement between an entity and inventor is not in accordance with item 1 in Article 18 of the in accordance with the first paragraph in Article Regulations, or is considered invalid according 18 of these Regulations, or is considered invalid to Item 2 in Article 18 of the Regulations, and according to the second paragraph in Article 18 causes a loss to the inventor, the entity shall be of these Regulations, and causes losses to the inventor, the entity shall liable

and in full amount to an inventor in accordance awards and remuneration in a timely manner and with the Regulations, the IPR administration in full amount to an inventor in accordance with the IPR administration the county level or above shall order the entity department under the people's government at the to make a correction; where loss is caused to county level shall order the entity to make compensation.

the inventor, the entity shall be liable for corrections; where losses are caused to the inventor, the entity shall be liable for compensation.

Article 40 Where a dispute on the ownership Article 40 Where a dispute over the ownership of arbitration in accordance with laws.

of an invention or on awards and remuneration an invention or over awards and remuneration takes place, it shall be resolved by parties arises, it shall be resolved by the parties concerned through negotiation. If the parties concerned through negotiation. If the parties concerned fail to resolve the dispute, they may concerned fail to resolve the dispute, they may request mediation from the IPR administration request mediation from the IPR administration department under the people's government at department under the people's government at or the county level or above, or may file a lawsuit above the county level, or may file a lawsuit to in front of the People's Court or request the People's Court or request arbitration in accordance with law.

[See the 2nd Paragraph of Article 19]

Where an inventor and the entity have a dispute over the remuneration of a service invention, the entity shall bear the burden of proof regarding economic benefits obtained from exploiting the service invention on its own, assigning or licensing others to exploit the service invention.

Article 41 After the application for the IPR of Article 41 Upon the application for IPRs of an relevant IPR process.

an invention, where the parties involved have a invention, where the parties involved have a dispute on the ownership of the invention, the dispute over the ownership of the invention, the department granting or registering the IPR may, department granting or registering the IPRs may, based on the request of the parties, suspend the based on the request of the parties, suspend the relevant IPR process.

the effective legal documents.

After the settlement of the dispute on the After the settlement of the dispute over the ownership, the parties involved may request ownership, the parties involved may, with the resumption of the relevant IPR process against effective legal documents, request restoration of the relevant IPR process.

Chapter VII Supplementary Provisions

Chapter VII Supplementary Provisions

Article 42 Where an entity formulates a policy Article 42 Where an entity formulates policy or the ownership of inventions or awards and ownership of inventions department.

or signs a contract with an inventor regarding signs a contract with an inventor regarding the awards remuneration, the entity may archive the policy remuneration, the entity may archive the policy and contract with the local IPR administration or the contract with the local IPR administration department.

Article 43 The Regulations are applicable to service inventions related to national defense.	Article 43 The Regulations are applicable to service inventions related to national defense.
Article 44 The Regulations are effective from the date of,	Article 44 The Regulations are effective from the date of,