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Preserving Employer's Patent Rights with Shop Rights & Hired-to-Invent Doctrines

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By default, U.S. patent law presumes that inventors own their inventions, even when developed during the course of employment. As such, employers typically require new employees to sign an employment agreement, assigning patent rights to the employer at the time of hire. But what happens when no such agreement is executed or an employee refuses to assign the rights? Are the employer's rights in an invention developed at the employer's worksite, using employer resources unequivocally lost? In this article, we will explore two common law doctrines — shop rights and hired-to-invent — that may protect the employer's interest in patented inventions developed by employees on the job.

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