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Business

By Karen E. Klein, Special to The Times
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Who owns right to workers' ideas?

Dear Karen: My employees sometimes come up with product innovations on the job. Do I own the legal rights to their ideas and prototypes or do they?

Answer: Let's first assume that you have no specific intellectual property employment agreement with these employees. If the innovations they create while at work relate to your business, particularly if they've been hired to innovate or invent, the law typically assigns you the rights, said Chris Renk, an intellectual property lawyer and partner at Banner & Witcoff in Chicago.

However, the law here is complicated and in some cases the courts have ruled that employers are entitled only to "shop rights," rather than full legal ownership. If a shop right is assigned by a judge, you'd get a nonexclusive, royalty-free right to use the invention while your employee retains legal ownership.

Rather than risk that outcome, have your employees sign an agreement that says anything they invent relating to your business has to be assigned to your company.

In California and four other states, intellectual property employment agreements must carve out exceptions for unrelated inventions produced outside of the workplace, without the use of the employer's resources, Renk said. "In California, when you're getting an employee to sign this agreement, you must notify them of the provision for unrelated inventions."