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Client Advisory

New Jersey Passes Law Protecting Employee Rights to Own and Use Inventions Developed Using Personal Time and Resources

As of April 1, 2018, any provision in a contract between an employer and an employee that requires the employee to assign his or her rights in an invention to the respective employer shall not be enforceable under New Jersey law with respect to inventions created by the employee on his or her own time, using his or her own equipment. This new legislation was designed to protect an employee's rights to any invention that is (1) developed by the employee entirely on his or her own personal time; (2) developed without using the employer's resources; and (3) unrelated to the employee's job functions.

Prior to the adoption of this law, in New Jersey employers were free to require their employees to assign to the employer all rights to any invention that the employee developed during the term of their employment, even if those inventions were created by the employee outside of work using only employee resources. Under the new law, a contract provision requiring such an assignment would be deemed to be void and unenforceable.

While the law does provide new protection to employees, it is important to note that such protections do not apply to inventions that relate to the employer's business, research or development, or to inventions that are developed by an employee on behalf of his or her employer. Moreover, nothing in the new law restricts an employer from entering into a contract with an employee which provides for (1) an employee's full disclosure to the employer of all inventions made during the term of the employee's employment; (2) a review process which permits the employer to assess potential ownership issues related to an employee's inventions; and/or (3) that full title to certain patents and inventions to be in the United States, if required pursuant to the terms of contracts entered into between the employer and the U.S. government or any of its agencies.

If you need assistance in evaluating your existing employment or intellectual property agreements or in protecting your company's intellectual property assets, or if you are unsure of how this new law affects your business, we can help. If you have any questions or would like more information on the issues discussed in this Alert, please contact [Kate A. Sherlock, Esq.](#) in Archer's Haddonfield office at 856-673-3919 or any member of the [Intellectual Property Group](#).

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