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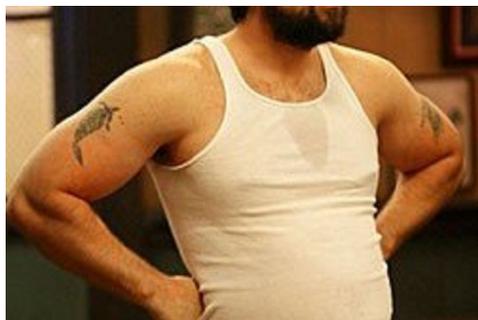
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August 3rd, 2012 by [Walter Frick](#) Posted in [Law](#), [Medicine](#)

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Got a side project? Prepare to be frightened. As [The Boston Globe reports](#), Dr. Joseph Grocela is an MGH urologist who moonlights as an inventor of medical devices. Just the kind of entrepreneurial activity we should be encouraging, right?

And yet a judge today ruled that MGH’s parent company Partner Healthcare owns all his IP – even from work done in his own home – “ruling that the Partners policy for handling intellectual property was reasonable and part of the bargain that physicians routinely accept to work at the Boston hospital.”

Get a load of this:

In his suit, Grocela said he was told by Frances Toneguzzo, the top Partners licensing official, that Mass. General “trained you, we pay you, we own your brain, and therefore all your ideas.” Partners disputed that Toneguzzo made such a statement...

“Although they deny it, as far as I can tell, they actually do own my brain,” Grocela said.

The judge argued that 1) he could always have chosen to work somewhere without such requirements, and 2) he benefits significantly from the clinical resources at MGH, a factor that enables his ability to invent.

I’m not a lawyer so I won’t speak to the decision as a legal matter, but as a broader issue of policy and business it’s a horrible precedent to set. Yes, he could choose to work somewhere else and yes his inventions are clearly made possible by his position at work. But we need to be encouraging more innovation, especially in healthcare, not less. And while money is often overrated as a motivating factor for innovators, [fairness is absolutely essential](#).

By that I mean that as much or more than how many dollars they’ll see out of a particular invention, people care deeply about whether they will be fairly compensated. Artists who utilize open licenses, for instance, share their creation willingly, but want to be sure that no one else will turn around and try to make a quick buck off of their work. Someone tinkering on a medical device may or may not do so with a big financial payout in mind, but one thing that will certainly make them less likely to build new things is the knowledge that someone else will swoop in and steal it from them for a profit.

I don’t have any easy answer as to how to deal with this tricky issue. It was hard enough when there was a clear divide between home and office. Now that we’re all using the same devices for our work and personal lives, a once blurry line has become blurrier.

But just because it’s a hard issue doesn’t mean we should throw up our hands. Just think of how many great companies started out as side projects. A great way to make sure those businesses never get started is to tell employees that their bosses own their brain.

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3. [Kyle S.](#)

For people that work at technology companies this isn't entirely news. Most if not all software companies have a provision in their employment agreement that gives them the right of first refusal for any intellectual property you develop, even if it's on your own time.

My last few employers have been good about letting me keep my IP, but following 3 rules can help make it easier:

- 1. Don't use company resources to develop the idea
- 2. Don't use company time or discuss the idea with coworkers
- 3. Don't develop ideas that relate to your day job

I believe #3 is likely the mistake that Grocela made. If his invention was unrelated to his medical specialty and outside of the areas that MGH has business in, they have no reason to want the idea because they wouldn't have a way of monetizing it.

08/03/12 - 4:23 pm

+1s:



+1

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o [Walter Frick](#)
[BostInno](#)

Thanks for the perspective. The rules seem sensible, but the 3rd one is a bit problematic in the sense that it discourages entrepreneurial folks for inventing things in what is their area of expertise.

08/04/12 - 10:40 am

+1

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■ [Kyle S.](#)

It does, but if your employer has a "we own your work" policy and you invent things that they don't have a business interest in, it may lesson the chance that they assert their ownership of it.

The only way to avoid the problem is to have a written contract with your employer stating

that you have exclusive ownership of any IP created outside of work. Otherwise you need to be willing to offer it up to them before attempting to patent or monetize it yourself.

08/05/12 - 11:24 am

+1s:



+1

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4.

[David Duehren](#)

While I agree with Kyle, employers, especially one's like MGH should take the long view. They will drive away the innovators with policies like this. And in organizations whose main mission isn't developing new products, yet creates valuable IP, one would think that they would value the relatively few who take the initiative to attempt to commercialize something like this, and reward the behavior instead of punishing it.

08/04/12 - 9:25 am

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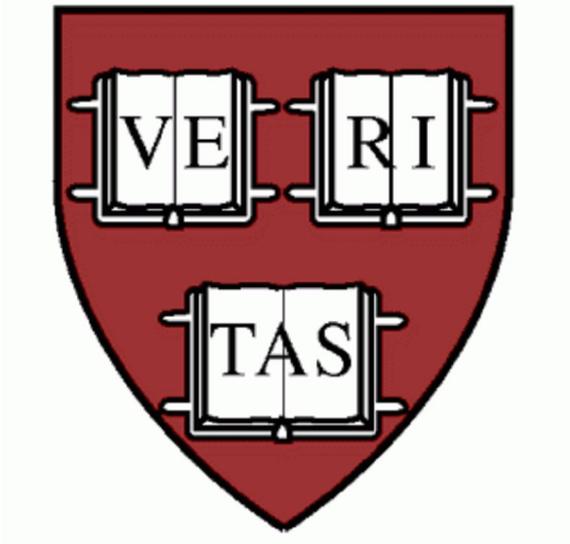
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"Or if you find yourself at a 1990's Eastern European rave (and who doesn't from time to time) please refer to this video..." [see more](#)

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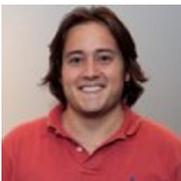
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