

MODEL GUIDELINES ON IMPLEMENTATION OF IPR POLICY FOR ACADEMIC INSTITUTIONS

DRAFT

Disclaimer: These guidelines do not constitute legal advice and are intended to serve only as guidelines for establishing an effective IPR policy model for an Academic Institution. These guidelines, in any manner, do not construe or guarantee as promise for, or assume responsibility for any financial assistance or obligation whatsoever. These guidelines are to be read as complementary to and not in derogation of the various laws concerning Intellectual Property and any other law, for the time being in force.

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Acknowledgement

The model guidelines on implementation of IPR policy in Academic Institution, have been prepared by Cell for IPR Promotion & Management (CIPAM). The provisions of these model guidelines are based on the “Guidelines on Developing Intellectual Property Policy for Universities and R&D Organizations, WIPO, Geneva” and other existing intellectual property policies of several universities, published on the WIPO website.

The youth today is the key to creating, nurturing, building and strengthening creativity and innovation. Student-focused policies ensure that change is initiated and supported by students, especially in light of envisioning a young and healthy start-up ecosystem. The R&D facilities, infrastructure and other amenities provided by the academic institutions, offer a platform for students to build and sustain a creative and innovative environment.

The ultimate goal of these model guidelines is to promote student-led startups and ventures to protect and respect intellectual property. Additionally, these guidelines are not intended to override the best practices already followed by most of the academic institutions. The use of these guidelines is intended to complement the existing intellectual property laws of India. All academic institutions are free to adopt and/or implement subsequent process of policy implementation, as well as propose further strategies for the same.

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Objective

Intellectual property (IP) refers to creations of the mind: inventions; literary and artistic works; and symbols, names and images used in commerce. IP is protected in law by, for example, patents, copyright and trademarks, also called as Intellectual Property Rights (IPRs), which enable people to earn recognition or financial benefit from what they invent or create.

An intellectual property rights policy is the cornerstone of innovation and creativity for academia. It provides structure, predictability, and a framework for talented minds to do what they do best: create and innovate.

The overall aim of *Model Guidelines on Implementation of IPR Policy for Academic Institutions* is to nurture the spirit of innovation and translate these into products, processes, and services for commercial exploitation in wider public good. The aim is to contribute in

transforming industry and society, by delivering research-led education, promoting innovation, collaboration and fostering human values.

These model guidelines have the following objectives:

- i) To provide a framework to foster innovation and creativity in the areas of technology, sciences, and humanities by nurturing new ideas and research, in an ethical environment.
- ii) To protect intellectual property (IP) rights generated by faculty/ personnel, students, and staff of the academic institution, by translating their creative and innovative work into IP rights.
- iii) To lay down an efficient, fair, and transparent administrative process for ownership control and assignment of IP rights and sharing of revenues generated by IP, created and owned by the academic institution. Additionally, in cases of government funded research, the inventor(s)/ organization(s) should disclose their IP filings to the Government Agency(s) that have funded their research.
- iv) To promote more collaborations between academia and industry through better clarity on IP ownership and IP licensing.
- v) To create a mechanism for knowledge generation and its commercial exploitation. The purpose of IP commercialization is also to augment the financial self-sustenance goals of the academic institution & its labs and to reward faculty and researchers.
- vi) To establish an IP cell for supporting all innovation, creativity and IPR related endeavors of students, research scholars and faculty members. This IP cell will be the nodal agency to implement the mandate of the draft guidelines for IP cells (as provided under Annexure - A).

Description of Terms

Author: An author is as defined under Section 2(d) of the Copyright Act, 1957.¹

Collaborative Activity: is the research undertaken by the personnel in academic institution, in cooperation with industry and/or another researcher(s), who are not the personnel from the academic institution.

¹ Section 2(d) defines author, it says "Author" means –

- (1) In relation to a literary or dramatic work, the author of the work;
- (2) In relation to a music work, the composer;
- (3) In relation to artistic work other than a photograph, the artist;
- (4) In relation to photograph, the person taking the photograph, the artist;
- (5) In relation to a cinematograph film or sound recording, the producer; and
- (6) In relation to any literary, dramatic, musical or artistic work which is computer- generated, the person who causes the work to be created.

Creator: means the researcher who contributed to the creation of the Intellectual Property (IP) (essentially copyrights, designs, etc.).

External Partners: includes Government of India, State Government(s), Local Self-Governments, Government Departments, Foreign Governments, International Organizations, Public Sector Undertakings (PSUs), all types of Private Sector Organizations, Multinational Corporations, Non-Governmental Organizations, and/or other institutions that provide research projects or consultancy assignments to researchers on regular or irregular basis; or any combination(s) of the above.

Moral Rights: Moral rights are enshrined under the aegis of Section 57 of the Copyright Act, 1957.² They are the author's or creator's special rights which include: the right to paternity and the right to integrity.

Intellectual Property: Intellectual Property, as provided under Article I of the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), refers to all categories of intellectual property that are subject of Sections 1 to 7 of Part II of the TRIPS Agreement.

Intellectual Property Rights: means ownership and associated rights relating to aforementioned Intellectual Property, either registered or unregistered, and including applications or rights to apply for them and together with all extensions and renewals of them, and in each and every case, all rights or forms of protection having equivalent or similar effect anywhere in the world. The IPRs recognized in India are broadly listed below:

- ✚ Patent: As defined under Section 2(m) of the Patents Act, 1970.
- ✚ Copyright: Copyright is a right given to creators of literary, dramatic, musical and artistic works and producers of cinematograph films and sound recordings. Works are as defined under the Copyright Act, 1957.

² Section 57 – Author's special right:

- (1) Independently of the author's copyright and even after the assignment either wholly or partially of the said copyright, the author of a work shall have the right –
 - (a) to claim authorship of the work; and
 - (b) to restrain or claim damages in respect of any distortion, mutilation, modification or other act in relation to the said work which is done before the expiration of the term of copyright if such distortion, mutilation, modification or other act would be prejudicial to his honour or reputation: Provided that the author shall not have any right to restrain or claim damages in respect of any adaptation of a computer programme to which clause (aa) of sub-section (1) of section 52 applies.
Explanation.—Failure to display a work or to display it to the satisfaction of the author shall not be deemed to be an infringement of the rights conferred by this section.
- (2) The right conferred upon an author of a work by sub-section (1), other than the right to claim authorship of the work, may be exercised by the legal representatives of the author.

- ✚ Trade Mark: As defined under Section 2(zb) of the Trade Marks Act, 1999.
- ✚ Design: As defined under Section 2 (d) of the Designs Act, 2000.
- ✚ Semiconductor Integrated Circuit: As defined under Section 2(r) of the Semiconductor Integrated Circuits Layout Design Act, 2000.
- ✚ Plant Variety: It is governed by the Protection of Plant Variety and Farmers Rights Act, 2001. It recognizes the contributions of both commercial plant breeders and farmers in plant breeding activity and also supports the specific socio-economic interests of all the stakeholders including private, public sectors and research institutions, as well as resource-constrained farmers.
- ✚ Geographical Indication: As defined under Section 2 (e) of the Geographical Indications Act, 1999.

Inventor: means the researcher who contributed to the creation of the Intellectual Property (essentially patents).

Research: Ownership rights over IP generated in academic institutions may vary as per source of funding, for the research through which IP was generated. Hence, it is important to understand the different contexts in which IP may be generated within the academic institutions. Some of the important contexts in which they produce IP are:

1. Research undertaken by a researcher in the normal course of his/her engagement/ appointment with the academic institution, utilising resources of the institution. This includes, but is not limited to, use of space, facilities, materials, or other resources of the academic institution, specific monetary support for research through grants or fellowships, funds for procuring books/ equipment or materials for specific research projects, and creation/ modification of infrastructure like labs for the specific needs of research.
2. Research undertaken by a researcher in collaboration with an external partner. This support from external partners includes, but is not limited to, specific monetary support given for research through grants or fellowships.

Researcher: means;

- i) persons employed by the academic institution, including student employees and technical staff;
- ii) students, including undergraduate, postgraduate, doctoral and post-doctoral students of the academic institution;
- iii) any persons, including visiting scientists;

- iv) who use the resources of the academic institution and who perform any research task at the academic institution or otherwise participate in any research project(s) administered by the academic institution, including those funded by external sponsors. Wherever different conditions are applicable for any of the sub-categories of researchers, they are specifically mentioned in the guidelines.

Research Agreement: May refer to Research Service Agreement, Cooperative Research and Development Agreement, Material Transfer Agreement, Confidentiality Agreement, Consultancy Agreement and any other type of agreement concerning research pursued by researchers and/or IP created at the academic institution.

Royalty: It is the payment made to an inventor/author or an institution for legal use of a patented invention or any intellectual property when licensed.

Sufficient Disclosure: It means providing a detailed description of features essential for carrying out the invention, in order to render it apparent how to put the invention into practice to a person skilled in the art.

Things to Remember

- (i) **Publication/ Display in Public Exhibition of Invention before Filing for Patent:** Generally,³ an invention, if published or publicly displayed cannot be patented, as such publication or public display leads to lack of novelty.
- (ii) **Inventions/ Innovations that cannot be patented:** Innovations/ Inventions falling under the category of Sections 3 and 4⁴ of the Indian Patents Act, 1970 cannot be patented in India.
- (iii) **Acts that do not constitute copyright infringement:** Section 52 of the Indian Copyright Act, 1957, specifically state certain acts as not being infringement of copyright. The “doctrine of fair dealing” envisaged under section 52 of the Indian copyright law allows certain use(s) of copyrighted works in special cases such as: private use for the purpose of education, research, critique, review, etc.
- (iv) **Attribution or Citation should be done wherever references have been sourced from other work(s):** Copying or using any work from an already published or non-published work,

³ Under certain circumstances, the Indian Patents Act, 1970, provides a grace period of 12 months for filing of patent application from the date of its publication in a journal or its public display in an exhibition organized by the Government or disclosure before any learned society or published by the applicant. The detailed conditions are provided under Chapter VI of the Patent Act (Sections 29 – 34).

⁴ Sections 3 and 4 of the Indian Patents Act, 1970, specifically state exclusions to what cannot be patented in India. They are:

Section 3 – What are not inventions

Section 4 – Inventions relating to atomic energy not patentable

whether digital or in physical form, should be rightly attributed and referenced to the original source. Unless allowed as “fair dealing”, copying should not be done without obtaining required permissions/ licences from the author/ creator. Remember, plagiarism is not only immoral, it is also illegal.

- (v) **Keep a record of all legal and related documents:** All agreements which are to be entered into with co-creators/ inventors / third parties should be documented properly to establish the ownership of any IP created. Additionally, keep a record of all documents relating to the IP, since the expressed inception of the idea.
- (vi) **Rain check regarding names/ brands before choosing a trade mark:** A prior public search for trademarks would prove beneficial before choosing a name or a brand name. This would aid in checking whether the same has been registered already as a trade mark.

Scope of Guidelines

- (i) These guidelines shall apply to all Intellectual Property created at the academic institution, as well as, all IP rights associated with them, from the date of implementation of these guidelines.
- (ii) These guidelines shall apply to all researchers who have established legal relationship with the academic institution, based on which the researcher is bound by these guidelines. Such a legal relationship may arise pursuant to the provision of law, collective agreement or individual agreement (may refer to employment/ retainership contract/ pursuance of studies or any other legal arrangement).
- (iii) These guidelines shall not apply in cases in which the researcher entered into an explicit arrangement to the contrary with the academic institution prior to the effective date of the guidelines, or the academic institution previously entered into an agreement with a third party concerning rights and obligations set out in these guidelines.

Ownership of IP

The ownership rights on IP may vary according to the context in which the concerned IP was generated. In this regard, a two-tier classification is suggested for adoption:

IP generated from research conducted by utilising resources of the Academic Institution

I. PATENTS

- i. All inventions whether made by student/ researcher/ faculty (in furtherance of their responsibilities with the academic institution), developed by utilising the resources of the academic institution, or with the mix of funds, resources and/or facilities of the academic institution, shall ordinarily be vested with the academic institution.
- ii. If the academic institution determines that an invention was made by an individual(s) on his/her own time and unrelated to his/her responsibilities towards the academic institution and was conceived or reduced to practice without the use of resources of the academic institution, then the invention shall vest with the individual(s)/ inventor(s).

II. COPYRIGHT

- i. The ownership rights in scholarly and academic works generated utilising resources of the academic institution, including books, articles, student projects/dissertations/ theses, lecture notes, audio or visual aids for giving lectures shall ordinarily be vested with the author(s).
- ii. The ownership rights in lecture videos or Massive Open Online Courses (MOOCs), films, plays, and musical works, institutional materials including, but not limited to, course syllabi, curricula, exam questions, exam instructions, and papers/ reports specifically commissioned by the academic institution, shall ordinarily be vested with the academic institution. The moral rights shall continue to vest with the author(s) wherever applicable.

III. TRADE MARKS

- i. The ownership rights in all trademarks involving the academic institution shall ordinarily be vested with the academic institution. The academic institution may formulate necessary guidelines regarding the usage of the name of the academic institution through their trade mark.
- ii. If the academic institution determines that the creator of the trade mark was created by an individual(s) on his/ her own time and unrelated to his/ her responsibilities [e.g. name of a company/ start-up venture by the student(s)], then the right to the same shall ordinarily be vested with the said individual(s).

IV. INDUSTRIAL DESIGNS

- i. All industrial designs whether made by student/ researcher/ faculty (in furtherance of their responsibilities with the academic institution) developed by utilising the resources of the academic institution, or with the mix of funds, resources and/or facilities of the academic institution, shall ordinarily be vested with the academic institution.
- ii. If the academic institution determines that the industrial design was created by an individual(s) on his/her own time and unrelated to his/her responsibilities towards the academic institution and was conceived or reduced to practice without the use of resources of the academic institution, then the industrial design shall vest with the individual(s).

V. SEMICONDUCTOR INTEGRATED CIRCUITS AND PLANT VARIETY

- i. The ownership rights over integrated circuits and plant varieties, with the utilization of resources of the academic institution, shall vest with the academic institution.
- ii. If the academic institution determines that the semiconductor integrated circuit layout design or plant variety was created by an individual(s) on his/her own time and unrelated to his/her responsibilities towards the academic institution and was conceived or reduced to practice without the use of resources of the academic institution, then the semiconductor integrated circuit layout design or plant variety shall vest with the individual(s).

IP generated from research conducted in collaboration with external partners

- i. With regard to research conducted in collaboration with external partners, ownership of IP shall be determined as per the terms and conditions in the agreement signed between the concerned parties. However, unless agreed upon explicitly, the academic institution shall normally retain perpetual, royalty free license to use the IP for research and educational purposes.
- ii. In the absence of a specific agreement between the academic institution, and the external partner, who is providing support for research, the IP rights shall be shared amongst the concerned parties, similar to the royalty proportion set out under “*Licensing and Revenue Sharing*” section in these model guidelines.

Commercialisation and Benefit Sharing

Types of IP licensing and assignment

Licensing and assignment of IPRs to a third party are the most common modes of IP transfer that can lead towards commercialisation of IP. While both licensing and assignment involves giving certain rights to another party, the key difference is that assignment involves transfer of ownership, while licensing is limited to permitting certain uses.

In general, it is recommended that the academic institution should try to use the mechanism of licensing, so that ownership rights on the IP may be retained without hindering the prospects of commercialisation. Given below are some types of licensing that may be used:

1. **Exclusive licensing:** The licensor licenses the IP solely to one licensee. In other words, the licensee will be the only one authorised by the licensor to use and exploit the IP in question. To the extent possible, exclusive licenses should be avoided.
2. **Non-exclusive licensing:** The licensor is permitted to enter into agreements with more than one entity for use and exploitation of the IP. In other words, the same IP may be used by different licensees at the same time for the same purpose or for different purposes.
3. **Sub-licensing:** This is applicable when a licensee wishes to further license the IP to another party(s). Permissions pertaining to sub-licensing need to be clarified explicitly in the agreement between the academic institution(s)/ researchers and licensee(s).

Given the abundance of creativity and innovation taking place at academic institutions and diversity of the creation or innovation so generated, the academic institution may combine elements of the aforementioned types of licensing or use other forms of licensing, such as - know-how licensing, etc.

Encouraging Entrepreneurship and Start-ups

To promote and encourage entrepreneurial activities by its staff, the academic institution, may reassign, under an agreement, its ownership of an intellectual property to the inventor(s) or creator(s) of the property, who opt to market, protect and license it on their own with minimal involvement of the academic institution. The fees to be paid to the academic institution by the assignee consist of all patenting and licensing expenses and appropriate amount of royalties, equity or other value received by the inventor(s) or creator(s).

The academic institution would endeavour to exploit the IP either by itself or by commissioning an agency to bring to fruition the IP produced by its personnel. The inventor(s)/creator(s) may seek the academic institution, to assign the rights to them after a certain holding period.

To promote a start-up/ venture set up by a researcher, it may be exempted from any upfront fee and/or royalty accrued to the academic institution for a certain period.

Licensing Agreements and Revenue Sharing

Research outputs generated as a result of utilisation of resources of the Academic Institution

- i. The academic institution is free to enter into revenue sharing agreement(s) with the researcher(s), in cases of commercialisation of innovation(s), creation(s), etc., as per the advice of the IP cell. The details of revenue sharing may be decided, based on the type of IP and the nature of commercialisation. The academic institution may adopt various models for royalty sharing amongst creator(s)/ inventor(s) and institution/ organization; a suggestive arrangement is given below:
 - a) 60:40 ratio of revenue sharing: 60% of the royalty/ technology transfer amount with the researcher and 40% with academic institution.
 - b) Deciding the division of royalty/ technology transfer amount on fixed slabs:

Case	Net earnings	Inventor(s)	Institution's Share *	Service Account**
1.	For the first amount Q	65%	25%	10%
2.	For the next amount Q	45%	45%	10%
3.	For amounts more than 2Q	25%	65%	10%

In case of IIT Kanpur, 'Q' is fixed at Rs. 100 lakhs

Service Account - Money may be used for the promotion and upgradation of the invention. Unused funds from the service account will be used for promotion of commercialization, IP protection and any other related activities.

- ii. In case the IP filing costs were not borne by the academic institution, the researcher may be allowed to first deduct the costs incurred for filing of applications and maintenance of such IP, from any income accruing from the commercial exploitation of the IP. This is particularly relevant, as provisional patent applications may have to be filed by the innovators before any disclosure of the innovation. Only the income beyond such costs needs to be shared with the academic institution.

- iii. The researcher's share may continue to be paid, irrespective of whether or not the individual continues as a researcher at the academic institution.
- iv. If more than one researcher is involved in the generation of IP, all the researchers who qualify for benefit sharing in that IP may sign at the time of filing the application (for example, at the time of filing of patent application), an agreement outlining the proposed distribution of any IP-related earnings based on their contribution. The agreement should specify the proportional percentage of distribution of earnings from IP to each of the researchers. The researcher(s) may, at any time, by mutual consent, revise the distribution of IP earnings agreement, and the academic institution, may approve the revised agreement, subject to the advice of the IP cell.
- v. With regard to the IP-related revenues earned by the academic institution, 50% of the revenue may be used for creating the academic institution IP management fund. This fund may be utilized for any activity relating to commercialisation and maintenance of IPR or obtaining IPR in any other country, or for capacity building in the area of IP protection. Further, 10% of the share may be paid to the academic institution as administrative charges, and 40% may be made available to the concerned department for the purchase of equipment or materials, including Annual Maintenance Contracts (AMC), or for any other academic/research activity, including promotion of science and innovation.
- vi. In the case where the copyright vests with the author(s) [*as mentioned under "IP generated from research conducted by utilising resources of the Academic Institution >II. Copyright"*], the academic institution shall have a non-exclusive, royalty free, irrevocable, and worldwide license to use the IP for research, non-commercial and educational purposes. Additionally, in cases where the academic institution is the owner of copyright in lecture videos and/or MOOCs, the author(s) shall have a non-exclusive, royalty free, irrevocable, and worldwide license to use the IP for research, non-commercial and educational purposes.

Research outputs generated in collaboration with external partners

- i. The revenue sharing on any IP generated from a partnership between the academic institution and external partners may be based on the agreement signed between the academic institution and the external partner at the beginning of such collaborations.
- ii. In circumstances wherein, the assignee or the licensee has not taken adequate steps for the commercialisation of the academic institution - owned intellectual property, the academic

institution may consider revocation of the license and assigning it to another party, after following due process. It is important to add this as a clause in any agreement entered into by the academic institution, with regard to commercialisation of technologies.

Limitation of Liability

All commercialisation agreements shall clearly mention that the academic institution is protected and indemnified from all liability arising from development and commercialisation of the IP.

Sharing of Costs with regard to IP protection

With regard to the costs involved in IP protection, the following is suggested:

1. The expenses involved in obtaining and maintaining IP protection may be shared between the parties, depending on who owns the IP. If the academic institution is the sole owner of IP, the costs of IP protection shall be borne by the academic institution.
 - i. In case the academic institution refuses to incur expenditure in protecting IP, inventor may be allowed to file IP applications in the name of the academic institution at their own costs. Under such circumstances, IP filing costs may be recouped as per the provisions relating to benefit sharing as described under the Licensing agreements and revenue sharing section.
2. If the IP ownership is shared with external partners, the costs for IP protection may be shared by both the parties, based on the terms and conditions provided in the agreement.
3. It is preferable that any costs involved in the transfer of rights/ ownership of the academic institution - owned IP may be borne exclusively by the licensee, assignee or person acquiring such rights.

Waiver of IP rights by the Academic Institution

1. Subject to any associated agreements, or any other agreement thereof, the academic institution may waive its rights, if the academic institution decides not to pursue the protection of IP within a period fixed by the academic institution, from sufficient disclosure by the researcher(s) to the academic institution (*for example: nine months*).

2. The academic institution shall take all efforts to convey the decision to the researcher, whether to pursue or not pursue the protection of IP, within a stipulated time period, after sufficient disclosure by the researcher, to the academic institution. Under all such circumstances, unless explicitly agreed to, the academic institution, shall retain a non-exclusive, royalty-free, irrevocable, and worldwide license to use the IP for research and educational purposes.

Use of Academic Institutions' IP Resources

The academic institution may allow the use of the following IP resources by third parties as per conditions given thereunder:

- (i) Intellectual Property already in existence and owned by the academic institution;
- (ii) Usage of the name, logo, or trademark of the academic institution in the creation and marketing of intellectual property.

Conditions:

1. They will be used only in public interest;
2. They will be used:
 - i. in a responsible manner to create a product/process conforming to environmental safety and good manufacturing practices promoted by the Government of India and its regulatory bodies;
 - ii. in promoting truthful claims and information, i.e., not for misleading the society or users;
 - iii. without any liability on the university in case of misuse of trademark(s) or accidental damage accruing due to use of trademark(s).

Dealing with IP rights owned by third parties

Use of technology protected by IPRs like patents and designs

It is possible that researchers may have to use diverse technology/ design/ software, as part of their research. Under all such circumstances, due care and attention must be given, for not infringing the IP rights of third parties. Some of the licenses may have restrictions with regard to kind of usages permitted. It is important to ensure that due and necessary permissions are obtained from IP owners prior to engaging in any use which moves beyond the terms of license or as permitted under the relevant statute(s) in India.

Use of copyrighted materials

Whenever researchers use copyrighted material for teaching or research purposes, it needs to be ensured that the use is within the permission obtained from the concerned copyright holder(s) or is within the boundaries of exceptions provided under the Indian copyright law. The scope of different educational use-related exceptions under Indian copyright law have been interpreted by different courts in India.

- i) The academic institution may create an Institutional Repository and a link to the same may be provided on their official website. This repository shall include dissertations, theses, papers, publications, and other in-house publications. In the absence of an institutional repository, the researchers may submit such works in other open repositories in the relevant subject area.
- ii) The researchers may be encouraged to license their works under an open license so that other researchers can also use the research outputs by providing appropriate attribution to the researchers.

Promotion of the use of Free and Open Source Software (FOSS)

The National IPR Policy, 2016, approved by the Union Cabinet, is a giant leap by the Government of India to spur creativity and stimulate innovation. A vision document, it lays down the roadmap for the future of IPRs in India. It aims to establish an ecosystem in the country, conducive to innovation and creativity not only in terms of IP awareness and creation, but also commercialization and enforcement. In this regard, it is pertinent to note that the policy enshrines the following action point: *5.12.: Promote use of Free and Open Source Software along with adoption of open standards; possibility of creating Indian standard operating environments will be examined.*

The use of Free and Open Source Software (FOSS) can help in furthering the software-related skills of students and researchers. Wide adoption of FOSS would also improve the quality of software and lower the long-term costs of research in the universities. Hence the academic institution may:

- i) actively promote the use of FOSS among researchers, along with adoption of open standards;
- ii) regularly organize training programmes in FOSS for researchers;
- iii) license academic institution - owned software under open licenses; and
- iv) as far as possible, use FOSS for all official purposes.

Confidentiality, Data Protection and Privacy

All users of information, documents and/or data within the academic institution, must ensure that the same is always held securely and all activities pertaining to such information, documents and/or data will be kept confidential by the user(s) and will be used only for purpose of such activities. The academic institution shall strive to protect the data and personal information against unauthorized access, loss, destruction or breach. It is suggested to have proper non-disclosure agreements with the user(s) in place to secure such confidential information, documents and/or data.

Notwithstanding the above, any information which falls within one of the following shall not be treated as Confidential Information:

- i. already under public domain;
- ii. is required by law or regulation to be disclosed;
- iii. is independently developed by the researcher; and
- iv. is received from a third party having no obligations of confidentiality to the disclosing party.

Publications

- i) Any publication, document and/or paper arising out of research activities shall be owned jointly by the academic institution and researcher(s). The use of name, logo and/ or official emblem of the academic institution shall not be done without prior written permission from the institution.
- ii) While the researcher may publish material relating to the research, it may be better for both the researcher and the academic institution to jointly decide on any publication to be made.
- iii) Particular care needs to be taken that no publication is made till the patent, if applicable, is filed.
- iv) The academic institution may retain the right to require exclusion of certain portions from the information being published.

Disputes & Appeals

- i) The academic institution may appoint a committee of experts to address the concerns of the aggrieved person(s) and all disputes thereunder shall be dealt with by this committee.
- ii) The decision taken by this committee should be within a prescribed time period (as decided by the academic institution/ committee) from submission of said concern. Over and beyond

the above, with respect to any legal dispute arising under these guidelines, the relevant provisions of law shall be applicable.

- iii) In case of any disputes between the academic institution and the inventor(s) / creator(s)/ any other aggrieved person(s), regarding the implementation of these guidelines, scope, operation or effect of any contract/ agreement entered into, or the validity or breach thereof, the inventor(s) / creator(s)/ any other aggrieved person(s) may appeal to this committee appointed by the academic institution.
 - iv) If the inventor(s) / creator(s)/ any other aggrieved person(s) is not satisfied with the verdict/ decision of the committee, mechanisms such as: Alternate Dispute Resolution (ADR), Arbitration & Conciliation, Mediation, or appeal to the Court of Adjudicature nearest to the academic institution, may be opted and the same shall be governed by the appropriate laws of India.
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Annexure - A: Guidelines for Intellectual Property (IP) Cells

Introduction

In today's century 'Gen-Y' is considered the key person for laying down a future roadmap for creating, nurturing, building and strengthening creativity and innovation. In this regard, student-focused policies ensure that a change is initiated and supported by students, especially in light of envisioning a young and healthy creative, innovative and healthy start-up ecosystem. Moreover, the R&D facilities, infrastructure and other amenities provided by the academic institution offer a platform for students to build and sustain this environment.

Recognizing the importance of Intellectual Property Rights (IPRs) and inculcating respect for the same, amongst innovators, researchers, industries, etc. is an important mandate of the National IPR Policy, 2016. The foundation of this has to be laid at the grass-root level by initiating programs for the youth; with specific target being the academic institution. In order to engage students/ personnel and motivate them to work in the field of IPRs, a first step would be through the creation of "IP cells" in the academic institution. To ensure the effective applicability of these guidelines, the IP cells so formed, have been proposed as the common network for all IP Cells to be established pan India in the academic institution.

This document provides guidelines as regards the roles, responsibilities and functioning of the IP Cells in the academic institution. The ultimate goal these guidelines propose to achieve is to promote student-led startups and entrepreneurial ventures that protect and respect intellectual property. The use of these guidelines is intended to complement the existing intellectual property laws of India.

Aim

IP Cells envision promoting academic freedom and safeguarding the interests of inventor in creation and commercialization of intellectual property with legal support, wherever necessary. They also envision creating an environment for acquiring new knowledge through innovation, developing an attitude of prudent IP management practices and promoting an IPR culture compatible with the educational mission of the academic institution.

IP Cell will function with the prime focus of enabling students, researchers and professors to identify, generate and protect their intellectual property through filing procedures for rights like patents, copyrights, trademarks, designs, etc. IP Cell will also cater to commercialization of intellectual property, which will further foster the creation of a fruitful dynamic system between universities, investors and industries. Along with this, IP Cell will ensure seamless and ceaseless knowledge transfer amongst students and faculties, alike.

Vision

To establish an evolving framework where creativity and innovation are stimulated by Intellectual Property for the benefit of all; where intellectual property promotes advancement in science and technology, arts and culture, media and entertainment; where knowledge is the main driver of development, and knowledge owned is transformed into knowledge shared; where an ambience is created wherein new ideas, research and scholarship flourish and from which the leaders, creators and innovators of tomorrow emerge.

Mission

To create a nationwide reach and network of IP Cells which will create awareness about IPRs, encourage students/ faculties/ personnel to file for IPRs and also help in commercialization of the same.

Objectives

- i. IP Cell will be responsible for conducting the following:
 - IPR Awareness Programs - Conducting IPR awareness programs for students, faculty, researchers, officials, etc.
 - Self-Training Workshops/ Advanced level awareness programs - Conduct advanced and training of trainers (TOTs) level IPR awareness programs for students, faculty, researchers, officials, etc.
- ii. IP Cell shall provide an environment for academic and R&D excellence and conduct dedicated programs on IPR for the undergraduate and postgraduate students as well as organise regular IPR counselling programme for research scholars.
- iii. IP Cell shall expose students, faculty, researchers, officials, etc. to the prevalent IP law practices and provide them with an opportunity to learn and use legal skills under the supervision of IP practitioners and experts.

- iv. IP Cell shall provide a platform to diagnose innovation and research on contemporary issues of national and international relevance leading to creation of IPR.
- v. IP Cell shall facilitate, encourage, promote and establish collaborative frameworks for industry – academic institution partnerships at national and international scale to initiate research and development of commercial value.
- vi. Another important task of IP Cell would be to create an IPR Policy for the academic institution, including the *Royalty's Distribution Arrangement*. Some models and drafts of IPR policies of several universities may be accessed from the WIPO website for reference.⁵ This database also includes IPR policies of various other Higher Educational Institutions (HEIs).
- vii. IP Cell may tie up with the existing innovation and creativity ecosystem in the academic institution, if already existing (such as Research Ethics Committees, Incubation Centres, Entrepreneurship Clubs, etc.). If not already established, it shall be responsible for setting up a new innovation ecosystem with hand-holding support and assistance from relevant authorities.
- viii. IP Cell will facilitate the recording, monitoring and maintenance of the IP portfolio of the academic institution may choose an outside counsel/ IP firm for managing its IP portfolio.
- ix. IP Cell will enhance the reputation of the academic institution as an academic research institution and a member of society as well as the reputation of the Researchers through bringing the research results to public use and benefit. It will ensure that a culture is built that enhances recognition and respect for IP amongst students, faculty, researchers, officials, etc.
- x. IP Cell will set out the academic institution procedures on the identification, ownership, protection and commercialization of IP.
- xi. IP Cell on regular basis will encourage researchers to identify solutions for problems faced by the industries and tailor research projects around the same.
- xii. In case of IP Filings:

⁵ Model Intellectual Property Policy for Universities and Research Institutions, World Intellectual Property Organization (WIPO), Available at: https://www.wipo.int/edocs/pubdocs/en/wipo_pub_transition_2_a.pdf; Last updated on: January 29, 2019; Available at: https://www.wipo.int/about-ip/en/universities_research/documents/ip_toolkit/guidelines_template.docx. For a database of University IP Policies, also see: https://www.wipo.int/about-ip/en/universities_research/ip_policies/.

Students pursuing Post-Graduate and above courses (M. Tech and Ph.D. students) shall be encouraged to undertake patent search before publishing any research paper and subsequently file for a provisional patent for novel inventions.

- xiii. For filing any IP, IP Cell may avail necessary help from the nearest PIC/ IPFC or TISC present across the country. IP Cell may seek assistance from these entities for legal certainty in research activities and technology-based relationships with third parties.
- xiv. IP Cell shall share half yearly reports, which shall provide updates regarding the work done and targets/ milestones achieved, with CIPAM-DPIIT and concerned Department(s) in the State Government.
- xv. IP Cell may ensure, in case of disputes, efforts are made to address the concerns by developing and instituting as well as adopting an alternative dispute mechanism at the academic institution level.
- xvi. IP Cell shall be governed by appropriate laws of the State (where the academic institution is located) and India.

Apart from aforementioned mandates, the IP Cell in its individual capacity, is free to adopt and/or implement other strategies and steps as it deems fit.

Organization Structure

The following positions of responsibility are suggestive in nature. This structure may be followed to establish a creative, innovative and IP friendly ecosystem as well as devise monitoring mechanisms in academic institution.

Lead Coordinator: This position may be allotted to 1 senior faculty who shall be responsible for making sure that all the mandates are followed and the roles and responsibilities for effective functioning are judiciously followed. The Lead Coordinator shall also be responsible for using his or her network to reach out to industries for collaboration with the universities. Compulsory: Must have basic knowledge on IPRs.

Deputy/ Assistant Coordinator: This position may be offered to 2 junior faculties who shall be responsible for day-to-day operations of the IP Cell and will coordinate with the students. The responsibilities of Deputy Coordinator and Lead Coordinator will more or less be the same.

Student Coordinator(s): One or more 1st and 2nd year students who have interest in the field of IPRs may be appointed as student coordinators. They will work under the

guidance of Lead Coordinator/ Deputy Coordinator/ Assistant Coordinator towards achieving the goals of the IP Cell.

Campus Ambassador/ IP Ambassador: 3rd/ final year students of the academic institution with experience and zeal in the field of IPRs may be enrolled as Campus Ambassadors/ IP Ambassadors who will work with the Student, Deputy and Lead Coordinators in nurturing the ecosystem of innovation and creativity in the academic institution.

Verticals

The academic institution may choose to have one or more of the following verticals in the IP Cell:

- i) Awareness/ Public Outreach - This vertical will focus on conducting intra - academic institution - Workshops/ Seminars/ Conferences on IPR, in-house workshops, academic institution - Industry Linkages, Student Activity Forum.
- ii) Education - This vertical will focus on facilitating credit courses/ content material, research projects, advanced/ TOT programs.
- iii) Operations - This vertical will focus on creation of database for IP filings in the academic institution, technology transfer, IP management and related industrial interaction thereof.
- iv) Legal Assistance - This vertical will focus on general and day to day legal assistance required for industry-academia collaborations, confidentiality agreements, forms and fees regard IP filings, in-house intellectual property, publications, et al.
- v) Administration - This vertical will focus on all matters involving payments, expenditure, resource allocation and budgetary approvals related to the general functioning and administrative as well as statutory functions of the IP Cell.
- vi) Due Diligence - This vertical will focus on all matters pertaining to possibilities of plagiarism, counterfeiting, patent infringement and other related IP issues.