

5. Intellectual Property Rights Policy

5.1 Introduction

The University recognises the need for and desirability of encouraging the broad utilisation of the results of the University research, not only by scholars but also in practical application for the general public benefit. It also acknowledges the importance of the Intellectual Property Rights (IPR) protection system in bringing innovative research findings to practical application.

This document schemes out the status of the University towards the ownership of Intellectual Property (IP) developed by staff, students, contract researchers, visiting professors and any other relevant party, together with the procedures in place for commercialisation of Inventor/University owned IP.

The University policy on IP, which covers all academic staff and students at the University, is to:

- Sensitise all staff and students about the creation, disclosure and protection of IP;
- Encourage the successful exploitation of IP by its staff and students while maximising the value of IP for the benefit of all involved in its creation; and
- Facilitate the effective use of all IP created at the University.

5.2 Intellectual Property Rights (IPR)

IPR confer legal recognition to the ownership of new ideas or brand names and give the proprietor the right to stop any other party from exploiting the owner's property. IPR include, and are not limited to, patents, copyrights, registered design rights, registered trademarks and service marks. With the exception of some copyrights, the primary reason for securing IPR is to gain commercial advantage.

5.3 Scope of this Policy

The University's Policy governing the ownership and disposition of IP which includes, but is not limited to, inventions, copyrights (including computer software), design rights, trademarks and tangible research property such as biological materials, is based on the following principles:

- Motivate the perception that ideas and creative works produced at the University should be used in ways that are meaningful in the public interest, which shall be accomplished through widespread dissemination. Creativity and innovation should remain key principles in order to promote the effective use of ideas.
- Promote dissemination throughout the UoM's community whilst at the same time, the public may take advantage from the stronger application of legal protection of IP

legislations so that those innovations and creative works of inventors and authors be developed into useful products, whilst also recognising that wide dissemination and publication will be the most effective way of knowledge transfer in the majority of cases.

- Recognise that the public benefit should be paramount to financial gain. It is nonetheless proper and desirable for the University and inventors to benefit financially from the use of a particular invention or creative work.
- Encourage all staff and students to consider the issues associated with the creation, disclosure and protection of IP.
- Consider the benefits and cost for the public and the University as well as for individual inventors.
- Protect traditional rights of scholars with respect to the products of their intellectual endeavours and where the Inventors and University share IP rights over the inventions, the University shall consult with inventors on plans for publication in various forms of IP – Patents, Industrial Designs, Trade Secrets, Trade Marks and Copyrights.
- Promote collaboration with partners such as the private sector.

5.4 Ownership of Intellectual Property (IP) and the sharing of benefits

Inherent to the mission of the University is the obligation to pursue knowledge for the benefit of the society (Section 4 - UoM Act 1971). The process of protection of IPR facilitates the dissemination of technology for the widest good by creating a mechanism whereby the inventions can be put to practical use.

5.5 Staff

Although the legal position is inevitably complex, the University's position reflects the general law, in that, unless there are specific agreements to the contrary, the University will normally be regarded as equally owning all IP generated by University staff during the course of their employment. However, not all IP generated by staff during the course of their employment necessarily belongs to the University.

5.6 Students

Where any student generates IP as part of his/her academic programme, h/she will have sole ownership of this IP unless:

- The IP was generated as equal of an activity whereby a third party equally requires ownership (e.g. where on a student placement, a host requires ownership or where research is sponsored, the sponsor requires ownership).
- The student-generated IP builds upon existing IP generated by University staff.
- The student-generated IP is jointly created with University staff.
- The student is recruited on a specific understanding that, due to the particular commercial or IP sensitive environment, his/her IP position is varied.

- The student has executed practical work which has led to IP but has not contributed to the invention of that IP.

5.7 Use of Intellectual Property and sharing of revenue from the Commercial Exploitation of Intellectual Property

The conditions that scheme out the ownership by the University, use and exploitation of IP are designed to reflect:

- The general position under the law where the University asserts its rights to equitable ownership and use of all IP generated by staff during the course of their employment, and it likewise asserts its right to ownership and use of all IP generated by staff outside the course of their employment where substantial University resources have been used.
- Where the University has ownership, it is committed to sharing with the staff and students concerned the rewards derived from successful commercial exploitation of IP which they have generated.
- Against this background, the following specific conditions apply to the ownership, use and exploitation of IP:
 - (a) Except as may be provided in a contract with a third party (for example, a funding body), except in cases where an individual has been employed specifically for the purpose of producing a particular academic publication, and except where publication might result in the loss of an opportunity for commercial exploitation, the University allows members of staff and students to publish their research findings in academic publications.]
 - (b) The University equally owns and therefore has the right to use without limitation all material that is generated by staff during the course of their employment.
 - (c) The University when referring to or using IP generated by staff and students will, wherever practicable, give due acknowledgment to the authorship of material.
 - (d) Where the University commercially exploits IP generated by members of staff or students, it will share a percentage of the income it derives from such commercial exploitation with the inventors in accordance with the Intellectual Property Assignment Agreement [IPAA] (refer to Annex).
 - (e) The Protection and exploitation of commercially-valuable IP is undertaken on behalf of the University by the Knowledge Transfer Office (KTO).
 - (f) Other concrete scenarios that can be envisaged, but are not limited to, are given hereunder:
 - (i) Where a Company funds wholly a specific research work conducted by staff at UoM and decides to protect the invention derived from that research, the three (3) following possibilities may be applicable:
 - The Company pays for protection of the IP and retains the full ownership eventually for commercialisation; or

- The Company pays for protection of the IP and agrees for sharing of the ownership with the UoM but not for commercialisation; or
 - The Company pays for protection of the IP and agrees both for sharing of the ownership with the UoM and for commercialisation.
- (ii) Where a Company funds partly a specific research work conducted by staff at UoM and the research leads to IP, the Company pays for IP protection and the UoM maintains/or not the ownership but not necessarily for commercialisation.
- (iii) Where UoM has developed IP on its own and is sole proprietor of the IP, the two (2) following possibilities may be applicable:
- Either UoM shares the IP with a Company for commercialisation and the percentage sharing is discussed; or
 - UoM sells the IP to the Company

5.8 The Legal Provisions

This IPR policy is subject to the prevailing laws in Mauritius and the relevant legal provision of University of Mauritius (UoM) Act 1971 as amended, Statutes of the UoM 2013 and regulations of the UoM.

- The Copyright Act 2014 (as amended in 2017)
- The Patents, Industrial Designs and Trademarks Act 2002
- Patents, Industrial Designs and Trademarks Regulations 2004
- The Industrial Property Act 2019

5.9 Further Information

- For further information, advice and assistance on issues relating to IPR and exploitation, please contact KTO directly.
- It should be noted that getting a patent in Mauritius does not mean that it would be possible to register it with Patent Cooperation Treaty (PCT) except if the Government goes ahead with becoming a member to the PCT.
- In the meantime, the University can register its patent in a contracting member of the PCT such as South Africa

Updated on 01.07.22