

## **Intellectual Property Rights (IPR) Policy**

### **Preamble**

Intellectual property (IP) refers to creations of the mind either invention, literary and artistic works, symbols, names and images. IP is protected in law by, for examples – patents, copyright and trademarks which enable the individual to earn recognition or financial benefits from what they invent or create.

Intellectual property plays an important role in providing a competitive edge to an organization. This Intellectual Property Rights Policy Document of Indian Academy Degree College - Autonomous, seeks to provide guidance to academic and non-academic staff, students, scholars, and outside agencies on the practices and the rules of the Institution regarding intellectual property rights (IPR) and obligations which include the nature of intellectual property (IP), its ownership, exploitation, technology transfer and confidentiality requirements. The policy laid down in this document is expected to fulfil the commitment of the Institution to promote academic freedom and provide a conducive environment for research and development.

### **Purpose**

This policy related to IPR is the cornerstone of innovation and creativity of Indian Academy Degree College – Autonomous. It provides structure, predictability and a framework for talented minds to do what they do best, create and innovate.

### **The National IPR Policy**

National Intellectual Property Rights (IPR) Policy lays the future roadmap for IPRs in India, recognising the abundance of creative and innovative energies that flow in India, and the need to tap into and channelize these energies towards a better and brighter future for all. Creative India, Innovative India is the tagline of the policy. This is to incentivise entrepreneurship, creativity and innovation and curb manufacturing and sale of counterfeits. The National IPR Policy is a vision document that encompasses and brings all IPRs to a single platform.

### **Objectives**

The Institution has formulated this Policy for the management of IPR to:

- To provide the necessary infrastructure and environment for the development of Intellectual Property and provide a framework to foster innovation and creativity
- To provide a conducive environment to facilitate, promote and encourage novel ideas and research activities in an ethical environment
- To establish an IPR policy and procedural guidelines for supporting all innovations, creativity and IPR related endeavours of students, research scholars and faculty members and make available to the public the inventions and discoveries made in the course of research carried out in the institution
- To protect IP generated by the faculty/ individual, students and staff by translating their creative and innovative works into IP Rights
- To lay down an efficient, fair and transparent administrative process for ownership of the products / protocols, sharing royalty and revenues between institution and researcher
- To promote more collaborations between the institution and industries through better clarity on IP ownership and licensing
- To create a mechanism for knowledge generation and its commercial exploitation, to strengthen and expand human resources, institutions and capacities for teaching, training, research and skill building in IPRs

#### **Roles of IPR cell**

- To create public awareness about the economic, social and cultural benefits of IPRs among all sections of society
- To provide academic support for the development of IP at the Institution and create an environment for acquiring new knowledge through innovation and research
- To safeguard the interest of the institution, inventors / creators / authors of IP and provide a fair distribution of returns from the commercialization of IPR
- To provide legal support through an expert whenever necessary, to identify, process, defend and protect the IPR obtained by the institution against any infringement / unauthorized use
- To provide a framework to foster innovation and creativity in the areas of technology, science and humanities by nurturing new ideas and research in an ethical environment
- To protect IPs generated by faculty, staff and students of the institution by translating their creative and innovative work into IPRs

- To organize guest lectures/workshops on IPR awareness every year, to motivate faculty/staff/students.

## Definitions

- **Author:** An individual who is involved in the research and innovation who claims a total royalty. An author is defined under Section 2(d) of the Copyright Act, 1957 as
    - The author of the work, in relation to a literary or dramatic work
    - The composer, in relation to a music work
    - The artist, in relation to artistic work other than a photograph
    - The artist, in relation to taking the photograph
    - The producer, in relation to a film or sound recording
  - **Collaborative Activity:** Research undertaken by the individual (researcher) in academic institution, in collaboration with other researcher(s) of other institution(s) or industry(ies).
  - **Creator:** Researcher who contributed to the creation of the IP (copyrights and designs, etc)
  - **External partners** include Government of India, Government of Karnataka, Other state Governments, Government departments, Foreign Governments, International Organizations, Public Sector Undertaking (PSUs), Private sector organizations, Multinational corporations, Non Governmental Organizations (NGOs), other institutions that provide research projects or consultancy assignments to researchers on regular or irregular basis or any combinations of the above.
  - **Moral Rights** are enshrined under the aegis of section 57 of the Copyright Act, 1957 which include right of integrity.
  - **Intellectual property** refers to creations of the mind, such as inventions, literary and artistic works, designs and symbols, technologies, improvements, materials, compounds, protocols, tangible research properties (software) etc.
  - **Intellectual Property Rights:** Ownership and associate rights relating to afore mentioned IP, 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 that are 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
  - 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:** Researcher who contributed to the creation of IP (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
  - Research undertaken by a researcher in the normal course of his/ her appointment with the academic institution, utilising resources of the institution - 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.
  - Research undertaken by a researcher in collaboration with an external partner - support from external partners includes, but is not limited to, specific monetary support given for research through grants or fellowships
- **Researcher:**
  - Persons employed by the academic institution and technical staff;
  - Students (undergraduate, postgraduate, research scholars of any level, doctoral and post-doctoral scholars);
  - any other persons (visiting scientists, consultants etc); and
  - any person who is an external using the institutional resources or participate in any research project.

- **Research Agreement or MoU:** May include research services and consultancy, collaborative research, mutual sharing of resources, material transfer and other research pursued by researchers and develop IP.
- **Royalty:** payment made to an inventor/ author or an institution for legal use of a patented invention or any intellectual property when licensed.

### **IPR recognized in India**

- **Patent :** Patent is an exclusive right granted by law to applicants / assignees to make use of and exploit their inventions for a limited period of time (generally 20 years from filing). The patent holder has the legal right to exclude others from commercially exploiting his invention. In return for exclusive rights, the applicant is obliged to disclose the invention to the public in a manner that enables others, skilled in the art, to replicate the invention.
- **Copyright :** Copyright is a right given to creators of literary, dramatic, musical and artistic works and producers of films and sound recordings. The Copyright Act, 1957 protects literary, dramatic, musical and artistic works and producers of films and sound recordings from unauthorized uses.
- **Trademark :** Trademark means a mark capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others and may include shape of goods, their packaging and combination of colours.
- **Design :** Design means the features of shape, configuration, pattern, ornament or composition of lines or colours applied to any article, by any industrial process or means, whether manual, mechanical or chemical, separate or combined.
- **Geographical indication :** Geographical indication means an indication which identifies such goods as agricultural goods, natural goods or manufactured goods as originating , or manufactures in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristics of such goods is essentially attributable to its geographical origin.

### **Scope of Guidelines**

- 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
- These guidelines shall apply to all researchers who have established legal relationship with the institution, based on which the researcher is bound by these guidelines
- 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

### **Where to file a patent application?**

It is filed electronically using Form-1 and provisional/ complete specification, with the prescribed fee at the appropriate patent office. The jurisdiction of a patent office is decided based on the place of residence, domicile, or business of the applicant and the place from where the invention originated. The States of Andhra Pradesh, Karnataka, Kerala, Tamil Nadu, and the Union Territories of Pondicherry and Lakshadweep fall under the Chennai Patent Office jurisdiction. The institution shall be registered in the Chennai Patent Office with the assistance of a patent attorney, same as the institutional lawyer or a separate attorney.

### **Patent registration process**

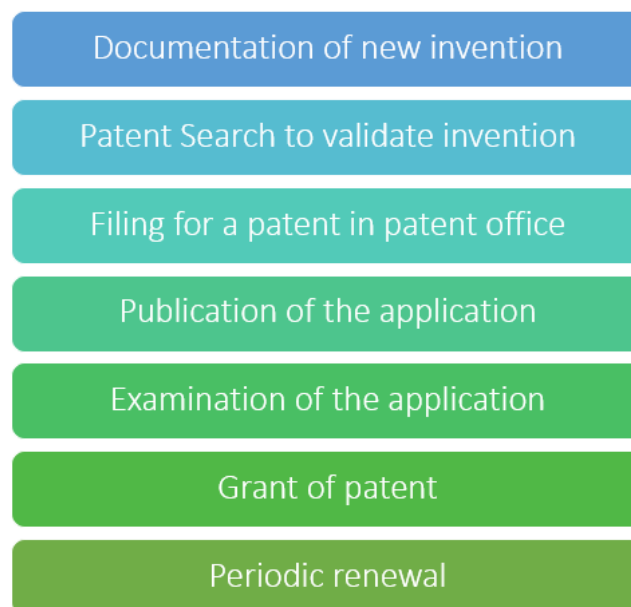
- (i) Step 1 – Disclosure of the Invention – A non-disclosure agreement is signed between a patent professional and the inventor and details of the invention provided to the professional.
- (ii) Step 2 – Search whether the invention is patentable – This step is where the professional searches for the prior art in the field of invention and figures out whether the invention is patentable or not.
- (iii) Step 3 – Decision to file an application for the patent – after searching whether the invention is patentable or not, a decision is made as to whether a patent application has to be made or not. This decision revolves around the provisions of the patent act which determines whether the invention is patentable in the first place itself.
- (iv) Step 4 – Drafting of the Patent – The candidate can choose to draft the application on his own or take help from the professional patent agents or attorneys.
- (v) Step 5 – Filing of the Patent Application – Before filing the patent application, the applicant must be satisfied with the scope and contents of the application. This is to ensure that there is no confusion in what he wants to convey to the examiner about his invention. After the drafting process, once the applicant is satisfied, the application can be filed with the patent office.

(vi) Step 6 – Request for Examination of the Application – When the patent application is filed, the application is examined by the controller of the patent. If the applicant requires speedy examination then an application has to be submitted to the controller for speedy examination i.e. within 48 months stating the reasons for the same.

(vii) Step 7 – Replying to the objections raised (if any) – the draft of the patent applicant is completely assessed and examined at this stage. If there are any objections raised, then the inventor has to prove that the invention is capable of being patentable.

(viii) Step 8 – Getting the Grant of the Patent application – Once the objections are replied to and the examiner is satisfied that the invention of the applicant fulfils all conditions for grant of patent. Patent is then granted to the applicant.

(ix) Step 9 – Renewal of Patent – Once a patent is granted and is in force, it can be renewed after 20 years of the filing of patent application.



### **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, 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.
- ii. The ownership rights in lecture videos or Massive Open Online Courses (MOOCs), films, plays, and musical works, institutional materials including, course syllabi, curricula, exam questions, exam instructions, and papers/ reports specifically commissioned by the academic institution, shall ordinarily be vested with the academic institution.

## III. TRADE MARKS

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.

### **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.

## **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 tries 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.
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. Permissions pertaining to sub-licensing need to be clarified explicitly in the agreement between the academic institution/ researchers and licensee.

### **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 or creator 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 or creator.

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 with the researcher, in cases of commercialisation of innovation, creation, 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 - 60:40 ratio or 50:50 of revenue sharing.

- 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.
- 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 be a part of an agreement outlining the proposed distribution of any IP-related earnings based on their contribution.
- v. In the case where the copyright vests with the author, the academic institution shall have a non-exclusive, royalty free, irrevocable license to use the IP for research, non-commercial and educational purposes.

### **Research outputs generated in collaboration with external partners**

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.

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.

### **Use of Academic Institutions' IP Resources**

The 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;
  - 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 or accidental damage accruing due to use of trademark.

### **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 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.
- 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.

### **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 nondisclosure 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:
  - already under public domain;
  - is required by law or regulation to be disclosed;
  - is independently developed by the researcher; and

- is received from a third party having no obligations of confidentiality to the disclosing party.

## **Publications**

- 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.
- 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.
- Particular care needs to be taken that no publication is made till the patent, if applicable, is filed.
- The academic institution may retain the right to require exclusion of certain portions from the information being published.