

Christ University, Bengaluru

Regulation on Intellectual Property 2016

Preamble

In fulfillment of its vision and mission, Christ University promotes inventions, innovations and other creative works of its faculty, staff, students and other associates. Protection of Intellectual Property (IP) so created at the University is considered a significant institutional responsibility and is recognized as a continuous process in highlighting the research accomplishments of the University. There shall be a formal framework (Regulation) to guide implementation of the said process to sustain and grow creativity in an ethical environment to support all those engaged in creations of original and innovative work at the University. The Regulation will provide for facilitation and assistance in translating such creative works into IP and for its potential commercialization as may be appropriate.

Regulation

1. Applicability

This Regulation, to the extent it is relevant shall apply to all creative works done at the University by its existing faculty (including regular, part-time and visiting), staff, students or associates individually or in collaboration (hereinafter individually and collectively referred to as 'Creator' which will also mean 'Inventor' or 'Author' according to the context) in relation to educational or research programs including but not limited to formal Degree Programs, Research Projects, Research based deliverables, Extension Activities, Consultancy Assignments & Projects, Publications, Seminars & Workshops, Product Development, Inventions, Innovative models, Scientific Experiments, Media and Press releases and the like and will generally cover all classes of Intellectual Property and more particularly will be concerned with Patent, Copyright, Design Registration, Trademarks, Licensing and such related matters pertaining to Inventions, Innovations, Publications, Computer Programs & Softwares, Standards, Integrated Circuits, Media Releases etc. created or happening at or on behalf of the University. The term Associates herein will include to mean individuals and organizations who/that are directly or indirectly connected with any of the educational, research or consultancy activities of the University as aforesaid.

2. General Rules of Eligibility for Intellectual Property

(The content in this part of the Regulation is only a general guideline and does not constitute a legal advice. Reference to an IP Attorney is recommended before acting on any specific issue of legality.)

- a) The applicability of the Regulation will be subject to the provisions contained in the following legislations in India including the Rules thereof with all its amendments from time to time.
 - i. Patents Act, 1970
 - ii. Trademarks Act, 1999
 - iii. Designs Act, 2000;
 - iv. Geographical Indications of Goods (Registration and Protection) Act, 1999
 - v. Copyright Act, 1957
 - vi. Protection of Plant Varieties and Farmers' Rights Act, 2001

- vii. Semiconductor Integrated Circuits Layout-Design Act, 2000 and
- viii. Biological Diversity Act, 2002
- ix. National IPR Policy 2016

b) Any of the applicable category of creativity at the University as aforesaid to be eligible for consideration as Intellectual Property must satisfy the following conditions:

i. **In the case of Patent** the invention must be patentable; that is –

- It must be a new product or process
- It must be non-obvious to a person skilled in the invention related area.
- It must be useful or beneficial.
- It must be capable of industrial application.

ii. **In the case of Copyright** (a right given by law to creators of original literary, dramatic, musical and artistic works and producers of cinematograph films and sound recordings)

- It must be first published in India
- If it is first published outside India the author at the date of publication must be a citizen of India.
- In the case of unpublished works (except works of architecture) the author on the date of making the work must be either a citizen of India or must be domiciled in India.
- There shall be no Copyright for an idea unless it translates into a material form resulting from such idea.
- Original adaptation of another literary work – literary to dramatics, abridgement in to a picture format, translation of original work etc. - will be eligible for independent Copyright subject to authorization and non-infringement rules.

iii. **In the case of Design** (means a conception of shape, configuration, pattern, ornamentation, colour etc which gives the look to an article but does not include the article or its Trademark) to make it registerable.

- It must be new or original not previously published in India.
- It must not have been already published in India or abroad.
- It must be significantly distinguishable from known designs or combination of known designs.
- It must not constitute/contain scandalous or obscene matter.

iv. **In the case of Trademarks or Service Marks** (Distinguishable visual / graphic representation/symbol used on or in connection with goods or services of a specified person and may include words), to make it registerable,

- It must be distinctive with specific features.
- It must not have direct or indirect resemblance to another.
- It must remain consistent in specifications including the colour and size of the font if words are used.
- It must not mislead the public.

c) Any eligible creative work to acquire the status of IP must be registered with the appropriate authority under the relevant legislation by filing application in the prescribed format with such enclosures and payment of fee as specified.



- d) The term of Patent is normally territorial (restricted to the country in which it is granted) in nature with tenure of 20 years starting from the date of Application. Patent will lapse if annual renewal fee is not paid.
- e) The term of Copyright is for life of the author plus 60 years from the date of death. In the case of cinematograph films, sound recordings, photographs, posthumous publications, anonymous and pseudonymous publications, works of government and works of international organisations, the 60-year period is counted from the date of publication.
- f) The term of design is 10 years from the date of registration renewable for a further period of 5 years subject to payment of renewal fee within the initial term validity.
- g) The term of Trademark is 10 years and is renewable every ten years.

3. Ownership of Intellectual Property

- a) Ownership of Intellectual Property with all its accompanying Rights and Obligations in respect any creative work done by anyone at the University or by the use of any resource of the University shall rest with the University with the exception that the text books or such other publication authored by any of the faculty or staff of the University will be permitted to be owned by such faculty or staff subject to prior information to and approval of the Intellectual Property Cell of the University in the prescribed format.
- b) Invention or other creation including software, designs and integrated circuit layouts by the Creator without significant use of the resources of the University and which are not connected with the employment/engagement of the Creator at the University shall be permitted to be owned by the Creator if so assessed and recommended by the Intellectual Property Cell of the University.
- c) Invention or other creation including software, designs and integrated circuit layouts, produced during the course of sponsored and/or collaborative activity, specific provisions related to IP made in contracts governing the collaborative activity shall determine the ownership of IP and will be bound by confidentiality/disclosure agreements specified therein. ('Collaborative Activity' is the research/consultancy undertaken by the Creator in cooperation with industry and/or another researcher outside the University)
- d) Notwithstanding the ownership resting with the University in respect of copyrightable creations, the author/s thereof shall have the right of use such material for their own professional purpose/s in their individual capacity.
- e) Ownership of Trademark(s) / service mark(s) created for or on behalf of the University shall remain with the University without any limitation.
- f) In cases of all IP produced at the University, the University shall retain a non-exclusive, free, irrevocable license to copy/use the IP for teaching and research activities, consistent with confidentiality agreements were entered into by the University.

4. Intellectual Property Rights

The importance of intellectual property in India is well established at all levels- statutory, administrative and judicial. India ratified the agreement establishing the World Trade Organisation (WTO). This Agreement, inter-alia, contains an Agreement

on Trade Related Aspects of Intellectual Property Rights (TRIPS) which came into force from 1st January 1995. It lays down minimum standards for protection and enforcement of intellectual property rights in member countries which are required to promote effective and adequate protection of intellectual property rights with a view to reducing distortions and impediments to international trade. The obligations under the TRIPS Agreement relate to provision of minimum standard of protection within the member countries legal systems and practices.* (*<http://indiaibusiness.nic.in>) World Intellectual Property Organisation (WIPO) is the global forum for intellectual property services, policy, information and cooperation and was established in 1967 as a self-funding agency of the United Nations, with head quarters in Geneva, Switzerland.*(<http://www.wipo.int>)

5. Intellectual Property Cell – Constitution, Duties and Powers

- a) In order to streamline, guide and facilitate recognition of Intellectual Property developed or created at or on behalf of the University there shall be a duly constituted Intellectual Property Cell of the University (CU-IPC).
- b) CU-IPC will have five members headed by a Director. All the members of the Cell including the Director shall be nominated by the Vice Chancellor from among the senior faculty/staff of the University having expertise in distinct disciplines with particular reference to IP. The members of the Cell other than the Director shall have a term of office for 3 years at a time but may be renominated.
- c) CU-IPC will act as independent body to assess and approve all IP related registration processes including desirability of such registration of all creative initiatives at the University, whether completed or in process or in proposal stage, referred to it by the Creator.
- d) CU-IPC will be responsible for vetting all proposals / applications for Patent, Copyright, Licensing, Registration of Drawings, Trademarks and any other IP related applications emanating from the University.
- e) Applications unless approved by the CU-IPC will not be considered by the University for recognizing the authorship/usership and/or for funding.
- f) **Duties** of CU-IPC will include the following:
 - i. Advise and assist the Creator in preparing preliminary first information about the IP (in the prescribed format) proposed to be registered.
 - ii. Review and examine the preliminary information with reference to Rules of Eligibility and to assess/decide on the desirability of further processing based on essential documentary and physical evidences.
 - iii. Carry out preliminary search relating to pre-existing creations with regard to proposed registration to ensure its acceptability by the concerned Authority.
 - iv. Advise the Creator about the type of and on right timing for filing of IP Application with the concerned Authority and to assist in its preparation and filing.
 - v. Assist the Creator in preparing the Final Application either by its own secretariat or through an approved IP Professional.
 - vi. Based on the nature of IP and the costs involved render assistance/advice to the Creator to identify potential funding agency such as Department of

Biotechnology (DBT) or National Research Development Corporation (NRDC) etc.

- vii. Provide sources of IP data bases to enable information relating to existing or potential IP in process.
- viii. Consult with and be advised by appropriate IP Attorneys (Professionals) and to periodically follow up on the progress of IP related works entrusted to them.
- ix. Conduct workshops and seminars on IP related processes to familiarise and educate the researchers of the University.
- x. Shortlist/ Empanel competent IP Agents or Attorneys for the University to enable prompt response and service.
- xi. Obtain adequate fund allocation for 'Intellectual Property Processing' in the Finance Budget of the University, in consultation with the Chief Finance Officer and maintain record of its utilisation with relevant information.
- xii. Maintain a record of IP Processed by the University in the prescribed format in Annexure 2

g) **Powers** of CU-IPC will include the following:

- i. The CU-IPC may have its own administrative / technical staff to manage the IP related processes and may nominate expert committees such as Intellectual Property Assessment and Review Committee (IPARC) for specific duties of the Cell in relation to IP.
 - ii. The CU-IPC shall be the apex body of the University to determine whether or not a particular creation should be pursued for IP recognition. In the event the University decides not to apply for IP recognition in respect of any creation, the Creator on their own accord, in their personal capacity and at their own cost may prefer to pursue IP recognition process.
 - iii. Recommend honorarium for its members and for the members of its committee, as may be deemed necessary.
 - iv. Appointment of IP Attorneys (Patent Agents, Lawyers or other Professionals) and to negotiate their fees.
 - v. Authorise payment of IP related Application Fees and Professional Charges.
 - vi. Where deemed appropriate, the CU-IPC may review and vary the recommendation of IPARC subject to due consultation with its members.
- h) The CU-IPC members including its officials and staff as well as Members of its Committees shall maintain strict confidentiality of and shall disclose their personal interest if any in respect of any proposal referred to the Cell. All such persons shall be under implied obligation to maintain confidentiality and to disclose conflict of interest, whether or not they have signed a separate Agreement in this regard.

6. Intellectual Property Assessment and Review Committee (IPARC)

- a) CU-IPC may constitute an IP Assessment and Review Committee (IPARC) for each specific IP proposal, consisting of a Chairperson and up to four (not less than two) additional faculty members (from within or outside) with domain

- expertise or familiarity/experience in areas related to the creative work and IP related legal issues.
- b) The Creator may suggest names of faculty having domain expertise qualified to evaluate the creative work. Inclusion of any of them in IPARC shall be at the discretion of CU-IPC.
 - c) IPARC shall function within its terms of reference that may be issued by CU-IPC and is expected to complete its task within the time limits specified.
 - d) IPARC is not expected to comment or suggest on any matter other as required under this Regulation or as provided in the terms of reference.
 - e) IPARC although is constituted by CU-IPC shall have an independent jurisdiction and shall make its opinions and recommendations dispassionately without any bias or influence.
 - f) IPARC will have a term limited to completion of its immediate purpose and may be re-called as and when deemed necessary by the CU-IPC.
 - g) The Members of IPARC (individually and collectively) shall maintain strict confidentiality about the IP proposal they assessed or reviewed during and after the term/s of IPARC and shall disclose their 'Conflict of Interest' in respect of any proposal before accepting the member role in IPARC.

7. Procedure for Registration of Intellectual Property

- a) Any Creator desirous of filing a patent or copyright or trademark application would be advised to contact CU-IPC regarding these issues by submitting the first information about the proposed IP in the IP Pre-Approval Information Form as per Annexure 1. This form must be submitted in duplicate with a covering letter duly listing all the documents attached thereto.
- b) IPARC duly constituted by CU-IPC shall assess the disclosure contained in the Pre-Approval Information Form (Annexure 1) and shall make recommendations (with full justification) to CU-IPC (within a maximum period of 45 days from the date of submission of Annexure 1 and all required information and documents) about the registrability of the IP according to the provisions of Regulation 2. IPARC for the purpose may seek additional information as it may deem necessary and/or call for a meeting with the Creator. IPARC may make one of the following recommendations:
 - i. That the University shall take the responsibility of protection of the IP in which case CU-IPC may decide to initiate appropriate processes.
 - ii. That the University shall not take the responsibility of protection of the IP in which case CU-IPC may decide to forego the ownership of creation in favour of the Creator who may choose to protect the creative work by themselves.
 - iii. If protection of the proposed IP is sought for in any foreign Country, the IPARC within six months of filing the Complete IP Application to the appropriate Authority in India and based on available information will advise on the suitability of protection of the creative work (invention) in foreign countries. If based on such advice CU-IPC decides not to undertake such protection in any specific country requested, the Creator may at their own discretion pursue the same in which case the University will assign the right of ownership of the work to the Creator for the specific purpose of such protection.

- c) CU-IPC will communicate with the first named Creator about its decision on their submission and for all further actions required within a maximum period of 60 days from the date of submission of Annexure 1 and/or all required information and documents.

8. Acquiring Intellectual Property Rights and the Costs

- a) Based on the recommendation of CU-IPC, if the University accepts to protect any particular creative work at the University, CU-IPC will be authorised to further process it for drafting and filing of the IP application as appropriate with or without the assistance of an IP Attorney at its discretion.
- b) The University will bear the entire costs of the IP processing including but not limited to the filing fees, professional charges for drafting and filing an Indian IP application, fee for accessing the relevant IP information databases and other associated costs.
- c) Based on the recommendation of CU-IPC, if the University accepts to file IP applications in other countries, then it shall bear the cost of application and other associated costs. The University shall be free to enter into agreements with overseas institutions for protection and licensing of the IP.

9. Renewal of IP Rights

- a) Any decision on the annual renewal of IP Rights acquired by the University shall be taken by a committee constituted by CU-IPC. If on the recommendation of CU-IPC, the University decides not to renew the IPR in any country (including India), then it will assign the rights of the IP in that country to the Creator upon a request to that effect from the Creator(s). In case of patents, the process of reassignment will be completed in a period of three months before the due date for its renewal.
- b) In all cases where IP rights in any specific country have been reassigned to the Creator the University may decide to the claim in part or full, of the costs incurred by it out of the earnings if any of the Creator through that IP in that Country.

10. Technology Transfer and Revenue Sharing

- a) The University through CU-IPC facilitate avenues for Technology Transfer and identify potential licensee(s) for the IP to which it has ownership. The Creator is also expected to assist in this process.
- b) The University may contract the IP to an approved Technology Management agency, to enable the commercialization of the IP.
- c) If the University is not able to commercialize the IP in a reasonable time, then it may reassign the rights of the IP to the Creator. In the alternative if the Creator is able to identify commercial possibility for the creative work in a reasonable time frame, the Creator may propose to CU-IPC to consider and approve such proposal.

- d) Valuation of IP for Technology Transfer shall be determined by CU-IPC with reference to the demand for the technology and the prevailing market conditions in the industry. Consultation with experts may be made if felt necessary.
- e) Revenue sharing in respect of net earnings from the commercialization of IP owned by the University would be as under:

Net Earnings Range	Creator Share	University Share
Up to first 50 lacs	30%	70%
Next 50 lacs	50%	50%
Above 100 lacs	70%	30%

- f) Revenue shall be directly collected by the University and subject to incidental cost Net Earnings will be computed and declared annually on 'Cash Basis of Accounting'. Share of the Creator will be disbursed to the credit of the Creator's Bank Account registered with the University.
- g) Creator will be entitled for their share whether or not they are associated with the University at the time of disbursement and their legal heir may claim (subject to completing the necessary formalities with the University) for the period beyond the life of the Creator, until the culmination of revenue.
- h) If there is more than one Creator, the share of the Creator shall be equally divisible among them unless there is an agreement to the contrary.
- i) In the case Technology Transfer Agreements providing for exclusive earnings for the Creator (in respect of assigned rights in any country including India) the University must remain a silent party to the agreement as a beneficiary of costs.

11. Duties & Obligations of Creator in ensuring IP Registration (Protection)

The Creator to ensure that all their protectable creative initiatives are properly protected must proactively adhere to the procedures specified in this Regulation. In this regard the Creator will have the following duties and obligations.

- a) Prompt filing of Pre-Approval Information of the creative work with CU-IPC.
- b) Regular follow up with CU-IPC about the stipulated process and to submit without any delay, the required additional information (if any) sought by CU-IPC or IPARC.
- c) Appear for meetings called by CU-IPC or IPARC as per specified schedule.
- d) Communicate with CU-IPC for any development in disclosure / related research post filing of Pre-Approval Information or of Final Application in relation to submitted IP Proposal.
- e) Discuss and share information (disclosure) with CU-IPC with regard to dissemination of the approved Intellectual property to public and/or industry to aid in commercialization.
- f) Conduct IP searches, study the existing and prior information and provide the necessary inputs to assist in the drafting of the IP Final Application.
- g) Take initiative for technology transfer for approved IP and to declare all exclusive earnings of the Creator in respect of assigned IP Rights
- h) Sign applications, agreements, undertakings with CU-IPC concerning the proposed or approved IP, in relation to its ownership, renewal, assignment,

conflict of interest, confidentiality, consultancy, technology transfer, licensing and the like as may be required by or in pursuance of this Regulation

12. Useful Websites for reference

The Creator may familiarize and become conversant about IP related matters by referring to following websites. The list given is only illustrative.

- (i) Ipindia.nic.in (ii) ipindiaonline.gov.in (iii) indiafilings.com (iv) tifac.org.in
(v) Patentindia.com (vi) iphandbook.org

13. Infringements, Damages, Liability and Indemnity

In all its Intellectual Property related agreements with reference to processing, adaptation, licensing or commercialization, the University as the principal originator of the knowledge resource, shall insist on essential and appropriate clause/s providing for consequences of Infringements and Conflict of Interest, the damages applicable and for indemnity from any legal proceedings whatsoever against potential unauthorized, improper or misuse of the IP.

14. Dispute Resolution

In case of any disputes between CU-IPC and the Creator regarding the implementation of this Regulation, the aggrieved party may appeal to the Vice Chancellor of the University. While efforts shall be made to address the concerns of the aggrieved party, with an opportunity for hearing, the decision of the Vice Chancellor in this regard will be final and binding.

15. Jurisdiction

All agreements that may be signed by the University will have the jurisdiction of the courts in Bengaluru and shall be governed by appropriate laws in India.

Glossary

For the purpose of clarification, the following terms will have its meaning as given herein for the purpose of this Regulation:

1. 'Conflict of Interest' or a 'Potential Conflict of Interest' exists when Creator (including inventor/author) is or may be in a position to use either creative work or any other resource to influence for unmerited personal or family gain. It is a situation in which a person or organization is involved in multiple interests, financial interest, or otherwise, one of which could possibly corrupt the motivation of the individual or organization.
2. 'Confidential Information' means Information not in the public domain and declared confidential by parties as such in a MoU/Agreement that has been signed by the parties.