

## **INTELLECTUAL PROPERTY POLICY**

### **INTRODUCTION**

Frederick University is an energetic and vibrant private university operating in the Republic of Cyprus, a member state of the European Union. The mission of Frederick University is the provision of learning opportunities through teaching and research in areas of science, technology, education, and the arts, as well as a systematic contribution to the wider social context. *Frederick University* acknowledges the need for an Intellectual Property (IP) Policy, which will provide guiding rules for the intellectual property generated at the institution; promote the progress of science and technology; ensure that discoveries, inventions and creations generated by staff and students are utilized in ways most likely to benefit the society and will directly contribute to the financial position of the University and its staff if its commercial value is realised.

The policy will be based on the principles that will govern the ownership rights emanating from research of and/or materials produced by the University's members of staff and students, and to establish objectively fair and equitable criteria for the transfer of knowledge. The University thus aims to provide support services to promote the creation of Intellectual Property whilst seeking to maximise the commercial exploitation of the resulting Intellectual Property Rights (IPR).

Intellectual Property includes, but is not limited to:

- Inventions patented or not,
- Designs,
- Trademarks,
- Copyrights,
- Data base rights
- Know-how, trade secrets and confidential information.

The University acknowledges that registration and commercial exploitation of IP is often a long and costly process that is justified once it is ascertained that there exists a business case for such registration and exploitation. It is known that in practice only a small number of works can be commercially exploited in a viable manner, depending on the nature and marketability of the work in question.

## **DEFINITIONS**

For the purposes of this Policy:

**Background IP** - "Background IP" is documented, disclosed, or otherwise protected information and knowledge (including inventions, databases, etc.) held by the University and/or the Creator prior to the initiation of any new work/project.

**Creator** - "Creator" shall mean Teaching & Research Staff, Special Teaching Staff, Visiting Teaching Staff, Contracted Researchers, administrative staff and student members in the course of their studies within the University involved in the production of Disclosable Work.

**Disclosable Work** - "Disclosable Work" shall mean such work that is novel, original and/or important and is likely to bring impact and enhance the Creator's reputation. This work is characterised by the IP rights it generates.

**Foreground Intellectual Assets**- "Foreground IA" means the results of , including information, materials and knowledge, generated in a given project/work, whether or not they can be protected.

**Intellectual Property** - "IP" refers to creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce

**Intellectual Property Policy** - "IP Policy" is the name of this document that outlines the regulations of the University in regard to disclosure and exploitation of IPR.

**Intellectual Property Rights** - "IPR" means the right or rights conferred by the law, which protect innovations or creativity (IP) from being appropriated by others. These rights can include copyrights, patents, trademarks, and trade secrets (see art.2.2).

**University**- "University" for the purpose of this document is Frederick University

**Research & Interconnection Service**- the Service that coordinates/oversees the research, innovation and tech transfer activity of the University and for the purpose of this document, is the relevant body responsible for enacting this policy and will liaise with the Technology Transfer Facility (TTF)

**Rector's Office**- The office heading academic affairs of the University

**Technology Transfer Facility (TTF)** - "TTF" for the purpose of this document, is the relevant central body responsible for technology transfer support in Cyprus, the "[Central Knowledge Transfer Office](#)".

**University Council** - The highest administrative body of the University responsible for all financial and administrative issues, the University's infrastructure, the overseeing of staff members and recruitment among other activities.

## **INTELLECTUAL PROPERTY REGULATIONS**

### **1. Responsibility**

- 1.1 This Policy acknowledges that all members of staff and students have responsibilities with regard to IPR arising from and/or used by them in the course of their employment/teaching.
- 1.2 This Policy also recognises that all members of staff and students would require support and assistance to help them to meet their responsibilities and this will be provided to them by the Research & Interconnection Service and the TTF.

### **2. Identification of IP (including duty of confidentiality)**

- 2.1 It is expected that identification will take place when employees/students/members of staff are involved in creating and developing IP. Much of the IP that will be created may be anticipated prior to its creation depending on the nature of the project in question and outputs and results that are expected to be generated. Examples of such outputs which are likely to have potential IP rights arising include (but are not limited to):
  - Inventions (whether or not patentable);
  - Methodologies;
  - Software;
  - Educational/training materials and tools;
  - Databases;
  - Modelling tools;
  - Solutions to technical problems;
  - Instrumentation;
  - Chemical compositions;
  - Biologics, and
  - Design/artistic products

2.2 Summary of the main classes of IPR is listed below:

#### Patent

A registered patent provides a time-defined (up to 20 years) geographically defined monopoly right to exploit a new commercially valuable invention or process. The basis of the permission to exploit is that the invention's working is disclosed, although patenting is not possible if there has been ANY prior disclosure of the invention governed by the Patents Law 16(I)/98, as amended by Laws 21(I)/99, 153(I)/2000, 163(I)/2002 and 122(I)/2006 and by the relevant patent regulations of 1999 and 2000 (the Regulations).

#### Copyright

This time-limited (varies between 25 and 70 years according to the material) right arises automatically on the physical creation (not the idea) of software, original literary, dramatic, artistic or musical work, and in recorded (e.g. film) or published (e.g. layout) derivations. Use of the © mark and owner's name and date is the internationally recognised way of alerting the public to the copyright ownership but the protection (the right to preventing

unauthorised copying) exists regardless governed by the Right of Intellectual Property Law 59/76, as amended by Laws 63/77, 18/93, 54(I)/99, 12(I)/2001, 128(I)/2002, 128(I)/2004, 123(I)/2006, 181(I)/2007 and 207(I)/2012.

Copyright may be assigned to a third party, but until that point or until a licence is agreed it remains the property of the Creator, unless s/he creates the work 'in the course of his/her employment', in which case it is the property of the employer, notwithstanding the Exceptions to the regulation in Section 4 of this policy.

### Moral rights

In addition, all European countries recognise an author's moral rights. There are four – paternity, integrity, false attribution and privacy. These rights relate to the reputation or standing of the creator in the eyes of fellow human beings. To infringe a moral right involves denigrating or harming the author's reputation. The right of paternity has to be asserted in writing: it is the right to be identified as the author of the work. The right of integrity means the copyright owner has the right to object to derogatory treatment of his/her work. Basically, this means changing it in any way without permission. Moral rights can be waived: by this, the author chooses not to exercise the rights – or they can be bequeathed. They cannot be assigned.

### Trade Secrets

Valuable information on technology or on any other know-how can be protected as a trade secret if the following conditions are met: a. the information is not known either by the public at large or by the experts of the sector in question, b. the information has commercial value, c. steps have been taken to keep the information secret. Trade secrets can include a vast amount of information and know-how that is not protectable or cannot be protected properly through patents, such as: early-stage inventions, manufacturing processes, source code of software. The fact that one possesses a trade secret does not mean that it gives an exclusive right over the information in question. If someone else develops the same information, he or she can use it freely.

### Performing rights

Creators of copyright works have the right to protect the physical form in which those works are created – words on the page, pigment on a canvas, or the clay or metal of a sculpture. Performers such as actors, musicians and dancers also enjoy protection of their performance, especially when recorded on film, video, tape, CD, or in other form.

Performing rights may affect the multimedia elements of online courseware, as well as the Creator's copyright in the material itself.

### Database Right

This time-limited (15 years) right arises without registration to protect the compilers of non-original information from losing the benefit of their work through unauthorised copying or re-use.

### Industrial Designs

This design right covers the functional shape or configuration of a two or three-dimensional appearance of a product. On registration under Law 4(I)/2002, and amendments, the

designer of the new pattern or shape which has aesthetic appeal acquires a monopoly right of commercialisation for up to 20 years divided into 5 year periods of required renewal.

An Unregistered Community Design (UCD) gives its owner the right to prevent unauthorised copying of their design throughout the European Union under Council Regulation No 6/2002, and amendments. It is not a monopoly right and lasts for 3 years from the commencement date.

### Domain Names

Registering a domain name for Internet use gives a right to use the domain name typically for a period of two years (registered with bodies like ICANN internationally and the University of Cyprus in Cyprus). Owners of trademarks can have established rights to domain names.

### Trade Marks

Registering a trade mark under the CAP 268 gives a monopoly right for the use of graphically distinct trading identification signs. Unregistered trademarks have some protection through court actions against "passing off" (piracy), provided that their use has not lapsed for a period of 5 years. Cyprus legislation is completely harmonised with the EU standards applicable in trade mark protection.

2.3 The University's members of staff and students undertake to keep confidential and not disclose any confidential information, data, materials, know-how, trade secrets or any other IP, to any unauthorised third party and shall also undertake to keep such information secure and strictly confidential both during the course of research activity, be it of an Academic or Collaborative/Contract nature, and also on and following completion thereof.

2.3.1 Any breach of this confidentiality and non-disclosure obligation constitutes a serious breach and may lead to disciplinary action and does not prejudice the rights of the University to file any action for damages or any other rights available at law.

## **3. Coverage of the Regulations**

3.1 To whom does this IP Policy apply:

3.1.1 Employees

The University claims ownership of all intellectual property as specified in section 6.3 of this document which is generated:

- a) By persons employed by the University in the course of their employment ;
- b) By other persons engaged in study or research at the University who, as a condition of their being granted access to the University's premises or facilities, have agreed in writing that this Part shall apply to them;
- c) By visiting or part-time persons employed by the University in the course of their employment;
- d) By persons engaged by the University under contracts for services during the course of or incidentally to that engagement.

### 3.1.2 Students

The University claims ownership of all IP by students members of the University in the course of or incidentally to their studies.

### 3.1.3 Non-employees contracted to the University

The University claims ownership of all IP by persons engaged by the University under contracts for services during the course of or incidentally to that engagement.

### 3.1.4 Sabbatical, Seconded, Visiting Academics and others during the course of or incidentally to their engagement with University.

### 3.1.5 Staff/employees/ and students participating in Collaborative and/or Contracted Research on behalf of the University.

3.2 The preparation and negotiation of any IP agreements or contracts involving the allocation of rights in and to IP will be undertaken by a competent person authorised for this purpose by the University.

Issues that will be addressed in such agreements include, but will not always be limited to:

- Ownership of Foreground IA;
- Licences to IPR for uses outside the project;
- Ownership of Background IP;
- Licences to use Background IP in the project or activity in question and in relation to the use of the Foreground IA arising from such project or activity;
- Allocation of rights to use or commercialise IP arising from any such project or activity and the sharing of revenues; and
- Publications arising from the relevant project or activity and the rights arising from such projects or activities.
- Warrantees and Liabilities

The terms of such agreements may be subject to negotiation.

## **4. Exceptions to the Regulations**

4.1 Unless specifically commissioned and/or unless using significant resources of the University, typically the University will NOT claim ownership of copyright in certain types of Disclosable Work described in this policy as "Creator Copyright Works":

- Artistic works including (by way of example only) films, videos, photographs, multimedia works;
- Text and artwork for publication in books;
- Articles written for publication in journals;
- Papers to be presented at conferences;
- Theses and dissertations;

- Oral presentations at conferences;
- Posters for presentation at conferences; and
- Musical scores.

4.2 Unless specifically commissioned by the University or an external funder, or created/devised with use of significant resources of the University, or created/devised jointly with anyone else subject to section 3.1 above, typically the University will NOT claim ownership of any IP generated by Students.

4.3 Material produced for the purposes of the design, content and delivery of a University course or other teaching on behalf of the University, whether used at the University's premises or used in relation to a distance learning and/or e-learning programs. This type of material includes but not limited to slides, examination papers, questions, case studies, and assignments ("course materials"). The University however automatically retains a free, perpetual, non-exclusive licence to use all such copyrighted academic and teaching materials for educational, commercial or research purposes and retains the right to modify such course and teaching materials.

4.4 Where IP has been generated under the Exception clause of this IP Policy, the University may assign the copyright to the Creator, but in all cases the University retains a free, perpetual, non-exclusive licence to use all such IP for educational and research purposes or for use in its normal business activities.

## **5. Disclosure of IP**

5.1 All persons bound by this Policy are responsible to the University for disclosing to the representative of the Research & Interconnection Service all intellectual property that arises and which can be deemed novel and unique at the outset of the work or as soon as they become aware of it (by completion of the Invention Disclosure Form, an example of which is provided in Appendix B):

- Any potentially novel and unique IP arising from their work;
- The ownership by a third party of any IP referred to or used for their work;
- Any use to be made of existing/Background University IP during their work;
- Any IP which they themselves own which is proposed to be used by the University.

5.2 Creators shall keep all Disclosable Work confidential and avoid disclosing this prematurely and without consent;

5.3 Only disclose any Disclosable Work and the intellectual property relating to it in accordance with the University's policy and instructions;

5.4 Seek the University's consent to any publication of information relating to any Disclosable Work. The university will undertake its best efforts to ensure publication

is not delayed longer than is necessary to file for protection with the appropriate authorities for IPRs;

5.5 Creators must NOT, without prior approval from the University:

5.5.1 Apply for patents or other protection in relation to the Disclosable Work; and

5.5.2 Use any Disclosable Work for their own personal and/or business purposes and/or on their own account.

## **6. Ownership of IP**

6.1 Ownership of IP created by an individual is generally determined by considering:

- Who created the IP?
- Was the IP created in the course of the Creator's employment/engagement with the University, or stems out of the Creator's employment/engagement?
- Are there any contractual conditions that affect ownership?
- Was there meaningful use of university facilities, equipment, or other resources in the creation of the IP?

6.2 Assignment of ownership rights

Generally the Creator of IP is its legal owner. From the University's point of view, the most important exception to this is the general rule that IP is owned by a person's employer where the IP is created as part of, or through the auspices of, the person's employment/engagement with the University.

Ownership rights can be assigned by the first owner; this assignment is often made, for example, as a condition of a researcher's funding (i.e. the funder is prepared to pay for the research provided that ownership of any IP is assigned from the researcher to the funder).

6.3 The University reserves all rights on IP as defined in section 2.2, which is generated by the persons as defined in section 3 above and under the exception to the regulations as defined in section 4. It also includes but is not limited to the following:

6.3.1 Any work generated by computer hardware/software owned/operated by the University.

6.3.2 Any work generated that is patentable or non-patentable.

6.3.3 Any work generated with the aid of the University's resources and facilities including but not limited to films, videos, field and laboratory notebooks, multimedia works, photographs, typographic arrangements.

6.3.4 Any work that is registered and any unregistered designs, plant varieties and topographies.

6.3.5 Any University commissioned work generated. Commissioned work is defined as work which the University has specifically employed or requested the person concerned to produce, whether in return of special payment or not and whether solely for the University or as part of a consortium.

6.3.6 Databases, computer software, firmware and related material not within 6.3.1-5.

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- 6.3.7 Know-how and information related to the above.
  - 6.3.8 Work generated as a result of the teaching process including but not limited to programs of study, methodologies and course outlines.
  - 6.3.9 All administrative materials and official University documents, e.g. software, finance records, administration forms and reports, results and data.
- 6.4 IA or IP determined by the University to have little or no commercial value can be assigned to the Creator so long as the University retains a royalty-free license to use in perpetuity for educational, research purposes or for use in its normal business activities.

## **7. Modus Operandi for Commercial Exploitation of the IPR**

- 7.1 The University is entitled to commercially exploit any result obtained under its aegis (unless this entitlement is relinquished). The Research & Interconnection Service has the responsibility for the administration of disclosures and will work with the TTF of Cyprus where required for the commercialisation of disclosures. As guidance to the commercialisation process, the University may wish to follow the standard process, graphically presented in Appendix A.
- 7.2 The Creator/s shall notify the Research & Interconnection Service of all IP which might be novel and unique and of any associated materials, including research results, as early as possible in the research project. This notification shall be effected by means of an Invention Disclosure Form (Appendix B). In case of doubt as to whether research is novel and unique, the Creator/s undertake/s to seek the advice of the Research & Interconnection Service.
- 7.3 The Research & Interconnection Service shall immediately acknowledge receipt of the Disclosure Form and notify the TTF if necessary. In consultation the Creator/s and possibly with the TTF, the Research & Interconnection Service shall decide whether the University has an interest to protect and exploit the relevant IP.
- 7.4 The TTF will be expected to communicate its recommendation in writing to the Research & Interconnection Service and the Creator/s by no later than two (2) months from the date of receipt of the Invention Disclosure Form. If the University decides to protect and exploit the IP, it is understood that:
- The Creator/s shall collaborate with the University and the TTF, to develop an action plan for the protection and commercial exploitation of the IP;
  - The TTF in collaboration with the Creator/s shall ensure that third party rights are not infringed in any way through the process; and
  - The University shall seek to protect the right of the Creator/s to use the said IP for strictly non-commercial purposes.

- 7.5 Should the University decide that it has no interest to protect and exploit the relevant IP, or should it fail to inform the Creator/s about its decision within one (1) month of receipt of the recommendation by the TTF, the University may assign all its rights, title and interest in such IP to the Creator/s concerned, whilst the University retains the right to freely use the said IP in whichever manifestation for educational, research purposes or for use in its normal business activities.
- 7.6 The Creator/s shall not enter into any sponsorships or commercial agreements with third parties related to their research at the University without prior written authorisation by the Research & Interconnection Service. This said, it is understood that consent shall generally be granted to the Creator/s for such requests as long as the IPRs of the University are safeguarded in the eyes of the Research & Interconnection Service or other office or persons designated to make that evaluation.

## **8. IPR protection**

- 8.1 Some forms of IP require active steps to be taken to obtain protection (e.g.: patents, registered trademarks and registered designs). Other forms of IP rights are protected on creation (e.g. Copyright) but still require appropriate management in order to maximise the protection available.
- 8.1.1 All materials falling under this policy made publicly available by any employees, members of staff and/or students should include a University copyright notice.
- 8.1.2 No disclosures of anything novel and unique can be made to third parties without a signed NDA in place, or other terms of confidentiality protection that may be included in an employment/engagement contract or the agreement by students to accept enrolment.
- 8.2 Any decisions relating to the registration of any IP rights such as making an application for a patent or a registered trade mark or a registered design (including any decisions to continue or discontinue any such application) should be made in consultation with the person or persons appointed for this purpose by the University. The IP registration process can be very expensive and IP protection costs should not be incurred without appropriate consideration of how such costs will be recovered.

## **9. Revenue Sharing Mechanism and Spinouts**

- 9.1 The University's employees and students shall benefit from the Revenue Sharing Scheme if their work generates net income for the University. Such scheme is presented in the Appendix C of this policy. Note that such revenue to be shared is always calculated after deduction of all costs incurred by the University and the TTF in developing, protecting, exploiting and marketing the Disclosable Work and the Intellectual Property it contains.
- 9.2 The University and members of staff may wish to establish spin-out or service companies from the University to exploit intellectual property licenced or assigned from the University. Normally the University will retain a minority of equity stake in a

spinout or service company. The exact share structure in such spinouts will be decided ad-hoc after negotiations in good faith with the involved parties, taking into account all relevant parameters. The respective shareholdings in the company of the researchers and the University shall be negotiated at the time of formation or capitalisation; and unless otherwise agreed, revenues generated by the shareholdings (both capital and income receipts) shall be retained by the shareholders, and shall not be subject to distribution under section 9.1 above. The University will only licence IP into a spinout and will not assign IP (transfer complete ownership) to the spinout. The University will generally grant a fully exclusive licence and (in nearly all cases) provide the spinout with control/decision making over the prosecution of the IP. The University will issue specific guidelines or regulations to further define aspects of this policy term.

## **10. Leaving the University**

Cessation of employment, under normal circumstances, will not affect an individual's right to receive a share of revenue. Exception to this rule includes: cessation of employment due to disciplinary action.

## **11. Applications to use the University's IP**

- 11.1 The University may be willing to consider requests from its staff and/or students for a licence to use specific IP, owned by it for their use although the terms and decision to grant any such licences is a decision wholly made by the University.
- 11.2 Applications for such licence should be made in writing to the Research & Interconnection Service.

## **12. Breach of the Regulations**

- 12.1 Breach of the regulations listed in this Policy may be a disciplinary matter for the University's staff and students under the normal procedures.
- 12.2 The University shall consider all avenues available to it, including legal action if necessary, in respect to persons bound by these regulations who acted in breach of them.

## **13. Discretion to assign/licence back**

- 13.1 If the University does not wish to pursue the commercialisation of any Intellectual Property or does not wish to maintain an interest in the IPR, it has the right to assign such IPR to the Creator/s of the IPR by entering into an agreement to enable the IP to be used by the Creators. This will generally only be granted where there is clear evidence that the IP provides no other benefit to the University and is not related to other IP, which the University has an interest in. However, the University shall not assign its IP if they consider that the commercialisation of the IP could potentially bring harm to the name of the University.

13.2 Requests for any transfer of rights from the University to another party with rights should be made in the first instance to the Research & Interconnection Service.

#### **14. Amendments to the Regulations**

These Regulations may be amended by the University Council on the recommendation of the Research & Interconnection Service or the Research Committee.

#### **15. Death**

In the event of death, the University shall forward the entitlement to the benefit from the exploitation of IPR to the estate of the deceased or the next of kin.

#### **16. Disputes**

16.1 Any disputes regarding the revenue distribution from the exploitation of Disclosable Works will be dealt with in accordance with the University's normal member of staff or student dispute resolution procedures as outlined in their contractual terms and conditions or the terms of enrolment and study for students.

16.2 The Parties shall attempt to settle any claim, dispute or controversy arising in connection with this Policy, including without limitation any controversy regarding the interpretation of this Policy, through consultation and negotiation in good faith and spirit of mutual cooperation. Where such claims or disputes cannot be settled amicably, they may be taken to court.

#### **17. Jurisdiction**

This Policy shall be governed by, and construed in accordance with the laws of Cyprus.