

IPR POLICY GUIDELINES

(An abridged version of the policy document of 1994)

Ownership of Intellectual Property

Agreements related to Sponsored Research

- (a) **In government sponsored research usually the condition imposed is that government is owner of know-how** though it is normally agreeable to share the revenue earned, if any, on mutually agreeable issues.
- (b) In any transaction in IPR, IITD would inform the sponsor and seek its concurrence for know-how transfer
- (c) **Irrespective of ownership agreement, the institute will process the IPR related administrative steps such as 'invention disclosure', 'copyrighting', 'patenting', etc.** The cost of processing patent for sponsored project may be charged to Administrative Overheads. **For international patents, if any, the cost has to be borne by, the sponsor.**

“Use” of IITD Resources and Related Ownership Right

1. Use of office library merely being paid by IITD does not imply “utilization” of IITD resources.
2. If funds are provided for the development and research leading to the product, it belongs to the category of “use” of IITD resources.
3. If textbooks/research monographs/reports are developed using funds provided for the purpose, irrespective of the quantum of fund, the property right ownership rests with the institute.
4. Research documents are sponsored project (government or private) belonging to the category of technical report for sponsor, however, will be owned by the Institute for unrestricted distribution.

Contractual/Consultancy Work

Contractual/Consultancy Work has to be distinguished from the sponsored work. Where information is to be restricted for limited circulation, such projects should be categorized as contractual/consultancy work and scope of ‘restriction’ should be defined. ‘Contractual/Consultancy work’ should be divided into following categories as far as documentation is concerned :

- (a) study component where basic research is involved should be published;
- (b) data and product/process which is specially developed for client/sponsor may be categorized as proprietary and classified. All contract/consultancy agreements

must spell out in advance about the demand in proprietary report/document. The consultant and client should enter into an agreement about the terms of ownership of the know-how.

For product oriented know-how transferred as a part of consultancy, agreement has to be entered into an royalty sharing.

Unprotected Intellectual Property

Not all intellectual property can be patented/copyrighted but still may be considered important from technology viewpoint. Such unprotected intellectual property mostly results in an academic institute when the scientific/development work has not reached a stage of disclosure. Technology know-how also belongs to this category. **The decision to part with such disclosure outside the institute will rest with the faculty/researcher/staff concerned but if decision is taken to part with it for the sake of enhancing the scope of research, the confidentiality agreement, as valid for trade secret/proprietary information, may be obtained from the receiving party.** It may be mentioned that pre-publication material also belongs to this category. Publication, through copyright protection provided by the publisher, provides the necessary IPR protection to the creator. Confidentiality requirement is to be enforced only if faculty decides against free distribution of know-how information.

Software Acquisition and Ownership

- **IITD will normally discourage ownership of software** which, by virtue of the licence rights, puts constraint on the use of the software by IITD community or impairs IITD's right to develop and distribute software which is dependent upon the procured software.
- **Faculty members and personnel procuring software are advised** to ensure at the time of negotiation for purchase that legal restrictions are clearly spelt out by the supplier and the IITD community using the software is aware of the restrictions.
- **IITD expects that IITD researchers**, students and staff understand the obligations made to the third party related to software and database. When IITD researchers/ faculty/students use software which are not in the public domain and are proprietary to certain suppliers, before copyright and patent ownership is sought for the software developed, **the terms and conditions are settled with the owner of the software which has been used and IRD is informed about it with details.**
- When a software is developed by a student/faculty/researcher/staff jointly or independently and is available in the tangible form, **the property may be enlisted in institution 'Software Bank'.**
- **No agreement is signed with supplier which restricts the research and developments opportunities by IIT faculty/students/researchers.** IITD may, however, agree not to permit use of software for commercialization of a product but any restriction on new product development which may

be patentable or worthy of commercialization would not be accepted by the Institute. Use of copyrighted software should not inhibit IITD researchers to develop products worthy of commercialization.

For registration in the ‘Software Bank’ a minimum criteria has to be satisfied which will be examined by institute IPR Committee.

Form available from IRD outlines the general criteria for consideration of qualification of registration of the software in the ‘Software Bank’ and giving notice of ‘ownership’.

The Registration notice has the following implications:

- (a) It certifies that a nucleus of tangible technology product has been developed of certain acceptable standard which merits consideration for support, academic recognition, updating and negotiation with external agency for exploitation.
- (b) **The institute, through IRD or other agency, will take initiative to publicize/disseminate information on the software developed.** IRD would take assistance of FITT/NRDC and similar other agencies for further exploitation, if recommended.
- (c) **The institute will permit any formal transfer/distribution** of software only if it is registered in the ‘Software Bank’. This is also true for situations where the software is a part of ‘sponsored’ or consultancy work.
- (d) **IRD may provide financial support,** if so recommended by the IPR committee, for document standardization and upgradation of the internally developed software.
- (e) ‘Registered software’ will form a component in the academic assessment of faculty/researchers with appropriate weightage based on its distribution/commercial impact.

Proprietary and Know-how Information

- In course of exchange of scientific information it becomes necessary to protect secrecy. The maintenance of secrecy up to a certain extent does not necessarily violate the normal ethics of scientific cooperation accepted as a universal norm in academic institutions. It is found that absence of protection of secrecy in many cases has only delayed or denied society an access to information. Unlike copyright, trade secrets are not protected by law. **Confidentiality of proprietary information may be protected by binding individuals/organizations to non-disclosure of ‘confidentiality information’ when the information is being passed on to outside organization.**

The institute policy is to provide such protection where necessary, specially in collaborative work **without compromising, however, its basic commitment to propagate knowledge to society.**

- A consultant belonging to the institute may often be given proprietary information by clients which are termed as trade secrets. **The institute must be informed of the access of the consultant to trade secret.** If the associates with the consultant belonging to the institute have access to proprietary information, the names of such persons and the related project code/title must be informed to IRD.
- **Any proprietary/confidential information cannot be used in a student's thesis** work as all results related to thesis are accessible to general public.
- Proprietary information may be used involving students if the information is not to be included in the thesis or publication work.
- If proprietary/confidential information is of strategic nature involving classified information, the work should preferably be carried out at client's site as an academic institute cannot provide the environment of secrecy necessary for the confidentiality of proprietary information. Confidentiality, beyond a point, is contrary to academic ethics and charter of the institute. Work of classified nature, if taken, needs to be with well defined 'domain' of classification.
- **No work carried out at the institute will be generally considered proprietary.** Non-publication/non-disclosure of information will only imply that the results have not yet reached a stage that merit disclosure or are awaiting IPR protection.
- **All technical reports should be open and available to general public unless special permission has been obtained from Dean, IRD to hold the information as proprietary.** Reports for clients in consultancy may belong to this category. Reports belonging to sponsored projects, however, have to be accessible to general public. Consultants need to spell out at the time of negotiation of the contract as to whether or not the report will be proprietary to the client.
- In-house know-how information/document, similarly, cannot be assigned classified status. It has to be patented, copyrighted wherever possible and the information about the availability of know-how must be conveyed to the institute through disclosure notice.

Control and Evaluation of IPR

General

- **IRD Office is responsible for** assisting/promoting IITD technology transfer to the industry for public benefit. It also provides necessary administrative umbrella for IPR protection.
- **IRD carries out evaluation of technology**, provides administrative control and protects the interest of researchers/faculty/students of the institute as per prevalent laws of the country relating to Intellectual Property Right and assists in furthering transfer of technology to users and the industry.
- **IRD also attempts, within its constraints**, to identify potential market and provides administrative support in licencing etc. so that the intellectual property created at the institute gets disseminated to the industry/users through production and marketing.
- **IRD also provides control to ensure that** as far as possible TRP of the institute has certain minimum credibility before it formalizes distribution in the names of the Institute.

Sponsored Research

- Sponsors of research have their own terms and conditions which are to be complied specially with respect to new results, development, document, technical data, and copyrightable work. Many a time, the terms are vague and not well defined. The conditions and terms may vary from one sponsor to another. **In the absence of sponsor's norm, the institute should clarify the IPR issues and evolve a mutually agreed norm.**

Commercialization/Distribution/Licensing

Introduction

The purpose of processing commercialization by Indian Institute of Technology Delhi, which is a non-profit organization, is to meet one of its stated objectives of disseminating the fruits of research and development for the benefit of public and society. Since any R&D effort is expensive and transfer of its result to user is a complex process, the motivation of the institute in commercial transaction is meant for sustaining the effort to transfer the research for laboratory to actual field of exploitation and not for making profit. Commercialization provides incentive to inventor and provides 'technology push' to the invention and couples it to the 'market pull'.

- The institute will usually grant non-exclusive licence for commercialization. Exceptions would be made on case-to-case basis depending on the involvement of sponsor in the development.

Revenue Sharing

- Any commercialization will outline the royalty or payment terms negotiated by inventor (assisted by a committee, if necessary) and approved by an appropriate committee.
- The royalty of revenue will be shared as follows :
 - (a) 60% to the author(s) 20% to the institute and 20% to the department/center.
 - (b) Where there are more than one author, the distribution will be decided by the Principal Investigator under whose direction the work is carried out.
 - (c) The revenue will be shared each time the institute earns it.
 - (d) Students/project staff may have a share in revenue earned even though the software/TRP is developed as 'work for hire'. The share in case of 'work for hire' is **not as a right** but may be as an incentive as the discretion of Principal Investigator or Supervisor.
 - (e) Revenue sharing is **not necessarily** concurrent with authorship. Mere assistance does not entitle one for authorship but may entitle for revenue sharing. Authorship is an acknowledgement of non-mechanical and intellectual contribution. Revenue sharing may be acceptable even for routine/mechanical contribution at the discretion of the director of work.
 - (f) If any author is not able to be contacted because of lack of information the revenue will be put in ILF.

IPR Administration

IPR Policy – A Guideline

The IPR policy is to be treated more as a guideline than strict rule in the legal sense in view of evolutionary scenario in nation's IPR policy. Software, video films, biotechnology, microelectronics etc. are throwing up situations where conventional concepts of ownership are breaking down, particularly with the explosion of information technology. It is, therefore, necessary to provide flexibility to deal with individual on merit of the case.

It is to be recorded that in view of evolutionary situation in IPR domain in the country, these guidelines will be subject to change if need arises.

IPR Committee will address specific cases on their merit taking IPR document as a guideline.

Technology Transfer Through FITT/IRD (Guidelines)

The general guidelines of technology transfer from IITD are as follows :

- (a) **For** sponsored projects IRD will process IPR cases as most of the time IPR terms are dictated by sponsors. IRD will take up IPR clauses, as necessary, at the time of project initiation with the sponsor or at the time of technology transfer.
- (b) For industry sponsored projects and related know-how transfer from IITD, FITT would handle the cases on commercial basis and obligations related to IPR in the market will belong to FITT. For faculty of IITD, IPR rules of IITD will apply related to invention disclosure, revenue sharing, technology evaluation etc. FITT may have further screening mechanism on IITD know-how as and when necessary.
- (c) All public domain related IPR issues will be handled by IRD
- (d) All inventions/know-how developed at IITD will first be declared to IRD which after preliminary scrutiny, will issue a docket number indicating registration of the claim. IRD will interact with FITT at appropriate stage when the technology know-how is established to be ready for transfer. IRD will deal the case with sponsors in case of sponsored projects.

Altering academic software to proprietary by an industry would not prevent IITD to distribute to any other party wants to use the **original** one (as-it-is) developed at IITD

If any software is made under contract for any client, it should be built-in that IITD faculty will not be held responsible for any consequence related to manufacturing reliability etc. It will be client's responsibility.