

INTELLECTUAL PROPERTY RIGHTS POLICY

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**RESEARCH PROMOTION COMMITTEE
MSCB UNIVERSITY
INTELLECTUAL PROPERTY RIGHTS POLICY
(Approved by the SYNDICATE dated 20th AUGUST 2022)**

Title	: MSCB UNIVERSITY POLICY GUIDELINES ON INTELLECTUAL PROPERTY RIGHTS POLICY
Purpose of the Policy	: The purpose of this policy is to establish consistent guidelines for Intellectual Property Rights(IPR) Policy

Preamble:

Intellectual property rights (IPR) are one of the important tools that allow creators and innovators to benefit from their investments (both in terms of money as well as time) in creativity and innovation. They may play an important role in providing a competitive edge to an organisation, and also help individuals and organisations to build strategic alliances for socio-economic and technological growth. With the help of this Intellectual Property Rights Policy for universities, the university aims to create a balanced intellectual property ecosystem that can fuel creativity and innovations in the universities. This IPR Policy document can act as a guide for dealing with diverse intellectual property related issues such as ownership of intellectual property, benefit sharing, partnerships, ethical issues, and potential conflicts of interest. This IPR Policy document also recommends creation of IPR Cells in the university and suggests an administrative structure for those IPR Cells, as they can play a key role in proper implementation of this IPR Policy.

Intellectual property Rights (IPR) means the rights derived from the IP e.g. Patents, registered designs, copy right etc. Intellectual Property (IP) is an intangible knowledge product and shall mean and include –all results, conclusions, deductions, inventions, ideas, improvements, discoveries, enhancements, solutions, processes, modifications, know-how, data and information of every kind and description conceived, generated, made, or reduced to practice

as the case may be, designs, software programmes, genetically engineered microorganisms, business models and copyrightable work -resulting from the intellectual output of the faculty, staff, students, research scholars and other employees of the university. IP is, thus, an outcome of the university supported research or sponsored research, industrial consulting or other forms of joint research and development work. The various stakeholders who are considered under this policy include faculty members, staff, students, research scholars, visiting scientists, professors and other professionals who are engaged either on full-time or part-time basis.

Scope:

This policy covers all the rights arising from the intellectual property owned by the faculty members, staff, students, research scholars, persons in research work carried out at the university. The IP includes discoveries and innovations arising from academic research which includes but not limited to patents, designs, copyright, know-how and undisclosed information.

Purpose

- To encourage, promote, facilitate and safeguard scientific inquiry, research outcomes and the innovations of the faculty, researchers and students.
- To foster the creation and development of IP through research and innovations.
- To provide a clear understanding of the rights and responsibilities of the faculty, staff and students to safe guard their intellectual property.
- To establish an IPR management policy and procedural guidelines for conversion of knowledge to wealth.
- To enable all the IP stake holder of the university so as to confer maximum benefit to the inventors and the society at large.

Objectives

MSCB University, has a major role to play in promoting innovation, creativity, and entrepreneurship in the country. This IPR Policy intends to promote an eco-system which is conducive to the development of diverse varieties of research and innovation within the university. A balanced approach in the area of IP protection, as followed in this IPR Policy, can also play a major role in promoting start-ups by enabling equitable access to knowledge and technology resources. The IPR policy of the Institute aims to:

1. To promote quality research and innovation through a balanced IP management approach.
2. To implement IP management practices within the university so as to promote IPR awareness and culture among its faculty, scholars and students.
3. To protect the IP generated by the faculty, staff and students during the tenure of their employment/engagement at the university.
4. To provide better autonomy to researchers for IP creation and management, in order to create a better eco-system for innovation and entrepreneurship.
5. To promote more and more collaborations between the academia and industry through better clarity on IP ownership and IP licensing.
6. To ensure more optimal utilisation of results obtained from research through better diffusion and dissemination of knowledge.
7. To promote bilateral and/or multilateral agreements for technology transfer mechanism.
8. To provide a comprehensive single window reference system for all IPR related issues.
9. To promote intra-academia and inter-university research collaboration.

An IPR cell be constituted with the following members:

1. Director, IPR Cell
2. Dy. Director, IPR cell
3. Director, IQAC
4. Three faculty members , two from Sciences(Physical & Life) and one from Humanities
5. IP expert from government or an IP consultant
6. Registrar
7. Comptroller of Finance

GUIDELINES OF IPR POLICY

Identifying Potentially Patentable Inventions

To identify potentially patentable inventions, faculty should review their work periodically in the context of United States patent law, which states that patents may be granted on:

- **Novelty:** The invention must be demonstrably different from any existing prior art; this means it cannot be described in prior “public disclosures,” which include publications and/or availability of the invention to the public as a commercial product.
- **Applicability:** The invention must be useful in ways which represent improvements over existing products and/or techniques.
- **Non-obvious:** The invention cannot be obvious to a person of “ordinary skill” in the art; non-obviousness usually is demonstrated by showing that practicing the invention yields surprising, unexpected results. Each of these three criteria is open to interpretation.

Standard Operating Procedure

1) Reporting inventions

University faculty members agree to abide by the Intellectual Property Policy of the University. The policy requires that all inventions made during the course of an inventor’s activities as an employee of the University be formally reported through submission of **Invention Disclosure Form** to the R & D Cell of MSCBU.

- It is important to submit an Invention Disclosure form as soon as an inventive concept can be fully and precisely described, even if a physical embodiment of the idea has not been realized. A completed Form should be submitted to the university, so that patenting or other means of protection can be explored.
- In addition to writing a precise description of the invention in the form, faculty should take special care to list all the inventors, defined as those who made a creative contribution to the inventive concept. If the invention meets the requirements of patent law and appears to be commercially attractive, a patent application may be filed ahead of the actual reduction to practice.

2) Review

- The Form so submitted by the inventor, will be reviewed by the University to determine
 - ✓ The probability that the work is eligible for meaningful patent protection
 - ✓ Whether the idea has sufficient commercial appeal to be the basis of a partnership with a company capable of producing and marketing products or processes based on the invention.

- When an invention is judged to be both patentable and commercially attractive, it is recommended to file patent individually or through university.
- This application does not mature into an issued patent but rather establishes an early effective filing date, provides additional time for an inventor to broaden proof-of-concept data, and allows the inventor to disclose their invention publicly.
- A provisional patent application must be converted into a non-provisional patent application within one year of the provisional filing date, otherwise the provisional patent application is automatically abandoned.

3) Assessing Commercial Attractiveness

The attractiveness of an innovative idea to companies capable of developing it into a commercial product is determined by two critical factors:

- ✓ The idea must be protectable, preferably through broad, valid patents, so that the company developing and marketing it can control its use and sale for the life of the patents.
- ✓ The idea must benefit a substantial segment of society and appeal to a potential market large enough to justify a commercial organization's investment in its development, manufacture, and marketing; the resulting product or process must be profitable.

4) Technology Transfer

- The university shall take all necessary steps for the commercial exploitation of the IPR obtained either in its name or individual faculty member or jointly with others, to the fullest possible extent after ascertaining its practicability. Marketing of the products those are the outcome of copyrights will be done under the agreements involving technology transfer, licensing and revenue sharing models.
- The university shall try to identify the potential licensee(s) for commercial exploitation of the IP to which it has absolute ownership. In case of joint ownership, the university will offer the first right to commercially exploit the joint IP, whether or not the same has been formally protected by patent(s).
- The licensing in this case would involve payment of a lump-sum amount in the beginning, as technology transfer fee and payment of royalty from the first day of the commercial exploitation for a mutually agreed period.
- If the collaborator refuses to exercise this option, the university will proceed to commercialize the IP in a manner that it deems to be fit.

- In the event of the other collaborating organization/industry not undertaking the commercial exploitation within a period of two years from the first date of development of technology, the university reserves the right to license the use of IP to a third party.
- To promote and encourage entrepreneurial activities by its faculty, the university may reassign, under an agreement, its ownership of an intellectual property to the inventor(s) or creator(s) of the property, who opt to market, protect and license it on their own with minimal involvement of the university. The fees to be paid to the university by the assignee consist of all patenting and licensing expenses and appropriate amount of royalties, equity or other value received by the inventor(s) or creator(s).
- The university shall endeavor to exploit the IP either by itself or by commissioning a Technology Management Agency to bring to fruition the IP produced by its personnel. The inventor(s)/creator(s) may seek the university to assign the rights to them after a certain holding period.

5) Conflict of Interest

The inventor(s) are required to disclose any conflict of interest or potential conflict of interest. If the inventor(s) have a stake in a licensee or potential licensee company, then they are required to disclose their stake in the company. A license or an assignment of rights for a patent to a company in which the inventor(s) have a stake shall be subject to the approval of the university.

Annexure-1: Instances and Details

- ✓ Establishing novelty and/or usefulness often relies on arbitrary value judgments. For example, it may not be clear that a new gene-sequencing instrument is “demonstrably different” from other existing models, or that the use of a new hybridoma for narrow research purposes is sufficiently significant to be called a “useful” improvement over existing techniques.
- ✓ Despite the possible variety of definitions of novelty and usefulness, the concept of “non-obviousness” is the most complex of these three patentability requirements. It is subject to broad and often inexact interpretation. For example, it might be argued that a new method of controlling protein production in bacteria is obvious in the face of prior art because it relies on a collection of well-known, existing and proven concepts.

- ✓ Conversely, one could argue that the same method is not obvious because certain specific elements of the method yield surprising, unexpected results. Judging what is obvious to one of “ordinary skill” in an art is rarely straightforward, especially in technologically complex fields.
- ✓ These three criteria are usually the focal point of the patent office’s evaluation of patent applications. In particular, “obviousness” is most frequently cited by patent examiners as the reason an invention is not patentable.
- ✓ Finally, patent law states that inventions may be patented if they have been reduced to practice, even if a physical embodiment of the invention has not been realized. Therefore, some extrapolation about an inventive concept can be included in a patent application.
- ✓ The extent of permissible extrapolation, however, may be the subject of dispute with the Patent Office. For example, an invention which claims a broad class of chemical compounds is rarely granted a patent, unless evidence is presented that several different representative members of the class have actually been made.
- ✓ A claim even to a single new compound usually must include a detailed description of its actual synthesis in order to receive patent protection. In the case of machines or mechanical devices, the requirements of the patent office are much less strict.

Annexure-2: Contents of a Patent

Patent applications consist of:

- an abstract
- the “specification,” a text section which explains the invention’s history, describes it in broad terms and teaches the public how to make and use it
- the “claims,” which are precise, numbered statements describing exactly what the inventor claims as the invention.

In approximately 1-3 years (the timing of which depends on the backlog of patent applications in the USPTO unit that is examining the application), the patent office issues its first “office action” or reply to the initial patent application. This first office action usually rejects most or all of the inventor’s claims of invention on the grounds of obviousness; several references (either issued patents or scientific papers) are cited to support this contention. The inventor and patent attorney then must argue that the 5 references do not

render the invention obvious. This basic give-and-take continues until a patent is either granted or denied; the entire process takes years.