

# **Intellectual Property Policy**

**General Sir John Kotelawala Defence University, Sri Lanka**

## **1. Preamble**

General Sir John Kotelawala Defence University (KDU) is becoming a trend setter in research and development in the country, and it has taken multifaceted initiatives to strengthen its research culture by introducing various strategies. For instance, KDU established a position of Dean of Research and Development for the first time in Sri Lanka. KDU initiated KDU-CARE (Institute for Combinatorial Advanced Research and Education) for venturing into cutting edge research in medicine, analytical chemistry, drug discovery and clinical trials. Also, KDU has taken steps to shortly establish the first ever wind-tunnel for engineering research in Sri Lanka. Further, the establishment of the proposed high-end computer modeling and simulation laboratory by KDU will be on a par with modern trends in research to minimize cost and risks in all types of research before real world or wet-lab experiments, and KDU intends to set up several 24x7 research laboratories and Open Access Portals, first time by a Sri Lankan research institute targeting own institutional researchers and external researchers. At the present juncture, KDU recognizes the need for and desirability of encouraging the utilization of outcomes of research and development for national progress by converting innovative findings to practical applications..

This document presents the Intellectual Property Policy of KDU that provides the necessary procedural support framework, protection of the resulting intellectual property rights specifying incentives to encourage further engagement in research and development and the requisite processes for the transfer of benefits at large with due retention of ownership rights.

## **2. Objectives**

- 2.1 To encourage research and development and scholarly activities by the staff of KDU leading to their professional development.
- 2.2 To encourage the conduct of research and other work at KDU and to protect such research and work.
- 2.3 To provide incentives and conducive environment to facilitate commercially viable research and development at KDU.
- 2.4 To enable KDU staff to generate income through nationally relevant and internationally recognized research work.
- 2.5 To streamline conduct of research and scholarly work at KDU to facilitate claiming of intellectual property rights.
- 2.6 To facilitate and encourage researchers to disclose their research outputs and scholarly work in compliance with Intellectual Property Act of Sri Lanka.

2.7 To provide financial benefits and due recognition for Authors, Creators and Inventors of KDU.

2.8 To strengthen KDU's position as a trend setter in research and development in Sri Lanka.

### 3. Definitions

<b>Author(s)</b>	<b>the physical person(s) who have created the work</b>
<b>Patentable Invention</b>	<b>a new inventive step that is industrially applicable</b>
<b>New Industrial Design</b>	<b>an industrial design that meets the standards of Novelty as described in Section 31(i) of the Intellectual Property Act</b>
<b>Invention</b>	<b>an idea of an inventor which permits in practice the solution to a specific problem in the fields of Engineering, Science, Medicine, Technology, Defence, Law, Management, Humanities and Social Science.</b>
<b>Works</b>	<b>any original literary, artistic or scientific work expressed in any medium referred to in section 6 of the Intellectual Property Act</b>
<b>Act</b>	<b>Intellectual Property Act No. 36 of 2006</b>

### 4. The IP Policy

IP Policy of General Sir John Kotelawala Defence University intends the following:

4.1 establishing the protocols relevant to all Intellectual Property related rights accruing on new industrial designs, inventions and works including but not limited to software, drugs, chemicals, industrial designs, reactors, technologies, processes, genetic materials, Integrated Circuit Layouts, trademarks, service marks and Trade Secrets, which are hereinafter referred to as "new industrial designs, inventions and works".

4.2 securing all legal rights, accruing on such new industrial designs, inventions and works as provided for under the Intellectual Property Act.

4.3 making such new industrial designs, inventions and works available for scientific and commercial use.

4.4 This Policy is applicable to:

- (a) all KDU personnel inclusive of students, as well as non KDU personnel associated with any activity at KDU such as, but not limited to, collaborative research and education programmes.
- (b) KDU or Non-KDU personnel who use KDU resources in such research, developments and advancements.

## **5. Principles**

The Policy is stated under the following principles:

### **5.1 Ownership**

#### **5.1.1 Invention(s), Designs and other Creative Works**

KDU shall be the owner of all new industrial designs, inventions and works created by KDU personnel and/or non-KDU personnel associated with any activity of KDU or KDU Funded (grants) projects. There are exemptions in the following situations.

- 5.1.1.1 New industrial designs, inventions and works created by KDU personnel without the significant use of KDU resources and not connected with the professional/occupational responsibilities towards KDU, shall be owned by the creator(s).
- 5.1.1.2 For new industrial designs, inventions and works produced during the course of a sponsored and /or collaborative activity, specific provisions related to IP made in contracts governing the collaborative activity shall determine the ownership of IP.
- 5.1.1.3 Non-KDU personnel, who create new industrial designs, inventions and works without intellectual contribution of KDU personnel and/or significant use of KDU resources, shall be the owners of such new industrial designs, inventions and works.

Following situations are considered as not falling within significant use of KDU resources.

1. When the KDU and non-KDU personnel compensate the university for the fair market value of the facilities and equipment (as actually charged by the institution to outside users).
2. When the KDU and non-KDU personnel do not use any university-provided funds or institution administered funds in connection with the activity.

### **5.1.2 Copyrightable Work**

KDU shall be the owner of all copyrightable work with the following exceptions:

5.1.2.1 If a work is produced during the course of a sponsored and/or collaborative activity, specific provisions related to IP made in the related agreement governing such activity shall determine the ownership of IP.

5.1.2.2 KDU shall not claim ownership of copyright on books and publications authored by KDU personnel. KDU grants authors the right to use the teaching material developed by them for their professional work.

5.1.2.3 Upon expiry of copyright on books and publications authored by KDU personnel, KDU shall have the right to file a patent application.

### **5.1.3 Trade Mark(s)/Service Mark(s)**

5.1.3.1 Ownership of trade mark(s) / service mark(s) created for KDU shall be with KDU.

## **5.2 Disclosures**

All new industrial designs, inventions and works which attract Intellectual Property Rights should be reported promptly in writing by the Creator(s)/ Inventor(s)/ Designers(s)/ Author(s) to the designated institutional officer using the University IP Disclosure Form provided by the university. The disclosure should constitute a full and complete disclosure of the subject matter of the new industrial design, invention or work and identify all persons participating therein, with a certification of the accuracy of the disclosure.

## **5.3. Assessment of Innovation(s) for Protection**

There shall be an IP Advisory Committee comprising DVCs, Deans of Faculties and Registrar of KDU to function as the secretary to the committee.

The above stated IP Disclosure Forms received by the designated institutional officer shall be submitted to an IP Assessment Committee (IPAC) formed by the Vice-Chancellor, consisting of IP Advisory Committee members and a minimum of two additional faculty members with domain expertise or familiarity/experience in areas related to the creative work. KDU will consider the date and time of the disclosure of the new industrial design, invention or work as the date and time of the relevant new industrial design, invention or work unless otherwise the new industrial design, invention or work shows evidence of an earlier date. In such a case, the evidence shall have to be supported with certified documentation and an affidavit.

The IPAC shall assess the disclosure expeditiously and shall make recommendations to the Vice-Chancellor, inter alia, on the patentability of the new industrial design, invention or work, novelty of the design, admissibility of the mark, registrability of Circuit Layouts according to the provisions of the Intellectual Property Act and this Policy.

Based on the recommendation of the IPAC the Vice-Chancellor shall decide on how to proceed with the securing of the relevant Intellectual Property Right.

- (a) If KDU takes the responsibility of the protection of IP rights, KDU shall initiate appropriate processes.
- (b) If KDU does not take the responsibility of the protection of the IP, the rights to the disclosed new industrial design, invention or work shall be promptly reassigned to the designer(s), inventor(s) or author(s) who may then choose to protect the new industrial design, invention or work on their own.

### **5.3.1 Filing of IP Applications in Foreign Countries**

KDU should decide on the suitability of the protection of inventions in foreign countries within one year of filing the complete IP Application in Sri Lanka. If KDU opts not to undertake such protection in any specific country requested by the inventor(s), KDU shall assign the rights of the IP in that country to the inventor(s) for the purpose of such protection at his/her/their own expense.

### **5.3.2 Renewal of IP Rights**

Decisions on the renewal of IP rights shall be taken by a committee consisting of the IP Advisory Committee and at least two additional faculty members with domain expertise or familiarity/experience in areas related to the new industrial design, invention or work. If KDU decides not to renew the IP rights in any country, then it will assign the rights of the IP in that country to the creator(s) upon a request to that effect from the creator(s). In the case of patents, the process of reassignment shall be completed within a period of three months before the due date for its renewal.

In all cases where IP rights in any specific country have been reassigned to the inventor(s), non-KDU personnel shall not claim any share of proceeds earned through such IP in such country, except for the costs already incurred by KDU.

### **5.4 IP Protection**

If KDU elects to protect a new industrial design, invention or work, it shall provide an IP Advisor/Patent Drafting Agent for drafting the IP Application as appropriate. KDU shall pay for the access to relevant IP information databases and other associated costs. The designer(s), inventor(s) or author(s) shall conduct IP searches, study the prior art and provide necessary inputs to assist in the drafting of the IP application. KDU shall bear all costs of drafting and filing of local IP Application(s). If KDU elects to file IP Applications in other countries, then it shall bear the cost of application and other associated costs.

### **5.5 Commercialization**

- 5.5.1 KDU with the assistance of the designer(s)/ inventor(s)/ author(s) shall identify potential licensee(s) and strive to market the IP for commercialization (technology transfer). KDU shall have the right to contract with an external organization to market and manage the commercialization of the IP.

- 5.5.2 For the IP for which exclusive rights have not been already assigned to a third party, the designer(s) inventor(s) or author(s) may also contact potential licensee(s) on their initiative maintaining confidentiality and taking all necessary care so as not to affect the value of the IP through appropriate agreements, such as Non Disclosure Agreement (NDA) with the potential licensee(s) during technology marketing discussions.
- 5.5.3 If KDU is not able to initiate commercialization of the IP within a period of one year then it may reassign the rights of the IP to the designer(s), inventor(s) or author(s) of the IP. In the alternative, if KDU has not been able to commercialize the new industrial design, invention or work within the above time frame, the designer(s), inventor(s) or author(s) may approach the Vice-Chancellor to request the assignment of IP rights to her/him/them.
- 5.5.4 The commercial value of a patent shall be agreed upon by both KDU and the designer(s), inventor(s) or author(s). KDU and the buying party shall conduct independent evaluations and shall conclude the value at a meeting attended/represented by all parties.

## **5.6 Revenue Sharing and KDU Research Fund**

- 5.6.1 The earnings after deduction of related expenses from the commercialization of an IP owned by KDU shall be shared between KDU and the Designer(s), Inventor(s) or Author(s) as follows. Such payments become due and are payable on receipt of payments from the licensee(s).
- 5.6.1.1 Up to Rs 10,000,000 – 70% for the inventor(s), author(s) or designer(s) and 30% for KDU.
  - 5.6.1.2 Beyond Rs 10,000,000 – 60% for the inventor(s), author(s) or designer(s) and 40% for KDU.
  - 5.6.1.3 In the case of the inventor(s) being a KDU student(s), the minimum value of the final transfer of the rights of a patent shall be decided by the IP Assessment Committee inclusive of the inventor and the mentor/supervisor.
- 5.6.2 The amount allocated to KDU from earnings of patents shall be transferred to a KDU Research Fund, which shall be used to encourage research and development at KDU as follows:
- 5.6.2.1 A non-competitive award of Rs. 25,000 for any patent granted by the National Intellectual Property Office (NIPO) of Sri Lanka.

- 5.6.2.2 A non-competitive award of Rs. 100,000 for any patent granted by the World Intellectual Property Organization (WIPO) or the Intellectual Property Office of any specific country.
- 5.6.2.3 A non-competitive award of Rs. 100,000 once a year for presenting a paper at an overseas International Conference by securing full paper publication in the proceedings of the conference. An applicant is entitled to this award if he/she is not eligible to request financial support as per BOM decision (No. 535:02). An applicant will be entitled for any one of the grants only once in a given year.
- 5.6.2.4 A non-competitive award up to Rs. 500,000 for presenting a paper at a high level (Specialists') International Conference by securing a full paper publication in the conference proceedings or a specific journal. It is required to provide documentary evidence to indicate that the acceptance rate of papers for the conference in that particular year is 10% or less. This award will be given to cover the expenses for airfare, conference registration, and accommodation upon submission of documentary evidence. The standard of such conferences should be determined by the Research Grants Committee after consulting experts' in the respective area.
- 5.6.2.5 Award of Rs. 200,000 for publishing in a high impact indexed journal. Since the impact factor is dependent of the area of research, the standard of the journal shall be decided by consulting a panel of experts from the respective area of research.
- 5.6.2.6 A National level competitive award of Rs. 25,000 for the Best Young Inventors targeting school and university students holding patents. This award shall be announced by KDU when there are at least 10 applications for the competition. Guidelines for the evaluation of the award shall be developed by studying the landscape of inventions by the students at the time of calling for applications.

## **5.7 Infringements and Liability**

- 5.7.1 KDU shall retain the right to engage or not in any litigation concerning Intellectual Property Rights covered by this policy.
- 5.7.2 KDU shall ensure that designer(s), inventor(s) or author(s) provide an indemnity as to the correctness/accuracy of the initial declaration of the research findings to KDU.

5.7.3 KDU shall also ensure that an indemnity clause is included to protect KDU and designer(s)/inventor(s)/author(s) from any resultant claims for damages or other causes in the agreements with licensee(s) in transferring technology or copyrighted material to licensees.

## **5.8 Resolution of Disputes**

Any disputes that arise regarding the implementation of the IP Policy, and those that could not be resolved through negotiation between the parties shall be subjected to resolution by arbitration based on written submissions made to the Vice-Chancellor of KDU as the sole arbitrator. The Vice-Chancellor's decision in this regard shall be final and conclusive.

## **6. IP Rights Documentations and Finances**

6.1 All documents related to IP under the Policy shall be kept under the custody of the Registrar of KDU.

6.2 The research fund and the financial disbursements under the Policy shall be managed by the Bursar of KDU.

## **7. Nature of the IP Policy**

This Policy is not exhaustive.