

# **Intellectual Property Rights Policy (IPR-POLICY)**

## **Guru Nanak Dev University, Amritsar**

### **1. Preamble**

Guru Nanak Dev University was established at Amritsar on November 24, 1969 to mark the 500th birth anniversary of Sri Guru Nanak Dev Ji. It is both a residential and an affiliating university. In conceiving the future course of the University, the objectives enshrined in the Guru Nanak Dev University Act 1969, emphasized that the new University would make provision for imparting education and promoting research in the humanities, learned professions, sciences, especially of applied nature and technology. In the responsibility of producing and disseminating knowledge there is inherent need to encourage creativity and scholarly works for the developments of new and useful materials, devices, processes and other intellectual property. In the University, faculty members, research scholars and the students are engaged in research and development work of considerable importance. Such works may lead to evolution of intellectual property know-how, copy-rights, designs, instruments, devices, processes, specimen, software and other inventions having potential for commercialization with or without the registration under different Acts enacted by the Government for protection of intellectual properties. The creation of intellectual property not only contributes to the professional development of the individuals involved, but also enhances the reputation of the University, provides educational opportunities for students and promotes public welfare. Particularly, a commercial exploitation of the intellectual property can be of considerable socio-economic benefit to the country. The University, therefore, supports and encourages the efforts directed towards bringing the fruits of University research in diverse fields of knowledge to public use and benefit while protecting the interests of the scholars.

To meet the goals envisaged in the preamble of the Act, the university is committed to providing an environment where scholarship and innovation can flourish and those participating in these endeavors can be suitably rewarded for their efforts. At the same time, the university also recognizes that certain intellectual properties can be developed as a result of the environment and the facilities provided by the University and there exists a special relationship between the University and its staff and scholars. As such also the University wishes where appropriate to gain benefit from intellectual property so created by the faculty and students. Such benefits may not only be monetary, but also in the form of the transmission of such knowledge to the future generations of students, scholars and faculty. At the discretion of the individuals to develop the knowledge, the request for the registration of a patent/copy-right will be considered prior to its commercial exploitation. In order to establish the respective rights and obligations of the University, its faculty, research scholars, students and other employees in intellectual property of all kinds now and hereinafter existing, the University is adopting this ordinance governing intellectual property policy( hereinafter referred to as 'the IPR Policy'). The policy shall govern the intellectual property rights of the University, faculty members, research scholars, students and other connected with the work, product, ideas and inventions created in connection with the activities of the University.

## 2. The Policy Objectives

The University has formulated this intellectual property policy for the management of intellectual property to:

- i) foster, stimulate and encourage creative activities in the widest sense in the areas of Technology, Science, Arts and Management.
- ii) protect the legitimate interests of the University, faculty, scholars, students and other members of the University and the society at large and to help resolving possible conflicts of opposing interests.
- iii) put in place a transparent administrative system for the ownership control and assignment of intellectual properties and sharing of the revenues generated by the intellectual properties developed and owned by the University.
- iv) Evolve an organization structure and procedures through which inventions and discoveries made in the course of university research may be made readily available to the public through channels of commerce.
- v) Establish standards for determining the rights and obligations of the university, creator of intellectual property (for example inventions, developers, authors) and their sponsors with respect to inventions, discoveries and works created at the university.
- vi) Ensure compliance with applicable laws and regulations and enable the university to secure sponsored research funding at all levels of research; and
- vii) Enhance the reputation of the university as an academic research institution and a member of society by pursuing the highest ideals of scholarship and teaching and by conferring the benefits of that scholarship and teaching on the university community and society.
- viii) The IPR policy provides the mechanism for preservation and use of intellectual property and procedures through which invention and discoveries made in the course of university research are disseminated to the public through the transfer of technology. As the scope of intellectual property and the mechanism for the transfer of technology are vast, it is not possible to address all the possibilities in this policy. However, the university aims to generate intellectual property for society use and benefit while raising income to support research and education.

3. **Commencement of the Policy** The ordinance governing the intellectual property policy shall come into effect from the date notified by the university. Moreover, this IPR policy shall supersede and overwrite any other policy in vogue at the time of this policy and this policy shall prevail all intents and purposes.

#### 4. **The Terms Defined**

- i) **Assignment** transfer of rights or title in the intellectual property in writing.
- ii) **Copy-right** is the exclusive right granted by law for a certain period of time to an author to reproduce, print, publish and sell copies of his/her creative work.
- iii) **Copy-rightable materials: include**
  - a) books, journal articles, texts, glossaries, laboratory, manuals, syllabi, tests and proposals, study guides, bibliographics;
  - b) Lectures, musical or dramatic compositions, unpublished scripts;
  - c) films, filmstrips, charts, transparencies, and other visual aids, Vide-audio tapes and cassettes;
  - d) live video and audio broad-casts;
  - e) Programmed instructional materials;
  - f) Research notes, research data reports and research note books;
  - g) other materials or works other than software which qualify for protection under the Indian Copy-right Act.
- (iv) **Creator(s)** include any employee of the university whether employed full time or part time or on probation or temporary basis either in the university and/or in projects and those who are research workers, research scholars or students or project fellows who are responsible for the creation of an intellectual property using the facilities of the University.
- (v) **Confidential disclosure** means an agreement between disclosing and recipient parties or a term in a research contract or license agreement.
- (vi) **Direct Expenses** include the costs associated with the development, protection, maintaining and licensing of intellectual property, including the regular payment of salaries or other overhead costs of the university.
- (vii) **Educational materials** comprise the content and associated tools and technologies for delivery of content, including material developed for traditional face to face class room courses as well as other delivery methods such as through internet or other distance learning media. For the purpose of this policy, educational material do not normally include works such as text books, articles, papers, scholarly monographs or artistic works produced in the normal course of academic scholarship.
- (viii) **Invention disclosure** means a written description of an invention that is confidentially made by the inventor to the university.
- (ix) **Intellectual Property** shall include any property generated out of intellectual effort of the creator (s). It includes but not limited to

- a) New and useful scientific and technical advancement in the form of innovations, inventions, products and processes, computer hardware and software, materials, biological varieties which are patentable.
  - b) Industrial and architectural designs, models, drawings software, creative, artistic and literary works, teaching resource materials generated, records of research etc, which copy-rightable.
  - c) trademarks, service marks, logos etc.
- (x) **IPR Cell and IPR –Advisory Committee:** The IPR Cell shall be headed by Professor, GNDU, Amritsar as Director IPR appointed by the Vice-Chancellor . IPR-Advisory committee comprise of three members (with Two years term) with expertise in areas related to IPR and technology transfer, as recommended by the Director IPR cell and approved by the Vice-Chancellor. However, Director IPR cell can re-constitute IPR-Advisory committee with the approval of Vice-chancellor. The IPR Cell from time to time, will be incumbent to evaluate and make recommendations regarding IPR related issues. All educational institutes affiliated to Guru Nanak Dev University will establish IPR Centers in their institutes.
- (xi) **Know-how** refers to the knowledge, innovations, practices, expertise, processes or procedures, and secrets of individuals regarding the use of material, product or resource, or the practice of a method for a particular purpose..
- (xii) **Patent and patentable materials** are as defined in Indian Patent Act 1970 and further amended from time to time. The patentable material includes discoveries and inventions of new products and processes.
- (xiii) **Patentee** means the person for the time being entered on the register of patents kept under the Indian Patent Act as the generator or proprietor of the patent.
- (xiv) **Publication** means a public enabling disclosure of an invention and may be verbal or printed. Printed publication includes abstracts, student thesis and in certain instances, grants proposals.
- (xv) **Revenue** means any payment received as per an agreement by the university, usually for legal use of an intellectual property of the university through a license.

## 5. Ownership of Intellectual Property

The University shall be the owner of all intellectual properties including inventions, software's, designs and integrated circuits, specimens, created by creators as a result of University research or created by substantial use of University facilities.

Specific provisions relating to IPR made in contracts governing the collaborative /sponsored activity shall determine the ownership of IP in case of sponsored or collaborative research. Usually where there has been external corporate, foundation, trust, Government or industrial funding of any project, the intellectual property generated from such a project shall owned by the University, creator of intellectual property and the funding agency jointly provided such agency has provided Rs. 10/- lac.or more for a particular research/invention /intellectual creation under a specific agreement with the University. An IPR in this University shall be managed by the IPR Cell of the University.

**The creator of the intellectual property** on a mutual agreement a creator of intellectual property may assign his/her IPR he or she would otherwise to the University to be managed by the intellectual property cell. If the University cannot, or decides not to proceed in a timely manner to protect and or license university owned intellectual

property, it shall assign ownership to the creator upon request to the extent prompted by these ordinances and third party agreements if any .

**Exceptions to the ownership** The creator of the intellectual property may opt to retain the ownership of the following:-

- a) all intellectual properties developed without substantial use of University resources.
- b) all rights in artistic, literary and scholarly intellectual property such as scholarly books articles and other publications including those in electronic mode, works of art, literature and music recordings shall belong to the creators despite use of University resources so long as such works are not the projects of University research, neither created under the direction and control of the University, nor developed in the performance of a sponsored research or third party agreement.
- c) All copyrights in papers, thesis and dissertations written as a student to earn credit in university courses or otherwise to specify university degree requirements.
- d) The University faculty and students may freely published research of their result provided such research does not to leave copyrightable/patentable intellectual property.

**6. Creation of Intellectual Property:** the IP consisting of patentable or copyrightable material can be created by the University in the following ways:

- i) when university undertakes an assignment either from external agency or by its own initiation to take up on creation of a specific copyrightable or patentable material and deposes a team of its researchers to accomplish it as and when an individual researcher or a team of researchers may develop copyrightable or patentable material during the course of their research or as a specific project.
- ii) When some external funding agencies such as Government, foundation, trust commercial / corporate undertaking may enter into a specific agreement with the university and research team of researchers to develop some specific copyrightable or patentable materials.

**7. Evaluation and Management of IPR:** IPR Cell of the University will coordinate the activity of evaluating, protecting, marketing, licensing and managing the IPR generated at the University. The creators of the IPR shall provide all the necessary information to the cell for the management of the IPR. The IPR Cell will get it evaluated through the IPR Advisory Committee and also by co-opting the patent attorney/legal external experts whenever and wherever needed, before deciding to manage the IPR. An invention will be patented only if it has some commercial use, motivation and viability at some point of time in the future.

## 8. Registration of Patents / copyrights

- a) **Filing of application in India :** The creators of know-how / designs / instruments / devices / processes / specimens and other such IPs who want to get patents for the patentable IPs and / or transfer thereof for commercial exploitation will be required to make an application for the purpose to the Director IPR Cell as per the procedure laid out by the IPR Cell and approved by the Vice-Chancellor. If any creator(s) consider its necessary to obtain immediate protection for safeguarding interest of the creator(s), a professional patent may be directly applied by the creator(s) after obtaining the permission from the University and simultaneously apply for the evaluation of the IP by the University as per the prescribed procedure. In case the University decides to take the patent in the name of the University (Registrar of the University Jointly with Creator or Team ), the expenses incurred by the creator(s) for obtaining the professional patent protection will be reimbursed to the creator(s) by the University.

The University employees associated with any activity of the University shall treat all IPR related information as confidential. Such confidentiality shall be maintained till the date as demanded by the University or the relevant contract between the concerned parties, unless such knowledge is in the public domain or in generally available to the public.

- b) **Filing of Application in Foreign Countries:** The University may consider requests for registration of Patents in foreign countries based on the merit of the IP. If the University decides not to file such a patent in any foreign country, the University shall assign rights of IP in that country to the creator(s) for the purpose of such protection, if the creator so desires.

## 9. Renewal of Patents

The University will pay the Patent Fees for the first seven years in all cases where patent is taken by the University (Registrar of the University Jointly with Creator). If it is a joint patent with a sponsoring agency, the patenting costs may be equally shared. If the patent has been commercially exploited within the first seven years, the University shall pay the Patent Fees for the remaining period of the life of the patent. If the patent has not been commercially exploited within the first seven years, the University and the creator(s) shall share the subsequent installments of renewal fees on 50.50 basis. If the creator does not show interest in such renewals, the University can either continue the patent by paying the fees for its full term or withdraw application for the patent protection at its discretion.

## 10. Transfer of IP

- a) The creator shall make a confidential disclosure to the Patent Attorney/ Legal Expert/IPR in writing as soon as possible if the University has an ownership interest and if the intellectual property/technology may be patentable, copyrightable or has potential for commercialization and licensing. The IPR cell will provide disclosure forms on request. The creator may consult IPR cell with respect to his/her duties to disclose inventions and the manner and timeliness with which such disclosures should be made to the IPR Cell.

- (b) The disclosure should contain sufficient detail to convey a clear understanding to the extent known at the time of the disclosure, of the nature, purpose, operation and technical characteristics of the creation. The creator(s) should also be responsible to update the IPR cell in a timely manner of any developments involving publications, sale or use of which he becomes aware after the confidential disclosure.
- (c) If the creator claims an ownership interest in intellectual property or has a question about whether an assignment must be made to the University, the intellectual property shall be disclosed to the IPR cell and the claim or question clearly stated. The University, through the IPR, will provide a determination of rights within a reasonable time following submission, generally not to exceed 90 days. The determination may be appealed to the Vice-Chancellor for a final adjudication.
- (d) The IPR will evaluate inventions and other intellectual property disclosed to the IPR to suggest the form of intellectual property protection, if any, that should be considered and also the potential for commercial exploitation. Thereupon it shall either assign the task of securing patent/copyright in the intellectual property and of managing its subsequent economic use to the specialist agency or do so itself in a timely and efficient manner. Direct expenses associated with obtaining protection for intellectual property in which University has stake/share shall be borne by the University if such intellectual property is being managed by the IPR, by the specialist agency if University has entrusted management of a particular intellectual property to it and by the creator/inventor if he has withdrawn management of intellectual property from specialist agency /IPR cell on grounds of non-performance.
- (e) The University or its agents or the creator after obtaining approval from the Vice-Chancellor through Director IPR Cell may approach external agencies for commercial exploitations. All agreements shall be signed by the Registrar of the University on the recommendations of Director, IPR and the creator of the IP being transferred, on behalf of the University.
- (f) In case of IP involving more than one creator, a coordinator from among the creators shall be identified by the creators, for IP protection purposes. At this stage all members of the group of creators shall sign a revenue sharing agreement for the IP, as and when they accrue. This revenue sharing agreement may be modified at any time on mutual consent among the creators and intimated to the Director IPR Cell. Any conflict with regard to revenue sharing among the creators will be resolved by the University and the same will be binding on all the creators of the IP.

## **11. Revenue Sharing**

The revenue generated from the Intellectual Property shall be distributed as follows:

1. When University is the Creator, the income from economic use of intellectual property will be shared amongst the University and Research Team as 60% and 40% respectively.
2. When the individual researcher or a team of researchers is the Creator and has used substantial University resources, the Revenue shall be shared amongst the individual researcher, team of researchers and the University and as 60%, 40% respectively.
3. When the creation is the result of funded research, the income from economic use to be received from the Institution funding the research will be on revenue sharing basis at the level determined in the agreement assigning economic use of intellectual property to that institution when it is the economic user. In such cases the income shall be shared between the team of researchers and the University as 60%, and 40% respectively.
4. When a Company, Industry or Commercial Undertaking other than Funding Institution is the economic user, the income receivable from the economic user will be as provided in the licensing agreement with that Company, Industry or Commercial Undertaking. Such income will be shared as 60% and 40% between the Funding Agency and the University respectively. The University will distribute the income it so derives to itself, researcher/team of researchers as in the preceding para.
5. The shares as mentioned above shall be determined after deducting the direct expenses if any from the total income received by the University.
6. The creator(s) share would be declared annually and disbursement will be made to the creator(s) or their legal heir, whether or not the creators are associated with the University at the time disbursement.
7. Co-creators that is research team members of IP shall sign at the time of disclosure a Distribution of IP earnings agreement, which shall specify the percentage distribution of earnings from IP to each co-inventor. The co- owners of intellectual property may at any time by mutual consent revise the distribution of IP Earnings.

## **12. Responsibilities of the University**

- a) To assign, at its discretion, the management including patenting/copyrighting, negotiating and assigning or licensing commercial use of such intellectual property in which it has stake/share to a specified agency created for this purpose under such terms as the University may consider reasonable or University may manage such intellectual property through IPR cell. Provided however that if the specialist agency or IPR Cell, as the case may be, fails to serve patent/copyright within one year of Patentable/copyrightable material being made available by the inventor/creator or fails to assign /license patented/copyrighted material to economic use, during further period of one year, the inventor/creator will have the right to withdraw right of the inventor/creator will have the right to withdraw right of management of patentable/copyrightable or patented/copyrighted material to himself and take further action to manage it himself and thereupon the right of the specialist agency/IPR Cell to manage it will stand terminated.

- b) To make aware the faculty members, staff and other scholars regarding University's intellectual property.
- c) To provide support as it deems necessary or desirable to obtain legal protection o intellectual property in which University has stake/share.
- d) To facilitate the transfer of such intellectual property for economic use and develop mechanisms within these statutes for the assignment and management of Intellectual Property.
- e) To provide legal support as it deems necessary and desirable to defend and protect the interests of the University and the creators of the intellectual property against third party claims or unauthorized use.
- f) To impart information to research sponsors as required by research and Licensing agreements, and applicable laws and regulations in a timely manner.

### **13. Responsibilities of the creator(s)**

- a) To make an invention disclosure in a thorough and timely manner of all inventions, discoveries and other works that are patentable/copyrightable and in which University has stake/share as described in this Ordinance.
- b) To provide such assistance as may be necessary throughout the assignment process to protect and affect transfer of the intellectual property.
- c) To return all records and documents that are necessary for the protection of the intellectual property.
- d) To abide by all commitments made in license, sponsored research and other agreements made in accordance this Ordinance.
- e) To cooperate with the University with full responsibility in resolving all conflicts as may arise with respect to the IPs concerning to him/her and to make timely disclosure of such information which may hint towards any potential conflict relating to IP.
- f) To manage, including bearing patent / copyright, assigning it for economic use or licensing it similarly on terms to be finalized jointly by Director of IPR cell, inventor/creator and financing agency if any for the research project which lead to such an invention/creation, in situation referred to in 12(a) when inventor/creator has withdrawn the right of management of intellectual property from the specialist agency of IPR Cell due to their nonperformance. Provided that income from any such assignment/licensing for economic use will necessarily be receivable by the University in totality and distribution of inventor's/creator's and financing agency's share will be the exclusive responsibility of the University.

#### 14. Taxability of Revenue generated on IPR

**Taxability of revenue generated on IPR is stated as** Revenue generated on IPR covered by heading No 9973(leasing or rental services, with or without operator) as notified by the Govt. of India vide **Notification No. 11/2007-Central Tax (Rate)** i.e.

Heading	Description	Rate
9973	(i) Temporary or permanent transfer or permitting the use or enjoyment of Intellectual Property (IP) right in respect of goods other than Information Technology software.	6%

The net rate of tax applicable on temporary transfer of IPR is 6% (CGST)+6% (SGST) = 12%

This notification has been further supplemented by **Notification No. 41/2017- Central Tax (Rate)** dated 14 November 2017 wherein the following entry has been inserted:-

Heading	Chapter	Description
243	Any Chapter	Permanent transfer of Intellectual Property (IP) right in respect of goods other than Information Technology software

The aforesaid entry is covered by tax rate of 6% (CGST)+ 6% (SGST)=12

It is further stated that temporary as well as permanent transfer of IPR shall be liable to GST @12% (at such rate as amended from time to time)

Since, the University is going to be the owner of the IPR, the invoice shall be raised by the university in favour of the users of the IPR for the amount as agreed (as per agreement) and GST at the rates as prescribed the Government of India from time to time.

It is further stated that, in case the creator of IPR (covered under section 13(l)(a) of the Copyrights Act 1957) opts to retain the ownership in his/her own name, then the University shall be liable to pay tax on Reverse Charge Basis u/s 9(3) of the CGST Act , 2017 at the rate of 12% (at such rate as amended from time to time) unless such author is Registered under the GST Act, 2017 and issues a declaration to this effect containing the following terms:-

- that he/she shall be liable to pay tax under the Forward Charge mechanism to CGST/SGST Commissioner
- That he/she shall not withdraw such option within a period of 1 year from the date of exercising such option
- The author prescribes such declaration on the invoice issued by him.

The tax so paid on reverse charge basis shall be eligible to be claimed as tax credit in the month of payment and can be used to discharge the GST liability of the current as well as future months. The University shall further issue the invoice to the actual user of IPR by charging the amount of GST separately.

## 15. Dispute Resolution

Any disputed issue related to the intellectual property or the interpretation of these Ordinances, shall be decided as follows:

- i) Any disputed issue that cannot be resolved with the assistance of the IPR cell shall be referred to a tribunal of Arbitration at the instance of the University or at the request of the inventor or funding agency. The decision of this tribunal of Arbitration shall be final between the parties for any disputed issue related to intellectual property, revenue sharing or the interpretation of this policy.
- ii) The tribunal shall consist of Director IPR Cell, one member appointed by the Vice-Chancellor, one member nominated by the other party(s) and the Legal Advisor of the University.
- iii) The process of resolving the dispute shall be completed expeditiously and except in unusual circumstances within two months.
- iv) The tribunal of Arbitration shall have power to regulate its own procedure in consonance with principles of natural justice.

## 16. Miscellaneous

- v) **Amendments:** The University reserves the right to amend these Ordinances at any time as required. The syndicate upon recommendation by the Intellectual Property Cell may amend these Ordinances.
- vi) **Waivers:** The University may grant a waiver from the provisions of these Ordinances on a case-by-case basis. All waivers must be in writing, supported by reasons and signed by the Vice-Chancellor. Any decision to grant a waiver will take into account the best interest of the University and the facts of the particular situation. Every waiver and reasons for it shall be reported to the syndicate in its next meeting.  
  
**vii) Educational Materials:** Educational Materials represent a broad spectrum of copyright works. These materials encompass traditional educational materials such as material for lessons and course material as well as other methods of course delivery such as Internet based learning. The desire of the University is to encourage the development of creative and effective educational tools and media in order to further the University educational goals. Educational materials produced in the normal course will generally be owned by the creator of the educational material. Certain circumstances, may however, give rise to claim of joint ownership by the University. Because all possible circumstances cannot be envisioned by this Ordinance, each particular situation will have to be evaluated on its own facts to determine ownership interests.
- viii) **Moral Rights:** The University recognizes the moral rights of the creators of intellectual property and shall endeavor to protect these rights. These include the right of fair attribution of authorship or invention, the need for the work not to be altered in such a way that it harms the reputation of the creator and an opportunity for the creator to be involved in determining the final outcome of his/her labour.

- ix) Logo and the Emblem of University:** The logo and Emblem of the University are the exclusive identity and property of the University and no person shall without prior permission of the University can utilize the logo and / or emblem of the University for any commercial purpose.