

CHAITANYA BHARATHI
INSTITUTE OF TECHNOLOGY (A)
Affiliated to Osmania University

Intellectual Property Policy

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1. PREAMBLE

Technological changes through innovations and R&D have been the main driving force for increased efficiency & productivity, new product/process development, economic growth, social transformation, and for reshaping and redefining almost every aspect of our lives and environment. Technological leadership is one of the major factors in achieving global leadership economically. The competitiveness of various industries is being determined by their ability to integrate new technologies in their business processes. India can achieve the status of “Atmanirbhar Barat” with sustained effort of innovation and IP assets Creation.

Chaitanya Bharathi Institute of Technology with its 41 years of legacy while keeping its original inherent Academic strengths, CBIT is now striving to accelerate Innovation and Start-Ups and towards this new faculty of repute and facilities have been created. Chaitanya Bharathi Institute of Technology believes that intellectual property is an intangible asset to any institution which is more valuable than any tangible assets. Keeping this in mind, this Intellectual Property Rights Policy Document (hereinafter referred to as the IP Policy) of the Chaitanya Bharathi Institute of Technology (hereinafter referred to as the CBIT). CBIT’s core strength lies in the Faculty / Students / Project and support Staff. For the last two decades, the technology driven innovation is dominating every sphere of society and in particular human life and created business economy based on ‘knowledge generated’. In the evolving technology explosion based ‘knowledge assets’, an Intellectual Property Rights(IPR) is needed not only to protect the interests of CBIT but also to preserve the rights of the Faculty / Students / and Project Staff.

CBIT acknowledges the role of numerous stakeholders in the creation of its Intellectual Property (IP), namely the government, public, researchers, faculty, staff, postdoctoral fellows, research students, postgraduate and graduate students, guest researchers, sponsors, technology transfer units and the national IP offices. Being a public educational institute, interests of the various stakeholders have been attempted to be taken care of. CBIT recognizes the importance of innovations and assists in translating them into products, processes and services for both commercial benefits and achieve the widest public good. The features of this IP Policy aim to meet such needs and enable CBIT to achieve its vision and encourage all its stake holders to protect the inventions. CBIT’s IP policy is designed to identify, protect and leverage the bouquet of IPs that is generated from research – patents, copyrights, design rights and trademarks amongst others, that serve the purpose of knowledge diffusion and commercialization through Technology transfer.

The Scope covered in this document covers the ownership, distribution, and commercial development of technology developed by CBIT faculty, staff, and students, others participating organizations and Govt. funding Agencies in the programs pursued by CBIT. This policies will also be applicable for the research works being carried out by CBIT along with other organizations at their Premises. The term “Technology” is broadly defined in this document to include technical innovations, inventions, incremental development and discoveries, as well as writings and other information in various forms, including computer software, work related to artificial intelligence, machine learning, cyber security and other subjects.

This policy will define not only the ownership, distribution, and commercialization rights associated with the technology in the form of intellectual property, but will also define policies and procedures which govern use and distribution of the technology in its tangible form. The Proposed IP Policy relates to Patent, Industries design, Semiconductor Circuit layouts, Trademark, Copy right, Plant Variety and other related IP rights.

CBIT’s IP Policy aims to protect the right of the Inventor(s) of CBIT (Faculty/ Students/Project Staff/Research Assistants of CBIT) through the option of Intellectual Property Protection on a Novel Work or to keep it in Public Domain as they deem fit. Our IP Policy seeks to provide guidance to academic and non-academic staff, students, scholars, and outside agencies on the practices and the rules of the CBIT regarding intellectual property rights (IPR) and obligations which include the nature of intellectual property (IP), its ownership, exploitation, technology transfer and confidentiality requirements. The policy laid down in this document is expected to fulfil the commitment of the CBIT to promote academic freedom and provide an encouraging environment for research and development.

2. SCOPE

- The scope of this document covers the ownership, distribution, and commercial development of technology by CBIT faculty, staff, and students, others participating organizations and Govt. funding Agencies in the programs pursued by CBIT. This policies will also be applicable for the research works being carried out by CBIT along with other organizations at their Premises. The scope also covers Technology transfer policy and the incentives for the inventors.
- These guidelines shall apply to all Intellectual Property created at the CBIT as well as, all IP rights associated with them, from the date of implementation of these guidelines. Any alterations/revision in this policy, as and when necessary, will be taken up by CBIT

Intellectual Property (IP) Cell and such changes/revision would be effective for inventions and other research results arising out in the future.

- An employee who is being recruited newly or who have been recruited earlier , have to sign an agreement in a standard format introduced by IP Cell of CBIT accepting the guidelines of IP Policy and is required to observe the CBIT's policy on Intellectual Property Rights as may be decided by the Intellectual Property Cell from time to time
- These guidelines shall apply to all researchers who have established legal relationship with the CBIT, based on which the researcher is bound by these guidelines. Such a legal relationship may arise pursuant to the provision of law, collective agreement or individual agreement (may refer to employment/ retainer ship/ contract/ pursuance of studies or any other legal arrangement).
- The proposed policy is applicable for National, PCT/International Patents and other IP rights explained in the following Section 4.1.

3. PURPOSE

CBIT has formulated this Policy for the management of intellectual property right to:

- a. To provide a framework to foster innovation and creativity in the areas of technology, sciences, and humanities by nurturing new ideas and research, in an ethical environment.
- b. To protect intellectual property (IP) rights generated by faculty/ personnel, students, and staff of the academic institution, by translating their creative and innovative work into IP rights.
- c. To lay down an efficient, fair, and transparent administrative process for ownership control and assignment of IP rights and sharing of revenues generated by IP, created and owned by the academic institution. Additionally, in cases of government funded research, the inventor(s)/ organization(s) should disclose their IP filings to the Government Agency(s) that have funded their research.
- d. To promote more collaborations between academia and industry through better clarity on IP ownership and IP licensing.
- e. To create a mechanism for knowledge generation and its commercial exploitation. The purpose of IP commercialization is also to augment the financial self-sustenance goals of the academic institution & its labs and to reward faculty and researchers.
- f. To establish an IP cell for supporting all innovation, creativity and IPR related endeavors of students, research scholars and faculty members. This IP cell will be the nodal agency to implement the mandate of the draft guidelines for IP cells.

4. OWNERSHIP OF IP

CBIT's faculties/personnel are entitled to decide that the results of any research undertaken by them in the course of their employment / engagement with the Institute shall be disseminated through publications or disclosed as they wish in accordance with normal academic practice. However, the concerned parties should be aware of the various Intellectual Properties that get created in the course of their research and teaching that has potential for increased productiveness or break through development/inventions and creative activities as a means of effective communication and dissemination. Under situations where a particular invention / development come under the IP Policy will supersede. The Institute's ability to grant waivers to the creators from non-application of the IP policy is delegated to the Director, IP Cell at the Institute.

Ownership rights on IP may vary according to the context in which the concerned IP was generated. In this regard, a two-tier classification is suggested for adoption. Each CBIT department or center is responsible for ensuring that all faculty, research staff (including visiting and affiliate research staff), and graduate students, students sign the agreement while proposing the IP to be filed. *No IP can be filed without the knowledge of CBIT.*

4.1 IP GENERATED FROM RESEARCH CONDUCTED BY UTILIZING RESOURCES OF THE CBIT

4.1.1 PATENTS

- All inventions whether made by student/ researcher/ faculty (in furtherance of their responsibilities with the CBIT), developed by utilizing the resources of the CBIT, or with the mix of funds, resources and/or facilities of the CBIT, shall ordinarily be vested with the CBIT. When a patent is applied, the creator/inventor shall agree to maintain all relevant details of intellectual property, secret and confidential until the patent application is filed.
- If the CBIT determines that an invention was made by an individual(s) on his/her own time and unrelated to his/her responsibilities towards the CBIT and was conceived or reduced to practice without the use of resources of the CBIT, then the invention shall vest with the individual(s)/ inventor(s).

4.1.2 COPYRIGHT

- The ownership right for developing computer software/program, development of any

computer or mobile phone applications, computerized solutions for artificial intelligence, machine learning, machine automation and any other such applications will remain with CBIT and will be dealt with the procedure similar to the patents.

- The ownership rights in scholarly and academic works generated utilising resources of the CBIT, including books, articles, student projects/dissertations/ theses, lecture notes, audio or visual aids for giving lectures, **films, plays, and musical works** shall ordinarily be vested with the author(s).
- The ownership rights in lecture videos or Massive Open Online Courses (MOOCs), institutional materials including, but not limited to, course syllabi, curricula, exam questions, exam instructions, and papers/ reports specifically commissioned by the CBIT, shall ordinarily be vested with the CBIT. The moral rights shall continue to vest with the author(s) wherever applicable. Such materials can be used for educational purpose.

4.1.3 TRADE MARKS

- The ownership rights in all trademarks involving the CBIT shall ordinarily be vested with the CBIT.
- If the CBIT determines that the creator of the trade mark was created by an individual(s) on his/ her own time and unrelated to his/ her responsibilities [e.g. name of a company/ start-up venture by the student(s)], then the right to the same shall ordinarily be vested with the said individual(s).

4.1.4 INDUSTRIAL DESIGNS

- All industrial designs whether made by student/ researcher/ faculty (in furtherance of their responsibilities with the CBIT) developed by utilising the resources of the CBIT, or with the mix of funds, resources and/or facilities of the CBIT, shall ordinarily be vested with the CBIT.
- If the CBIT determines that the industrial design was created by an individual(s) on his/her own time and unrelated to his/her responsibilities towards the CBIT and was conceived or reduced to practice without the use of resources of the CBIT, then the industrial design shall vest with the individual(s).

4.1.5 SEMICONDUCTOR INTEGRATED CIRCUITS AND PLANT VARIETY

- The ownership rights over integrated circuits and plant varieties, with the utilization of resources of the CBIT, shall vest with the CBIT.

- If the CBIT determines that the plant variety was created by an individual(s) on his/her own time and unrelated to his/her responsibilities towards the CBIT and was conceived or reduced to practice without the use of resources of the CBIT, then the plant variety shall vest with the individual(s).

4.2 IP GENERATED FROM RESEARCH & DEVELOPMENT CONDUCTED IN COLLABORATION WITH EXTERNAL PARTNERS

- i. With regard to research conducted in collaboration with external partners, ownership of IP shall be determined as per the terms and conditions in the agreement signed between the concerned parties. However, unless agreed upon explicitly, the CBIT shall normally retain perpetual, royalty free license to use the IP for research and educational purposes.
- ii. In the absence of a specific agreement between the CBIT, and the external partner, who is providing support for research, the IP rights shall be shared amongst the concerned parties, similar to the royalty proportion set out under “*Licensing and Revenue Sharing*” section in this policy document (SECTION XX.XX).

5. COMMERCIALIZATION, IP LICENSING AND BENEFIT SHARING

CBIT understands the legitimate commercial needs and the security required in the form of IP especially for breakthrough technologies. CBIT implements the mechanism of IP licensing for commercialization of IP, so that ownership rights on the IP may be retained without hindering the prospects of commercialization.

CBIT strives to balance this Intellectual Property (IP) Policy and requirement against the primary goal of academic and research dissemination leading to a practical usage of the technologies being developed. The Technology licensing is proposed to be done by CBIT through Industrial Research consultancy group of IP Cell, which handles the evaluation, marketing, negotiations and licensing of the entire institute owned IP. In certain cases, CBIT might use the services of a third party for licensing the technology developed, under mutually agreed terms and conditions with such party, within the framework of the CBIT’s IP Policy. The Licensing type provided will depend on the nature of the invention / innovation. *CBIT, being a Premier Institute in Telangana would encourage non-exclusive licensing towards wider deployment of innovations being developed at the Institute.* Under certain circumstances and exceptions CBIT might consider exclusive licensing. In case where significant resources / effort/

infrastructure have to be invested/established by the licensee in using the IP, the Institute might consider providing an application and / or region specific or a full scale exclusive license. Due diligence, not limiting to business plan/business model, milestones and usage plan of the IP in discussion and other relevant information as required, would be undertaken, in order to determine the type of licensing to be provided. Licenses are provided to a company and not to an individual. Licenses provided are subject to periodic review including the working status and accessibility / availability of the IP used. Based on the review of the licensing activities, CBIT reserves the right to extend, modify or terminate the type of existing license provided based on mutual discussion and agreement with licensee.

5.1 LICENSING TYPES

- (i) **Non-exclusive licensing:** The licensor is permitted to enter into agreements with more than one entity for use and exploitation of the IP. In other words, the same IP may be used by different licensees at the same time for the same purpose or for different purposes.
- (ii) **Exclusive licensing:** The licensor is permitted to enter into agreements with one entity for use and exploitation of the IP in a specified region or the specified country. In other words, the same IP can't be licensed at the same time for the same purpose or for different purposes.
- (iii) **Sub-licensing:** This is applicable when a licensee wishes to further license the IP to another party(s). Permissions pertaining to sub-licensing need to be clarified explicitly in the agreement between the CBIT(s)/ researchers and licensee(s).

Based on the creativity and innovation taking place at CBITs and diversity of the creation or innovation so generated, the CBIT will combine elements of the aforementioned types of licensing for commercialization.

5.2 LICENSE EXEMPTIONS

In case of both the inventor(s) and external party(ies) requesting for the license of the same CBIT owned IP at the same time, preference for licensing may be provided to the inventor(s) based on the nature of technology amongst other considerations. Irrespective of the license provided, CBIT retains the right for research exemption and experimental use for patents, design rights and under fair use of copyrights and trademarks on an institute wide perpetual license towards its basic objective of academics and enhancing research. This will include the right to publish, use of technical data, the method, product and related services that has resulted from earlier research which has been licensed for the activities mentioned earlier.

5.3 ENCOURAGING ENTREPRENEURSHIP AND START-UPS

CBIT will be joint owner of any Technology being incubated either through MSME or Start-ups and patents are taken during the incubation period. However, to promote and encourage entrepreneurial activities by its staff, the CBIT, will 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 CBIT. The fees to be paid to the CBIT 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 CBIT would endeavor to exploit the IP either by itself or by commissioning an agency to bring to fruition the IP produced by its personnel. The inventor(s)/creator(s) may seek the CBIT, to assign the rights to them after a certain holding period.

To promote a start-up/ venture set up by a researcher, it may be exempted from any upfront fee and/or royalty accrued to the CBIT for a period of 2 years.

5.4 LICENSING THROUGH AGENTS :

In some cases, CBIT might utilise the services of third party licensing agents and mechanisms for effective deployment of the technology developed. Salient features for third party licensing agents include the following:

The nature of the licensing would be generally nonexclusive. Exclusive licensing will be subject to periodic review based on various measures.

For an IP which has not been licensed to any party, the creator(s) may also contact potential licensee(s) on their own 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. If CBIT has not been able to commercialize the creative work in a reasonable time frame, the creator(s) may approach the Director IP Cell for the assignment of rights of the invention(s) to them with due approval.

6 LICENSING AGREEMENTS AND REVENUE SHARING

6.1 RESEARCH OUTPUTS GENERATED AS A RESULT OF UTILIZATION OF RESOURCES OF THE CBIT

The CBIT will enter into revenue sharing agreement(s) with the researcher(s), in cases of commercialization of innovation(s), creation(s), etc., as per the advice of the IP cell. The details of revenue sharing may be decided, based on the type of IP and the nature of commercialization. The CBIT may adopt various models for royalty sharing amongst creator(s)/ inventor(s) and institution/ organization; a suggestive guideline/arrangement is given below.

Case	Net earnings	Inventor(s)	Institution's Share	Service Account**
1.	For the first amount Q	45-50%	40-45%	10%
2.	For the next amount Q	40-45%	45-50%	10%
3.	For amounts more than 2Q	25-30%	60-65%	10%

(Q is taken as Rs. 50 Lakhs. limit)

**Service Account – Money may be used for maintaining the IP, Filing of New IPs, the promotion, demonstration, further commercialization and upgradation of the invention. Unused funds from the service account will be used for research projects, expenditure toward IP Cell other innovation related activities. For international patent the service account percent will be 15 %.

- a. In case the IP filing costs were not borne by the CBIT, the researcher may be allowed to first deduct the costs incurred for filing of applications and maintenance of such IP, from any income accruing from the commercial exploitation of the IP. This is particularly relevant, as provisional patent applications may have to be filed by the innovators before any disclosure of the innovation. Only the income beyond such costs needs to be shared with the CBIT.
- b. The researcher's share may continue to be paid, irrespective of whether or not the individual continues as a researcher at the CBIT.
- c. If more than one researcher is involved in the generation of IP, all the researchers who qualify for benefit sharing in that IP may sign at the time of filing the application (for example, at the time of filing of patent application), an agreement outlining the proposed distribution of any IP-related earnings based on their contribution. The agreement should specify the proportional percentage of distribution of earnings from IP to each of the researchers. The researcher(s) may, at any time, by mutual consent, revise the distribution of IP earnings agreement, and the President, CBIT, may approve the revised agreement, subject to the advice of the IP cell.

- d. With regard to the IP-related revenues earned by the CBIT, 50% of the revenue may be used for creating the CBIT IP management fund. This fund may be utilized for any activity relating to commercialization and maintenance of IPR or obtaining IPR in any other country, or for capacity building in the area of IP generation & protection. Further, 10% of the share may be paid to the CBIT as administrative charges, and 40% may be made available to the concerned department for the purchase of equipment or materials, including Annual Maintenance Contracts (AMC), Purchase of latest analysis software, for any other academic/research activity, upgradation of equipments/lab facilities, including promotion of science and innovation. Director, IP Cell along with the Industrial Research and Consultancy group under IP Cell will be responsible for management of this Fund.
- e. In the case where the copyright vests with the author(s) , the CBIT shall have a non-exclusive, royalty free, irrevocable, and worldwide license to use the IP for research, non-commercial and educational purposes. Additionally, in cases where the CBIT is the owner of copyright in lecture videos and/or MOOCs, the author(s) shall have a non-exclusive, royalty free, irrevocable, and worldwide license to use the IP for research, non-commercial and educational purposes.

6.2 RESEARCH OUTPUTS GENERATED IN COLLABORATION WITH EXTERNAL PARTNERS

- i. The revenue sharing on any IP generated from a partnership between the CBIT and external partners may be based on the agreement signed between the CBIT and the external partner at the beginning of such collaborations.
- ii. In circumstances wherein, the assignee or the licensee has not taken adequate steps for the commercialization of the CBIT – owned intellectual property, the CBIT may consider revocation of the license and assigning it to another party, after following due process. It is important to add this as a clause in any agreement entered into by the CBIT, with regard to commercialization of technologies.

6.3 SHARING OF COSTS WITH REGARD TO IP PROTECTION

With regard to the costs involved in IP protection, the following is suggested:

1. The expenses involved in obtaining and maintaining IP protection may be shared between the parties, depending on who owns the IP. If the CBIT is the sole owner of IP, the costs of IP protection shall be borne by the CBIT.
 - i. In case the CBIT refuses to incur expenditure in protecting IP, inventor may be allowed to file IP applications in the name of the CBIT at their own costs. Under such circumstances, IP filing costs may be recouped as per the provisions relating to benefit sharing as described under the Licensing agreements and revenue sharing section.
 - ii. In case the Inventor renews the IP himself, still CBIT continues to be the Owner of

IP and in case of technology transfer of such IPs the revenue sharing will be done as per the agreement between CBIT and inventor after reimbursing the expenditure of IP renewal.

2. If the IP ownership is shared with external partners, the costs for IP protection may be shared by both the parties, based on the terms and conditions provided in the agreement.
3. It is preferable that any costs involved in the transfer of rights/ ownership of the CBIT– owned IP may be borne exclusively by the licensee, assignee or person acquiring such rights.

6.4 WAIVER OF IP RIGHTS BY THE CBIT

1. Subject to any associated agreements, or any other agreement thereof, the CBIT may waive its rights, if the CBIT decides not to pursue the protection of IP within a 9 months from sufficient disclosure by the researcher(s) to the CBIT
2. The CBIT shall take all efforts to convey the decision to the researcher, whether to pursue or not pursue the protection of IP, within 9 months, after sufficient disclosure by the researcher, to the CBIT. Under all such circumstances, unless explicitly agreed to, the CBIT, shall retain a non-exclusive, royalty-free, irrevocable, and worldwide license to use the IP for research and educational purposes.

6.5 USE OF CBIT'S IP RESOURCES

The CBIT may allow the use of the following IP resources by third parties as per conditions given thereunder:

- (i) Intellectual Property already in existence and owned by the CBIT;
- (ii) Usage of the name, logo, or trademark of the CBIT in the creation and marketing of intellectual property.

Conditions:

1. They will be used only in public interest or directed by any of the Govt. agency ;
2. They will be used:
 - i. in a responsible manner to create a product/process conforming to environmental safety and good manufacturing practices promoted by the Government of India and its regulatory bodies;
 - ii. in promoting truthful claims and information, i.e., not for misleading the society or users;

- iii. Without any liability on the university in case of misuse of trademark(s) or accidental damage accruing due to use of trademark(s).

7 DEALING WITH IP RIGHTS OWNED BY THIRD PARTIES

7.1 Use of technology protected by IPRs like patents and designs

It is possible that researchers may have to use diverse technology/ design/ software, as part of their research. Under all such circumstances, due care and attention must be given, for not infringing the IP rights of third parties. Some of the licenses may have restrictions with regard to kind of usages permitted. It is important to ensure that due and necessary permissions are obtained from IP owners prior to engaging in any use which moves beyond the terms of license or as permitted under the relevant statute(s) in India. CBIT will not be responsible for such infringements by the inventors.

7.2 Use of copyrighted materials

Whenever researchers use copyrighted material for teaching or research purposes, it needs to be ensured that the use is within the permission obtained from the concerned copyright holder(s) or is within the boundaries of exceptions provided under the Indian copyright law. The scopes of different educational use-related exceptions under Indian copyright law have been interpreted by different courts in India.

- The researchers at CBIT may submit works which includes dissertations, thesis, papers, open repositories in the relevant subject area for verifying the originality of the work.
- The researchers may be encouraged to license their works under an open license so that other researchers can also use the research outputs by providing appropriate attribution to the researchers.

8 DISCLOSURE, CONFIDENTIALITY, DATA PROTECTION and PRIVACY ,

Where an Inventor identifies potential IP resulting from his/her Research or students and research scholars working under his guidance, he/she shall disclose such potential IP to IP Cell promptly by means of an IP Disclosure Form. Inventor must provide to IP Cell, complete and accurate information as reasonably required to evaluate the technical and related features and functions, ownership, commercial potential and IP protection that might be applicable to such IP. Upon complete disclosure, the IP Disclosure be registered and assigned a reference number and IP Cell will share this reference number with the Creators to signify that the IP Disclosure has been formally received by the Institution.

All users of information, documents and/or data within the CBIT, must ensure that the same is always held securely and all activities pertaining to such information, documents and/or data will be kept confidential by the user(s) and will be used only for purpose of such activities. The CBIT shall strive to protect the data and personal information against unauthorized access, loss, destruction or breach. It is suggested to have proper non- disclosure agreements with the user(s) in place to secure such confidential information, documents and/or data.

Notwithstanding the above, any information which falls within one of the following shall not be treated as Confidential Information:

- already under public domain;
- is required by law or regulation to be disclosed;
- is independently developed by the researcher; and
- is received from a third party having no obligations of confidentiality to the disclosing party.

Each department will administer CBIT policy as defined herein through its Departmental Faculty Board. In particular each inventor must maintain in his or her department records detailing his or her activities in generating intellectual property. Such records must be made available on demand to the CBIT Intellectual Property Cell.

9 PUBLICATIONS

- i) Any publication, document and/or paper arising out of research activities shall be owned jointly by the CBIT and researcher(s). The use of name, logo and/ or official emblem of the CBIT shall not be done without prior written permission from the institution.
- ii) While the researcher may publish material relating to the research, it may be better for both the researcher and the CBIT to jointly decide on any publication to be made.
- iii) Particular care needs to be taken that no publication is made till the patent, if applicable, is filed. Faculties should inform IP cell before publication in any Conference/Journal and clearly mention that No IPR is planned to be filed or the technical paper carries no inventive steps or novelty which can be patented.
- iv) The CBIT may retain the right to require exclusion of certain portions from the information being published.

10 PROCEDURE OF IP PROTECTION BY FILLING OF PATENT THROUGH CBIT



The same procedure may be applied for other forms of IPs also viz. copyrights, trademarks, designs etc

11 FILING OF IP APPLICATIONS IN FOREIGN COUNTRIES

Subjected to the provisions of section 39 of the Patent Act, 1970 the CBIT shall, decide on the suitability of protection of the invention in foreign countries within six months of filing the Complete IP Application in India if no secrecy direction is received from Patent Office.

If the CBIT opts not to undertake such protection in any specific country requested by the inventor(s) relating to the application where no secrecy has been imposed by the Patent Office, the CBIT shall assign rights of the IP in that country to the creator(s) for the purpose of such protection.

12 RENEWAL OF IP RIGHTS

A committee constituted by the Director, IP cell will take a decision on the annual renewal of IP rights. If the CBIT decides not to renew the IPR in any country, then it will assign the rights of the IP in that country to the inventor. In case of patents, the process of reassignment will be completed in a period of three months before the due date for its renewal.

13 INFRINGEMENTS, DAMAGES, LIABILITY AND INDEMNITY INSURANCE

As a matter of policy, the CBIT shall, in any contract between the licensee and the CBIT, seek indemnity from any legal proceedings including without limitation manufacturing defects, production problems, design guarantee, up-gradation and debugging obligation.

The CBIT shall also ensure that the CBIT personnel have an indemnity clause built-into the agreements with licensee(s) while transferring technology or copyrighted material to licensees. The CBIT shall retain the right to engage or not in any litigation concerning patents and license infringements.

14 CONFLICT OF INTEREST

The inventor(s) are required to disclose any conflict of interest or potential conflict of interest. If the inventor(s) and/or their immediate family members have a stake in a licensee or potential licensee company then they are required to disclose the stake they and/or their immediate family members have in the company.

A license or an assignment of rights for a patent to a company in which the inventors have a stake shall be subject to the approval of the Director, IP cell taking into consideration this fact. All CBIT Personnel shall be bound by the conflict of interest related policy / guidelines of CBIT as applicable from time to time.

15 DISPUTES & APPEALS

- i. The CBIT may appoint a committee of experts to address the concerns of the aggrieved person(s) and all disputes thereunder shall be dealt with by this committee.
- ii. The decision taken by this committee should be within a prescribed time period (as decided by the CBIT/ committee) from submission of said concern. Over and beyond the above, with respect to any legal dispute arising under these guidelines, the relevant provisions of law shall be applicable.
- iii. In case of any disputes between the CBIT and the inventor(s) / creator(s)/ any other aggrieved person(s), regarding the implementation of these guidelines, scope, operation or effect of any contract/ agreement entered into, or the validity or breach thereof, the inventor(s) / creator(s) / any other aggrieved person(s) may appeal to this committee appointed by the CBIT. The verdict of Principal, CBIT is final.
- iv. In case the dispute is not resolved amicably, the same shall be referred to Arbitration for resolution of the dispute under Arbitration and Conciliation Act 1996. The dispute shall be

referred for Arbitration to sole Arbitrator to be appointed by the designated Official (s) as per the Bye-Laws of CBIT. The award of the Sole Arbitrator shall be final and binding on both the Parties. The venue of the Arbitration shall be at CBIT, Hyderabad. The expenditure for arbitration will be shared equally by CBIT and Inventor(s).

- v. All agreements to be signed by CBIT will have the jurisdiction of the court in Hyderabad and shall be governed by appropriate laws of India.

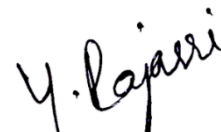
Reference:

1. CIPAM-DIPP Model IPR Draft Policy Guidelines.
https://dipp.gov.in/sites/default/files/Draft_Model_Guidelines_on_Implementation_of_IPR_Policy_for_Academic_Institutions_09092019.pdf
2. IPR Policy Guidelines of Premier Academic Institutions. (IISC, IIT Mumbai, IIT Kanpur, IIT Kharagpur, IIT Delhi, IIT Roorkee and other resources available over internet.
3. IPR Policy Guidelines of MIT and Oxford University.
4. WIPO website.



(Dr. Umakanta Choudhury)

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Description of Terms

Author: An author is as defined under Section 2(d) of the Copyright Act, 1957.¹

Collaborative Activity: is the research undertaken by the personnel in CBIT, in cooperation with industry and/or another researcher(s), who are not the personnel from the CBIT.

Creator: means the researcher who contributed to the creation of the Intellectual Property (IP) (essentially copyrights, designs, etc.).

External Partners: includes Government of India, State Government(s), Local Self-Governments, Government Departments, Foreign Governments, International Organizations, Public Sector Undertakings (PSUs), all types of Private Sector Organizations, Multinational Corporations, Non-Governmental Organizations, and/or other institutions that provide research projects or consultancy assignments to researchers on regular or irregular basis; or any combination(s) of the above.

Moral Rights: Moral rights are enshrined under the aegis of Section 57 of the Copyright Act, 1957.² They are the author's or creator's special rights which include: the right to paternity and the right to integrity.

Intellectual Property: Intellectual Property, as provided under Article I of the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), refers to all categories of intellectual property that are subject of Sections 1 to 7 of Part II of the TRIPS Agreement.

¹ Section 2(d) defines author, it says "Author" means –

- (1) In relation to a literary or dramatic work, the author of the work;
- (2) In relation to a music work, the composer;
- (3) In relation to artistic work other than a photograph, the artist;
- (4) In relation to photograph, the person taking the photograph, the artist;
- (5) In relation to a cinematograph film or sound recording, the producer; and
- (6) In relation to any literary, dramatic, musical or artistic work which is computer-generated, the person who causes the work to be created.

Intellectual Property Rights: means ownership and associated rights relating to aforementioned Intellectual Property, either registered or unregistered, and including applications or rights to apply for them and together with all extensions and renewals of them, and in each and every case, all rights or forms of protection having equivalent or similar effect anywhere in the world. The IPRs recognized in India are broadly listed below:

- Patent: As defined under Section 2(m) of the Patents Act, 1970.
- Copyright: Copyright is a right given to creators of literary, dramatic, musical and artistic works and producers of cinematograph films and sound recordings. Works are as defined under the Copyright Act, 1957.
- Trade Mark: As defined under Section 2(zb) of the Trade Marks Act, 1999.
- Design: As defined under Section 2 (d) of the Designs Act, 2000.
- Semiconductor Integrated Circuit: As defined under Section 2(r) of the Semiconductor Integrated Circuits Layout Design Act, 2000.
- Plant Variety: It is governed by the Protection of Plant Variety and Farmers Rights Act, 2001. It recognizes the contributions of both commercial plant breeders and farmers in plant breeding activity and also supports the specific socio-economic interests of all the stakeholders including private, public sectors and research institutions, as well as resource-constrained farmers.
- Geographical Indication: As defined under Section 2 (e) of the Geographical Indications Act, 1999.

² Section 57 – Author’s special right:

- (1) Independently of the author’s copyright and even after the assignment either wholly or partially of the said copyright, the author of a work shall have the right –
 - (a) to claim authorship of the work; and
 - (b) to restrain or claim damages in respect of any distortion, mutilation, modification or other act in relation to the said work which is done before the expiration of the term of copyright if such distortion, mutilation, modification or other act would be prejudicial to his honour or reputation: Provided that the author shall not have any right to restrain or claim damages in respect of any adaptation of a computer programme to which clause (aa) of sub-section (1) of section 52 applies. Explanation.— Failure to display a work or to display it to the satisfaction of the author shall not be deemed to be an infringement of the rights conferred by this section.
- (2) The right conferred upon an author of a work by sub-section (1), other than the right to claim authorship of the work, may be exercised by the legal representatives of the author.

Inventor: means the researcher who contributed to the creation of the Intellectual Property (essentially patents).

Research: Ownership rights over IP generated in CBITs may vary as per source of funding, for the research through which IP was generated. Hence, it is important to understand the different contexts in which IP may be generated within the CBITs. Some of the important contexts in which they produce IP are:

1. Research undertaken by a researcher in the normal course of his/her engagement/ appointment with the CBIT, utilising resources of the institution. This includes, but is not limited to, use of space, facilities, materials, or other resources of the CBIT, specific monetary support for research through grants or fellowships, funds for procuring books/ equipment or materials for specific research projects, and creation/ modification of infrastructure like labs for the specific needs of research.
2. Research undertaken by a researcher in collaboration with an external partner. This support from external partners includes, but is not limited to, specific monetary support given for research through grants or fellowships.

Researcher means;

- i) persons employed by the CBIT, including student employees and technical staff;
- ii) students, including undergraduate, postgraduate, doctoral and post-doctoral students of the CBIT;
- iii) any persons, including visiting scientists;
- iv) who use the resources of the CBIT and who perform any research task at the CBIT or otherwise participate in any research project(s) administered by the CBIT, including those funded by external sponsors. Wherever different conditions are applicable for any of the sub-categories of researchers, they are specifically mentioned in the guidelines.

Research Agreement: May refer to Research Service Agreement, Cooperative Research and Development Agreement, Material Transfer Agreement, Confidentiality Agreement, Consultancy Agreement and any other type of agreement concerning research pursued by researchers and/or IP created at the CBIT.

Royalty: It is the payment made to an inventor/author or an institution for legal use of a patented invention or any intellectual property when licensed.

Sufficient Disclosure: It means providing a detailed description of features essential for carrying out the invention, in order to render it apparent how to put the invention into practice to a person skilled in the art.

THINGS TO REMEMBER

- (i) **Publication/ Display in Public Exhibition of Invention before Filing for Patent:** Generally, an invention, if published or publicly displayed cannot be patented, as such publication or public display leads to lack of novelty.
- (ii) Inventions/ Innovations that cannot be patented: Innovations/ Inventions falling under the category of Sections 3 and 4 of the Indian Patents Act, 1970 cannot be patented in India.
- (iii) **Acts that do not constitute copyright infringement:** Section 52 of the Indian Copyright Act, 1957, specifically state certain acts as not being infringement of copyright. The “doctrine of fair dealing” envisaged under section 52 of the Indian copyright law allows certain use(s) of copyrighted works in special cases such as: private use for the purpose of education, research, critique, review, etc.

Attribution or Citation should be done wherever references have been sourced from other work(s): Copying or using any work from an already published or non-published work, whether digital or in physical form, should be rightly attributed and referenced to the original source. Unless allowed as “fair dealing”, copying should not be done without obtaining required permissions/ licenses from the author/ creator. Remember, plagiarism is not only immoral, it is also illegal.

- (iv) **Keep a record of all legal and related documents:** All agreements which are to be entered into with co-creators/ inventors / third parties should be documented properly to establish the ownership of any IP created. Additionally, keep a record of all documents relating to the IP, since the expressed inception of the idea.
- (v) **Rain check regarding names/ brands before choosing a trade mark:** A prior public search for trademarks would prove beneficial before choosing a name or a brand name. This would aid in checking whether the same has been registered already as a trade mark.

³ Under certain circumstances, the Indian Patents Act, 1970, provides a grace period of 12 months for filing of patent application from the date of its publication in a journal or its public display in an exhibition organized by the Government or disclosure before any learned society or published by the applicant. The detailed conditions are provided under Chapter VI of the Patent Act (Sections 29 – 34).

⁴ Sections 3 and 4 of the Indian Patents Act, 1970, specifically state exclusions to what cannot be patented in India. They are:

Section 3 – What are not inventions?

Section 4 – Inventions relating to atomic energy not patentable

ESTABLISHMENT OF IP CELL AT CBIT

Aim

IP Cells envision promoting academic freedom and safeguarding the interests of inventor in creation and commercialization of intellectual property with legal support, wherever necessary. They also envision creating an environment for acquiring new knowledge through innovation, developing an attitude of prudent IP management practices and promoting an IPR culture compatible with the educational mission of the CBIT.

IP Cell will function with the prime focus of enabling students, researchers and professors to identify, generate and protect their intellectual property through filing procedures for rights like patents, copyrights, trademarks, designs, etc. The Industrial Research and Consultancy Group (IRCG) under the IP Cell will cater to commercialization and licensing of intellectual property, which will further foster the creation of a fruitful dynamic system between universities, investors and industries. The technology transfer process between the Licensee and the Inventors of CBIT will be coordinated by the IRCG of IP Cell. Along with this, IP Cell will ensure seamless and ceaseless knowledge transfer amongst students and faculties.

Vision

To establish an evolving framework where creativity and innovation are stimulated by Intellectual Property for the benefit of all; where intellectual property promotes advancement in science and technology, arts and culture, media and entertainment; where knowledge is the main driver of development, and knowledge owned is transformed into knowledge shared; where an ambience is created wherein new ideas, research and scholarship flourish and from which the leaders, creators and innovators of tomorrow emerge.

Mission

To create a nationwide reach and network of IP Cells which will create awareness about IPRs, encourage students/ faculties/ personnel to file for IPRs and also help in commercialization and Licensing of the same.

Objectives

- i. IP Cell will be responsible for conducting the following:
 - IPR Awareness Programs – Conducting IPR awareness programs for students, faculty, researchers, officials, etc.
 - Training Workshops/ Advanced level training/awareness programs

- ii. IP Cell shall provide an environment for academic and R&D excellence and conduct dedicated programs on IPR for the undergraduate and postgraduate students as well as organise regular IPR counselling programme for research scholars.
- iii. IP Cell shall expose students, faculty, researchers, officials, etc. to the prevalent IP law practices and provide them with an opportunity to learn and use legal skills under the supervision of IP practitioners and experts.
- iv. IP Cell shall provide a platform to diagnose innovation and research on contemporary issues of national and international relevance leading to creation of IPR.
- v. IP Cell shall facilitate, encourage, promote and establish collaborative frameworks for industry – CBIT partnerships at national and international scale to initiate research and development of commercial value.
- vi. IP Cell will facilitate the recording, monitoring and maintenance of the IP portfolio of the CBIT may choose an outside counsel/ IP firm for managing its IP portfolio.
- vii. IP Cell will enhance the reputation of the CBIT as an academic research institution and a member of society as well as the reputation of the Researchers through bringing the research results to public use and benefit. It will ensure that a culture is built that enhances recognition and respect for IP amongst students, faculty, researchers, officials, etc.
- viii. IP Cell will set out the CBIT procedures on the identification, ownership, protection and commercialization of IP.
- ix. IP Cell (IRCG) on regular basis will encourage researchers to identify solutions for problems faced by the industries and tailor research projects around the same.
- x. In case of IP Filings: Students pursuing Under Graduate/ Post-Graduate and above courses (M. Tech and Ph.D. students) shall be encouraged to undertake patent search before publishing any research paper and subsequently file for a provisional patent for novel inventions.

Organization Structure

The following structure is followed to establish a creative, innovative and IP friendly ecosystem as well as devise monitoring mechanisms in CBIT.

Director, IP cell: This position may be allotted to one of the senior faculty who shall be responsible for making sure that all the mandates are followed and the roles and responsibilities for effective functioning are judiciously followed. The Lead Coordinator shall also be responsible for using his or her network to reach out to industries for collaboration with the universities. Compulsory: Must have basic knowledge on IPRs.

Faculty coordinator IP Cell: This position may be offered to 2 junior faculties who shall be responsible for day-to-day operations of the IP Cell and will coordinate with the students. The

responsibilities of Deputy Coordinator and Director IP cell will more or less be the same.

Student Coordinator(s): One or more 1st and 2nd year students who have interest in the field of IPRs may be appointed as student coordinators. They will work under the guidance of Lead Coordinator/ Deputy Coordinator/ Assistant Coordinator towards achieving the goals of the IP Cell.

Campus Ambassador/ IP Ambassador: 3rd/ final year students of the CBIT with experience and zeal in the field of IPRs may be enrolled as Campus Ambassadors/ IP Ambassadors who will work with the Student, Deputy and Lead Coordinators in nurturing the ecosystem of innovation and creativity in the CBIT.

Reference:

CIPAM-DIPP Model IPR Draft Policy Guidelines.

https://dipp.gov.in/sites/default/files/Draft_Model_Guidelines_on_Implementation_of_IPR_Policy_for_Academic_Institutions_09092019.pdf

T. Choudhary
10/7/2020

Y. Rajani