

Intellectual Property Policy

CERTIFIED TRUE COPY
OVCRED
RAMJIE Y. COIN, PhD



Intellectual Property Policy

TABLE OF CONTENTS

ARTICLE 1. POLICY STATEMENT 2
ARTICLE 2. POLICY PURPOSE 2
ARTICLE 3. DEFINITION OF TERMS 3
ARTICLE 4. SCOPE AND COVERAGE OF POLICY 5
ARTICLE 5. GOVERNANCE AND OPERATION 5
ARTICLE 6. IP CREATION 9
ARTICLE 7. RESEARCH CONTRACTS 9
ARTICLE 8. IP PROTECTION 10
ARTICLE 9. OWNERSHIP OF IP AND RIGHTS OF USE 12
ARTICLE 10. INVENTION DISCLOSURE 14
ARTICLE 11. PUBLICATION, NON-DISCLOSURE, TRADE SECRETS 15
ARTICLE 12. COMMERCIALIZATION/UTILIZATION OF IP 15
ARTICLE 13. INCENTIVES AND SHARING OF REVENUES 16
ARTICLE 14. IP PORTFOLIO MAINTENANCE 18
ARTICLE 15. AWARDS AND INCENTIVES 18
ARTICLE 16. GENERAL OBLIGATIONS, CONFLICTS OF INTEREST AND COMMITMENT 19
ARTICLE 17. DISPUTE RESOLUTION 19
ARTCLE 18. BREACH 20
ARTICLE 19. AMENDMENT 20
ARTICLE 20. COMMENCEMENT OF IP POLICY 20
REFERENCES 21

ARTICLE 1. POLICY STATEMENT

MINDANAO STATE UNIVERSITY – MAGUINDANAO

1.1. **Vision**

A premier innovative center of development in the region.

1.2. **Mission**

To train and enhance human capital through:

a. Quality educational experiences;
b. Relevant research and innovations for regional and national development; and,
c. Responsive community engagement and empowerment.

1.3. **Core Values**

R – Responsiveness
I – Inclusiveness
S – Sustainability
In- Innovativeness
G – Global Competence

In – Integrity

Collaboration

ARTICLE 2. POLICY PURPOSE

2.1. Mindanao State University – Maguindanao (hereafter referred to as University) is an institution of higher learning committed to support and produce relevant researches and innovations for regional and national development through generation, preservation and transmission of knowledge.

2.2. The Intellectual Property Policy seeks to set the framework for the translation of the IP arising from University's research into products, services and processes. It encourages faculty, staff, students and visitors to become Creators and to identify intellectual property with potential commercial value. It also establishes clear rules and procedures for the management and commercialization of such intellectual property generated at the University.

2.3. The Intellectual Property Policy seeks to ensure the legal protection, where applicable; effective management and Commercialization of University IP; while at the same time not impeding with the traditions of education and scholarship, academic freedom, open and timely publications, University autonomy, and the University's mission serving the public interest.

ARTICLE 3. DEFINITION OF TERMS

When used in this policy, the following shall mean:

3.1. "Background IP" shall refer to the Intellectual property or proprietary information owned by institution or by its officers and employees which they may bring along to a collaborative undertaking entered into by institution with another party, company, or organization whether local or international. The use of such IP may be allowed subject to terms and conditions specified in the agreement.

3.2. "Creator" shall refer to any institution officer, employee, students, visitors, or service provider who created any intellectual property.

3.3. "Commercialization" shall refer to any form of exploitation of IP, including assignment, licensing, and commercialization through a spinoff venture for which the IP owner receives payments or revenues in the form of royalty fees or other means in exchange for the use of such IP subject to terms and conditions in an agreement.

3.4. "Enabler" shall refer to any employees and other individuals (i.e. assistants, computer technicians, etc.) who have indirectly contributed to the creation of IP by the Creators mainly through the execution of standard tasks or following through on specific instructions but who may not be recognized themselves as an author, inventor, creator, or owner of the IP created.

3.5. "Foreground IP" shall refer to any IP generated pursuant to, or as contemplated in, a collaborative undertaking or research agreement entered into by institution with another party, company, or organization whether local or international. Generally, such IP shall be owned by institution except if otherwise categorically stated in the collaborative agreement.

3.6. "IP Assignment" refers to the process by which ownership of work product created for an entity by an employee or consultant is transferred to the entity.

3.7. "Lead Creator" shall refer to personnel who is primarily involved in, or has the most substantial contribution to, the creation of an IP amounting to reduction to practice from the point of conception execution, and testing of methodologies to the development of the product or tangible material.

3.8. "Net Cumulative Income" shall refer to the money or revenue received by or through institution in relation to exploitation of the relevant IP, minus payment of fees, royalties, tax, travel, production, development costs, legal fees, expenses of registration, or other protection.

3.9. "Patent Information Search" is a search of existing patents and other publicly-available documents (which is referred to as "prior art") to locate the closest existing things to your invention.

3.10. "Prior Art" is any evidence that your invention is already known. Prior art does not need to exist physically or be commercially available. It is enough that someone, somewhere, sometime previously has described or shown or made something that contains a use of technology that is very similar to your invention.

3.11. "Regular Duties" shall refer to the official duties or functions of the officer, employee, or service provider as spelled out in their job descriptions relative to their employment with institution, or as may be so specified in their official designations.

3.12. "Serendipitous IP" shall refer to an IP generated incidentally in the course of the collaborative undertaking or agreement entered into by institution with another party, company, or organization whether local or international. Such IP, which was not part of the contemplation of the agreement, shall be owned by institution, except if otherwise expressly articulated in the same agreement.

3.13. "Service Providers" shall include all personnel under a contract of service such as but not limited to consultants, administrative staff, guards, cleaning staff and all those contracted by institution to deliver a specific service or product.

3.14. "Substantial Use of Resources" shall refer to the use of resources and properties of institution which are not commonly available to the public. Moreover, use of institution's resources shall be considered significant if: (a) Use of institution's resources is important for the creation of the IP; (b) Resources used would cost an officer or employee X pesos if paid out of pocket; and; (c) If the officer or employee is using committed or official time of institution.

3.15. "Works" shall refer to any intellectual property created by any officer, employee, or service provider in the course of their employment or engagement with institution

3.16. "Appointment Agreement" is a formal agreement for a Visitor at the University, which is prerequisite to participate in or conduct research, scholarship, creative work, or teaching at the University.

3.17. "Commercialization" is any form of utilization of IP intended to generate value, which may be in the form of a marketable product, process or service, commercial returns, or other benefit to society. Commercialize is similarly defined.

3.18. "Commercialization Entity" is a company that has access to the IP of the University, through any one or more of the available Commercialization modes, to produce new products, processes or services. This can be a spin off or start-up.

3.19. "Conflict of Commitment" is any situation in which an individual Faculty/Staff Member's or Visitor's primary professional loyalty is not to the University because the time devoted to outside activities adversely affects their capacity to meet their responsibilities as set out in their employment contract of Appointment, respectively.

3.20. "Conflict of Interest" is any situation in which real or perceived interests of an individual Faculty/Staff Member, Visitor or Student may run counter to the interests of the University or negatively affect their employment or duties.

3.21. "Course Materials" refer to materials used in, or in connection with, and for the purpose of, teaching an education course through the provision of lectures, tutorials, seminars, workshops, field or laboratory classes, assessments, practicum and other teaching activities conducted by the University; and all IP in such materials.

3.22. "IP Expenses" are all expenses incurred by the University in the management and Commercialization of IP for which Gross IP Revenue has been received.

3.23. "Visitor" is any person who is neither a Staff Member nor a Student of the University who engages in work at the University, including visiting professors, adjunct and conjoint professors, teachers, researchers, scholars and volunteers; and who concludes an Appointment agreement with the University.

ARTICLE 4. SCOPE AND COVERAGE OF POLICY

4.1. This IP Policy shall cover all types of Intellectual Property Rights (IPR) recognized under the Philippine Laws such as Intellectual Property Code as amended as well as other applicable laws. Such as:

a. Copyright and Related Rights;
b. Trademarks and Service Marks;
c. Industrial Design;
d. Utility Model;
e. Patent; and,
f. Plant Varieties, as provided in Republic Act No. 9168.

4.2. It shall apply to all University Personnel, Faculty, Staff, Students, and Researchers (herein referred to as Creators) employed and/or officially enrolled in the University. It also covers research collaborators, sponsors, and industries engaged in the University's IP creation, protection, utilization, and commercialization.

4.3. This Policy shall also cover all research and/or creative activities, sponsored researches, tangible research properties or outputs with or without patent or copyright protection, whether for commercial or noncommercial purpose, undertaken using any University resources and including all technology transfer arrangements.

ARTICLE 5. GOVERNANCE AND OPERATION

5.1. Generally, the Intellectual Property Unit (IPU), under the auspices of the Knowledge, Innovation, and Commercialization Center, shall be responsible for the administration and organization of intellectual property matters of the University—including the management of the IP rights for all creative outputs and innovations resulting from the creative or research activities carried out by the employees. Likewise, the IPU shall ensure and manage all activities leading to the protection and commercialization of the University IP portfolios.

5.2. The IPU may likewise provide IP search, IP drafting, IP valuation, or IP management services to external clients (i.e. government institutions, private business or companies, or individual IP creators, etc.) subject to pre-arranged payment terms.

5.3. Specifically, the IPU shall perform the following functions:

5.4. Creation

a. Receive copyright disclosures/invention disclosures and search reports from concerned researchers.
b. Perform prior art search and/or patent information search to validate the report made by the IP creators within 30 days from receipt of the disclosure and search report.
c. Assign a reference code for every IP disclosed or submitted to IPU and maintain a digital database to keep an inventory of all the IP assets.
d. If the IP is found to be protectable/patentable, prepare the description of the copyright/IP, or draft the specifications of the patent together with the IP creators concerned.
e. Write recommendation to the University Chancellor for the immediate filing of appropriate IP protection, five days after writing the copyright/IP description, or drafting the claims of the patent.
f. If the IP is not protectable/patentable, advise promptly the IP creators concerned on the next viable course of action.
g. Manage the entire prosecution process of every IP filed for protection.
h. Conduct periodic IP audits.
i. Conduct IP awareness/IP education activities to the university/institution constituents, service community, industry, and other stakeholders.

5.5. Protection

a. Upon approval by the University Chancellor immediately file the IP for protection (preferably within 10 days from receipt of notice of approval).
b. Keep track of the entire prosecution process from filing of the IP and responding to examiner's actions to the granting of the IP right.
c. Record progress of the prosecution process into the digital database using the reference code for each IP type.
d. Update the IP creators concerned of any progress in the prosecution process.
e. Manage the maintenance of all IP assets already granted protection (i.e. for patents, payment of annuity fees; for trademark, date of renewal and declaration of actual use, etc.).
f. Keep a record of the Certificates of Copyright Deposit, Patent Letters, Registrability Reports, or Trademark Registrations.
g. Keep track of the remaining life years of all protected IP assets.
h. See to the international protection of creative or innovative products (i.e. for patents, through the Patent Cooperation Treaty; for trademarks, through the Madrid Protocol).

5.6. Utilization/Commercialization

A. IP Assessment

a. Perform technology analysis to determine the IP's readiness for commercialization using various assessment tools (i.e. NASA's Technology Readiness Level; Quad Analysis; Technology Scoring Tool, Business Model Canvass, etc.)
b. Perform assessment of IP readiness for market launch using various tools (i.e. Market Assessment Tool; Investment Readiness Level; Community Readiness Level, etc.)

B. Assessment of Most Viable Commercialization Mode

a. Assess which mode of commercialization (i.e. licensing; joint venture, etc.) is most suitable for the IP asset (i.e. using Path Decision Making Factor or other tools of assessment).
b. If licensing is the chosen mode, draft the licensing agreement together with the IP creators concerned.
c. Scout for potential licensees and prepare portfolio briefs.
d. If spinoff, prepare the business plan together with the IP creators concerned.
e. Prepare innovation briefs /portfolio profile together with the IP creators concerned.

C. IP Valuation

a. Determine the potential value of the IP to be commercialized using the most appropriate asset valuation tools (i.e. cost, income, market, relief from royalty, multiple excess earning method, etc.)
b. Prepare the valuation report to be used as basis for licensing negotiations and drafting the licensing contract.

D. Revenue Management

a. Manage revenue cash flows from all commercialized IP assets.
b. In collaboration with the accounting office, keep a financial statement for periodic revenue streams per IP asset.
c. See to the prompt release of the appropriate revenue shares to the rightful recipients (i.e. IP/Lead creator; enabler; others) based on net cumulative returns.

5.7. To be able to effectively and efficiently perform its multi-layered functions, the IPU shall be strengthened with the following staff complement:

a. IPU Head – He/She shall direct the operations of the IPU and supervise the functions and work outputs of the staff. He/She must at least have a master's degree preferably in the field of economics, industrial psychology, organizational communication, or other related field. (A Certificate Course on IP Management will be desirable.)

b. Intellectual Property Agent/Patent Agent – The IPU must have at least two IP Agents who shall serve as a) a prior art/patent searcher and b) a patent drafter. They shall perform search report and draft

patent specifications together with the IP creators concerned. They must be graduates of either engineering courses or natural science courses, preferably with an MS degree in these fields and with appropriate professional license. (A Certified Patent Agent will be desirable.)

c. Intellectual Property Valuator – He/She shall be responsible for determining the potential value of an IP asset. Together with the IP creators concerned, he/she shall gather industry or market data and capture market information on current valuation standards. He/She shall also prepare the quantitative valuation reports and provide advice on commercialization ventures of the university/institution. He/She must be a graduate of BS Mathematics, BS Statistics, or BS Economics preferably with an MS in these fields. (A Certified IP Valuator/Patent Valuator will be desirable.)

d. Business Development Specialist – He/She shall be responsible for spotting opportunities for business growth and leveraging feasible marketing strategies. He/She shall assess business processes and financials, implement business plans, and establish effective networks with potential partners in the industry. He/She must be a graduate of BS Business Management, BS Business Administration, or other related field.

e. Marketing and Communications Specialist – He/She shall be responsible for operationalizing a creative, targeted, and credible messaging strategy to the intended publics of IPU's operations and business goals.

5.8. The University shall establish an IP Council.

5.9. The IP Council shall be headed by the Vice Chancellor for Research, Extension and Development (VCRED). The membership shall be composed of the Director of Research Services Office (RSO), Director of Knowledge, Innovation, and Commercialization Center (KICC), Director of Extension Services Office (ESO), Head of Intellectual Property Unit (IPU), the University Legal Officer, and other members as designated by the University Chancellor.

5.10. The IP Council is the ultimate decision-making body in the determination of an IP management and Commercialization strategy for a particular IP. In particular, this Council shall:

a. Administer and interpret this IP Policy;
b. Resolve disputes that may arise from the interpretation of this IP Policy;
c. Refer IP matters that cannot be resolved at the IP Council to the Chancellor for decision, which will be final and conclusive;
d. Review and endorse license agreement negotiated by the IP Unit as well as periodically review the patent management and licensing practices of the University;
e. Recommend changes to this IP Policy.

ARTICLE 6. IP CREATION

6.1. This section states how the University shall pursue the innovation plan and the creation of IP. It emphasizes among others that:

a. University staff, employees, students, and visitors of the University, conducting researches, may engage in the creation of IP;
b. Before commencing any research study/project, researchers must first conduct prior art search and patent information search, and shall furnish the IPU of the search report;
c. Researchers shall make all reasonable efforts to identify any protectable IP as early as possible, and shall immediately disclose such to the IPU using the Invention/Copyright Disclosure Form;
d. No research results shall be published or made public without the benefit of prior IP Protection;
e. The University shall include a patent agent/IP expert, as one of the panel members, in the evaluation of the research proposals of graduate and undergraduate students; and,
f. The University shall include a patent agent/IP expert, as one of the panel members, in the evaluation of research outputs presented in the R&D In-House Review.

ARTICLE 7. RESEARCH CONTRACTS

7.1. University staff, faculty, students and visitors shall not have the right to enter into a Research Contract with external parties on behalf of the University unless they are expressly authorized to do so by the Chancellor.

7.2. Persons acting for and on behalf of the University shall exercise all due diligence and consult IP Unit when negotiating contracts that may affect the University's IPRs.

7.3. Research Contracts shall comply with any applicable law and/or Government regulations and/or rules, which may be applicable to Research undertaken by the University, in particular, as far as it relates to the ownership of IP resulting from such Research. The appropriate legal representative of the University will be consulted in this respect before signing any Research Contract.

7.4. Proposed Research Contract and other legal statements concerning the University's IPRs shall comply with the provisions of this Policy. Any variance from this Policy must be approved by the Chancellor.

7.5. The IP clauses in all Research Contracts shall the governed by the following basic principles:

a. *Concluded from the outset.* A Research Contract must be executed in writing and signed by the University and the external party(ies)/sponsor(s) prior to the commencement of any Research Project and, as appropriate and without limitation, must contain terms relating to ownership, management and use of IP arising from the Research Project as well as any Background IP.

b. *Background IP.* All University Background IP must be properly recorded and declared prior to the commencement of a Research Contract and belongs to the University. Similarly, Background IP of the external party/sponsor belongs to such party or sponsor. Use of such Background IP requires express written permission.
c. *Foreground IP (IP arising from the Research Contract).* IP generated pursuant to a Research Contract by Employees, Students or Visitors shall be governed in terms of the above provisions relating to IP generated by these parties. The general rule is that such IP shall be owned by the University.
d. *Co-owned Foreground IP.* Co-ownership of IP generated pursuant to a Research Contract shall be in accordance with law, failing which, as mutually agreed contractually. The costs for protecting and maintaining any IPRs shall be shared between the University and the external party(ies)/sponsor(s), or as may be agreed on contractually.
e. *Serendipitous IP.* Any IP created during the course of the Research Contract which falls outside of scope of the Research Contract shall be owned by the University or the external party(ies)/sponsor(s) which developed such IP, unless agreed contractually otherwise in the Research Contract.
f. *Right of first refusal to the IP.* The Research Contract may include provisions giving the external party(ies)/sponsors, a right of first refusal to Commercialize the IP emanating from the Research Contract, through a license or joint venture arrangement or assignment.
g. *Publication delay.* It is the policy of the University to give the Creators freedom to publish their work. However, the University acknowledges that a delay in publication for the purpose of initiating statutory protection of the IP is necessary. In this regard, the University will require, on a case-by-case basis, a delay in publication by Creators for the purpose of filing appropriate IP protection, or as may be so imposed in a prior research agreement. Such delay will not exceed thirty (30) calendar days from the date IP Unit is notified of the intent to publish.

ARTICLE 8. IP PROTECTION

8.1. The University shall seek IP Protection for research and creative outputs that have potential for IP and have high market value to pursue commercialization, that will eventually bring benefit to the University, creators and the community.

8.2. To ensure quality standards in filing for IP protection, all University staff, faculty, students, and visitors shall seek guidance and assistance from the IPU.

8.3. Any IP applications that have been filed or registered for IP protection that do not bear the name of the University as the applicant and/or did not pass through the IPU shall not be recognized/accounted for as a University-developed IPs nor be credited/qualified for faculty promotion, awards, and incentives.

8.4. To facilitate proper protection of university-developed inventions, innovations, and creations, the following responsibilities shall be performed:

8.4.1. *University's Responsibilities (through IPU)*

a. Require the researcher to accomplish IP Disclosure Form;
b. Evaluate such disclosures and accordingly make recommendations as to the desirability of seeking IP protection and validate authenticity of creatorship prior to the filling of the any IP protection application;
c. Facilitate in the preparation and processing of IP applications at the Intellectual Property Office of the Philippines (IPOPHL)/National Library Office of the Philippines (NPL).

8.4.2. Creator/s' Responsibilities

a. Creators shall keep appropriate records of their Research in accordance with the University's applicable policy procedures and make reasonable efforts to ensure that only those individuals within the University who have a need to have access to such records for the performance of their duties are granted such access.
b. Where a Creator identifies potential IP resulting from his/her Research, he/she shall disclose such potential IP to IP Unit promptly by means of an IP Disclosure Form.
c. Creators must provide to IP Unit such full, complete and accurate information as IP Unit may reasonably require to enable it to sufficiently assess 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 will be registered and assigned a reference number and IP Unit will share this reference number with the Creators to signify that the IP Disclosure has been formally received by the University.
d. Creators shall, upon request, sign the appropriate legal documents provided by IP unit that attest to creatorship. Where there is more than one Creator, and there is a dispute as to the contribution to creatorship, IP Unit shall in consultation with the Creators, assist in the determination of the percentage IP creatorship, failing which it shall be assumed that there was an equal undivided contribution.
e. IP Unit will analyze the information disclosed in the IP Disclosure within thirty (30) days of formal receipt. The analysis will include: whether or not the subject matter is protectable as IP; an assessment of economic viability or marketability; and determination of any rights of external parties, such as a funder or collaborator. After evaluation, IP Unit will prepare a preliminary report with findings that enable the University to decide if it will proceed with IP protection and Commercialization. IP unit shall share the preliminary report with the Creator(s), and seek their input.
f. The University will decide, immediately, whether or not it wishes to protect and/or Commercialize the IP. IP Unit will use all reasonable efforts to notify the Creator(s) of the University's decision within thirty (30) days of formal receipt of the IP Disclosure. IP Unit will also make a determination in relation to the validity of any claim made by an Employee, a Visitor or a Student that they are the true Creator(s) of that IP and in relation to their rights under this Policy.
g. The cost of expenses in filing IP protection including payment for maintenance of the IP portfolios shall be shouldered by the University for University-financed projects. Payment for IP applications derived from collaborative research projects shall be equally divided among parties, or as may be provided for in the contract.

ARTICLE 9. OWNERSHIP OF IP AND RIGHTS OF USE

9.1. **IP Created by University Employees**

9.1.1. *University ownership.* The University shall own all IP created by employees, if such IP was created:

a. in the course and scope of his/her employment or part of his/her regular duties;
b. making Substantial Use of the University's resources including University funds;
c. using funds from external entities coursed through the University.

9.1.2. *Employee ownership*. Staff/Faculty Members will own the IP they have created when such IP:

a. is outside the course and scope of their employment and without Substantial Use of the University's resources;
b. vests in Scholarly Works;
c. is developed in their personal time.

9.1.3. *IP emanating from Research Contracts.* Where there are no Substantial Use of the University's resources, the terms of the Research Contract will regulate ownership of IP created by employees in the course of a Research Project that forms part of a Research Contract.

9.2. **IP Created by Students**

9.2.1. *Student ownership.* IP created by a Student in the course of study at the University (including theses, dissertations and other Scholarly Works) shall be owned by the Student.

a. The Student must furnish a softcopy of his/her final thesis or dissertation to the Office of Knowledge, Innovation and Commercialization Center.
b. The Student shall be encouraged to grant a royalty-free license to the University to reproduce his/her thesis or dissertation and to distribute copies thereof to the public.[1]

9.2.2. *University ownership.* IP emanating from a Student's Research Project shall be owned by the University in the following circumstances:

a. if the IP is created by making Substantial Use of the Institution's resources (excluding supervision) and there is no re-imbursement agreement concluded between the University and the Student; or
b. if the Research carried out by the Student forms part of the University's Research Projects.
c. There is substantial financial support from the University in the form of wages, salary stipend or funds for the research;
d. The research has been funded by a government funding Institution (GFI) under a grant or sponsored research agreement, or is subject to a material transfer agreement, confidential disclosure agreement or other legal obligation that restricts ownership of the intellectual property;
e. The generation of IP has resulted from the use of pre-existing IP owned by or existing within the University; or
f. The IP is a result of collaboration, informal research project with faculty and member of the University.

[1] The Rules of the University generally require, as a condition of enrolment, that the University reserves the right to retain the original or copy of any theses, and a license. Such retention does not affect any copyright or other IP right that may exist in such theses.

9.2.3. *IP emanating from Research Contracts*. [2] The terms of the Research Contract shall regulate the ownership of IP created by a Student in the course of such Research Contract.

9.2.4. *Bursaries/scholarships.* An external party that grants a bursary or scholarship to a Student may elect to own the IP created by that Student in the course of his/her study at the University provided the Student and the University have consented to the assignment of IP ownership in writing and such consent is not contrary to any applicable law or public policy.

a. Student Owned IP. IP Unit may, upon agreement, provide Commercialization services to Students for their IP.
b. Students shall be encouraged to assign their IP to the University and will be afforded the same rights and obligations as Staff Members under this Policy.
c. In the absence of an assignment of the IP to the University, the Students and IP Unit may agree on the specific Commercialization services required at no cost to the Student.

9.3. **IP Created by Visitors**

9.3.1. *Institution ownership.* Unless otherwise agreed to in writing by the University and the Visitor's home institution prior to the tenure at the University, Visitors are required to assign to the University any IP:

a. created in the course and scope of their Appointment at the University; or
b. created by making Substantial Use of the University's resources.

9.3.2. *University IP.* On departure from the University, a Visitor must sign and submit to IP Unit an IP Disclosure form disclosing any IP created, as per Article 8.4.1, whilst at the University.

9.4. **Special Rules for Course Materials**

9.4.1. *University ownership.* The University shall own the IP in Course Materials created by an employee or a Visitor, with the exclusion of Course Material that is created from or for Open Educational Resources.

9.5. **Special Rules for Scholarly Works**

9.5.1. *Publication.* The University recognizes and endorses the rights of Employees, Students and Visitors to publish their Scholarly Works, provided that any Scholarly Work which may disclose any possible University IP shall first be cleared by IP Unit after having an opportunity to protect such University IP according to Article 8.

9.5.2. *University repository.* Employees, Students and Visitors should endeavor to obtain publishers' permission to include published Scholarly Works in the University repository whether as a published edition or in pre-publication form.

[2] That is, if the Student is participating in a Research Project under a Research Contract between the University and an external entity or research sponsor.

9.6. **Moral Rights**

9.6.1. *Recognition.* The University undertakes to respect and protect the moral rights which copyright law confers on Authors of copyright works.[3]

9.6.2. *Rights granted.* The University acknowledges that moral rights vest in Authors of copyright works irrespective of the copyright ownership thereof and include:[4]

a. the right of attribution of authorship in respect of the copyright works;
b. the right to object to any distortion to any original work;

9.7. **Public Domain**

9.7.1. *Public Domain.* University IP forms part of the Public Domain in the following circumstances:

a. if a Research Contract provides that the Research results be placed into the Public Domain; or
b. if Employees or Visitors made use of OERs or resources licensed through Open Source or Creative Commons Licenses[5] and the licensing conditions require release of derivatives into the Public Domain.

9.7.2. *Release into the public domain.* The University will release IP into the Public Domain in the following circumstances:

a. where it is deemed to be in the public interest.

ARTICLE 10. INVENTION DISCLOSURE

10.1. At an appropriate stage in the development of an invention, the creator shall fill-out the Invention Disclosure Form for submission to the IPU, providing all such particulars that are relevant to an assessment about its commercial prospects. The IPU shall promptly acknowledge and provide a copy of the acknowledgement receipt of the disclosure to the creator.

10.2. When a person other than the creator has made the disclosure required in the previous paragraph, the University shall expeditiously decide whether or not it intends to participate in seeking intellectual property protection. It shall communicate its decision to the creator within thirty (30) days from the receipt of such disclosure.

10.3. The University shall treat disclosures of items subject to this Policy as confidential without prejudice to disclosure made by the creator himself, and shall make reasonable efforts to avoid loss of rights due to

[3] This article must be adapted in accordance with national law.
[4] The list of rights granted needs to be adapted to the moral rights recognized in national laws.
[5] Creative Commons is a non-profit corporation dedicated to making it easier for people to share and build upon the work of others within the framework of national copyright laws. The Creative Commons suite of free copyright licenses provides a simple, standardized way to give users permission to share and use creative and scholarly work. Such licenses allow Creators to stipulate which rights they reserve, and which rights they waive for the benefit of others.

lack of appropriate documentation or to improper or premature disclosure or to publication without proper notice.

ARTICLE 11. PUBLICATION, NON-DISCLOSURE, TRADE SECRETS

11.1. In conjunction with the right of publication, Creators should be aware that premature Public Disclosure may result in loss of IP protection rights[6]. Therefore, they are strongly encouraged to make all reasonable efforts to identify any protectable IP as early as possible, according to Article 8, and shall consult IP Unit before making any Public Disclosure of potential University IP.

11.2. If a thesis or dissertation or any parts shall be published, the adviser or in some cases, the members of the panel may become co-authors with the consent of the student provided that the adviser or panel has substantial contribution to the thesis, dissertation, or the article, which amounts to reduction to practice, and subject to the University Students' Research Manual.

11.3. If a patent or utility model may come out from a student thesis or dissertation, the adviser or in some cases, the members of the panel may become co-creators or inventors with the consent of the student provided that the adviser or panel has substantial contribution to the creation of IP, which amounts to reduction to practice.

ARTICLE 12. COMMERCIALIZATION/UTILIZATION OF IP

12.1. Possible commercial venture of an Intellectual Property shall be initiated by the IPU upon receipt of the IP application number assigned by IPOPHL or any foreign territory.

12.2. Within one (1) month of the decision to protect or commercialize the IP, the University will determine, with input from the creators, the most appropriate Commercialization strategy.

12.3. Creators of IP which has been selected for IP protection and Commercialization by the University must provide IP Unit with all reasonable support in the assessment, protection (including preventing premature disclosure and execution of any documents including deeds of assignment and deeds attesting to creatorship), and Commercialization of the IP.

12.4. The University shall have the sole discretion regarding the Commercialization of IP owned by it. Notwithstanding, the University will ensure that reasonable efforts are made to keep the Creators informed and, where appropriate, involved in the Commercialization of the IP to which they contributed. The Commercialization of University IP will be planned, executed, and monitored by IP Unit.

12.5. Modes of IP Commercialization may include:
   a. license, either exclusive or non-exclusive, and variations thereof;
   b. assignment;

[6] Patents provide protection for technical inventions but there are strict procedures and rules which must be followed. A patent cannot be granted if the invention has already been disclosed and so care must be taken to avoid premature disclosure before the patent application has been filed.

c. formation of a Commercialization Entity to which the IP is licensed or assigned in terms of this Policy;
d. non-profit use or donation;
e. joint ventures;
f. royalty free access on humanitarian or other grounds; or
g. Various combinations of the above.

12.6. Regardless of the mode of IP Commercialization, the transaction will be executed in a contract which:

a. protects the interests of the University, its Employees, Students and Visitors;
b. retains rights for the University to use the IP for educational and research purposes;
c. assures that the IP will be utilized in a manner which will serve the public good;
d. assures that the IP will be developed and brought to the marketplace as useful goods and services; and
e. prohibits the "shelving" or "mothballing" [7] of the IP or its use in any illegal or unethical manner.

12.7. The University will endeavor to Commercialize IP in a manner that enhances local, regional, and national economic development.

ARTICLE 13. INCENTIVES AND SHARING OF REVENUES

13.1. The University, in the interest of promoting knowledge transfer, will give due consideration to incentives to researchers to foster Research that has socio-economic impact; such incentives are subject to internal policy formulated for the intended purpose by the Office of the Vice Chancellor for Research, Extension and Development after consultation with the Office of the Director for Research Services and Office of the Director for Knowledge, Innovation and Commercialization Center. A Creator/Enabler may receive incentives from each IP they created/enabled which is Commercialized.

13.2. The University will award Creators/Enablers in the sharing of monetary benefits that may accrue to the University from the Commercialization of University IP.

13.3. IP Unit shall maintain accurate and transparent documentation of IP Expenses incurred for a particular IP and shall be entitled to cover all IP Expenses it has incurred. The "Net IP Revenue" is calculated as the Gross IP Revenue less IP Expenses.

13.4. Income generated from the commercialization of the University IP shall be shared between the University and the creator. The Net IP Revenue shall be shared as follows:

- University: 60%
- Creator: 40%

[7] Shelving or mothballing of academic IP refers to IP and invention disclosure bundles that remain unexplored, unlicensed or unused.

13.5. The 60% share of the University shall be distributed as follows:

- OVCRED: 15%
- RSO: 15%
- ESO: 15%
- KICC: 25%
- IPU: 30%

13.6. The 40% share of the creator shall be distributed as follows:

a. One Creator
   - Lead Creator: 100%

b. Two Creators
   - Lead Creator: 60%
   - Co-Creator: 40%

c. Three or More Creators
   - Lead Creator: 40%
   - Co-Creators: 60%

13.7. Revenues generated from *Trademark* owned by a department/college/office shall be distributed as follows:

- Department/College/Office: 50%
- KICC: 20%
- IPU: 20%
- OVCRED: 10%

13.8. Creators shall be responsible in updating the IPU should there be any changes in their address, contact numbers, or bank details. Failure to update such details within 3 years shall result to forfeiture of any benefits available for the Creator.

13.9. Creators who will be separated from the university due to resignation or retirement shall continue to receive their share of the revenue, subject to the following conditions:

a. For as long as the IP continues to earn revenues; and,
b. The rights thereto continue to subsist.

13.10. Preceding provisions shall also apply to student-creators except for Article 13.7;

13.11. Next of kin of a demised creator/s, who have not assigned a successor-in-interest, shall receive the revenue on behalf of the creator, subject to the conditions mentioned in 13.9.

13.12. Revenues received by the IPU shall be used to defray filing fees and all other expenses related to the creation and protection of intellectual properties. This may include professional, notarial and legal fees, rewards, and incentives fore creators and in the wide dissemination of the intellectual property rights.

13.13. Revenues received by the KICC shall be used to finance activities related to the economic exploitation of an IP. This may include, but not limited to, technology reproduction, performance evaluation, capacity building activities such as trainings and workshops, benchmarking activities, and other knowledge and technology transfer activities.

13.14. Revenue share of the OVCRED, RSO and ESO shall be used to defray administrative expenses, research development activities, capacity building activities as well as in the provision of research and extension equipment and facilities, if the budget so warrants.

13.15. The revenue share of the departments/colleges/offices shall be used in the conduct of research and development activities specific to the departments/colleges/offices and the provision of equipment.

13.16. Each of the offices that will be given corresponding share of the royalty shall acquire a bank account for the sole use of activities related to IP management and operation.

13.17. Account signatories should be the head of the office and his/her immediate head.

ARTICLE 14. IP PORTFOLIO MAINTENANCE

14.1. *Recording and monitoring.* The Knowledge, Innovation and Commercialization Center shall maintain records of the University's IP in an appropriate form and in sufficient detail. It shall monitor the deadlines for the payment obligations related to the maintenance or annuity fees of protected IP, and shall, within a reasonable time, inform the person or department designated to make such payments.

14.2. *Accounting*. The Knowledge, Innovation and Commercialization Center shall maintain income/expense accounting records on each IP so that revenue sharing allocations can be calculated.

ARTICLE 15. AWARDS AND INCENTIVES

15.1. In recognition to the meritorious contribution of the creators in the generation of Intellectual Property, all creator whose IP have been granted a certificate of registration from the IPOPHL shall be accorded the following cash incentives:

- Patent : PhP100,000.00
- Utility Model : PhP5,000.00
- Industrial Design : PhP5,000.00
- Trademark : PhP5,000.00
- Copyright : PhP5,000.00

15.2. The cash incentive shall be granted per IP that has been granted the protection, and shall be equitably divided among the creators based on the revenue sharing scheme provided in Article 13.

ARTICLE 16. GENERAL OBLIGATIONS, CONFLICTS OF INTEREST AND COMMITMENT

16.1. *Commitment to the University*. Employees' and Visitors' primary commitment of time and intellectual contributions should be to the education, research and academic programs of the University.

16.2. *Best Interests of the University.* Employees and Visitors have a primary professional obligation to act in the best interests of the University; they should avoid situations where external interests could significantly and negatively affect their work ethic and research integrity.

16.3. *Agreements with External Parties.* It is the responsibility of all Employees, Students and Visitors to ensure that their agreements with external parties do not conflict with their duties and responsibilities in terms of this Policy. This provision shall apply in particular to private consultancy and other research service agreements concluded with external parties. Each individual should make his/her duties and responsibilities clear to those with whom such agreements may be made and should ensure that they are provided with a copy of this Policy.

16.4. *Disclosure of External Activities and Financial Interests.* Employees and Visitors shall promptly report all potential and existing Conflict of Interest (COI) or Conflict of Commitment (COC) to the Office of the Vice Chancellor for Research, Extension and Development, in compliance with applicable COI/COC policies. The OVCRED will be responsible for resolving the conflict or reaching a solution satisfactory to all parties concerned.

16.5. Policy. The University will develop a separate and comprehensive policy on COI, in order to increase the awareness of Employees and Visitors about COI and COC; outline requirements for disclosure of COI and COC; and establish procedures to identify them, avoid or properly manage such conflicts.

ARTICLE 17. DISPUTE RESOLUTION

17.1. Any dispute related to intellectual property or arising from the interpretation of this IP Policy shall first be reviewed and settled by the IP Council.

17.2. If the IP Council is unable to resolve the dispute, it shall then form an Oversight Committee consisting of a nominee each from the parties. The nominees shall then nominate a third member who is acceptable to both nominees. The Oversight Committee shall then settle the dispute with utmost integrity and transparency.

17.3. In any case where the contending parties are not satisfied with the resolution reached by the Oversight Committee, the parties shall be free to seek appropriate legal action in a court of law at their own expense.

ARTCLE 18. BREACH

18.1. Any officer, employee, or service provider adjudged to have breached any provisions of this IP Policy shall be dealt with accordingly, to wit:

a. First Offense – Written censure or reprimand by the institution management; and ineligibility to receive Productivity Incentive Bonus for the given year;
b. Second Offense – Ineligibility to be nominated for a scholarship or grant for a training course or a degree abroad within a period of three years from when the infraction was committed; and/or ineligibility to receive or continue to receive revenue share from a commercialized IP of which he/she is a creator or enabler as the case may be;
c. Third Offense – Ineligibility to be nominated for a scholarship or grant for a training course or a degree abroad within a period of five years from when infraction was committed; or any other appropriate course of action.

ARTICLE 19. AMENDMENT

19.1. This IP Policy may be amended by the IP Council from time to time based on necessity, or upon a written proposal by any officer or employee to the IPU Head.

19.2. The IPU Head shall ensure that the IP, and concerned institution officers and employees are consulted prior to the effectivity and implementation of the amendments.

ARTICLE 20. COMMENCEMENT OF IP POLICY

Upon approval by the Board of Regents, this Policy shall be effective fifteen days after dissemination of its copy to all institution officers, employees, and service providers

REFERENCES

Intellectual Property Code of the Philippines (Republic Act No. 8293, as amended up to Republic Act No. 10372)

Intellectual Property Policy of Different Institutions (MSU-IIT, Miriam College Foundation, Inc., VSU, and JRMSU)

The Philippine Technology Transfer Act of 2009 (Republic Act No. 10055)

WIPO Intellectual Property Policy Template for Universities and Research Institutions (January 29, 2019)

Republic of the Philippines
MINDANAO STATE UNIVERSITY
Marawi City

OFFICE OF THE SECRETARY OF THE UNIVERSITY
AND OF THE BOARD OF REGENTS

EXCERPTS FROM THE MINUTES OF THE 258th MEETING OF THE BOARD OF REGENTS HELD ON MARCH 21, 2022 VIA ZOOM TELECONFERENCING AND FACE-TO-FACE AT CHED AUDITORIUM HEDC BUILDING, C.P. GARCIA AVENUE U.P. DILIMAN CAMPUS, QUEZON CITY

==========

x-x-x x-x-x x-x-x

"RESOLUTION NO. 110, S. 2022"

RESOLVED, that upon the recommendation of the President of the University and the Executive Committee of the Board of Regents, the adoption of the Intellectual Property (IP) Policy in MSU- Maguindanao, herein appended and marked as Annex "NNN" (under separate cover) and made an integral part of this resolution, is hereby APPROVED.

APPROVED"

x-x-x x-x-x x-x-x

CERTIFIED TRUE AND CORRECT:

ATTY. SHIDIK T. ABANTAS
Secretary of the University
and of the Board of Regents

STA:rlf
31 March 2022
(Not valid without seal)

MINDANAO STATE UNIVERSITY - MAGUINDANAO
CERTIFIED TRUE COPY
Fhajema M. Kunso, PhD
Acting Campus Secretary
DATE: 4/21/2022