



VIT[®]

Vellore Institute of Technology

(Deemed to be University under section 3 of UGC Act, 1956)

VELLORE INSTITUTE OF TECHNOLOGY
VELLORE-632 014, Tamil Nadu, India

INTELLECTUAL PROPERTY RIGHTS
(POLICY AND GUIDELINES)

July 2019

Intellectual Property Rights Policy

1. Preamble

The VELLORE INSTITUTE OF TECHNOLOGY, (hereinafter referred to as VIT/Institute) has, over the past three decades, been constantly endeavoring to train high-quality scientific and technical man- power and provide solutions to a variety of challenging technological problems that may arise in different fields , through its well qualified faculty and highly skilled supporting staff, with the goal of becoming one of the leading centres of teaching, research and extension in Engineering and Technology and totally committed to excel in every sphere of its activity. It has been constantly encouraging scholarship, research, academic excellence and innovation.

The VELLORE INSTITUTE OF TECHNOLOGY recognizes that intangible assets like inventions, copy right, know-how, designs and other creative and innovative products generated during the scientific and intellectual pursuits of its faculty and its students provide a competitive edge to the Institute. It, therefore, has formulated its intellectual property policy to provide guidance to its faculty, staff, students, research scholars and outside agencies on the practices and rules of the Institute regarding intellectual property rights (IPR) and obligations which include its ownership, commercial exploitation, technology-transfer and end confidentiality requirements. The policy is expected to promote a conducive environment for both curiosity- driven and market-driven research and development activities at the Institute and creation of original works of authorship.

It is to be stressed that this IPR policy is to be treated more as a guideline than a strict rule in the legal sense in view of the evolutionary scenario in the nations IPR policy and is, therefore, subject to changes if a need arises. **This document** together with the **addendum** (Operating guidelines) and the annexures (some useful information on Patents and Copyright) and (Salient features of IPR and services provided by IPR Cell) are designed to give a wholesome picture of Intellectual Property (IP) management at VIT.

2. Purpose

The purpose of the IPR policy of VIT is to:

- I. Facilitate, encourage, promote and safeguard scientific inquiry, research pursuits and the academic freedom of its faculty, researchers and students;
- II. Create an innovative culture which fosters the creation and development of IP at the Institute;
- III. Provide a clear understanding of the rights and responsibilities of the faculty staff, and students and protect the interests of the Institute its members;
- IV. Establish an IPR management policy and procedural guidelines for converting the knowledge generated in the Institute to wealth;
- V. Enable the Institute to make beneficial use of IP so as to confer maximum benefit to the inventors, the Institute and the society at large and;

VI. Shape the Institute as a prime academic research Institute practicing highest ideals of scholarship and teaching through dissemination of the benefits of IP generated at the Institute to the community and society;

3. Objectives

The IPR policy of the Institute aims to:

- I.** Facilitate protection and valorization of intellectual properties generated by its faculty, staff and students as a results or their intellectual and scientific pursuits at the Institute during the tenure of their employment/engagement at the Institute and thereby offer scope for wealth generation, alleviation of human sufferings and betterment of human life;
- II.** Usher in prudent IP management practices within the Institute so as to promote IPR awareness and culture among its faculty, staff and students;
- III.** Provide a comprehensive single window reference system for all IPR related issues and;
- IV.** Proactively create an environment for generating new knowledge through research and innovations compatible with the educational mission of the Institute;

4. Scope

This policy covers all rights arising from the intellectual property devised, created or generated by the faculty members, staff, students, research scholars (both internal and external categories), persons employed in sponsored research and consultancy projects and consultancy projects and visiting scientist/ professors/professionals who participate in teaching and research work being carried out at the Institute either on full-time basis or part- time basis, irrespective of the eligibility of these rights for registration. The IP arising from academic research includes patents, designs, copyright, know-how and undisclosed information.

5. Policy Statement

The Institute is committed to promoting, protecting, managing and commercializing Intellectual Property consistent with the recognition that among its primary objects and functions are teaching, research and meeting the needs of the community and society. It supports the commercialization and exploitation of IP, which can provide an additional source of revenue to the Institute and also accrue benefits to staff and students. At the same time, the Institute recognizes traditional academic values and expectations.

6. Definitions:

I. Intellectual Property (IP) is an intangible knowledge product and shall mean and include –all results, conclusions, deductions, inventions, ideas, improvements, discoveries, enhancements, solutions, processes, modifications, know-how, data and information of every kind and description conceived, generated, made, or reduced to practice as the case may be, designs, software programmes, genetically engineered microorganisms, business models and copyrightable work -resulting from the intellectual output of the faculty, staff, students, research scholars and other employees of the Institute

IP is, thus, an outcome of the Institute supported research or sponsored research, industrial consulting or other forms of joint research and development work.

II. Intellectual property Rights (IPR) means the rights derived from the IP e.g. Patents, registered designs, copy right etc.

III. Background information means technical information and know-how owned or controlled by the partners of a collaborative Research and Development programme before the start of the programme, in the same field as the subject matter of the programme or in related fields as necessary for the execution of the programme.

IV. Background intellectual property means the intellectual property owned or controlled by the partners of a collaborative Research and Development programme before the start of the programme, in the same field as the subject matter of the programme or in related fields and necessary for the execution of the programme.

V. Foreground intellectual property means the intellectual property generated during the course of a collaborative Research and Development programme.

VI. Institute Personnel in this policy document includes all the faculty members, staff, students, research scholars (Internal and External), visiting scientists, professors and other professionals who are hired either on full-time basis part-time basis.

7. Ownership of Intellectual Property

- I.** In all the applications filed by the Institute for the ownership of intellectual property rights, the persons who have directly contributed intellectual inputs shall be mentioned as inventors or creators

II. Copyrights

- a)** The Institute shall be the owner of the copyright on all teaching and instructional materials developed by the employees of the Institute as a part of any of the academic programmes of activities at the Institute. However, the author shall have the right to use the material in his/her professional work.
- b)** Books, articles, monographs, speeches and other communications produced by the staff members in the course of research and teaching using Institute resources will be outside the purview of this clause .The Institute recognizes faculty ownership of copyright in such traditional works of authorship.
- c)** In cases where the copyrightable works including software are created by the employees of the Institute with significant use of Institute's resources, the Institute may demand assignment of the copyright of such works either in full or in part depending on the extent to which the Institute's resources have been used to produce the copyrightable work
- d)** The Institute shall be the owner of the copyright of works produced by non-institute personnel associated with or engaged for any activity of the Institute either with or without intellectual contribution of the Institute personnel.
- e)** If any copyrightable work is produced during the course of any sponsored /or collaborative activity, the ownership of copyright will be determined either according to the terms and conditions (related to IP) specified in the contract, if any, governing such activity or through mutual consultations and agreement with the sponsoring/collaborating agency.
- f)** In case of thesis/dissertation/project report written by a student, the ownership of copyright shall rest jointly with the student and his/her guide. However, in such cases, the Institute may demand assignment of the ownership of the copyright in full. Where the Institute does not demand such assignment or where the copyright has not been assigned to the Institute , the Institute will be entitled to a non-exclusive, non- transferable license to use the work within the Institute for non-commercial educational and research purposes, and to possess a limited number of copies for such purposes.
- g)** Any copyrightable work generated as a work-for-hire will normally belong to the Institute unless otherwise specified in the original contract for the work.
- h)** If the foresees a gainful return from the copyrights, it may initiative steps to file and protect such copyrights and share the financial benefits with the creator on terms and conditions of the Institute.

III. Institute- Supported Research

All rights in respect of the intellectual property generated out of investigations carried out at the Institute making use of the Institute's resources shall vest in and be the absolute property of the Institute except in cases where such investigations are carried out either jointly with other institutions and agencies or under sponsorship by an outside agency

IV. Sponsored Research

The IPR of inventions arising out of research projects undertaken on behalf of and entirely funded by a sponsoring agency shall be registered jointly in the name of the Institute and the sponsoring agency if the sponsoring agency bears the cost of securing and maintaining the IPR registration equally. Where the sponsoring agency is not forthcoming for filing joint IPR application, the Institute, at its discretion, may file the application with the absolute ownership and will meet the entire cost of securing and protection of IPR. If the sponsoring agency funds the research projects only partially or if there are multiple sponsors for the same project, the sharing of IPR will be decided through mutual consultations and appropriate agreements.

If the sponsoring agency is an industry, the industry may opt for one of the following arrangements for sharing the IPR with Institute:

- a. The ownership of IPR will rest with the industry but the industry has to pay the Institute an initial lump sum and subsequently reasonable annual royalties for a specified period in recognition of their contribution to the project. The terms of ownership of the IPR will be governed by a specific a priori agreement between the Institute and the sponsoring industry. The ownership of IPR rested in the sponsoring industry may be exclusive or non-exclusive. In case of exclusive ownership, if the industrial sponsor fails to exploit within a mutually agreed time limit, the Institute may permit a third-party exploitation of the IPR.
- b. The ownership of the IPR will rest with the Institute but the exploitation rights will rest with the industrial sponsor either exclusively or non-exclusively, in return for an initial lump sum payment and subsequently annual royalties for a specified period or other benefits to the Institute .In case of exclusive rights (i) Third-part exploitation will be permitted if the industrial sponsor fails to exploit the IPR within a mutually agreed time limit. ii). The Institute will retain user rights for the purposes of further research and development.

V. Joint Research

If the intellectual property is an outcome of joint research undertaken by the Institute personnel with external organizations/agencies/individuals, the IP will be owned jointly by the Institute and the collaborators. The cost of filing and maintain the IPR and the revenue generated by its commercial exploitation will be shared by the Institute and collaborators according to an agreed formula. If the collaborators are not either forthcoming or agreeing to share the cost, the Institute, at its discretion, may decide to file and maintain the IPR at its cost. In this case, the sharing of revenue accruing out of the commercial exploitation of the IPR will be solely decided by the Institute.

8. Technology Transfer:

- I.** The Institute shall take all necessary steps for the commercial exploitation of the IPR obtained either in its name or jointly with other agencies, to the fullest possible extent that is reasonably practicable, without undue delay. The marketing of the IPR will be done under the agreements involving technology transfer, licensing (exclusive or non- exclusive) and revenue sharing models.
- II.** The Institute shall try to identify the potential licensee(s) for commercial exploitation of the IP to which it has absolute ownership. In case of joint ownership, the Institute will offer the first right to commercially exploit the joint IP, whether or not the same has been formally protected by patent(s). The licensing in this case would involve payment of a lump sum in the beginning as technology transfer fee and payment of royalty from the first date of the commercial exploitation for mutually agreed period. If the collaborator refuses to exercise this option, the Institute will proceed to commercialize the IP in a manner that it deems fit.
- III.** In the event of the other collaborating organization/industry not undertaking the commercial exploitation within a period of two years from the first date of development of technology, the Institute reserves the right to license the use of IP to a third party.
- IV.** To promote and encourage entrepreneurial activities by its staff, the Institute may reassign, under an agreement, its ownership of an intellectual property to the inventor(s) or creator(s) of the property, who opt to market, protect and license it on their own with minimal involvement of the Institute.

The fees to be paid to the Institute 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).

- V. The Institute would endeavor to exploit the IP either by itself or by commissioning a Technology Management Agency to bring to fruition the IP produced by its personnel.

The inventor(s)/creator(s) may seek the Institute to assign the rights to them after a certain holding period.

9. Revenue sharing:

The revenue accruing out of the commercial exploitation of IP (i.e. the technology transfer fee and subsequent royalty payments) would be shared appropriately between the inventor(s) and the Institute. Currently this ratio is 60:40. Where the Institute reassigns the right to IP to its inventor(s)/creator(s), he/she/they shall reimburse all the costs incurred by the Institute, which include protection, maintenance, marketing and other associated costs.

10. Infringements, Damages, Liability and Indemnity Insurance:

As a matter of policy, the Institute, in any contract between the licensee and the Institute, seek indemnity from any legal proceedings including but not limited to manufacturing defects, production problems, design guarantee, up gradation and debugging obligation.

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

11. 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 have a stake in a licensee or potential licensee company, then they are required to disclose the stake they and/or their immediate family have in the company.

A license or an assignment of rights for a patent to a company in which the inventor(s) have a stake shall be subject to the approval of the IPR Cell.

12. Dispute Resolution

In case of any disputes between the Institute and the inventors regarding the implementation of the IP policy, the aggrieved party may appeal to the Chancellor of the Institute. Efforts shall be made to address the concerns of the aggrieved party. The Chancellor`s decision in this regard would be final and binding

13. Application of Policy:

This policy shall be deemed a part of the conditions of employment for every employee of the Institute and apart of the conditions of enrolment and attendance of students at the Institute, students on enrolment and to all existing staff and students.

Further, the Institute reserves the right to amend the IPR Policy as and when such a need arises/deemed fit.

All potential creators who participate in a sponsored research project and/or make use of Institute –sponsored resources shall abide by this policy and shall accept the principles of ownership of intellectual property as stated in this policy unless an exception is approved in writing the Institute.

14. Right to Regulate Policy:

The IPR Cell shall have the responsibility for interpreting the policy, resolving disputes, the application of the policy and recommending changes to the policy from time to time to the Chancellor through Registrar and Vice Chancellor. The Chancellor shall consider such changes/recommendations and take such decision thereon as he/she deems fit. The IPR policy may be reviewed after three years or earlier, if a major change in the same takes place at the National Level.

15. Legal Jurisdiction:

As a policy, all agreements signed by the Institute and dispute(s) arising there from, will be subject to the legal jurisdiction of the Court of Adjudication at Vellore only and shall be governed by the appropriate laws of India.



VIT[®]

Vellore Institute of Technology

(Deemed to be University under section 3 of UGC Act, 1956)

INTELLECTUAL PROPERTY RIGHTS POLICY OF VELLORE INSTITUTE OF TECHNOLOGY

(Operating Guidelines)

1. Introduction

The VELLORE INSTITUTE OF TECHNOLOGY is a premier institution devoted for undergraduate and postgraduate education in Engineering, Science, Management and Humanities and advanced research in all these fields. VIT has been constantly encouraging scholarship, research, academic excellence and innovation with the aim of creating an environment for open dissemination of research results and free exchange of information amongst academicians and scholars. VIT, along with its role as a facilitator for generation of fundamental knowledge in science and technology, undertakes also programs of social and economic relevance to the country. VIT, therefore, has set in place, systems and mechanisms to structure the process of commercial exploitation of the knowledge generated at VIT under the provisions of IPR regimes in the country.

2. Intellectual Property Rights Cell (IPR Cell)

The IPR Cell is constituted for formulating the guidelines and policies for adoption by VIT after due approval by the Board of Management of the Institute and to carry out executive actions for their implementation. The Intellectual Property Rights Cell arranges for the speedy processing and filling of applications for patents and to effectively implement the policy and guidelines of the Institute in respect of Intellectual Property Rights.

I. The cell will have the following structure

Convener of the IPR Cell : To be nominated by Chancellor from amongst
the Senior Professors of the Institute

Two Associate Faculty members : To be nominated by Chancellor
from amongst the Faculty of the Institute

II. The cell will have an IPR legal Advisor /consultant who will be appointed by VIT. He / She will be a well-known practicing attorney and would render the necessary advice

to IPR Cell to provide information on most vulnerable patent rules and regulations in the wake of patent Co- operation Treaty (PCT) and so on. He / She will also assist in drafting and evaluation MOUs and filling of patent and copyright applications.

III. The cell shall inter-alia have the following responsibilities

- **IP COUNSELLING:** IPR cell will counsel and interact with inventors of potential intellectual products and assist the Institute in identifying the IPR potentials.
- **IP MANAGEMENT:** Filing, maintaining and monitoring and managing of patents and coordination between attorneys, faculty (inventor (s)), and VIT authorities.
- **IP TRANSACTIONS:** Advising, drafting and monitoring of all IP related MOUs of VIT.
- **IP POLICY FORMULATION:** Framing of IP policy and amendments from time to time for consideration of the Institute authorities.
- **PROMOTING IP-AWARENESS:** The IPR cell will undertake such measures which promote awareness of IP rights and strive to develop an IP culture within VIT fraternity.
- **CAPITALIZATION OF IP ASSETS:** The cell shall periodically recommend patentable technologies to potential licensing agencies, CII, and other Financial Institutions to invest in venture capital towards the new technologies. The cell shall identify specific industries and direct marketing of these technologies and promote advertising in-house technologies of VIT via electronic media / newspapers and magazines. The IPR cell would also enlist the services of reputed Management Consultants for capitalization and commercialization of patented technologies owned by VIT. The IPR Cell will interact with the faculty members, patent attorneys, financial institutions and industries and follow-up on royalty payments from industries.
- **ASSITANCE IN TECHNOLOGY TRANSFER:** The Cell shall handle transfer of all technologies developed at VIT.
- **REPORTING ON IP ASSETS AND IPR MANAGEMENT:** IPR Cell will submit periodically reports on IP assets and current status to Registrar / Vice

Chancellor and the Board of Management of the Institute for *consideration and advice*.

- Appointment of a panel of attorneys for processing /filling of applications for patents etc.
- Periodical patent/Intellectual audits through professional experts.
- To recommend terms of payment of annuity retention fees for Professional services
- To advice such proactive measures which will promote commercialization of patents, including exhibition of patents, industry meet etc.
- All matters for securing the protection and management of IPs in the interest of the country, Institute and the inventors
- Seeking expert advice from renowned financial consultants, including experts from the financial/ business Institutions such as FICCI, CII, IDBI, etc...

IV. The IPR Cell will report to Vice chancellor of the Institute. It will seek the guidance of Registrar and Vice Chancellor in discharging its responsibilities.

3. IP Protection-Some Explanatory Notes (To be read in conjunction with VIT-IPR –Annexure: some useful information on patents and copyright)

The Intellectual Property could be protected in the form of : patent, Industrial design, Trademark, Copyright, confidential information, Technical know-how, Mask works, process, plans, specifications, guidelines, graphics, training materials, software programs, records, drawings, instruction guides, student materials, new techniques, algorithms, concepts etc. The intangible product of the intellect must have potential for industrial application or potential for augmenting the S&T knowledge base if it must be protected by the VELLORE INSTITUTE OF TECHNOLOGY.

- I. **A Patent** is granted for any invention capable of commercial application. For it to meet the requirements of patentability there has to be Novelty, Utility and Non-obviousness. There must be an inventive step, which under the law, is one, which is not obvious to the person skilled in the art. The invention may relate to a new product or an improvement of an existing product or a new process of manufacturing and existing or a new product.
- II. **Design Protection** is available for any prototype, which influences consumer's choice by appealing to the aesthetic sense of the consumer. In other words, design protection is available for "the look of the article", appearance and other visual features. There is no design protection for functional features.

III. **Copyright:** Patent seeks to protect the applied and extension research, the law of copyright seeks to protect pure or basic research. The requirements of copyright law are: Originality, meaning its origin to the author. Unlike patents, copyright law does not demand compulsory registration. Under the copyright, the form of the expression can only be protected and not the idea itself. Copyright subsists in any original work specified in the copyright Act which is (i) a literary, dramatic and musical or artistic work, (ii) a cinematograph film and (iii) a sound recording. Literary works include computer programs, tables and compilations including computer databases.

IV. **Know-how** and confidential information can be protected only so long as the owner is able to keep them secret and takes action against unlawful use of such information by others by an action of breach of confidence or contract.

4. Procedure for IP Protection:

All applications for patents and copyright(as per proforma VIT/IPR-01 and VIT/IPR-02 respectively) will be forwarded to Convener, IPR Cell through the Dean of the School/the Director of the Centre irrespective of whether the inventions have resulted from the in-house projects, or sponsored projects.

5. Record Keeping Procedures:

All data and details generated by a creator in the course of creation of intellectual property should be systematically recorded in the concerned School/Centre, with particular reference to the following:

- a) No abbreviations or terms, except their use is a standard practice in that particular discipline, should be used, unless clearly explained in a table at the front or back of the book.
- b) Crucial data or descriptions or experiments, which relate to valuable inventions or discoveries should be signed and sated by the creator, supervisor, or coordinator of the project.
- c) Modifications, if any, should be made by drawing a line through the deleted matter and writing cancelled beside it. The corrected data (clearly marked as such) should be entered immediately below, authenticated by the creator with his / her Initials and date.
- d) Samples of new products or of products by a new method should be preserved, if possible, and photographed for the record. All photographs should be dated and signed by the creator on the reverse.

6. When Should Faculty Approach IPR Cell To Discuss A Possible Patent?

VIT has created an exclusive IPR Cell. Any faculty, who believes to be in possession of a potential intellectual property generated while in service of the VIT may approach and set up discussions with the IPR Cell advisor at any mutually convenient time. In any case, the chosen time for discussion should be sufficiently in advance of maturation of the idea into a process or product. When the invention is only at the conception stage, it is still possible to file a provisional specification, which has to be followed up with a complete specification within 12 months. If it is not done, the patent application is deemed to have been abandoned. On the other hand, if the inventor has at his hand an inventive product, which can be marketed immediately, then complete specification can be lodged straight away.

7. Evaluation of Patent/Copyright applications

Each application for a patent / copy right through an Invention Disclosure Form / Copyright Disclosure form as per proforma VIT/IPR-01 / VIT/IPR-02 along with IPR facilitation request (VIT/IPR-03)) shall be received and scrutinized/examined by IPR Cell.

The committee may seek help of other professors as domain experts to preliminarily evaluate the proposals for their prima-facie patentability. The domain experts would be required to enter into a Non-Disclosure agreement as per the proforma VIT/IPR-04 and sign a No Conflict of Interest Form as per the proforma VIT/IPR-05, before getting access to the proposal.

The inventors may be requested, if necessary, to make a presentation of their case before the IPR Cell. In case the Cell recommends for filing of patents, the Convener, IPR Cell will process the application through one of the approved attorneys from the panel maintained at the IPR Cell.

8. Assistance in Filling the Proforma

Once the IPR Cell approves protecting the Intellectual output, a patent Attorney shall be identified by the Cell for drafting the IP application. The following aspects need to receive attention:

- Objective of the invention: What is the problem one is trying to solve? What are the issues involved?
- What prior art searches have been made? Which database? Search strategies adopted? Did searches cover gray literature – advertisements, pamphlets, Knowledge already available to public either published or unpublished?
- How does the present invention differ from the known prior art? It is important to establish that the invention is not an obvious extension of the prior art to prove non-obviousness. Are there any unexpected findings in the present invention? What are those aspects of the invention that previous workers have not been able to find solution for? What are the potentials for commercial applications of the new intellectual property in relation to the previous products in the same area, if known?

- To establish usefulness of the invention, one should highlight technical value of the invention and illustrate where and how the solutions obtained over the prior art can be applied with distinction. One might consider savings in the cost, materials, manpower, energy, durability, efficiency, time etc.,
- The boundary conditions of the parameters under which invention works effectively and beyond which the invention may not work. Also outline several other applications of the invention if any.
- Furnish all the information in the proforma which can be collected from the office of IPR Cell or through e-mail.

Adequate information is to be given to the Attorney to enable him prepare a draft claim. In order to ensure good protection, it is necessary that the attorney understands the invention. A good patent specification should have synergetic efforts of the inventor and the patent attorney.

9. Filing of Applications for IPR and Support

- I. All applications for IPR shall be filed by the Registrar in the name of the Institute as owner of the IPR. Inventors name will be filled in the application at appropriate places. All applications will be filed in India. Inventors will assign the exclusive right of ownership to the Institute in order to facilitate the Institute to file, secure and commercialize the IPRs without any encumbrance.
- II. **PATENT CO-OPERATION TREATY (PCT) APPLICATION:**
For any patent which needs protection outside India, the procedure would be to first file a provisional patent in India and within 12 months, to file a PCT application along with a an application for filing and Indian patent. This would be based on the recommendation of the IPR Cell. The PCT route is preferred, efficient and economical.
- III. The IPR Cell would meet the expenses i.e. the statutory fee and patent attorney's fee, for processing the patent applications.
- IV. If an inventor decides to abandon or withdraw the application for a patent at some mid- stage of processing, prior approval of the IPR Cell is required.



SOME USEFUL INFORMATION ON PATENTS AND COPYRIGHT

1. What is Intellectual Property Right (IPR)

IPR is a general term covering patents, registered design, trade marks, copyright, and layout design of integrated circuits, trade secrets, geographical indicators and anti competitive practices in contractual licenses .

2. What are the legislations covering IPRs in India?

Patents:

The Patents Act 1970. It has been amended in 2005

Ref Link: http://www.ipindia.nic.in/ipr/patent/eVersion_ActRules/sections-index.htm

Design

The Design Act 2000

Ref.Link: http://www.ipindia.nic.in/ipr/design/design_act.PDF

Trade marks:

The Trade and merchandise Marks Act.1999 (amended in 2010)

http://www.ipindia.nic.in/IPActs_Rules/tmrAct/TMRAct1999.htm

Copyright:

The Copyright Act, 1957 and Copyright rules 2013

Ref.Link: <http://copyright.gov.in/Documents/CopyrightRules1957.pdf>

Layout Design of Integrated Circuits: No Legislation exists.

3. Who are responsible for administration of IPRs in the country?

Patents, designs and trade marks are under the charge of the Controller General of Patents, Designs and Trademarks which is under the control of department of industrial Development, Ministry of Industry. Copyright is under the chare of Ministry of human Resource Development.

4. What is a patent?

A patent is a legal monopoly which is granted for a limited time to the owner of an invention. Patent rights are granted by the state. Merely to have a patent does not give the owner the rights to use or exploit a patented invention: that right may still be affected by other laws such as health and safety regulation, or the food and drugs regulation or even by away, inherited, sold, licensed and can even be abandoned. As it is conferred by the state , it can be revoked by the state, it can be revoked by the state in certain cases even after grant, and

world patent.

5. What is the distinction between patented invention and know-how

The law does not require that the information disclosed in the patent specification be sufficient for commercial exploitation of the invention. Thus, a patent usually will not disclose sufficient information for commercialization .

Known-how on the other hand, covers all information necessary to commercialize the invention e.g. setting up a production plant. Such information would include for example, details of the production methods, the design drawings etc. It is this known-how developed around an existing patent and commercialized subsequently will be an infringement of the patent unless the patentee had agreed to commercialization on mutually agreed terms.

6. How is an invention interpreted?

To be patentable the invention must not only be novel but must involve an inventive step. An invention involves an inventive step if it is not obvious to a person 'skilled in the art' having regard to any matter which forms part of the state of the art but disregarding unpublished pending patent applications. Simplicity is not necessarily an objection for securing a patent. The means whereby the object is attained may be perfectly simple and common, yet there may be an inventive step if the inventor has developed a variant which will render more useful results as disclosed. It is immaterial whether the invention comes into existence by accident, but there must be some inventive step.

whether or not it has been in the meantime sold or licensed. There is no such thing as
What are patentable inventions under the patent Act, 1970?

Invention means any new and useful:

- a) Art, process, method or manner of manufacture
- b) Machines, apparatus or other article
- c) Substances produced by manufacture, and include any new and useful improvements of any of them and an alleged invention. However, inventions claiming substances intended for use; or capable of being used, as food or as medicine of drug or relating to substances prepared or produced by chemical processes (including alloys, optical glass, semi conductors and inter-metallic compounds) are not patentable.

7. How is the novelty of and invention determined?

The novelty is judged taking into consideration the knowledge available in India and elsewhere in the time of filling the application for a patent. In other words, the invention should not be known anywhere in the world prior to filing of the application for a patent.

8. What are the types of inventions which are not patentable?

- a. An invention which is frivolous or which claims anything obviously contrary to well established natural laws e.g. different types of perpetual motion or machines which violate the third law of thermodynamics.
- b. An invention the primary or intended use of which be contrary to law or morality or injurious to public health e.g. a process for the preparation of a beverage which involves use of a carcinogenic substance, although the beverage may have higher nourishment value .
- c. The mere discovery of a scientific principle or formulation of an abstract theory e.g. Raman Effect.
- d. The mere discovery of any new property or new use of a known substance or the mere use of a known process, machine or apparatus unless such a known process results in a new product or employs at least one new reactant.
- e. A substance obtained by a mere admixture resulting only in the aggregation of the properties of the components thereof or a process for producing such substance.
- f. The mere arrangement or rearrangement or duplication of features of known devices each functioning independently of one another in a known way.
- g. A method or process of testing applicable during the process of manufacture for rendering the machine, apparatus or other equipment more efficient.

- h. A method of agriculture or horticulture.
- i. Any process for medicinal, surgical, curative, prophylactic or other treatment of human 'beings, or any process for a similar treatment of animals or plants.
- j. Invention relating to atomic energy

9. When should an application for a patent be filed?

Filing of an application for a patent should be completed at the earliest possible date and should not be delayed until the invention is fully developed for commercial working. An application filed with provisional specification disclosing the essence of the nature of the invention helps to register the priority by the applicant. Delay in filing an application may entail some risks like (i) other inventors might forestall the first inventor in applying for a patent for the said inventor (ii) there may be either an inadvertent publication of the invention by the inventor himself/herself or by others independently of him/her.

10. What are the essential patent documents to be generated and submitted by a potential patentee?

There are two types of patent documents usually known as patent specification namely

- I) Provisional specification
 - II) Complete specification.
- I) Provisional Specification:**

A Provisional Specification is usually filed to establish priority of the invention in case the disclosed invention is only at a conceptual stage and a delay is expected in submitting full and specific description of the invention. Although, a patent application accompanied with provisional application does not confer any legal rights to the applicants, it is, however, a very important document to establish the earliest ownership of an invention. It is essential to submit the complete specification within 12 months from the date of filing the first application. This period is extendable by 3 months.

The provisional Specification is a permanent and independent scientific cum legal document and no amendment is allowed in this.

II) Complete Specification:

Submission of Complete Specification is necessary to obtain a patent. The contents of the specification would include information regarding the field to which the invention relates, background of the prior art giving drawbacks connected to the hitherto known details of the invention, the best mode of carrying out the invention and claims defining the scope of the invention. The contents of the complete specification should enable a reasonably skilled person in the art to work the invention without the help of the inventor.

11. What are the criteria for naming inventors(s) in an application for patent?

The naming of inventors is normally decided on the basis of the following criteria:

- I) All persons who contribute towards the development of patentable features of an invention should be named inventors(s)
- II) All persons who have made intellectual contribution in achieving the final results of the research work leading to a patent, should be named inventor(s)
- III) A person who has not contributed intellectually in the development of an invention is not entitled to be included as an inventor
- IV) A person who provides ideas needed to produce the germ of the invention'' need not himself/herself carry out the experiments, construct the apparatus with his/her own hands or make the drawing himself/herself. The person may take the help of others. Such persons who have helped in conducting experiments, constructing apparatus or making the drawings of models without providing any intellectual inputs are not entitled to be named inventors.

Quite often difficulties are experienced in deciding the names of inventors. To avoid such a situation, it is very essential that all scientists engaged in research should keep a factual, clear and accurate records of daily work done by them in the form of a diary. The pages in the diary should be consecutively numbered and the entries made should be signed both by the scientists and the concerned leader.

12. Can a published or disclosed invention be patented?

NO. Publication or disclosure of the invention anywhere by the inventor before filing of a patent application would disqualify the invention to be patentable. Hence inventors should not disclose their inventions before filing a patent application. If published after filing of the patent application, the number and date of the patent application should be given by way of information to public.

13. What is considered the date of patent?

The date of patent is the date of filing the complete specification. This is an important date because it is from this date that the legal protection of an invention covered in the patent takes effect. The term of the patent is counted from this date

14. What is the term of a patent in Indian system?

Term of every patent in India is 20 years from the date of filing of patent application, irrespective of whether it is filed with provisional or complete specification. However, in case of applications filed under PCT the term of 20 years begins from International filing date

15. How does one keep a patent in force for the full patent terms?

A patent has to be renewed from time to time by paying the prescribed renewal fees. If the patent is not renewed, it will cease to remain in force and the invention becomes open to public.

16. What is expected from a patentee?

A patentee must try to ensure that the patent is worked in India on a commercial scale and without undue delay. The patent is not granted to allow the patentee to enjoy a monopoly for the importation of the patented article. In other words, a patentee cannot sit over an invention and block the use of that invention.

17. What is the nature of information needed while consulting a patent attorney?

- An explanation of the history of the invention, where you got the idea from, how you developed it, any early failures and possible prototypes, with all your laboratory note books, etc., if possible. This will help the patent agent to explain the inventive step which is necessary to establish to obtain the patent, and it also increases his or her understanding of the invention so as to maximize the skill with which he or she can draft claims and specifications for it.
- What you think is the central part of it, the most inventive element or most useful aspect, together with what other similar prior inventions you know of or have developed the idea from a improved upon. If you have developed an improved version of your competitor's
- products, admit it, be totally honest. It is vital to be such so that the patent agent can define your invention properly in making the application and avoid excessive claims which might be struck down
- A detailed description of the best way of putting the invention into practical use, results of your tests and trials, etc., including all the failures and defects.
- Alternative ways of using the invention, and the substitutes for parts of it – i.e. will one chemical compound do as well as any other in the process, is there an optimum size, etc. it may be worth drafting the patent widely enough to cover less satisfactory alternatives_ if this is possible- to prevent rivals from marketing a less satisfactory competing product which because of its defects might bring the whole genre of product into disrepute.

- Both after an initial search and during the course of the patent application it is important to respond quickly and accurately to queries which the patent agent may have, to help patent application on the way and to save you money. Thus the client should in particular keep the patent agent informed of any new developments or improvements or other changes made to the invention and any rivals which appear etc.

18. What are the different types of work covered under copyright?

Copyright covers:

- I) Literary, dramatic and musical work. Computer programmes/software are covered within the definition of literary work.
- II) Artistic work.
- III) Cinematographic film includes sound track and video film.
- IV) Record- any disc, tape, perforated roll or other device.

19. What are the rights of a copyright holder (which when violated lead to infringement)?

- a) In the case of literary, dramatic or musical work, not being a computer programme:
 - I. To reproduce the work in any material form including the storing of it in any medium by electronic means
 - II. To issue copies of the work to the public not being copies already in circulation
 - III. To perform the work in public, or communicate it to public
 - IV. To make any cinematograph film or sound recording in respect of the work
 - V. To make any translation of the work
 - VI. To do, in relation to a translation or an adaptation of the work, any of the acts specified in relation to the work in sub-clauses (i) to (vi)
- b) In the case of computer programme:
 - i) To do any acts specified in clauses (a)
 - ii) To sell or give on hire, or offer for sale or hire any copy of the computer programme, regardless of whether such copy has been sold or given on hire on earlier occasions
- c) In the case of an artistic work-
 - I. To produce the work in any material form including depiction in three dimensions of a two dimensional work or in two dimensions of a three dimensional work.
 - II. To communicate the work to the public
 - III. To issue copies of the work to the public not being copies already in circulation
 - IV. To include the work in any cinematograph film
 - V. To make any adaptation of the work
 - VI. To do in relation to an adaptation of the work, all of the acts specified in relation to the work in sub-clauses(i) to (iv)

d) In the case of a cinematograph film

- I. To make a copy of the film including a photograph of any image forming part there of
- II. To sell or give on hire or offer for sale or hire, any copy of the film, regardless of whether such copy has been sold or given on hire on earlier occasions
- III. To communicate the film to the public

e) In the case of sound recording

- I. To make another sound recording embodying it
 - II. To sell or give on hire, or offer for sale or hire, any copy of the sound recording, regardless of whether such copy has been sold or given on hire on earlier occasions
 - III. To communicate the sound recording to the public
- Explanation:- For the purpose of this section, a copy which has been sold once shall be deemed to be a copy already in circulation

20. How is computer defined for the purpose of copyright?

Computer includes any electronic or similar device having information processing capabilities.

21. What is the definition of a computer programme?

Computer programme means a set of instruction expressed in words, codes, schemes or any other form, including a machine readable medium, capable of computer to perform a particular task or achieve a particular result

22. What is the term of a copyright?

- a) If published within the life time of the author of a literary work the term is for the life of the author plus 60 years.
- b) For cinematographic films, records, photograph, posthumous publication, anonymous publication, works of government and international agencies the term is 60 years from the beginning of the calendar year following the year in which the work was published.
- c) For broadcasting the term is 25 years from the beginning of the calendar year following the year, in which the broadcast was made.



VIT[®]

Vellore Institute of Technology

(Deemed to be University under section 3 of UGC Act, 1956)

SALIENT FEATURES OF IPR AND SERVICES PROVIDED BY IPR CELL

IPR Policy:

IPR is a general term covering patents, registered design, trade-marks, copyright, and layout design of integrated circuits, trade secrets, geographical indicators and anti-competitive practices in contractual licenses

The Intellectual Property could be protected in the form of :

Patent (to be registered),

Industrial design (to be registered),

Trademark (registered or otherwise),

Copyright (registered or otherwise) (*in the form of plans, specifications, guidelines, graphics, training materials, software programs, records, drawings, instruction guides, student materials, new techniques, algorithms, concepts Confidential Information, Technical know-how, Mask works, Process*)

Intellectual Property (IP): is an intangible knowledge and shall mean and include – all results, conclusions, deductions, inventions, ideas, improvements, discoveries, enhancements, solutions, processes, modifications, know-how, data and information of every kind and description conceived, generated, made, or reduced to practice as the case may be, designs, software programmes, genetically engineered microorganisms, business models and copyrightable work-resulting from the intellectual output of the faculty, staff, students, research scholars and other employees of the Institute.

IP is, thus, an outcome of the Institute supported research or sponsored research, industrial consulting or other forms of joint research and development work.

Although, a patent application accompanied with provisional application does not confer any legal rights to the applicants, it is, however, a very important document to establish the earliest ownership of an invention.

Exceptions for Patent: However, inventions claiming substances intended for use; or capable of being used, as food or as medicine of drug or relating to substances prepared or produced by

chemical processes (including alloys, optical glass, semi-conductors and inter-metallic compounds) are not patentable.

Whether Patent can be revoked: As it is conferred by the state, it can be revoked by the state, it can be revoked by the state in certain cases even after grant, and whether or not it has been in the meantime sold or licensed.

Contest / Conflict with sponsoring agency: Where the sponsoring agency is not forthcoming for filing joint IPR application, the Institute, at its discretion, may file the application with the absolute ownership and will meet the entire cost of securing and protection of IPR. Copyright: Patent seeks to protect the applied and extension research, the law of copyright seeks to protect pure or basic research.

If the intellectual property is an outcome of joint research undertaken by the Institute personnel with external organizations /agencies/individuals, the IP will be owned jointly by the Institute and the collaborators.

In case of joint ownership, the Institute will offer the first right to commercially exploit the joint IP, whether or not the same has been formally protected by patent(s).

IP Counselling: IPR cell will counsel and interact with inventors of potential intellectual products and assist the Institute in identifying the IPR potentials.

In case the Cell recommends for filing of patents, the Convener, IPR Cell will process the application through one of the approved attorneys from the panel maintained at the IPR Cell.

If any copyrightable work is produced during the course of any sponsored /or collaborative activity, the ownership of copyright will be determined either according to the terms and conditions (related to IP) specified in the contract, if any, governing such activity or through mutual consultations and agreement with the sponsoring/collaborating agency.

Services from the Cell can be availed by: All the faculty members, staff, students, research scholars (Internal and External), visiting scientists, professors and other professionals who are hired either on full-time basis part-time basis. VIT, has set in place, systems and mechanisms to structure the process of commercial exploitation of the knowledge generated at VIT under the provisions of IPR regime in the country.

Services provided by the IPR Cell: Both after an initial search and during the course of the patent application it is important to respond quickly and accurately to queries which the patent agent may have, to help patent application on the way and to save you money.

The cell shall periodically recommend patentable technologies to potential licensing agencies, CII, and other Financial Institutions to invest in venture capital towards the new technologies.