

MAKERERE



UNIVERSITY

## **INTELLECTUAL PROPERTY MANAGEMENT POLICY**

AS APPROVED BY THE UNIVERSITY COUNCIL AT ITS 112<sup>TH</sup> MEETING HELD ON  
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## **FOREWORD**

Protection of research, research outputs and innovations are increasingly becoming important activities for universities all over the world. In today's knowledge economy, the importance of research and innovation for knowledge generation and technology transfer geared at enhancing national development has been embraced in the strategic plan of Makerere University. This realization has re-enforced investment in research, innovations and commercialization of products of research for the public good as well as contribute to the economic development of Uganda.

The purpose of developing the policy on management of intellectual property is to assist researchers, research managers and Makerere being the only research-led institution of higher learning in Uganda, in ensuring that they have access to best practices for the identification, protection and management of intellectual property and, therefore, to maximise the benefits and returns from public investment in research. Furthermore, the implementation of this policy is expected to enhance the visibility of Makerere and also to drastically reduce on lost opportunities arising from failure to protect innovations and research outputs by inventors and the institution as whole.

Makerere University, therefore, affirms its commitment to provide a conducive environment that supports innovation, knowledge creation and technology transfer in line with the national development agenda. The university further acknowledges the importance of and shall support the commercialization of products of research and innovation for the benefit of society, the inventor and the institution.

**Professor Livingstone S. Luboobi  
Vice-chancellor, Makerere University**

## **Abbreviations**

**IPM** Intellectual Property Management

**IA** Intellectual Assets

**IP** Intellectual Property

**SME** Small and Medium enterprises

## **Definitions or Glossary**

### **Intellectual Assets (IAs)**

**“Intellectual Assets”** refer to all intellectual products that are created by the personnel working in Makerere University. In specific terms these are items in which personnel have:

- i. Put their ideas;
- ii. Taken particular decisions in respect of different choices;
- iii. Thought of ways to solve particular problems, etc.

**“Intellectual Property”** means all subject matter capable of being protected by patents, copyright, design, database rights, topography rights, trade mark, plant breeders rights know how and all other intellectual or industrial property rights in each case whether registered or unregistered, and including applications or rights to apply for them together with all extensions, divisional, continuation, continuations in part and renewals of them and in each and every case all rights or forms of protection having equivalent or similar effect anywhere in the world.

**“Copyright”** is defined as the exclusive right of a creator/owner of an original creative work to prevent unauthorized copying. The owner of the copyright in a work has the exclusive right to copy the work. Issue copies of the work to the public, rent or lend the work to the public, perform, show, or play the work in the public, communicate the work to the public and make an adaptation of the work or do any of the preceding acts in relation to an adaptation.

**“Commercialization”** means any form of exploitation of the IP including assignment, licensing or the disposal of any other interests, whether in return for cash or payment in kind or any other form of value

**“External body”** means a company, government body, registered charity or any other entity or individual who is not a university employee

**“Individual”** means the inventor, author or creator of IP who is an employee of the university or students at the time of invention, authorship or creation

**“Intellectual Property Management Unit”** means the unit in the university having responsibility for identifying, protecting and commercializing IP

**“Research results”** means the results arising from an individual’s research including details of any IP, results or source code.

**“Scholarly materials”** includes textbooks (unless such text books were developed using university administered – funds), academic journal articles, conference papers and related presentations, theses and dissertations, popular non-fiction, novels and poems, but excludes any such materials or part of them which can be defined as teaching material or

university materials. For the purpose of this policy, computer software, firmware and database are also excluded from this definition.

**“Spin out Company”** means a company established with a view to commercializing IP originating from the university (whether on its own or with other IP).

**“Students”** mean any person registered or matriculated as a student of the university, whether for an undergraduate or postgraduate course.

**“Teaching Materials”** means any materials created within the university or created on behalf of the university that are intended to be used or accessed by students for the purpose of their course of study including course guides, handouts and presentation materials (including lecture notes, slides and other audio-visual materials) instruction manuals and assessment and examination questions.

**“University Materials”** means any type of work produced for administrative purposes, including but not limited to promotion and marketing of the university courses, students and staff recruitment, papers for any internal committee or similar body, material included in any university handbook for employees or students or ant other university purpose and any item created by an employee of the university whose job description specifically includes the creation of printed or electronic materials.

**“University Resources”** means any form of funds, facilities, including equipment and consumables, use/supply of heat, light or power otherwise purchased or paid for by the university or other university subsidiary; or another employee’s contracted hours of work.

**“A patent”** means giving exclusive rights to commercially exploit ‘the invention’ for the life of the patent. This is given for a product or idea that can be manufactured. A patent is granted for any device, substance, method, or process which is new, inventive or useful

**“Registered Design”** - the inventor has exclusive rights to use the design specified in the registration (e.g. logo) and species the coverage. The owner of a registered design has exclusive rights to authorize other people to use that design

**“Board of research and publications”** means the, the legal body that oversees the development and implementation of research, innovations and intellectual assets of the University

**“Trademark”** - gives the legal right to use, license, or sell the trade mark item for goods and services for which it is registered

## **1.0 Preamble**

Generators of Intellectual Property are considered ‘inventors’ and together with the University have rights to that property. The Intellectual Property Rights provide the legal basis for recognition of ownership of intellectual property. The Intellectual Property Management Policy (IPM) covers the handling of Intellectual Assets and Intellectual Property of the University or which are generated by the Faculty and staff of Makerere University.

The lack of an IPM policy at Makerere University has clearly affected the innovations potential of the staff and students. Although a few innovations have been developed, there has been lack of management support to protect as well as move intellectual products to commercialization. This has led to lost opportunities. Stakeholders including development partners who support research have urged the university to develop an IPM policy to allow the university to take advantage of any intellectual property issues arising out of research activities.

The policy recognizes the central role that intellectual property holds in a research-led university. The purpose of the IPM policy is to encourage and support those who wish to create or exploit such products to do so. The expectation is that by acting as an incentive, implementation of the IPM policy shall galvanise innovation and creativity among both staff and students for the public good, and when commercialised generate income for the innovator and the university. Therefore, Makerere University shall endeavour to foster the development of its inventions and discoveries through patenting and licensing to industry in particular and generally to the private sector. The University, therefore, is committed to managing efficiently and effectively any intellectual property arising out of staff and student work.

This policy addresses issues related to ownership, protection and commercialisation of intellectual property and innovations created by the students and staff of the university, including reward to intellectual property creators and innovators while protecting the university against unwarranted risks. The IPM policy is in line with the relevant national laws such as the Copyrights Act Cap 215, Patent Act Cap 216, Trade Marks Act 217 that specify the asset to be protected, other requirements such as the country of residence of the originator (s) and the owner of the asset.

In the context of this policy, **Intellectual Assets** shall include the following items:

- Employment Contracts;
- Collaborative Agreements;
- Confidentiality Agreements;
- Laboratory Notebooks/Notes;
- Field Data/Notes;
- Licenses – reagents, software;
- Databases;
- Software/Simulations;
- Information/Data from Third Parties;
- Other “tangible” items e.g. cell lines and monoclonal antibodies;
- Copyright issues;
- Institutional Policy;
- International Agreements

In addition, the policy has been developed under the general framework of the university vision, mission and core values.

## **2.0 Aim of the Makerere University Intellectual Property Management Policy**

The aim of this policy is to stimulate and support innovative thinking among students and staff, and to enable ownership and efficient management of intellectual assets and innovations produced at Makerere. In addition, implementation of the IPM policy is envisaged to increase income arising from research activities, as well as increase the contribution of Makerere to the wellbeing of society.

## **2.1 Objectives of Makerere University Intellectual Property Management Policy**

- i. To support and promote innovative ideas that can be transformed into useful products for the public good
- ii. To support the management of intellectual property of the University
- iii. To support and promote knowledge transfer mechanisms to students and the wider public
- iv. To promote economic activity arising from the products of research and innovation

## **3.0 Guiding Principles**

### **3.1 Support and promote innovative ideas that can be transformed into useful products for the public good**

The policy recognizes the importance of a well streamlined procedure where all the research activities and innovations are documented. The policy, therefore, stipulates that the University shall:

#### **3.1.1 Develop an inventory/database of all research activities and innovations**

- (i) University employees engaged in approved research at the University shall maintain a notebook of their findings which shall contain the information set out in the format approved by the University Research Council, and submit a copy thereof to the Intellectual Property unit through their Supervisor/Head of Department.
- (ii) Researchers shall be required to complete the *Intellectual Asset Identification Form* approved by the University Research Council and submit

a copy thereof to the Intellectual Property unit through their Supervisor/Head of Department.

- (iii) Research Reports including theses or dissertations approved for the award of University Degrees or Diplomas shall constitute intellectual assets and shall be deposited with the Makerere University Library and the National Library upon protection under the relevant law shall be transformed into intellectual property.

3.1.2 Provide entrepreneurial skills and raise awareness through training of students and staff on Intellectual Assets and Intellectual Property rights

3.1.3 Solicit for innovative ideas from students and staff and support promising ones

### **3.2 Support and strengthen intellectual property management and coordination at the University**

The University is committed to managing efficiently and effectively any intellectual property arising out of staff and student work, and therefore, shall:

3.2.1 Establish an Intellectual Property Management unit (IPMU) headed by an Intellectual Property Manager

- (i) Establish an Intellectual Property Committee as a technical committee of the Board of Research and Publications to assist in the implementation of the IPM policy
- (ii) The roles of the vice chancellor and the intellectual property management unit shall be defined as follows:
  - (iii) The Vice chancellor shall:
    - a) Be responsible for administering this policy and managing university Inventions, including technological know-how that may be licensable but may not be patented or patentable
    - b) Authorize exceptions to this policy that she/he determines to be in the best interest of the University.
  - (iv) The Intellectual Property Management unit shall:
    - a) Create and update a central database where the information on intellectual assets are recorded and accessed by interested persons
    - b) Receive copies of Laboratory Notebooks and Asset Identification Forms for purpose of maintaining an inventory thereof

- c) In liaison with the Scientist/ Inventor/Author, evaluate the Intellectual Assets to determine their potential for transfer to the public/private sector
- d) Draw up an action plan for the relevant steps, from final development of the innovation to distribution up to sharing of proceeds
- e) Identify who shall perform the additional development
- f) Identify who shall distribute the innovation
- g) Assess the costs associated with the final development and distribution
- h) Build an impact evaluation method in the distribution process
- i) collect and develop a database on employment contracts, Student Exchange Agreements, Linkage and Collaborative Agreements, Funding/Donor Agreements, Licenses'/Material Transfer Agreements (MTAs), National and International Laws on the Intellectual Property used or produced by the University, and Research Outputs/Products
- j) Design and review periodically an Intellectual Property Data Management System for the University
- k) Establish a working relationship with the supervisor or persons in the custody of Intellectual Property Related Information
- l) Utilise National and International Legal Instruments in their work
- m) Initiate commercialization of innovations through to product development partnerships with the private sector
- n) Train staff and students on Intellectual Property/Assets issues
- o) Analyse reports from researchers on Intellectual Assets/Property to determine ownership
- p) Oversee the implementation of Intellectual Property Management Policy and assist in the review of the policy
- q) Advice the university on the management issues related to Intellectual Assets/Property

3.2.2 The IPM unit shall work closely with the Research & Innovations office to identify intellectual property issues in research proposals and products of research and innovations including those that may be of interest to the private sector

3.2.3 The university shall protect the rights of innovators and the institution. This shall be through:

- (i) Provision guidelines for ownership, registration, patenting and commercialization (ventures, spin-off companies) and disclosure. (Researchers shall seek the assistance of the Intellectual Property unit in applying for registration of copy right, patents, designs or trade marks under the relevant laws or when trying to commercialize their innovation(s))
- (ii) Any discovery or invention that satisfies the following circumstances shall belong to the University (hereinafter referred to as: *University Inventions*):
  - (a) results from research carried by, or under the direction of any employee of the University which is supported by University funds or funds controlled or administered by the University, or
  - (b) results arising from an employee's duties with the University, or
  - (c) has been developed in whole or in part through the utilization of University resources or facilities not available to the general public.
- (iii) Any intellectual property created by a university employee having an honorary appointment at any other institution during that appointment shall lie with the employer who pays the salary of that employee
- (iv) Honorary researchers who are not employed by the university are generally required to transfer any intellectual property they create in the course of their honorary activities to the university subject to the terms and conditions of their honorary contract. Sharing of proceeds from such intellectual property shall follow the university established guidelines for its staff
- (v) University staff funded by outside organizations are required not to make arrangements with such bodies that conflict with their obligations to the university regarding the university's rights to the intellectual property ownership under this policy
- (vi) University employees and students (including postdoctoral appointees, graduate and undergraduate students) shall disclose any University Inventions to the University prior to disclosure of such discoveries or inventions through publications, presentations or communications with third parties including research sponsors.
- (vii) Notwithstanding (vi) the disclosure may be required to comply with legal and/or contractual obligations owed to governmental or non-governmental research sponsors.
- (viii) University staff shall not disclose university inventions in the course of performing outside work for reward unless and until the University has had the opportunity to take the steps necessary to protect University Inventions through patent or otherwise.

(ix) Students who create innovations or intellectual property and are not University staff shall own any such intellectual property in addition to being inventors, except under the following circumstances:

- a) In the case of sponsored students where the sponsoring body has claim to the intellectual property
- b) In the case of sponsored research by an external body
- c) The intellectual property was developed during their University course of work with substantial utilization of university resources as determined by the Board of Research and Publications.

(x) Notwithstanding (ix), students shall have the option of assigning any intellectual property to the university whereby they shall be granted the same rights as any employee inventor as set out in this policy.

### 3.2.4 Provide guidelines for reward of innovators and sharing of financial proceeds

- (i) Any discovery or invention arising from joint collaboration between the University or its employees, and other institutions shall proportionately belong to the parties.
- (ii) The University shall recover all direct expenses incurred for the patenting, protection and licensing of each university invention from the proceeds before distributing the net proceeds remaining among the inventor(s), major administrative unit and the university as follows:

Amount	Inventor (s)	Department	School of Graduate Studies	Centre
First US \$5,000	80%	10%	5%	5%
Above \$5,000	50%	25%	12.5%	12.5%

- (iii) The University shall review the modalities for sharing proceeds of licensing among the inventor/innovator(s), the inventor's major administrative unit, and the university from time to time

### 3.3 Support and promote knowledge transfer mechanisms to students and the wider public

The university is committed to adhere to good practices and ethical standards in the transfer of knowledge to the users. To this end, the university shall:

#### 3.3.1 Develop, operationalise and review periodically guidelines on the use of intellectual property for the public good e.g. copying/reproduction

- (i) The University shall, in appropriate cases, utilize Material Transfer Agreements (MTAs) for purposes of exchanging materials for research or development of innovations.
  - (ii) Develop and update periodically the MTA
- 3.3.2 Require that a copy of any Intellectual Assets/Intellectual Property produced by staff and students shall be deposited in the university library and the IP unit

### **3.4 Promote economic activity arising from the products of research and innovation**

The IPM policy provides the basis for the university to take advantage of any intellectual property arising out of innovative research activities in terms of commercialization. To achieve the commercialization of intellectual property, the university shall:

- 3.4.1 Support the development of small and medium enterprises (SMEs) (e.g spin-off companies) arising from promising innovations
- 3.4.2 Develop, operationalise and review periodically guidelines for commercialization of intellectual property including licensing and joint ventures with private sector, and spin-off companies. The guidelines shall clearly stipulate the equity interest of the inventor/originator.

### **4.0 Implementation**

- i. This policy shall be implemented and reviewed periodically by the Board of Research and Publications
- ii. This Policy shall be implemented or supplemented in any way consistent with its terms and those of other University policies.
- iii. In the event circumstances require any exception to the terms of this Policy, such exceptions shall require the consent of the Vice Chancellor. The Vice Chancellor shall, when practical, seek the advice of the University Council prior to approving any exception to the terms of this Policy. When prior consultation is impractical, the Vice Chancellor shall promptly notify the University Council of any exceptions to the terms of this Policy.
- iv. This Policy shall not apply to existing written agreements between the University and/or any external organization or individual, concerning the development, legal protection, or commercialization of specific intellectual property, and entered into prior to the date on which this Policy is adopted by the University Council.
- v. If an existing written agreement is renewed, revised, or amended after the date on which this Policy is adopted by the University Council, reasonable attempts shall be made to conform such agreement with the requirements of this Policy as of the date on which it is renewed, revised, or amended.
- vi. After adoption of this policy, the University Senate shall be responsible for drawing out periodically implementation guidelines or procedures.

**Notification**

The School of Graduate Studies shall inform all persons subject to this Policy of its terms as soon as efficiently possible after its adoption and at regular intervals thereafter.

**Date of Commencement:** 13<sup>th</sup> March, 2008.