

Kyushu University: Policy on Intellectual Property

Approved by the Board of Trustees as of March 19, 2004

1. Fundamental Policy

(1) Mission of Kyushu University

The fundamental mission of Kyushu University (the "University"), as proclaimed in its Education Chapter and Research Chapter, is "to contribute to achieving the goals of higher education and meeting the expectations of all people, both in Japan and abroad, and to promote research activities that will contribute, as the foundation of the pursuit, creation and development of increased knowledge, to mankind and society". Based on this fundamental mission, the University has been engaged in academic and research activities with the objective of making a continuous, long-term contribution to society.

In addition, as society becomes increasingly dependent on knowledge-based economic activities, the University is committed to interacting regularly and systematically with society and, as a "third mission" together with education and research, will strive to contribute to society and satisfy the expectations of society.

(2) Purpose

This Policy on Intellectual Property is intended to create a basic framework for the handling of intellectual property created by the University's employees ("Employees") and students ("Students") and to create an atmosphere conducive to research and development that will contribute to society.

(3) Intellectual Property

The intellectual property that the University will manage and exploit pursuant to this Policy includes inventions, patents, patent rights and patent applications; copyrights and registrations or applications for registration thereof, and documents and materials subject to copyrights (including database and computer programs); trademarks and trademark rights; designs, registered designs and design rights; utility model rights; cultivation and plant breeder's rights; tangible materials and substances created through research and development; technical information and know-how, and any other creations attributable to human economic activity.

(4) Deliberative Organ

The University-Industry Collaboration Promotion Committee and the University-Industry Collaboration Promotion Special Committee serves as a deliberative organ with respect to the handling of specific matters associated with intellectual property created by Employees or Students.

(5) Intellectual Property Management Center

The Intellectual Property Management Center (“IMAQ”) shall in principle be responsible for the management and exploitation of the University’s intellectual property.

(6) Rights of Students

In principle, Students individually retain all rights in intellectual property they create, except when the following special circumstances prevail:

- The creation of the work is pertinent to research that involves use of University facilities or is an implementation of a University plan;
- There exists an agreement between the University and the Student regarding the transfer of ownership and royalties associated with the intellectual property; and
- A transfer agreement is concluded between the University and the Student at the time the intellectual property is created.

2. Inventions and Patents

(1) Assignment

The University will retain rights to patents, including rights in jurisdictions other than Japan, for inventions created by Employees as a result of their research or during their employment.

(2) Notification and Disclosure

Employees shall immediately notify and disclose to the Director of IMAQ all potentially patentable inventions and discoveries developed while employed by the University.

Employees may not file applications for patents without completing the notification and disclosure process described above unless such filing is required in order to protect the intellectual property described in such filing.

Employees may not transfer the rights to any patent to a third party without completing the notification and disclosure process described above.

Employees must notify the Director of IMAQ before making any publication related in any way to an invention or discovery developed while employed at the University..

(3) Determination of Ownership and Transfer

Upon receipt of the notice and disclosure described above, the Director of IMAQ, through the Intellectual Property Evaluation Meeting (the "IP Evaluation Meeting"), shall immediately determine the transferability of the patent rights associated with the invention or discovery that is the subject of such notice and disclosure, and the elements and information required for filing a patent application regarding such invention.

If the creator of a potentially patentable work is required to disclose information regarding such work, for instance at an academic conference, and requires an urgent determination regarding the transferability of such patent rights, the Director of IMAQ may make a decision at his or her own discretion without holding the IP Evaluation Meeting.

(4) Application Procedures

IMAQ shall be responsible for application procedures, domestic and abroad, associated with inventions with respect to which the University determines that it retains the right to patent, and the creator of such inventions (the "Inventor") will cooperate with IMAQ where appropriate.

Where the patent will be filed in conjunction with a private entity or foundation, the University and such private entity or foundation shall conclude a joint patent application agreement prior to submitting the patent application.

(5) Technology Transfer

Where it is determined that a potentially patentable invention, with respect to which the right to patent is held by the University, can make a meaningful and useful contribution to society through a legal and appropriate technology transfer to a private entity, the University shall conclude a technology transfer agreement containing appropriate terms and conditions with such private entity, and transfer said technology thereby.

After the completion of any such technology transfer to a private entity, the University shall monitor the status of the patent's usage as appropriate in order to ensure that said patent is appropriately exploited by such private entity.

(6) Consignment of Activities in carrying out Technology Transfers

Kyushu TLO Company Limited, in principle, may be designated by the University to carry out certain activities required with respect to technology transfers.

(7) Waiver of Rights

The Director of IMAQ, through the IP Evaluation Meeting, may waive the University's rights with respect to any patent that is determined to be no longer necessary and with respect to which the prospect for future technology transfers is slight.

The University and the Inventor in such case shall discuss and decide on how to handle the patent with respect to which the University has waived its rights.

(8) Reward and Compensation to Inventors

The University shall pay a reward to the Inventor for a successful patent registration, and shall also compensate the Inventor if revenue is generated through a technology transfer of such patent.

Where multiple Inventors are involved, the University shall pay to each Inventor a portion of the applicable compensation based on the contribution made by such inventor.

The amounts to be paid to an Inventor shall be determined by the University in its discretion.

The Inventor, in his or her own discretion, and through a procedure to be specified by the University, may appropriate amounts paid by the University under this Item (8) in whole or in part to his or her own academic or research purposes at the University.

(9) Procedure after Resignation of Employees

When an Employee who has resigned from the University (including an Employee who is transferring to another organization) files a patent application relating to an invention based upon achievements made while employed by the University, such former Employee must notify the Director of IMAQ. In such instance, the Director of IMAQ shall discuss with the organization to which such Employee has transferred and determine the status of such patent.

(10) Mutatis Mutandis

The policies outlined above regarding the handling of inventions and patent rights shall also be applicable to all other intellectual property except for literary works, copyrights, registrations and applications for registration of copyrights, documents

and materials subject to copyrights and tangible materials and substances created through research and development.

3. Literary Works and Copyright

(1) Ownership of Rights

Kyushu University shall have the authorship of, and own all rights in, all literary works that are created by Employees while employed at the University and are;

- [1] created pursuant to a University plan (as referenced in Section 15 of the Japanese Copyright Law), and
- [2] published under the name of Kyushu University (hereinafter collectively referred to as "Corporate Literary Works").

The University shall also in principle own the rights to all databases and computer programs (collectively, "Databases") created by Employees, regardless of whether such Databases constitute Corporate Literary Works.

(2) Management and Control

The management and control of a copyrightable Corporate Literary Work shall be the responsibility of the Department that plans and develops such work. The management and control of a Database shall be the responsibility of the Department that plans and develops such Database.

(3) Notification

The individual who is responsible for the management and control of a Corporate Literary Work or Database shall notify the Director of IMAQ if;

- [1] such individual desires permission to use such work outside Kyushu University;
- [2] such individual receives a request from an outside entity for permission to use such work outside Kyushu University; and
- [3] such Corporate Literary Work or Database is related to intellectual property owned by Kyushu University.

(4) Evaluation

Upon receipt of a notice contemplated above, the Director of IMAQ, through the IP Evaluation Meeting, shall immediately determine the transferability of the copyright in the applicable Corporate Literary Work or Database.

(5) Mutatis mutandis

The policies outlined above regarding the ownership and transfer of inventions and patent rights shall also be applicable to Corporate Literary Works and Databases.

4. Materials and Substances Generated as a Result of Research and Development

(1) Ownership of Rights

The University shall, in principle, retain and have full ownership rights to tangible materials and substances of a proprietary and valuable nature (hereinafter referred to as "Materials") that are:

- [1] obtained or created through research and development;
- [2] obtained or created in relation to research and development, and utilized for the purpose of obtaining a Material mentioned in the above clause [1]; and
- [3] created or obtained as a derivative material pertinent to the creation or derivation of a Material mentioned in clause [1] or [2].

(2) Management and Control

Either the Inventor or the head of the Department to which the Inventor belongs shall be responsible for managing and controlling Materials in accordance with their characteristics and proprietary nature, and in compliance with relevant laws and regulations.

(3) Permission to Use

If a party outside the University desires permission to use a Material, the Employee in charge of such material shall;

- [1] directly conclude a transfer agreement with the outside party, if such party desires to use the Material for non-commercial purposes, and then so notify the Director of IMAQ; or
- [2] if such outside party desires to use the Material for commercial purposes, shall first report such request to the Director of IMAQ, in which case the Director of IMAQ may conclude a transfer agreement with such party.

(4) Mutatis mutandis

The policies outlined above regarding the ownership and transfer of inventions and patent rights shall also be applicable to Materials.

5. Others

(1) Appeal

Students and Employees have the right to appeal decisions of the Director of IMAQ regarding the status of intellectual property created by such Students and Employees. In response to any such appeal, the Director of IMAQ shall promptly reexamine such intellectual property in the IP Evaluation Meeting, and provide the Student or Employee involved with final judgment on the status of such intellectual property. The final judgment of the Director of IMAQ may not be appealed.

(2) Confidentiality

All parties involved in handling any of the University's intellectual property will be obligated to maintain such intellectual property in confidence and not disclose any information relating to such intellectual property to any third party, and even after resigning from their positions or assignment with the University.

(3) Others

Any conditions that are not provided for in this Policy shall be separately set out by the University where appropriate.