

# Kyushu University: Rules on the Handling of Intellectual Property

## Chapter 1: General Provisions

### Section 1: Purpose

These Kyushu University (the "University") Rules on the Handling of Intellectual Property (these "Rules") include the basic rules applicable to Intellectual Property first reduced to practice, written, or otherwise produced by Employees and Students of the University and are intended to promote academic and research activities at the University for the benefit of the University and the public.

### Section 2: Definitions

For purpose of these Rules, the following terms are defined as follows:

- (1) "Intellectual Property" means 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 intellectual activities.
- (2) "Employee" means an employee of the University or an individual participating in joint research being conducted at the University pursuant to a contract between such individual and the University (the "Research Collaborator").
- (3) "Student" means a student currently attending the University or a research student accepted by the University to participate in an individual research program offered by the University.
- (4) "Department" means a University undergraduate school, graduate school, graduate faculty, research institute, hospital, library, Administrative Bureau, Student Affairs Office, Institute for the Joint Use of the University, the Institute of Health Science and the Computing and Communications Center.
- (5) "Laboratory" means a group or organization within a Department in which Employees engage in educational and research activities.
- (6) "Employee Invention" means an invention that an Employee develops, conceives, produces or otherwise comes up with that is within the Employee's scope of work and is created while the Employee is employed at the University.

### Section 3: Intellectual Property Management Center

The Intellectual Property Management Center of Kyushu University ("IMAQ") shall have primary responsibility for the management and exploitation of Intellectual Property that belongs to the University.

#### Section 4: Handling of Intellectual Property Created by Students

1. In principle, Students individually retain all rights in Intellectual Property they create.
2. Notwithstanding the foregoing, Intellectual Property created by a Student shall belong to the University if (i) the creation of the Intellectual Property is pertinent to research conducted in a Laboratory, (ii) there exists an agreement between the University and the Student regarding the transfer of ownership of such Intellectual Property and any royalties associated with such Intellectual Property; and (iii) a transfer agreement is concluded between the University and the Student at the time such Intellectual Property is created.

#### Chapter 2: Inventions and Patents

##### Section 5: Assignment

The University will retain rights to all patents, patent rights and patent applications worldwide (collectively, "Patents"), for Employee Inventions, unless the University determines not to retain such rights pursuant to Section 7.

##### Section 6: Notification and Disclosure

1. Upon an Employee's creation or discovery of an Employee Invention, the Employee shall immediately notify the Director of Intellectual Property Center (the "Director of IMAQ") and disclose such Employee Invention to the Director of IMAQ using the form provided by the University for such purpose.
2. Prior to making any presentation or publication associated in whole or in part with an Employee Invention or an invention disclosed to an Employee in the course of his or her employment, the Employee must notify the Director of IMAQ, using the form provided by the University for such purpose, at least two (2) months in advance of such presentation or publication.
3. An Employee may not file an application for a Patent without going through the notification and disclosure process described in Section 6.1 unless such filing is required in order to protect the Intellectual Property described in such filing. Any Employee may not transfer any right in a Patent to a third party without going through the notification and disclosure process described in Section 6.1.
4. If an Employee files for a Patent without going through the notification and disclosure process described in Section 6.1 for the reason provided in Section 6.3, such Employee shall promptly so notify the Director of IMAQ.

##### Section 7: Determination of Ownership Transfer

1. Upon receipt of the notification and disclosure described in Section 6.1, the Director of IMAQ, in conjunction with an Intellectual Property Evaluation Meeting (the "IP Evaluation Meeting"), shall immediately determine the transferability of the Patent rights associated with the invention disclosed and identify the elements and information required for filing a patent.
2. The IP Evaluation Meeting shall immediately evaluate the transferability of the

Patent rights associated with the invention disclosed and provide the results of its evaluation to the Director of IMAQ.

3. The Director of IMAQ, upon receipt of the IP Evaluation Meeting's evaluation, shall promptly determine the transferability of the Patent rights, and notify the creator of such work and the head of the Department to which the creator belongs.
4. Notwithstanding anything to the contrary contained in Section 7.1 and 7.2, if the creator of potentially patentable work desires to disclose information regarding such Intellectual Property, for instance at an academic conference, and requires an urgent determination regarding transferability of such Patent rights, the Director of IMAQ may make decision regarding such disclosure at his or her own discretion without consulting with the IP Evaluation Meeting.

#### Section 8: Procedure for Transferring Ownership to the University

If the Director of IMAQ through the process described above determines that the University retains the ownership of the Patent rights, the relevant Student or Employee shall immediately submit to the University President a certificate of ownership transfer and other necessary documents, in the format specified by the University.

#### Section 9: Application Procedures

1. The IMAQ shall be responsible for Patent application procedures, domestic and foreign, with respect to inventions to which the University determines that it retains Patent rights, and the creator of such inventions (the "Inventor") will cooperate with the IMAQ where appropriate.
2. Where a 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 such Patent application.

#### Section 10: Technology Transfer

1. If the University determines that a potentially patentable invention, with respect to which the right to patent is held by the University, is meaningful to society and exploitable through a legal and appropriate technology transfer to a private entity, the University may conclude a technology transfer agreement containing appropriate terms and conditions with such private entity, and transfer said technology thereby.
2. After the completion of said technology transfer to the private entity, the University shall continually monitor the status of the Patent's exploitation where appropriate, and make its best efforts to ensure that said Patent is best exploited by such private entity.

#### Section 11: Execution of Technology Transfer

Kyushu TLO Company Limited shall be designated by the University to carry out the activities, in whole or in part, required in connection with technology transfers involving the University.

## Section 12: Waiver of Rights

1. The Director of IMAQ, through the IP Evaluation Meeting, may waive the right to a Patent owned by the University if it is determined it is no longer necessary for the University to own such Patent.
2. The University and the Inventor, in such case, shall discuss and decide how to handle such Patent that has been waived by the University.

## Section 13: Reward and Compensation to Inventors

1. The University shall pay to the Inventor ¥10,000 per successful Patent registration as a reward.
2. If a license of a Patent owned by the University generates revenue, the University shall pay 50% of net income (revenue less overhead expenses) to the Inventor and 25% of net income to the Department to which the Inventor belongs.
3. Where multiple Inventors contribute to the conception of the inventions described in such Patent, the University shall pay to each such Inventor a portion of net income based on the contribution made by such Inventor.
4. The Inventor, at his or her discretion, and following the procedure established by the University, may appropriate the financial rewards and compensation described in Sections 13.1 and 13.2, in whole or in part, to his or her own research activities at the University.

## Section 14: Procedure after Resignation of Employees

1. If an Employee who has resigned from the University (including Employees who have transferred to other organizations) wishes to file a Patent application for an invention based upon work performed while employed at the University, such Employee must notify the Director of IMAQ.
2. The Director of IMAQ, upon receipt of the notification described in the preceding paragraph, shall discuss, where appropriate, with the organization to which such Employee has transferred in order to determine the status of such Patent.

## Section 15: Mutatis Mutandis

The terms and conditions set forth in Sections 4 through 14 with respect to Patents shall also be applied to all other Intellectual Property except for copyrights and the registrations or applications for registration thereof, documents and materials subject to copyrights and tangible materials and substances created through research and development.

## Chapter 3: Copyrights and Materials Subject to Copyrights

### Section 16: Ownership of Rights

1. The University shall have the authorship of, and own all rights in, literary works and other documents and materials subject to copyrights that are created by its

Employees while employed at the University, and which 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 the University (the works described in this Section 16(1) collectively, "Corporate Literary Works").
2. Rights to all databases and computer programs created by Employees while employed at the University (collectively, "Databases") shall, in principle, be owned by the University, regardless of whether such Databases fall within the definition of Corporate Literary Works.
  3. The copyright in any literary work or other document or material subject to copyright that is not covered by the preceding two paragraphs shall, in principle, belong to the author of such literary work, document or material.

#### Section 17: Management and Control

The management and control of Corporate Literary Works shall be the responsibility of the Department that plans and develops such work. The management and control of Databases shall be the responsibility of the author of such database.

#### Section 18: Notification

The individual who is responsible for the management and control of a Corporate Literary Work or Database pursuant to Section 17 shall notify the Director of IMAQ, using the form specified by the University for such purpose, if;

- (1) such individual desires permission to use such work outside the University; or
- (2) such individual receives a request from an outside entity for permission to use such work outside the University; and
- (3) such Corporate Literary Work or Database is related to Intellectual Property owned by the University

#### Section 19: Determination of Transferability of Copyrights for Databases

1. Upon receipt of a notification described in the preceding Section with regards to a Corporate Literary Work or Database, the Director of IMAQ, through the IP Evaluation Meeting, shall immediately determine the transferability of the copyright in such Corporate Literary Work or Database.
2. The IP Evaluation Meeting, upon receipt of such request, shall immediately evaluate the transferability of the copyright in such Corporate Literary Work or Database, and provide results of its evaluation to the Director of IMAQ.
3. The Director of IMAQ, upon receipt of the IP Evaluation Meeting's evaluation, shall promptly determine the transferability of the copyright and notify to the creator of such Corporate Literary Work or Database and the head of the Department to which the creator belongs.

#### Section 20: Procedure for Transferring Ownership to the University

Where the Director of IMAQ through the above process determines that the University

retains the ownership of the copyright in a Database, the relevant Employee or Student shall immediately submit to the University President a certificate of ownership transfer and other necessary documents in the format specified by the University.

#### Section 21: Mutatis Mutandis

The terms and conditions set forth in Sections 10 through 14 with respect to Patents shall also apply with respect to copyrights and the registrations or applications for registration thereof, and documents and materials subject to copyrights (including literary works and Databases).

### Chapter 4: Materials and Substances Generated as a Result of Research and Development

#### Section 22: Ownership of Rights

The University shall, in principle, retain and have full ownership rights to tangible materials and substances ("Materials") that are;

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

#### Section 23: 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.

#### Section 24: 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 such outside party using the format specified by the University, if the 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, first report such request to the Director of IMAQ, in which case the Director of IMAQ may conclude a transfer agreement with such party using the format established by the University for such purpose.

#### Section 25: Mutatis Mutandis

The terms and conditions set forth in Sections 10 through 14 with respect to Patents

shall also apply with respect to Materials.

## Chapter 5: Others

### Section 26: Appeal

1. Employees and Students shall have the right to appeal a decision of the Director of IMAQ regarding the status of Intellectual Properties created by such Employees and Students, using the format specified by the University for such purpose.
2. Upon receipt of an appeal pursuant to the preceding paragraph, the Director of IMAQ shall promptly reexamine such Intellectual Property in conjunction with an IP Evaluation Meeting, and provide the Employee or Student involved with final judgment on the status of such Intellectual Property.
3. A party who has submitted an appeal pursuant to Section 26.1 may not appeal the final judgment provided for in Section 26.2.

### Section 27: Confidentiality

Unless otherwise agreed by the University, Employees and Students will be obligated to maintain in confidence and not disclose to any third party any of the University's Intellectual Property, even after resigning from their respective positions or assignments with the University.

### Section 28: Transitional Measures

When domestic applications with a claim of priority, and overseas applications, filed after the effective date of these Rules are based on a Patent application filed before the effective date of these Rules (an "Original Application"), the right to obtain such Patent after the effective date of these Rules will be determined in accordance with the right to obtain a Patent for the Original Application.

### Section 29: Miscellaneous

Conditions associated with the handling of Intellectual Property created by Employees and Students that are not provided in these Rules may be added separately where appropriate. The University retains the right to revise these Rules at any time in its sole discretion.

### Supplementary Provision:

These Rules are effective as of April 1, 2004.