

Bharati Vidyapeeth (Deemed to be University), Pune

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INTELLECTUAL PROPERTY RIGHTS (IPR) POLICY

2021-22

Bharati Vidyapeeth (Deemed to be University), Pune
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BHARATI VIDYAPEETH (DEEMED TO BE UNIVERSITY), PUNE
INTELLECTUAL PROPERTY RIGHTS (IPR) POLICY 2021-22

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I.PREAMBLE

In the last few years, a number of new initiatives and issues have arisen, with the enhanced growth in research and development. In view of the experience obtained during this period, in commercialization, incubation, international collaboration, distance education courses and student related issues, it was decided to adopt a policy approach. This document is of the IP Policy for the University.

II.OBJECTIVES

The objectives of the present Intellectual Property Rights Policy, 2021-22 (“the Policy”) are as follows:

- a. To cultivate innovation, knowledge and creativity in the areas of law and humanities by fostering new ideas and research, in an ethical environment by creating a framework for the same;
- b. To enhance the reputation of the University as an academic research institution and a member of society as well as the reputation of the Researchers through bringing the research results to public use and benefit.
- c. To protect the intellectual property (“IP”) and Intellectual Property Rights (“IPR”) created by faculty/personnel, students, and staff of **Bharati Vidyapeeth Deemed to be University, Pune (“BVDU”)**, by translating their creative and innovative work into IPR;
- d. To set up an efficient, fair, and transparent mechanism to guarantee an administrative process for ownership control and assignment of IPR and sharing of revenues so generated, created and owned by the Institution;

- e. To advance collaborative effort in research in the areas of law and humanities between academia and industry through a clear, efficient and transparent mechanism of IP ownership and IP licensing;
- f. To create a mechanism for knowledge generation and its commercial exploitation, and in so doing, also to augment the financial self-sustenance goals of the institution to reward faculty and researchers;
- g. To establish an IP cell for supporting all innovation, creativity and IPR related endeavors of students, research scholars and faculty members, where such cell shall be the nodal agency to implement the mandate of this Policy. Such cell shall be governed by a separate “**Policy for IP Cell**”; and
- h. To outline the revenue sharing arrangements between the University and Researchers provided in Schedule-1 to this Policy.
- i. For the avoidance of doubt, this IP policy (and any subsequent amendments made to this IP policy) is the agreed protocol or IP policy referenced in:
 - i. The staff contract of employment;
 - ii. The staff fixed purpose contract;
 - iii. Any document engaging another relevant party;
 - iv. The student handbook; and
 - v. Any acceptance form or intellectual property assignment agreement signed by staff and/or students and/or other relevant parties.
- j. This IP Policy also forms part of the regulations of the University which govern the conduct of students and staff

III.DEFINITIONS:

Unless stated otherwise or where the context otherwise requires, the following terms will have the meanings assigned herein below:

1. **Author:** An author is as defined under Section 2(d) of the Copyright Act, 1957 (Act 14 of 1957).

2. **Collaborative Activity:** Collaborative Activity includes research undertaken by any personnel/staff working at the University, in cooperation with industry and/or another researcher(s), who are not the personnel from the University.
3. **Creator:** Creators means researchers who contributed to the creation of the Intellectual Property (IP) (essentially copyrights, designs, etc.).
4. **External Partners:** External Partners includes but is not limited to the Government of India, State Government(s), Local Self-Governments, Government Departments, Foreign Governments, International Organizations, Public Sector Undertakings (PSUs), all types of Private Sector Organizations, Multinational Corporations, Non-Governmental Organizations, and/or other institutions that provide research projects or consultancy assignments to researchers on regular or irregular basis; or any combination(s) of the above.
5. **University:** University refers to all constituent units of Bharati Vidyapeeth (Deemed to be University), Pune
6. **Intellectual Property (IP):** Intellectual Property, as provided under Article I of the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), refers to all categories of intellectual property that are subject of Sections 1 to 7 of Part II of the TRIPS Agreement.
7. **Intellectual Property Rights (IPR):** Intellectual Property Rights means ownership and associated rights relating to aforementioned Intellectual Property, either registered or unregistered, and including applications or rights to apply for them and together with all extensions 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. Intellectual Property Rights includes the following:
 8. **Patent:** "Patent" is as defined under Section 2(m) of the Patents Act, 1970.
 9. **Copyright:** Copyright is a right given to creators of literary, dramatic, musical and artistic works and producers of cinematograph films and sound recordings. Works are as defined under the Copyright Act, 1957.
 10. **Trade Mark:** "Trademark" is as defined under Section 2(zb) of the Trade Marks Act, 1999.

11. **Design:** “Design” is as defined under Section 2 (d) of the Designs Act, 2000.
12. **Semiconductor Integrated Circuit:** “Semiconductor Integrated Circuit” as defined under Section 2(r) of the Semiconductor Integrated Circuits Layout Design Act, 2000.
13. **Plant Variety:** It is governed by the Protection of Plant Variety and Farmers Rights Act, 2001. It recognizes the contributions of both commercial plant breeders and farmers in plant breeding activity and also supports the specific socio-economic interests of all the stakeholders including private, public sectors and research institutions, as well as resource constrained farmers.
14. **Geographical Indication:** “Geographical Indication” is as defined under Section 2 (e) of the Geographical Indications Act, 1999.
15. **Intellectual Property Cell (IP Cell):** A body of members who shall ensure the effective implementation of the Policy and shall be in the network of IP Cells of other academic institutions.
16. **Inventor:** means the researcher who contributed to the creation of the Intellectual Property (essentially patents).
17. **"Commercialization"** means any form of exploitation of Intellectual Property, including assignment, licensing, internal exploitation within the Institute and commercialization via a spin-off enterprise in India and overseas
18. **Moral Rights:** Moral rights are rights enshrined under the aegis of Section 57 of the Copyright Act, 1957. They are the author's or creator's special rights which include the right to paternity and the right to integrity.
19. **Policy:** Policy refers to this Intellectual Property Rights Policy.
20. **Research:** The term “Research” shall refer to any of the following:
 - a. Research undertaken by a researcher in the normal course of his/her engagement/appointment with the institution/ University, utilizing resources of the institution/ University, such as space, facilities, materials, or other resources, specific monetary support for research through grants or fellowships, funds for procuring books/ equipment or materials for specific

research projects, and creation/ modification of infrastructure like labs for the specific needs of research.

- b. Research undertaken by a researcher in collaboration with an External Partner as defined under Clause 2.4 of this Policy. This support from external partners includes, but is not limited to, specific monetary support given for research through grants or fellowships.

20. Researcher: Researcher means;

- a. persons employed by the University, including student employees and technical staff,
- b. students, including undergraduate, postgraduate, doctoral and post-doctoral students of the Institution;
- c. any persons, including visiting scientists.

IV. OWNERSHIP OF INTELLECTUAL PROPERTY

1. As a general rule, any IPR except copyright created by a student, staff, researcher, faculty or other personnel in the institution in furtherance of their responsibilities to the institution, made by utilization of the resources of the Institution or with a mix of funds and resources obtained externally, shall be vested only in the University.
2. Notwithstanding the above, in case of **Patents, Trademarks, Industrial Designs, Semiconductor Integrated Circuits and Plant Variety**, if the University determines that an invention/trademark/industrial design/Semiconductor Integrated Circuit/Plant Variety was made by an individual(s) on his/her own time and unrelated to his/her responsibilities towards the University and was conceived or reduced to practice without the use of resources of University, then the invention shall vest with the said individual(s).
3. In case of **Copyright**, the ownership rights in scholarly and academic works generated utilizing resources of the University, including books, articles, student projects/dissertations/ theses, lecture notes, audio or visual aids for giving lectures shall ordinarily be vested with the author(s).

- a. Further, the ownership rights in lecture videos or Massive Open Online Courses (MOOCs), films, plays, and musical works, institutional materials including, but not limited to, course syllabi, curricula, exam questions, exam instructions, and papers/ reports specifically commissioned by the Institution, shall ordinarily be vested with the University. The moral rights shall continue to vest with the author(s) wherever applicable.

IVA. OWNERSHIP OF IP GENERATED FROM RESEARCH CONDUCTED IN COLLABORATION WITH EXTERNAL PARTNERS

- a. Ownership of **IP generated from research conducted in collaboration with External Partners** shall be determined in accordance with the terms and conditions in the agreement signed between the concerned parties. However, unless agreed upon explicitly, the University shall normally retain perpetual, royalty free license to use the IP for research and educational purposes.
- b. In the absence of an agreement between the University, and the External Partner, who is providing support for research, the IP rights shall be shared amongst the concerned parties.

IV B. IPR OWNED BY THIRD-PARTY

- a. Researchers may use diverse technology/ design/ software, as part of their research. Under all such circumstances, due care and attention must be given, for not infringing the IP rights of third parties. Due and necessary permissions must be obtained from IP owners prior to engaging in any use which moves beyond the terms of license or as permitted under the relevant statute(s) in India.
- b. Whenever researchers use copyrighted material for teaching or research purposes, such use shall be within the permission obtained

from the concerned copyright holder(s) or within the boundaries of exceptions provided under the Indian copyright law.

IV C. Ownership exemption

The possibility of exemption to ownership is given in the following cases and University reserves the right to revise these exemptions on a case to case basis.

- a. If the inventor/creator is not related with University
- b. If the inventor/creator has not used significant resources of University.
The inventor(s) / creator(s) are to submit the lack of using significant resources for exemption purposes.
- c. If University is not interested to take forward the disclosed invention/creation towards IP protection or through prior specific agreement.
- d. In case of University not protecting an IP, the inventor(s)/creator(s) are provided with the permission to protect the same in countries of their choice.

V. LICENSING, SUB-LICENSING AND ASSIGNMENT

- a. The Institution may grant Exclusive and Non-Exclusive licenses for the transfer of IP owned by it. The determination as to the exclusivity of the license shall be made on a case to case basis, however, wherever possible, non-exclusive licenses will be granted. Sub-licensing of IPR shall not be permitted.
- b. Licensing and Sub-licensing of **IP generated from research conducted in collaboration with External Partners** shall be determined in accordance with the terms and conditions in the agreement signed between the concerned parties.

- c. Notwithstanding the above, in cases where the IPR vests in the individual and not the University, the individual shall have complete discretion to decide whether and how to license or sub-license the IP.
- d. In order to promote the entrepreneurial activities by its staff, the Institution 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 Institution. The fees to be paid to the Institution by the assignee shall consist of all patenting and licensing expenses and appropriate amount of royalties, equity or other value received by the inventor(s) or creator(s).

VI. WAIVER OF IPR BY THE INSTITUTION

- a. Subject to any associated agreements, or any other agreement thereof, the University may waive its rights, if it decides not to pursue the protection of IP within a period of 12 months from sufficient disclosure by the researcher(s) to the Institution.
- b. The University shall take all efforts to convey the decision to the researcher, whether to pursue or not pursue the protection of IP, within a stipulated time period, after sufficient disclosure by the researcher, to the University. Under all such circumstances, unless explicitly agreed to, the Institution shall retain a non-exclusive, royalty-free, irrevocable, and worldwide license to use the IP for research and educational purposes.

VII. USE OF THE INSTITUTION/ UNIVERSITY RESOURCES

The Institution/ University may allow the use of IP already in existence and owned by it, as well as its name logo, trademark etc. limited to the creation and marketing of the IP, provided however that such use shall be confined to use in public interest. The user also warrants to use the above in a responsible

manner to create a product/process conforming to environmental safety and good manufacturing practices promoted by the Government of India and its regulatory bodies; in promoting truthful claims and information, i.e., not for misleading the society or users; without any liability on the University in case of misuse of trademark(s) or accidental damage accruing due to use of trademark(s).

VIII.USE OF FREE AND OPEN SOURCE SOFTWARE

- a. The University shall take all possible steps to ensure use and promotion of Free and Open Source Software as key resource for research and related purposes. The University shall conduct training sessions for use of such software from time to time, for researchers. The University shall also use such software as far as possible for all its official purposes.
- b. Wherever, and to the extent possible, the Researcher shall conduct its research using Free and Open Source Software provided from the University for the purpose of this Policy.

IX.CONFIDENTIALITY, DATA PROTECTION AND PRIVACY

- a. All users of information, documents and/or data within the University, must ensure that the same is always held securely and all activities pertaining to such information, documents and/or data will be kept confidential by the user(s) and will be used only for purpose of such activities.
- b. The Researcher shall not disclose any Confidential Information as defined in this Policy to any third-party for any reason whatsoever, except for purposes mentioned in Clause 10.1.
- c. Notwithstanding the above, any information which falls within one of the following shall not be treated as Confidential Information:
- d. already under public domain;

- e. is required by law or regulation to be disclosed;
- f. is independently developed by the researcher; and
- g. is received from a third party having no obligations of confidentiality to the disclosing party

CONFLICT OF INTEREST AND CONFIDENTIALITY

- a. A Researcher's primary commitment of time and intellectual contributions as an employee of the University should be to the education, research and academic programs of the University.
- b. A Researcher's primary commitment of time and intellectual contributions as an employee of the University should be to the education, research and academic programs of the University. Exploitation by unauthorized persons could damage or endanger the University's lawful financial, economic or market interests shall qualify as business secret. Researchers shall, when communicating with third parties, exercise all due diligence regarding confidentiality provisions.
- c. Researchers shall promptly report all potential and existing conflict of interest to the person or department designated by the University in order to reach solution satisfactory to each concerned party.

X. Teaching/Course material

- a. The University acknowledges that the author is the owner of teaching materials created for teaching purposes during the author's engagement with the University.
- b. As most of the course content is created cumulatively and in order to enable a wider usage and distribution of the teaching materials created, the University by default gets a license to the copyright and all other rights of the content created by the creator for fair dealing under academic and research context.

- c. The University is not liable for any of the copyright violations by its personnel for the content created. The author is expected to carry out due diligence in the course of content creation.
- d. The University course materials and academic course materials have different copyright clearances.
- e. The content and the materials created will be owned by the course creator. Note that the course creator, course instructor and course coordinator could be the same individual or independent.
- f. The course creator is expected to get the relevant copyright clearances for the course materials used.
- g. The University is not liable for any of the copyright violations by its personnel for the content created. The author is expected to carry out due diligence in the course of content creation. Books, articles and related literary works

XI. PUBLICATIONS

- a. Any publication, document and/or paper arising out of research activities shall be owned jointly by the University and researcher(s). The use of name, logo and/ or official emblem of the University shall not be done without prior written permission from the University.
- b. The researcher and the Institution shall jointly and amicably decide on any publication to be made.
- c. Particular care needs to be taken that no publication is made till the patent, if applicable, is filed.
- d. The University may retain the right to require exclusion of certain portions from the information being published.

XII. THESIS

- a. The student is the original creator of the thesis, fine-tuned with relevant contribution of the supervisor(s) and the copyright authorship rests with the student creator.
- b. The ownership is jointly held by the student creator and the supervisor(s) concerned. The supervisor(s) can waive off their joint ownership if desired. Relevant forms will be made available for such waivers.
- c. The supervisor(s) is required to sign off at the time of the thesis submission, indicating the commercial/potential commercial/ no commercial value of the work concerned.
- d. The University gets a non-exclusive, non-commercial license for the display and use of the thesis for academic and research purposes.
- e. The University gets an automatic right to display the thesis in soft and hard forms.

XIII. DESIGN RIGHTS

The design right for a created component (physical or graphic, any dimension) follows the IP inventions policy as indicated in the preceding clauses.

XIV. USING UNIVERSITY TRADEMARKS

The University may allow the use of its name and trademarks (it includes name of the University, University logo and any other trademark registered by the university) by third parties on following conditions:

- a. They will be used only in public interest;
- b. They will be used in a responsible manner to create a product/process conforming to environmental safety and good manufacturing practices.
- c. They will be used in promoting truthful claims and information

- d. without any liability on the university in case of misuse of trademark

XV. MATERIAL TRANSFER AGREEMENTS (MTAS)

This agreement is of relevance to activity which requires a physical material access for research. University follows a material transfer agreement aligned with its academic and research needs. The MTA is used for both, the University to provide material to any other external party and also to request any material from external agencies.

XVI. LIMIT OF LIABILITY

As a general rule and not in derogation with any law for the time being in force, the University shall be indemnified from all liability arising out of or in relation with the development and commercialization of any IP as defined under this Policy.

XVII. DISPUTES

- a. A Joint Committee of Experts on IPR (“IPR Grievance Redressal Committee”) shall be constituted by the University every year, entrusted with the role of addressing all concerns arising out of IP or IPR or any other matter related to or arising out of this Policy.
- b. The Committee shall consist of an odd number of representatives (Such as 3, 5 or 7). The members of the Committee shall decide all disputes preferred before it within 30 days of the notice of the dispute being submitted to the Committee. Beyond such period, the relevant provisions of law shall apply.
- c. In case of any disputes between the University and the inventor(s) / creator(s)/ any other aggrieved person(s), regarding the implementation of these guidelines, scope, operation or effect of any contract/ agreement entered into, or the validity or breach thereof, the inventor(s) / creator(s)/

any other aggrieved person(s) may appeal to this committee appointed by the University.

- d. If the inventor(s) / creator(s)/ any other aggrieved person(s) is not satisfied with the verdict/ decision of the committee, mechanisms such as: Alternate Dispute Resolution (ADR), Arbitration & Conciliation, Mediation, or appeal to the Court of Judicature nearest to the Institution, may be opted and the same shall be governed by the appropriate laws of India.

XVIII. REVENUE SHARING ARRANGEMENTS AND TAXABILITY OF REVENUE GENERATED ON IPR

- a. The University is free to enter into revenue-sharing agreements with researcher(s), in cases of commercialization of innovation(s), creation(s), etc., as per the advice of the IP cell. The details of revenue sharing may be decided, based on the type of IP and the nature of commercialization.
- b. As a general rule, 60% of the royalty/ technology transfer amount shall be with the researcher and 40% with the academic institution. However, the same may be changed subject to the type of IP and the nature of commercialization.
- c. In case the IP filing costs were not borne by the University, the researcher may be allowed to first deduct the costs incurred for filing of applications and maintenance of such IP, from any income accruing from the commercial exploitation of the IP.
- d. The researcher's share may continue to be paid, irrespective of whether or not the individual continues as a researcher at the University
- e. If more than one researcher is involved in the generation of IP, all the researchers who qualify for benefit sharing in that IP may sign at the time of filing the application an agreement outlining the proposed distribution of any IP-related earnings based on their contribution. The agreement should specify the proportional percentage of distribution of earnings from IP to each of the researchers. The researcher(s) may, at any time, by mutual consent, revise the

distribution of IP earnings agreement, and the University, may approve the revised agreement, subject to the advice of the IP cell.

- f. The revenue sharing on any IP generated from a partnership between the Institution and external partners may be based on the agreement signed between the University and the external partner at the beginning of such collaborations.

XIX. OBLIGATIONS & DISCLOSURES

A] OF THE UNIVERSITY

To provide legal support as it deems necessary and desirable to defend and protect the interests of the University and the creators of the intellectual property against third party claims or unauthorized use.

B] OF THE INDIVIDUAL CREATOR

To make an invention disclosure in a thorough and timely manner of all inventions, discoveries and other works that are patentable/copyrightable and in which University has stake/share as described in this Ordinance.

C] CONFLICT OF INTEREST

The researcher(s) are required to disclose any conflict of interest or potential conflict of interest with regard to potential licensing of technologies. If the researcher(s) and/or their immediate family members have a stake in the Licensee Company or potential licensee company, they are obliged to disclose the details in writing to the Chairperson/Head of IPR Cell.

XX. COMMENCEMENT OF THE POLICY: The ordinance governing the intellectual property policy shall come into effect from the date notified by the University. Moreover, this IPR policy shall supersede and overwrite any other policy

in vogue at the time of this policy and this policy shall prevail over all intents and purposes.

AMENDMENTS:

The University reserves the right to amend these policies, through ordinances, at any time as warranted, upon recommendation of the IPR Cell.

SCHEDULE

A] CONSTITUTION OF IPR CELL

The IPR Cell shall be headed by Professor as Director IPR appointed by the Vice-Chancellor. IPR-Advisory committee comprise of three members (with Two years term) with expertise in areas related to IPR and technology transfer, as recommended by the Director IPR cell and approved by the Vice-Chancellor. However, Director IPR cell can re-constitute IPR Advisory committee with the approval of Vice-chancellor. The IPR Cell from time to time, will be incumbent to evaluate and make recommendations regarding IPR related issues. All educational institutes affiliated to University will establish IPR Centers in their institutes.

B] INSTITUTIONAL REPOSITORY

1. The University shall create an Institutional Repository and a link to the repository may be provided on their official website. The repository shall

include dissertations, theses, papers, publications, and other in-house publications. In the absence of an institutional repository, the researchers may submit such works in other open repositories in the relevant subject area.

2. The IPR Cell shall also cater to IPR Portfolio Management, viz. IP-Insurance and IP-Audit, and set up task cells for the same.
3. The researchers shall be encouraged to license their works under an open license so that other researchers can also use the research outputs by providing appropriate attribution to the researchers.

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