



## **Guidelines for the use of intellectual property (IPR policy)**

### **I Introduction**

These guidelines set out how the University of Tübingen deals with intellectual property rights in transfer processes with private companies. Their aim is to support University scientists and academics, protect the interests of the University, its institutions and all its employees, while regulating the dissemination of, and access to, research results and the exploitation thereof via licensing, sale or the founding of commercial enterprises.

Intellectual and industrial property rights are, among other things, a yardstick for measuring the University's creativity and performance and for reinforcing its positive public image.

### **II The transfer of knowledge – one of the University's core duties**

One goal for research at the University of Tübingen is to make scientific knowledge available for the benefit of society as a whole. This transfer of knowledge is among the core duties of the University, as set out in the laws of the state of Baden-Württemberg (LGH, § 2 (4)). For that reason, the University of Tübingen strives for the broadest possible application and dissemination of the ideas, technologies and applications from research, including their commercial use, which will create economic value and help to secure the German economy in the future.

The transfer of knowledge and technology at the University of Tübingen aims to move the broad base of intellectual property arising from academic activity into society as effectively as possible, instead of selectively supporting individual and highly profitable projects. We set the benefits for society as a whole ahead of the search for financial gain.

The following guidelines are meant to ensure that the University passes on the knowledge and technology originating with its members on reasonable conditions.

### **III Intellectual Property Rights**

As a comprehensive research university, Tübingen generates new knowledge across a particularly wide spectrum in both the humanities and social sciences as well as in medicine and the sciences. This knowledge, arising from academic and scientific activity, is defined as intellectual property and used as such below.

Copyright and intellectual and industrial property rights, such as patents, trademarks and designs guarantee the creator or patentee rights to non-material goods. Intellectual property rights are therefore rights to intangible goods. These rights encompass findings and developments arising from scientific and academic work, including copyrighted works and intellectual and industrial property rights such as patents, trademarks and designs, as well as software and specialist technical knowledge.

The University of Tübingen is the owner of intellectual property and the results of work generated by its employees. The legal basis for this is set out in the German law governing employees' inventions (ArbEG) and in the German copyright act (UrhG) in connection with the German civil code (BGB). To make use of intellectual property originating with students not in its employ, the University must sign individual contracts to regulate treatment of the results of the student work.

The claim by the University of Tübingen to its employees' inventions is substantiated by the inventor's right to remuneration should the invention be put to commercial use. Similarly, the authors of e.g., a computer program can take a share of the profit from its utilization.

#### ***A. Inventions***

Members of the University are obliged to report to the University's Technology Transfer Office all inventions arising from their University work which are to be made publicly accessible using the "Invention Disclosure Form."<sup>1</sup> Other inventions are to be reported in the same way. The Technology Transfer Office assesses inventions arising from University work to see if intellectual and industrial property rights in them can be registered, and for their potential commercial use. If the assessment is positive, the University will make a claim on the invention and register a patent on it.

#### ***B. Patents***

If an invention is to be patented, the inventors participate in the registration process. The University pays the costs of patent registration.

#### ***C. Non-patented material***

The University of Tübingen also maintains all rights to further, non-patented materials and can license or transfer these for the general good or for research or commercial purposes, in consultation with all involved parties.

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<sup>1</sup> The form is available online at <http://www.uni-tuebingen.de/de/333>; for inventions arising in the Faculty of Medicine at [https://www.medizin.uni-tuebingen.de/Forschung/Erfindungen+und+Patente\\_Forschungs\\_+und+Technologietransfer.html](https://www.medizin.uni-tuebingen.de/Forschung/Erfindungen+und+Patente_Forschungs_+und+Technologietransfer.html)

Such materials may include biological materials such as cell lines, organisms, proteins, plasmids, DNA/RNA, chemical compounds, and transgenic animals. They are materials which are useful for research or commercial purposes, but for which no patent has been registered.

When passing on such materials to external collaboration partners, it is advisable to conclude a material transfer agreement (MTA), perhaps in combination with a confidentiality disclosure agreement (CDA).

#### ***D. Computer software***

Computer software includes all computer programs as well as microcode, subroutine and operating systems, regardless of their form and the object in which they exist, along with operating instructions and other accompanying explanatory materials, as well as all computer databases. The University supports in particular the spread of software arising within research projects under open-source licensing models, in order to improve the dissemination of research results. Newly-developed software is to be reported to the Technology Transfer Office also in cases in which the inventor sees commercial potential in the software and/or patent protection may be possible.

Under the German copyright act (§69b UrhG), the University is entitled to exercise all pecuniary rights to computer programs if the program was created by an employee in the course of tasks assigned by, or under instructions from, his/her employer

### **IV Exploitation of intellectual property**

Intellectual property may be put to non-commercial or commercial use in various ways which entail various opportunities and risks, depending on their nature.

The University of Tübingen has a number of differing strategies for the exploitation of intellectual property. We examine each case for its optimal benefit to society and potential for financial yield. This is why we do not use standardized contracts; such a one-size-fits-all approach cannot do justice to the differing merits of each case. Regardless of the various paths to exploitation of intellectual property, the University claims the right to use intellectual property for research and teaching. Similarly, the University's duty to publish information is taken into account when exploitation of intellectual property is being planned.

#### ***A. Licensing***

The University of Tübingen prefers the licensing of property rights to their sale because the property rights then remain with the University, ensuring flexibility when it comes to issuing usage rights (licenses may be issued exclusively or non-exclusively, for one or more partners, in various market or technology sectors, globally or restricted to a certain region). Licensing ensures that clients, collaboration partners and newly-founded enterprises can make individual agreements on the rights and duties involved in using the University of Tübingen's intellectual property rights. The licensing fees are determined by the current market value and the specific field of the licensed products.

## ***B. Sale and transfer***

In certain cases however, the sale or transfer of an inventor's stake or intellectual property rights may be considered. This is particularly the case when research has been commissioned or has been carried out in collaboration with partners outside the University of Tübingen and the particular circumstances justify such an approach. If state-backed sponsors are involved, the relevant provisions must be observed.

## ***C. Founding an enterprise and equity holdings***

The University of Tübingen supports the founding of enterprises (here often called "spin-offs" or "start-ups") based on research results, in order to turn them into marketable products and thereby to help create jobs. Viable new enterprises are frequently based on technologies in which the University has industrial property rights. Secure industrial property rights are a prerequisite for obtaining financial backing from investors and for being able to launch business operations. The University enables the use of these rights usually via an exclusive license for the new enterprise, while observing EU provisions on state aid.

In addition, the University may – within its legal framework – consider becoming a minority stakeholder in the new enterprise, in order to utilize the full potential value of the intellectual property rights. The University does not, however, act as an investor financing new enterprises.

## ***D. Equitable Licensing***

The University of Tübingen welcomes in principle the possibility of equitable licensing models in order to make innovations available within the legal framework, above all in developing countries.

Equitable licensing<sup>2</sup> includes several different licensing models which have been developed primarily to improve access to medical innovations for people in developing countries. The foremost goal is to make diagnostics, vaccines and medications available in places where they would not normally be available. Equitable licensing enables companies to make profits in places where the market permits it, such as in countries with high average incomes, while making treatment cheaper for patients in developing countries. The mechanism of the adjustment of profits, for instance via different prices, makes it possible to transfer medical knowledge, innovations and treatment from richer economies to poorer ones.

## **V. Further parameters for research**

### ***A. Research collaboration***

Collaboration, particularly with commercial enterprises, is possible at all stages of knowledge exchange – from basic research, to the development phase, to the creation of a prototype. However, inventions which are a part of the accumulated intellectual property of the University of Tübingen cannot be

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<sup>2</sup> See also: <http://med4all.org>

commissioned. Rather, they represent a form of performance which goes beyond the results due to the client or collaboration partner.

In regulating the treatment of inventions, EU competition law (Article 87 of the EC Treaty) and its concretization in the Community framework for state aid for research and development and innovation (EC 2006/C 323/01) must be observed. Under these provisions, ceding inventions to contractual partners constitutes giving aid if appropriate payment is not made and insofar as the costs of the project are not charged in their entirety to the contractual partner.

#### ***B. New companies***

To the extent its legal framework allows, the University supports the establishment of new enterprises whose business idea is based on scientific or academic results which arose at the University. In the preparation phase of a new enterprise, the University of Tübingen provides the founders with consultation and funding application advice. In certain circumstances, the University may also provide workspace and/or material resources.