

**Resolution No. 102/VI/2015 of the Senate of the Jagiellonian University  
of 24 June 2015**

**concerning: the adoption of *Regulations for the Management of Intellectual Property and Rules of Commercialization at the Jagiellonian University***

Pursuant to Article 86c, paragraph 1, point 1 of the Act of 27 July 2005 – Law on Higher Education (consolidated text Dz. U. [Journal of Laws] of 2012, item 572, as amended) the Senate of the Jagiellonian University resolves as follows:

§ 1

The Senate of the Jagiellonian University hereby adopts the *Regulations for the Management of Intellectual Property and Rules of Commercialization at the Jagiellonian University* in the wording as in the Annex hereto.

§ 2

The resolution shall become effective on the day of its adoption.

**Regulation for  
the Management of Intellectual Property and Rules of  
Commercialization at the Jagiellonian University**

To ensure the effective management of intellectual property and with respect for the rights of authors, including their right to fair remuneration, and to enable the transfer of results of research performed at the Jagiellonian University to the national economy, taking into account the priority of cooperation with the private sector, and in order to implement Article 86c of the Act of 27 July 2005 – Law on Higher Education, as amended by the Act of 11 July 2014 (Dz. U. of 2014, item 1198), the Senate of the Jagiellonian University hereby adopts these Regulations.

**CHAPTER I**

**Definitions and general provisions**

**§ 1. Definitions**

For the purposes of application of these Regulations, the following definitions shall apply:

- 1) The Regulation – these regulation;
- 2) The University – Jagiellonian University of Krakow;
- 3) author – the person who generated the intellectual property subjects;
- 4) parent unit – the department, inter-departmental unit or other organizational unit of the University in which the author is employed;
- 5) employee – a person who is employed by the University under a contract of employment, appointment, election or assignment;
- 6) intellectual property subjects – subjects of industrial property, works, subject of related rights and databases under *sui generis* protection;
- 7) industrial property subjects – inventions, utility models, industrial designs, trademarks, IC layout designs, cultivated or discovered and derived plant varieties and know-how;
- 8) works – works as defined in the Act on Copyright and Related Rights;
- 9) know-how – information on intellectual property subjects that was not made public, which may be of market, research or scientific value;
- 10) CITTRU – Centre for Technology Transfer CITTRU ;
- 11) The Commission – University Commission on Intellectual Property;
- 12) direct commercialization - direct commercialization as defined in the Act of 27 July 2005 – Law on Higher Education (Dz. U. of 2012, item 572, as amended);
- 13) indirect commercialization - indirect commercialization as defined in the Act of 27 July 2005 – Law on Higher Education (Dz. U. of 2012, item 572, as amended);
- 14) scientific research – scientific research as defined in the Act of 27 July 2005 – Law on Higher Education (Dz. U. of 2012, item 572, as amended);
- 15) development work – development work as defined in the Act of 27 July 2005 – Law on Higher Education (Dz. U. of 2012, item 572, as amended).

## **§ 2. Objective scope**

1. The Regulations define rights and obligations of the University, employees, students and doctoral students as regards the protection and use of University's intellectual property subjects, as well as the rules of remuneration for authors, rules and procedures of commercialization, and rules of using the University's assets, especially intellectual property subjects and research infrastructure used to generate intellectual property subjects.
2. The Regulations shall not apply to scientific works, except for the cases governed herein.

## **§ 3. Basic subjective scope**

The Regulations shall be binding for employees, students and doctoral students of the University pursuant to Art. 65 paragraph 1 of the Act of 27 July 2005 – Law on Higher Education (Dz. U. of 2012, item 572, as amended) at the time of its entry into force, subject to § 4, paragraph 2.

## **§ 4. Extended subjective scope**

1. The Regulations shall apply to contracts concluded with persons other than those listed in § 3 by making the Regulations available to the other party, before the conclusion of the contract or during a legal relationship of a continuous nature, in such a way that it can be stored and reproduced in the ordinary course of business. To incorporate the Regulations into the contractual relationship, suffice it to notify the other party of the publication of the Regulations in the Public Information Bulletin (Biuletyn Informacji Publicznej) of the University with a direct reference to the place of publication.
2. The provision of paragraph 1 shall apply accordingly to employees, students and doctoral students of the University with respect to the regulation of Chapters II and III of the Regulations.

## **CHAPTER II**

### **Intellectual property subjects generated at the University**

#### **§ 5. Rights to intellectual property subjects generated at the University**

1. Economic rights to intellectual property subjects created under the employment relationship shall belong to the University.
2. Moral rights of authors of intellectual property subjects generated under the employment relationship belong to the authors.

#### **§ 6. Intellectual property subjects generated under the employment relationship**

1. Intellectual property subjects shall be deemed to have been generated under an employment relationship if they were generated by a University employee during his/her employment and in connection with the performance of his/her duties under the employment relationship.
2. Intellectual property subjects generated under an employment relationship shall also include intellectual property subjects generated during a scholarship, university grant, a scientific leave or a secondment to a third-party entity.

## **§ 7. Works of employees**

1. The University shall acquire copyrights in a work generated under an employment relationship upon its acceptance, and in the case of software at the time of its creation, unless the employment contract provides for otherwise.
2. The University may acquire under a separate agreement the right to a scientific work constituting software, a database, an e-learning material or a laboratory journal.

## **§ 8. Intellectual property subjects generated by students and doctoral students**

The University shall acquire rights to intellectual property subjects generated by students and doctoral students only if the University has concluded with the student or doctoral student an agreement that provides for the acquisition of rights by the University or the student or doctoral student's obligation to transfer it to the University.

## **§ 9. Intellectual property subjects generated as a result of contract research commissioned in the University by third-party entities**

1. The University may provide to third-party entities paid scientific research or other research services (contract research) in accordance with the principles set forth in the University Rector's decision and other internal regulations of the University.
2. The rights to intellectual property subjects generated as part of the contract research commissioned in the University by third-party entities shall be governed by an agreement between the University and the third-party entity.
3. The provisions of these Regulations should be incorporated, in the appropriate scope of its application, into the contractual relationship with a third-party entity. The provision of § 4 paragraph 1 applies accordingly.

## **§ 10. Intellectual property subjects generated with the use of the research infrastructure of the University**

1. The University may conclude agreements with third-party entities under which the University provides its own research infrastructure, in particular research equipment or apparatus, and intellectual property subjects to which it is entitled.
2. The rights to intellectual property subjects generated with the University's research infrastructure shall be governed by a contract between the University and the third-party entity.
3. The provision of research infrastructure to employees, students, doctoral students and third-party entities shall be effected in accordance with the rules laid down in a separate regulation.

## **§ 11. Industrial property subjects generated with the significant contribution of the University**

1. In the case when industrial property subjects are generated with the significant contribution from the University, the University shall be entitled to use those subjects free of charge for the purpose of its own activities.
2. Significant contribution from the University in the generation of industrial property subjects means the University's assistance which is a prerequisite for the establishment of a specific industrial property subject, in particular through financial, technical, marketing effort or technical guidance.

## **§ 12. Intellectual property subjects generated as a result of research funded by third-party entities**

1. Rights to the intellectual property subjects generated by research funded by third-party entities, as well as the possibility and scope of the later use of results of such research by the University, shall be governed by the agreement under which this research is being conducted.
2. To the contractual relationship established with a third-party entity, the provisions of these Regulations should be incorporated in the appropriate scope of its application. The provision of § 4 paragraph 1 applies accordingly. In the event of conflict between the provisions of the Regulations with the agreement, the parties shall be bound by the agreement in so far as the contents of the Regulations are contrary to the contents of the agreement.

### **§ 13. Intellectual property subjects created through research conducted jointly with third-party entities**

1. The rights to intellectual property subjects generated by research conducted by the University together with third-party entities, in particular as part of the performance of tasks resulting from the agreement of scientific consortium or scientific and industrial consortium, and the possibility and scope of the subsequent use of the results of such research by the University shall be governed by the agreement under which this research is conducted.
2. The provisions of these Regulations should be incorporated, in the appropriate scope of its application, into the contractual relationship with a third-party entity. The provision of § 4, paragraph 1 applies accordingly. In the event of conflict between the provisions of the Regulations with the agreement, the parties shall be bound by the agreement in so far as the contents of the Regulations are contrary to the contents of the agreement.

### **§ 14. Tangible property**

1. The University shall acquire the ownership of the tangible property, on which the results of scientific research or development work owned by the University are recorded.
2. The tangible property referred to in paragraph 1 include in particular durable media of storage and prototype devices.

## **CHAPTER III**

### **Rules for the protection and use of intellectual property subjects of the University**

#### **§ 15. Basic obligations for the protection of intellectual property subjects**

1. The person specified in § 3 hereof is obliged to report the fact of creation of intellectual property subject in the course of conducting scientific research or development work at the University if it constitutes:
  - a) a result of scientific research which is an industrial property subject, or
  - b) a result of development work, or
  - c) know-how related to these results.
2. The employee who is the author shall report the intellectual property subject to CITTRU, notifying the head of the parent entity.
3. The notification to CITTRU shall be made on a respective form. The notification contains, in particular, a description of the intellectual property subject and the personal data of all authors thereof.
4. The CITTRU's Director shall develop and make available the notification form referred to in paragraph 3.
5. The notification shall be signed by all the authors.
6. Each author is obliged to cooperate with the University to obtain the protection of rights to the intellectual property subjects the University is entitled to, and is obliged to:

- a) keep the confidentiality of the results of scientific research or development works, which constitute intellectual property subjects to which the University may have rights, and the know-how associated with such results,
  - b) provide the University with all the information held, the works and the media on which these works have been recorded and the technical experience required for the commercialization,
  - c) refrain from carrying out any activities aimed at the implementation of research results or development works constituting intellectual property subjects to which the University is entitled.
7. The person specified in § 3 of Regulations is obliged to refrain from any activity that could obstruct the obtaining of exclusive rights by the University.
  8. The Director of CITTRU may request the authors to supplement the information provided in the notification. The author is obliged to undertake any action to allow the commercialization and proper protection of intellectual property subjects of the University, including transferring to the University all the information he/she holds, the works with the storage media on which these works have been recorded, prototypes and the necessary technical experience.
  9. The author is obliged to cooperate with the University to the extent necessary to obtain legal protection for the intellectual property subject the University is entitled to.
  10. A person falling within the scope of these Regulations who has generated or is able to generate an intellectual property subject to which the University is entitled shall be obliged to keep a laboratory journal.

#### **§ 16. Basic duties of students and doctoral students in the protection of intellectual property subjects**

1. A student or doctoral student is obliged to report the generation of the intellectual property subject to the employee of the University who exercises scientific guidance or supervision over such student or doctoral student.
2. The University employee who exercises scientific guidance or supervision over students or doctoral students shall notify the Director of CITTRU of the need to conclude an agreement governing the acquisition of rights in the event of identification of the possibility of generating intellectual property subject during compulsory classes.
3. The Director of CITTRU, in recognition of the need to conclude a contract to purchase intellectual property subjects, prepares and concludes with students or doctoral students a relevant agreement governing the acquisition of rights by the University.

#### **§ 17. Protection of know-how**

1. The person specified in § 3 of Regulations is obliged to maintain confidentiality of know-how if this is necessary to obtain legal protection for the intellectual property subject of the University.
2. The obligation to keep confidentiality of know-how also includes refraining from publishing a work that contains such information if the publication could deprive the University of the possibility to obtain legal protection of the intellectual property subject belonging to the University.
3. The Director of CITTRU or the head of the parent unit may oblige the person responsible for maintaining the confidentiality of know-how to make a unilateral written statement, or to request a written confidentiality agreement. Failure to make the unilateral statement or refusal to conclude the contract does not relieve the person from the obligation to keep confidentiality.

4. Disclosure of know-how may only be carried out upon the consent of the University within the scope of this consent. A statement of consent specifying the scope of this consent shall be made in writing.
5. In the intellectual property agreements concluded by the University, rules on the protection of know-how should be established.

#### **§ 18. Publication and dissemination of employee's scientific works**

1. An employee may publish a scientific work under an agreement concluded with a third party or the University or otherwise disseminate it, subject to the below provisions.
2. The University shall have the priority of publishing the scientific works referred to in § 7, paragraph 2 of these Regulations.
3. The University's priority for publication of the work referred to in paragraph 2 expires if within 6 months from the date of acceptance of the work, and in the case of a work constituting software – from the moment of its creation, no agreement on the release of the work has been concluded with the author, or if within 2 years of the date of acceptance of the work, and for the case of software – from the moment of its creation, the work has not been published.
4. An employee may not disclose information contained in the work, particularly in the form of a publication or public presentation, in case such disclosure would entail the risk of depriving the University of the legal protection of scientific research results or would nullify the University's capability to obtain protection.
5. The employee is obliged to adhere to the University's rules for the financing of publications and the procedure of ordering the publishing services by the University's organizational units, contained in internal regulations of the University.

#### **§ 19. Use of research results**

The employee and the University may freely use the research results obtained by this employee, subject to the provisions of § 17.

#### **§ 20. Related rights and rights to *sui generis* databases**

1. To intellectual property subjects that are subject of related rights the provisions of the Regulations concerning the copyright work shall apply accordingly.
2. Where *sui generis* databases are developed, the rights to these databases are vested in the University as an entity incurring investment risk at their creation. The provisions of the Regulations concerning the copyright work shall apply accordingly within the remaining scope.

### **CHAPTER IV**

#### **Rules of commercialization**

#### **§ 21. Commercialization decision**

1. The decision on commercialization and its manner shall be taken by the Director of CITTRU, taking into account the market or social potential of the intellectual property subject concerned.
2. In the event of the decision referred to in paragraph 1, the Director of CITTRU determines the method of protection of intellectual property subject, which may involve obtaining exclusive rights or securing confidentiality of the know-how and, in the case of exclusive rights, also the objective extend and territorial scope of such protection.
3. The decision referred to in paragraph 1 should be taken within a period of three months from the date of notification of the intellectual property subject by the author. The date of notification is the date of filing in to CITTRU the full information on the characteristics of the notified intellectual property subject to the

extent necessary to establish whether it is reasonable to commercialize it.

4. Within 14 days of submitting the information referred to in paragraph 3, the Director of CITTRU may request the author to supplement it.
5. The Director of CITTRU may decide to use the intellectual property subject exclusively by the University.
6. The decision referred to in paragraph 1 shall be served to the employee in writing, via the head of the parent unit.

## **§ 22. Commercialization**

1. Intellectual property subjects of the University can be the subject of direct or indirect commercialization.
2. Direct commercialization is performed via CITTRU, which acts as a technology transfer centre, in accordance with Article 86 of the Act – Law on Higher Education.
3. The Director of CITTRU is responsible for selecting the partner for direct commercialization, identifies effective methods of direct commercialization and carries out the necessary negotiation with partners interested in direct commercialization, securing the University's economic interests and caring for an effective commercialization process.
4. Indirect commercialization is done via a special purpose company, on the terms set out in separate regulations, in accordance with Article 86a and Article 86b of the Law on Higher Education.
5. Before commencing the commercialization process, the University and the author may contractually regulate intellectual property rights and the manner and procedure of commercialization.

## **§ 23. Remuneration for the author**

1. In the case of commercialization, the authors shall be entitled to a remuneration from the University for the contribution to generate the intellectual property subjects, amounting to:
  - a) 60% of the value of benefits obtained by the University from direct commercialization, reduced by no more than 25% of the costs directly related to this commercialization, which were incurred by the University, or
  - b) 60% of the value of the benefits of the special purpose company resulting from the indirect commercialization, reduced by no more than 25% of the costs directly related to this commercialization, which were incurred by the University or the special purpose company.
2. The costs directly related to commercialization shall be understood as external costs, in particular the costs of legal protection, expertise, valuation of the subject of commercialization and official fees. These costs do not include the costs incurred before the commercialization decision is taken.
3. The values referred to in paragraph 1 determine the amount of the total remuneration or share in the benefits resulting from the commercialization, to which the authors of the intellectual property subject being commercialized are entitled.
4. The remuneration referred to in paragraph 1 shall be paid by the University by bank transfer to the bank account specified by the author, within 3 months of receiving the benefits of commercialization.
5. The University shall notify the author of the commercialization benefits obtained by it, within the following time limits:
  - a) a month from the conclusion of the contract of sale of property rights to the intellectual property subject,

- b) by 31 March of each year in the case of granting a license or renting or leasing out the intellectual property subject – for the year preceding the provision of information,
- c) six months from the end of the company's financial year in the case of indirect commercialization.

#### **§ 24. Transfer of intellectual property subject rights to the author**

1. If the University decides not to commercialize or after the ineffective expiry of the deadline specified in § 21 paragraph 3 of these Regulations, the University shall, within thirty days, submit a proposal or invitation to conclude a contract for the transfer of intellectual property subject rights and tangible property with recorded results of the research.
2. The transfer of rights is unconditional and paid.
3. The contract should be made in writing.
4. The University's remuneration for the transfer of rights may not exceed 10% of the minimum remuneration for work determined as of the date of the contract.
5. The provisions contained in paragraphs 1-4 and § 21 paragraph 3 shall not apply where the intellectual property subject is a result of scientific research or development work carried out:
  - a) under an agreement with a party financing or co-financing such research or work, providing for a commitment to transfer the rights to research or development work results to that party or other entity (contract research or work),
  - b) using funds for which the rules of granting or using set out otherwise the manner of disposing of scientific research or development works and the know-how associated with those results.

#### **§ 25. Remuneration for the University**

1. In the event of commercialization of intellectual property subject acquired by the author as provided for in § 24 of these Regulations, carried out by the author, the University shall be entitled to 25% of the value of the benefits from the commercialization obtained by the author, reduced by no more than 25% of costs directly related to this commercialization and incurred by the author.
2. The costs directly related to commercialization shall be understood as external costs, in particular the costs of legal protection, expertise, valuation of the subject of commercialization and official fees.
3. The University's remuneration should be paid to the University's bank account within 3 months from the receipt of commercialization benefits by the author.
4. The author shall notify the Director of CITTRU the commercialization benefits the author has received, within the following time limits:
  - a) a month from the conclusion of the contract of transfer of property rights to the intellectual property subject,
  - b) by 31 March of each year in the case of granting a license or renting or leasing out the intellectual property subject – for the preceding year,
  - c) six months from the end of the company's financial year in the case of indirect commercialization.
5. The information referred to in paragraph 4 should list: the author's details, title of the intellectual property subject and the numbers assigned to it, the basis for the benefits, dates of their receipt and their amount, date of notification, and the calculation of benefits attributable to

the University along with the list of deducted, documented costs directly related to the commercialization.

#### **§ 26. Internal distribution of benefits derived from commercialization**

1. From the University's share in the benefits from the commercialization, 20% of the profit shall be assigned to the parent units of the authors of the intellectual property subjects, 30% of the profit shall be assigned to the CITTRU budget for commercialization costs, while the remainder part goes to the central budget of the University.
2. Profit, within the meaning of paragraph 1, is the difference in the value of the benefits derived from commercialization and the costs set out in § 23 paragraph 2.
3. Revenues from the commercialization of intellectual property subjects shall be allocated first and foremost to cover the costs of their obtaining and maintaining their protection.

#### **§ 27. Affiliation of intellectual property subjects**

1. Agreements on the commercialization of intellectual property subjects belonging to the University may confer on the other party the right to use the University's trademarks in connection with the exploitation of such intellectual property subjects.
2. Trademarks of the University may only be used to inform the public about the relationship between the intellectual property subject and the University.
3. The University may authorize the use of the note "generated as a result of research at the Jagiellonian University", or equivalent note, in relation to products related to the transferred intellectual property subject.
4. The provisions of this section shall not prejudice the University's internal regulations governing the use of the University's trademarks or the use of its name.

### **CHAPTER V**

#### **Research and development services and the use of the University's assets for the purposes of commercialization**

##### **§ 28. Provision of services**

1. The University may provide paid research and development services to third parties.
2. It is an employee's duty to carry out research under instructions of the supervisor within the scope of provision of research and development services.
3. The employee is entitled to additional remuneration for the participation in the provision of research and development services.
4. The detailed rules for carrying out the work assigned to the University by third-party entities are determined by the Rector of the University.

##### **§ 29. Use of assets of the University for the purposes of commercialization**

The use of University's assets for the purposes of intellectual property subjects commercialization shall be governed by the University's internal regulations.

## **CHAPTER VI**

### **University Commission on Intellectual Property**

#### **§ 30. Organization of the work of the Commission**

1. The Commission shall be composed of at least 7 members. The permanent members of the Commission are the Vice-Rector of UJ for scientific research matters, the Vice-Rector of UJ for the Collegium Medicum or his/her appointee, and the Director of CITTRU. The remaining members of the Commission shall be appointed and dismissed by the Rector of the University for the period of his/her term.
2. The Commission is a permanent Rector's commission.
3. The President of the Commission is the Vice-Rector of UJ for scientific research matters. From among members of the Commission, the Secretary of the Commission responsible for documentation of the Commission's work shall be selected. The administrative support for the Commission shall be provided by CITTRU.
4. The Commission makes decisions and expresses opinions in the form of resolutions. Adoption of a resolution requires simple majority of the votes in the presence of at least half of the composition of the Commission.
5. A Member of the Commission whose personal or property interests are related to the case being handled by the Commission, or where the Commission is considering an appeal or giving an opinion on a matter in which a Member of the Commission has participated in a previous ruling, shall be excluded from the vote.

#### **§ 31. Powers of the Commission**

The Commission shall be responsible for the following:

- a) taking the decisions provided for in the Regulations;
- b) establishing subcommittees and the appointment of experts and consultation with employees, including in particular with regard to the examination of market potential of the intellectual property subjects;
- c) setting out internal regulations concerning matters within its responsibility, subject to the provisions of these Regulations;
- d) resolving disputes arising out during the management of the University's intellectual property, including during the establishment of spin-offs;
- e) initiative to amend these Regulations;
- f) expressing opinions on matters related to the protection and commercialization of intellectual property subjects;
- g) acceptance of the CITTRU's Annual Report on the protection and commercialization of intellectual property subjects at the University;
- h) taking other activities in relation to intellectual property subjects which are or may be the subject of University's rights, that are ordered or accepted by the Rector of the University.

#### **§ 32. Dispute resolution by the Commission**

1. The Commission shall resolve disputes concerning the following matters:
  - a) performance of the obligation to notify intellectual property subjects generated at the University,
  - b) authorship of intellectual property subjects generated at the University,
  - c) distribution of the rights to intellectual property subjects generated at the University,
  - d) rules for the use of intellectual property subjects by the University, its employees, students, doctoral students, or other authors of intellectual property subjects generated at the University,
  - e) distribution of benefits deriving from commercialization,

- f) other matters provided for in the Regulations concerning the rights and obligations of employees, students, doctoral students or other authors of intellectual property subjects generated at the University.
2. Proceedings in the cases specified in paragraph 1 shall be initiated upon a written request to the Commission under the rules and regulations adopted by the Commission.

### **§ 33. Commission decisions**

1. The Commission shall, without delay, settle the matters referred to in these Regulations.
2. The Commission shall issue written decisions and provides grounds for the decision by presenting factual and legal grounds for the decision.

## **CHAPTER VII**

### **Transitional and final provisions**

#### **§ 34. Transitional Provisions**

1. The intellectual property generated prior to 1 October 2014 shall be governed by the provisions of Resolution No. 5/II/2007 of the Senate of the Jagiellonian University of 28 February 2007 (as amended) on the Regulations "Rules on Intellectual Property and Legal Protection of Intellectual Property Subjects at the Jagiellonian University".
2. The intellectual property generated from 1 October 2014 until the date of entry hereof into force shall be governed by the provisions of Resolution No.5/II/2007 of the Senate of the Jagiellonian University of 28 February 2007 (as amended) concerning the Regulations "Rules on Intellectual Property and Legal Protection of Intellectual Property Subjects at the Jagiellonian University" as modified by the changes resulting from the Act of 11 July 2014 on the amendment of the Act – Law on Higher Education and some other acts (Dz. U. of 2014, item 1198).
3. The intellectual property subjects the work on which have been commenced prior to the adoption of these Regulations but generated after the date of its entry into force shall be governed by the provisions of these Regulations.

#### **§ 35. Final provision**

The Regulations shall enter into force on the day of their adoption by the Senate of the Jagiellonian University.