
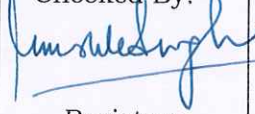





Vill- Hadauri, Post- Tindola, Lucknow – Deva Road,
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Model guidelines on implementation of IPR policy

(2019-20)

Ref. No: SRMU/RO/Policy/ SI/2018-19/21 Issue No. – 01 Date of Issue: June 29, 2018	Prepared By: -  Director (Research & Consultancy)	Checked By: -  Registrar	Approved By: -  Vice Chancellor
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MODEL GUIDELINES ON IMPLEMENTATION OF IPR POLICY

The youth today is the key to creating, nurturing, building and strengthening creativity and innovation. Student-focused policies ensure that change is initiated and supported by students, especially in light of envisioning a young and healthy start-up ecosystem. The R&D facilities, infrastructure and other amenities provided by the academic institutions, offer a platform for students to build and sustain a creative and innovative environment.

The ultimate goal of these model guidelines is to promote student-led start-ups and ventures to protect and respect intellectual property. Additionally, these guidelines are not intended to override the best practices already followed by most of the academic institutions. The use of these guidelines is intended to complement the existing intellectual property laws of India. All academic institutions are free to adopt and/or implement subsequent process of policy implementation, as well as propose further strategies for the same.

Objective

Intellectual property (IP) refers to creations of the mind: inventions; literary and artistic works; and symbols, names and images used in commerce. IP is protected in law by, for example, patents, copyright and trademarks, also called as Intellectual Property Rights (IPRs), which enable people to earn recognition or financial benefit from what they invent or create.

An intellectual property rights policy is the cornerstone of innovation and creativity for academia. It provides structure, predictability, and a framework for talented minds to do what they do best: create and innovate.

The overall aim of Model Guidelines on Implementation of IPR Policy for Shri Ramswaroop Memorial University, SRMU, is to nurture the spirit of innovation and translate these into products, processes, and services for commercial exploitation in wider public good. The aim is to contribute in transforming industry and society, by delivering research-led education, promoting innovation, collaboration and fostering human values.

These model guidelines have the following objectives:

- ❖ To provide a framework to foster innovation and creativity in the areas of technology, sciences, and humanities by nurturing new ideas and research, in an ethical environment.
- ❖ To protect intellectual property (IP) rights generated by faculty/ personnel, students,

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and staff of Shri Ramswaroop Memorial University, SRMU, by translating their creative and innovative work into IP rights.

- ❖ To lay down an efficient, fair, and transparent administrative process for ownership control and assignment of IP rights and sharing of revenues generated by IP, created and owned by Shri Ramswaroop Memorial University, SRMU. Additionally, in cases of government funded research, the inventor(s)/ organization(s), Shri Ramswaroop Memorial University, SRMU Would disclose their IP filings to the Government Agency(s) that have funded their research.
- ❖ To promote more collaborations between Shri Ramswaroop Memorial University, SRMU and industry through better clarity on IP ownership and IP licensing.
- ❖ To create a mechanism for knowledge generation and its commercial exploitation. The purpose of IP commercialization is also to augment the financial self-sustenance goals of Shri Ramswaroop Memorial University, SRMU & its labs and to reward faculty and researchers.
- ❖ To establish an IP cell for supporting all innovation, creativity and IPR related endeavors of students, research scholars and faculty members.


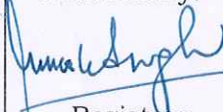

Scope of Guidelines

- ❖ These guidelines shall apply to all Intellectual Property created at Shri Ramswaroop Memorial University, SRMU as well as, all IP rights associated with them, from the date of implementation of these guidelines.
- ❖ These guidelines shall apply to all researchers who have established legal relationship with Shri Ramswaroop Memorial University, SRMU, based on which the researcher is bound by these guidelines. Such a legal relationship may arise pursuant to the provision of law, collective agreement or individual agreement (may refer to employment/ retainer-ship contract/pursuance of studies or any other legal arrangement).
- ❖ These guidelines shall not apply in cases in which the researcher entered into an explicit arrangement to the contrary with Shri Ramswaroop Memorial University, SRMU prior to the effective date of the guidelines, or Shri Ramswaroop Memorial University, SRMU previously entered into an agreement with a third party concerning rights and obligations set out in these guidelines.

Ownership of IP

The ownership rights on IP may vary according to the context in which the concerned IP was generated. In this regard, a two-tier classification is suggested for adoption:

IP generated from research conducted by utilizing resources of Shri Ramswaroop Memorial University.

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I. PATENTS

- ❖ All inventions whether made by student/researcher/faculty (in furtherance of their responsibilities with Shri Ramswaroop Memorial University, SRMU), developed by utilizing the resources of SRMU or with the mix of funds, resources and/or facilities of Shri Ramswaroop Memorial University, SRMU, shall ordinarily be vested.
- ❖ If Shri Ramswaroop Memorial University, SRMU, determines that an invention 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 the university, then the invention shall vest with the individual(s)/inventor(s).

II. COPYRIGHT

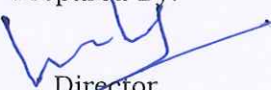
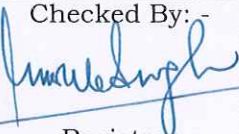

- ❖ The ownership rights in scholarly and academic works generated utilizing resources of Shri Ramswaroop Memorial University, SRMU, including books, articles, student projects/dissertations/ theses, lecture notes, audio or visual aids for giving lectures shall ordinarily be vested with the author(s).
- ❖ 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 Shri Ramswaroop Memorial University, SRMU, shall ordinarily be vested with the university. The moral rights shall continue to vest with the author(s) wherever applicable.

III. TRADE MARKS

- ❖ The ownership rights in all trademarks involving Shri Ramswaroop Memorial University, SRMU shall ordinarily be vested with the academic institution. The university may formulate necessary guidelines regarding the usage of the name of Shri Ramswaroop Memorial University, SRMU through their trade mark.
- ❖ If Shri Ramswaroop Memorial University, SRMU determines that the creator of the trade mark was created by an individual(s) on his/ her own time and unrelated to his/ her responsibilities [e.g. name of a company/ start-up venture by the student(s)], then the right to the same shall ordinarily be vested with the said individual(s).

IV. INDUSTRIAL DESIGNS

- ❖ All industrial designs whether made by student/ researcher/ faculty (in furtherance of their responsibilities with Shri Ramswaroop Memorial University, SRMU) developed by utilizing the resources of the university or with the mix of funds, resources and/or facilities of the university, shall ordinarily be vested with Shri Ramswaroop Memorial University, SRMU.

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- ❖ If Shri Ramswaroop Memorial University, SRMU determines that the industrial design was created by an individual(s) on his/her own time and unrelated to his/her responsibilities towards the academic institution and was conceived or reduced to practice without the use of resources of the academic institution, then the industrial design shall vest with the individual(s).

V. SEMICONDUCTOR INTEGRATED CIRCUITS AND PLANT VARIETY

- ❖ The ownership rights over integrated circuits and plant varieties, with the utilization of resources of Shri Ramswaroop Memorial University, SRMU, shall vest with the university.
- ❖ If the university determines that the semiconductor integrated circuit layout design or plant variety was created 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 the university, then the semiconductor integrated circuit layout design or plant variety shall vest with the individual(s).

IP generated from research conducted in collaboration with external partners

- ❖ With regard to research conducted in collaboration with external partners, ownership of IP shall be determined as per the terms and conditions in the agreement signed between the concerned parties. However, unless agreed upon explicitly, Shri Ramswaroop Memorial University, SRMU shall normally retain perpetual, royalty free license to use the IP for research and educational purposes.
- ❖ In the absence of a specific agreement between Shri Ramswaroop Memorial University, SRMU, and the external partner, who is providing support for research, the IP rights shall be shared amongst the concerned parties, similar to the royalty proportion set out under “**Licensing and Revenue Sharing**” section in these model guidelines.

Commercialization and Benefit Sharing

Types of IP licensing and assignment

Licensing and assignment of IPRs to a third party are the most common modes of IP transfer that can lead towards commercialization of IP. While both licensing and assignment involves giving certain rights to another party, the key difference is that assignment involves transfer of ownership, while licensing is limited to permitting certain uses.

In general, it is recommended that Shri Ramswaroop Memorial University, SRMU would try to use the mechanism of licensing, so that ownership rights on the IP may be retained without hindering the prospects of commercialisation.

Types of licensing that may be used:

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- ❖ **Exclusive licensing:** The licensor licenses the IP solely to one licensee. In other words, the licensee will be the only one authorized by the licensor to use and exploit the IP in question. To the extent possible, exclusive licenses should be avoided.
- ❖ **Non-exclusive licensing:** The licensor is permitted to enter into agreements with more than one entity for use and exploitation of the IP. In other words, the same IP may be used by different licensees at the same time for the same purpose or for different purposes.
- ❖ **Sub-licensing:** This is applicable when a licensee wishes to further license the IP to another party(s). Permissions pertaining to sub-licensing need to be clarified explicitly in the agreement between Shri Ramswaroop Memorial University, SRMU/ researchers and licensee(s).

Given the abundance of creativity and innovation taking place at Shri Ramswaroop Memorial University, SRMU and diversity of the creation or innovation so generated, the university may combine elements of the aforementioned types of licensing or use other forms of licensing, such as – know-how licensing, etc.

Encouraging Entrepreneurship and Start-ups


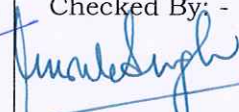
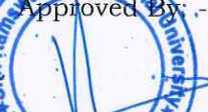
To promote and encourage entrepreneurial activities by its staff, Shri Ramswaroop Memorial University, SRMU, may reassign, under an agreement, its ownership of an intellectual property to the inventor(s) or creator(s) of the property, who opt to market, protect and license it on their own with minimal involvement of the university. ***The fees to be paid to Shri Ramswaroop Memorial University, SRMU by the assignee consist of all patenting and licensing expenses and appropriate amount of royalties, equity or other value received by the inventor(s) or creator(s).***

The university would endeavour to exploit the IP either by itself or by commissioning an agency to bring to fruition the IP produced by its personnel. The inventor(s)/creator(s) may seek the university, to assign the rights to them after a certain holding period. To promote a start-up/ venture set up by a researcher, it may be exempted from any upfront fee and/or royalty accrued to Shri Ramswaroop Memorial University, SRMU for a certain period.

Licensing Agreements and Revenue Sharing

Research outputs generated as a result of utilization of resources of Shri Ramswaroop Memorial University, SRMU.

- ❖ The university is free to enter into revenue sharing agreement(s) with the researcher(s), in cases of commercialisation 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 commercialisation.*** The university may adopt various models for royalty sharing amongst creator(s)/inventor(s) and institution/organization; a suggestive arrangement is given below:
- ❖ **The ratio of revenue sharing: 20% of the royalty/ technology transfer amount with the researcher and 80% with Shri Ramswaroop Memorial University, SRMU.**


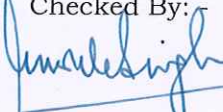

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❖ **Deciding the division of royalty/ technology transfer amount on fixed slabs basis.**

- ❖ 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. This is particularly relevant, as provisional patent applications may have to be filed by the innovators before any disclosure of the innovation. Only the income beyond such costs needs to be shared with the **University**.
- ❖ The researchers share may continue to be paid, irrespective of whether or not the individual continues as a researcher at the **University**.
- ❖ 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 (for example, at the time of filing of patent 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.
- ❖ With regard to the IP-related revenues earned by the **University**, 50% of the revenue may be used for creating the **University** IP management fund. This fund may be utilized for any activity relating to commercialisation and maintenance of IPR or obtaining IPR in any other country, or for capacity building in the area of IP protection. Further, 10% of the share may be paid to the **University** as administrative charges, and 40% may be made available to the concerned department for the purchase of equipment or materials, including Annual Maintenance Contracts (AMC), or for any other academic/research activity, including promotion of science and innovation.
- ❖ In the case where the copyright vests with the author(s) [as mentioned under IP generated from research conducted by utilizing resources of the **University**. The **University** shall have a non-exclusive, royalty free, irrevocable, and worldwide license to use the IP for research, non-commercial and educational purposes. Additionally, in cases where the academic institution is the owner of copyright in lecture videos and/or MOOCs, the author(s) shall have a non-exclusive, royalty free, irrevocable, and worldwide license to use the IP for research, non-commercial and educational purposes.

Research outputs generated in collaboration with external partners

- ❖ The revenue sharing on any IP generated from a partnership between the **University** and external partners may be based on the agreement signed between the **University** and the external partner at the beginning of such collaborations.
- ❖ In circumstances wherein, the assignee or the licensee has not taken adequate steps for the commercialisation of the **University**-owned intellectual property, the **University**

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may consider revocation of the license and assigning it to another party, after following due process. It is important to add this as a clause in any agreement entered into by the **University**, with regard to commercialisation of technologies.

Limitation of Liability

All commercialisation agreements shall clearly mention that the **University** is protected and indemnified from all liability arising from development and commercialisation of the IP.

Sharing of Costs with regard to IP protection

With regard to the costs involved in IP protection, the following is suggested:

- ❖ The expenses involved in obtaining and maintaining IP protection may be shared between the parties, depending on who owns the IP. If the **University** is the sole owner of IP, the costs of IP protection shall be borne by the **University**.
- ❖ In case the **University** refuses to incur expenditure in protecting IP, inventor may be allowed to file IP applications in the name of the **University** at their own costs. Under such circumstances, IP filing costs may be recouped as per the provisions relating to benefit sharing as described under the Licensing agreements and revenue sharing section.
- ❖ If the IP ownership is shared with external partners, the costs for IP protection may be shared by both the parties, based on the terms and conditions provided in the agreement.
- ❖ It is preferable that any costs involved in the transfer of rights/ ownership of the **University**-owned IP may be borne exclusively by the licensee, assignee or person acquiring such rights.

Waiver of IP rights by the University

- ❖ Subject to any associated agreements, or any other agreement thereof, the **University** may waive its rights, if the **University** decides not to pursue the protection of IP within a period fixed by the **University** from sufficient disclosure by the researcher(s) to the **University** (for example: nine months).
- ❖ 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 **University** shall retain a non-exclusive, royalty-free, irrevocable, and worldwide license to use the IP for research and educational purposes.

Use of University IP Resources

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The **University** may allow the use of the following IP resources by third parties as per conditions given the reunder:

- ❖ Intellectual Property already in existence and owned by the **University**
- ❖ Usage of the name, logo, or trademark of the **University** in the creation and marketing of intellectual property.

Conditions:

1. They will be used only in public interest;
2. They will be used:
 - ❖ 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).

Dealing with IP rights owned by third parties


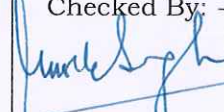

Use of technology protected by IPRs like patents and designs

It is possible that researchers may have to 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. Some of the licenses may have restrictions with regard to kind of usages permitted. It is important to ensure that due and necessary permissions are 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.

Use of copy righted materials

Whenever researchers use copyrighted material for teaching or research purposes, it needs to be ensured that the use is within the permission obtained from the concerned copyright holder(s) or is within the boundaries of exceptions provided under the Indian copyright law. The scopes of different educational use-related exceptions under Indian copyright law have been interpreted by different courts in India.

- ❖ The **University** may create an Institutional Repository and a link to the same may be provided on their official website. This 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.
- ❖ The researchers may be encouraged to license their works under an open license so that other researchers can also use the research outputs by providing appropriate

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attribution to the researchers.


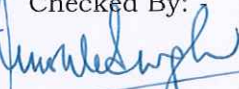


Publications

- ❖ 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**.
- ❖ While the researcher may publish material relating to the research, it may be better for both the researcher and the **University** to jointly decide on any publication to be made.
- ❖ Particular care needs to be taken that no publication is made till the patent, if applicable, is filed.
- ❖ The **University** may retain the right to require exclusion of certain portions from the information being published.

Disputes & Appeals

- ❖ The **University** may appoint a committee of experts to address the concerns of the aggrieved person(s) and all disputes there under shall be dealt with by this committee.
- ❖ The decision taken by this committee should be within a prescribed time period (as decided by the academic institution/ committee) from submission of said concern. Over and beyond the above, with respect to any legal dispute arising under these guidelines, the relevant provisions of law shall be applicable.
- ❖ 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**.
- ❖ 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 Ad judicature nearest to the **University**, may be opted and the same shall be governed by the appropriate laws of India.

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