



INTELLECTUAL PROPERTY RIGHTS POLICY

TEZPUR UNIVERSITY



IPR Policy of Tezpur University

INTELLECTUAL PROPERTY RIGHTS POLICY

2018

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TEZPUR UNIVERSITY
(A CENTRAL UNIVERSITY)

IPR Policy of Tezpur University

Preface

Formulation of the IPR policy for Tezpur University has been one of the significant steps towards creating and securing an IPR conscious ecosystem.

This Policy provides directives to all persons and institutions associated with Tezpur University on processes to be followed by its faculty, staff, students, collaborators, funding agencies and their like, about products of their creative endeavours, converting them into effective intellectual property (IP), transacting their generated IPR in the course of knowledge transfer for commercialisation and societal growth. Tezpur University recognises that efficient management of IPR within its educational system will not only enhance the quality of education and research but will also ensure cohesive development of worthy human resource with added skills embedded with ethical values.

Bringing in clarity to the concepts of creator and owner of the intellectual output in the University system, this policy provides the guidelines on 'ownership' of the said creations and processes to be followed for their protection using various tools of IPR. Further, the IPR Policy also provides the formalities to be followed for dealings of such IP by the owners of the IP.

The policy throws light into the mechanism of benefit sharing to be followed for revenue generated from commercialisation of IPRs to suitable partners.

The policy specifically mentions about the IPs in specific domain where the university shall uphold its ownership, while it also talks about certain creations, created under specific conditions, where university may forego its ownership.

Upholding the essence of being a Government funded institution, the Policy advises all the people working from the university platform to take concerted efforts to ensure that benefits of the university creations are made available to the largest sections of our society.

The policy also sets directives for addressing any potential conflict of interest while transacting its IP. The readers will also come across a prescribed approach for tackling IP disputes between the creators and Tezpur University.

IPR Policy of Tezpur University

	Contents	Page Nos
1.	Background	1
2.	Key features of the Tezpur University IPR Policy	2
3.	Responsibilities of the TUIPR Cell	3
4.	Creation of Intellectual Property and Ownership	4
5.	Disclosure of the creations to the University	4
6.	Ownership	5
7.	IP transactions, technology transfer and interactions with other agencies on IPR matters	10
8.	Conflict of interest	12
9.	Dispute resolution	12

IPR Policy of Tezpur University

1. Background

Tezpur University (TU) was established in 1994 by an Act of Parliament [Act 45 of 1993]. The objects of this Central University as envisaged in the first schedule are that it shall strive to offer employment oriented and interdisciplinary courses to meet the local and regional aspirations and the development needs of the state of Assam and also offer courses and promote research in areas which are of special and direct relevance to the region and in emerging areas in Science and Technology.

The University since its inception has continually traversed a visionary path and strived to achieve academic excellence in creative teaching and research with a firm commitment to simultaneously serve the community through well targeted socially oriented outreach programmes. Efforts have also been directed towards knowledge development and transfer to industry for their possible commercialisation. In this context, the effective use of Intellectual Property Rights (IPR) within the university ecosystem becomes relevant.

The University therefore considered it pertinent to create its IPR Policy (TUIPR Policy) and set up a dynamic IPR Cell (TUIPR Cell) to ensure that the University seamlessly integrates IPR in its educational value chain.

This TUIPR Policy provides directions to all persons and institutions associated with Tezpur University on processes to be followed by its faculty, staff, students, collaborators, funding agencies and their like, with regard to products of their creative endeavours, converting them into effective intellectual property (IP), transacting their generated IPR in the course of knowledge transfer for commercialisation and societal growth.

IPR Policy of Tezpur University

Tezpur University recognises that efficient management of IPR within its educational system will not only enhance the quality of the education and research, but will also ensure cohesive development of worthy human resource with added skills embedded with ethical values.

The TUIPR Policy further derives synergy from the Choice Based Credit Transfer Courses in IPR in which the students get exposed to the fundamentals of IPR and how it is used in the national and global context.

2. The key features of the Tezpur University IPR Policy are:

- 2.1 Setting up of a TUIPR Management Committee with defined role and responsibilities for overall management of IPR in Tezpur University
- 2.2 Operationalising an interactive framework and process for identification, documentation and assessment of “Creations” resulting from activities in the University and protecting them with appropriate tools of IPR. This includes systems and processes for the determination of ownership, rights/ responsibilities and modes of benefit sharing with the innovators on earnings from commercialisation of their Creations and IPR
- 2.3 Providing a platform for the undergraduate and post graduate students for protection of their innovations created during their educational process in the University
- 2.4 Establishing a system and process for transfer of technology and commercialization of “Creations” at various stages of the innovation value chain to ensure that Tezpur University does not knowingly infringe IPR of others
- 2.5 Formalising material transfer agreements between the University and other organisations, technology transfer processes and IPR generated

IPR Policy of Tezpur University

through collaborative projects, IPR issues related to acceptance of grants from various organisations, government and non-government bodies including industries, financial institutions, angel investors, etc.

- 2.6 Addressing IPR issues related to short/long term assignments taken up by Tezpur University personnel including similar assignments taken up by persons from other organisations with Tezpur University.
- 2.7 Providing guidelines on conflict of interests, resolution of conflicts related to non-compliance to the University IPR Policy.
- 2.8 Managing ownership and IPR related to publications and/or technology including development of course materials, books, thesis, kits, and works done under affiliation of Tezpur University.
- 2.9 Facilitating effective IPR Protection to grassroots innovators by advising on their innovations.

3. The TUIPR Cell is given the following responsibilities:

- 3.1 Evaluation of the University creations and their proprietary protection.
- 3.2 Maintenance of University IP Portfolio.
- 3.3 Creation of linkages with knowledge transfer agencies for commercialization of University IP.
- 3.4 Initiation and participation in processes for the transfer of University's technologies and IP for commercialisation facilitation of all IP transactions between TUIPR Cell and external agencies
- 3.5 Issuance of drafts of all contracts Licensing, Assignments, Non-Disclosure Agreements, Material Transfer Agreements etc.
- 3.6 Advice on clauses related to IP in all agreements, contracts, non-disclosure agreements, material transfer agreements and their like.
- 3.7 Execution of all functions to ensure implementation of the IP Policy.

IPR Policy of Tezpur University

4. Creation of Intellectual Property and Ownership

Creations by University personnel that include the faculty, staff, students, with their collaborators from within the University and other institutions/agencies [called “*CREATORS*” in this document] including consultancy, sponsored work, and their like shall come under the ambit of this IPR Policy.

The creations may be inventions, non-functional distinctive designs of articles, expressions, representations by way of logos optionally in combination of words/sounds/distinctive shapes/ornamentations, teaching material, thesis, books, reports, etc which result from activities related to their jobs and/or diverse functional association or engagement with Tezpur University.

This IPR Policy provides the guidelines on ownership of the said creations and processes to be followed for their protection using the various tools of IPR such as patents, industrial designs registrations, copyright, trademark, geographical indications, topographies of integrated circuits, protection of new plant varieties and trade secrets. Further the IPR Policy also provides the formalities to be followed for dealings of such IP by the owners of the IP.

5. Disclosure of the creations to the University

All Creations that fall within the ambit of the definition given in clause 4 have to be necessarily disclosed to the University following using the Innovation Disclosure Form (IDF) to enable the University to decide on the next course of action on whether the creation--

- i. shall be owned by the University or ownership by University will be

IPR Policy of Tezpur University

waived off

- ii. can be publicly disclosed and if so its timing and the form of the public disclosure
- iii. needs to be protected as University's IP

When a creator wants to bring his/her technology under Intellectual Property Rights of Tezpur University, no public disclosures (by way of presentations in conferences, seminars, publications, etc) shall be made of their creations.

6. Ownership

6.1 The title to "Creations" resulting from the use of significant resources of Tezpur University shall lie with Tezpur University. All such creations regardless of the source of funding shall be first disclosed and assigned to Tezpur University as per the disclosure requirements in clause 5.

In case of sponsored projects or projects that are governed by contracts between Tezpur University and another institution, the ownership of the IPR shall be governed by the terms and conditions set in the said contracts. Even in such cases, the first disclosure of the creations shall be done to Tezpur University and all matters related to IPR of the said creations shall be administered by Tezpur University in consultation with the parties in the said contracts.

For all creations made under the affiliation of Tezpur University, the creators shall not sign any documents as regards to the ownership of the Intellectual Property Rights of the creations without the explicit written directions of Tezpur University.

Explanation: The University claims ownership of all intellectual property created by:

IPR Policy of Tezpur University

- (a) personnel employed by the University in the course of their employment;
- (b) students who are enrolled in the courses offered by the University;
- (c) faculty / staff/ students/ research fellows and by other persons engaged in study or research in the University who, as a condition of their being granted access to the University's premises or facilities, have agreed in writing that this Part shall apply to them; and
- (d) persons engaged by the University under contracts for services during the course of or incidentally to that engagement.

If the University decides to own the IP, then the creators shall formally assign their creations to the University as directed by the TUIPR Cell.

6.2 The University shall primarily arrange to bear the initial filing cost of the University owned IP. For bearing these expenses, the “Central IPR Fund “may be considered, which was created for such a purpose. Those having external/internal project funding, may consider bearing the filing cost from the project funds.

All benefit sharing resulting from commercialisation of such IPR shall be based on the conditions set by the University from time to time.

The revenue sharing arrangement between Tezpur University and the creators is 30:70 of the net earnings from the IP (after adjusting all expenditure by Tezpur University to get the said IP) in which the creators have been involved. This sharing arrangement will be

IPR Policy of Tezpur University

periodically reviewed.

6.2.1. Renewal fee for 10 years (i.e. half of the term of the patent protection) shall be provided by the University for Indian Patents filed from the University. If the patent remains uncommercialized beyond 10 years, the inventors shall have to bear the maintenance cost for keeping the patent alive, that may be required for further exploration of commercialization.

6.2.2 Owing to huge cost, University shall encourage the inventors to avail the financial support for patent filing in countries other than India through various Govt. agencies. However, if an inventor wishes to use resources from his/her project grant to bear the cost, the University may not have any objection.

6.2.3 International filing routes like PCT may be adopted only for very promising inventions. Thus, University shall not bear the maintenance fee of a patent in foreign soil as the invention is expected to attract investment even before grant. Thus, the assignee shall be bearing all the cost of maintenance after the technology transfer (that is expected to take place before grant).

6.3 In case the University decides not to own the IP of certain creations, then the university shall reassign the rights to those creations in the name of the Creators and the creators shall be free to file the IP Applications in their individual names. In such cases, the creators shall bear all the cost of the IP Applications, prosecution, maintenance, enforcement, commercialisation, etc. Further the

IPR Policy of Tezpur University

Creators shall enjoy the full benefits of any commercialisation and the University shall not get any share of the benefits of commercialisation.

6.4 Ownership of Copyright

This section addresses ownership of Academic Works with the substantial use of University facilities owned or operated by the University:

- i. Field and laboratory notebooks and databases.
- ii. Theses, Dissertations, Reports.
- iii. Question Papers, Exercises and Answers to Tests and Examinations.
- iv. Publications:
 - a. Software and Computer Related Works including works generated by computer hardware or software, firmware, courseware.
 - b. Productions in Digital and other Media, Films, Videos, Photographs, Multimedia works, typographic arrangements, Works of Art, Plays, Lyrics, including all forms of Creative Expressions.
- v. Registered and unregistered designs.
- vi. Works specifically commissioned by the University.
- vii. Any other forms of copyrightable works not covered under i –vii if they may reasonably be considered to possess commercial potential.

The University shall retain ownership of all works listed above created in diverse media specifically for the purposes of implementation of

IPR Policy of Tezpur University

University's academic programmes and for all academic programmes administered and / or conducted by the University.

The University shall own the copyright to all *Theses, dissertations, reports, databases, laboratory note books, and their like* if they are produced using significant resources of the University. Further, all such works that lead to a degree, diploma, certificates, and any programmes conducted by or on behalf of the University or using grants that were administered by the University shall belong to the University. The authors of such works shall obtain a written consent from the University should they wish to have them published by any external publisher. In all such cases, the authors shall make available to the University in advance a copy of the copyright conditions provided to them by the proposed publisher so that the University is able to assess the conditions on copyright set in the publishing contracts, except where special circumstances apply and it is mutually agreed that the author will retain ownership. Where copyright ownership is retained by the author (due to a waiver issued by the University), the Author must grant to the University a royalty-free permission to reproduce and publicly distribute copies of the theses and also to use the same for purposes of teaching, research and any academic activity by the University.

The University does not claim ownership of copyrights in independently authored books and textbooks, articles and other scholarly publications, nor to other creative works *provided* that such works are (i) created by the personal effort of faculty, staff and students; and (ii) do not make significant use of University administered resources; and (iii) are not governed by the terms of a sponsored research or other agreement.

IPR Policy of Tezpur University

All software and databases used in the University shall be licenced software, and it is the policy of the University that all users abide by any and all legal restrictions imposed by the owner of the software or database. Persons using such software shall neither tamper nor indulge in any act (s) that may be breach of the licence and the person indulging in such acts of infringement of the said copyrights shall be solely responsible and liable as per law. No unauthorised software shall be used in any of the University facilities / systems.

7 IP Transactions, Technology Transfer and Interactions with Other Agencies on IPR matters

7.1 The University encourages all Principal Investigators (PIs) to submit their project proposals after review in the university, to appropriate government and other agencies for funding. All such proposals may include a specific request for funding an IP application arising out of such projects. The University also encourages all researchers in Tezpur University to establish working collaborations, joint projects, etc.

7.2 The University shall make all reasonable efforts to establish partners for the transfer of the University Creations for commercialisation through the TUIPR Cell. In this effort, the University may contact potential industry partners or contract such activities to professional agencies involved in IP Transactions and Knowledge Transfer.

7.2.1. All commercialization initiatives of protected technologies owned by the University will be routed through IPR Cell. In case any

IPR Policy of Tezpur University

inventor/start up within the University wishes to negotiate commercialization with some enterprise regarding their technology, that is developed without using significant resources from the University, they may seek No Objection Certificate from the IPR Cell in this regard.

7.3 As a Government funded Institution, the University shall make all efforts to ensure that the benefits of the University Creations are made available to the largest sections of our society. Non-Exclusive licensing shall remain the first option, though exclusive licensing shall be considered on a case to case basis.

7.4 The University shall encourage its students, faculty and staff into an entrepreneurial mode, and help them to establish start-ups with the help of the Centre for Innovation, Incubation and Entrepreneurship (CIIE) and where necessary appropriately transfer the University IPR in favour of the start-ups under well-structured contracts between the University and the start-ups.

7.5 University shall be indemnified in any transactions related to University IP.

7.6 The Creators shall make all efforts to ensure that Tezpur University does not knowingly infringe any IP of other parties. Notwithstanding what has been stated, Tezpur University shall ensure that in all contracts with regard to its IP transactions, Tezpur University is indemnified by the Parties to whom the IP has been transacted with, from any infringement proceedings including without limitation in all

IPR Policy of Tezpur University

such aspects related to production of its IP related products, manufacturing defects, debug obligations associated with software products, etc.

Further, all contracts related to IP transactions between the University and Third Parties, shall indemnify the Tezpur University Creators from all proceedings related to the aspects referred to in this paragraph. Notwithstanding what has been stated in this paragraph, Tezpur University shall retain the right to engage in any litigation concerning its owned IP and transactions.

7.7 The All agreements to be signed by Tezpur University should have the jurisdiction of the court in Guwahati and shall be governed by relevant laws of India.

8. Conflict of Interest:

The Creator(s) of any University Owned IP and its associated transactions shall be declared to the University for any potential conflict of interest. For example, if the Creator(s), their immediate family members are associated in any form with the persons / institutions / organisations/ agencies or have any stake in parties or potential parties with whom the University may be transacting its IP, the Creators of that IP would be required to disclose the details to the University.

9. Dispute Resolution

In case of any disputes between the Creators and Tezpur University with regards to issues related to the IP policy and its compliance, the aggrieved party may appeal to the Vice-Chancellor of Tezpur University. The Vice-Chancellor shall arrange to address the concerns

IPR Policy of Tezpur University

and if necessary, appoint a committee to look into the matter and make recommendations to the Vice-Chancellor. In all such cases the decision of the Vice-Chancellor shall be final and binding on both the concerned parties.

IPR Policy of Tezpur University

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IPR Policy of Tezpur University

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