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In force from: 15.11.2023

## **Procedure for Disposal and Use of Intellectual Property**

### **1. Goal**

The goal of the Procedure for Disposal and Use of Intellectual Property (hereinafter referred to as "the Procedure") is to lay down the operations related to disposal and use of the intellectual property of Tallinn University of Technology (hereinafter referred to as "the university").

### **2. Scope of application**

2.1. The scope of application of the Procedure includes copyright and rights related to copyright and industrial property, the objects of which are inventions, industrial designs, layout-designs of integrated circuits and know-how.

2.2. For the purposes of the Procedure, know-how means confidential, critical and monetarily appraisable, in particular technical information which is expressed in any form and in maintenance of confidentiality of which the university has a legitimate interest.

2.3. The Procedure does not include regulations on trade marks and service marks.

2.4. The Procedure shall be applied in compliance with Regulation No 4 of the University Board "Bases for Disposal of Intellectual Property" (hereinafter referred to as "the Regulation") and Acts and other legislation regulating the field of intellectual property.

### **3. Ownership of intellectual property**

3.1. Economic rights to the results of an author's creative work may belong to the university based on legislation, a contract entered into between the author and the university or on any other basis.

3.2. Pursuant to the Copyright Act, the economic rights of an author to works created in the execution of direct duties, including lectures, computer programmes, databases, belong to the university as the employer.

3.3. Ownership of the economic rights of an author with respect to textbooks and monographs shall be agreed between the author and the university on a case-by-case basis.

3.4. As a rule, the university and the author agree in the employment contract that the economic rights to research articles, conference presentations and materials created in the execution of direct duties belong to the author unless otherwise agreed.

3.5. It may be agreed in the employment contract that certain economic rights of an author will not be transferred to the university if these are not necessary for the university.

3.6. As a rule, the university acquires industrial property rights, including the right to apply for legal protection and the right to become an owner of a patent, utility model, industrial design or any other object of industrial property rights either on the basis of an employment contract entered into with the author or any other contract entered into with a person who participates in a research and development project, but is not in an employment relationship with the university.

3.7. If a student is involved in the implementation of a research or development project conducted by the university, an authorized representative of the university shall enter into a confidentiality and intellectual property rights agreement with the student for the implementation of the specific project. Under the terms of the agreement, the student is required to maintain the confidentiality of the project-related information, shall grant the university a non-exclusive license for the exercise of the author's

moral rights (excluding the right of authorship, the right of author's name and the right of protection of author's honour and reputation) pertaining to the intellectual property owned by the student until the expiry of term of protection of copyright and the economic rights to the intellectual property owned by the student shall be transferred to the university. [entry into force 15.11.2023]

#### **4. Main duties**

4.1. In the course of execution of his/her duties or in any other legal relationship the author creates works and objects that are subject to protection as intellectual property, notifies of the creation of an object of industrial property rights and performs other agreed tasks.

4.2. The expert committee on industrial property (hereinafter referred to as "the committee") makes proposals regarding ownership and legal protection of intellectual property laid down in the Procedure.

4.3. A department shall provide conditions for the creation of intellectual property and promote the protection and commercialization of intellectual property.

4.4. The Vice-Rector for Entrepreneurship shall make decisions on behalf of the university regarding the issues set out in the Procedure by taking into account the proposals of the committee and to the extent laid down in the letter of authorization granted to him or her. [entry into force 01.04.2021]

4.5. The Technology Transfer Office shall arrange legal protection and commercialization of intellectual property in cooperation with the authors and the related structural units. [entry into force 01.04.2021]

4.6. The holder of confidential information must maintain the confidentiality of the information at least until an application for a patent or any other legal protection is submitted to the Patent Office or during the term arising from a contract entered into between the university and the research and development partner unless the university has specified a longer term.

#### **5. Committee**

5.1. The committee is a permanent body with dynamic composition who makes reasoned proposals on legal protection of industrial property to the Vice-Rector for Entrepreneurship.

5.2. The committee includes: [entry into force 15.11.2023]

5.2.1. the Head of Technology Transfer who is chairman of the committee;

5.2.2. a representative of the Research Administration Office;

5.2.3. an intellectual property expert who is also an attested patent attorney.

5.3. If necessary, a representative of the authors and the head of the department concerned or a person appointed by the head of the department or other persons concerned shall be involved in the work of the committee and a confidentiality agreement shall be concluded with them.

5.4. The administrative procedures of the committee shall be arranged by a person appointed by the chairman of the committee. [entry into force 15.11.2023]

5.5. The work format of the committee is a meeting. On the proposal of the chairman of the committee, a meeting may be held by using electronic means of communication (e.g. e-mail, skype).

5.6. A meeting of the committee is called by the chairman of the committee or a person appointed by the chairman of the committee.

5.7. If a meeting of the committee is called, the members of the committee shall be notified of the time and place and provided with the agenda and materials of the meeting, including the opinion of the intellectual property expert and the technology transfer expert, at least one week before the meeting. [entry into force 15.11.2023]

5.8. The committee makes the proposals:

5.8.1. to initiate application for legal protection in the university's name, by defining the list of countries where it would be reasonable to apply for legal protection;

5.8.2. to treat the results of a research and development project as know-how;

5.8.3. not to initiate application for legal protection in the university's name or to waive from maintenance of an invention;

5.8.4. to transfer the rights to the author(s) (preferred) or to interested third parties;

5.8.5. to request additional materials required for the commission to take a decision.

5.9. A person appointed by the chairman of the committee shall take minutes of the committee meeting. Minutes shall be taken in accordance with the university's document management rules. [entry into force 15.11.2023]

5.10. The proposals of the committee are recommendatory for the Vice-Rector for Entrepreneurship.

## **6. Notification, maintenance and management of an object of intellectual property rights [entry into force 15.11.2023]**

6.1. Before publishing the research results, the author shall evaluate the potential for protecting the research findings as intellectual property, particularly through patent protection, as well as explore the opportunities for commercialization, consulting the head of the structural unit and the Technology Transfer Office if necessary. The author shall notify the head of the structural unit and the Technology Transfer Office of the created object of industrial property rights and other objects of intellectual property rights having a commercialization potential on a relevant form, where to the authors' agreement and the intellectual property transfer document shall be appended. The Technology Transfer Office shall make the corresponding forms available on the intranet. [entry into force 15.11.2023]

6.2. The possibilities for grant of use of the object of industrial property rights shall be taken into account upon continuation of the validity of applications for legal protection and protection documents issued. In case of failure to find possibilities for grant of use within three years, the committee, in cooperation with the authors, shall decide on expediency of continuation of validity.

6.3. As a rule, the costs of continuation of validity of applications for legal protection and protection documents issued are covered from the funds allocated for that purpose in the university's budget. If necessary, the committee makes a proposal to the Vice-Rector for Entrepreneurship to cover the costs from other sources.

6.4. The Technology Transfer Office shall keep records of intellectual property notices and industrial property and store the materials related to applications for legal protection and the protection documents issued. [entry into force 15.11.2023]

6.5. The Technology Transfer Office shall enter information on applications for legal protection and issued protection documents in the Estonian Research Information System.

## **7. Transfer of an object of industrial property rights**

7.1. If application for legal protection of an object of industrial property rights in the university's name is not initiated or if the university does not wish to maintain a protection document in its name, the author or, in case of joint authorship, all authors jointly has/have the preferential right to exercise the relevant right. The Technology Transfer Office shall inform the authors of this possibility.

7.2. The author shall notify the Technology Transfer Office of his/her decision to use or not to use his/her preferential right in writing no later than by the deadline laid down by the Technology Transfer Office. If the author informs of the use of his/her preferential right in due time, the university will assign the right to apply for legal protection of the object of industrial property rights and to become owner of the object of industrial property rights to the author for free.

7.3. If the author waives his/her preferential right or fails to submit a notification by the deadline set by Technology Transfer Office, the university has the right to assign the right to apply for legal protection and assume ownership of the object of industrial property rights to third parties.

## **8. Grant of use and disposal of the university's object of industrial property rights**

8.1. Use of intellectual property is granted on the basis of licence agreements. The licence agreements of objects of industrial property rights may be registered in the Patent Office. The Vice-Rector for Entrepreneurship shall make a decision on registration on the proposal of the committee.

8.2. Use of a university's object of industrial property rights, excluding know-how, may be granted after an application for legal protection has been submitted to the Patent Office unless otherwise decided by the Vice-Rector for Entrepreneurship.

8.3. Assignment of rights to a university's object of industrial property rights shall be recorded in writing irrespective of whether legal protection of the object of industrial property rights has been obtained or an application for legal protection has or has not been submitted.

#### **9. Revenue from disposal of and grant of use of a university's object of industrial property rights**

9.1. The revenue from disposal of an object of industrial property rights shall be distributed in accordance with § 4 of the Regulation.

9.2. Fifty per cent of the university's revenue shall be allocated to the academic units of the university who contributed their resources to the creation and development of the industrial property.

#### **10. Permitting free use of works**

10.1. The university may permit free use of works, the economic rights of which belong to the university, under the Creative Commons, GNU, Affero or a similar licence. The university may also give the author the right to grant an exclusive licence.

10.2. The dean or the head of the department in agreement with the dean decides on the terms and conditions of free use of work and on the author's right to grant an exclusive licence.

#### **11. Supervision**

Supervision over the disposal and use of the university's intellectual property shall be exercised by the Technology Transfer Office and the persons appointed by the Rector.