

國立中山大學研究發展成果及技術移轉管理要點

Guidelines on the Management of Research and Development Achievements and Technology Transfers

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111.10.05本校111學年度第1學期第3次行政會議修正通過

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一、宗旨

I. Purpose

為妥善管理本校人員之研究發展成果及協助本校與區域機關相關成果技術移轉授權與推廣，並創造智慧財產權之高附加價值，特定本要點。

These guidelines are formulated to manage the research and development (R&D) achievements of the University, assist in the licensing and promotion of technology transfer between the University and other institutions, and create high added values of intellectual property rights.

二、權益規定

II. Policies of rights and interests

(一) 凡本校人員利用學校資源完成之研究發展成果，包括因研究發展所產生的專利、技術、產品、智慧財產權及其所衍生之權利，除法律及合約另有規定外，其所有權屬於本校。

(1) The University retains ownership of its employees' R&D achievements (including patents, technologies, products, intellectual property rights, and any associated rights) derived from the use of University resources, except for those stipulated by laws or in contracts.

(二) 有關研發成果管理、專利及其他智慧財產權之申請、維護、權益分配(含技術移轉)等事項依本要點辦理。如有未盡事宜，依其它相關法令規定辦理。

- (2) Matters related to the management of R&D achievements as well as the application, maintenance and distribution of patents and other intellectual property rights (including technology transfer) shall be handled in accordance with these guidelines. Matters not covered herein shall be handled in accordance with other relevant laws and regulations.

三、承辦單位

III. Responsible unit

本校研究發展成果管理與推廣之承辦單位為智財新創組。

The Innovation Intellectual Property Division (IIPD) shall be the unit handling matters related to the management and promotion of R&D achievements.

四、技術審查委員會

IV. Technology Review Committee

智財新創組為辦理本項業務成立技術審查委員會，聘任七名學者專家擔任委員，全球產學營運及推廣處產學長及智財新創組組長為當然委員，並由全球產學營運及推廣處產學長擔任召集人，其中二位委員由智財新創組組長推薦校內教師簽請校長同意聘任之，任期二年得連任。另三位委員則依每一案件之屬性，由智財新創組組長聘請校內外專家擔任之。

The IIPD shall establish the Technology Review Committee (hereinafter referred to as the “Committee”) and appoint seven scholars and experts as the Committee members, with the vice president for Global Industry-Academe Collaboration and Advancement serving as a convener. The vice president for Global Industry-Academe Collaboration and Advancement and the director of the IIPD shall be ex officio members. Two faculty members shall be appointed as the Committee members through the recommendation of IIPD director and the President’s approval for a term of two years, with the possibility of reappointment. The remaining three members shall be internal/external experts appointed by the director of the IIPD based on the nature of each case.

五、技術審查委員會之職掌

V. Duties of the Technology Review Committee

(一) 研發成果保護適當態樣之評估、費用負擔、研發成果機密性資訊之解密、技術可專利性及專利申請之審議。

- (1) evaluation of appropriate protection for R&D achievements, cost considerations, decryption of confidential information related to R&D achievements, as well as deliberation on the patentability and patent applications

- (二) 專利維護必要性之審議。研發成果計價、技術移轉價金、技術作價入股及各項授權條件之審議。
- (2) deliberation on the necessity of patent maintenance, as well as valuation of R&D achievements, technology transfer pricing, technology valuation for equity, and various licensing conditions
- (三) 智財新創組運作及發展諮詢，及研發成果公告、推廣等研發成果運用機制之成效評估。
- (3) consultation on the operation and development of the IIPD, as well as evaluation of the effectiveness of the mechanism for the announcement and promotion of the utilization of R&D achievements
- (四) 處理利益衝突迴避及資訊揭露事項。
- (4) handling conflicts of interest and issues of information disclosure
- (五) 其他相關業務。
- (5) other relevant affairs

六、研發成果之智慧財產權保護態樣及其申請程序

VI. Protection and application procedures of intellectual property rights for R&D achievements

- (一) 研發成果應以專利(發明專利、新型專利、設計專利)、營業秘密、技術知識(Know-how)、商標、植物新品種、著作、積體電路電路布局等智慧財產權之態樣適當保護，如保護態樣有疑義時，由技術審查委員會進行評估審定；相關智慧財產權如有向主管機關申請核准或登記之必要時，應依相關規定辦理之。
- (1) R&D achievements shall be protected through appropriate form of intellectual property rights, including patents (invention patent, utility model patent, design patent), trade secrets, know-hows, trademarks, new plant varieties, copyrights, integrated circuit layouts, etc. Any concerns regarding the protection shall be assessed and confirmed by the Committee. If approval or registration from the competent authority is required for the associated intellectual property rights, it shall be handled according to relevant regulations.
- (二) 專利申請案，由發明人或創作人檢附完整資料及填具相關表格提案申請；專利申請案除發明人或創作人100%自費申請或歸屬於國科會計畫之研究發展成果申請國內發明專利以外，其餘專利申請案皆需送技術審查委員會審議，技術審查委員會以每季定期召開一次會議為原則，得視個案情況加開會議。技術審查委員會應於截止收件日起三

十個工作天內完成審查，以爭取時效。

- (2) Patent applications shall be proposed by the inventors with complete documents and required application forms. All patent applications shall be submitted to the Committee for deliberation, except for applications that are 100% self-funded by inventors or applications for Taiwan invention patent of R&D achievements under National Science and Technology Council projects. In principle, the Committee shall meet each quarter, with additional meetings convened as needed depending on specific cases. To ensure application timeliness, the Committee shall complete its review within thirty working days after the submission deadline.
- (三) 申請案經技術審查委員會評審通過，智財新創組應儘速進行正式對外申請程序，同時發明人或創作人應配合備妥必要之申請文件。取得專利後，應知會發明人。
- (3) Upon approval of the application by the Committee, the IIPD shall promptly proceed with the external application process, and the inventors shall prepare and submit required documents for the application at the same time. The IIPD shall notify the inventors once their patent has been successfully granted.
- (四) 專利係以學校為所有人之名義對外申請，而發明人或創作人採共同連署方式；發明人或創作人如為二人以上，除約定有代表人外，一切申請程序均應共同連署。
- (4) Patents shall be applied with the University as the patentee and the inventor co-signing relevant documents. If there are two or more inventors, all inventors shall co-sign during application procedures unless a representative is designated.
- (五) 如專利申請案經技術審查委員會評審未予通過，發明人或創作人仍可以本校為專利權人，向智財新創組通報後，自費申請專利。
- (5) In the event that a patent application is not approved by the Committee, inventors may still apply for the patent at their own expense, with the University as the patentee after reporting to the IIPD.

七、智慧財產權申請費用之分攤

VII. Cost-sharing of application fees for intellectual property rights

相關智慧財產權之申請費用，除專利外，皆由技術審查委員會審議決定發明人或創作人之負擔比例；申請專利者(包含經技術審查委員會專案核准之專利)，申請費、證書費、專利年費、事務所手續費及其它依法令應繳納之專利規費等(以下簡稱專利申請費用)，依下列原則分攤：

Except for application fees of patents, the Committee shall determine the

proportion of application fees for intellectual property rights to be covered by the inventors. Individuals applying for the patent (including those approved through a special request by the Committee) shall cover the costs of application fees, certificate fee, annual patent fees, handling fees for external services, and other legally required patent-related fees (collectively referred to as “patent application fees”) according to the following principles:

- (一) 獲證前之申請費用扣除資助機關補助金額外，發明人或創作人應於申請時自行選擇下列其中之一分攤方案：
- (1) Inventors shall have the patent application fees deducted by any subsidies provided by funding institutions before the patent certificate is granted, and choose one of the following cost-sharing options when applying:

專利費用分攤表：

Table of Patent Cost-Sharing:

| 專利費用分攤比率方案 options for patent cost-sharing | 發明人或創作人分攤比率 the proportion covered by inventors | 校方及資助機關分攤比率 the proportion covered by the University and funding institutions |
|---|--|--|
| A | 10% | 90% |
| B | 30% | 70% |
| C | 50% | 50% |
| D | 100% | 0% |

獲證後之專利費用(包含證書費及前三年維護年費)全由本校負擔。獲證後向資助機關申請之專利費用補助款均轉入專利經費專戶中，作為校方維護及推廣專利之用。

The University shall cover all costs associated with the patent (including the certificate fee and the maintenance fees for the first three years) after the certificate is granted. Any subsidies received from funding institutions for patent costs after receiving the certification will be deposited into a dedicated account of patent fund, and used by the University for patent maintenance and promotion.

- (二) 若為本校與其他學校或研究機構共有之專利，就本校應負擔之獲證前專利申請費用，扣除資助機關補助金額後，發明人或創作人除前款

所列分攤方案外，可另行選擇下列分攤方案：

- (2) For patents co-owned by the University and other universities or research institutions, patent application fees that the University is responsible for shall be deducted by any subsidies provided by funding institutions before the patent certificate is granted, and inventors may choose the following cost-sharing option, in addition to those listed in the preceding Subparagraph:

| 專利費用分攤比率方案 options for patent cost-sharing | 發明人或創作人分攤本校應負擔專利費用之比率 the proportion of patent application fees borne by the University that inventors shall cover | 校方及資助機關分攤本校應負擔專利費用之比率 the proportion of patent application fees borne by the University and funding institutions shall cover |
|---|---|---|
| E | 0% | 100% |

- (三) 研究經費由基金會或私人企業提供者，亦得由經費提供者自行向有關專利主管機關申請，本校不負擔相關費用，其智慧財產權之歸屬仍須依第二點規定辦理。專利審查過程中有被駁回之情況時，其答辯費用分攤方式同本點第一項第一款所列，若超過3次時，依照下列方式辦理：

- (3) When research is funded by foundations or private enterprises, the funding provider may apply directly to the patent authority. The University will not cover any related expenses, but the ownership of intellectual property rights shall still be handled in accordance with Article 2 herein. In the event that a patent application is rejected during the review process, the cost-sharing for defense fees shall follow Subparagraph 1 of Paragraph 1 of Article 7 herein. For more than three rejections, the following methods shall be applied:

1. 中華民國專利：第4次起之答辯費用由發明人自行負擔，若無意願負擔者，則視為放棄該項專利申請。
 - i. Taiwan patent: From the fourth rejection onward, inventors shall be responsible for covering their defense fees. Choosing not to cover these expenses will be deemed as a withdrawal of the patent application.
2. 國外專利：第4次起之答辯費用由發明人自行負擔。若無意願負擔

者，則視為放棄該項專利申請。若該項專利最後獲准，則得向學校申請答辯費用補助；補助方式採檢據核銷，補助總額上限為新臺幣5萬元整。

- ii. Patents granted in other countries: From the fourth rejection onward, inventors shall be responsible for covering their defense fees. Choosing not to cover these expenses will be deemed as a withdrawal of the patent application. Inventors may apply to the University for reimbursement of their defense fees after the patent is finally approved. Reimbursement shall be processed based on valid invoices, with a total subsidy amount of TWD 50,000.

八、專利之維護及讓與

VIII. Patent maintenance and assignment

- (一) 屬本校自有專利者，由校方維護專利年限為三年(若專利專責機關規定之第一期年費涵蓋期間超過三年者，得依該期限為原則，但上限仍不得超過五年)。至校方維護專利年限期滿前，由發明人評估是否仍有授權使用或技術服務之效益，並決定是否自行維護，若發明人無意願自行維護之專利，須與校方簽署同意書，同意由校方全權處理。
- (1) The University shall handle the maintenance of patents it owns for a duration of three years. (In cases where the first installment for patent annual fee stipulated by patent authority covers a period longer than three years, the maintenance duration shall generally follow this period but must not exceed five years.) Before the University's patent maintenance period expires, inventors shall assess whether there are ongoing benefits from licensing or technology services and decide whether to continue patent maintenance at their own expense. Inventors choosing not to maintain their patents may sign an agreement with the University, authorizing the University to handle all relevant matters.
- (二) 屬校方全權處理者，應將該專利進行逾三個月之讓與公告。第三人請求專利讓與時，須經技術審委員會審核同意。若屬政府各機關計畫研發成果申請之專利，須檢具相關資料並經該機關審查同意後，依其相關規定辦理讓與作業。
- (2) The University, which has full authority to handle the patent, shall make an announcement of the patent assignment for a period of three months. Patent assignments requested by a third party shall be reviewed and approved by the Committee. When handling the patent assignment for patents resulting from R&D achievements of government agency projects, cases shall be submitted to the agency with required documentation for review and approval, and processed according to relevant regulations.

- (三) 若無第三人尋求受讓，且經協助本校推廣專利機構之推廣，仍未有技術移轉成案之績效者，經技術審查委員會評估同意終止維護，如該專利為非計畫研發成果之職務創作或發明所申請之專利，則直接終止維護；若屬政府各機關計畫研發成果申請之專利，須檢具相關資料並經該機關審查同意後，依其相關規定辦理終止維護作業。
- (3) The Committee may assess and approve the termination of patent maintenance if no third party shows interest in acquiring the patent and there are no successful technology transfers, even after promotion efforts by patent promotion institutions assisting the University. Patent maintenance shall be terminated directly if the patent pertains to creations or inventions within their work scope but not as part of R&D projects. When terminating the maintenance of patents resulting from R&D achievements of government agency projects, cases shall be submitted to the agency with required documentation for review and approval, and handled according to relevant regulations.

九、專利之侵權處理

IX. Handling of patent infringement

- (一) 本校專利遭受侵害之處理由智財新創組統一委託專業律師處理，本校有關單位及發明人應全力協助之。
- (1) The IIPD shall entrust professional attorneys to handle all patent infringement cases involving the University's patents. Relevant units and inventors shall provide full cooperation in assisting in these cases.
- (二) 侵權之提出由專利發明人或創作人提供具體之事實，經智財新創組取得必要之技術鑑定報告後移交專業律師辦理，但在通知專業律師前得視需要由相關單位聯絡侵權者以取得合法之授權或協調停止侵害之事宜。
- (2) Inventors shall provide specific facts for the patent infringement claim. After obtaining the necessary technology assessment report, the IIPD shall hand over cases to professional attorneys for further handling. However, before notifying the attorneys, relevant units may contact the alleged infringer to seek legal authorization or coordinate the cessation of infringement if necessary.

十、研發成果相關資訊及檔案之管理

X. Management of documentation and information related to R&D achievements

- (一) 本校研發成果在專利申請期間、取得專利證書前，所有資料均應以機密方式管理。

- (1) All information related to the University's R&D achievements shall be managed confidentially during the patent application process and before the receipt of the patent certificate.
- (二) 智財新創組針對已獲得之專利應定期整理以便利用。
- (2) The IIPD shall regularly organize and manage granted patents for utilization.
- (三) 研發成果相關文件及專利申請文件由智財新創組建檔保管，於專利有效期間結束後以適當形式永久儲存。
- (3) The IIPD shall file and manage documents related to R&D achievements and patent applications. After the patent expires, these documents shall then be archived permanently in an appropriate manner.

十一、發明人或創作人之義務

XI. Obligations of the inventors

- (一) 發明人或創作人於專利案之申請、審查、異議、訴願、行政訴訟及司法訴訟等法律程序中應對其發明內容負答辯之責任。
- (1) Inventors shall be responsible for responding to and defending the content of their invention during legal procedures, including patent application, examination, opposition, appeal, and both administrative and judicial litigation.
- (二) 發明人或創作人應配合智財新創組實施該發明之推廣應用。
- (2) Inventors shall cooperate with the IIPD in the promotion and utilization of their invention.
- (三) 發明人或創作人因抄襲等不法手段獲得專利，以致侵害他人權益時，發明人或創作人應負一切責任。
- (3) Inventors shall be liable for any consequences if they obtain a patent through plagiarism or other illegal means infringing on other's rights.

十二、研究發展成果技術移轉之原則

XII. Principles of technology transfer of R&D achievements

凡利用本校資源完成之研發成果不論取得專利與否，均應透過學校行政作業而由學校具名簽訂合約，並採取保護措施，適時尋求技術移轉商品化之機會。技術移轉之原則如下：

All R&D achievements produced using the University's resources, whether patented or not, shall be handled through administrative procedures and contracts signed in the University's name. The University will then take

protective measures, and timely seek opportunity for technology transfers and commercialization. The principles for handling technology transfers are as follows:

- (一) 以公平、公開及有償方式為之。
 - (1) Technology transfers shall be conducted in a fair, transparent, and compensated manner.
- (二) 以公立學校、公立研究機關(構)、公營事業、法人或團體為對象。
 - (2) Recipients of technology transfer shall be public universities, public research institutions, public enterprises, legal entities, or organizations.
- (三) 有關授權製造或使用之地域，應依據該研發成果所屬補助或委託計畫之資助機關規定，以及「政府科學技術研究發展成果歸屬及運用辦法」、「在大陸地區從事投資或技術合作許可辦法」、「對香港澳門投資或技術合作審核處理辦法」等相關規定辦理之。
 - (3) Regions where the transferred technology may be used for manufacturing or utilization shall be determined according to provisions stipulated by the funding institutions for the subsidized or commissioned R&D project, *Government Scientific and Technological Research and Development Results Ownership and Utilization Regulation, Regulations for Investment or Technology Cooperation Permits in China, Regulations for the Review and Handling of Investment or Technology Cooperation in Hong Kong and Macao*, as well as other relevant regulations.
- (四) 以非專屬授權為原則，但有下列情事之一者，得專案申請專屬授權：
 - (4) In principle, technology transfer shall be primarily non-exclusive licensing. Nevertheless, exclusive licensing may be granted through a special application if any of the following conditions apply:
 1. 避免業界不公平競爭致妨礙產業發展者。
 - i. Non-exclusive licensing may result in unfair competition and further obstruct the development of the industry.
 2. 研究成果之移轉為須經政府長期審核始能上市之產品。
 - ii. Transfers of R&D achievements involve products that require extensive review by the government before they can be marketed.
 3. 技轉之商品須投入鉅額資金繼續開發商品化技術者。
 - iii. Products resulting from technology transfer may require significant investment for further development and commercialization.

- (五) 前款專屬授權時應約定本校之師生仍可於學術研發上無償使用該項研究發展成果，不因專屬授權而排除使用。
- (5) Even if the patent is granted exclusive licensing as stipulated in the preceding Subparagraph, faculty and students of the University may still use the R&D achievements for academic and research purposes at no charge. This use shall not be restricted by the exclusive licensing.
- (六) 以技術作價入股方式進行技術移轉授權者，其授權金得參酌技術作價金額，並應由技術授權對象支付營業稅及股票總額2.5%之行政處理費予本校。惟研發成果所屬補助或委託計畫之資助機關有特別規定者，不在此限。
- (6) When technology transfer licensing is through equity valuation, licensing fees may be determined based on the technology's valuation, and licensees shall pay the business tax and an administrative handling fee of 2.5% of the total equity to the University. However, this may not apply if funding institutions subsidizing or commissioning R&D project have specific requirements.

十三、技術授權移轉利益之分配

XIII. Distribution of benefits from technology transfer licensing

- (一) 研發成果授權金及衍生權益金之分配依照「國立中山大學研究發展成果及技術移轉施行要點」分配之。
- (1) The licensing fees and royalty derived from R&D achievements shall be distributed in accordance with the *Guidelines on the Implementation of Managing Research and Development Achievements and Technology Transfers*.
- (二) 專任教師兼職營利事業期間，如將其個人本職所獲得之資訊或專業成果轉換為商業行為(含自行創業)，應先知會智財新創組，其授權金及衍生權益金之分配準用本點第一款規定。
- (2) When full-time faculty concurrently engage in profit-making business activities, they shall notify the IIPD if they utilize information or professional achievements gained from their University work for business purposes (including starting their own business). Distribution of licensing fees and derived royalty shall be handled in accordance with Subparagraph 1 of this Article.

十四、利益衝突迴避及資訊揭露

XIV. Conflicts of interest and information disclosure

本校研究發展成果運用之利益衝突迴避及資訊揭露相關事宜，依照「國立

中山大學執行產學合作計畫及研究發展成果運用利益資訊揭露處理要點」辦理之。

Matters regarding conflicts of interest and information disclosure in the utilization of the University R&D achievements shall be handled in accordance with the *Guidelines on Handling the Disclosure of Interest Information in the Implementation of Industry-Academia Collaboration Projects and the Utilization of Research and Development Achievements*.

十五、校內資源分享

XV. Internal resource sharing

本校各項專利，各單位因教學需要，若需引用，可依實際需要透過智財新創組申請，並經發明人或創作人同意後無償使用。

Individual units intending to use the University's patents for teaching purposes shall apply to the IIPD based on their specific needs, and use the patents free of charge after obtaining consent from the inventors.

十六、智財新創組得接受各公私立大專院校及其他單位委託，辦理研發成果推廣，收費標準另訂之。

XVI. The IIPD may be commissioned to handle the promotion of R&D achievements from public or private institutions of higher education, as well as other organizations. The fee standards shall be established separately.

十七、本校研發成果權益因特殊需要，無法依本要點執行時，得另行簽案，報請校長核准後調整之。

XVII. When the rights and interests of R&D achievements cannot be implemented based on these guidelines due to special circumstance, a special request for adjustment shall be submitted to the President for approval.

十八、生效與實行

XVIII. Taking effect and implementation

本要點經行政會議通過，陳請校長核定後實施，修正時亦同。

These guidelines are approved by the Executive Meeting and the President before implementation. Amendments to these guidelines shall follow the same procedure.