

**JAIN INSTITUTE OF TECHNOLOGY,
DAVANAGERE**

(Approved by AICTE, Affiliated to VTU, Recognised by Govt of Karnataka)



INTELLECTUAL PROPERTY RIGHTS (IPR) CELL

INTELLECTUAL PROPERTY RIGHTS [IPR]

IP POLICY

FRAMEWORK

About JITD, IPR Cell

JITD IPR Cell was established on November 16, 2021, to create awareness and offer assistance to academicians, researchers, entrepreneurs and innovators to identify, protect and manage IPR. IPR Cell involves in educating importance of IPR for the research scholars and faculty members. IPR Cell is functioning as the nodal centre for Industries, Small and Medium Entrepreneurs, Educational and Research Institutions for IPR related activities.

Vision

Intellectual Property Rights Cell at Jain Institute of Technology aims to evolve into a centre of excellence in IPR education with global suitability.

Mission

- To provide knowledge on IPR terminologies
- To inculcate awareness about the Intellectual Property Rights among faculty members, Researchers by the conduction of FDPs, workshops on related topics.
- To guide faculty members, researchers and students about patent drafting, formulation of claims and filing for commercialisation of their innovative ideas.

Preamble

Jain Institute of Technology Davanagere is dedicated to research, teaching, and extension of knowledge to the public. The college recognizes its responsibility to produce and disseminate knowledge. Inherent in this responsibility is the need to encourage the production of creative and scholarly works and the development of new and useful materials, devices, processes, and other intellectual property, some of which may have potential commercial value. These activities contribute to the professional development of the individuals involved, enhance the reputation of the College, provide additional educational opportunities to students, and promote social well being.

Technological and social developments in recent years have broadened the scope of information and technology that can have potential commercial value and, therefore, should be treated as assets subject to college ownership and control. In addition to new machines, compositions of matter, and written materials which traditionally have been the subject of patents and copyrights, computer software, video courses, etc. are now normal outcomes of college activities. Thus, a broad policy covering all aspects of intellectual property needs to be created to provide widespread protection to the originators of such property.

Over the past decade, appreciation of the commercial value of intellectual property has grown both within the academic community and in the society at large. Concerns related to confidentiality, publication, and ownership of intellectual property are now commonplace. The pace of modern science, resulting in new and useful inventions, initiated a need for a central policy in determining the course of the creation, protection, and commercialization of intellectual property in the College.

This IP Policy applies to all college employees and students, regular or contractual. Every member of the academic community, student, non-teaching and teaching staff alike, must be knowledgeable about intellectual property both to protect their own rights and to respect the rights of others.

The JITD IP Policy is intended to encourage a healthy atmosphere conducive to research and development through a generous system of rewards and incentives for the creation and dissemination of original work.

What is Intellectual Property Rights?

Intellectual property refers to creations of the mind: inventions, literary, artistic works, symbols, names and images used in commerce. Intellectual property is divided into two categories: **Industrial Property** includes patents for inventions, trademarks, industrial designs and geographical indications.

Copyright covers literary works (such as novels, poems and plays), films, music, artistic works (e.g., drawings, paintings, photographs and sculptures) and architectural design. Rights related to copyright include those of performing artists in their performances, producers of phonograms in their recordings, and broadcasters in their radio and television programs.

Intellectual property rights are like any other property right. They allow creators, or owners, of patents, trademarks or copyrighted works to benefit from their own work or investment in a creation.

These rights are outlined in Article 27 of the Universal Declaration of Human Rights, which provides for the right to benefit from the protection of moral and material interests resulting from authorship of scientific, literary or artistic productions.

Why Intellectual Property Rights?

Intellectual property protection is critical to fostering innovation. Without protection of ideas, businesses and individuals would not reap the full benefits of their inventions and would focus less on research and development. Similarly, artists would not be fully compensated for their creations and cultural vitality would suffer as a result.

The intellectual property rights were essentially recognized and accepted all over the world due to some very important reasons. Some of the reasons for accepting these rights are:-

- a. Intellectual Property Drives Economic Growth and Competitiveness
- b. Strong and Enforced Intellectual Property Rights Protect Consumers
- c. Strong IP rights help consumers make an educated choice about the safety, reliability, and effectiveness of their purchases.
- d. Intellectual Property Helps Generate Breakthrough Solutions to Global Challenges
- e. Intellectual Property Rights Encourage Innovation and Reward Entrepreneurs

Bringing all of these important and diverse points together is the fact that protecting IP is an impartial issue that is shared by a broad coalition of interests. These rights are embraced by all sectors of industry small, medium and large companies alike and by labor organizations, consumer groups, and other trade associations.

For Whom Is This Meant?

This policy covers all staff, faculty members, students and also persons engaged in sponsored schemes and projects, from Government and Private funding agencies and any other initiatives of the Institute as well as visiting scientists/professors/personnel who participate in the research work being carried out at the Institute.

Definitions:

1. **Intellectual property (IP)** refers to creations of the intellect for which a monopoly is assigned to designated owners by law. **Intellectual property rights (IPRs)** are the rights granted to the creators of IP, and include trademarks, copyright, patents, industrial design rights, and in some jurisdictions trade secrets. Artistic works including music and literature, as well as discoveries, inventions, words, phrases, symbols, and designs can all be protected as intellectual property.
2. **Copyright** is a legal right created by the law of a country that grants the creator of an original work exclusive rights for its use and distribution. This is usually only for a limited time. A copyright is a legal device that gives the creator of a literary, artistic, musical, or other creative work the sole right to publish and sell that work. Copyright owners have the right to control the reproduction of their work, including the right to receive payment for that reproduction. An author may grant or sell those rights to others, including publishers or recording companies. Violation of a copyright is called infringement.
3. **Database** is a collection of information that is organized so that it can be easily accessed, managed and updated. Data is organized into rows, columns and tables, and it is indexed to make it easier to find relevant information. Data gets updated, expanded and deleted as new information is added. Databases process workloads to create and update themselves, querying the data they contain and running applications against it. Database right is considered to be a property right, comparable to but distinct from copyright, that exists to recognise the investment that is made in compiling a database, even when this does not involve the "creative" aspect that is reflected by copyright.
4. **Patent** is an exclusive right or rights granted by a government to an inventor for a limited time period in exchange for the public disclosure of an invention. Examples of classes of patents include business method patents, software patents, biological patents and chemical patents. In general, the granting of a patent is dependent on passing tests of patentability, patentable subject matter, novelty (i.e. new), inventive step or non-obviousness and industrial applicability (or utility).
5. **Design rights** There are two types of design rights: the registered design right (Registered Design Act 1949) and the unregistered design right.

A registered design protects the visual appearance of a product or item and gives you exclusive rights for that appearance to the extent that, if necessary, there is a legal right to stop an unauthorized party from producing or using your design. Design right protects the shape of a three-dimensional design. It subsists if the design is recorded on paper, or if an

Article has been made according to that design. It does not subsist in designs made before the commencement of part of the 1988 Act relevant to design right. It has rules on qualification for protection by both citizenship of the designer and place of the designing. Qualifying countries include the United Kingdom, the rest of the European Economic Area and British overseas territories. The registered design right provides up to 25 years protection.

The unregistered design right is similar to copyright in that it attaches automatically when a new design is created. However, its length is much more limited, since it only lasts for 10 years after it was first sold or 15 years after it was created whichever is earliest. It was introduced into British law by the Copyright

- 6. Trade Marks** Distinctive design, graphics, logo, symbols, words, or any combination thereof that uniquely identifies a firm and/or its goods or services, guarantees the item's genuineness, and gives its owner the legal rights to prevent the trademark's unauthorized use. A trademark must be:

- (1) distinctive instead of descriptive,
- (2) affixed to the item sold, and
- (3) Registered with the appropriate authority to obtain legal ownership and protection rights.

Trademark rights are granted usually for 7 to 20 years and, unlike in case of patents, are renewable indefinitely. These rights are protected worldwide by international intellectual property treaties and may be assigned by their owner to other parties.

- 7. Assignment** The intellectual property assignment is a transfer of an owner's rights, title and interest in certain intellectual property rights. The transferring party ("assignor") transfers to the receiving party ("assignee") its property in intellectual property rights, such as patents, trademarks, industrial designs and copyrights.

The owner of the intellectual property rights may transfer all or part of his rights e.g. the copyright owner could assign only some of his economic prerogatives. The transfer of intellectual property rights is made upon a payment of a lump sum or royalties.

Unlike license agreements, which grant permission to use intellectual property under certain conditions, as a general rule assignments are transfers of property rights, with no conditions under which the rights will be used.

For Trademarks: An assignment is a transfer of ownership of a trademark application or trademark registration from one entity to another.

For Patents: An assignment involves the sale and transfer of ownership of a patent by the assignor to the assignee.

For Copyright: An assignment is a transfer of the copyright owner's economic rights. In contrast to the economic rights under copyright, moral rights cannot be sold or assigned to another person (moral rights are the right to be identified as the author of the work or to object to derogatory treatment or to a distortion or mutilation of the work, to protect the personality and reputation of authors).

Ownership:

In-House Research: All rights in respect of investigations carried out at the college shall vest in and be the absolute property of the college except in respect of the activities carried out jointly with other institutions or agencies or under a sponsorship by an agency, in which case the ownership will be decided and agreed upon mutually.

Sponsored Research: Intellectual Property Rights (IPR) of inventions arising out of research projects undertaken on behalf of the sponsoring agencies shall be taken jointly in the name of the college and sponsoring agencies, when the sponsoring agencies bear the cost of filing and maintaining of the IPR equally. If the sponsoring agencies are not forthcoming, the college at its discretion may file the application with absolute ownership and college will meet the entire cost of filing and protection of IPR.

Collaborative Research: All intellectual property jointly created, authored, discovered, invented, conceived or reduced to practice during the course of collaborative research undertaken jointly by College with Collaborating Institutions, shall be jointly owned; and the Collaborating Institutions will be requested to bear the cost of filing and maintenance of the IPR. In case the Collaborating Institutions are not forthcoming to bear fully the cost of filing and maintenance, if considered expedient by the Institute, the College will share the cost equitably with the Collaborating Institutions. Where the Collaborating Institutions are not forthcoming for filing joint IPR application, the College at its discretion may file the application with absolute ownership and College will meet the entire cost of filing and protection of IPR.

- 8. License and Licensing** A license is an official permission or permit to do, use, or own something (as well as the document of that permission or permit). In particular, a license may be issued by authorities, to allow an activity that would otherwise be forbidden. It may require paying a fee or proving a capability. The requirement may also serve to keep the authorities informed on a type of activity, and to give them the opportunity to set conditions and limitations.

A licensor may grant a license under intellectual property laws to authorize a use (such as copying software or using a (patented) invention)) to a licensee, sparing the licensee from a claim of infringement brought by the licensor. A license under intellectual property commonly has several components beyond the grant itself, including a term, territory, renewal provisions, and other limitations deemed vital to the licensor.

Term: many licenses are valid for a particular length of time. This protects the licensor should the value of the license increase, or market conditions change. It also preserves enforceability by ensuring that no license extends beyond the term of the agreement.

Territory: a license may stipulate what territory the rights pertain to. For example, a license with a territory limited to "North America" (Mexico/United States/Canada) would not permit a licensee any protection from actions for use in Japan.

Objectives

The major objectives of the IP policy of Jain Institute of Technology are:

- To provide a superior environment to the faculty, students and research scholars of the College for creation, protection, and commercialization of intellectual property and to stimulate innovation.
- To encourage research, scholarship, and a spirit of inquiry, thereby generating new knowledge.
- To facilitate the transfer of knowledge and technology to intending users to promote utilization of such resources for benefit of the society.
- To provide an administrative system to determine the commercial significance of discoveries and developments and to assist in bringing these into public use.
- To provide for an equitable distribution of economic gains resulting from new intellectual property among the developer, author, or inventor (the originator), the College, and, where applicable, the sponsor.
- To provide incentives to originators in the form of personal development, professional recognition, and financial compensation.
- To safeguard, review and manage the intellectual property so that it may receive adequate and appropriate legal protection against unauthorized use.
- To encourage students at all levels to develop patentable technologies and to provide financial assistance from the College to the extent possible.
- To create awareness on IPR through conducting seminars, conferences, invited talks and lectures, and training programs among the academic community.
- To create respect for other people's intellectual property among members of the College community.

Scope of the Policy

This policy covers all rights arising from intellectual property devised, created, or made by the faculty, staff and students in the course of their employment by the College irrespective of the eligibility of these rights for registration. The IP arising from academic research includes patents, designs, trademarks, service marks, copyright, know-how and undisclosed information.

Purpose

The main purpose of the IP Policy of Jain Institute of Technology is to establish appropriate principles for creation, protection, ownership and management of intellectual property in the College. The endeavor is to provide an intellectual property environment that encourages the development of inventions and other intellectual creations for the best interest of the public, the creator, and the research sponsor, if any, and will permit the timely protection and disclosure of such intellectual property either by development and commercialization after securing available protection, by publication, or both.

This Policy is further intended to protect the respective interests of all participants by ensuring that the benefits of such property accrue to the public, to the inventor, to the College and to sponsors of specific research projects in varying degrees of protection, monetary return and recognition, as circumstances justify or require.

Administration of the Policy

The powers and responsibilities to amend and implement IPR Policy by various entities are described below:

Powers to amend IPR Policy

Don Bosco Institute of Technology, through its Governing Body (referred to as GB), will have the full power to make changes to the IPR policy or bring out a new policy as and when it is felt necessary. This can happen in view of changes in government policies or other national and international developments including treaties and legal judgments. The changes or the new policy shall be applicable to all faculty/students/project/staff/supporting staff/visitors

Responsibility to create/amend procedures and processes for implementation of IPR Policy

Jain Institute of Technology through its Principal will have full powers to create and amend administrative mechanism from time to time in view, of the changing needs creating administrative bodies and entrusting role and responsibilities to various individual(s)/existing entities for evolving detailed procedures and to facilitate implementation of the IPR policy of the Don Bosco Institute of Technology.

Appeal Procedure

In case of any conflict, grievance regarding ownership of IP, processing of IP proposals, procedures adopted for implementation of IPR policy and interpretation of various clauses of IPR policy, any aggrieved person can appeal to the administrative body formed for the purpose to resolve the issue. In case the appellant is not satisfied with the decision of such a body, he/she can appeal to the Vice President of Jain Institute of Technology whose decision shall be final.

IP Infringement

In case of violation/infringement of any intellectual property rights such as patent infringement by the Jain Institute of Technology faculty/students/project staff/supporting staff/visitors or any third party infringing upon the IPR of Jain Institute of Technology inventor, Jain Institute of Technology would constitute an appropriate administrative body, which would first investigate the matter and make recommendations to the Principal for resolution of such violation / infringement / In case of any third party infringing upon IPR of Don Bosco Institute of Technology, the above administrative body would investigate and make recommendations to the Principal including need for any legal course of action.

Provisions of policy for Staff, Students and Visitors

The key provisions of this Policy regarding Intellectual Property Rights of Staff, Students and Visitors are summarized below:

Staff

- a) The College shall own all Intellectual Property Rights in works generated by Staff in the course of their employment with the College
- b) However, the College will normally only enforce such rights under a limited set of circumstances, including where the work was generated using a substantial use of College resources or personnel, where the work is an Institutional Work, or where the work is subject to an agreement signed by the Staff which requires the Staff to assign rights to the College or a third party.
- c) Intellectual Property Rights in works generated by Staff in the course of an exchange with another institution shall be dealt with by the mutual agreement of the two institutions in accordance with their respective Intellectual Property Rights policies. It is recommended that a formal agreement regarding Intellectual Property Rights is entered into between the two institutions as early as possible.

Students

The College may assert ownership of Intellectual Property Rights for works generated by Students in the course of study. However, the College shall not assert ownership of Intellectual Property Rights in the following circumstances:

- a) Where the work is not an Institutional Work. For the avoidance of doubt works created in connection with graduate assistantships or scholarship grants to Students to pursue academic activities towards an advanced degree shall not be considered to be Institutional Works; or
- b) Where there has not been a substantial use of College resources or personnel; (or) where the work consists of Student coursework or a Student's contribution to a written thesis

Visitors

As a result of any Visitor having access to and use of any College facilities, equipment, accommodation or intellectual property, or participating in any teaching or research activities of the College, the College may require the Visitor to:

- a) Sign a confidentiality agreement in a form approved by the College
- b) Disclose to the College, immediately upon creation, full details on any Intellectual Property Rights created by the Visitor
- c) Do all things and sign all instruments necessary to assign such Intellectual Property Rights to the College; and/(or) give consent in relation to any moral rights he or she may have in the relevant work.

Grants, Sponsored Works and Specially funded works

In the event a grant from a government agency or private sponsor contains provisions governing intellectual property and/or rights to the property, these provisions take precedence over this policy.

Faculty and staff should understand any such provisions before agreeing to a different allocation of rights than set forth in this policy.

The ownership of commissioned work done by faculty for the College will be governed by the contract agreement.

Application of policy

This policy applies to Staff, Students and Visitors of the College. This Policy constitutes an understanding which is binding on the College and on the Staff, Students and Visitors to whom this Policy applies, as a condition for participating in research programs at the College, for the use of College funds or facilities, or for commencing employment or studies with the College. This Policy shall be incorporated in all employment contracts for Staff joining the College after this Policy has been implemented.

Transparency of IP Administration

The College will inform the creators of Intellectual Property of progress regarding filing of the patent, commercialization and/ or disposition of the intellectual property. The College and the creators shall maintain complete transparency in sharing information at all stages of the process. The creators shall keep the College informed of updates or development of the Intellectual property, which lead to tangible effects on the property.

Revenue sharing

The revenue arising out of licensing of IP and royalty would be shared in the appropriate Ratio (currently, this ratio is 60:40) between the inventor(s) and the College. Where Jain Institute of Technology reassigns the right of the IP to its investor(s), the inventor(s) shall reimburse all the costs incurred by Don Bosco Institute of Technology, which include protection, maintenance, marketing and other associated costs.

Confidentiality

It is important that any information about a potentially patentable Invention is not prematurely disclosed. Telling a third party about the information generated by a research project could constitute a disclosure and may mean that the invention loses the necessary quality of novelty, resulting in the Invention becoming un-patentable. In the event that Staff and/or Students need to discuss the details of an Invention with outside academics or potential developers, they should ensure that a non-disclosure agreement has been executed before disclosing any information about the Invention.