



The University of Bayreuth's Strategy for Handling Intellectual Property (IP) in Knowledge and Technology Transfer

Preamble to these guidelines

The University of Bayreuth is a young, research-oriented campus university. The University's founding mission was to support interdisciplinary research and teaching and to develop interdisciplinary research priorities with which it could strengthen its own profile. Its research programmes and programmes of study cover the natural sciences, business and economics, law, languages and literature, and cultural studies.

One objective of the University's research is to exchange new knowledge and developments with the private sector and society at large, making them useful for these groups. This also represents a potential source of income, which could be re-invested in measures to improve this expertise transfer.

The transfer of scientific expertise and methods is subject to certain conditions which will be outlined in the present *Strategy for Handling Intellectual Property (IP)*. These guidelines are designed to ensure that intellectual property can be used to the benefit of the general public in addition to its own research, teaching, and the other parties involved.

1. Intellectual property strategy for technology transfer

Regarding its connection with commercial enterprises, the University of Bayreuth views itself as a driver of innovation. The very establishment of the University was based on a regional business development mandate, which it has followed consistently by way of organized knowledge transfer and close ties with (regional) businesses. Efficiently securing and using the University's intellectual property serves to strategically support knowledge and technology transfer with commercial enterprises. This is crucial for sustainable internetworking of scientific and entrepreneurial competencies.

In this connection, support for inventors represents an essential element in the technological innovation process and plays a key role in transforming ideas into market-ready products and processes. In addition, a "university patent policy" will enable strategic support for new businesses.

2. Industrial property rights, Germany's Employee Invention Act (*ArbnErfG*)

Intellectual property includes any scientific results and inventions, technical expertise and processes, biological materials (such as the types of plants referred to in *SortG*), semiconductor products (under the terms of *HalbSchG*), and any works that are subject to design and copyright law (*UrhG*), especially computer software. Examples of *materials for which no patent is applied* include biological material (such as organisms), chemical compounds, and other materials for commercial or research-based applications for which no patent was applied.

An *invention* refers to any patentable idea, suggestion for a technical improvement, the corresponding expertise, and any technology required for the development or application of ideas or expertise.

A *service invention* refers to any invention made during a period of employment, if the invention is based on the activities carried out for the employer or if the inventor's experience or the University's work were significantly involved in the invention.

University staff/ employees are required to report any inventions to their employer. Free inventions must be reported. Materials for which no patent can be applied must also be reported to the University.

In this connection, the University of Bayreuth is the owner of intellectual property created by its employees. In R&D projects carried out by employees of the University, the University is entitled to exercise its rights to patentable inventions and inventions which are subject to utility patent law. The University is also solely entitled to make the decision of whether to claim intellectual property rights and file a patent application.

3. Development processes in (applied) research; collaborative partners

Cooperation can take place in all phases of knowledge transfer, including fundamental research, the continued development of pre-existing knowledge or inventions, the development of prototypes, and the pre-production scale. Collaborative partners can be any of the following: non-university research institutes, industrial corporations, and small and medium-sized businesses. The necessary contractual measures for collaboration with R&D partners are based on the University of Bayreuth's agreement templates.

If multiple partners are involved in the creation of intellectual property in (work-sharing) *joint projects*, the intellectual property rights are to be divided proportionately between the partners who created it. If the intellectual property is created by only one of the partners, he or she will be the sole owner of that intellectual property.

If an invention is made while engaged in *contract research* at or with the University of Bayreuth, the client will maintain the right of use for that invention. In this context, partial rights held by the University of Bayreuth will be transferred or licensed to the client in consideration of the client's share of the invention. The sale price and license fees are calculated according to normal market conditions. The University of Bayreuth has issued corresponding regulations, *inter alia*, in its General Terms of R&D Projects with Private Third-Party Funds (*AGB-DriM*).

In several cases, the University of Bayreuth has already established special forms of cooperation: the so-called *long-term partnerships*. In this connection, the University has established programmes for long-term exchange of expertise with select partners - non-university research institutes and large business corporations - that go beyond conducting individual projects. Such partnerships represent a special contribution to the University's network of fundamental research and applied research outside the University. They are drawn up in the form of framework agreements.

Student start-ups and university spin-offs also represent an important opportunity to strategically address social trends and put the University's research into practice. Like patent marketing and industry collaboration, business spin-offs are also an efficient way to utilize research findings. Supported spin-offs are an appropriate vehicle for utilizing the University's trademark and intellectual property rights.

4. Rights of use and publication rights

Freedom of publication must not be compromised, whether scientifically or professionally. In order to ensure that its own findings and the results of its research projects can be used in future work and projects in the framework of research and teaching, the University of Bayreuth reserves the right of use. Care is taken not to infringe on freedom of publication as long as it does not jeopardize the securing of intellectual property rights. The relevant regulations can be found in the agreement templates for R&D projects and in the third-party funding guidelines (*AGB-DriM*).

5. Commercial use; transfer and licensing

Commercial use of intellectual property and expertise that is protected under intellectual property law - via sale, licensing, or the involvement of companies - will be decided on a case-by-case basis in consideration of the interests of the parties involved. In this connection, the University of Bayreuth reserves the right to seek the involvement of external partners, i.e. commercialization agencies such as the *Bayerische Patentallianz GmbH* or patent law firms, in the proceedings or individual steps in the process of securing and making commercial use of the relevant expertise. These external service partners will be chosen on the "best partner principle."

In certain circumstances, the University reserves the right to make commercial use of inventions not covered by a contract.

If the University utilizes the inventions of its employees (criteria of commercial use such as commercial applicability and business potential play a crucial role in this decision), it will cover the costs of the patent application.

In principle, inventions may or may not be claimed and therefore represent an additional point beyond the results of a collaborative project or an R&D contract. Transfer (or sale) or licensing of such inventions/ intellectual property from the University of Bayreuth to a project partner requires that appropriate compensation be paid, determined on the basis of the usual market conditions.

Revenue generated by commercial use of intellectual property, technologies, or materials will be distributed by the University of Bayreuth on the basis of the relevant laws and regulations. In this connection, the following principles are to be applied when distributing the revenue:

In accordance with the terms of §43 para 4 of the *ArbNErfG*, employees who were involved in the invention receive remuneration in the amount of 30% of the gross revenue generated by commercial use. The chair or working group that produced the invention receives 50% of the revenue remaining at the University.

In cases of materials for which no patent was applied or of commercial use of computer software, the developer receives a reasonable share of the revenue from the University. The chair or working group that developed the software or material will have a share of the revenue remaining at the University.

If the University of Bayreuth's intellectual property rights are required in order to directly support the formation of a new company, then the new company will

generally be given a license or exclusive license; obtaining (exclusive) intellectual property rights is also possible in exchange for reasonable, normal market remuneration.

6. Intellectual property strategy in research and teaching; fostering entrepreneurial thinking and action

The University of Bayreuth views itself as a dynamic, research-oriented campus university, engaged in sustainable education based on science and research. Accordingly, the qualifications awarded are to be geared to future scientific, technological, and social challenges. More and more, the economy is driven by innovation, and one task of universities is to permanently provide businesses and society at large with innovative approaches and suitably educated graduates.

In this context, entrepreneurial thinking and action could be a key to meeting these demands. Providing consistent education and continuing education for students and staff at the University thus calls for an integrated programme in intangible property rights, licensing, and patent management.

7. Objectives for continuously improving the handling of patents

In the objectives of the Innovation Alliance with the Bavarian State Ministry of Education, Science and the Arts in 2008, the University of Bayreuth set itself the goal of intensifying cooperation between the University and the private sector in the areas of patent exploitation and the founding of new companies. In so doing, the University hopes to bring its previous success in the exploitation of strategic practical knowledge to a whole new level by way of patent exploitation. The goal of exploiting university patents commercially by way of transfer partnerships can also be achieved. The University has begun creating such partnerships with new, commercially oriented application laboratories. To some extent, the formation of new companies in the natural sciences or technical fields has also filled this partnership role.

However, the necessary basis for lasting success with regard to the formation of new companies and exploiting university patents is still the permanent integration of student courses covering intellectual property and company formation.

Over the past several years, the figures relating to industry cooperation, patent management, and company formation have indicated that the upward trend will continue in the future. Indicators for measuring these objectives are figures pertaining to

R&D cooperation, invention disclosures, patent applications, patent exploitation, and company formation.

8. Structures and responsibilities

The central office for interested students and academic or technical staff at the University of Bayreuth is the "Entrepreneurship & Innovation" Department, which provides advising on industry collaboration, support for inventors, patent management, and funding for start-ups. This office works in close cooperation with the Legal Affairs Division in matters relating to patent management. The central patent management office's field of responsibility includes patent scouting, and processing service inventions and free inventions with external commercialization partners.