

Intellectual property rights



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Intellectual property rights as a concept was first brought to light as back as 1867 in the North Germany Confederation, the constitution of which granted power over its intellectual property. The organization relocated to Geneva in 1960 and was established as World Intellectual Property Organization (WIPO) and treated as an agency of United Nations (Boldrin & Levine, 2008). There are many factors which affect the IPR of staff, students or post doctoral fellows in case of laboratory discoveries

- 1) Sponsorship – when the research is sponsored by a company, organization or the government the IPR shall be followed as agreed on the agreement prior to the undertaking of the project. If not then licensing of patents will have to be negotiated between the company and the laboratory. In such a scenario it is the internal agreement between the laboratory and the staff, students or post doc fellows which comes in effect. There might be a general agreement in place and specific agreement for the particular project might have to be executed including or excluding the right so people of the laboratory (Queen’s University IPR Guide, 2011)
- 2) Work for Pay – if the staff is specifically hired to follow directions of the laboratory coordinator or anyone else then they shall not be entitled to any IPR as it was not their genesis. They were just executors who acted on behalf of the director and did not contribute any cognitive inputs (NIT, Rourkela 2009)
- 3) Contractual work – if the project is work-for-hire, the employee or agency will retain the right to be identified as the creator of the IP but the right of commercialization and IP rests with the laboratory. In such cases the staff depending on the general agreement has the share of the IP benefit as the work was not indigenously developed by the laboratory.
- 4) Full time work – if any student or staff works in the laboratory full time or part time the rights to IP depends on the contract of employment. The Senate Ad

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Hoc Committee on IP states that all types of IP rest with the creator unless other arrangements are agreed upon in advance applies to all members of the institute. If a faculty member, lab coordinator, staff or student under contract of employment or service specifically for creating an IP then the right to it lies on first instance with the university. Research grant from government or other organization is granted to the principal researcher. The IPR lies with the chief if the members who are working are purely for purpose of learning and assisting the research. But for students who are involved in the project for the purpose of their own thesis, also contribute with their creative and intellectual input will have IPR. Most of the times the acknowledgment is in the form of co authorship. But it is important the the IPR agreements are set in advance to avoid conflicts. There are organizations which do not attach the IP claims to the research they fund. Social science and Humanities Research Council, Canadian Institutes of Health Research and Natural Sciences and Engineering Research council are among that institute which does not entertain IP claims. Hence there is no single answer of IPR of a laboratory among other companies and government institutes, or for the IPR of students and staff on a discovery by a laboratory. Invention and discoveries are treated differently at times when it comes to IPR. Under current legislation in different state laws any content generated by staff, student or employee is deemed to belong to the institute, laboratory or the university unless otherwise stated. To restate the circumstances when the staff, student or technician be entitled to IPR to the discovery made by the laboratory are Under specific terms and conditions signed by the staff or student with the laboratory and agree to contribute to the research in creative and intellectual way If the project is indigenous creation of the

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students or faculty. Even then the first right will remain with the institution or laboratory but the creators has the IPR The grant for project comes from an organization which respects the IPR claim by the creators Any policy pertaining to universities must conform to the obligations by the Bayh-Dole Act (Public law 96-517). This gives govt. march in right which has not happened till date. If that happens the IPR of staff and students might be compromised along with the university or laboratory. Thought university laboratory has the first right to IPR, roughly between 25% to 50% is shared with the creators of the discovery. This may or may not include students and staff apart from the chief researcher. References Boldrin & Levine. Against Intellectual Monopoly. Print. 2008 Management of Intellectual Property National institute of Technology, Rourkela 2009 Report of the Senate Ad Hoc Committee on Intellectual Property Queens University. Print. 2009 [http://www. parteqinnovations. com](http://www.parteqinnovations.com), 25th February 2010 Intellectual Property Guidelines University of Alberta. Print. 2001 Intellectual Property Guidelines for Graduate Students and Supervisors at the University of Toronto Print. 2007 IP Handbook of Best Practice. [www. iphandbook. org](http://www.iphandbook.org) Web. 25th February 2011