



**Centre for Agricultural and Rural Development Studies
Tamil Nadu Agricultural University
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No. D CARDS/Policies & Guidelines for Patenting/2014 dated 24.07.2014

Sir,

Sub: Dept. of Trade & IP – Refinement of the Draft on Policies & Guidelines for Patenting – requested – reg.

Ref: Arising.

As per the decision taken in the Patent Technical Committee Meeting held on 20.11.2013, a draft on the policies and guidelines for patenting by the scientists of TNAU is enclosed herewith. The enclosed draft policies were based on the "ICAR Guide lines for Intellectual Property Management and Technology Transfer / Commercialization", ICAR, New Delhi, 2006. Therefore, the draft on Policies and Guidelines for parenting by the scientists of TNAU may kindly be refined and sent to this office so as the finalize the draft.

**Sd/M. Chinnadurai
Director Cards**

Encl.: As above

To:

All Deans and Directors, TNAU, Coimbatore

Intellectual Property Management – Policies and Guidelines of Tamil Nadu Agricultural University, Coimbatore

India as a member of the World Trade Organization (WTO) is obliged to comply with the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS Agreement), which requires since 1 January 1995 that member countries provide for Intellectual Property Rights (IPR) in one form or the other in all fields of technology, including agriculture. TNAU recognizes that research in frontier sciences, such as agro-biotechnology will require intellectual property (IP) protection through patents, plant variety protection and other forms of IPR.

An effective IP management would act as an incentive for innovators who are engaged in knowledge creation. This would lead to greater professional recognition besides monetary gains through licensing fees and royalties to the researchers. Also, this would likely to lead to further innovations thus resulting in faster technological progress. Recognizing the importance of protecting the intellectual property rights, Tamil Nadu Agricultural University, Coimbatore has framed the following policies for the Intellectual Property Management.

I Key Elements of Policy Framework for Intellectual Property Management

1. TNAU will secure Intellectual Property Rights (IPR) protection as per the Indian law and in conformity with the international agreements to which India is a signatory. It will promote transfer of its IPR enabled technologies, including finished processes, products, creations / works and other know-how, through commercial and public routes to farmers.
2. **IP Ownership:** Ownership of IP generated in TNAU or caused to be generated by TNAU shall vest in the TNAU. It will be either the sole owner or a joint owner of an IP depending upon mutually agreed terms that would be set out prior to the generation of that IP along with other collaborators / partners. Individual scientists /

staff of TNAU responsible for the creation of its IP shall be recognized as the True and First Inventors / Innovators.

- 3. IP Protection:** Protection of all IPs generated in TNAU that are protectable and worth protecting will be sought in the first place in India as per the respective IPR laws. Where national IPR laws do not have enabling provisions to safeguard a strategic or commercial interest in an IP, but laws outside the country provide for this and the market prospects are favorable, TNAU may seek IPR protection in those respective countries. TNAU shall selectively secure protection of its specific IP abroad on the merits of each case based on strategic or commercial interest to India as well as the research and development interests.
- 4. Harmonization:** TNAU will closely monitor the evolution of IPRs at the national and international levels and act accordingly. Its IP management approach will be in harmony with developments in the national legislations and the relevant international agreements, conventions / protocols, and treaties / undertakings concerning IPR.
- 5. Technology Transfer by TNAU:** TNAU shall transfer its IPR enabled and other technologies under the new regime in conformity with national priorities. Case-specific decisions will be taken regarding which technologies will be placed in public domain for open access and which others will be commercialized through non-exclusive or exclusive licences. All decisions on the mode of technology transfer will be preceded by the filing and recording of applications for protection of its IP.
- 6. Patenting versus Publishing:** TNAU scientists / innovators may publish such research results of academic or public significance as do not impinge upon TNAU's interests in the protection of IP. They will not reveal inventive steps, if applicable, in such publications. They shall defer any publication of inventive steps / potential IP

with commercial or strategic implications until an application for their IPR protection has been filed and recorded.

7. Incentive and Stimulation for Research: TNAU will provide incentive and share the benefits accrued from commercialization of its IPR enabled technologies with its scientists / innovators to encourage innovativeness. TNAU will follow the approach that is presently being applied by other public sector science and technology organizations. With the evolution of its IPR regime more incentives will accrue to TNAU researchers for greater innovativeness. However, all research results would not be amenable to commercialization. Areas of national interest and farmers' welfare may require technologies to be placed in the public domain from which no monetary incentives would flow to scientists/innovators. TNAU will, therefore, expand the scope of its existing rewards and awards system so that researchers addressing areas of public interest are suitably recognized and encouraged.

8. Research Funding to TNAU: In addition to budgetary support from the Government of Tamil Nadu, TNAU receives research funding from other public and private sector agencies as well as externally aided projects. In all such cases, IPR will be shared on mutually agreed terms. In the collaborative projects where more than one partner is involved, multilateral agreement / memorandum of understanding (MOU) will be signed and implemented together with a joint intellectual property management plan (JIPMP).

9. Research Funding from ICAR: The All India Coordinated Research in TNAU is governed by the umbrella MOUs between ICAR and TNAU. In order to sustain partnerships in National Agricultural Research System (NARS) under the evolving IPR regime, the ICAR Guidelines for IPM indicated that the ICAR will review and modify the standing MOUs with State Agricultural Universities (SAUs) to include

sharing of IP on mutually agreed terms. Specific collaborative programmes under this umbrella will be covered as per respective memoranda of agreement (MOA).

9. Human Resource Development (HRD): There is an urgent need for creating skilled human resources so as to build capacity and develop the agricultural research system that is compatible with IPR and commercialization requirements. Therefore, suitable HRD and training programmes will be organized for enhancement of knowledge, know-how and skill in IPR portfolio management and technology transfer, including the areas, such as, patent / IP search, IPR compatible record keeping, drafting MOUs, patent documents, licence agreements, confidentiality agreements, enhancing negotiation skills, patent / IP / market watch, dispute prevention / settlement, substantive and procedural aspects of litigation, etc.

10. Institutional Arrangement for IP Management: The Patent Technical Committee (PTC) will be reorganized at TNAU, Coimbatore for the management of its IPR regime. The Patent Technical Committee chaired by the Vice-Chancellor, TNAU will be the apex decision-making body. All matters of policy concerning IPR portfolio management will be decided by the PTC. The Committee will be reconstituted with the following members:

- i) Director, Centre for Plant Molecular Biology and Bio - technology
- ii) Director, Centre for Plant Protection Studies
- iii) Director, Agri-Business Development
- iv) Director, Plant Breeding and Genetics
- v) Director, Crop Management
- vi) Dean, Agricultural Engineering College and Research Institute
- vii) Director of Research
- viii) Director, Centre for Agricultural and Rural Development Studies

The Department of Trade and Intellectual Property functioning under the Directorate of CARDS will facilitate the students / scientists of TNAU, farmers, private and other public institutions and entrepreneurs in filing the inventions made in the fields of agriculture, horticulture, home science, agricultural engineering, and forestry for patenting.

Presently, a sum of Rs.14,000 is collected and paid to the Patent Office, Chennai towards the fees for filing and request for examination (RFE). In addition, a service charge of Rs. 5,000 from farmers and Rs. 10,000 from entrepreneurs, NGOs and other institutions are collected by TNAU towards filing of patents and other patent related services offered by TNAU.

The Directorate of Agri-Business Management (ABD) shall continue to take up the task of commercialization of patented inventions.

11. Confidentiality: TNAU will respect and also expect reciprocal treatment regarding all confidentiality aspects in its IP management. It would protect the confidentiality of its IP information. TNAU will take up all matters relating to valuation, evaluation, validation and transfer of IPR enabled technologies only under appropriate confidentiality agreements.

12. Dispute Resolution: TNAU will seek to resolve any dispute arising under its IPR regime through the arbitration mode under the Indian law. It would also be open to mediation and reconciliation. Decision to appoint an arbitrator and of the mode of arbitration will be that of the Vice – Chancellor, TNAU.

13. TNAU – Private Sector Partnership: ICAR recognizes that public-private partnership (PPP) has the potential to improve agricultural research and technology transfer in the IPR regime. Such partnership will be useful in areas of mutual interest such as (i) joint validation of agricultural production technology, (ii) scaling up process, (iii) cost-effective quality production, (iv) mechanization of production

technologies, and (v) joint exploration of local and global markets for the commercialization of technologies, etc. TNAU will develop and strengthen partnerships in identified areas with private sector.

14. Awareness of IP Management Policy: TNAU will promote general awareness, understanding and importance of IP management / technology transfer / commercialization among its staff, and other partners, and stakeholders. TNAU will use various awareness tools and communication means, including media and internet for the purpose.

15. Review and Update: TNAU will periodically review and update the IP Management and Technology Transfer / Commercialization Guidelines.

II Issues in Filing the Patents by the Scientists of TNAU

The following lacunae were perceived at the Department of Trade and Intellectual Property, CARDS in getting the inventions filled for patents:

1. Nine patents have been obtained so far, and of which two are gene sequences. For the remaining patents, the extent of commercialization is not available at this Department.
2. Cross faculty filing of patents have been noticed. For example, agronomists, pathologists and so on filing for implements; and seed technologists for DNA testing and purity assessment. These require rigorous laboratory or field testing with the support of experts in the concerned fields of specialization.
3. Objections have been raised for two of the patents filed regarding non inclusion of co-inventors and inclusion of non contributors as co-inventors.

In view of the above observations, the following guidelines are framed to help the inventors of TNAU for hassle – free filing of patents:

III Guidelines in Filing the Patents

1. The inventors who send their application for filing patents shall comply with the provisions pertaining to patenting of the Memorandum of Understanding (MoU) / Memorandum of Agreement (MoA) signed by TNAU and the public / private sponsoring

agencies like ICAR, Government of India, private institutions, foreign funding agencies and so on.

2. The first inventor shall send his / her application for filing the patent through the respective technical directorate to which he / she belongs.
3. The co-inventors also shall get permission from the respective technical directorates for including their names along with the first inventor.
4. The inventors shall maintain the relevant laboratory results / field data records / relevant documents till their inventions are patented.
5. Inventions which satisfy the novelty requirements alone shall be sent for patenting. Inventors can make a thorough 'Prior Art Search' in websites like www.patentlens.net, <http://patft.uspto.gov>, www.espacenet.com, <http://ipindia.nic.in/ipairsearch.htm>, and so on.
6. In case of usage of any natural product in the invention, the inventors shall obtain necessary permission from the National Bio Diversity Authority as per the section 6 of the Biological Diversity Act, 2002.