



**INTELLECTUAL PROPERTY POLICY FOR WAYAMBA
UNIVERSITY OF SRI LANKA**

1. Introduction

Wayamba University of Sri Lanka (WUSL) recognizes the need for encouraging the practical application and economic use of the results of research carried out at WUSL for the benefit of the general public; therefore it adopted the following policy on Intellectual Property.

The present policy relates to the ownership, protection and commercial exploitation of Intellectual property created by researchers in the course of their duties or activities at WUSL. The document sets out the rules of WUSL for cooperation with industrial and business organizations and provides guidelines on the sharing of the economic benefits arising from the commercialization of Intellectual Property.

This Policy aims to:

- 1.promote, encourage and aid scientific investigation and research;
- 2.provide legal certainty in research activities and technology-based relationships with third parties;
- 3.set out WUSL's procedures on the identification, ownership,
- 4.protection and commercialization of Intellectual Property;
- 5.ensure the timely and efficient protection and management of Intellectual Property;
- 6.facilitate the recording, monitoring and maintenance of WUSL's Intellectual Property portfolio;
- 7.ensure that economic benefits arising from the commercialization of Intellectual Property are distributed in a fair and equitable manner recognizing the contributions of the inventors, WUSL as well as any other relevant stakeholders;
- 8.enhance the reputation of WUSL as an academic research institution and a member of society as well as the reputation of the researchers through bringing the research results to public use and benefit.

Nothing in this Policy overrides provisions of prevailing national law.

2. Definitions

“Commercialization” means any form of exploitation of Intellectual Property, including assignment, licensing, internal exploitation within WUSL and commercialization via a spin-off enterprise.

“Copyrighted works” means literary, scientific and art works, including academic publications, scholarly books, articles, lectures, musical compositions, films, presentations and other materials or works other than software, which qualify for protection under the copyright law.

“Institute resources” means any form of funds, facilities or resources, including equipment, consumables and human resources provided by the WUSL either in a direct or indirect way.

“Intellectual Property” means inventions, technologies, developments, improvements, materials, compounds, processes and all other research results and tangible research properties, including software and other copyrighted works.

“Intellectual Property Rights” (IP Rights) means ownership and associated rights relating to Intellectual Property, including patents, rights in utility model, plant breeders rights, rights in designs, trademarks, topography rights, know-how, trade secrets and all other intellectual or industrial property rights as well as copyrights, either registered or unregistered and including applications or rights to apply for them and together with all extensions and renewals of them, and in each and every case all rights or forms of protection having equivalent or similar effect anywhere in the world.

“Inventor” means the researcher who contributed to the creation of the Intellectual Property.

“Research Agreement” may refer to research service agreement, cooperative research and development agreement, material transfer agreement, confidentiality agreement, consultancy agreement and any other type of agreement concerning research pursued by researchers and/or Intellectual Property created at WUSL.

“Researcher” means:

- (a) persons employed by WUSL, including student employees and technical staff
- (b) students, including graduate and postgraduate students of WUSL
- (c) any persons, including visiting scientists

who use WUSL resources and who perform any research task at WUSL or otherwise participate in any research project administered by WUSL, including those funded by external sponsors.

“**Spin-off**” means a company established for the purpose of exploiting Intellectual Property originating from WUSL.

“**Visiting Researcher**” means an individual having an association with WUSL without being either employees or students. “Visiting Researchers” includes academic visitors, individuals with honorary appointments in WUSL and emeritus staff.

3. Scope of the Policy

3.1. This policy shall apply to all Intellectual Property created on or after **1st April, 2018** and all IP rights associated with them.

3.2. This Policy shall apply to all researchers who have established legal relationship with WUSL based on which the researcher is bound by this policy. Such a legal relationship may arise pursuant to the provision of law, collective agreement or individual agreement.

3.3. The present policy shall not apply in cases in which the researcher entered into an explicit arrangement to the contrary with WUSL before the effective date of the policy, or WUSL previously entered into an agreement with a third party concerning rights and obligations set out in this policy.

4. Legal issues concerning the status of Researchers

4.1. The vice chancellor of WUSL shall ensure that the employment contract or other agreement establishing any type of employment relationship between WUSL and the researcher includes a provision placing the researcher under the scope of the policy.

4.2. Students of WUSL shall be required to sign an agreement to be bound by this Policy before commencing any research activity leading to an invention or innovation.

4.3. Postgraduate students enrolling in research doctoral programs shall be required to sign an agreement to be bound by this policy upon registration.

4.4. The vice chancellor of WUSL shall ensure that researchers not employed by WUSL, including visiting researchers shall sign an agreement to be bound by this policy and an assignment agreement in respect of ownership of IP created by them in the course of their activities that arise from their association with WUSL before commencing any research activity at WUSL.

4.5 Notwithstanding paragraph 4.4., special arrangements may be needed to meet prior obligations of visiting researchers. Any such requested special arrangements shall be assessed and decisions shall be taken on a case-by-case basis by the vice chancellor of WUSL.

4.6. Special arrangements may be needed for research activities pursued by a researcher employed by WUSL, but working in another institution as academic visitor. In such cases the researcher may be required by a third party to sign any document which might affect WUSL's IP rights. In order to avoid any subsequent disputes, the researcher is not permitted to sign any such documents without the written approval of the vice chancellor of WUSL. The approval shall not be denied if no institute IP rights are being affected. If such a document affects WUSL's IP rights, WUSL shall initiate negotiations to enter into an agreement with the third party, as described in Section 5.

4.7 Rights and obligations under this policy shall survive any termination of enrollment or employment at WUSL.

5. External sponsorship, research collaboration with third parties

5.1 It is the responsibility of the researcher to ensure, that prior to commencing any research activity in collaboration with any third party, the terms and conditions of cooperation be set forth in a written agreement (hereinafter referred to as research agreement).

5.2 Researchers shall not have the right to enter into a research agreement with third parties on behalf of WUSL unless they are authorized to do so by the vice chancellor of WUSL.

5.3 The vice chancellor of WUSL shall exercise all due diligence when negotiating agreements and signing contracts that may affect the institute's IP rights.

5.5 Depending on the relative intellectual and financial contributions of WUSL and the third party to the conception of the Intellectual Property, it may be appropriate for either cooperating party to obtain certain IP rights and/or share in the revenue generated from its commercialization.

5.6 In the absence of such an agreement defined in paragraph 5.1., it is the policy of WUSL that IP rights shall be distributed among the cooperating parties in the proportion that reflects the proportions of contributing to the creation of the Intellectual Property.

5.7. In order to enable the cooperating parties to establish such proportions defined in Paragraph 5.6. and to prevent subsequent disputes, it is expedient that the parties maintain regular, well-documented records of the research activities pursued, signed by all of them.

5.8. The agreement set forth in Paragraph 5.1. shall include, *inter alia* provisions with respect to the following:

- 5.8.1. IP and associated rights already existing at WUSL prior to entering into the agreement ;
- 5.8.2. IP and associated IP rights arising from research activities set out in the agreement, after entering into it;
- 5.8.3. Confidentiality requirements;
- 5.8.4. Terms of public disclosure;
- 5.8.5. Other relevant provisions.

5.9. Any confidentiality provision of a research agreement aiming at the delay of public disclosure for the purpose of protection should not usually have effect for longer than 03 months from the time the concerned party is notified of the intent to publish.

5.10. Before signing, the full copy of the proposed agreements and other legal statements concerning WUSL's IP rights shall be submitted to the director of Wayamba University Business Incubation Center (WUBIC) for advice and approval.

6. Ownership of Intellectual Property

6.1. Employees of WUSL

6.1.1. All rights in Intellectual Property devised, made or created by an employee of WUSL in the course of his or her duties and activities of employment shall generally belong automatically to WUSL.

6.1.2. If an employee of WUSL creates Intellectual Property outside the normal course of his or her duties of employment, with the significant use of institute resources, he or she will be deemed to have agreed to transfer the IP rights in such Intellectual Property to WUSL as consideration for the use of institute resources.

6.1.3. Intellectual Property as defined in Paragraph 6.1.1., created in the course of, or pursuant to a sponsored research or other type of agreement with a third party, shall initially belong to WUSL and then ownership shall be determined according to the terms of such agreements (in accordance with Section 5).

6.1.4. Section 6.1 shall apply to student employees of WUSL.

6.2. Employees pursuing research activities at other institutions

6.2.1. Rights related to Intellectual Property that is created during an academic visit by the employee of WUSL to another institute shall be governed by an agreement between WUSL and the other institute (in accordance with paragraph 4.6.). If WUSL's IP rights are not affected, the IP created during the visit shall belong to the other institute unless otherwise provided in an agreement.

6.3. Non-employees

6.3.1. Visiting researchers are required to transfer to WUSL any Intellectual Property they create in the course of their activities arising from their association with WUSL. Such individuals will be treated as if they were WUSL employees for the purposes of this policy.

6.4. Students

6.4.1. Students who are not employed by WUSL shall own all Intellectual Property and associated IP rights they create in the normal course of their studies. However, the following exceptions shall apply.

6.4.1.1. If a student is offered a studentship sponsored by a third party under a separate agreement, under which the third party has a claim on Intellectual Property arising from the studentship, the student must agree that the Intellectual Property shall initially belong to WUSL and ownership will then be determined in accordance with the terms of the agreement concluded with the third party.

6.4.1.2. Intellectual Property created by students in the course of, or pursuant to, a sponsored research or other agreement with a third party shall initially belong to WUSL and ownership will then be determined in accordance with the terms of the agreement concluded with the third party.

6.4.1.3. If a student creates Intellectual Property with the significant use of WUSL resources in connection with his or her research activity, he or she will be deemed to have agreed to transfer the IP rights in such Intellectual Property to WUSL as consideration for the use of institute resources

6.4.1.4. WUSL shall claim ownership of all Intellectual Property created in the course of postgraduate (doctorate) students' research activity.

6.4.2. Students shall be given the option to assign IP rights to WUSL and shall then be granted the same rights as any employee inventor as set out in this policy. In such cases students should follow the procedures set out in this policy.

6.5. All rights in copyrighted works are owned by their creators regardless of the use of WUSL resources. Copyrighted works specifically commissioned by WUSL or developed in the performance of a sponsored research or other third party agreement shall constitute an exception where the provisions of such agreements shall be taken into account.

6.6. If WUSL cannot, or decides not to, exploit any Intellectual Property to which it lays claim, it shall forthwith notify the Inventor(s). The notification shall be made at least one month prior to any act or any intentional omission liable to prevent the obtainment of protection. In such cases the Inventor(s) shall have the option to acquire related IP rights; however, WUSL may claim a share from the income of any subsequent exploitation of the Intellectual Property to the extent equaling the verified expenditures of WUSL incurred in connection with the protection and commercialization of such IP. WUSL may also claim for a perpetual non-exclusive royalty-free license for research purposes without the right to business exploitation and without the right to sub-license. WUSL may also claim for a 5 percentage of any net income generated by the Inventor(s) from the commercialization of the Intellectual Property. WUSL shall not unreasonably withhold or delay an assignment of the IP Rights to the Inventor(s); however it reserves the right to delay exploitation where it is in its interests to do so.

6.7. Requests for any transfer of rights from WUSL to the Inventors(s) or any other third party should be made in the first instance to the director WUBIC.

7. Conflict of interest and confidentiality

7.1. A Researcher's primary commitment of time and intellectual contributions as an employee of WUSL should be to the education, research and academic programs of WUSL.

7.2. It is the responsibility of each researcher to ensure that their agreements with third parties do not conflict with their obligations to WUSL or this policy. This provision shall apply in particular to private consultancy and other research service agreements concluded with third parties. Each researcher should make his or her obligations to WUSL clear to those with whom such agreements may be made, and should ensure that they are provided with a copy of this policy.

7.3 Exploitation by unauthorized persons could damage or endanger WUSL's lawful financial, economic or market interests shall qualify as business secret. Researchers shall, when communicating with third parties, exercise all due diligence regarding confidentiality provisions.

7.4. Should any doubt arise concerning conflict of interest or confidentiality issues researchers are advised to consult with the director WUBIC

7.5. Researchers shall promptly report all potential and existing conflict of interest to the director WUBIC in order to reach solution satisfactory to each concerned party.

8. Identification, disclosure and commercialization of Intellectual Property

8.1. WUSL encourages its Researchers to identify research results with potential commercialization value and which may enhance the reputation of WUSL through bringing them to public use and benefit.

8.2. The Director WUBIC is responsible for the protection and commercialization of WUSL's Intellectual Property. The Inventor(s) however, shall be consulted in each phase of the procedure.

8.3. Researchers shall be required to present in writing the draft publications containing scientific results to the relevant Head of Department before publishing them, and shall state in writing that, to the best of their knowledge such works do not contain any results for which protection may be obtained or which can be exploited in any way.

8.4. Researchers, including employees, students and Visiting Researchers are obliged to disclose all Intellectual Property falling within the scope of Paragraph 6 to the Director WUBIC

8.5. Copyrighted Works shall be excluded from the disclosing obligation set out in Paragraph 8.3., except for those which were developed in the performance of a sponsored research or other third party agreement.

8.6. Since protection and successful commercialization of Intellectual Property might depend on prompt and efficient administration, Inventors are required to disclose all potentially exploitable Intellectual Property as soon as they become aware of them. The disclosure must be made in writing by completing the Intellectual Property Disclosure Form available from the Director WUBIC.

8.7. Inventors shall fully disclose all research activities and results relevant to the Intellectual Property and provide information about themselves, in particular the percentage of their contribution to the creation of the Intellectual Property and the circumstances under which it was created. The detailed description of the Intellectual Property shall be presented in such a manner that the inventive activity involved and its novelty as well as its susceptibility of industrial application become explicit and clear-cut for a person skilled in the art.

8.8. In case of incomplete disclosure, the form may be sent back to the Inventor(s) requesting for additional information. The date of disclosure shall be the day on which the Director WUBIC receives the full disclosure signed by all Inventors.

8.9. If an Inventor is in any doubt whether an Intellectual Property falls within the scope of paragraph 6 or it is potentially commercially exploitable, then the inventor should submit a disclosure the director WUBIC for consideration prior to making public disclosure of the Intellectual Property.

8.10. Premature disclosure may compromise the protection and commercialization of Intellectual Property. To avoid any loss of potential benefits, Researchers are required to make reasonable efforts to identify Intellectual Property early in the development process and

consider the consequent impacts of any public disclosure.

8.11. After full disclosure of all relevant information the Director WUBIC shall record the Intellectual Property in its register.

8.12. The Director WUBIC shall determine whether any agreements provide for the sharing of IP Rights or other obligations overriding those set out in this Policy. Provisions of related Research Agreements may require the assignment of certain IP rights in full or in part. In case of assignment, the procedure for protection and commercialization shall be governed by a separate agreement concluded between WUSL and other concerned parties. In all other cases the procedure set out in this Policy shall apply.

8.13. The Director WUBIC shall notify the relevant Head of Department about all disclosures. The notification involves a short abstract of the Intellectual Property and the name of the Inventor(s).

8.14. After the date of disclosure, the Director WUBIC shall immediately commence the evaluation of the Intellectual Property. As a first step, a pre-evaluation shall be carried out to identify any major obstacles, which could hinder the protection and commercialization of the Intellectual Property. Based on the results of the pre-evaluation a recommendation on whether to protect and exploit the Intellectual Property shall be forwarded to the Vice Chancellor. Such a recommendation shall be forwarded within 14 days from the date of disclosure. The final decision shall be taken within 30 days from the date of disclosure.

8.15. The Inventor(s) shall be informed of the decision within 7 days from the date of decision in writing. If WUSL decides not to commercialize the disclosed Intellectual Property, then the provisions of Paragraph 6.6. shall apply.

8.16. The Director WUBIC shall carry out a complete evaluation of the Intellectual Property with particular attention on possible methods of the protection of the Intellectual Property and its business opportunities.

8.17. The Inventor(s) shall closely cooperate with the Director WUBIC, the legal officer of WUSL or any other professional experts involved by WUSL. Inventor(s) are required to give reasonable assistance in protecting and commercially exploiting the Intellectual Property by providing information, attending meetings and advising on further development.

8.18. The Director WUBIC shall, within reasonable time, commence the process for acquiring legal protection, if needed, and he/it shall proceed with all due diligence to obtain protection. Public disclosure of research results made before obtaining the right of priority concerning a specific Intellectual Property application, highly jeopardize the proper protection of the related IP Rights. Therefore Inventor(s) are requested to avoid any public disclosure of research results prior to filing

such applications. WUSL shall endeavor to avoid undue delays in publications.

8.19. The director WUBIC and the inventor(s) shall jointly determine an appropriate commercialization strategy as part of the evaluation process within 06 months from the date of Institute's decision. The strategy will outline the tasks of each concerned party in the commercialization process and establish deadlines for the specific actions.

8.20. The director WUBIC shall be responsible to carry out the commercialization plan and it shall submit specific proposals, such as draft agreements or business plans, to Vice Chancellor of WUSL for decision.

8.21. Commercial decisions, such as the ones concerning the terms of an assignment/licensing agreement or establishment of a spin-off enterprise, shall be taken on a case-by-case basis by the Vice Chancellor of WUSL giving due consideration to all circumstances.

8.22. WUSL may decide not to apply for registered industrial property protection or may withdraw an unpublished application, if it is more appropriate for the purposes of commercialization to treat the Intellectual Property as a confidential know-how. In such cases Inventor(s) shall be requested in writing to refrain from any public disclosure of the Intellectual Property. When choosing this option, however, WUSL shall take the Researchers' freedom to publish as well as public interest into account.

8.23. If WUSL decides to discontinue an application, to withdraw it, or not to maintain a granted or registered right, the provisions of paragraph 6.6. shall apply. Such decisions shall be taken by the Vice Chancellor of WUSL.

8.24. Intellectual Property not falling within the scope of Paragraph 6 may also be disclosed to WUSL by Researchers under the terms of this Policy. In such cases WUSL shall decide, within 30 days from the full disclosure of all relevant information, whether to exploit the Intellectual Property. If WUSL decides to undertake the protection and commercialization of the Intellectual Property, the rules set out in this Policy shall apply.

8.25. Expenses incurring in connection with the protection and commercialization of Intellectual Property shall be borne by WUSL.

8.26. During the evaluation and commercialization period the full description of the Intellectual Property shall be disclosed to third parties under a confidentiality agreement.

9. Recording and maintenance of the WUSL's Intellectual Property portfolio

9.1. The director WUBIC shall maintain records of the Institute's Intellectual Property in an appropriate form and in sufficient detail. It shall monitor the deadlines for the payment obligations

related to the maintenance of protected Intellectual Property, and shall, within reasonable time, inform the Vice Chancellor of WUSL.

9.2. The director WUBIC shall maintain accounting records on each Intellectual Property. He or she shall ensure that the Intellectual Property be recorded in the accounting records, that any costs incurred be paid in due course and that the revenues from exploitation be distributed.

10. Distribution of revenues, motivation of Researchers

10.1. WUSL provides an incentive to Inventor(s) by distributing revenue generated from the commercialization of the Intellectual Property.

10.2. The expression ‘Net income’ shall mean all license fees, royalties and any other monies received by WUSL, arising from the commercialization of Intellectual Property less all the expenses incurred in connection with the protection and commercialization of the Intellectual Property at WUSL.

10.3. The share of revenues from Net income shall be as follows:

<i>Net income</i>	<i>Inventors (60%)</i>	<i>Department (20%)</i>	<i>Institute (20%)</i>

10.4. In cases where there is more than one Inventor, the Inventor’s share is divided between the Inventors in a proportion which reflects their respective contributions as provided in the signed Invention Disclosure Form.

10.5. In certain cases WUSL reserves its right to negotiate special terms concerning revenue distribution, in particular when income is generated through sale of shares or payment of the dividend of shares in cases where shares have been allocated to WUSL in an entity to which the Intellectual Property is licensed or assigned but which is not a spin-off enterprise.

10.6. In case of establishing a spin-off enterprise, an individual agreement between WUSL and the Inventor(s) shall be applicable regarding the share of equity. The conditions of the agreement shall be negotiated on a case-by-case basis having due regard to the contribution of the Inventors to any further development and the exploitation beyond the creation of Intellectual Property and to any funding provided by the Inventor(s), WUSL or any third parties acquiring a share of equity in the

new enterprise. The decision concerning the conditions of a spin-off establishment shall be taken by the Vice Chancellor of WUSL.

10.7. In case of exploitation of trademarks and other indicators, the Inventor(s), taking into consideration the proportion of their contribution to the exploitation, may benefit from the revenue as set forth in an individual agreement. The Director WUBIC shall decide on such issues on a case-by-case basis.

11. Breach of the rules of this Policy

11.1. Breach of the provisions of this Policy shall be dealt with under the normal procedures of WUSL in accordance with the relevant provisions of law.

12. Dispute and appeals

12.1. In the first instance, disputes shall be dealt with by the Director WUBIC. A decision shall be taken within 14 days from the submission of the concern. Over and beyond the above, with respect to any legal dispute arising in connection with the rules of this Policy, the relevant provisions of law shall be applicable.

13. Entry into force of the Policy

13.1. This Policy shall come into effect on the **1st April, 2018**

13.2. All agreements concluded by WUSL and the Researcher(s) at an earlier time shall be governed by the provisions of the Policy in effect at the time of the signing of such contracts.