

DIU Patent and IP Policy 2019**Preamble**

Patentable inventions or discoveries may result from research or educational activities performed by members of the academic community of Daffodil International University (hereinafter referred to as University). The University is committed to disclose and utilize ideas and discoveries for the greatest possible public good; to protect the rights of the University faculty, staff, and student body; and to abide by the regulations of agencies providing funds for sponsored programs or projects.

1. Name of the policy

This is the '**DIU Patent and IP Policy 2019**'.

2. Commencement

This policy commences on2019.

3. Policy is binding

Except to the extent that a contrary intention is expressed, this policy binds the University, staff, affiliates and students

4. Statement of intent

This policy:

- (1) provides guidelines for the appropriate distribution of the proceeds of successfully commercialized intellectual property;
- (2) defines inventions, discoveries, and tangible research property (TRP); ownership rights to inventions, discoveries, and TRP;
- (3) stimulates the timely disclosure of inventions and discoveries to the Innovation and Technology Transfer Office (ITTO);
- (4) describes basic principles of the patenting and technology-transfer responsibilities delegated to ITTO;
- (5) describes how proceeds from licensed inventions, discoveries, and TRP are distributed;
- (6) enables the University to identify, protect, manage and (where appropriate) commercially develop its intellectual;
- (7) property, for the benefit of the University and the community;
- (8) sets out the entitlements and responsibilities of the University, staff, students in relation to intellectual property;
- (9) supports a research culture (eco-system), in which translational research, technology transfer and entrepreneurial endeavor are rewarded.

5. Definitions

background intellectual property	means intellectual property, other than teaching materials, created prior to, or independently of, a particular research project.
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course	means any program of study, in whole or part, provided by or on behalf of the University.
innovation and technology transfer office (ITTO)	The office will be responsible for patenting and technology-transfer of inventions, discoveries, and tangible research property (TRP), subject to this policy.
intellectual property	includes rights relating to: • literary works (including computer programs), artistic, musical and scientific works; multimedia subject matter; software design • inventions in all fields of human endeavor; • scientific discoveries; • industrial designs; • trademarks, service marks and commercial names and designations; • plant varieties; • circuit layouts. • performances of performing artists, phonograms and broadcasts;
originator	means a person (of DIU) who creates intellectual property (IP) which is subject to this policy, whether alone or jointly with another person.
staff or staff member	means an employee (academic and non-academic) of the University
student	means a person admitted to candidature in an award course at the University and, where relevant, an exchange student or non-award student.
tangible research property (TRP)	means research products that are not patented or otherwise protected by formal intellectual property, but that are difficult and/or expensive to create.
teaching material	means any materials, whether in written, recorded or other electronic form including web-based material, computer programs, computer based learning material and databases, produced by one or more members of staff in the course of their duties for use in or connection with a degree programme module or other course offered by the University.
teaching method	refers to the general principles, pedagogy and management strategies used for classroom instruction by staff of the university.
university resources	includes, but is not limited to: • background intellectual property; • facilities; • funds; • premises;

	• services; • equipments; • staff time; and • support staff.
work made for hire	will include a work or Invention created by a student as part of the student's employment responsibilities owed to the Daffodil International University, or a work or Invention which the University has in writing commissioned the student to create for the University.

6. Application

This policy applies to the University, staff, and students. Any invention or discovery by an individual who

- (1) made the invention or discovery within the normal field of his or her employment responsibility and activity with the University, without regard to location or salary source, or
- (2) made use of the University Resources, except library, shall be subject to the provisions of the University Patent and Invention Policy. Such an Individual is hereafter referred to as Inventor.

7. Ownership of an Invention or Discovery

All Inventions or Discoveries to which this policy applies are owned by Daffodil International University (DIU). Members of the Daffodil International University Community may not assign, license, or otherwise transfer rights in inventions and discoveries that are subject to this Patent and Invention Policy 2019, to any other party; on the contrary, only the University may do so. The ownership rights to an invention or discovery are the exclusive property of the Inventor if the University has contributed nothing substantial or essential (as, for example: funds, space, materials, or facilities) to the conception or development of the Invention or Discovery, and the Invention or Discovery is outside the scope of the Inventor's normal field of employment responsibility and activity within the University. Where the University has entered into an agreement for a project sponsored by a government agency, private firm or any international agencies, the terms of that agreement will govern the disposition of patents and licenses. For additional guidance in these matters, refer to the University's Policy on Conflict of Interest and Conflict of Commitment. The Inventor's Dean or any Director, Center and the Innovation and Technology Transfer Office (ITTO) must be notified of any patents or Inventions arising from external consulting agreements.

7.1 Ownership of teaching material and teaching method

All copyright in work produced by academic staff member, arising as a result of their work for the University shall belong to the University.

If such work consists

- (a) of recorded educational material (including printed lecture material, web-based material, computer programs, computer based learning material and databases) produced in the course of duties of academic

staff member(s) at DIU, the university will negotiate with him/her on whether or not the member shall enjoy or participate in the benefit of such copyright (and if so on what terms);

- (b) at some exceptions, the university may negotiate the copyright ownership of some materials depending on the circumstances.

The university respects the moral rights of its employees including the right to be identified as author of the Teaching Materials, and will ensure that the author's contribution to the work is credited where appropriate.

8. Inventions or Discoveries Arising from Sponsored Projects

The intellectual property (IP) terms of all research agreements are governed by the following principles:

- (1) The Inventor is free to publish or present the results of a sponsored project, subject only to contractually agreed upon delays to permit the sponsor to review the proposed publication or presentation for the use of the sponsor's confidential information and the inclusion of patentable information.
- (2) In those cases where the University agrees to respect the proprietary nature of a sponsor's data disclosed to the University for certain limited purposes, all persons working on the project (faculty, staff, and students) are required to treat the sponsor's data as confidential.
- (3) Any inventions, discoveries, or patents arising from the sponsored project will be used in the public interest.
- (4) The University owns all inventions and discoveries made by DIU personnel arising from gifts or sponsored projects.
- (5) The University and the Inventor share in the net income received from intellectual property (IP) developed under the agreement.

9. Proceeds from Inventions and Discoveries

If there is more than one Inventor, the applicable royalty percentage will be divided equitably among the Inventors. Their departments or centers will also divide the applicable percentage equitably. The Vice Chancellor, retains the right to review the distribution and mediate among the parties. For the avoidance of doubt, to the extent a difference exists between the Inventor(s) identified in the Invention disclosure and the Inventor(s) identified in any resulting patent application, the latter shall control.

The allocation formula recognizes all forms of cash payments, including royalties and various fees from patenting, copy right, licensing. The Vice Chancellor of the university will oversee the distribution of such funds according to a plan developed in consultation with the Inventor and will provide an accounting to the Inventor and the Inventor's department and school or center on an annual basis.

To limit administrative costs, if the net income in any year is less than BDT 100,000 (one lakh), then no distribution will be made in that year to the faculties, departments, or centers.

If the net income exceeds 100,000 in any year, then the distribution will be allocated as follows:

- (1) Thirty-three percent (33%) of the net income to the Inventor.
- (2) Seventeen percent (17%) of the net income to the department or departments in which the Inventor serves.
- (3) Fifty percent (50%) of the net income to the Central Administration.

If the invention or discovery is the result of sponsored research and the sponsor regulates the distribution of income, such specific regulations shall take precedence over University policy with respect to distribution of the license revenue. With respect to any patent matter in which another institution or an outside agency shall share in the income derived from the patent rights, distribution of income shall be made first to the other institution according to agreed-upon terms, and then to the Inventor according to this Patent and Invention Policy.

- (1) In the case of Inventions made by undergraduate or graduate students at the University, to fulfill class assignments, the University has the right to ownership rights in such Inventions that are:
 - (a) conceived or developed with substantial or essential contributions of the University, such as funds, space, materials, or facilities; or
 - (b) created as a "work made for hire"; or
 - (c) developed in collaboration with faculty members not responsible for teaching the class.

10. Appointment and Authority of Patent Committee

The Vice Chancellor will delegate authority under the DIU Patent and IP Policy to appoint the Patent Committee and to designate the Chair of the Patent Committee to him/her for Research and Economic Development. The Patent Committee shall have duties as:

- (a) Review and recommend to the Vice Chancellor or designee the procedures for the implementation of the DIU Patent and IP Policy;
- (b) Resolve questions of invention ownership that may arise between the institution and its faculty, staff, or students or among individuals;
- (c) Recommend to the Vice Chancellor the expenditure of the patent royalty fund; and
- (d) Make recommendations as are deemed appropriate to encourage disclosure and assure prompt and expeditious handling, evaluation, and prosecution of patent opportunities.

Notwithstanding the forgoing, the members of the Patent Committee shall have the right to review, at their discretion, every Invention Report (IR) submitted to the Innovation and Technology Transfer Office (ITTO).

The Patent Committee will review promptly each IR submitted to it and recommend to the Director of the Office of Technology Transfer the proper disposition of the invention to secure the interests of the University, the inventor, the sponsor, if any, and the public. Its recommendation may include, but is not limited to, one or a combination of the following:

- (a) To submit the invention for review by a patent or invention management firm;
- (b) To make inquiries of potential licensees as to their interest in the invention and their willingness to finance a patent application, where applicable;
- (c) To study the practicality of applying for a patent with University resources (an option with limited application because of financial constraints);
- (d) In certain cases, to release the University's rights to the inventor subject to an agreement to protect the interests of the University, the sponsor, if any, and the public, including an obligation to compensate the University, where necessary, to recognize the University's contribution.
- (e) To dedicate the invention to the public.

As soon as practicably possible after receipt of the IR, the Director of the Innovation and Technology Transfer Office (ITTO) will notify the inventor in writing of the University's decision regarding applying for patent protection. If, after the University has filed a patent application, the Director of the Innovation and Technology Transfer Office (ITTO) will promptly notify the inventor in writing, and all rights, at the Director's discretion, in consultation with the Patent Committee as appropriate, may be released by written agreement to the inventor, with the permission of the sponsor, if any. In those cases in which the University has obtained a patent without obligation to sponsors or in those cases where the University chooses to neither file a patent application, nor dedicate the invention to the public, or if no arrangement has been made for commercial development within a reasonable period from the date of the issuance of the patent, the inventor(s) may request in writing a release of the University's patent rights. The Director of the Innovation and Technology Transfer Office (ITTO), in consultation with the Patent Committee, as appropriate, will promptly either grant the request or will advise the inventor of the University's plans for the development of the invention.

The Director of the Innovation and Technology Transfer Office (ITTO) shall provide reports to the Patent Committee no less frequently than every four-months regarding the disposition and patenting of university inventions including those for which the Patent Committee did not discuss.

11. Intellectual property originated by staff

- (1) Except as otherwise provided in this policy or in a separate agreement, the University owns all intellectual property originated by staff:
 - (a) in the course of employment by the University;
 - (b) using University resources;
 - (c) at the specific request or direction of the University; or

- (d) as part of a project or program supported by funding obtained or provided by the University.
- (2) Except as otherwise provided in this policy or in a separate agreement, the University owns all intellectual property in scholarly works or creative works originated by a staff member at the specific request or direction of the University.
- (3) In all other cases, the originator of scholarly works or creative works owns all intellectual property rights in them;
- (4) Any work which may be considered to be both:
 - (a) teaching materials and scholarly work; or
 - (b) teaching materials and creative work will be treated as teaching materials for the purposes of this policy.
- (5) If a staff member wishes to use intellectual property created by them but owned by the University for the purposes of further academic research or teaching other than through the University, they may apply to the Director, ITTO for a license to do so.
 - (a) The decision on whether or not to grant a license will be made by the Director, ITTO;
 - (b) No license will be granted if, in the reasonable opinion of the Director, ITTO, it would be incompatible with the best interests of the University to do so.
 - (c) Any such license granted must:
 - (i) be granted free of charge;
 - (ii) be recorded in writing;
 - (iii) be limited to use for academic research or teaching, conducted in educational institutions; and
 - (iv) provide no right to sub-license or assign.
- (6) If a staff member wishes to use intellectual property which has been registered with ITTO in a proposal or application for external funding the staff member must:
 - (a) obtain the approval of the Director, ITTO; and
 - (b) if the intellectual property in question has multiple originators, inform all other originators the proposed use at least 2 (two) weeks before using the intellectual property in that manner.

12. Intellectual property originated by students

- (1) Students own the copyright in their theses and scholarly works in the absence of any specific agreement to the contrary.

- (2) Students own all other intellectual property they create, except as provided in this policy.
- (3) The University owns intellectual property created by students where:
 - (a) the student has entered into an agreement with the University which specifies University ownership of intellectual property related to or arising from their activities;
 - (b) the student's supervisor or any other staff member has made a substantial contribution to the creation of the intellectual property.
- (4) Where the University owns intellectual property originated by a student:
 - (a) the student will be entitled to share in the revenue as if they were a staff member;
 - (b) the University will take all possible steps to ensure that the student is not impeded in submitting a thesis for examination or completing the requirements for any course.

13. Notifying the University of intellectual property

- (1) Any staff member, student who originates intellectual property which:
 - (a) is owned by the University under this policy; and
 - (b) they believe may be capable of either or both of protection or commercialization

must notify each of the following, in their capacity as agent for the University, as soon as possible after its creation:

- (c) their supervisor(s), if they are students;
 - (d) Concerned Head of the Department; and
 - (e) the Director, ITTO
- (2) Upon receiving such a notification, the Director, ITTO may seek further information or clarification, including details of inventive or creative contributions made by any individual or organization outside the University.
- (3) The originator(s) of notified intellectual property must also provide the Director, ITTO with relevant further information (including new particulars, data, results, findings, commercial interactions) as soon as possible after it becomes available.

14. Moral rights and acknowledgement of originators

- (1) Where the University owns intellectual property (other than copyright) it will take all reasonable steps to ensure that the originator is acknowledged in any relevant documentation;
- (2) In the case of copyright material owned by the University, the University will use its best endeavors to:
 - (a) ensure that the originator is acknowledged;

- (b) consult with the originator before modifying or adapting, or authorizing modification or adaptation, of the work;
- (c) consult with and obtain the agreement of the originator and adaptor as to the attribution provided in any adaptation or modification;
- (d) after consultation with the originator, ensure that acknowledgement of the author or performer is a term of any assignment or license of the material; and
- (e) ensure that any wish on the part of the originator not to be acknowledged is respected.

15. Protecting, developing and dealing with intellectual property

- (1) ITTO is responsible for protecting, commercializing and dealing with intellectual property at the University.
- (2) Unless otherwise provided in an agreement or approved by the Director, ITTO, all applications for registration of intellectual property (whether in Bangladesh or not) will be made in the name of the University.
- (3) If the Director, ITTO decides that the University wishes to protect the intellectual property, the originator must provide ITTO with all requested assistance, including but not limited to:
 - (a) providing on request information relevant to the protection or commercialization of the intellectual property; and
 - (b) executing any agreements or other documents necessary for commercialization.
- (4) Where the University protects intellectual property, the Director, ITTO must review the merits of continuing protection at least annually, and may decide to discontinue it.
 - (a) If the Director, ITTO decides to discontinue protection, the University will, at least 90 (Ninety) days before the next renewal date, offer to assign the intellectual property back to the originator(s).
 - (b) An originator who receives an offer of re-assignment must accept it within 21 (twenty-one) days of receipt.
 - (c) Once intellectual property is re-assigned, the originator(s) will be responsible for its protection.
- (5) If the Director, ITTO decides that the University does not wish to protect or, in the case of copyright material, commercialize the intellectual property, or fails to make a decision within the required time, the University will assign the intellectual property back to the originator(s), who may protect and develop it as they see fit, provided that:
 - (a) such protection and development will be at their own expense;
 - (b) the University will have a first right to recover any past or continuing costs incurred by the University in relation to the origination or development of the intellectual property out of any gross development proceeds received by or on behalf of the originators; and

- (6) If the University agrees with a third party to develop intellectual property jointly owned by that third party, the University will charge an appropriate development fee, which will be deducted from each payment received, at the time of receipt.
- (7) If a staff member wants the University to develop intellectual property which the University does not own and in which the staff member has a material interest, the staff member must submit a proposal to the Director, ITTO and provide any further information or clarification that may be requested.
- (8) If the Director, ITTO decides that the University should proceed with a proposal made under sub-clause 13(7) the staff member must:
 - (a) assign ownership of the intellectual property to the University; or
 - (b) enter into an agreement with the University and all other interested parties which specifies the terms on which the development is to be undertaken and appropriately manages any inherent conflicts of interests.

16. Dispute resolution

- (1) An originator who has concerns about the manner in which this policy is interpreted or applied must notify and provide all relevant details to:
 - (a) any other originator; and
 - (b) the Director, ITTO.
- (2) After notification of a dispute, the University may retain an appropriate adviser to better inform itself about the dispute and its subject matter;
- (3) The form of alternative dispute resolution process to be adopted will be determined by the Director, ITTO, if necessary.
- (4) If the matter remains unresolved after mediation has been attempted and for more than 13 weeks from the date of notification to the Director, ITTO, the Director, ITTO will refer the matter to the Vice-Chancellor of the University.
- (5) The Vice-Chancellor will appoint an appropriate independent expert to determine the matter. The expert will act as an expert and not as an arbitrator, and the expert's determination will be disseminated to the Vice Chancellor, for final verdict.