

***A Glance into the Innovation and Patent
Management System of Indian Universities***

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Abstract

The patent system has been introduced to encourage innovation throughout global economies. The intention is to promote the development of new ideas and technologies. India, being one of the fastest growing developing nations, is a huge playing field for development of new technologies and sees a lot of innovation at the grass root level, also known as “Jugaad/Frugal Innovation”.

Recent studies have shown a surge in the R&D activities at major Universities in India. Higher autonomous education institutes such as IIT’s or NIT’s are now seen to focus more on researches and knowledge production. The interest of these institutes, in innovation along with the protection and commercialization of the IP has been increasing ever since. However, despite the increase in innovation and research, the growth in filing of patent applications by Indian Universities, is not relative and does not capture the growth of innovation at University level in India. Indians still lag behind in terms of patents granted or technologies commercialized.

The few main reasons accounting for lack of growth of patents are:

1. Lack of specific legislation or policy for protection of innovation
2. Lack of awareness in public/innovators towards Intellectual Property and its Management
3. High cost towards Patent Prosecution.

This paper addresses above reasons, amongst others, along with specific case studies of few universities, who have devised unique IP Management System for protection of both, the Innovators and Universities, which shall contribute towards building an ideal model for other Universities in India and throughout the world.

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Introduction

The patent system has been introduced to encourage innovation throughout global economies. The intention is to promote the development of new ideas and technologies. India, being one of the fastest growing developing nations, is a huge playing field for development of new technologies.

In order to understand the dynamics of innovation under the Indian Universities, it is important to understand the Indian Higher Education System. The Indian is the third largest education system in the world after the countries of United States America and China.¹ India, amasses a total of 700 universities, as of 2013 and the number is rapidly growing.² Out of these 700 universities, 50 % falls into the category of Central and State Universities, as can be seen in the Table below:

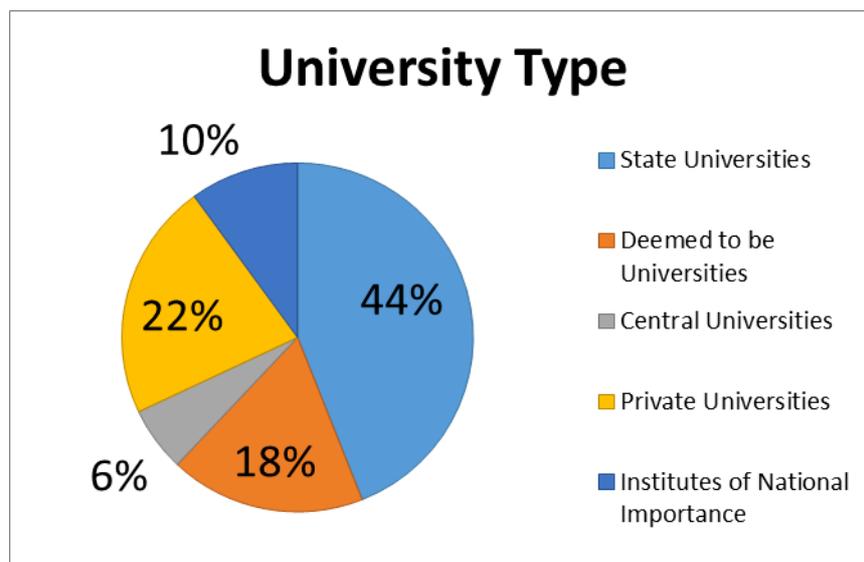


Table I

India has abundance of creative talent, which can be utilised to promote science, technology and innovation. As is universally accepted, Innovation plays a major role in development of a country. We have the examples of countries like United States of America, Germany, Japan, Korea and China, wherein innovation driven models were incorporated by these countries, to develop its economy and contribute to gross domestic product. Countries like Germany, Japan and Korea, despite being small in size and population, have been able to successfully develop into major economies by adopting a technology and innovation driven model.

As technology and innovation were major tools of national development, India too, recognising the importance of technology and innovation, introduced various policies for growth of technology and innovation in India. As a result, India sees a lot of

¹ "India Country Summary of Higher Education", World Bank;
[http://siteresources.worldbank.org/EDUCATION/Resources/278200-1121703274255/1439264-1193249163062/India_CountrySummary.pdf]

² UGC Publication: Higher Education in India at a glance June,2013, UNESCO Institute of Statistics and Statistics of Higher and Technical education in Indi, 2009, Government of India Ministry of Human Resource Development (MHRD)

innovation at the grass root level, also known as “Jugaad/Frugal Innovation”. However, an important aspect of innovation is the capability of commercial exploitation of such innovation, wherein the creation and sharing of intellectual property play the dominant role.

India has a storehouse of more than 20 million students, which are enrolled in the universities.³ It is pertinent to note that out of these 20 million students, about 22 % of students are in the fields of science and technology.⁴ Recent studies have shown a surge in the R&D activities at major Universities in India. Higher autonomous education institutes such as IIT’s are now seen to focus more on researches and knowledge production. The interest of these institutes, in innovation along with the protection and commercialization of the IP has been increasing ever since. However, despite the increase in innovation and research, the growth in filing of patent applications by Indian Universities, is not relative and does not capture the growth of innovation at University level in India. Indians still lag behind in terms of patents granted or technologies commercialized. One of the main reason for lack of growth of patents is the absence of specific legislation or policy for protection of innovation.

This paper addresses above reason, along with specific case studies of few universities, who have devised unique IP Management System for protection of both, the Innovators and Universities, which shall contribute towards building an ideal model for other Universities in India and throughout the world.

Law In India

It is very important that a country like India should have a comprehensive legal framework for creation and sharing of intellectual property developed at the University level, wherein performance linked rewards and investments should be provided to promote innovation in Indian Universities. There is no specific legislation till date, which deals with Intellectual Property developed by Universities or Government Funded Agencies. However, two prominent bills were introduced in the recent years which deal with promotion of innovation in Indian Universities and protection and commercial exploitation of Intellectual Property developed therein. We will deal with both the bills in details:

1. The Protection and Utilization of Public Funded Intellectual Property (PFIP) Bill, 2008:

The PFIP Bill, 2008 was introduced in the year 2008 in Rajya Sabha to boost research and development in public funded research institutes/universities. It is currently pending in Rajya Sabha only. It is also known as India’s Bayh-Dole.⁵ The bill

³ Ibid

⁴ See Supra Note 1

⁵ The Bayh–Dole Act/ Patent and Trademark Law Amendments Act is an US legislation dealing with IP arising from federal government-funded research. Sponsored by two senators, Birch Bayh of Indiana and Bob Dole of Kansas, the Act was adopted in 1980, is codified at 94 Stat. 3015, and in 35 U.S.C. § 200-212, and is implemented by 37 C.F.R. 401. The Act permits a university, small business, or non-profit institution receiving a grant, to elect to pursue ownership of an invention in preference to the government, and decentralized control of federally funded inventions, vesting the responsibility and authority to commercialize inventions with the institution or company receiving a grant, with certain responsibilities to the government, the inventor, and the public.

recognizes that the creation of new products and processes through technological innovation is essential for a country's economic growth. The bill provides that the realization of such technological innovation would not be possible due to the following reasons:

- (a) Low level of commercialization.
- (b) Lack of funding from industry for new products and processes.
- (c) Government control of the intellectual property developed in research institutions/universities through public funds.⁶

The Bill provides for sharing of the right to intellectual property with the institutes and scientists who created them, and incentivise the students, faculty and scientists by payment of royalties or income. It also provides that the intellectual property created in government funded research institutions shall be governed by the terms of the funding agreement.

Highlights of the PFIP Bill, 2008:

- (a) The Bill seeks to provide incentives for creating and commercializing IP from public funded research.
- (b) The Bill requires the scientist who creates an IP to immediately inform the research institution. The institution shall disclose this information to the government within 60 days.
- (c) The scientist shall not publish or disclose the PFIP without prior notice of 30 days to the institution or the government.
- (d) The institution is required to inform the government of the countries in which it proposes to retain the title to the PFIP. The title in all other countries will vest in the government.
- (e) The scientist shall be paid a minimum of 30 per cent of net royalties received from the PFIP.
- (f) Failure of the scientist to intimate the institution and of the institution to inform the government carries penalties, which include fines and recovery of the grant funds.
- (g) The institution has to get permission from the government before it can assign its right to PFIP to any person or body, and the institution shall not grant the PFIP unless he manufactures products using such intellectual property in India, which can be overturned by the government by reasons in writing.
- (h) Penalties: If the institution does not fulfill any of the terms of the agreement and contravenes the provisions of the Act, the government shall recover the grant amount with interest rate of 10 per cent per annum and bar such recipients from future grants. If the institution violates any of the provision:
 - (i) It may be punished with a fine of up to 50 per cent of the grant amount.
 - (ii) If the scientist does not disclose the required information on the specified time limit he shall not be given his share of the royalty and be punishable with a fine, which may extend to 25 per cent of the grant received by the recipient.

⁶http://www.prsindia.org/uploads/media/1229425658/LB_Protection%20and%20Utilisation%20of%20Public%20Funded%20Intellectual%20Property%20Bill.pdf

Timeline under the PFIP Bill, 2008:

- (a) The recipient of the funds should disclose the invention to the government within 60 days of conception;
- (b) Within 90 days of above but within specified period specified by the law, for receipt of application in the designated countries for protection of public funded intellectual property, intimate, in such form as may be prescribed, to the Government, his intention to retain the title of the PFIP with respect to the designated countries;
- (c) If the recipient fails to disclose the public funded intellectual property under or give such intimation within the specified time, the title of the PFIP, shall vest in the Government;
- (d) In case of public disclosure, shall give intimation regarding public disclosure, publication or exhibition at least fifteen days before such disclosure, publication and exhibition to enable the Government to file application in countries other than the designated countries.

Criticism of the PFIP Bill, 2008:

The PFIP Bill has received a lot of criticism for being poorly drafted, burdensome, potentially coercible, most abusable piece of legislation.⁷ It is also pertinent to point out that the PFIP is drafted without suggestions or recommendations of premier science and technology institutions in India. The very objective of the Bill to base public research on commercial potential alone will be detrimental to the existence of the Bill. Further, the bill requires every researcher has to inform that intellectual property has been generated within a specific time. However, no standard is provided decide what a potential intellectual property is. The whole process of the inventor forwarding everything to the institution's intellectual property committee to decide what is potential intellectual property, with the committee then forwarding it to the government who will decide whether or not to file the potential intellectual property will yield into nothing but colossal amounts of paper work. This will result into selective harassment of institutions and researchers. The PFIP is also criticized on several other grounds.

Further, public interest seems to be heavily compromised in the bill. No safeguards for public health interest have been provided and no clause has been incorporated to check the pricing of products resulting from public-funded research, by the Government. Also the sovereign right of the government to take over an Intellectual Property if required in public interest or national interest, without giving any reasons, is an inexcusable omission, and puts a question mark on the objective of the Bill.

2. The Universities for Research and Innovation Bill, 2012:

The Universities for Research and Innovation (URI) Bill was introduced in the year 2012 in Lok Sabha for setting up world-class research and innovation universities as per the recommendation of the National Knowledge Commission.⁸ It has currently lapsed and would be reintroduced in the parliament. This bills acknowledging the importance of innovation in the global knowledge economy, provided for establishment of innovation universities to aspire for attaining the pinnacle of knowledge in a particular area by innovation in design and producing research that

⁷ <http://timesofindia.indiatimes.com/india/Scientists-fume-over-new-patent-bill/articleshow/5486588.cms>

⁸ <http://www.prsindia.org/billtrack/the-universities-for-research-and-innovation-bill-2012-2347/>

will eliminate deprivation, by bridging linkages between research institutions and industry.

Highlights of the URI Bill, 2012:

- (a) The URI Bill allows the central government Union government, or by private bodies — domestic or foreign to set up Universities for Research and Innovation through notifications. These universities shall be deemed to be institutions of national importance. The Bill allows both private and foreign universities to apply to set up universities for research and innovation.
- (b) The central government may declare any existing public funded university to be a university for research and innovation after an expert committee (formed by the central government) has assessed it.
- (c) A new university may be established by a promoter if he meets certain requirements and conditions. If the promoter is an organization, it has to be a non-profit company, a society or a trust with proven expertise in innovation. If it is an Indian university, it has to be established for at least 25 years. If it is a foreign university, it has to be established for at least 50 years.
- (d) The university which creates a new technology from research which is funded by the Central Government or by anybody under the Central Government and leading to an intellectual property shall disclose the formulation of such IP to the Central Government about the same as soon as the said IP comes into being.
- (e) The innovation universities are visualized to be totally autonomous in all academic aspects. Only government-funded institutions will follow the existing policies of reservation in admission of students. The role of the Government in short is limited in these universities — publicly-funded or otherwise being free from government regulation, supervision, monitoring or social control.
- (f) The proposal for setting up the university has to be approved by the central government within six months as far as practicable.
- (g) Each such innovation university will be governed by a board of governors, being appointed or nominated or sponsored by the promoter, with no members of government agencies except that 1/3 of the members of the board will be appointed or nominated from teachers or officers of the university concerned with no requirement of having any academic personality or university administrator on the board.
- (h) The present Bill allows setting up of any number of innovation universities without any separate legislation for each university.
- (i) Each university shall constitute a committee to review the performance of the university within 15 years of it being set up. Subsequent reviews shall be every 10 years.
- (j) Each university shall determine the standards of education it will be providing, which have to be higher than the minimum standards in the relevant field as specified by any other law, and in case of no standards are specified, the university shall aim to maximize relative global scales in the relevant field.

Key Objectives of the Innovation Universities:

The key objectives of the universities shall be:

- (a) to achieve excellence in knowledge;
- (b) to conduct research to address societal problems;

- (c) to be transparent in admission, appointment and academic evaluation; and
- (d) to build linkages with research institutions and industry

Management of Intellectual Property from Public Funded Research:

When a university creates intellectual property through public funding, the Bill specifies certain requirements as to disclosure of IP to the government, the conditions under which the title may be retained by the university or refused by the government. The income or royalties received from the IP shall be given to the university, which shall share it with the intellectual property creator.

Criticism of the URI Bill, 2012:

One of the main grounds on which the URI bill is criticised is non accountability of the proposed autonomous universities. The government has almost no role of any kind in the innovation universities, and in the case of publicly-funded innovation universities, too, it is extremely limited. Further, the bill was also condemned for not being made accountable to the University Grants Commission or any other public body. The bill also allowed the indirect entry of the Foreign Universities without any regulatory approval or supervision of any government authority.

IP Policies of Selected Indian Universities

As is clear from the last section, India, in the absence of a specific legalisation to deal with IP developed by Universities or Government Funded Agencies, leaves a lot to be desired. Even the two proposed bills have received a lot of criticism and are far from addressing the genuine concerns of the stakeholders and intellectual property creators. However, premier Indian Institutions like Indian Institutes of Technology (IITs), Indian Institute of Science (IISc) and Jawaharlal Nehru University (JNU) have devised unique IP Management Systems for protection of both, the Innovators and Universities. We have discussed the intellectual property policies of the following universities:

- IIT–Delhi, Bombay, Indore, Kanpur, Roorkee, Madras, Kharagpur,
- (Central University);
- Banaras Hindu University (Central University);
- Anna University (State University);
- Indian Institute of Science (Deemed to be University);
- Manipal University (Deemed to be University)
- Jawaharlal Nehru University.

Further, we have analysed the following topics of the IP policies of the above universities, to showcase the IP Management System of these Universities, which shall contribute towards building an ideal model for other Universities in India and throughout the world:

- Ownership of IP;
- Transfer & Use of IP:
 - IP Licensing and assignment;
 - Revenue sharing.

Indian Institute of Technology, Delhi (IIT-D)

- Ownership of IP:
 - Exclusively by IIT-D if:
 - developed either solely with the use of funds / facilities provided by IIT-D or with a mix of funds/facilities of IIT-D and external agencies but without any formal associated agreement;
 - developed with the use of external funds / facilities, including, that of sponsored research and consultancy projects without any associated agreement;
 - developed under any contract arrangement including “work for hire”, work commissioned and/or outsourced by IIT-D;
 - developed pursuant to a written agreement where ownership has been transferred to IIT-D.
 - By Third party(ies) (exclusively or jointly with IIT-D) if:
 - developed with external funding from Third party(ies) including sponsored research, consultancy projects and other collaborative activity(ies) with a formal associated agreement;
 - developed without external funding from third parties under collaborative project(s) or activity(ies) with Third party(ies) with associated agreement(s);
 - developed out of the work carried out by IIT-D faculty/student/project staff/supporting staff during their visit to a Third party Institution/organization.
 - By Inventors if:
 - None of the above conditions arises and the IP is not related to inventor’s engagement with IIT-D.
- Transfer and Use of IP
 - IP Licensing and Assignment
 - The inventor/creator has the first right on the terms and conditions that are agreeable by IIT-D;
 - IIT-D shall strive to identify potential licensee for the IP to which it has ownership.
 - Revenue Sharing:

Inventor(S)	University	(Foundation for Innovation and Technology Transfer) FITT	Industrial R&D Unit (IRD)
60%	20%	10%	10%

Indian Institute of Technology, Indore (IIT-I)

- Ownership of IP:
 - Invention(s):
 - Inventor if IP work is created without the use of any IIT-I resources and not connected with the profession for which employed at IIT-I:
 - Jointly by external sponsoring agencies/bodies and IIT-I in case of funded research, based on their mutual agreement;
 - IIT-I in all other cases.
- Transfer and Use of IP:
 - IP Licensing and Assignment:
 - IIT-I may contract the IP to a Technology Management agency, which manages the commercialization of the IP;
 - If IIT-I is not able to commercialize the IP in a reasonable time, then it may reassign the rights of the IP to the Inventor(s) of the IP.
 - Revenue Sharing:
 - With Inventor: (See table below)

Owner/Inventor	Up to Rs. 100 Lakh	Rs. 100 Lakh – Rs. 200 Lakh	> Rs. 200 Lakh
Inventor	70%	50%	30%
University	30%	50%	70%
Total	100%	100%	100%

- When IIT-I reassigns the rights of the IP to its Inventor(s) for any country, the Inventor(s) shall reimburse the costs incurred by IIT-I for the protection, maintenance and marketing and other associated costs from the cumulative earnings from successful commercialization in that country as under:
 -

Case	Cumulative Earning	Inventor(s) Share	IITI's Share
A	Upto twice the cost incurred by IITI for protection, marketing and other associated costs.	50%	50%
B	Beyond A	100%	0%

Indian Institute of Technology, Kanpur (IIT-K)

➤ Ownership of IP:

- IIT-K when:
 - the intellectual property was created with the significant use of funds or facilities administered by IIT-K;
 - The intellectual property was created (i) as a part of the normal professional duty or (ii) work for hire;
 - The intellectual property was created in the course of or pursuant to a sponsored/consultancy research agreement with IIT-K. In such cases, specific provisions related to IP made in contracts governing such activity will determine the ownership of IP;
 - The intellectual property was created as a part of academic research and training leading towards a degree or otherwise.
- Inventor/Author Ownership when:
 - None of the situation defined above for IIT-K-ownership of intellectual property applies;
 - it is created outside their assigned/normal area of research/teaching, for example, popular novels, poems, musical compositions, or other works of artistic imagination, without the use of significant institute resources;
 - IIT-K will not claim ownership of copyright on books and scientific articles authored by IIT-K personnel. However, IIT-K will have the copyright if books and reports have been created using funds specifically provided for this purpose by IIT-K.
- Third-Party Ownership when:
 - Funds provided partially or fully by a third-party to IIT-K will be governed by specific provisions in the contract between the third-party and IIT-K;
 - Exchange programs between IIT-K and other institutions will be governed by specific provisions in the contract between the third-party and IIT-K;
 - In case no such specific contract exists, IPR will remain with IIT-K.

➤ Transfer and Use of IP:

- IP Licensing and Assignment:
 - IIT-K shall market the IP and identify potential licensee(s) for the IP to which it (i) has ownership & (ii) for which rights have been assigned to it;
 - If IIT-K is not able to commercialize the IP in a reasonable time, then it may reassign the rights of the IP to the Inventor(s) of the IP.
- Revenue Sharing: With Inventor: (See table below)

Owner/Inventor	Up to Rs. 100 Lakh	Rs. 100 Lakh – Rs. 200 Lakh	> Rs. 200 Lakh
Inventor	65%	45%	25%
University	25%	45%	65%
Service Account	10%	10%	10%
Total	100%	100%	100%

Indian Institute of Technology, Roorkee (IIT-R)

- Ownership of IP:
 - Invention(s):
 - Inventor if IP work is created without the use of any IIT-R resources and not connected with the profession for which employed at IIT-R;
 - Jointly by external sponsoring agencies/bodies and IIT-R in case of funded research, based on their mutual agreement;
 - IIT-R in all other cases.

- Transfer and Use of IP:
 - IP Licensing and Assignment :
 - IIT-R may contract the IP to a Technology Management agency, which manages the commercialization of the IP;
 - If IIT-R is not able to commercialize the IP in a reasonable time, then it may reassign the rights of the IP to the Inventor(s) of the IP.

 - Revenue Sharing:
 - With Inventor: (See table below)

Owner/Inventor	Up to Rs. 100 Lakh	Rs. 100 Lakh – Rs. 200 Lakh	> Rs. 200 Lakh
Inventor	60%	50%	40%
Department	20%	25%	30%
University	20%	25%	30%
Total	100%	100%	100%

- When IIT-R reassigns the rights of the IP to its Inventor(s) for any country, the Inventor(s) shall reimburse the costs incurred by IIT-R for the protection, maintenance and marketing and other associated costs from the cumulative earnings from successful commercialization in that country as under:

Case	Cumulative Earning	Inventor(s) Share	IITR's Share
A	Upto twice the cost incurred by IITR for protection, marketing and other associated costs	50%	50%
B	Beyond A	100%	0%

Indian Institute of Technology, Madras (IIT-M)

➤ Ownership of IP:

- Invention(s):
 - IIT-M shall be the owner unless specific contracts are entered into b/w the funder & institute/Inventor or between the institute and Inventor;
 - If contract is silent vis a vis ownership then, joint ownership of the IIT-M and the sponsor;
 - An Employee of the institute who is sabbatical or on long leave if, creates an IP while working for an organisation (with the permission of the institute) will be permitted to negotiate the IP sharing agreement. However, any fees/royalty that is received by the student/ employee while on duty at the institute will be subject to the revenue sharing policy of the institute;
 - IP developed by the said employee/student without the involvement of the Inventors who are employees or students of the institute shall be outside the purview of this policy;
 - However, any IP if created by the said employee or student during the leave period as mentioned above is based in part or full on prior IP developed at the institute the employee/student is required to inform the institute and enable the institute to enter into a licensing agreement with the organisation in which the said employee /student is temporarily engaged.

➤ Transfer and Use of IP:

- IP Licensing and Assignment :
 - The licensing is done by IITB through Patent Cell / Office of Centre for IC & SR, which handles the evaluation, marketing, managing and licensing of the IP generated by the institute.
- Revenue Sharing:
 - Shall be divided among the Inventors of the IP as per the prevailing IPR Revenue Sharing Norms the same being subject to the contract with the funder if any;
 - In case the patent filing and reg. Cost for one or more countries aren't borne by the institute the Inventor can first deduct the cost incurred by the Inventor in this regard and in regard to maintenance of such patents from income accruing to the Inventor from the commercial exploitation of the patents in those countries;
 - Excess income beyond such recovered costs will be shared as per the prevailing norms of the institute;
 - Any MOU signed by the institute with a sponsor shall supersede the said norms.

Indian Institute of Technology, Kharagpur (IIT-Kgp)

➤ Ownership of IP:

- Invention(s):
 - Inventor, if IP work is created without the use of any IIT-Kgp resources and not connected with the profession for which employed at IIT-Kgp;

- Jointly by external sponsoring agencies/bodies and IIT-Kgp in case of funded research, based on their mutual agreement;
 - IIT-Kgp in all other cases.
- Transfer and Use of IP:
- IP Licensing and Assignment:
 - The licensing is done by IIT-Kgp through IPR&TC Cell, which handles the evaluation protecting, marketing, licensing and managing the IPR generated at the University;
 - The Inventors of the IPR shall provide all the necessary information to the cell for the management of the IPR.
 - Revenue Sharing:
 - Institute's share - 50% & Inventor's share - 50%;
 - In case there is a third party (i.e. funding agency), the Institute's and Inventor's respective shares will be calculated on the net receipts after deducting the third party's share;
 - The Inventor's share will continue to be paid irrespective of whether the individual continues in the employ of the Institute.

Indian Institute of Technology, Bombay (IIT-B)

- Ownership of IP:
- Patents:
 - Title to inventions and patentable subject matter that are created in IIT-B with the use of significant IIT-B resources are assigned to and owned by IIT-B, based on the mutual agreement between the funding agency (if any) and IIT-B.
- Transfer and Use of IP:
- IP Licensing and Assignment:
 - The licensing is done by IIT-B through Industrial Research and Consultancy Centre (IRCC), which handles the evaluation, marketing, negotiations and licensing of the entire institute owned IP.
 - Revenue Sharing:
 - With Inventor: (See table below)

Inventor(S)	University
70%	30%

Banaras Hindu University (BHU)

- Ownership of IP:
- Patents:
 - Jointly by university and Inventor wherein the IP is developed using substantial use of university's facilities and resources;

- Jointly by university, Inventor and Corporate funding agency wherein the IP is developed using substantial use of university's facilities and resources using the funding provided by external Corporation, Foundation, Trust or Industry, provided such funding is more than Rs. 10 Lakh for a particular research/invention/intellectual creation under a specific agreement with the University;
- Inventor will own the rights in all the IP works developed without substantial use of University resources;
- Works of art, literature and music recordings are owned by their Inventors despite the use of University resources so long as such works are not the products of University research, neither created under the direction and control of the University, nor developed in the performance of a sponsored research or other third party agreement.

➤ **Transfer and Use of IP:**

- **IP Licensing and Assignment:**
 - The inventor/creator has the first right on the terms and conditions that are agreeable by BHU;
 - BHU shall strive to identify potential licensee for the IP to which it has ownership.
- **Revenue Sharing:**
 - With sponsor – 60% to the sponsor and 40% to the university.
 - With Inventor: (See table below)

Owner/Inventor	University	Individual Researcher/Research Team	Support Staff
University	60%	35%	5%
Individual Researcher/ Team	35%	60%	5%

Anna University

➤ **Ownership of IP:**

- **Patents:**
 - Anna University shall be the owner, with Inventors specially stated as Inventors for inventions developed by faculty members, research scholars, students and those who make use of the resources of Anna University;
 - The Inventors shall be the owner of the inventions created by Anna University personnel(s), without using university's resources and created outside their assigned/normal duties/areas of research /teaching. The revenue generated by such inventions shall be shared in the ratio of 75:25 between the Inventor and the University respectively;

- If an IP has emerged as a result of an Institutional/Industrial consultancy, sponsored to Anna University, the concerned industries and Anna University Chennai shall jointly own the IP;
- If the IP is a result of funds sponsored by an outside agency, then the IP will be shared between Anna University and the sponsoring agency on case by case basis, as per MoU/Agreement/Undertaking between them.

➤ **Transfer and Use of IP:**

- **IP Licensing and Assignment:**
 - The inventor/Inventor has the first right on the terms and conditions that are agreeable by Anna University;
 - Anna University Chennai shall strive to identify potential licensee for the IP to which it has ownership.
- **Revenue Sharing:**
 - With sponsor – as per their mutual agreement.
 - With Inventor: (See table below)

Owner/Inventor	Total Lump Sum
Inventor	60%
Concerned Department	20%
Centre For Intellectual Property Rights	5%
Centre for Technology and Transfer	5%
Centre for Professional Development Education	10%

Indian Institute of Science (IISc)

➤ **Ownership of IP:**

- **Patents:**
 - Absolutely by university for all in-house research work, except in respect of the activities carried out jointly with other institutions or agencies or under a sponsorship by an agency, in which case the ownership will be decided and agreed upon mutually;
 - Jointly by university and sponsoring agencies for IP works being produced on behalf of sponsoring agencies, if the sponsoring agency bears the cost of IP protection equally with the university. However if the sponsoring agency does not bear the cost of IP protection and maintenance, then university will be the absolute owner;
 - IP created during the course of collaborative research undertaken jointly by Institute with Collaborating Institutions, shall be jointly owner;
 - Any IP generated when an Inventor from the institute works in a university or company abroad/in India on EOL/sabbatical leave/earned leave, will be jointly owned by IISc and the University/Company.

➤ Transfer and Use of IP:

- IP Licensing and Assignment:
 - In case of joint ownership, the Organization/Industry which has sponsored the activity, will have the first right to commercially utilize and exploit Intellectual Products emanating from the collaboration activity;
 - In the event of the other collaborating organization/industry not undertaking the commercial exploitation within two years from the first date of development of the technology, IISc reserves the right to transfer the technology third party for its commercial exploitation and use. However, IISc shall share the net proceeds equally with the collaborating organization/industry.

- Revenue Sharing:
 - With sponsor – As per the agreement between the sponsor and the university;
 - With Inventor: 60:40 between inventors and IISc.

Conclusion

The above case studies prove an important point that in the absence of a specific legislation, various Indian Universities have devised their indigenous IP Management System, which has aided in the creation and development of innovation in India. Nevertheless, there is a growing need of a specific legislation to deal with the public funded research institutes/universities. However, before proceeding with the drafting of any legislation, a comprehensive study should be taken out by the Government to analyse the factors responsible towards creation, protection and commercialization of intellectual property in in the educational sector of India. Further, while drafting any legislation governing public funded research institutes/universities, sufficient care should be taken to provide flexibility to various institutions/universities in customisation of their IP management system as per their requirements. Further, the aspect of “public interest” especially in relation to public health should also be factored in the proposed legislation. There is also a need for establishment of a centralized regulatory body which shall make a uniform policy for Public funded universities and research centres. Another point which needs to be given importance is the awareness in public/innovators towards Intellectual Property and its Management. All these suggestions, when put into practice would definitely go a long way in creating a legal environment for India Universities, which shall be conducive to innovation and development on new technologies. However, till the introduction of a specific legislation, the successful IP Management model adopted by Indian Universities provides an ideal benchmark for various other universities in India and all over the world, where there is no specific legislation to deal with public funded IP.

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