



RECTOR'S DIRECTIVE No. 5/2010

ON ENFORCEMENT OF INDUSTRIAL PROPERTY
RIGHTS AND COPYRIGHT
AT THE J. E. PURKYNĚ UNIVERSITY IN ÚSTÍ N. L.

UNIVERSITY DIRECTIVE

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Prepared by: Mgr. et Bc. Iva Jónová,
doc. Ing. Tomáš Loučka, CSc.
Cancels: Rector's Directive No. 4/2009

doc. Ing. Iva Ritschelová, CSc., Rector

Article I Introductory Provisions

1. The purpose of this Directive is to provide a uniform procedure for protection and enforcement of the rights to intangible property (intellectual property), in particular, the industrial rights, copyright, as well as other rights related to the intellectual activity in scientific research, industry, arts and literature, or other areas at the Jan Evangelista Purkyně University in Ústí nad Labem.
2. The rights and obligations arising from creation and application of inventions, utility designs, industrial designs and rationalisation proposals are stipulated in Act No. 527/1990 Coll. on inventions and rationalisation proposals, as amended, Act No. 478/1992 Coll. on utility designs, as amended, Act No. 207/2000 Coll. on the protection of industrial designs and on amendment of Act No. 527/1990 Coll. on inventions, industrial designs and rationalisation proposals, as amended. The copyright related rights and obligations are stipulated in Act No. 121/2000 Coll. on copyright, on copyright related rights and on amendment of certain acts.

Article II Terms and Definitions

For the purposes of this Directive, the following terms shall be used:

1. Invention - the definition is stipulated in Act No. 527/1990 Coll. on inventions and rationalisation proposals
2. Utility design - the definition is stipulated in Act No. 478/1992 Coll. on utility designs
3. Rationalisation proposal - the definition is stipulated in Act No. 527/1990 Coll. on inventions and rationalisation proposals
4. Originator - a natural person employed by the employer that has created an eligible subject of the industrial property rights.
5. Industrial rights - a set of rights to intangible property that are usable in industry and constitute an outcome of creative activity, i.e. to an invention protectable by a patent¹ or utility design², design protected by an industrial design³, to realisation proposal¹. The industrial rights further include the rights to designation, arising from the protection of trade name⁴, trademark⁵ or designation of origin⁶. (hereinafter referred to as the subjects of industrial property rights)
6. Copyright - means protection of literary, artistic, scientific and other works which constitute a unique result of the author's creative activity and are created in any objectively perceived form, including electronic form. The subject of the copyright also includes the protection of original software. Collective work also means a database that constitutes the author's own intellectual work given by selection or arrangement of the content.
7. Intellectual property means property of intangible character that is a result of the human thought process. This is only something unique, unrepeatably and sufficiently original.

1. Act No. 527/1990 Coll. on inventions and rationalisation proposals

2. Act No. 478/1992 Coll. on utility designs

3. Act No. 207/2000 Coll. on the protection of industrial designs and on amendment of Act No. 527/1990 Coll. on inventions, industrial designs and

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4. Act No. 513/1991 Coll., Commercial Code

5. Act No. 441/2003 Coll. on trademarks

6. Act No. 452/2001 Coll. on the protection of designations of origin and geographical indications

Article III
Basic Principles of Intellectual Property Protection

1. The employee shall guard and protect any and all intellectual property of the employer, as well as the associated rights.
2. The employee shall refrain from any conduct that is or might be inconsistent with the employer's legitimate interests in relation to the employer's intellectual property.
3. The employee shall make sure that any and all intellectual property owned by the employer, or that the employer has a license, lien or other right to, is only used for the employer's needs and in its legitimate interest.
4. The employee shall make sure that in performing the obligations arising from their employment or other activities performed in the name of the employer, the intellectual property rights of third parties are not violated.

Article IV
Obligation to Provide Information about Intellectual Property

1. The employee (the "originator" or the originators' representative) shall immediately notify the vice-rector for science and other creative activity (the "vice-rector") in writing (including the direct supervisor's statement) of any technical or other solution that might be the subject of industrial property rights and that, in their opinion, meets the conditions stipulated by law for a protectable invention, utility design, industrial design or rationalisation proposal and submit the documents to the vice-rector for assessment.
2. The originator shall make such notification in cases when the subject of the industrial property rights originated while performing the tasks arising from the employment, while working on research projects financed by the University or research projects financed from the public resources (grant agency, public administration bodies, foreign public institutes, etc.).
3. Should the subject of the industrial property rights originate while working on a contractual research under a contract, the originator shall inform the vice-rector accordingly. In such case, the legal protection shall be handled along with the parties in compliance with the respective contract.
4. The University shall possess the right to legal protection of the subject of the industrial property right created by the originator (originators) under performing the tasks arising from their employment, unless there is a contract entered into by and between the originator (originators) and the University that would stipulate the right to protection of the subject of the industrial property rights otherwise, or unless the University enforced the right to legal protection of the subject of the industrial property rights towards the originator within the legal term.

Article V
Employer's Obligations

1. The University, represented by the vice-rector, shall give its statement on the following matters within the legal three-month term:
 - Possibility to utilise the solution and method of legal protection, i.e. whether the legal protection of the subject of the industrial property rights will be applied for, and/or whether a contract for utilisation of the subject of the industrial property rights at the University will be entered into with the originators, or a license agreement with another entity, without requesting the legal protection of the subject of the industrial property rights;
 - What resources the fees associated with application of the subject of the industrial property rights for legal protection shall be paid from.
3. Should the University decide to accept the subject of the industrial property rights, it shall pay the respective administration fees (pursuant to Act No. 634/2004 Coll., as amended) for filing

and keeping of the application for legal protection of the subject of the industrial property rights.

4. In case of extremely high administrative fees (legal protection of the subject of the industrial property rights abroad), the University may associate with an external entity.
5. Should the subject of the industrial property rights not be realised successfully (financial benefit) within two years as of granting of the legal protection thereof, the vice-rector is entitled to decide to cancel the respective protection, unless otherwise agreed to with the originator (originators).
6. Should the subject of the industrial property rights originate in connection with solution of a research task funded from the public resources or under an international cooperation, the University (vice-rector) shall notify the provider of the public financial funds (e.g. Czech Science Foundation, Ministry of Education, Youth and Sports, ...) or the cooperating parties of this fact.

Article VI Originators' Right to Remuneration

1. The originators of the subject of the industrial property rights shall have a legitimate claim to the adequate remuneration for use of the subject of the industrial property rights.
2. Its amount and payment shall be governed by the following rules of the University:
 - ❑ The remuneration is determined as a percentage of the net profit from the realised subject of the industrial property rights after taxation and after deduction of the costs associated with applying for and maintaining the legal protection of the subject of the industrial property rights;
 - ❑ Unless otherwise agreed to between the originators and the University, the profit shall be distributed using the following key: originators' remuneration - 50%, University (originators' department) - 40%, University (headquarters) - 10%.
3. The costs associated with the legal protection of the subjects of the industrial property rights and the income from realisation thereof shall be recorded separately by the University, so that the net profit from realisation of the rights to the subjects of the industrial property rights can be determined in the future.
4. The University rector may award an extraordinary (motivation) bonus in the maximum amount of double the average monthly pay of the University academic personnel to the originators of the subject of the industrial property rights independently of the adequate remuneration specified in paragraphs 1 and 2 of Article V.

Article VII Administration and Enforcement of Subjects of the Industrial Property Rights

1. Dealing with the agenda associated with applying the subjects of the industrial property rights for legal protection and maintenance shall be organised by the science department and rector's office of the University (Department), using the services of the professional patent agents operating in the respective disciplines.
2. The Department shall keep a database of the patent agents and patent offices which the University cooperates with in terms of dealing with the applications of the subject of the industrial property rights.
3. The Department's performance shall include offering of the subjects of the industrial property rights to third parties for eventual realisation, unless otherwise stipulated in the agreement between the originators and the University, or unless realisation by a third party is undesired to the University.

Article VIII
Employee's Obligations upon Employment Termination

1. An employee whose employment by the University is terminated shall return any and all documents, subjects, data media and other information related to the employer's intellectual property to the employer sufficiently in advance before the employment termination.

Article IX
Employee's and School's Copyrighted Work

1. The **employee's copyrighted work** is the work created by the author for purposes of performing the obligations arising from the employment or service relationship with the employer. In case of absence of another agreement between the author and the employer, the proprietary copyright shall be enforced by the author (in their name and account). In such case, they are entitled to use the work in any manner, or authorise (license) enforcement of the right to use the work without further notice.
2. The author may assign the right to enforce the proprietary copyright to a third party without further notice.
3. The employer has the right for the author to attach a clause identifying the author's employer, i.e. the University or its section, to the employee's work in each individual case of specifying the author of the subject employee's work.
4. In the case of copyrighted work pursuant to the provisions of Section 2(2) of Act No. 121/2000 Coll. on copyright, Article IX, paragraphs 1, 2, shall not apply, whereas the parties shall proceed pursuant to the provisions of Section 58 of Act No. 121/2000 Coll. on copyright.
5. The **schools' work** is the work created by the author - pupil or student - in performing the educational or study obligations arising from their legal relationship with the University, or created during education at the University or in direct relation thereto.
6. As per the Copyright Act, the University has the right to enter into a license agreement for use of the school's work under the usual terms and conditions.
7. The author of the school's work is entitled to use the work or license it to other entity, unless it is inconsistent with the legitimate interests of the University.
8. The University is entitled to demand the author of the school's work adequately contribute to settlement of the costs spent by the University on the work creation from the income received in connection with the use or license of the work according to the circumstances up to the actual amount, while respecting the amount of the income received by the University from using the school's work pursuant to Article IX, paragraph 5.
9. The provisions of Article IV and Article VIII shall apply to the employee's and school's works accordingly.

Article X
Final Provisions

1. This Directive becomes valid and effective on 1 November 2010.
2. Settlement of disputes arising from the Directive implementation falls within the vice-rector's competence.