

BRC HAS
POLICY ON INTELLECTUAL PROPERTY PROTECTION AND
MANAGEMENT

ABSTRACT

This Policy shall apply to the following **persons**:

- a) All persons employed by BRC as public servants or under any other type of contract of employment and persons participating in scientific research and education projects implemented in or with the participation of BRC, as well as any other persons participating in the implementation of any other tasks of BRC;
- b) All students of BRC and students of Szeged University but on field practice in BRC who sign a declaration of acceptance of this Policy.

This Policy shall cover the following **activities and areas**:

- a. Any and all of the following, created as a result of activities (usually scientific research activities) carried out by any person to whom this Policy applies:
 - 1. intellectual creations for which industrial property protection (especially: patent, utility model protection, plant variety protection, microelectronic semiconductor product topography protection, industrial design protection) can be obtained and
 - 2. creations under copyright protection granted by law,
 - 3. know-how,
 - 4. creations for which the “compulsory” or “non-compulsory” nature can be established or – in the case of creations under copyright protection – whose creation is the obligation of any person covered by this Policy, under his/her contract of employment.
- b. Trademarks and other product markings which are directly related to the intellectual creations described in Section 1 above.
- c. Any and all other intellectual creations which are ordered to be covered by this Policy in any agreement made between BRC and any third persons (i.e. the rights related to intellectual creations created elsewhere than at the research site are obtained by BRC free of charge or against payment of a fee).

d. Intellectual creations in connection with which the BRD is the beneficiary of the related rights at the time of the entering into force of this Policy, provided, however, that the beneficiary of the given intellectual creation consented to the coverage of the given creation by this Policy.

Researchers shall have the obligation to immediately inform the General Director of BRC, through the Director of the Institute, about their intellectual creations created as a result of their work. The information so provided shall be sufficiently detailed to enable the making of a decision on whether BRC should reasonably claim the rights related to the given “compulsory” intellectual creation of its employee(s) or, in the case of “non-compulsory” intellectual creations, whether BRC wishes to exercise the right of utilisation. This information obligation of researchers shall include – among others – the presentation of any publications planned to be published, at least 1 month prior to the said publication. Besides, researchers shall also cooperate with BRC to ensure that the given intellectual creation is properly evaluated and utilised.

The researcher fulfills the obligation of information by filling the form titled “Offer of intellectual property” and has it signed by the Director of the Institute.

A decision must be made about the legal status of the intellectual creation offered (“compulsory” or “non-compulsory” type, etc.) and the acceptance or refusal of the rights related to the intellectual creation, within 30 days of the day of offering. During the same period of time, BRC shall also declare if it claims title to the whole the “compulsory” invention or if it wishes to utilise the “non-compulsory” invention. The decision shall be made by the General Director, with the assistance of the directors of the institutes and – if and as required – of the Patent Committee or external experts.

If BRC decides to obtain the rights and the same is required by the nature of the given intellectual creation (patent, utility model, topography of microelectronic semiconductor products, industrial design), BRC shall take the measures necessary to obtain legal protection within 90 days. BRC may decide not to file an application for legal protection or may withdraw the application if it keeps the intellectual creation in secret and uses it as a solution that qualifies as a business secret. BRC shall inform the researcher about such decisions.

If the intellectual creation is directly utilised and/or sold, the researcher qualifying as the inventor, as well as any other person(s) participating in the creation of the intellectual creation shall be entitled to an appropriate upfront fee or royalty, as defined in relating legislation in force.

When calculating the basis of the upfront fee/royalty, the following amount shall be deducted from the amount collected from utilisation: the costs related to the evaluation of the given intellectual creation and those related to the process of the obtainment and the utilisation and/or sale of legal protection of the creation. These costs include any remunerations paid to legal representatives acting before patent offices, to technology managers and other external experts, as well as any expenses incurred by BRC in connection with the process.

The amount calculated as per the above shall be shared by and between the researchers participating in the creation of the given intellectual creation, the Fund and the participating institute of BRC. As the default solution, sharing shall take place as follows:

for intellectual creations for which industrial property protection can be obtained and for trademarks directly related to these:

- o upfront fee/royalty payable to the researcher(s): 60%,
- o BRC: 40% (50% of which must be paid to the Fund).

If any researcher covered by this Policy should fail to report any intellectual creation being the subject of this Policy to the Director of the Institute in the manner defined herein, should fail to offer the same to BRC or breaches the provisions of this Policy in any other manner, BRC shall have the right – besides the right to apply other sanctions, with special respect to those under labour law – to claim title to the rights related to the given intellectual creation and to claim damages, if it can prove that the intellectual creation has been utilised with the evasion of BRC.

Szeged, 11 April 2008

Dr. Péter Heffner