



## Research Policy and Procedures – *RP01*

# DIT Policy on Intellectual Property

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Directorate of Research, Enterprise & Innovation Services

Approved by SLT A&R Committee: 03.10.2017

## Table of Contents

<b>1.0 Introduction .....</b>	<b>4</b>
1.1 Definitions .....	4
1.2 Objectives of the IP Policy.....	5
<b>1.3 Applicability of the IP Policy.....</b>	<b>5</b>
<b>2.0 Ownership of IP .....</b>	<b>5</b>
<b>3.0 Protection of IP .....</b>	<b>7</b>
<b>4.0 Commercialisation of IP .....</b>	<b>7</b>
4.1 Commercialisation Routes .....	7
4.2 DIT Contracted Services .....	7
4.3 Options/ Licences .....	8
4.4 Start-ups.....	8
4.5 Joint Ventures .....	9
<b>5.0 Sharing of IP Revenues .....</b>	<b>10</b>
5.1 DIT IP.....	10
5.2 Creator-owned IP assigned to DIT for commercialisation .....	10
5.3 IP generated using DIT Resources but commercialised by Creator.....	10
5.4 DIT IP assigned back to Creator.....	10
5.5 Sale of Equity.....	11
<b>6.0 Roles &amp; Responsibilities with respect to IP.....</b>	<b>12</b>
6.1 DIT Colleagues and Students.....	12
6.2 Research, Enterprise and Innovation Services .....	12
6.3 Knowledge Transfer Office.....	12
<b>7.0 Management of the IP Policy .....</b>	<b>14</b>
7.1 Interpretation.....	14
7.2 Appeals .....	14
7.3 Review .....	14
7.4 Amendments.....	14

## Executive Summary

The Dublin Institute of Technology (“DIT”) Intellectual Property (“IP”) policy is designed to:

- Provide an incentive to Colleagues (as defined herein) and Students (as defined herein) to create, protect and commercialise IP;
- Enable DIT to better serve the public good and Ireland’s knowledge economy by contributing valuable IP to the development of useful and morally acceptable products, processes and services; and
- Ensure equitable returns on IP to the Creators (as defined herein) and to DIT.

DIT has established a Knowledge Transfer Office (“KTO”) to promote, develop and enhance DIT’s IP and knowledge transfer activities. The KTO provides a professional service to the research community to assist DIT Colleagues and Students negotiate the IP and commercial terms of research and consultancy agreements. The KTO:

- Assesses the commercial potential of IP resulting from research and scholarly activities;
- Protects and markets the IP and negotiates options/licences; and
- Assists in the preparation of business plans to justify assignment of the IP to start-up companies or joint ventures.

The IP policy promotes the creation, protection and commercialisation of IP by:

- Recognising that the Creator has the moral and legal rights to the IP they create, except where there are contracts with sponsors that require IP assignment, where DIT Resources were used in the creation of the IP, or where administrative materials were developed for DIT;
- Encouraging the protection of IP before publishing so that the IP retains commercial value;
- Enabling Creators to choose to commercialise IP themselves or use the KTO or other means;
- Sharing up to 75% of Net Revenues received from commercialisation with the Creators; and
- Assigning IP to Colleagues and Students in return for a negotiable equity stake for DIT of typically 15% in their start-up companies.

This IP policy is consistent with “Inspiring Partnership – the national IP Protocol 2016” and all recommendations provided by Knowledge Transfer Ireland at this time.

This policy and the work of the KTO creates a more entrepreneurial environment at DIT to attract and retain world-class researchers, enhance collaboration with industry and raise the profile of DIT as a centre for excellent commercially-focussed research and consultancy.

## 1.0 Introduction

### 1.1 Definitions

1.1.1 Intellectual Property (“IP”) refers to all technical innovations, inventions, designs, improvements, brands, creative works (including educational materials, works of art, industrial or artistic designs, audio, music, video, film) and/or discoveries, information, writings and software, whether or not patentable or otherwise susceptible to IP protection, including technology and materials in their tangible form. IP can be protected by law through secret know-how, patents, registered designs, copyright, trademarks, and other mechanisms; both registered and unregistered, to ensure that the owner can prohibit others from using their work without permission. This allows the owner to grant permission in return for financial compensation which may consist of option/licence-revenues and/or an equity stake in a company or joint-venture.

1.1.2 “Creator” means initiator and developer of the IP. The term Creator refers to both author as well as inventor.

1.1.3 “DIT Resources” include but are not limited to DIT’s physical structures, research facilities, capital equipment, technical facilities, services, employees and/or DIT-owned IP.

1.1.4 “Colleague” means an employee of DIT, an intern, a consultant, an Adjunct Professor and a visiting academic or researcher using DIT Resources. For the avoidance of doubt, unless the context otherwise requires, the term Colleague shall include Students.

1.1.5 “Revenues” means the proceeds generated from the exploitation of IP, including but not limited to royalties, profit-sharing, lump-sum payments, and sale of equity shares, but does not include the financing of research projects sponsored by a partner.

1.1.6 “Net Revenues” means Revenues received from the commercialisation of IP net of all commercialisation expenses which may include project management, patent filing, marketing, legal, administrative, taxes, employer PRSI and other expenses incurred in the course of protecting and commercialising the IP and in distributing the Net Revenues to the Creators.

1.1.7 “Student” means DIT-registered undergraduate students and DIT-registered postgraduate students.

1.1.8 “Principal Investigator” means the lead researcher, recognised by the KTO as being the project manager.

1.1.9 “Research, Enterprise and Innovation Services team” means the Research, Enterprise and Innovation Services team as established by DIT.

1.1.10 “Academic and Research Sub-committee” means the Academic and Research Sub-committee as established by DIT.

## 1.2 Objectives of the IP Policy

1.2.1 The objectives of this policy are to encourage DIT Colleagues and Students to engage in research and scholarly activities and to transfer their knowledge through publications, licences and by forming start-up companies and joint-ventures.

1.2.2 This policy:

- Provides an incentive to Colleagues and Students to create, protect and commercialise IP;
- Enables DIT to better serve the public good and Ireland's knowledge economy by contributing valuable IP to the development of useful and morally acceptable products, processes and services; and
- Ensures equitable returns on IP to the Creators and to DIT.

## 1.3 Applicability of the IP Policy

1.3.1 This policy applies to all DIT Colleagues and Students and covers the ownership protection, and commercialisation of Intellectual Property.

## 2.0 Ownership of IP

2.1 DIT is committed to the open exchange of ideas and the publication, dissemination and communication of the results of research and scholarly activities. It also recognises that to best serve the public good there are times when IP should be protected before being published so that the IP will be valued by commercial partners and will achieve commercial returns for the partner, the Creator and for DIT.

2.2 DIT recognises that Colleagues and Students who create IP own the products of their intellectual efforts and are free to publish those products without commercial intent, to pursue commercialisation with the assistance of the KTO, or to pursue commercialisation of the IP in their own right, with the following exceptions:

2.2.1 The Creator has entered into an agreement assigning IP to DIT or to a sponsor. DIT or the sponsor may own the rights to IP developed in the course of sponsored research pursuant to a written contract. Where an agreement requires all new IP rights to be assigned to a party other than DIT, the entry level (or "background") IP should be defined so that it is not inadvertently assigned to the third party as part of the new IP (also described as "foreground IP" or "results"). Where research is funded by public bodies (for example the European Union, government departments and agencies, Science Foundation Ireland, Enterprise Ireland, Forfas, Health Research Board, Higher Education Authority, Industrial Development Agency), ownership of IP rights are determined by the regulations of the sponsor or the terms of the contract. The Principal Investigator leading the project is required to inform participants in these research activities of any such stipulations and request the participants' written consent to abide by these stipulations. Colleagues and Students are permitted to engage in consultancy projects

for third parties subject to compliance with applicable DIT policies in force from time to time and subject to approval by DIT. Any such approved consultancies must be disclosed to the KTO.

2.2.2 The IP results from work specifically requested by DIT pursuant to a written contract of employment. This includes information brochures, descriptive handbooks, course descriptions, module descriptions, timetables, emails, memoranda, letters, administrative reports, minutes of meetings, examinations, assignment descriptions, laboratory manuals, websites, web administrative content, administrative computer programs written to support DIT's on-going operations and any other works specifically requested by DIT;

2.2.3 DIT owns IP resulting from the performance of a written contract, agreement or commission in which DIT and the Creator have agreed to DIT's ownership. This may include products prepared for industry clients and continuous professional development courses; and/or

2.2.4 Any IP that in the reasonable opinion of the KTO has been created using DIT Resources and then commercially exploited is subject to the exercise of DIT's right to share in the Revenue earned from the commercialisation of such IP.

2.3 In light of DIT's responsibility to be accountable to government and the public generally, DIT has the right to require the Creator of IP to disclose the intention to commercialise IP.

2.4 The Creator of IP may voluntarily assign or transfer any interest in the IP to DIT. At its discretion, DIT may accept such assignment or transfer and thereafter may transfer or license its ownership or interest to others, including the Creator.

2.5 Unless otherwise provided for in writing, DIT specifically acknowledges that the substance of a lecture, whether delivered in the classroom or by other means, belongs to the Creator, and that IP created in the form of a textbook, instructional website, or other instructional material developed as part of the normal teaching activities of a DIT Colleague is owned by the Creator.

2.6 DIT intends that IP created exclusively by a Student Creator will be owned by the Student Creator. For such to be the case, the KTO must agree in writing that the Student is the sole Creator, that in the reasonable opinion of the KTO that DIT Resources did not form a significant part of the development of the IP, and that there are no sponsorship agreements that require assignment.

2.7 In all cases, DIT retains a royalty-free irrevocable perpetual right to use for scholarly, academic and other non-commercial purposes all of the IP created by Colleagues and Students that is subject to this IP Policy.

### **3.0 Protection of IP**

3.1 The process of protecting IP usually begins with negotiating the sponsorship and collaborative research agreements which define ownership of IP before the creative work begins. The KTO will provide standard agreements and assist in negotiating any non-standard terms and conditions. All such agreements must be approved by the KTO before being sent to the Director of Research Enterprise and Innovation Services for authorisation and signoff by the Director of Finance or other nominated signatory.

3.2 DIT asks its Colleagues and Students to consider the commercial potential of their research and scholarly works and where IP is thought to exist, to disclose the IP to the KTO, who will advise on appropriate protection prior to publication so that its commercial potential is retained.

3.3 Where IP ownership belongs to DIT and/or is assigned to DIT to commercialise, the disclosure and/or assignment agreements will show the percentage contribution of each Creator to the IP and these percentages will be used in the distribution of Net Revenues among Creators in accordance with Section 5.0.

3.4 Where DIT owns IP jointly with other organisations (e.g. universities, institutes, companies, partnerships, etc), the terms of the collaborative research agreement will be used to manage the protection and commercialisation of IP. The KTO will represent the interests of DIT and DIT's Creators.

### **4.0 Commercialisation of IP**

#### **4.1 Commercialisation Routes**

4.1.1 The KTO will assist, provide advice, or procure the provision of outside professional advice in relation to the various options for commercialisation and knowledge transfer that may be appropriate in order to best meet the aims of this IP policy, including:

- Licensing the IP to a third party for a fixed sum and/or a royalty related to future sales;
- Assigning the IP to a third party for a fixed sum and/or a royalty related to future sales;
- Developing the commercial potential of the IP through a campus company;
- Developing the commercial potential of the IP through a joint-venture with a third party; and/or
- Any other arrangement that may be considered appropriate.

4.1.2 The KTO, with input from the Creators, will make the decision on which commercialisation route to take. Where the IP is jointly owned with other organisations, the KTO will work with the other organisations and DIT's Creators to decide the best route.

#### **4.2 DIT Contracted Services**

4.2.1 Colleagues may find clients interested in contracting services from DIT based on IP. The KTO will provide standard service agreements to Colleagues and will assist them in negotiating

any non-standard terms and conditions. All such agreements must be approved by the Head of Commercialisation before being sent to the Director Research Enterprise and Innovation Services for authorisation and sign-off by the President or other authorised signatory.

### **4.3 Options/ Licences**

4.3.1 Revenues can accrue from options to licence and from exclusive, non-exclusive and sole licences. Option and/or licence agreements will be negotiated by the KTO on behalf of Creators and once the Head of Commercialisation approves these agreements, they will be reviewed by the IP Committee before being sent to the Director Research Enterprise and Innovation Services for authorisation and sign-off by the President or other authorised signatory.

4.3.2 Where IP is jointly owned by non-DIT-related collaborators, the KTO will agree a mechanism for negotiating licences. Where DIT's consent is required, the KTO will represent DIT's interests and those of DIT Creators in negotiations and when the Head of Commercialisation approves these agreements they will be reviewed by the IP Committee before being sent to the Director Research Enterprise and Innovation Services for authorisation and sign-off by the President or other authorised signatory.

### **4.4 Start-ups**

4.4.1 DIT encourages the development of high-potential start-up companies based on IP developed at DIT or by DIT Colleagues or Students.

4.4.2 DIT will agree in principle to licence and/or assign the relevant IP to a start-up company where one or more directors of the company are current DIT Colleagues or Students and are Creators of the IP, in return for a negotiable equity stake of up to 15% of the company at the seed investment stage where the financial investment by third parties is €500,000 or more in 2017 monies. Where the financial investment is less than €500,000, the percentage equity stake sought by DIT may be greater than 15%.

4.4.3 The Licensing Executives in the KTO will negotiate the Options, Licences, Assignments and Shareholder Agreements and present them for approval by the Head of Commercialisation. When approved, the Head of Commercialisation will review these agreements with the IP Committee along with an approved Conflict of Interest form signed by the President, where a staff member is participating in the company or has shares in the company before forwarding them to the Director Research Enterprise and Innovation Services for authorisation and sign-off by the President or other authorised signatory.

4.4.4 DIT Colleagues and Students are eligible to receive seed funding at DIT's discretion and subject to funding being available, to assist them in launching a company in return for an additional equity stake. The decision to offer seed funding will be at the discretion of the Director of Research Enterprise and Innovation Services.

4.4.5 Where a company seeks assignment of IP, and none of its directors were Creators of the IP, the KTO may negotiate the assignment in return for a licence fee and/or equity stake and pre-approve the proposal before jointly with a senior executive of the company presenting it to the IP Committee for review before forwarding it to the Director Research Enterprise and



Innovation Services for authorisation and sign-off by the President or other authorised signatory.

#### **4.5 Joint Ventures**

4.5.1 The KTO will negotiate the terms of any joint ventures including any option/licence agreement or IP assignment agreement. The KTO will pre-approve the agreement before jointly with a senior executive of the company presenting it to the IP Committee for review before forwarding it to the Director Research Enterprise and Innovation Services for authorisation and sign-off by the President or other authorised signatory.

## 5.0 Sharing of IP Revenues

### 5.1 DIT IP

5.1.1 DIT will share the Revenues it receives on DIT-owned IP according to the terms of this Section 5.0.

5.1.2 Net Revenues received will be distributed as follows:

Net Revenues	Creators	Research Group / College**	DIT
Under 100k€	75%	10%	15%
>100k€ - 300k€	65%	10%	25%
>300k€ - 1M€	55%	10%	35%
Over 1M€	45%	10%	45%

\*\* The 10% allocation set out above shall be divided among relevant Colleges and research groups involved in creating the IP with due regard to the value and substance of their respective contributions (such contributions to be determined by the KTO).

5.1.3 DIT will distribute the portion of the Creators' Net Revenues to the Creators according to their contributions to the IP as agreed by them in the IP disclosure and/or assignment agreement. In the absence of such written agreement, the Creators' share shall be divided among them with due regard to the value and substance of their respective contributions (such contributions to be determined by the KTO).

### 5.2 Creator-owned IP assigned to DIT for commercialisation

5.2.1 Where a Creator assigns IP to DIT for commercialisation, DIT will give 65% of Net Revenues to the Creator.

### 5.3 IP generated using DIT Resources but commercialised by Creator

5.3.1 IP created using DIT Resources may be commercialised by the Creator. However, the Creator must give 10% of Net Revenues to DIT.

### 5.4 DIT IP assigned back to Creator

5.4.1 When a Creator assigns IP to DIT and DIT is not successful in commercialising it, DIT can reassign the IP back to the Creator on request in return for a commitment by the Creator to give DIT 10% of Net Revenues received by the Creator on subsequent commercialisation.

## **5.5 Sale of Equity**

5.5.1 The President will decide on the sale of DIT-controlled equity in companies partially owned by DIT and will distribute the proceeds in an open and transparent way in accordance with the distribution of proceeds described in section 5.0.

## **6.0 Roles & Responsibilities with respect to IP**

### **6.1 DIT Colleagues and Students**

6.1.1 DIT Colleagues and Students are required to engage the KTO in any joint research and consultancy proposals so that it can assist in negotiating consultancy or collaborative research agreements on behalf of DIT and in defining IP ownership and other commercial terms with the other parties.

6.1.2 The Principal Investigator is required to inform researchers on a funded project of the IP ownership and confidentiality stipulations imposed by the sponsors and request written consent to abide by these stipulations.

6.1.3 The Principal Investigator is required to issue indexed laboratory notebooks to all parties working on the project. These notebooks are to be stored in the appropriate forum as may be instructed by the KTO on completion of the project. Reports citing novel results and progress on the research projects and all visits from external parties are to be made by researchers to the Principal Investigator. The Principal Investigator is required to record supervision events and ensure that all external supervisors sign the DIT non-disclosure agreement where IP or commercially sensitive material is thought to exist.

6.1.4 DIT Colleagues and Students are required to disclose IP generated by publicly funded research to the KTO so that it can protect the IP and can advise on publishing.

### **6.2 Research, Enterprise and Innovation Services**

6.2.1 The Research, Enterprise and Innovation Services team will assist DIT Colleagues and Students identify research opportunities, collaborators and consortium partners, and assist them in preparing budgets and funding applications, as well as negotiate the contract terms of research agreements with sponsors. The KTO will provide input to the Research, Enterprise and Innovation Services team on the IP terms of such agreements.

### **6.3 Knowledge Transfer Office**

6.3.1 The KTO will assist Colleagues and Students to negotiate the IP and commercial terms of research contracts, collaborative research and consultancy agreements. The KTO will assist DIT Colleagues and Students assess the commercial potential of IP resulting from their research and scholarly activities and assist them in protecting and commercialising it.

6.3.2 The KTO will protect IP assigned to DIT, research the market, identify best routes to market, identify target clients for licences, engage them and negotiate licences and manage distribution of Revenues. In the case of taking an equity stake in start-up companies or joint venture opportunities, the KTO will assist the promoters in developing the business plan and pre-approve the agreement for assignment of IP before bringing it to the IP Committee for review and forwarding to the Director Research Enterprise and Innovation Services for authorisation and for signature by the President.

## **6.4 The IP Committee**

6.4.1 The IP Committee will consist of the Director for Research Enterprise and Innovation Services, another Director of DIT, the Head of Strategic Development services, the Office of the Institute Secretary, the Head of Commercialisation, the Head of Finance, an independent business person from outside of DIT and will be chaired by the Director of Corporate Services. This Committee will convene on a monthly basis and report to the Senior Leadership Team (SLT) Academic & Research (A&R) Sub-Committee who report to the SLT.

6.4.2 The IP Committee is responsible for reviewing all Licences, Options and Assignments as well as all Shareholder and Joint Venture Agreements before recommending them to the Director of Research Enterprise and Innovation for authorisation and signature by the President.

## **7.0 Management of the IP Policy**

### **7.1 Interpretation**

7.1.1 The KTO is responsible for interpretation of this policy.

### **7.2 Appeals**

7.2.1 DIT Colleagues and Students may appeal decisions of the KTO with respect to the policy to the Director Research Enterprise and Innovation Services and decisions of the Director Research Enterprise and Innovation Services may be appealed to the President of DIT.

### **7.3 Review**

7.3.1 This policy will be reviewed by the Academic and Research Sub-committee and Senior Leadership Team at least every five years and more often if needed to determine its effectiveness and identify suitable amendments.

### **7.4 Amendments**

7.4.1 Amendments to the IP policy must be approved by the Academic and Research Sub-committee, Senior Leadership Team, the President and Governing Body of DIT. All amendments to this IP Policy shall be posted on the DIT Intranet and such amendments shall be fully valid and effective from the date of posting.