



UNIVERSITY OF DAR ES SALAAM

UDSM INTELLECTUAL PROPERTY POLICY

Dar es Salaam, 2008

University of Dar es Salaam
Directorate of Research & Publications
P.O. Box 35091
DARES SALAAM.
Tel/fax: +255 022 2410743
E-mail: research@udsm.ac.tz
Web site <http://www.udsm.ac.tz/>

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ABBREVIATIONS AND ACRONYMS

ARIPO	- African Regional Intellectual Property Organization
BRELA	- Business Registration and Licensing Agency
CDTT	- Centre for Development and Transfer of Technology (of COSTECH)
CIPR	- Commission on Intellectual Property Rights
CISAC	- International Confederation of Societies of Authors and Composers
CoET	- College of Engineering and Technology
COSOTA	- Copyright Society of Tanzania
COSTECH	- Commission for Science and Technology
CSP	- Corporate Strategic Plan
DRP	- Directorate of Research and Publications
DUCE	- Dar es Salaam University College of Education
DVC	- Deputy Vice Chancellor
DVC- ARC	- Deputy Vice Chancellor (Academic, Research and Consultancy)
DVC-PFA	- Deputy Vice Chancellor (Planning Finance & Administration)
FCM	- Faculty of Commerce and Management
FoL	- Faculty of Law
FoSc	- Faculty of Science
FYRSP	- Five Year Rolling Strategic Plan
GATS	- General Agreements on Trade in Services
GATT	- General Agreements on Tariffs and Trade
HLI	- Higher Learning Institutions
IP	- Intellectual Property
IPMO	- Intellectual Property Management Office
ITP	- Institutional Transformation Programme
MUCE	- Mkwawa University College of Education
R&D	- Research and Development
SIDP	- Sustainable Industrial Development Policy
ToR	- Terms of Reference
TRIPS	- Trade Related Intellectual Property Rights Agreements
UDSM	- University of Dar es Salaam
WIPO	- World Intellectual Property Organization
WTO	- World Trade Organization

FOREWORD

One of the primary objectives of the University of Dar es Salaam is to carry out research for purposes of addressing problems and needs of the society. The University of Dar es Salaam recognizes the impact that research outputs may have in addressing these critical societal needs. These research findings may include new scientific findings and technologies, technological innovations, publications, technical information and data. If properly tapped, the research findings may contribute immensely to the national economy and support the growing private sector. The large pool of resources, in terms of competent researchers in various fields and the technical capabilities of various departments of the University of Dar es Salaam represent a huge potential for forging links with the private sector in a manner that will steer economic and social development in Tanzania.

Toward realizing such economic and social benefits, we believe that an effective and mutually supportive relationship between the University on the one hand and the private sector on the other is a must. While the private sector is interested in using the knowledge based assets which are in the form of intellectual capital from the University of Dar es Salaam, the latter is interested in disseminating the intellectual property assets in a manner that will benefit the public, the researchers and the institution. However, the existence of such mutually reinforcing beneficial linkages requires a defined institutional policy and regulatory framework. That framework must be devised in such a manner that it creates fair and equitable ways and means of rewarding efforts among different stakeholders: namely, the inventors, authors, the institution for which they are employed, outside sponsors or promoters, as well as the community in which the work is conducted.

Likewise, in the past few decades the University of Dar es Salaam has been party to an increasing number of collaborative research undertakings with like-minded research and academic institutions outside Tanzania. The research findings arising out of such collaborative arrangements present huge potentials for product development and patent protection. In order to effectively benefit from such arrangements, the University of Dar es Salaam recognizes the need for an elaborate institutional intellectual property policy to govern relationships with other collaborating institutions. Commercialization and/or licensing of such research findings to industries and other users is one of the major sources of revenues of many universities in the developed and emerging economies. The

University of Dar es Salaam is desirous of tapping the huge resource potential that exists in this area by harnessing the value from the intellectual property assets embodied in the research findings.

This document – *Intellectual Property Policy* – for the University of Dar es Salaam addresses all the pertinent issues raised above in a manner that is in conformity with the national and international intellectual property regulatory frameworks. Thus, the University management strongly believes that researchers, research collaborators, funding agencies, and industries will take into account and abide by this policy in dealing with the University of Dar es Salaam.

This policy is in line with the University of Dar es Salaam's Institutional Transformation Programme that aims at creating an enabling environment for adding or creating value to research through innovation. In the long run, the implementation of this policy will operate as a stimulus to further research and the creation of sound and mutually beneficial linkages between the University of Dar es Salaam on the one hand, and other stakeholders. Ultimately, the effective harnessing of value from the intellectual property assets at the University of Dar es Salaam will lead to technological and economic development which will benefit the general public in Tanzania.



Prof. R. S. Mukandala

Vice Chancellor

University of Dar es Salaam

September 2008

EXECUTIVE SUMMARY

0.1 BACKGROUND

The University of Dar es Salaam (UDSM), established in 1970, is one of the foremost renowned Universities in Africa South of Sahara. It currently consists of the main campus, with ten (10) teaching faculties and five (5) institutes, and two (2) constituent colleges namely, namely: Dar es Salaam University College of Education (DUCE) and Mkwawa University College of Education (MUCE).

The UDSM vision for 2004-2013 is to become a reputable world-class University that is responsive to national, regional and global development needs through engagement in dynamic knowledge creation and application. Its mission is to directly engage in the creation, transmission and evaluation of knowledge in the pursuit of excellence in academic scholarship and intellectual enquiry through teaching, research and provision of advisory and public service.

The core functions of UDSM are, among others, to carry out teaching, research and public service (consultancy and services). In the course of implementing its functions, enormous intellectual property assets are created that have both academic and commercial value. These intellectual property assets need a defined system of management in order for the University to derive maximum advantages out of them and for the betterment of both UDSM and the society at large. The above notwithstanding, a policy framework relating to identification, management, protection and commercialization of intellectual property assets at UDSM was until this IP policy proposals yet to be formerly put in place and adopted by appropriate policy organs of the University.

The initiatives to put in place the institutional intellectual property (IP) policy at the UDSM began in December, 2003. The initiative was borne out of one of the set objectives of the UDSM Five Years Rolling Strategic Plan (FYRSP) (2002/03-2006/07) which is the improvement of quality and quantity of research and publications. This objective has two targets:- (i) to increase the

number of patents and/or copyrights applied for and awarded and (ii) to establish Intellectual Property Unit at the UDSM under the Directorate of Research and Publications (DRP).

One of the key strategies under this objective is to strengthen commercialisation of UDSM research and development (R&D) results through, among other things, acquisition of patents, copyrights and trademarks. This strategy determined that by December 2003 the UDSM policy on Intellectual Property Ownership (IPO) would be in place and approved by the relevant UDSM organs. Hence, this policy is the implementation of the strategy set out in the Five Year Rolling Strategic Plan (FYRSP) of 2002/03 -2006/07.

UDSM seeks to establish this policy with the full knowledge that in the present globalised world there is a great need to develop and establish a protective mechanism for IP assets falling within the University framework. Indeed, in the era of increasingly knowledge-based economy, digital society and globalisation, the IP policy plays a crucial role as an instrument not only of protecting IP but also of facilitating optimal utilisation of intellectual knowledge generated from centres of excellence within and outside the country.

0.2 INTERNATIONAL PERSPECTIVES ON INTELLECTUAL PROPERTY

At the international level, intellectual property is mainly governed by two international organizations which are the World Intellectual Property Organization (WIPO) and the World Trade Organization (WTO). Tanzania is a signatory to a number of international instruments governing intellectual property which includes; the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs) of 1994, the Paris Convention for the Protection of Industrial Property of 1883 (The Paris Convention), and the Berne Convention for the Protection of Literary and Artistic Works of 1886. Tanzania is also a member to the African Regional Intellectual Property Organization (ARIPO) whose headquarters are in Harare Zimbabwe.

0.3 NATIONAL PERSPECTIVES ON INTELLECTUAL PROPERTY

At the municipal level Tanzania has the following pieces of legislation that govern IP; the Patents Act of 1987, the Trade and Service Marks Act of

1986, the Copyright and Neighbouring Rights Act of 1999 and the Protection of New Plant Varieties (Plant Breeders' Rights) Act of 2002.

At the policy level, Tanzania does not yet have a comprehensive Intellectual Property Policy. There are, however, isolated statements relating to intellectual property in various policy documents, in particular the Higher Education Policy 1999, the National Science and Technology Policy for Tanzania (1996) and the Sustainable Industrial Development Policy (SIDP) [1996-2020].

0.4 DEFINITION OF KEY TERMS

Unless otherwise stated in this policy the following terms shall have the following meanings assigned to them:

"*Assignment*" is a total transfer of rights in IP asset(s);

"*Commissioned work*" is a work prepared by an employee within the scope of his or her employment; or a work specially ordered or commissioned in certain specified circumstances;

"*Copyright*" refers to property right in an original work of authorship (such as a literary, musical, artistic, photographic, or film work) fixed in any tangible medium of expression, giving the holder the exclusive right to produce, adapt, distribute, perform and display such works;

"*Course materials*" means all materials produced in the course of or for use in teaching in any form (including digital, print, video and visual) and all Intellectual Property in such materials and will include lectures, lecture notes and materials, syllabi, study guides, assessment materials, images, multi-media presentations, web content and course software;

"*Derivative work*" is work based on another copyrighted work and is portrayed in a different style/format/media, such that it has acquired the minimum threshold required for copyright protection;

"*Industrial design*" is an applied art whereby the aesthetics, overall shape of object and usability of products are improved, hence giving rise to intellectual property rights with regard to such design.

"*Industrial property*" is a subset of intellectual property referring to those types of IP that have an industrial application. Specifically it refers to the following

types of intellectual property, patent, trade and service marks, industrial designs, trade secret and geographical indications;

"*Infringement*" means an unauthorized exercise of any of the exclusive rights solely granted to the owner of a respective intellectual property;

"*Integrated circuit*" refers to a small electronic device made out of a semiconductor material for uses among others microprocessors, audio and video equipment and automobiles;

"*Intellectual property assets*" are those parts of the intangible assets that relate specifically to knowledge, such as patents, trademark, copyrights, trade secrets, know-how, best practices;

"*Intellectual property*" means all statutory and other proprietary rights (including rights to require information be kept confidential) in respect of inventions, copyright, trademarks, designs, patents, plant breeder's rights, circuit layouts, know-how, trade secrets, and geographical indications. It also includes all other rights as defined by the respective pieces of legislation and international conventions governing intellectual property;

"*Invention disclosure*" is an act of providing information by inventor(s), on the invention, circumstances leading to the invention and facts concerning subsequent activities;

"*Invention*" in the context of this Policy, means an idea of an inventor, which permits in practice the solution to a specific problem in the field of technology;

"*License*" is a permission to use an IP right within a defined time, context, market line or territory. It may be exclusive or non-exclusive;

"*March-in-right*" is the right to the government or any funding agency which funded the research that led to the creation of an intellectual property asset to have access and make non-commercial use of the said IP asset within the scope of its ordinary activities;

"*New Plant Variety*" refers to a plant variety that meets the criteria for obtaining plant breeders rights as set under the Protection of New Plant Varieties (Plant Breeders' Rights) Act of 2002 and the Convention for the Protection of New Varieties of Plants (UPOV) the 1991 Version;

"*Patent*" is a document issued by a government office (or a regional office acting for several countries) upon application, which evidences exclusive rights to the holder with regards to the invention in respect to certain rights stipulated under the law;

"*Public domain*" means an IP asset that is no longer under protection whose use does not require permission of the holder;

"*Royalties*" are payments made for the use of IP assets;

"*Scholarly and creative work exception*" refers to work done by students, postdoctoral fellows and associates in training. Copyrightable creations will be owned by creators;

"*Trade and service mark*" refers to the distinctive mark of authenticity, through which the products of particular manufacturers or the vendible commodities of particular merchants may be distinguished from those of others;

"*Trade secret*" is any information, which has actual or potential value, and which is not generally known publicly and which offers competitive advantages to the owner of the said information against the other competitors;

"*Traditional knowledge*" refers to knowledge systems encompassing a wide variety of areas held by traditional groups or communities or to knowledge acquired in a non-systematic way which have significance and relevance not only to its holders but also to the rest of the humanities;

"*University resources*" means resources provided by the University to creators which, for the avoidance of doubt, includes facilities, funds, services, equipment, paid leave, office computers hardware, software, secretarial services, funding for research, staff time and support staff in excess of those normally used or available to staff for producing course materials. They do not include salary, insurance or pension schemes contribution paid for the creator.