

Regulations of Intellectual Property

Universidad de los Andes

Premisas

Universidad de los Andes looks for, amongst other essential purposes to generate as well as diffuse knowledge and innovation, promoting attitudes of open dialogue with others in a respectful manner in whereby promoting a 'whole' formation and development of the universities community as a focal point for intellectual habits and morals for society.

The University plays a role in educating and investigating in all areas of science, arts and culture relating it with a high spectrum of educational activities, technological and social that generate relevant knowledge that can be a subject to protection through the regime of intellectual property (IP).

The intellectual property allows there to be protection and reattribute the intellectual work of the universities' community and to reassure, in part, the funding and development of the research and innovation of the institution.

Understanding that the intellectual property means and active funding in the actual world, the University looks to perform the following activities:

- Inform about the importance of the intellectual property,
- Encourage the proper validation of intellectual property, and
- Transmit to society, if necessary, the benefits of IP in order to cooperate with the fulfilment of the aims of the University and the respect of their obligations and laws.

Considerations

Considering that it is necessary to determine a regulatory framework that safeguards those interests of the University, of its teachers, students and administrative staff, in the new knowledge generated by their activities.

Bearing in mind that it is necessary to establish, in IP, clear rules concerning the rights and obligations of the University and its academics, students and administrative staff, as well as those of the institutions or collaborative entities that work in supporting the universities investigations.

Concerning that it is also required to generate the adequate incentives and a fair compensation for the academics, faculties, academic units and the University itself, around any new knowledge generated as a result of the exercise of academic freedom in accordance to the Mission and Vision of the University.

Acknowledging the need of clear procedures to propitiate and resolve possible conflicts in means of intellectual properties and therefore establish the correct equal criteria in order to strengthen the University technology transfer and also increase funding for research.

Recognizing the need for establishing recognized standards for the universities community in these matters, the following dictates the present intellectual property rules:

Introduction

Chapter One. - Definitions

For purposes of this Regulation the following definitions:

a) **Intellectual Property**: including all rights relating to literary, artistic and scientific works, to interpretations of the performers, to implementations of performers, to phonograms and broadcasts, inventions, in all areas of human activity, scientific discoveries, industrial designs, trademarks, in all its forms to plant varieties as well as the names and designations commercial domain names and, in general, all other rights resulting from the intellectual activity in the industrial, scientific, literary and artistic covered and / or recognized by the laws and international treaties.

a.1) **Copyright:** Including rights of the intellectual properties that for the sole reason of creating, acquired by the original authors or holders of those works acquired originating authors or owners of works of literary domains intelligence, artistic and scientific, whatever their form of expression.

a.2) **Industrial Property:** covers all industrial property rights that fall on the production of intellect, industrially applicable, meaning within all productive activity, including services whereby their results are new and involve an inventive step, and likewise, all distinctive signs protected by law. A title exemplary object of industrial property are inventions of products, applications or processes, utility models, designs and industrial designs, layout designs of integrated circuits, and industrial secrets, undisclosed information, trademarks, advertising slogans, geographical indications and designations of origin and, in general, all other objects of industrial property rights recognized by law or international treaties or future.

b) **Student:** corresponds to the student that is coursing their pre-graduate, postgraduate, intern, holder or receiving training, according to the respective programs taught in any of its academic units.

c) **Academic:** the teacher, instructor or investigator with a work contract or honorarium of pre-graduate or post-graduate, complying teaching or research function in any of the academic units of the University. Means included in this concept that meets the student assistant research or teaching functions.

D) **Managerial:** any employee at the University that undergoes their job roles, to perform intellectual activities that may be subject to intellectual property rights.

E) **Collaborating Institution:** any society, company or entity that participates, to any degree with an academic unit or investigation at the University in the development and innovation, invention, work and / or any product, you may be subject to intellectual property rights.

F) **Deliverance:** All act, event or activity that implies being made public, through any means or procedure, the result of an investigation. A title exemplary disclosure is the publication, broadcast, dissemination, exhibition or any other similar act. No disclosure in cases where the information is made known in a confidential relationship.

G) **Moral Law:** law, which pertains to those authors belonging to the intellectual work that is translated into a series of covered prerogatives

H) **Patrimonial Law:** the set of economic rights and is transferable copyright in a work of the mind. For example; the right of reproduction and the right of public communication.

I) **Use of the universities equipment:** the use of equipment, resources, facilities or equipment of any kind for research or the creation or production of a work product or any other subject matter of protection for intellectual property.

Chapter Two. - Appliance

The following regulations normalizes ownership, distribution and recognition, use and other usages or related activities of intellectual property that fall back on creations, works, inventions and distinctive signs and other productions of talent and ingenuity whereby their origin is the University or their participants in their capacity as such, being either students, academics and / or administration generally.

Chapter Three. - Validity

The present regulation will have an indefinite validity as of its publication and could be modified according to its possible proposal from the committee of intellectual property approved by the rector. Any modifications, regulatory modifications will not compromise the previously acquired rights by the university.

Chapter Four. - Special Agreements

The present regulation will be applicable in material of intellectual property without a preconception of particular agreements concluded by the university with a student, academic and/or a managerial in particular.

Intellectual Property and students

Chapter Five. - Copyright

The university encourages its student to investigate, create and publish all types of intellectual works in line with the aims of the institution.

Given this, the University recognizes the student's copyright on their theses, papers, articles and other works protected by copyright created in that capacity and in compliance with the respective programs offered by the University.

In any case, as an author, the student agrees to recognize any disclosure of the work, its affiliation with the Universidad de los Andes. This regulation does not apply to thesis or *memories*.

The student may not divulge his or her thesis without prior written authorization of the Director of the respective academic unit, which must be given due six months since that thesis was approved by the competent academic authority, under the affiliation of the Universidad de los Andes¹.

In the event that a student participates in the creating of a work in collaboration under the conditions indicated in the second paragraph of this same chapter, the ownership will be shared in proportion to the contribution from the authors and if this cannot be established, it shall be allocated equally.

If there is a collective work to be published under the name of the university, it will be the sole owner of the respective copyright. The same act will be applied to every work created by the student commissioned by the university for all software and databases produced by the student in meeting the academic program for a degree or any title from the University. The foregoing shall also apply to rights related to copyright their respective serving nature.

Chapter Six. - Industrial Property

The University inspires their students to participate in research and developing new inventions and creations susceptible to being protected industrially. Understanding the need to give proper protection to those assets the University is the sole owner of all inventions, trademarks, products, creations and research, to be protected by industrial property that are created by students at the University in the development of any program offered by any academic unit or using equipment of the same, except the following cases:

- 1) The moral right of the student to appear as the creator, in the case of him/her being so, in the respective request of the industrial property.

¹ La restricción de divulgación es necesaria para efectos de analizar la eventual patentabilidad del objeto de la tesis, pues en caso de divulgarla no se podrá posteriormente pedir la patente de invención por falta de novedad.

- 2) For the University giving up the right to protect industrial property assets so by requesting the relevant student development direction and innovation. If there is no response within 6 months from the written request, and according to procedure dictates that purpose the same direction, it is understood that the University waiver of such right in favour of the respective student.
- 3) A particular agreement has been agreed with the respective student.

In the case that it is necessary the student will grant those documents needed in order to constitute the industrial property in favour of the University, are these, inventor or other disposals for Chile and abroad.

A student which believes, produces and performs an invention or creation that is susceptible to being protected by industrial property that can be of the universities' property, according to the regulations in the present chapter, in confidence shall so inform the Department of Development and Innovation, according to the procedure prescribed therein.

Chapter Seven. - Authorization

The University, or its designee, may use the works or objects protected by intellectual property covered by the previous articles and those that are not of their property, on a non-exclusive, free, worldwide and throughout the term of legal protection, but only for educational and research purposes.

Chapter Eight. - Responsibility

The student is responsible for any infringement of intellectual property rights incurred.

The student agrees to indemnify and defend the University for and against any claim or legal action, losses, damages and expenses of lawsuits consequences of Infringement of any intellectual property right, whose object was provided, licensed or authorized by the student in violation of third party rights.

Regarding the use of photocopies or third party material "Instructions on reproduction permitted Literary and Artistic Works" of the university shall be applied.

Chapter Nine. - Additional Provisions

The student in case of being the inventor may receive royalties from intellectual property incorporated in accordance with these regulations as provided in article twenty.

The student may not make use of signs or marks of the University without the consent of the Department of Development and Innovation.

Should the student have conflicts of interest in respect to third parties during the development of intellectual property whose ownership is in titled to the University, shall promptly declare this to the Department of Development and Innovation who will make a decision according to the procedures established.

Intellectual Property and Academics

The University motives its academics to research, create and publish every type of work of intellect in accordance to the aims of the institution.

Given the above statement, the university recognizes copyright of the academic on their jobs, articles and other works protected by the right of author that was created in his capacity so without prejudice to the authorization provided in Article Twelve for the purpose that this indicates.

In the event that the academic participates as co-author, the ownership will be shared in proportion to his contribution and those of others and in the case that this cannot be credited; ownership shall be distributed in equal parts.

If the work is collective, the copyright of who will coordinate the creation of the same, to be published under his name, presuming that all work created under the direction of the University, to be published under his name, has that character, the University being the sole owner of the respective copyright. The same applied to all work created by the academic commissioned by the University and for all software and databases to produce the academic in meeting their research or teaching. The foregoing shall also apply to rights related to copyright their respective serving nature.

The academic compromised to recognize any disclosure of the work, its affiliation with Universidad de los Andes. In the event this does not happen the following

sanctions will be applied: a) the product or resulting work will not count for academic categorization and b) not receive incentives associated with work or publication.

Chapter Eleven. - Industrial Property

The University considers of utmost importance that their academics involved in research and development of new inventions and creations to be protected by industrial property. Consequently, the performance of an inventive or creative activity is part of the nature of the services provided to the University. Understanding also the need to give proper protection to such assets and the University being the sole owner of all inventions, trademarks, products and creations are made by academics at the University and in the fulfilment of its obligations or using the same equipment, except the following cases:

- 1) The moral right to appear as academic inventor should be, in the relevant application of industrial property.
- 2) Having the University given up on protecting the assets of Industrial Property rights of its property requiring him to ask the respective academic of the Department in Direction and Innovation. If there is no reply within 6 months from the written request, according to procedures of the same unit, the University shall give up rights in favour of the respective Scholar.
- 3) A particular agreement concluded with the respective academic.

If necessary the academic will grant the additional and necessary documents to constitute the industrial property in favour of the university, are these, inventor or other disposals for both for Chile and abroad.

The academic research as a result of or in meeting their academic functions and or research, production or do any invention or object is susceptible of industrial property protection that is owned by the University according to the rules of this chapter, as the result of such research being eligible for protection by industrial property, it must be informed, in confidence, to the Department of Development and Innovation.

The duty to report is realized according to the procedure established for this purpose in the same Department, the academic must guard the appropriate confidentiality of such facts. In the event that the academic does not meet this duty indicated, for themselves or others, the industrial property object indicated above may be subject to disciplinary or legal action as deemed fit.

The academic must defer disclosure of the invention or development that may be subject to intellectual property for a period of 3 months from the report of such invention or development to the Department of Development and Innovation, according to the procedure given in effect. The report shall be confidential and during that period the management shall analyse the feasibility of applying the relevant patent or intellectual property right. After this period, the academic is authorized to disclose the relevant information or research.

Chapter Twelve. - Authorizations

The University, or who this one designates, will be able to use the works or creations protected by intellectual property covered by the previous articles and those that are not of his property, non exclusive, free, world form and by the whole term of legal protection, but only for educational ends and of investigation.

Chapter Thirteen. - Responsibility

The academic is responsible for any infraction to the rights of intellectual property that is occurred.

The academic agrees to indemnify and defend the University for and against any claim or legal action, losses, damages and expenses due to consequences of infringement claims by any intellectual property right whose object was provided, licensed or authorized by the academic in violation of third party rights.

Regarding the use of photocopies or third party material shall apply the "Instructions on reproduction permitted Literary and Artistic Works" at the University.

Chapter Fourteen. - Additional Provisions

The academic in case of ownership or inventor may receive privileges from intellectual property incorporated in accordance with these rules as provided in article twenty.

The academic may not use any signs of marks belonging to the University without any expressed authorization from the department of direction of development and innovation.

Should the student have conflicts of interest in respect to third parties during the development of intellectual property whose ownership is in titled to the University,

shall promptly declare this to the Department of Development and Innovation who will make a decision according to the procedures established.

Intellectual Property and Administrative

Chapter Fifteen. - Copyright

The University will be the exclusive owner of all works created by the administration in carrying out its functions. The same applies if the administration has used University equipment.

Chapter Sixteen. - Industrial Property

The University will be the exclusive owner of industrial property that occurs in the administrative performance of their duties. The same applies if the administration has been using the equipment of the University.

The administrative who creates, produces or realizes any invention or object is susceptible of industrial property protection that is owned by the University according to the regulations of this chapter, should report it in confidence to the Department of Development and Innovation according to the procedures established for this purpose, keeping the confidentiality of such relevant facts.

Chapter Seventeen. - Authorizations

The University, or who this one designates, will be able to use of the works or creations protected by intellectual property covered by the previous articles and that are not of his property, in not exclusive, free, world form and by the whole term of legal protection, but only for educational ends and of investigation.

Chapter Eighteen. - Responsibility

The administrative is responsible for any infraction to rights of intellectual property, which it incurs.

The administrative agrees to indemnify and defend the University for and against any claim or legal action, losses, damages and expenses due to consequences of

infringement claims by any intellectual property right whose object was provided, licensed or authorized by the academic in violation of third party rights.

Regarding the use of photocopies or third party material "Instructions on reproduction permitted Literary and Artistic Works" of the university shall be applied.

Chapter Nineteen. - Additional Provisions

The administrative in case of ownership or inventor may receive royalties from intellectual property incorporated in accordance with these rules as provided in article twenty.

The administrative may not use any signs of marks belonging to the University without any expressed authorization from the Department of Development and Innovation.

Should the administrative have conflicts of interest in respect to third parties during the development of intellectual property whose ownership is in titled to the University, shall promptly declare this to the Department of Development and Innovation who will make a decision according to the procedures established.

Distribution of Benefits

Chapter Twenty. – Industrial Property Privileges

The University, without special privileges, shall distribute assets, utilities and/or benefits obtained by invention patents gained by researchers, students and /or administrative whose ownership is exclusively of the university in accordance to the present regulation according to the following rules:

The Department of Development and Innovation received the first privileges to produce the relevant patent, either by license, or by other means, for the purposes of covering the costs of administration and patenting.

Once these costs covered, the remaining costs are to be divided the following manners:

- a) A 30% for the/ those inventors,
- b) A 35% for the respective academic unit,
- c) A 35% for the general use of the university

These rights are transferable and/or transmissible during the time in which the law is applicable.

Collaborative entities

Chapter Twenty-One. - Special Agreements

In the event that the University itself or through any of its academic units, concludes a cooperative agreement with a collaborating institution for the development of a project that can generate intellectual property, this will be owned by the University unless expressly agreed with such entity.

Intellectual Property Committee

Article Twenty-Two. - Composition

For the implementation and development of this Regulation, the act of creating a committee of intellectual property is made, as an advisory body of the University, whose members are:

- a) Research Director or his delegate, who will serve as Chairman.
- b) A research professor in every area of knowledge, designated by CPC.
- c) Director of the Department in Development and Innovation
- d) A member of the legal unit from the university who will offer as well the position of being secretary.

In the event that a tie exists, the vote of the President overrules.

Chapter Twenty-Three. - Functions

Functions of the Intellectual Property Committee:

1. Propose complementary rules to the present Regulations.

2. Propose modifications to the present Regulations.
3. Resolve controversies in the interpretation and application of the regulations and ownership to the rights of Intellectual Property as noted in chapter Twenty-Five.
4. Determine and authorize if the result of an investigation can be subject to being registered as Industrial Property or patent.
5. Establish or modify the means of compensation for the production of intellectual property in accordance to the aims of the university.
6. Others to be assigned by the rectories or vice-rectories.

Department of Development and Innovation

Chapter Twenty-Four. - Definitions and Functions

The Department of Development and Innovation seeks to support, channel and manage efficiently University research towards the productive sector, nationally and internationally, along with maximizing financial support of the State, in order to promote innovation, the transfer and application of knowledge of the University to fulfil its mission.

As well as the above, it is intended to capture new needs of society for the development of research projects, and in turn contribute to the generation of funding for university research.

Like this, the Department seeks to promote a culture of intellectual creation through members of the universities community, in all its forms, thriving to develop applied knowledge with potential for technology transfer and creation of value to the productive sector. Also ensure fair compensation for University research.

It shall be for the Department of Development and Innovation to identify, opportunely, the creations, inventions, technological innovations or products under intellectual property rights, to develop the members of the university community in order to manage the intellectual property rights of the establishment, in order for its discharge or transfer, ensuring the proper coordination of the different academic protocols and standards according to the same address for this purpose and implemented without prejudice to the functions assigned by the Rectorry.

Dispute Settlement

Chapter Twenty-Five. - Disposition of Compromise

Conflicts and disputes relating to the application and interpretation of these rules as well as the determination of disputed ownership of intellectual property rights regulated in the same, will be of the Intellectual Property Committee competence as specified in Article twenty-four. This committee will decide on a procedure equitable rights of the parties that shall prevent the right of rights; always promoting previous agreements through mediation whose regulations would be tried by the same committee.

Modifications

Chapter Twenty-Five. - Future Versions

The regulations of Intellectual Property could be modified, as a whole or in part, according to the general rules of the university and in case that these do not exist, these will be conferred to be ordered by the rectory and the new version will start to govern to the date of publication or from when the new decree states.