

## **1. Self-perception and objectives**

The transfer of knowledge and technology has high priority to the Hochschule Mittweida - University of Applied Sciences - particularly with regard to the goal of establishing national and international partnerships whilst, at the same time, assuming responsibility for regional development. The close cooperation between research and practice is an essential element of the exploration and application of the latest technologies, the development of new products and the continuous implementation of innovative and effective results in research. Research at the Hochschule Mittweida - University of Applied Sciences - is characterised by application orientation and interdisciplinarity.

Patents are a feature of scientific output - for the inventors as well as for the Hochschule Mittweida - University of Applied Sciences. With the abolition of the so-called "Hochschullehrerprivileg" (whereby the professors decide on the patenting of their inventions) through an amendment of § 42 "Arbeitnehmererfinderrecht" (Employee Inventions Act), professors are no longer guaranteed independent property and exploitation rights. The protection of the inventions of all professors and university employees is therefore now the responsibility of the Hochschule Mittweida - University of Applied Sciences.

The overriding goal of the IP strategy of the Hochschule Mittweida - University of Applied Sciences - is to secure a successful transfer of knowledge and technology through the protection and exploitation of property rights as well as the documentation of scientific ability. The interests of the Mittweida University of Applied Sciences and its institutes must be protected, scientists supported and, at the same time, the access to the research results, the use and distribution through licences, sales and spin-offs being supported and regulated. The IP strategy focuses on the existing patent system of the Hochschule Mittweida - and pursues a written description of measures in the following strategic sub-goals:

1. Protection of scientific results
2. Increase the university's scientific reputation
3. Increase the university's appeal as a centre of science and employer
4. Support the university's spin-offs
5. Generate financial returns
6. Incorporation in the overall strategy of the Hochschule Mittweida - University of Applied Sciences
7. Realisation of the principles of transparency and the service concept

## **2. Definitions / abbreviations**

The following definitions are to be understood as a basis:

**Business and trade secrecy:** Business and trade secrets include all facts, circumstances and processes which are not obvious, but are only accessible to a limited group of persons, and on whose non-proliferation the legal entities have a legitimate interest. Business secrets essentially include technical knowledge in the widest sense; Trade secrets primarily concern commercial knowledge. Such secrets include sales, earnings, account books, customer lists, sources of supply, conditions, market strategies, creditworthiness documents, calculation documents, patent applications and other development and research projects that can be used to determine the economic conditions of a company.

**Design:** A design is an industrial property right which gives its owner exclusive rights to use an aesthetic appearance (shape, color, shape) for certain goods.

**Existing rights:** Inventions which were registered or released before a contract came into effect (§ 5 ArbNErfG), property rights which were registered or granted as a result of this or expertise which developed before a contract came into effect.

**Expertise:** Package of non-patented practical information resulting from experience and testing and which is confidential, meaning not generally known nor easily accessible.

**IP (intellectual property):** Scientific facts/results, insights, developments, property rights, procedures, software and technical expertise. This is protected by the regulations of the industrial property protection and copyright law. The intellectual property right is owned by the author although, in accordance with the law on employee inventions (ArbNErfG), they are the property of the employer.

**New rights:** After a contract has come into force, inventions registered on the results/findings (§ 5 ArbNErfG), property rights registered or granted as a result of this and/or expertise relating to the findings which has developed after an agreement has come into effect.

**R&D:** Research and development

**Research results:** Results of an order development or research cooperation which emerge during the implementation of a contract and are covered by the contractual object.

**Trademark** As a Trademark, according to § 3 Abs. 1 MarkenG can be protected all of the characters, in particular words, including personal names, designs, letters, numbers, acoustic sounds, three-dimensional forms including the shape of goods or

their packaging and other presentations, which are capable of distinguishing the goods or services of one undertaking from those of other undertakings.

**Contractual object:** Defined object of an agreement also includes a definition of the application field in which the results/findings could be used.

### **3. Measures**

The above described sub-goals are implemented with the following measures:

#### **3.1 Protection of scientific results**

Research at the Hochschule Mittweida is documented through the efficiency of the professors and employees in many joint R&D projects which are funded by the federal ministries, the European Union and further sponsors. The high level of third-party funding (2.5 x the national average) additionally underlines the high standard of the research work. The R&D results and inventions in the key research areas, which are generated primarily via these projects, offer a huge potential for the registration of valuable intellectual property applications. This measure focuses primarily on the registration of patents and utility models in the key research areas of the university with trendsetting market and exploitation potential. In individual cases, however, strategic applications with less exploitation potential and which are outside the key research areas are also feasible.

#### **3.2 Increase of the university's scientific reputation**

Technical property rights (patents and utility models) serve themselves as the reputation of the university and the inventor, therefore the management of know-how is not primarily restricted to monetary aspects. As a result the following measures are promoted: support of innovations as results of research projects, protection of innovative ideas, function of the patent system of the university as a tool to support scientists in the participation of new research projects. Therefore the Hochschule Mittweida provides financial resources within its means and ensures the correct implementation of the processes from the patent application to exploitation.

#### **3.3 Increase the university's appeal as a centre of science and an employer**

The increase in the appeal of the Hochschule Mittweida - University of Applied Sciences - as a centre of science and as an employer can be achieved by the further professionalisation of the handling of inventions, property rights and their exploitation and is therefore a sub-goal of this strategy.

In industrial partnerships, which involve property rights, it is necessary to determine the individual value of the property rights and the strengthen partnerships with the companies. Therefore a joint priority-based application of the companies and the

university inland is often strived. Hereby it is important to ensure a balance between the interests of the companies and the university depending on the type of cooperation (research cooperation, contract research).

In the exploitation, the university and companies are encouraged to negotiate standard market conditions. For inventions and know-how within the framework of contract research or a research cooperation, it is necessary to define clear rules in all cooperation agreements early on. For EU projects and partnerships, priority must be given to the employee invention law (ArbnErfG).

Inventors at the Hochschule Mittweida - University of Applied Sciences - are encouraged to actively support the process from application to exploitation. Inventions which the university claims, are evaluated as evidence of excellent research work similar to other outstanding scientific achievement (e.g. high quality publications, participation in EU projects).

### **3.4 Support of the university's company spin-offs**

In addition to research partnerships, the Hochschule Mittweida - University of Applied Sciences - which views itself as a "start-up friendly" university, regards new company spin-offs as the most effective way of transferring knowledge and technology. The use of patents as the basis for company start-ups of the Hochschule Mittweida is therefore understood as a way of supporting start-ups. Appropriate agreements (usage or transfer of rights agreements such as licence or purchase contracts) are agreed between the entrepreneur and the university.

### **3.5 Generation of financial return flow**

Regardless of the above aspects, know-how should also be marketed and long-term revenue generated through this for the university and the inventor. Hereby the university revenue should be particularly used for the refinancing of the patent system.

The university finances promising patent applications – primarily through of third-party-funded projects - and holds them for a maximum of 5 years. After five years holdingperiod, with the exception of basis patents, an annual assessment on the prospect for exploitation will take place. In case of a negative outcome, the property right will be dropped. In the negotiation of the exploitation, a balance of interests must be found between the ownership right of the Hochschule Mittweida -University of Applied Sciences with view to its assets as well as the entrepreneurial risk of the inventor and his financial means.

### **3.6 Embedding into the overall strategy of the Hochschule Mittweida - University of Applied Sciences**

This IP strategy is conceived as part of the overall strategy of the Hochschule Mittweida - University of Applied Sciences - and is linked with other aspects of

university policy (e.g. university development planning, transfer strategy of the Hochschule Mittweida - University of Applied Sciences).

The transfer strategy of the Hochschule Mittweida - University of Applied Sciences - therefore ensures the integration of the property right topic in all phases of project implementation in research partnerships. More precisely this includes, for example, the calculation of property right costs in project applications, the sensitisation of professors who have submitted applications for the subject of inventions and the timely regulation of the handling of property rights which occurs within the framework of the projects.

From the university's overall and cost viewpoint, intellectual property right applications are primarily national applications. Applications abroad are treated restrictively and have a particularly high standard with view to exploitation prospects, level of invention and scientific excellence.

### **3.7 Implementation of the principles of transparency and the service policy**

Through the Prorektor's office of Research and Development, the Hochschule Mittweida - University of Applied Sciences offers inventors an initial contact as well as individual consultation on technical property rights and know-how.

Furthermore, the topic of know-how, inventions and technical property rights is also part of teaching at the Hochschule Mittweida - University of Applied Sciences in order to raise awareness of this among students and employees at an early stage (for example SAXEED Workshops).

## **4. Technical implementation**

The IP-strategy is implemented by means of the below described technical processing and supplemented by the respectively valid version of the patent law (PatG) and the employee invention law (ArbErfG).

Hereby the employee invention law regulates the balance of interests between the employer (here the Hochschule Mittweida - University of Applied Sciences) and the employees (inventors). According to the ArbErfG, the employer basically has an entitlement to the inventions which the employee has completed during the employment relationship. This is called a service invention whereby the employee acquires the right to be paid compensation.

### **4.1 Procedure for registering inventions**

Employers must always have the possibility to examine whether an invention is free or not. Therefore a reporting requirement exists for inventions. The infringement of the reporting requirement can cause a compensation claim of an employer towards an

employee and involve employment law related consequences can occur which could even result in employee dismissal. Invention disclosure must be made in written form to define clear conditions on the scope and deadlines. A form can be found on the central information portal (ZIP) of the Hochschule Mittweida University of Applied Sciences.

The invention disclosure must be sent in a sealed envelope to the Prorector's office of Research and Development. In addition to the outline data such as title and participants of the invention the research issue, solution and the occurrence of the invention (Inventor's shares) should also be described. It is important to state whether the invention or parts of it need to be released for urgent reasons (e.g. for reports, publications, conferences etc.). The Prorector of Research and Development as well as the Head of the Research Department will decide about the utilisation outcome of this. In case of different views, the Senate Commission for Research will be involved and the Rectorate will decide about the utilisation.

If the Hochschule Mittweida - University of Applied Sciences has a complaint regarding the invention it must be disclosed within two months. Otherwise the invention is deemed properly. Furthermore, the employer can contest within 3 months that it is a free invention.

#### **4.2 Utilisation, Release and duty through the Hochschule Mittweida - University of Applied Sciences as employer**

An invention disclosure is deemed as accepted if the invention has not been released within four months. All rights relating to the invention are then transferred to the Hochschule Mittweida - University of Applied Sciences - which then registers the invention at its own costs (budget funds or third-party-funded projects) as a patent and utility model in Germany. Inland, the Hochschule Mittweida - University of Applied Sciences has a notification requirement and abroad the entitlement. Utilisation may also occur before expiration through a confirmation of the invention disclosure.

In case of release or transfer to the inventor it will be assessed whether any agreements with third parties do not violate them. If the university agrees to a transfer to the inventor, all costs relating to the further patent procedure must be paid by the inventor (private patent). If the property right application is placed, the permission of the inventor is required and he must be given sufficient time to file the registration himself.

The decisions will be made by the Prorector for Research and Development and the Head of the Research Department of the Hochschule Mittweida - University of Applied Sciences. In case of different views, the Senate Commission for Research will be involved which will develop a decision-making tool and the Rectorate will make a decision. The employer is in charge to inform the inventor about the entire registration process.

#### **4.3 Claim to remuneration in case of exploitation**

If the employer utilises the service invention, the employee is entitled to appropriate reasonable compensation which is based on the extent of the economic exploitability and the employee's share in the realisation. Employed inventors at universities are better off than those in industry and other public service and receive 30 % of the achieved proceeds. If there is more than one inventor involved, allocation occurs in accordance with the inventor's shares in the invention disclosure. In addition, university inventors are also granted the non-exclusive right to use the invention in research and teaching.

#### **4.4 Non-disclosure**

The employees of the Hochschule Mittweida - University of Applied Sciences are obliged to make the necessary arrangements to ensure that the Hochschule Mittweida - University of Applied Sciences - is able to fully exercise its rights for the exploitation of service inventions. The employee (inventor) and employer (here Prorektor of Research and Development, Head of the Research Department) are committed to maintain confidentiality regarding inventions in accordance with §24 ArbNErfG.

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