



Item 80

**RESOLUTION NO. 68  
OF THE SENATE OF THE UNIVERSITY OF WARSAW**

of 22 March 2017

**on the enactment of the Rules of  
intellectual property management at the University of Warsaw**

Pursuant to Article 86c.1.1. of the Act of 27 July 2005 – Law on Higher Education (consolidated text: Journal of Laws 2016, item 1842, as amended) hereinafter referred to as the “Act”, having regard to the importance for the national economy of making available the results of intellectual effort of the University’s employees, for purposes of commercialisation, according to the principles of open access to those results, the Senate of the University of Warsaw resolves the following:

§ 1

The Rules of intellectual property management at the University of Warsaw, hereinafter referred to as the “Rules”, are hereby enacted and attached as an appendix hereto.

§ 2

On the effective date of this resolution, the resolution no. 314 of the Senate of the University of Warsaw of 19 January 2011 on the enactment of the Rules of acquisition, use and protection of intellectual property at the University of Warsaw (UW Monitor 2011, No. 1, item 1, as amended) is repealed, provided that:

- 1) the provisions of the Rules of acquisition, use and protection of intellectual property at the University of Warsaw, constituting appendix no. 1 to the resolution no. 314 of the Senate of the University of Warsaw of 19 January 2011, as amended, apply to creative results and works produced prior to 1 October 2014, subject to sections 4 to 6 below;
- 2) the provisions of the Rules of acquisition, use and protection of intellectual property at the University of Warsaw, constituting appendix no. 1 to the resolution no. 314 of the Senate of the University of Warsaw of 19 January 2011, as amended, apply to creative results and works produced from 1 October 2014 to the effective date of the Rules, taking into account provisions of the Act of 11 July 2014 amending the Act - Law on Higher Education and certain other acts (Journal of Laws 2014, item 1198) and of the Act of 4 November 2016 amending certain other acts which determine conditions of pursuing innovative activity (Journal of Laws 2014, item 1933), subject to sections 4 to 6 below;

- 3) the provision of the attached Rules apply to creative results and works produced upon the effective date of this resolution, subject to sections 4 to 6 below;
- 4) the provisions of the Act in the version applicable prior to 1 October 2014 apply to contracts regarding the rights to the results of research which are an invention, utility model, industrial design, or topography of integrated circuits, grown or discovered and developed variety of plant or of development work and to know-how related to those results, made prior to 1 October 2014;
- 5) the provisions of the Act in the version applicable prior to 1 October 2014 apply to commercialisation of the results of research which are an invention, utility model, industrial design, or topography of integrated circuits, grown or discovered and developed variety of plant or of development work, produced prior to 1 October 2014, and to know-how related to those results;
- 6) the provisions of the Act in the version applicable before 31 December 2016 apply to proceedings regarding commercialisation referred to in Article 86e.1. of the Act in the version applicable prior to 31 December 2016, initiated and still pending until that date.

### § 3

1. Supervision over practical implementation of the provisions of the Rules and establishment, if necessary, of detailed procedures in matters related to the implementation of those provisions are vested in the Rector.

2. Unless the Rules stipulate otherwise, decisions in matters covered by the Rules are taken by the Rector. The Rector may grant a power of attorney to take decisions on his or her behalf in the above matters.

3. The Rector shall announce the English translation of the Rules to be used in the University's international cooperation.

### § 4

The resolution enters into force on the date of its adoption.

Rector of the University of Warsaw: *M. Pałys*

## **RULES OF INTELLECTUAL PROPERTY MANAGEMENT AT THE UNIVERSITY OF WARSAW**

### **§ 1 Subjective Scope**

The provisions of the Rules apply to:

- 1) the University employees;
- 2) the University students and PhD students, interns, scholarship holders, visiting scholars, and other persons if this is provided for in a contract made between the University and such persons.

### **§ 2 Objective Scope**

1. The Rules govern:

- 1) rights and duties of the University, employees, as well as students and PhD students in the field of protection and use of copyrights, related rights, and industrial property rights;
- 2) principles of remuneration of the Authors;
- 3) principles and procedures of the Commercialisation.

2. The University may make its assets available to the employees, students, PhD students and other persons for the purpose of using them in the process of Commercialisation or for providing scientific and research services. Detailed principles of using the University's assets are regulated separately.

### **§ 3 Definitions**

The terms used in the Rules have the following meanings:

- 1) "organisational Unit" – means the unit mentioned in § 11.1.1 to 11.1.4 of the Statute of the University.
- 2) "The head of organisational Unit" – means the dean of a faculty, the director or the head in the case of the University's Organisational unit other than a faculty;
- 3) "Know-how" – means information of a technical, technological, commercial or organisational nature which is material to the activity of the University;
- 4) "direct Commercialisation" and "indirect Commercialisation" – used in the sense defined by the Act, whereas in the case of using the term "Commercialisation" without any adjective, it is understood as the "direct Commercialisation" and the "indirect Commercialisation";
- 5) "Committee" – means the Committee for Intellectual Property Management acting on the basis of the Rules;

- 6) "Development work" – means development work within the meaning of Article 2.4 of the Act of 30 April 2010 on the Principles of Financing Science (Journal of Laws 2016, item 2045, as amended);
- 7) "Creative Result" – means inventions, utility models, industrial designs, topographies of integrated circuits, grown or discovered and developed varieties of plants, computer programs, databases protected by a sui generis right or by a copyright, know-how and works which are the result of development work;
- 8) "Special purpose vehicle" – means UWRC Sp. z o.o. (limited liability company), which is a special purpose vehicle of the University within the meaning of Article 86a.1 of the Act;
- 9) "Author" – means a person who is an author or co-author of the Creative Result or of the Work;
- 10) "University" – means the University of Warsaw;
- 11) "UOTT" – means the University Technology Transfer Center, which is a technology transfer center within the meaning of Article 86.4 and 86.5 of the Act;
- 12) "Act" - means the Act of 27 July 2005 Law on Higher Education (Journal of Laws 2016, item 1842, as amended);
- 13) "Work" – means a work within the meaning of the Act of 4 February 1994 on Copyright and Related Rights (Journal of Laws 2016, item 666, as amended), with the exception of works which are the Creative Result;
- 14) "academic Work" – means the Work which is the result of academic cognitive process, oriented to present an objectively existing reality;
- 15) "Employee's Work" – means the Work produced as a result of performing duties which arise out of an employment relationship.

#### **§ 4 Creative Results**

1. Rights to the Creative Result which is produced in the Author's performance of duties under an employment relationship with the University are vested in the University.

2. In the case of the Creative Result which is a computer program created in the Author's performance of duties under an employment relationship with the University, the University has the right to:

- 1) a permanent or temporary reproduction of a computer program, in its entirety or in part, by any means and in any form, to the loading, displaying, usage, transmission or storage of a computer program;
- 2) translation, adaptation, introduction of changes in the array and any other changes in a computer program;
- 3) dissemination, including lending for use and rental of a computer program or a copy thereof.

3. In the case of the Creative Result which is a database created in the Author's performance of duties under an employment relationship with the University, the University holds an exclusive and alienable right to extract data and to re-utilise it in its entirety or in a part substantial from a quantitative and qualitative point of view. In the case of databases which have features of a work, the University, upon database arrangement, also acquires an exclusive right to use database and dispose of it in the fields of exploitation specified in § 13.1 of the Rules.

4. In the case of Creative Results other than produced in the Author's performance of duties under an employment relationship with the University, provision of sections 1 to 3 above apply accordingly, unless a contract between the University and the Author provides otherwise.

## **§ 5**

### **Author's Duties Related to Creative Result**

1. The Author shall:
  - 1) notify the UOTT using a Creative Result Notification form promptly upon the creation of the Creative Result;
  - 2) take any actions which enable the University protection, Commercialisation and making use of the Creative Result;
  - 3) cooperate with the UOTT in order to ensure legal protection of the Creative Result and of the Commercialisation thereof;
  - 4) not disclose any confidential information regarding the Creative Result without the prior written consent of the UOTT;
  - 5) not take any actions aimed at the Commercialisation of the Creative Result without the prior written consent of the University.

2. A template form of the Creative Result Notification, referred to in section 1, subsection 1, is established by the Rector, taking into account the necessity to obtain data from the Author which enables an effective protection of the Creative Result and which ensures the possibility to properly satisfy the interest of the University and of the Author.

## **§ 6**

### **Actions for Commercialisation of Creative Result**

1. Creative Results, the rights to which are vested in the University, may be subject to the Commercialisation.
2. The direct Commercialisation is carried out by the UOTT.
3. The indirect Commercialisation is carried out by the special-purpose vehicle.
4. The Commercialisation is carried out with consideration for best practices and in accordance with the principles of fair trade.
5. Contracts regarding the Creative Results' Commercialisation, before entered into by the University, are subject to an opinion of the UOTT.

## **§ 7**

### **Decision on Creative Result Commercialisation**

1. On the basis of an analysis of the Creative Result Notification, information and documents from other units of the University and possible external expert opinions, the University shall decide about the Commercialisation taking into account market and social potential of the Creative Result and the confirmation of readiness to co-finance costs by the organisational Unit of the Author.

2. The Author may, within fourteen days from giving the Creative Result Notification to the University, submit a written statement to the UOTT on the interest in having the rights to the Creative Result covered by the Notification of the Creative Result transferred to him or her.

3. If the Author submits the statement on the interest in having the rights to the Creative Result transferred to him or her, the University shall decide about the Creative Result Commercialisation within three months from the Author's submission of such a statement.

4. A model statement of the Author on the interest in having the right to the Creative Result transferred to him or her is established by the Rector.

5. The University shall promptly notify in writing the Author and the Head of organisation unit of the Author of the decision on the Commercialisation.

## **§ 8**

### **Principles of Financing Legal Protection of Creative Result**

1. The Author's organisational unit shall cover 50% of the costs of submitting the Creative Result for legal protection and of maintaining the legal protection of the Creative Result if granted. The remainder of the costs shall be covered by the University from funds which are at the Rector's disposal, subject to section 2 below.

2. If an agreement for additional financing of research and development project imposes on the University a duty to file a patent application, and, according to the UOTT, applying for legal protection is pointless, all costs referred to in section 1 above shall be covered by an organisation Unit of the Author.

## **§ 9**

### **Abandonment of Creative Result Commercialisation**

1. In the event of abandonment of the Creative Result Commercialisation or of an ineffective lapse of the time limit referred to in § 7.3 of the Rules, the University shall, within 30 days, make an offer to the Author, in writing, otherwise being null and void, of the transfer to the Author of:

- 1) rights to the Creative Result,
- 2) carriers provided by the Author on which the Creative Result is fixed.

2. The acceptance of the offer by the Author must be made in writing, otherwise being null and void.

3. The transfer of rights to the Creative Result made by the University in favour of the Author on the basis of the accepted offer is made against payment. If the Author is an employee of the University, the amount of remuneration due to the University is 5% of the average monthly remuneration for work in the national economy in the preceding year announced by the President of the Central Statistical Office.

4. The template of the offer referred to in section 1 above is established by the Rector.

5. The provisions of § 7 and of this paragraph do not apply if research or development work have been carried out:

- 1) under a contract with a party financing or co-financing this research or development work which provides for the University's obligation to transfer the rights to the results of research or development work in favour of this party or in favour of an entity other than a party to the contract (commissioned research or work);
- 2) with the use of funds, the rules of granting or using of which lay down a manner of disposing of Creative Results different than laid down in the Act and the Rules.

## **§ 10**

### **Division of Means from Creative Result Commercialisation Obtained by the University**

1. The Author is entitled to 50% of the value of means obtained by the University or by the Special-purpose vehicle from the Commercialisation of the Creative Result, less 25% of costs directly linked to that Commercialisation which have been borne by the University or by the Special-purpose vehicle.

2. If the Creative Result is produced by several Authors, the Authors are entitled to the amount specified in section 1 above in parts – in proportion to a creative contribution set out in the Creative Result Notification.

3. In the absence of separate arrangements, the means from the Creative Result Commercialisation referred to in section 1, less the Author's remuneration, are subject to the division within the University on a 50-50 basis between the Author's organisational Unit and the means at the Rector's disposal.

4. In the absence of confirmation of readiness to co-finance costs by the Author's organisational unit or in the absence of co-financing execution, the Author's organisational unit is not entitled to a share in the means referred to in section 3 above.

## **§ 11**

### **Division of Means from Creative Result Commercialisation Obtained by the Author**

1. The University is entitled to 25% of the value of means obtained by the Author from the Commercialisation of the Creative Results referred to in § 9.3 of the Rules, reduced by the Author by no more than 25% of the costs directly linked to the Commercialisation borne by the Author.

2. The Author shall, without unnecessary delay, inform the UOTT in writing about any means obtained from the Creative Result Commercialisation.

3. By the end of January, the Author shall make a written statement that the information referred to in section 2 above, provided to the UOTT in the preceding calendar year, was complete and accurate or that he or she obtained no means whatsoever from the Commercialisation in the preceding calendar year.

4. The Author is obliged to keep any accounting and financial records of revenues and costs directly linked to the Commercialisation and to present it, without unnecessary delay, to the UOTT upon the UOTT's request.

## **§ 12**

### **Transfer of Rights to Creative Result to Author**

1. The University may transfer to the Author the rights to the Creative Result if, upon taking a decision on the Commercialisation, there is a change in circumstances which justifies cessation of further Commercialisation.

2. The principles of the transfer of rights to the Creative Result by the University to the Author are set out in a contract. The transfer of rights may not infringe the University's obligations, have an influence on the restriction of possibility to carry out research and development or didactic work, nor lead to an insolvable conflict of the Author's interests.

3. Contracts regarding the transfer of rights to the Creative Result by the University to the Author require the Committee's opinion.

## **§ 13**

### **Employee's Works**

1. Subject to section 2 below, the University acquires at the time of creation of the Employee's Work, other than the academic Work, the author's economic rights in the following fields of exploitation:

- 1) within the scope of fixation and reproduction of a work – production of copies of a work with the use of any technology, including offset printing, printing, reprography, magnetic, IT, digital, photography, phonography, audio, visual, audio-visual, multimedia, in any system, standard and format, and on any types of carriers, including permanent or temporary entrance into the memory of a computer or of any other electronic device;
- 2) within the scope of trading in the original or the copies on which the work was fixed –introduction to trade, lending for use, or rental of the original or copies;
- 3) within the scope of dissemination of works in a manner different than defined in subsection 2 – public performance, exhibition, screening, presentation, and broadcast as well as rebroadcast, and making the work available to the public in such a manner that anyone may access it at a place and time of their choosing.

2. The author's economic rights to the academic Work are vested in the Author, with the exception of the academic Work which constitutes the Creative Result.

3. The author may publish or in a different manner disseminate the academic Work under a contract made with a third party unless the disclosure of such a work leads to deprivation of legal protection of Creative Results, the rights to which are vested in the University. The Author is obliged to put the University's full name next to his or her surname.

4. The University undertakes not to exercise a preferential right to publication with regard to academic Works the rights to which are vested in the Author.



## **§ 14**

### **Works Other than Employee's Works**

1. The author's economic rights to the Work which is not the Employee's Work are vested in the Author.
2. The author's economic rights to the Work referred to in section 1 above are acquired by the University upon acquisition of the Work in the fields of exploitation indicated in § 13.1 of the Rules, unless a contract between the University and the Author provides otherwise.

## **§ 15**

### **Contracts Concluded by University**

1. Prior to permitting students, PhD students, interns, scholarship holders, visiting scholars and other persons who do not remain in an employment relationship with the University to perform academic and research work, the Head of organisational unit shall make a contract which ensures the University's acquisition of rights to Creative Results. The contracts should include an obligation to observe the Rules within the scope of the contract, in particular to the Notification of the Creative Result and to cooperation in its protection and Commercialisation.
2. Templates of the contracts referred to in section 1 above, in Polish and English, are established by the Rector.
3. Every contract made by the University, the performance of which may lead to creating the Creative Result, includes the provisions on the rights to that Creative Result and an obligation to observe the provisions of the Rules.
4. The duties of the Head of organisational unit include endeavour to assure the University exclusive rights to Creative Results in the contracts referred to in section 3 above, and if that is impossible – other rights.
5. Before the University enters into the contract referred to in section 3, the Head of organisational unit shall seek an opinion of the UOTT in respect of the provisions regarding the assurance of rights to Creative Results for the University.
6. Making a contract under which the rights to Creative Results created by the University's employee assigned to another academic unit or research organisation would be vested in another entity is subject to the consent of the UOTT and the Head of organisational unit.
7. A contract between the University and the Author may regulate the rights to the Creative Result or the procedure of the Commercialisation thereof in a manner different than envisaged in the provisions of the Rules. Such a contract is subject to an opinion of the Committee.

**§ 16**  
**Committee for Intellectual Property Management**

1. The Committee is composed of five to seven members, including one UOTT employee.
2. The Rector appoints the president and other member of the Committee for a four-year-long term of office.
3. The Rector may dismiss the president and member of the Committee before the end of the term of office.
4. The Committee shall express its opinions in a form of resolutions. The adoption of a resolution requires an absolute majority of votes.
5. The tasks of the Committee include:
  - 1) providing opinion on drafts of the contracts referred to in § 12.3 of the Rules;
  - 2) providing opinion on draft of the contracts referred to in § 15.7 of the Rules
  - 3) conducting, with the consent of the parties, a mediation in potential disputes between the Author and the University arising out of intellectual property management.
  - 4) initiating amendments to these Rules.

**§ 17**  
**Final Provisions**

1. Unless the Rules stipulate otherwise, decisions in matters covered by the Rules are taken by the Rector.
2. The Rector may grant an authorisation to take the decisions referred to in section 1.
3. The violation of the provisions of the Rules by an employee constitutes a violation of employee's duties. The University may assert its rights pursuant to generally applicable provisions of law.