

THE UNIVERSITY OF WARWICK

Minutes of the meeting of the Intellectual Property Committee
held on 10 May 2012

Present: Professor T Jones (Chair), Mr Q Compton-Bishop (Chief Executive Officer of Warwick Ventures Ltd), Professor C Dowson (Academic Member), Dr P Hedges, (Director of Research Support Services), Mr T Skelhon (Student Member), Mrs M Wenham (Human Resources Manager)

Apologies: Professor R Dashwood (Academic Member), Professor Sir John Temple (Lay Member of the Council)

In Attendance: Dr S Gallagher (Advisor) (from item 18/11-12), Mr S Gilling (Advisor), Dr E Melia (Secretary) Mrs J Prewett (Advisor).

14/11-12 Membership of the Intellectual Property Committee

REPORTED: (by the Chair)

That Professor Nick Chater had been awarded a European Research Council (ERC) Advanced Grant "Cognitive and Social Foundations of Rationality" and as a result of this commitment had tendered his resignation from the IP Committee, noting that his replacement was being sought via the Nominations Committee.

RECOMMENDED:

That the Director of Corporate Relations be appointed to *ex officio* membership of the IP Committee from the start of the 2012/13 academic year.

15/11-12 Conflicts of Interest

REPORTED: (by the Chair)

That, if any members or attendees of the Intellectual Property Committee had any conflicts of interest relating to agenda items for the meeting, they were required to be declared in accordance with the CUC Guide for Members of Higher Education Governing Bodies in the UK.

NOTE: No declarations were made.

16/11-12 Minutes of the Previous Meeting

RESOLVED:

That the minutes of the meeting of the Intellectual Property Committee held on 31 January 2012 be approved.

17/11-12 University Intellectual Property Regulations and Policy (minute 9/11-12 refers)

RECEIVED:

The revised University Regulation 28 as recommended by the Senate at its meeting held on 25 January 2012 and approved by the Council at its meeting held on 23 February 2012 (IPC.4/11-12 (revised 3)).

REPORTED: (by the Chair)

That the approved revised Regulation 28 had been published online in the University Calendar.

18/11-12 Student-Generated Intellectual Property (minute 10/11-12 refers)

CONSIDERED:

A draft statement for inclusion in electronic enrolment screens for all enrolling students as well as in the Terms and Conditions for the Graduate School Offer-Holders web pages (IPC.14/11-12).

REPORTED: (by the Chair)

- (a) That an initial version of the enrolment statement on IP was drafted by the Secretary and the University's Legal Advisor and had been circulated for comments prior to this meeting to the Chair, the Academic Registrar, the Chair of the Board of Graduate Studies, the Director of Student Admissions and Recruitment, the Senior Assistant Registrar for Postgraduate Admissions, the Senior Assistant Registrar for Planning as well as representatives of Research Support Services (RSS) and Warwick Ventures Limited (WVL) and that the revisions suggested by these individuals had been incorporated in the version circulated to the IP Committee (IPC.14/11-12).
- (b) That the Academic Registrar had reiterated the requirement for the University to take a proportionate approach to alerting enrolling students to Regulation 28, noting that all students agreed to abide by the University's charter and statutes, ordinances and regulations as part of the enrolment process and that he would not be in favour of adding a specific check box for compliance with an individual Regulation.
- (c) That the Senior Assistant Registrar for Postgraduate Admissions had commented that the University's current practice of requiring enrolling students to comply with all governing instruments had proven adequate in other areas which had been subject to legal challenge by students.
- (d) That the Senior Assistant Registrar for Postgraduate Admissions had agreed to incorporate the statement into the standard postgraduate offer terms and conditions to denote that enrolment will be on the basis set out in University Regulation 28, subject to the approval of the wording by the IP Committee.
- (e) That the Senior Assistant Registrar for Planning had agreed to initiate the work to incorporate the statement into the online enrolment screens, subject to the approval of the wording by the IP Committee.

(by the CEO of Warwick Ventures Ltd)

- (f) That ensuring understanding of and compliance with Regulation 28 for all students was a significant element of the necessary risk management process to ensure that title to University IP could not be disputed by student inventors, which would provide companies with assurance to invest in or license Creative Output.

(by Dr S Gallagher)

- (g) That by obtaining a signed assignment of IP and requiring students to check a box agreeing to compliance with the Regulation during enrolment, and at the beginning of any research projects, the University would reduce the risk of external investment in University owned IP by showing clear title to an invention.

(by the University's Legal Advisor)

- (h) That the inclusion of the statement in IPC.14/11-12 in enrolment screens and postgraduate offer terms and conditions represented a fair, reasonable, proportionate and clear approach.

RESOLVED:

That the statement for inclusion in electronic enrolment screens for all enrolling students, as well as in the Terms and Conditions for the Graduate School Offer-Holders web pages, as set out in IPC.14/11-12 be approved.

19/11-12 Research Data Management (minute 12/11-12 refers)

RECEIVED:

Notes of the meetings of the Research Data Management Working Group - 19 January, 1 February and 22 February 2012 (IPC.15/11-12).

REPORTED: (by the Chair)

- (a) That the Research Data Management Working Group had now met on four occasions and that following the fifth meeting in May 2012, a short report would be circulated to the Steering Committee as well as the IP Committee.
- (b) That the Working Group had not yet drafted a research data management policy for the University, but that it had developed a plan for progressing the issue, noting that the EPSRC were no longer requiring the University to have a policy in place by May 2012 and therefore, while the issue remained urgent, the Working Group had more time to fully explore the issue.
- (c) That, as a member of the Working Group, Professor Peter Elias of the Institute for Employment Research brought considerable expertise, noting that he was also a strategic advisor to the ESRC on the UK Strategy for Data Resources for Social and Economic Research.

- (d) That the Acting Librarian had arranged a trial of research data management with the Digital Curation Centre and that pilots would be undertaken in two academic departments.
- (e) That if electronic lab books could be successfully introduced across the relevant departments, data would be held in standardised formats and management of research data could be more easily facilitated.

RESOLVED:

That a paper from the Research Data Management Working Group on the proposed plan to develop a research data management strategy for the University be considered at the next meeting of the IP Committee.

20/11-12

Student Laboratory Notebooks

REPORTED: (by the Chair)

- (a) That while students were encouraged to keep complete and up-to-date lab notebook records of their research and it was taught as best practice by research supervisors, it was difficult to enforce students to maintain complete records and that he was not aware of specific guidelines for academic supervisors on checking students' lab notebooks.

(by Dr S Gallagher)

- (b) That complete lab notebook records were essential to prove inventorship and for the University to legally defend any challenges to the ownership of its IP.
- (c) That it was best practice, as in industry, for academic supervisors to periodically review students' lab notebooks and countersign each page, and for researchers and academics to review and sign one another's notebooks.
- (d) That all ideas should also be recorded in lab notebooks as well as research data as US IP law credited the first person to invent, rather than the first to file a patent.

(by Mrs J Prewett)

- (e) That students had a responsibility to ensure that their laboratory work and research data was recorded and retained and that failure to do so, resulting in the loss of IP might be seen as a disciplinary offence.

(by Mr T Skelhon)

- (f) That students were not generally aware of the implications for University IP of the failure to keep lab notebooks up to date and that both students and academic supervisors needed to receive clear communication of their responsibilities.

RESOLVED:

That the Secretary would report to the next meeting on the IP Committee, scheduled for July 2012, on how the University's Student Discipline Regulations applied to research data management and general IP matters.

21/11-12 Development of Intellectual Property Policy

CONSIDERED:

- (a) A proposed Intellectual Property (IP) Policy drafted by the CEO of Warwick Ventures Ltd (IPC.16/11-12)
- (b) An Intellectual Property Statement – “Working in Partnership” drafted by the Director of Research Support Services (IPC.17/11-12)
- (c) A summary of Intellectual Property References in University Regulations, procedures and agreements (IPC.18/11-12)

REPORTED: (by the CEO of Warwick Ventures Ltd)

- (a) That the draft IP Policy (IPC.16/11-12) brought together Regulation 28 and the relevant Financial Procedures (FPs), in particular FP13 on Exploitation of Intellectual Property, noting that FPs only applied to University members of staff and that the Policy could be used to apply the principles contained in the relevant FPs to the wider group of Creators defined in Regulation 28.
- (b) That the draft IP Policy had been written from a Warwick Ventures Limited (WVL) perspective, noting that WVL were typically the first point of contact with regard to any IP issues.
- (c) That the draft Policy defined the role of WVL and summarised the principles of IP ownership, protection, management and exploitation, as well as reiterating the rewards to inventors set out in FP13 and defining the process for exploitation of University IP.
- (d) That the draft IP Policy might additionally require a summary of activities of the Creators of IP requiring specific consents and permissions.

(by the Director of Research Support Services)

- (e) That the draft IP Statement (IPC/17/11-12) had been developed in response to a question raised by IP Committee member, Professor R Dashwood, requesting guidance on the University's IP position when negotiating with companies interested in funding research or consultancy.
- (f) That the draft IP Statement set out the implications of the University's charitable status for IP as well as highlighting the areas of flexibility in the University's engagement with collaborators and research partners in relation to foreground IP, publishing of research, exclusivity and risk.
- (g) That the University was able to be more flexible on licensing foreground IP where a licence for research and teaching purposes was retained.

- (h) That the University was required to obtain a reasonable return when granting any exclusive licences to foreground IP.
- (i) That the University's charitable status prohibited Warwick from accepting potential liabilities that might arise from the use or exploitation of research outputs if these were inconsistent with the scale of the collaborative endeavour.
- (j) That, generally, the area of greatest contention was companies collaborating with the University on externally funded research projects, but providing a minor proportion of the funding and who expected to retain exclusive rights to the IP developed.
- (k) That the draft IP statement highlighted that if a research partner allowed research results to be published, granted a back licence to the University for research and teaching purposes, and did not expect the University to carry any liabilities, the timeframe of the contracting process could be reduced.
- (l) That if a company wished to pay the full economic cost (fEC) of research, retain IP rights and did not wish the University to publish research results, according to the charitable status, there would be difficulties for the University in accepting the contract.

(by the University's Legal Advisor)

- (m) That when the University undertook consultancy work it was still important that any risks and liabilities were considered in the context of pricing the work.

(by Mrs J Prewett)

- (n) That the University's solicitors SGH Martineau had confirmed that income complied with the University's charitable status as long as a licence for research and teaching was granted to the University and/or the University was allowed to publish the research results and that it was rare not to satisfy one of these conditions.
- (o) That the draft IP policy (IPC.16/11-12) required further references to the role of Research Support Services (RSS) and that the document read as a procedure rather than a policy.
- (p) That the IP Policy should highlight that academic or administrative staff of the University should not agree terms and conditions during discussions with companies and research partners without first consulting RSS.

(by the Secretary)

- (q) That the IP Policy could go further in communicating the priorities of the University with regard to IP, including the relative importance of outcomes including publishing, funding, research excellence, reputation etc., noting that this would need to be aligned to the University's Strategy Vision 2015.

(by Professor C Dowson)

- (r) That members of academic staff would appreciate clear communication on which office should be contacted in each instance; RSS, WVL or Corporate Relations.
- (s) That it was important to avoid a one size fits all inflexible approach to IP as individual academic departments had differing priorities and challenges.

(by Dr S Gallagher)

- (t) That the IP Policy needed to highlight that academics, students and other Creators were not permitted to sign IP documents on behalf of the University and were not allowed to file University-owned IP themselves.
- (u) That the HEFCE, as principle regulator of the University as a charity, determined that any commercial benefit achieved through exploitation of University IP should be incidental.

(by Mrs M Wenham)

- (v) That as non-employees were not covered by University FPs they could not be disciplined for breach of FPs and that it might be necessary to have a separate policy on revenue share replicating the detail in FP13.

RESOLVED:

- (a) That an Intellectual Property Policy Working Group consisting of the CEO of WVL, the Director of RSS, Mrs M Wenham, Dr A Reginald, the Chair and the Secretary would develop a two page IP Policy and bring a draft to the next meeting of the IP Committee scheduled for July 2012.
- (b) That members of the Committee would submit their expectations of the IP Policy to the Secretary for consideration by the Working Group.
- (c) That the Secretary would summarise IP Policies and Regulations of a number of peer universities for consideration at the next meeting of the IP Committee scheduled for July 2012.