

THE UNIVERSITY OF WARWICK

Minutes of the meeting of the Intellectual Property Committee
held on 31 January 2012

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

Apologies: Professor N Chater (Academic Member)

In Attendance: Dr S Gallagher (Advisor), Mr S Gilling (Advisor), Dr M Glover (Academic Registrar, until item 12/11-12), Professor J Labbe (Chair of the Board of Graduate Studies, until item 12/11-12), Dr E Melia (Secretary) Mrs J Prewett (Advisor), Mr T Skelhon (Student Nominee).

7/11-12 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.

8/11-12 Minutes of the Previous Meeting

RESOLVED:

That the minutes of the meeting of the Intellectual Property Committee held on 25 October 2011 be approved, subject to the following amendment (additions underlined, removals ~~struck through~~):

5/11-12 Role of Research Support Services Contracts Team in University Intellectual Property

RECEIVED:

A paper on Research Support Services (RSS) Intellectual Property Principles and Guidelines (IPC.713/11-12, tabled at the meeting) presented by Mrs J Prewett noting in particular:

(...)

REPORTED: (by the Director of RSS)

- (a) That, in negotiating research contracts, there were tensions between the cost, price and ownership of IP which had to be managed.

(b) ~~That historically, research sponsors had generally not been concerned with IP ownership, but more recently IPR had been an issue for negotiation in a number of research grant agreements.~~

(c) ~~That there were some standard agreements available for use used by several UK universities, but the agreed approach to IPR taken by Warwick was not universal across the sector. although funders often insisted on negotiating on their own terms.~~

(...)

6/11-12 University Intellectual Property Regulations and Policy

REPORTED:

(...)

(by Professor R Dashwood)

~~(g)~~(j) That the revised Regulation alone would not change the academic culture regarding disclosure of inventions to WVU and that further awareness raising of IP rights and responsibilities was required across the academic community at Warwick.

~~(h)~~(k) That the revised Regulation 28 currently required disclosure of Creative Output to the Registrar and that WVU might be incorporated here.

(by Professor C Dowson)

~~(i)~~(l) That guidance was required for academics on how to determine what needed to be reported as a potentially exploitable invention and who to report this to, noting that the accompanying procedures on IP would need to clearly signpost academics to WVU for advice and guidance.

(by the Chair)

~~(j)~~(m) That input would be required from HR regarding the strategy for dissemination of the IP Policy when it was drafted following any approved revisions to Regulation 28.

(...)

9/11-12 University Intellectual Property Regulations and Policy (minute 6/11-12 refers)

CONSIDERED:

(a) The Intellectual Property Committee report to the Senate including the coversheet documenting Chair's Actions taken since the meeting of the Committee on 25 October 2011 (IPC.7/11-12)

- (b) The revised Intellectual Property Regulation 28 incorporating revisions required by the Senate following consideration of the Regulation at its meeting held on 25 January 2012 (IPC.4/11-12 (revised 2))

REPORTED: (by the Chair)

- (a) That following the previous meeting of the Intellectual Property Committee, comments and suggested amendments to the redrafted University Regulation 28 from Committee Members had been received by the Committee Secretary and considered by both the Chair and the University's Legal Advisor.
- (b) That the redrafted Regulation 28 was revised (IPC.4/11-12 (revised)) considered by the Steering Committee (SC.105/11-12), where it was recommended for approval by the Senate and the Council.
- (c) That, on the recommendation of the Steering Committee, the redrafted Regulation 28 was subsequently considered by the Research Committee (RC.19/11-12).
- (d) That the Chair, the Secretary and the University's Legal Advisor met with Des Burley, IP Lawyer from SGH Martineau, who confirmed that the revisions to the redrafted Regulation 28 were appropriate and was in line with best practice in the sector regarding both staff and student-generated intellectual property.
- (e) That the revised Regulation 28 was considered by the Senate at the meeting held on 25 January 2012, where it was reported by Professor M Shipman that section 5 (e)(i) of the revised Regulation 28, regarding the requirement for creators of IP to notify the appropriate University Office or Department at the earliest opportunity of any Creative Output they produce themselves or with others, would not always be practical and that this should be modified to require Creative Output to be reported as soon as was practicable.
- (f) That the Senate resolved that the revised Regulation 28 be approved as set out in IPC.4/11-12 (revised), subject to the further revision described above, to replace the current Regulation 28 in its entirety, noting that the required revisions were reflected in IPC.4/11-12 (revised 2).

(by the Chair of the Board of Graduate Studies)

- (g) That there appeared to be some overlap between Creative Output and Scholarly Works in the revised Regulation 28 as Dissertations and Theses were categorised as Scholarly Works and the University did not claim ownership of this intellectual property, but that the content of these documents would rely upon and report details of Creative Output, which was owned by the University.

(by Dr S Gallagher)

- (h) That it was important that the University retained the copyright to essential instructions or manuals required for the use of University-created and owned software and database intellectual property and that the Regulation should be amended to clarify that such documents would generally be defined as part of Creative Output rather than Scholarly Works.

(by the Secretary)

- (i) That the revised Regulation provided protection to academics and research groups of the University ensuring that IP created and owned by the University was not disclosed through papers or theses, rendering the IP non-protectable.
- (j) That assigning ownership of the copyright contained in Scholarly Works to the Creator(s) did not prevent the University from retaining ownership of the Creative Output, including patentable inventions, described within the documents, noting that Section 5 (e) (iv – v) of the revised Regulation prevented premature disclosure of Creative Output by Creators which would compromise the University's IP rights.
- (k) That ownership and rights relating to mobile device applications (Apps) and/or computer games developed as platforms to promote or exploit University intellectual property would generally be dealt with via separate contracts between the University and the Creator(s).

(by the University's Legal Advisor)

- (l) That the principles of intellectual property ownership described in the revised Regulation 28 reflected current practice across the higher education sector.
- (m) That the ownership of intellectual property in contract research with or on behalf of external funders was managed under the terms under which it was procured.

(by the Academic Registrar)

- (n) That the revised Regulation was aligned to existing University practices whereby academic staff and students were permitted to publish in journals and write theses, but that the University could still lay claim to ownership of Creative Output contained within the copyright.

(by Mrs J Prewett)

- (o) That under section (3) of the revised Regulation 28, part (ii) Other Creators headings (A) and (B) were incorrectly labelled as (B) and (C).

RESOLVED:

- (a) That the revised Regulation 28 as set out in IPC.4/11-12 (revised 2) be endorsed by the Committee, subject to further minor clarifications being incorporated into the version of Regulation 28 to be considered for approval by the Council at the meeting to be held on 23 February 2012.
- (b) That the version of Regulation 28 approved by the Council would be received by the Committee at the next meeting.

10/11-12

Student-Generated Intellectual Property

CONSIDERED:

- (a) A paper outlining the University's position on student-generated intellectual property as clarified in the redrafted Regulation 28, highlighting the issues of assignment and benefits conferred in "consideration" for assignment to the University (IPC.8/11-12).
- (b) A paper previously considered by the Board of Graduate Studies held on 16 January 2012 highlighting the implications of the revised Regulation 28 for postgraduate studentship agreements (IPC.12/11-12)

REPORTED: (by the University's Legal Advisor)

- (a) That the previous Regulation 28 had lacked clarity on the University's position regarding student-generated IP in relation to ownership and share of revenue.
- (b) That the revised Regulation 28 defined the parameters for student-generated IP owned by the University and as such, a range of measures would need to be considered following the approval of the Regulation in order to deal with assignment to the University and ensuring that new and existing students were fully informed of their IP position.
- (c) That consultation with Des Burley, IP Lawyer from SGH Martineau, had suggested that the lowest risk position for the University would be to obtain a hardcopy signed IP assignment agreement from every student registered with the University at the time of their initial registration, avoiding the requirement to negotiate with individual students at the point where Creative Output has been disclosed and is deemed to be of commercial value.
- (d) That while this position would reduce the risk that students would prevent the University from exploiting IP or challenge the assignment, it was recognised that this solution may not be considered workable.
- (e) That in the past, the University had applied a pragmatic approach and that, to the extent that a student contributed to the creation of IP in Creative Output, they had been treated as an employee and they were given a proportion of interest as defined in the current Financial Procedures in consideration for their IP.
- (f) That following the revision to Regulation 28, the University's position on revenue sharing with students should be formalised.

(by the Academic Registrar)

- (g) That all students agreed to abide by all of the University's Regulations during the electronic enrolment process, but that students did not currently sign any hard copy documents.
- (h) That the introduction of signing of hard copy documents during enrolment would require significant modification of existing processes and would be very labour intensive.

(by Professor Sir John Temple)

- (i) That it would not be sufficient to expect that students would familiarise themselves with Regulation 28 and their IP rights and responsibilities at enrolment and that students would need to be reminded of these matters at regular intervals, noting that the critical time for informing students would be the point at which they began to undertake research.

(by the Chair of the Board of Graduate Studies)

- (j) That students could be reminded annually of their IP rights and responsibilities through a message in the screens of the electronic re-enrolment process.
- (k) That the Creative Output of all postgraduate research students would be captured by at least one of the three categories defined in the revised Regulation 28 Section 3. (b) (iii) as they would always be researching: jointly with Employees and/or Other Creators and/or; using University equipment/facilities and/or; in the course of a research-based course.
- (l) That all postgraduate research students received an admission letter, noting that a sentence outlining the IP opportunities at Warwick would help to ensure that the matter had been brought to the attention of these students.

(by the Mrs J Prewett)

- (m) That it was important to ensure that the IP terms and conditions for students were not only embedded in the wider Regulations and Policies and that they were specifically highlighted to prospective students as well as new students at the point of enrolment.

(by Professor C Dowson)

- (n) That the support available to students to commercialise their Creative Output as well as the potential revenue share that they could be entitled to would be a positive feature to promote to prospective students.

(by the CEO of Warwick Ventures Ltd)

- (o) That the undergraduate student prospectus could carry the statement that students would have the opportunity to undertake research at the University and that as such they were subject to the University's Intellectual Property Regulation.

(by Dr S Gallagher)

- (p) That it would be important to manage the expectations of students regarding share of inventorship and subsequent revenue streams to ensure that students were aware that this relied on their having invented or contributed to the invention of the IP and not just that they had worked on a project.
- (q) That there was a potential discrepancy in students being treated as members of staff with regard to the share of revenue according to share of invention, as the academic inventors presently determined the share of invention and therefore a process would need to be agreed to ensure that students were consulted and confirmed the split of inventorship.
- (r) That in the case of a dispute over inventorship, both students and staff would be required to evidence their share of inventorship.

(by Mrs M Wenham)

- (s) That the University reserved the right to revise or change the University Regulations at any time and that it would be important to ensure that any future changes to the terms of student Creative Output ownership were widely communicated to the student body.

RESOLVED:

- (a) That the Academic Registrar be requested to investigate the feasibility of including explicit references to Regulation 28 in the student electronic enrolment process and report back to the next meeting of the IP Committee.
- (b) That the Academic Registrar be requested to investigate incorporating an additional sentence on IP into the postgraduate student admission letter and report back to the next meeting of the IP Committee.
- (c) That the IP Policy would incorporate references to the revenue share offered to student inventors in consideration for the assignment of their IP.
- (d) That no immediate changes were required to the standard CASE studentship agreement outlined in IPC.12/11-12.

11/11-12

Monash - Warwick Joint PhD Studentships

CONSIDERED:

A draft agreement dealing with Intellectual Property generated through joint PhD studentships between Warwick and Monash (IPC.9/11-12) together with an oral report from the Chair on the background to the agreement and the input required from the Committee.

REPORTED: (by the Chair)

- (a) That the University was embarking on a high level agreement to form a strategic alliance with Monash University, Australia and that a Heads of Terms had been signed by the Registrar in Monash in December 2011.
- (b) That this alliance should be viewed as a model for future national and international agreements.
- (c) That the CEO of Warwick Ventures Ltd and Mrs J Prewett would be invited to discuss wider IP implications of the agreement with their counterparts at Monash University.

(by the Chair of the Board of Graduate Studies)

- (d) That one of the first products of the collaboration would be a series of joint PhD studentships alongside the development of co-processes facilitating recruitment through to graduation, ensuring that jointly supervised students would not have to negotiate two different systems.
- (e) That students on the courses would have dual home institutions with Warwick and Monash treated equally and as a single entity, noting that these were joint awards, rather than double awards.
- (f) That the draft IP agreement (IPC.9/11-12) was a starting point for discussion and that while national laws would need to be recognised, both institutions were prepared to be flexible on customary practices to ensure that an agreed set of principles could be achieved.
- (g) That the first joint students would not be recruited for 12 months and therefore there was time to ensure that these issues were properly dealt with.

(by Mrs S Gallagher)

- (h) That it would be important to ensure that the IP principles for the collaboration made clear which national law decisions would be taken under.

(by the Secretary)

- (i) That it appeared from the IP statute published on the Monash webpage that the expectation of students assigning their IP to the University clarified in the revised Regulation 28 at Warwick was not matched by a similar clause at Monash and that their default position was to negotiate with students on a case by case basis.

(by the CEO of Warwick Ventures Ltd)

- (j) That the IP principles would need to include references to determining which party would take a lead in protecting and commercialising IP and how costs and revenue share would be split.

RESOLVED:

That a meeting would be arranged with counterparts at Monash University to discuss the IP issues surrounding the studentships and wider IP principles for the alliance.

12/11-12 Research Data Management

RECEIVED:

A paper from the Librarian and Deputy Librarian presenting a draft University policy on research data management previously considered by Information Policy and Strategy Committee (IPC.10/11-12).

REPORTED: (by the Chair)

- (a) That Research Data Management was a complex issue with increasing importance and that the Engineering and Physical Sciences Research Council (EPSRC) was introducing requirements from 1 May 2012 with which the University would be required to comply.
- (b) That a Research Data Management Working Group has been formed on the recommendation of the Steering Committee, Chaired by Professor Tim Jones, with both academic and non-academic membership and that its remit was to develop data management policy and strategy for the University.
- (c) That the Group met for the first time on 19 January 2012 and had discussed the definition of research data, noting that the understood definition varied between Faculties and Departments.
- (d) That electronic lab books would be considered by the Group at a future meeting.
- (e) That representatives of Warwick Ventures Ltd would be invited to attend future meetings of the Group to discuss the IP exploitation implications of Research Data Management.
- (f) That the Group would be refining the Policy Statement in the Research Data Management Policy attached to the Paper (IPC.10/11-12).

(by the Director of Research Support Services)

- (g) That the issue originated with the accessibility of collections of large data sets gathered through publically funded allowing further reanalysis and use.

(by Dr S Gallagher)

- (h) That it was necessary to ensure that academics leaving the University did not take data supporting University owned patents in order to ensure that the University could still answer legal questions and defend the patent or IP.

(by Professor C Dowson)

- (i) That staff and students should be trained in best practice of data capture and recording.

RESOLVED:

That the Research Data Management Working Group would provide an update to the next meeting of the Intellectual Property Committee.

13/11-12

Development of Intellectual Property Policy and Guidance

CONSIDERED:

A paper from the CEO of Warwick Ventures Ltd outlining criteria and options for the style and scope of Intellectual Property guidance to be developed to support the dissemination and implementation of the redrafted University Regulation 28 (IPC.11/11-12).

REPORTED: (by the CEO of Warwick Ventures Ltd)

- (a) That the University's IP Policy would provide the context and interpretation of the revised Regulation 28 for creators and act as the outward facing communication of the University's position.
- (b) That it was the view of Warwick Ventures Ltd that the document should be a positive presentation of the opportunities that commercialisation and exploitation of IP presented to all Creators including both staff and students.
- (c) That the document would be a tool to encourage members of the University to disclose inventions and Creative Output to Warwick Ventures Ltd and to access the Warwick Ventures Ltd services.
- (d) That the Policy should include both notional and real case studies in order to resolve frequently asked questions.
- (e) That Warwick Ventures Ltd felt that the document should be in clear English, illustrated and available as both a glossy print copy and online through the University's webpages.
- (f) That the Policy should be completed by the end of the academic year 2011/12 in order to be made available to new students registering in October 2012.
- (g) That the development of the Policy content would be led by Warwick Ventures Ltd, but that the programme of launch and communication of the Policy would extend beyond Warwick Ventures Ltd and its resources.
- (h) That the University of Manchester had produce extensive IP Policy and Guidance and that they were happy for Warwick to use some of their content subject to the necessary attribution.

(by Mrs M Wenham)

- (i) That dissemination of the Policy could be linked to the Learning and Development Centre (LDC), through its enterprise and entrepreneurship training and resources.
- (j) That Warwick Ventures Ltd could also tap into research staff networks to disseminate the Policy.

(by the Director of Research Support Services)

- (k) That Research Support Services were working on a parallel user guide for external research funding agreements.
- (l) That this user guide would inform academics of the University's position in negotiations with companies over research collaborations involving IP.

RESOLVED:

That a sub-group of the Intellectual Property Committee would be identified by the Chair to progress the development of an IP Policy and its approval and subsequent communication and dissemination across the University.