



Budapest University of Technology and Economics

No. 8/2020. (VI. 23.) Joint Order of the Rector and the Chancellor

BUDAPEST UNIVERSITY OF TECHNOLOGY AND ECONOMICS INTELLECTUAL PROPERTY MANAGEMENT POLICY

Effective Date: 23 June 2020

Organization management instrument(s) superseded by this document (as a reference for tracking the changes):

- *No. 19/2011. (X. 5.) Rector's Order on the Intellectual Property Management Policy of the Budapest University of Technology and Economics*
- *No. 2/2019. (IV. 26.) Joint Order of the Rector and the Chancellor on the Industrial Property Rights Policy of the Budapest University of Technology and Economics*

Review:

- ⇒ professional compliance: **Center for University-Industry Cooperation**
- ⇒ legal compliance: **Legal Directorate**

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Pursuant to Act CCIV of 2011 on National Higher Education, Act LXXVI of 2014 on Scientific Research, Development and Innovation, and the Organizational and Operating Rules (hereinafter: OOR) of the Budapest University of Technology and Economics (hereinafter: the University), we hereby lay down the intellectual property management policy (hereinafter: the Policy) of the University as follows:

Chapter I GENERAL PROVISIONS

Section 1 The purpose of the Policy

The goals of the Policy are to

- a) encourage the intellectual creative work of educators, researchers, students, as well as other persons cooperating in the research and development activity of the University while stimulating the innovation environment of the University;
- b) ensure the evaluation and documentation of the intellectual assets created at the University, and - if it is justified due to the result of the evaluation or the contractual obligations, and permissible by legislation - that the University obtains the intellectual property rights to the necessary extent;
- c) ensure that the institutional decisions about the acquisition of the intellectual property rights by the University, and obtaining and maintaining industrial property rights are well-founded;
- d) determine the principles and conditions to be applied in the contractual relationships of the University regarding intellectual property rights;
- e) support the utilization and further development of the intellectual property created at the University, and to set forth general rules for their commercialization, including their valorization through a spinoff company;
- f) lay down basic principles for the appropriate recognition due to the creators of intellectual property created at the University;
- g) establish the fundamental financial provisions the intellectual property activity of the University;
- h) support the creation and utilization of the intellectual property created by students;
- i) further the visibility of the University with the tools of industrial property rights, and to determine the basic conditions for utilizing the distinctive signs identifying the University.

Section 2 Basic principles

- (1) **Acknowledgement of value.** The University deems all intellectual property subject to the Policy as an asset that shall be preserved and utilized to fulfil the mission of the University. Therefore, the University supports the creation of intellectual property and the initiatives that facilitate this.
- (2) **Legal protection.** The University - within the framework of the Policy - ensures that intellectual assets deemed suitable thereto are legally protected. Therefore, the University strives to obtain the most comprehensive and strongest legal protection for these intellectual assets.

- (3) **Cooperation obligation.** Persons subject to the Policy shall cooperate in internal proceedings as well as in the course of administrative procedures before the authorities aiming at obtaining legal protection in a way that aligns with the interests of the University, especially regarding confidentiality and full and correct documentation, and they shall also comply with the requirements for an expedient and effective administration. Confidentiality shall be interpreted in a way that does not obstruct the proceedings subject to the Policy.
- (4) **Recognition of the creators.** The University recognizes the creators of the intellectual property during its commercialization with remuneration, moral appreciation, and by taking into account their intellectual property results in their professional advancement.

Section 3 Definitions

- (1) **Intellectual property.** For the purposes of the Policy, “intellectual property results” shall mean
 - a) inventions,
 - b) utility models,
 - c) designs,
 - d) topographies of microelectronic semiconductor products,
 - e) plant varieties,
 - f) know-how, as protected by virtue of the Act on the Protection of Trade Secrets,
 - g) works protected by copyright or related rights (databases, audio recordings, motion pictures).
- (2) **Industrial property result.** For the purposes of the Policy, “industrial property result” shall mean the intellectual property results listed in points a)-f) of paragraph (1).
- (3) **Intellectual property rights.** For the purposes of the Policy, “intellectual property rights” shall mean the legal protection, as provided by industrial property or copyright laws, conferred on or obtainable with regard to intellectual property results as well as signs registrable as trademarks, in particular patents, design or utility model protection, trademark protection (including the claims to such protection and applications), know-how protection, copyright and rights related to copyright.

Section 4 The scope of the Policy

- (1) **Personal scope.** The personal scope of the Policy shall cover
 - a) persons employed by the University with a public service appointment¹,

¹ The **letter of appointment** or the **contract** creating the legal relationship should include a reference to the intellectual property management policy, the basic obligations (especially the presentation and notification obligations) and the basic rules on intellectual property created in a service/employment relationship (including the remuneration of the creator).

- b) persons in a student status at the University², including doctoral students,
 - c) persons in some other form of employment relationship with the University³,
 - d) persons who accept the Policy as binding in a separate statement⁴.
- (2) **Material scope.** The material scope of the Policy shall cover all works created by persons subject to the the Policy during their activities under the legal relationship with the University, especially during their research, design, development or educational activities, in particular:
- a) intellectual property results, if protection may be obtained to them pursuant to industrial property laws;
 - b) protected know-how, if the conditions for protection under the applicable laws are met;
 - c) works or other subject-matter under copyright or related rights, if the conditions for their legal protection are met⁵, especially
 - ca) textbooks, notes, slides, software, examination questions, illustrations or other works created during or for the purposes of educational activity, as well as other works used for teaching, education or providing information;
 - cb) articles, monographies, studies, doctoral dissertations, theses, research reports, architectural works or related plans, plans of technical installations, industrial design art works, presentations, posters or other works created during or as a result of scientific research, development, expert or design activity;
 - cc) software and the connected documentation, as well as databases created during or as a result of scientific research or development activity; and
 - d) rights obtained by the University from third parties subject to the Policy as per the contract, meaning
 - da) intellectual property rights, and
 - db) rights to use or exploit intellectual property results.
- (3) **Distinctive signs.** The Policy shall apply to trademarks and other distinctive signs in so far as they are directly connected to an intellectual property result under paragraph (2).

The **job description** shall include the *obligations towards research and creation of works under copyright* so it can be clearly determined if the intellectual property was created in a service/employment legal relationship.

The job description signed by both parties should include the *derogations from the legal rules applicable to works created in an employment relationship* regarding the scientific and structural engineer works, and where these derogations are indicated, then this document shall also mention the *access rights of the University*.

² The **document creating the student status** shall also include the access rights of the University as defined in Section 25 (6), and in certain cases (especially in the case of PhD students) a clear statement should be made about acknowledging the intellectual property management policy as binding, if the student participates in a research project while utilizing the resources of the University.

³ **Doctoral candidate students** carrying out educational or research work with an employment contract or public service appointment are also in this category. In this case the contract or appointment document should include - besides accepting the intellectual property management rules as binding - the provisions applicable to the intellectual property created by these students.

⁴ The **guest students** and **guest researchers** should enter into an agreement that clearly states that the intellectual property management policy of the Budapest University of Technology and Economics are binding for them or they carry out their activities under a different rule system (e.g. due to a conflicting agreement with the sending institution).

⁵ Pursuant to Section 1 (4) of *Act LXXVI of 1999 on Copyright* (hereinafter: Copyright Act) works deemed as official documents (this includes works submitted for the purposes of examinations, assessments, and achieving a given title or degree, during the time when they are only used for the purposes of a given procedure) are not, *in this capacity*, protected by copyright.

Section 5 Innovation Council

- (1) **Purpose and tasks.** The University operates an Innovation Council for the horizontal co-ordination of intellectual property and innovation management tasks, which shall carry out the following tasks as a consultative and operative body on an institutional level:
 - a) providing a platform for communication for the faculties to discuss innovation-related issues among themselves and with the University's Center for University-Industry Cooperation (hereinafter: CUIC) and the Chancellery, and in this capacity, it provides a forum for consultation and proposals
 - aa) for the decision making processes in industrial property and copyright matters regulated by the Policy,
 - ab) for establishing and maintaining an up-to-date registry in accordance with Section 9 and a University-wide knowledge and competence database,
 - ac) in relation to cooperation between the University and industry,
 - ad) for matters regarding innovation-related calls, tenders and, grants,
 - ae) for the communication of the University's innovation potential, including events with the involvement of more faculties, and
 - af) for the amendment of the Policy;
 - b) supporting the implementation of the University's innovation strategy, and the enforcement of the Policy, as well as the achievement of the innovation goals of the University and the work of CUIC;
 - c) delivering opinions on innovation and intellectual property management matters submitted thereto.

- (2) **Composition.** The chairperson of the Innovation Council shall be the vice-rector in charge of innovation, its co-chair shall be the previous president of the Innovation Council, and its vice-chairperson shall be the director of CUIC or a person designated by the latter. The secretarial tasks of the Innovation Council shall be carried out by the CUIC. The members of the Innovation Council shall be
 - a) the faculty representatives appointed by each dean, who – if such a person is appointed, and their replacement is not warranted by any work management considerations – shall be the vice-dean of the faculty in charge of innovation;
 - b) the chancellor or a person designated by the chancellor.

- (3) **Meetings.** The Innovation Council shall hold at least four regular meetings every year.

- (4) **Rules of procedure.** The rules of procedure for the Innovation Council shall be adopted by consensus.

Section 6 Support of technology and knowledge transfer

- (1) **Designation.** The institutional body at the University in charge of supporting technology and knowledge transfer is the RDI Directorate of CUIC. The RDI Directorate of the CUIC may use the acronym BRIDGE (*BME Research, Innovation and Development Gateway Entity*) for communication purposes.

- (2) **Tasks.** The tasks of the CUIC RDI Directorate consist of the activities described in the OOR, the Organizational and Operating Rules of the CUIC, and its own rules of procedure, including expressly the following responsibilities in the field of intellectual property management:
- a) providing advice, information, and guidance for the creators (authors, inventors, other creators of intellectual property results) contacting the CUIC RDI Directorate;
 - b) raising awareness and providing information about intellectual property and innovation management, as well as about knowledge transfer;
 - c) the recordal, management and administration, pursuant to Section 9 (2), of intellectual property rights registered or acquired by the University on intellectual property results that have been submitted to the CUIC RDI Directorate;
 - d) the marketing of technology, as well as supporting the contracting process related to knowledge and technology transfer;
 - e) providing opinion, advice or – where necessary – negotiation assistance in relation to contracts with intellectual property aspects;
 - f) participation, in accordance with the Policy, in the University decision making process in intellectual property matters.

Chapter II CONTRACTUAL RELATIONSHIPS

Section 7 Research contracts

- (1) **Preliminary check.** Where the University wishes to enter into a contract, where it is expected that the activity under this contract will create intellectual property results⁶ or the contract aims to commercialize an intellectual property result, the unit initiating the contract shall consult the CUIC RDI Directorate during the contracting process. No contract shall be signed without requesting the preliminary written opinion of the intellectual property advisor of the CUIC.
- (2) **Mandatory provisions.** The contracts defined by paragraph (1) shall include a separate provision about the division of the rights connected to the intellectual property results created during the cooperation or about a different way of managing these rights, as well as the rules of using or exploiting the intellectual property result. If this is not feasible at the time of signing the contract, then a provision shall be included that states that the parties shall come to an agreement in the intellectual property matters at a later date preceding the start of the activities under the envisaged cooperation.
- (3) **Separate remuneration for intellectual property.** If the University creates intellectual property under a contract, the remuneration for the license, and – if the parties so agree, in accordance with paragraphs (4)-(5) – for the assignment of the intellectual property rights shall
- a) be indicated as a predetermined portion, and
 - b) be at least 10%
of the net remuneration payable to the University.

⁶ These contracts shall especially include the research and development work or service contracts, the material transfer or research instrument utilization agreements, and the research cooperation contracts, as well as the consortium agreements in connection with research tenders.

- (4) **Basic conditions.** In case of a research contract concluded with the participation of the University, the University shall adhere to the following in the provisions on intellectual property rights:
- a) only the University is entitled to transfer the intellectual property claims or rights on intellectual property results created under a service or employment contract at the University, and furthermore, only the University is entitled to license them;
 - b) both parties shall clearly identify the intellectual property rights created independently from the contract, prior to its signing, that are expected to be necessary for the fulfilment of the contractual obligations or for the licensing of the results of the contractual activity, and the authorization to use such intellectual property rights shall be expressly provided for in writing;
 - c) the University shall ensure that it acquires, in accordance with the Policy, the intellectual property rights necessary for the fulfilment of its contractual obligations from the contributors acting on behalf of the University under the contract;
 - d) the University may apply for legal protection for the intellectual property created as a result of its activity, and shall only transfer this right in justified cases in exchange for remuneration;
 - e) unless otherwise specified in the contract, in case of jointly created intellectual property results, the University shall be entitled to a share of the intellectual property rights in proportion to the activity provided for the creation of the intellectual property result;
 - f) in case of joint intellectual property right ownership on the jointly created intellectual property results, the parties shall conclude a separate written agreement about the matters regarding joint ownership, at the latest prior to the application for legal protection or the start of any planned commercialization activity⁷, covering in particular:
 - fa) the share of the parties in the rights, and – if practical for the implementation of the project and the use of the project's results, and permissible under the applicable laws – the transfer of the share from one party to another in exchange for remuneration;
 - fb) the type of the intellectual property protection and whether it is justified to apply for industrial property protection or to launch other proceedings such as registering the result in a voluntary work registry, and what rules govern the common decision on the subsequent (mainly international) applications for legal protection and their maintenance or renewal;
 - fc) which party represents the right holders in the intellectual property law proceedings, and how they include the other parties in the decision making process during these proceedings;
 - fd) how the costs of the proceedings and other (e.g. legal representation) costs and maintenance or renewal fees will be shared among the parties;
 - fe) matters regarding own use and licensing, especially regarding the conditions for giving authorization to third parties to use the intellectual property result;
 - ff) the rules governing the course of action in case of an infringement of the intellectual property rights obtained;

⁷ The industrial property laws and copyright laws specify the default rules to be used in case of joint right ownership [cf. for example Section 26 of the Act XXXIII of 1995 on The Protection of Inventions by Patents (hereinafter: Patent Act)], therefore the contracting parties should only provide for these matters, if they wish to deviate from these rules.

- g) the University may provide access or preferential rights to the retained intellectual property rights for the other contracting party in a given area to utilize the results;
 - h) the University strives to stipulate cost-free educational and research access rights in case of results in control of the other party, including intellectual property rights assigned or licensed with exclusivity to the other party;
 - i) the fees payable to the University for authorizing the use in the course of trade, or for the assignment of the intellectual property rights, shall be proportional to the revenue expected from commercial use and they shall also be suitable to properly compensate the creators of the results;
 - j) the University aims to come to an agreement that ensures the publication of the results with the widest access possible.
- (5) **Permissible deviation.** Any deviation from the conditions laid out in paragraph (4) shall require the prior written approval of the director of CUIC and is only permissible, if signing the contract provides clear advantages to the University.
- (6) **Supported projects.** If the contract mentioned in paragraph (1) is a contract for acquiring or utilizing public funds, and this contract is signed during the tender process, then the provisions of paragraph (2)-(5) shall only be applicable where the tender allows this.

Chapter III

FINANCIAL PROVISIONS AND RECORD KEEPING

Section 8

Financial provisions regarding intellectual property

- (1) **Industrial Property Fund.** A financial framework, named the Industrial Property Fund, shall be maintained in the annual budget of the University for covering intellectual property costs. The sources of this fund are a dedicated amount, a fixed part of the intellectual property revenue determined in paragraph (2) as set out in paragraph (3), and a part of the revenue of the incubation and acceleration services mentioned in point c) of Section 26, as determined in a separate decision of the chancellor. The University – if there is no other agreement with third parties, or if there is no well-founded reason for the director of CUIC to approve a deviation – shall use the Industrial Property Fund to cover
- a) the administrative fees in – domestic and international – industrial property proceedings;
 - b) the administrative fees for maintaining or renewing the legal protection of the industrial property rights;
 - c) the fees due to the creators of the intellectual property results created at the University, pursuant to Section 14 and 23 (6) of the Policy;
 - d) the remuneration of the patent attorneys representing the University in industrial property proceedings;
 - e) the fees for other industrial property or connected market research services;
 - f) the court fees and the costs of legal representation in intellectual property court proceedings;
 - g) the costs of the intellectual property portfolio management software.
- (2) **Revenue from intellectual property rights.** Revenue from intellectual property rights shall mean

- a) the remuneration for assigning the intellectual property rights of the University;
- b) the fees received for licensing the intellectual property results of the University;
- c) the dividend from or the sale price of the ownership of the University in a spinoff company, as defined to Section 28, as well as the portion of the revenue from the activity of an intermediary company that is due to the University in accordance with point e) of Section 28 (1),

and this revenue shall be recorded separately in the books of the University.

(3) **Division of the revenue from intellectual property rights.** The intellectual property rights revenue mentioned in paragraph (2) shall be utilized as follows:

- a) 10% goes to the central budget of the University, as a contribution to the general costs;
 - b) 70% goes to the Industrial Property Fund;
 - c) 20% goes to the faculty/faculties where the creators are employed, divided proportionally to the share of the inventors in the result,
- with the proviso that creator's fees – pursuant to point c) of paragraph (1), if the fee contract with the creator does not specify otherwise and the provisions on the calculation of the creator's fee allow for a fee to be paid – shall be paid from the Industrial Property Fund.

Section 9

The intellectual property registry of the University

(1) **Keeper of records.** The CUIC RDI Directorate maintains a register of intellectual property results submitted to the University or susceptible of commercialization pursuant to Section 23 (3).

(2) **Content of the records.** The register described in paragraph (1) contains - where applicable - the following data:

- a) the file number;
- b) the title of the intellectual property result;
- c) the name, address and share of the creator of the intellectual property result, and in case of creators employed by the University, the indication of the institutional unit;
- d) the time of the result's official submission;
- e) the decision of the University and its date;
- f) the date for submitting the application for the legal protection of the industrial property result, with the shares of the applicants;
- g) the costs of the industrial property proceedings;
- h) the content of the official decisions regarding the intellectual property protection application and the date of the related document, and the date when the decision becomes final;
- i) the title of the industrial property legal protection, registration number, and the shares of the right holders;
- j) the amount of the payable maintenance or renewal fee and the payment date;
- k) the termination of the legal protection, its cause and its date, or the limitation of the protection;
- l) the basic information of the commercialization agreements (name of the parties, type of the contract, the amount of remuneration);
- m) the information required for identifying the publications connected to the intellectual property result.

- (3) **Accounting of the intellectual property.** The Accounting Policy of the University shall contain the principles for the valuation and accounting of intellectual property as immaterial assets and the rules on the connected financial statements.

Chapter IV INDUSTRIAL PROPERTY

Section 10 The University's claim to intellectual property rights

- (1) **The University's claim.** The University shall be the sole owner of all economic rights (including the proprietary rights on the instruments embodying the subject-matter of the intellectual property rights and the claim to the intellectual property protection) with the right to transfer it to third parties, on an industrial property result created through research subject to the rules on service creations⁸, and financed by the University or created by using a the University's resources to a significant extent as described in paragraph (4), or publicly funded with the participation of the University.
- (2) **Exceptions.** Paragraph (1) shall not be applicable, if
- a) a law or the Policy provides otherwise, or
 - b) the contract expressly provides otherwise, or
 - c) the University waives the right with an express statement in accordance with the provisions of the Policy, or
 - d) the University fails to make a statement about their claim to industrial property rights pursuant to Section 12, within 90 days of receiving a complete submission suitable for making a decision.
- (3) **Cooperation.** If the industrial property result was created in cooperation with another university, institute, or company, or in cooperation with a person in a legal relationship with any of these, then the intellectual property rights shall be divided among the participating employers as legal successors in proportion to their contribution. The proportions, or the method for determining these shall be laid down in the contract concluded by the participating organizations.
- (4) **Use of the University's resources.** A significant use of the University's resources shall mean the use of the information provided by the University outside of the educational activities, or the use of infrastructural elements under the management or administration of the University, which
- a) are essential for creating the results, or

⁸ Pursuant to domestic industrial property laws, service creations (inventions, designs, utility models) shall be the intellectual property assets of the person, who is **obligated under their employment** to create solutions in the field of the creation. In this regard, public service is deemed equivalent to an employment relationship. The creation of intellectual property assets shall be deemed as an obligation under the employment, if it is included in the appointment of the creator, in their job description, or if it is created in connection with the tasks prescribed by the written instructions of the manager as a person exercising the employer's rights.

- b) directly contribute to the creation of the result, entail the amortization of the given infrastructural element, or reduce – even temporarily – their availability for other educational or research purposes.

Section 11 **Automatic transfer of rights**

If the University undertakes the contractual obligation to obtain the power of disposal over the intellectual property created during the activity carried out under the contract for the purposes of assignment or licensing, the rights to the intellectual property created by the persons participating in the performance of the contract shall transfer to the University even without the procedure described in Sections 12-13, based on the prior written statements of the researchers, the contractual statement of the University regarding this matter, and the research reports and accounts created during the activity carried out under the contract⁹.

Section 12 **Submission procedure**

- (1) **Submission.** The individual researcher or the leader of the research group (hereinafter: researcher) shall without delay, at the latest within eight days of its creation, submit to the intellectual property advisor of the CUIC the industrial property result created during their research activity that is subject to the Policy on the electronic form made available by the CUIC director on the University home page¹⁰ (hereinafter: submission). The researcher shall simultaneously also send the submission to their supervisor and the dean(s) of the faculty/faculties employing the researchers taking part in the creation of the result. If the submission is not suitable for the procedure described in Section 13, the intellectual property advisor of the CUIC may return it to the researcher inviting them to complete the document within five working days. If the researcher fails to notify the dean, the intellectual property advisor of the CUIC shall notify the dean about the submission and request them to give a statement about the submission in accordance with paragraph (4).
- (2) **Preliminary opinion.** If there are questions regarding the submission obligation, the eligibility of the industrial property result for protection, or their ownership, the researcher may request the preliminary opinion of the CUIC intellectual property advisor at any stage of the research activity. A preliminary intellectual property opinion stating that there is no obligation to make a submission shall only apply on the date the request, and shall not relieve the researcher from their obligation to submit their results, should it undergo any development.
- (3) **Avoiding prejudice to novelty, urgency.** Before making a submission, the researcher shall act with particular care to prevent such access to the industrial property result that

⁹ In this case there is no need for a separate submission and decision-making procedure, as under the contract the University shall claim the service creation every time. The written statements required by law (submission and employer's statement) may be substituted by documents connected to the contact and its fulfillment **signed by the persons concerned, and a model text shall be created for this purpose.**

¹⁰ The form is available on the home page of the University's unit in charge of technology transfer (CUIC BRIDGE), and on the homepage of its organizational unit, and also on the software interface established for this purpose.

would exclude obtaining protection. If it is justified to urgently file an application for the submitted result, the submission document shall expressly indicate this.

- (4) **Dean's opinion.** The dean or the person designated by them when notified about the presentation in accordance with paragraph (1) shall, within ten days of the notification, send a written statement to the director of CUIC about
 - a) their opinion whether the University shall claim ownership on industrial property result or not, and
 - b) the creators of and the creators' respective shares in the submitted industrial property result.
- (5) **Offering.** The researcher may offer to the University an industrial property result that is not subject to the Policy. If the director of CUIC decides that the offered industrial property result may be advantageously used by the University, the director may initiate the decision making process set forth in Section 13 with the proviso that where the University wishes to acquire the rights in the industrial property result, an assignment contract needs to be concluded with the researcher . If the parties cannot agree on the contractual terms within a reasonable time, the conclusion of such contract is not mandatory.

Section 13 Decision-making process

- (1) **Decision-making authority.** The Industrial Property Committee described in paragraph (2) shall make the decisions on behalf of the University in matters of ownership of the service industrial property result and, with the exception of the case in paragraph (8), the appropriate industrial property protection measures.
- (2) **Industrial Property Committee.** The University shall operate the Industrial Property Committee (hereinafter: Committee) to prepare and make the decisions on behalf of the University regarding the submitted industrial property results. The chairperson of the Committee is the director of CUIC or, if the director of CUIC appoints them in writing, the intellectual property advisor of CUIC. The Committee's members are
 - a) – if not chairing the Committee – the intellectual property advisor of CUIC,
 - b) the representative of the faculty where the intellectual property originated, appointed by the dean, and
 - c) the chancellor or a representative designated by them.The Committee is convened by the chairperson of the Committee to discuss the submissions under Section 12. The composition of the Committee shall ensure that the expertise necessary for evaluating the intellectual property result is present among the members. To this end, the dean of the faculty concerned – where appropriate – may appoint another person with voting rights into the Committee besides the department representative under point b). The chairperson of the Committee may, subject to an obligation of confidentiality, invite other persons in a consultative role to the meetings of the Committee, who can assist the Committee with their expertise regarding the result's eligibility for protection or commercialization potential. The researcher who made the submission on the agenda shall also be invited to the meeting of the Committee in a consultative role.

- (3) **Making a Committee decision.** The Committee shall make their decision, if possible, within 30 days of receiving the submission and the dean’s opinion, at least by holding one meeting – if necessary, through electronic communication means –, by trying to reach a consensus. Otherwise, the decision shall be made by the majority vote of the members, and in case of a tied vote, the chair’s vote shall be decisive. If the Committee fails to make a decision within 90 days of receiving the submission, the creator(s) of the industrial property result shall be entitled to the ownership of the result, in accordance with point d) of Section 10 (2). In the decision-making process, the following shall be taken into account:
- a) the contents of the submission,
 - b) the dean’s opinion, and
 - c) – if available – the professional and market evaluation described in paragraph (4).
- (4) **Expert evaluation.** In justified cases, the Committee may request the assistance of an external expert for the preparation of the decision, who is able to assess the industrial property result from a commercialization and patent eligibility aspect. In this case, the expert shall carry out an assessment report, evaluating the licensing possibilities of the given industrial property solution, the effective methods of utilization, the user group possibly affected by the utilization, and the expected revenue from commercialization. In the assessment report, the expert shall make a recommendation whether legal protection should or should not be obtained for the intellectual property, and for the possible utilization methods. If an expert is resorted to, the time limit under paragraph (3) shall be extended by 30 days, but the 90-day deadline from the submission may not be exceeded in this case either.
- (5) **Involvement of the Innovation Council.** If the decision affects multiple faculties or requires the clarification of a fundamental institutional matter, the director of CUIC - if this does not risk meeting the 90-day time limit for the decision - may put the case on the agenda of the Innovation Council. The majority opinion of the Innovation Council shall be taken into account in the decision-making process, unless any of the faculties concerned raises an objection against this through their Council representative.
- (6) **The content of the Committee’s decision.** The decision of the Committee under paragraph (1) shall, besides ownership and the results of the vote, based on the information available at the time of making the decision, and to the appropriate extent, address in the rationale the following:
- a) the recommended form of industrial property protection, including the recommended sequence of national, regional and international routes for obtaining legal protection, taking into account the preliminary assessment of the possible legal protections;
 - b) the expected technical or economic advantages offered by the industrial property result;
 - c) the conditions for the practical application of the industrial property result¹¹ and the required steps thereto¹²;
 - d) the explored possibilities for licensing, with especial regard to the identification of the market partners, at least by industrial sector, or the conditions for establishing a spinoff company;
 - e) the terms of remuneration for the creators;

¹¹ Product or service development, and its business model.

¹² E.g. manufacturing a prototype, participation at exhibitions, raising capital, establishing a spinoff company.

- f) the expenditures for developing the industrial property result and the expected costs of the future steps.
- (7) **Communication of the decision.** The chairperson of the Committee shall sign the decision after putting it in writing. In case of an irreconcilable difference of opinions, the dissenting opinion may be recorded in a separate clause. The signed Committee decision shall be sent to the chancellor by the chairperson of the Committee, and a copy shall be sent to the researcher and to the dean who gave their opinion.
- (8) **Urgent measures.** If the urgent filing of an industrial property application is warranted by significant circumstances, the intellectual property advisor of CUIC – if all necessary information is received – shall immediately initiate the necessary procedure at the relevant authority without convening a meeting of the Committee, which shall ensure that priority may be claimed for subsequent applications.
- (9) **Implementing the decision.** If in accordance with the decision under paragraph (1) the University claims ownership on the submitted industrial property result, and the nature of the result warrants this, the intellectual property advisor of CUIC shall make the necessary steps within a reasonable time to ensure its legal protection. The steps for obtaining the industrial property law protection shall be taken by CUIC on behalf of the University, in cooperation with the researchers in technical questions, unless a derogation from this, initiated by the dean of the interested faculty, is approved by the director of CUIC. The director of CUIC, taking into account the rules on procurement and representation, may resort to the services of an attorney-at-law or patent attorney for the preparation of industrial property applications, and for representation in the administrative proceedings.
- (10) **Costs.** The costs of administrative proceedings for the service industrial property results, and the other costs of obtaining and maintaining legal protection – including the remuneration of the legal representative – shall, in accordance with Section 8, be borne by the University.
- (11) **Utilization as trade secret.** If the University keeps the intellectual property result confidential and utilizes it as a trade secret, it may, in its decision under paragraph (1), forgo to apply for industrial property protection, or, in a decision under paragraph (13), it may withdraw its application before its publication, even if it claimed ownership on the industrial property result.
- (12) **Assent to the creator's ownership.** If in accordance with the decision under paragraph (1) the University does not claim ownership on the service industrial property result, the creator(s) of the industrial property solution shall be entitled to apply for protection in their own name and have ownership on their intellectual property result.
- (13) **Subsequent decisions.** Following the decisions pursuant to paragraph (1) or (8), the CUIC director, taking into account the feedback on eligibility for protection received during the preparation of the application or the administrative proceedings, as well as any new information about the commercialization potential of the industrial property result, shall review the necessity to continue the proceedings, to initiate new proceedings, to maintain or renew protection, or to enter into a transaction, within the following deadlines:
- a) immediately after submitting an application under paragraph (8),

- b) immediately after receiving an invitation from the industrial property authority to submit documents or make a statement,
- c) for the purposes of filing international applications, by the end of the ninth month after filing a priority application,
- d) for the purposes of renewing provisional protection or granted rights, annually, by the due date of the maintenance or renewal fee,
- e) for the purposes of commercializing of the industrial property result (license, assignment), within a reasonable time from receiving a business offer,
- f) immediately after obtaining new information about the eligibility or commercial potential of the result.

As a result of the review, if the decision includes a financial commitment, or it is in conflict with a prior Committee decision, the director of CUIC initiates a new decision-making procedure in accordance with paragraphs (2)-(7) by convening the Committee. If this is not the case, the director of CUIC shall independently make a decision based on the result of the review, with the notification of the Committee members, the researcher, and the dean of the faculty concerned. If the Committee needs to be convened, but holding a meeting with the original composition is obstructed or it would mean that the matter cannot be debated within a reasonable time, new member(s) may be appointed. The director of CUIC may delegate the authority described in this paragraph to the intellectual property advisor of the CUIC in writing, for a fixed time or until withdrawn.

- (14) **Offer to the creator.** If the University, based on its decision under paragraph (13), as an applicant in an industrial property case, commits an act or wilfully fails to meet a deadline that eliminates the possibility of obtaining legal protection – except in cases described in paragraph (11) –, and the creator has not previously receive any remuneration, the CUIC – through its intellectual property advisor, and setting a deadline for the response – shall offer to assign ownership to the inventor without any financial compensation. Where appropriate, the University may decide to request a non-exclusive, non-transferable and non-sublicensable right to use the industrial property result in exchange for the assignment of these rights.¹³

Section 14

Remuneration of the creator

- (1) **Right to remuneration.** If the University commercializes the service industrial property result (own use, licensing, and transfer) the researcher shall, to the extent the law prescribes it, be entitled to a creator’s fee, which shall be determined in a separate fee contract. If the contract contains no provisions about a third party taking over the payment of the creator’s fee, or, in case of joint protection, the joint right owner commercializing the result is not obliged to pay this fee, the creator’s fee shall be paid by the University.
- (2) **Base for remuneration.** Unless specified otherwise in the contract, the creator’s fee payable by the University shall be calculated based on the net revenue from the marketing (hereinafter: fee base). When calculating the net revenue, the revenue from commercialization (hereinafter: revenue) shall include all amounts paid or other pecuniary advantage provided by the buyer (licensee) as compensation for the assignment or license, however, it shall not include the value of the instruments given or services or rights provided under the contract establishing the cooperation with the University. To

¹³ Cf. Article 12 (4)-(5) of the Patent Act.

calculate the net revenue in order to determine the fee base, the following shall be deducted from the revenue:

- a) the costs related to creating the industrial property result,
 - b) the costs of evaluating the industrial property result, the costs of the proceeding(s) for obtaining, maintaining, defending or enforcing the legal protection, and
 - c) the costs borne by the University in connection with commercialization,
 - d) the taxes, fees and all other legal dues, including the dues on the creator's fee payable by the University.
- (3) **Amount of the remuneration.** If the contract does not specify otherwise, the creators of the industrial property solution shall receive the following gross remuneration from the fee base, in proportion to their share in the creation:
- a) if the base is no more than ten million Forints, then the creator's fee is 50% of the fee base;
 - b) if the fee base is more than ten million Forints, then the creator's fee is 30% of the amount above ten million Forints plus five million Forints.
- (4) **Payment of the remuneration.** The creator's fee shall be calculated and paid out annually, in accordance with the settlement rules of the fee contract.

Chapter V COPYRIGHT

Section 15 General obligations regarding works under copyright

- (1) **Expected care.** The author of the work described in point c) of Section 4 (2) and created by the person described in Section 4 (1) and all other persons having access to a copy of the work¹⁴ shall make sure, as reasonably expected under the given circumstances, before making the contents of the work public in any way¹⁵ that this action will not expose information that would
- a) eliminate or risk the legal protection of the technical solution described in the work, incorporated in the work or realizable by using the work, or
 - b) infringe the intellectual property rights or trade secrets of third parties – in particular the contractual partners of the University.
- (2) **Mandatory indication of the University affiliation.** Based on their legal relationship with the University, the author of the work described in point c) of Section 4 (2) shall indicate the name or, where appropriate, another distinctive sign of the University on the work or in its bibliographical data in accordance with the Branding Manual of the

¹⁴ The copyrighted works created at the University are often made public by the actions of other persons besides the authors, therefore the obligation for expected carefulness should be expanded also to other people (consultants, research group members, etc.).

¹⁵ Making public shall mean all written or oral communication (therefore any publication or exhibition, and also all presentations), and all public practical presentation (e.g. exhibition of the prototype), which would cause the information contained in the work to be known to an undetermined number of persons, who are not bound by confidentiality. Making public shall also include the upload to a repository that is available for the public, or even to a limited number of persons, who are not bound by confidentiality.

University, in a way that fits the nature of the work, with their contact information including their University e-mail address

- a) when using of the work (including its publication),
- b) when depositing the work into a repository in accordance with Section 16, and
- c) when publishing the bibliographical information of the work in a the national scientific bibliography database.¹⁶

- (3) **Best efforts to provide open access.** In case of all scientific work that was created with at least 50% public funding¹⁷, the owner of the economic rights shall make their best efforts so that the conditions for the use of the work enable
 - a) its deposit to the institutional repository of the University¹⁸, and
 - b) the open access after the following embargo periods have expired:
 - ba) maximum 12 months after the first publication in case of natural science and technical science works,
 - bb) maximum 24 months in case of works in the domain of social sciences,
 - bc) maximum 8 years in case of monographies.

Section 16 Repository

- (1) **Repository.** The author of the work described in sub-point ca) and cb) of point c) of Section 4 (2) created by a person under Section 4 (1) shall register the identification data of the work and – if the nature of the work makes it possible – the work itself¹⁹ in the institutional repository of the University, provided that this is not performed automatically from another source.
- (2) **Repository use.** The institutional repository of the University shall be entitled to use the work in accordance with the free use provisions of the Copyright Act and the open access conditions applicable to the given work.
- (3) **Obligation to provide access.** If the terms of use specify an embargo period, the institutional repository of the University shall, after this period has expired, make the work accessible in accordance with the open access provisions.

Section 17 Procedure before publishing

- (1) **Notification.** The author of the work described in point c) of Section 4 (2) and created by a person under Section 4 (1) shall notify the head of the department employing the author in advance about their intention to initiate the publication of the work and send a draft of the publication as well. This notification may be made simultaneously with the submission under Section 12 (1), as part of the documents submitted.

¹⁶ Hungarian Scientific Bibliography (MTMT)

¹⁷ In accordance with the public finance rules, the salary paid for public service shall not be deemed public funding.

¹⁸ The institutional repository of the Budapest University of Technology and Economics, the Digital Archive of the University (MDA) is available at the <https://repozitorium.omikk.bme.hu> domain.

¹⁹ If the tender conditions or other rules regarding the creation of the work do not specify otherwise, the reviewed manuscript shall be placed in the institutional repository.

- (2) **University assent.** The head of the department – if necessary, by consulting with the dean or the person designated by the dean, or the director of CUIC or its intellectual property advisor – shall make a statement within 15 days about approving or rejecting the publication of the work. The head of the department may also state that they recommend the postponement of the publication for a specified period of time. If the head of the department fails to make a statement within the deadline, the publication shall be deemed approved.
- (3) **Refusing the approval.** The approval may only be refused if
 - a) the publication of the work would risk the University’s rights to the intellectual property result, especially as regards industrial property protection or the utilization of the result as a trade secret, or
 - b) the work was created through cooperation under a contract that limits or prohibits the publication of the work.

Section 18

Moral rights

- (1) **Ensuring the moral rights.** Irrespective of the transfer of the economic rights, the University shall recognize and ensure that the persons described in Section 4 (1) enjoy moral rights in accordance with the Copyright Act.²⁰
- (2) **Privileges of the author.** The University shall not require the authors to waive their individual rights in exchange for any appointment, admission, employment or support.
- (3) **No indication of the name.** If the University as the owner of the economic rights, or by exercising its rights to use the work in accordance with the provision of the Policy or under a contract, lawfully adapts a copyrighted work, the author may require that the adapted work shall be used without the indication of the author’s name.²¹

Section 19

General rules on the economic rights

- (1) **General rule.** Unless the exception laid down in Section 22 (1) applies, or the University transferred these rights to the author in writing, the University shall be entitled to the economic rights on the works under copyright or related rights protection (including software and databases) that were created while performing their employment duties²² by a person in public service or in other, regular employment relationship with the University during their work or by using a significant portion of the University’s resources as described in Section 10 (4).²³ If the University licenses the work or transfers the economic rights to other persons, the appropriate remuneration for the author shall be determined in a separate agreement in accordance with Section 20.²⁴

²⁰ Right of attribution, right of decision on publication, and the protection of the integrity of the work (cf. Chapter II of the Copyright Act).

²¹ This provision reflects Article 12 (3) of the Copyright Act.

²² Refer to footnote 8.

²³ Cf. Section 30 of the Copyright Act. For the handover, refer to the applicable provisions of Articles 21 and 23.

²⁴ In case of software and databases, the authors are not entitled to remuneration under the Copyright Act, the University may, however, provide them remuneration in a separate agreement in accordance with the Policy.

- (2) **Commissioned works.** The economic rights on works under copyrighted or related right protection created by a person in a contractual relationship with the University²⁵ as the customer, and the licenses for the use of such works shall be governed by the provisions of the contract. Where the transfer of these rights is prohibited by law, but the intention of the parties is to give ownership of the economic rights to the University²⁶, then the University strives to acquire the widest possible license in the contract, with exclusive utilization rights without any temporal or geographical limits.
- (3) **Stipulated utilization rights.** If the law, tender²⁷ or the utilization conditions of another work used for the creation of work²⁸ contain provisions that stipulate wider or more limited utilization rights²⁹, then the scope of the licenses to use the works described in Section 21(1) and 22(4) shall be governed by these provisions and by the related written statement of the author.

Section 20 Remuneration of the authors

- (1) **Right to remuneration.** If the University obtained the economic rights of the work from the creator and does not re-assign them to the creator, then the creator - except in the case described in Section 21 (4) - shall be entitled to appropriate remuneration, if the University licenses the work or transfers the economic rights of the work to other parties. The amount of the remuneration shall be determined in a separate contract, taking into account Sections 21 (5) and 23 (6), and derogations therefrom without justification is not allowed.
- (2) **Works with multiple authors.** If a work has multiple authors, the amount determined in the fee contract described in paragraph (1) shall be paid collectively to the authors, and the authors shall divide this amount proportionally in accordance with their statement about their contribution share in the work. If such statements were not made, the amount shall be divided equally.

Section 21 Special rules for works created for educational purposes

- (1) **Conditions for the utilization rights.** In case of works described in sub-point ca) of point c) of Section 4 (2) and created by persons under Section 4 (1), the University - as the owner of the economic rights - shall hereby grant utilization rights (licenses) to the author as described in paragraph (2), with the obligations described in Sections 15, 16 and 17 (1).

²⁵ The party to the service contract, which may include guest researchers or guest professors, whose legal relationship is governed by an inter-institutional agreement or who entered into a separate contract with the University.

²⁶ The economic rights cannot be transferred except in the case of software, databases, motion pictures, works ordered for advertising purposes and works created during employment, and in case of inheritance.

²⁷ E.g. mandatory Open Access provisions in the tender and support contract.

²⁸ E.g. *Open Educational Resources* (OER), *non-permissive* Open Source software or certain types of Creative Commons licenses.

²⁹ This also includes licenses without limits (“*public domain*”).

- (2) **Utilization rights.** If the conditions described in paragraph (1) are met, the University shall grant the author of the work a non-exclusive, non-transferable, sublicensable without remuneration, free of charge license for the educational or research use of the work for such uses (including the reproduction in the number of copies needed, distribution, public performance, communication to the public, exhibition, and the adaptation of the work), with the quantitative limits and to such an extent that is required by the educational or research activity carried out at the University by the author. The work may only be used outside the University or for commercial purposes with the separate prior written authorization of the University. The vice-dean in charge of finances of the faculty employing the author has the right to grant this authorization on behalf of the University.
- (3) **Handover and notification.** The author of the work described in paragraph (1) – at the same time as the electronic handover³⁰ – shall also notify the head of the department, who shall act in accordance with the Educational Codex³¹ regarding the work’s educational use.
- (4) **No right to remuneration in case of teaching aids.** The author of a work described in paragraph (1) shall not be entitled to separate remuneration, if
- a) the work is deemed a teaching aid, the creation of which was the author’s obligation in their employment as an educator, and where
 - b) without this work the mastery of the subject material taught by the author cannot be assessed, or the expected quality of education cannot be met.
- (5) **Remuneration for textbooks and lecture notes.** The gross remuneration (including taxes payable by the University) of the author for the textbooks and lecture notes, as described in paragraph (1), if the contract between the University and the author does not provide otherwise,
- a) if the work is published by the University: the multiplication of the number of works sold by 10% of the net retail price of the work, calculated quarterly,
 - b) if the work is distributed under a contract with a publisher: 50% of the licensing fee paid to the University, with a due date aligned with the accounting periods agreed with the publisher.

Section 22

Special rules for scientific and construction engineering works

- (1) **Conditions for retaining the economic rights.** If paragraphs (2) or (3) do not exclude it, the economic rights of the work described in sub-point cb) of point c) of Section 4 (2)³² created by persons under Section 4 (1) – derogating from the statute on works created

³⁰ Based on this, the University acquires the rights in accordance with Section 30 (1) of the Copyright Act. The separate labor law classification of the handed over works is not necessary, and with the utilization rights described in paragraph (2) it is also not necessary to stipulate that the economic rights shall return to the author if the work is not used as educational material. In special cases, the University may return the economic rights to the author (Sections 51 and 55 of the Copyright Act on the termination right of the author - without a transfer contract - shall not be applicable).

³¹ Educational Codex of the Budapest University of Technology and Economics (Rules on the quality management of the education, 2014). Approved at the Senate meeting on 22 February 2010. The text in force shall be the consolidated version including the amending Senate decisions dated 31 March 2014 and 30 June 2014.

³² This includes the works made to order by researchers, developers, experts or designers under contracts concluded with external partners, if these works were created under an existing legal relationship with the University.

during employment, based on the employment documents signed by both parties – shall not be obtained by the University from the author³³, therefore the author enjoys full ownership.³⁴ However, by accepting the provisions of the Policy³⁵, the author, in case of a work that was created during their activity under the legal relationship with the University or by the significant use of the University's resources, shall

- a) grant the University the utilization rights described in paragraph (4), and
 - b) meet the obligations described in Section 15, 16 and 17 (1).
- (2) **Research, development, expert and design contracts.** The provisions of paragraph (1) are not applicable, if the scientific research, development, expert or design activity is carried out under a contract between the University and a third party³⁶. In this case the economic rights of the work shall be owned by the University in accordance with Section 19 (1), and these shall be governed – without prejudice to the applicable laws – by the provisions of the signed contract and the related written statement of the author.
- (3) **Supported projects.** If the scientific research, development, expert or design activity is carried out under a contract of the University for the purposes of using public funding, which was concluded during a tender procedure, then the provisions in paragraph (1) shall only be applicable if allowed by the call's terms and conditions.
- (4) **Utilization rights.** If the conditions described in paragraph (1) are met, pursuant to point a) of that paragraph, the author shall grant the University a non-exclusive, non-transferable, sublicensable, free of charge license for the use of the work for administration, promotional and educational purposes, for such uses (including the reproduction in the number of copies needed, distribution, public performance, communication to the public, exhibition, and the adaptation of the work to the extent necessary for the purpose without violating the moral rights of the author), with the quantitative limits and to such an extent that is required to fulfill the University's obligations under legislation or a tender, or to carry out its institutional missions.

Section 23

Special rules for software and databases

- (1) **Software handover.** The handover of software described in sub-point cc) of point c) of Section 4 (2) and created by persons under Section 4 (1) shall be deemed complete, when it is – fully or partially – placed in the repository described in paragraph (5).

³³ Except in case of such jointly created works (Section 6 of the Copyright Act), where the contributions of the authors cannot be separated.

³⁴ In this case, a license contract may be signed with third parties (usually for the purposes of publication), but the non-exclusive utilization right of the University shall be also taken into account. In case of jointly created works, a separate agreement shall be concluded with the co-authors not subject to the Policy regarding the utilization right of the University. In case of connected works, the utilization right of the University applies for the part of the work that was created by a person that falls under the personal scope of the Policy.

³⁵ The employment documents shall include a reference to the utilization right of the University.

³⁶ Research, consortium or any other contract under which the University has an obligation to cooperate in research or development or as an expert or consultant or has a design obligation. These contracts shall have provisions on the rights on the intellectual property assets created during the project. If the parties agree, the economic rights may be assigned or - if this is not possible - the widest scope of utilization rights may be granted to the contracting partner.

- (2) **Software notification.** The author of the software or the representative appointed by the authors shall immediately notify the head(s) of the department(s) employing the author or the authors after the work is completed and handed over. This notification may be made simultaneously with the notification under Section 17 (1), as part of that notification. The head of the department, after the preliminary evaluation of the business utility of the software and the examination of the license terms of the components of the software - if necessary consulting with the director of CUIC or its intellectual property advisor - shall decide within a reasonable period, whether to re-assign the economic rights of the work by transferring them to the author on behalf of the University. If multiple departments are involved, the heads of the departments shall discuss this matter, and if any of them finds that the University shall claim ownership in the economic rights, then those cannot be transferred. If the software is part of an invention that must be submitted in accordance with Section 12, then the head of the department cannot re-assign the economic rights. The head of the department shall inform the author making the notification about the decision in writing.
- (3) **Procedure in case of software with commercial potential.** If there is a possible business utility for the software, or the software is part of a service invention, the head of the department shall notify the director of the CUIC in writing within 30 days from receiving the notification made in accordance with paragraph (2). Upon the receipt of this notification, the director of CUIC shall discuss the possible commercialization potential with the author and the head of the department, and, if necessary, the director shall convene the Committee in accordance with Section 13 to identify the possible commercialization options. If the director of the CUIC, based on the consultation and the opinion of the Committee, decides that the University shall not commercialize the software, then the director may re-assign the economic rights on behalf of the University by transferring them to the author. Otherwise the director of CUIC shall ensure that the software is placed in the University know-how property database, and – in accordance with paragraph (4) – determine the software’s license terms to be published.
- (4) **Software licenses.** If legislation, tender specification or license terms of other works used for the creation of the work include provisions on the use of the work or regarding its use or licensing,³⁷ these apply to the licensing terms of the software described in sub-point cc) of point c) of Section 4 (2). If there are multiple options for granting licenses³⁸, and the University does not re-assign the economic rights to the author as described in paragraphs (2) and (3), the University shall take into account the preference of the author and applicable recommendations when drafting the license terms. If it does not contradict the utilization of the software, the University shall grant the author of the work a non-exclusive, non-transferable, free of charge license to use of the work for educational purposes for such uses, with the quantitative limits and to such an extent that is required by the educational or research activity carried out by the author at the University.
- (5) **Software repository.** Software described in sub-point cc) of point c) of Section 4 (2) and created by persons under Section 4 (1) shall be placed in the electronic, cloud-based repository of the research group within 15 days of its creation, and the work shall be identified with the tag of the University.

³⁷ E.g. Open Source provisions in the tender, use of *non-permissive* Open Source software or certain types of Creative Commons licenses.

³⁸ Where proprietary source code is possible or various types of open source licenses may be applied.

- (6) **Remuneration of the author or creator.** If the University decides to commercialize the software or database as described in paragraph (3), and the software does not become public with open source code, the author or creator shall be entitled to remuneration in accordance with Section 14.
- (7) **Databases.** The same provisions shall be applicable to the databases described in sub-point cc) of point c) of Section 4 (2) as the provisions applicable to software, with the exception that the databases must not necessarily be placed in the repository, and the handover is deemed complete with the notification made in accordance with paragraph (2).

Chapter VI

INTELLECTUAL PROPERTY CREATED BY STUDENTS

Section 24

General rules

- (1) **Student status provisions.** Except in cases described in Section 25, persons in a student status at the University (hereinafter: student) shall be entitled to ownership of intellectual property results created by them.
- (2) **Contribution of the teachers.** Education, consultation, or review in itself does not form a basis for the University to acquire the rights in intellectual property results created by a student, and these do not result in joint authorship either with the person performing the activities listed above.
- (3) **Limiting the access to papers.** Where the novelty requirement of industrial property protection warrants limiting access to a test, essay or thesis (hereinafter: paper) created for meeting educational or examination requirements, or for the completion of education or for attaining a degree, or created during the activity of scientific research societies, then the consultant, in accordance with the provisions of the Higher Education Act, and the Studies and Examinations Code³⁹, shall take into account the preference of the student and initiate the procedure for the approval of a limitation at least for a period, until a decision is made about ownership and applying for industrial property protection regarding the intellectual property result enshrined in the paper. If the student has ownership of the intellectual property result, the consultant shall, on the student's request, initiate limited access of the paper .

³⁹ In accordance with Section 146 of the No. X./10/2015-2016. (2016. VII. 11.) Senate decision on the Studies and Examinations Code of the Budapest University of Technology and Economics at the initiative of the consultant the head of the organizational unit may request the limited access to a paper with a written request submitted to the dean, indicating the reasons and recommended period (maximum 10 years) of the limitation.

In case of *doctoral dissertations*, the provisions of Article 53/A of the National Higher Education Act are applicable, which stipulates that the dissertation and its theses are public, however their publication may be delayed until the application for the industrial property law protection is published. The delay is implemented at the request of the submitter of the dissertation, based on the opinion of the examination committee and with the approval of the doctoral council, "at the latest until the registration of the patent or protection". [Note: as publication of the application and grant of protection falls on different dates, the statute's formulations contain a contradiction.]

Section 25 Exceptions to student ownership

- (1) **Rights obtained by the University.** By way of derogation from Section 24 (1), the University may claim ownership of the intellectual property results created by the student, provided that:
 - a) it was created with the significant use of the University's resources as described in Section 10 (4) or it was created by receiving a significant amount of financial support from the University,
 - b) it was created under an employment relationship with the University besides the student status⁴⁰,
 - c) it was created during an activity carried out under a contract between the University and a third party, or financed through a tender, where the University agreed to acquire ownership of the created results,
 - d) it was created during a coordinated activity carried out together with a person or persons in an employment relationship with the University,
 - e) it has utility for the University, and the University and the student, based on the voluntary offer of the student, sign a contract to assign the rights in exchange for appropriate remuneration.
- (2) **Rights obtained by third parties.** By way of derogation from Section 24 (1), rights to intellectual property results created under a contract signed between the student and a third party for the purposes of sponsorship shall be governed by the provisions of the underlying agreement, with the proviso that the University shall be notified about signing such contracts in advance.
- (3) **Express stipulations.** In the cases under points a)-d) of paragraph (1), the University – through the organizational unit employing the student – shall conclude a contract with the student that includes provisions on the transfer of the economic rights and the claim to industrial property protection regarding the intellectual property result created by the student, as well as, where applicable, on appropriate remuneration,
 - a) prior to or at the same time as the creation of the underlying legal relationship,
 - b) in case the timing in point a) is obstructed: before the activity resulting in an intellectual property result is started, or
 - c) in case the timing in points a) and b) is inevitably obstructed: as soon as possible after starting the given activity.
- (4) **Prohibition of cooperation.** In the absence of a contract mentioned in paragraph (3), the student shall not participate in the activities listed in points a)-c) of paragraph (1).
- (5) **Waiver.** Even in the cases described in paragraph (1), the University may declare, if this does not contradict any legal, contractual or tender obligations, that the University does not claim ownership on the created intellectual property result.
- (6) **Utilization right.** If the contract under paragraph (3) is not concluded in the absence of an agreement about the specific conditions, but it can be demonstrated without doubt that the University may claim ownership on the intellectual property result created by the

⁴⁰ Due to the nature of the legal relationship it may also provide a basis for intellectual property created in a service or employment relationship, however in certain constructions - e.g. in case of an agent relationship - the contract shall have a separate provision governing intellectual property rights.

student in accordance with point a) of paragraph (1), the University shall have access rights to this result to the extent required for carrying out its educational or research activity. The University shall be entitled to the same utilization rights where the student created the intellectual property in the course of a competition organized by the University, and the rules of the competition do not stipulate otherwise.

- (7) **Compensation.** In the cases described in paragraph (1), the amount of the compensation for transferring the rights shall be governed by the provisions of Section 14 and 20, with the possibility for the agreement to provide otherwise, should the specific circumstances of the case warrant so.
- (8) **Subsidiary rules.** If the conditions described in points a)-d) of paragraph (1) and paragraph (3) are present, the matters not regulated in the contract signed in accordance with paragraph (3) shall be governed by the provisions of the Policy on service industrial property results and on copyrighted works created in an employment relationship, in particular as regards submission, decision-making, notifications and handover.

Section 26 Support

The University supports the creation and utilization of intellectual property results created by its students by

- a) intellectual property and innovation education, information, guidance and awareness raising measures,
- b) organizing innovation competitions offering opportunities for obtaining capital investments, and
- c) providing incubation and acceleration services.

Chapter VII THE USE OF THE BRANDING ELEMENTS OF THE UNIVERSITY

Section 27 The use of University brand elements

- (1) **Use of brand elements.** The distinctive signs listed in the Branding Manual of the University that are not registered as trademarks, as well as the official name of the University may only be used for commercial purposes with the written authorization of the University, as prescribed by the Branding Manual. The written authorization may be granted by
- a) the dean of the given faculty in the case of signs relating to a given faculty,
 - b) the head of the organizational unit in the case of signs relating to organizational units not operating as a faculty,
 - c) the rector and the chancellor jointly in the case of signs relating to the entire University.

This authorization must be refused, if the use of the sign would give the appearance of a direct affiliation with the University or any of its organizational units. The statement of the authorization must include the period for the permitted use, and the conditions for withdrawing the authorization.

- (2) **Use of trademarks.** Any trademarks registered by the University may only be used for commercial purposes based on a written license contract concluded with the University.
- (3) **Contractual terms.** The license granted under paragraph (2) may only be a non-exclusive, non-transferable license, with no possibility to sublicense it to independent third parties. The license shall be against remuneration, unless it is not reasonable due to the specific conditions of the legal relationship. The contract shall determine the period of the license, and shall include the possibility of immediate termination, if the use of the trademark may be detrimental to the renown of the University.

Chapter VIII SPINOFF COMPANIES

Section 28 Spinoff companies

- (1) **Relationship with the spinoff company.** The University may commercialize its intellectual property rights through a spinoff company as well. In this case, the University may
 - a) assign the intellectual property rights to a spinoff company as non-monetary contribution, in exchange for equity in the undertaking,
 - b) assign the intellectual property right to a spinoff company in exchange for appropriate remuneration,
 - c) conclude a license agreement in exchange for appropriate remuneration,
 - d) ensure the utilization of legally protected intellectual property results with a combination of the options listed in points a)-c),
 - e) obtain ownership in the spinoff company through a company incorporated for this purpose, determining the licensing terms of the University's intellectual property rights in a separate contract.
- (2) **Equity in a spinoff company.** If the University acquires equity in a spinoff company or establishes an intermediary company in accordance with point e) of paragraph (1), the establishment of such undertakings shall be decided in the decision-making process for the establishment of institutional companies, in accordance with current legislation and the OOR. The University's equity in a spinoff company shall be recorded as the University's own property⁴¹. Acquiring equity in the spinoff company, divesting this equity or reducing such ownership share by the University shall be approved by the chancellor on the recommendation of the director of CUIC.⁴²
- (3) **Commercialization without direct University ownership in the spinoff company.** If the intellectual property rights are commercialized in accordance with points b), c) or e) of paragraph (1) the necessary contracts may only be concluded on behalf of the University with the written authorization of the director of CUIC.

⁴¹ The dividends or consideration for the transfer of equity from the spinoff company established with the participation of the University shall be deemed intellectual property revenue in accordance with point c) of Section 8 (2).

⁴² Pursuant to Article 33 (5) of Act LXXVI of 2014 on Scientific Research, Development and Innovation, "obtaining ownership in a spinoff company, terminating this ownership or reducing the ownership share [...] shall be authorized [...] by the head of the public research organization. The person entitled to give this authorization may not transfer this power."

- (4) **Intermediary company.** In the case described in point e) of paragraph (1) only such contracts may be concluded that ensure that
- a) the University is the sole owner of the intermediary company,
 - b) the intermediary company of the University shall have a dominant influence on the strategic decisions of the spinoff company as long as it has equity in that company.
- (5) **Initiating the creation of a spinoff company.** The creation of a spinoff company may be initiated by the creator of the intellectual property result belonging to the University, or by the Committee under Section 13 (2), in the rationale of their decision in accordance with point d) of Section 13 (6). The director of the CUIC or the person designated by them is authorized to negotiate, on behalf of the University, the terms of the contracts necessary for creating the spinoff company.
- (6) **Guidance and support.** The CUIC provides guidance in the following matters for the persons initiating the creation of a spinoff company, and for other persons participating in the creation of such company:
- a) intellectual property management,
 - b) business development,
 - c) market research,
 - d) creating competencies in the spinoff company,
 - e) exploring investment opportunities, and
 - f) intellectual property evaluation,
- whereby CUIC may resort to the services of external experts for any of these activities.
- (7) **Other University services.** The University may provide financial support to the spinoff company through an internal competition. The spinoff company may only use the spaces, resources and services of the University for an appropriate compensation, pursuant to a contract concluded with the University.
- (8) **Conflict of interest.** The persons employed by the University by public service appointment may participate in the creation and operation of the spinoff company in accordance with the provisions and terms of the current legislation⁴³ and the HR Management Rules⁴⁴. If, during the procedure for the employer's authorization it comes to light that the participation of the employee in the spinoff company is incompatible with their obligations at the University or with the financial or other justified interests of the University, the person exercising the employer's powers may consult the director of CUIC about the possible options to remedy the situation. During this consultation, the involved employee shall be allowed an opportunity to communicate their position. Based on this consultation, the employer shall grant the authorization, refuse it or make it dependent on fulfilling certain conditions.

Chapter IX

LEGAL CONSEQUENCES FOR VIOLATING THE POLICY, REMEDIES

⁴³ Especially taking into account Sections 41-44 of Act XXXIII of 1992 on the Legal Status of Public Servants.

⁴⁴ Senate decision on the Human Resource Management Rules of the Budapest University of Technology and Economics dated 30 March 2015 (as amended)

Section 29

Legal consequences for violating the Policy

- (1) **Liability.** Violating the obligations set out in the Policy – in particular failing to comply with the submission and notification obligations – shall be handled in accordance with the joint order of the rector and chancellor on the handling of violations⁴⁵, and the director of the CUIIC shall be entitled to take the appropriate measures after the fact of the violation was established.
- (2) **Damages.** If the University suffers damages due to a violation of the obligations, the University may claim damages in accordance with the chancellor's order on the indemnification rules for civil servants⁴⁶ and the disciplinary, indemnification and legal remedy rules for students⁴⁷.
- (3) **Other legal consequences.** Furthermore, the University may claim through the director of CUIIC that
 - a) the researcher failing to meet their submission obligations transfer all rights in the intellectual property to the University without any compensation, provided that the University is entitled to the economic rights of the intellectual property, and
 - b) the researcher pay the University the taxed revenue from the commercialization of the intellectual property received until the date of the enforcement, minus the fee that the researcher is entitled to under the Policy.

Section 30

Remedies

- (1) **Internal legal remedy.** If the person under the personal scope of the Policy finds during any proceedings under the Policy that any of the University's decisions about them is adverse, they may request the review of that decision in writing from the rector by providing detailed justification within fifteen days from the date when the decision became known to them. The rector shall assess the request and, based on all documents of the case, may mandate a new procedure or dismiss the request.
- (2) **Legal disputes.** Besides the internal legal remedies, the legal disputes regarding the Policy and its implementation shall be governed by the provisions of applicable legislation. Resorting to or failing to resort to the internal legal remedy options shall not affect the researchers' general right to legal remedy or the deadlines for legal remedies.

Chapter X

FINAL PROVISIONS

Section 31

Final provisions

⁴⁵ No. 2/2016. (I. 19.) Joint Order of the Rector and the Chancellor on the handling of violations

⁴⁶ No. 10/2015. (IX. 30.) Order of the Chancellor on the indemnification rules for civil servants

⁴⁷ Senate decision on the disciplinary and indemnification legal remedy rules for the students of the Budapest University of Technology and Economics dated 17 December 2007 (as amended)

- (1) **Entry into force.** The Policy shall enter into force on the day of its signing by the rector and the chancellor – in the case of different signature dates, whichever is the latest, with the proviso that
 - a) the provisions of the Policy, which do not negatively affect the persons within its personal scope when compared to the rules in force before, shall also be applied to intellectual property results submitted or notified before the Policy entered into force,
 - b) in cases not subject to point a), the rules in force on the day of the submission or notification shall apply.

- (2) **Superseded orders.** The following orders shall cease to have effect:
 - a) No. 19/2011. (X. 5.) Rector's Order on the Intellectual Property Management Policy of the Budapest University of Technology and Economics, and
 - b) No. 2/2019. (IV. 26.) Joint Order of the Rector and the Chancellor on the Industrial Property Policy of the Budapest University of Technology and Economics.

- (3) **Responsible organizational unit.** The Policy shall be under the purview of the Center for University-Industry Cooperation.

- (4) **Contact information for requesting additional information.** The Policy is available electronically at the following website: http://kancellaria.bme.hu/munkatarsaknak/rektori_kancellari_kozos_utasitasok. The University makes its best communication efforts to to inform the persons subject to the Policy about its fundamental provisions to the greatest extent possible.

Budapest, 23 June 2020

Budapest, 19 May 2020

Dr. János Józsa rector

Attila Bertalan Kotán chancellor