
Rector's Directive No. 46/2018

The Directive of the Rector of Charles University Regarding the Management of Intellectual Property Rights at Charles University

Date of effect: 12 November 2018

Introductory Provisions

1. The protection and management of intellectual property particularly in the form of innovations at Charles University ("University", "CU") are governed by the legal order of the Czech Republic, relevant EU laws, respective international treaties and internal regulations of the University. The laws of other countries, if relevant, would apply with necessary modifications.
2. An authorial work for the purposes of the Directive herein and other relating directives is understood as a literary, artistic or scientific work which is a unique outcome of creative activities of the author or a group of authors and is expressed in any objective permanently or temporarily perceivable format, including an electronic format, irrespective of the extent, purpose and significance of the work. An authorial work includes a computer program, database whose mode of selection and/or arrangement is a product of the author's mental faculty, a work produced by processing another work including translation of a work into another language, and a collective work.
3. An outcome of technological creative activities for the purposes of the Directive herein and other relating directives is a patent, biotechnological patent, utility model, design, technological know-how, other technological solutions or designs not covered by the previous categories and other special objects sui generis particularly industrial property under the respective foreign legal system of a country where such property is protected or provided with other rights. A computer program may be an outcome of technological creative activities if such program fulfils the requirements of patentability under a respective legal order.

Part I - Common Provisions

Article 1 - Scope of the Directive

1. This Directive governs the management of intellectual property rights at Charles University.
2. This Directive is to implement section 16 (3) of Act No. 130/2002 Sb., regulating the support of research, experimental development and innovations from public funds, and changes to some relating laws, as amended.

Part II - Authorial Work

Article 2 - Person of an Author

1. An author under section 5 of Act No. 121/2000 Sb., the Copyright Act, as amended ("Copyright Act") is an individual who has produced a work, and/or an individual who has compiled or arranged a collective work in a creative manner.
2. A co-author is an individual who has produced a work, and/or an individual who has compiled or arranged a collective work in a common creative manner collaborating together with another individual or individuals in order to complete a common single work.

Article 3 - Work-for-hire Regime

The application of a work-for-hire regime is governed by section 58 of the Copyright Act and by Rector's Directive No. 17/2018 regulating the application of a work-for-hire regime at Charles University.

Article 4 - School Work

1. Under section 35 (3) of the Copyright Act, a school work for the purposes of the Directive herein is a work produced by a student of the University within the fulfilment of his or her study duties resulting from the relationship between the student and the University.
2. Under regular circumstances, Charles University has a right to request that the student provide the licence to Charles University for using the school work in compliance with section 60 of the Copyright Act.

Article 5 - Work Produced with Support of CU

1. Where the University supports the production of a work primarily through funding particularly in cases of internal grant competitions at the University or faculty levels, the employee of the University in charge of administration of

such support is obliged to arrange for a written promise of authors of works produced thereby to assign the licence to the University.

2. This Article is without prejudice to the application of the work-for-hire regime.

Part III - Outputs of Technological Creative Activities

Article 6 - The Person of an Inventor

1. An inventor under section 8 (2) of Act No. 527/1990 Sb. regulating inventions and technological innovation proposals, as amended ("Patent Act"), is an individual who has produced the output of technological creative activities by their own creative work.
2. A co-inventor is an individual who has produced the output of technological creative activities together with another inventor or other inventors.

Article 7 - Basic Statutory Elements of an Invention Made for Hire

1. The following conditions must be met in order to apply the regime of an invention made for hire under section 9 of the Patent Act:
 - a. The invention is made within the fulfilment of duties resulting from a respective employment relationship (based on an employment contract, or an agreement to complete a particular job, or an agreement to work); and
 - b. By the time of completing the invention no regime is agreed between the inventor and the employer that would derogate from provisions stipulated in section 9 of the Patent Act.
2. The inventor is obliged, immediately after the invention has been made, to notify the employer of the invention in a manner allowing for assessment of the invention; such notification is to be submitted to the dean of a respective faculty, director of a respective unit of the University or to the Bursar of the CU. A manner allowing for assessment of the invention should be understood as filling relevant forms issued by the Centre for Knowledge and Technology Transfer of Charles University ("CKTTCU").
3. The dean of a respective faculty, director of a respective unit of the University or the Bursar of CU, as the case may be, is obliged to express an opinion regarding the invention within three months of the notification, namely whether the right to the patent is to be claimed or waived. Should there be a case deserving special consideration as to the right or the waiver in the meaning of the preceding sentence, the Rector of CU may be called to take a position. The Rector is to decide in consideration of the recommendation provided by the CKTTCU.
4. The inventor's obligation under paragraph 2 above to inform that the invention has been made is not prejudiced by the fact that the invention might have been co-produced by persons not employed by Charles University.
5. Until the employer expresses the opinion under paragraph 3 above the inventor and the employer may derogate in their agreement from section 9 of the Patent Act; they may agree that the right to the patent belongs to the inventor, who is to enter into a licence agreement with the employer to enable utilisation of the invention. Derogation from the statutory regulation may apply to the payment of respective fees.
6. If all requirements under section 9 of the Patent Act have been met and the right to patent under paragraph 3 above has been exercised, the employer holds all the rights to own and use the patent from the moment of its creation. The inventor may not use the invention for hire nor license it to third parties unless otherwise agreed before the opinion of the employer under paragraph 5 above has been issued.
7. The rights and duties resulting from section 9 of the Patent Act remain unaffected after the termination of employment at Charles University of the inventor.

Article 8 - An Invention Made with Support of Charles University

1. If the University financially supports the making of an invention, in particular within an internal grant competition at a faculty or University level, the employee of the University in charge of administration of such support is obliged to acquire a written promise of the inventor who acts as a natural person with respect to the University that the inventor is to assign the right to the patent to the University.
2. If a student of the University is the inventor who has made the invention within the fulfilment of the study and relating duties in cooperation with an employee of the University such employee is obliged, without undue delay, to arrange for a written promise of the student to assign the patent right to the University.
3. Inventors under paragraphs 1 and 2 above are considered employees of the University for the purposes of Article 11 hereafter and exclusively with regard to the patent.
4. The right of an inventor to be designated as the inventor is not prejudiced thereby.
5. The application of the invention-for-hire regime of is not prejudiced by provisions of this Article.

Article 9 - Other Results of Technological Creative Activities of Employees

Provisions of Articles 6, 7, 8 and 11 of this Directive apply by analogy to other results of technological creative activities (see paragraph 3 of the Introductory Provisions).

Article 10 - Ensuring Legal Protection of Industrial Property

1. The University through the CKTTCU provides to its employees and students information, legal and other supportive services with respect to the legal protection of results of technological creative activities and its potential commercial use, and is responsible for the registration of such results.
2. Costs of the legal protection are borne by a faculty or a unit of the University where the respective industrial property object was created, or the CKTTCU upon an agreement between the dean and the Director of the CKTTCU; alternatively the costs are charged to the CKTTCU if the opinion under Article 7 (3) has been expressed by the

Rector. The faculty or the unit of the University may apply, through the CKTTCU, for funds to cover costs of the legal protection of industrial property applicable abroad. Such application is to be decided by the Rector.

Article 11 - Fee for an Inventor

1. An inventor who made an invention for hire under Article 7 regarding which the University has exercised its right to patent has the right to a reasonable fee under section 9 (4) of the Patent Act. The amount of a fee is to be determined according to the technological and economic significance of the patent and benefits resulting from its potential use or other manner of implementation; the scope of employment duties of the employee and the employer's material share are to be considered. Should a fee paid become obviously disproportionate to the subsequently reached benefit resulting from the use or other way of implementation of the patent, the inventor has the right to supplementary settlement.
2. Neither other fees to be paid under internal regulations of the University or a respective faculty or other units of the University, nor the amount of wages of the employee, are to be prejudiced by a reasonable fee and/or supplementary settlement paid for the invention under paragraph 1.
3. If an invention has been made by a team of inventors the team is considered to be an inventor for the purposes of computing the fee. The fee is distributed within the team according to the decision of the leader of the team reflecting the share of every member of the team in making the invention. If it turns out to be impossible to follow such criterion the fee is distributed in equal shares. The leader of the team is an inventor whose share in making the invention is presumably most extensive, or an inventor who has been designated as leader upon agreement of the team.
4. The amount of a reasonable fee is to be set individually in every single case of making an invention in compliance with internal regulations and applicable practice of respective faculties or other units of the University. However, the amount must not be lower than CZK 2,000 for every inventor.
5. The amount of supplementary settlement is to be set as percentage of net proceeds of the commercialisation of an invention under the following criteria:

Net proceeds of CU from the amount of	Amount of fee for the inventor	Share of the faculty / unit	Share of CU
up to CZK 1 million	55 %	30 %	15 %
CZK 1 million to 5 million	550,000 + 40 % of the amount above CZK 1 million	300,000 + 40 % of the amount above CZK 1 million	150,000 + 20 % of the amount above CZK 1 million
above CZK 5 million	2,150,000 +25% of the amount above CZK 5 million	1,900,000 + 45 % of the amount above CZK 5 million	950,000 + 30 % of the amount above CZK 5 million

6. Net proceeds are understood as the balance between income from commercialisation of the invention and all expenditures on the part of the University spent on marketing the invention, particularly the costs of the legal protection of industrial property.
7. Supplementary settlement is to be paid to the inventor every year usually within four months of the termination of the relevant accounting period during which the University received the income from the commercialisation of the invention.
8. If the invention has been made by several co-inventors the supplementary settlement amount is to be distributed among them in equal shares unless their prior written agreement stipulates otherwise.
9. Termination of employment of an employee may not result in any way in restricting the employee's right to supplementary settlement.

Article 12 - Consultation Activities and Assistance in Implementing the Directive

1. The CKTTCU is responsible for providing consultation and legal assistance in implementing this Directive.
2. Deans of faculties and directors of other units are obliged to inform the CKTTCU of the names and contact data of persons designated and appointed as technological scouts or coordinators of knowledge and technology transfer in their respective institutions, as well as persons responsible for providing data to the central register of industrial property, should these two persons differ. This obligation is to be performed within one month from the effect of this Directive and without undue delay should there be a change at either position.
3. Heads of individual units of the University, particularly of departments and institutes, are to ensure that all employees, students and other persons whose rights may be affected by this Directive would be duly acquainted with the content of this Directive.

Article 13 - Final Provisions

1. Further details regarding the management of intellectual property rights at the University may be governed in compliance with this Directive at faculties as a Dean's Directive, or at other University units in the form of a Director's Directive. Should there be any conflict between provisions of this Directive and directives issued by faculties and/or other units the Directive herein takes preference; the conflicting Dean's or Director's Directive should be made conforming to this Directive not later than within three months of the effect of the Directive herein. Drafts of new Dean's or Director's Directives are to be submitted to the CKTTCU for consultation before their final approval and issuance.
2. This Directive becomes effective on 12 November 2018.

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