



# **INTELLECTUAL PROPERTY RIGHTS POLICY OF KERALA STATE COUNCIL FOR SCIENCE, TECHNOLOGY AND ENVIRONMENT**

## **1. PREAMBLE**

Intellectual Property plays an important role in providing a competitive edge to enterprises and individuals. The intangible assets such as know-how, inventions, brands, designs and other creative and innovative products generated in the State are today often more valuable than its physical assets. The State plays an important role in providing innovators with technical and financial resources required to bring out their inventions to the market place. The Science and Technology Policy, 2003 of Govt. of India envisage the establishment of an Intellectual Property Rights (IPR) regime which maximizes incentives for the generation and protection of Intellectual Property by all categories of inventors. Traditional/ Indigenous knowledge (TK) plays an important role in the economic and social life of Kerala. The protection of TK under Intellectual Property Rights has also received increased attention in our State.

In view of these factors, this Intellectual Property Rights Policy Document (hereinafter referred to as the Policy) of the Kerala State Council for Science, Technology and Environment (KSCSTE) which includes its R & D Centres (hereinafter referred to as the Council) provide guidance on the practices and the rules of the Council regarding Intellectual Property Rights (IPR) and obligations which include the nature of Intellectual Property (IP), its ownership, exploitation, technology transfer and confidentiality requirements to students, scholars, scientists, researchers, grassroots innovators and the general public as well. The IPR policy of the KSCSTE provides special attention to the protection of Traditional Knowledge. The policy laid down in this document, in consonance with the State and National level policies and programmes, is expected to fulfill the commitment of the Council to protect IP output of the State of Kerala and provide a conducive environment for research and development.



## **2. POLICY MISSION**

The prime aim of the IPR Policy is to create an enabling environment that recognizes and values creativity and innovation besides providing financial and technical inputs required to translate these to products, processes and services for the benefit of the society. A balanced IP Policy of the State sets forth transparent guidelines and benchmarks on ownership, protection and commercialization of developed IP, while, at the same time, upholding the core moral values of development and pursuit of excellence. The Council will take adequate steps to ensure that every citizen of the State must have the basic knowledge about intellectual property so as to protect their own rights and to respect the rights of others.

## **3. OBJECTIVES**

The Council has formulated this policy for the effective management of Intellectual Property Rights in the State.

- a) To provide a conducive environment leading to development of intellectual property of the State of Kerala.
- b) To facilitate, encourage, promote and safeguard scientific research and innovations.
- c) To establish an IPR management policy and procedural guidelines for IP management in the State.
- d) To provide a comprehensive single window reference system for guidance in these IP related activities within the State.
- e) To safeguard the interest of creator of intellectual property and provide fair distribution of benefits accruing from the commercialization of IPR.



- f) To provide legal support, wherever necessary, to defend and protect the IPR obtained by the Council against any infringement/ unauthorised use.
- g) To ensure mutual benefit to an IP owner supported by the Council while pursuing the opportunity for commercialisation.
- h) To identify and protect the Traditional Knowledge of Kerala.
- i) To maintain the database on the Intellectual Property for the State of Kerala
- j) To enhance the IP literacy in Kerala.
- k) To organize structured training/ course/programmes to develop IP professionals.
- l) To initiate 'Innovators Clubs' in various Schools/ Colleges in Kerala.

#### **4. Constitution of Advisory Committee on IPR**

KSCSTE had constituted an Advisory Committee on IPR (AC- IPR) to guide and advise the Council on matters pertaining to IPR. AC- IPR shall be responsible to administer all decisive issues related to IP policy and such other relevant matters as shall be determined from time to time. The term of appointment of the Committee and the composition will be decided by the Executive Vice President, KSCSTE.

#### **5. Guidelines for filing patents through KSCSTE**

The Council will act as a facilitator for further development of inventions submitted to the Council and for patent protection of matured inventions. A Memorandum of Understanding (MOU) or Non Disclosure Agreement (NDA) between the stakeholders in this regard will be executed wherever necessary.



Case 1: If the individual is provided with technical and financial assistance for the development of a product by KSCSTE, a tripartite agreement involving the Inventor, Tie up Institution and KSCSTE will be executed, for appropriate sharing of the benefits (not less than one third of the profit) that may accrue from the commercialization of the invention.

Case 2: If the Individual is provided with financial assistance from KSCSTE for the development of a product, Council may initiate technology transfer and commercialization. The benefits will be shared appropriately on mutually agreed terms, on a case- to- case basis.

Case 3: In the Case of Applications from Individuals for filing of Patents with no assistance from the Council, the Council may initiate steps for facilitating technology transfer and commercialization of the end product. Once it is commercialized, benefits arising from the product shall be appropriately shared on mutually agreed terms, on a case to case basis.

For all cases where the Council facilitates preparation of Patent applications or examines applications submitted by inventors for their patentability, an undertaking will be given by the Council on behalf of its examining personnel about non disclosure of the contents of such applications including methods, processes and product specifications as may be reflected in claims and related details specified in the application. In cases where the Council provides financial and material support to an inventor, the Council shall stipulate in the mutual agreement signed with the inventor, that the Council will be entitled to an appropriate share in benefits arising from the commercial application of the resultant invention, as described above.



## **6. Proposed Procedure for IP Protection by filing of Patent through Council**

### **6.1 Patent Applications from Schools, Colleges, Research Centres, Government Institutions, Departments, etc., within the State.**

- i) Head of the Institution may forward a proposal prepared by the concerned Investigator/ Inventor. The details of the invention should be clearly specified in the 'Patent Facilitation Form' provided by the Council.
- ii) The initial processing of the application and prior art or patent database search will be carried out by Patent Information Centre (PIC- Kerala), which functions as satellite centre of Patent Facilitation Centre (PFC), TIFAC (Technology Information, Forecasting and Assessment Council), Dept of Science & Technology, Govt of India.
- iii) Search Report and Inventor's Claims will be forwarded to PFC, TIFAC, New Delhi for pursuing further Patent filing.

### **6.2 Application for Patent filing received from Individual Innovators**

- i) The application should be obtained in the Patent Facilitation Form and PIC-Kerala will conduct the prior art Patent database search and the search report will be sent to the individual innovator.
- ii) In the case of patentable inventions, the individual can directly file the Patent application in Patent Office, Chennai.

### **6.3 Application for Patent filing received from Grass root Innovators**

- i) The Council will identify Nodal Centres in all the fourteen districts of the State to facilitate interaction of the Innovators/ Individuals with the concerned officials.



- ii) 'Patent Facilitation Form' duly signed by the applicant will be scrutinized at the Nodal Centres.
- iii) If the proposal or application is seen to fulfill the requirements of patentability, it will be sent to the Council Head Quarters and the prior art database search will be carried out by PIC- Kerala.
- iv) The application may also be sent to PIC-Kerala directly.
- v) The applications received in the Council Head Quarters will be placed in the Advisory Committee of IPR (AC- IPR).
- vi) In the case of inventions from grass root innovators with average or good financial background, based on the recommendation of AC- IPR on the strength of the Patent and its potential gains and with the approval from competent Authority, the innovator may directly approach the Patent Attorney appointed by KSCSTE and proceed the filing of application with the rate fixed by KSCSTE
- vii) In the case of inventions from financially backward grass root innovators (with income not exceeding Rs. 2000/- per month), the Advisory Committee will examine the technical strength of the invention and the economic potential along with the financial background of such innovators. If the Committee is convinced, such applications may be recommended to KSCSTE for forwarding the application for filing patents to the Patent Attorney appointed by KSCSTE and for which the fee for the Patent Attorney shall be borne completely by KSCSTE. KSCSTE shall execute an agreement with such innovators for the repayment of the total expenditure incurred by KSCSTE towards filing and getting Patent together with interest at the prevailing bank rates, after commercialization of the patented product and immediately after the inventor starts generating income from it.



## **7. Special emphasis to protect Traditional Knowledge of Kerala**

Traditional knowledge associated with biodiversity includes both documented including Tribal Knowledge/ codified (Classical Tradition) as well as non documented (Oral Tradition) information which are accepted as cultural components of biodiversity. If these are not preserved and documented, they are likely to be lost forever in the modern materialistic world. Hence, there is scope and urgent necessity to carryout systematic documentation of Traditional knowledge associated with biodiversity. Therefore it is essentially required to protect the knowledge under sui generis system by establishing different viable models. Systematically documented traditional knowledge will provide valuable information that is highly beneficial to the research workers for developing new processes, products, patenting, technology transfer, commercialization, benefit sharing, etc. It is also possible to make traditional knowledge cost effective and helpful for developing appropriate technology. Since the information is in the public domain, these knowledge can be utilized as a proof of prior art by the examiners of the Patent Office's nationally and internationally.

The existing legal measures incorporated to protect the Traditional Knowledge associated with biodiversity are insufficient. Hence, special schemes will be designed for protecting the traditional knowledge with in the State of Kerala in consonance with Kerala State's IPR policy.

## **8. Technology Transfer**

The Council may initiate steps for technology transfer for the IP generated within the Council and for intellectual properties supported by KSCSTE, to ensure benefit to the Innovators.



The Council may contract the commercialization of IP to Patent Management Agencies (Government/Private) or Attornies, which manage the procedure for filing

For the IP for which exclusive rights have not been already assigned to a third party, the creator(s) may also contact potential licensee(s) on their initiative maintaining confidentiality and taking all necessary care so as not to affect the value of the IP through appropriate agreements such as Non-Disclosure Agreement (NDA) with the potential licensee(s) during technology marketing discussions.

## **9. Transparency of IP Administration**

The Council shall update the progress regarding filing of the Patent, commercialisation and/ or disposition of the intellectual property to the IP owners. The Council and the IP owners shall maintain complete transparency in sharing information at all stages of the process. The IP owner shall keep the Council informed of updates or development of the Intellectual Property, which lead to tangible effects on the property.

## **10. Confidentiality**

All Council personnel and non-Council personnel associated with any activity of the Council shall treat all IP related information which has been disclosed to the Council will be kept highly confidential. Such confidentiality shall be maintained till such date as is demanded by the relevant contract, if any, between the concerned parties unless such knowledge is in the public domain or is generally available to the public. Having signed the Non Disclosure Agreement, the creator shall also maintain confidentiality i.e. refrain from disclosing the details, unless authorized otherwise in writing by the Council.