

UniReport



Goethe-Universität | Frankfurt am Main

Satzungen und Ordnungen

Guidelines of Goethe University Frankfurt for the handling of intellectual property (IPR Policy)

Preamble

In compliance with the European Commission's recommendations, these Guidelines govern the **guiding principles** of Goethe University Frankfurt concerning the handling of and procedures for the handling of intellectual property.

Knowledge generation and knowledge transfer have always been amongst those core tasks of Goethe University Frankfurt firmly anchored in its research and teaching together with its objectives. Extensive **dissemination and utilisation** of the knowledge generated at the University are more important here than pursuit of financial profit.

On the basis of ideas, discoveries and inventions by the scholars at Goethe University Frankfurt, new technologies and applications can be developed which create economic value added.

For this reason, it is the declared objective of Goethe University Frankfurt, alongside research and teaching, to ensure the **economic utilisation** of the intellectual property generated, in order to safeguard an adequate return of funds to university research.

The guiding principles behind this handling of intellectual property are:

- Knowledge generation
- Knowledge transfer under fair access conditions
- Protection of intellectual property

Goethe University Frankfurt will provide adequate financial support

for the economic utilisation of intellectual property within the meaning of these Guidelines.

The following rules are based on these principles:

I. General principles

Intellectual property within the meaning of these Guidelines is all results of work, employee inventions, technical know-how generated at Goethe University Frankfurt as well as industrial property rights based on them, such as patents, utility models, designs and brands, but also material, computer software and databases, and logos as well as other forms of copyright for which no patent is filed.

Goethe University Frankfurt is routinely the **owner** of the intellectual property generated by its staff and of the results of work. Exceptions to this are rights to creative work which was not generated in fulfilment of an employment or service relationship, especially scientific publications.

The legal foundation for this are the Employee Inventions Act (ArbNErfG), the Copyright Act (UrhG) as well as the respective provisions of the Civil Code (BGB).

The utilisation by the University of intellectual property of persons not employed at Goethe University Frankfurt (e.g. students, doctoral researchers or fellows), requires a **separate contractual agreement** which governs the handling of the results of their work.

Intellectual property can be used for commercial and non-commercial purposes. The **utilisation strategy** of Goethe University Frankfurt takes into consideration the aforementioned guiding principles when decisions are made.

Goethe University Frankfurt fundamentally favours licensing rather than sale.

Certain cases can, however, also envisage the sale or transfer of intellectual property (for example through collaborative contracts or research and development contracts). The commercial interests of Goethe University Frankfurt must be taken into account accordingly in these contracts. Irrespective of the form of utilisation, Goethe University Frankfurt routinely reserves the right to at least a **non-exclusive right of use for teaching and research purposes** to any sold or transferred results. Moreover, the disclosure obligations of Goethe University Frankfurt are taken into account in the utilisation of intellectual property.

In the utilisation of its intellectual property, Goethe University Frankfurt applies **normal market approaches** and reasonable conditions, which are based on the specific environment of the licensed rights.

The granting of licences in order to fulfil contractual obligations from research collaborations and alliances funded under public law occurs at fair and reasonable conditions and royalty-free insofar as this is required.

Goethe University Frankfurt fosters the foundation of new enterprises (spin-offs) based on research results generated at Goethe University Frankfurt. Where possible, Goethe University Frankfurt will support founders through advice and assistance in applying for funding as well as in certain cases by making available rooms or material resources. In the case of economically successful enterprises, Goethe University Frankfurt must categorically be granted a share in the revenue of such enterprises and/or compensated for the related costs.

II. Inventions and patents

1. Definitions

The terms listed hereafter have the following meaning within the context of these Guidelines:

Inventor

An inventor within the meaning of these Guidelines is an employee or civil servant at Goethe University Frankfurt, whose individual intellectual activity – alone or together with others – has led to an invention. The criteria for assessing (co-)inventorship are the rules of the Employee Inventions Act (ArbNErFG) and the Law on Patents.

Invention

An invention is an idea, development or technical know-how, including the underlying or related technology, which is patentable or eligible for utility model protection. The rules of patent and utility model legislation must be used as the basis for its assessment.

Patent

A patent is granted if the object of the patent application is novel, involves an inventive step, is commercially applicable and can be described in technical terms.

Service invention

According to the Employee Inventions Act, a service invention is an invention produced during an employment relationship, which stems either from the duties incumbent on the employee of Goethe University Frankfurt (**problem invention**) or largely from the University's work (**experience-based invention**).

Experience-based inventions as a rule also include those inventions which an employee of Goethe University Frankfurt produces in his/her teaching or research field in the framework of approved **secondary employment**. If the employee is named as co-inventor of an invention developed in the framework of approved secondary employment, he/she must notify Goethe University Frankfurt of this immediately and in writing.

Free invention

A free invention is an invention which does not fulfil the criteria of a service invention.

2. Procedure

Employees of Goethe University Frankfurt are obliged to disclose to the University all inventions which are to be made publicly accessible.

This takes place via the University's own technology transfer agency, **Innovectis Gesellschaft für Innovations-Dienstleistungen GmbH**, using the forms provided. Further information can be found under www.innovectis.de.

In order to secure a promising selection of inventions with high utilisation potential, Innovectis GmbH, upon receipt of the invention disclosure form, compiles an exposé in which the invention is described, its patentability estimated and its possible economic applications discussed.

An independent Evaluation Committee for inventions at Goethe University Frankfurt assesses the invention regarding its chances of proprietary protection as well as the risks and opportunities for its commercialisation.

The Evaluation Committee is composed of experienced university lecturers from Goethe University Frankfurt and experts from the business community. The committee members are appointed by the Executive Board of Goethe University Frankfurt following a suggestion by the Supervisory Board of Innovectis GmbH.

On the basis of the recommendation made by the Evaluation Committee, Goethe University Frankfurt reaches its final decision on whether or not to claim the invention. If the decision of the Evaluation Committee is positive, Goethe University Frankfurt claims the invention accordingly.

If the invention results from an agreement with third parties, the Evaluation Committee and Innovectis take the provisions of this agreement into account. The inventor must make explicit reference to any existing agreement with third parties in his/her invention disclosure form.

On behalf of Goethe University Frankfurt and in cooperation with patent lawyers, Innovectis takes charge of filing the patent application for the invention as well as for conducting the patent procedure. The inventor is also involved in filing the patent application and the patent procedure.

Once the patent application has been filed at the Patent Office, the invention may, as a rule, be published. It is

not necessary to wait until the patent has been granted.

In the further course of the patent procedure, the Evaluation Committee decides on the basis of a recommendation by Innovectis on the nationalisation, regionalisation and validation of patent applications or patents.

In the event that Goethe University Frankfurt does not file a patent application for an invention or abandons the patent application, the invention is released and/or the property rights to it are offered to the inventor.

Goethe University Frankfurt also claims those new developments, which although the Evaluation Committee does not classify them as patentable does, however, attribute to them an economic value, if the inventor declares that he/she releases Goethe University Frankfurt from the obligation to register a patent or utility model application. Such new developments are utilised in a similar way to patents.

If the chances of commercialising property rights can be increased as a result of market-related developments or validation of the underlying technology and possibilities for public or private funding exist, the Evaluation Committee may recommend to Goethe University Frankfurt that it apply for such projects.

Innovectis GmbH is responsible for the commercialisation of inventions under consideration of economic aspects. The inventor is involved in a suitable manner in such commercialisation endeavours.

Revenue generated from the commercialisation of patents is distributed in accordance with the legal provisions of the Employee Inventions Act. In accordance with § 42 Paragraph 4 of the Employee Inventions Act, the inventor receives a share of 30 percent of the revenue earned from the invention's commercialisation.

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III. Material for which no patent is filed

1. Definition

Material for which no patent is filed is above all biological materials such as cell lines, organisms, proteins, plasmids, DNA/RNA, chemical compounds, transgenic animals, antibodies and other material useful for research or commercial purposes, but for which simply no patent was filed or granted.

This is conditional on the material having been partly or entirely developed by employees of Goethe University Frankfurt.

2. Procedure

Goethe University Frankfurt also strives to license or transfer non-patented and patentable materials, if these are in the interests of the general public or serve a research, teaching or commercial purpose.

Licensing can be for or without payment.

Goethe University Frankfurt makes its decisions under appropriate consideration of the principles in these Guidelines and in consultation with the parties involved.

In the event that the invention is licensed for payment, the parties involved receive a share of the revenue from this license.

If the material is passed to other universities or other non-profit non-university research institutions for non-commercial purposes, such passing of material should occur using the standard Material Transfer Agreement (MTA) of Goethe University Frankfurt and as a rule without payment. To safeguard legal interests, the MTA used as standard by Goethe University Frankfurt includes reference to the application of German law and the provision that a German court of jurisdiction is agreed.

IV. Computer software and databases

1. Definition

Computer software within the meaning of these Guidelines are all computer programmes, including but not limited to microcode, subroutine and operating systems, independent of the form of its execution or the object in which the programme is found. This also includes operating

instructions and other accompanying and/or explanatory materials as well as all databases.

2. Procedure

In the case of computer programmes created by an employee in the execution of his/her duties or following instructions given by his/her employer, Goethe University Frankfurt is exclusively entitled to exercise all proprietary rights to such computer programmes, § 69 b of the Copyright Act. This applies accordingly for computer software created by an employee in the execution of his/her duties in the framework of an employment relationship.

Computer software is also subject to the obligation for disclosure to Innovectis GmbH stated in II. 2 of these Guidelines using the standard form, if it is a question of a patentable invention within the meaning of what is referred to as a computer-implemented invention and the developer identifies commercial potential or interesting potential for research or teaching purposes and/or expressly wishes to protect his/her invention by means of patents.

Goethe University Frankfurt furthermore supports above all the dissemination of computer software created in the framework of research projects by means of various open-source licensing models in order to improve the further dissemination of research results.

Should Goethe University Frankfurt decide in favour of the commercialisation of the computer software, the developer of the software is allowed a fair share of the revenue generated.

V. Brands, designs, logos and licensing enquiries

1. Definitions

Brands are all marks, in particular words, logos and illustrations, including colour and shape, which are suitable for differentiating the goods or services of an enterprise from those of another enterprise, § 3 of the Trademark Act (MarkenG).

Designs serve to protect external appearances.

Logos within the meaning of these Guidelines are the registered word-picture symbols of Goethe University Frankfurt.

2. Procedure

Permissible use of the names, logos and brands of Goethe University Frankfurt is geared to the University's interests and those of its employees. Use of the logo for purposes of identification and indication of affiliation in research contracts is permitted. Staff as well as scholars are free to use the logo in line with the University's "Corporate Design" templates, which can be downloaded from the website of the Marketing and Communications Department, for business correspondence as well as scientific lectures, presentations and papers in the framework of their duties for Goethe University Frankfurt.

All use of the name, logo or brands for advertising purposes or other commercial purposes is only permitted if a written contract on such use is concluded beforehand with the Marketing and Communications Department, which in particular includes rules on commensurate charges.

Use of the logo is categorically prohibited for personal affairs, such as doctoral theses or students' final papers.

VI. Final provisions

1. Contract verification

All contracts, with the exception of patent utilisation contracts, must be coordinated with the Legal Department of Goethe University Frankfurt and can only be signed by the authorised signatories of Goethe University Frankfurt whose signature is legally binding (on no account independently by professors).

To have a contract verified, please contact justitiariat@uni-frankfurt.de.

2. Transfer of revenue

The payment of the inventor's and originator's personal share of the revenue at the point in time of the respective due date of the payment is not tied to an employment/service relationship.

3. Entry into force and period of validity

These Guidelines enter into force following the decision by the Executive Board and their publication in UniReport. They should be evaluated for the first time four years after their publication on the basis of the experience gained in the interim.