



جامعة الكويت
KUWAIT UNIVERSITY

INTELLECTUAL PROPERTY RIGHTS

**PATENTS, AUTHORSHIP RIGHTS
and
TECHNOLOGY (KNOWLEDGE) TRANSFER**

KUWAIT UNIVERSITY



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Office of Patent and Intellectual Property Rights

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Office of the Vice President for Research

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PREAMBLE

Kuwait University aims to assist its researchers in developing patents that will contribute to the field of scientific research and public interest. This goes hand in hand with Kuwait University's goal to be a leading institution in the development of the State of Kuwait's Vision. One of these ways is through research contributions of KU's academic faculty members and students. Given these goals Kuwait University provides support for inventions transferring them from personal knowledge to the wider sphere of the University and society and aiming towards technology transfer. World-wide studies have shown that academic institutions contribute effectively to a country's industry through medical, digital, social and several other developments.

To protect inventions and preserve the rights of their owners in recognition of their research efforts, Kuwait University adopts the required national and international legal procedures. However, KU's efforts are not limited to providing legal protection, but also include commercializing inventions that can yield financial return for both the inventor and the University to meet the latter's growing needs and improve its competitiveness regionally and internationally. Meanwhile, the state's private sector may also contribute to marketing and commercializing patents.

The issuance of the By-Laws of Intellectual Property Rights (Technology/Knowledge Transfer) at Kuwait University comes in response to the need of defining the relationship between the researcher and the University in terms of intellectual property rights. Through these by-laws, a safe legal environment can be created to motivate KU's researchers towards scientific creativity, disseminating and commercializing their ideas, while relying on KU's resources to support their research endeavors. Kuwait University also ensures continued support for the innovative ideas of its researchers by preserving their rights regarding intellectual property regulated by these By-Laws. This document demonstrates the role of the Patent Office at Kuwait University and the procedures it follows in protecting intellectual property rights. Kuwait University also emphasizes the importance of making the necessary efforts to introduce the local and international communities to the innovative patents of KU's researchers through organizing conferences and exhibitions, and promoting the culture of innovation. The ideas in these By-Laws also includes authorship rights that are printed and distributed to researchers across Kuwait University.

ARTICLE (1): DEFINITIONS

Researcher:

The owner of the scholarly production or invention who is an academic faculty member, assistant academic faculty member, employee, or student, whether individually or with others, during their affiliation with Kuwait University or when receiving support from it.

Inventor:

The researcher who develops an invention as per these By-Laws.

Patent:

In the context of these By-Laws, a patent mean the exclusive right granted by the competent authority for inventions that are novel, innovative, instrumental, or industrially or commercially exploitable, in order to exclude others from making, using, offering for sale, selling, or importing the invention, after fulfilling the legal requirements.

Office of Patent and Intellectual Property Rights (OPIPR):

The Office of Patent and Intellectual Property Rights of the Vice President of Research takes all relevant procedures to register patents developed by KU's researchers provided that they meet the legal requirements for patent registration.

University Support:

Including financial and technical support, and facilities provided by Kuwait University, or the use of University buildings, instruments, laboratories or other various resources.

University: Kuwait University

By-Laws: Patents, Authorship Rights, and Technology Transfer.

Research/Innovation Park: A gathering place for researchers, entrepreneurs who are owners of inventions and scientific productions, government and private institutions, and international institutions for the purpose of commercializing initiatives in order to achieve public interest, and generate financial return for the University and its researchers.

Commercialization:

A continuous series of activities and procedures that include developing ideas, inventions and innovations and creating value for them in order to be practically applied through different mechanisms that include licensing the use of the invention for a fee, and partnerships with the private sector.

ARTICLE (2): WHAT IS A PATENT?

In the context of these By-Laws, A Patent is the exclusive right granted by the competent authority for inventions that are novel, innovative, instrumental, or industrially or commercially exploitable, in order to exclude others from making, using, offering for sale, selling, or importing the invention, after fulfilling the legal requirements.

In this regard, the rules and regulations of Law No. 4 of 1962 concerning patents, fees, and industrial models, amended by Law No. 3 of 2001, and the Patents Law (System) of the Gulf Cooperation Council States issued in Law No. 71 of 2013 shall be observed.

ARTICLE (3): UNIVERSITY PATENT PROPERTY

All inventions, resulting directly or indirectly from a research project by a researcher at the University, will automatically belong to Kuwait University. In all such cases, Kuwait University is the sole owner of the patent, authorized to invest in the invention commercially, in whichever way.

The evidence of Kuwait University's Patent property in regards to the invention is based on the researcher's application for registering the invention within a year of him/her ending the relation with Kuwait University, without any violation of the terms of Article No. (17) of this document. In such an event, Kuwait University reserves the right of accepting or rejecting the patent's registration, regardless of the practical feasibility of registration.

In the event that the University provided support to the invention in collaboration with other institutions in accordance with these By-Laws, the University shall conclude an institutional agreement with them to regulate the ownership of both institutions of the patent and other relevant rights.

ARTICLE (4): INVENTOR REWARD

In case of acquiring ownership of invention, Kuwait University must reward the inventor, compensating him/her with a fair compensation, as per the specified rules and regulations outlined in Articles (14) and (15) of this document.

SPECIALIZED SECTOR SUPERVISING PATENT REGISTRATION

ARTICLE (5): OFFICE OF PATENT AND INTELLECTUAL PROPERTY RIGHTS

For organizing the process of Patent Registration at Kuwait University, a dedicated Office for Patent Registration has been established at the Research Sector. This Office would be an integral part of the Office of the Vice President for Research, responsible for overseeing the entire process such as legalities, administrative functions and procedures concerning the inventions and discoveries achieved at Kuwait University.[1]

The Office would be mandated to:

- a) Set rules and develop a system regarding the inventions of faculty members and students that are received by the Research Sector for processing.
- b) Study and evaluate inventions, prepare reports concerning Patent Registration process, as applicable to faculty members and students' inventions, and taking decisions whether to register the invention. The Office also determines the registration place, on the basis of the progress in the registration process, the accruing benefits from the invention, commercially as well as industrially, based on Kuwait University policy and procedures.
- c) Implement requisite procedures to get the necessary permission for patent use from specialized sectors.
- d) Develop procedures governing the permission for patent use.
- e) Develop a mechanism for distribution of income generated from patent use between the concerned parties - the inventor and Kuwait University, in accordance with the established regulations.
- f) Offer special patent registration services to Kuwait University faculty members, students and employees, who achieve discoveries and inventions.
- g) Present patent regulation reports to Kuwait University, inventors and concerned sectors.
- h) Implement patent registration procedures, as requested by concerned sectors.
- i) Initiate consultation and training activities for Patent Registration and Intellectual Property Rights, including workshops, conferences, and training courses, as well as responding to queries both within and outside Kuwait University.
- j) Present university Patents to specialized sectors to update and develop the invention if it is capable of development, after taking the permission of the Patent owner.
- k) Undertake all needed legal and organizational procedures to protect intellectual property rights of Kuwait University and all belonging to it.

[1] This office was established vide Decree No. 886, dated April 30, 2005.



INVENTORS OBLIGATIONS

ARTICLE (6): OBLIGATION TO INFORM

Any researcher of Kuwait University, who achieves any discovery or invention associated with his/her work at Kuwait University, or uses any facilities or instruments owned by the University, and considers it worthy of registration or commercial investment, should inform The Office of Patent and Intellectual Property Rights, Kuwait University, in regards to his/her invention.

ARTICLE (7): OBLIGATION OF SECRECY

All Kuwait University researchers must not violate any KU rights in the field of patent and intellectual rights in general and must maintain secrecy of inventions. In addition, the researcher must not reveal anything unless within permissible limits and in the field of scientific publication of research.

ARTICLE (8): PATENT REGISTRATION PROCEDURES

The Office of Patent and Intellectual Property Rights must do intense research concerning the Patent Registration Applications that it receives, to ensure conceptual originality, and whether the invention merits registration, to reach a decision as to whether an invention is worth Kuwait University's legal protection, concerning the right of invention. The office has the right to ensure these procedural activities, overseeing all factors that resulted in the invention.

In deciding whether the invention is worth registering or not, the office may seek help of technical and specialized scientific committees, formed by the Vice President for Research, depending on the Office's suggestion. The Office should issue its decision (approval or rejection) within 60 days of the date of applying to register the patent.

If the invention proves worthy of registration, the Office applies for registration of the invention to the specialized sector, through Kuwait University, under the name of the University. In all cases, the Office informs the inventor of either accepting the patent registration or rejecting it.

ARTICLE (9): COMMERCIALIZATION OF PATENTS

The University may take, by itself or with the assistance of others, commercialization procedures for the inventions it owns. For this purpose, it may organize a forum for inventors and investors in the Research Park at the University in order to commercialize the inventions.

In the event that the University decides to exploit the protected invention commercially, it shall bear the necessary expenses equally with the inventor in pursuant to Article (15) of these By-laws; therefore distributing the net profit with the inventor, unless the University decides otherwise.

In this case, the responsibility of the University shall be waived, and the inventor must return to the University all patent registration expenses and any other costs incurred by the University in this regard.



ARTICLE (10): PATENT REGISTRATION EXPENDITURE

Kuwait University takes care of Patent Registration expenses, including the cost of using it commercially, in case it reserves its right to patent ownership in accordance with the previous article. In this case, all terms of agreement between The Office of Patent and Intellectual Property Rights, Kuwait University, or its representative, and the concerned external sector for the acquisition of the commercial license, would be binding to the parties concerned in regards to the use of the invention, among other things. The Office of Patent and Intellectual Property Rights, at the University shall decide whether or not to proceed with the patent's amendment application.

The University may also bear renewal and maintenance fees for patents it has registered, if it is proved that the patent has achieved a benefit for the University during the period from its registration until the renewal or maintenance date. The benefit indicated in the second paragraph of this article shall include proof of commercialization of the registered patent or publishing accredited research on the patent in international refereed journals before the renewal period.



OBLIGATION OF RESEARCHERS SPECIALIZED IN EXAMINING PATENTS

ARTICLE (11)

The researchers associated with The Office of Patent and Intellectual Property Rights, Kuwait University, must maintain strict secrecy about the invention while reviewing the patent registration applications, received by the Office. They must refrain from announcing or revealing it commercially, or to publish, or present it for publishing, until the registration date of the application with the concerned specialized sector, and after obtaining a written permission from The Office of Patent and Intellectual Property Rights.

ARTICLE (12)

If any invention is announced or presented commercially by mistake or through procedural mechanism while considering the possibility of registering it, or using it commercially, The Office of Patent and Intellectual Property Rights and, Kuwait University, would initiate immediate and necessary action in all such cases.

In the event that a deliberate delay or negligence is discovered concerning any invention, the inventor has the right to inform the Office of the Vice President for Research for necessary action in the light of the facts presented.

INVENTORS RIGHTS

ARTICLE (13): THE MORAL RIGHT OF THE INVENTOR

Kuwait University's entitlement to an invention's property rights in no way affects the literary rights of the inventor. He/she has the right to mention his/her name in the patent, and to announce that the invention belongs to him/her. The inventor has the right for all literary rights concerning the invention.

ARTICLE (14): REWARDING THE INVENTOR FINANCIALLY

Kuwait University is obliged to give the inventor an appropriate financial reward in recognition of his/her efforts, as soon as the patent registration procedures are finalized, and the patent is acquired. This award is specified by The Office of Patent and Intellectual Property Rights at Kuwait University and should not exceed KD 7,500, and is issued by the President of Kuwait University based on a request by the Office of the Vice President for Research. In case an invention has more than one inventor, the award is equally distributed among them, unless there exists a prior agreement between them in regard to the ratio of what each should get.

However, in the event of multiple inventors from different universities and institutions, the inventor from Kuwait University must be the PI in the invention being registered.

In case several researchers at Kuwait University achieve the same invention independently, without any connectivity between them, the right of invention would go to the researcher applying first to Kuwait University.

ARTICLE (15): DISTRIBUTING THE FINANCIAL INCOME OF THE INVENTION

The financial income generated from using the invention is distributed between Kuwait University and the inventor based on the following principle:

First: Kuwait University is entitled to all expenses incurred in registering the patent, and its protection.

Second: The inventor gets the remaining amount, not exceeding KD. 5000/-. In case there are more than one inventor, the amount is equally distributed between them, unless there exists an agreement between them governing the ratio of distribution among them.

Third: The additional income is distributed as follows:

- 50% of the income to the Inventor
- 50% of the income to Kuwait University

INVENTORS PATENT PROPERTY

ARTICLE (16): THE UNIVERSITY'S CESSATION OF ITS PATENT RIGHTS

As an exception to above regulations, if The Office of Patent and Intellectual Property Rights at Kuwait University decides to not register the patent, it will be considered a discontinuance of Kuwait University's patent rights, then the inventor's property, with all its financial and literary rights, would revert back to the inventor, who would then have the right to register his/her patent without recourse to Kuwait University, and without using the institution's resources. In all such cases, Kuwait University would have no responsibility in regards to patent registration or to use the invention commercially, in the light of the existing relations between Kuwait University and the inventor concerning any special agreements.

These rules, however, would not prevent Kuwait University from acquiring the invention rights, or the right to its use, if it considers these to be beneficial, even if the inventor, whether a faculty member, a student or an employee, has achieved the invention on his/her own effort, at a fair price to the inventor. The price should be specified by a decision of Kuwait University President, through a request by the Vice President for Research, highlighting the scientific importance of the invention, and its expected financial income.

In this case, Kuwait University should apply within three months of the inventor's application for patent registration to the inventor and the specialized sector in the State, for patent registration of his/her invention.

The University may waive its right of commercial exploitation of patents registered under its name to the inventor in a reasoned written letter.

ARTICLE (17): NO LINKAGE BETWEEN THE INVENTOR AND KUWAIT UNIVERSITY

The patent property and associated rights would belong to the inventor in following cases:

- a. If the inventor achieves his/her invention prior to joining Kuwait University.
- b. If Kuwait University and the inventor has severed all relations between them, and the inventor achieves his/her invention in his/her own time, without using official time for his/her invention, and Kuwait University does not offer him/her any financial or material support and facilities.
- c. If the invention is not the result of any mission assigned to the academic faculty member, student, or employee at Kuwait University.

The Office of Patent and Intellectual Property Rights at the University shall determine the extent to which the invention is not connected to the University.



ARTICLE (18): AUTHORSHIP RIGHTS

Authoring and publishing research through the Publication Council, whether through the Committee of Authorship, Translation & Publication, or through the academic journals of the Publication Council, would be subjected to rules and regulations applicable to the Publication Council's journals and the Committee of Authorship, Translation & Publication based on the decision governed by the laws and regulations, protecting author's copyrights including special provisions.

ARTICLE (19): OTHER INTELLECTUAL PROPRIETARY RIGHTS

Other Intellectual Proprietary Rights of materials, audio-visual aids, integrated circuits, engineering designs, lectures, utility models, etc., of intellectual proprietary applications, enjoy requisite protection according to implemented rules, especially Law No. 75, year 2019, concerning Intellectual Proprietary Rights, and Law No. 4, year 1962, concerning patents and its reformed laws, and the Patent Law (System) of the Gulf Cooperation Council States issued in Law No. 71 of 2013 and considering laws of international agreements to which Kuwait is a signatory, especially the agreement concerning commercial aspect of intellectual proprietary rights TRIPS, as established by WTO.

GENERAL RULES

ARTICLE (20)

The researcher may submit any complaints regarding the implementation of these By-laws to The Office of Patent and Intellectual Property Rights in order to be resolved, and reply to the researcher in a reasoned written resolution within 60 days following the date of its issuance.

ARTICLE (21)

These rules come into effect on the date of the issue, and would apply to all inventions, whether under study, in the process of planning, or negotiation as to the terms of agreement between Kuwait University and the funding institutions.

As an exception to previous articles registering Kuwait University patents through the office is optional not compulsory, for inventions resulting from unfunded research, and those not sponsored by Kuwait University.

ARTICLE (22)

These rules must be reviewed periodically, once every five years, or based on a recommendation of tThe Office of Patent and Intellectual Property Rights at Kuwait University, or in the light of any new or emerging circumstances

ARTICLE (23)

The Vice President for Research issues decisions in regards to the implementation of these By-laws, and initiates necessary organizational and administrative procedures for implementing the articles.