

**INTELLECTUAL
PROPERTY RIGHT (IPR)
POLICY, 2019 –
SPA VIJAYAWADA**

(Process and Procedures- Draft)



योजना तथा वास्तुकला विद्यालय, विजयवाडा
School of Planning and Architecture, Vijayawada
An Institute of National Importance, MHRD, Govt. of INDIA.

www.spav.ac.in

TABLE OF CONTENTS

SECTION 1 INTRODUCTION

1.1 PREAMBLE

1.2 PURPOSE

1.3 OBJECTIVES

1.4 TYPES OF IP

1.5 KEY DEFINITIONS

1.6 IPR STANDING COMMITTEE (SC) AND ITS ROLE

1.7 TYPES OF ACTIVITIES LEADING TO THE GENERATION OF IP

SECTION 2 INTELLECTUAL PROPERTY RIGHT POLICIES

2.1 INTRODUCTION

2.2 INTELLECTUAL PROPERTY OWNERSHIP

2.3 TECHNOLOGY TRANSFER

2.4 REVENUE SHARING

2.5 CONFLICT OF INTEREST

2.6 DISPUTE RESOLUTION

2.7 JURISDICTION

SECTION 3 TRANSFER OF INTELLECTUAL PROPERTY

3.1 TECHNOLOGY TRANSFER

3.2 DISCLOSURE

3.3 CONFIDENTIALITY

3.4 RIGHT TO REGULATE POLICY `

SECTION 1 INTRODUCTION

1.1 PREAMBLE

The School of Planning and Architecture Vijayawada is one of the three SPAs in the country established in 2008 by the Ministry of Human Resource Development, Government of India as Institute of National Importance in the field of Architecture and Planning. SPA Vijayawada has been steadily and successfully building its rightful image as a hub of the highest standards of Research and Academics in Architecture and Planning across the nation and beyond. The School believes in a paradigm of education that combines 'intrinsic' and 'instrumental' values of the discipline. The school not only impart highest quality education but also encourage faculties, researcher scholars and the students to discover and innovate. The School has built instrumental environment of education standing on pillars of adequate infrastructure, tools of experimentation and presence of wisdom. The School constantly envisions placing at the highest pedestals of Academic excellence in Architecture and Planning through research, innovation, creation, inclusion, acquisition and dissemination of knowledge using sustainable local and global practices.

Today, Intellectual property (IP) plays an imperative role in creating, preserving and commercializing the intellectual outcome of an Institute. The Intellectual Property Rights (IPR) Policy of the School is needed not only to create and preserve the intangible assets such as knowhow, inventions, brands, designs and other creative and innovative products etc. that are more valuable than its physical assets, but also to create awareness amongst its faculty, researchers and students of the School to know about its influences in the world at large. This IPR policy of SPA Vijayawada is expected to provide insight on the practices and the rules of the School regarding IPR and obligations which include the nature of intellectual property (IP), its ownership, exploitation, technology transfer and confidentiality requirements. The policy laid down in this document is expected to fulfil the commitment of the School to promote academic freedom and provide favourable environment for research and development. Also, IPR Policy of SPA Vijayawada is in consonance with the National IPR Policy, Government of India, 2016.

1.2 PURPOSE

The purpose of the IPR policy of SPA Vijayawada is to:

- i. Provide favourable environment leading to the development of Intellectual Property.
- ii. Facilitate, encourage, promote and safeguard scientific inquiry, research pursuits and the academic freedom of its faculty, researchers and students.
- iii. To further develop the environment, and enhance the incentives, for research, development, the discovery of new knowledge, and innovation, compatible with the educational mission of the Institute.
- iv. Provide a clear understanding of the rights and responsibilities of the faculty, researchers, students and staff so as to protect the interests of the School and its members and to oversee the fair distribution of the returns accruing there from in accordance with this policy.
- v. Establish an IPR management policy and procedural guidelines for converting the knowledge generated in the School to wealth through IP commercialization, so that such use imparts the benefits of the intellectual property to the public while safeguarding the interests of the creators or licensees of such property, and in the process generates revenue for the School and the creators.
- vi. Enabling the School to secure sponsored research funding at all levels of research.
- vii. Empowering the School, to make beneficial use of such developed IP for the maximum possible benefit of the creators, the School, and the Nation at large.
- viii. To provide legal support as the School deems necessary to defend and protect the interests of the School and creators of intellectual property against infringement/ unauthorized use of such property.

1.3 OBJECTIVES

The objectives of the IPR policy of SPA Vijayawada are as follows:

- i. To create an environment for acquiring new knowledge through innovation and research, compatible with the educational vision and mission of the School;
- ii. To urge faculty, researchers and students to document their IP, so that it could be protected in the interest of concerned creator, the institute and the nation at large;
- iii. To provide a comprehensive single window reference system for all IPR issues relating to IP generated at the School;
- iv. To provide fair distribution of returns accruing from the commercialisation of IPR;
- v. To provide legal support, wherever necessary, to defend and protect the IPR obtained by the School against any infringement/ unauthorized use;

1.4 TYPES OF IP

The intellectual property rights (IPR) have been broadly classified as follows, which are directly applicable for SPA Vijayawada:

- a) Patents
- b) Copyrights
- c) Design/Industrial Design Patents
- d) Trade/Service marks
- e) Geographical Indications

1.5 KEY DEFINITIONS

a) Academic Freedom of the faculties, researcher and students of the School to conduct research and development in the area of their choice ad field, pursue self-directed research, collaborate and communicate with others regarding their scholarly works keeping the mission and vision of the School intact.

b) Intellectual Property herein broadly means any property generated out of the intellectual effort of the creator, having proprietary value.

c) Patent is the exclusive right granted for a particular invention, which may be a product or a process for providing a new way of execution or bring a new technical solution to a problem.

d) Copyright is an exclusive right given to the author of the original literary, architectural, dramatic, musical and artistic works; cinematograph films; and sound recordings.

e) Trade/Service mark means a mark capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others and may include shape of goods, their packaging and combination of colors.

f) Work for Hire any work commissioned by the School, in all such cases the ownership of the resulting intellectual property shall be assigned to the School in a written contract between the concerned parties.

g) Fair Use an amount of duplication of work allowed by law. In general, use of a small part of a work which does not hurt the present or potential market for that work is allowed under fair use. The possibility of fair use exists only in the case of copyright and does not apply to patents.

h) The IPR Standing Committee will be the leading administrative committee, responsible for formulating the procedures and to implement the IPR policy of SPA Vijayawada.

i) Industrial Design means only the features of shape, configuration, pattern, ornament or composition of lines or colors applied to any article whether in two dimensional or three dimensional or in both forms, by any industrial process or means, whether manual, mechanical or chemical, separated or combined, which in the finished article appeal to and are judged solely by the eye; but does not include any mode or principle of construction or anything which is in substance a mere mechanical device.

j) Faculty means a professionally qualified full time employee of the School.

k) Supporting Staff is the person who helps the relevant members to carry out the research, development, teaching or any other related activities.

l) Researcher / Student means an individual who en-roll himself/herself as full time, part-time or exchange student from other universities/colleges for

m) Project staff means a person who is temporarily employed under a research project, consultancy or any other activity carried out by SPA Vijayawada on a contract basis.

n) Inventor(s) a responsible person or a group of persons dealing with the creation of an IP. In case, creation of IP is associated with more than one inventor, one of them from SPA Vijayawada would function as a Lead Inventor/Principal Inventor.

o) Associated Agreement document created with mutual consent of involved parties defining the rights, roles and responsibilities of each of the parties, such as, Memorandum of Understanding (MoU), Memorandum of Association (MoA), Research Agreement, Consultancy Agreement, Non-Disclosure Agreement (NDA), etc.

p) Non-Disclosure Agreement (NDA) an agreement to protect proprietary or confidential information among the parties involved in executing a NDA.

q) Invention includes but is not limited to any new and useful design, process, formula or machine conceived or first reduced to practice in whole or in part, defined within the purview of the Patent Act. The inventions result in but not limited to Patent, copyright works, software, designs etc.

r) Design Registration is registration of the novel non-functional features such as unique design shape, or ornamentation of a product etc.

s) Creator refers to an individual or a group of individuals at the School, who make, conceive, reduce to practice, author, or otherwise make a substantial intellectual contribution to the creation of any intellectual property.

1.6 IPR STANDING COMMITTEE AND ITS ROLE

The IPR Standing Committee will be the leading administrative committee, responsible for formulating the procedures and to implement the IPR policy of SPA Vijayawada. IPR Standing Committee would also clarify any issues/appeals related to IPR policy.

The members of IPR Standing Committee include:

- Director as Chairperson (Ex officio)
- Dean (Research), Member Secretary (Ex officio)
- Coordinator IPR as Member
- Director's nominee (one) from legal background as Member
- Special Invitee (Subject Expert in the relevant area) nominated by the Director as Member

The function of IPR Standing Committee would be the following:

- i. To form expert groups with members from different background to assess the proposals for filing IP.
- ii. To create and finalize procedures and guidelines for the effective implementation of the IPR policy at SPA Vijayawada.
- iii. To provide record of the filled IPs and to track the various IPs filed so as to ensure a speedy and hassle free IP process.
- iv. To facilitate IP protection by drafting agreements.
- v. To provide guidelines for IPR related documentation including creating infrastructure for the same.
- vi. To conduct IP awareness programs for faculty, researchers, students, supporting staff, project staff, and general public etc.
- vii. To approach external funding agencies for generating funds to promote the IPR activities.
- viii. To collaborate with organizations for filing, licensing/assigning of IPR to generate revenue through commercialization.
- ix. Release of IPR to Inventor(s) and/or Third party(ies) without violating the IPR policy of SPA Vijayawada.

- x. Solving disputes regarding ownership of IP, violating the IPR policy, processing of IP proposals, procedures adopted for implementation of IPR policy.
- xi. To take over the issues related to the violation of IPR policy of the Institute and to report the same to the Director for necessary action.
- xii. To encourage and implement the IPR policy in a proactive manner for the shared benefits of both the inventor and the School.

IPR Standing Committee may seek the opinion of expert group(s) within and/or outside SPA Vijayawada if required.

1.7 TYPES OF ACTIVITIES LEADING TO THE GENERATION OF IP

The various Research and Development activities performed in SPAV Vijayawada can generate different types of IPs which are illustrated as follows:

- i. Research done by the faculty/project staff/researcher/student in the normal course of his/her engagement at SPA Vijayawada with funds sponsored by the School;
- ii. Research done through the sponsored projects by the faculty/project staff/researcher/student;
- iii. Collaborative projects and researches performed with other institutions including government departments and agencies, PSUs and Private companies located in India;
- iv. Collaborative research with foreign institutes/universities and companies; and
- f) Any combination(s) of the above.

SECTION 2 INTELLECTUAL PROPERTY RIGHT POLICIES

2.1 INTRODUCTION

SPA Vijayawada strives to bring excellence in research and innovation in the field of Planning and Architecture. In the process, it is necessary to protect these innovations and IP for the benefit of the inventors or creators, the institute and also the society. In this section of IPR Policy of SPA Vijayawada the details of ownership, technology transfer, revenue sharing, conflict of interest, dispute resolution is described

2.2 INTELLECTUAL PROPERTY OWNERSHIP

Any IP work such as Patent, Copyright, Architectural design and Industrial design etc. developed out of the research work carried-out at SPA Vijayawada shall wholly or exclusively owned by SPA Vijayawada, if

- i. IP developed either solely with the use of funds / facilities provided by SPA Vijayawada or with a mix of funds/facilities of SPAV and external agencies but without any formal associated agreement.
- ii. IP developed with the use of external funds/facilities, including, that of sponsored research and consultancy projects without any associated agreement.
- iii. IP developed under any contract arrangement including “work for hire”, work commissioned and/or outsourced by SPA Vijayawada
- iv. IP developed pursuant to a written agreement where ownership has been transferred to SPA Vijayawada
- v. IP not assignable to an individual or a specific group of identifiable contributors, i.e. technology or process developed over a period of time with contribution from different individuals of / for SPA Vijayawada

In case of SPA Vijayawada not protecting an IP, the inventor(s) / creator(s) are provided with the permission to protect the same on their own in countries of their choice.

2.3 TECHNOLOGY TRANSFER

The Intellectual Property of the School held either in the name of SPA Vijayawada or jointly with other Institutions/Industry will be marketed for commercial exploitation under agreements involving technology transfer, licensing and it's Inventor(s). The Inventor(s) may seek to assign the rights their IP to them after a certain holding period.

2.4 REVENUE SHARING

The revenue arising out of licensing and commercialization of IP and royalty would be shared between the inventor(s) and the School in the appropriate ratio as follows:

Inventor(s) share	SPA Vijayawada share
70%	30%

2.5 CONFLICT OF INTEREST

The inventor(s) are required to disclose any conflict of interest or potential conflict of interest revenue sharing models. If the inventor(s) and/or their immediate family have a stake in a licensee-company, then they are required to disclose the stake they and /or their immediate family have in the company, and license or an assignment of rights for a patent to the licensee - company in such circumstances, shall be subject to the approval of the IPR Standing Committee SPA Vijayawada.

2.6 DISPUTE RESOLUTION

The inventor(s) may appeal to the IPR Standing Committee SPA Vijayawada on the occurrence of any disputes between the School and the inventors regarding the implementation of the IPR policy. To address the concerns of the inventor(s), an arbitration mechanism and arrangement will be developed. In this regard the decision of IPR Standing Committee of SPA Vijayawada would be final and binding on both the School and inventor.

2.7 LEGAL JURISDICTION

As a policy, all agreements signed by the Institute and dispute(s) arising there from, will be subject to the legal jurisdiction in Vijayawada only and shall be governed by the appropriate laws of India.

SECTION 3 TRANSFERS OF INTELLECTUAL PROPERTY

3.1 TECHNOLOGY TRANSFER

The School shall strive to market the IP and identify potential licensee(s) for the IP to which it has ownership. The inventor(s) are expected to assist in this process. The Institute may contract the IP to Technology Management Agencies (Government/Private), which manages the commercialisation of the IP. 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.

If the Institute is not able to commercialise the IP in a reasonable time frame, then it may reassign the rights of the IP to the creator(s) of the IP. Alternatively, if the Institute has not been able to commercialise the creative work in a reasonable time frame, the creator(s) may IPR Standing Committee for the assignment of rights of the invention(s) to them.

3.1 DISCLOSURE

When the creators believe that they have generated patentable or commercialise-able intellectual property using School supported resources, they shall report it promptly in writing along with relevant documents, data and information, to the IPR Standing Committee of SPA Vijayawada, through the appropriate authority using the Invention Disclosure Form of the School. Disclosure is a critical part of the IP protection process for claiming the inventor-ship. The information shall constitute a full and complete disclosure of the nature, particulars and other details of the intellectual property, identification of all persons who constitute the creator(s) of the property, and a statement of whether the creator believes he or she owns the right to the intellectual property disclosed, or not, with reasons. Where there are different creators of components that make up a product, the individual creators and their contributions must be identified and treated separately. In case of the sponsored and/or collaborative work the provisions of the contract pertaining to disclosure of the

creative work is applied. By disclosure the inventor(s) shall assign the rights of the disclosed invention to the School.

3.3 CONFIDENTIALITY

All the concerned faculties, researchers, project staff and students associated with any activity of the School shall treat all IP related information which has been disclosed to the IPR Standing Committee and/or whose rights are assigned to the School, or whose rights rest with the School personnel, as 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 filled the Disclosure Form, the creator shall maintain confidentiality i.e. refrain from disclosing the details, unless authorized otherwise in writing by the School, until the School has assessed the possibility of commercialisation of the intellectual property.

3.4 RIGHT TO REGULATE POLICY

The IPR Standing Committee of SPA Vijayawada shall have the responsibility for interpreting the policy, resolving disputes, the application of the policy and recommending changes to the policy from time to time to the Senate. The Senate shall consider such changes / recommendations and take such decision thereon as it deems fit.