



LEYTE STATE UNIVERSITY

6521-A Visca, Baybay, Leyte, Philippines

Office of the Secretary of the University
and of the Board of Regents

EXCERPT FROM THE APPROVED MINUTES OF THE
15th LSU Board of Regents Meeting
16 March 2004 * LNU, Tacloban City

LSU Intellectual Property Rights (IPR)

Board Resolution No. 29, s. 2004


Approving the proposed LSU IPR Policy, as presented, effective
upon Board approval.

BOARD ACTION: **APPROVED**

Date : 16 March 2004

ATTACHMENT: V

Certified True and Correct:


DANIEL M. TUDTUD JR.
Board Secretary

cc: OP - *Sta 4/29/04*
OVPRE - *6/29*



LEYTE STATE UNIVERSITY

6521-A Visca, Baybay, Leyte, Philippines

Office of the University President

16 March 2004

The Honorable Chairman and
Members of the LSU Board of Regents


Ladies/Gentlemen:

I am hereby endorsing the “**LSU Intellectual Property Rights Policy**” which was drafted by the IPR Committee. The main objective of these policies and guidelines is “To govern activities and agreements on the University’s faculty and staff, graduate and undergraduate students, as well as postdoctoral fellows in protecting their inventions and/or conceptions. These will also serve as guidelines for answering questions regarding patents, copyrights, trademarks, and non-biological materials and micro-biological processes created by LSU researchers, students, faculty and staff.”

This IPR Policy was deliberated, approved and endorsed by the University Administrative Council during its meeting on July 8, 2003.

I am, therefore, recommending the same **FOR APPROVAL** by the Board of Regents.

Very truly yours,


PACIENCIA P. MILAN
President

BOARD ACTION : _____
DATE : 16 March 2004



Leyte State University

Visca, Baybay, Leyte, 6521-A

Office of the Vice President for Research and Extension

15 January 2004

PROF. DANIEL M. TUdTUD

University Secretary
Leyte State University
Visca, Baybay, Leyte

Dear Prof. Tudit:

Attached herewith are fifteen (15) copies of the proposed LSU Intellectual Property Rights Policy (Full Text). Please include the presentation of this policy in the agenda of the March 2004 Board of Regents' Meeting.

Thank you very much.

Very truly yours,



JOSE L. BACUSMO

Vice President for R & E and
IPR Committee Chairman

**Leyte State University
Visca, Baybay, Leyte**

POLICY ON INTELLECTUAL PROPERTY

Executive Summary

Among the missions of Leyte State University is the attainment of the highest quality of human capital and scientific knowledge for the sustained growth and development of agriculture, fisheries, forestry and agro-industries. Corollary to this mission, the University is committed to facilitating the dissemination and utilization of the knowledge acquired from research for the public good. It is recognized that this research may result in protectible inventions/conceptions that will serve the public good through commercial development.

To fully support LSU's mission, the Technology Management Unit through the Intellectual Property Rights Committee, crafted a policy that will govern activities and agreements of the University's faculty, staff (i.e., employees who are not regular faculty members), undergraduates, graduate students and postdoctoral fellows in protecting their inventions and/or conceptions.

The Intellectual Property Policy is intended to provide Leyte State University with a practical guide for answering questions regarding patents, copyrights and trademarks, all of which are legally known as Intellectual Property. These are property rights resulting from the physical manifestation of original thought (Ballentine's Law Dictionary, 3d Ed). It is noted however that not all manifestations are qualified for protection. Only those creations of mind that are put in tangible form are appropriate subject of property that is protected by law*. Although intellectual property is certainly not the goal of LSU's research and educational activities, it is an important by-product.

The policy provides the basic information for that purpose. It is a guide to understanding the following:

- What is Patent? A Copyright? Trademark? A non-biological and micro-biological process?
- When can we protect a microorganism?
- What are the inventions and conceptions that can be protected?
- Why should we obtain protection?
- How to obtain protection of the intellectual property being created or discovered?
- What benefits can the inventor get from protecting his invention or discovery?
- Who owns the Intellectual Property created?
- How are invention disclosures treated?
- How are conflicts of commitment treated?
- Sharing scheme of royalties and proceeds of sale of technology

A summary of the procedures necessary to convert an invention into protected intellectual property is also laid out in the policy.

Implementation of the Policy rests with the Vice President for Research and Extension in collaboration with the Technology Management Unit.

* Aquino, Ranhilio C., Ph.D., Jur. Dr., 1998, Central Professional Books, Inc., I. Introduction to Intellectual Property Law, p. 1.

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numbering of pages in this copy is not correct in this set-up.)*

INTRODUCTION

Recently, Universities have undergone an intense shift in their stance toward and interactions with a variety of organizations outside University Policies concerning intellectual property rights, conflicts of interests, and patents/licenses agreements, to name but a few, and consumed enormous amounts of time and thought.

Leyte State University (LSU), one of the many universities respected nationwide for its achievements both in research and instruction, is committed to intellectual leadership and excellence in developing new knowledge and in conveying that knowledge to its students and to the public. It strives to discover practical uses for theoretical knowledge and to speed up the diffusion of information to residents of neighboring areas and other service clientele and development stakeholders.

In line with the University's mission, the President and the Board of Regents of the University designate the Vice President for Research and Extension (OVPRE) for the oversight of this Policy and the establishment of the Technology Management Unit (TMU).

It is TMU's mission to facilitate, enhance protection and commercialization of technologies. To carry out this mission, TMU is tasked with: educating faculty, staff and students on proper procedures and mechanisms for patenting, copyright and trademark registration, licensing, locating creations within the University and evaluating those creations for protectability and marketability and arranging them to benefit the global community through licensing and other commercial development programs¹.

POLICY STATEMENT

In the pursuit of common goals, all those who create, own, protect and use intellectual property where LSU has a right or equity must comply with the conditions and procedures in this Policy.

PURPOSE AND SCOPE

The continuing search for excellence often gives rise to innovative research findings. Though this search is primarily aimed at gaining new knowledge, it also turns out protectible inventions/conceptions as desirable by-products along the way— inventions/conceptions that benefit not only scholars but the general public as well.

Thus, LSU is expected to encourage and assist members of the faculty, staff, and others that are associated with the University in the use of the intellectual property system (e.g. through licensing inventions, copyrights, trademarks, industrial designs, utility models, microorganisms and non-biological and micro-biological processes) in a way that is fair and reasonable to all.

This policy is hence adopted to:

1. facilitate development and utilization of the results of research carried out in connection with University activities in a manner consistent with the University's mission²;
2. facilitate patent and other intellectual property applications, licensing, and the equitable distribution of royalties, if any³;
3. provide a uniform procedure in patent and other intellectual property matters when the University has a right or equity⁴.
4. obtain appropriate benefits for the University from commercial applications or research results and apply funds accruing to the University from such applications for the support of research and other scholarly activity at the University and for sharing with the individual inventors and creators⁵;
5. ensure that the rights and interests of all parties concerned are fairly determined, with full consideration of the proper role of the University and the principles of academic freedom⁶

A INTELLECTUAL PROPERTY COVERED IN THIS POLICY⁷

This Policy governs all project-derived intellectual property among which are:

- a. Inventions or discoveries
- b. Original works of scholarship, authorship or creativity
- c. Trademarks
- d. Microorganisms
- e. Non-Biological and Microbiological processes
- f. New plant varieties* -

STATEMENT OF PRINCIPLES

The primary mission of Leyte State University is the attainment of the highest quality of human capital and scientific knowledge for the sustained growth and development of agriculture, fisheries, forestry and agro-industries*. Corollary to this mission, the University is committed to facilitate the dissemination and utilization of the knowledge acquired from research for the public good. It is recognized that this research may result in protectible inventions/conceptions that will serve the public good through commercial development.

These principles govern all other rules, guidelines, and procedures that the University might make on intellectual property.

PRINCIPLE 1. As an academic institution, LSU is guided by truth, relevance, excellence and work in the pursuit of its functions, which are (1) instruction, (2) research and extension, and (3) production. These functions are aimed for the advancement of knowledge and ultimately for the greater public good. All decisions made on the operation of the University, including those on funding and resource allocations, shall be

* by registration as per Republic Act No. 9168, The Plant Variety Protection Act of 2001

* approved mission statement of Leyte State University

based on this principle⁸. Stewardship of intellectual property shall be consistent with LSU's mission.

PRINCIPLE 2. Academic freedom is the essence of the academe and the wellspring of the university's role in society as an independent critic. It must not be abridged⁹.

PRINCIPLE 3. LSU will permit no secret or classified government research. The names and affiliations of all research sponsors and the purposes of the research shall be made public. The University believes that if anyone or any institution begins to restrict the free flow of information, for profit or for any other reason, the long-term risks of loss of independence are greater than any short-term gain¹⁰.

PRINCIPLE 4. The free and open exchange of ideas and information is fundamental to the very existence of a University. Essentially therefore, researchers must be free to discuss their ideas with whomever they wish without fear of reprisal from anyone. They must also be free to publish, in any form they think appropriate, their result, conclusions, and interpretations, constrained only by the need to protect privacy or confidentiality of personal data or sponsor's confidential information¹¹.

PRINCIPLE 5. Before being appointed by the Board of Regents or as soon thereafter as possible, each faculty member shall be informed of the University IP policies, this statement of Principles, and of LSU's resources for protecting and marketing the Intellectual Property of the faculty and shall acknowledge in writing that the faculty member has been so informed¹².

GOVERNING LAWS AND REGULATIONS

This policy shall be interpreted in a way consistent with all applicable laws, including the Intellectual Property Code of the Philippines (R.A. 8293), the

Philippine Plant Variety Protection Act (RA 9168), Executive Order No. 247 and the General Agreement on Trades and Tariffs (with its Trade Related Aspects of Intellectual Property Rights, TRIPS) - GATT-TRIPS.

DEFINITIONS

Applicable Intellectual Property – Any invention, creation, innovation, discovery, or improvement:

1. Developed with University resources, other than:
 - a. Traditional works of scholarship and creativity;
 - b. Instructional materials; and
 - c. Institutional works
2. For which assignment to the University is required by law or by a written contract to which the creator has previously agreed; or
3. For which the creator seeks the assistance of the University in developing commercially (including protecting, marketing, assigning or licensing)

Assignment – A transfer by the inventor of all or part of his right, title and interest in the application to his employer or to a technology management organization designated by the institution.

Board – refers to the University 's Board of Regents.

Copyright – Copyright is a right granted by statute to the author or originator of literary, scholarly, scientific, or artistic productions, including computer programs. A copyright gives him the legal right to determine how the work is used and to obtain economic benefits from the work.

Creation – A new and original form or item of Intellectual Property

Creator – Faculty, staff (researchers and non researchers), undergraduate and graduate students, candidates for masters and doctoral degrees, postdoctoral fellows, and any other persons employed by the University, whether full or part-time, emeritus faculty while at the University, visiting faculty and researchers, adjunct faculty and professors, and administrators who create or discover applicable intellectual property.

Device-Like Software - A software that is intended primarily to accomplish a task or to produce, manage, analyze, or manipulate a product, such as data text, a physical object, or more software. Such software acts as a tool or building block in the accomplishment of a task or in the creation or management of a product or result.

Freedom to Operate Review – the ability to undertake research projects and/or commercial development and sales activities involving a particular technology or product with minimal risk of infringing the unlicensed patent or tangible property ownership rights of another party.

Industrial Design – Any composition of lines or colors or any three-dimensional form whether or not associated with lines or colors: provided, that such composition or form gives a special appearance to and can serve as pattern for an industrial product or handicraft within the contemplation of this Policy.

Information Software – A software that is intended primarily to provide information to the user. Such software is akin to a textbook or encyclopedia.

Institutional Works – Works created at the instigation of the University, under the specific direction of the University, and for the

University's use, by a person acting within the scope of his/her employment or subject to a written contract.

Instructional Materials – Works, other than institutional works, the primary use of which is for the instruction of students. Such works include textbooks, syllabi, and study guides.

Intellectual Property – All intangible mental creations that are protectible by the legal mechanisms of patents, copyright, trademarks, industrial designs, microorganisms, and non- biological and microbiological processes.

Inventions – Technical information, developments, discoveries, know-how, methods, techniques, formulas, data, processes, machines, manufactures, compositions of matter and other proprietary ideas or matter, or any improvement thereof, proving to be novel, useful, non-obvious and enabling.

License – A right to use an invention as well as the instruments, which grant that right. It allows the licensee to use those things without which license would constitute infringement on the part of the licensee.

Microorganisms -

Non-biological and Micro-biological Process -

Patents – A property right issued to an inventor to exclude others from making, using, selling, or importing the product of his invention within the Philippines in exchange of his patentable information or disclosure.

Scholarly Works – Works developed by instructors as teaching materials, created by students in the course of University-sanctioned learning, work that has a purpose of disseminating information resulting from research or studies such as books, articles, manuscripts,

dissertations, theses and reports, and fine artwork that is not an institutional work.

Trademark – A symbol, design, word, letter or other device protected by law and used to distinguish a product/s from those of the competitors.

Traditional works of scholarship – are works, other than institutional works, reflecting research and/or creativity which, within the university, are considered as evidence of professional advancement or accomplishment. Such works include monographs, books, plays, poems, and works of art. Such works shall include “information software,” but shall not include “device-like software”.

University – refers to Loye State University.

University Resources – All tangible resources provided by Loye State University to creators, including office, laboratory, wages and salaries, and studio space and equipment; computer hardware, software, and support; secretarial service; research, teaching, and laboratory assistants; supplies; utilities; funding for research and teaching activities, travel; and other funding or reimbursement.

Utility Model – any technical solution of a problem in any field of human activity which is new and industrially applicable, within the contemplation of this Policy.

Work-for-Hire – a person hired specifically or required to produce a particular output or commissioned by the University or any of its component institutions. The University owns outputs of a work-for-hire.

PROCEDURES

A. SUMMARY OF MAJOR PROVISIONS

Administrative Scope – This Policy is applicable to all units of the University and its component institutions and to the University's entire faculty, staff (i.e., employees who are not regular faculty members), to undergraduates, graduate students and to postdoctoral fellows¹³.

Subject Matter Scope – covers all intellectual property matters, e.g. inventions/conceptions, original works of authorship/scholarship, trademarks, plant varieties, microorganisms and non-biological and micro-biological processes, relating to collaborative programs or other research activities¹⁴.

Original Works of Authorship – Copyright in most books, papers, artistic works, etc., will belong to their individual authors(creators), but this does not extend to materials contained in such works to which the University has independent rights nor to works produced as an integral part of a collaborative program or other specific responsibility¹⁵.

Computer Software Prepared by a Member of the Instructional Staff for Instructional Use – The rights of the University ownership of instructional software is dependent on prior written agreement between the authors and the University¹⁶.

Student Inventions and Works of Authorship – Exempt unless produced as part of their academic requirement or in capacity as employee of the university

Royalty Sharing –the inventor's/creator's share of royalties received by the University for their inventions/conceptions, shall be divided as follows:

Subtract patenting and other expenses from gross royalties

Net Royalties:

A. University-Financed Work/Research

35 % to inventor for personal use

25 % to Technology Management Unit (TMU)

40 % to University for academic and research uses (40% of this will go to the mother unit responsible for the creation while 60 % will go to the University)

B. Collaborative Work/Research

35 % to inventor for personal use

65 % to be shared by the University, TMU and outside entity subject to the agreement prior to the conduct of the activity.

B. LEGALITIES

I. COPYRIGHT

Ownership¹⁷

University-Financed Work

- a. If the work in which Intellectual property exists was made in the course of the official duties of the creator(s) or was produced with financial assistance from the University, the copyright shall belong in joint ownership to the creator and the University.

Collaborative Work

- a. If the object of protection is a result of collaborative efforts of the University, an authorized outside entity and the creator(s), the project-derived intellectual property shall belong in joint ownership among the University, the creator(s) and the outside entity.

Limitations of Copyright Protection

1. Private performance, private and personal use¹⁸
2. Library and reprographic reproduction¹⁹

3. Compulsory translation license²⁰
4. Fair Use²¹ - The fair use* of a copyrighted work for criticism, comment, news reporting, teaching including multiple copies for classroom use, scholarship, research, and similar purposes is not an infringement to copyright, thus, the author's authorization is not necessary.

II. PATENTS

Ownership²²

University-Financed Research

- a. Inventions and discoveries derived from university-financed research conducted in the course of the inventor's employment with the University and/or with the use of University facilities and resources shall belong jointly to the University and the inventor(s). However, the entire right, title or interest in and to patent shall be assigned to the University.

Collaborative Research

- a. Invention and discoveries resulting from experiments or research undertaken in collaboration with an outside entity shall belong to the University, the inventor(s) and the outside entity in joint ownership; provided that the contribution of such entity is substantial.
- b. The University may assign the ownership of the invention to the outside entity and of which assignment automatically entitles the University 50% (subject to the sharing scheme provided in the preceding

* Fair Use is a privilege in others than the owner of the copyright to use the copyrighted material in a reasonable manner without his consent, notwithstanding the monopoly granted to the owner by the copyright.

paragraphs) of the net royalty unless there is a written agreement to the contrary.

Limitations of patent right²³:

The owner of a patent has no right to prevent the University from performing without his authorization, the following:

1. The act of making or using exclusively for the purpose of experiments and for a non-commercial purpose that relate to the subject matter of the patented invention²⁴.
2. Exploiting* the invention where public interest, in particular, nutrition, health or the development of other sectors, as determined by the appropriate agency of the government, so requires²⁵.
3. It is subject to the principle of "Freedom to Operate Review".

III. TRADEMARKS²⁶

All marks created by University's faculty, staff (i.e., employees who are not regular faculty members), using University facilities and resources shall belong to the University.

IV. MICROORGANISMS AND NON-BIOLOGICAL AND MICRO-BIOLOGICAL PROCESSES

Ownership²⁷

University-Financed Research

- a. Biotechnological inventions and discoveries resulting from university-financed research conducted in the course of the creator's employment with the University

* This shall be interpreted in such a way as to allow the invention/conception to be used in a manner which does not conflict with the normal exploitation of work and does not unreasonably prejudice the right of holder's legitimate interests (IP Code, Chapt. VIII, Sec. 184.2)

and/or with the use of University facilities and resources shall belong to the University and the inventor(s) jointly.

Collaborative Research

- a. Discoveries of new micro-organisms and non-biological and micro-biological processes resulting from experiments or research undertaken in collaboration with an authorized outside entity shall belong to the University, the inventor(s) and the outside entity in joint ownership; provided, that the contribution of such entity is substantial.

Limitations on Rights of Micro-organisms and Non-Biological and Micro-biological processes

The discoverer of a new micro-organism and non-biological or micro-biological process have no right to prevent the University from performing without his authorization, the following:

1. The act of making or using exclusively for the purpose of experiments that relate to the subject matter of the patented micro-organism and non-biological or micro-biological process²⁸.
2. Exploiting* the the patented subject matter where public interest, in particular, nutrition, health or the development of other sectors, as determined by the appropriate agency of the government, so requires²⁹.
3. It is subject to the principle of "Freedom to Operate Review".

**ibid*

C LICENSING

To encourage the development and marketing of project-derived intellectual property, licensing of existing intellectual property on an exclusive basis for a reasonable period of time shall be granted in appropriate circumstances, provided however that such an exclusive license contain provisions to promote the likelihood that the invention provides a public benefit, including but not limited to a requirement of diligence and march-in rights* where the licensee does not adequately perform³⁰.

License for Use of Material Made Available for the Use of the University

The University shall retain a non-exclusive, royalty-free license to use materials subject to intellectual property protection created by faculty, staff and students who voluntarily made available for the use of the University without expectation of further compensation. In any case, significant contributions of creators shall be acknowledged³¹.

D RESPONSIBILITIES OF THE CREATOR

1. Make available to LSU thru the TMU all significant information obtained through work and communicate promptly and without request, all information pertinent to the project through progress reports as required;
2. Keep complete and systematic log books, including notes on all experimental work, descriptions, diagrams and other data made while working in the said project; these shall be made available for inspection to a committee as authorized by TMU;

* This is when the government can require the university to grant a license to a third party, or the government may take title and grant licenses itself. This might occur if the invention was not brought to practical use within a reasonable time, if health or safety issues arise, if public use of the invention was in jeopardy, or if other legal requirements were not satisfied.

3. Accomplish the Invention Disclosure Form for submission to TMU;
4. Assign to LSU by accomplishing the Deed of Assignment Form his rights, titles and interests in any and all such intellectual properties and to that end, shall sign any and all instruments of undertaking, assignment, waiver or transfer which LSU may cause to be done from time to time in order that the interest hereof may be fully carried into effect;
5. Incorporate the provisions of this Agreement in any contract be it sale of intellectual property or concessions of license of all nature and to stipulate that the buyers and concessionaires shall pay directly to the IPR owners their corresponding shares in the prescribed royalties as embodied in this agreement;
6. Submit sworn statement to the LSU, prior to assumption of their duties, a list of patents or patent rights, discoveries, inventions, innovations, copyrights, industrial designs, trademarks and registered plant varieties belonging to them;
7. Bind themselves/their heirs, successors and assigns that all intellectual properties pertaining to or resulting from any work which they have conceived or made with respect to the project, or any of the matters which have been or may be the subject of experimentation or investigation during the period of research shall be the property of LSU;
8. Refrain from conducting for any other person or entity during the term of the research and development project, investigation with the same or similar specific scope of such research unless specifically authorized in writing by LSU.

E UNIVERSITY'S RESPONSIBILITIES (thru TMU)

1. Require the researcher to accomplish *Invention Disclosure Form*;
2. Evaluate inventions as disclosed in the prescribed *disclosure form* and accordingly make recommendations as to the desirability of seeking IP protection and validate authenticity of inventorship in the *patent application papers* of the technical staff members prior to the filing of the patent application;
3. Require its In-house Evaluation Committee to sign *Confidential Disclosure Agreement/Evaluator's Affidavit of Undertaking* in the review of the project/technologies/products disclosed by the researcher;
4. Require the researcher to assign the technology/product to the implementing agency by accomplishing the *Deed of Assignment Form*.
5. Require the researcher to sign the *Invention/Patent Agreement*;
6. Ensure that each of the staff members of the project enter into a contract of employment embodying therein, the rights and obligations as stipulated in this Policy;
7. Facilitate in the preparation and processing of applications in Intellectual Property Office.
8. Assist in the negotiation and preparation of technology transfer documents.
9. Include the technology/information in its management information system developed for intellectual property management;

F IMPLEMENTATION

The primary responsibility for implementing this Policy rests with the Vice President for Research and Extension in collaboration with TMU, which may be implemented and supplemented in any way consistent with

its terms, those of other University policies and the Intellectual Property Code of the Philippines.

G DISCLOSURE

At an appropriate stage in the development of an invention/conception, the creator shall make a disclosure on an Intellectual Property Disclosure Form³² of the conception to the TMU of the University, providing all such particulars that are relevant to an assessment about its commercial prospects. The Unit will promptly acknowledge, in writing, its receipt of the disclosure and the date of receipt.

When a person other than the creator has made the disclosure required in this paragraph, the University shall expeditiously decide whether or not it intends to participate in seeking intellectual property protection. It shall communicate its decision to the creator/inventor within sixty (60) days of receiving the disclosure.

The University shall treat disclosures of items subject to this Policy as confidential without prejudice to disclosures made by the creator himself, and shall make reasonable efforts to avoid loss of rights due to lack of appropriate documentation or to improper or premature disclosure or to publication without proper notice. The University and creators will work together to facilitate both scholarly disclosures and the attainment of appropriate intellectual property protection.

H REVENUE FROM INTELLECTUAL PROPERTY

Net Royalties

All costs relative to the application and commercialization for intellectual property protection shall be deducted from the gross royalties received inclusive of any extraordinary expenses incurred (e.g., collection of income, litigation, etc.).

What remains of the royalty income shall be divided follows:

A. University-Financed Work/Research

35 % to inventor for personal use

25 % to Technology Management Unit (TMU)

40 % to University for academic and research uses (40% of this will go to the mother unit responsible for the creation while 60 % will go to the University)

B. Collaborative Work/Research

35 % to inventor for personal use

65 % to be shared by the University, TMU and outside entity subject to the agreement prior to the conduct of research.

Distribution and Reimbursement

Royalties shall be distributed at least annually³³. If there were more than one creator, a written agreement shall be made and submitted to the TMU. The creator's personal share shall remain even if the creator leaves the University. In the event of the creator's death, his or her share shall be remitted to his heirs, successors and assigns. If the creator's share cannot be distributed within five (5) years of diligent search, it shall be reallocated accordingly—under the discretion of the Board.

Revenues received for research support shall not be distributed under the royalty schedule. Costs incurred by the University for patenting, registering and maintenance of each unit of Intellectual Property shall be reimbursed from its royalty earnings and gross revenues. If an infringement action is brought by the University or any other outside entity, all shares of revenue, including the creator's, shall contribute to the reimbursement of University costs for all types of actions. The manner and amount of such reimbursement will be determined by the Board of Regents upon recommendation by the Vice President for Research and

Extension and the TMU so as to maintain fairness and adequate incentives in the distribution of revenue.

Awards and prizes received by the creator as recognition for achievement are excluded in royalty income covered in this Policy for purposes of royalty sharing. Any request of the awarding body for rights to a creation in exchange for the award, shall be subject to the provisions of this Policy³⁴.

I ASSIGNMENT AND TRANSFER

Creators shall assign their rights in applicable intellectual property to Loye State University and may not assign, license rights in applicable intellectual property to third parties without the written consent of the University. All assignments must be in writing and shall conform to the requirements of this Policy³⁵. No application for Intellectual Property Protection shall be without the creator's assignment in the form provided by TMU.

All assignments by a creator of Intellectual Property to LSU are subject to five (5) conditions³⁶:

1. All protection and transfer of Intellectual property shall be subject to written agreements developed in accordance with University IP Policies.
2. The creator retains the right to be identified or refuse to be identified,
3. The creator shall have the right to share in the proceeds based on the share formula provided in this Policy, resulting from commercial development by the University; and
4. The creator shall retain responsibility for the intellectual stewardship of the work, including the right to pursue related research or creative activity, determine methodologies, draw conclusions and dissemination that does not breach any duty of

confidentiality or violate any Intellectual Property commitments to which the creator has agreed³⁷.

5. Creators of applicable intellectual property shall assist as reasonably necessary the University in obtaining statutory protection for the intellectual property and perform all obligations to which it may be subject concerning the intellectual property, including executing appropriate assignments and other documents required to set forth effectively the ownership of, and rights to, applicable intellectual property.

REPORTING

The following should be responsible for reporting certain conceptions, and certain activities that seem likely to produce one³⁸.

1. A faculty, staff and/or employee who, in the course of service to the University, produces a conception/invention that may have a commercial value, or has done work that seems likely to produce such a conception/invention, should so report.
2. A faculty, staff and/or employee who produce a conception having commercial value or have done work that seems likely to produce such a conception/invention in circumstances where these studies are partially but not wholly in the service of the University. If it should appear to him or her that an issue of fairness to the University may arise, a report should be made. (e.g. a patentable discovery in the course of work not sponsored by the University, in which its facilities are used.)
3. A faculty, staff and/or employee should report his or her participation in all arrangements for work sponsored by an entity other than the

University, when the terms of the arrangement vest control of any resulting conception/invention in that entity. No agreement shall restrain or unreasonably delay publication of the results of a faculty member's University-related activities.

Faculty, staff and/or employee are responsible for making brief written reports as early as practicable and are to be made³⁹:

- a. Under clauses (1) and (2), to the TMU.
- b. Under clause (3), to a designated academic officer of the instructional unit to which the faculty member most regularly reports.

SPECIAL SITUATIONS/EXEMPTIONS

The Vice President for Research and Extension, with the concurrence of the IPR Committee, may authorize variations from this Policy for good cause⁴⁰. Such variations shall be restricted to special situations.

In the event exceptional circumstances require any exception to the terms of this Policy, such exceptions shall require the written consent of LSU President, the chairmen of the different IPR related committees or their designee, the creator(s), and other persons directly affected.

The Vice President for Research and Extension and TMU shall, when practical, seek the advice of the Intellectual Property Rights Committee prior to approving any exception to the terms of this policy. When prior consultation is impractical, the Vice President for Research and Extension, and TMU shall promptly notify the committee of any exception to the terms of this Policy.

This Policy shall not apply to existing written agreements⁴¹:

1. Between the University and/or creator(s) and any external organization or individual; concerning the development, legal protection, or

commercialization of specific intellectual property, and entered into prior to the date on which this Policy is adopted by the Board of Regents.

2. If an existing written agreement is renewed, revised, or amended after the date on which the Policy is adopted by the Board of Regents, reasonable attempts shall be made to conform such agreement with requirements of this Policy as of the date on which it is renewed, revised, or amended.

CONFLICTS OF COMMITMENT

All complaints and/or conflicts of commitment shall be in writing and addressed to the Vice President for Research and Extension or the TMU, who shall respond immediately with a written communication asking for additional information if necessary, to proceed with the investigation. The recommendation of the Vice President for Research and Extension and that of the TMU shall form as a basis in the Board's decision.

REVIEW OF POLICY

This Policy shall be reviewed every three(3) years by the Intellectual Property Rights Committee and a report made to the Vice President for Research and Extension. The report shall be considered in the formulation of a recommendation of revision in the Policy subject however to the approval of the Board.

SEPARABILITY CLAUSE

In the event of conflict between any provisions of this Policy and any pertinent laws, regulations or any other LSU policy, only the provision(s) affected shall be rendered ineffective without prejudice to other provisions of this Policy.

FORMS

Drafting legal documents is an art. This requires brevity and clearness of legal expression, so as to avoid future legal complications and useless lawsuits. Some of the forms herein named are the same forms used in the Intellectual Property Office and the National Library in case of copyright applications and are not to be altered to avoid return of application for non-compliance as to form but the rest of these may be drafted to fit each individual situation. The forms below shall be used accordingly:

TMU Form No. 1 Invention Disclosure Form – this is to be filled up and signed by the inventor/discoverer stating therein the complete facts necessary in the evaluation process.

TMU Form No. 2 Invention/Patent Agreement – this is to be executed and signed by the inventor and the university for the purpose of setting the conditions as to who owns the inventions/conceptions subject of the application for protection.

IPO Form Request for Grant of Philippine Patent – this is the standard form used by IPO for all applications for Philippine Patent.

IPO Form Request for Registration of Utility Model - this is the standard form used by IPO for all applications for registration of a utility model.

IPO Form Request for Registration of Industrial Design - this is the standard form used by IPO for all applications for registration of an industrial design.

TNLO Form No. 24 Application for Copyright – this is the standard form used in applying for copyright protection and is to be submitted to the National Library, Manila.

TMU Form No. 3 Confidential Disclosure Agreement – to be executed and signed by the inventor and the evaluator to set the conditions as far as the disclosed information is concerned.

PCARRD Form No. Evaluator's Affidavit of Undertaking – to be executed

and signed by the evaluators to give assurance to the inventors and/or discoverers that the information regarding their invention/conception disclosed be kept confidential. This instrument however is without prejudice to earlier disclosures made by the inventor/discoverer himself and in which case, the evaluator shall not be held liable for the same.

TMU Form No. 4a Deed of Assignment (Copyright) – executed and signed

by the author for the purpose of assigning all his rights and interests over the application for protection over the project-derived intellectual property. This is used solely in copyright applications.

TMU Form No. 4b Assignment of Application for Letters Patent - executed

and signed by the inventor for the purpose of assigning all his rights and interests over the application for protection over the project-derived intellectual property. This is used solely in applications for patent.

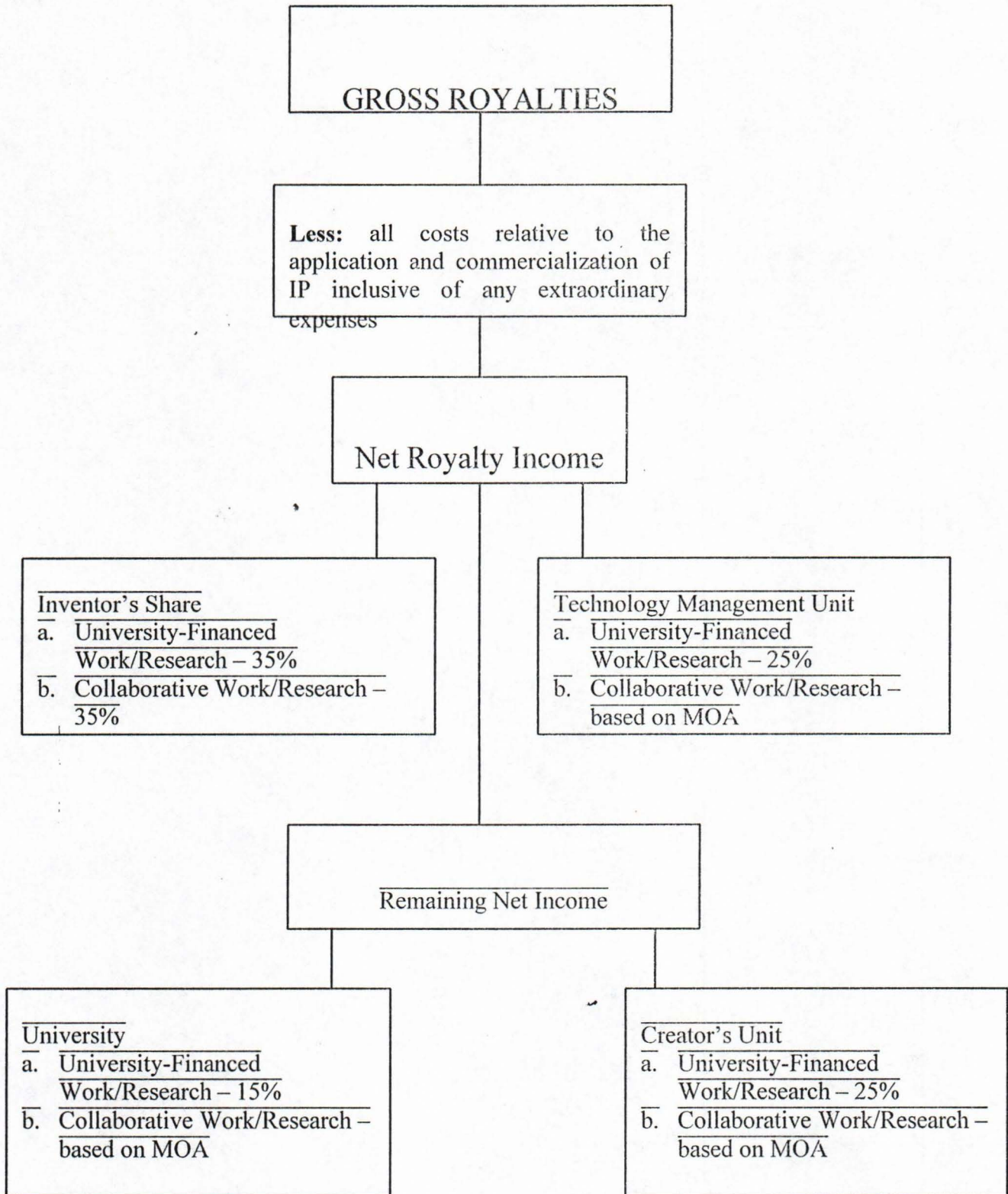
IPO Form Trademark Application – this is the IPO standard for when applying

for trademark. This is accompanied by the documents as required by the Intellectual Property Office.

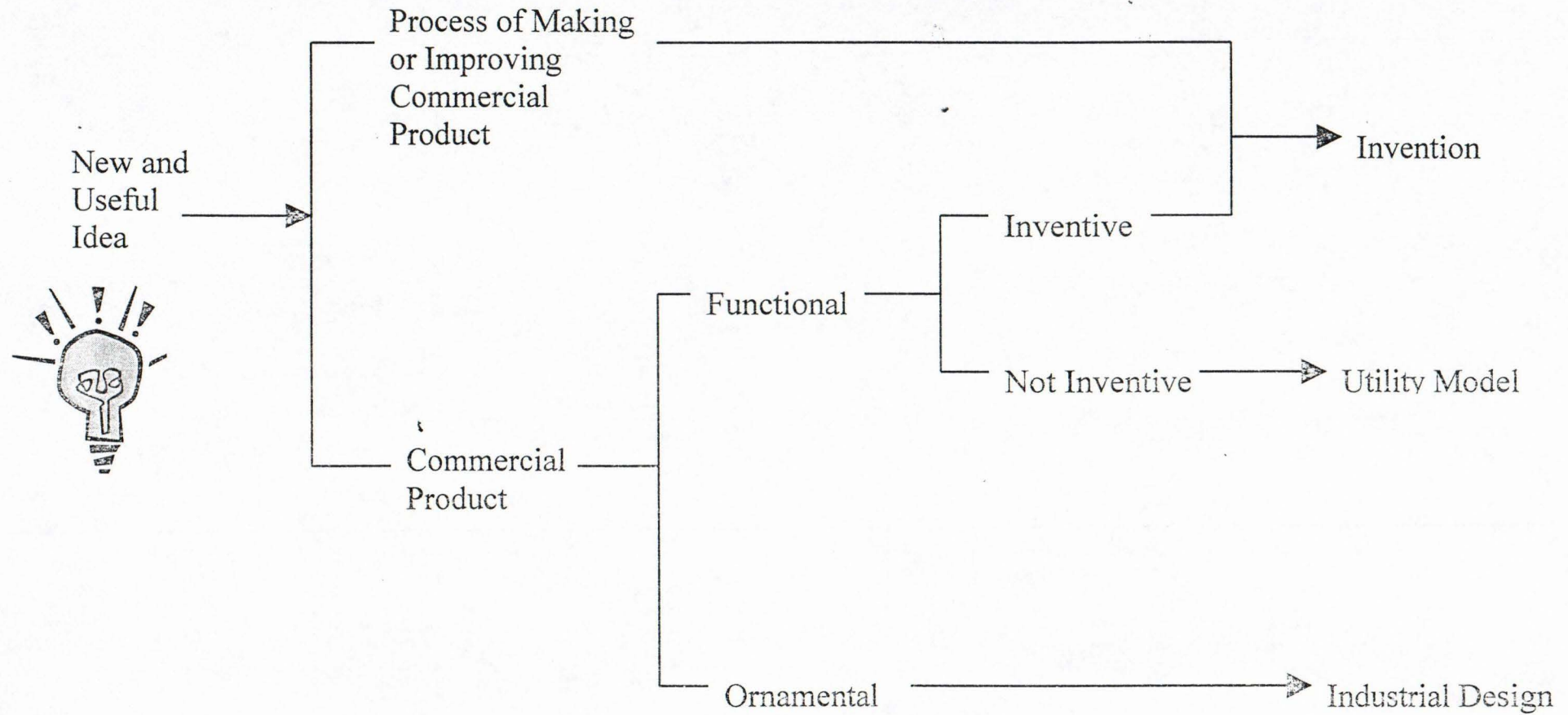
TMU Form No. 5 Confidentiality Agreement – this is to be executed and

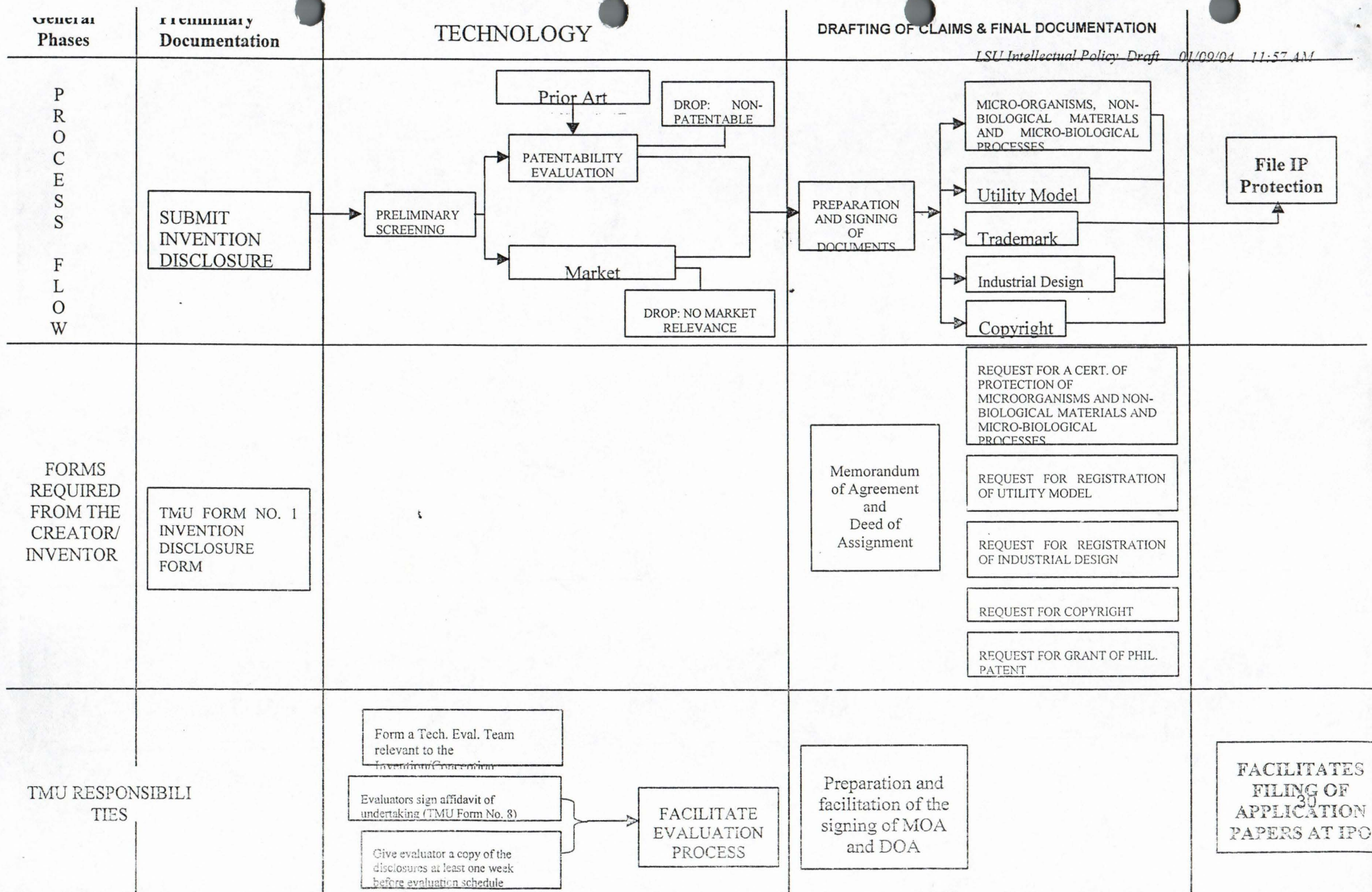
signed by the persons involved in the evaluation and intellectual property audit to protect the rights of the creators or technology generators existing in and in relation to the confidential information that will be disclosed.

Diagram for Royalty Sharing



GUIDE IN DETERMINING PATENT CATEGORY





- ¹ Michigan State University, *Intellectual Property Policy: I. Preamble*.
- ² Ohio State University, Office of Technology Licensing, *Policy on Patents and Copyrights: I. Purpose and Scope* (visited March 2001) <<http://www.techtransfer.rf.ohio-state.edu/OTTPolicy.html>>.
- ³ Ibid
- ⁴ Ibid
- ⁵ Ibid.
- ⁶ Ibid
- ⁷ *Intellectual Property Law of the Philippines*, Rahnillio Callangan Aquino, Ph.D., J.D., Central Professional Books, Inc., 1998, p.57
- ⁸ Indiana University, *Statement of Principles on Intellectual Property* (visited March 2001) <<http://www.indiana.edu/~rng/respol/intprop.html>>
- ⁹ Ibid.
- ¹⁰ Ibid
- ¹¹ Ibid
- ¹² Ibid.
- ¹³ University of Texas System, *Regents' Rules and Regulations, Intellectual Property Policy* (visited March 2001) <<http://www.utsystem.edu/regMSword/TOCRRR.html>>
- ¹⁴ Ohio State University, *supra*. Note 4.
- ¹⁵ Ibid
- ¹⁶ Ibid
- ¹⁷ Department of Science & Technologies Guideline.
- ¹⁸ *Intellectual Property Code of the Philippines*, 1998 Seventh Edition, Sec. 184, p.77.
- ¹⁹ Ibid.
- ²⁰ Ibid.
- ²¹ *Intellectual Property Code of the Philippines*, 1998 Seventh Edition, Sec. 185, p. 79.
- ²² Department of Science & Technologies Guideline.
- ²³ *Intellectual Property Code of the Philippines*, Central, Chapter VII, Sec. 72, p. 26.
- ²⁴ *Supra* note 19, Chapter VIII, Sec. 72.3, p. 26.
- ²⁵ *Supra* note 22, Chapter VIII, Sec. 74a, p.27
- ²⁶ Department of Science & Technologies Guideline.
- ²⁷ Ibid.
- ²⁸ *Intellectual Property Code*, Chapter VIII, Sec. 72.3, p. 26.
- ²⁹ *Supra* note 26, Sec. 74a, p.27
- ³⁰ Cornell Research Foundation, Inc., *Cornell University Patent Policy, F. Licensing Policy* (visited March 2001) <<http://www.crf.cornell.edu/policies/patnt.html>>
- ³¹ Indiana University, *Intellectual Property Policy: V. Licensing* (visited March 2001) <<http://www.indiana.edu/~rugs/respol/intprop.html>>.
- ³² Indiana University, *Intellectual Property Policy: VII. Disclosure* (visited March 2001) <<http://www.indiana.edu/~rugs/respol/intprop.html>>.
- ³³ Michigan State University, *Intellectual Property Policy: XIII. Revenue from Intellectual Properties*.
- ³⁴ Ohio State University, Office of Technology Licensing, *Policy on Patents and Copyrights: VI. Distribution of Income* (visited March 2001) <<http://www.techtransfer.rf.ohio-state.edu/OTTPolicy.html>>.
- ³⁵ Indiana University, *supra* note 14.
- ³⁶ Ibid
- ³⁷ Ibid
- ³⁸ Ibid
- ³⁹ Ibid
- ⁴⁰ Ohio State University, Office of Technology Licensing, *Policy on Patents and Copyrights: II. Administration, C. Variations of Policy for Special Situations* (visited March 2001) <<http://www.techtransfer.rf.ohio-state.edu/OTTPolicy.html>>.
- ⁴¹ Indiana University, *supra* note 17.