

INDUSTRIAL AND INTELLECTUAL PROPERTY REGULATIONS OF THE PONTIFICIA UNIVERSIDAD CATÓLICA DE CHILE

Title I General Norms

1. Objective of these Regulations

1° The present Regulations aim to regulate rights and obligations in relation to the works and inventions developed by the members of the university community or by any person who participates in activities and projects of any regime, academics and visiting student visitors included.

2° The University will promote the intellectual and industrial creation in all compatible ways with its mission, and it will strengthen the development, protection and dissemination of the results of the creations, research and inventions through publications, patents or other forms of communication in order to share the knowledge and in this way contribute to the social and economic development of the country. In turn, the University will recognize the contribution and effort of the author, investigator and inventor.

2. Contractual Compliance

3° The University will always comply with the contractual obligations it has acquired, especially those to protect intellectual and industrial property which is created in the agreements which involve support from public or private entities.

3. Ownership

4° Copyright or intellectual property rights in relation to work in literary, artistic and scientific fields, in any form of expression, developed by the university community or by any person who participates in activities and projects of any regime of the University, academics and visiting student visitors included, will belong to the author, without affecting the exceptions mentioned in articles 14° and following of the present Regulations.

5° Copyright in relation to industrial property of the inventions which are developed by the university community or by any person who participates in activities and projects of any regime of the University, academics and visiting student visitors included, will belong to the University, as is mentioned in articles 21° and following of the present Regulations.

4. Communication Duty

6° Any member of the university community who during the completion of her or his responsibilities, or through the use of means granted by the University in relation to what is established in article 9°, produces any creation, discovery or invention, with the potential to be patented or industrially or intellectually protected, must communicate it in the shortest time, in written form, with the maximum discretion and before any publishing or dissemination of the work to the Director of Innovation and Projects of the Associated Vice-Rectorry (Director de Innovación y Proyectos de la Vicerrectoría Adjunta de Investigación y Doctorado) and to the Dean of the corresponding Faculty.

5. Protection

7° After the communication referred to in the previous article is completed, and when the ownership of the rights belongs to the University in relation to what is established in the present Regulations, the documents which are part of the formal procedure must be signed. The signature of the documents aims to adequately protect the ownership of the rights, the distribution of the economic benefits for the owners, investigators or inventors or any other situation which may seem convenient to consider, given the case.

The University will always guarantee the right of the author, investigator or inventor to receive part of the economic benefit, and the University will always retain the right to use the work or invention for educational purposes, freely and permanently.

6. Major Use of Means Granted by the University

8° The resources of the Pontificia Universidad Católica de Chile are only to be used for the University's ends and not for accomplishing personal goals, obtaining any commercial differences, or for any other purpose which is not part of those established by the University. Therefore, if the author, investigator, or inventor makes a major use of means granted by the University for the creation of a certain work, research or invention, she or he must inform this to the corresponding authority, in relation to what is established in article 6° of the present Regulation.

9° There is major use of means granted by the University when the following resources are used:

- a) Equipment and material used by the University for research purposes;
- b) The name, emblem, brand or representative images of the University, and
- c) The services of the administrative staff, within their functions and working hours.

Major use of means granted by the University does not include the use of office equipment and material including general use software, photocopiers, personal computers, documentation and material contained in the Library or other resources which are frequently available outside of the University.

The existence of major use of means granted by the University will be determined by the corresponding Faculty Dean, in relation to what has been previously established.

10° The student, investigator or any other person who has not subscribed a contract with the University and who is going to intervene in a work or project which includes major use of means granted by the University in agreement to the previous article, must sign the

“Intellectual and Industrial Property Agreement for persons not hired by the UC” (“Acuerdo de Propiedad Intelectual e Industrial para personas no contratadas por la UC”). The Director of the Department in which the research or project is developed, or in its absence, the person designated by the Dean, must see that such agreement is signed.

7. Retribution

11° The economic benefits that the University perceives as a result of the commercialization or exploitation of the intellectual property rights, licensing, or any other way of industrial property rights commercialization, will be distributed in the following way:

a) 15% to the licensing office handling the documentation and processing of the patent, licensing or intellectual property rights, and

b) The remaining part will be distributed according to the following proportions:

Creator(s), investigator(s) or inventor(s): 50 %

Faculty, Department: 30 %

University: 20 %

8. Confidentiality Obligation

12° Academics, students, administrative staff and any other person involved in University activities or projects or funded by its resources, in any regime or association, will have the obligation to remain silent in relation to any information which may affect the granting of any Intellectual and/or Industrial property right to the University, and in relation to this they must subscribe the corresponding confidentiality agreements.

9. Conflict Resolutions

13° In the cases where there is controversy in relation to the ownership of intellectual or industrial property rights, any of the affected parties may resort to the Intellectual and Industrial Property Commission (Comisión de Propiedad Intelectual e Industrial), which is mentioned in Title IV of the present Regulations.

Title II

Copyright

14° The University will protect the rights acquired by the authors of intellectual work¹ that emerge by the mere fact of creation in the fields of literature, art, and science in any form of expression, which forces the institution to recognize the moral right contained in the copyright, which by law belongs always to the author or creator of a work.

¹ It refers to the works which, in accordance to the law, are specially protected. The list is not strict:

- Books, brochures, articles, writings, in any form, field or nature, included in encyclopedias, guides, dictionaries, anthologies and all of types of compilations;
- Conferences, speeches, discourses, lessons, memoirs, comments and work of the same nature both in their oral expression as well as in written or recorded versions;
- Dramatic, musical-dramatic and theatrical works in general, as well as the choreographies and pantomimes whose development is set in writing or in another way;
- Musical compositions, with or without text;
- Radio or television adaptations of any literary production, works originally produced for radio or television, as well as their corresponding scripts and screenplays;
- Journals, magazines, or other publications of the same nature;
- Photographs, engravings, and lithographs;
- Movies;
- Projects, sketches and architectural scale models and systems for map creation;
- Geographical spheres, as well as plastic works related to any science, and to audio visual material in general;
- Paintings, drawings, illustrations and other similar ones;
- Sculptures and analogue figurative art works, although they are used in the industry, always when their artistic value can be considered to be separate from the industrial value of the object to which they are incorporated;
- Scene sketches and the respective set design when its author is the sketcher;
- Adaptations, translations, and other transformations when they have been authorized by the author of the original work if they do not belong to the common cultural heritage;
- Videograms and dioramas;
- Computer programs, in any form of expression, as a source program or object program, and even the preparatory documentation, its technical description, and user manuals.
- Data compilations or other materials which can be read by machine or in another way, which due to their selection or content, constitute intellectual creations. This protection does not include the data or material itself, and has no effect in relation to any copyright which may exist in relation to the material data contained in the compilation;
- Sketches or textile models.

The University recognizes as an obligation the explicit recognition to the name of the author of a creation in any type of communication which may be internal or external to it, imposing to all members of the university community the obligation to guard its strict compliance.

15° The patrimonial rights, contained in the Intellectual Property Law (Ley de Propiedad Intelectual), this is, the right to publish, reproduce, adapt and distribute the work, including memoirs and graduate thesis, and any products generated in activities or courses of the University, will belong to the University in the following cases:

- a) When the creation of research is the product of a work in which the academic, student, or employee has been specifically hired by the University;
- b) When the creation or investigation is a consequence of a previous agreement of the University with third parties in which the assignation of intellectual property rights is considered, in which case the agreement will apply. This will not affect the fact that the University must previously subscribe the necessary contracts with the persons involved in the creation or research;
- c) When the creation or research has been completed totally or partially through major use of means granted by the University, in relation to article 9° of the following Regulations, and
- d) When dealing with computer programs developed or produced during the performance of work functions.

In the case of computer programs which belong to the University and which may be patented in accordance to foreign laws, the compliance of the novelty requirements for industrial property must be guarded.

16° Creators or researchers who are in the situations described in the previous article must comply with what is stated in articles 6° and 7° of the present Regulations, and subscribe the respective cession of rights to the University in accordance to legal provisions.

17° In the case of works, texts, tests, notes, and/or any material which is generated by the academic to teach a course, the rights of intellectual property will belong to the academic, unless she or he has been specifically hired to the development of them or they have been created through major use of means granted by the University.

What has been previously stated does not affect the image rights or other rights which may correspond to the University ².

18° If, for the creation of a work or a research the material or documentation contained in the Library System (Sistema de Bibliotecas) of the University has been used, the University will not claim the rights in relation to the work. However, it is still an obligation to explicitly recognize the source of the material in the new work or research if it has extraordinary exclusive features.

19° Lessons taught in the University, and noted or compiled in any way by those students to which they are addressed, may not be published, totally or partially, without the authorization of the academic who authored the lessons.

20° Students may not publish or disseminate any products generated during the learning process in the activities or courses of the University, including memoirs and graduate theses, without having the prior written consent of the Dean of the corresponding Faculty, or of the person designated by the Dean. Similarly, teachers may not publish or disseminate the products generated during the learning process in the activities or courses of the University, including memoirs and graduate theses in which students may have participated in a major fashion, without the prior written authorization of the student involved or the person designated by the student.

² The academic is the owner of the guide or text created; nevertheless, in order to use it outside of the educational sphere of the University, she or he may not use any images or symbols which may be representative of the University without the explicit authorization to do so.

Title III

Industrial Property

21° The rights of industrial property, such as brands, invention patents, models of usage, industrial sketches and designs, invention patents, tracing schemes or integrated circuit topographies, or any others which may exist, related to the inventions developed by the academic, student, administrative staff or any other person which may participate in University programs or projects in any regime, including academic and visiting student, will be property of the University.

For the effects of what is stated in the present Regulations, vegetable varieties will have the same treatment which is stated in the present Title.

22° When the creator or inventor is a person hired in a dependent or independent relation by the University, the faculty to request the respective inscription, as well as the eventual industrial property rights related to the inventive and creative activity belong to the University in accordance to the law.

23° When the creation or invention was developed by a person not hired by the university, but through a major use of means granted by the University in agreement with article 9°, the faculty to request the respective inscription, as well as the eventual industrial property rights related to the inventive and creative activity belong to the University, and the respective cession of rights must be subscribed.

24° The creator or inventor must always comply with what is stated in articles 6° and 7° of the present Regulations.

Regarding the communication detailed in article 6°, the inventor or researcher must attach the “Patent Assessment Form” (“Formulario de Evaluación para Patentamiento”), which will state what was invented, the circumstances in which the invention was created, among other aspects.

25° When the University explicitly decides not to protect the rights related to industrial property, or if the corresponding Dean or the Director of Innovation and Projects does not communicate anything to the inventor within a period of six months, counting from the

communication of the research which may be industrially protected, in the terms stated in article 6° of the present Regulations, the investigator may proceed with publication.

Title IV

Intellectual and Industrial Property Commission

26° An Intellectual and Industrial Property Commission will be created, which will be constituted by:

- The Associated Vice-Rector for Research and Doctoral Programs, who will be the president;
- The Director of Judiciary Affairs or his/her representative, and
- Three academics which will be designated through a vote by the Honorable Superior Council (Honorable Consejo Superior), with candidates being proposed by the Associated Vice-Rector for Research and Doctoral Programs. They will remain for three years in their positions and may be reelected. Their appointment will be formalized through a Rector's Decree.

27° The Intellectual and Industrial Property Commission will have specific functions:

- a) Advise and make recommendations to the Associated Vice-Rector for Research and Doctoral Programs on issues related to the application and/or modification of the present Regulations and its policies;
- b) Perform activities or special assignments appointed by the Associated Vice-Rector for Research and Doctoral Programs, on issues of intellectual and industrial property in the University, and
- c) Know the appeals which may be filed in cases where there may be controversy in relation to the ownership of intellectual or industrial property.

28° For the effects of what is stated in letter c) of the previous article, the affected party will have 30 days to present an appeal to the Associated Vice-Rector for Research and Doctoral Programs. Such date will be counted from the day of the certification done by the Dean and/or the Director of Innovation and Projects of the non-subscription of the

agreement pointed out in article 7° of the Present Regulations.

29° In this case, the Associated Vice-Rector for Research and Doctoral Programs will hold a special session with the Commission to discuss the subject, which must be attended by at least three of its members. In this session, the author, researcher, or inventor, and the Dean of the corresponding Faculty must be heard; their presentations may be done orally or in writing. After this Audience, the members of the Commission will discuss and issue a report, immediately or within the following three working days, which will solve the controversy. Notwithstanding the foregoing, the Commission may extend this period if it deems it necessary to gather further information. This agreement must be accepted by the majority of the members present. If there is no majority, the Associated Vice-Rector for Research and Doctoral Programs will decide.

30° Only if the person who has filed the appeal belongs to the same Faculty or Direction in which any of the members of the Commission work, such member will not be allowed to participate in it.

31° No actions may be taken against the decision of the appeal.

TRANSITORY ARTICLE

First article.- The regulations contained in the present Regulations will not apply in relation to the agreements which may have been subscribed before its entering into force.

Second article.- The distribution of the economic benefits pointed out in article 11° letter b), will be applied after 18 months of the entering into force of the present Regulations, period during which the distribution will be as follows:

Creator(s), researcher(s) or inventor(s):	60 %
Faculty, Department:	30 %
University:	10 %

The distribution established in the present transitory article may be extended for 3 more years with the approval of the Honorable Superior Council.