

## **Intellectual Property Policy**

Passed by the Executive Council on November 11, 2003

Partly revised on February 14, 2007

In order to promote education and research and to share and jointly resolve the problems of the local community as well as problems in Japan and abroad, Shizuoka University has formulated the following intellectual property policies as its basic concepts for the management of intellectual property. Predicated on these policies, the University seeks to make active use of the intellectual property it owns and to fulfill part of its responsibility to serve society by publishing the results of its activities in education and research.

### **1 Creation of intellectual property**

The University seeks to create new industries and bring about technology innovation through the creation and active use of dependable intellectual property, and works to achieve results that hold the innovative potential for offering solutions to problems that society wants to see resolved.

### **2 Persons subject to the Intellectual Property Policy**

The persons who are the subject of these policies is comprised of the faculty of the University, visiting educators (including instructors for donation funded lectures and instructors in donation funded research fields) who have executed an agreements with the University concerning research results or inventions, etc., post-doctoral students, students, researchers, dispatch workers, and temporary staff (for the purposes of these policies, collectively referred to as “Faculty, Etc.”).

### **3 Ownership of intellectual property**

Where intellectual property created by Faculty, Etc. belongs by its nature to the sphere of the University’s operations and where the actions performed to create that intellectual property belong to the duties of Faculty, Etc. of the University, the said intellectual property falls into the subject of the intellectual property rights owned by the University. Patent rights derived from intellectual property created in this way from the research results of Faculty, Etc. of the University, as well as such utility model rights, expertise that constitutes a business secret, plant breeder’s rights, databases, tangible entities of research results including intellectual property derived

from research results, and circuit layout rights, belong to the University.

In special cases, also design rights and trademark rights belong to the University.

Intellectual property rights that belong to the University but are not assumed by it will be returned to their creators.

#### 4 Use of intellectual property

In order to put intellectual property of the University to the practical use of society, the University obtains title to and makes use of such property, and strives to enable broad based usage in Japan and abroad. To this end, the University strengthens its internal organizations that cooperate with external organizations of industry, academia, and government, works to obtain the cooperation and understanding of technology licensing organizations, and appropriately responds to research requests from the public related to a variety of intellectual property instances. Furthermore, the University engages in proactive support for ventures launched in the name of and founded by Shizuoka University with a view to giving a specific angle of application to the results of education and research and committing intellectual property owned by the University to practical use.

#### 5 Return of intellectual property

In order that returns arise to the University, Faculty, Etc. apply intellectual property of the University to practical uses through license grants or assignment of patents, and contribute to society through various forms of work such as joint research, contracted research, and technical guidance, or lending and assigning tangible objects of research results. The University understands these returns as proof of society's trust in the University, establishes regulations, rules, and frameworks for their acceptances, and uses part of the income derived from intellectual property usage as incentives for their creators' activities in education and research.

#### 6 Education about intellectual property

The University adheres to modern-day rules related to intellectual property, such as the Patent Act, which are concentrations of many years of human knowledge. The University encourages Faculty, Etc. to proactively engage in the creation and use of intellectual property rights. At the same time, Faculty, Etc. work to familiarize themselves with matters concerning intellectual property rights. Moreover, the University provides those enrolled with opportunities to acquire knowledge related to intellectual property.

## 7 Organizations and activities surrounding intellectual property

The University forms an Intellectual Property Strategy Committee as a deliberative and decision making organ for important matters relating to intellectual property strategy. Based on the deliberation results of the Intellectual Property Strategy Committee, the University sets up the Intellectual Property Office supervised by the pertinently charged Trustees for the support of intellectual property creation at the University and for integrated management of acquisition, control, and active use of relevant rights, and establishes frameworks for activities in close cooperation with the Innovation and Joint Research Center which serves as the liaison office for the cooperation among industry, academia, and the government.

In addition to stressing the importance of intellectual property rights exercise, the Intellectual Property Office, based on these policies, engages in the handling of intellectual property as a support activity for the research of the University and its cooperation partners. Additionally, the Intellectual Property Office engages inside and outside of the University in public relations and information activities concerning intellectual property.

## 8 Rules concerning these policies

The University establishes Intellectual Property Handling Guidelines, basing on these policies, that internally and externally define the specific handling of intellectual property of the University. Moreover, also based on these policies, the University establishes Rules Concerning Inventions of Employees of National University Corporation Shizuoka University as internal rules concerning the intellectual property of Faculty, Etc.

## **Intellectual Property Guidelines**

Passed by the Executive Council on February 14, 2007

### 1. Purpose of the Intellectual Property Guidelines

Shizuoka University (hereinafter, the “University”) has on the basis of its Intellectual Property Policy established and promulgated these Guidelines inside and outside of the University in order to define basic concepts concerning the creation, protection, control, and practical usage of intellectual property at the University. Henceforth, on the basis of joint awareness on the part of the researchers involved in the cooperation among industry, academia, and government inside and outside of the University, the

University will further step up this cooperation, and thereby fully discharge its mission of social contribution to the region.

## 2. Operations

### (1) Rules and policies

With regard to the University's intellectual property rights, the University has further to its Intellectual Property Policy established Shizuoka University's Policies for the Cooperation among Industry, Academia, and Government and internal and external rules of the University.

Moreover, in order to gain society's understanding concerning the cases of conflicts of interest, the University has established a Conflicts of Interest Management Policy of Shizuoka University and Conflicts of Interest Management Rules of Shizuoka University, and in this way ensures impartiality in the operations of intellectual property rights.

### (2) Management frameworks

As a deliberative and decision making organ for important matters relating to the University's intellectual property strategy, the University establishes the Intellectual Property Strategy Committee. Based on the deliberation results of the Intellectual Property Strategy Committee, the Intellectual Property Office is put into operation positioned under the Trustees (responsible for academic activities and information) as an organization that in an integrated way supports the creation of intellectual property at the University, acquires pertinent rights, and manages their control and practical usage.

### (3) Persons subject to application

The circle of persons to whom these Guidelines are applicable is comprised of the University's officers, full-time and part-time faculty, visiting educators (including instructors for donation funded lectures and in donation funded research fields) who have executed an agreements with the University concerning research results, post-doctoral students, students, researchers, dispatch workers, and temporary staff, (in the following collectively referred to as "Faculty, Etc.").

## 3. Handling of intellectual property

Monopolistic or exclusive rights relating to intellectual property originate in the majority

from patent applications with a patent office and the ensuing registration. For the protection of inventions made by Faculty, Etc., the University files large numbers of applications for inventions, etc. and seeks the establishment of rights and the maintenance thereof. However, owing to these procedures, this effort comes at a significant cost. Consequently, the University determines whether to file applications and obtain and maintain rights for inventions, etc. based not only on the feasibility of establishing rights and the potential for contributing to society but based on comprehensive considerations including marketability and costs.

The University engages in intellectual property handling for the purpose of letting society make effective use of the intellectual property, i.e., the research results, of the University, and thereby contribute to the furtherance of society. To this end, associated with expectations of generating highly advanced research and creating research results, the University establishes the following provisions for the specific handling of intellectual property.

#### (1) Subject intellectual property and handling departments

Out of the intellectual output created by the University, in its handling of intellectual property the University distinguishes among “inventions, etc.,” “tangible objects of research results,” and “trademarks, etc.” Inventions, etc. concern patent rights, utility model rights, design rights, circuit layout rights, plant breeder’s rights, copyrights (limited to databases), and know-how. Tangible objects of research results are tangible objects including intellectual property derived from the results of academic research. Trademarks, etc. are trademark rights. Among works, rights to works that are an expression of the creative work of individuals predicated on regular education and research activities (such a program source code, theses, and books) belong to the individual. However, with regard to works, including program source code, that are created at the request of the University in the course of operations of the University pursuant to the stipulations of Article 15, Paragraph 1, of the Copyright Act, the copyrights belong as a rule to the University, except in instances of free dissemination such as Public Domain Software and Open Source Software. Designs and trademarks voluntarily created by Faculty, Etc., as a rule, do not belong to the University. However, in order to preserve the credibility of the University, instances created at the request of the University do belong to it.

The Intellectual Property Office uniformly handles all subject intellectual property. The Innovation and Joint Research Center cooperates in and supports these activities and actively promotes the creation, protection, control, and practical usage of the intellectual

property of the University. Departments and sections related to the Secretariat provide active support, with the Academic Affairs and Information Office Liaison Team looking after the general affairs of the Intellectual Property Office.

(2) Inventions, etc.

(a) Disclosures of all instances of inventions, etc.

Faculty, Etc. who make an invention, etc. are not allowed to provide advance disclosure to any other party, and must immediately report the entire invention and all of its content to the Intellectual Property Office. Consequently, with regard to inventions made in joint researches among industry, academia, and government, or in contracted researches, or in side activities, Faculty, Etc. are not allowed to provide any advance disclosure or enter into deliberations regarding the content of the invention, except for co-inventors outside the University.

(b) Inventors, etc.

Inventions are defined as “the highly advanced creation of technical ideas by which a law of nature is utilized.” Rights of inventors, etc. who have generated an invention are respected by the University. The term inventor, etc. refers to persons who provide specific ideas and to person who provide a specific means for resolving a presented problem. The term inventor, etc. does not refer to person who present a problem or aspiration, aggregate provided data, or perform experimental work, or provide funds and facilities to inventors, and such other comparable persons.

(3) Employee inventions

In instances of inventions where the inventing Faculty Member, Etc. belongs to the sphere of operations of the University and the actions leading to the invention, etc. belong to current or historical duties of the Faculty, Etc. at the University, such inventions constitute employee inventions. As a rule, treated as employee inventions are inventions, etc. that are produced as a result of research conducted using funds paid or controlled by the University and as a result of research conducted using resources of the University such as its facilities or equipment.

The question of whether or not an invention, etc. produced by a Faculty, Etc. corresponds to an employee invention is decided by the Intellectual Property Office based on the results of deliberations at the Invention Examination Council.

(4) Institutional ownership

Inventions that constitute employee inventions are able to be rendered institutionally

owned inventions whereby the inventor's rights are assumed and owned by the University. Rights that the University resolves not to assume do not belong to the University but belong to the inventor of the subject invention (However, the University retains non-exclusive license.). In case that the University returns to the inventor the rights to an invention that the University originally assumed as an invention corresponding to an employee invention and in respect of which it has subsequently made application procedures, the University can require of the inventor the reimbursement of the application costs out of the income generated by the implementation of the subject invention.

#### (5) Application

Applications for institutionally owned inventions are made by the Intellectual Property Office. For institutionally owned inventions, etc., applications are considered from the comprehensive perspective of feasibility of obtaining rights and marketability and with consideration of laws and regulations as well as the rules of the University. Inventions in respect of which the University resolves not to file an application do not belong to the University and rights thereto are returned to the inventor of the subject invention, etc.

For applications abroad at the cost of the University, since as a rule filings are made with the help of the JST, the necessity of filing an application abroad is determined within six months from the date of the declaration of priority. In the case of joint applications, the cooperation of the co-applicant is requested and the application filed pursuant to consultations.

#### (6) Control

When the University files applications for institutionally owned inventions, these are appropriately controlled by the Intellectual Property Office to enable the effective practical usage of the rights to the invention. In light of the maintenance cost of rights to inventions, the question of whether or not rights to inventions should be maintained is judged and determined on a comprehensive basis including the earnings potential and the cost of rights maintenance.

After two and a half years have passed since the application, if the Intellectual Property Office determines that no prospects exist that the license is granted by the examination request deadline (3 years from the application date), consultations are held with the inventor in order to return to the inventor the rights to the invention, etc. assumed by the University.

(7) Examination and decision

The examinations and decisions listed in Items (1) through (5) above are reasonably and expeditiously and with the cooperation of the inventor carried out by the Intellectual Property Office based on the provisions of the Rules Concerning Inventions of Employees of Shizuoka University and Invention Examination Regulations of Shizuoka University.

(8) Practical usage

The Intellectual Property Office works to cooperate with external technology licensing organizations to achieve the effective practical usage of intellectual property rights. While respecting the views of inventors, etc., the Intellectual Property Office determines with respect to the counterparty seeking a licensing arrangement with the University the format and terms and conditions of licensing or assignment against payment, for approval by the President.

(9) Support for ventures launched by the University

With regard to the practical use of rights through ventures launched by the University, instances are determined on an individual basis with consideration of the circumstances of the new industry and with regard for its protection. In particular, in instances where it is clear that intellectual property rights will be put to use by inventors, etc. at ventures launched by the University, with reference to the opinions of inventors, etc., on a preferential basis semi-exclusive license or exclusive license will be granted or an assignment for payment contracted.

(10) Compensation for creators of inventions, etc.

In the case of employee inventions, irrespective of assumption of rights by the University, the University automatically owns non-exclusive license and pays inventors, etc. compensation, and in this way encourages the production of inventions. Application compensation, registration compensation, or license compensation will be paid in accordance with the regulations of the University to all University internal inventors who assign their rights to the University.

In particular, in instances where the University receives payment for the practical usage of rights related to inventions, etc. in order to further stimulate the research activities at the University, pertinent budget allocations are made with the focus on Faculty, Etc. who have produced the inventions, etc. and with the remainder allocated at research



groups and the University Intellectual Property Office. The rights to these compensation amounts remain in effect after creators change employment or retire and become part of their estate after death. Details concerning compensation are stipulated in the Rules Concerning Inventions of Employees of Shizuoka University.

(11) Assessment and responsibilities of intellectual property creators

In order to encourage the creation of intellectual property, the University assesses the establishment of intellectual property rights as a performance indicator of “invention creation” and instances of implementation of rights (income generation from licensing or sale of property rights) as performance indicator of “invention implementation”. Creators and the University have a natural responsibility in the intellectual property they create and applying its benefits to society, and must in all respects cooperate in the filling of applications for employee inventions, etc. assumed by the University and the procedures for the establishment of rights, as well as in their control and practical usage. Consequently, Faculty, Etc. who plan to publish scientific papers, etc. before a patent application is made must agree to adjustments with the Intellectual Property Office as to the timing and manner of publication.

(12) Notice of inventions produced in side activities

Among inventions, etc. produced by Faculty, Etc. in side activities pursuant to the Side Activity Regulations for Faculty, Etc. of Shizuoka University, those whose origination from side activities can be reasonably concluded are not rendered institutionally owned inventions. Consequently, in order to indicate to the University that an invention does not constitute unpublished intellectual property of the University provided free of charge, in disclosing inventions, Faculty, Etc. must append a reasonable explanation on inventions’ origination.

(13) Confidentiality of the Intellectual Property Office

Until an invention notified to the University becomes institutional property, the Intellectual Property Office and the Invention Examination Council are not permitted without the consent of the inventor to disclose any information on the content of the invention to a third party. Also after a decision for institutional ownership, the Intellectual Property Office must institute measures to minimize the amount of information to be disclosed about the invention and the scope of disclosure within the University.

#### 4. Intellectual property created in cooperation among industry, academia, and government

Rights to intellectual property created between the University and external organizations including business corporations (hereinafter, “Cooperation Partners”) in cooperation among industry, academia, and government, such as contracted research or joint research, belong to the original creator. The University, based on its inventor-centered viewpoint, as a rule regards the measure of contribution of each inventor to institutionally owned inventions as the equity percentage in the rights attributable to the inventor of the invention and the acquirer who assumed the rights from the inventor. Given that intellectual property arises, on the part of both the University and Cooperation Partners, inevitably or with probability from a huge accumulation of effort, knowledge, and experience, which money cannot pay for, the University believes that the ownership percentage to intellectual property rights is not affected by the extent of research expenses or application costs. Moreover, in order to preserve the University’s public interest character, the University will not provide operating expenses for intellectual property rights alone for the benefit of specific Cooperation Partners. The following provisions apply.

1. In instances where researchers of the University alone create intellectual property, the rights belong to the University alone. The cost of application, control, and maintenance (hereinafter, “Patent Costs”) are paid in the full amount by the University. The University will grant Cooperation Partners on a preferential basis chargeable non-exclusive or exclusive license or assign rights for a consideration.
2. In instances where researchers of a Cooperation Partner alone create intellectual property, the rights belong to the subject Cooperation Partner alone. The University will not pay for the Patent Costs. The University will not participate in the exercise of related intellectual property rights.
3. In instances where researchers of the University and researchers of a Cooperation Partner together create intellectual property, ownership is shared between the University and the Cooperation Partner. The operations of the University consist of education and research, not manufacturing and sales, which the University therefore cannot implement. Since the University as a contribution to society gives precedence to the implementation through Cooperation Partners, the Patent Costs are paid for by Cooperation Partners. However, while these general principles provide the basis of operations, the University will respond flexibly depending on the case.

4. Side activities by Faculty, Etc. of the University, based on the Side Activity Regulations for Faculty, Etc. of Shizuoka University are distinct from the operations of the University and the duties of Faculty, Etc., and they constitute contributions to society performed in individuals' cooperation with industry, academia, and government. They are therefore unrelated to all intellectual property owned by the University. Rights related to instances of intellectual property creation in the course of side activities belong to the subject Faculty, Etc. or the corporation on the receiving end of the side activity. However, in order to establish whether conflicts of interest management is required, the content of inventions must be filed with the University before an application is made.

#### 5. Duty of confidentiality

The University will comply if required by a Cooperation Partner to maintain confidentiality in the processes of a research exchange with a business corporation, etc. and negotiation for cooperation between industry and academia. In such a case, the University will in turn require confidentiality on the part of the business corporation. In order to build relationships of trust in the cooperation among industry, academia, and government, the Intellectual Property Office will respond to inquiries from related parties and take appropriate actions.

#### 6. Handling in relation to students

The provisions of these Guidelines and the Rules Concerning Inventions of Employees are not applicable to students within the range of regular research activities at the University. However, in instances where an employment agreement on student labor has been concluded with the University or such other involvement of a student in the operations of the University exists, and in instances where an agreement has been concluded with the University that provides a student with the same treatment as applicable to Faculty, Etc., these Guidelines are applicable to the student. In such a case, tutors must at all times exercise care that the student suffers no loss of educational rights and freedom of choice when taking up employment. However, if the student together with the tutor, etc. submits to the application of these Guidelines and the Rules Concerning Inventions of Employees, since this enables centralized control of inventions, etc. by the University, it also opens the way for education under the integrated guidance in the laboratory, and would allow such a student to fully devote themselves to research.

## 7. Inventions of retired Faculty, Etc. and former students

Intellectual property rights created by retired Faculty, Etc. while employed, or intellectual property rights created by former students while enrolled, are, when corresponding to employee inventions, the institutional property of the University. However, instances not created within the respective periods are not institutional property.

Notably, upon such application, the University will conduct an examination for acceptance of voluntary assignment. If reasonable grounds exist for institutional ownership, the University will accept the assignment and apply the same handling as for University internal intellectual property.

## 8. Responsibility for the maintenance of rights and exemption from liability at the time of implementation

The University is responsible for establishing and maintaining the rights to intellectual property that the University owns alone or jointly with external parties, and acts to meet this responsibility. However, the University does not implement intellectual property rights and therefore accepts no liability whatsoever for damages that result from the implementation of intellectual property rights.

---