Intellectual Property
Created by Students

Eindhoven University of Technology

(This is the preliminary Student IP policy, to be authorized by the Executive Board)
TU/e PATENTS AND INVENTIONS REGULATIONS

Suppose your invention, design or idea turn outs to be the answer to a major economic or social need. Are you allowed to market it? Do you own the invention or idea? What happens to the deliverables arising from an internship or graduation project? Below we provide a list of the guidelines and regulations that are relevant to students when it comes to intellectual property rights (because that’s what this is about). In any case, check your legal position and make sure you make written agreements and get help where needed.

The TU/e has embraced challenge-based learning and entrepreneurial learning in its educational vision, which will create a growing number of opportunities for creating Intellectual Property Rights (IPR) and creating value from it—by means of startups or otherwise. The TU/e therefore wants to stimulate student-owned intellectual property, while respecting the rights of staff members and the TU/e as a whole. The formal basis of the guidelines for student IPR are the Universities of The Netherlands (UNL) guidelines as well as the Dutch Patent Act.

GENERAL APPROACH

By law, the inventor as the creator of a new technology, design, software, or other specific ideas generally owns the IPR to it. As a TU/e student you will therefore, as a general rule, automatically own all the Intellectual Property Rights (IPR) that you create from curricular and extra-curricular activities at the TU/e. The latter includes, for example, extra-curricular work in student teams in TU/e innovation Space. This general principle will cover almost all cases in which students create intellectual property. The section “Claiming and protecting IPR” below provides more information on protecting intellectual property.

EXCEPTIONS

There a few exceptions to this general approach. The first exception is when you are employed by the TU/e, for example as a student-assistant. Typically, the TU/e is then the sole owner of the IPR that arises from the employment.

Another exception occurs when the IP is created with substantial input from TU/e staff members—for example via supervision, lab support and/or materials provided. From a legal perspective, the student and staff member(s) could become co-authors or co-inventors and thus co-owners of the IP. Within the TU/e, this applies to IP arising from Master and Bachelor thesis projects, resulting in papers co-authored by the (former) students and supervisors which are published in conference proceedings or academic journals. For more complex IP, for example that could be patented, the TU/e can request that you waive the IPR to the TU/e. You must be informed of this in advance and may be asked to waive IPR before starting the work; in case of a curricular activity, you can decide not to sign the waiver document and must then be offered an alternative assignment.

A third exception occurs when intellectual property originates from an internship or graduation project in a company or institute outside TU/e. That company or institute is then, by default, the IPR owner. The company/institute and the student can further elaborate this in a written agreement between them; the TU/e (or its staff) does not participate in this agreement.

The formal basis of the general rule and its exceptions, as outlined above, is the UNL (formerly VSNU) guidelines (these can be found here). Please also check the FAQ regarding these guidelines.
RESPECT FOR IPR OF OTHERS

The TU/e community can only thrive and excel if both students and staff members respect the intellectual property of others. This means one cannot and should not deliberately claim any rights on work created by others or copy the work of others (without the owner’s permission), regardless of whether the latter are scholars, students, or third parties. This is key moral principle for the TU/e community.

CLAIMING AND PROTECTING IPR

When we say that you “own” the IPR, it essentially means that you’re entitled to legally claim this IPR where it does not arise automatically. There are various ways to claim and protect IP: for example, patents, copyrights, and design rights; see Wikipedia’s page on IP for a complete overview. The most important way to protect technological inventions is via patents.

If you do not claim the IP of your invention by submitting a patent application, you can do your best to keep this invention secret, but ultimately your “ownership” of the invention is likely to become an empty statement. That is, if you do not legally claim and protect the ownership of your invention by filing a patent application,
you’ll be limited in your ability to prevent others from exploiting it. If you need help in deciding whether a patent application is feasible, please consult one of the IP Managers at The Gate [GateIPGroup@tue.nl].

The costs of a Dutch patent application vary widely depending on the complexity of the invention and the hourly rates charged by the patent attorney, these costs are commonly between EUR 5,000 and EUR 10,000. For an international patent application, these expenses are substantially higher. For a patent application, you can request advice and support of The Gate.

**IPR created by multiple students**

The general principles outlined above apply to an individual student as well as a group of students creating intellectual property. Notably, the TU/e cannot regulate how a group of students arranges the shared ownership of the IPR co-created by these students. We recommend that you discuss any (potential) IPR issues as early as possible with your peers. It is also important to document the various activities and (interim) deliverables of individual contributions to group work in as much detail as possible.

**If you’re invited to sign a waiver**

In the “Exceptions” section above, we already referred to the possibility that you’re invited to waive any IPR before starting a specific educational or extra-curricular activity. The standard **Waiver** document can be used for this. Typically, if TU/e staff members invite you to sign an IPR waiver or transfer document, they do so because you’ll work on a new technology that is part of an ongoing research program with its own IP agreements and rights; the latter agreements and rights will then need to remain intact and limit the IP space of any students involved. Students must be clearly informed of these limitations in advance. If you’re invited to sign a waiver, you can choose to not do so; in case of an extra-curricular activity led by a staff member, this will typically mean you cannot join that activity. In case you decline to sign a waiver for an educational activity, part of a course in the TU/e Bachelor College or Graduate School curriculum, the course coordinator has to offer you an **alternative** assignment (without any IPR waiver). In any case, the TU/e staff member should give you sufficient information about the why and how of the need to sign an IP waiver.

**Compensation for inventors**

If you’re an owner or co-owner of IPR, you are free to transfer these rights to any other party. You may choose to do this when you’re not interested in creating a startup, based on this IPR, yourself. If you transfer the IPR to the TU/e you’ll be rewarded on the same basis as TU/e staff members, that is, by sharing in the monetary benefits that may accrue to TU/e from efforts to sell and/or license the IPR. The transfer of IPR enables others to exploit these rights, while acknowledging the role of the initial inventor(s). Please consult the TU/e Patents and Inventions Regulations for more information.

**IP Board [to be established]**

The TU/e has an IP Board that monitors the proper functioning of the IPR guidelines for staff members and students. It can be petitioned in case of disputes on IPR issues. The IP Board’s assessment of a specific IPR issue needs to be confirmed in a formal decision by the Executive Board of the TU/e and cannot be changed by any other body within the TU/e.

Questions? Please contact The Gate: Info@thegate.tech