



REGULATION OF INTELLECTUAL PROPERTY OF UNIVERSITY FERNANDO PESSOA

Introduction

Having in mind that UFP:

Is held by Fundação Ensino e Cultura “Fernando Pessoa”, its founding entity, which is responsible for creating and securing the conditions for its normal working, ensuring its administrative, economic and financial management, as well as the approval of its regulations;

Aims to encourage cultural creation and development of critical thinking and scientific spirit, as well as to encourage research and fundamental and applied scientific research, as well as the dissemination of its results;

Seeks to position itself as a partner of excellence among the main key actors in regional and national development, seeking to attribute the means and to promote the mechanisms to facilitate the processes of creation and innovation, and sustained forms of knowledge and technology transfer generated in its community;

Considers it important to ensure the internal framework of the complex reality of Intellectual Property, including Industrial Property Rights, Copyright and Related Rights, computer programs and unpatented technical information, as well as the importance of possible cooperation and participation of external entities.

In this context, this regulation incorporates the regulation process of the Intellectual Property generated by UFP and it is divided as follows:

Chapter I - General Scope

Chapter II - On Industrial Property Rights

Chapter III - On Copyright and Related Rights

Chapter IV - Final and transitional provisions

According to the foregoing, the Board of Directors of Foundation Fernando Pessoa, under the powers conferred, decided to approve this Regulation.



Chapter I - General Scope

Article 1 (Objectives)

The objectives of this Regulation are:

- a) To foresee and set the ownership of Industrial Property Rights, Copyright and Related Rights, computer programs and unpatented technical results, resulting from creation and research activities carried out at University Fernando Pessoa, UFP hereafter;
- b) To foresee and set the participation of UFP in the management of the results of the creation and research activities carried out within it;
- c) To foresee and set the participation of Fundação Ensino e Cultura “Fernando Pessoa”, by itself or through other entities indicated or contracted by it, hereinafter Foundation Fernando Pessoa, especially in its condition of Founder entity, regarding the management of the results coming from the creation and research activities conducted within UFP;
- d) To regulate the rights of all UFP employees, including teachers, researchers, students, alumni, grant holders and staff;
- e) To encourage an innovative environment that enables the creation of innovative and technology-based companies from the results derived from UFP;
- f) To safeguard the moral right of the inventor or creator, on the understanding that the personal dimension involved in the creation, especially as an area of freedom, is inalienable, under any pretext.

Article 2 (General Principles)

The general principles of this Regulation are the following:

- a) The ownership of Industrial Property Rights by UFP, keeping up with most of the national and European institutions.
- b) The ownership of Copyright by the intellectual creator, according to the nature and specifics of the rules foreseen in the code of Copyright and Related Rights.
- c) The prediction of the special cases of computer programs and databases since its importance requires a special prediction under this Regulation.
- d) The guarantee of the role of the researcher, understood in the sense of recognition, when sharing revenues from the increasing of the value and the exploitation of research results, of the intellectual effort as essential factor to the creative process.



- e) The centralization of the procedures and professional monitoring of the protection of the process of Intellectual Property Rights, which the natural complexity of regulated materials requires, to a context of direct cooperation with the inventors and the creators.
- f) The decision unit in the relationship between UFP and other entities, where negotiation aimed at the exploitation and increase of the value of research results and other creations, should be conducted in a centralized manner in order to ensure maximum effectiveness, success and transparency of the efforts developed.

Article 3 (UFP competences)

It is incumbent to UFP:

- a) To implement this Regulation, defining additional procedures for this purpose, if necessary;
- b) To receive all the information about research results, final or intermediate, susceptible to legal protection;
- c) To make decisions regarding applications for registration of Industrial Property Rights or Copyright and Related Rights, or other alternative forms of increasing their value, in collaboration with the respective inventors or creators;
- d) To manage Intellectual Property Rights and to determine forms to increase their value, whenever deemed fit, in partnership with Foundation Fernando Pessoa;
- e) To set the principles in activities of technology transfer;
- f) To share the results of the exploitation of its intellectual assets with its staff and, whenever deemed fit, in association with Foundation Fernando Pessoa or other entity designated by it.

Article 4 (Delegable competences)

1. In order to implement the provisions of this Regulation, UFP could empower one or more entities to prepare and perform several acts, particularly those necessary for identification, protection, management and exploitation of Intellectual Property Rights.
2. Under this Regulation, references to UFP are applicable to the entity to whom powers might be delegated.



Chapter II - On Industrial Property Rights

Article 5 (Scope)

1. This Regulation applies to all inventions and creations to be protected by Industrial Property Rights, such as invention patents, utility models, designs or models, owner rights of plant varieties or topographies of semiconductor modules, being its principles also applied to computer programs with industrial applicability and likely to contribute to the resolution of technical problems.
2. It applies also to not patented technical information, and to distinctive signs capable of registration as trademarks, logos and rewards, designations of origin or geographical instructions.
3. It applies equally to new objects of Industrial Property Rights that may eventually be legally protected.

Article 6 (Rights Ownership)

1. UFP determines as basic principle its right to the ownership of Industrial Property Rights referred to in the previous article and generated within any creation and research activity carried out in its midst by its teachers, researchers and other employees, regardless of the legal basis of the work relationship.
2. Without prejudice to any legal provisions that stipulate or will stipulate otherwise, UFP also owns the Industrial Property Rights focusing on inventions and other intellectual creations conceived and made by any subjects not specified in the preceding number, including students of any cycle, performing activities at UFP, or whose achievements involved the use of its facilities, means and resources.
3. The participation of the subjects referred to in the above number in projects likely to generate results, subject to protection by means of Industrial Property Rights, should be preceded by the signing of Annex A, in which it is recognized the assignment of ownership on those findings and Industrial Property Rights to UFP, as well as its subjection to the standards of this Regulation.
4. The General Regime of ownership given in number 1 of this article also applies to researchers hired by UFP covered by the Statutes of Scientific Research Career.
5. The researchers referred to in the preceding number of this article may choose, by written request addressed to the Rector of UFP, the joint ownership, according to the legal provisions of the Portuguese Decree-Law No. 124/99 of



April 20th, with the costs inherent to the process and management of the legal protection by economic exploitation of those results shared equally between Foundation Fernando Pessoa and the inventor.

Article 7 (Moral right of the inventor)

The rights foreseen in favor of UFP in this Regulation do not affect the right of the inventor or the creator to be designated as such in the request for protection of the invention or industrial creation, and to claim its authorship and integrity where applicable.

Article 8 (Contract of Research and Development)

1. All contracts or agreements celebrated between UFP and other entities of any nature, of which the main or secondary goal involves research and development activity, regardless of its form of funding, must compulsorily foresee the regulation of the ownership of Industrial Property Rights and the exploitation of the results obtained.
2. In the celebration of the contract the parties may, by negotiation or understanding, stipulate another owner than UFP, of the rights inherent to the results obtained.

Article 9 (Protection)

1. Foundation Fernando Pessoa, or its designee, will bear the full charges of the application processes, maintenance, defense and surveillance of the industrial rights required on behalf of UFP and that it holds.
2. UFP should determine the scope of legal protection for any inventions or creations that is or that may be holding.
3. The inventor cannot oppose the request and maintenance of the legal protection desired by UFP.
4. If UFP, in the use of administrative powers of its Industrial Property Rights, decides to withdraw the maintenance of the required legal protection, it will give prior notice to the inventor or creator, offering him/her the chance to take on the ownership in question.



5. The notice referred to in the preceding number must be made at least ninety days prior to the deadline for the maintenance of the existing rights.
6. If the inventor or creator expresses his/her intention to assume the ownership of the right, a contract for the transfer of that right must be celebrated.

Article 10 (Exploitation method)

1. UFP together with the inventor or creator, and whenever deemed fit, in agreement with Foundation Fernando Pessoa, will decide on how, specifically and with which entities, the invention or creation which it holds will be economically exploited.
2. The inventor or creator has the right to be informed by UFP of all efforts related to the exploration process, namely the precise terms of contract proposals.

Article 11 (Distribution of profits)

1. The net profits resulting from the economic exploitation of Industrial Property Rights that UFP will hold will be divided as follows,
 - 70% to the inventor or creator;
 - 30% to Foundation Fernando Pessoa, or designated entity - unless there are exceptional circumstances justifying a different division - which will be distributed as follows:
 - i. 10% will be allocated by the Foundation for promotion of R+D+i;
 - ii. 10% will be allocated to the Organic Unit or Sub-Unit or other entity where the work was developed, since this belongs to the structure of UFP;
 - iii. 10% will be allocated to administrative support.
2. If there are multiple inventors or creators an equal division will be assigned, unless there is a written agreement between them to establish other division, and provided that they bring that agreement to UFP's knowledge.

Article 12 (Net income)

The income to be divided between Foundation Fernando Pessoa and the inventor or creator will refer to the amounts obtained in the process of increasing the value of



research results, in any way, deducted from the fees or taxes owed, as well as from the costs spent with the formalities of the application and other expenses such as consulting, fees of liberal professionals involved in the process of protection and jurisdiction, and also of the ones supported in the stage of commercialization and exploitation of the same results.

Chapter III - On Copyright and Related Rights

Article 13 (Purpose and Scope)

1. For the purposes of this Regulation, will be considered as creations to be protected by Copyright or Related Rights the intellectual creations in the literary, scientific and artistic domain, whatever the genre or form of expression, including literary works, works of Art, audiovisual works, multimedia works or any other creation that may be considered as a work, including, under the Portuguese law, computer programs per se (software).
2. The provisions of this Regulation will also apply to new objects of Copyright and Related Rights that may eventually be legally protected.

Article 14 (General rule)

UFP recognizes and enshrines the basic principle that the ownership of rights of the works designed and implemented by researchers, teachers, students and other staff in carrying out its activities developed or arising from acts or services performed at UFP belongs to its creator or author, unless otherwise agreed in writing as foreseen and accepted by the Portuguese general law.

Article 15 (Special Cases)

1. UFP and, whenever deemed fit in agreement with Foundation Fernando Pessoa, may assume the ownership of Copyright and Related Rights, by prior written agreement with the author or creator whenever one of the following situations happens:



- a) The work performed takes place from a contract celebrated between UFP and other entity, in which it expressly provides that the ownership of Copyright belongs to UFP;
 - b) The execution or completion of the work involves the use of UFP's equipment or resources.
2. In any event the creator of the work will keep the moral rights foreseen in the Portuguese applicable laws.

Article 16 (Mention to UFP)

Whenever the execution or completion of the work involves the use of UFP means or contributions from Foundation Fernando Pessoa, UFP should be compulsory mentioned in the work.

Article 17 (Computer programs and databases)

1. UFP considers as general principle that computer programs per se and databases are always included in the case referred to in point b) of number 1 of Article 15.
2. The net revenues resulting from works that UFP will hold will be shared between Foundation Fernando Pessoa and the creator according to the division criteria foreseen in Article 20.

Article 18 (Contracts)

1. Contracts celebrated between UFP or singular and collective person designated by it and other entities whose primary or secondary purpose directly or indirectly involve the creation of works, should address the regulation of the ownership and exploitation of the respective Copyright and Related Rights.
2. The contracts referred to in the preceding number may provide, by negotiation or understanding between the parties, other holder of the inherent rights than UFP, according to the latter's decision.
3. The contracts referred to in number 1 include in particular those aimed at funding the work carried out by UFP.



Article 19 (Use of the means of UFP)

1. Whenever it is expected to use UFP means and/or contributions of Foundation Fernando Pessoa in the preparation of a work or intellectual creation susceptible of protection by Copyright and Related Rights, its consent must be required in advance to UFP.
2. UFP's consent per se or with the intervention of Foundation Fernando Pessoa is dependent on the celebration of an agreement with the author(s), following the formal requirements imposed by the Portuguese general law, in which ownership rules and the exploitation of their Copyright are established.

Article 20 (Distribution of Revenues)

1. The net revenues resulting from the economic exploitation of Copyright and Related Rights that UFP might hold will be shared as follows:
 - a) 70% to the author or creator;
 - b) 30% to Foundation Fernando Pessoa, or designated entity - unless there are exceptional circumstances justifying a different division - which will be distributed as follows:
 - i. 10% will be allocated by the Foundation for promotion of R+D+i;
 - ii. 10% will be allocated to the Organic Unit or Sub-Unit or other entity where the work was developed, since this belongs to the structure of UFP;
 - iii. 10% will be allocated to administrative support.
2. If there are multiple authors or creators an equal division will be assigned, unless there is a written agreement between them to establish other division, and provided that they bring that agreement to UFP's knowledge.
3. The net revenues referred to in number 1 of this Article will refer to the amounts obtained in any way, minus the costs of execution of the work, the fees of liberal professionals and other expenses including those related to the stage of protection and jurisdiction, as well as fees and taxes.

Article 21 (Charges with protection)

Foundation Fernando Pessoa will bear the charges related to the legal protection of the rights that UFP will hold.



Chapter IV - Final and transitional provisions

Article 22 (Entry into effect)

1. This Regulation of Intellectual Property of University Fernando Pessoa will come into effect after its approval by the Board of Directors of Foundation Fernando Pessoa.
2. This regulation is fully and publicly disseminated with its inclusion in UFP's website – intranet.

Article 23 (Interpretation and omissions)

The interpretation and integration of this regulation, in particular in the omitted cases, will be made out in accordance with the Portuguese general law, including the Code of Industrial Property, Code of Copyright and Related Rights and the general principles of the Portuguese law.

Article 24 (Revocation of previous standards)

This regulation invalidates and overlaps all and any standards existing and in force at UFP and in its Organic Units or Sub-Units related to the regulation of Intellectual Property Rights.