

**Addendum to Administrative Council Decision No. 3310 of 27.02.2017**

**Intellectual property policy at Babeş-Bolyai University of Cluj-Napoca  
(UBB)**

**Note:**

- This document contains ideas and excerpts from other documents of public interest belonging to Babeş-Bolyai University in Cluj-Napoca (UBB) and other leading international universities (Harvard University, <http://otd.harvard.edu/faculty-inventors/resources/policies-and-procedures/statement-of-policy-in-regard-to-intellectual-property/>, Stanford University <https://otl.stanford.edu/>, Politecnico di Milano <http://www.polimi.it/en/scientific-research/patents-and-licensing/>, etc.) and of entities which are relevant to the topic covered (<http://uefiscdi.gov.ro/userfiles/file/pdf%20publicatii/MANUAL%20DE%20BUNE%20PRACTIC%20INVENTII%20DE%20SERVICIU.pdf>).
- The document compiles in a coherent framework content related to intellectual property, as regulated under different laws.
- The document was drafted by the Office for Management, Technology and Cognitive Transfer at Babeş-Bolyai University (OMTTC).

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## INTRODUCTION

According to the World Intellectual Property Organization<sup>1</sup>, the term intellectual property (IP) refers to creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce.

Intellectual property falls into two major categories:

1. Industrial property, which includes patents, trademarks and geographical indications, industrial designs and layout designs;
2. Copyright, which includes scientific, literary, and artistic works, such as scientific works, novels, poems, drama, games, films, music, websites, paintings, photographs, sculptures, architectural design, etc.

## I Concepts and objectives

Babeş-Bolyai University of Cluj-Napoca (UBB) is a university of advanced research and education, strongly influenced by Humboldtian principles, oriented towards excellence and competitiveness. Research activity within this framework is promoted at all three levels: fundamental and applied research, development, and innovation (research-development-innovation/RDI). One aspect of this activity is technology and knowledge transfer, whereby the knowledge acquired through research conducted by UBB translates into innovative products, technologies, and services that impact human life in a profound and positive way.

The present document aims to provide a general framework for the protection of intellectual property and the exploitation of all categories of intellectual property at UBB, both short-term and long-term, by adopting a comprehensive approach designed to:

1. Ensure patent protection for employee inventions developed at UBB;
2. To prepare the conditions for capitalization through effective and beneficial licensing for all parties involved and to defend the interests of the university in relation to

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<sup>1</sup> Brochure What is intellectual property? World Intellectual Property Organization, page 2, [https://www.osim.ro/publicatii/editura/Brosuri/04\\_Ce%20este%20proprietatea%20intelectuala.pdf](https://www.osim.ro/publicatii/editura/Brosuri/04_Ce%20este%20proprietatea%20intelectuala.pdf)

intellectual property generated by employees - teaching and research staff, support staff, students<sup>2</sup>, collaborators, and other third parties in relation to the university;

3. To provide the contractual opportunity to secure intellectual property rights, upon request by the author.

Through this activity, UBB aims to secure a competitive advantage both nationally and internationally, as well as involvement in society through its entrepreneurial component (UBB RDI Strategy 2016-2020).

## **II Legal framework**

1. National Education Law No. 1/2011;
2. Law No. 64 of 11 October 1991 on patents, as published in the Official Gazette of Romania, Part I, No. 613 of 19 August 2014;
3. Law No. 8/1996 on copyright and associated rights;
4. Law No. 83 of 24 June 2014 on employee inventions;
5. Law 350/2007 on utility models;
6. Law No. 319 of 08 July 2003 governing the Status of research and development personnel;
7. Ordinance No. 57 of 16 August 2002 on scientific research and technological development and Law No. 324 of 8 July 2003 approving Government Ordinance No. 57/2002 on scientific research and technological development;
8. Government Ordinance No. 66/2000 on the establishment and practice of the profession of industrial property advisor, republished;
9. The Research-Development-Innovation (RDI) UBB Strategy - 2016-2020 approved by Decision No. 14,383/26.07.2016;
10. Regulation governing the organisation and operation of the Office for Management, Technology and Cognitive Transfer, approved by UBB Senate Decision No. 14384 of 26 July 2016.

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<sup>2</sup> Students will be covered by a specific document (see final provisions).

### III Employee inventions<sup>3</sup>

The legal framework<sup>4</sup> governing employee inventions is Law No. 83/2014, which was published in the Official Gazette No. 471/2014 and entered into force on 29 June 2014. Law No. 83/2014 applies to inventions that are eligible for protection by a patent or registered utility model (art. 1, para. 2).

a. Definitions

- Innovation<sup>5</sup> - implementation of a new or substantially improved product/technology, service, or process, or a new marketing or business method, in hands-on work, the organisation of the workplace, or external relations.
- Invention<sup>6</sup> is a technical solution or achievement in a field of knowledge that presents a new or progressive development compared to the previously known state of the art.
- Innovation<sup>7</sup> is a solution to a technical or work organisation issue aimed at improving (productivity) work and technical upgrading.
- Patent<sup>8</sup> is an official title conferring exclusive rights to exploit an invention (a product, process, or method) for a specified period of time.
- Utility model<sup>9</sup> - protects a new technical invention that goes beyond purely professional skill and is susceptible to industrial application.
- Employee inventions<sup>10</sup> - are inventions made by an individual inventor or a group of inventors when the individual inventor or at least one member of the group is employed by a legal entity governed by public or private law, which are eligible for patent protection or utility model registration, and which meet the following requirements:

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<sup>3</sup> This chapter draws on Chapter 3 of the Handbook of Good Practices for the enforcement of legislation on employee inventions, UEFISCDI, June 2015, <http://uefiscdi.gov.ro/articole/4111/Manual-de-bune-practici-pentru-aplicarea-legislatiei-privind-inventiile-de-serviciu.html>, pp. 4-10, which were adapted and cross-referenced with other legal provisions and with the University vision and necessities.

<sup>4</sup> Handbook of Good Practices for the enforcement of legislation on employee inventions, UEFISCDI, June 2015, <http://uefiscdi.gov.ro/articole/4111/Manual-de-bune-practici-pentru-aplicarea-legislatiei-privind-inventiile-de-serviciu.html>, page 4.

<sup>5</sup> Government Ordinance 57/2002 on scientific research and technological development, Addendum 1 Definitions

<sup>6</sup> <https://dexonline.ro/definitie/inven%C8%9Bie>

<sup>7</sup> <https://dexonline.ro/definitie/inova%C8%9Bie>

<sup>8</sup> <https://dexonline.ro/definitie/brevet>

<sup>9</sup> Law 350/2007 on utility models

<sup>10</sup> Law 83/2014 on employee inventions

- a) have emerged during the performance of the inventor's work duties, expressly set out in the individual employment contract and job description or established by other documents binding on the inventor, which provide for a task involving invention;
- b) were obtained during the period of the individual employment contract, as well as for a maximum period of 2 years after its termination, as applicable, through the knowledge or use of the employer's experience by using the employer's material resources, as a result of the professional training and education acquired by the employee-inventor at the employer's expense or by using information resulting from the employer's activity or made available by the employer.
- Employee<sup>11</sup> - any natural person who performs a paid activity under an individual employment contract, for and under the authority of a legal person governed by public or private law.
- The employer's industrial property advisor<sup>12</sup> - authorised natural person who carries out their activity in accordance with the provisions of Government Ordinance No. 66/2000 on the establishment and practice of the profession of industrial property advisor, as republished;
- Research and development activity<sup>13</sup> includes scientific research, experimental development, and innovation based on scientific research and experimental development. Scientific research includes basic research and applied research.

## **b. Ownership of employee inventions**

Pursuant to articles 3 and 5 of Law 83/2014, the right to an invention belongs to:

(1) UBB, in the following situations:

- the invention is work-related under the terms of article 3, paragraph 1, letter (a);

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<sup>11</sup> Law 83/2014 on employee inventions

<sup>12</sup> Law 83/2014 on employee inventions

<sup>13</sup> art. 2 para. (I) of Government Ordinance no. 57/2002 on scientific research and technological development, ratified as amended and supplemented by Law no. 324/2003, as further amended and supplemented

- the invention is related to the employer under the provisions of art. 3, paragraph 1, letter (b), and UBB claimed the invention within the legal deadline.

(2) the employee (inventor) in the following situations:

- the invention is work-related and there is a contractual provision whereby UBB grants the inventor the right to the invention;
- the invention is related to the employer and UBB did not claim the invention within the legal deadline;
- the invention is not work-related and is not connected to the employer.

**c. Rights and obligations of the employee (inventor) and UBB (employer)**

(1) The employee (inventor) has the following obligations:

- to immediately notify the Office for Management, Technology and Cognitive Transfer (OMTTC) of Babeş-Bolyai University (UBB) about each invention with a document giving an overview of the invention, describing the solution to the issue with enough details to define the invention and the conditions under which it was created. The invention shall be described according to the form provided by OMTTC. The notice obligation also applies to former UBB employees for a maximum period of two years after the termination of their employment contract. In such cases, within a maximum of four months from the date of registration of the notice with UBB, UBB shall notify the inventor whether the invention falls within the category of work-related inventions and whether UBB will take all necessary steps to claim the rights thereto.
- to provide assistance and collaborate in order to secure protection and exploit the invention in all ways requested by UBB representatives through OMTTC;
- to inform the employer in writing of any application for a patent or registration of a utility model for an invention that is neither work-related nor connected in any way with the employer (art. 8, paragraph 4 of Law No. 83/2014);
- not to disclose or publish the invention classified as a work-related invention without the written consent of UBB;
- Within six months of the adoption of this policy, all UBB employees involved in research and development activities, as provided in article 3. letter a), shall sign a

statutory declaration undertaking to comply with the confidentiality clause in relation to potential employee inventions.

- to seek the approval of the UBB in relation to the identification, attribution, and use of property rights corresponding to the expected results if they intend to enter into external agreements with a third party for the purpose of carrying out research and development activities (e.g., they intend to obtain funding through research projects carried out in consortium by several legal entities). The approval must be obtained prior to submitting the project/funding application, even if the agreement is not specified as a requirement by the funding entity during the application stage.

(2) The employee (inventor) is entitled to:

- request assistance from OMTTC for a detailed description of the invention;
- obtain from UBB, within 4 months of the OMTTC notification concerning the invention, a decision on whether the invention falls within the category of employee inventions and whether UBB claims ownership of it;
- be informed by UBB, after submitting the application for the protection of the employee invention, on the status of the application process;
- challenge the classification of his invention by UBB before the relevant court, under common law, within four months;
- be informed by UBB through OMTTC when an application for a patent or utility model registration is filed;
- claim the right to protection, in the event that UBB transfers the right to protection to the employee, not wishing to continue the formalities after the application for protection of the employee invention was filed, or is not seeking to protect the employee invention in certain countries other than Romania, provided that, in this case, the employee grants UBB a non-exclusive license for the patented invention;
- be entitled to a percentage of the income generated by UBB as a result of the use of the invention, subject to the conditions for the creation of a work invention set out in article 3, paragraph 1, letter (b);

Upon obtaining the patent/utility model, the rights of the employee who is not the owner of the patent/utility model are as follows:

- the right to have their name, surname, and position mentioned in the application for the employee invention claimed by UBB, and in other documents and publications relating to the invention in question (at the express request of the employee, their name and surname shall not be published);
- the right to obtain a duplicate of the certificate of invention;
- the right to be informed by UBB (the applicant for the patent/utility model) on the status of the application for the patent/utility model and on the status of the implementation of the invention.

(3) UBB (the employer) is entitled to:

- be informed by the employee of the existence of the invention and be given a detailed description of it;
- to analyse the employee's invention and decide whether it falls within the category of work-related inventions and, if so, what type of work-related invention it is, as well as whether to claim ownership of it, subject to the deadlines set out in Law 83/2014;
- to inform the employee of the decision concerning the classification of the invention and the right of ownership;
- to request assistance from the employee in securing protection and capitalising on the invention;
- to file an application for a patent or utility model registration in Romania and/or other countries, claiming right of priority in Romania;
- Based on an internal report prepared by OMTTC, UBB reserves the right to decide whether or not to file a patent application for a work-related invention.
- to be the title holder of the patent or registered utility model certificate issued for a work-related invention.

Once the patent/utility model certificate is obtained, UBB has the following rights:

- ownership of the invention;
- the right to prevent third parties from performing the following actions without its permission:
  - for products: manufacturing, marketing, putting up for sale, use, import, or storage with a view to marketing, selling, or use;

- for processes or methods: the use thereof.
- the exclusive right to use the invention;
- the right to make the invention public.

(4) UBB (the employer) has the following obligations:

- to provide assistance, through OMTTC or the industrial property advisor, to the employee for the detailed presentation of the invention;
- to inform the employee when an application for a patent or utility model registration is filed;
- to cover the costs associated with obtaining a patent for the invention or registration of a utility model for the claimed work invention;
- to pay the employee-inventor, pursuant to the law;
- to transfer to the employee, at their request, the right to protection, if they no longer wish to follow up on the patent application or are not interested in seeking protection for the invention in certain countries, provided that the employee grants UBB a non-exclusive license for the patented invention.

#### **d. The situation in which UBB does not claim the work-related invention**

Where UBB has decided not to file a patent application, inventors may file a patent application themselves. Failure to claim the invention by UBB is conditional upon approval by the Senate and an agreement between the inventor and UBB as follows:

- The inventor shall reimburse UBB for all expenses and legal fees incurred by UBB if and when the inventor(s) receive(s) any income from the invention;
- To share with the university 20% of the net income (the income left over after reimbursement of the above-mentioned expenses to the university);
- To fulfil any obligations to third parties who contributed to the development of the invention;
- UBB is entitled to use the invention for research, education, and medical purposes, and to grant such rights to non-profit institutions, irrevocably and perpetually, without ownership rights, non-exclusively, anywhere in the world.

- If the inventor registers patents with owners other than UBB, it must be mentioned that these patents were developed as a result of research conducted at UBB.

## **IV Unpatented materials**

### **a. Definitions**

- The phrase “unpatented materials created by UBB employees and students” refers to inventions that are not eligible for patenting (as defined in art. 8 of Law 64/1991), scientific/academic databases or other materials useful for research or commercial purposes, for which patent applications are not filed or, if filed, the patent is not granted, as well as materials developed by UBB employees and students in accordance with the terms of an agreement between UBB and a third party; or with the use of direct or indirect financial support from UBB, including support or funding from any outside source, allocated or administered by UBB; or with the use (other than incidental use) of space, facilities, materials, or other resources made available by or through UBB.
- Under Article 8 of Law 64/1991, patents are NOT granted for:
  - a) inventions which, if exploited commercially, would be contrary to public policy or morality, including those which are harmful to the health and life of humans, animals, or plants, and which are likely to cause serious damage to the environment, provided that this exclusion does not depend solely on the fact that the exploitation is prohibited by a legal provision;
  - b) plant varieties and animal breeds, as well as essentially biological processes for obtaining plants or animals. This provision does not apply to microbiological processes and products obtained by these processes;
  - c) inventions involving the human body at the various stages of its formation and development, as well as the simple discovery of one of its elements, including the sequence or partial sequence of a gene;
  - d) methods of treating the human or animal body, through surgery or therapy, and methods of diagnosis practiced on the human or animal body. This provision does not apply to products, in particular substances or compositions, intended for use in any of these methods.

- Authors/Co-authors are persons identified by the laboratory manager or lead researcher of a particular research program as having made a contribution to the development of Unpatented Materials.

#### **b. Ownership rights and capitalisation**

UBB owns all rights to unpatented materials and may dispose of them as it sees fit in the public interest, including granting or transferring licenses for unpatented materials for research and commercial purposes. The remuneration policy for unpatented materials is provided in Chapter VIII of the present document.

### **V Copyright of UBB employees and students**

Creative intellectual work is the concrete result of developing a work that goes toward passing on and adding to our cultural heritage. Following a formal agreement, UBB may become the protector of these rights subject to the terms and conditions specified in paragraphs V-IX.

Copyright over literary, artistic, or scientific works, as well as other works of intellectual creation, is acknowledged and guaranteed under the terms of Law No. 8 of 14 March 1996 on copyright and related rights.

Copyright is attached to the author and covers moral and economic rights, under the last paragraph of article 1, paragraph 1 of Law No. 8/1996.

Article 1, paragraph 2 of Law No. 8 of 1996 provides that “Intellectual works are recognised and protected, regardless of whether they are published, by the mere fact of their creation, even in unfinished form” and article 3, paragraph 1 defines the author as “the natural person or persons who created the work” (including editing/translation).

Under Article 12 of Law 8/1996, the author of a work has the exclusive right to decide whether, how, and when their work will be used, including consenting to the use of the work by other authors.

#### **a. Subject matter of copyright**

Under Article 7 of Law No. 8 of 14 March 1996, copyright covers “original works of intellectual creation in the literary, artistic, or scientific fields, regardless of the method of creation, medium, or form of expression, and regardless of their value or purpose, such as:

- a) literary and journalistic writings, conferences, speeches, legal arguments, lectures, and any other written or oral works, as well as computer programs (including software tools) - which will be discussed in the next chapter of the present document;
- b) scientific work, written or spoken, such as: reports, studies, university lectures, school textbooks, scientific projects and research documentation;
- c) musical compositions with or without lyrics;
- d) plays, musical dramas, choreographic works, and silent plays;
- e) cinema productions, as well as any other audiovisual productions;
- f) works of photography, as well as any other works produced by a process analogous to photography;
- g) artworks of fine or graphic art, such as: sculptures, paintings, graphics, engravings, lithographs, monumental art, scenography, tapestries, ceramics, glass and metal art, drawings, designs, as well as works of applied art on products intended for practical use;
- h) architectural works, including drawings, models, and graphic designs that contribute to architectural projects;
- i) artwork, maps, and drawings in the field of topography, geography, and science in general.”

## **b. Scope of copyright**

The first paragraph of article 33 of Law No. 8 of 14 March 1996 stipulates that “the following forms of use of a work previously released to the public are permissible without the author’s consent and without payment of any remuneration, provided that they comply with good practices, do not interfere with the lawful use of the work, and do not prejudice the author or the rights holders:

- a) reproduction of a work in the context of legal, parliamentary, or administrative proceedings, or for public safety purposes;

- b) making short quotations from a work for the purposes of analysis, commentary, or criticism, or by way of illustration, to the extent that their use justifies the length of the quotation;
- c) using isolated articles or short excerpts from works in published material, radio or TV broadcasts, or audio or audiovisual recordings, intended solely for educational purposes, as well as reproducing isolated articles or short excerpts from works for educational purposes within educational or social welfare institutions, to the extent justified by the intended purpose;
- d) the reproduction for information and research purposes of short extracts from works, within libraries, museums, film libraries, sound archives, archives of public cultural or scientific institutions, which operate on a non-profit basis; the complete reproduction of a copy of a work is permissible for the purpose of replacing it in the event of damage, serious deterioration, or loss of the only copy in the permanent collection of the library or archive in question;
- e) specific reproductions made by publicly accessible libraries, educational institutions, museums, or archives, which are not made for the purpose of obtaining a direct or indirect commercial or economic advantage;
- f) the reproduction, to the exclusion of any means that come into direct contact with the work, the distribution or disclosure to the public of the image of a work of architecture, fine art, photography or applied art, permanently located in public places, except in cases where the image of the work is the main subject of such reproduction, distribution, or communication and is used for commercial purposes;
- g) the representation and performance of a work as part of the activities of educational institutions, exclusively for specific purposes and provided that both the representation or performance and public access are free of charge;
- h) the use, for advertising purposes, of images of works presented in publicly accessible or sales exhibitions, fairs, public art auctions, as a way to promote the event, excluding any commercial use;
- i) using short demonstrations of computer programs/software tools for educational/teaching purposes.”

**c. Ownership of intellectual property**

Copyright, which includes moral rights as well as economic rights over an intellectual work, belongs exclusively to the author, and under Article 11, paragraph (1), moral rights may not be waived or transferred.

Under Article 39, paragraph 1, the author or copyright holder may only transfer their economic rights to other persons by way of an agreement. The transfer of copyright is covered in *Chapter VII - Transfer of copyright* of Law No. 8 of 1996.

Subject to the limitations set forth in the subsection below, authors retain copyright and may retain any income derived therefrom in books, films, videotapes, works of art, musical works, and materials and other copyrights of any nature or kind, and in any format, except for computer software, which are subject to section VI (Computer Software) of this policy.

#### **d. Exceptions**

- Whenever research activity is related to or subject to an agreement between UBB and a third party that contains obligations or restrictions regarding copyright or the use of copyrighted materials, these are treated in accordance with the interinstitutional agreement. When negotiating with third parties, project managers and UBB should strive to protect and promote the interests of UBB, both in terms of individual author rights and UBB rights, in accordance with the public interest and this policy.
- UBB may acquire, at any time, copyrights to materials through agreements with the author(s) or other rights holders under the terms of the agreement.

### **VI Copyright for computer software developed by UBB employees and students**

Under Law 8 of 1996, a software is defined as any form of a computer program, application programs, and operating systems, expressed in any language, whether in source code or object code, preliminary design material, and textbooks.

Under art. 72 para. 2 of the law, “Ideas, processes, operating methods, mathematical concepts, and principles underlying any element of a software program, including those underlying its interfaces, are not protected.”

In Romania, software programs are recognised as intellectual creations and are covered by copyright law. In line with art. 74 of the law, “in the absence of a clause to the contrary, the

copyrights to software programs created by one or several employees in the performance of their duties or following the instructions of the employer belong to the latter.”

Under article 75, paragraph 1, unless there's a clause to the contrary, a software license agreement presumes that:

- a) the user is granted the non-exclusive right to use the software program;
- b) the user may not transfer the right to use the software to another person.

## **VII Capitalisation of intellectual property rights**

### **a. Definitions**

- Licensing - the process of granting the right to use intellectual property assets to a third party.
- License - authorisation granted by the owner of intellectual property rights to a third party to use those rights.
- Licensor - the owner of the property right or, where applicable, their representative.
- Licensee - the individual or legal entity that purchases the license.
- Royalties<sup>14</sup> - any kind of payment received for the use or concession of the use of any copyright on a literary, artistic, or scientific work, including films and software, any patent, trademark, design or model, plan, formula, or secret manufacturing process, or for information relating to industrial, commercial, or scientific experience; payments for the use or right to use industrial, commercial, or scientific equipment. In addition, the royalty includes any amount payable in cash or in kind for the right to record or broadcast in any format shows, broadcasts, sporting events, or other such activities.
- The term “first sale of the product” refers to the time required for the buyer/licensor to make the first sales on the market of the product that was the subject of the license.

### **b. Licensing application process**

Through OMTTC, UBB can capitalise on its intellectual property assets. If an approved invention is subject to an external agreement with a third party (e.g., it was developed within the framework of a research project carried out in consortium by several legal entities), the UBB management shall decide in accordance with this agreement. In terms of capitalisation,

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<sup>14</sup> Tax Code, Art. 257. [https://static.anaf.ro/static/10/Anaf/legislație/Cod\\_fiscal\\_norme\\_09022017.htm#A257](https://static.anaf.ro/static/10/Anaf/legislație/Cod_fiscal_norme_09022017.htm#A257)

the UBB management will decide as it sees best and will make every reasonable effort to retain the inventors involved.

The capitalisation of the intellectual property assets of UBB is performed by OMTTC through the Marketing and Licensing Commission. The licensing terms (licensing agreement) proposed by the marketing and licensing manager will be validated by the OMTTC Operational Office (BO) and approved by the Administrative Council of Babeş-Bolyai University (CA-UBB). The OMTTC panels operate under a set of guiding principles: predictability, fairness, transparency toward patent holders regarding the status of the licensing process, and professional communication with third parties.

Licensing involves a contract with rights and obligations that the parties are legally bound to comply with, including compliance with the intellectual property rights of the licensing entity, in this case UBB.

#### **c. Licensing financial terms**

The default licensing method agreed upon by UBB is to charge the licensee a lump sum upon signing the license agreement and an annual royalty expressed as a percentage of sales for a minimum of 5 years, starting with the first year of product launch. The initial marketing date of the product may not exceed two years from the date of signing the licensing agreement. If this term is exceeded, the license agreement will be renegotiated.

The minimum lump sum agreed by UBB must cover the cost of expedited patenting and the costs of protecting the patent for at least five years after a patent is granted.

The amount of annual royalties represents on average 5% of the sales generated by the use of the license subject to licensing and may not be less than 2%. This amount will be determined according to the stage of development of the patented technology, the existence of a quantifiable market for the product to be manufactured as a result of the use of the licensed technology, the existence of several companies willing to purchase the license for the existing patent, etc.

#### **d. Licensing exceptions**

- If the patent is in the patents pending stage and the buyer/licensee provides (at their own expense) a detailed business plan covering a minimum period of 5 years, namely an investment to make the patent commercially viable within a maximum of 2 years

from the date of signing the license agreement, or submits a solid financial investment proposal for the experimental development phase of the product/technology at UBB, the amount of annual royalties may be set to a minimum threshold of 1%.

- For work-related inventions where UBB has decided not to submit a patent application, the terms of use will be negotiated on a case-by-case basis.

#### **e. Alternative methods of capitalising on intellectual property rights**

UBB's intellectual property rights may also be leveraged under the terms of art. 129, paragraph 1 of the National Education Law no. 1/2011, through UBB's involvement, either independently or through partnerships, in commercial companies (focusing on spin-offs and start-ups), foundations, or associations, with the approval of the university senate.

### **VIII UBB income generated from the capitalisation of intellectual property assets**

Revenues obtained through licensing are allocated as follows:

#### **a. For work-related patented or patent-pending inventions**

- The lump sum received upon signing the licensing agreement goes entirely to OMTTC for the Technological Development Fund and is meant to cover patenting costs.
- Annual royalties generated from the marketing/licensing of work-related inventions made by UBB employees are allocated as follows:
  1. 50% for the research team that developed the invention. By way of example, but not limited to, the research team may use the funds for internal research projects, awards for inventors as provided by law, co-financing of projects of the research team that made the invention, etc. The research team shall inform OMTTC in writing of how it intends to use these funds;
  2. 10% for the inventor's department;
  3. 40% for the creation of the Technological Development Fund - managed by OMTTC and under the authority of the vice-rector responsible for research, competitiveness, excellence, and academic publications.

If there are multiple inventors behind a single invention, the shares will be allocated according to the number of inventors, subject to their written agreement or, if there is no agreement, then equal shares. Shares for the respective research group and department will be

divided equally if the inventors are from different research groups/departments, regardless of the number of inventors in each research group/department, unless otherwise specified by the inventors.

**b. For employee inventions referred to under art. 3 para. (I) letter b) claimed by UBB as provided by Law 83/2014, the amounts shall be broken down as follows**

1. 30% for inventors who are former employees;
2. 30% for the research team that developed the invention. By way of example, but not limited to, the research team may use the funds for internal research projects, awards for inventors as provided by law, co-financing of projects of the research team that made the invention, etc. The research team shall inform OMTTC in writing of how it intends to use these funds;
3. 10% for the inventor's department;
4. 30% for the creation of the Technological Development Fund - managed by OMTTC and under the authority of the vice-rector responsible for research, competitiveness, excellence, and academic publications.

If there are multiple inventors behind a single invention, the shares will be allocated according to the number of inventors, subject to their written agreement or, if there is no agreement, then equal shares. Shares for the respective research group and department will be divided equally if the inventors are from different research groups/departments, regardless of the number of inventors in each research group/department, unless otherwise specified by the inventors.

**c. For unpatented materials**

The amounts obtained from the sale of unpatented materials shall be distributed as follows:

1. 50% for the research team that produced the materials. By way of example, but not limited to, the research team may use the funds for internal research projects, awards for inventors as provided by law, co-financing of projects of the research team that made the invention, etc. The research team shall inform OMTTC in writing of how it intends to use these funds;
2. 10% for the inventor's department;

3. 40% for the creation of the Technological Development Fund - managed by OMTTC and under the authority of the vice-rector responsible for research, competitiveness, excellence, and academic publications.

If there are multiple inventors behind a single invention, the shares will be allocated according to the number of inventors, subject to their written agreement or, if there is no agreement, then equal shares. Shares for the respective research group and department will be divided equally if the inventors are from different research groups/departments, regardless of the number of inventors in each research group/department, unless otherwise specified by the inventors.

## **IX Management of intellectual property rights**

At UBB, the operation management of innovation and intellectual property assets is carried out by OMTTC, in line with the decisions of the UBB management. In order to maximize the added value obtained through the capitalisation of intellectual property assets, OMTTC draws up an internal report on the research and development output. Based on this report, the UBB management decides whether:

1. the research output is patentable and recommends pursuing the steps necessary to obtain protection through a utility model or invention patent:
  - in order to capitalise on it at UBB level through its own implementation - could be carried out at UBB as micro-production in research institutes;
  - for the purpose of subsequent licensing;
  - for the purpose of subsequent transfer;
  - to encourage the creation of spin-offs;
2. the result of the research activity is not patentable or patenting is not likely to yield benefits (only costs associated with securing protection);
3. the outcome of the research activity may be disseminated through publication or conference presentations (wherein the information to be disseminated shall be agreed upon).

The management of intellectual property rights for inventions patented at UBB involves the inventor, the university, through its management and OMTTC specialists, the applicant for the invention, and the national or European certification body (OSIM or ECB, respectively), in a process that takes several years and is formally divided into seven steps, four in the phase prior to submitting the patent application and three in the post-application phase.

Preliminary steps prior to filing a patent application (CBI):

1. Individuating the patentable technical solution;
2. Documentary research and analysis;
3. Refinement of the technical solution;
4. Setting up the OSIM deposit.

Steps following the filing of a patent application (CBI):

5. Preliminary appraisal for valuation purposes;
6. Exploitation/Marketing through licensing;
7. Technology watch.

## **X Final provisions**

According to the *Regulation governing the organisation and operation of the Office for Management, Technology and Cognitive Transfer (OMTTC)*, OMTTC is responsible for managing the intellectual property assets of UBB, transferring knowledge to society (including through innovative services) and generating revenue to further support research and education at UBB.

Thus, OMTTC will develop all operating procedures required for the implementation of this policy.

This policy applies to all UBB employees, including undergraduate, master's, or doctoral students who are employed on a contractual basis in research projects. Intellectual property issues relating to undergraduate, master's, or doctoral students who are not employed by UBB will be detailed in a separate document drafted for students.