IP Regulations Handbook

Regulations applicable to Intellectual Property, the Protection and Exploitation of Results of Research carried out at UMONS

Through these regulations, UMONS intends to define the regime of ownership protection and exploitation of (i) INVENTIONS and (ii) WORKS within the framework of its teaching, research and departments’ missions. These regulations revoke and replace any previous regulations regarding this matter.

1. Definitions

1.1. AVRE: the French acronym for the UMONS Department for Research Support and Technology Transfer (Direction Administration et Valorisation de la Recherche).

1.2. LAB BOOK: a notebook (paper or electronic) in which the RESEARCHER notes all the details of his/her research. The LAB BOOK includes information on equipment used, methods used, protocol, experimental results and associated calculations. It is a tool for tracking research. The LAB BOOK is the RESEARCHER’s responsibility, belongs to the laboratory and is located in a safe place within the laboratory.

1.3. RESEARCHER: any person, whether they be working alone or as part of a team, carrying out research, studies or any services within and/or under the responsibility of UMONS regardless of their employment status (academic, scientific, administrative, technical, scholarship, student, trainee or collaborator).

1.4. IP COMMITTEE: the Committee of Intellectual Property of UMONS. The IP COMMITTEE comprises the Rector, the Administrator and at least two (2) members of academic staff. INVENTIONS and WORKS are protected and exploited by the measures established by the IP COMMITTEE. As such, the IP COMMITTEE acts as arbitrator in cases specified in Article 8 of this handbook.

1.5. INSTITUTIONAL DEPOT: the database designed to (a) put together an academic bibliography for UMONS, including all references of publications of RESEARCHERS and teachers of UMONS, and/or (b) gather an electronic version of the full texts of these publications. In this Article, “publications” refers to books, chapters or parts of books, edited works, translations, articles in scientific journals (with or without peer review), reports, letters to the editor, articles presented at conferences or in full conference proceedings (with or without peer review), abstracts presented at conferences, oral or poster presentations, supervised projects, theses in pedagogical studies, doctoral theses, student projects, master’s theses, bibliographies, research reports, seminar work (like a working paper), popular science articles and printed articles. This database is used for the purposes of research and education, institutional archiving and communication to the public.

1.6. COPYRIGHT: OWNERSHIP RIGHTS and MORAL RIGHTS owned by the author of the WORK. OWNERSHIP RIGHTS are transferrable and cover the right to reproduce the WORK (which includes hard copies of the WORK, the right to translate and adapt the WORK, the right to rent out and lend the WORK and the right to distribute the WORK) and the right to disseminate the WORK. MORAL RIGHTS are inalienable and cover the right to disclose the WORK, the right to authorship of the WORK and the right to the integrity of the WORK.

1.7. INVENTIONS: research results, patented or not, attained by the RESEARCHER within his/her teaching or research activities at UMONS and/or using physical, financial or human means made available by UMONS, with the exception of WORKS.

1.8. COPYRIGHT LEGISLATION: the law of 30th June 1994 regarding copyright and related rights, the law of 30th June 1994 regarding computer programmes, and the law of 31st 1998 regarding legal protection of databases.

1.9. WORK: any intellectual creation protected by the COPYRIGHT LEGISLATION, developed by RESEARCHER within his/her teaching or research activities at UMONS and/or using physical, financial or human means made available by UMONS. WORKS cover:
a) LITERARY WORKS: writings of any kind, regardless of the format, such as books, articles or syllabi.

b) ARTISTIC WORKS: artistic creations such as paintings, sculptures, architectural creations, drawings, photographs, etc.

c) AUDIOVISUAL WORKS: cinematic works expressed by a process similar to that of filming techniques that use image, or the combination of sound and image in animated sequences.

d) MULTIMEDIA WORKS: products incorporating several previously digitised elements in the same format (such as text, still images, sound and computer programmes) whose structure and access are governed by a COMPUTER PROGRAMME allowing interactivity.

e) COMPUTER PROGRAMMES: a set of instructions in any form, any language, any notation or any code designed to allow a computer to perform a task or a particular function. The COMPUTER PROGRAMME also includes preparatory design material (file specifications, conceptual data model, technical studies, programming files, prototypes, etc.).

f) DATABASES: collections of WORKS, data or other independent materials arranged in a systematic or methodical way and individually accessible by electronic means or otherwise.

1.10. PROTECTION: measures to protect INVENTIONS and WORKS. The protection of INVENTIONS is characterised either by filing titles of industrial property (patent, brand, design, model, etc.), or by protecting trade secrets and know-how. The protection of WORKS through COPYRIGHT LEGISLATION is automatic, provided that the WORK is original and is the object of formatting that goes beyond the idea or concept stage.

1.11. SPIN-OFF: a company, non-profit or for-profit, whose creation requires transferring INVENTIONS and/or WORKS of UMONS to this company, as a transfer or a licence.

1.12. UMONS VENTURE: the anonymous company UMONS VENTURE, affiliate of UMONS, commissioned by UMONS for the management and exploitation of the Intellectual Property of UMONS.

1.13. EXPLOITATION: acts of direct or indirect use of INVENTIONS and/or WORKS in research activities, as well as any transfer or licence of INVENTIONS and/or WORKS designed to allow a third party, such as a SPIN-OFF, to use them to commercialise a product or process, or create and provide a service.

2. Scope of Application

These regulations apply to all RESEARCHERS who, by accepting to work and/or study within and/or under the responsibility of UMONS, agree to comply with all provisions.

3. Property of INVENTIONS and WORKS

3.1. INVENTIONS and WORKS are the property of UMONS - subject to clarification (inherent to the specificities under COPYRIGHT LEGISLATION) referred to in Articles 3.2 and 3.3 and the exceptions referred to in Articles 3.4 and 3.5.

3.2. Regarding WORKS, UMONS owns the associated OWNERSHIP RIGHTS. Regarding MORAL RIGHTS related to WORKS, the RESEARCHERS waive their moral rights of disclosure and the integrity of their WORKS and thus authorise UMONS to disclose and modify them.

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1 As a reminder, these are alienable rights, which the RESEARCHER may waive to allow UMONS to ensure the PROTECTION and the EXPLOITATION of the WORK. This waiver is without prejudice to comply with the honour and reputation of the RESEARCHER.
3.3. With particular regard to ARTISTIC WORKS, AUDIOVISUAL WORKS, MULTIMEDIA WORKS, DATABASES and COMPUTER PROGRAMMES, UMONS is the exclusive owner, throughout the world, for the legal duration of protection of intellectual property rights therein, of all modes and forms of known exploitation to the date on which these regulations come into force by the RESEARCHER and through, where appropriate, remuneration as referred to in Article 9 of this handbook.

3.4. Articles 3.1, 3.2, 6 and 9 of this handbook do not apply to LITERARY WORKS.

3.5. The ownership, protection and exploitation of INVENTIONS and WORKS, developed in collaboration with a third party, or several third parties, and/or funded in whole or in part by a third party, or parties, is regulated by agreements between UMONS and the third party, or parties concerned.

4. Confidentiality

The RESEARCHER recognises that while carrying out his/her activities within UMONS, he/she is granted access to scientific and technical information not accessible to the public. Subject to the existence of (and content of) any previously signed confidentiality agreements, the RESEARCHER agrees to respect the confidentiality of such information and, therefore, not to directly or indirectly disclose it to third parties, both during the course of his/her activities within UMONS, and for a period of three (3) years following the termination of such activities. In addition, prior to the effective termination of his/her activities within UMONS, the RESEARCHER will give the originals of any document related to the research or the INVENTIONS and WORKS accomplished back to his/her Head of Department, regardless of their form.

5. LITERARY WORKS

5.1. Without prejudice to the granting of rights referred to in Article 5.2 below, or any agreement for EXPLOITATION concluded separately, the RESEARCHER remains the owner of his/her COPYRIGHT associated with his/her LITERARY WORKS.

5.2. Subject to the extent of the entitlements granted by the RESEARCHER (particularly to publishers), UMONS has a free non-exclusive, irrevocable and perpetual, worldwide license, for the entire legal duration of the protection and use of LITERARY WORKS for:
- research and teaching purposes;
- reproduction and communication to the public via the INSTITUTIONAL DEPOT.

5.3. If a publisher opposes the granting of the licence referred to in section 5.2, UMONS will nevertheless be able to apply under Article 22 quarter, paragraph 1, point 4, of the law of 30th June 1994 regarding copyright and related rights2.

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2 Note that in any event, as the creator of DATABASES, UMONS has the right to prohibit the extraction (data transfer to another format) and/or the reuse (availability of public data) of all or part of the content of said DATABASES, whether qualitative or quantitative. The creator of a database is the natural or legal person who takes the initiative and bears the risk of investments that are at the root of the database.

3 Regarding COMPUTER PROGRAMMES created by the RESEARCHERS bound by an employment contract, Article 3 of the Law of 30th June 1994 regarding computer programmes stipulates that “In the absence of contractual agreement to the contrary, the employer is deemed the assignee of ownership rights related to computer programmes created by one or several employees or agents while carrying out their duties or following the instructions of their employer”. In other words, the employer is the owner of the COMPUTER PROGRAMMES created by an employee, unless he/she can prove not to have created it/them while carrying out their duties or following the instructions of their employer.

4 Once lawfully published, the author cannot prohibit the communication of works when this communication is made for purposes of illustration for teaching and scientific research by recognised establishments organised officially for this purpose by the public authorities and provided that such communication is justified by the
6. PROTECTION and EXPLOITATION procedures of INVENTIONS and WORKS

6.1. The RESEARCHER agrees to make every effort to log INVENTIONS, COMPUTER PROGRAMMES and DATABASES in a LAB BOOK.

6.2. Prior to any publication or communication to the public, the RESEARCHER agrees to notify his/her Head of Department of any INVENTION or WORK that could be subject to a PROTECTION measure (via the filing of a patent or otherwise) and/or EXPLOITATION measure.

6.3. In consultation with his/her Head of Department, and where necessary with the AVRE, the RESEARCHER decides which INVENTION or WORK can be disseminated freely. If it is necessary to take adequate PROTECTION measures, the RESEARCHER is encouraged to seek assistance from the AVRE. To this end, the RESEARCHER can fill in an application form and/or invention disclosure form available from the AVRE.

6.4. In consultation with the AVRE, the RESEARCHER and his/her Head of Department define the most appropriate strategy for PROTECTION and/or EXPLOITATION of WORKS and INVENTIONS (filing a patent application, place of filing, geographical coverage of the patent, deadlines before disclosure, industry partnerships, licensing, etc.)

6.5. Through the IP COMMITTEE, and based on the above strategy that is communicated by the AVRE, UMONS decides independently what PROTECTION and EXPLOITATION measures it wishes to employ for the INVENTIONS and WORKS it owns. UMONS will notify the RESEARCHER(S) concerned.

6.6. In all cases where UMONS takes measures of PROTECTION and or EXPLOITATION of an INVENTION or WORK, the RESEARCHER shall provide the AVRE with the assistance and cooperation necessary for the PROTECTION and/or EXPLOITATION of this INVENTION or WORK. Particularly when filing a patent application, the RESEARCHER actively participates in the preparation of the application, the filing of it and subsequent steps. The RESEARCHER shall communicate the scientific and technical data necessary for the drafting of the patent and shall give full power to UMONS to request the necessary PROTECTION from around the world. The RESEARCHER shall ensure that the right to publish INVENTIONS and WORKS, of which UMONS is the owner, is without prejudice to the PROTECTION and/or EXPLOITATION of such WORKS and INVENTIONS.

6.7. In the event where an INVENTION is subject to the filing of a patent application, the filing will be made on behalf of UMONS or any other person or entity designated by UMONS. In accordance with legal and regulatory provisions, the patent application shall designate the RESEARCHER(S), who has(have) contributed significantly to the invention described in the patent application, as the inventor(s).

6.8. The AVRE assists the RESEARCHER(S) by assigning them, if necessary, a specialist agent (e.g. a patent agent) to prepare the administrative documentation for the PROTECTION proposed.

6.9. UMONS is under no obligation to protect and/or exploit the INVENTIONS and WORKS it owns. Similarly, UMONS may at any time independently waive PROTECTION and/or EXPLOITATION rights of an INVENTION or WORK. In this case, subject to potential rights of third parties and in accordance with contractual arrangements to be made case by case, UMONS may propose transferring the INVENTION or the WORK to the RESEARCHER(S), also the author(s), if they are interested in pursuing PROTECTION and/or EXPLOITATION measures of the INVENTION or WORK with or without a third party and at their own expense and for their own benefit. Despite this transfer, UMONS reserves the right to use the INVENTION or WORK concerned for research and teaching purposes.

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specific non-profit purpose; this is part of the institution's normal activity, is done exclusively through closed transmission networks of the institution and is without prejudice to the normal exploitation of the work and unless this proves impossible, the source, including the author's name, is indicated.
7. **The creation of SPIN-OFFS**

SPIN-OFFS are an essential form of EXPLOITATION of results of research conducted at UMONS. UMONS actively promotes and participates in the creation of SPIN-OFFS. To this end, the AVRE assists and guides RESEARCHERS who wish to create a SPIN-OFF. The AVRE has defined a set of best practices to enable researchers to identify and understand each step of the process of creating a SPIN-OFF.

8. **Arbitration of the IP Committee**

If necessary, the following will be subject to arbitration by the IP Committee:

- any difficulties to interpret or apply these regulations;
- any disputes regarding the interpretation or implementation of these regulations.

9. **Distribution of revenue from EXPLOITATION**

9.1. In the event where the EXPLOITATION of an INVENTION or WORK of UMONS generates financial revenue in any form whatsoever (upfront or royalties), this revenue will be **collected by UMONS VENTURE and will be distributed after deduction of expenses and as specified in Article 9.2 below.**

9.2. After deduction of (i) the share, if any, accruing to third parties (e.g. the FNRS), **and (ii) expenses directly related to the PROTECTION and EXPLOITATION of the INVENTION or WORK,** and (iii) an amount equivalent to ten percent (10%) of the net proceeds of the EXPLOITATION, the remaining balance will be subject to any other distribution decided by mutual agreement between the parties, allocated as follows:

- 40% for UMONS VENTUREOne third (1/3) for unallocated assets of UMONS;
- 30% One third (1/3) for the department(s) to which the RESEARCHER(S), also the author(s) of the INVENTION or WORK, is(are) attached;
- 30% One third (1/3) for the RESEARCHER(S) who is(are) the author(s) of the INVENTION or WORK.

10. **Coming into force and Opposability**

These regulations come into force on the day they are implemented by the UMONS Board of Directors.

This handbook is attached to the employment contract of the RESEARCHER, of which it is an integral part.

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5 This 40% covers the management of the costs incurred by UMONS VENTURE for the EXPLOITATION of the INVENTION and/or WORK (10%), and the financing of PROTECTION measures (30%) of UMONS.