Announcement of the Vice Rector for Research & Innovation concerning the handling of service inventions at TU Wien

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Note: This announcement (Ministerial Gazette MBl. No. 132/2010) shall replace announcements MBl. No. 112 2003/04 and MBl. No. 256 2003/04

The Universities Act 2002 (UG), §106 para. 2 and 3 stipulates that universities shall, in future, have a pre-emptive right to service inventions, that is, universities may use service inventions for themselves and may pass on the rights to such inventions to third parties. Universities shall be obliged to inform the inventors within three (3) months following the notification of an invention about their pre-emptive right and shall pay a reasonable remuneration to the inventors if they make use of such right.

Alongside these legal provisions, the Vice Rector for Research & Innovation adopts the following implementing provisions:

1. TU Wien shall be promptly notified of all inventions made by employees of TU Wien, either entirely or in part, by the inventor – except for those inventions which are undoubtedly not service inventions. The obligation to notify shall exist regardless of the source of financing of a possible research project in which the invention has been made.

2. The obligation to notify shall apply to all employees of TU Wien and for civil servants who are assigned to the "Administration Office of TU Wien ". Students, undergraduates and post-graduates who are not employed by TU Wien shall not be affected unless another agreement has been made with them in writing.

3. Notice shall be given to the Research & Transfer Support Office of TU Wien (Favoritenstr. 16/8, A-1040 Vienna). For this purpose, the invention notification form of TU Wien shall be used, which is available at [http://www.tuwien.ac.at/dle/transfer/downloads/](http://www.tuwien.ac.at/dle/transfer/downloads/). If required, the inventors shall send the completed and signed form with annexes to the Research & Transfer Support Office.

4. The Vice Rector for Research & Innovation shall make a decision concerning the use of the pre-emptive right or the release as quickly as possible, but in any case within three months following the receipt of the complete notification of an invention by the Research & Transfer Support Office, and shall inform the inventors of the decision.

5. Until TU Wien has made a decision, or, if use is made of the pre-emptive right, until the patent registration, the inventors shall treat the invention as confidential (Patent Act (PatG) §13). TU Wien and its employees who process the notifications of inventions shall also be obliged to maintain secrecy. If TU Wien involves external experts to evaluate the announced invention, they shall also be obliged to maintain secrecy.

6. With regard to service inventions of which the exploitation rights are bound by contracts either entirely or in part and with regard to which the contract partner declares in due time that they want to use these rights, TU Wien undertakes to exercise its pre-emptive right with regard to the invention and to transfer the exploitation rights to the agreed extent to the contract partner. When concluding a contract, the heads of organisational units (e.g. heads of
institutes) and/or the parties authorised according to § 28 UG 2002 shall take into account that it is agreed in any case that the contract partner meets contractual deadlines with this directive and, if exploitation rights are used, pays a separate reasonable remuneration to TU Wien which also comprises the inventor's bonus.

7. If TU Wien exercises its pre-emptive right, an exploitation plan is created together with the inventors and possibly by involving external experts. Patent costs for an invention with regard to which a pre-emptive right is exercised shall be borne by TU Wien and/or by external exploitation partners.

8. All revenues (inventor's bonuses, option fees, licence fees, sales revenue) which actually flow to TU Wien from the exploitation of an invention with regard to which a pre-emptive right has been exercised (hereinafter referred to as "revenues") shall be subject to the following apportionment structure:

- With regard to the initial revenues, the inventor shall receive a one-off inventor premium of €2,000.00 (as part of the inventor's bonus according to §8 PatG; with regard to revenues of less than €2,000.00, an inventor's bonus amounting to the sum of these revenues shall be paid out). The net revenues are revealed following the deduction of the one-off inventor premium and after the deduction of any costs incurred (lawyer and patent registration costs, costs until the grant where applicable, annual fees where applicable, costs for an external intermediary/exploitation partner where applicable).

- From these net proceeds, the inventor receives 35% (as an inventor's bonus according to §8 PatG), the organisational unit which is allocated to the inventor receives 25% and TU Wien receives 40% (central).

- If several inventors who are employees of TU Wien are involved in the invention, the one-off inventor premium and the shares in the revenues shall be split according to the shares in the invention which are stated in the notification of the invention.

- The amounts and percentages due to the inventors according to the above provisions shall include any applicable taxes (in particular income tax and/or wage tax and VAT) and social security contributions.

9. If TU Wien releases an invention, the invention shall remain with the inventor(s).

The Research & Transfer Support Office of TU Wien provides more detailed information concerning the handling of inventions and concerning patents https://www.tuwien.ac.at/index.php?id=15327