

**SCIENCE & TECHNOLOGY
DEVELOPMENT FUND
(STDF)**

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Intellectual Property Rights

This document is intended to provide information on the Intellectual Property system applied by the Science and Technology Development Fund (STDF) as approved by its Governing Board and within the context of the Egyptian Law.

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1. Introduction

As a tool for protecting scientific and technological discoveries with commercial potential, Intellectual Property Rights (IPR) play an important role in promoting innovation and economic development of a country. For a knowledge-based, innovation-driven economy, IPR provides incentive for enterprises and individuals to create and innovate; a fertile setting for the development of, and trade in, intellectual assets; and a stable environment for domestic and foreign investment. Egypt has a great potential benefit from developing and exploiting intellectual property as a part of its economic development strategy based on technological upgrading and integration into the world economy. IPR protection offers a patentee an exclusive right to prevent a third party from an unauthorized act of making, using, offering for sale, selling or importing the patented product or process. This monopoly is given to the inventor in exchange for exposing the details of his/ her technological development.

This guideline provides the applicants to STDF with the required information on the Intellectual Property system set by STDF as approved by its governing board and within the context of the Egyptian Law for IPR, (Law No. 82 for 2002).

2. Patentability Criteria

In order to be patentable, an invention must be novel, manifests an inventive step and industrially applicable.

- *Novelty*

Novelty for an invention indicates that the invention was not known, used by others, or anticipated by publication in any document anywhere in the world or used in the country or prior claimed by any means before the date of filing of patent application.

An invention shall be deemed to be new when it does not form part of the state of the art. The state of the art shall comprise everything made available to the public in any country by means of a written or oral description, by use or in any other way.

- *Inventive step*
An invention is not patentable if it could be obvious to an ordinary skilled person in the respective field. In establishing the existence of inventive step, it is generally necessary to consider not only the knowledge derived from a single prior document, but also the combined knowledge of existing literature, patent documents and other prior art.

- *Industrial applicability*
Industrial applicability of an invention indicates that the invention has a "real world" value, not just an idea or concept. Patents are to be granted for inventions capable of being manufactured or otherwise industrially used.

3. Intellectual Property Rules under STDF

3.1 Ownership

Pre-existing know how is not affected by participation in STDF funded projects, however, whenever needed some access rights have to be offered to other contractors in the same project.

For STDF funded projects, knowledge resulting from the project belongs to STDF. The inventor name shall always be associated with the knowledge. However, the financial outcome belongs to STDF and will grant a revenue sharing to contractor based on type of grant as established in section 4 of this guideline.

3.2 Joint Ownership

An agreement has to be reached among joint owners of a patent, on the allocation and the terms of exercising the ownership of the knowledge/ patent.

With respect to revenue sharing, if not equally divided, shares of each party have to be stated clearly in an agreement. The concerned contractors have to agree upon a joint ownership arrangement governing management issues such as sharing of the costs arising from legal protection procedures (e.g. patent filing and examination fees, renewal fees, prior state of the art searches,...etc.). Provisions can be included in a consortium agreement

between all contractors in the project, or they may be the subject of more specific arrangements limited to the joint owners concerned.

Joint ownership provision of the respective national IPR law is to be applied in the case of absence of specific joint ownership agreements. It should be noted that the question of whether or not such a patent is jointly owned depends on the exact scope of the claims (of the patent application(s) and, where different in scope, that of the patent(s) granted). In general, the (joint) ownership of a patent may need to be reviewed once it is granted.

3.3 Transfers of Ownership

Ownership transfer is allowed according to the following:

A formal prior notification for each proposed assignment, ensuring the granting of access rights, must be given to all participants and to the STDF. If ownership transfer has an adverse impact on other participants and/ or STDF access rights, the later preserve their rights to raise an objection.

STDF has the right to object in case that the transfer of ownership would result in a conflict of interest with respect to the enhancement of the competitiveness of the knowledge-based Egyptian economy or inconsistent with the ethical principles.

In case of ownership transfer, the assignor must take the appropriate steps and conclude the appropriate arrangements to ensure that its contractual obligations with respect to dissemination, use, and the granting of access rights are passed on to the new owner.

Automatic transfer of ownership is prohibited.

3.4 Protection of Knowledge

Knowledge must be protected in conformity with the relevant legal provisions if it is capable of industrial or commercial application. In case knowledge has not been protected by its owner, STDF must be informed and has the right to decide whether to protect it on its own behalf.

Apart from a lack of industrial or commercial applicability, there are also situations where journal publication or other means of putting knowledge in

the public domain constitute appropriate alternatives, taking into account the specificity of the project, the nature of the results concerned (e.g. certain fundamental research results) and the legitimate interests of the contractors.

4. STDF Revenue Sharing Mechanisms

According to the Egyptian Law for IPR No. 82 for 2002, Article 7, financial ownership rests with the funding agency, however the revenue is to be shared on case by case upon negotiation with inventors. A fair compensation is to be made for the inventor if no negotiation was made. In all cases the inventor is named. The following revenue sharing mechanisms are to be applied by STDF.

4.1 Basic & Applied Research Grants

In all cases, STDF will patent an invention in Egypt in order to preserve the inventor's right to fill an international patent application for a period of 30 months. This will allow STDF to undertake a feasibility study for patenting the invention internationally. In case STDF decides to internationally patent an invention, STDF will cover patenting process fees and will be the patent assignee. STDF reserves the right to leave its position as an assignee at any time, or transacts the patent to a subsequent assignee. The revenue sharing scheme will range from 2-15% for the inventor, and will be determined based on the market size, table 1.

If STDF decides not to internationally patent an invention, the inventor, or a third party has to cover the patenting process fees. The patent will be owned by the inventor or the third party, however STDF will have 10% share of the revenue in return of initial incubation of the patent.

Table 1 STDF Revenue Sharing Scheme

Revenue (M LE)	Inventor's share
≤ 1	15%
$>1- \leq 5$	12.5%
$> 5- \leq 15$	10%
$>15 - \leq 30$	7.5%
$>30 - \leq 60$	5%
$>60- \leq 100$	3%
>100	2%

4.2 Product Development Phase

For an inventor with an already internationally patented invention, STDF could decide to fund the development phase with or without an intervention of a third party. STDF will guarantee from 15- 20% revenue share for the inventor. This percentage is negotiable and depends on the market size.

Annex I

BASIC DEFINITIONS

Intellectual Property Rights: Intellectual property refers to creations of the mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce.

Intellectual property is divided into two categories: Industrial property, which includes inventions (patents), trademarks, industrial designs, and geographic indications of source; and Copyright, which includes literary and artistic works such as novels, poems and plays, films, musical works, artistic works such as drawings, paintings, photographs and sculptures, and architectural designs (World Intellectual Property Organization).

Invention: any art or process (way of doing or making things), machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable.

Inventive step: a feature of an invention that involves technical advance as compared to the existing knowledge or having economic significance or both and that makes the invention not obvious to a person skilled in the art.

New Invention: means any invention or technology which has not been anticipated by publication in any document or used in the country or elsewhere in the world before the date of filing of patent application with complete specification, i.e., the subject matter has not fallen in public domain or that it does not form part of the state of the art.

Patent: A patent for an invention is the grant of a property right to the inventor, issued by the designated authority. The right conferred by the patent grant is, “the right to exclude others from making, using, offering for sale, or selling” the invention for a period of time. Three types of patents can be distinguished (United States Patent and Trademark Office):

- *Utility patents* may be granted to anyone who invents or discovers any new and useful process, machine, article of manufacture, or composition of matter, or any new and useful improvement thereof;

- *Design patents* may be granted to anyone who invents a new, original, and ornamental design for an article of manufacture; and
- *Plant patents* may be granted to anyone who invents or discovers and asexually reproduces any distinct and new variety of plant.

International Patent Application: A unified procedure for filing patent applications provided by the Patent Cooperation Treaty (PCT), which is an international patent law treaty concluded in 1970. PCT protects inventions in each of its Contracting States (Egypt is a member state). A patent application filed under the PCT is called an international application or PCT application.