



सत्यमेव जयते

डा. मंगला राय
सचिव एवं महानिदेशक
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SECRETARY & DIRECTOR-GENERAL

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कृषि अनुसंधान और शिक्षा विभाग एवं
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D.O. F.No.14(1)/2006-IPR/Policy Plng./
Dated the 28th September 2006

Dear Colleague,

As you know, we have been undergoing several preparatory exercises to address the realm of intellectual property rights (IPR) ever since the processes for its establishment and application have been set up in the country in the post WTO era. While focusing on the major issue, the “management of change”, a series of in-house and national deliberations were made by ICAR so that the best-fit strategy and action plan are developed and streamlined. In the process, I had also constituted a committee in November 2005 to develop guidelines for intellectual property management and transfer/commercialization of technologies. I am happy that the outcome guidelines (enclosed document) have also been appreciated and approved by the GB of ICAR and Hon’ble President of the ICAR Society. The guidelines are made effective from 2nd October 2006.

2. ICAR recognizes that in the IPR era research results would require intellectual property (IP) protection through patents, plant variety protection and other forms of IPR. The logical transfer of IPR enabled ICAR technologies through public-private partnerships will be increasingly important in the advancement of agriculture. Commercial routes will gain as much importance as the public system in the adoption and diffusion of technologies. This would indeed require a systematic IPR portfolio management in the national agricultural research system in general, and ICAR and the State and Central Agricultural Universities in particular.

3. So far only a few documented rules and guidelines, such as the “ICAR Rules and Guidelines for Training, Consultancy, Contract Research and Contract Services, 1997”, the “ICAR Guidelines for Filing Patent Applications, 2001” and the “Memorandum of Association: Rules and Bye-Laws of the Indian Council of Agricultural Research Society, 2000” were available with us to help address the case-specific situations facing ICAR in the management of its IPs. I am happy that the new guidelines would be able to provide the ICAR scientists with the basic frame as well as initial steps to move in the right direction towards the management and application of the IP generated in the Council.

4. It is indeed satisfying that extensive consultations were made by the committee with the representatives of all partners, stakeholders, and experts at various levels. Many of you had sent your comments on the draft guidelines that were posted on the ICAR website. Now final guidelines as approved by GB and Hon’ble President of the ICAR Society are available for compliance. These guidelines are available on the ICAR web page at <<http://www.icar.org.in/>>. Also, hard copies will be made available shortly as the same is in press. You may like to focus especially on the key policy elements while implementing the guidelines. It would be appropriate if we secure IPR protection of all ICAR technologies as per the law that are protectable and worth protecting in the first place. In this context, ICAR will be the owner (sole or joint) of IPs generated from research carried out by its scientists. The nature of collaboration and the mutually agreed terms would decide the parameters of joint ownership where applicable.

5. Our concerned scientists/innovators will be recognized as “true and first inventors/ innovators/ authors” in all IPR applications. They will also be entitled to share such benefits as accrued from commercialization and described in the guidelines. This, we feel would be the best course to encourage innovativeness. For scientists working in areas where none or few opportunities for the

commercialization of research results exist, incentives could as well be provided through the rewards and awards system.

6. We will transfer IPR enabled technologies under the new regime in conformity with national priorities. Decisions regarding which technologies will be placed in public domain for open access and which others will be commercialized shall be case-specific and top-to-bottom. Licensing may be non-exclusive or exclusive depending upon the situation and need, and on a license fee and/or royalty, which has been detailed in the guidelines.

7. We need to safeguard even those research results, which cannot be secured by IPR protection under the law. The best course is to bring such material in public domain through publication quickly or by registration and documentation. The guidelines have made clear elements of policy frame and workable suggestions, such as the registration of animal/fish germplasm. I urge the concerned genetic resource bureaus to soon come up with the suggested mechanisms. It would be advisable to seek an early protection, whenever applicable, followed by publication at the earliest.

8. The guidelines provide for appropriate mechanisms for in-licensing and pooling of public IP resources, which are worth their application and, therefore, must be well understood and applied. As contemplated, we need to bring much needed awareness about various stipulations, provisions and implications of IPR portfolio management.

9. We are in the process of putting in place an IP watch system, which will identify the IP that may require safeguarding from infringement as well as that which may have to be defended when challenged. We have to strengthen our capabilities and capacity for patent/IPR search, and to make it a habit. I understand that all issues cannot be resolved and all matters cannot be handled by the in-house expertise alone. Therefore, the two-pronged strategy to begin with would be to (i) lay sufficient emphasis on HRD, training and skill development in IPR and agri-business areas, and (ii) to hire expertise or to outsource tasks, particularly the legal and business tasks as stipulated in the guidelines.

10. I urge you to establish your institute level technology management units (ITMUs) and committees (ITMCs) at the earliest as this would be the first and foremost step in the right application of the guidelines. We will soon take appropriate steps to institutionalize the mechanism suggested by the committee at the zonal and central levels but till such time, the institutes shall route their IPR/commercialization matters as usual through ADG (IPR). The Directors/Project Directors of all ICAR Institutes/National Research Centres/ Bureaux/Project Directorates have been already delegated the powers to file patent applications vide the Council's Office Order F.No. 6(2)/2001-Cdn(A&A) Dated 1.12.2005, which should hold well for PVP and protection of other forms of IPR. The ADG (IPR) shall continue to facilitate and coordinate the IPR and commercialization matters of all institutes as stipulated in the Guidelines from the ICAR headquarters.

11. The elaborate guidelines need to be followed in letter and spirit for a real output at the level of the institutes. You may appropriately use the guidelines to enhance the public-private partnership (PPP) in agriculture. The PPP has the potential to enhance technology transfer and use in all fields of agricultural technology in the IPR regime which we must avail. The environment of trust and confidence in the partnership must be built up. Mutually agreed terms should prevail in all partnership/business deals whether these relate to the transfer of IPR enabled technologies, or their joint validation, or upgradation, or incubation, or scaling-up or product development and transfer, or mechanization, or cost-effective quality production, or a joint exploration of local and global markets for requisite demand, or test marketing of new products or market development, etc. The annual ICAR-Industry Meet would derive strength through area-wise and discipline-wise meets/outputs.

12. ICAR may allow scientist entrepreneurship, or depositions of its scientists to industry/ enterprises as per the guidelines so as to ultimately enhance the prospects of technology transfer.

13. In the XI Plan, a separate Plan Scheme for IP Management and Technology Transfer/ Commercialization in ICAR will be prepared but till that time the IPR/commercialization activities

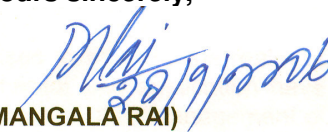
stipulated in the guidelines should be carried out from our internal arrangements, among which the institute level units and committees are indeed important.

14. As these guidelines would be equally important for various state and central agricultural universities, I would urge upon the vice chancellors of these universities to look into the guidelines and follow requisite procedures for their acceptance befitting the need of each of the university by an early date.

15. I hope and urge that the enclosed guidelines receive your personal attention and the actions stipulated therein are taken up immediately on top priority basis. We are shortly meeting in the Directors' Conference in early November, 2006. We are also planning Vice Chancellors' Conference in January, 2007. It would be appreciated if you come out with your initial successes and experiences on the management of IPR and commercialization matters based on these guidelines.

With Best Wishes.

Yours sincerely,


(MANGALA RAI)

To

1. Vice Chancellor, Central Agricultural University, Imphal.
2. All Vice Chancellors of State Agricultural/Horticultural/Veterinary Universities.
3. All Directors of ICAR Institutes/Academy/Bureaux/ National Research Centres and All Project Directors of ICAR Directorates.
4. Additional Secretary (DARE) & Secretary, ICAR.
5. Additional Secretary (DARE) & Financial Advisor, ICAR/DARE.
6. All Deputy Director Generals/ Assistant Director Generals of ICAR.
7. All Directors of ICAR/DARE – Personnel/Finance/DARE/Works/P&I/DIPA.
8. All Deputy Secretaries of ICAR, All Deputy Directors/Under Secretaries of ICAR.
9. All Principal Scientists/Senior Scientists/Officers of ICAR Headquarters.

Copy to

PS to Hon'ble Agriculture Minister and President ICAR along with a copy of the Guidelines.