

IPR POLICY
of
**KRISHNA KANTA HANDIQUI STATE
OPEN UNIVERSITY**



Krishna Kanta Handiqui State Open University
Guwahati, Assam

2023

KKHSOU IPR POLICY

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1. PREAMBLE

Krishna Kanta Handiqui State Open University (KKHSOU), established by the Government of Assam in 2005, is the only State Open University (SOU) in the entire North Eastern region of India. With the motto “Education Beyond Barriers”, this university brings into the ambit of education those sections of people who had hitherto been deprived of the benefits of education on proper time. In its functioning as the only University in the North East India that runs through open and distance learning (ODL) mode, KKHSOU is also involved in creation of various Intellectual Properties (IP) from time to time the most prominent of which are in the form of Self Learning Materials (SLM), Audio visual materials, Research materials and so on.

This document shall be called the “Intellectual Property Rights (IPR) Policy” whose main objective shall be to facilitate protection and use of IP of the University and address and protect the interests of the IP creators while being in tune with the Objectives, Vision and Mission of the University as mentioned in the KKHSOU Act.

Framing the IPR policy of KKHSOU has been one of the significant steps towards creating and securing an IPR conscious ecosystem in the University. Hence, this Policy shall apply to all individuals, branches and institutions associated with the University on processes to be followed by its teachers, faculty, staff, learners, research scholars, collaborators, funding agencies and their like.

KKHSOU believes that efficient management of IPR within its educational systems will not only enhance the quality of education and research but will also ensure cohesive development of worthy human resources with added skills embedded with ethical values. Bringing in clarity to the idea of a ‘Creator’ and owner of the intellectual output in the University system, this Policy provides the guidelines on ‘ownership’ of its creations and processes to be followed for their protection using various tools of IPR. Further, the IPR Policy also provides the formalities to be followed while dealing with such IP by the owners of the IP.

The policy also sets directives for addressing any potential conflict of interest while transacting its IP. The readers will also come across a prescribed approach for tackling IP disputes between the Creators and KKHSOU.

Implementation of this Policy shall be carried out by the Intellectual Property Rights Cell (IPR Cell) formed by the University. Each employee, research scholar, learner, other stakeholders etc. associated with the university shall be informed of this IPR Policy and they will need to adhere to the Policy including any and all amendments hereafter.

2. OBJECTIVE OF THE POLICY

The main objectives of this Policy are to:

- Create and sustain academic environment in KKHSOU that encourages the creation of new knowledge by teachers, employees and learners.
- Enable KKHSOU to protect its IPs and the interests of the creators of such properties.
- Outline the structure and procedures through which the IP created by and at/for KKHSOU are made available for use/transfer in a manner consistent with the mandate of KKHSOU.

- Ensure economic returns from the development and deployment of IP that do not distort the functionality of KKHSOU in a manner contrary to its mandate as an Open University either fully or substantially.

3. SCOPE OF THE POLICY

This Policy shall apply to all employees, teachers, learners, research scholars, teachers/faculty involved in programme/course development, in other organisational activities or in any kind of research activities/projects etc. in KKHSOU. It is framed also to safeguard the interest of KKHSOU. The scope of this policy will

- Enable KKHSOU to foster the culture of creative activities in the area of open and distance education, discipline-based education and research in the wider sense.
- Lay down the norms to protect the legitimate interest of teachers/learners/employees of the University.
- Provide transparent administrative systems for ownership, control and transfer of the IP created and owned by KKHSOU.

4. TYPES OF INTELLECTUAL PROPERTY

The IP in general and also applicable in KKHSOU may broadly be listed as the following:

- a. **Copyright:** A Copyright is a type of Intellectual Property that gives its owner the exclusive right to copy, distribute, adapt, display and perform a creative work which may include original works of authorship such as scholarly articles and papers, learning material, novels, poems, plays, reference works, newspaper articles, computer programs, databases, films, musical tunes/compositions, sound recording and choreography; artistic works such as paintings, drawings, photographs and sculpture; advertisements, maps and technical drawings, cinematography etc.
- b. **Patent:** A patent is a form of intellectual property that protects an invention. It gives the inventor exclusive rights to produce, use and sell their invention for a set period. The United States Patent and Trademark Office (USPTO) is the governmental agency responsible for granting patents.
- c. **Trademark:** A trademark is a mark or sign capable of distinguishing the goods or services of one person/agency from those of other persons/agencies and may include the shape or size of goods, their packaging, combination of colours etc. Trademarks are protected by IPR.
- d. **Industrial Design:** Industrial design is a process of design applied to physical products that are to be manufactured by mass production. It is the creative act of determining and defining a product's form and features.
- e. **Traditional Knowledge:** The knowledge developed by the indigenous or local communities for the use of a natural resource with respect to agriculture, food, medicine etc. over a period of time and has been passed from one generation to another traditionally.

- f. **Geographical Indications (GI):** A geographical indication (GI) is a sign used on products that have a specific geographical origin and possess qualities or a reputation that are due to that origin. In order to function as a GI, a sign must identify a product as originating in a given place.

5. DEFINITIONS

- **Academic Programme:** An Academic Programme means the curriculum or combination of courses in a particular field/area of study, successful completion of which will lead to the award of a certificate.
- **Activity:** Activity means any task carried out in relation to an academic programme/course development, course delivery, teaching, research, consultancy etc. at and for KKHSOU.
- **Block:** A course is divided into Blocks that may resemble a booklet presenting one unified theme.
- **Course Editor:** A course editor may be content and language editor of a unit developed as part of an academic discipline.
- **Course ware:** These are technology-supported teaching-learning materials.
- **Course writer:** A Course writer is an expert identified by a particular School of Studies for the purpose of contributing a unit in the course developed by the school.
- **Courses:** An academic programme of KKHSOU is divided into courses. Course describes the teaching materials and other components of the study. Typically a course may consist of printed or digital Self Learning Material (SLM); audio/video programmes; Lab-based, internship and any other components or a combination of components as prescribed in the curriculum of the courses.
- **Employee:** Employee is any person appointed by KKHSOU including the faculty.
- **Faculty:** Teaching member of KKHSOU.
- **Learner:** Any person who has enrolled himself/herself in KKHSOU for pursuing any programme/course of study.
- **License:** An authorisation granted by an IPR holder to another party to reproduce, sell, use or distribute the work or product or process.
- **Licensee:** It is the party which receives the license to use, sell or reproduce the IP licensed by the licensor.
- **Licensor:** It is the party that grants a license to the other party.
- **Non-employee:** Employees who are not on roll at KKHSOU, but associated with various activities of KKHSOU, including visiting/adjunct faculty, student, internee or their like.
- **Open and Distance Learning (ODL):** ODL refers to imparting education through the Open and Distance Learning mode.
- **Project Work:** A Project work shall be carried out by a learner for completion and certification of a programme under KKHSOU.
- **Research Scholar:** A scholar enrolled in the PhD Programme of KKHSOU after successful completion of Coursework.
- **Research Supervisor:** A University faculty guiding research scholars for the Mphil/PhD Degrees and their like.
- **Research Work:** The research work carried out by a learner/scholar for MPhil/PhD programme of KKHSOU or the work carried out by the project staff while working on a sponsored / collaborative project.
- **School:** School means a School of Studies of KKHSOU.

- **Sponsored Project:** Study and Research Project which is undertaken at KKHSOU with external support and funding.
- **Teachers:** Teachers mean Professors, Associate Professors, Assistant Professors and such other persons as may be designated as such by the Ordinances for imparting teaching/instruction in KKHSOU or for giving guidance or rendering assistance to learners for pursuing a course/programme of study of KKHSOU.
- **Unit:** A Unit is a self-contained portion of a Block covering one or more interwoven learning concepts.

6. OWNERSHIP OF INTELLECTUAL PROPERTY

The sole objective of KKHSOU is programme development and delivery at minimum cost. However, the university also undertakes research activities. During these activities, various types of IPs such as copyright, trademarks and patents may be generated. The ownership of these IPs shall be decided as per the following details:

6.1 Types of Activities Leading to Generation of IP at KKHSOU

The main activities leading to generation of IP include:

- Course preparation (Print/digital)
- Systemic/discipline-based research reports
- Innovation in delivery mechanism
- Software development by KKHSOU for its functional purpose
- Audio/video programmes developed by the EMPC of the University
- Training packages/modules for university employees at all levels
- Publications for promotional activities and dissemination of information like University profile, Annual Report, VC's Report and Information Brochures of various departments/branches/Schools, Centres and Divisions, Prospectus and other similar materials
- Project Reports undertaken and funded by KKHSOU
- Question Banks and question papers of KKHSOU
- Journals and Books published by KKHSOU
- Databases, digital content and computer programmes
- Tools and platforms developed for various programmes

6.2 Ownership of Intellectual Property

A. Copyrights

The University shall retain ownership of all works as stated below created with the help of diverse media specifically for the purposes of implementation of IPR Policy of KKHSOU, its academic programmes and for all academic programmes administered and/or conducted by the University.

1. Works owned by KKHSOU

KKHSOU shall own copyright in any *institutional work that is:

- Created by its employees as part of their employment responsibilities
- Commissioned and sponsored by KKHSOU fully or substantially

- Created under the terms of a sponsored project which provide for ownership of copyright by KKHSOU solely or jointly with the sponsoring agencies.

Institutional works may include the following:

- Any work created for a specific use by the University.
- Compendia and periodicals.
- Course contents and courseware
- Works created as a result of collaboration between two or more schools of studies.
- Audio/Audio-visual Programmes
- Software
- Recorded materials
- Databases etc.

2. Works owned by an Employee

Creator of works such as textbooks other than the course ware, research papers/articles, books self-written or edited, non-fiction, novels, articles, poems, musical tunes/composition and all forms of Creative and artistic expressions whether disseminated in printed or digital form shall own the copyright.

KKHSOU shall not claim ownership of copyrights in independently authored books and textbooks, articles, papers and other scholarly publications, nor to other creative works *provided* that such works

- Are created by the personal effort of faculty, staff and learners;
- do not make use of university administered resources; and
- are not governed by the terms of a sponsored research or other agreement.

3. Works by Learners/Research Scholars

- Learners/Research scholars of the University shall seek permission from the University if they want to publish their research output (Thesis and Dissertations) externally.
- Ownership of reports generated by research that is performed in whole or in part by a learner with financial support in the form of wages, salaries, stipend, scholarship or grant from funds administered by KKHSOU or utilizing equipment, resources or facilities provided to KKHSOU shall be determined in accordance with the terms of any associated agreement, or in the absence of such terms, shall become the property of KKHSOU.
- Ownership of works other than dissertation/thesis created by learners without use of KKHSOU facilities or equipment shall vest with the learners.

4. Creator Owned

In the event the IP is not falling under any of the above situations defined for KKHSOU or the other Party, and is not related to the employee's employment responsibilities or to the scope of research defined for a learner, KKHSOU shall not own such IP and its ownership shall be vested with the creator.

B. IPs other than copyrights (Patent, Industrial design, IC layout design etc.)

- All rights with respect to research carried out within KKHSOU, whether by/for KKHSOU, or with the utilization of the resources of KKHSOU, shall be with KKHSOU, and KKHSOU shall be the absolute owner of the IP so created, except in the case of the activities carried out jointly with / under sponsorship of third party/governed by an agreement.
- Sponsored and Collaborative research

a. Sponsored Research: For externally sponsored/funded research, ownership would be decided as per the mutual written agreement between both Parties involved.

b. Collaborative Research: In the case of the Collaborative Research, the ownership would be decided as per the mutual written agreement between both Parties. Accordingly, all individual participants to the sponsored or collaborative research are under obligation to assign their rights to the respective party and sign requisite Copyright Agreements.

In the event, an agreement does not specify the ownership arrangement and/or the other party is not interested in securing protection of the IP, KKHSOU may, after due evaluation, decide to protect the IP and then the ownership shall vest with KKHSOU. Accordingly, the other party shall be requested to assign its rights to KKHSOU.

In rare cases and subject to a written mutual agreement between the parties, KKHSOU may allow the sponsor/collaborator to claim ownership to specific IP resulting from a joint/collaborative activity.

C. Trademarks

KKHSOU shall be the exclusive owner of trade and service marks which may include, but are not limited to logos, trade names, trade products, dress, phrases and the like.

D. Other Rights of KKHSOU

KKHSOU shall hold the right to share all its available resources for the purposes of teaching, research and any academic and promotional activity by the University. KKHSOU shall own the copyright to all Teaching-Learning Resources and Materials, Theses, dissertations, reports, databases and their like if they are produced using the resources of the University.

Further, all such works that lead to a degree, diploma, certificates, and any programme/s conducted by or on behalf of the University or using grants that were administered by the University shall belong to the University. Authors of such works shall need written consent from the University, which may also include financial implications, if they wish to have them published by an external publisher.

Under the OER Policy of the University, individuals other than the employees of the University, can reproduce and share the learning resources of the University by Attribution and without having any commercial implications. However, if any individual or publisher copies from the existing materials and use them for commercial purposes without informing the University, it will be seen as breaching of copyright of materials owned by the University.

All software and databases used in the University shall be licenced software, and it is the policy of the University that all users abide by any and all legal restrictions imposed by the owner of the software or database. Persons indulging in such acts of infringement of the said copyrights shall be solely held responsible and liable as per law. No unauthorised software shall be used in any of the University facilities/systems.

KKHSOU, with the approval of its Board of Management, may allow a waiver of its IP rights in special cases on the recommendations of IP Cell, Research Council and/or Academic Council. Any rare instances should not be used as precedence for other cases.

7. TRANSFER AND USE OF INTELLECTUAL PROPERTY

The main functions of KKHSOU are to provide education and conduct researches that benefits the public and the society. KKHSOU has been involved in the creation of a vast body of copyrighted material in form of its Self-Learning Materials which can be used for enriching the teaching/learning experience for the learners of other Open Universities and academic institutions following licensing/assignment mechanisms of sharing.

7.1 IP Licensing and Assignment

A. Copyright

- Teaching-learning materials of the University may be posted and shared only in a manner consistent with copyright law, which gives legal protection to nearly all texts, images, audio-visual recordings, and other materials, whether available on the Internet or in any other medium. For that, it is important that KKHSOU, being the copyright owner of such materials, shall make those materials available in the public domain or render them as Open Access and ensure their ‘fair use’ under the law.
- Any employee who owns copyright in his or her works may, after duly intimating KKHSOU, commercialize those works or make the work freely available on non-commercial terms or make the work freely available for academic and scholarly use provided KKHSOU’s name/logo is not used in connection with the works so made available.

B. Patents and other Inventions/innovations

- KKHSOU reserves the sole right to pursue commercial exploitation of IP generated by its teachers, research scholars, learners or other employees. It may exploit IP for public good through exclusive or non-exclusive licensing and/or assignment of IP on terms and conditions, as deemed appropriate.
- In case of IP generated from sponsored and collaborative projects, the terms of agreement shall determine the commercial rights, if any.

7.2 Revenue Sharing

Protection of IP is also meant to incentivise creators of such IP besides contributing to inventive fervour, knowledge enhancement, academic standards and revenue generation for KKHSOU. KKHSOU reserves the right to determine the share (of any royalty received) of the different stakeholders (including the course writers engaged for study material development) involved in IP creation and their dissemination from time to time.

7.3 Modalities for Collaboration with Other Academic Institutions/SOUs Regarding Sharing of KKHSOU Materials

A.KKHSOU shall partner with other academic institutions/SOUs/DEIs through written agreements to share its material for the following purposes:

- Teaching and Research
- Designing/Modifying/Revising/ Developing learning materials
- Hosting of KKHSOU materials on Partner web-sites.
- Reproduction, adaptation, translation and sale of IP owned by the University

B. The collaboration agreements shall have the following provisions to safeguard KKHSOU's interest and it shall be the duty of the concerned official to ensure inclusion of the following provisions:

- Acknowledgement of the source of material as that of KKHSOU.
- To use the material provided for non-commercial purposes.
- If any new IP is generated from the shared material, the ownership shall be decided as per the IPR policy of the University.

7.4 Use of KKHSOU's Trademarks and Name by Other Parties/agencies

KKHSOU may allow the use of its name and trademarks to another party through a signed agreement on the following conditions:

- IP is intended to be used for the benefit of the society
- IP is used in a responsible manner in accordance with the rules of the Government / regulatory agencies.
- IP is used without any liability to KKHSOU in case of misuse of IP.
- In no case, IP will be used against the interest of India.

In all cases, the licensee has to necessarily take prior approval of KKHSOU about the manner in which its name and trademarks are to be used in any media including print and electronic.

7.5 Use of Other's Copyrighted Materials by KKHSOU

A. Software

KKHSOU expects its faculty/learners/staff/employees/research scholars to understand the obligations made to third parties related to software and databases which KKHSOU may be procuring for education and research purposes. Several such software packages may be having restrictions on IP creation/its commercial use. Software of general use shall be procured with a valid license.

B. Other copyrighted material

Teachers, research scholars, learners, other employees of the University shall

- respect protection offered by Indian copyright law to all copyrighted material
- use copyrighted materials only for personal use, teaching and research purposes as permitted by Indian law, and

- not use copyrighted material in their thesis, publications, reports and other professional documents without taking prior permission of the copyright holder.
- Not use portions of copyrighted materials without proper acknowledgement of the copyright owner.

7.6 Use of KKHSOU Course Contents and Courseware

- KKHSOU has the right to use and improve the course contents and courseware for teaching and research at KKHSOU. Without the approval of KKHSOU, no employee (including employees who are no longer on roll of KKHSOU), shall commercialise / use course contents and course ware have created, developed or used at or by KKHSOU.
- Access to educational platforms like e-Gyankosh, Sodhganga and other such platforms, shall be universal in read-only mode while the downloads shall be restricted to teachers of KKHSOU, enrolled learners, research scholars and entities formally registered with KKHSOU for such purposes.

7.7 Compliance and Conflict of Interest

All inventors/creators are responsible for compliance with the Government of India rules and KKHSOU's policies and ordinances related to development and use of IP. In all activities arising out of implementation of IPR policy of KKHSOU, all faculty members/inventors are expected to avoid potential and mutual conflicts of interest.

8. ADMINISTRATION OF IPR POLICY

The IPR policy of the University shall be administered by the IPR Cell of the University. Hence, implementation of KKHSOU's IPR and its future amendments shall be carried out by the IP Cell. The IPR Cell shall report annually to the Academic/Research Council and Board of Management if the need be. The IPR Cell would be responsible for administering KKHSOU's rights and obligations, determining inventorship and ownership, obtaining necessary legal protection and taking necessary actions to maximize the benefits of any IP to the public, the creator(s) and KKHSOU.

The IPR Cell shall consist of a minimum of 5 members and shall remain functional for every three years. The Cell may be formed with senior members of the University in academics and administration. A member from the legal field should also be nominated.

8.1 KKHSOU IPR Cell and Its Responsibilities:

- Ensure the copyright protection of the University's creations
- Maintain University IP Portfolio and assist in IPR related documentation
- Recommend waivers and release of IPR to Creators / Inventor(s) and/or Third party(ies) within the ambit of the IPR policy
- Initiate and participate in the processes for the transfer of University's technologies/resources and IP for commercialisation.
- Issue drafts of all contracts, Licensing, Assignments, Non-Disclosure Agreements, Material Transfer Agreements etc. as and when necessary
- Execute all functions to ensure implementation of the IPR Policy of KKHSOU

- Create an awareness about IPR and guide the stakeholders through various programmes.

8.2 Appeal Procedure

In case of any conflict, grievance regarding ownership of IP, processing of IP proposals, procedures adopted for implementation of IPR policy and interpretation of various clauses of IPR policy, any aggrieved party can appeal to the IPR Cell of the University to resolve the issue. In case the appellant is not satisfied with the decision of the Committee, s/he can appeal to the Vice Chancellor of KKHSOU, whose decision shall be final and binding.

8.3 IP Infringement

In case of violation/infringement of any IP rights by the KKHSOU faculty/learners/staff/employees/research scholars/visitors or any third-party infringing upon the IPR of KKHSOU, the IPR Cell would first investigate the matter and make recommendations to the Competent Authority for resolution of such violation/infringement including need for any legal course of action.

8.4 Jurisdiction

As a policy, all agreements to be signed by KKHSOU will have the jurisdiction of the Guwahati High court, Assam, India and shall be governed by appropriate laws in India.

8.5 Record Keeping

All records of IP filings, registrations, IPR Cell meetings, any and all amendments of IP Policy shall be maintained electronically as well as in hard copies.

KKHSOU through its Board of Management, shall make changes to the IPR policy or bring out a new policy as and when felt necessary. This can happen in view of changes in government policies, other national and international developments or changes in the University Policies.
