Regulations Governing Valorisation 2014
Contents

2 Explanatory notes
3 Article 1
   Definitions
5 Article 2
   Duration and scope of application
6 Article 3
   Claims to knowledge and/or intellectual property rights
7 Article 4
   Reporting exploitable knowledge and/or intellectual property rights and collaboration
8 Article 5
   Confidentiality and publication
9 Article 6
   Securing, defending and upholding intellectual property rights
10 Article 7
    Exploitation of knowledge and/or intellectual property rights
11 Article 8
    Income from knowledge exploitation
12 Article 9
    Establishing a new venture and participation by an employee
14 Article 10
    Participation by the University of Amsterdam in a new venture

Disclaimer: This translation is provided for information purposes only. In the event of a difference of interpretation, the original Dutch version of this document is binding.
Explanatory notes

The University of Amsterdam pursues an active policy on valorisation, whereby valorisation is defined as follows: ‘the process of making knowledge gained through scientific education and research suitable or available for economic or social exploitation, or the exploitation of such knowledge through competitive products, services, processes and new activities (or participation therein)’. In this definition, the decision has been made to understand valorisation as referring to both the dissemination and exploitation of knowledge. Knowledge dissemination refers to all activities that make insights from scientific research and education suitable for use or application by a public other than the scientists themselves. Knowledge exploitation refers to the conversion of knowledge into competitive products, services and new activities.

The Regulations Governing Valorisation 2014 provide the University of Amsterdam’s legal framework for the protection and exploitation of knowledge and intellectual property rights and for participation in new ventures (spin-off companies). These Regulations are intended to offer a stimulus for making valorisation a part of everyone’s work and to clarify the rules that apply to this process. Knowledge exploitation would be impossible without researchers. These Regulations therefore focus on the position of the researcher.

The structure of the Regulations ties in with operational practice. Following the definitions, duration and scope of application, Article 3 begins by anchoring the principle that the UvA holds the title to all knowledge and/or intellectual property rights emerging from research and education. Any exploitable knowledge and/or intellectual property rights that may emerge from education and research conducted must be reported (Article 3). A temporary ban on publication and the obligation of confidentiality may be imposed for a short period (Article 4). This period allows the UvA to document the intellectual property (Article 5). Article 6 concerns the manner in which the rights are established. Subsequent articles concern the exploitation of knowledge and/or intellectual property rights.

Article 1
Definitions

a. Valorisation: the process of making knowledge gained through scientific education and research suitable or available for economic or social exploitation, or the exploitation of such knowledge through competitive products, services, processes and new activities (or participation therein).

b. Employee: a member of the University of Amsterdam staff or any other person bound by these Regulations through an agreement or statement, including professors by special appointment, visiting staff, approved parties, secondees, employee agency staff, students and trainees with direct, substantive involvement in education and/or research within the University of Amsterdam from which exploitable knowledge and/or intellectual property rights exist or could emerge.

c. Knowledge: expertise including ideas, concepts, applicable thought, elaborated questionnaires, web lectures, as well as specific websites and data files.

d. Knowledge exploitation: the conversion of knowledge and/or intellectual property rights into competitive products, services and new activities through exploitation.

Intellectual property rights (IP rights): patent rights, blueprint and model rights, plant breeders’ rights, databank rights and copyrights associated with work that is suitable for exploitation in the form of a service or product (e.g. elaborated questionnaires, web lectures, computer programs and websites). These Regulations shall not apply to scientific publications and books, although the provisions concerning confidentiality and the obligation to report shall apply to publications or books that potentially contain knowledge and/or IP rights.

e. Exploitation plan: document establishing how the knowledge and/or IP is to be valorised. The exploitation plan should state at least the area of application, the duration and the applicable fee for the third party to be able to use the knowledge and/or IP rights. The exploitation plan explains why the selected avenue and partner constitute the best destination for the knowledge and/or IP rights concerned.
f. Financial instruments: University of Amsterdam funds for stimulating the valorisation policy: the Patent Fund, the Proof of Concept Fund, the Pre-seed Fund and the Seed Fund.

g. Plant breeder: any party breeding, discovering or developing a variety of plants through original work.

h. Maker: the creator of a work as referred to in Article 10 (1) of the Copyright Act.

i. Inventor: any party to whom the originality of an inventive concept that forms the foundation for the establishment of one or more patent rights can be attributed.

j. Invention Disclosure Form (IDF): the form used to report possible exploitable knowledge and/or IP rights.

k. Technology Transfer Office (TTO): organisational unit of the University of Amsterdam that facilitates valorisation activities among employees.

l. New venture: business established by an employee of the University of Amsterdam for the implementation of knowledge exploitation.

m. UvA Holding BV: holding company for entities including the University of Amsterdam’s participations in new ventures. UvA Holding BV is a 100% subsidiary of the University of Amsterdam.

n. Participation: the taking of shares in a new venture that has been or will be established.

o. Net income: all gross proceeds from the exploitation of knowledge and/or IP rights, including royalties, licence fees, proceeds from the transfer of knowledge and/or IP rights and proceeds from participations, after deducting the expenses incurred by the University of Amsterdam for the acquisition and exploitation of the knowledge and/or IP rights. These expenses include at least the costs of applying for, granting and maintaining patents. The costs of licensing and the transfer of IP rights are also included, as are any costs of consultation with external experts.

Article 2

Duration and scope of application

a. These Regulations shall enter into force as of 1 May 2014, hereinafter referred to as the effective date, and shall replace the regulations entitled Uitvindingen UvA-medewerkers en anderen (Regulations governing Inventions by UvA Staff and Other Parties), dated 13 November 2008, which will then expire.

b. These Regulations shall apply to employees.

c. Exceptions to the Regulations on knowledge, intellectual property and participation may be allowed upon written agreement, and after approval by the Executive Board. In such cases, the content of the agreement shall be primarily applicable, with the Regulations serving a supplementary function.

d. For works under copyright, the Regulations shall apply only to works that are suitable for knowledge exploitation, e.g. in the form of a service or product (a computer program or elaborated questionnaire, for example).

e. These Regulations shall not apply to scientific publications and books, although the provisions concerning confidentiality and the obligation to report shall apply to publications or books that potentially contain knowledge and/or IP rights.

f. The Regulations shall apply to all net income received on or after the effective date. For cases in which the application of these Regulations conflicts with agreements made prior to the effective date with regard to knowledge, IP rights or participations, the prior agreements shall take precedence.
Article 3
Claims to knowledge and/or intellectual property rights

a. To the extent that such is in conformity with existing legislation and regulations, the University of Amsterdam is or shall become the title-holder to all knowledge and/or IP rights emerging from education or research conducted by the employees of the University of Amsterdam.

b. The University of Amsterdam may transfer its claims to knowledge and/or IP rights to a third party.

c. Decisions in this regard shall be taken by the Executive Board.

Article 4
Reporting exploitable knowledge and/or intellectual property rights and collaboration

a. Any employee performing activities that could reasonably be expected to generate exploitable knowledge and/or IP rights must immediately report this to the dean of the faculty and notify the TTO.

b. Upon receiving reports of potentially patentable findings, the TTO shall ensure the description of the results of the activities in an Invention Disclosure Form. This form contains a separate description of the contributions of each employee wishing to be designated as a title-holder (possibly as maker, plant breeder or inventor) in registration documents and/or publications. If the results have been achieved within the context of a team, each team member’s share shall be described and documented.

c. At the request of the dean and/or the TTO, employees shall submit all information concerning the knowledge and/or IP rights in question.

d. Employees shall provide all reasonable cooperation in the establishment, defence and transfer of IP rights.

e. If it becomes apparent that an employee has been wrongfully omitted as a title-holder, existing agreements shall be revised such that the rights and obligations of the employee under these Regulations are respected.
Article 5
Confidentiality and publication

a. The employee shall have a duty of confidentiality with regard to activities performed within the University of Amsterdam that could reasonably be expected to generate knowledge and/or IP rights, in order to protect them. This shall apply without prejudice to the provisions concerning confidentiality in the Collective Labour Agreement Dutch Universities.

b. The duty of confidentiality shall not impede any publication concerning the results of these activities, subject to the condition that any delay required in connection with a registration procedure intended to protect knowledge and/or IP rights may oblige the employee not to publish within that period.

c. Although scientific research is fundamentally inconsistent with a temporary or permanent ban on publication, such a ban may be necessary in order to allow the University of Amsterdam to document the intellectual property.

d. The mandatory publication delay may not exceed 12 weeks. In some cases, with the consent of the researcher (or researchers), it may be decided to delay publication longer, if doing so would increase the likelihood of a stronger patent position.

Article 6
Securing, defending and upholding intellectual property rights

a. After receiving a report, the TTO shall consult with the employee as soon as possible, in order to reach a decision concerning the possible protection of the knowledge and/or IP rights.

b. Such decisions shall be taken by the TTO within two months. If the analysis conducted by the TTO reveals that a finding is not yet patentable, but that additional research could potentially yield patentable material within the foreseeable future, the decision shall be delayed until the additional research has been conducted. If the employee concerned does not wish to conduct this research, the TTO shall consult with the dean to determine whether the results needed for a proper patent application can be obtained in another manner, or whether the employee is to be allowed the opportunity to publish the results without the submission of a patent application.

c. After obtaining the dean’s recommendation, the TTO shall take a decision on the patent application and the applicable territories and terms. If these Regulations differ from the standard mandate regulations, these Regulations shall take precedence.

d. After obtaining the dean’s recommendation, the TTO shall take a decision on the maintenance of previously granted patents and the applicable territories and terms.

e. Expenses incurred by the University of Amsterdam associated with the establishment, defence and maintenance of these patents shall be borne by the Patent Fund, which is managed by the TTO on behalf of the Executive Board.

f. If the TTO decides, contrary to the dean’s recommendation, not to apply for a patent or not to maintain a previously granted patent, the dean may submit a request to the Executive Board, complete with supporting documentation, to continue with the application for, or the extension of, the patent.
Article 7
Exploitatie van kennis en/of IE-rechten

a. Een medewerker dan wel de decaan van de faculteit die kennis en/of IE-rechten commercieel wenst te benutten, meldt dit bij BKT.

b. Melding van de benadering door een derde (partij) voor het benutten van kennis en/of IE-rechten waarvan de Universiteit van Amsterdam (mede) rechthebbende is dient eveneens gemeld te worden aan BKT.

c. BKT stelt samen met de decaan van de faculteit waar de medewerker werkzaam is, een exploitatieplan op.

d. In het exploitatieplan is aangegeven op welke wijze de kennisbenutting zal plaatsvinden.

e. Op hoofdlijnen wordt daarbij allereerst de keuze gemaakt tussen het sluiten van een licentieovereenkomst of het overdragen van het juridisch eigendom van de kennis en/of IE-rechten.

f. De voorkeur van de Universiteit van Amsterdam is de vorm van de licentieovereenkomst.

g. Bij de keuze voor overdracht wordt door BKT een gemotiveerd advies aan het College van Bestuur gericht.

h. Tevens wordt in het exploitatieplan aangegeven of de kennisbenutting zal geschieden via een daartoe op te richten new venture.

Article 8
Income from knowledge exploitation

a. Knowledge exploitation can generate net income.

b. Any net income realised shall be divided according to the following allocation formula:
   i. one third for the employee (or employees) or the inventor (or inventors), up to a maximum of €2.5 million per patent;
   ii. one third for the faculty or the research institute in which the employees are working;
   iii. one third for the financial instruments of the University of Amsterdam.

c. Employees shall have free access to their share of the net income. Statutory withholdings and premiums shall apply to this income.

d. The payment of this net income shall take place according to a schedule that the Executive Board has deemed reasonable.
Article 9

Establishing a new venture and participation by an employee

a. Employees may take decisions regarding the establishment of and/or participation in new ventures emerging from their research.

To this end, employees must obtain prior written approval from the dean, who shall evaluate the request on the basis of the following aspects:

i. the nature of the activities;
ii. the objectives of the organisation for which the activities are performed;
iii. the duration of the activities (incidental or permanent);
iv. the amount of time required by the activities;
v. the proceeds from the activities.

b. The TTO has the expertise needed to facilitate employees in this process.

c. If an employee will be performing activities for the new venture, the Regulations Governing Ancillary Activities 2014 shall apply. Ancillary activities can exist after the preparation phase of the new venture, thus beginning at the actual start of the new venture (the starting phase and the growth phase).

d. Employees may take shares in the new venture to be established.

e. Investment in a new venture may take place in a variety of ways:

i. through the input of knowledge and/or IP rights;
ii. through in-kind inputs, such as the provision of access to facilities at the University of Amsterdam (e.g. laboratory space or equipment);
iii. through the input of the staffing capacity of employees (primarily with regard to the researcher(s) or inventor(s));
iv. through monetary input;
v. by granting a loan within the context of the implementation of the financial instruments.

f. Cases involving input as referred to in Article 9 (f) i. with regard to IP rights of the University of Amsterdam require permission from the TTO.

g. Input by the University of Amsterdam, other than in the form of participation, shall be provided for fees that at least cover the costs.

h. Officials of the University of Amsterdam who are involved in a new venture in any way due to their positions shall be prohibited from participating in the new venture.
Article 10

Participation by the University of Amsterdam in a new venture

a. The University of Amsterdam can decide to establish a new venture or participation in which the University takes a limited or substantial interest (including a majority interest) in the new venture. In such situations, a majority interest is preferred.

b. Such decisions shall always be reserved to the Executive Board.

c. Participation by the University of Amsterdam shall be limited in time. It is therefore assumed that there will be an exit moment.

d. Participation of the University of Amsterdam shall take place through UvA Holding BV, based on the recommendations of the TTO and the director of UvA Holding BV.

e. If an employee holds shares in a new venture in which the University of Amsterdam participates, these shares must be certified, thereby creating a separation between economic and legal interests.

f. If an employee holds shares in a new venture in which the University of Amsterdam participates, the employee’s share capital must be balanced by investments made by the employee proportionate to the value of the share capital.

g. A current and proper business plan must be drafted, including a feasibility study. The plan must be assessed and approved by the TTO and the director of UvA Holding BV, and must offer the prospect of continuity in the venture.

h. The business plan should clarify the financial resources that will be necessary and how they will be obtained.

i. The business plan should clarify all forms of input other than financial resources.

j. It should be clear which milestones must be reached during the period between the establishment of the venture and the end of the participation of the University of Amsterdam, as well as what consequences will follow if these milestones are not reached.

k. It should be clear what the value of the share capital is and how it is distributed across all parties.

l. The name of the BV company may not contain any reference to the University of Amsterdam.

m. The University of Amsterdam may decide to reduce or terminate an existing participation.

n. Decisions to reduce or terminate participation are reserved to the Executive Board, upon the recommendation of the director of UvA Holding BV.

o. A distribution of value (or equivalent value) from the knowledge and/or IP rights contributed by the University of Amsterdam (equally distributed among the researcher or researchers, the faculty and the university, as specified in these Regulations) shall not be made until the termination of the participation by the University of Amsterdam. This distribution shall also apply to any interim or other dividend payments to the shareholders.
Disclaimer: This translation is provided for information purposes only. In the event of a difference of interpretation, the original Dutch version of this document is binding.
Credits
© University of Amsterdam, 2014

Design April Design

www.uva.nl