



Appendix to Director's Order 2/2010

The general rule is – if you have any doubts, questions or ideas, consult the IOCB TTO immediately. The sooner the project begins to be organised through the IOCB TTO, the less work it will be for you and the greater the chance of success. It is very infelicitous to attempt e.g. to write a patent quickly a week before sending a publication or before a trip to a conference. Such a process usually leads to a great amount of work without the desired result. It is therefore necessary to begin discussing a possible patent as soon as possible. The IOCB TTO is in Room 269b, Building A, 3rd Floor, internal line 554, email info@iocb-tto.cz; further information can be found also at www.iocb-tto.cz.

1. The procedure in the protection of objects of intellectual property (particularly applications of inventions or applications of utility models)

If an employee (or employees) of the Institute – the creator (or creators) of intellectual property – consider/s the result achieved in the Institute as significant enough to be protected (for simplification hereinafter referred to only as 'patented'), he/she follows the steps below. An invention is given as an example. If another object of intellectual property is concerned, the listed method is followed adequately:

1. The completed form 'Announcement of an Invention' shall be submitted to the secretariat of the Director along with the bases for evaluating the invention containing a statement by the Person Responsible. The bases for evaluating the invention are e.g. a thesis or manuscript of a publication on the given topic, or a rough draft of patent application. This applies to every case, even if the patent is being prepared as a result of collaboration with any other institution.
2. After being registered at the secretariat of the Director, this announcement will be forwarded to the IOCB TTO, which will arrange the further steps.
3. The IOCB TTO will agree by return post to a meeting with the creator of the invention, where the creator will explain the main points and aims/aspects of the given invention.
4. On the basis of this meeting, the IOCB TTO shall conduct an analysis with the assistance of expert council summoned *ad hoc*.
5. The IOCB TTO shall suggest one of the following processes to the Director of the Institute (along with its justification). The Director, however, is not obliged to be governed by the proposal of the IOCB TTO. The response, be it positive or negative, shall be given as quickly as possible (the legal term is three months from the Announcement) and the entire process will be very accelerated if the author/s of the invention inform/s the IOCB TTO in the

earliest phase possible of the potential plan to patent. The response of the Institute may be:

- a. The Institute is not interested in the patent. The Institute shall notify the creator/s in writing that it is not interested in the patent. In such a case, it is possible to publish the results immediately or the creator can register the invention himself/herself at his/her own cost. If the Institute does not respond within three months of the Announcement, it automatically applies that the Institute is not interested.
 - b. The Institute is interested in the patent. The Institute shall notify the creator in writing that it is interested in the patent, by which it claims its proprietary right to the invention. If the Institute lays its claim to the invention, the creator/s receive/s a remuneration of 10,000.00 CZK. This remuneration is divided among the creators in the proportion of their share in the creation of the invention. A contract will be drawn up between the creator/s and the Institute on the use of the invention. At the same time, the IOCB TTO will continue to cooperate with the creator/s in defining the further process for the submission of an application for the formal protection of e.g. the patent (hereinafter only as 'IA', i.e. Invention Application) and the process between the submission of the IA, PCT application, and possible entry of the national phases. If the object of intellectual property has been resolved in collaboration with a third party, the IOCB TTO will negotiate the terms of a contract with the third party.
6. It arises from the law that the patent is entirely the property of the Institute and it is up to the Institute what further processes it will select. The IOCB TTO suggests a further procedure to the leadership of the Institute, which the Institute may (but does not have to) follow. For example:
- a. The Institute may decide when and where the given resolution will be protected.
 - b. It may also decide that an IA will not be submitted at the given stage and the protection of the information will be ensured by confidentiality (in which case nothing can be made public, published).
 - c. The Institute may at any time suspend the process leading to granting a patent.
 - d. The Institute may at any time end the validity of the patent.
 - e. The Institute does not have by operation of law any obligations to the creator/s in the case of points c) a d) (not even to inform him/her of its decision and procedure) but normally offers the patent to the creator/s for purchase before releasing the patent.
7. The making of the resolution public, which is an object of protection (publication, sending of the abstract, etc.), is possible only after obtaining confirmation of the submission of the IA from the Authority.

2. Samples

When transferring samples to a third party, it is necessary to draw up an agreement with the given party of such a transfer, as it has been stated in Director's

Order 2/2010. This contract has essentially two main purposes. On the one hand, it protects the intellectual property created at the IOCB and on the other the IOCB disengages itself from responsibility in case of the improper use of the sample (e.g. any damage connected with economic losses or bodily harm).

The obligation to sign an MTA does not affect:

- ongoing collaboration within joint grant projects
- routine analytic testing

The obligation to sign an MTA concerns especially:

- the transfer of samples to commercial entities
- the transfer of samples to foreign entities

The provision of samples may in parallel be regulated by contracts with the third party (a domestic or foreign academic institution or commercial partner), whose components are precisely agreements concerning the handling of samples. In such a case, it is not necessary to sign an MTA, but it is necessary to verify properly (e.g. through consulting the IOCB TTO) whether the rights and responsibilities concerning the handling of samples are indeed regulated in another contract with this third party.

3. Collaboration with other scientific or commercial workplaces:

Collaboration with another scientific institution. The Person Responsible needs to ensure that all of the participants bear in mind the protection of intellectual property and trade secrets, namely both with domestic and foreign entities.

Collaboration with commercial workplaces. A commercial workplace is any entity that is not a scientific institution. If such a third party approaches an employee with a request for collaboration, such an opportunity is of course welcomed, but it is necessary to contact the IOCB TTO as soon as possible, which will further negotiate the specific conditions of this collaboration. It is absolutely essential in the first step to sign a contract of confidentiality, possibly of mutual confidentiality. Sometimes this contract is offered by such a third party; other times it is required by the Institute. It is not possible to use the same contract for all kinds of contacts, conversations and possible collaboration, and it is therefore necessary to request that the IOCB TTO create one. If the conversations with the third party proceed to the definition of some collaboration, it is necessary to sign a written contract on the collaboration, namely in advance, hence before any kind of sharing or making accessible any information that concerns intellectual property or has the character of trade secrets. Such a contract will *inter alia* resolve the question of the protection of intellectual property and the share of the jointly created intellectual property. These activities shall be ensured by the IOCB TTO. The effective participation of the IOCB TTO in the process of dealing with intellectual property, the protection of trade secrets and the handling of samples depends on the employees of the Institute providing timely, sufficient and true information to the IOCB TTO.