

## V. PROCESS<sup>1</sup>

### A. Discovery

The technology development process begins with the discovery or development of intellectual property. It is important for employees to recognize the value of their efforts and seek protection for it; when in doubt as to the appropriateness or timing of disclosure, the Office of Technology Development should be contacted for advice.

### B. Documentation

Under United States patent laws, conflicting patent claims are generally settled on the basis of first to invent (patents are issued on the basis of the date of invention, as opposed to date of patent application filing). Therefore, it is imperative that any employee who creates intellectual property fully document such creation as to time, date, place and co-creators. See the [Intellectual Property/Employees' Guide to Technology Development Handbook](#) for additional information on obtaining a patent, inventorship, record keeping, timeliness and when to disclose.

### C. Disclosure

The disclosure process is designed to document your invention and to initiate the protection process (if appropriate) and to protect employees from inadvertently conveying intellectual property to outside parties, which may diminish its value.

#### M.D. Anderson Employee

- Complete, sign and date an **Invention Disclosure Report** or forward to the Office of Technology Development.
- If a private industry organization expresses an interest in the intellectual property, contact the Office of Technology Development immediately. Do not disclose any proprietary information to the organization without first preparing an Invention Disclosure Report and securing a signed Confidential Disclosure Agreement (both available from the Office of Technology Development).

#### Office of Technology Development

- Receive and/or prepare Invention Disclosure Reports; ensure that the Invention Disclosure Report is completed, signed, dated and logged into the Intellectual Property Inventory System.
- If a private industry organization has expressed an interest in the intellectual property and wishes to review a description on a non-confidential basis, prepare (with review and approval of inventors) a non-confidential statement.
- If a private industry organization has expressed an interest in the intellectual property, prepare and execute a Confidential Disclosure Agreement.
- Monitor any information disclosed to any private industry or organization under a Confidential Disclosure Agreement.

### D. Protection

Generally, intellectual property has limited value if it is in **public domain**<sup>2</sup>. Therefore, to ensure maximization of intellectual property assets, M.D. Anderson shall seek protection of its intellectual property when licensed or otherwise economically warranted.

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<sup>1</sup> See Exhibit B for an Overview of the Technology Development Process.

### **Office of Technology Development**

- Using outside patent legal counsel assess patentability of intellectual property and, when warranted, request the filing and prosecution of patent applications.

### **E. Evaluation**

Not all of M.D. Anderson's intellectual property will be commercially feasible or of sufficient interest to private industry. Further, due to resource limitations and/or program impacts, M.D. Anderson may not be able to pursue all possible opportunities. This may result in some opportunities being licensed to private industry while other opportunities remain dormant.

### **Office of Technology Development**

- From the Invention Disclosure Report, identify potential products or services, determine their market potential and assess the probability of success for licensing.
- Based upon the commercial evaluation and/or recommendations from faculty reviewers regarding scientific merited utility, and recommendations from outside patent legal counsel regarding patentability, decide whether to assert or return rights.

### **F. Marketing**

The value of protected intellectual property is best enhanced by the further development, manufacturing and distribution provided by private industry. Therefore, the Office of Technology Development has an active program to promote intellectual property to private industry.

### **G. Sponsored Research Support**

Private industry sponsored research can be an important adjunct to M.D. Anderson's basic and clinical research programs associated with technology development. A licensee of M.D. Anderson's Intellectual Property often desires to support research at M.D. Anderson. With a long history of private industry supported research, M.D. Anderson presently has in place policies and procedures to govern acceptance of such support. See the Office of the Vice President of Research for specifics.

### **H. Contracting**

The initial objective of Technology Development's efforts is a contract with private industry to commercialize intellectual property; the ultimate objective is a product or service that benefits M.D. Anderson's patients and/or research, education and prevention programs.

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<sup>2</sup> **Public domain** refers to information that is not subject to legal protection from use by the public, such as information that has no patent or copyright protection.

### **Office of Technology Development**

- Negotiate and execute a term sheet with a private industry organization.
- Negotiate contracts, secure signatures from the private industry organization, the UT System Office of General Counsel, the U. T. System Office of Asset Management (equity deals) , and prepare a final term sheet.
- Forward contracts and final term sheets to the Associate Vice President for Business Affairs for approval execution and forwarding to the Executive Vice President for Administration and Finance for execution.
- Forward fully-executed contracts and term sheets to the Office of Sponsored Agreements and U.T. System Office of General Counsel for further handling.
- Forward standard technology development contracts to the Technology Development Board for monitoring.
- Forward non-standard technology development contracts to the Technology Development board for review and approval.
- Coordinate scheduling and record and distribute minutes of all Technology Development Board meetings.

### **Associate Vice President for Business Affairs**

- Seek input and counsel from appropriate division heads and department chairman and approve technology development contracts and forward to Executive Vice President for Administration and Finance for execution.
- As appropriate, prepare and have executed the Employee Royalty Sharing Form.

### **Technology Development Board**

- Monitor standard technology development contracts submitted by the Office of Technology Development.
- Review and approve non-standard technology development contracts.

### **I. MONITORING**

Once a technology development contract becomes effective, the Office of Technology Development will monitor the activities of the licensee and will report significant events or issues to the Associate Vice President for Business Affairs and the Technology Development Board.