**ATILIM UNIVERSITY**

**DIRECTIVE ON INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS**

**SECTION ONE**

**Purpose, Scope, Basis and Definitions**

**Purpose**

**ARTICLE 1 -** This Directive regulates the procedures and principles on the efforts regarding the determination, protection, sharing between the parties and commercialization of all kinds of intellectual and industrial property rights produced or co-produced by Atılım University members, and individuals having conducted activities with Atılım University directly or indirectly, while not members of the University.

**Scope**

**ARTICLE 2 -** This Directive covers the intellectual and industrial property rights regarding all kinds of patents, utility models, designs, software, entrepreneurial ideas, information, etc. created in studies and projects executed by the University, and its affiliated units; as well as the studies and projects where the University is a partner, where the participants are, regardless of whether they receive all or part of their salary from the University or whether they receive any payment at all; full-time and part-time faculty members, visiting scholars and researchers, full-time and part-time staff and employees (all staff members included), all undergraduate and graduate students (including exchange program students), postdoctoral researchers and interns, and Atılım University officials having carried out activities directly or indirectly, as well as individuals having undertaken projects or taken part in studies carried out by the University or in partnership with the University; in addition to the principles, rules, methods and conditions regarding their commercialization.

**Basis**

**ARTICLE 3 -** This Directive is based on the principles in the following under the Republic of Türkiye:

1. Industrial Property Law No. 6769
2. Law No. 5846 on Intellectual and Artistic Works,
3. Law No. 5147 on the Protection of Integrated Circuit Topographies,
4. Law No. 5042 on the Protection of Breeders' Rights for New Plant Varieties
5. Regulations on the Implementation of the Industrial Property Law published in the Official Gazette dated 24.04.2017 no. 30047,
6. Regulations on Employee Inventions, Inventions Realized in Higher Education Institutions and Inventions Emerging in Public Supported Projects published in the Official Gazette dated 29.09.2017 no. 30195,
7. The relevant regulations and directives by the University.

**Definitions**

**ARTICLE 4 -** The definitions for this Directive are:

* 1. **Directorate of ARGEDA-TTO:** Atılım University Directorate of the Office for Research, Development, Design, Consultancy, and Technology Transfer,
	2. **Invention Declaration Fund (BBF):** The form containing a detailed technical description of the invention and technical drawings, if any, in order to declare whether or not ownership rights are requested and the reasons if that is the case, and to notify the University of the contribution rates of the inventors to the invention,
	3. **Inventor:** All full-time and part-time faculty members, guest lecturers and researchers, full-time/part-time staff and employees (all staff members included), all undergraduate and graduate students (including exchange students), postdoctoral researchers and interns undertaking the work that constitutes the subject of the invention, and receiving all or part of their salary from the University; regardless of whether they are paid,
	4. **Work:** All research, development, design, application, adaptation, training and consultancy activities taking place within the University or within the framework of contracts/ protocols to which the University is a party;
	5. **Intellectual and Industrial Property Evaluation Commission (FSMDK):** The commission that includes the Director of ARGEDA-TTO, a lawyer from the Legal Consultancy Office, and two full-time faculty members determined in terms of their expertise/ experience; chaired by the Vice President,
	6. **Intellectual and Industrial Property Evaluation Higher Commission (FSMDÜK):** A 3-person higher commission, chaired by the President and consisting of two full-time faculty members appointed by the President and not assigned to the FSMDK,
	7. **Intellectual and Industrial Property Rights (FSMH):** All kinds of industrial property rights such as patents, utility models, trademarks, designs and all kinds of intellectual property rights that may be considered as works within the scope of the Law on Intellectual and Artistic Works, as well as the rights regarding integrated circuit topographies and plant breeders; all of which created before, during or as a result of studies and works;
	8. **Intellectual and Industrial Property Rights Screening and Evaluation Form (FSMH-TDF):** The form in which the results obtained by national and international screenings are presented about the Intellectual and Industrial Product notified through BBF, prepared as a preliminary review through an evaluation of the scope of FSMH protection and the market,
	9. **Intellectual and Industrial Product:** Any intellectual creation that may constitute the subject of Intellectual and Industrial Property Rights,
	10. **FSMH Evaluation and Approval Form:** The form used to present the result of the evaluation by FSMDK to the opinion and approval of the Board of Trustees,
	11. **FSMH Memorandum of Understanding:** The contract regulating the sharing of the income to be obtained as a result of the commercialization of the Intellectual and Industrial product between the University and the relevant inventors/ designers,
	12. **Institution:** Turkish Patent and Trademark Office and the relevant official institutions abroad,
	13. **The Board of Trustees:** The Board of Trustees of Atılım University,
	14. **President:** The President and the Presidency of Atılım University,
	15. **Vice President:** The Vice President of Atılım University responsible for the Directorate of ARGEDA-TTO,
	16. **Free Intellectual and Industrial Product:** Intellectual and Industrial products for which the University gives up the right to apply for FSMH to the relevant Inventor/ Designer as a result of giving up its rights on an Intellectual and Industrial product,
	17. **Design Declaration Form (TBF):** The form that includes a visual expression reflecting the visual features of a design, a written description of the visual features of the design or the product on which the design is applied, if any; used to state whether or not ownership rights are requested by the designer and the reasons if that is the case, and to report to the University the contribution levels of the working Designer, and other designers,
	18. **Design:** The appearance of the whole or part of the product or the decoration on it resulting from features such as lines, shapes, forms, colors, materials, or surface textures,
	19. **Designer:** All full-time and part-time faculty members, guest lecturers and researchers, full-time/part-time staff and employees (all staff members included), all undergraduate and graduate students (including exchange students), postdoctoral researchers and interns undertaking the work that constitutes the subject of the design to be preserved, and receiving all or part of their salary from the University; regardless of whether they are paid,
	20. **Commercialization:** Transforming Intellectual and Industrial Property Rights into commercial benefits by licensing, transferring or commercializing them through other means to Third Parties for a certain fee,
	21. **Third Parties:** Real/ legal persons, institutions and organizations with which the University and/ or the Working Inventor/ Designer are in contact regarding all processes such as the execution and the support of the study, as well as the commercialization of intellectual and industrial products,
	22. **University:** Atılım University.

**SECTION TWO**

**Granting Rights**

**The Intellectual and Industrial Property Evaluation Commission (FSMDK)**

**ARTICLE 5 -** (1) The commission includes the Director of ARGEDA-TTO, a lawyer from the Legal Consultancy Office, and two full-time faculty members determined in terms of their expertise/ experience; chaired by the Vice President. The FSMH specialist of the Directorate of ARGEDA-TTO participates in the commission as a rapporteur.

1. Members are appointed by the President for a period of 2 years. Members other than the Vice President and the Director of ARGEDA-TTO are appointed with their substitutes. New members are appointed by the President for vacant membership positions. At the end of their terms of office, members may be re-appointed.
2. The FSMDK convenes upon the invitation by the Vice President. Meetings are held with the Vice President, the Director of ARGEDA-TTO, the Legal Consultancy Lawyer, and two faculty members. Decisions are taken by majority vote.
3. The FSMDK determines and updates Atılım University policies on Intellectual and Industrial Property Rights, and manages the current FSMH portfolio administratively, legally and economically through the Directorate of ARGEDA-TTO.
4. In case of a disagreement between Inventors/ Designers regarding the contribution percentages to the Study/ Work during the preparation of BBF and TBF, the FSMDK plays a conciliatory role. If the parties are unable to reach an agreement, the FSMDK determines the contribution percentages ex officio by examining the study.

**The Intellectual and Industrial Property Evaluation Higher Commission (FSMDÜK)**

**ARTICLE 6** - (1) The higher commission, chaired by the President, consists of two full-time faculty members appointed by the President and not assigned to the FSMDK,

1. The FSMDÜK convenes in the event of an objection by the Inventor/ Designer against a decision taken by the FSMDK.
2. Decisions are taken by majority vote.

**Declaration of Inventions an d Designs**

**ARTICLE 7 -** (1) The Inventor/Designer completes an Invention Declaration Form (BBF) or a Design Declaration Form (TBF) which contains information about all works that they have produced or contributed to the production of, which have the potential to be evaluated within the scope of Intellectual and Industrial Property Rights; to deliver it to the Directorate of ARGEDA-TTO as the unit responsible for the protection and commercialization of the invention and design, without delays, and respecting confidentiality. The Directorate of ARGEDA-TTO notifies the Inventor/ Designer in a letter signed in ink that their declaration is being processed, as of the date of their notification; as soon as possible. The Inventor/ Designer, as well as the Directorate of ARGEDA-TTO are required to take all measures to ensure the confidentiality of the design or the invention.

1. If the Inventor/ Designer has applied for a patent/ utility model without declaring as such to the University, they are obliged to notify the University of their application within one month from their date of application, together with all the information and documents regarding their application. Inventors/ Designers failing to fulfill this obligation are required to compensate for the damage to the University within the scope of Law No. 6769.
2. The BBF should include details on the following:
	* Invention details
	* Details on the Inventor(s)
	* Opinions on the commercialization of the invention
3. The TBF should include details on the following:
	* Design details
	* Details on the Designer(s)
	* Opinions on the commercialization of the design
4. If the Inventor/ Designer has utilized the facilities of universities other than their own, they are obliged to notify both their own university and the university under which the facilities in question exist. If the Intellectual and Industrial Product is by the members of multiple universities, each university is required to be notified, accordingly.
5. The Inventor/Designer is obliged to provide the information required by the University in a timely and complete manner in order to maintain the registration application process or their rights after registration.
6. For all other Intellectual and Industrial Product notifications outside the scope of the Invention and Design Declaration procedures, The FSMH specialist of the Directorate of ARGEDA-TTO should be contacted directly.

**ARGEDA-TTO Screening and Pre-Evaluation ARTICLE 8 -** The Directorate of ARGEDA-TTO undertakes the following:

1. Preliminary research and scans in national/ international databases, in line with the information on the BBF. An innovation scan regarding the design, in line with the information on the TBF,
2. Evaluation of the Invention/ Design in terms of compliance with the preservation criteria, and the potential market; and notification of the Inventor/ Designer regarding any short-comings or issues of non-compliance detected, in order to resolve these,
3. A meeting, to be held for consultation purposes with the Inventor/ Designer, and for the presentation of information regarding the preliminary evaluation, and screening results. The preparation of the Intellectual and Industrial Property Rights Screening and Evaluation Form (FSMH-TDF), taking into consideration the BBF/ TBF data, screening and preliminary evaluation results, and the opinions of the relevant Inventor/ Designer,
4. The presentation of the FSMH-TDF to the FSMDK for resolution in the next commission meeting.

**Declaration Evaluation by the Intellectual and Industrial Property Evaluation Commission**

**ARTICLE 9 -** (1) The Intellectual and Industrial Property Evaluation Commission (FSMDK) examines the BBF/TBF and the FSMH-TDF, and evaluates the Intellectual and Industrial product in terms of its suitability for preservation and its commercialization potential. This is done, taking into account the priorities of the University. The FSMDK may take the opinions of the Inventor/ Designer for the purposes of this process, where necessary. If deemed necessary, the opinions of experts outside the commission may also be taken. Additional information and documents may be requested.

1. As a result of the evaluation made by the Commission, if deemed appropriate for the FSMH application regarding the Intellectual and Industrial product to be made, and the relevant entitlement to be requested, by the University for Türkiye, and, if any, determined foreign countries, the BBF/TBF and FSMH Evaluation and Approval Form is submitted to the Board of Trustees. The approval of the request by the University for entitlement and the application for FSMH is granted by the Board of Trustees, after an evaluation of the decision by the FSMDK. Based on the approval by the Board of Trustees, the Inventor/ Designer is informed as soon as possible and within the legal period on the claim for ownership of the University.
2. As a result of the evaluation, if the FSMDK decides to leave the Intellectual and Industrial Property Rights to the Inventor/ Designer, their decision on the matter is submitted to the Board of Trustees with the FSMH Evaluation and Approval Form, stating the reasons. The approval of the request by the University regarding non-entitlement is granted by the Board of Trustees, after an evaluation of the decision by the FSMDK. Based on the approval by the Board of Trustees, the Inventor/ Designer is informed as soon as possible and within the legal period on the decision. If the Inventor/Designer intends so, they may apply themselves, with all rights regarding the Intellectual and Industrial Product belonging to themselves.
3. The Inventor/ Designer may notify the Intellectual and Industrial Property Evaluation Higher Commission (FSDMÜK) in writing of their objections, if any, together with their reasons, within two months from the date of notification of the official letter regarding the request of the University for the ownership of rights. The FSMDÜK makes the final decision regarding the objection within two months from the notification date of the objection. Otherwise, the intellectual and industrial product is released. The decision is notified to the Inventor/ Designer in writing, together with the reasons, without delay.
4. The Board of Trustees has the right to dispose of all Intellectual and Industrial Property Rights to which the University is entitled, in line with the interests of the University.

**Obligation for Application**

**ARTICLE 10 -** (1) The Directorate of ARGEDA-TTO immediately initiates the FSMH application procedures on behalf of the University before national and/ or international institutions, following the decision made by the University regarding the right ownership request on the invention/ design.

1. For Patent, Utility Model and Design applications, the University reserves the right to apply at will, provided that it remains within the legal periods specified in Industrial Property Law No. 6769 and its regulations, as of the date of the decision that the University has requested ownership.
2. If the University has requested ownership of the patent/ utility model application that has been declared after the application, it notifies and requests the Turkish Patent and Trademark Office for the application to be accepted and processed as its own, adding the decision regarding the ownership request.
3. The patent/ utility model/ design registration application processes are followed up by the FSMH Specialist of the Directorate of ARGEDA-TTO. In addition, all documentation regarding the application and registration process is made by FSMH Specialist of the Directorate of ARGEDA-TTO.

**Commercialization and Management of the Intellectual and Industrial Product**

**ARTICLE 11 -** (1) The University, requesting for the ownership of rights, performs its commercialization activities through the Directorate of ARGEDA-TTO.

1. If the FSMH application regarding the Intellectual and Industrial Product is made by the University and the relevant Intellectual and Industrial Product is commercialized, the sharing of the income to be obtained between the parties is regulated by an FSHM Memorandum of Understanding.
2. Regardless of the nature of the Intellectual and Industrial Product, the sharing rates of the net revenues to be obtained after deducting all expenses, including taxes, resulting from commercialization are determined as follows for certain types of protection.
	* Net revenues as a result of commercialization of property rights with patent and utility model protection are distributed with 3/6 to the University, 1/6 to the Directorate of ARGEDA-TTO, and 2/6 to all inventors, to be shared among the inventors in the proportions specified in the BBF.
	* Net revenues as a result of commercialization of property rights with design protection are distributed with 4/10 to the University, 1/10 to the Directorate of ARGEDA-TTO, and 5/10 to be shared among the designers in the proportions specified in the TBF.
	* The share of the Directorate of ARGEDA-TTO of the revenues as a result of the commercialization of property rights with Patent/ Utility Model/ Design preservation is used to cover the expenses that may arise during the management of the intellectual and industrial property portfolio.
3. All expenses required for national and international applications and all revenues from commercialization are the responsibility of the Inventor/ Designer in cases where the University does not claim rights to the Intellectual and Industrial product, and the right to apply for the relevant Intellectual and Industrial product is left to the Inventor/ Designer.
4. The University undertakes commercialization activities for the Intellectual and Industrial Product for which it has full or joint rights and may make licensing/ transferring contracts with Third Parties.
5. Activities regarding recording, monitoring, reporting and ensuring the continuity of the FSMH portfolio of the University are carried out by ARGEDA-TTO.
6. When there are multiple applicants in an FSMH application for which the University requests entitlement, all dispositions on the Intellectual and Industrial Property rights are determined by contracts to be made with the other applicants within the framework of the provisions of the relevant laws.

**Waiving**

**ARTICLE 12** - The University may waive its intellectual and industrial property rights to which it is entitled. Unless there is a contrary provision in the contract between the inventor/ designer and the University, the Board of Trustees and FSMDK may review the entitlement decision every year, if necessary, by requesting information regarding the commercialization of the invention/ patent and the income obtained from the Directorate of ARGEDA-TTO.

**Confidentiality and Preservation**

**ARTICLE 13 -** (1) The University and the Inventor/ Designer are obliged to keep the information and documents regarding the intellectual product confidential until the FSMH application is published in the bulletin, unless the intellectual product becomes a free intellectual product. The research results regarding the intellectual product may not be disclosed in any way without the written approval of the FSMDK.

**SECTION THREE**

**Final Provisions**

**Cases Not Included in the Directive**

**ARTICLE 14 -** (1) In cases where there are no provisions in the Directive; the legislation of the University, the legislative provisions regarding intellectual and industrial rights and other relevant legal legislation are implemented, respectively.

(2) The processes specified in this Directive also apply for other industrial products other than patent/ utility model design registrations, produced as a result of scientific studies or research conducted at the University or for which registration applications have been made, to the extent that they comply with the relevant legislation.

**Effective Date and Execution**

**ARTICLE 15 - (1)** This Directive shall take effect after its approval by the Atılım University Senate.

(2) This Directive is executed by the President of Atılım University.

ANNEX 1

INVENTION DECLARATION FORM

ANNEX 2

DESIGN DECLARATION FORM