

26th January 1959

N.I.(G.P.)(59) 7

NATIONAL INSTITUTE FOR RESEARCH IN NUCLEAR SCIENCE

GENERAL PURPOSES COMMITTEE

PATENTS

Note by the Secretary

1. The following note recommending patents policy for the Institute has been prepared as requested at the last meeting (N.I. G.P. (58) fourth meeting - minute 7). The policy will depend on whether the invention is made by Institute staff or visiting staff. In common law, the inventions of a servant in the course of his work are the property of his master. It is a normal condition of employment in the public service that the Department has the right to require employees to take out patents at the expense of the Department, and to assign his rights to the Department. (Where the Department does not decide to do this the inventor may be allowed to patent on his own if he wishes). It is recommended that the Institute should apply this condition to their own employees. It is suggested that staff seconded to the Institute should be regarded as Institute staff in this respect, and that this should be agreed with the employer seconding staff to the Institute.
2. In Government research establishments and in the A.E.A. a vigorous patents policy is followed with the object of earning some return on the research expenditure. The Institute may wish however to base their practice on that of the universities, since the Rutherford Laboratory may be regarded as an extension of university laboratory facilities.
3. University practice varies. In the first place, it is not clear that the relationship of the University to its professors, lecturers etc. is in all cases that of master and servant. In some universities (e.g. Birmingham) working arrangements have been made whereby patents are normally taken out and exploited for the benefit of the University and the inventor, and can only be exploited by the inventor alone or with a third party, with the consent of the appropriate University body. In other universities any patenting and exploitation is left entirely to the inventor. At Oxford, for example, the only University regulation on the subject merely makes it clear that nobody may act on behalf of the University without formal written authority (Oxford University Statute XXVII).
4. At CERN it was decided after careful consideration to adopt a policy of early publication of all inventions made at the Laboratory, rather than patenting. (CERN second annual report (1956) page 57).
5. It is recommended that the Institute should require their staff at the Rutherford Laboratory to bring inventions to the attention of their Group Leader or Director, and should reserve the right to have patents taken out at Institute expense and assigned to the Institute, but that at the discretion of the Director, permission should normally be given for early publication instead. The Director, Rutherford Laboratory, should be able to call upon the advice of the A.E.A. Patents Branch. It is recommended that requests for permission to take out patents for exploitation by the inventor, should be referred to the Chairman.

UNIVERSITY STAFF

6. It is recommended that, subject to paragraph 8 below, any inventions made by University staff, employees or students at the Rutherford Laboratory should be regarded as a matter between the individual and his university as if the invention had been made at the university.

A.E.A. STAFF

7. It is recommended that any invention made at the Rutherford Laboratory by A.E.A. staff providing A.E.A. services to the Institute or, (subject to paragraph 8 below) by A.E.A. staff doing research as visitors at the Laboratory, should be regarded as a matter between the individual and the A.E.A.

JOINT INVENTIONS

8. In the case of inventions made in the course of research at the Rutherford Laboratory, there might be a question as to who was the inventor, and if the invention was made jointly by people from two institutions with different patents policies, inequalities or administrative difficulties might arise. Some method of avoiding unfairness seems to be required, but it is not expected that the number of cases would justify any rigorous system. It is suggested that arrangements for discussion with people familiar with the work, without any right to impose decisions, will be adequate. It is proposed, therefore, that it should be made a condition of research work at the Laboratory that before taking out any patent arising from research at the Laboratory, the individual must report his intention to do so to the Director, Rutherford Laboratory, and if requested, discuss the matter at a meeting with the Director, the Group Leaders, and anyone else considered appropriate by the Director.
9. It is expected that by such report to the Director (and meeting if required), it would be agreed who was the inventor or inventors, and if there were joint inventors from different Institutions, (of which the Institute might be one) it would then be for the individuals and their home Institutions to decide what to do about patenting and exploitation.