



## Missouri Professor stole Student's Invention, to sell New Drug, Lawsuit claims

*This story highlights the importance of Intellectual Property in a University, the benefits of having an Intellectual Property Policy in a University and the challenges of enforcing an Intellectual Property Policy; especially in cross border transactions.*

The University of Missouri sued a former pharmacy professor, Ashim Mitra, accusing him of stealing a graduate student's research and secretly using it to obtain a patent, to a new drug that it said could make, the professor millions of dollars.

The lawsuit said Dr. Mitra had already made about \$1.5 million from the inventions and has the potential of earning \$10 million in royalties over the next five years from what the university claims, could be a billion-dollar drug!

The University of Missouri said that in 2011, Dr. Mitra forwarded Dr. Cholkar's experimental results to Auen Therapeutics, a pharmaceutical company based in the United States Virgin Islands that eventually entered into a contract with Dr. Mitra and patented the inventions. The drug at the center of the dispute, Cequa, uses nanotechnology to make it a more effective treatment than traditional eyedrops.

In the lawsuit against the former professor, Ashim Mitra, the university's Kansas City campus claimed ownership over the invention of a new treatment for dry eye that Dr. Mitra sold to a drug company. The university said a Ph.D. student under Dr. Mitra's supervision performed the research that was central to the discovery but was not credited in the patents granted by the United States Patent and Trademark Office.

The University sued Dr. Mitra for fraud and unjust enrichment, and claimed that he breached his contract, which includes "patent regulations". The lawsuit said that when Dr. Mitra signed his contract in 1994, he agreed that the university would own all inventions made "within the scope" of his employment.

The university alleged, Dr Mitra took Cholkar's work and sold it to Auen Therapeutics, a pharmaceutical development company. According to the lawsuit, Auen Therapeutics and Dr



Mitra then patented the invention without giving Cholkar credit or getting permission from the university.

Auven Therapeutics sold the invention to a pharmaceutical conglomerate in India for **\$40 million**, according to the suit. “All of this occurred without any disclosure to — let alone approval from — the university,” the lawsuit claims.

Dr Mitra has issued a statement denying he stole his student's work. *“I can unequivocally prove that this invention was conceptualized and produced by myself and the rightful co-creators,” he wrote. “Dr. Kishore Cholkar is an accomplished student of mine who wrote a paper on other aspects of the Cyclosporine formulation after the patent had already been submitted to the FDA for approval. It is clear to see that both him and UMKC are now trying to reap the benefits of the tireless work myself and others have put in to make this a success.”*

The university said it wants to have Cholkar’s name assigned to the patent and to regain ownership of the invention.

## Intellectual Property in a University

Intellectual property (IP) in a University refers to creative ideas that emanate from academic work, this includes, inventions and literary and artistic works. IP law assigns four main rights to the creators of intellectual property: patents, trademarks, designs and copyright.

Intellectual property (IP) plays an essential role in both the research and teaching functions of universities and Public Research Institutions (PRIs). This also covers IP created by universities/PRIs and also third-party IP that they use in their work.

## An Intellectual Property Policy in a University?

In the absence of a written policy, regulating the ownership and use of IP rights, the stakeholders in a university/PRI (researchers, technicians, students, visiting researchers, investors, companies etc.) and commercialization partners (industrial sponsors, consultants, non-profit organizations, SMEs, governments) may lack guidance on how to make decisions concerning IP. There is a higher possibility of loss of IP, when multiple members of the university community collaborate or are exposed, to cutting edge, research work done, using the University’s resources, time and facilities. The risk increases when members of the university community, actively try to undermine the University’s IP Policy.

## Intellectual Property?

Intellectual property (IP) is intangible property that is created in someone's mind using his intellect or other tangible goods. Categories include; print publications, theses, software, films,



sound recordings, computer presentations and multimedia works. These are generally protected by copyright. Universities also conduct a lot of research, by faculty and staff and students, leading to problem solving innovation, which can be monetised by getting a Patent.

Intellectual property has value just like tangible property, and you have to protect it otherwise your property can be exploited without your knowledge or permission.

Some view intellectual property as a shield that prevents unlawful exploitation while others view intellectual property as a net that allows you to synergise with others through licensing of intellectual property.

[To use other people intellectual property safely, you need a license!](#)

### Licenses and Your Rights

A license allows an intellectual property rights holder (the licensor) to make money from an invention or creative work by charging a user (the licensee) for product use. Licenses protect proprietary rights in things such as software and other computer products, for example. An intellectual property owner uses a license to give someone permission to do a certain activity or to use his property, without the license this would have been unlawful.

### [Consequences of Failing to Register Patent/other Intellectual property](#)

The absence of Patent registration may limit your expansion into new territories. Patents are tied to a geographical location; without Patent registration, your rights may be limited and **you can get boxed in if a third party registers an invention before you.**

In addition it also means you have no obvious asset. Companies, banks and other financial institutions are more likely to reckon with Patent registration as a “tangible” evidence of an “intangible” asset.

If you want to **monetise your invention**, not having a Patent is a significant risk and your competitors or strangers may just go ahead and register your Patent in their own name and then go ahead to rail road you out of the market.

### [Conclusion](#)

Simply owning intellectual property rights does not generate money. To produce income the owners of these rights must exploit them financially through various types of commercial agreements including but not limited to licensing arrangements and/or assignments of rights.

Laws relating to intellectual property can be extremely complicated. An IP lawyer can provide invaluable help in monetising your intellectual property safely.



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