

UW REGULATION 3-641

Patents and Copyrights

I. GENERAL INFORMATION

The Vice President for Research and Economic Development is the University of Wyoming officer responsible for articulating policy and procedures concerning patentable inventions and copyrightable works in which the University may have or assert an interest.

II. POLICY

The University is dedicated to instruction, research, and the extension of knowledge to the public. It is the policy of the University to carry out its scholarly work in an open and free atmosphere, and to freely publish results obtained from this work. Research done primarily in anticipation of profit is incompatible with the aims of the University. However, the University recognizes that patentable inventions and copyrightable materials are conceived or created during the course of research conducted by faculty and students using University facilities. These policies have been established to ensure that inventions and materials in which the University may have an interest are utilized in a manner consistent with the public good.

III. OBJECTIVES

The principal objectives of the University patent and copyright policies set forth herein include the following:

- a.** To provide incentive to creative intellectual effort by University employees, students, and others associated with the University;
- b.** To establish principles for determining the respective interests of the inventors or authors, the University, and sponsors with respect to inventions, discoveries, or other creative works;
- c.** To enable the University to develop procedures by which the significance of inventions, discoveries and other creative works may be determined and, if practicable, commercially utilized;
- d.** To provide the means for placing in the public realm the results of research, while safeguarding the interests of the inventor or author, the University, and the sponsor; and
- e.** To recognize the right of the inventor or author to financial benefits, when applicable, from an invention, discovery, or other creative work.

IV. COVERAGE

The University's patent and copyright policies contained herein apply to all University employees and students conducting research and development that furthers the University's mission and is for the public good. "Work[s] made for hire," as that term is defined by the U.S. Copyright laws of 1976, are the sole and exclusive property of the University, and employees have no patent, copyright, royalty or any other interest in such work(s). The patent and copyright policies of the University, as amended from time to time, shall be deemed to be a part of the conditions of employment of every University employee.

V. DEFINITIONS

- a. **Personal Time:** For purposes of this Regulation, an individual's "personal time" shall mean time other than that devoted to normal or assigned functions relating to teaching, research, extension, or service on University premises, or other functions in which University facilities are utilized.
- b. **Research:** For purposes of this Regulation, "research" is the studious inquiry or examination conducted with the avowed purpose of creating and adding to the knowledge in a field and thereby advancing theory and principles; expansion of ideas, theories, and principles and the interpretation of developed information and the provision of further insights; or improvement and/or facilitation of the application and utilization of knowledge within an applied professional field.
- c. **University Facilities:** Any facility, including equipment and material, available to the individual as a direct result of the individual's affiliation with the University, and which would not be available to a non-affiliated individual on the same basis.

VI. PATENT OWNERSHIP

With the exception of inventions or discoveries made on an individual's personal time, every invention or discovery or part thereof which results from research or other activities carried out at the University, or which is developed with the aid of the University's facilities or employees, or with funds administered by the University, is the property of the University of Wyoming, and, as a condition of employment, and in keeping with the Student Code of Conduct, is hereby assigned by the inventor to the University in accordance with these policies. Income earned as a consequence of patenting and/or licensing such inventions or discoveries shall be distributed in accordance with Section VII, Income from Patents and/or Licenses.

Inventions or discoveries made or conceived by University employees or students which are created or developed entirely on personal time, and which do not involve the use of University resources, facilities or materials, shall be the exclusive property of the employee or student.

All inventions or discoveries made or conceived of by University employees or students shall be disclosed in accordance with Section XII hereof, and the individual responsible for such invention or discovery shall adequately demonstrate the relative extent to which the inventor's personal time and resources and the University's resources, facilities, and materials were utilized. In each instance in which it is adequately demonstrated that such invention or discovery was made exclusively on personal time, utilizing no University resources, facilities or materials, the University shall acknowledge in writing that the invention is the sole property of the inventor.

If an individual so desires, however, inventions or discoveries made exclusively on personal time, utilizing no University resources, facilities, or materials, may be assigned to the University for patent evaluation, registration, administration or protection.

After consultation with the inventor, the University may, in its sole discretion and upon such terms as it deems appropriate, cause any rights which it may have to a discovery or invention to be released and transferred to the inventor. Such action may be expected if the University believes that a discovery or invention is one that is non-patentable or that does not warrant further evaluation as to patentability, or if a discovery or invention is returned to the University after negative evaluation by its patent evaluation agent(s), if any. In event of an assignment or release, the University shall retain a royalty-free perpetual non-exclusive license for the use of any such invention or discovery.

VII. INCOME FROM PATENTS AND/OR LICENSES

Whenever the rights in and to an invention or discovery or a work of authorship as described in Sections XV and XVI hereof are owned by the University, and the University patents, copyrights, sells, licenses or otherwise provides for use of such inventions, discoveries or works by an outside user, then any net income or royalties received by the University shall be distributed sixty percent (60%) to the inventor/author and forty percent (40%) to the University.

Of that amount retained by the University, one-half shall be paid to the department or college in which the invention or discovery originated, and one-half shall be paid into a University research and development fund, the purpose of which shall be to stimulate and encourage creative enterprise by University and students. Expenditures from this fund shall be authorized by the Vice President for Research and Economic Development after consultation with the Research Advisory Committee.

VIII. SPECIFIC CONDITIONS GOVERNING SPONSORED RESEARCH

- a. Government Sponsored Research.** Patents on inventions arising from research financed by the United States Government are controlled by the terms of the

supporting grants and contracts, and applicable Federal laws and regulations. Except as provided by Federal law or by government-supported grants or contracts, when no patent rights are claimed or when patent rights are waived by the United States Government, patents arising from government-sponsored research are controlled by patent and copyright policies set forth herein.

- b. Non-Government Sponsored Research.** The University must ensure that its facilities and the results of the research of its employees and students are applied in a manner which best serves the interests of the public. Likewise, the legitimate interests of a private sponsor who provides financial or other support to research carried out by or through the University must be considered. The University will normally reserve ownership of patents on inventions arising out of research supported in whole or in part by grants or contracts with nongovernmental organizations or firms. Contracts or agreements which are entered into between the University and nongovernmental organizations or agencies should contain clauses setting forth such a reservation, unless deviations therefrom are requested by the sponsor and approved by the Research Advisory Committee. In the interest of fair treatment to the sponsor and in consideration for such sponsor's investment, special provisions regarding patent rights may be negotiated by the University, provided that the University retains the perpetual, non-exclusive right to use the invention for its own research, educational, and service purposes, without payment of royalty fees. In such cases, in the interest of discharging the University's obligation to the public in the application of its facilities and its employees' and students' time and talent, the University will require the sponsor to use due diligence in the commercial use of the invention, and the University will retain the right to publish the results of the research involved after a period of time reasonably necessary to protect the rights of the parties and to allow for the filing of a patent application.

IX. PUBLICATION

A major function of the University is the advancement and dissemination of knowledge. Any practice which unnecessarily restricts the publication of results of scholarly scientific work is to be avoided. It is recognized, however, that the full development of useful inventions or discoveries may be dependent upon the securing of patent protection which will enable the commercial utilization of the discoveries or inventions. Accordingly, under certain circumstances it may be necessary to delay for a minimum period the publication of results of research.

If a sponsor proposes to support a research effort, and the rights to any patentable invention resulting therefrom will belong to said sponsor, the research agreement with respect to publication shall include language to accomplish the following: First, the sponsor must agree that the results of the research may be published by the investigators. Second, to not jeopardize patent applications, the University and the investigators may agree that any proposed publication will be submitted to the sponsor with a written notice of intent to submit for

publication. The notice will advise the sponsor that if, within a period of no more than ninety (90) days from the date of such notice, the sponsor fails to request a delay, the investigators and University shall be free to proceed immediately with the publication. If, however, the sponsor provides timely notice to the University that a delay is desired, the submission of the manuscript to a publisher or other public disclosure shall be withheld for the period requested, but in no event shall the total period of delay be longer than one (1) year following the date of the notice of intent to submit for publication. Such a period will permit the sponsor to have the necessary patent applications prepared and filed, and does not unduly restrict the dissemination of scientific knowledge.

X. AVOIDANCE OF CONFLICTS

Conflicts involving patentable inventions and discoveries may arise when University employees or students enter into personal consulting agreements with outside firms and organizations. The agreements which business firms generally wish to have executed by those who are to serve in a consulting capacity frequently contain provisions requiring the licensing or assignment of the consultant's inventions and patents to that business firm. Such provisions may apply to areas in which the individual's University work lies, and thus may come into conflict with the terms and conditions of this policy.

Prior to signing any consulting agreement which deals with patent rights, trade secrets, or the like, if any University time, facilities, materials or other resources are to be involved in the carrying out of such consulting work, University employees or students must submit the proposed agreement to the Research Advisory Committee and obtain a waiver of University rights, or otherwise modify the agreement to conform with these policies.

XI. DUTY TO DISCLOSE DISCOVERIES AND INVENTIONS

All individuals whose discoveries and inventions are covered by these policies have a duty to promptly disclose the same to the Research Advisory Committee through the Vice President for Research and Economic Development. The duty of disclosure arises as soon as the individual has reason to believe, based on his or her own knowledge or upon information supplied by others, that the discovery or invention may be patentable. Certainty about patentability is not required before a disclosure is made. Individuals shall execute such declarations, assignments, or other documents as may be necessary in the course of patent evaluation, registration, administration, or enforcement in order to ensure that title in such inventions shall be held by the University, or by such other parties as may be appropriate under the circumstances.

XII. RESEARCH ADVISORY COMMITTEE

The Research Advisory Committee shall review and recommend to the Vice President for Research and Economic Development or the Vice President's designee the procedures for the implementation of these policies; shall resolve questions of invention ownership that may

arise between the University and its faculty, staff, or students; shall recommend to the Vice President for Research and Economic Development the expenditure of the University research and development fund; and shall make such recommendations as are deemed appropriate to encourage disclosure and to assure prompt and expeditious handling, evaluation, and prosecution of patent opportunities.

XIII. PATENT MANAGEMENT

The President, or the President's designee, is authorized to negotiate with reputable agencies or firms to secure arrangements for patent management, including competent evaluation of invention disclosures, expeditious filing of applications on patents, and licensing and administration of patents.

XIV. COPYRIGHT OWNERSHIP

Except as provided in Sections IV, XV and XVI of this Regulation, all rights to copyrightable material shall be the property of the creator. The University may execute a written agreement waiving its rights, if any, in and to such material. The distribution of royalties, if any, is a matter of arrangement between the creator and his or her publishers or licensees.

XV. COMPUTER SOFTWARE

All copyrights in and to computer software, including but not limited to programs, operating systems, procedures, and associated manuals, which result from research activities carried out at the University, and which are developed with the aid of or for use with University hardware shall be the sole property of the University of Wyoming. The terms and conditions of Sections I through XII of this Regulation, including but not limited to Section VII which describes the distribution of income, shall apply to computer software of the type described herein. Section VII does not apply to works for hire.

XVI. VIDEOTAPED PRODUCTIONS

All copyrights in and to videotaped courses of instruction or other audio-visual productions which result from research or other activities carried out at the University, and which are produced with the aid of the University's facilities or staff or with funds administered by the University, shall be the sole property of the University. Any individual contemplating the development and production of a videotaped course of instruction or other audio-visual production must secure the prior approval of the Vice President for Academic Affairs, or designee. All of the foregoing terms and conditions of this Regulation, with the exception of Section VII, shall apply to videotaped courses of instruction of the type described herein. The means of remuneration, and the distribution of income earned from the development of such a course or production, shall be agreed upon in writing prior to the development or production of same. Remuneration and distribution of income do not apply to works for hire.

XVII. SERVICE MARK, TRADE-MARK AND TRADE-NAME OWNERSHIP

Service marks, trade-marks and trade-names with respect to products resulting from or arising out of research or other activities carried out at the University or developed with the aid of its resources, facilities or staff, shall be the property of the University. Without express authorization from the President or the President's designee, no steps shall be taken to secure such trade-marks, trade-names or service marks by usage or registration. The University reserves the right to register such marks as it deems appropriate, and to license the use of such marks, provided that the income from such licensing shall be used to support the research and educational programs of the University as defined herein.

XVIII. EXCEPTIONS

Exceptions to any of the above policies may be authorized by the President or the President's designee following a favorable review and recommendation from the Research Advisory Committee. Before recommending such an exception, the Committee should determine that, on the basis of the evidence available, such exception is consistent with the University's responsibilities to the public interest.

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