

Effective Date: May 11, 2017
Supersedes: Intellectual Property Policy of The University of Tulsa (Reformatting of the 2017 Intellectual Policy approved: May 11, 2017)
Issuing Authority: Office of the President
Responsible Officer: Vice Provost for Research

I. Policy Statement

This Policy on Managing Intellectual Property sets forth the general policies and guidelines that define the rights and obligations of the faculty, staff, and students of The University of Tulsa (hereinafter the "University") with regard to inventions and other intellectual property that result from their University activities.

The University is dedicated to teaching, research, and dissemination of new knowledge generated within the University community. Thus, the basic goal of its policies governing the disposition of intellectual property generated at the University is to promote creative expression and the progress of science and technology and to ensure that discoveries, inventions, and creations generated by its faculty, staff and students are utilized in ways most likely to benefit the public. At the same time, it is recognized that the University must assist its faculty and other researchers in properly disclosing their scholarly work, in complying with applicable laws and formal agreements, and in gaining the protection available under United States laws governing patents, copyrights, and trademarks.

The objectives of the University's policies governing its intellectual property include:

- A. To create an environment that encourages and expedites the dissemination of the discoveries, creations, and new knowledge generated by the faculty and other members of the campus community for the "greatest public benefit."
- B. To protect the traditional rights of scholars to control the products of their scholarly work.
- C. To ensure that the commercial results, financial, or otherwise, are distributed in a fair and equitable manner that recognizes both the contributions of the inventors or developers and the University.
- D. To ensure that both intellectual property and other products of scholarly research and teaching are made available to the public through an efficient and timely process of technology transfer.
- E. To encourage research and scholarship without regard to potential gain from royalties or other such income.

A member of the University community encountering any perception(s) of departures from these objectives, internal or external to the University, should communicate them forthwith and in writing to the Chair of the University Intellectual Property Committee.

II. Application

This policy applies to all University community members, including faculty, students, staff, visiting scholars and postdoctoral fellows, engaged in the creation of intellectual property at The University of Tulsa.

III. Definitions

- A. Faculty member – an employee whose primary responsibilities are teaching and/or research in a given specialty.
- B. Student – a person in pursuit of and engaged in a degree or non-degree program of education.
- C. Staff employee – a non-teaching employee of the University -- excluding those on research appointments such as research assistantships, graduate fellowships and postdoctoral fellowships -- whose function is to ensure the physical and administrative functioning of the University.
- D. Net income (from intellectual property) -- gross fees, royalties and other receipts received by the University minus the out-of-pocket expenses associated with the protection and exploitation of the patent, trademark or copyright protection, including fees associated with patent filing, copyright registration, trademark registration and any other continuing costs associated with the licensing or other commercialization of the patent, copyright or trade mark or name.

IV. Policy and Procedures

A. OWNERSHIP OF INTELLECTUAL PROPERTY

Ownership of intellectual property shall be allocated as follows:

1. Patentable Inventions -- Technical information, discoveries, inventions, computer programs and patents resulting from investigation or research conducted by employees or students of the University (a) which is financed in whole or in part from funds administered by the University or (b) as a direct result of an employee's duties or a student's academic pursuits with the University or (c) made in whole or in part by the utilization of University resources or facilities, are the property of the University and shall be assigned to the University or its designee, unless the University relinquishes its rights therein to the inventor. A failure to assign rights to the University or its designee may result in forfeiture of rights otherwise provided under this Intellectual Property Policy. In no event may the name of the University be used in connection with any invention, item, or process resulting from its research without the written consent of the University.
2. Copyrightable Materials Other Than Patentable Computer Software -- The University recognizes the traditional freedom of its faculty and students in matters of publication and copyright. Except as otherwise provided in the paragraphs below and for patentable computer software, all rights to copyrightable materials in any and all media shall belong to the creator. The creator shall be free to do

with his or her creations as he or she wishes, and the reservation, collection, and distribution of royalties, if any, shall be a matter of arrangement between the creator and his or her publishers or licensees.

Ownership of intellectual property, including copyrights and trademarks, developed by University staff employees within the scope of their employment shall reside with the University.

For faculty members and students, the University shall have rights to copyrightable materials to the extent that these rights are specified in a written agreement between the University and the creator(s). Similarly, the University shall own the copyright to materials produced under a written contractual agreement between the University and a sponsor or other party if the University may be required to grant rights to the copyright as specified under Paragraph IV (A) 4.

3. Patentable Computer Software -- For purposes of this policy, patentable computer software includes computer programs, object code, source code, pseudocode, and algorithms that have substantial potential for patentability and commercialization, other than as part of a publication, such as a book, paper, journal article, or course materials. Because patentable computer software is distinct in character from literary and artistic creations, patentable computer software shall be treated as an invention for purposes of this policy. All rights to computer software that does not have substantial potential for patentability and commercialization, except as part of a publication, will be treated as copyrightable material under Paragraph IV (A) 2.

All rights to patentable computer software developed by a staff employee, faculty member or student in the student's academic pursuits shall reside with the University. Employees and students who develop patentable computer software are required to submit an Invention Disclosure form to the University Intellectual Property Committee for the patentable computer software. The University, in consultation with the developer of patentable computer software, shall have the right to evaluate and determine whether to seek copyright or patent protection, or both, for the patentable computer software, and whether to market the patentable computer software or grant assignments or licenses of it. Except as otherwise provided by another written agreement, a developer of computer software shall have an unlimited right to use the computer software for non-commercial purposes and to make modifications and improvements to it. A developer of patentable computer software may also distribute patentable computer software to colleagues at other institutions and in industry for non-commercial purposes, provided that the off campus recipients agree in writing not to patent, sell, or distribute the patentable computer software without the prior approval of The University of Tulsa and the developer.

4. Investigations or Research Financed in Whole or in Part by Governmental, Industrial, Philanthropic, or Other Organizations or by an Individual Not Employed by the University -- The investigation or research shall be prosecuted under a written agreement between the University and the other party setting forth the rights and ownership of inventions, other potentially patentable works, patents or copyrightable materials which result therefrom. Normally, for inventions, such agreement will provide, among other things, that ownership will be vested in the University, and that the sponsor will be granted a nonexclusive license to make, use, and vend, but not to sublicense, on terms no less favorable than may theretofore have been or may thereafter be granted to any other licensee of the same patent. Exceptions and variances to the form of agreement to be entered into between the University and the sponsor may be approved by the President of the University, normally pursuant to recommendations of the University Intellectual Property Committee. An inventor may be the recipient of compensation for his or her discovery of invention as provided for in the agreement or

as provided for in Section IV (C). Likewise, if it is specified that rights to copyrightable materials produced under sponsored agreement shall be a deliverable, the ownership of those rights shall be vested in the University so that it may grant such rights as required.

In the case of Government-supported research, the Bayh-Dole Act (35 U.S.C. § 202(c)(4)) and subsequent amendments and federal regulations provide that the Government retains a non-exclusive, non-transferable, irrevocable, royalty-free, worldwide license to an invention or copyrightable material produced under Government sponsorship. In addition, any income or royalties received from an invention produced under Government sponsorship after payment of expenses (including payments to inventors for royalties) must be used for scientific research or education.

5. Investigations or Research Performed by Employees or Students in Whole or in Part on Their Own Time and at Their Own Expense -- Discoveries or inventions resulting from investigations or research performed by employees or students in whole or in part on their own time and at their own expense shall be reported to the President's designee and the rights and ownership of any resulting discoveries, inventions, or patents shall be determined as follows:
- a. When a discovery or invention is made wholly at the expense of the individual, without the use of University facilities and outside the normal field of the individual's University employment or academic pursuits, the results will be the private property of the individual.
 - b. When a discovery or invention is made partly at the expense of the individual, with the use of University facilities or in the normal field of the individual's University employment or academic pursuits, the University Intellectual Property Committee shall recommend to the a division of the rights in the invention and compensation to the inventor, if any. Such recommended division, if or as approved by the President and by the inventor, shall be binding upon both the inventor and the University.

6. Investigations or Research Performed by an Employee or Student While Engaged in Outside Employment or Consulting -- University employees (staff and faculty) engaged in outside employment (including consulting) shall be governed by the University's outside employment policies (see Outside Employment Report). In addition, where an employee's or student's outside employment involves an area which has been or is likely to coincide with or overlap an existing or anticipated investigative or research project conducted by or under the auspices of the University, and discoveries, inventions, potentially patentable works, or patents may result in the course of such employment, the individual must obtain the prior approval of the University before entering into any agreement concerning the disposition of rights in such discoveries, inventions, potentially patentable works, or patents.

B. COPYRIGHT NOTICE FOR COMPUTER SOFTWARE

All University-owned computer software that is distributed to off campus recipients shall bear a copyright notice imbedded in the title page or screen or other prominent location. The standard form for the copyright notice is:

Copyright XXXX (year)
The University of Tulsa
All Rights Reserved

OR

Copyright XXXX (year)
The University of Tulsa
All Rights Reserved
by Mary Doe and Joe Smith
Department of Computer Science

C. INVENTOR COMPENSATION

In those cases where the University has ownership rights in the invention or copyrightable material and where the University licenses or transfers title to the intellectual property and receives royalty or other income from an invention, patent, potentially patentable work, copyrighted computer program, or other copyrightable work subject to this Intellectual Property Policy made by an faculty member or student, other than work for hire, the inventor(s)/creator(s) shall receive 45% (forty-five percent) of the net income from the invention or protected material unless otherwise specified under a written agreement.

After the assignment of rights to the University, the amount of inventor compensation shall not be affected by any termination of the inventor's employment with the University. However, inventor compensation may be reduced or forfeited upon a determination by the President in consultation with the University Intellectual Property Committee that the inventor's claim of inventorship is invalid or that there has been other material misconduct by the inventor with respect to the invention or its disclosure. If an inventor dies, inventor compensation shall be paid to the inventor's survivors and heirs.

D. UNIVERSITY INTELLECTUAL PROPERTY COMMITTEE

There shall be established a University Intellectual Property Committee composed of five or more members appointed by the President as follows: (a) a member of the faculty of the College of Law,* (b) one or more members of the faculty of the College of Engineering and Natural Sciences,* (c) one or more members of the Office of Research and Sponsored Programs,* (d) one or more members of the University full-time faculty engaged in teaching or research, and (e) any other persons (including one or more persons external to the University) designated by the President. Members of the University Intellectual Property Committee shall be appointed for four-year terms of service, provided that any member may be reappointed upon the expiration of his or her term of service. Vacancies occurring on the Committee, whether by reason of expiration of a term of service, resignation, death, retirement, or otherwise, shall be filled by appointments made by the President. An Office of Research and Sponsored Programs* member shall serve as Secretary of the Committee. The University Intellectual Property Committee shall, in addition to the functions herein before described, consider and make recommendations to the President concerning the following matters:

1. The review, establishment, and modification of University policies and procedures affecting research, inventions, and patents.
2. Whether or not an application for patent should be made on any particular invention or computer program, whether such invention or computer program should be dedicated to the public, whether the rights therein should be relinquished to the sponsor or inventor, and whether the University should file federal registration for a University-owned copyright for a particular computer program or other copyrightable work subject to this Intellectual Property Policy.

3. Division of rights in discoveries and inventions or compensation to be paid the discoverer or inventor as provided for in Section III and the University's Intellectual Property Procedures.

4. Matters submitted to it by any interested employee or student, to include, when appropriate, the conduct of a hearing where the issue may be the alleged improper distribution of rights or compensation between an inventor and the University or a sponsor.

When matters covered by Sections IV (D) 3 and 4 are being considered, one member of the Committee must be from the same staff or academic discipline as the discoverer or inventor and a sixth additional member may be appointed to the Committee by the Committee Chair on an *ad hoc* basis, if necessary, in order to obtain such representation.

* Or successor organization unit, however named.

E. INCOME FROM INVENTIONS

All net income derived by the University from the ownership, licensing, or assignment of inventions, copyrights or patent rights will be utilized in such manner as shall from time to time be determined by the President. Income from Government-supported research shall be used in accordance with the provisions of the Bayh-Dole Act.

F. INTELLECTUAL PROPERTY PROCEDURE

Procedures for the recording, routing, evaluation, and disposition of research reports likely to include invention disclosures shall be established by the President and administered by the President' designee. Such procedures will:

1. be consistent with the policies herein set forth;
2. provide for prompt disclosure to the University Intellectual Property Committee by all employees and students of the University of any technical information, discovery or invention;
3. ensure, insofar as such may be possible, that all applications for letters patent shall be duly made within the time provided by law;
4. provide that if the inventor has made complete disclosure to the University of an invention, and if the University or sponsor shall not cause a patent application thereon to be filed within six (6) months of such disclosure, then all rights to such invention as it shall then exist shall be disclaimed to the inventor;
5. in those cases where the University elects to apply for a patent or other intellectual property protection, require concerned employees and students to cooperate in the disclosure of the invention, the assignment of patent rights thereto, and the filing and prosecution of the patent application, the cost of which shall be borne by the university or sponsor; and
6. provide for the University to obtain the rights to inventions provided for in Section IV (A) by

- a. insertion of appropriate provisions in contracts with sponsors, employees and in the University catalog;
- b. review of consultant and business employment contracts as provided for in Paragraph IV (A) 6.

G. ACCEPTANCE OF POLICY BY EMPLOYEES AND STUDENTS

All employees and students of the University, by their acceptance of employment by, or their continuance in, the employment of the University, enrollment as a student in, or continuance as a student, in the University, shall be deemed to have accepted and agreed to this Intellectual Property Policy and the procedures to be promulgated pursuant hereto. A failure to accept and agree to this Intellectual Property Policy and the procedures promulgated pursuant hereto may result in forfeiture of rights otherwise provided under the Policy.

H. EXCEPTIONS TO POLICY

Exceptions to the policies herein provided may be authorized by the President.

I. AMENDMENTS

This Statement of Policy may be changed, altered, amended, annulled, or revoked at any time by the President in consultation with the University Intellectual Property Committee and the Faculty Senate.

Acknowledgment: The University of Tulsa is grateful to Rice University Research Policy No. 333 from which portions of this document were drawn.