



**University of Pittsburgh
Intellectual Property Policy
Policy RI 10**

Implementing Executive: Senior Vice Chancellor for Research
Responsible Unit: Office of the Senior Vice Chancellor for Research
Category: Research and Innovation
Effective Date: April 5, 2021

The distribution of commercialization proceeds under this Policy shall apply to all licensing agreements with an executed effective date on or after the Effective Date of this Policy. In instances where the intellectual property has previously been non-exclusively licensed, the previous Patent Policy or Copyright Policy used for distribution purposes (e.g. Patent Policy 11-02-01 Effective July 1, 2005 or Patent Policy 11-02-01 Effective June 29, 1990 or Copyright Policy 11-02-02 Effective September 5, 2006) will govern the distribution of commercialization proceeds. In instances where it is unclear as to which policy governs, the Senior Vice Chancellor for Research will consult with the Office of Innovation and Entrepreneurship for consideration.

I. Policy Statement

The University of Pittsburgh seeks to advance the frontiers of knowledge, to better the world through collaborative approaches that focus on greater societal need, and to promote economic development. This policy reinforces the University’s mission by supporting and encouraging the University community in its creation, pursuit, and sharing of knowledge. Knowledge takes many forms, including works of art and authorship, discoveries, inventions, and tangible property. This policy is intended to nurture a culture and infrastructure that promote the positive impact of knowledge on public well-being through open academic exchange and dissemination including, but not limited to, commercial development.

II. Purpose

The purpose of this policy is to allow the University to achieve the objectives highlighted above. It describes and establishes the rules, roles, and responsibilities governing Intellectual Property (IP) matters at the University. The development of this policy was guided by the following principles: (1) protecting academic freedom to preserve and advance the educational mission of the University; (2) promoting the dissemination of creative and scholarly works, discoveries, and inventions; (3) encouraging, incentivizing, recognizing, and safeguarding the interests of innovators, Creators, and the campus community to support the creation and further development of knowledge; and (4) adapting to new, changing, and diverse ways in which knowledge and discoveries continue to be made.

III. Definitions

- A. Course Materials: Works used primarily for the instruction of students. Such works may include, but are not limited to, slides and presentation content to be used in classes; class notes; exercises and assignments; syllabi; examinations, including assessments and answer materials; course recordings (including audio and/or visual); and other material distributed to and accessed by students via computer programs designed for use in education or training, including via third party sites and technologies.
- B. Creator: A University Member who creates an original work of authorship.
- C. Developer: A University Member who develops Software.
- D. Intellectual Property (IP): Refers to inventions and copyrightable works, and their associated trademarks, developed or created by University Members. This does not include University names, logos, trademarks, and service marks, which are addressed in University Policy AO 23, Licensing and Use of University Name, Logos, Trademarks, and Service Marks (formerly 08-01-01).
- E. Invention: Any new and useful process, machine, manufacture, or composition of matter that may or may not be patent-eligible under the patent laws of the United States.
- F. Inventor: A University Member who contributes to the claims of a patentable invention.
- G. Ownership: In instances of copyrightable works, “owner” means any party that owns any one of the exclusive rights in a work as defined in Section 106 of the U.S. Copyright Act. In instances of patentable inventions, “owner” means the party that owns any one of the exclusive rights in an invention as defined in Section 271 of Title 35 of the U.S. Patent Act.
- H. Scholarly Work: Copyrightable works of authorship created by a University Member prepared in the course of research, scholarship, teaching, and/or other academic and educational responsibilities at the University outside of the terms of a contract, grant, or cooperative agreement. Scholarly Work shall include, but not be limited to: scientific or scholarly writings and/or papers; books, theses, and dissertations; poems and other literary works; musical works (including compositions, lyrics, performances, mixing, and recordings); architectural works; databases, datasets, collections or compilations of data; Software; and artistic works and sculptures.
- I. Software: Computer code and/or computer programs that may consist of patentable inventions and/or copyrightable works of authorship. Software may consist of Scholarly Work. Software, for the purposes of this policy, does not include works of authorship that are merely fixed or embodied in digital form/format, including computer-generated

works of art or music or the content of other works, such as Scholarly Work, that is recorded in a digital medium.

- J. Sponsored Activities: Externally-funded activities in which a formal written agreement (i.e., grant, contract, or cooperative agreement) is entered by the University and by a sponsor, in which there is a specified statement of work, with a related, reciprocal transfer of something of value.
- K. Student: All individuals taking courses at the University, pursuing undergraduate, graduate, or professional studies, both degree and non-degree seeking, as well as individuals enrolled in non-credit courses and programs.
- L. University Member: All full-time and part-time faculty; staff; students; academic visitors; volunteers; postdocs; fellows; trainees; and interns at the University.
- M. Work Made for Hire: A work of authorship prepared by an employee within the scope of their employment as defined by Title 17, United States Code, Section 101.

IV. Policy

A. Ownership

The University is committed to protecting academic freedom to preserve and advance the educational mission of the University. Therefore, ownership of IP at the University typically resides with the Creator(s), Inventor(s), or Developer(s). Ownership determinations are generally made in consultation with the Creators(s), Inventor(s), or Developer(s), and this includes involving the relevant University Members during negotiations with third parties in the execution of external funding and awards.

This Policy is subject to all applicable federal and state laws, and as noted below, the terms of relevant contracts, grants, or cooperative agreements may also govern. As defined above, this Policy uses the term University Member to encompass all who are subject to the terms of this Policy. Below are important notes regarding the scope of this term:

- University Member includes Students and, unless otherwise noted herein, this Policy applies to IP created by Students. The University will not claim ownership of IP created by a Student in activities undertaken in the normal course of enrollment. Generally, the University will claim ownership of IP created by Students engaged in Sponsored Activities or pursuant to other written agreement(s), such as a Student hired to perform work for the University.
- University Member may also include academic visitors. The application of this Policy, and other University Policies, to academic visitors is available here: <https://visitor.pitt.edu/>

- Faculty members who are planning a sabbatical must consult with their Chair and Dean to discuss the application of this Policy and other relevant University Policies to their activities during that sabbatical.
- Consulting and other outside activities must be performed in compliance with University Policy CS 09 (formerly 02-06-01), Outside Employment. Ownership of IP created by a University Member while engaged in approved outside activities with no more than an incidental use of University resources, as defined in University Policy RI 01 (formerly 11-01-03), Conflict of Interest Policy for Research, will belong to the University Member, as long as the following conditions are met: (1) the IP does not constitute or infringe upon any IP, or any modifications or derivative works thereof, that is owned in whole or in part by the University; (2) the IP is not made, conceived, reverse engineered, or reduced to practice using any of the University's IP or any University resources; and (3) the IP is not the subject of a research agreement between a third party and the University.
- This Policy applies to any IP made by a former University Member if that IP was generated during the scope of employment or other commitment with the University.

This Section of the Policy outlines the general University rules and exceptions that govern specific types of IP ownership. For further guidance on ownership of IP, please refer to the Office of Innovation and Entrepreneurship (additional guidance is forthcoming).

- i. Scholarly Work – Ownership of copyrightable Scholarly Work, including Software, created by a University Member or University Members in the course of research, scholarship, teaching, and/or other academic and educational responsibilities shall reside with the Creator(s).

Exceptions to Creator ownership of copyrightable Scholarly Work include cases in which: (1) the creation of the Scholarly Work is a Sponsored Activity or is directed by a contract, grant, or cooperative agreement with a third party, in which case ownership is governed by the contract, grant, or cooperative agreement; or (2) the Scholarly Work is supported by a specific allocation of University support, to which the Creator(s) agreed, or created at the direction of the University for a specific University purpose, in which case ownership rights belong to the University.

- ii. Course Materials – Ownership of copyrightable Course Materials created by a University Member or University Members prepared in the course of teaching responsibilities at the University shall reside with the Creator(s) with a royalty-free, world-wide, non-exclusive, irrevocable license to the University upon creation. This license entitles the University to make all

traditional, customary, or reasonable uses of these works, for educational or administrative purposes consistent with its educational mission and academic norms. This license does not include the right to sub-license Course Materials other than in connection with the University's academic operations.

Exceptions to Creator ownership of copyrightable Course Materials include that: (1) the preparation of Course Materials is a Sponsored Activity or directed by a contract, grant, or cooperative agreement with a third party, in which case ownership is governed by the contract, grant, or other formal agreement; or (2) the Course Material is supported by a specific allocation of University support, to which the Creator(s) agreed, or created at the direction of the University for a specific University purpose, in which case ownership rights belong to the University.

- iii. Inventions – Ownership of Inventions and IP, including Software, invented by a University Member or University Members during their employment at the University shall reside with the Inventor.

Exceptions to Inventor ownership of patentable Inventions consist of: (1) production of the Invention is a Sponsored Activity or directed by a contract, grant, or cooperative agreement with a third party, in which case ownership is governed by the contract, grant, or cooperative agreement; or (2) the Invention is supported by a specific allocation of University support, to which the Inventor(s) agreed, or created at the direction of the University for a specific University purpose, in which case ownership rights belong to the University.

B. Transferring Ownership

In situations where the University owns or claims ownership to IP under Section IV. A. above, a University Member, who is the Creator, Inventor, or Developer of that IP, may request that the University release and assign ownership of the IP back to the Creator(s), Inventor(s), or Developer(s), subject to third party rights. Such requests must be made in writing to the Senior Vice Chancellor for Research. For further guidance please refer to the Office of Innovation and Entrepreneurship (additional guidance is forthcoming).

In situations where the University Member owns or claims ownership to IP under Section IV. A. above but wishes to transfer ownership to the University (e.g., to allow the University to protect or commercialize the IP), the University Member may make such a request in writing to the Senior Vice Chancellor for Research. For further guidance please refer to the Office of Innovation and Entrepreneurship (additional guidance is forthcoming).

Where a contract, grant, cooperative agreement, or applicable law requires the assignment of ownership of IP to the University, ownership of IP created under such terms will be determined pursuant to the relevant contract, grant, agreement, or the law. In such situations, the transferring of ownership to a University Member or retention of IP rights by the University Member may be legally prohibited or subject to third party rights.

C. Distribution of Commercialization Proceeds

The University recognizes that proceeds generated by the licensing of the University's IP can provide a strong incentive for a University Member's or University Members' participation in technology licensing and support of the creation, pursuit, and sharing of knowledge. The Office of Innovation and Entrepreneurship (OIE), in partnership with the University Member(s), is responsible for administering the commercialization of IP owned by the University, in accordance with applicable law and terms set forth by any governing contracts, grants, or cooperative agreements. The objective of OIE is to pursue the best opportunities to transfer the University's IP consistent with the objectives and principles of this Policy and the interests of the University and the public. OIE shall have the authority for decisions concerning the route of commercializing or transferring a specific University IP, as well as the selection and use of outside resources, consistent with other University Policies.

This Section specifies the division of net proceeds available once the terms of any contract or other legally enforceable agreement governing the IP are satisfied, including the recovery of administrative and legal fees to cover expenses incurred for services it provided for all licensed technologies.

Patents

For patents or groups of related patents or technology rights, the following distribution of the net proceed will apply:

- 45% of net proceeds to Creator(s), Inventor(s), or Developer(s), with option to set aside up to 10% to support the research of the Creator(s), Inventor(s), or Developer(s).
- 7% of net proceeds to be divided by the units (typically department, division, institute, or center) that supported the creation of the IP.
- 5% of net proceeds to the School of the Inventor.
- 3% of net proceeds to be divided by the Provost and Senior Vice Chancellor and/or Senior Vice Chancellor for Health Sciences.

- 40% of net proceeds to the Senior Vice Chancellor for Research to provide resources to obtain and maintain patents, including to cover administrative expenses associated with those activities.

Note that if the net proceeds exceed \$10M, the above distribution may be changed in accordance with a plan approved by the Chancellor of the University, but not so as to reduce the inventor's share below 45%.

Copyrights

1. Where the University has an ownership interest in a work and revenues result from licensing that work, the following distribution of the net proceeds will apply:
 - 50% of net proceeds to Creator(s) or Developer(s).
 - 15% of net proceeds to be divided by the units (typically department, division, institute, school, or center) that supported the creation of the IP.
 - 10% of net proceeds to be divided by the Provost and Senior Vice Chancellor and/or Senior Vice Chancellor for Health Sciences, as appropriate.
 - 25% of net proceeds to the Senior Vice Chancellor for Research to provide resources to obtain and maintain copyrights, including to cover administrative expenses associated with those activities.

Where a copyrighted work is also patentable, distributions will be determined as if the work is patented. Similarly, if a licensing agreement contains both patent and copyrights, the distributions will be determined as if the technologies are patented.

The determination of support provided by a department, division, institute, or center, will be determined by the relevant parties. If multiple schools, departments, centers, or institutes supported the development of the IP, the percentage of proceeds afforded those units must be distributed proportional to their contribution of support to the creation of the IP. If the parties cannot agree, they may request the Senior Vice Chancellor for Research to determine a final split.

Creators, Inventors, or Developers who are not University Members and perform work on IP under contract or other agreement with a third party or as Work Made for Hire will not share in commercialization proceeds unless a contract, grant, or legally enforceable agreement provides for such distributions.

In the event a Creator, Inventor, or Developer entitled to proceeds under this section leaves the University, either voluntarily or involuntarily, such person will continue to remain entitled to receive payments under this section, but will not be entitled directly or indirectly to continue to receive or transfer any other rights or benefits to the unit of the Creator, Inventor, or Developer. Proceeds that would otherwise be paid to the research of

that Creator, Inventor, or Developer will instead be divided by the units that supported the creation of the IP.

Requests to reconsider may be made. Requests to reconsider determinations made pursuant to this Section must be submitted in accordance with Section IV. E. below.

D. Governance & Responsibilities

1. **The Senior Vice Chancellor for Research** has governance responsibility for implementation and application of the Policy in accordance with the following guiding principles:
 - Protecting academic freedom to preserve and advance the educational mission of the University
 - Promoting the dissemination of creative and scholarly works, discoveries, and inventions
 - Encouraging, incentivizing, and recognizing innovators, creators, and the campus community to support the creation and further development of knowledge
 - Adapting to new, changing, and diverse ways in which knowledge and discoveries continue to be made.
 - Managing activities in support of patents and copyrights, which includes but is not limited to, obtaining and maintaining patents and copyrights, including covering the administrative expenses associated with those activities.

2. **OIE.** When the University owns IP under the terms of this Policy, OIE has the following responsibilities and obligations:
 - Protection, management, and enforcement of the University's IP.
 - Obtaining Invention Disclosures, Assignments, and other documents from University Members, when necessary.
 - Commercialization of the University's Intellectual Property and Distribution of Proceeds. This includes implementing the procedures and guidelines associated with Section IV. B. and IV. C.

3. **Office of Sponsored Programs.**
 - Assisting University Members in Promoting and Securing Sponsored Research Funding. OSP reviews, negotiates, endorses, and provides administrative oversight related to proposals and awards in accordance with all applicable laws, policies, and regulations. This includes implementing procedures and guidelines to assist in University Member's compliance with this Policy.

4. **University Members.** University Members have the following responsibilities:

- **Disclosure of Intellectual Property.** University Members will promptly disclose to OIE, prior to public disclosure, the IP the University owns or for which the University may claim ownership pursuant to this Policy, including when such documents are required to comply with a contract, grant, or other legally enforceable agreement.
- **Assignment of Intellectual Property.** University Members will work with OIE to execute Assignments, and other necessary documents, relating to IP that the University owns or may claim ownership to under this Policy or when required to comply with a contract, grant, or cooperative agreement.
- **Comply with Other Relevant University Policies.** University Members are responsible for complying with all other applicable University Policies, including those requiring disclosure and management of any conflicts of interest arising from agreements and relationships related to the development or commercialization of IP, and engaging in outside activities only in accordance with University Policy.

E. Grievances or Complaints

Questions regarding interpretation or claims related to this Policy, including disputes over the ownership rights of IP, may be directed to the Senior Vice Chancellor for Research, at <https://research.pitt.edu/>. Additionally, faculty with concerns about potential misapplication of this Policy may seek redress in accordance with [University Policy AC 22 \(formerly 02-03-01\), Faculty Grievances](#).

V. Contact Information

This Policy is found under Research and Innovation on the Office of Policy Development and Management's website, which can be found at: <https://www.policy.pitt.edu>.

For specific questions related to the implementation of this Policy or assistance in seeking a copyright or patent, please contact OIE. Contact information can be found at: <https://www.innovation.pitt.edu/contact>.

For assistance seeking or questions related to research and/or sponsored projects funding, please contact the Office of Sponsored Programs. Contact information can be found at: <https://www.osp.pitt.edu>.

VI. Appendix: Related Authorities

[University Policy RI 01 \(formerly 11-01-03\), Conflict of Interest Policy for Research](#)

Supplemental Guidance (OIE and OSP)

[University Policy AO 23 \(formerly 08-01-01\), Licensing and Use of University Name, Logos, Trademarks, and Service Marks](#)

[University Policy CS 09 \(formerly 02-06-01\), Outside Employment](#)

[University Policy AC 22 \(formerly 02-03-01\), Faculty Grievances](#)