

Summary of UMS Full Statement of Policy Governing Patents and Copyrights

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US Law

Copyright

- subsists in original works of authorship upon creation as expressed in a tangible form
 - typically extends for life of last surviving author plus 70 years, typically 120 years if university is author

Patent

- invention owner gains control of the exploitation of the invention in exchange for expanding the common knowledge of the public in relation to that invention
 - utility patents include “any new and useful process, machine, manufacture, or composition of matter, or any improvement thereof” (20 years) ... in US includes business methods and software but often not elsewhere
 - plant varieties (20 years)
 - designs for utilitarian devices (14 years) ... protects appearance

UMS Policy

Principle 1: University retains title to all IP that involves *significant use of university resources*.

Principle 2: Ownership of IP resulting from *incidental use of university resources* rests with the developers along with rights to any income generated.

University resources means any support administered by or through a University, including but not limited to *University funds, facilities, equipment or personnel, and funds, facilities, equipment, or personnel provided by governmental, commercial, industrial, or other public or private organizations* which are administered or controlled by the University.

Incidental use of university resources means that the use is customary or usual given the employee’s appointment and academic assignments. For example, use of office, computer, photocopier, telephone, office supplies, library, and other assigned resources in the ordinary support of his or her university educational, scholarly or creative responsibilities is considered to be incidental.

Significant use of university resources means use beyond incidental. When in support of a revenue-producing work, the following are examples of significant use:

- (i) Extended use of time and energy by the developer(s) that results in a reduction in the levels of teaching, scholarship, or other assigned university activities, and the developer's (s') anticipated instructional load in these areas is at a level significantly lower than normal;
- (ii) Greater than incidental use of university facilities such as laboratories, studios, specialized equipment, production facilities, or specialized computing resources in direct support of development of the work in question;
- (iii) Extraordinary or specifically designated university funds to support the work's creation, publication, manufacture or production;
- (iv) Direct assignment or commission from the university to undertake a creative project as a part of the developer's regular appointment;
- (v) Significant use of funding from gifts to the university to support creation of the work(s) involved; and/or
- (vi) Production of the works under specific terms of a sponsored research grant or contract.

Copyrightable Works

All Copyrightable Works *remain with the author(s) and creator(s)* unless:

- (i) The Copyrightable Work is created pursuant to the terms of a University agreement with an external party and the agreement specifies ownership in the resultant works.
- (ii) The Copyrightable Work is created as a "work for hire." Works of faculty are assumed not to be "works of hire."
- (iii) The Copyrightable Work is specifically commissioned by the University.
- (iv) author(s) or creator(s) of the Copyrightable Work made more than Incidental Use of University Resources
- (v) The Copyrightable Work is also patentable and/or is associated with a University Trademark.

Copyrightable Works not owned by the University are owned by the author(s) or creator(s) who are *free to publish them, register the copyright, and to receive any revenues* that may result there from.

The copyright owners, whether the authors or the University, are *highly encouraged by the UMS policy to make their copyrightable works available through a standard open access license.*

HJO Note: I highly encourage use of the Creative Commons Attribution Only license that supports the well-established and traditional academic principle of citing the works of others
(<http://creativecommons.org/about/license/>)

Specific Applications concerning Copyrightable Works (The following notes are not comprehensive)

(1) *Instructional Materials and Traditional Works of Scholarship*

University does not claim ownership to *instructional materials* or *traditional works of scholarship*, regardless of their form of expression.

Instructional Materials - include, but are not limited to: textbooks; syllabi; study guides; problem sets; and audio, visual and multimedia instructional works

Traditional works of scholarship - include, but are not limited to: scholarly publications; journal articles; research bulletins; monographs; books; **research databases (emphasis added)**; computer programs; plays, poems, musical compositions and other works of creative or artistic imagination; photographs; audio, visual and multimedia works; circuit diagrams; and architectural and engineering drawing. Such works may also include works of students created in the course of their education, such as dissertations, papers, and articles and audio, video, and multimedia works.

If an individual subject to this policy retains title to copyright in pedagogical, teaching or course materials, that individual shall assign to the University upon request a limited, royalty-free right to use, duplicate, or distribute the materials for non-profit, educational purposes only within the University. ...assignment not required for commercially published textbooks ... etc.

(2) *Work Created as a Specific Requirement of Employment or as an Assigned University Duty (institutional works and works-for-hire).*

The University shall retain ownership of Copyrightable Works created as institutional rather than personal efforts.

... Institutional works ... include **Copyrightable Works whose authorship cannot be attributed to one or a discrete number of authors** but rather result from simultaneous or sequential contributions over time by multiple faculty, staff and/or students. For example, software tools and **databases** developed and improved over time by multiple faculty, staff and/or students where authorship is not appropriately attributed to a single or defined group of authors would constitute an institutional work

.... Work assigned to programmers is institutional work or "work for hire," ...

(3) *Videotaping, Audio Recording, and Related Classroom and Performance Technologies: Courses and Other Creative Works by Faculty*

... the university does not claim ownership to recorded lectures, performances and other temporal works created by an individual faculty member or a group of faculty members as a part of their normal duties.

(4) *Lectures and Courses*

The University shall have the right to redistribute recordings of lectures and courses, but only with the permission of the originating faculty member(s)... teaching distance courses for pay through another university is a conflict of interest

Invention/Patents

Principle 1: An Invention resulting from activities related to an individual's employment responsibilities, with support from University-administered funds, and/or from significant use of University Resources shall be *owned by the University*.

Principle 2: Ownership of an Invention developed in the course of or resulting from research supported by a grant or contract with a federal, state, local or foreign government (or an agency thereof), or a not-for-profit or for-profit nongovernmental entity, shall be determined *in accordance with the terms of the sponsored grant* or contract, or in the absence of such terms, shall be owned by the University.

(Note: U.S. Bayh-Dole Act – permits universities using federal funds to elect to pursue ownership of an invention)

Principle 3: An Invention unrelated to an individual's employment responsibilities that is developed on his or her own time without University support or with only incidental use of University Resources is *owned by the inventor*.

Tangible Research Property

The University owns all right, title, and interest in Tangible Research Property related to an individual's employment responsibilities and/or developed with support from University Resources. In general, Tangible Research Property shall be managed as an Invention

Tangible Research Property means perceptible items produced in the course of research including such items as biological materials, engineering drawings, integrated circuit chips, computer **databases**, prototype devices, circuit diagrams, and equipment