

## Policy on Intellectual Property

### **POLICY VIII.4.1**

Volume VIII, Teaching, Research, and Outreach  
Chapter 4, Intellectual Property  
Issuing Office: Office of the President  
Responsible Officer: Vice President for Research  
Responsible Office: OVPR/Office of Research Administration  
Originally Issued: March 21, 1973  
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### **Statement of Policy**

#### **I. Inventions**

1. **Principle of University Ownership.** The University shall own each Invention conceived in whole or in part during the course of any employment, research, or scholarship activity involving or relating to the use of University Resources.

2. **Disclosure.** Inventors shall promptly in writing disclose and assign each Invention to the University and/or its designee, and shall not disclose any Invention to any third-party except as specifically authorized by the University or its designee. If more than one individual participated in the discovery or development, the report shall be signed by all such participants. The report shall constitute a full and complete disclosure of the Invention subject matter of the discovery or development and the identity of all persons participating therein.

#### **II. Copyrightable Works**

1. **Principle of University Ownership.** The University permits authors to retain the copyright to Instructional Copyrightable Works and Scholarly Copyrightable Works. Excepting only

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Instructional Copyrightable Works and Scholarly Copyrightable Works, the University shall own the copyright to each Copyrightable Work conceived in whole or in part during the course of any employment, research, or scholarship activity involving or relating to the use of University Resources.

2. **Disclosure of Copyrightable Works with Potential Commercial Value.** Each author of a Copyrightable Work that is University-owned according to the foregoing Principle of University Ownership and that may have potential commercial value shall promptly disclose the Copyrightable Work in writing to the University and/or its designee.

3. **License to University for Instructional or Scholarly Copyrightable Works.** Each Instructional or Scholarly Copyrightable Work shall, by operation of this policy, be subject to a perpetual nonexclusive, royalty-free license from the author to the University to use, duplicate, and internally distribute the Instructional or Scholarly Copyrightable Work for any pedagogical, research, or educational purpose of the University, subject to attribution of original authorship and to internal academic procedures and requirements of the department and school of origin of the Instructional or Scholarly Copyrightable Work. The foregoing license shall be broadly construed to enable the University's efforts to preserve research integrity and prevent fabrication, falsification, and plagiarism.

4. **Works of Independent Contractors.** The University ordinarily requires a written agreement from independent contractors that ownership of Copyrightable Works made in the course of a University retention will be assigned to the University.

5. **Commercialization by Author.** An author of an Instructional or Scholarly Copyrightable Work that is not University-owned is free to publish it, register the copyright in the author's name, and retain any revenues which may result therefrom.

### **III. Trademarks**

The University owns all rights, title and interest in Trademarks that relate to University Intellectual Property or relate to a program of education, service, public relations, research or training by the University.

### **IV. Tangible Research Property and Research Data**

The University owns all rights, title, and interest in Tangible Research Property and Research Data developed with support from University Resources. Subject to the University's control of the Disposition of Intellectual Property under Section V of this policy, in most instances the University permits the creators of University-owned Tangible Research Property or Research Data to retain primary physical custody of it solely for use in scholarship and not for any commercial purpose.

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### **V. General Policy on University Resources**

University Resources are to be used solely for University purposes and not for personal commercial activities.

### **VI. Disposition of University Intellectual Property**

This policy shall be deemed 1) a term and condition of employment for every employee of the University, 2) a term and condition of enrollment and attendance at the University by students, and 3) a term and condition of participation in any University research or other use of University Resources by any person (whether or not employed by, compensated by, or enrolled at the University). Outside Activities authorized by the University for University faculty or staff remain subject to this policy to the extent that they involve or relate to the use of University Resources.

As directed and requested by the University and/or its designee, all creators of University Intellectual Property shall execute legal documents required to effect this policy. The University (on its own behalf and on behalf of its designee) reserves the sole right in its exclusive discretion to make agreements regarding the retention, ownership, patenting, licensing, accessing, and any other use or disposition of any right, title or interest in University Intellectual Property. The University and/or its designee will determine whether to commit funding to obtain patent, copyright, or trademark protection for particular disclosed University Intellectual Property and/or to seek to identify one or more licensees who will bear the cost of obtaining that legal protection.

No creator of University Intellectual Property has the capability or authority to assign, license or otherwise dispose of University Intellectual Property except to the University or its designee pursuant to this Agreement. University personnel engaged in Outside Activities shall have no authority to enter into an Intellectual Property agreement that conflicts with this policy. Persons who wish to confirm that a consulting, employment, or other agreement that addresses assignment of intellectual property associated with a proposed Outside Activity does not conflict with this policy should submit a copy of the agreement for review with their Form 32A. The Office of Research Administration in the Office of the Vice President for Research is available to assist as needed.

### **VII. Reconveyance of University Intellectual Property**

At the recommendation of the Provost, the Vice President for Research, and the Executive Vice President and Treasurer of the University, and upon the approval of the President of the University, University Intellectual Property may be reconveyed to the University personnel who disclosed it, upon their request, if the reconveyance would not: (i) violate any legal obligations of or to the University, (ii) limit appropriate University uses of the materials, (iii) create an unmanageable conflict of interest for the

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inventor/creator, (iv) have significant commercial or public value which may best be exploited by the University itself, or (v) otherwise conflict with University goals or principles.

### **VIII. Equities of Participating Parties**

**1. General Policy.** Income derived by the University and/or its designee directly from the commercialization of University Intellectual Property shall be administered in accordance with this policy. It is the policy of Purdue University to encourage and recognize the creative efforts of University personnel and, in so far as the Board of Trustees of the University deems it consistent with the public interest, to share the financial rewards of such efforts on an equitable basis. This general policy may be rescinded or amended at any time by the University, and it is not intended to and does not create any legally enforceable rights whatsoever in any University personnel with respect to any present or future University Intellectual Property or proceeds therefrom.

**2. Determination of Equities.** Upon analysis and advice solicited by the Office of the Vice President for Research from the Committee on Patents and Copyrights, and/or other persons with relevant expertise, the Vice President for Research shall determine:

- whether particular Intellectual Property is University Intellectual Property;
- whether the University's identified costs of development shall be recovered from gross proceeds prior to distribution of Net Proceeds from particular University Intellectual Property.
- whether any of the Net Proceeds from particular University Intellectual Property shall be distributed to persons who disclosed it and, if so, in what proportion.

**3. General Principle of Division.** In most instances, Net Proceeds will be distributed according to the following formula: a) two-thirds to the University, and b) one-third to University personnel who created the University Intellectual Property that gives rise to the Net Proceeds. Any agreement among those University personnel setting relative distribution shares among themselves shall be taken into account. In most instances, Net Proceeds distributed to the University shall, in turn, be distributed 50% to the department/administrative unit from which the underlying University Intellectual Property originated and 50% to the Trask Fund, which supports end-stage development and increases the utility to the public of University Intellectual Property. If a recognized University center/institute plays a significant role in the development of University Intellectual Property and the dean or vice president having administrative responsibility for the center/institute so recommends in writing, the share of Net Proceeds normally distributed to the department/administrative unit shall be distributed one-third to the center/institute and

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two-thirds to the academic units having administrative responsibility for those staff who are participating in the distribution of the inventor's share of royalty proceeds. The President may authorize a variance from the foregoing principles, depending upon the circumstances of an individual case, including relevant contractual arrangements and any applicable funding regulations.

### **IX. Committee on Patents and Copyrights**

The Committee shall consist of at least thirteen members. There shall be six *ex officio* members: the Executive Vice President and Treasurer; the Vice President for Research; the Vice President for Business Services and Assistant Treasurer; the Director, Purdue Research Foundation Office of Technology Commercialization; the Director, Office of Research Administration; and the Director, University Copyright Office. There shall be at least seven additional members appointed by the Vice President for Research for terms of three years each. Three of these shall be appointed upon the recommendation of the University Senate. The terms of the Senate members shall be staggered to provide that one new member per year will be added to the Committee.

The Vice President for Research shall be Chairman of the Committee, which shall elect such other officers as it deems necessary. One of the Committee members appointed by the Vice President for Research shall be designated as Executive Secretary of the Committee and will be responsible for keeping appropriate written records of its proceedings and actions.

As directed by the Vice President for Research, the Committee shall convene to review and advise the Vice President for Research on any matter and/or determination under this policy. University personnel shall be entitled to appear before the Committee and present evidence with respect to any matter specifically involving the application of this policy to them or their work.

The President of the University may review any action or recommendation of the Committee, and the President shall do so at the request of any person subject to this Policy. The President may instruct the Provost and the Vice President for Research with respect to any recommendation of the Committee, or refer the matter to the Board of Trustees of the University, with the President's recommendations. The determination of the Vice President for Research, the Provost and the President of the University, or the Board of Trustees of the University, as the case may be, shall be final and conclusive.

### **X. Miscellaneous**

**1. Designee.** The University may designate Purdue Research Foundation or any other representative to act for it in any respect hereunder.

**2. Amendments.** This Memorandum may be amended or rescinded in whole or in part at any time by the Board of Trustees of the University or by the President of the University under the authority of the Board of Trustees.

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## **Definitions**

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As used in this Policy, the following terms have the meaning indicated:

<b>Word</b>	<b>Definition</b>
<b>Intellectual Property.</b>	The term “Intellectual Property” means property such as an invention, patent, copyrightable work, copyright, trademark, service mark, trade secret, integrated circuit mask, research data, plant variety protection certificate, tangible research property, or physical embodiment such as a model, machine, device, design, apparatus, instrumentation, circuit, computer program, visualization, biological material, chemical, other composition of matter, or plant that originates in or relates to academic or research activity and that is protectable by any law.
<b>Invention.</b>	The term “Invention” means a type of discovery, process, method, device, plant, composition of matter, or other creation that may be considered inventive within the meaning of patent laws.
<b>Copyrightable Work.</b>	<p>The term “Copyrightable Work” means an original work of authorship, which has been fixed in any tangible medium of expression, such as:</p> <ul style="list-style-type: none"><li>▪ Literary works such as books, journal articles, poems, manuals, memoranda, tests, computer programs, instructional material, databases, bibliographies;</li><li>▪ Computer software;</li><li>▪ Musical works including any accompanying words;</li><li>▪ Recorded performances, including instructional performances;</li><li>▪ Dramatic works, including any accompanying music;</li><li>▪ Pantomimes and choreographic works (if fixed, as in notation or videotape);</li><li>▪ Pictorial, graphic and sculptural works, including photographs, diagrams, sketches and integrated circuit masks;</li><li>▪ Motion pictures and other audiovisual works such as videotapes;</li><li>▪ Sound recordings;</li><li>▪ Architectural works; and</li><li>▪ Any other works determined to be copyrightable under copyright laws as now existing or hereafter amended or supplemented.</li></ul> <p>A Copyrightable Work may be the product of a single author or a group of authors who have collaborated on a project.</p>

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### **Instructional Copyrightable Work.**

The term “Instructional Copyrightable Work” means a Copyrightable Work that a) is authored by an identifiable University faculty member or instructor primarily for the instruction of students, b) is not specifically commissioned by the University, and c) is not a recording of a teaching performance made to or for University students.

### **Scholarly Copyrightable Work.**

The term “Scholarly Copyrightable Work” means a Copyrightable Work created by any person subject to this policy primarily to express and preserve scholarship as evidence of academic advancement or academic accomplishment. Such works may include, but are not limited to, scholarly publications, journal articles, research bulletins, monographs, books, plays, poems, musical compositions and other works of artistic imagination, and works of students created in the course of their education, such as exams, projects, theses or dissertations, papers and articles.

### **Trademark (including Service Mark).**

The terms “Trademark” and/or “Service Mark” mean any word, name, symbol or device, or any combination thereof, whether or not registered as a trademark, that is used to identify goods or services and distinguish them from those manufactured or sold by others.

### **Research Data.**

The term “Research Data” means the recorded factual material commonly accepted in the research and scholarly communities as necessary to validate research findings, but not any of the following: preliminary analyses, drafts of scholarly manuscripts, plans for future research, peer reviews, or communications with colleagues.

### **Tangible Research Property.**

The term “Tangible Research Property” means items produced in the course of research, such as compositions, biological materials, materials, drawings, devices, and equipment.

### **University Resources.**

The term “University Resources” means any support administered by or through Purdue University, including but not limited to funds, facilities, equipment or personnel, and funds, facilities, equipment, or personnel which are provided by governmental, commercial, industrial, or other public or private organizations and administered or controlled by the University.

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### **University Intellectual Property.**

Intellectual Property which is owned or controlled by the University pursuant to this policy and/or applicable law is University Intellectual Property.

### **Net Proceeds.**

The net proceeds derived from University Intellectual Property shall mean the gross receipts therefrom (including, but not limited to, rents, royalties, dividends, earnings, gains, and sales proceeds), less all costs, expenses and losses paid or incurred by the University or its designee in connection therewith (including, but not limited to, all direct and indirect costs and expenses specific to the creation, preservation and legal protection of the University Intellectual Property, including attorney fees).

### **Outside Activity.**

An Outside Activity is an activity authorized by the University pursuant to Form 32a and in conformance with University policies applicable thereto.

### **Committee on Patents and Copyrights.**

The term “Committee on Patents and Copyrights” means a standing committee appointed by the Vice President for Research whose organization, purpose and powers are specified in this policy.

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## **Reason for Policy**

Inventions, copyrightable works and other creative products of scholarship that have the potential to benefit the public through practical application may result from the activities of University employees in the course of their employment or through the use, by University students or by any person, of University resources such as facilities, equipment, or funds. The purpose of this policy on intellectual property is to provide the necessary incentives and protections to encourage the discovery and development of new knowledge, and its application and transfer for the public benefit. In so doing, the University is guided by the following goals:

- i. To optimize the environment and incentives for research and scholarship, and for the creation of new knowledge at the University;
  - ii. To enhance and protect the discovery, learning, and engagement missions of the University;
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- iii. To recognize and protect the interests of the public; of individual creators of novel concepts, inventions, and materials; of the University; and of sponsors of research and scholarship;
  - iv. To bring the fruits of scholarship into practical use for the benefit of society as quickly and effectively as possible;
  - v. To protect the interests of the people of Indiana and The Trustees of Purdue University through a due recovery by the University of its investment in research and scholarship; and
  - vi. To protect the traditional freedom of its faculty and staff to publish pedagogical, scholarly, or artistic works.

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### **Who Should Know This Policy**

President	Business Office Staff
Provost	Administrative and
Executive Vice President and Treasurer	Professional Staff
Chancellors	Clerical and Service Staff
Vice Presidents/Vice Provosts	All Employees
Deans	Graduate Students
Department Heads/Directors	Undergraduate Students
Faculty	Visiting Scientists/Visiting Scholars

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### **Contacts**

Persons needing assistance or guidance for this policy are encouraged to contact the Office of the Vice President for Research. Persons who have any question regarding application of this policy to potential Intellectual Property shall report the relevant facts to the Office of the Vice President for Research.

<b>Subject</b>	<b>Contact</b>	<b>Telephone</b>	<b>E-mail</b>
Interpretation of policy	Director, University Research Administration	494-6840	<a href="mailto:pedunn@purdue.edu">pedunn@purdue.edu</a>
Disclosure of intellectual property	Director, Office of Technology Commercialization	494-2610	<a href="mailto:OTCIP@prf.org">OTCIP@prf.org</a>

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## **Exclusions**

There are no exclusions from this policy.

This policy shall not be interpreted to limit the University's ability to meet its obligations for deliverables under any contract, grant, or other arrangement with third-parties, including sponsored research agreements, license agreements and the like. The University shall coordinate reporting requirements and other obligations to research sponsors regarding University Intellectual Property developed under a research contract or grant, including but not limited to obligations to the United States Government under 37 CFR 401.

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## **Procedures**

For procedures to disclose inventions or copyrightable materials to Purdue University see the Purdue Research Foundation Office of Technology Commercialization website:

<http://www.prf.org/otc/processes.asp>

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## **Responsibilities**

<b>Person</b>	<b>Responsibility</b>
Board of Trustees	Amend or rescind this policy, in whole or in part, as appropriate.
President	Approve reconveyance of University Intellectual Property; review actions or recommendations of the Committee on Patents and Copyrights as needed; provide instructions regarding recommendations of the Committee on Patents and Copyrights or refer matters to the Board of Trustees; amend or rescind this policy, in whole or in part, as appropriate.
Provost	Recommend reconveyance of University Intellectual Property.

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Executive Vice President and Treasurer	Recommend reconveyance of University Intellectual Property; serve as ex officio member of the Committee on Patents and Copyrights.
Vice President for Research	Determinations identified under Determination of Equities and General Principle of Division; serve as Chairperson of the Committee on Patents and Copyrights; appoint members to the Committee on Patents and Copyrights.
Vice President for Business Services	Serve as ex officio member of the Committee on Patents and Copyrights.
Director, University Research Administration	Interpret this policy.
Purdue Authors/Creators/Inventors	Disclose inventions and/or copyrightable materials to the University.
Director, Purdue Research Foundation Office of Technology Commercialization	Serve as ex officio member of the Committee on Patents and Copyrights.

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## **History**

**Supersedes:** Purdue University Executive Memorandum B-10: Policy on Intellectual Property, Issued: July 10, 2000.