

## Policy GA-CMI-PO2

### Intellectual Property Policy

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#### I. **General**

The University of Texas System and its component institutions adhere to the Basic Intellectual Property Policy as stated in the Board of Regents of The University of Texas System, *Regents' Rules and Regulations*, Rule 90101. Accordingly, all faculty and staff of UT Arlington should adhere to the following policy guidelines, which supplement the Basic Intellectual Property Policy.

- A. The University of Texas System is entrusted with the responsibility to see that all inventions and intellectual creations made at component institutions are administered in the best interests of the public, the creator, and the research sponsor, if any, and will permit the timely protection and disclosure of such intellectual property whether by development and commercialization after securing available protection for the creation, by publication, or both. It is therefore essential to foster and maintain a favorable environment for research and scholarly and creative endeavors throughout the University community. UT Arlington will provide an additional incentive for research and development by virtue of an enlightened intellectual property policy.
- B. The intent of this policy is to encourage inventiveness and creativity and at the same time protect the respective interests of all concerned by ensuring that the benefits of such property accrue to the public, to the inventory, to the University, the UT System, and to sponsors of specific research in varying degrees of protection, monetary return and recognition, as circumstances justify or require.
- C. This policy shall apply to all personnel employed by UT Arlington, to anyone using University facilities under supervision of University personnel, to candidates for masters and doctoral degrees, and to postdoctoral and predoctoral fellows.
- D. Except for intellectual property included in Paragraph E below, this policy shall apply to and the Board of Regents and University may assert ownership in intellectual property of all types (including, but not limited to, any invention, discovery, trade secret, technology, scientific or technological development,

and computer software) regardless of whether subject to protection under patent, trademark, copyright, or other laws.

- E. The Board of Regents and University will not assert an interest in faculty produced textbooks, scholarly writing, art works, musical compositions and dramatic and non-dramatic literary works that are related to the faculty member's professional field unless such work is commissioned by the University or is a work for hire pursuant to Paragraph F below.
- F. The Board and University shall have sole ownership of all intellectual property that it commissions or that is produced as a work for hire for the University. Except as may be provided otherwise in a written agreement approved by the President of the University and the Chancellor of the UT System, the provisions of [Regents' Rules and Regulations](#) , Rule 90102, relating to division of royalties shall not apply to intellectual property owned solely by the Board and University pursuant to this paragraph.
- G. Any person who as a result of his or her activities creates intellectual property that is subject to this Policy, other than on government or other sponsored research projects where the grant agreements provide otherwise, should have a major role in the ultimate determination of how it is to be made public, whether by publication, by development and commercialization after securing available protection for the creation, or both.
- H. It is a basic policy of the UT System and University that intellectual property be developed primarily to serve the public interest. This objective usually will require development and commercialization by exclusive licensing, but the public interest may best be promoted by the granting of nonexclusive licenses for the period of the patent. These determinations will be recommended and made in accordance with the administrative procedures hereinafter set out and with appropriate approval of the Board of Regents.

## **II. Intellectual Property Advisory Committee Procedures**

- A. To assist in the administration of the Policy, the Committee makes recommendations to the President regarding cases where referral to the UT System and the Board of Regents is required.
- B. The Committee is a University-wide standing committee of five members appointed by the President. The Director of the Grant and Contract Services serves as an ex officio member without vote. The term of office of the Committee members shall be for two years, effective September 1 through August 31, and members may be reappointed by the President for additional terms. Faculty appointments provide for a system of rotation. If for any reason a Committee member resigns, the President shall appoint another individual to serve the remainder of the unexpired term. The chair of the Committee shall be appointed by the President. The Committee is a general University committee reporting to the President through the Provost. Notice of Committee appointments is listed and disseminated by administrative memoranda at the beginning of each academic year.

- C. Appropriate UT System offices assist the Intellectual Property Committee in giving advice to faculty and staff affected by this policy and to coordinate details in respect to procedures for protecting and marketing intellectual property.
- D. The Provost shall consult at an early stage with the UT System Office of General Counsel with regard to the negotiation of terms that deviate from model agreements.
- E. The Intellectual Property Advisory Committee will have the responsibility of:
  - 1. reviewing inventions and disclosures;
  - 2. recommending to the President through the Provost the disposition of the invention. The recommendation should specifically state whether the invention should be retained by the University or released to the inventor for his/her own pursuit;
  - 3. acting in an advisory capacity in matters of dispute relating to intellectual property;
  - 4. assisting in increasing intellectual property awareness among research personnel;
  - 5. maintaining liaison with the Office of Grant and Contract Services in the screening of proposals submitted for extramural funding. The Office of Grant and Contract Services requires that any project activity involving possible patents or copyrights be so noted on the "Proposal Review/Certification for Extramural Funding" form; and
  - 6. reviewing the intellectual property policy when required and formulating recommendations for change.

### III. **Classification of Discoveries by Source of Support**

Intellectual property is classified into one of three categories based upon the source of support.

- A. The intellectual property is unrelated to the individual's employment responsibility and has been developed as a result of an individual's efforts on his/her own time with no University support and no use of University facilities.
- B. The intellectual property is related to the individual's employment responsibility or has resulted either from activities performed by the individual on University time or with the support of state funds or from use of University facilities.
- C. The intellectual property has been developed as a result of research supported by a grant or a contract from:
  - 1. the federal government or associate agency;
  - 2. a nonprofit or for-profit nongovernmental entity; or
  - 3. a private gift to the University.

D. Each of these categories has its own property rights and obligations as summarized below:

1. Intellectual property that is unrelated to the individual's employment responsibility and is the result of an individual's efforts on his/her own time with no University support or use of University facilities:

Such intellectual property is the exclusive property of the creator, and the UT System has no right or interest in any creation obtained or any resulting profits. Should the creator choose to offer the creation to the UT System, the President shall recommend as to whether the UT system should support and finance a patent application or other available protective measures and manage the development and commercialization of the property. If the creator offers the creation after obtaining a patent or other protection, the President shall recommend whether the UT System should reimburse the creator for expenses in obtaining such protection. If the President so recommends and the creation is accepted for management by the UT System, the division of royalties or other income, after costs of licensing and obtaining a patent or other protection for the property have first been recaptured, shall be as follows: 50 percent to creator, 50 percent to UT System. The division of royalties and other income from patents or other intellectual property managed by an intellectual property management concern will be controlled by the terms of the UT System's agreement with such concern, as approved by the Board. Any other deviation from this requires prior approval of the Board.

2. Intellectual property that is related to the individual's employment responsibility or results from activities as a result of individual research on University time and/or with the support of state funds and/or use of University facilities:

Before publishing or making other public disclosure (publication is considered public disclosure and the right to seek patent protection may be lost), the creator must submit a reasonably complete and detailed disclosure of the intellectual property to the President for determination of University interest. (In cases where delay from this review would jeopardize obtaining the patent, the creator, with written approvals of the chair of the Intellectual Property Advisory Committee, the President, and the UT System Office of General Counsel may file for patent application prior to completion of the review.) Where the President determines to assert the University's interest, either the President or the chair of the Intellectual Property Advisory Committee shall notify the UT System Office of General Counsel of such application. The division of royalties and other income, after patenting and licensing costs have been recaptured, shall be as follows: 50 percent to creator, 50 percent to UT System. In cases where the President recommends that the UT System not assert and exploit its interest, and that recommendation is approved by the UT System Office of General Counsel and the Office of the Chancellor, the creator shall be notified within 180 days of the date of submission that he/she is free to obtain and exploit a patent or other

intellectual property in his/her own right, and the UT System and the University shall not have any further rights, obligation, or duties thereto.

3. Intellectual property resulting from research supported by the federal government or associated agency, a nonprofit or for-profit nongovernmental entity, or a private gift or grant to the University:

Award instruments that contain provisions which are not consistent with this policy or other policies and guidelines adopted by the Board from time to time imply a definite decision that the value to the University of receiving the grant or performing the contract outweighs the impact of any non-conforming provisions of the grant or contract as this relates to the basic intellectual property policies and guidelines of the University. The intellectual property policies and guidelines of the University are subject to, and thus amended and superseded by, the specific terms pertaining to intellectual property rights included in federal grants and contracts, or grants and contracts with non-profit and for-profit nongovernmental entities or private donors, to the extent of any conflict. In those instances where it is possible to negotiate System-wide intellectual property agreements with the federal agencies, or nonprofit and for-profit nongovernmental entities, or private donors and thereby obtain more favorable treatment for the creator and the University, every effort will be made to do so with the cooperation and concurrence of the Office of Asset Management and the Intellectual Property Committee and the chief administrative officer. Employees of the University whose intellectual property creations result from a grant or contract with the federal government, or any agency thereof, with a nonprofit or for-profit nongovernmental entity, or by private gifts to the University shall make such assignment of such creations as is necessary in each case in order that the University may discharge its obligation, expressed or implied, under the particular agreement. UT Arlington recognizes the advantages of and encourages cooperation between the University and industrial research organizations. The provisions for joint research arrangements with industry will take into account:

- a. the extent of the industrial participant's research and education programs;
  - b. the impact of the joint effort on the University's research and education programs;
  - c. the protection of rights of researchers to publish scholarly works; and
  - d. the interests of the state and its citizens.
- E. The balancing of equities among these interests may require joint arrangement between the University and private concerns on a case by case basis which provides for:
1. granting of exclusive information prior to publication or patent application;

2. non-exclusive licensing, with a royalty in an amount to be negotiated;
3. exclusive licensing for a limited period of time, with royalty in an amount to be negotiated;
4. exclusive licensing for the life of the patent, with a royalty in an amount to be negotiated; or
5. other provisions properly equating the above-noted equities, including the rights of the University to terminate an exclusive license upon the industrial participant's failure to develop and/or exploit the invention in the best interest of the public.

F. Notwithstanding the above, the Board of Regents should own the rights to all patentable discoveries, unpatentable technology, technical know-how, and other intellectual property resulting from the research project.

#### IV. **Changes to the Intellectual Property Policy**

Any agreement altering substantially the Basic Intellectual Property Policy of the UT System as set out in the preceding sections and other policies and guidelines that may be adopted by the Board of Regents shall have the advance approval of the President, the Office of the Chancellor, and the Board of Regents as an agenda item.