

APPENDIX J

INTELLECTUAL PROPERTY POLICY

This intellectual property policy defines the framework for the rights and responsibilities of artists, authors, inventors, researchers and the University.

Guiding and underlying principles:

1. The University recognizes and supports the right of any individual within the University community to create original works.
2. The University seeks to encourage the discovery and development of new and derivative works and dissemination of new knowledge as incumbent in its academic mission to serve the public good.
3. The University realizes that the development of new works and the rights, benefits, and responsibilities in these works arises from a wide variety of endeavors.
4. The University recognizes and supports the concept that ownership and benefit from intellectual property is often not an all-or-nothing situation and will work to develop practices that provide appropriate benefits to all contributors.

Copyrights and Trademarks

It is understood that copyrighted works will be produced at the University by faculty and staff in a variety of situations, and these situations will impact ownership and interests in ownership of the work produced. To guide University employees in their understanding of copyright ownership and to assist in establishing rights and interests in ownership, four (4) categories have been established.

Traditional Works

Traditional works are academic and scholarly works, other than those commissioned or sponsored by the University, which reflect research and/or creativity and within the University are considered as evidence of professional advancement or accomplishment. Such works typically include scholarly and research publications, journal articles, books, monographs, textbooks, plays, poems, music compositions, and other works of art.

Unless the development or production of these works involved the significant use of University resources (as defined in a later section), they are considered to be the property of the author(s) who would hold all copyright ownership and accrue all responsibility for compliance with copyright law and regulation. For some of these works, documentation of copyright compliance assurance may be requested by the academic or administrative unit of the authors(s).

Works for Hire, University-Commissioned Works, and University-Sponsored Works

Works for hire are defined as those works prepared for the University as part of an employee's typical position duties. University-commissioned works are written materials in any format and works of art developed or produced by an employee with financial help of the University and/or with released time specifically assigned to the work. Financial help of the University exists when the employee receives student assignment or allocation of student wages, supplies and commodities, equipment, contractual services, travel funds or support, personnel services, etc. For these works, all patents, copyrights, patent rights, discoveries, and/or other intellectual property rights will be assigned to the University.

University-sponsored works are academic, instructional, and scholarly works developed or produced by an employee with financial help of the University as defined above and/or with released time specifically assigned to the work. Such works typically include syllabi, course study guides, course packs, and supplemental instructional materials in any format. For these works, the right to reproduce, distribute, make derivative works, and conduct public performances or displays of the work will be assigned to the University unless it waives this right in a written agreement with the author(s).

Works Involving the Significant Use of University Resources

The University will have an interest in copyright ownership for works developed by employees who use significant University resources in the design, development, and/or production of the materials. Significant University resources are defined as those not typically available to employees for the development or production of traditional works. Examples of such significant resources would include: the assignment of additional teaching or graduate assistants, use of studios or other specialized production facilities and personnel, use of multimedia labs and associated personnel, clerical support that exceeds what is typical, the purchase of additional supplies or equipment, the allocation of specific additional travel or other funds, the assignment of additional space or facilities, etc. Resources typically available and not considered significant use of additional University resources include use of an employee's office, studio and/or laboratory and the facilities therein, use of the library, normal use of the University computer network and other facilities, normal use of the University phone system (not to include unusual long distance charges), and internal grants awarded by the University Research Committee and the Arts Endowment Committee.

In works involving significant use of University resources, the right to reproduce, distribute, make derivative works, and conduct public performances or displays of the work, are appropriately shared by the author(s) and the University to the benefit of each. This assignment of rights will be specified in agreements signed by both parties that derive from and pertain specifically to each situation under consideration. The agreements will be prepared by the intellectual property officer under the direction of the Provost and Vice President for Academic Affairs and will be administered through the appropriate academic or administrative unit.

Works Sponsored by External Sources

Typically, intellectual property rights for works developed with funds provided by external sponsors (through grants, contracts, etc.) will be specified by grant agreements, contracts, and/or other documents. In the absence of any such agreement and in cases where it is clear that intellectual property may develop as part of the work of the sponsored project, the intellectual property officer will prepare an intellectual property agreement for signature by all parties.

If an agreement is not in place and intellectual property issues arise, all parties including the intellectual property officer and the project participants with claims to the intellectual property in question will meet and develop an agreement. In matters where no agreement exists and no intellectual property was anticipated, the University will be assumed to have an interest in the work as it is typically the grantee in sponsored program situations.

Patents and Trade Secrets

The University recognizes that inventions and discoveries may result from the normal and typical activities of University employees and students through use of University facilities, equipment, funds and other resources. It is the intention of the University to pursue and administer rights in such inventions to bring benefits to the public as quickly as possible while protecting the rights of ownership.

Except as otherwise executed in writing, all rights to all inventions, discoveries, and other patentable or trade secret works that are conceived, disclosed, or reduced to practice by ISU employees in the context of their employment; students in an employment relationship with the University; or any person including ISU employees and students who use University resources including, but not limited to, facilities, equipment, funds, personnel, or funds under the jurisdiction of the University, shall be assigned to and controlled by Indiana State University.

When any person named above determines that a development has patent or trade secret potential, he/she must promptly and fully disclose the invention to the intellectual property officer. The University will, considering all parties and contractual obligations involved, determine the best course of action. This may include:

1. A determination that the invention has patent or trade secret potential and value in the marketplace. The University would pursue and fund the execution of the appropriate patent mechanism. Upon completion of patent protection, the University will attempt to market, license, or otherwise derive compensation or consideration for the value of the patent. Royalties, commissions, and any other compensation or consideration for the patent will be divided between the inventor(s) and the University in a formula equitable to the parties.
2. A determination that the invention has patent or trade secret potential but does not have sufficient value to warrant expenditure of patent prosecution costs. In this case, patent rights will be relinquished to the inventor(s).
3. A determination that the invention does not have patent or trade secret potential. In this case, ownership and assignment rights will be relinquished to the inventor(s).
4. A determination that the University does not have patent or trade secret rights to the invention, but may be able to share in some benefit, i.e., a discovery made as part of a sponsored project where the sponsor holds ownership rights but recognizes the contributions of the participants. In this case, the University will negotiate with the appropriate parties to derive the best benefit for the University and the inventor(s). Royalties, commissions, and any other compensation or consideration for the patent or trade secret will be divided between the inventor(s) and the University in a formula equitable to the parties.
5. Some other appropriate course of action as dictated by the situation.

Policy Administration

The intellectual property officer is the University's administrative designee on intellectual property matters. The intellectual property officer will make judgments and recommendations on matters of copyright, trademark, patent, trade secret, and other intellectual property issues and will implement policy and conduct administrative actions on these matters. The officer will also conduct training and provide advice and information on these matters.

The intellectual property officer will conduct these activities through and for the Provost and Vice President for Academic Affairs Office. The final University authority will rest with the Provost and Vice President for Academic Affairs.

In cases of technology transfer where the University holds some interest in ownership of materials and commercial value is anticipated, the intellectual property officer or other designated parties may assist with the promotion, marketing, licensing, and other activities pertinent to deriving compensation or other consideration from the work(s). The utilization of University resources will be accounted for in the

distribution of proceeds between the author(s) and the University.

An Intellectual Property Advisory Committee will be appointed by the Provost and Vice President for Academic Affairs annually to assist the intellectual property officer. This committee will advise the officer on intellectual property matters of policy and implementation. The committee will be comprised of the University Counsel, a representative of Cunningham Memorial Library, a representative of the Division of Lifelong Learning, one (1) of the academic deans, and three (3) members of the teaching faculty with knowledge of intellectual property issues to be selected from a list of at least six (6) faculty members nominated by the University Faculty Senate.

- the work was developed by a student or students specifically as part of a university employee's formal project. This may include research publications, project work, scholarly papers, work on sponsored projects, etc. In these cases, ownership will be determined using the procedures appropriate to the University employee(s) involved.

(The above Intellectual Property Policy was approved by the ISU Board of Trustees on June 18, 1999.)

Employee Compliance with Copyright Law

All University employees have the individual responsibility to understand and abide by copyright law in the development of materials, in teaching, and in all University activities. Each employee must insure that his/her activities in no way infringe on the copyright or other proprietary rights of others, and that the materials used and developed at ISU contain nothing unlawful, unethical, or libelous, and do not constitute any violation of any right of privacy. University employees must respect the rights of others. Each employee should be able to accurately assess and classify all materials used in or under development for University activities, into one of the following categories:

1. The employee holds legal copyright to all materials in use and/or under development;
2. The employee has obtained all required permissions, licenses, or releases from holders of such rights; or
3. The employee has determined after careful study that the intended use is covered by an exemption to copyright law or is considered "Fair Use".

The University accepts the responsibility, through the intellectual property officer, to provide support, information, training, and guidance to employees who are involved in the development and use of intellectual property.

Works of Students

Students purely academic work, including work completed for class assignments, theses, and dissertations, are considered the original work of the student-author(s) and, as such, the author(s) accrue any rights in ownership, except in the following cases:

- the student(s) was (were) performing in an employment relationship with the University for the development of the materials in question, in which case ownership resides with the University; or