

PART TWO, CHAPTER XII

INTELLECTUAL PROPERTY

Sec. 1. Philosophy and Objectives

It is the objective of the Board to provide an intellectual property policy that will encourage the development of inventions and other intellectual creations for the best interest of the public, the creator, and the research sponsor, if any, and that 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. The policy is further intended to protect the respective interests of all concerned by ensuring that the benefits of such property accrue to the public, to the inventor, to the System, and to sponsors of specific research in varying degrees of protection, monetary return and recognition, as circumstances justify or require. Each component institution may develop in its Handbook of Operating Procedures additional policies and rules covering the subject matter of this Section not inconsistent with this Section or other policies or procedures adopted by the Board.

Sec. 2. General Policy

2.1 Individuals Subject to Policy

The intellectual property policy shall apply to all persons employed by the U. T. System and the component institutions of the System (including, but not limited to, full and part-time faculty and staff and visiting faculty members and researchers), to anyone using System facilities, to undergraduates, to candidates for master's and doctoral degrees, and to postdoctoral and predoctoral fellows.

2.2 Types of Intellectual Property Included

Except as set forth in Subsections 2.3, 2.4, and 4.1 of this Chapter, this policy shall apply to and the Board may assert ownership in intellectual property of all types (including, but not limited to, any invention, discovery, trade secret, technology, scientific or technological development, research data and computer software) regardless of whether subject to protection under patent, trademark, copyright, or other laws.

2.3 Interest of the Board

The Board shall assert its interest in scholarly or educational materials, artworks, musical compositions, and dramatic and nondramatic literary works related to the author's academic or professional field, regardless of the medium of expression, as follows:

2.31 Students, Professionals, Faculty and Researcher Authors

The Board shall not assert ownership of works covered by this Subsection and authored by students, professionals, faculty, and nonfaculty researchers. The Board encourages these authors to manage their copyrights carefully. The Board retains certain rights in these works as set forth in the Policy and Guidelines for Management and Marketing of Copyrighted Works.

2.32 Software

The Board normally shall assert ownership in software as an invention; however, original software that is content covered by Subdivision 2.31 of this Chapter, or that is integral to the presentation of such content, shall be owned in accordance with Subdivision 2.31.

2.4 Works for Hire

Notwithstanding the provisions of Subsection 2.3 of this Chapter, the Board shall have sole ownership of all intellectual property created by an employee who was hired specifically or required to produce it or commissioned by the System or a component institution of the System. Except as may be provided otherwise in a written agreement approved by the president of the component institution, the provisions of Subdivision 4.25 of this Chapter relating to division of royalties shall not apply to intellectual property owned solely by the Board pursuant to this Subsection 2.4.

2.5 Role of Inventor or Author

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 published; however, the component president will decide in his or her sole discretion whether to develop and commercialize an invention after securing available protection for the creation, if necessary.

2.6 Support for Patentable Inventions and Intellectual Property

The System, with the cooperation of the component institution, will provide review and management services for patentable inventions as well as other intellectual property either by its own staff, through a related foundation, or by other means.

2.7 Service of Public Interest

It is a basic policy of the System 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. These determinations will be recommended and made in accordance with the administrative procedures hereinafter set out.

2.8 Use of Facilities and Resources

Neither the facilities nor the resources of the System or its component institutions may be used (i) to create, develop, or commercialize intellectual properties unrelated to an individual's employment responsibilities (See Subsection 4.1 of this Chapter); or (ii) to further develop or commercialize intellectual properties that have been released to an inventor (See Subdivision 4.22 of this Chapter) except as the component institution's president may approve where the System retains an interest under the terms of the release.

2.9 Creation of Data

An employee whose research activities result in the creation of data that is owned by the Board pursuant hereto shall have a nonexclusive license to use such data for nonprofit educational, research, and scholarly purposes within the scope of the employee's employment, subject to adherence to other provisions of this policy