Revision of Intellectual Property Policy

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Brief History of the IP policy:

- Current IP policy based on a 2003 USM template that is badly out of date and needs revision
- Several years ago the VPR appointed an IP Committee to:
  - Shorten the policy
  - Make it more coherent and understandable
  - Amend it to reflect recent legal decisions
- A proposed revision met with Senate criticism last fall
- The IP Committee is now addressing these issues

Major Senate Concerns Raised on Revised IP Policy as Presented in Nov 2015

- Copyright
- On-line courses
- Software
- Revenue sharing
- Scope of Employment

Copyright

Current Policy	The Univ does not claim copyright in traditional scholarly works except under certain circumstances.
Revision 2015	The Univ holds copyright in scholarly works, but transfers ownership back to personnel in most instances.
Proposed Revision 2016	The Univ does not claim copyright in traditional scholarly works except under certain circumstances.

On-Line Courses

Current Policy	Ownership determined by written agreement between Univ and Personnel
Revision 2015	Ownership determined by written agreement between Univ and Personnel
Proposed Revision 2016	On-line Courses, Programs, and Materials treated as a traditional scholarly works in which creators hold copyright, but grant Univ a free right to use them for so long as Univ wants to

Software

Current Policy	Software treated under a separate section from patents and inventions but simply repeats the language in the patent and invention section
Revision 2015	Eliminates separate section for software with software treated as an invention under patent law
Proposed Revision 2016	Software treated under invention section but creators may request that it be treated under the traditional scholarly work/copyright section

Revenue Sharing

Current Policy	Too cumbersome to describe
Revision 2015	▪ First $5,000 to creator ▪ Reimburse Univ for patent costs ▪ For next $100k (25% creator, 25% to Univ, 50% to Dept) ▪ Over $100k (28% creator, 32% Univ/OTC)
Proposed Revision 2016	▪ Net revenue defined as gross revenue less unreimbursed patent costs ▪ First $10,000 of Net Revenue goes to creator(s) ▪ Subsequent Net Revenue: 50% to creator(s), 25% to Dept, 25% to Univ/OTC

Scope of Employment

Current Policy	Term applies to staff but not faculty
Revision 2015	Term applied to all employees
Proposed Revision 2016	'Scope of Employment' term dropped and replaced with the concept of Univ directed work

The Bayh-Dole Act of 1980

- Prior to 1980, the government owned what was created from federal grants
- Bayh-Dole act gives ownership of IP to universities if:
  - They share income with the inventors
  - Use the remainder for scientific research and education
  - Inventors assign their rights to the University
- Much of our Campus research is governed by Bayh-Dole
- Because of Bayh-Dole, the University has reporting requirements to the government on inventions

Some key elements remaining unchanged

- *Students own all rights, title, and interests in inventions, software, research data, and tangible research materials they create in performance of their academic work.*
- *The policy remains exceedingly flexible in that any requirement of the policy can be waived by the VPR*
- *Policy requires a IP Committee consisting of faculty, staff, and students to advise VPR/Campus on specific issues and any need for policy changes.*

Q: I usually sign over copyright of my work to the publisher, what does it mean for me that the University “reserves the nonexclusive right to use Traditional Scholarly Works for educational or administrative purposes consistent with its educational mission and academic norms?

A: By way of example only, it means the University/author would be able to reproduce and distribute the journal article to students for use in a class