POLICY 7.16 – Intellectual Property

Policy Category: Research

Subject: Intellectual Property

Sections: Purpose, Application, Definitions, Policy

Approving Authority: Board of Governors

Responsible Officer: Vice-President (Research)

Responsible Office: Research Western

Related Procedures: Procedures for Commercialization of Intellectual Property

Related University Policies:

Effective Date: April 26, 2018

Supersedes: New (replaces Policy 7.3 Copyrights and 7.4 Patents)

I PURPOSE

1. The University recognizes as a fundamental principle that it should maintain complete freedom of research and unrestricted dissemination of information. Research done solely in anticipation of profit is incompatible with the aims of the University.

   Nevertheless, the University recognizes that in the course of its research activities, ideas or processes may be developed on which, in the public interest, dissemination may best be achieved through the protection of Intellectual Property rights and the commercial development of those rights. The University and the Creator have a responsibility to promote the effective development and utilization of such discoveries, and to ensure that they will not be restricted in their use in a way that is detrimental to the public interest.

   The University recognizes that the payment to the Creator of revenue from Intellectual Property is a desirable incentive towards discovery. It also recognizes that the effective development of Intellectual Property based on its research activities can be a source of revenue that makes possible the encouragement of further research, both in the field in which the invention was developed and in the University as a whole.

This policy has the following objectives:

a) to encourage and provide an incentive for creativity and innovation among University Members;
b) to facilitate the translation of knowledge for the greatest possible public benefit, including by commercialization through development of Intellectual Property into commercial products or processes;
c) to provide the rights and obligations of the University and its Members in protecting and exploiting any newly created or discovered Intellectual Property;
d) to ensure the University meets its obligations to funding sponsors;

II APPLICATION

1. This policy forms a broad, general basis for the conduct of all matters pertaining to Intellectual Property within The University of Western Ontario's (University) activities and functions. As such, it applies to all University faculty, librarians, archivists, staff, post-doctoral fellows and students (Members).

III DEFINITIONS

1. ***Creator*** means a University Member who is the originator of Intellectual Property and includes artists, authors, designers, composers, inventors and other similar designations.

2. ***Intellectual Property*** means the actual, tangible or communicable result of any and all intellectual or creative undertaking, effort or endeavour and includes, but is not necessarily limited to, scientific, artistic, literary and/or any creative endeavor. It encompasses, in part, discoveries, inventions, designs, patents, copyright, trademarks, manuscripts, books, monographs, papers, esquisse, paintings, drawings sculptures, productions, software and presentations.

3. ***Agreement to the Contrary*** means any Agreement to which a Creator and the University are signatories, including an Agreement between the University and a third-party sponsor, which has the effect of altering the ownership rights of Creators as set out in this Policy.

IV POLICY

1. This Policy applies to all Intellectual Property created by a Member in the course of employment, academic studies, or using, other than incidentally, University resources.

2. Any applicable collective agreement between the University and its Members shall take priority over this Policy in the event of any conflict in terms and conditions or definitions.

3. Subject to any Agreement to the Contrary, ownership of Intellectual Property shall be determined in accordance with the following principles:

   (a) Intellectual Property created by a faculty Member during the course of their academic duties shall be owned by the faculty Member.

   (b) Intellectual Property created by a librarian or archivist Member during the course of their employment duties shall be owned by the librarian or archivist Member.

   (c) Intellectual Property created by a student Member as part of their academic studies at the University, shall be owned by the student, subject to a non-exclusive license in favour of the University for the purposes of satisfying the academic requirements of any course or program to which the work relates.

   (a) Intellectual Property created by a postdoctoral fellow Member in the course of their activities at the University shall be owned by the postdoctoral fellow Member.

   (b) Intellectual Property created by a staff Member in the normal course of their employment duties at the University shall be owned by the University.

4. It is the responsibility of the Member who is the owner of Intellectual Property (unless assigned to the University in accordance with “Procedures for Commercialization of Intellectual Property”) to take such steps as they deem appropriate to protect their interest in their Intellectual Property.

5. Those Members involved in collaborative work or research with other Members (whether student, faculty, librarian, archivist or staff) that may result in the creation of Intellectual Property should take reasonable steps to ensure that all parties to the collaboration are aware of and agree to a methodology for determining ownership.

6. Any owner of Intellectual Property to which this Policy applies who wishes to exploit their Intellectual Property for commercial gain shall make full and complete disclosure to the University by submitting a report of innovation to the Western Technology Transfer Office without unreasonable delay. Reports of innovation can be submitted through the Inventor's Portal.

7. Commercialization of Intellectual Property to which this Policy applies shall take place in accordance with the Procedures for Commercialization approved from time to time by the Vice-President (Research).

8. If a dispute should arise between a University Member and the University with regard to University Intellectual Property matters, and this cannot be resolved through reference to the Vice-President (Research) then the question shall be referred for decision to a single arbitrator for final and binding arbitration conducted in accordance with the Arbitrations Act,1991.

9. The Vice-President (Research) is responsible for administration of this Policy and is authorized to approve related guidelines and procedures.

Last Reviewed: