

Intellectual Property Policy

General Principles Governing the Development and Application of Clark University's Policy for Patents, Inventions and Copyrights

Revised as of December 15th, 2000

First, the policy should encourage the notion that ideas or creative works produced at Clark University should be used for the greatest possible public benefit. Pursuit of the public benefit, by either the University or the individual scholar, would normally mean the widest possible dissemination of such ideas or materials. Thus every reasonable incentive should be provided for the dissemination into use of ideas, and the production and introduction into use of creative works or educational materials generated at Clark.

Second, the policy should protect the traditional rights of scholars with respect to the products of their intellectual endeavors. For example, the policy should not interfere with the right of a scholar to decide to publish a book or an article and, if so, when and under what circumstances.

Third, when University support (i.e., usual allowance for faculty research time, access to University facilities, etc.) makes the enterprise possible or when it provides extra or special support, either with money, facilities, or equipment, for the development of ideas or the production of works, it is reasonable for the University to participate in the fruits of the enterprise or to be reimbursed for the University's extra or special costs, if such ideas or works earn unusual income.

General Policy for Patents, Inventions and Copyrights

1. A member of the Clark faculty is expected to notify and to disclose to the Clark Committee on Patents and Copyrights (a sub-committee of the Research Board) in a timely manner (ordinarily within 90 days) any discovery, invention or work (e.g., **biological material, software, educational material, book, film, cassette, etc.**) the individual has made and has reason to believe might be useful, patentable, or otherwise protectable. This disclosure is obligatory if University expenses have been incurred in the development of the invention or work.

In the case where **no expense has been incurred by the University**, it is possible for an individual to elect to pursue the patenting and/or commercial introduction of products (i.e., inventions, biological materials, software, educational materials, etc.) without assistance from the University. An individual who obtains a patent or introduces an invention or work into public use without assistance from Clark shall be entitled to all royalties or other income resulting therefrom. It is expected that in pursuing the introduction of an invention or work into public use, individuals will make arrangements that best serve the public interest, and the Clark Committee on Patents and Copyrights will be available to advise individuals on this question.

2. Notwithstanding paragraph 1, whenever research or a related activity is subject to an agreement between an external sponsor and Clark University that contains restrictions as to disposition of inventions or works, any inventions or works shall be handled in accordance with such agreement. As at present all participants in externally sponsored research will continue to be required to accept the conditions in the agreement between the University and the sponsor before being permitted to

participate in the sponsored research. In negotiating with the sponsors, project directors and other representatives of the University should strive to advance and protect the public interest as well as to obtain the greatest latitude and rights for the individual inventor and the University consistent with the public interest and this policy.

3. Except as qualified below (see Item 4), the **inventor** of a patentable invention (or creator of a copyrightable work) is entitled to **ownership** of the patent or copyright and **royalties** (or other income) derived from the invention or work. It is expected that when entering into agreements for the commercialization of a patented product or the publication and distribution of copyrighted materials individuals will make arrangements that best serve the public interest.

4. In situations of substantial University involvement it may be appropriate to vary in favor of the University by explicit agreement between the University and an inventor or author (and an outside sponsor, if one is involved), the above provisions concerning the right to obtain a patent or copyright or the rights to royalties or other income, or both. The following three examples, although not intended to be exclusive, illustrate the kinds of situations where such agreements would be appropriate:

- (a) where the production of copyrighted materials is a joint enterprise by the University and individual members of the Clark faculty;
- (b) where substantial University financial or other assistance is involved;
- (c) where there is extensive use of special University facilities, such as laboratory equipment or unique library collections.

Where there is no clear precedent at Clark University for what does or does not constitute substantial university involvement, faculty members should seek guidance from the Committee on Patents and Copyrights concerning the application of this policy in advance of entering into arrangements for the sale, licensing, or commercial distribution of intellectual property.

5. In the absence of any agreement between Clark University and the individual under paragraph 4, and where there are **significant** additional costs to the University associated with an invention or work by a member of the faculty, the individual faculty member would be expected to reimburse the University for such additional costs.

6. In the case of sponsored works, the agreement with the sponsor shall provide either that the sponsor reimburse the University for its reasonable expenses or that the University shall have the right to recover out of royalty income its reasonable expenses, including charges for special equipment used and the cost of obtaining patent protection, unless the University, in exceptional cases, specifically agrees in advance to waive a portion of all of such expenses for reasons of public policy, e.g., in the case of educational materials for disadvantaged children.

7. With regard to the distribution of income from inventions or works, Clark University agrees that there should be a minimal annual income (\$2,000) to the patent or copyright holder, below which there will be no sharing of income with the University. Except as qualified below (see item 8), only income above this minimal level of return per year will be shared with the University. When distribution of royalties is called for, the following guidelines will generally be used:

- (a) The costs and expenses incurred either in obtaining rights to inventions, in marketing inventions, or in enforcing or defending patents filed as a result of University-sponsored inventions will be deducted from the gross royalty revenues derived from University-sponsored inventions over a period up to three years.
- (b) The royalty remaining each year will be approximately distributed as follows, with actual amounts submitted as a proposal to be approved by the Provost of the University:

- 30% directly to the inventor (this term to signify author or creator as well)
- 15% to support the inventor's research or creative activity
- 15% to the inventor's department (or unit)
- 25% to the Provost's Office for (i) direct support of the licensing of patents and research development, and (ii) in the case of royalties from teaching material, for curriculum development and instructional technology
- 15% to the University Operating Budget

If the invention is joint, then the direct 30% royalty distribution designated for an inventor shall be to the joint inventors as a group, to be divided equally between the inventors, unless the inventors provide the University with an alternative royalty distribution agreed upon by them.

If the inventors are associated with different departments (or units), the royalty distribution to the units shall be to the units jointly to be divided equally, unless the University is provided with an alternative royalty distribution agreed upon by the heads of the respective departments (or units) and the Office of Research.

If the inventor's employment with the University terminates, the share of the distribution originally set aside for direct support of the inventor's research (15%) shall be redistributed, 5% to the inventor's department (or unit) and 10% to the Office of Research and the University Operating Budget.

8. If a patentable invention or copyrighted work was not produced as a result of an individual's Clark-related professional activities/responsibilities, then the individual should be the sole recipient of any royalty income obtained. If there is any question concerning connections between the invention or work and the inventor's professional responsibilities to Clark, the issue will be submitted for independent arbitration/negotiation.

9. The Research Board shall have the responsibility for interpreting and enforcing the above-stated policies.