

Appendix K

Patent and Copyright Policy

I. Patent Policy

A. Functions of Patents

Illinois Institute of Technology recognizes that patents on inventions arising from university research serve several important functions. A patent:

1. ensures that the potential scientific and social advantages arising from an invention will be realized to the fullest;
2. encourages invention and rewards inventors;
3. ensures protection and control of inventions in the public interest; and
4. generates income for the funding of research.

IIT therefore has instituted the following Patent Policy, which applies to inventions of faculty, staff, and students.

B. Definitions

1. “University research” is any research that is not personal research, including, but not limited to, research funded by external agencies, corporations, foundations, and societies, as well as research supported by university funds.
2. “Personal research” is research that is conducted without financial support from the university other than normal salary and related benefits; is carried out in the investigator’s discretionary time, without requiring release time from normal duties at the university; requires no significant assistance from university faculty, staff, and students, unless shown to be in their discretionary time; and makes no significant use of university research facilities or equipment.

C. Disclosure

All inventions arising from university research must be reported as promptly as possible and in accordance with disclosure requirements associated with any grant or contract under which the university research was supported. An invention disclosure must be submitted by the inventor to the Director of Technology Transfer & Intellectual Property before any public disclosure (i.e., journal publication, lecture, news release, etc.) is made. Inventions arising from personal research may be reported at the discretion of the inventor. All inventors shall exercise their best judgment in classifying any invention as resulting from personal research.

D. Ownership

Any invention resulting from personal research belongs exclusively to the inventor and the university has no rights in it. Such inventions may be reported at the inventor's discretion, if the inventor desires to make use of the university's sources of information concerning inventions or the university's mechanisms for patenting inventions. These university resources are available to any faculty member. The use of these resources by an inventor does not give the university any rights in an invention resulting from personal research or in profits accruing to such an invention.

Any invention identified in writing by both the inventor and the Director of Technology Transfer & Intellectual Property as resulting from university research or determined to be the result of university research pursuant to the immediately following paragraph belongs exclusively to IIT, and it will be administered according to the procedures set out in this policy. The inventor of any such invention does hereby assign to the university his or her right, title and interest in any such invention so resulting.

If the circumstances surrounding ownership of an invention are complicated or unusual, the case may be put before a Patents Committee, which shall include at least three members of the faculty, the Provost, the Director of Technology Transfer & Intellectual Property, the Director of the Office of Sponsored Research, and the General Counsel, and which shall be chaired by the Provost. No fewer than five faculty members of the committee shall be nominated by the University Faculty Council, and three of them shall be appointed by the Provost. The committee shall meet within 30 days of submission of the invention disclosure to the Director of Technology Transfer & Intellectual Property and the committee decision assigning ownership shall be final.

E. Administration of IIT-Owned Inventions

All inventions owned by IIT shall be first reviewed by the Patents Committee, in consultation with the inventor and, if necessary, with experts in the field of the invention. The committee may then refer the matter to a patent attorney for an opinion on the patentability of the invention. A determination will then be made by the Director of Technology Transfer & Intellectual Property in consultation with the inventor and other members of the patents committee as to whether a patent application should be filed. The criteria to be used in making the determination shall include the patentability of the invention and the potential benefit to the university in owning the patent.

Inventions resulting from any but federally sponsored research will be offered to the inventor if no commitment for patenting has been made within six months of the inventor's disclosure to the Director of Technology Transfer & Intellectual Property.

Inventions resulting from federally sponsored research will be offered to the inventor whenever possible, if no commitment for patenting has been made within six months of the inventor's disclosure to the Director of Technology Transfer & Intellectual Property. Assignment to the inventor of title to inventions resulting from federally sponsored research is always contingent on permission from the sponsoring agency. If permission is not granted, or if an inventor wishes to decline title to an invention, then title shall be assigned to the sponsoring federal agency.

F. Distribution of Income

The inventor shall receive 50 percent of IIT's net income from the invention. Net income is the income remaining after deductions for payments or obligations directly attributable to patenting, marketing,

licensing, protecting, or administering the invention. IIT shall begin to share royalty income with the inventor when IIT begins to receive royalty payments and before expenses have been recovered. The IIT share of invention proceeds will be used to support research after IIT's expenses have been recovered.

The Patents Committee may determine that under certain circumstances it would be appropriate for the inventor and/or his or her department to pay some portion of the expenses associated with patenting and marketing the invention. The committee may propose such an arrangement to the inventor and/or to his or her department, and the parties may negotiate an agreement with terms that are different from those stated in this policy. If no agreement is reached, the Patents Committee shall make a final determination either to proceed with the invention under the terms of this policy or to assign title to the invention to the inventor.

G. Multiple Inventors

In the case of multiple inventors, the inventor's share of 50 percent of IIT income from an invention will be divided among the co-inventors according to any agreement they may reach among themselves. If the co-inventors cannot agree on an equitable distribution of the inventor's share, they may ask the Patents Committee to arbitrate an agreement, and the decision resulting from such arbitration shall be final.

H. Overriding Agreements

The Provost may authorize agreements that entitle a sponsor to ownership of any discovery or invention made under a grant or contract, if such terms are necessary as a prerequisite for university participation in a project. In such cases the terms of the grant or contract agreement override any stipulations of this policy. However, in entering into any research agreement the university reserves the right to a non-exclusive, royalty-free license as to any invention resulting from sponsored research.

For federally sponsored projects the terms of federal laws and regulations affecting patents override the stipulations of this policy in any case where the two conflict.

I. Exceptional Cases

If an inventor feels that the circumstances surrounding an invention are highly exceptional and make inappropriate the provisions of this policy, the inventor may request a meeting of the Patents Committee to review the case. Any committee decision regarding ownership, administration, or royalty distribution for an invention shall be final and binding on the inventor.

II. Copyright Policies

A. Policy Objectives

The policy of IIT is to encourage the development of copyrightable material by its faculty, staff, and students, and the dissemination thereof. The university seeks both to protect the traditional academic freedom of its faculty and students, and to balance the rights of authors, sponsors, and the university. The university also seeks to encourage the wide distribution of scholarly works produced by the faculty. Further objectives of the policy include recovery of expenses from significant use of university facilities and sharing of revenues when the university has been a significant partner in the work.

B. Statement of Policy

Ownership of copyright shall remain with the author in all cases except where: (a) the specific work is assigned as part of university employment and thus is a work for hire; (b) creation of the work involves extensive use of university personnel, facilities, or funds; or (c) the university's contractual obligations require other arrangements. Ownership in these cases will be determined according to the provisions of Section D below.

C. Explanation of Copyright and Copyright Protection

1. **Copyright.** Under federal copyright law, copyright subsists in original works of authorship that have been fixed in any tangible medium of expression from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. These works include: (1) literary works such as books, journal articles, and computer programs; (2) musical works; (3) dramatic works; (4) pantomimes and choreographic works; (5) pictorial, graphic, and sculptural works; (6) motion pictures and other audio-visual works; and (7) sound recordings. Copyright does not extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery.
2. **Rights of Copyright Owner.** Subject to certain exclusions and limitations in copyright law, the copyright owner has the exclusive right: (1) to reproduce the work; (2) to prepare derivative works based on the copyrighted work; (3) to distribute copies to the public by sale or other transfer of ownership, or by rental, lease, or lending; and (4) to perform or display the work publicly.
3. **Works for Hire.** A work prepared by an employee within the scope of his or her employment is a work for hire. The employer, by law, is the "author" and therefore the owner of works for hire for copyright purposes.

D. Interpretation and Implementation of Policy

The following guidelines will be followed in implementing the policy.

1. **Books, Articles, and Similar Works.** In keeping with scholarly tradition, the university does not claim ownership of books, articles, or similar works authored by faculty or staff. Ownership of these works vests in the author.
2. **University-Assigned Works.** Copyright of materials produced by an employee shall be the property of the university if the materials are works for hire. These are materials for which the individual was paid specifically for the production of the materials, was employed by the university for the specific purpose of preparing or producing the materials, or was assigned to do so as part of his or her general employment duties.
3. **Works with Extensive Real Costs to the University.** University facilities are not to be used for personal gain or commercial advantage. Copyright of materials may be claimed by the university if the production involves extensive real costs to the university. Clearly insubstantial usage shall not cause ownership to vest in the university, nor shall use of facilities for which the individual has paid use fees from personal funds.

4. A faculty member may use materials that he or she has developed in preparing a course, to produce a textbook or other work. The resulting work is the property of the faculty member.
5. Determination of when use of university facilities is “extensive” is a matter of judgment based on the situation and the practices in particular academic units. Generally, the university intends to encourage individual initiative and creativity.
6. Sponsor-Supported Work. Copyright in works developed as a result of work supported partially or fully by an outside agency through grant or contract with the university shall be disposed of in accordance with the terms of the grant or contract.
7. Computer Software and Databases. Computer software and databases produced at the university are normally university-assigned works. In these cases, the university owns the copyright.

E. Distribution of Income

1. Income derived from a work in which the university claims no copyright belongs to the author of the work.
2. Income derived from a university-assigned work belongs to the university.
3. If income is derived from a work developed with extensive use of university facilities, 50 percent of the net income shall be paid to the author of the work and 50 percent shall be retained by the university. The university reserves the right to deduct from gross royalty income, prior to any distribution, expenses properly attributable to the protection or marketing of the material. The author shall be reimbursed for any out-of-pocket expenses incurred in developing the work before the university retains any royalties.
4. Income derived from a sponsor-supported work shall be distributed as provided in the agreement with the sponsor.
5. The university may have reason to make other arrangements with members of the faculty and staff for the production of copyrightable materials. In such cases, individual written agreements will be entered into and the provisions of these agreements shall take precedence over the provisions of this policy.

F. Administration of the Policy

1. If the copyrightable material is developed with the assistance of, or in the course of employment at, IIT Online, the Academic Resource Center, the Center for Study of Ethics in the Professions, the Office of Marketing & Communications, or a similar administrative unit that regularly develops and distributes copyrightable material, the director of that unit shall be responsible for administration of the policy with respect to that material. If the copyrightable material is developed with the assistance of, or in the course of employment in, some other department, the Office of Sponsored Research shall be responsible for such administration.
2. Wherever possible, the administrator of the policy and the author shall reach agreement prior to the commencement of work on the copyrightable material with respect to the category in which that material will fall.

3. The following copyright notice is to be used on all university-owned materials:

Copyright [year] Illinois Institute of Technology.
All rights reserved.

No other institutional or departmental name is to be used in the copyright notice.

G. Resolution of Differences

Disagreements about administration of this policy in any particular case, including a determination as to the category in which a work falls, shall be referred to the Committee on Copyrights. This committee shall be made up of three members of the faculty, the Provost, and the General Counsel, and shall be chaired by the Provost. No fewer than five faculty members of the committee shall be nominated by the University Faculty Council, and three of them shall be appointed by the Provost. The committee shall meet within 30 days of submission of a dispute to the Provost. The committee decision resolving the dispute shall be final within the university.

H. Return of Copyright to Author

Authors of works whose copyright is owned by the university may petition the Committee on Copyrights to have the copyright returned to the author if, in the author's assessment, the university does not offer the copyrighted materials for sale in a timely fashion. In this case, the university retains a non-exclusive, royalty-free license.

I. Copying of Works Owned by Others

Members of the university community are required to observe the rights of other copyright owners. Copies of guidelines for classroom and library use are available from the Dean of Libraries and the Director, IIT Downtown Campus Library.

III. Special Provisions Relating to Distance Learning

A. Transmission of Live Instruction

The university may transmit any classroom instruction, lecture or other instructional or performance event produced by faculty members as part of a program of distance learning with the consent of the instructor. The academic unit head is responsible for obtaining the consent of the instructor.

The university may record such instruction on videotape or provide the instruction online for students who have missed particular classes or who wish to review material covered in class. The university, however, may not sell or re-transmit in future semesters any such recording except under the terms of a written agreement between the university and the faculty member setting out the proposed use and providing each party with an agreed upon percentage interest in the net profits from either the sale or rebroadcast, usually following the guidelines set out in section B below.

B. Creation of Materials for Web-Based or Electronically Transmitted Instruction

1. Using Substantial University Resources

In cases where a course and/or other materials relating to online or otherwise electronically transmitted instruction are developed using university production facilities, staff and other university resources (generally having a value of \$1,000 or more), ownership and royalties of the materials will be determined as follows.

- (a) IIT owns the copyright for the course materials.
- (b) Royalties
 - (i) If IIT provides resources for the development of the course materials (i.e., presentation design and consultation, labor for preparation of documents), then the faculty member creating the materials shall receive 50% of IIT's net income from licensing or other distribution of the materials.
 - (ii) If IIT only provides production for course delivery, then the faculty member creating the materials shall receive 75% of IIT's net income from licensing or other distribution of the materials.

2. Not Using Substantial University Resources

If a faculty member develops course materials relating to online or otherwise electronically transmitted instruction on his or her own initiative and without substantial use of university resources, i.e., resources having a value in excess of \$1,000, the faculty member shall own the course materials as provided in the copyright policy. If there is some lesser use of university resources (i.e., having value between \$100 and \$1,000), the faculty member shall reimburse the university for such use from any royalties earned from distribution of the materials. Use of university personal computers and resources having value less than \$100 need not be reimbursed.

C. Other Policies Relating to Course Materials

- 1. The university has ultimate responsibility for and control over any online instruction used in support of its programs. If a faculty member is using online instruction, but not through IIT Online, he or she must inform the university of the nature and extent of that use and shall obtain permission from his or her academic unit head before beginning any such online instruction.
- 2. Faculty members have the right and obligation to update, edit or otherwise revise electronically developed course materials that become out of date, and in certain circumstances, place a time limit upon the use of electronically developed course materials that are particularly time sensitive.
- 3. The Vice Provost for Academic Affairs will promulgate procedures for development and delivery of online instruction consistent with this policy.