UTDPP1002 - Intellectual Property Policy

Policy Statement

It is the objective of the Board of Regents of the University of Texas System ("Board") and The University of Texas at Dallas ("UT Dallas") 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 University of Texas System ("System") and to sponsors of specific research in varying degrees of protection, monetary return and recognition.

The development, ownership, management, use and marketing of intellectual property developed at UT Dallas are governed by System's Regents' Rules and Regulations Series 90000: Intellectual Property ("Regents' Rules"). These may be found at the following site:

http://www.utsystem.edu/bor/rules.htm#A10

This policy memorandum includes highlights of and references to key components of the Regents' Rules for convenience. To the extent that provisions herein may vary from the Regents' Rules, the latter shall govern.

1. Definition of Individuals and Intellectual Property Covered by this Policy
    1. Individuals subject to this policy are defined by Regents' Rules 90101, Section 2, which states:
       Individuals Subject to this Policy. This intellectual property policy applies (a) to all persons employed by System or any of the institutions including, but not limited to, full and part-time faculty and staff and visiting faculty members and researchers, and (b) to anyone using the facilities or resources of System or any of the institutions, including, but not limited to, students enrolled at a System institution whether undergraduate or master's and doctoral degrees, or postdoctoral and predoctoral fellows. All individuals subject to this policy must assign their rights in intellectual property included under this policy in accordance with the provisions of Regents' Rule 90102.
    2. This policy covers intellectual property as outlined in Regents' Rules 90101, Section 3 and, except for certain exclusions noted below, applies to all types of intellectual property, including, but not limited to, any invention, discovery, creation, know-how, trade secret, technology, scientific or technological development, research data, works of authorship, and computer software regardless of whether subject to protection under patent, trademark, copyright, or other laws.

2. Applicability of Policy and Ownership of Intellectual Property
    1. Except as set forth in Subsections B1, B2, and B3 below, this policy shall apply to, and the Board may assert ownership in, intellectual property created by:
        1. All persons employed by UT Dallas,
        2. All persons, including students, using the facilities of UT Dallas under the supervision of its employees,
        3. Candidates for master's and doctoral degrees, and
        4. Postdoctoral and predoctoral fellows,
           provided that such intellectual property:
            1. is created by an employee within the course or scope of employment; or
            2. is created on UT Dallas time, with the use of UT Dallas facilities or state resources; or
            3. results from research conducted within System that is supported by Federal funds or third party sponsorship; or
            4. is commissioned by System or a member institution of System:
                1. pursuant to a signed contract through which intellectual property is created by (a) an employee, student, or other individual commissioned, required, or hired specifically to produce such intellectual property by System or any of its member institutions and (b) an employee or student as part of an institutional project, or
                2. that fits within one of the nine categories of works considered "works made for hire" under copyright law.
    2. This policy shall not apply to, and Board shall not assert ownership rights in, intellectual property that is:
        1. faculty authored, a scholarly work, an art work, a musical composition or a dramatic or non-dramatic literary work related to the faculty member's professional field, regardless of the medium of expression, unless such work is commissioned by or produced as a work for hire by System or UT Dallas. A work that is not subject to the provisions of Section II.A above is owned by the creator. Additionally, a scholarly work that is protected by copyright (defined as "an original work of authorship fixed in a tangible medium of expression") protects a person's unique way of expressing something, but does not protect the underlying ideas or facts. More information about System's Copyright Policy regarding distance learning, coursepacks, and copyrighted scholarly works is available at:
            1. http://www.utsystem.edu/ogc/intellectualproperty/present.htm#copypol;
            2. http://www.utsystem.edu/ogc/IntellectualProperty/Policies/plainenglish.htm (System's Intellectual Property Policy in Plain English), and
            3. http://www.utsystem.edu/bor/rules/90000Series/90101.pdf (Regents' Rules 90101).
        2. unrelated to an individual's employment responsibility and is developed on the individual's own time and without UT Dallas support or the use of UT Dallas facilities. Such property is owned by the creator, or
        3. returned or released to the inventor in accordance with this Policy.

    3. Under Regents' Rules 90101, Section 8, neither the facilities nor the resources of System or any of its member institutions may be used (a) to create, develop, or commercialize intellectual property outside the course and scope of employment of the individual (see Regents' Rules 90102, Section 1) or (b) to further develop or commercialize intellectual properties that have been released (assigned) to an inventor (see Regents' Rules 90102, Sections 2.2 and 2.3).
3. Office of Technology Commercialization
   The Office of Technology Commercialization ("OTC") reports to the Vice President for Research and is responsible for the management of all innovations that result from research conducted at UT Dallas. The mission of the OTC is to effectively and efficiently facilitate the evaluation, protection, patenting and transfer of commercially viable, UT Dallas innovations for the economic, social, environmental and cultural benefit of the citizens of the region and the state of Texas and society in general. The guiding philosophy of the OTC is to take a collaborative, partnering approach when working with inventors, industry partners, and investors. The OTC endeavors to be flexible, facilitative, and market-oriented with the objective of establishing long term, mutually beneficial relationships with UT Dallas faculty and partners.
4. Advisory Bodies
    1. The President of UT Dallas or his designee shall appoint an Intellectual Property Advisory Committee ("Committee") to help administer intellectual property policy and make recommendations on such related matters as may be requested. The composition of the Committee shall include faculty members and such other individuals within or outside UT Dallas as may seem advisable. The President or his designee shall also appoint a Chair to direct and coordinate the activities of the Committee. At the end of each fiscal year, the OTC shall provide to the Committee a copy of its annual report outlining its activities and achievements for that completed year.
    2. The Intellectual Property Advisory Committee shall:
        1. serve as an advisory body to the President and the OTC regarding matters related to commercialization activities and of Board's intellectual property; and,
        2. serve as an advisory and/or mediation body with respect to faculty disputes or grievances with UT Dallas in connection with intellectual property matters.
5. Submission of Intellectual Property and Assignment of Rights
    1. "Before intellectual property subject to ownership by the Board is disclosed to any party outside System, to the public generally, or for commercial purposes, and before publishing same, the creator shall submit a reasonably complete and detailed disclosure of such intellectual property to the President of the creator's institution for determination of System's interest." (Regents' Rules 90102, Section 2.1). Disclosure of inventions by UT Dallas inventors should be made to the OTC, using UT Dallas' standard Invention Disclosure Form as described located on the OTC website.
       (NOTE: The recommended timing for invention disclosure submission is at least 30 days prior to public disclosure or disclosure otherwise outside System, to permit sufficient time for review and possible protection of the intellectual property by UT Dallas.)

2. The OTC in collaboration with other evaluators, including members of the Committee, will review the completed Invention Disclosure Form submitted by the creator on an ad hoc basis, and will determine an appropriate course action that may include one of the following
    1. UT Dallas and System assert rights of ownership in the intellectual property on behalf of the Board and obtain such protection for it as may be appropriate, or
    2. UT Dallas will license the intellectual property directly to the inventor, or
    3. The Board will release its rights of ownership in the intellectual property to the creator, subject to such terms and conditions as may be appropriate.
3. Where UT Dallas and System assert rights of ownership on behalf of the Board in intellectual property covered by this policy, it shall be mandatory that persons covered by this policy assign all rights in such property and any patents or other protection to the Board (see Regents' Rules 90101, Section 2).
4. Any person who, as a result of his or her activities, creates intellectual property that is subject to this policy, other than on government agreements 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 made public, whether by publication, by development and commercialization after securing available protection for the creation, or both.

6. Licensing and Distribution of Income
    1. In those instances where intellectual property rights are licensed by the Board to third parties, the costs of licensing and obtaining a patent or other protection for the property shall first be recaptured from any royalties received.
    2. The remainder of such royalty income (including license fees, prepaid royalties and minimum royalties) shall be divided as follows:
        1. Fifty percent (50%) to the creator(s) ("Creator(s)' Share"), and
        2. Fifty percent (50%) to UT Dallas.
    3. That portion of System's share of licensing income that is allocated to UT Dallas shall be further allocated by the President for research purposes. When asked, the Committee may also recommend to the OTC to apply some portion of the licensing income to further develop and support certain intellectual property interests of UT Dallas.
    4. With the prior written permission of the President, future royalties payable to a faculty member pursuant to this Section VI may be assigned to UT Dallas by the faculty member and designated for use in research to be conducted by such a faculty member.
    5. If two or more creators or inventors are entitled to receive royalty income from the Creators' Share, each Inventor or creator will be allocated a proportion equal to his/her percent contribution. The percent inventive contribution, as agreed to by all inventors, is typically determined and set forth in an inventors' sharing agreement. The Regent's Rules address situations where "...two or more persons who are entitled to share royalty income ... cannot agree in writing on an appropriate sharing arrangement, that portion of the royalty income to which the creators are entitled will be distributed to them as the institution's president or, in the event that the creators are located at two or more institutions within System, the Chancellor, may deem appropriate under

the circumstances and such decision shall be binding on the creators." (Regents' Rules 90102, Section 3.4).

7. Equity Interests
    1. In agreements with business entities relating to rights in intellectual property owned by the Board, UT Dallas may receive equity interests as partial or total compensation for rights conveyed.
    2. Consistent with Section 51.912, Texas Education Code, and subject to review and approval by the President, the Executive Vice Chancellor for Academic Affairs, the Chancellor, and the Board, employees of UT Dallas who conceive, create, discover, invent or develop intellectual property may hold an equity interest in a business entity that has an agreement with UT Dallas or System relating to the research, development, licensing or exploitation of that intellectual property.
    3. Dividend income and income from the sale or disposition of equity interests held by the Board shall belong to System. UT Dallas may use the net income in accordance with Section VI.C of this policy.
    4. Dividend income and income from the sale or disposition of an equity interest held by an employee pursuant to an agreement between UT Dallas or System and a business entity relating to rights in intellectual property conceived, created, discovered, invented or developed by such employee shall belong to the employee.
    5. For each invention UT Dallas licenses to a third party, each inventor of that invention will receive a percentage of the royalty income received by UT Dallas from such license, according to allocation set forth in the inventor sharing agreement defined in Section VI.E above and/or from an equity interest the inventor may have in the third party licensee. In the event an Inventor of UT Dallas Intellectual property, entitled to receive consideration from a license to third party licensee of such Intellectual Property, does not receive an allocation of royalty interest according to Section VI above or an equity interest in the licensee, directly from such licensee, UT Dallas will negotiate with the third party licensee on behalf of the Inventor to enable the Inventor to receive an equity interest in such licensee.
8. Business Participation
    1. Any UT Dallas employee who conceives, creates, discovers, invents or develops intellectual property may serve as a member of the board of directors or other governing board or as an officer or any employee (other than as a consultant) of a business entity that has an agreement with UT Dallas relating to research, development, licensing, or exploitation of that intellectual property, only so long as the inventor is in full compliance with the requirements of his/her conflict of interest management plan as approved by the President of UT Dallas or his designee (http://www.utsystem.edu/ogc/IntellectualProperty/conflict.htm -see Regents' Rules 90104, Section 1).
    2. When requested and authorized by the President of UT Dallas or the Board as set forth in Section VIII.A above, an employee may serve on behalf of the Board as a member of the board of directors or other governing board of a business entity that has an agreement with System relating to the research, development, licensing or exploitation of intellectual property (see Regents' Rule 90104, Section 2).

Policy History

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Policy Links

- Permalink for this policy: http://policy.utdallas.edu/utdpp1002
- Link to PDF version: http://policy.utdallas.edu/pdf/utdpp1002
- Link to printable version: http://policy.utdallas.edu/print/utdpp1002