

Augusta University

Policy Library

Intellectual Property Policy

Policy Manager: Office of the Senior Vice President for Research

POLICY STATEMENT

Augusta University (“AU”) places a high value on the innovations created by all members of the AU community. In furtherance of the public good, AU endeavors to identify, protect, market, license, and manage promising new innovations. To this end, this policy represents the core principles and practices regarding intellectual property and its commercialization at AU.

AFFECTED STAKEHOLDERS

Indicate all entities and persons within the Enterprise that are affected by this policy:

- Alumni Faculty Graduate Students Health Professional Students
 Staff Undergraduate Students Vendors/Contractors Visitors
 Other: Housestaff, Fellows, Agents

REASON FOR POLICY

AU is dedicated to teaching, research, and the extension of knowledge to the public. The personnel at AU recognize as two of their major objectives: 1) the production of new knowledge, and 2) the dissemination of both old and new knowledge. Inherent in these objectives is the need to encourage the development of new and useful materials, devices, and processes, the publication of scholarly works, and the development of computer software. Such activities (1) contribute to the professional development of the faculty, staff or students involved, (2) enhance the reputation of AU, (3) provide additional educational opportunities for participating students, and (4) promote the general welfare of the public at large.

Patentable inventions and materials, copyrights, and other innovations often come about because of activities of AU faculty, staff or students who have been aided wholly or in part through the use of resources of AU. It becomes significant, therefore, to ensure the utilization of such inventions for the public good and to expedite their development and marketing. The rights and privileges, as well as the incentives, of the inventor must be preserved so that his or her abilities and those of other faculty, staff or students of AU may be further encouraged and stimulated.

AU recognizes and encourages the publication of scholarly works as an integral part of the processes of teaching, research and service. AU acknowledges that faculty, staff or students regularly prepare for publication, usually through individual effort and initiative, articles, pamphlets, books and other scholarly works which may be subject to copyright and which may generate royalty income for the author. Publication may also result from work supported either partially or completely by AU. With the advent of innovative techniques and procedures, the variety and number of materials which might be created in a university community have increased significantly, causing the ownership of such copyrightable materials to become increasingly complex.

AU recognizes the need for enhanced development and dissemination of software technology as a means of expressing both old and new knowledge. Inasmuch as AU is aware of the dynamic nature of software and that

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the value of intellectual property comes from the ability of its owner to control its use and that such value is directly related to the degree of protection it enjoys under the law, AU seeks to protect such expressions of knowledge by the utilization of appropriate intellectual property laws and the creation of comprehensive software technology transfer policies and procedures.

In many instances, Intellectual Property will become, in whole or in part, the property of the Board of Regents. When this policy speaks to ownership of Intellectual Property by institutions, the Board shall be the owner, and unless ownership has been transferred by the Board to an affiliated nonprofit organization, authority to further allocate or to dispose of rights in such Intellectual Property is hereby delegated to the presidents of the institutions. Management of the Board's institution-specific or institutionally-identifiable Intellectual Property is entrusted to the presidents (BoR Minutes, February, 2007).

Accordingly, AU does hereby establish the following Intellectual Property Policy with respect to the development, protection, and transfer of rights to Intellectual Property resulting from the work of its faculty, staff or students. The Intellectual Property Policy of AU shall apply to all AU Personnel. For the purpose of application of this policy, the term "AU Personnel" is defined to include all part-time and full-time members of the faculty, staff and housestaff, and all other agents, employees, students, and fellows of AU.

DEFINITIONS

Copyrighted Materials

Copyrighted Materials shall include the following:

1. Books, journal articles, texts, glossaries, bibliographies, study guides, laboratory manuals, syllabi, tests, and proposals;
2. Lectures, musical or dramatic compositions, and unpublished scripts;
3. Films, filmstrips, charts, transparencies, and other visual aids;
4. Video and audio tapes or cassettes;
5. Live video and audio broadcasts;
6. Programmed instructional materials;
7. Mask works; and,
8. Other materials or works other than software that qualify for protection under the copyright laws of the United States (See 17 U.S.C. § 102 et seq.) or other protective statutes whether or not registered thereunder.

Intellectual Property

Intellectual Property shall be deemed to refer to patentable materials, copyrighted materials, software, trademarks, trade secrets, patentable plants, mask works, and novel plant varieties, whether or not formal protection is sought.

Mask Work

Mask Work means a series of related images, however fixed or encoded:

1. Having or representing the predetermined, three-dimensional pattern of metallic, insulating, or semiconductor material present or removed from the layers of a semiconductor chip product; and,
2. In which series the relation of the images to one another is that each image has the pattern of the surface of one form of the semiconductor chip product (See 17 U.S.C. § 901).

Novel Plant Variety

Novel Plant Variety means a novel variety of sexually reproduced plant (See 7 U.S.C. § 2321 et seq).

Patentable Materials

Patentable Materials shall be deemed to refer to items other than software that reasonably appear to qualify for protection under the patent laws of the United States or other protective statutes, including Novel Plant Varieties and Patentable Plants, whether or not patentable thereunder.

Patentable Plant

Patentable Plant means an asexually reproduced distinct and new variety of plant (See 35 U.S.C. § 161).

Software

Software shall include one or more computer programs existing in any form, or any associated operational procedures, manuals or other documentation, whether or not protectable or protected by patent or copyright. The term “computer program” shall mean a set of instructions, statements, or related data that, in actual or modified form, is capable of causing a computer or computer system to perform specified functions.

Trade Secrets

Trade Secrets means information including, but not limited to, technical or nontechnical data, a formula, a pattern, a compilation, a program, a device, a method, a technique, a drawing, a process, financial data, financial plans, product plans, or a list of actual or potential customers or suppliers that:

1. Derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and
2. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy (See O.C.G.A. § 10- 1-761).

Trademarks

Trademarks shall include all trademarks, service marks, trade names, seals, symbols, designs, slogans, or logotypes developed by or associated with the USG or any of its institutions. (See 15 U.S.C. § 1127.)

PROCESS & PROCEDURES

Determination of Rights and Equities in Intellectual Property

Rights and equities in intellectual property created by AU faculty, staff, and students shall be determined by AU based upon the property’s inclusion in one of the following categories:

A. Sponsor-Supported Efforts

The grant or contract between the sponsor and AU, under which Intellectual Property is produced, may contain specific provisions with respect to disposition of rights to these materials. The sponsor (1) may specify that the materials be placed in the public domain, (2) may claim reproduction, license-free use, or other rights, or (3) may assign all rights to the institution. In those cases where

royalty income is realized by AU, the inventor or creator may appropriately share in the royalty income. The nature and extent of inventor or creator participation in royalty income, however, shall be subject to sponsor and institution regulations.

B. AU-Assigned Efforts

Ownership of Intellectual Property developed as a result of assigned institutional effort shall reside with AU; however, sharing of royalty income with the inventor or creator is authorized as an incentive to encourage further development of Intellectual Property. The nature and extent of inventor or creator participation in royalty income, however, shall be subject to AU regulations.

C. AU-Assisted Individual Effort

Ownership of Intellectual Property developed by faculty, staff or students of AU where AU provides support of their efforts or use of AU resources in more than a purely incidental way (unless such resources are available without charge to the public) shall be shared by the inventor or creator and AU. The nature and extent of inventor or creator participation in royalty income, however, shall be subject to AU regulations.

D. Individual Effort

Ownership rights to Intellectual Property developed by faculty, staff or students of AU shall reside with the inventor or creator of such Intellectual Property provided that: (1) there is no use except in a purely incidental way of AU resources in the creation of such Intellectual Property (unless such resources are available without charge to the public); (2) the Intellectual Property is not prepared in accordance with the terms of a AU contract or grant; (3) the Intellectual Property is not developed by faculty, staff or students as a specific AU assignment. The general obligation to produce scholarly and creative works does not constitute a specific assignment for this purpose. The nature and extent of the use of institution resources shall be subject to AU regulations and shall be determined by AU.

E. Other Efforts

Ownership rights to Intellectual Property developed under any circumstances other than those listed in paragraphs A-D (immediately above) of this policy shall be determined on an individual basis and approved by the Senior Vice President for Research of AU or his or her designated representative. The nature and extent of inventor or creator participation in royalty income, however, shall be subject to AU regulations.

As a condition of employment and enrollment, all AU Personnel are subject to the Intellectual Property Policies of the Board of Regents and Augusta University and do hereby assign all present right, title and interest in any AU Intellectual Property which is made in furtherance of their AU responsibilities and/or with use of AU resources. AU Personnel shall execute any documents AU may reasonably request to vest or confirm ownership of any AU Intellectual Property.

Except as authorized by advance written permission of the AU administration, AU Personnel shall not assign rights to intellectual property subject to this policy to any person or entity external to AU or the Augusta University Research Institute (AURI). In certain cases and at its sole discretion, AU may release Intellectual Property, to which the institution has title or an interest to the inventor or creator for management and

development as a private venture after the execution of an agreement providing for a suitable division of royalty income, including appropriate legal expense reimbursement, with AU.

Administration of the Consideration of Rights in Intellectual Policy

- A. The Senior Vice President of Research, or designee, shall administer the principles and policies set forth herein, working in cooperation with the AU Intellectual Property Committee as provided herein.
- B. The division of any net revenues generated as a result of the licensure, sale or other development of any Intellectual Property developed in this Policy shall be in accordance with the formulae set forth in "Attachment A," attached hereto and incorporated herein. For purposes of this policy, "net revenues" is defined as gross revenues (including the cash proceeds from equity taken as consideration for an option or license agreement) less any expenditures borne by AU, the Board of Regents of the University System of Georgia, AURI, or their designees in obtaining protection for the development of Intellectual Property, and any and all expenditures incurred by AU, the Board of Regents of the University System of Georgia, AURI, or their designees, in contemplation of or the maintenance of any litigation or controversy between any parties involving rights under such Intellectual Property.
- C. Given the desire to encourage entrepreneurship and startup company innovation commercialization, AURI will, from time to time, take equity as partial consideration under an option or license agreement. When equity taken in this manner is converted to cash, it shall also be included as net revenue under this policy.

Senior Vice President for Research & Intellectual Property Committee

Intellectual Property activities shall be under the general cognizance of the Senior Vice President for Research, or designee, working with the AU Intellectual Property Committee as described herein. This committee shall be appointed by the President upon recommendation by the Senior Vice President for Research and, in the case of faculty at large, also approved by the Faculty Senate. The Committee shall consist of seven voting members as follows: four representatives shall be selected from the faculty at large; one representative shall be selected from the Office of Fiscal Affairs and Planning; one representative shall be selected from AURI; and one representative shall be selected from the Office of Legal Affairs. The President shall designate a chairperson from those appointed. The Committee appointments will be for two years. Members of the Committee may be appointed to serve successive terms. In the event any seat on the Committee is vacated prior to expiration of the normal term, the President shall appoint a successor to fill the unexpired term of the seat vacated, such successor recommended by the Senior Vice President for Research and, in the case of faculty at large, also approved by the Faculty Senate. The presence of four voting members shall constitute a quorum for the transaction of official business of the Committee.

The Intellectual Property Committee shall recommend to the Senior Vice President for Research, or designee, the rights and equities in intellectual property created by faculty, staff, or students of AU and also have the responsibility of serving as an appellate body in the event of a disagreement between AU Personnel and AU administration as to the ownership and use of such materials. All such appellate recommendations shall be

forwarded by the Intellectual Property Committee to the Senior Vice President for Research. The Senior Vice President for Research may choose to accept or reject such committee recommendations.

Further Appeals

AU Personnel shall have the right to appeal the decision of the Senior Vice President for Research. Appeals shall be made in writing to the President within thirty (30) days of the final decision of the Senior Vice President for Research and shall state the decision complained of and the redress desired.

AU Personnel may, in accordance with Board of Regents policy (“Application for Discretionary Review”), apply to the Board for a review of the decision of the President.

Conflicts with Regents’ Policies

In the event of a conflict between this policy and the official Intellectual Properties Policy of the Board of Regents, the latter shall prevail.

ATTACHMENT A – NET REVENUE DIVISION

Attachment A Net Revenue Division Intellectual Property				
	Inventor / Author	AU	Dept / Division	AURI
Sponsor-Supported Efforts; AU-Assigned Efforts; and AU-Assisted Individual Effort	35%	35%	10%	20%
Individual Effort	100%*	0%	0%	0%
Other	To be determined on a case-by-case basis			

*Inventor/author may request AURI to assist in patenting, licensing, etc. Royalty-sharing will be the same as for sponsor-supported, AU-assigned, and AU-assisted (*i.e.*, 35/35/10/20).

NOTE: All figures are based on net revenues.

REFERENCES & SUPPORTING DOCUMENTS

Board of Regents Policy Manual (6.3 Intellectual Properties)
Governing intellectual property policy for the Board of Regents of the University System of Georgia
<https://www.usg.edu/policymanual/section6/C352/>

Board of Regents Policy Manual (6.26 Application for Discretionary Review)
Allows employees and students to appeal a decision of a USG president to the Board of Regents
<https://www.usg.edu/policymanual/section6/C2714>

RELATED POLICIES

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APPROVED BY:

Executive Vice President for Academic Affairs and Provost, Augusta University

Date: 4/27/2020

President, Augusta University

Date: 4/29/2020