

Policies of the University of North Texas at Dallas	Chapter 13
13.015 Intellectual Property	Research

Policy Statement. The purpose of this policy is: (1) to encourage the creation, development, and management of Intellectual Property including, patents, copyrights, trade secrets, know-how, and trademarks in the best interest of the public, the Creator(s), UNTD, and the research sponsor(if any); (2) to provide for protection of Intellectual Property through patents, copyrights, trade secrets and trademarks; (3) to ensure that monetary and other benefits derived from Intellectual Property including patents, copyrights, trade secrets, and trademarks are equitably distributed to the Creator(s), UNTD, and other parties; and (4) to address ownership issues related to Intellectual Property developed at or on behalf of UNTD.

Application of Policy. Faculty, staff, and students. Additionally, Affiliated Personnel of UNTD are subject to this policy when creating Intellectual Property through the use of UNTD facilities or resources. This policy does not apply to UNTD owned trademarks, service marks, and copyrights unrelated to research, such as those promoting UNTD as an academic institution or UNTD athletics.

Definitions.

1. **Affiliated Personnel.** “Affiliated Personnel” means individuals who are not UNTD faculty, employees, or students but have a professional relationship with UNTD, such as visiting faculty, visiting postdoctoral fellows, volunteers, and other scholars.
2. **Intellectual Property.** “Intellectual Property” means any new and useful process, scientific or technological innovation, technology, machine, composition of matter, life form, article of manufacture, software, tangible property, research data, or any work that is subject to protection by patents, copyrights, trademarks, or trade secrets. It includes but is not limited to new or improved devices, circuits, chemical compounds, drugs, genetically engineered biological organisms, data sets, software, musical processes, unique and innovative uses of existing inventions, and any other deemed property. Intellectual Property may or may not be patentable, copyrightable, subject to trade secret, or subject to a trademark.
3. **Creator.** “Creator” means any member of the UNTD faculty or staff, and any other persons employed by UNTD, whether on a full-time or a part-time basis; visiting faculty and researchers; and any other persons, including students and Affiliated Personnel, who invent, create, develop, or discover Intellectual Property while employed by UNTD or while using UNTD facilities, resources, or equipment. Intellectual Property can be invented, created, developed, or discovered by one or

more individuals, each of whom, to be considered a Creator, must have conceived of an essential element or provided creative input into the conception of the Intellectual Property.

4. Creator-Owned Intellectual Property. “Creator-Owned Intellectual Property” means Intellectual Property owned by the Creator with no ownership by UNTD. Creator-Owned Intellectual Property includes Intellectual Property unrelated to a Creator's employment responsibilities that is developed on his or her own time without significant use of UNTD facilities, resources, or equipment. Intellectual Property created with the use of a UNTD office, library, or desktop computer are examples of facilities and equipment that are not considered significant. Unless created as a Work Made for Hire, as Sponsor-Supported Intellectual Property, or as assigned in the course and scope of employment, pedagogical, scholarly, or artistic works by UNTD faculty, staff, or students are also included as Creator-Owned Intellectual Property (examples are most textbooks, course materials, and refereed materials). Creator-Owned Intellectual Property also includes works of students created in the course of their education, such as theses, dissertations, papers, and journal articles unless otherwise designated in another UNTD Policy.
5. Author. “Author” means the person or persons who first fixed an expression in a fixed media; which may include any literary, dramatic, musical, artistic, or certain other intellectual works, including the writing of software code.
6. Intellectual Property Advisory Committee (IPAC). “Intellectual Property Advisory Committee” or “IPAC” means the UNTD committee chaired by the Intellectual Property Officer (IPO) and with two other members with oversight responsibilities related to Intellectual Property as defined in this policy.
7. Intellectual Property Officer (IPO). The “Intellectual Property Officer” means the individual appointed by the Provost & Executive Vice President for Academic Affairs with the responsibility of overseeing and administering the UNTD Intellectual Property program in accordance with this policy and for administering patents, copyrights, trade secrets, and trademarks related to University-Owned Intellectual Property and Sponsor-Supported Intellectual Property.
8. Inventor. The “Inventor” of Patentable Intellectual Property shall be determined in accordance with United States patent law.
9. Open Source Software. “Open Source Software” means computer software with its source code made available with a license in which the copyright holder provides the rights to study, change, and distribute the software.
10. Patentable Intellectual Property. “Patentable Intellectual Property” means Intellectual Property for which a patent may be applied.

11. Publication. “Publication” means a public disclosure of Intellectual Property, which may be verbal or printed. Printed Publications include abstracts and may include grant proposals, funded or unfunded. A public disclosure is a non-privileged communication to someone other than those with a professional need to know within UNTD.
12. Sponsor-Supported Intellectual Property. “Sponsor-Supported Intellectual Property” means Intellectual Property created under a grant or sponsored research agreement with an external agency or entity. Ownership of Sponsor-Supported Intellectual Property is determined in accordance with the terms of the grant or sponsored research agreement. In the absence of contract terms that specifically designate ownership, Sponsor-Supported Intellectual Property is owned by UNTD.
13. University-Owned Intellectual Property. “University-Owned Intellectual Property” means Intellectual Property owned by UNTD, including Works Made for Hire that are commissioned by UNTD or that a Creator is assigned to create in the course and scope of her/his employment with UNTD; Intellectual Property created with significant use of UNTD facilities, resources, or equipment; Intellectual Property assigned to UNTD; and Sponsor-Supported Intellectual Property that is designated as university owned in the applicable grant or sponsored project agreement or for which ownership has not been specifically designated. Intellectual Property that would otherwise be designated as Creator-Owned Intellectual Property shall be considered to be University-Owned Intellectual Property if the University pays for patent, copyright, or trademark protection with the consent of the Creator. Trademarks and service-marks developed for products and services that are not part of the UNTD brand but are created or developed to mark the products and services of University-Owned Intellectual Property are included within the definition of University-Owned Intellectual Property and are subject to all the requirements in this policy.
14. Work Made for Hire. “Work Made for Hire” means: (1) a work prepared by an employee within the scope of his/her employment; or (2) a work specially ordered or commissioned if the parties expressly agree in a written contract that the work shall be considered a Work Made for Hire.

Procedures and Responsibilities.

1. Creators of Intellectual Property are responsible for the following:
 - a. Acting in an honest and ethical manner in the creation, discovery, invention, development, and marketing of Intellectual Property;
 - b. Engaging in Intellectual Property and technology transfer activities in a manner consistent with University policies and procedures, including but not limited to this policy and those governing conflicts of commitment and conflicts of interest;
 - c. Disclosing to appropriate University officials the creation of Intellectual Property in accordance with this policy;

- d. Cooperating with the University in the categorization and protection of Intellectual Property; licensing and commercialization of University-Owned Intellectual Property; and in the defense and prosecution of patents and legal actions taken in response to infringement;
- e. Creators of Intellectual Property may not use UNTD facilities and resources to develop Creator-Owned intellectual Property.

Responsible Party: Faculty, Staff, Students, and Affiliated Personnel who are Creators of Intellectual Property

- 2. The Intellectual Property Officer is responsible for the following:
 - a. Overseeing day-to-day operations of UNTD's Intellectual Property program;
 - b. Serving as the Chair of the IPAC and scheduling IPAC meetings;
 - c. Making determinations regarding suitability of development or release of University-Owned Intellectual Property by UNTD;
 - d. Making decisions regarding the management of University-Owned Intellectual Property, including but not limited to decisions regarding protection, licensing, and commercialization.

Responsible Party: IPO

- 3. The Intellectual Property Advisory Committee is responsible for the following:
 - a. Determining appropriate categorization of Intellectual property in accordance with this Policy;
 - b. Assisting IPO with decisions regarding Intellectual Property issues, protection of Intellectual Property, patentability issues, and licensing opportunities as requested by the IPO.

The Provost & Executive Vice President for Academic Affairs shall appoint the members of the IPAC.

Responsible Party: IPAC members, Provost & Executive Vice President for Academic Affairs

- 4. Ownership, Assignment, and Disclosure of Intellectual Property.

The University owns all rights, title, and interest in and to Intellectual Property developed as a result of the use of University resources or facilities. By accepting employment with or enrollment in the University, or making use of UNTD facilities and resources, the Creator agrees to assign and hereby does assign to the University all of his or her rights, title, and interest in and to Works Made for Hire, University-Owned Intellectual Property, and Sponsor-Supported Intellectual Property. The Creator agrees to execute documents and take action as required by this policy and as requested by the University to document ownership rights and to facilitate protection of the assignment to the University.

When University-Owned Intellectual Property or Sponsor-Supported Intellectual Property is created, the Creator must complete and submit an Intellectual Property Disclosure Form to the Office of Sponsored Projects. The Intellectual Property Disclosure Form is available on the Innovation and Commercialization section of the Office of Sponsored Projects website. A Creator is required to disclose any Intellectual Property that is not clearly Creator-Owned Intellectual Property.

Responsible Party: All UNTD faculty, staff, Affiliated Personnel, other employees, and Students

5. Categorization of Intellectual Property.

At the moment of its creation, discovery, invention, or development, Intellectual Property will automatically fall into the category of Creator-Owned Intellectual Property, Sponsor-Supported Intellectual Property, or University-Owned Intellectual Property. Absent an authorized representative of UNTD agreeing in writing that specific Intellectual Property falls under the definition of Creator-Owned Intellectual Property, the ownership of such intellectual property and its designation as being “Creator-Owned” may be subject to challenge by UNTD. The IPAC may be requested to determine if Intellectual Property is University-Owned or Creator-Owned. If IPAC’s decision is challenged, the Provost & Executive Vice President for Academic Affairs shall make the final determination.

Responsible Party: IPAC, Provost & Executive Vice President for Academic Affairs

6. Rejection of an Intellectual Property Disclosure or Transfer of University-Owned Intellectual Property Rights.

The IPO shall decide whether to reject rights to Intellectual Property disclosed to the University by a Creator. If rights are rejected, then such rights shall be assigned to the Sponsor if sponsored by a federal agency. If the Creator wishes to seek rights to the rejected Intellectual Property, then the Creator shall be responsible for petitioning the federal agency for any such rights.

At any time after identification of University-Owned Intellectual Property, the IPO may decide to transfer or assign rights to such Intellectual Property to a third party, which may include transfer or assignment to a Creator. However, the IPO shall not have any obligation to transfer or assign rights to Intellectual Property to a Creator and may abandon protection of Intellectual Property without transferring such rights to a Creator. In such an event, the abandoned patent shall continue to be owned by the University and thus fall under the definition of University-Owned Intellectual Property.

Responsible Party: IPO, Creator

7. Intellectual Property Management.

On behalf of UNTD, the IPO shall make management decisions regarding University-Owned Intellectual Property. A Creator does not have an independent right to make decisions regarding conveyance, assignment, encumbrance, or license of University-Owned Intellectual Property; instead, the IPO must authorize these types of actions on behalf of UNTD.

For Patentable Intellectual Property, if it is determined by the IPO that a patent application should be prosecuted, then the prosecution shall be managed by the IPO in a diligent manner and without expense of any kind to the Creator. If the patent application is discontinued, the rights shall remain with UNTD and/or revert to any Sponsor, as applicable under federal law.

Responsible Party: IPO

8. Continuing Obligations of Creators of University-Owned Intellectual Property.

Creator shall make adjustments and updates to the submitted disclosure when there are substantive changes to information originally provided; provide information as required by the IPO and IPAC in order to identify appropriate categorization of Intellectual Property and to determine the potential marketability of University-Owned Intellectual Property and suitability for patent, copyright, trade secret, or trademark protection; complete paperwork as requested by the IPO to obtain protection of University-Owned Intellectual Property; make assignments as necessary to pursue patents or clarify ownership of University-Owned Intellectual Property and Sponsor-Supported Intellectual Property; and provide responses to office actions and assist in the marketing, licensing, or commercialization of Intellectual Property.

The Creator must assign to UNTD and hereby does assign to UNTD any interest in a patent equivalent to the property interest that belongs to UNTD under this policy. UNTD may delay a decision about rejection of disclosed Intellectual Property and any

protection for any such disclosed Intellectual Property until sufficient information is received from the Creator.

Responsible Party: Creators of Intellectual Property

9. Distribution of Revenue.

Except as otherwise stated in this policy, net revenues earned on any patents, trademarks, trade secrets, and copyrights related to University-Owned Intellectual Property shall be distributed after all out-of-pocket expenses associated with the particular University-Owned Intellectual Property have been recovered by UNTD and payments have been made to any third party as required under any licensing, commercialization, or sponsored research agreement. Out-of-pocket expenses can include patent prosecution and maintenance costs, travel, and direct external consulting costs, as well as other direct out-of-pocket expenses incurred by the University. The University may retain a portion of royalties received in order to apply the royalty amount to anticipated future expenditures, including future patent-related expenses expected to be incurred for such Intellectual Property. The retained royalty amount shall be considered an out-of-pocket expense for the purposes of this policy.

Net revenues received by UNTD shall be distributed as follows:

- a. 50% to the Creator(s); and
- b. 50% to UNTD placed in a fund designated for this purpose.

Monies which UNTD arranges to have paid directly to the Creator(s) from another party shall count as monies coming from UNTD for the purpose of calculating the distribution paid to the Creator(s). The IPO and Creator may agree in writing to a net revenue distribution different than as stated in this policy. Any such change to royalty distribution must be reviewed and approved by the IPAC; such decisions may be appealed to the Provost & Executive Vice President for Academic Affairs. The written agreement shall be approved in accordance with UNTD's policy 4.002, *Contracts and Agreements*.

Equity that has not been liquidated shall not be considered net revenue under this policy and shall not be subject to distribution.

Works Made-for-Hire shall be exempt from the division of revenue requirement in this policy and shall not earn a royalty share for a Creator unless a written agreement is executed between the Creator, the Creator's Department, and the Provost & Executive Vice President for Academic Affairs. Any such agreement to share royalties derived from a Work-Made-for-Hire with a Creator must be reviewed and approved by the IPAC; such decision may be appealed to the Provost & Executive Vice President

for Academic Affairs. The written agreement shall be approved in accordance with UNTD's policy 4.002, *Contracts and Agreements*.

If a Creator's employment is terminated with UNTD, the Creator is still entitled to receive his/her share of net revenues. In the event of multiple Creators of Intellectual Property, all named Creators shall receive an equal share, with the total distribution made to all Creators being equal to the net revenues to be received by the Creator under this policy, unless the IPO is provided with an Intellectual Property disclosure signed by all Creators specifying the percentage each Creator is entitled to receive. However, the revenue splitting requirement in this policy shall not apply to University-Owned Intellectual Property that are Works Made-for-Hire or that are subject to an alternate revenue splitting arrangement in a contract entered into between the Creator(s) and UNTD in accordance with UNTD's policy 4.002, *Contracts and Agreements*.

If a Creator dies, the Creator's share of net revenues shall be distributed to the Creator's heirs. In the event heirs are unknown or disputed, the Creator's share of net revenues shall be distributed as required by court order, issued by a court of competent jurisdiction.

Responsible Party: IPO, Creators of Intellectual Property, IPAC, Provost & Executive Vice President for Academic Affairs

10. Equity Interests.

The University may receive equity interests as partial or total compensation for the conveyance of Intellectual Property rights as determined by the IPO. The IPO shall determine when equity interests will be liquidated. UNTD will not share equity with Creators. UNTD will distribute royalties earned from the liquidation/sale of such equity after such value is received.

Responsible Party: IPO

11. Open Source Software.

Open Source Software allows for the distribution of copyrightable software material. Copyrightable software material falls under the definition of University-Owned Intellectual Property requiring disclosure to UNTD via the disclosure process established by this policy. If the Creator wishes to publish or disseminate software that is University-Owned Intellectual Property through an Open Source Software license, the Provost & Executive Vice President for Academic Affairs must authorize and execute the license.

Responsible Party: Creator, IPO, and Provost & Executive Vice President for Academic Affairs

12. Student Intellectual Property.

UNT D shall not claim an ownership interest in Intellectual Property developed by students except as specified in other UNT D policies or under the following circumstances (these exceptions fall under the definition of University-Owned Intellectual Property):

- a. Intellectual Property created with significant use of UNT D facilities, resources, or equipment;
- b. if the student developed such work as a Work Made-for-Hire; or
- c. Intellectual Property created while working in a student-employee capacity at UNT D, including working as a graduate assistant, or under a grant or contract funded through UNT D.

The IPO shall make the initial determination of the applicability of these exceptions. At the request of the student, the IPAC shall review the IPO's decision. At the student's request, the IPAC decision can be reviewed by the Provost & Executive Vice President for Academic Affairs for a final determination.

Responsible Party: Student Creators of Intellectual Property, IPO, IPAC, Provost & Executive Vice President for Academic Affairs

12. Use of Research Data.

Research data or results related to University-owned Intellectual Property or Sponsor-Supported Intellectual Property or otherwise created by an employee are owned by the University and, except to the extent that rights to such research data are contractually assigned or licensed to another party by the University, the Creator shall have a non-exclusive license to use such data for patient care, teaching, scholarly, and other academically-related purposes and nonprofit research, provided such activities are within the scope of the employee's employment with UNT D and are allowed under applicable sponsored research agreements.

Responsible Party: Creator and IPO

13. Use of Facilities and Resources.

University facilities and resources may not be used to (a) create, develop, or commercialize Intellectual Property outside the course and scope of employment of an individual, or to (b) further develop or commercialize Intellectual Properties that

have been released to an Inventor or licensed to a Creator by the University, except as approved by the Provost & Executive Vice President for Academic Affairs in writing. The Provost & Executive Vice President for Academic Affairs does not have the authority to approve the use of UNTD facilities and resources that would constitute a prohibited gift of state funds or that would violate UNTD Policy 5.007 *Employee Ethics and Standards of Employee Conduct*.

Responsible Party: Provost & Executive Vice President for Academic Affairs

14. Creator Held Equity, Business Participation, and Managing Conflict of Interest.

Creators may hold an equity interest in a business entity that has an agreement with the University relating to the research, development, licensing, or exploitation of University-Owned Intellectual Property only so long as the Provost & Executive Vice President for Academic Affairs determines that the University's conflict of interest management plan has been adhered to fully and the equity is being held in accordance with applicable Rules of the University of North Texas System Board of Regents and UNTD policies. In any case where an actual conflict of interest is found, the Creator may be required to divest the equity interest or terminate affected research.

A UNTD faculty or staff member who conceives, creates, discovers, invents, or develops Intellectual Property may serve, in his/her individual capacity, as a member of the board of directors or other governing board or as an officer or an employee of a business entity that has an agreement with UNTD relating to the research, development, licensing, or exploitation of that Intellectual Property, but only so long as there is a conflict of interest management plan in place that has been approved by the Provost & Executive Vice President for Academic Affairs and a dual employment form that has been approved and executed by the Provost and the faculty member's respective Chair and Dean. Business participation shall be in compliance with UNT System Regents Rule 05.800 *Service on Outside Boards* and 08.300 *Equity Interest and Business Participation*. In any case where an actual conflict of interest is found, the faculty or staff member may be required to terminate the business relationship or the relevant research.

Responsible Party: Provost & Executive Vice President for Academic Affairs, Creator, Creator's Chair or Dean

References and Cross-references.

UNT System Regents Rule 05.800, Service on Outside Boards

UNT System Regents Rule 08.300, Equity Interest and Business Participation

UNTD Policy 4.002, Contracts and Agreements

UNTD Policy 5.007, Employee Ethics and Standards of Employee Conduct

Forms and Tools.

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