

Policies of the University of North Texas	Chapter 8
08.003 Intellectual Property	Intellectual Property

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), UNT, 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), UNT and other parties and (4) to address ownership issues related to Intellectual Property developed at or on behalf of UNT.

Application of Policy. Faculty, staff and students. Additionally, Affiliated Personnel of UNT are subject to this policy when creating Intellectual Property through use of UNT facilities or resources. This policy does not apply to Intellectual Property coming under the definition of “Online Courseware Intellectual Property” in UNT Policy No. 06.032 or to UNT owned trademarks, service marks and copyrights unrelated to research, such as those promoting UNT as an academic institution or UNT athletics.

Definitions.

1. **Affiliated Personnel.** “Affiliated Personnel” means individuals who are not UNT faculty, employees or students but have a professional relationship with UNT, 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 such things as 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 UNT faculty or staff, and any other persons employed by UNT, 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 UNT

or while using UNT 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 UNT. Creator-Owned Intellectual Property includes Intellectual Property unrelated to a Creator’s employment responsibilities or field of study at UNT and that is developed on his or her own time without significant use of UNT facilities, resources or equipment. Intellectual Property created with the use of an 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 UNT 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 UNT Policy.
5. Author. “Author” means the person or persons who first fixed an expression in a fixed media; an expression 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 UNT committee chaired by the Intellectual Property Officer and with seven 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 Vice President for Research and Innovation with the responsibility of overseeing and administering the UNT 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 to anyone and for any purpose.
10. Patentable Intellectual Property. “Patentable Intellectual Property” means Intellectual Property for which a patent may be applied for in a jurisdiction.

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 UNT.
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 UNT.
13. University-Owned Intellectual Property. “University-Owned Intellectual Property” means Intellectual Property owned by UNT, including Works Made for Hire that are commissioned by UNT or that a Creator is assigned to create in the course and scope of her/his employment with UNT; Intellectual Property created with significant use of UNT facilities, resources or equipment; Intellectual Property assigned to UNT; and Sponsor-Supported Intellectual Property that is designated as university owned in the applicable grant or sponsored research 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 UNT 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 of 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.
15. VPR Office. “VPR Office” and “VPR” means the Office of Vice the President for Research and Innovation, or, if the name of that Office is changed, the chief research officer responsible for the management of Intellectual Property.

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 UNT 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 UNT'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 UNT;
 - 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. Assist IPO with decisions regarding Intellectual Property issues, protection of Intellectual Property, patentability issues and licensing opportunities as requested by the IPO.

The Vice President for Research and Innovation shall appoint the members of the IPAC. All permanent members of the IPAC will have full voting rights on issues raised to that committee. Meetings of the IPAC shall require a quorum of at least five members.

Responsible Party: IPAC members; Vice President for Research and Innovation

4. Ownership, Assignment and Disclosure of Intellectual Property.

The University owns all rights, title and interest in and to Intellectual Property developed as result of the use of University resources or facilities. By accepting employment with or enrollment in the University, or making use of UNT 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 VPR Office. The Intellectual Property Disclosure Form is available on the Innovation and Commercialization section of the VPR Office website (link provided below). A Creator is required to disclose any Intellectual Property that is not clearly Creator-Owned Intellectual Property.

Responsible Party: All UNT 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 UNT 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 UNT. The IPAC may be requested to determine if Intellectual Property is University-Owned or Creator-Owned. If IPAC’s decision is challenged, the Vice President for Research and Innovation shall make the final determination.

Responsible Party: IPAC and VPR

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 event, the abandoned patent shall continue to be owned by the University and to fall under the definition of University-Owned Intellectual Property.

Responsible Party: IPO

7. Intellectual Property Management.

On behalf of UNT, 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; the IPO must authorize these types of actions on behalf of UNT.

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 UNT and/or revert to any Sponsor, as applicable under law.

Responsible Party: IPO

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

The 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; provide responses to office actions and assist in the marketing, licensing or commercialization of Intellectual Property.

The Creator must assign to UNT and hereby does assign to UNT any interest in a patent equivalent to the property interest that the Intellectual Property Officer determines to belong to UNT under this policy. UNT 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 UNT 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 such 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 UNT shall be distributed as follows:

- a. 50% as direct payment to the Creator(s); and
- b. 50% for support of Research and Innovation at UNT and shall be deposited in the VPR's discretionary fund designated for this purpose.

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 decision may be appealed to the VPR. The written agreement shall be approved in accordance with UNT's policy 10.4, 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 IPO. 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 VPR. The written agreement shall be approved in accordance with UNT's policy 10.4, Contracts and Agreements.

If a Creator leaves UNT, 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 UNT.

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, VPR

9. 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. UNT will not share equity with Creators; UNT will distribute royalties earned from the liquidation/sale of such equity after such value is received.

Responsible Party: IPO

10. 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 UNT 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 IPO must authorize, negotiate and execute the license.

Responsible Party: Creator and IPO

11. Student Intellectual Property.

UNT shall not claim an ownership interest in Intellectual Property developed by students except as specified in other UNT 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 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, including working as a graduate assistant, or under a grant or contract funded through UNT.

The IPO shall make the initial determination of the applicability of these exceptions. At the request of a student, the IPAC shall review the IPO's decision. At the student's request, the IPAC decision can be reviewed by the VPR for a final determination.

Responsible Party: Student Creators of Intellectual Property; IPO; IPAC; VPR

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 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 (a) to create, develop, or commercialize Intellectual Property outside the course and scope of employment of an individual, or (b) to further develop or commercialize Intellectual Properties that have been released to an Inventor or licensed to a Creator by University, except as the VPR may approve in writing. The VPR does not have authority to approve use of

UNT facilities and resources that would constitute a prohibited gift of state funds or that would violate the UNT ethics policy.

Responsible Party: VPR

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 VPR 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 UNT 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 UNT 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 UNT 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 VPR 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 and 08.300. 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: VPR, Creator, Creator's Chair and Dean, and Provost

References and Cross-references.

UNT Policy 06.032, Online Courseware Intellectual Property
UNT Policy 13.005, Conflict of Interest for Sponsored Projects
UNT System Regents Rule 05.800, Service on Outside Boards
UNT System Regents Rule 08.300, Equity Interest and Business Participation

Forms and Tools.

Innovation and Commercialization Section of the Office of the Vice President for Research and Innovation Website

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