

Intellectual Property

May 29, 2009

This policy shall apply to all persons employed (either full- or part-time) by The College of Wooster, including faculty and staff of the College, to students enrolled at the College, and to any persons using the College's facilities and resources to any significant degree. Contracts for works for hire between the College and independent contractors should define the rights and responsibilities of the parties with respect to ownership of any Intellectual Property developed as a result of the contract.

I. Policy

It is the policy of the College to: (1) encourage inventions and the production of copyrightable works by members of the College community; (2) facilitate the use of Intellectual Property for the benefit of the public and the College community; and (3) share equitably the proceeds derived from the commercial exploitation of Intellectual Property which the College owns in whole or in part pursuant to this policy.

Intellectual Property developed by persons to whom this policy applies shall be the sole and exclusive property of the College if the subject Intellectual Property is (1) developed within the person's scope of employment, (2) developed in the course of a project sponsored by the College, (3) developed with the significant use of the College's facilities, services, or equipment (personal office space, libraries, and personal computer provided by the College excluded), or (4) developed in the course of a project arranged, administered, or controlled by the College whether or not the project is sponsored by persons, agencies or organizations external to the College, absent prior written agreement to the contrary. With respect to students, unless otherwise specified by the College, use of resources and facilities typically available to students in their educational activities shall not be considered "significant".

Incidental Intellectual Property, developed outside an employee's scope of employment, on the employee's own time, and without the use of significant College resources, shall be the sole and exclusive property of the Inventor or Author. In consideration of the College's support in evaluating the Intellectual Property, seeking patent protection, and/or pursuing commercialization activities, the College and the Inventor or Author may agree to assign all or a portion of the ownership rights to his or her invention or work to the College. In addition, in recognition of the general contribution made by the College of Wooster as a whole in support of faculty research, Inventor(s) agree to grant to the College an irrevocable, perpetual, non-exclusive, royalty-free, world-wide right to use Incidental Inventions in the College's non-profit educational and research activities.

The College shall assert ownership of Copyrightable Works (listed at the end of this document), trademarks and wordmarks, but not Scholarly Works. Disclosure of Copyrightable Works is required. Nothing precludes the mutual written agreement between the College and persons to whom this policy applies wherein either party may waive rights under this policy. *This policy supersedes all previous College of Wooster policies covering this subject matter.*

II. Rights and Obligations of Inventors and Authors

Before the College provides support (for example, released time or funding) to a person to whom this policy applies, where that support could reasonably be expected to result in Intellectual Property with commercial value, the College and the person(s) receiving that support shall agree in writing whether any Intellectual Property potentially arising from the supported activities would qualify as a Scholarly Work and what obligations the person(s) receiving that support have for remuneration to the College for any funding released.

Persons to whom this policy applies shall promptly and continuously disclose to the College in a timely way and in writing their Inventions or Work which could reasonably be expected to have commercial value. A disclosure document is available from the Office of the President for this purpose. The Inventor or Author shall fully cooperate with other College personnel in the disclosure process and in other subsequent activities associated with patenting and/or commercialization of the Intellectual Property.

If two or more persons are entitled to claim ownership of Intellectual Property, the Inventors or Authors shall agree between or among themselves regarding relative contributions for the purposes of distribution of Net Income from the Invention or Work. That agreement shall be in writing and notarized and will be required before the President's initial decision regarding whether to pursue patent protection or commercialization of the Intellectual Property.

Inventors should particularly note that certain acts (e.g., a lecture or an enabling disclosure of the Invention in an academic journal) can constitute a statutory bar to patent protection. An Inventor contemplating public disclosure activities before filing an Invention Disclosure Form should contact the Office of the President before engaging in those disclosure activities. Authors should note that there are advantages to registering Works with the U.S. Copyright Office within three (3) months of their publication.

Tangible Research Property should not be disseminated without prior written approval of the President of the College or designee, and such dissemination may require one or more preconditions: (i) limitation to non-commercial use of and/or prohibition on further transfer of the Tangible Research Property; (ii) recipient responsibility to cover the cost of shipping and handling for the Tangible Research Property; and (iii) the possibility of biohazard or other risk associated with transport, storage, or use of the Tangible Research Property.

III. Rights and Obligations of the College

The President is ultimately responsible for decisions regarding ownership of Intellectual Property and for the decision of whether to pursue patent protection or commercialization of any Intellectual Property. Decisions are to be made by the President based on the recommendations of The Wooster Technology Group, Ltd. (described below) and any additional counsel sought by the President from other sources. The President will inform the Inventor or Author of his or her decision in writing.

If the College decides neither to seek patent protection for, nor to pursue commercialization of any Intellectual Property, including cessation of ongoing activities in this regard, the President may decide to assign the College's ownership interest to the Inventor or Author.

For Inventions made in the course of a project funded in whole or in part by the Federal Government, the Bayh-Dole Act (37 CFR 401) imposes certain reporting requirements associated with the technology transfer process. The President shall designate the party responsible for ensuring that those reporting requirements are satisfied.

If an Inventor or Author disagrees with an initial decision of the President, he or she may request a re-evaluation by the President and may submit additional documents or other evidence in support of his or her position. If still dissatisfied, he or she may appeal decisions of the President to the Chair of the Board of Trustees, whose decision shall be binding and final. Any re-evaluation request or appeal must be received within thirty calendar days after notice of the previous decision.

IV. Wooster Technology Group, Ltd.

The College has created a separate legal entity, The Wooster Technology Group, Ltd. (hereafter called WTG), for the purpose of facilitating the potential commercialization of intellectual property in which the College has an interest as specified in this document. The activities of the WTG include, but are not limited to:

- Advising the President on the ownership, patentability, and/or commercial potential of the applicable Intellectual Property. WTG shall have the ability to interview the Inventor or Author and other persons as needed to make this evaluation. A patentability evaluation may include a thorough evaluation of acts by the Inventor or items of prior art which would bar patent protection. WTG shall provide the President with its recommendations as to ownership of the Intellectual Property, whether patent protection should be sought, and whether to seek commercialization opportunities. It shall conduct investigations, with outside assistance, as it deems necessary to prepare its recommendations to the President. WTG shall also generally advise the President on all matters relating to this policy.
- Resolving questions concerning the "significant use" of College facilities and resources by persons covered under this Policy in consultation with the Provost.

- Seeking patent protection, copyright registration, and/or commercialization for Intellectual Property in which the College is deemed to have an ownership interest. All direct costs associated with those activities shall be borne by the College through WTG.
- Negotiating license or royalty arrangements with third parties for Intellectual Property owned by the College and monitoring compliance with such arrangements
- Reporting annually to the President on the Intellectual Property activities at the College and to the Board of Trustees as requested.

V. Income from Intellectual Property

Gross Income derived from the commercialization of Intellectual Property in which the College has an interest shall be first applied toward any direct expenses incurred by the College (including WTG) in seeking patent protection or copyright registration or in pursuing commercialization of the Intellectual Property.

Net Income will be divided annually between the College and the applicable Inventors or Authors.

Annual Net Income will be distributed according to the following formula: (i) 33% to all the Inventors or Authors who created the Intellectual property that gives rise to the Net Income and (ii) 67% to the college.

Unless otherwise directed by the Board of Trustees of the College, the portion of the Net Income that The College of Wooster retains shall be distributed according to the following formula: 60% to the general institutional budget to support first the activities of WTG and as an offset to general support costs after that and 40% to the Provost to be used at his/her discretion to support the academic program of the College. Such support might include, but not be limited to, developing faculty research grants, support of academic departments, and equipment. The Provost shall report annually to the Financial Advisory Committee and the Educational Policy Committee how these funds were distributed.

The College may, subject to the approval of the Board of Trustees, accept equity in lieu of cash in total or partial consideration for use of the College's Intellectual Property rights. Dividend and other income received from the sale of equity shall be divided in accordance with the distribution rules adopted by the College as described above. The College shall not be required to distribute any equity to an Inventor or Author until the College disposes of such equity for cash or comparable consideration.

VI. External Sponsorships and Consulting

When Intellectual Property is developed under research sponsored by external sources (including federal and state agencies), the research agreement typically provides the sponsor with certain rights to that material and may impose other obligations, such as advance notice of publication. Persons covered by this policy shall consult the WTG

prior to signing an external sponsorship agreement, and the WTG should be consulted for assistance in understanding and complying with terms of such agreements.

To avoid conflicts with third parties, persons covered by this policy should carefully examine the intellectual property provisions of any consulting agreements with third parties and should seek assistance from the WTG if problems arise or issues are not clear. Persons covered by this policy should avoid signing any agreement with a third party that is inconsistent with this policy. For instance, assigning ownership of inventions in a consulting agreement is problematic when the consulting services overlap with research conducted at the College.

Definitions

"Author" is the person(s) responsible for creation of a copyrightable work.

"College" is The College of Wooster and its constituent and affiliate institutions including the Wooster Technology Group (WTG).

"Copyrightable works" include original works of a single author or a group of authors, appearing in a tangible medium such as:

- Literary works, databases, computer programs and instructional materials;
- Computer software;
- Musical works;
- Dramatic works, choreographic works;
- Artistic works, video productions, sound recordings; and
- Any other copyrightable works

"Gross Income" is proceeds from the sale or licensing of Intellectual Property by Wooster, including the sale of equity received from exploitation of Intellectual Property.

"Intellectual Property" includes not only concepts, ideas, information, Inventions and Copyrightable Works, but also Tangible Research Property.

"Invention" is any discovery, invention, new use or application, process, composition of matter, article of manufacture, know-how, design, model, technological development, or biological material.

"Including", "include", or word of like import means including but not limited to.

"Inventor" is the person(s) responsible for conception of an idea(s) leading to an invention.

"Net Income" is Gross Income received minus the direct costs associated with patent prosecution, copyright registration, commercialization, defense, maintenance, and administration of Intellectual Property.

"Scholarly works" include articles written for publication in academic journals, textbooks, works of art, musical compositions, and literary works. Theses and dissertations are not, for the purposes of this Policy, scholarly works. Works by non-faculty employees shall not, for the purposes of this policy, be considered scholarly works.

"Scope of employment" refers to activities which have been assigned to an employee of Wooster by his or her supervisor or which are performed during normal working hours or which fall within the employee's job description.

"Significant use" means use of funds, personnel, facilities, equipment, materials or other resources resulting in a cost to Wooster (direct, indirect, or depreciative) of more than \$2,500 (in constant 2009 dollars).

"Tangible Research Property" means the physical or tangible embodiments of a technology or Intellectual Property. Examples include biological organisms, products or devices (including prototypes and drawings), plant varieties, and computer software.

"Work" is any copyrightable material, such as literary works; musical works, including any accompanying words; dramatic works; music; choreographic works; pictorial, graphic, and sculptural works; motion pictures and other audiovisual works; sound recordings; architectural works; computer software or databases; circuit diagrams; architectural and engineering drawings; and lectures other than for normal classes.

Referenced Materials

Bayh-Dole Act (37 CFR 401)
Copyright Act of 1976
TBD Copyrightable Work Disclosure Form
TBD Invention Disclosure Form
TBD Student Confidentially Form
Purdue University *Policy on Intellectual Property*

Chronology

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Approved by the Executive Committee of the Board of Trustees on May 29, 2009