

Intellectual Property Policy and Guidelines

Prepared by

The Office of Grantsmanship and Compliance
Division of Research and Sponsored Programs

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Intellectual Property Guidelines

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1. PREAMBLE

Tuskegee University, as an institution of higher learning and intellectual endeavors has as one of its primary functions the continual search for new knowledge in fields in which the university community is active. The University views research by its faculty and within its own community as an important path to the discovery knowledge and its definition in forms most useful to the University and the community it serves. Tuskegee University recognizes the creativity of its faculty, staff and students in research, intellectual pursuits

It is important, therefore, that there be guidelines for intellectual property policy delineating rights, responsibilities and obligations of the University, the individual members of its community and other interested parties. It is Tuskegee University's desire to insure that intellectual property rights, which it owns, administers or in which it shares, provide the greatest realizable benefits to the public and the University and provide equitable recognition, return and incentive to individuals in the community which originate them.

To achieve its purpose, the Tuskegee University intellectual property policy will be governed in its application by the following general principles:

First, intellectual property rights should be exercised for the public benefit, including the widest appropriate dissemination and use

Second, Intellectual property rights deriving from University Support, resources or employment should be managed to derive maximum, benefit for Tuskegee University.

Third, under circumstances defined by the intellectual property policy, creators of intellectual Property shall be entitled to financial compensation in the form of appropriate royalties and fees where financial profit is realized Tuskegee University through exercise of its rights to that property. In circumstances where there is no

Financial profit to the University other forms of recognition may be conferred.

2. INTRODUCTION

This document is intended to serve as an overview of patent and copyright matters of interest to Tuskegee University personnel (faculty, staff, students, fellows, and persons and "visiting and adjunct" appointments). The implementation of the policies and procedures outlined this document should be subordinate to the University's graduate and undergraduate education, research and service missions.

The policies and procedures cited here in are subject to ongoing reviews and possible future modifications

The management of patent and copyright processes in a university setting is a complex, highly specialized endeavor. As the need for details regarding policies and procedures arises, University personnel are urged to contact the Office of Grantsmanship and Compliance assistance in the Division of Research and Sponsored Programs.

3. OBJECTIVE OF THIS POLICY

3.1 This policy aims to establish a sound framework for the encouragement of invention, for creative works and technology transfer. In doing so, it seeks to strike balance between the interests of the University, and its staff and students.

3.2 The University's policy objectives in this area include:

- To sustain the climate for innovation and invention;
- To provide a framework whereby staff and students are stimulated to identify, protect and develop the commercial value of potentially valuable research results and other creative work engage successful in technology transfer;
- To promote a better understanding of the various rights which the law gives for the protection of creative effort and thereby stimulate the proper protection of the university's economic investment in that effort;
- To provide incentives for individuals and departments to encourage research and development and to pursue commercially valuable Project;
- To recognize student rights to Intellectual projects generated in the course of their study at the University while at the same time asking student researcher, where it is relevant, to assign or license rights to the University in exchange for participation in certain research program so that the University can properly protect the IP embedded within its research and teaching programs and can range new IP generated through such programs; and
- To protect the moral rights of staff and students with respect to their intellectual achievements.

3.3 The factors relevant to a decision by the University on whether it will take action to protect its IP include:

- The effect on the University's research program;
- The advice of the originator(s) of the IP;
- Whether protection will be of value to the development and subsequent industrial application of the IP, especially involving mutually beneficial arrangements for the University and industry.
- whether there is a possibility of others obtaining protection or commercially valuable IP incorporating the results of work carried out in, and owned by, the University;
- Whether protecting IP will increase its values as a means to attract support for further research and development in the University and/or to provide royalty and other income to the University, staff, and any students involved;
- Whether such action is desirable for protecting the University's reputation or maintaining the University's interest in the quality and technical efficiency of

- production under appropriate research and development licensing or joint venture agreements; and
- Whether such action is desirable in the national interest no preserves public equity.

4. ISSUES OF OWNERSHIP - GENERAL CONDITIONS

4.1 Tuskegee University's policies governing acquisition of IP are intended to provide guidance in defining the interests of the University, its faculty, staff and students.

4.2 The University shall have the sole and unlimited power, in its discretion, to make all decisions as to whether IP owned or controlled by it in whole or in part under this policy shall be licensed otherwise exploited or used by others, a the right, without limitation, to waive payment of royalties.

4.3 Any controversy or claim arising out of or relating to these polices, or any agreement between Tuskegee University employee and Tuskegee University, delineating the respective rights and obligations of the parties, or the breach of such agreement, shall be settled by arbitration in accordance with the rules of the American Arbitration Association.

4.4 A committed on Intellectual property (the "committee") will review all matters and conducts characterized as IP falling within the scope of this policy statement discovered, made or created by Tuskegee University faculty, staff or students. The Committee will make recommendations to the Vice President for Research and Sponsored Programs on IP acquisition, sharing and disposition. The Vice President for Research and Sponsored Programs will be responsible for the implementation of the University IP policy.

4.5 University faculty, staff and students shall have the responsibility of reporting to the Office of Grantsmanship and Compliance invention, discovery, creation or concept which they have made and which may possibly be governed by this policy. They shall execute all documents, which may be deemed necessary to secure the University's full rights that such discovery, creation or concept be assigned to the University or released outright to the employee who has made it for disposition she as he or she see fit.

4.6 The Committee may advise and assist University faculty and staff who make any discovery, creation or concept not assignable to the University or its designee under this policy, or who have received a release for IP otherwise assignable her under. For example, the committee may evaluate an invention and render a report to the inventor including advice and recommendation for securing patent protection and for commercializing the invention. The services or facilities of some other non-profit organization also may be recommended to the inventor.

4.7. Research contracts, •granting documents, and other agreements bet Tuskegee University and all outside grantors or sponsors of activities likely to give rise to IP rights shall state clearly the obligations and rights of the parties and the procedures to be followed in the event such rights arise. It is preferable that the University be free to negotiate with the outside grantors or sponsors in so far as the disposition of arising IP is

concerned. Further, any arrangements for projects involving University employees, which are to be funded external sponsors, whether arranged by the individual employee or by Tuskegee University must be pre-cleared. If the end product of any such project includes copyrightable material, any conflict between the sponsor's conditions and Tuskegee University's policies regarding the use of its facilities should be resolved. (If sponsorships solely by Tuskegee University, its employees normally will have no participation in any resultant copyright proceeds. When joint efforts are involved, allocation of interests, and the sponsor's policy guidelines, will be observed.)

5. POLICIES GOVERNING PATENTS

5.1 Inventions made within the general scope of employment by Tuskegee University, whether as a part of regular or especially assigned duties, or made in whole or in part with the significant support of Tuskegee University resources or any combination of the above, are property of Tuskegee University and shall be assigned to Tuskegee University or its designee, should the Committee so determine after review. The term "Tuskegee University resources" is used broadly and includes, but is not limited to, advisory time and services of faculty and other staff members, equipment, (by way of illustration only, recording equipment, cameras, computers, machinery and tools,) materials (e.g. tapes, film, canvas, and generally any other physical substances) and funds furnished to the person employed by Tuskegee University, whether as a fellowship or other stipend to enable the employee to create the invention, or as a subsidy for expenses related to making the invention.

- If the invention is made under external grant, contract, or sponsorship, ownership of the invention determined by the governing agreement between Tuskegee University and the external grantor, contract or sponsor.
- If the invention is made under funding derived from an external source, but rights to the invention are not governed by agreement with the external source, the invention shall be considered the property of Tuskegee University unless the Committee, after review, determines otherwise.

Inventions not made within the general scope of employment Tuskegee University or made significant support of University resources will remain the property of the inventor. A factual determination of rights based on the general scope of employment, including regular or especially assigned duties, and sources of support will be made by the Committee.

5.2 A member of the faculty or staff, who assigns an invention to the University, will in the absence of an agreement, specifying otherwise shall receive 50% of any and all royalties received by Tuskegee University.

5.3 Inventions by students made as a consequence of course assignments or as research assistants or significant student use of the University resources in making inventions shall be the property of Tuskegee university, subject to a factual determination of rights by the committee. The Committee shall take into account the terms of any external support, including fellowships and other financial aid, which may be relevant to rights in the invention.

5.4 All faculty, staff and students, who make inventions, which may be subject to this policy must make timely and adequate disclosure of to the Office off Grantsmanship and Compliance so that a determination of rights, responsibilities and obligations can be made.

6. POLICIES GOVERNING COPYRIGHTS

6.1 The right to copyright an independently created work or to assign this right to a publisher normally rest with author or creator of the work. However, the existence of an institutional relationship with Tuskegee University, the use of University resources and other factors nay warrant ownership of the work and copyright by the University. The Committee will make determinations of ownership and the right to copyright.

6.2 All faculty, staff and students who author or create works which may be copyrighted and which may be subject to this policy must make timely an adequate disclosure of the work to the Office of Grantsmanship and Compliance so that a determination of rights, responsibilities and obligations can be made. The committee shall be consulted before any independent initiative for publication or other exploitation of copyright rights are undertaken.

6.3 In making determination concerning works subject to copyright, the Committee should take into account the following:

a. The right to claim a copyright for a work will automatically belong to Tuskegee University where:

(1.) A University faculty or staff member creates work within the general scope of employment be Tuskegee University whether as a part regular or especially assigned duties.

(2) A University faculty or staff member creates a work utilizing in the process significant amounts of university resources, and regardless of whether his/her independent initiative is involved. However, should the University at its sole discretion, license or otherwise dispose of its copyright, rights, in this situation, fifty percent of any net proceeds received by Tuskegee University from such license or other disposition will be paid to the creator of the work.

b. University faculty or staff member creating a work through independent initiative working entirely on his/her own time and using entirely hrs/her own resources will normally retain the right to copyright the work. In this circumstance the faculty or staff member will be considered to be using his/her own resources although use is made of Tuskegee University library materials or of University premises in creating the work.

c. Copyright rights in curriculum material originated and furnished by a faculty member in the Course of instructional work normally will be regarded as belonging to the faculty member.

d. Faculty members who propose to “test out curriculum material in the course of their teaching duties, with a view to developing such materials into publishable works, shall disclose this to the Office of Grantsmanship and Compliance. If the involvement of

University classes and students is significant, agreement for an equitable sharing of future proceeds with the University shall be researched before such material is “tested out” in University classes.

e. All rights in any recording (visual, audio, audio visual or the technical/functional equivalent) of any type of Tuskegee University event or performance produced with the use of any University resources, personnel and/or financial support shall normally belong to Tuskegee University.

f. Copyrights for individual or group student work completed as a part of course work, an independent Tuskegee University faculty supervised study, or as a part of a thesis or dissertation for which the University provided significant financial support beyond the provision of normal course work, materials, equipment, space and faculty supervision, will remain with the University until the value of that financial support is recouped. At that time the rights will be returned to the student. The student will ordinarily be granted a license for use of the work for any non-income producing purpose while the University holds the copyright.

g. Tuskegee University will normally retain ownership of works by faculty, staff or students, specifically and directly commissioned by the University and for which the University provides substantial support and pays compensation to the creator. The creator may use the work for non-income producing purposes.

h. Works for non-Tuskegee University from non-employees are owned by the creator unless there is a written agreement to the contrary.

6.4 Where projects involving Tuskegee University faculty, staff or students are to be funded by external grantors, contractors or sponsors and the end product may include copyrightable project must be pre-cleared by the office of Grantsmanship and Compliance whether arranged by individual faculty, staff or students or by the University. Any conflicts between conditions established by the external supporter and the University’s copyright policy should be resolved in advance of project implementation. The Committee will decide questions regarding allocation of rights and interests affecting involved University faculty, students and staff.

6.5 Types of works which may be copyrighted include but are not limited to:

a. Written material (e.g. books, manuals, etc.

b. lectures, tests, musical and dramatic composition.

c. photographs, motion pictures, film strip, video recordings, maps, charts and other visual material.

d. artistic works including sculpture and graphic works.

7. POLICIES GOVERNING TRADEMARKS

7.1 Trademarks or service marks relating to goods or services created or developed by University faculty or staff at the direction of the University or within the general scope of University employment, whether as part or regular or especially assigned duties or with significant University resource support shall belong to Tuskegee University. Examples include names and symbols associated with University developed computer programs or University activities and events

7.2 Should the University license or otherwise dispose of a trademark it owns for profit and the trademark result from the independent initiative of a faculty or staff member where significant University resource was provided, fifty percent (50%) of any net proceeds received by Tuskegee University from such licenses or other disposition will be paid to the trademark creator.

7.3 The creation of any trademark by a University faculty or staff member shall be timely disclosed to the Office of Grantsmanship and Compliance in all cases where that trademark may be subject to this policy.

8. TRADE SECRETS

8.1 Tuskegee University shall own all trade secrets created, discovered or developed by faculty, staff or students made within the general scope of employment by Tuskegee University, whether as a part of regular or especially assigned duties, discovered or developed in the course of activities which are supported by significant part by Tuskegee University resources. All discoveries, creations and developments which may be trade secrets and which are covered by this policy must be disclosed to the Office of Grantsmanship and Compliance which will determine their status.

8.2 If a creation, discovery or development is determined by the Committee to be a trade secret, Tuskegee University shall have the right to prohibit its disclosure by an employee to any person agency or entity. In this circumstance, disclosure shall be prohibited in the absence of specific University authorization through the Committee and after consultation with Tuskegee University legal counsel.

8.3 Any member off the faculty or staff who discovers, creates or develops a trade secret through independent initiative or research, rather than within the general scope of employment by Tuskegee University, and where Tuskegee University takes or exercises rights of ownership through action or this policy, will in the absence of an agreement specifying otherwise, receive fifty percent 50% of any and all royalties received by University from the licensing or sale of the product or service containing or embodying said trade secret.

9. PROCEDURES GOVERNING ACQUISITION OF INTELLECTUAL PROPERTY RIGHTS

9.1 A faculty, staff member or where indicated, student of or at Tuskegee University who discovers, creates, makes or develops a concept, invention or other work in the course of University activities or with the support of any University resources shall timely disclose it to the Office of Grantsmanship and Compliance in writing in a format established by the Committee. The disclosure shall be adequate to allow determination of applicability of the University Intellectual Policy and determination of ownership and property interests.

9.2 In order to facilitate the timely submission of disclosures, faculty and staff members and, where necessary, students engaged in creative efforts in the course of university responsibilities or with university support shall maintain such logs and records as necessary to support and develop the disclosure.

9.3 The Committee will review disclosures for completeness and substantiation and shall recommend to the Vice President for Research and Sponsored Programs whether to seek or establish proprietary protection for the concept or work disclosed under an appropriate intellectual property category for that disclosure; e.g., patent or trade secret copyright or trademark. The Committee shall consult the creator of the disclosure and concerned University departments in this determination.

9.4 The Vice President for Research and Sponsored Programs, in consultation with the Committee, the University legal council, concerned University departments and the creator of the disclosure will be responsible for taking appropriate steps to secure appropriate legal protection.

9.5 The Assistant Director of Grantsmanship and Compliance will prepare records of all disclosures submitted and of its considerations and shall make an annual report of its deliberations and actions to the Senior Vice President of University Advancement through the Vice President for Research and Sponsored Programs.

9.6 Tuskegee University in consultation with the legal counsel will determine such other actions as may be appropriate, e.g. giving; the creator or discoverer of the discoverer of the disclosed subject matter a waiver of University interest. The University may also decide on any University assistance that may be offered to any university faculty or staff member or student in pursuing any rights they may have to the disclosed subject matter.

9.7 The University may seek assistance from patent management firms, patent attorneys, commercial firms and other appropriate entities or person in securing or managing Intellectual Property rights

(a) Patents — In the case of potentially patentable subject matter subject to this policy, the inventor, following the initial disclosure shall keep records of all steps directed to the development and improvement of the invention. The record should be sufficient to indicate the continued exercise of due diligence by the inventor and that there has been no abandonment of the invention

(b) Copyrights — Any requests to record, videotape, broadcast or televise classroom, laboratory or other University sponsored instruction for purposes, other than university educational activities must be approved by the University. The Associated Director of Grantsmanship and Compliance will be responsible for resolving any emerging copyright issues.

(c) Trade Secrets — Tuskegee University faculty and staff may be required to sign appropriate secrecy agreements With respect to trade secrets belonging to the University.

10. EXERCISES OF INTELLECTUAL PROPERTY RIGHTS

10.1 Tuskegee University may exercise its intellectual property rights for its own benefit and to effect transfer off rights for public benefit through:

- License
- Sale
- Assignment

And such other means to achieve its legitimate purposes.

10.2 The University- prefers patent to trade secret protection since patent protection allow the dissemination of knowledge that is a University purpose coupled with the realization of benefit to the University.

10.3 In the case of commercially sponsored research, if it is determined that trade secret protection with rights belonging to the sponsor is required, that portion of the sponsored agreement requiring such protection will be transferred out of the University research agenda as soon as possible, preferably within sixty days. The University have the right to publish research results that occurred prior to the on which the university agreed that patent protection was unavailable after a delay of one year to protect the sponsor's interest.

10.4 No party licensed to make Or use an invention owned by Tuskegee University under this policy may use Tuskegee University's name or names of University employees in connection with advertising or promoting the invention without having secured the express written consent of the University or its designee.

11. ROYALTY, FEE, AND INCOME DISTRIBUTION

11.1 Royalty, fee, and income distribution arising from the exercise of intellectual property rights under this policy shall be made as set out in this policy. Should

circumstances or cases arise where distribution is not apparent from this policy the University after consultation with all interested parties shall determine distribution in so far as it may be due, to the university it self, its departments and interested faculty, staff or students

11.2 Equities of the participating Parties — An employee who assigns an invention to Tuskegee University or its designee pursuant to this policy will, in the absence of an agreement which specifies otherwise, receive of any and all royalties fifty percent (50%) of any and all royalties derived from the licensing or sale of the invention.