

FH 2.19 Policy on Patents and Copyrights

Effective Date Jul 12, 2016

Preamble

In adopting this policy, the board of trustees recognizes there may be research projects sponsored by governmental authorities, industrial concerns or others, which may entitle the sponsors to the ownership, without payment or any royalty to any person. "Ownership" as used in this document refers both to ownership of a discovery or invention made by a faculty member as to which there is a reasonable likelihood of obtaining a patent; and to ownership of copyrightable material authored by a faculty. Software is considered a patentable discovery or invention under this policy.

FH 2.19.1 Creation of Patent and Copyright Committee

The board of trustees has authorized the president to appoint a Patent and Copyright Committee with the authority and responsibility provided for below, and that will be comprised of three members of the university faculty and three members of the university administrative staff.

FH 2.19.2 Discoveries and Inventions

1. Disclosure, Discoveries and Inventions

Any faculty member who has made a discovery or invention that in his/her judgment reasonably appears to be patentable, shall bring such discovery or invention to the attention of the president of the university or his designated representative, who will refer it to the committee to determine whether and to what extent the university has an interest in the discovery or invention. Any such discovery or invention shall be disclosed promptly, but in any event within 60 days.

2. Ownership of Discoveries and Inventions

- a.** A discovery or invention developed as a direct result of the regular duties of a faculty member or as a result of research done on or in connection with theses or dissertations or as a result of a program of research financed wholly or in part by university funds or by funds under the control of the university shall except otherwise owned for reasons mentioned in the Preamble, be the exclusive property of the university. The ownership of any such discovery or invention and any patent rights shall be assigned to the university or its designee and shall be administered in accordance with the determination of the committee.

- b.** A discovery or invention developed by a faculty member shall be the exclusive property of the inventor(s) if all the following conditions exist.

 - 1.** If the university has contributed nothing substantial or essential to the production and development of such discovery or invention in funds, space, facilities or personnel, including students.

 - 2.** If the discovery or invention is not related to any university research then in progress or to which the university is committed, and to which the faculty member is connected.

 - 3.** If the discovery or invention was developed by the faculty member(s) on his/her or their own time without any expense to the university.

- c.** If there is a difference of opinion as to whether a discovery or invention is within (a) or (b) above, or if within neither, the ownership and determination of any equities of the discovery or invention shall be decided by the committee, and subject to appeal to the president of the university. Once the decision has been rendered, it is binding on the university and the faculty member who made the discovery or invention.

3. Authority and Responsibility of Committee with Respect to Discoveries and Inventions

The committee, subject to appeals to the president listed here, has the following authority and responsibility with respect to discoveries and inventions:

- a.** To receive and act on reports of discoveries and inventions.
- b.** To determine the ownership of discoveries and inventions, and the dates of their conception, disclosure and reduction to practice.
- c.** To determine the equities of the university, the inventor(s) and any other parties in discoveries and inventions; and to provide equitably for sharing royalties received for any patented or patentable discovery or invention in which the university has a property interest between the university and the inventor with the following.
 - 1.** Where an agreement, letter or other document involving the university and another party having an interest in a discovery or invention requires royalties on the discovery or invention to be distributed in a particular manner. In all other cases, the procedure set out in 2, 3 and 4 shall be followed, provided that where an agreement, letter or other document places a limit on the amount of royalties to be paid, the amount of royalties paid shall not exceed that limit.
 - 2.** The university shall retain all royalties until it has fully recovered all expenses incurred in connection with the filing and prosecution of a patent application.
 - 3.** The next \$2,500 of such royalties shall be paid to the inventor(s) of the discovery or invention.
 - 4.** Royalties received beyond those required to meet the conditions specified in 1, 2 and 3 above shall be divided as follows:

- i.** One-third of royalties received shall be retained by the university.
- ii.** One-third shall be paid to the inventor(s) in accordance with their rights.
- iii.** One-third shall be paid to the primary academic department(s) of the inventor(s) according to proportionate participation as determined in “d” below.
- d.** To determine the financial returns from the discovery or invention due each inventor when there are co-inventors.
- e.** To determine whether the university should attempt to obtain a patent or submit the discovery to the university’s patent agent, in the case of the university having a property interest. Any such determination shall be made within two months from the date the discovery was disclosed to the committee or, if sooner, within 30 days after the written request is received from the president of the university or from the inventor.
- f.** To determine whether the university shall pursue a patent application or assign any right it may have in the discovery, when the committee submits a discovery or invention to the university’s patent agent and the agent decides either not to file the application or abandon an application already filed. The inventor shall be notified of the determination within 30 days after the receipt by the committee of notice from the university’s patent agent.
- g.** To report its findings and determinations to the president of the university and other interested parties within 120 days, except in those situations for which a different period of time for making a determination is established.
- h.** To report its findings to the president of the university on all matters pertaining to patentable research or patents offered to the university by gift, devise, purchase, sale

or assignment, regardless of the potential value or circumstances under which such patentable research or patents were discovered.

4. Management and Exploitation of Patents

The president of the university shall be the final authority to determine how patents that are the property of the university shall be managed and exploited.

FH 2.19.3 Copyrightable Material

1. Rights of Authors

In accordance with other institutions of higher learning and except as provided for in Paragraph 2 below, the right of first publication and of statutory copyright in any book, manuscript, television or motion picture script or film, educational material or other copyrightable work, whose author is a faculty member, shall be the property of the author.

2. Rights of the University

Copyrightable material resulting from a project assigned to faculty as a part of their regular duties shall inure to the university only if so specified in writing and signed by the faculty member, their department head, and the dean.

3. Authority and Responsibility of Committee with Respect to Copyrightable Materials

The committee has the same authority and responsibility with respect to copyrightable material authored by a faculty member as it has with respect to discoveries or inventions made by such persons and dealt with in “Discoveries and Inventions” (FH 2.19.2). The specific authority and responsibility of the committee with respect to discoveries and inventions described in Paragraph 3 of FH 2.19.2, shall apply with equal force to copyrightable material owned in total or in part by the university.