

Chapter 4: Policy on Technology and Literary and Artistic Works

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A. GENERAL

Covered Persons. This policy governs the ownership, protection, and transfer of Technology (as defined below) and works of authorship, including Literary and Artistic Works, created or authored by University faculty, staff, students, other persons receiving financial support from or through the University for their research or creative work, and Vanderbilt University Medical Center (“VUMC”) employees (“Covered Persons”). Some Covered Persons may perform some or all of their work at VUMC, and may be employed by VUMC or receive some or all of their compensation from or through VUMC. This policy applies to Covered Persons with VUMC affiliations with the same force and effect as it does to Covered Persons affiliated solely with the University.

Purpose. It is the purpose of this policy to encourage, support, and reward scientific research and scholarship, and to recognize the rights and interests of (a) Covered Persons who contribute to the creation or invention of Technology (“Inventors”) or works of authorship, including Literary and Artistic Works (“Creators”); (b) the public; (c) the external sponsors of research and scholarship; and (d) the University and VUMC. The University’s commitment to teaching and research is primary, and this policy does not diminish the right and obligation of faculty members to disseminate research results for scholarly purposes, which is considered by the University to take precedence over the commercialization of Technology and works of authorship. This policy is intended to be consistent with the University’s commitment to academic freedom, faculty involvement in policy development, and the Policy Guidelines for Sponsored Research as provided in the Faculty Manual. In addition, it is intended that application of this policy will take into consideration principles of open and full disclosure; overall equity; fairness to Inventors, Creators, the University, and VUMC; the need for understanding and goodwill among the parties who have an interest in Technology or works of authorship; and reasonableness in the negotiation of licensing agreements.

An In-Depth Review of the Vanderbilt University Patent Policy and Recommendations for Its Replacement by a Policy on Technology and Literary and Artistic Works, a report prepared by the Patent Review Committee, dated January 1993 (Second Revised Edition), contains the history of this policy and provides general principles and hypothetical examples. Issues not directly addressed in this policy, including disagreements concerning its application or interpretation, will be addressed and resolved consistent with these general principles and hypothetical examples.

Relationship to VUMC; CTTC. While the University and VUMC have been separate institutions since 2016, they cooperate closely with respect to the protection and commercialization of intellectual property, particularly in the medical and life sciences fields. By agreement between the institutions, all Technology made by Covered Persons is owned by the University and managed by the University's Center for Technology Transfer & Commercialization ("CTTC"). The institutions, Inventors, and Creators share in any net income in accordance with this policy. Under the agreement between the institutions, Covered Persons who are employed by VUMC assign ownership rights in their inventions to the University, and such inventions are managed by CTTC.

Effect of Policy. This policy is a material term of every University faculty appointment, offer of employment, student admission, and offer of financial support for research, and of every VUMC offer of employment. The transfers of future intellectual property and allocations of rights in intellectual property made by this policy are effective immediately upon acceptance of appointment, employment, admission, or support, prior to the creation of the subject Technology (as defined below) or works of authorship.

Effective Date. This policy is effective as of April 30, 2016 and supersedes the policy previously in effect. This policy will apply to all new Technology, Literary and Creative Works, and other works of authorship created after the Effective Date, as well as Technology licensed after the Effective Date regardless of the date of creation.

B. RIGHTS IN LITERARY AND ARTISTIC WORKS AND TECHNOLOGY

Literary and Artistic Works

All rights in (a) scholarly works of any kind, including books, articles, dissertations, and publications, (b) artistic, literary, film, tape, musical works (except any commissioned by the University), and (c) any works of authorship not created within the scope of employment as a University or VUMC employee (collectively, "Literary and Artistic Works") created by Covered Persons are owned by their Creators. Literary and Artistic Works includes texts that have been stored on computer media, but excludes computer programs or computer software or databases that are neither accessory to nor an electronic expression of a scholarly text. All rights in works of authorship, other than Literary and Artistic Works, that are created with the use of University funds or facilities, or that capitalize on an affiliation with the University, or are created within the Covered Person's scope of employment, are hereby assigned to the University, and shall be handled in the same manner as Technology. Commercial use of the University's name and marks requires prior University approval.

Technology

All rights in Technology created by Covered Persons with the use of University or VUMC facilities or funds administered by the University or VUMC, or within the scope of employment by the University or VUMC are hereby assigned to the University, with income to be distributed in accordance with this policy. "Technology" includes tangible or intangible inventions, in the patent sense, whether or not reduced to practice, and research results whether or not patentable or

copyrightable. These research results include, for example, computer programs, integrated circuit designs, industrial designs, databases, technical drawings, biogenic materials, and other technical creations. Faculty members working with students on research projects must inform those students in advance of the terms of this policy and of any burdens of nondisclosure or confidentiality deemed necessary by the faculty member to protect resulting technology.

Exceptions. Notwithstanding the foregoing, the University generally will assert no ownership rights or interests in Technology created by Covered Persons without the use of University or VUMC facilities or funds if either of the following two (2) exceptions applies:

1. *Consulting.* Technology to be assigned to an outside entity by a Covered Person under a consulting agreement that is consistent with applicable University, VUMC, and school policies, including the Conflicts of Interest and Commitment policies, and that was disclosed in writing to the Covered Person's Dean (or the Dean's designee) or, in the case of VUMC employees, to the VUMC Chief Research Officer ("CRO") (or the CRO's designee), in advance of execution of the agreement by the Covered Person.
2. *Independent Research.* Technology to be created pursuant to independent research or other outside activity that is consistent with University, VUMC, and school policies, including the Conflicts of Interest and Commitment policies, and that was disclosed in writing to the Covered Person's Dean (or the Dean's designee) or VUMC CRO (or the CRO's designee), as applicable, at the beginning phase of this research or activity. Acknowledgment in writing is to be obtained from the faculty member's Dean or VUMC CRO (or their designee).

For purposes of this policy, factors considered in determining the scope of a faculty member's employment normally would include the relationship of the Technology to that faculty member's recent teaching, research, and other University or VUMC activities, as well as activities stipulated in any appointment contract. Disagreements concerning ownership and other matters regarding this policy can be appealed to the Technology Review Committee in accordance with this policy.

For exceptions (1) and (2) above (i.e., consulting and independent research), it is the responsibility of the Covered Person to disclose and resolve in advance with the Dean or VUMC CRO, as applicable, any potential conflict of interest or overlap in claims of ownership of Technology. If no potential conflict of interest or overlap in claims to Technology is, or reasonably should be, apparent, the Covered Person need only include in the disclosure the name of the company, if any, for whom the work is being done, the subject area of the work, the expected level of effort, and a statement that no potential conflict or overlap exists in claims of ownership of Technology. In order to maintain a spirit of collegiality, Inventors have the responsibility for full and open disclosure to the Dean, VUMC CRO (or their designee) concerning all matters relating to the commercialization of Technology in which the University has an interest.

Technology created as a specific requirement of University or VUMC employment or as an assigned University or VUMC duty is hereby assigned to the University with no right or interest vesting in the Inventor. Works of authorship created as a specific requirement of University employment or as an assigned University duty are works for hire owned by the University with no right or interest vesting in the Creator.

C. GOVERNANCE

University Chancellor

The Chancellor of the University is ultimately responsible for matters of policy relating to Technology transfer and commercialization, and the University's relations with Inventors, governments, private research sponsors, industry, and the public. The Chancellor is also responsible for final resolution of disagreements that the Technology Review Committee ("TRC") is unable to resolve subject, as applicable, to the dispute resolution process between the University and VUMC.

Administration

CTTC is responsible for administration of this policy, including the evaluation of patentability or other forms of protection, the filing of patents, licensing activities, and pursuit of infringement actions, consistent with the terms of this policy. These responsibilities are carried out in coordination with the Provost and the Office of the General Counsel.

Technology Review Committee

The TRC is appointed by the Chancellor with nominations for faculty positions being made by the Consultative Committee of the Faculty Senate. The TRC is chaired by a faculty member and the majority of members are faculty members without administrative appointments. The committee reviews and monitors the activities of CTTC on matters relating to the administration of this policy. The committee must be consulted in advance concerning any material changes to the policy and participate fully in the future development of the policy. Faculty employed by VUMC will constitute at least 40% of the total membership.

The TRC serves as an appellate body advisory to the Chancellor (or the Chancellor's designee) in the event a disagreement occurs among Inventors or Creators or between Inventors or Creators and the University concerning the interpretation or application of this policy, and advisory to the Chancellor and the CEO of VUMC (or their respective designees) on disputes involving apportionment of ownership interests or relative shares of net income between the University and VUMC. In cases in which the TRC is unable to resolve the disagreement between the parties, the TRC will forward its recommendation for a resolution to the Chancellor (or the Chancellor's designee) for final decision, or as applicable, to the persons responsible for the dispute resolution process between the University and VUMC.

CTTC Annual Report. Promptly after the beginning of each fiscal year, CTTC will submit to the TRC and the Provost an annual report of the patent and licensing activities of the preceding twelve (12) months, including an annual accounting statement of income and expenses from Technology in which the University has an interest.

Disclosure and Assignment

Technology created by Vanderbilt faculty members, staff members, or students with the use of University facilities or funds administered by the University, or within the Inventor's or Creator's scope of employment, must be disclosed in writing to CTTC. These disclosures will be maintained in strict confidence. Inventors are obliged to execute any documents that the University deems necessary or appropriate to document or to perfect the University's title or rights in Technology in accordance with this policy. This obligation continues indefinitely, even after the Inventor ceases to be associated with the University.

Licensing

The Inventor or Creator will cooperate with CTTC in its protection of University interests in disclosed Technology or works of authorship, including executing appropriate assignments to perfect legal rights. It is anticipated that the Inventor or Creator will be an active participant in the licensing process and will be consulted prior to licensing decisions.

Inventors or Creators having an interest in a potential licensee may request that the potential licensee be given the right of first negotiation, consistent with University policy on Conflicts of Interest and Commitment and any other applicable school or departmental policies. Normally such a request will be granted.

If CTTC, in consultation with the Provost (or the Provost's designee), determines not to file for a patent or actively pursue the transfer of particular Technology, the University will at the Inventor's or Creator's request assign ownership of the Technology/authored work to the Inventor or Creator, consistent with any existing governmental and contractual rights. These decisions normally will be made within one year of the date of disclosure.

D. INCOME FROM TECHNOLOGY

General Principle

This policy is intended to direct income from income-producing discoveries toward Inventors or Creators, assure the transfer and development of those discoveries for the public benefit, and provide for the funding of future research by faculty of the University.

Definition of Terms

For purposes of this policy, "income" is defined as royalties or return received from the transfer or licensing of Technology or a work of authorship. Net income is defined as the balance of income remaining after the recovery of (1) total University expenses directly related to

generating and securing income from a specific Technology, and (2) any advance payment for a special project by the school or other organizational unit of the University or VUMC. These institutional expenses will consist of expenses such as legal fees; application, issuance, and maintenance fees for patents; legal fees and other direct expenses concerning licensing or transferring that Technology; and direct marketing and patent promotion costs for that Technology. Special project advances from the school or other organizational unit of the University or VUMC will be designated in writing at the time the advance is made. Only net income will be allocated to Inventors, Creators, and schools. Upon request, CTTC will provide an Inventor or Creator with a listing of expenses incurred to date on his or her Technology.

Allocation of Income from Technology

Net income from the transfer or licensing of Technology will be allocated according to the percentages in the following schedule. The intent of this schedule is that small discoveries will primarily aid Inventors and Creators and their research efforts, while large inventions will aid the school proportionally more.

Net Income Distribution Schedule

Net Income	Inventor(s)/Creator(s)	Primary Department/Center^{1,2}	School	University
Up to \$100,000 per University fiscal year	50%	20%	20%	10%
Above \$100,000 per University fiscal year	40%	20%	25%	15%

The University overhead allocation, calculated as a percentage of the gross revenue from Technology, shall be deducted from all shares of Net Income other than the Inventors' share,³ in proportion to each such other share.

For multiple co-Inventors,⁴ the Inventors will collectively agree in writing to the apportionment of the Inventors' share among them, consistent with the applicable Schedule as provided above. Disagreements concerning apportionment of royalties may be appealed to the TRC. If there are

¹ In the case of faculty in the School of Medicine clinical departments, the departmental share is paid to VUMC. If an invention disclosure identifies more than one University or VUMC department or center that supported the work, the departmental share will be apportioned according to the percentages indicated in the disclosure.

² The apportionment between Department and Center (for total share of 20%) will be determined and specified in each new licensing agreement based on the relative support provided to enable the intellectual property.

³ References to the "Inventors' share" mean the Inventors' or Creators' share, as applicable.

⁴ References in this section to "Co-Inventors" and "Inventors" apply equally in the case of multiple Creators.

Inventors with primary appointments in different departments or centers, the departmental share will be allocated to such departments and centers in proportion to the aggregate inventorship attributed to the Inventors assigned to each such department or center. Similarly, if there are Inventors with primary appointments at different Schools, the School share is allocated in proportion to the aggregate inventorship attributed to the Inventors assigned to each School. For purposes of allocating the School share, inventorship of both faculty and non-faculty employees of VUMC is attributed to the School of Medicine.

The Inventor/Creator share shall be paid directly to the Inventor or Creator. In any case of Technology or a work of authorship commissioned by the University (such as software written at the University's request), the Inventor/Creator share in the schedule above shall be added to the department/center share rather than paid to individuals. Funds designated for departments and schools are to be used primarily for funding research by the faculty.

In exceptional circumstances with the approval of the appropriate Dean and the Provost, the net income distribution for Technology may be adjusted subject to negotiations between the University and the Inventor or Creator.

E. PERIODIC REVIEW

At least every fourth year, the Technology Review Committee shall review the provisions of this policy and their efficacy in meeting the interests of members of the University community and the University.