Intellectual Property
Policy No. GSU: 4.00.08
University Research Services and Administration

POLICY

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Revised: 

Contacts for questions about this policy, click here

Georgia State University is dedicated to teaching, research, and the extension of knowledge to the public. The faculty recognizes as two of its major objectives, the production of new knowledge and the dissemination of knowledge. Inherent in these objectives is the need to encourage contributions to the various arts, the development of new and useful devices and processes, the publication of scholarly works, and the development of computer software. Such activities contribute to the professional development of the individual, enhance the reputation of the University, provide additional educational opportunities for participating students, and promote the general welfare of the public at large. The dissemination of intellectual property is integral to the purpose and mission of the University.

The purpose of the Georgia State University Intellectual Property Policy is to encourage and recognize research and innovation by members of the University community, clarify ownership of intellectual property rights, create opportunities for public use of University innovations, and provide for the sharing of revenue with the creators of intellectual property when such revenue is derived from the licensing of protected intellectual property. This Policy provides for a fair and consistent procedure for defining intellectual property rights. The circumstances under which intellectual property is created determine ownership rights to such intellectual property. This Policy establishes procedures for the disclosure, determination of interests, and management of intellectual property, and recognizes the rights of the University in these objectives is the need to encourage contributions to the various arts, the development of new and useful devices and processes, the publication of scholarly works, and the development of computer software. Such activities contribute to the professional development of the individual, enhance the reputation of the University, provide additional educational opportunities for participating students, and promote the general welfare of the public at large. The dissemination of intellectual property is integral to the purpose and mission of the University.

The University recognizes and encourages the publication of scholarly works as an integral part of teaching, research, and service. The University acknowledges the rights held by individuals who publish articles, pamphlets, books, and other works created through individual effort and initiative that are protected by copyright. The University also recognizes that some publications may result from work supported, either partially or completely, by the University. Generally, while the University retains the rights to intellectual property developed at the University, the University releases rights in scholarly works, as such are defined in this Policy, to the creators of such works.

Patentable inventions often come about because of the activities of faculty, staff, or students who have been aided, wholly or in part, through the use of the University’s resources and/or through the course of their employment by the University. It becomes significant, therefore, to insure the utilization of such intellectual property for the public good and to expedite its development and marketing. The rights and privileges, as well as the incentives, of the intellectual property creator must be preserved so that the creator’s abilities and those of other members of the University community may be further encouraged and stimulated.
The Georgia State University Intellectual Property Policy serves to clarify the circumstances under which intellectual property ownership resides with the creator or with the University, and aims to establish incentives for the continued development of intellectual property.

**DEFINITIONS**

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
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<tbody>
<tr>
<td>Biological Materials</td>
<td>Term include, but are not limited to, chemical compounds of biological origin, drugs, mutants, genetically engineered organisms, antibodies, hybridomas, cell lines, sera, supernatants, vectors, antigens, cDNAs, ESTs, and SNPs, and chemical compounds including enzymes and derivatives thereof.</td>
</tr>
<tr>
<td>Copyrighted Materials</td>
<td>Term shall include the following: (1) books, journal articles, texts, glossaries, bibliographies, study guides, laboratory manuals, syllabi, tests, and proposals; (2) lectures, musical or dramatic compositions, unpublished scripts; (3) films, filmstrips, charts, transparencies, and other visual aids; (4) video and audio tapes or cassettes; (5) live video and audio broadcasts; (6) programmed instructional materials; (7) Mask Works; and (8) Software and other subject matter or works which qualify for protection under the copyright laws of the United States (see 17 U.S.C. § 102 et seq.) or other protective statutes whether or not registered there under.</td>
</tr>
<tr>
<td>Course Material</td>
<td>Term shall include course syllabi, tests, course assignments, lectures, lecture notes, and other materials prepared by the instructor of a course at Georgia State University for the purpose of course instruction or evaluation.</td>
</tr>
<tr>
<td>Creator</td>
<td>Defines as the individual or group of individuals who authored, or were otherwise responsible for the production of the Intellectual Property.</td>
</tr>
<tr>
<td>Intellectual Property (IP)</td>
<td>Term shall be deemed to refer to Patentable Inventions, Biological Materials, Copyrighted Materials, Software, and Trade Secrets, whether or not formal protection is sought. Trademarks are specifically excluded from this definition.</td>
</tr>
<tr>
<td>Mask Work</td>
<td>Term shall be defined as a series of related images, however fixed or encoded: (1) having or representing the predetermined, three dimensional pattern of metallic, insulating, or semi-conductor material present or removed from the layers of a semiconductor chip product; and (2) in which series the relation of the images to one another is that each image has the pattern of the surface of one form of the semiconductor chip product. (See 17 U.S.C. § 901.)</td>
</tr>
<tr>
<td>Net Equity</td>
<td>Term shall be defined as the value of the equity received by the University as a result of transferring rights in the Intellectual Property less the University's out-of-pocket expenditures (including legal fees) directly attributable to protecting, developing, and transferring that Intellectual Property.</td>
</tr>
<tr>
<td>Net Income</td>
<td>Term shall be defined as the gross monetary payments the University receives as a result of transferring rights in the Intellectual Property less the University's out-of-pocket expenditures (including legal fees) directly attributable to protecting, developing, and transferring that Intellectual Property.</td>
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<tr>
<td>Novel Plant Variety</td>
<td>Term shall be defined as a novel variety of sexually reproduced plant. (See 7 U.S.C. § 2321 et seq.)</td>
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<tr>
<td>Patentable Inventions</td>
<td>Term shall be defined as subject matter (a new, nonobvious, useful process, machine, manufacture, composition of matter or improvement thereof) which reasonably appears to qualify for protection</td>
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</table>
**Patentable Plant**
Term shall be defined as an asexually reproduced distinct and new variety of plant. (See 35 U.S.C. § 161.)

**Scholarly Work**
Term shall be defined as books, articles and other publications, artistic creations, literary manuscripts, visual and auditory creations, and musical works, irrespective of their medium of storage or presentation. The former items are meant to include Software, computer programs, and databases but only if they are accessory to or part of a scholarly text. Textbooks and related Software developed as a Specific University Assignment are not considered Scholarly Work for the purpose of this definition.

**Significant Use of University Resources**
Term shall be defined as the use of University resources that is over and above the normal usage of library resources, secretarial help, word processing equipment, or other support services. Prior to the completion of the creation of Intellectual Property, or as early as possible in the creation of Intellectual Property, the Creator shall seek a determination of whether this definition applies to the Intellectual Property by fully and openly disclosing the facts surrounding the creation of Intellectual Property to the Creator’s Department Chair or Director who shall issue a written opinion. The Creator may appeal this decision, in writing, to the Vice President for Research or the Vice President's designee.

**Software**
Term shall be defined as one or more computer programs existing in any form, or any associated operational procedures, manuals or other documentation, whether or not protectable or protected by patent or copyright. The term “computer program” shall mean a set of instructions, statements or related data that, in actual or modified form, is capable of causing a computer or computer system to perform specified functions.

**Specific University Assignment**
Term shall be defined as Intellectual Property specifically ordered or commissioned pursuant to a written, signed agreement between the University and Creator.

**Trademarks**
Term shall be defined as all trademarks, service marks, trade names, seals, symbols, designs, slogans, or logotypes developed by or associated with the University. (See 15 U.S.C. § 1127.)

**Trade Secrets**
Term shall be defined as information including, but not limited to, technical or nontechnical data, a formula, a pattern, a compilation, a program, a device, a method, a technique, a drawing, a process, financial data, financial plans, product plans, or a list of actual or potential customers or suppliers which: (1) derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. (See O.C.G.A. § 10-1-761.)

**POLICY DETAILS**

This Policy addresses both individual and University intellectual property rights, and applies to all persons creating intellectual property at Georgia State University. The Policy applies to students and all university employees, including but not limited to, faculty and staff. The Policy also extends to persons receiving compensation or funding from the University, or funds administered by the University, and
volunteers or other persons performing research on campus using University resources, such as visiting scholars.

Rights and Equities in Intellectual Property
Ownership in Intellectual Property will be determined in accordance with the following categories of creation:

A. Individual Effort
Ownership rights to Intellectual Property developed by a Creator shall reside with such Creator if:
   i) the Intellectual Property is Course Material developed at the University by faculty or other employees. The University shall retain a non-exclusive, royalty-free license to use such material for educational purposes for up to twelve (12) months following the termination of the Creator’s employment at the University; or
   ii) the Intellectual Property was created by a student, not employed by the University, solely for the purpose of satisfying a course requirement. This does not apply if the transfer of ownership rights is made a condition of participation in a course; or
   iii) the Intellectual Property is a Scholarly Work, unless
      a. the Scholarly Work was developed by the Creator as a Specific University Assignment; or
      b. the Scholarly Work was developed with Significant Use of University Resources.

It shall be the responsibility of the Creator to disclose Intellectual Property to the University, through the Vice President for Research and Economic Development, and demonstrate that this classification applies, which is in accordance with the Disclosure Section of this Policy.

B. University-Assisted Effort
Ownership rights to Intellectual Property developed by individuals with Significant Use of University Resources shall reside with the University. Proceeds from the commercialization of Intellectual Property will be shared, in accordance with the Distribution of Proceeds Section of this Policy, as an incentive to encourage further development of Intellectual Property.

C. University-Assigned Effort
Ownership rights to Intellectual Property developed as a result of a Specific University Assignment shall reside with the University. Proceeds from the commercialization of Intellectual Property will be shared, in accordance with the Distribution of Proceeds Section of this Policy, as an incentive to encourage further development of Intellectual Property.

D. Sponsor-Supported Effort
Ownership rights to Intellectual Property developed as a result of a grant or contract with the University or the Georgia State University Research Foundation, Inc. (GSURF) shall reside with the University or GSURF. However, ownership rights may be influenced or determined by the terms of such grant or contract. Proceeds from the commercialization of Intellectual Property, will be
shared in accordance with the Distribution of Proceeds Section of this Policy, as an incentive to encourage further development of Intellectual Property.

E. Other Effort
Ownership rights to Intellectual Property developed under any circumstances other than those listed in the Rights and Equities in Intellectual Property Section of this Policy, A-D of this Policy shall be determined on an individual basis in consultation with the Intellectual Property Committee and approved by the Vice President for Research and Economic Development.

Disclosure
Individuals covered by this Policy must disclose to the Vice President for Research and Economic Development fully, and in a timely manner, all Intellectual Property, excluding Scholarly Work as delineated under A in section the Rights and Equities in Intellectual Property of this Policy and course material. Disclosure is initiated by the submission of an Intellectual Property Disclosure Form to the Vice President. The Creator must also disclose a brief summary of the Intellectual Property to the Creator’s Dean and Department Chair (or Director, if applicable). Individuals covered by this Policy shall treat Intellectual Property in a manner that is consistent with the laws regarding Trade Secrets. The Creator shall execute such declarations, assignments, or other documents as may be necessary in the course of evaluating and protecting the ownership rights of Intellectual Property to ensure that title in such Intellectual Property shall be held by the University, or by such other parties as may be appropriate under the circumstances.

Intellectual Property Committee
The Intellectual Property Committee, appointed by the President, will advise the Vice President for Research and Economic Development regarding the University's and Creator’s rights and equities in Intellectual Property in accord with the Administrative Procedures Section of this Policy. The Intellectual Property Committee will consist of up to nine (9) members. The President shall appoint one (1) representative from the Office of Finance and Administration and one (1) representative from the Office of Legal Affairs. Each of the six Colleges may nominate up to two (2) faculty members with Intellectual Property or relevant commercialization or related experience for this Committee from which the President shall appoint at least one, except when no nomination is made. The remaining members of the committee shall be appointed by the President from faculty members familiar with the subject matter of the majority of Intellectual Property disclosures over the previous three years or who have relevant legal or commercialization experiences. The President shall designate one (1) Committee member to serve as Chair of the Committee. Committee appointments will be for three (3) years. Members of the Committee may be appointed to serve consecutive terms. In the event any seat on the Committee is vacated prior to the expiration of the normal term, the President shall appoint a successor to fill the remaining term in accordance with the procedures outlined above. The Committee shall meet as necessary during the academic year.
**Investment in Business Entity**

A Creator who holds an investment in a business entity that intends to license and commercialize University owned Intellectual Property shall disclose his/her investor status and obtain the written approval of the Creator’s Department Chair, Dean, and Vice President for Research and Economic Development before the Intellectual Property is licensed. A Creator is encouraged to limit his/her role in such business entity to that of scientific or technical founder, member of a scientific advisory board, or consultant. A Creator is discouraged from serving on such entity’s Board of Directors or as an officer. When necessary, a Creator may assume such roles upon the written approval of the applicable Department Chair, Dean, and Vice President for Research and Economic Development.

A Creator who holds an investment in an entity shall not negotiate nor attempt to influence the licensing terms between the University and such entity, unless the University consents.

Before a Creator may accept sponsorship from an entity that has licensed Intellectual Property developed by the Creator, the Creator must fully disclose the existence of the license, the research proposal, statement of work, budget, and other details to the Creator’s Department Chair, Dean, and Vice President for Research and Economic Development, and obtain approval from each.

**Distribution of Proceeds**

**A. Net Income**

When income is derived from the commercialization of Intellectual Property, Net Income will be distributed as follows:

<table>
<thead>
<tr>
<th>Net Income Distributions</th>
<th>Creator(s)</th>
<th>Creator’s Dept./Unit*</th>
<th>Creator's College</th>
<th>GSU Research Foundation. Inc.</th>
</tr>
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<tbody>
<tr>
<td>1st $20,000 of accumulated net income</td>
<td>100%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Over $20,000 of accumulated net income</td>
<td>33.33%</td>
<td>23.33%</td>
<td>10%</td>
<td>33.33%</td>
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* College of Law combines accumulated net income percentages for the creator and dept./unit and gives 56.66% to the creator (none to dept./unit)

**B. Net Equity**

When equity is obtained from the commercialization of Intellectual Property, proceeds from Net Equity will be distributed according to the Net Income procedure.
If a Creator or any immediate family member maintains the direct or indirect ownership of more than 25% of the assets of stock or any business to which the Intellectual Property is licensed, or receives extraordinary compensation, then such Creator shall not participate in any distribution of proceeds. Extraordinary compensation is defined as greater than 10% of the up-front revenue received in a license agreement by the Georgia State University Research Foundation. Standard consulting fees shall not be deemed to be extraordinary compensation under this Section, but shall be disclosed to appropriate University officials in accordance with the University’s Conflict of Interest Policy.

When the Intellectual Property is the result of joint efforts, the Creator’s share of Net Income or proceeds from Net Equity will be divided equally among the Creators, unless a written agreement, signed by all the Creators, provides for a different distribution and is filed with the University prior to the first distribution of Net Income or proceeds from Net Equity.

The Vice President for Research and Economic Development, in consultation with the Intellectual Property Committee and the Dean(s) of the appropriate College(s), may change the distribution of Net Income or proceeds from Net Equity to the Creator’s Department/Unit and/or College, if necessary, due to organizational changes or structures at the University, or if the Creator moves among units at the University.

**Publication**
Nothing in this Policy shall be construed as affecting the rights of a Creator to publish the results of scientific work, except that the Creator must agree to observe a period of delay in publication or external dissemination if the University so requests, and such a delay is necessary to permit the University to secure protection for Intellectual Property disclosed to it by the Creator.

**Prevailing Policy**
In the event of a conflict between the Georgia State University Intellectual Property Policy and any policy of the Board of Regents of the University System of Georgia, the latter shall prevail. In the event of a conflict between the Georgia State University Intellectual Property Policy and a grant or contract to the University or Georgia State University Research Foundation the latter shall prevail.

**Heirs and Assigns**
The provisions of this Policy shall inure to the benefit of and be binding upon the heirs and assigns of those individuals covered by this Policy.

**Changes in Policy**
This Policy will be reviewed and amended, as appropriate, by the Intellectual Property Committee. This Policy may be changed by the President, on the recommendation of the Intellectual Property Committee, and the approval of the University Senate Research Committee and the University Senate.
Compliance
Failure by a Creator to comply with the provisions of this Policy, including the Disclosure requirements of this Policy, is a violation and may result in legal action and discipline of an individual in accordance with applicable University policies and procedures. Failure by a Creator to comply with the provisions of this Policy may also violate the terms and conditions of a funding grant or contract with a third party.

Georgia State University Research Foundation, Inc.
The Board of Regents of the University System of Georgia has, by contract, granted rights to Intellectual Property owned by Georgia State University to the Georgia State University Research Foundation, Inc., an affiliated nonprofit corporation. When this Policy speaks to ownership of Intellectual Property by Georgia State University, the Georgia State University Research Foundation, Inc., shall be the owner.

PROCEDURES

Administrative Procedures
Once the Office of Technology Transfer and Industry Relations has received the Intellectual Property Disclosure Form from the Creator, the University’s interest in patenting and/or licensing the disclosed Intellectual Property must be determined in a timely fashion. After preliminary evaluation, in consultation with the Chair of the Intellectual Property Committee and the Dean of the Creator’s College, will initiate one or more of the following actions within ninety (90) business days of receiving the disclosure:

i) Initiate an external evaluation of the disclosed Intellectual Property.

ii) File a patent application.

iii) Submit the disclosed Intellectual Property to the Intellectual Property Committee for its evaluation and recommendation.

iv) If rights in the disclosed Intellectual Property are subject to the terms of a grant or contract, comply with the terms of the grant or contract.

v) Assign title to the disclosed Intellectual Property to the Creator.

If the disclosure is referred to the Committee for a recommendation, the Committee shall review the disclosure and, if appropriate, hear an oral presentation by the Creator, supported by such visual material as may be required for clarity. Use may be made of appropriate ad hoc members, including external agencies, who can best assist in evaluating the Intellectual Property. The Committee shall recommend whether the University should exert an interest in the Intellectual Property, based on a determination that the disclosed Intellectual Property is novel, useful, non-obvious and/or has commercial potential.

Within sixty (60) business days of the disclosure being submitted to the Committee, the Committee will make a recommendation as to whether the University should pursue development of the Intellectual Property. If the Committee requires additional time, it shall request such additional time from the Office
of Technology Transfer and Industry Relations, in writing, including a justification for the request. Such additional time must be at the agreement of the involved parties and shall not exceed an additional thirty (30) business days.

The Office of Technology Transfer and Industry Relations, in consultation with the Vice President for Research and Economic Development, will consider the recommendation of the Committee and will respond to the Creator, in writing, whether the University intends to pursue development of the Intellectual Property. This determination will be due to the Creator no later than thirty-five (35) business days from the receipt of the Intellectual Property Committee’s report by the Office of Technology Transfer and Industry Relations.

The Office of Technology Transfer and Industry Relations will complete consideration of the Intellectual Property and inform the Creator within 180 business days of submission regardless of the action(s) chosen. If no decision is documented within this 180 business day period, the University shall have decided it has no interest in pursuing the development of the Intellectual Property, and the procedures of the following paragraph apply.

If it is decided that the University will not pursue development of the Intellectual Property, or such agreed upon decisions are not made or responded to in writing during the specified time period, or a mutually agreeable extended time period, the University shall assign its rights to pursue development of the Intellectual Property back to the Creator(s), except that the University will retain royalty-free license rights to the Intellectual Property.

**Appeals**

Disputes regarding the application of this Policy may be appealed, in writing, to the Office of Technology Transfer and Industry Relations. All appeals will be referred to the Intellectual Property Committee, which will make a recommendation within thirty (30) business days of receipt of the appeal. A final decision will be made concerning the appeal, which shall be made no later than forty-five (45) business days from the receipt of the appeal. If an individual wishes to appeal the decision, or if a decision is not made within the time specified above, the individual may appeal to the Provost, in writing, within forty-five (45) business days from the Committee’s appeal decision. The Provost shall make a decision no later than forty-five (45) business days from the Provost’s receipt of appeal. If the individual wishes to appeal the decision of the Provost, or if the decision is not made within the specified time period, the individual may appeal to the President in writing within forty-five (45) business days of the Provost’s decision. The President shall make a decision within forty-five (45) business days from the President’s receipt of the appeal. If the individual wishes to appeal the decision of the President, or if the decision is not made within the specified time period, then the individual may appeal to the Board of Regents in accordance with Article IX of the Bylaws of the Board.
RESPONSIBILITIES

<table>
<thead>
<tr>
<th>Position or Office</th>
<th>Responsibilities</th>
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<tbody>
<tr>
<td>Principal Investigator or Project Director (PI / PD)</td>
<td>Initiate disclosure process and complete IP Disclosure Form to notify the Head of Technology Commercialization (and Dept. Chair or Unit Head and Dean of the College); Assist in preparing patent applications; Initiate copyright process; Assist in process of obtaining licensing agreements.</td>
</tr>
<tr>
<td>Dept. Chair / Unit Head</td>
<td>Review IP Disclosure Form</td>
</tr>
<tr>
<td>Dean</td>
<td>Review IP Disclosure Form and licensing agreements.</td>
</tr>
<tr>
<td>Director, Office of Technology Commercialization and Industry Relations</td>
<td>Assist PI in drafting the IP Disclosure Form and other forms to initiate IP disclosure process; Evaluate IP disclosures for patent potential and assist in preparing patent application if deemed appropriate; Provide IP disclosure and patent progress reports to sponsors; Forward patent applications and licensing agreements to Office of Legal Affairs for submission or approval; Calculate IP income distribution; Inform Dept./ Unit, Dean, and VP for Research &amp; Economic Development of all IP progress and GSURF of all IP income</td>
</tr>
<tr>
<td>Office of Legal Affairs</td>
<td>File all patent applications and approve licensing agreements</td>
</tr>
<tr>
<td>VP for Research and Economic Development</td>
<td>Provides institutional oversight for the implementation for invention disclosure and Copyrights.</td>
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</table>

CONTACTS

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<tr>
<th>Subject</th>
<th>Office</th>
<th>Telephone</th>
<th>Email</th>
</tr>
</thead>
<tbody>
<tr>
<td>Policy implementation and questions related to procedures</td>
<td>Chester A. Bisbee, Associate V.P. and Director of Technology Commercialization and Industry Relations</td>
<td>404-413-3507</td>
<td><a href="mailto:cbisbee@gsu.edu">cbisbee@gsu.edu</a></td>
</tr>
</tbody>
</table>

RESOURCES

[Intellectual Property Disclosure Form](#) can be found on the Forms webpage of the University Research Services & Administration (URSA) website.