FPPC Minutes
Meeting #6
November 17, 2023

https://csulb.zoom.us/j/6743069599
Passcode: FPPC

Present: Leslie Andersen, Richard Marcus, Rick Reese, Roger C Lo, Don Haviland,
Patricia Pérez, Monica Lounsbery, Lily House-Peters, Tianjiao Qiu, Erlyana Erlyana

1. Approval of Minutes-November 3
    • Approved unaninmously.
2. Announcements
    • None
3. SPOT Update
    • Leslie met with ATS about what data is available re SPOT. They are going
      to get us as "robust" as data as possible by the end of this semester (for
      the past 5 years). We will then take that data and talk with IR and make
      it more robust, marrying it with IR data that could be relevant. We will
      complete that data next semester. The plan is still to have a survey
      ready to go at the beginning of the Spring semester.
    • Leslie will speak with CalPoly SLO who is working on their survey to see
      if there is timely information to inform our discussion.
    • Discussing: Is SPOT helping your effectiveness as an instructor.
    • Question: When will we get ATS data back? They have promised by the
      end of the semester. It might not dovetail with the ability to get a
      survey out by the beginning of the semester.
    • As long as there is one quantitative question it is up to us what else we
      want to do? The CBA is very vague, so even this is in question. It
      doesn't tell us what to do when. But, we need to do something that
      makes sense.
    • Leslie: We are still waiting to see if the available data tells us anything
      significant.
4. TIME CERTAIN: 1PM, Jade Sche (Dfrom ORED re: Copyright and Patent policies
    • The Intellectual Property of 2016 was not signed by the president. Not
      only has the CSU not happened, but the CSU no longer has an intention
      of creating a CSU wide intellectual property policy. Question: Given
      that, is there a different perspective on signing a new policy now?
      Leslie: Will ask Pei Fang.
    • Leslie: We are out of Federal Compliance on this making for urgency.
    • Jade presented the question as a ppt.

FEDERALLY FUNDED RESEARCH

The US government funds technical research and development

- To meet government needs for a technology solution to a problem
- To train workforce and assist in economic development by helping bring new technologies to the marketplace
- To spur innovation and maintain technological leadership

FEDERALLY FUNDED RESEARCH

1. The government wants to encourage use of new technologies in the marketplace
   - Terms of agreement encourage/expects technology owners to bring technologies to the marketplace

2. The government wants to encourage further research and development
   - Intellectual property protection (e.g., patents and copyrights) permit technology owners to disclose their technologies without losing value in the marketplace

PUBLIC BENEFIT AS A MISSION

- New discoveries can benefit the public *if* they can be effectively transferred to the public (i.e., commercialized)
- Public institutions such as research universities are not commercially oriented
- Commercialization by the private sector is frequently the ONLY way new discoveries from public agencies will be developed
  - Further investment in applied research and development from entrepreneurs and industrial/ corporate partners may be required

BAYH-DOLE ACT (1980)

- Universities may elect to obtain title to inventions developed through federal funding rather than obligating inventors to assigning inventions to the federal government
- Government retains non-exclusive license to practice the invention
- Government retains march-in rights
- Standardized IP clauses/terms in federal contracts and grants

New NSF TIP Directorate

National Science Foundation
Directorate for Technology, Innovation and Partnerships

Designing for the Future: A New Horizontal

NSF's New TIP Directorate:
Tap into new partnership and commercialization funding opportunities

Translation
Technology & Innovation
Partnerships

LONG BEACH

REVISIONS TO REGULATIONS OF THE BAYH-DOLE ACT (2018)

- The contractor is now *obligated to require* its employees to assign rights in a subject invention to the contractor
- Government now has *unlimited* time period to assert ownership to an invention following discovery of the contractor's non-compliance with the Bayh-Dole's disclosure and election requirements
- Contractor must now provide 60-days notice to the government prior to statutory deadline to abandon provisional patent application or discontinue patent prosecution

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UNIVERSITY MUST ASSUME OWNERSHIP OF IP FROM RESEARCH

- To comply with the Bayh-Dole Act for sponsored research
- To abide by the Internal Revenue Service provisions against private inurement
- To maintain the University's non-profit status
- To protect the University's ability to perform research and use the results of prior research efforts

ASSUMING OWNERSHIP ENABLES NEW RESOURCES AND SUPPORT

- Provide expertise to manage and funding to procure IP protection
- Funding and investments to bring innovation from lab to market
- Facilitate and attract collaborations and partnerships with industry
- Create opportunities to form new startups, jobs, and internships
- Engage with organizations such as National Academy of Inventors

CSULB FACULTY LED STARTUPS COMMERCIALIZING RESEARCH

CYBERSENS ROBOTICS

JAL THERAPEUTICS

PATENT AND COPYRIGHT POLICIES

The University may assume ownership for intellectual property (**both** patents **and** copyrights) created under:

1. through any connection with the use of gift, grant, or contract research funds received through the University or its foundations,
2. work for hire,
3. commissioned work, or
4. employment or assigned duties specified in employment description or agreement

CSULB PATENT POLICY

The University may also assume ownership for inventions (patents only unless it involves software) conceived or developed:

1. within the course and scope of University employment while employed by University, or
2. through the use of University resources such as facilities, equipment, or funds under the control of or administered by the University or its foundations

"course" does not mean the courses you teach; it is over the course of your work. We don't take ownership of student work unless they are employees (GAs, etc).

CSULB PATENT POLICY

Subject to restrictions arising from overriding obligations of the University pursuant to gifts, grants, contracts, or other agreements with outside organizations, the University agrees, following the assignment of inventions and patent rights, to **pay annually to the named inventor(s)**, or to the inventor(s)' heirs, successors, or assigns, **50% of the net royalties and fees** per invention received by the University. An additional percentage of net royalties and fees may be allocated for research-related purposes to the inventor's laboratory depending on the policy of their respective

CSULB COPYRIGHT POLICY

The University may also have:

1. perpetual license/usage rights for Traditional Academic Copyrightable Works limited to Course catalog descriptions and standard course outlines submitted and approved via the university curriculum process
2. an agreement for negotiated rights to copyrightable works created with use of Extraordinary Support from the University

If the faculty member doesn't want their invention to be monetized? Yes, there are contributions to open source or etc. It is a negotiation, but we work with faculty to honor the request. The policy is the university "may" file a patent. It will determine what is suitable.

Limited to course catalog descriptions and SCOs. Otherwise it is only in the university right when it has Extraordinary Support. Usage rights not ownership with copyright. Only materials submitted to the university. Question: What is submitted to university – does it include, for example, using a onedrive or canvas? Answer: No. The university neither has the right nor would know what to do with it.

CSULB COPYRIGHT POLICY

When determining ownership and license rights in copyrightable works, the term "**University Resources Customarily Provided**" includes office space, library facilities, student and staff support, ordinary access to laboratories, media studios, computers and networks, and salary. _Additional forms shall include subventions provided by the University to some faculty members, such as sabbatical and reassigned time. Customarily provided resources also includes facilities and resources used in the creation of works of art or design such as studios, performance spaces and equipment._

The President has ultimate authority for the stewardship of Intellectual Property developed at the University. The Provost, the Associate Vice President for the Office of Research and Economic Development (ORED), or designee, in consultation with the **Advisory Committee on Patents and Copyrights**, shall administer this policy.

Advisory Committee on Patents and Copyrights (ACPC)

Committee Membership shall consist of the following:
- Associate Vice President, Office of Research and Economic Development, or designee (ex officio, **non-voting**);
  - Jade Sche – Director of Innovation and Economic Development
- Two members appointed by the Provost, or designee; and,
  - Dhushy Sathianathan – Professor, Vice Provost for Academic Planning
  - Hamid Rahai – Professor, Associate Dean for Research and Graduate Programs
- Two faculty members appointed by the Academic Senate, serving staggered two-year terms:
  - Lesley Farmer – Professor
  - Jon Stone – Professor

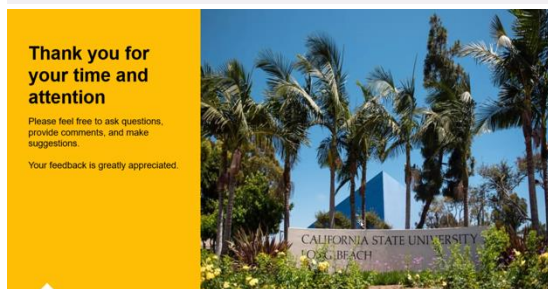## Traditional Academic Copyrightable Works

"Traditional Academic Copyrightable Works" means a subset of copyrightable works created independently and at the Creator's initiative for academic purposes. Examples **include, but are not limited to**, lecture notes and materials, course syllabi, instructional **texts and manuscripts**, or plans, patterns, and works of art or design or educational software (also known as courseware or lesson ware) that the Creators may design for courses taught in the University, and specifically for students who matriculate at CSULB.

Traditional Academic Copyrightable Works

All intellectual property rights and usage rights in Traditional Academic Copyrightable Works **are owned by the Creator(s)** unless otherwise specified in an agreement with the University.

The **university shall make no claim of ownership or financial interest in course materials** prepared under the direction of a faculty member unless the university and faculty member have so agreed in a separate, voluntary agreement.

Faculty members who are no longer employed as such by the University **retain their intellectual property and usage rights**.

Thank you for your time and attention

Please feel free to ask questions, provide comments, and make suggestions.

Your feedback is greatly appreciated.

CALIFORNIA STATE UNIVERSITY LONG BEACH

Jade: In the time since 2014 when CSULB wrote its policy that was not passed in 2016, the CSU went through a process to write and pass a policy. That did not materialize. Now it is up to each campus. It helps researchers to help inventors take their work out the lab and partner with industry. With respect to the copyright policy, we want faculty to feel their work is protected. That all of the intellectual property is owned by the faculty member. It is more favorable than other policies at other institutions.

Leslie: Took this policy from 2016 and compared to the new policy. It is obvious you used some of the verbiage from 2016. Jade: Some is standardized terms, but some is also some what is already addressed. We adapted many of the things that exist in those.

Leslie: I suggest changing the title of these policies as they overlap with existing policies on different topics. Jade: We use the same as other campuses. But, I will look into our named policies to compare.

5.Faculty Hiring "Policy"
- Leslie: We decided we would move cautiously forward. If you find things that are useful for this discussion, please post in the Faculty Hiring document on sharepoint. CSUCI is a good policy worth looking at.
- This started as a request to consider DEI. The conversation on FPPC about faculty input, and AS input, into faculty hiring. As of now, there are only protocols and procedures from FA. There is no Senate policy or shared governance over faculty hiring. The argument is that the whole concept of faculty hiring should be worked out between faculty and administration.
- Might it be best for Patricia for a draft policy of what is missing for FPPC to chew on. Then FPPC can look at the gaps. It is not best for MPPs (deans) to hold their cards to their vest or to lack transparency.
- Faculty hiring tends to be administratively driven in contrast to faculty-driven process of hiring individuals to tenure-lines. Administrative concerns are not about the fit of faculty expertise but rather ensuring the diversity of applicants and risk in our applicant pool. Though, a policy can ensure that faculty from the beginning are coming up with goals for the criteria and pool of candidates.
- If we were to develop a faculty hiring policy then the protocols and procedures would follow from the policy. But, without this upper level policy with goals, the protocols are just being made at the administrative level.
- Could we start working on this through certain things: anti-bias training, effectiveness of processes, etc – what should faculty have ownership of (like rubrics and questions). Some documents of this kind (like SDSU) include tenure density requirements.
- The relationship between FA and the Senate. For now, it is mostly in FA with little faculty input. With the absence of a policy, FA dictates the process. However, FA prefers a shared governance process with different constituencies chiming in.
- To what degree are the examples given really part of policy? Is our goal to write a principled statement or a policy that is prescriptive about responsibilities? It may be both – a preamble of principled statement and then a policy with prescriptive responsibilities.
- Much of what AS Exec sent is not really policy language as opposed to procedure. They call it "guiding principles." This perhaps is part of a Preamble.
- Language in protocols about FEAs but it would be great to codify in a policy.
- Leslie will open the Faculty Hiring Policy draft document to insert ideas and notes.

Future Meetings This Semester

December 1

FPPC's charge is online at https://www.csulb.edu/academic-senate/faculty-personnel-policies-council-fppc