



Intellectual Property Policy

Policy #	Origination Date	Responsible Office	Status	Approval Date
08-05-01	11/15/08	Office of Legal Affairs	FINAL	11/15/08

Policy Statement

The Office of Legal Affairs is committed to providing proactive legal services that are relevant, timely and cost-effective to support the University's mission and program initiatives in an ethical and professional manner. To that end, The Office of Legal Affairs strives to (1) be involved early with our internal clients in the planning and structuring of program initiatives and resolution of disputes, (2) solve problems creatively, identifying legal risks and formulating alternatives to achieve our clients' business objectives, (3) communicate effectively and (4) foster a climate of mutual respect and a team approach to meeting objectives.

Reason for Policy/Purpose

The purpose of the Dillard University Intellectual Property Policy is to encourage the generation of new knowledge by faculty, staff and students and to facilitate the transfer of research, writings, creative works, discoveries and inventions to society. This policy recognizes that there should be incentives for the creator and the University to work together to pursue financial rewards, consistent with the expressed goals of the policy.

All faculty, staff, students and others who participate or intend to participate in teaching and/or research or scholarship projects are bound by this policy. They are also required to sign the Dillard University Patent and Copyright Agreement Exhibit ("A"). Except as provided in this policy, this agreement assigns rights to intellectual property resulting from University projects and works funded or otherwise appointed by the University. This policy applies, and those subject to this policy are deemed to assign their rights, to patentable and copyrightable works, whether or not a Dillard University Patent and Copyright Agreement is signed and is on file. All faculty, staff and students have the obligation to ensure that they do not enter into any outside consulting arrangements in conflict with this Policy.

Who Needs to Know This Policy

All units of the university.

Policy/Procedures

Definitions

Certain terms are used in this document with specific meanings, as defined in this section. These definitions do not necessarily conform to customary usage.

Intellectual Property includes any patentable invention, copyrightable subject matter, or trade secret. It also includes works of art, and inventions or creations that might normally be developed on a proprietary basis.

University means Dillard University.

Student means any full-time or part-time student, regardless of whether the student receives financial aid from the University or from outside sources. It is the responsibility of students who are also employees of other outside entities to resolve any conflicts between this policy and provisions of agreements with their employers prior to beginning any undertaking at the University that will involve the development of intellectual property.

Faculty means members of the University's faculty as defined in the *Dillard University Faculty Handbook*, as amended from time to time. For the purposes of this policy, the term faculty shall also include, but not to be limited to, special faculty appointments (even in the first year), visiting faculty, part-time and adjunct faculty.

Staff means any employee of the University other than students and faculty as defined above. If a student is also a part-time University employee, the student is considered as staff with regard to intellectual property developed as a result of employment, and as a student with regard to other intellectual property. A full-time non-faculty employee who is also taking one or more courses is considered to be staff. Persons who are compensated in any way by the University and visitors to the University who make substantial use of University resources are considered staff with respect to any intellectual property arising from such use.

Creator means any person(s) who creates an item of intellectual property.

Invention refers to any material capable of legal protection and includes any discovery, invention, process, know-how, design, model, computer software (if patentable), strain, variety, or culture of an organism, or portion, modification, translation, or extension of these items but excludes works which are not patentable. It includes marks used in connection with these. (The term "mark" refers to trademarks, service marks, collective marks, and certification marks.) It also includes tangible research property, i.e., tangible items produced in the course of research such as, but not limited to, e.g., biological materials, engineering drawings, integrated circuit chips, computer databases, prototype may be associated with one or more intangible properties such as patents, copyrights, and trademarks.

Inventor means a person who creates, develops or discovers an invention and includes the definition of “inventor” used in the United States Patent Law.

Significant use of University facilities or resources means extensive use of University laboratory, studio or computational facilities, equipment or human resources (staff or student employees or other University personnel). The use of these facilities must be important to the creation of the intellectual property; merely incidental use of a facility does not constitute significant use.

Works for Hire is a legal term defined in the Copyright Act as “a work prepared by an employee within the scope of his or her employment.” This definition includes works prepared by employees in satisfaction of sponsored agreements between the University and third parties. Certain commissioned works also are works for hire if the parties so agree in writing. The employer (i.e., the University) by law is the “author,” and hence the owner, of works for hire for copyright purposes. Works for hire subject to this principle include works that are developed, in whole or in part, by University employees. For example, under Section B.2 (f) of this policy, significant use of staff or student employees or other personnel will typically result in University ownership of the copyright of the resulting work. Where a work is jointly developed by University faculty, staff or students and a non-University third party, the copyright in the resulting work typically will be jointly owned by the University and the third party. In such cases, both the University and the third party would have nonexclusive rights to exploit the work, subject to the duty to account to each other. Whether the University claims ownership of a work will be determined in accordance with the provisions of this policy and not solely based upon whether the work constitutes a work for hire under copyright law. For example, copyright in pedagogical, scholarly or artistic works to which the University disclaims ownership under this policy shall be held by the creators regardless of whether the work constitutes a work for hire under copyright law. University ownership in a work for hire may be relinquished only by an official of the University authorized to do so by the Dillard University Board of Trustees.

B. Copyright Ownership

1. General. Dillard University faculty, staff and students routinely create new written scholarship, literary works, artistic works and other items of copyrightable work. Copyright is a form of intellectual property protection. It protects only the fixed expression of an idea, not the idea itself. The federal copyright law provides that most original works of authorship are protected by copyright automatically when they are fixed in tangible form. The holder of copyright to a work has the exclusive right to copy or perform the work or to publish derivative works based on the original. Often issues arise as to the ownership of copyright. The following policy is based on, and also draws from, the policies of other major universities that govern ownership of copyright.

2. Ownership. Under copyright law, the copyright to works created by persons in the course of their employment is a “work for hire” and belongs to their employer rather than to the individual creator. Therefore, absent other agreements or institutional policies, works created by faculty

members in the course of their teaching and research, or by staff members in the course of their jobs, are the property of the University.

As a matter of fundamental principle, however, the University encourages wide dissemination of scholarly work produced by members of the Dillard community, including copyrightable works. Therefore, the copyright policy at Dillard - and most institutions of higher education - is that, except as provided for below, popular nonfiction, papers, articles, novels, textbooks, poems, musical compositions, unpatentable software, or other works of artistic imagination which do not fit within the categories listed below are deemed to be the property of the creator, who is entitled to determine how the works are to be disseminated and to keep any net proceeds they produce. In recognition of this long-standing practice throughout academia, the University disclaims ownership of such works by faculty, staff and students, or others participating in Dillard programs, except in the following cases:

a) Assigned Tasks. The University will own the copyright to works created (i) by faculty members as part of an assigned task, where the assignment explicitly states that the work will be owned by the University, (ii) by administrative staff members in any specialized field of work they perform for the University, and (iii) by technical staff, fellows, and student employees in the course of any assigned duties other than research tasks performed in support of a project directed by a faculty member.

b) Videotaping and Related Classroom Technology. Courses taught and courseware developed for teaching at Dillard belong to the University. Any courses which are videotaped or recorded using any other media are Dillard property, and may not be further distributed without permission from the Division Dean. Blanket permission is provided for video or other copies for the use of students, or for other University purposes. Prior to videotaping, a written release must be obtained from anyone who will appear in the final program.

c) Commissioned Works. Commissioned works by faculty, staff, students, contractors and other non-employees are works for hire, and are owned by the University where a written agreement between the parties so specifies.

d) Institutional Works. The University shall retain ownership of works created as institutional works. Institutional works include projects supported by a direct allocation of funds through the University for the pursuit of specific projects.

e) Contractual Obligations of the University. Where copyrighted materials are developed by an investigator in the course of sponsored research funded by an outside agency pursuant to an agreement approved by the Office of Sponsored Projects, ownership of the copyright will be determined by the terms of the agreement. Nothing in this Intellectual Property Policy shall be interpreted to limit the University's ability to meet its obligations under any grant, contract, or other arrangement with third parties.

f) Significant Use of University Resources. Where the University makes a significant investment in the development of copyrightable material (by way of either financial or resources commitment) or the University enters into a written agreement with the creator(s) and that

agreement makes provision for copyright ownership, the University will own the copyright of the works unless the parties agree otherwise. In all cases where the University owns the copyright of the works, it will share net income received from the commercialization or exploitation of the copyrightable material as provided in Section 2, Paragraph 3 of this policy.

g) Patentable Works. Where the copyrightable work is also patentable, the provisions of Section C, Patent Rights, shall apply.

3. Distribution of Income. Dillard University agrees to share with the creator(s) any net income received from commercialization or exploitation of University-owned copyrightable material. All expenses incurred by the University will be deducted from the gross income before any distribution of proceeds will be made. Unless otherwise agreed, the net proceeds will be shared equally with the creators, following the formula applied to patentable inventions.

4. Disclosure. It is the responsibility of the originator(s) to make prompt disclosure of any copyrightable materials that may, under provisions of this policy, be owned by the University. The disclosure should be made to the Provost and Senior Vice President of the University.

C. Patent Rights

1. General. The objective of the Dillard University patent policy is to facilitate the invention, transfer and application of new technology and to protect the interests of the inventor and the University. This policy applies to all faculty, staff and students of Dillard University.

2. Ownership and Distribution of Income. Patent rights to inventions developed through individual initiative, not in response to a specific University assignment, and with only incidental use of University facilities or resources, belong to the inventor; any royalty income accrues to the inventor alone.

When an individual's effort in developing a device or securing a patent is significantly assisted by the use of University facilities, resources or personnel, the University shall be entitled to equal ownership with the inventor in the patentable invention. The distribution of royalty income between the inventor and the University is negotiable; however, the University and the inventor will normally share equally in the royalty income.

Ownership of patentable inventions developed as a result of assigned University duty resides with Dillard University. The distribution of royalty income will normally be divided as follows: seventy-five per cent to the University and twenty-five percent to the inventor.

3. Disclosure. The inventor must deliver a copy of the Dillard University Invention Disclosure Form to the appropriate Dean within seven (7) days of the date of the disclosure.

4. Disposition of Inventions. The University has the sole right to determine the disposition of inventions in which it has an ownership interest. A decision to exercise this right shall be transmitted in writing to inventor within 180 days of the date of disclosure of the invention. When the University elects not to exercise its right, such right devolves to the inventor.

5. Legal Expenses and Distribution of Patent Income. If Dillard University elects to exercise its option to sponsor development of a technology, it will open an account to which expenses associated with its subsequent efforts is charged. Such expenses shall include all invoiced associated costs, including legal fees, consultant fees, patent filing fees, in addition to an allowance equal to ten percent of gross revenues from development of the technology, including licensing fees. Revenues will first be used to recover expenses accumulated in the account from that particular technology. Following recovery of expenses, net revenues will be split equally between the University and the inventor.

6. Sponsored Research. When a patentable invention is developed through a sponsored grant or contract, the provisions contained in the grant or contract must prevail. In accordance with federal law, the University shall have sole ownership of inventions made or conceived in the performance of federally sponsored research.

D. Trade and Service Marks

Trade and service marks are distinctive words or graphic symbols identifying the sources, product, producer, or distributor of goods or services. Trade or service marks relating to goods or services distributed by the University shall be owned by the University. Examples include names and symbols used in conjunction with computer programs or University activities and events. Consult the Office of Legal Affairs for information about registration, protection, and use of marks.

E. Resolution of Disputes

This Intellectual Property Policy will be administered by the Provost or designee. Disputes concerning application of the policy shall be resolved by a review panel of three members: a representative of the creator(s) or inventors, a person designated by the Office of Sponsored Research, and a third person selected by the Provost. The decision of the panel may be appealed in writing to the President of the University within ten (10 days) of receipt of the written decision of the panel. The decision of the President shall be final.

Website Address(es) for this Policy

<http://www.dillard.edu/>

Contact(s)

For questions about this policy contact:

Office of Legal Affairs
(504) 816-4546

Brendan M. Greene, J. D.
General Counsel
bgreene@dillard.edu

Rachel W. Mercadel
Executive Assistant
rmercadel@dillard.edu

Related Information

Who Approved this Policy

Senior Cabinet Members

History/Revision Dates

Origination Date: 11/15/2008

Approval Date: 11/15/2008

Updated: 08/30/2019

Revised:

Next Review Date: 08/2021

**DILLARD UNIVERSITY
INVENTION DISCLOSURE FORM**

(to be completed and forwarded to The Office of the Provost and Senior Vice
President of Academic Affairs)

Inventor(s):

Name:

Dillard University Address:

Phone:

Name:

Dillard University Address:

Phone:

Descriptive Title of Invention:

Description of Invention: Please provide a concise description of your invention including an explanation of the nature, purpose and operation of the invention, a summary of results achieved, features believed to be novel, further experimental work planned, and any additional information which you believe might be helpful in deciding whether a patent application should be filed. Additional sheets can be used, but each must be attached to this form and each must be signed and witnessed.

Publication Information: Please list any papers, abstracts, etc. describing the invention which have been published or submitted for publication. Include the title, journal and date or estimated date of publication.

Is there an internet bulletin board available for these publications? If so, please give an approximate date of anticipated electronic exposure.

Please indicate whether an oral presentation (including slide or poster presentations and thesis defense) of invention has been or will be made, and to whom and when.

Is there a pre-meeting Internet bulletin board available for this event? If so, please give the anticipated date of electronic exposure.

NOTE: Printed publications, abstracts, oral presentations or other public disclosures may result in immediate loss of rights to patent protection. Student theses are also considered publications once catalogued in the library. Please attach a copy of any paper, abstract or other printed publication, including a rough draft if publication is not yet in final form.

Use of Biological Materials: Did you use any biological materials received from outside of Dillard for this invention?

Did you sign any Agreements or receive any correspondence regarding your receipt of these materials? (If yes, please attach a copy.)

Research Support: Please designate all sources of funding for the invention.

Sponsor: Contract No.:
Sponsor: Contract No.:
Sponsor: Contract No.:

Commercial Potential of This Invention: Please provide your assessment of the commercial potential of the invention:

Assignment: I (we) hereby agree to assign the above invention to Dillard University in accordance with the Dillard University Intellectual Property Policy.

Inventor(s) Signature(s) Read, Understood and Witnessed

Name: _____ Date: _____

Name: _____ Date: _____

Name: _____ Date: _____

DILLARD UNIVERSITY
PATENT AND COPYRIGHT AGREEMENT

I understand that, consistent with applicable laws and regulations, the Dillard University Intellectual Property Policy ("Policy") governs intellectual property. I acknowledge that I have received and read that Policy, and I agree to abide by the terms and conditions of that Policy, as it may be amended from time to time. Pursuant to that Policy and in consideration of my employment by Dillard University ("Dillard"), the availability to me of opportunities to perform research including sponsored research, and/or to utilize resources of Dillard, I agree:

1. That Dillard policy states that all rights in copyright shall remain with the creator unless the work:
 - a. is a work-for-hire and copyrights therefore vests in the University under copyright law (except where the University has disclaimed ownership under the Policy);
 - b. is an institutional work supported by a direct allocation of funds through the University for the pursuit of a specific project;
 - c. is commissioned by the University;
 - d. makes significant use of University resources or personnel; or
 - e. is otherwise subject to contractual obligations.

I will assign or confirm in writing to Dillard my rights, title and interest, including associated copyright, in and to copyrightable materials falling under a) through e), above.

2. That any patentable invention or discovery which is conceived or first reduced to practice in the course of my employment with Dillard (including but not limited to the performance of a grant, contract or award made to Dillard by any extramural agency), or with the use of Dillard resources, shall belong to Dillard, and be subject to the provisions of the Policy; and
3. To disclose promptly in writing to Dillard any such discovery or invention and identify by date any publication, sale, public use or manuscript submission related thereto; and
4. To assign all rights to such discoveries or inventions and any and all patents and patent applications thereon to Dillard as set forth in the Policy, or such other agency as Dillard may direct, and to cooperate fully with Dillard or such designee in the prosecution of patents or patent applications and the preparation and execution of all documents necessary or incidental thereto.
5. I am now under no consulting or other obligations to any third person, organization or corporation in respect to rights in inventions or copyrightable materials which are, or could be reasonably construed to be, in conflict with this agreement.

6. I will not enter into any agreement copyright or patent obligations in conflict with this agreement.
7. This agreement is effective on the later of November 15, 2008 or my date of hire, enrollment, or participation in projects administered by Dillard, and is binding on me, my estate, heirs and assigns.

Signed: _____

Printed Name:

Title:

Department:

Date: _____