

UNITED ACADEMICS PROPOSAL
8-29-13

ARTICLE 51
INTELLECTUAL PROPERTY

Preamble. The parties are committed to providing an environment that supports the teaching and scholarly activities of the members of the bargaining unit. As a matter of principle, the University encourages the members of the bargaining unit, and all members of the University community, to publish without restriction their papers, books, and other forms of communication in order to share openly and fully their findings and knowledge with colleagues and the public. This allocation of ownership provision is intended to promote and encourage excellence and innovation in teaching and scholarship by identifying and protecting the rights of the University Administration and the bargaining unit members.

This Article sets forth the rights and obligations of the parties hereto as to intellectual property including, but not to be limited to, rights in intellectual property that can be trademarked, copyrighted, or patented.

This Article also sets forth the terms and conditions which shall pertain to courses in those modes which commonly have come to be called "online classes" or "distance learning."

Section 2. Definitions

A. Intellectual Property

Any trademarkable, copyrightable, or patentable matter or any other intellectually created tangible thing or matter.

B. Trademark/Trademarkable

Any work, name, symbol, or device or combination thereof adopted and used by a bargaining unit member to identify his/her goods and distinguish them from those made, manufactured, or sold by others.

C. Copyright/Copyrightable

Original works of authorship, including computer programs, fixed in any tangible medium of expression, now known or later developed, from which such works can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Copyrightable material includes, but is not limited to, the following:

- i. books, texts, articles, monographs, glossaries, bibliographies, study guides, laboratory manuals, syllabi, tests and work papers;
- ii. lectures, musical and/or dramatic compositions, scripts, films, filmstrips, charts, transparencies, other visual aids;
- iii. video and audio recordings;
- iv. computer programs;
- v. live video and audio broadcasts;
- vi. programmed instructional materials;

- vii. drawings, paintings, sculptures, photographs, and other works of art.
- viii. pantomimes and choreographic works;
- ix. architectural works; and
- x. scholarly and/or literary works

D. Patent/Patentable

Patentable material includes, but is not limited to, the following:

- i. Utility inventions or discoveries which constitute any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, as such is further defined in 35 USC sections 100, 101.
- ii. Ornamental designs, being new, original, and ornamental designs for an article made, as such is further defined in 35 USC section 171, et seq.;
- iii. Plant patents, being for the asexual reproduction of a distinct and new variety of plant, including cultivated spores, mutants, hybrids, and newly found seedlings, other than a tuber propagated plant or plant found in an uncultivated state as such is further defined in 35 USC 161, et seq.

E. Normal academic environments

The use of office, studio, or library space; the use of University-owned desktop or laptop computers, wired or wireless communications networks, tablets, or cellular or smart phones; and the use of laboratory or library facilities and resources.

Section 3. All intellectual property developed within normal academic environments is the property of the bargaining unit faculty member. Works that are created, developed, and reduced to practice with more substantial or significant support than described above, still belong to the faculty member unless and until there is an explicit written contract to the contrary.

In addition, intellectual property that is conceived of, developed, or reduced to practice in the course of or pursuant to a federally sponsored research grant or other agreement, is the property of the bargaining unit faculty member, who may work with the university's Technology Transfer Services (TTS) to manage intellectual rights, such as assigning the right to distribute or license intellectual property.

Section 4. The bargaining unit faculty member shall retain ownership of all works produced for online instruction. In the absence of a separate, written, work-for-hire agreement, the bargaining unit faculty member shall be deemed to be the sole owner of all intellectual property rights in his or her course materials, even if the faculty member is receiving additional financial support or release time to support the creation of online lectures, electronic presentations, podcasts, quizzes, tests, readings, or simulations, including development of software and other teaching and learning activities or material.

Section 5. The University Administration owns intellectual property that it commissions as a 'work-made-for-hire', which entails an independent contract for a specific work product.

1 'Work-made-for-hire' agreements to develop academic materials that would normally be owned
2 by a bargaining unit faculty member, as per Section 3, should be entered into only in rare and
3 unusual circumstances.
4

5 **Section 6.** Identification of intellectual property and determination of ownership developed in
6 the context of federally sponsored research shall be based upon complete and sufficient
7 disclosure. A bargaining unit member shall disclose to the VP for Research or designee
8 (currently Technology Transfer Services [TTS]) via a process developed by TTS any intellectual
9 property in which the University Administration may have partial ownership rights at the earliest
10 of:

- 11 a. a request by the VP for Research or designee; or
- 12 b. prior to any discussion or actions by a bargaining unit faculty member with third
13 parties involving transfer, commercialization, or monetization of the intellectual
14 property; or
- 15 c. prior to any non-confidential presentation or other public release of intellectual
16 property resulting from sponsor-supported projects; or
- 17 d. as required by any sponsored research contract or other agreement applicable to
18 such intellectual property; or
- 19 e. within 180 days of the intellectual property having been created, developed, or
20 reduced to practice.
21

22 **Section 7.** The President or designee may waive, in favor of a bargaining unit faculty member,
23 the University Administration's interests and rights in and to intellectual property commissioned
24 by the University Administration. This waiver may also apply to federally-sponsored research
25 products. Any such waiver must be in writing, and may be granted only if pre-existing
26 commitments to sponsoring agencies have been cleared.
27

28 **Section 8.** Faculty may request the assistance / collaboration of TTS in managing copyright,
29 patent, or any other licensing agreement concerning their intellectual property. The bargaining
30 unit faculty member may voluntarily grant to the university, in writing, the right to a non-
31 exclusive, worldwide, royalty-free license for the use of inventions, technological improvements,
32 works of authorship, and other intellectual property not owned by the university but related to a
33 bargaining unit faculty member's fields of professional competence.