

## *Chapter 4*

# **Policy on Technology and Literary and Artistic Works**

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### *Section A*

#### GENERAL

The policy governs the ownership, protection, and transfer of Technology (Inventions, Discoveries, and other Innovations) and Literary and Artistic Works created or authored by University faculty members, staff members, or students.

It is the purpose of this policy to encourage, support, and reward scientific research and scholarship, and to recognize the rights and interests of the creator, author, inventor, or innovator (“Inventor or Creator”); the public; the sponsor; and the University. 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 Literary and Artistic Works. 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 the Inventor or Creator and the University, the need for understanding and goodwill among the parties who have an interest in Technology or Literary and Artistic Works, 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.

*Section B*  
RIGHTS IN TECHNOLOGY

**Literary and Artistic Works**

All rights in scholarly books, articles and other publications, artistic, literary, film, tape, and musical works (“Literary and Artistic Works”) are granted to the faculty, staff, and students who are the authors. 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 non-scholarly Literary and Artistic Works created with the use of University funds or facilities, or that capitalize on an affiliation with the University, are granted to the University, and income distribution 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 Vanderbilt faculty members, staff members, or students with the use of University facilities or funds administered by the University are granted to the University, with income to be distributed in accordance with this policy. The terms “Inventions, Discoveries, and Other Innovations” and “Technology” include tangible or intangible inventions, in the patent sense, whether or not reduced to practice, and tangible 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.

All rights in technology created by Vanderbilt faculty members, staff members, or students without the use of University facilities or funds administered by the University, but which fall within the Inventor’s or Creator’s scope of employment, are granted to the University, with income to be distributed in accordance with this policy, subject to the following two (2) exceptions in which the University generally will assert no ownership rights or interests:

1. Technology assigned to an outside entity by a faculty member under a consulting agreement that is consistent with University and school policies, including Conflicts of Interest policies, and that was disclosed in writing to the faculty member’s Dean and Chair in advance of execution of the agreement by the faculty member.

2. Technology created pursuant to independent research or other outside activity that is consistent with University and school policies, including Conflicts

of Interest policies, and that was disclosed in writing to the faculty member's Dean and Chair at the beginning phase of this research or activity. Acknowledgment in writing is to be obtained from the faculty member's Dean and Chair.

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 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 faculty member to disclose and resolve in advance with the Dean and Chair 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 faculty member 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 or Creators have the responsibility for full and open disclosure to the Dean and Chair concerning all matters relating to the commercialization of technology in which the University has an interest. In the Medical Center, such disclosures must be copied to the appropriate officer in the Office of the Vice Chancellor for Health Affairs.

### **Works-for-Hire and Employee Inventions**

This policy does not apply to works-for-hire or employee inventions that are created as a specific requirement of University employment or as an assigned University duty. All rights in these works are owned by the University with no right or interest vesting in the Inventor or Creator.

## *Section C*

### **GOVERNANCE**

#### **Administration**

The Chancellor of the University is responsible for matters of policy relating to Technology Transfer and affecting the University's relations with Inventors or Creators, governments, private research sponsors, industry, and the public. The Office of Technology Transfer 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, the Vice Chancellor for Health Affairs, and the Office of the General Counsel.

### **Technology Review Committee**

A Technology Review Committee is appointed by the Chancellor with nominations for faculty positions being made by the Consultative Committee of the Faculty Senate. The Technology Review Committee (“committee”) 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 the Office of Technology Transfer 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. In addition, the committee approves recommended allocations between the Technology Promotion Fund and the Technology Research Fund.

The committee serves as an appellate body advisory to the Chancellor 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. In cases in which the committee is unable to resolve the disagreement between the parties, the committee will forward its recommendation for a resolution to the Chancellor for final decision.

At the beginning of each academic year, the Office of Technology Transfer submits to the committee, the Provost, and the Vice Chancellor for Health Affairs 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 and an accounting of income and disbursements of the Technology Promotion Fund and Technology Research Fund. Status reports are provided at subsequent committee meetings upon request of the committee.

### **Disclosures**

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 the Office of Technology Transfer and sent to the Provost or the Vice Chancellor for Health Affairs. These disclosures will be maintained in strict confidence.

### **Licensing**

The Inventor or Creator will cooperate with the Office of Technology Transfer in its protection of University interests in disclosed technology 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 any other applicable school or departmental policies. Normally such a request will be granted.

If the Office of Technology Transfer, in consultation with the Provost or the Vice Chancellor for Health Affairs, 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 to the Inventor consistent with any existing governmental rights. These decisions normally will be made within one year of the date of disclosure.

## *Section D*

### INCOME

#### **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 Vanderbilt University.

#### **Definition of Terms**

For purposes of this policy, "income" is defined as royalties or return received from the transfer or licensing of technology. 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. These University 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 will be designated in writing at the time the advance is made. Only net income will be allocated to the Inventors and schools. Upon request, the Office of Technology Transfer 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.

#### **SCHEDULE Net Income**

	<b>Inventor/ Author Share</b>	<b>Department/ Center Share</b>	<b>School Share</b>	<b>University Share</b>
<b>Net Revenue for Distribution</b>				
First \$100,000 (per fiscal year)	50%	20%	20%	10%
Above \$100,000 (per fiscal per year)	40%	20%	25%	15%

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

For multiple co-inventors/creators, the shares will be apportioned consistent with this schedule.

The Inventor's or Creator's share shall be paid directly to the Inventor. 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 or the Vice Chancellor for Health Affairs, the royalty split for technology may be adjusted subject to negotiations between the University and the Inventor and Creator.

### *Section E*

#### **THE VANDERBILT RESEARCH AND DEVELOPMENT CORPORATION**

The Vanderbilt Research and Development Corporation (VRDC), a not-for-

profit corporation controlled by Vanderbilt University, was chartered in December 1986 to facilitate patent management and transfer of technology arising from research conducted at Vanderbilt. Any income derived from VRDC investment will be distributed according to the provisions of the funding from the VRDC.

The VRDC serves as a vehicle to attract and solicit venture capital funds, which may be combined with Vanderbilt University funds and invested in selected projects with development potential. It is expected that these projects will be in an advanced phase of research. The VRDC does not replace any of the University's processes that play a role in the research or Technology Transfer process.

Projects involving technology that meet the above criteria should be submitted to VRDC, 102 Alumni Hall.

### *Section F*

#### PATENT AND TRADEMARK DEPOSITORY LIBRARY

Vanderbilt University is designated a Patent and Trademark Depository Library by the Patent and Trademark Office of the United States Department of Commerce. The patent collection is housed in the Sarah Shannon Stevenson Science and Engineering Library and is readily available for patent and trademark searches.

### *Section G*

#### 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.