Setting the Stage: Intellectual Property Policy Overview

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What does an IP Policy address?

- Rights created by various bodies of law:
  - Copyright
  - Patent
  - Trade secret
  - Trademark
  - License
  - Contract
  - Academic standards for authorship and citation
- Procedures for management of “intellectual property”

Whose policies? (some university-centric examples)

- Super-institutional
  - State government
  - State university system
  - Institutional-membership organizations (e.g., AAU, ARL, Educause)
  - Professional organizations
- Institutional
  - Provost, faculty senate, tech transfer office, library, etc.
- Sub-institutional
  - Academic units (e.g., Department of English)
  - Service units (e.g., Computing Center, Library Reserve Desk)
  - Individual faculty members and courses
Institutional roles: Universities act
- as users of IP
- as creators of IP
- as publishers
- as teachers of IP law and ethics
- as advocates for policy and legislation (e.g. academic freedom)

IP Policy and Faculty
- Copyright ownership
  - Scholarly and artistic production
  - Instructional materials
  - Electronic courseware
  - etc.
- Patent ownership
- Division of royalties from institutionally-owned IP
- Conflict of interest, commitment policies
- Sponsored research
- Standards for determining authorship

More IP issues
- Infrastructure supporting faculty work
  (especially relevant if ownership policy depends on "substantial use of university resources")
- Team-based multi-media production
- Use of copyrighted works
  - Central support/procedures for securing permissions
  - Institutional asset management
  - Licensed works (e.g. software)
- University archives and record management
- University press: the institution as publisher
IP Policy and Students
- Student ownership of their own work
  - Academic work
  - Student employees
  - Graduate student research (e.g., inventions)
- Rights of institution to use student work
- Guidelines for use of copyrighted works
  - Interpreting fair use
  - Computing “Acceptable Use” policies
  - Course (including electronic) reserves
- Copyright education programs

IP Policy and the Public
- Institutional trademark, branding
- Technology transfer, IP marketing
- Scholarly publishing and library/publisher relationships

Today’s primary focus
- Institutional policy
- Higher education
- Ownership of faculty-produced works, especially courseware
- Copyright
Electronic Courseware ownership checklist (cf Salomon’s checklist)

- Does institution have written IP policy?
  - Is it enforced?
  - When was it last reviewed or updated?
  - What unit wrote/approved?
  - What office(s) administer(s) policy and provides guidance to faculty on copyright and licensing?
- Faculty ownership/economic interest in courseware: is it addressed in
  - IP Policy?
  - Other policy documents?
  - Terms & conditions of faculty employment?
  - Any collective bargaining agreements with faculty?

Electronic Courseware ownership checklist (continued)

- Does your IP policy/T&C of employment:
  - Distinguish between courseware created independently, and courseware created within the scope of employment?
  - Distinguish between ownership of
    - inventions and discoveries
    - scholarly works (e.g. books and articles)
    - traditional course materials (e.g. lecture notes)
    - electronic courseware
  - Take into consideration amount of institutional resources used when determining ownership and economic interests?

Electronic Courseware ownership checklist (continued)

- Does IP policy/T&C address:
  - Faculty works created with outside sponsorship?
    (Does Sponsored Research Office review external agreements for IP issues?)
  - Courseware created by faculty for other institutions?
    (If this is allowed at all, does policy define what role faculty may later play in delivery, promotion, maintenance?)
  - Rights of faculty to continue to use institution-owned courseware after leaving the institution?
  - Rules for institution/author revenue sharing?
  - Determination of (joint) authorship?
Electronic Courseware ownership checklist (continued)

- How does your institution’s policy on courseware ownership relate to:
  - Institutional patent policy
  - Trademark (e.g., use of logo on courseware)
  - Software licensing (e.g., does institution site-license software used for development/delivery of electronic courseware?)
  - Asset management (e.g., does institution have standard procedures for securing and tracking permission to use copyrighted works?)
  - DMCA (e.g., does IP policy qualify institution for Safe Harbor protections?)
  - Institution’s mission statement, e.g. “creation of knowledge” or “academic freedom”

Resources (a few of many)

- CopyOwn, a resource for copyright ownership for the higher education community
  http://www.inform.umd.edu/CompRes/NEThics/copyown/
- IP and New Media Technologies: A Framework for Policy Development at AAU Institutions
  http://ari.cni.org/gaui/PTOC.html
- Copyright Management Center, IUPUI
  http://www.iupui.edu/~copyinfo/
- Developing an Institutional IP Policy
  http://counsel.cua.edu/mainpage/IParticlesandPolicies.htm
- Developing a Comprehensive Copyright Policy to Facilitate Online Learning (Georgia Harper)
  http://www3.utsystem.edu/ogc/IntellectualProperty/policydev.htm