



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/aauiptoc.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>
