

TRUMAN STATE UNIVERSITY

INTELLECTUAL PROPERTY POLICY STATEMENT

The vitality of the University depends on scholarly work and research and this policy is intended to encourage the creation and dissemination of knowledge generated by such activity. This Policy Statement is intended to define and protect the rights of the University, its students, faculty, staff and other employees by establishing policies governing the ownership, use and rights to income from copyrightable materials and inventions.

Pursuant to sections 10.090 and 10.100 of the Policies of the Board of Governors, the President of the University is authorized to promulgate and implement policies for the development, use and commercial or other exploitation of copyrights and patents. The following Policy Statement is established by the President of the University in compliance with these Board Policies.

DEFINITIONS

Creator. The creator of copyrightable materials or inventions may, depending on the circumstances, be a Truman faculty member, a Truman student or an employee of Truman State University.

Students include graduate assistants, associates, assistants, etc., whether compensated or not, who are working on any project under the direction and control of the University.

In rare circumstances, the creator may also be a person who is not a student and who is not employed by the University but who makes use of University facilities or one who received a gift, grant or contract funds for research through the University.

Copyright. A property right in an original work of authorship (such as a literary, musical, artistic, photographic or film work) fixed in any tangible medium of expression, giving the holder the exclusive right to reproduce, adapt, distribute, perform and display the work for a legally defined time period.

Copyrightable Materials. Any materials subject to copyright protection under State and Federal law.

Faculty. A University employee whose teaching responsibility is fifty percent (50%) or more of his or her assigned duties. Faculty may have part time teaching responsibility and part time administrative assignments.

Intellectual Property. This is a general term for intangible rights protecting commercially valuable products of the human intellect and, for the purposes of this Policy Statement, refers to copyright and patent rights.

Invention. A patentable device or process created through independent effort and characterized by an extraordinary degree of skill or ingenuity.

Patent. A government grant of an exclusive right to make, use, exploit or sell an invention for a legally defined time period.

Staff. A University employee whose teaching responsibility is less than fifty percent (50%) of his or her assigned duties.

Substantial Use. The Use of University resources is “Substantial” when the work entails the use of University resources not normally available to University employees including, but not limited to,

- a. use of University funds for a specified project;
- b. use of University released time designated for a specific project or task;
- c. use of University owned, administered or leased equipment or computer facilities beyond that customarily found and supported in Truman offices.
- d. use of copyrighted materials owned by the University as part of a new derivative work or computation;
- e. use or assistance of one or more University faculty, employees, students, programmers or equivalent support personnel who are assigned to a project specifically to assist in the creation of the work. Informal consultations, for example, will not be considered a Substantial Use of University resources.
- f. use of University owned, leased or managed specialized equipment or scientific laboratories.

OWNERSHIP OF COPYRIGHTABLE MATERIALS AND INVENTIONS

1. Unless otherwise provided in this Policy Statement, when, on his or her own initiative and without Substantial Use of University resources, a faculty member, student or University employee produces any copyrightable material or creates any invention, such materials and inventions shall remain the exclusive property of that faculty member, student or employee.

2. The University does not make any claim to ownership of copyrightable materials or inventions created by faculty, students or employees solely outside the scope of the employment or student relationship with the University.

3. Ownership of all copyrightable materials or inventions created or developed by University, faculty, students or employees as part of their regular duties with support from outside sponsors shall be governed by specific terms establishing ownership set forth in the grant or contract with the sponsor, if

applicable. If the grant or contract does not include provisions establishing ownership, the faculty member, student or employee will negotiate ownership interests with the University before the work is undertaken.

4. The University shall own the copyrightable materials and inventions created by staff and students (“creators”) arising out of and within the scope of their employment with the University. (Work for hire) This rule shall apply regardless of where the copyrightable material or invention was created and even though no specific instruction or request to create the work was made of the employee or student. Students are considered employees of the University when they are working for wages or to fulfill their student employment obligations under scholarship rules or as interns or volunteers in University offices or when they produce content for student media outlets. In regard to student media, this shall include content destined for media presentations prepared as part of practicum and course work credit. Further, this rule shall apply without regard to whether Substantial Use of University resources is involved.

Faculty members may have some combination of teaching responsibility and administrative assignments and may create copyrightable materials under either or both assignments. Under this circumstance, the copyrightable materials created as a staff assignment will be treated as a work for hire and ownership of such materials is subject to this section 4.

Copyrightable materials created out of faculty’s assigned teaching duties are subject to section 5, 6, or 7, below, as the case may be.

5. Whenever the University specifically hires or directs faculty to create copyrightable materials that make Substantial Use of University resources (e.g. creation of an online course, developing digital materials), the faculty member and the University shall jointly own the copyright to such materials.

So long as the faculty member remains employed by the University, the University may use such materials without limitation for its business purposes. At such time as the faculty member leaves his or her employment with Truman, both the University and the faculty member may continue to use the materials for a period of at least three years without further consent needed. After this three year period, it is presumed that both parties agree to this continued use unless either party affirmatively withdraws consent for such continued use, in which case such continued use will cease.

Any commercial exploitation of copyrightable materials created under this provision may only occur by agreement of the University and creator. Use of the materials for instruction in a University’s curriculum and in the ordinary course of University business is not considered commercial exploitation.

6. Faculty members are the owners of copyrightable materials that they create or prepare in the ordinary course of their employment (works for hire) so long as it is done without Substantial Use of University resources as defined above. This includes academic books, monographs, course notes, writings created for course work, syllabi and other copyrightable materials.

7. The provisions of sections 5 and 6, above, notwithstanding, when a faculty member is, for any reason, unable or refuses to perform his or her current or prospective University obligations, the University may, and at no cost to the University, make use of that faculty member's materials that are necessary to the performance of those obligations, so long as the faculty member retains faculty status at Truman.

In the event of the death of a faculty member, the University may, at no cost to the University, make use of the deceased faculty member's materials that are necessary to the performance of the completion of the decedent's teaching obligations for the remainder of the academic year in which the death occurs.

8. Students are the owners of any copyrightable materials they create in the ordinary course of their activities as a student such as materials prepared for class assignments, examinations, exhibits, competitions, University approved extracurricular activities, or on his or her own free time. The University reserves the right to use student materials as future class examples with written permission of the student and proper attribution or anonymously without attribution or permission. Students are advised that the university also has the right to submit all student work for digital plagiarism uploads and checks. Students may be considered creators of copyrightable material or inventions and, as such, may be entitled to share in revenues in the same manner and on the same terms as other creators under this Policy Statement.

PATENTS

9. When a faculty member, employee or student produces any invention while under the direction and control of the University and while making Substantial Use of University resources, the University shall be the owner of the invention, subject to the provisions below:

a. in its sole discretion, the University reserves the sole right to pursue patent protection for any invention which is subject to this Policy Statement. Unless otherwise agreed, the University will pay all costs relating to the filing, prosecution and maintenance of any patent or any patent application for an invention. The University will have full and complete control over the filing, prosecution and maintenance of any patent or patent application for the invention. The Inventor shall have reasonable opportunity to advise the University and will cooperate with the University in such filing, prosecution and maintenance of any patent or patent application.

b. If the University notifies the inventor that the University does not wish to pursue patent protection, prosecution or continued maintenance for any invention for any reason, the parties may agree that the inventor will assume all responsibilities related to the patent process and maintenance of such invention; provided that the inventor will reimburse the University for any outstanding or unreimbursed costs incurred pursuing patent protection or providing maintenance of such invention.

c. The University may, in appropriate circumstance and after consultation with the inventor, license the invention on such reasonable terms as the University determines within the University's sole discretion.

d. Net proceeds from the royalties from commercial sale, use or other exploitation of the invention shall be divided fifty percent (50%) to the University and fifty percent (50%) to the inventor(s) involved but only after the University first recovers from the gross proceeds its costs incurred in the filing, prosecution and maintenance of the patent.

e. Inventions must be disclosed to the University sufficiently in advance of any publications, presentations or other public disclosure to allow time for possible action that protects rights to the invention for the creator and for the University. Premature public disclosure of an invention may jeopardize the ability of the University to secure patent protection for the invention.

PROCEDURE

10. The Vice President for Academic Affairs is designated to act on behalf of the University to hear and decide controversies arising under this Policy Statement, including but limited to:

a. the determination of the identity of the "creator" or "inventor" of copyrightable materials or inventions under this Policy Statement;

b. the determination as to whether the "Substantial Use" provisions apply to any given situation that arises under this Policy Statement;

c. the assertion of the University's ownership interest in copyrights and patents; and

d. interpretation of this Policy Statement to determine the rights of interested parties.

10. Interested parties in any controversy may appear at a hearing before the Vice President called for the purpose of resolving disputes and may offer written and oral evidence in support of their position.

Interested parties shall receive reasonable notice of such hearing but not less than 10 days.

Interested parties may include any person who is asserting an ownership interest in copyrightable materials or an invention, University officials who may have information that sheds useful light on the controversy and other persons that the Vice President may wish to consult. All interested parties may have access to any information and evidence presented to the Vice President and may have an opportunity to augment or challenge any information or evidence presented to the Vice President.

The Vice President shall issue a written decision, which will include findings of fact and the Vice President's determination and conclusions in the matter.

APPEALS

11. Interested parties may appeal the decision of the Vice President on the grounds that the decision is not supported by substantial evidence or that the decision is contrary to this Policy Statement in some material respect.

Appeals from any decision of the Vice President for Academic Affairs under this Policy Statement may be taken to the President of the University who will consider and decide the appeal on the record. The President may seek additional evidence if the President determines the need for such additional evidence.

The President will have a reasonable time in which to review the record and accept additional evidence, if needed. The President will issue a final decision within 30 days of the submission of the record or the additional evidence, whichever occurs last.

The President's decision will be final in the matter and is not subject to further appeal.

This Policy Statement is promulgated and implemented this ____ day of _____, 2018.

Susan Thomas, President

Truman State University