



## Documents (<http://research.uga.edu/documents/>)

# Intellectual Property Policy of the University of Georgia

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## Intellectual Property and Technology Transfer

The University of Georgia Research Foundation, Inc. (</ugarf/>) is the assignee of intellectual property developed at UGA either through UGA research programs or by UGA personnel. UGARF has responsibility for protecting and marketing intellectual property and proprietary information to industry, and for negotiating and prosecuting license agreements and industry-sponsored research agreements.

## I. Preamble

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The University of Georgia, hereinafter referred to as the "University," is dedicated to teaching, research, and the extension of knowledge to the public. Faculty, staff, and students at the University, hereinafter referred to as "University Personnel," recognize as two of their major objectives the production of new knowledge and the dissemination of both old and new knowledge. Inherent in these objectives is the need to encourage the production of creative

and scholarly works and the development of new and useful materials, devices, processes, and other inventions, some of which may have potential for commercialization. Such activities contribute to the professional development of the individuals involved, enhance the reputation of the University, provide additional educational opportunities for participating students, and promote the general welfare of the public at large.

Such creative and scholarly works and inventions that have commercial potential may be protected under the laws of various countries that establish rights called “Intellectual Property,” a term that includes patents, copyrights, trade secrets, trademarks, plant variety protection, and other rights. Such Intellectual Property often comes about because of activities of University Personnel who have been aided wholly or in part through use of facilities of the University. It becomes significant, therefore, to insure the utilization of such Intellectual Property for the public good and to expedite its development and marketing. The rights and privileges, as well as the incentive, of the authors, creators, or inventors, hereinafter referred to as the “Originators,” must be preserved so that the use of their abilities and the abilities of others at the University may be further encouraged and stimulated.

In order to establish the respective rights and obligations of the University, its faculty, students, and other employees in Intellectual Property of all kinds now and hereafter existing and of all countries, regions or other political entities, the University has established the following Intellectual Property Policy.

The University shall require as a condition of employment that all University faculty and staff agree in writing to recognize and adhere to this policy. Students and others working on research projects at the University requiring University assistance or utilization of University facilities will be required to agree in writing to recognize and adhere to this policy.

## II. Rights and Equities in Intellectual Property

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### II.A. Sponsor-Supported Efforts

Sponsored project agreements often contain specific provisions with respect to ownership of Intellectual Property developed during the course of such work, in which case the terms of the sponsored project agreement shall establish ownership. When the sponsored project agreement is silent on the matter, all rights in Intellectual Property shall vest in the University.

Income, if any, from such Intellectual Property developed from Sponsor-Supported Efforts shall be shared, subject to sponsor’s requirements, in accordance with Section III.K.

### II.B. University-Assigned Efforts

Ownership of Intellectual Property developed as a result of assigned University effort shall reside with the University. Copyrightable works created by an employee in the course of his/her employment are considered to be works made for hire under the Copyright Law, with ownership vested in the employer. Notwithstanding the above, however, a faculty member's or student's general obligation to produce scholarly and creative works does not constitute a work for hire or a specific University assignment.

Work supported by University or University of Georgia Research Foundation, Inc. grants shall be considered assigned efforts rather than the general obligation to produce scholarly and creative works.

Income, if any, from such Intellectual Property developed from University-Assigned Efforts shall be shared as described below in Section III.K.

## **II.C. University-Assisted Individual Efforts**

Ownership of Intellectual Property developed by University Personnel through an effort that makes significant use of University resources shall be shared by the Originator and the University. In general the University shall not construe the provision of office space, access to library resources, or off-line office computers as constituting significant use of University resources. Significant use of University resources shall include, but not be limited to, use of research funding, use of University-paid time within the employment period, use of support staff, use of telecommunication services, and the use of facilities other than office or library resources.

Income, if any, from such Intellectual Property developed from University-Assisted Individual Efforts shall be shared as described below in Section III.H and K.

## **II.D. Individual Efforts**

Ownership of Intellectual Property developed by University Personnel shall reside with the Originator of such Intellectual Property provided that:

1. there was no significant use of University resources in the creation of such Intellectual Property; and
2. the Intellectual Property was not developed in accordance with the terms of a sponsored project agreement; and
3. the Intellectual Property was not developed by faculty, staff, or students as a specific University assignment.

It shall be the responsibility of the Originator of the Intellectual Property to demonstrate that this classification applies.

## **II.E. Consulting**

Consulting for outside organizations may be performed by University faculty pursuant to prior approval by the University and pursuant to this University policy on Intellectual Property. Any consulting agreement should include a statement that the faculty member has obligations to the University as described in this Intellectual Property Policy, and this Intellectual Property Policy should be attached to the consulting agreement. In the event that there is any conflict between the consultant's obligations to this Intellectual Property Policy and their obligations to the entity for whom they consult, the obligations to this Intellectual Property Policy shall control.

## **II.F. Research notes, data reports, and notebooks**

Copyright protection subsists in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Research notes, research data reports, research notebooks, and software created during research are included within the definitions of copyrighted materials and software. Their ownership is determined by Paragraphs II.A. through II.D. with ownership vested in the University if the research is University assigned, if University resources, as defined in paragraph II.C., are used or if so determined by the sponsored project agreement.

# **III. Administrative Procedures**

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## **III.A. Responsibility**

The administration of the principles and policies set forth in this document is the responsibility of the Vice President for Research, whose office shall do so with the utilization of a University Intellectual Property Committee. The Intellectual Property Committee shall be appointed by the President and consist of no less than three or more than nine members, one of which shall be designated by the President to serve as Chair. Additional ad hoc members may be added by the Chair at any time as considered necessary.

## **III.B. Intellectual Property Administration Organization**

The University shall utilize the University of Georgia Research Foundation, Inc., hereinafter referred to as "UGARF," as its Intellectual Property administration organization. An Intellectual Property Administration Agreement shall be established between the UGARF and the Board of Regents of the University System of Georgia on behalf of the University that shall require the assignment of Intellectual Property developed at the University, in which the University has ownership, to UGARF. UGARF shall administer the Intellectual Property.

### **III.C. Disclosure of Intellectual Property**

University Personnel shall promptly provide UGARF with a disclosure describing their creative and scholarly works and new material, devices, processes, or other inventions which they consider may have commercial potential, be it either II.A. (Sponsor-Supported Efforts), II.B. (University-Assigned Efforts), II.C. (University-Assisted Individual Efforts), or II.D. (Individual Efforts), using forms provided by UGARF. University Personnel shall also cooperate with UGARF and sign all papers deemed necessary to protect and commercialize Intellectual Property covered by this Intellectual Property Policy.

Disclosures are not required for works of authorship, such as articles for publication in scholarly or professional journals, or instructional or research material for internal use where there is no intent to commercially exploit the intellectual property, even though the ownership of the copyright may reside in the University as determined by Sections II.A., II.B., or II.C. In such cases of University ownership, the author is granted a license for the limited purpose of the particular non-commercial publication.

### **III.D. Obligations of Principal Investigators/Project Directors**

Principal Investigator/Project Directors shall be responsible for informing co-workers of their rights and obligations under contracts, grants, and the like before the initiation of research.

### **III.E. Confidentiality**

Certain contractual obligations and governmental regulations require that information be maintained in confidence. Additionally, some works, such as certain computer software, may best be protected and licensed as trade secrets, and inventions must be maintained in confidence for limited periods to avoid the loss of patent rights. Accordingly, the timing of publications is important, and University Personnel shall use their best efforts to keep the following items confidential:

1. All information or material designated confidential in a contract, grant, or the like;
2. All information or material designated or required to be maintained as confidential

- under any applicable governmental statutes or regulations; and
3. All information relating to Intellectual Property developed by University Personnel which may be protected under this Policy until application has been made for protection.

### **III.F. Collaboration**

Collaboration between University Personnel and persons not employed or associated with the University, including researchers at other universities or companies, can result in the development of Intellectual Property jointly owned by the University and other persons or their employers. Protection and commercialization of such joint Intellectual Property can be difficult without extensive cooperation and agreement among the owners. Accordingly, it is important for University Personnel involved in or contemplating collaborative activities that may result in the development of Intellectual Property to advise the UGARF of such activities.

### **III.G. Administration of Sponsor-Supported Efforts (II.A.) and University Assigned Efforts (II.B.)**

UGARF has the responsibility to evaluate Intellectual Property developed from Sponsor-Supported Efforts, and from University-Assigned Efforts, and to determine whether to administer such Intellectual Property by undertaking those efforts it determines, in its sole discretion, to be appropriate to protect and license or otherwise commercialize such Intellectual Property.

### **III.H. Administration of University-Assisted Individual Efforts (II.C.)**

Any Intellectual Property that is the result of University-Assisted Individual Efforts may be administered by the Originator or, if the Originator and UGARF agree, by UGARF. Such Intellectual Property that is administered by UGARF shall be treated as University-Assigned Efforts (II.B.) Intellectual Property and shall require the assignment of the Originator's rights in such Intellectual Property to UGARF.

Intellectual Property that is administered by the Originator under this Section III.H shall be assigned to the Originator under a simple agreement that provides for periodic reports describing the Originator's administrative activities, generation of payments or royalties, and for payment to UGARF of a portion of net revenue (as defined in Section III.K.) from the exploitation of the Intellectual Property. Such payment shall normally be 10% of the Originator's net revenue from the exploitation of the Intellectual Property; however, UGARF may recommend a higher or lower percentage if it seems evident that use of University resources warrants a larger or smaller payment provision.

### **III.I. Administration of Individual Efforts (II.D.)**

It shall be the responsibility of University Personnel who are Originators to demonstrate that Intellectual Property made, discovered, or developed while employed at the University as a result of individual effort meets the criteria set forth in II.D. Individual Efforts. In each case so demonstrated and agreed by UGARF, the Intellectual Property will be acknowledged as belonging to the Originator to dispose of as the Originator sees fit. Notwithstanding the above, the disclosure requirement defined in Section III.C. is waived for works of authorship such as scholarly publications and articles and instructional material for internal use which are readily transferred to the public by the Originator without the need for further development or business or legal input. Conditional license of ownership to the author is provided with the disclosure waiver.

Individual Effort Intellectual Property may be assigned to UGARF to be treated and administered as University-Assigned Effort (II.B.) Intellectual Property if both UGARF and the Originator agree to do so.

### **III.J. Declined Sponsor-Supported Effort (II.A.) and University-Assigned Effort (II.B.) Intellectual Property**

Whenever UGARF chooses not to administer Intellectual Property or chooses to cease administering Intellectual Property that is classified or is being administered under Sponsor-Supported Efforts (II.A.) or under University-Assigned Efforts (II.B.), such Intellectual Property, subject to any obligations to sponsor, may be assigned by UGARF to the Originator to dispose of as the Originator sees fit.

### **III.K. Revenue Sharing with Originators**

Net revenue, which is gross receipts received by the UGARF from license activity minus the out-of-pocket costs incurred by UGARF in protecting and licensing the Intellectual Property, generated from Intellectual Property administered by UGARF shall be distributed as follows:

- first \$10,000 of accumulated net revenue 100% to Originator
- over \$10,000 25% to Originator
- 10% to Originator's Research Program
- 10% to Department/Unit
- 15% to UGARF Operations
- 40% to UGARF Research Fund

The Originator's share of net revenue shall be divided equally among joint Originators of jointly developed Intellectual Property unless a written statement signed by all joint Originators that provides for a different distribution is filed with UGARF prior to the first distribution of shared net revenue.

The 10% for Originator's research applies only while the Originator is employed by, and conducting research at, the University. If this is not the case this share is returned to UGARF Research Fund.

In the event the terms of the license of the Intellectual Property provide UGARF with equity, or an option to acquire equity, in the entity which licenses the Intellectual Property, the share of such equity due to Originators as identified above in III.K will be distributed to the Originators when such equity is transferable or convertible to cash.

In the event the Intellectual Property is licensed to the Originator, the Originator shall waive the right under the University Intellectual Property Policy to receive the Originator's share of royalties identified above in Section III.K.

If the Originator owns or controls 25% or more of the entity that licenses the Intellectual Property, the Originator shall waive the right under this University Intellectual Property Policy to receive the Originator's share of royalties identified above in III.K.

In the event the Originator does not receive the Originator's share, that share shall be distributed to the other parties in the proportions detailed above in III.K.

### **III.L. Interpretation, Decision, and Appeal**

Cases where the Originator and UGARF agree as to the classification and proposed mechanism of commercialization of the Intellectual Property will be processed by UGARF in accordance with this policy. All cases in which questions arise as to equities, rights, division of royalties, or any other Intellectual Property-related matter shall be referred to the Intellectual Property Committee for consideration, interpretation of policy, and decision. Appeal of an Intellectual Property Committee decision shall be to the Vice President for Research, then to the President, and finally to the Board of Regents. Appeals within the University must be made in writing within sixty (60) days of written notice of a final decision. Appeals to the Board of Regents shall be made in accordance with Article IX of the Bylaws of the Board, which requires that all appeals be filed within twenty (20) days of the final decision of the President of the University.

## **IV. Prevailing Policy and Heirs and Assigns**

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## **IV.A. Prevailing Policy**

In the event of conflicts between the Intellectual Property Policy of the University of Georgia and the Intellectual Property Policy of the Board of Regents of the University System of Georgia, the Intellectual Property Policy of the Board of Regents shall prevail.

## **IV.B. Heirs and Assigns**

The provisions of this Policy shall inure to the benefit of and be binding upon the heirs and assigns of (a) all University Personnel and (2) all others who agree to be bound by it.

## **V. Definitions**

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### **INTELLECTUAL PROPERTY**

“Intellectual Property” shall be deemed to refer to patentable materials, copyrighted materials, trademarks, software, and trade secrets, whether or not formal protection is sought.

### **PATENTABLE MATERIALS**

“Patentable Materials” shall be deemed to refer to items other than software which reasonably appear to qualify for protection under the patent laws of the United States (see 35 U.S.C. 101 et seq.) or other protective statutes, including Novel Plant Varieties and Patentable Plants, whether or not patentable thereunder.

### **COPYRIGHTED MATERIALS**

“Copyrighted Materials” shall include the following: (1) books, journal articles, texts, glossaries, bibliographies, study guides, laboratory manuals, syllabi, tests, and proposals; (2) lectures, musical or dramatic compositions, unpublished scripts; (3) films, filmstrips, charts, transparencies, and other visual aids; (4) video and audio tapes or cassettes; (5) live video and audio broadcasts; (6) programmed instructional materials; (7) mask works; (8) research notes, research data reports, and research notebooks; and (9) other materials or works other than software which qualify for protection under the copyright laws of the United States (see 17 U.S.C. 102 et seq.) or other protective statutes whether or not registered thereunder.

### **SOFTWARE**

“Software” shall include one or more computer programs existing in any form, or any associated operational procedures, manuals or other documentation, whether or not protectable or protected by patent or copyright. The term “computer program” shall mean a set of instructions, statements, or related data that, in actual or modified form, is capable of causing a computer or computer system to perform specified functions.

### **TRADEMARKS**

“Trademarks” shall include all trademarks, service marks, trade names, seals, symbols, designs, slogans, or logotypes developed by or associated with the University System or any of its institutions. (see 17 U.S.C. 1127.)

## **TRADE SECRETS**

“Trade Secrets” means information including, but not limited to, technical or nontechnical data, a formula, a pattern, a compilation, a program, a device, a method, a technique, a drawing, a process, financial data, financial plans, product plans, or a list of actual or potential customers or suppliers which: (i) derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. (see O.C.G.A. 10-1-761.)

## **PATENTABLE PLANT**

“Patentable Plant” means an asexually reproduced distinct and new variety of plant (see 35 U.S.C. 161.)

## **MASK WORK**

“Mask Work” means a series of related images, however fixed or encoded: (i) having or representing the predetermined, three-dimensional pattern of metallic, insulating, or semiconductor material present or removed from the layers of a semiconductor chip product; and (ii) in which series the relation of the images to one another is that each image has the pattern of the surface of one form of the semiconductor chip product. (see 17 U.S.C. 901.)

## **NOVEL PLANT VARIETY**

“Novel Plant Variety” means a novel variety of sexually reproduced plant. (see 7 U.S.C. 2321 et seq.)

*Recommended by the University of Georgia Intellectual Property Committee 1/26/95*

*Approved by University Council 4/13/95*

*Approved by the University of Georgia Research Foundation Board of Directors 5/26/95*

*Approved by the Board of Regents of the University System of Georgia 11/8/95*

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## **Research Resources**

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[eResearch Portal \(/overview/researchers/eresearch-portal/\)](/overview/researchers/eresearch-portal/)

[Find Funding \(/osp/proposal-award-cycle/find-funding/\)](/osp/proposal-award-cycle/find-funding/)

[Request OVPR Funding \(/docs/forms/bhr/pdf/OVPR-Funding-Request.pdf\)](/docs/forms/bhr/pdf/OVPR-Funding-Request.pdf)

[Limited Submissions \(/osp/proposal-award-cycle/find-funding/limited-submissions/\)](/osp/proposal-award-cycle/find-funding/limited-submissions/)

[Find Expertise \(http://fred.ovpr.uga.edu\)](http://fred.ovpr.uga.edu)

[Start a Research Program \(/new-faculty/\)](/new-faculty/)

[Proposal Development Assistance \(/grantsmart/\)](#)  
[Proposal Frequently Used Information \(/osp/frequently-used-information/\)](#)  
[Account Financial Reports \(/osp/proposal-award-cycle/manage-award/#reports\)](#)  
[Coverdell Calendar & Room Request \(/coverdell-calendar-room/\)](#)  
[UGA Research Blog \(http://ugaresearch.uga.edu\)](http://ugaresearch.uga.edu)  
[Research Announcements \(http://announcements.ovpr.uga.edu\)](http://announcements.ovpr.uga.edu)  
[Centers & Institutes \(/centers-institutes/\)](#)  
[Core Facilities \(/core-facilities/\)](#)  
[Research A-Z \(/a-z/\)](#)

## Offices & Services

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[Animal Care & Use \(/oacu/\)](#)  
[Biosafety \(/biosafety/\)](#)  
[Business & Human Resources \(/bhr/\)](#)  
[CoreServe \(/coreserve/\)](#)  
[Corporate Connect \(/corporateconnect/\)](#)  
[Georgia BioBusiness Center \(/gbbc/\)](#)  
[GrantSMART \(/grantsmart/\)](#)  
[Human Subjects \(/hso/\)](#)  
[Internal Grants & Awards \(/iga/\)](#)  
[Legal Services \(/legal/\)](#)  
[Postdoctoral Affairs \(/opa/\)](#)  
[Quality Assurance \(/quality-assurance/\)](#)  
[Research Analytics & Online Administration \(/raoa/\)](#)  
[Research Communications \(/communications/\)](#)  
[Research Facilities \(/facilities/\)](#)  
[Research Information Systems \(/oris/\)](#)  
[Research Support Services \(/orss/\)](#)  
[Sponsored Programs \(/osp/\)](#)  
[Technology Transfer \(/tco/\)](#)  
[University of Georgia Research Foundation \(/ugarf/\)](#)




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The University of Georgia (<http://uga.edu>)

### Location

📍 **Coverdell** (/visit/)  
Paul D. Coverdell Center for Biomedical & Health Sciences  
500 D.W. Brooks Dr.


Athens, Georgia 30602


 **Boyd** (/visit/)

Boyd Graduate Studies Research Center  
200 D.W. Brooks Dr.  
Athens, Georgia 30602-7415


 Maps & Directions (/location/)

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 (<http://www.facebook.com/ugaresearch>)  (<http://twitter.com/UGAResearch>)   
([http://www.youtube.com/playlist?list=PL7OXXJ1J-hAk\\_3i9YpqwVUeGf4kwVlozr&feature=plcp/](http://www.youtube.com/playlist?list=PL7OXXJ1J-hAk_3i9YpqwVUeGf4kwVlozr&feature=plcp/))