



Faculty Handbook

3.3.4 Patent, Research, and Proprietary Rights Policy

1. The research objectives of Michigan Technological University are:
 - a. To encourage scholarship and to assist and improve education.
 - b. To discover and disclose new knowledge.
 - c. To promote the utilization of new discoveries for the public benefit.
 - d. To aid, encourage, and support industry, particularly within Michigan.
 - e. To support the research objectives of State and Federal agencies.

The University supports research for these stated objectives and not merely because the ideas involved may be potentially profitable.

2. The University employs personnel for their potential contribution to these stated objectives not in expectation of their production of income. However, the University's concern for bringing new developments into public use requires that it be willing to assert proprietary rights in inventions and other discoveries and developments which may result from research activities. The following elements of policy are designed to ensure that any activity on the part of the University, with respect to patents and other proprietary rights, will also support the stated research objectives:
 - a. The University will own any software or invention conceived or reduced to practice by faculty, staff, and students in the course of University employment or research, or through the use of University facilities and equipment whether made during usual working hours or otherwise.
 - b. The University will devote its share of income from patents or other proprietary rights, to the support of research, education and, more generally, activities of the University which are consistent with the University's mission.
 - c. The University will seek a patent when it is judged to be an appropriate and effective means of disseminating knowledge or of promoting the utilization of new discoveries for the public benefit.
 - d. If the University receives any royalty and/or other income from the sale or licensing of any patent or other proprietary rights, it will provide, consistent with the other provisions of this policy, a share of any royalties and/or other income received by the University for the inventor or inventors, as follows:
 1. The initial \$1,000 will be distributed to the inventor.
 2. From \$1,000 to \$30,000 will be distributed 15% to the inventor and 85% to the University.
 3. From \$30,000 to \$180,000 will be distributed equally among the University, the inventor, and the inventor's department/unit.

4. Any amounts over \$180,000 will be distributed 1/3 to the inventor, 2/3 to the University.
 5. Progression to the sharing ranges of subparagraphs d1-4 above will be on the basis of cumulative income received by the University over the life of any license agreement.
 6. The subdivision of the distribution to multiple inventors is a matter of agreement between the inventors. If the inventors cannot agree, the University will make such distribution as it, in its sole discretion, determines.
- e. In some instances, the University may incur extraordinary expenses, for example, either in further developing a concept in order that it be reduced to practice, or in enhancing the marketability for licensing by establishing a pilot plant project, or in enforcing its patents or other proprietary rights against infringers or others who have misappropriated same, or in defending same from attack by others. In those extraordinary instances, before sharing with the inventor, the University will reimburse itself for actual out-of-pocket expenses incurred (for example costs of land site, buildings, equipment, and labor in connection with a pilot plant project or legal fees and other expenses related to litigation). These extraordinary expenses will be credited against any income received by the University from the sale or licensing of any patents or other proprietary rights and generally the computation will be made for each calendar year; however, if such expenses exceed income received in any given year, any remaining balance will be carried forward to succeeding years until credited in full, but not back to prior years.
- f. The University will accept sponsored research which provides for assignment of patents to the sponsor, when this is consonant with the objectives of supporting industry.
- g. The University intends that the obligation for disclosure shall not unduly interfere with prompt publication of research results.
- h. The University recognizes the equities of the sponsor and inventor, as well as its own, in any software or invention conceived or reduced to practice through the use of funds, equipment, or facilities owned or administered by the institution. The following elements of the policy are designed to define these equities:
1. In cases in which the University or its assignee acquires patent rights, the University, giving due consideration to the University's background position in the research area, may permit the sponsor or sponsors royalty-free, non-exclusive, nontransferable right to use the invention.
 2. If the University receives any royalties and/or other income from the sale or licensing of any invention resulting from the research project, it will provide a share of any income for the inventor or inventors, on the same basis as set forth in 2d above.
- i. Subject to administrative decision, the University may relinquish its equity in any inventions or other proprietary rights to the inventor, developer, or author.
- j. The University may claim no equity in inventions developed without the use of its funds, facilities, or equipment. Whether or not the University claims equity may depend upon, among other things, the background position the University may have in the area of and related to such inventions. The following elements of the policy are designed to provide for

assistance to the inventor or inventors in such cases:

1. In cases in which the University claims no equity, the University, at its discretion, may agree to assume the cost of any patent application upon assignment to the University or its assignee and to share royalties and/or other income with the inventor or inventors as provided in 2d above.
2. Inventions in which the University claims equity hereunder will be treated the same under this policy as other inventions in which the University has an equity interest.
3. The University recognizes the right of certain employees to perform consulting services consistent with administrative policies and conflict of interest considerations. When University equipment is used for such purposes, the University has an equity in any invention which may be developed. The following element of policy is designed to provide for recognition of this equity:
 - a. The University may permit use of University equipment for approved consulting purposes with provision for assignment of inventions and/or patents to the consultee giving due consideration to any background position of the University in the area of and related to the subject matter of the consultation, such use and assignment being subject both to prior agreement by the University and to payment of a charge in addition to the normal use charge for agreeing to relinquish its equity in any inventions that result.
4. The University employs personnel and admits students who may be active in the use of computers, use and generation of software and in related endeavors, all for their potential contribution to the objectives stated in 1 above, and not in expectation of their producing income from their assigned or assumed activities. However, the University's concern for bringing new developments into public use requires that it be willing to protect any such developments relating to computers, the use of computers, software and the use of software, and the like, by way of patent, copyright, or maintaining same as a trade secret, even though maintaining same as a trade secret may conflict directly with the University's basic intent not to unduly interfere with publication. The inventor, author, or developer shall share in the proceeds of any outright sale of any software, trade secret, or other proprietary information relating to computers or software or the use thereof or, if the University licenses the use thereof in return for a royalty, such royalty shall be shared with the inventor, author, or developer; in either instance the sharing shall be in accordance with the terms of paragraph 2d hereof. If such development is produced under a sponsored contract, the provisions of paragraph 2h shall apply. If such development is produced under a consulting agreement, the provisions of paragraph 3 shall apply.
5. The following elements of the policy are designed to protect the equities of the inventor or inventors, the author or authors, the developer or developers, the sponsor or sponsors, and the University:
 - a. The University will state the terms and conditions of proprietary rights in every research contract that is negotiated.
 - b. The University may claim patent and/or proprietary rights where software or where an invention is conceived or reduced to practice with the use of University facilities or in the course of University employment, study or research.
 - c. The University will require every employee and graduate student to sign an agreement that is in accord with this patent and other proprietary rights policy.
 - d. Undergraduate students will be notified of this policy upon enrollment and shall be advised that any inventions, discoveries, or developments, particularly in the area of computers, computer use, and software, made with the use of the University's funds, facilities, or

equipment or during University employment or research shall be the property of the University; in the event the University derives income from the sale or licensing thereof, such income shall be shared with the student in accordance with 2d hereof. ([Board of Trustees Policy 14.1](http://www.admin.mtu.edu/admin/bot/policy/ch14/ch14p1.htm): (<http://www.admin.mtu.edu/admin/bot/policy/ch14/ch14p1.htm>))

Revised:

12/08/2016 - Annual Review: No changes made to content.

06/04/2015 - To reflect current University titles, "Board of Control" is now "Board of Trustees".

01/27/2015 - Annual Review: To reflect current practice, the email address for questions is now policy@mtu.edu. No changes made to content.

02/13/2014 - Annual Review: Updated Michigan Tech and Handbook banners, no changes made to content.

07/18/2011 - Annual Review: To reflect current University titles and practice, MTU is now Michigan Tech and the email address for questions is now hbwebmaster.

03/28/2011 - Revised to reflect updated Board of Control Bylaws and Policies.

Related Information

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