

**HISTORY OF THE UNIVERSITY OF TEXAS SYSTEM
INTELLECTUAL PROPERTY POLICIES AND GUIDELINES
1985 TO PRESENT**

Item No. 12	Date of BOR Meeting: 2/12/98	Section Affected/New Section Added: Adds new policy to Part Two, Chapter XII
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SUMMARY OF REVISION: Adoption of new Policy & Guidelines for Management & Marketing of Copyrighted Works.

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U. T. System: Adoption of a Policy and Guidelines for Management and Marketing of Copyrighted Works.--As copyright assets of The University of Texas System have become a more important part of the U. T. Board of Regents' intellectual property, the management of these assets requires increased attention.

The marketing and management of copyright assets are significantly different from marketing and management of other forms of intellectual property, such as patents and trademarks, and need to be addressed specifically.

In accordance therewith, the Board adopted the Policy and Guidelines for Management and Marketing of Copyrighted Works for the U. T. System as set forth below.

**POLICY AND GUIDELINES FOR MANAGEMENT AND MARKETING OF
COPYRIGHTED WORKS**

The U. T. Board of Regents (Board) finds that works protected by copyright created at the component institutions are valuable assets that promote and further the creation and dissemination of knowledge through research, teaching and publication. Careful management of these assets will benefit the authors, the citizens of Texas, state government, the component institutions, and the U. T. System.

1. Works authored by professionals, faculty, nonfaculty researchers (researchers who do not teach) and undergraduate and graduate students

If component institutions invest in copyright works that the authors will own under the U. T. System Intellectual Property Policy, they must protect their investments and, with the authors, manage author-owned copyrights to facilitate institutional access to the works and preserve rights to make nonprofit educational uses of them.

For projects that may involve significant resource contributions by the institution, component institutions and professionals, faculty, nonfaculty researchers and students will agree to allocate rights to use the resulting works, allocate costs and share benefits from commercialization, as appropriate in each case. Institutions should:

- determine what constitutes significant kinds or amounts of resource contribution;
- identify appropriate institutional uses for the work;
- develop checkpoints in the creative process that will alert authors and administrators of the need to enter an agreement to allocate rights to use works and share costs and benefits from commercialization;
- establish a default allocation of interests including a right to use the work, to obtain reimbursement of contributions and to share in profits in the absence of agreement; and
- take into account the effects of third party funding, if any.

Component institutions and professionals, faculty, nonfaculty researchers and students should explore mutually beneficial opportunities for electronic distribution of scholarly works within the university community.

Professionals, faculty, nonfaculty researchers and students should manage their copyrights to preserve the right to make nonprofit educational uses of their works.

For example, authors may request that for-profit publishers to whom the author submits articles for publication use one of the following copyright notices, or something similar, on the author's article:

Copyright [date] [Publisher]. Permission is granted for nonprofit educational uses of this [article]. All other uses require permission from the publisher.

Copyright [date] [Publisher]. Permission is granted for nonprofit educational and library duplication and distribution, including but not limited to reserves and coursepacks made by nonprofit or for-profit copyshops. This permission is in addition to rights granted under Sections 107, 108 and other provisions of the U. S. Copyright Act. To use this work electronically, please link to [URL].

If a publisher agrees to use a notice like these, university professionals, faculty, students and staff would be able to make copies of the author's article for research or classroom use without permission, even though the author may have assigned copyright to the publisher as a condition of publication.

Another example of copyright management that helps to achieve the purposes of this Policy is retention by professionals, faculty, nonfaculty researchers and students of copyright in their prepublication drafts. This allows preprint distribution within the university community and the creation by the author of derivative (new) works from prepublication drafts. The intention to retain rights should be clearly stated in an agreement with the publisher. The following clause could be added to a publisher's existing agreement:

Anything to the contrary in this agreement notwithstanding, Author shall retain copyright in each and every draft of the [manuscript] except the final draft as published by Publisher, and reserves all rights in such prepublication drafts.

Refer to the Copyright Crash Course section on Copyright Management (<http://copyright.lib.utexas.edu/cprtmgt.html>) for more information on this subject. On some occasions when a component institution hires a professional, faculty member, nonfaculty researcher or student specifically to create a work that the author would otherwise own under Subsection 2.3 of the Intellectual Property Policy (Part Two, Chapter XII, Section 2, Regents' **Rules and Regulations**), it may be unclear that this is a work for hire. If this is ever the case, the author should execute an acknowledgment that the Board will own copyright in the work to avoid later confusion over ownership.

2. Works authored by employees other than professionals, faculty, nonfaculty researchers and students and therefore owned by the Board or jointly owned by the Board and other authors

Component institutions should manage copyrights owned by the Board under the Intellectual Property Policy to further the goals and mission of the U. T. System and the Board.

In many cases, wide and free distribution will achieve institutional, U. T. System and Board goals.

Component institutions should carefully consider the consequences of commercial marketing of scholarly and educational works. Commercial publication or distribution may severely limit access to works for others in the university community or the public generally.

For certain works, use of the copyright notices above or retention of rights in prepublication drafts may be appropriate.