

CALIFORNIA STATE UNIVERSITY, CHICO  
Chico, California

September 15, 1983

EXECUTIVE MEMORANDUM

83-08

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TO: Units of the University

FROM: Robin S. Wilson  
President

SUBJECT: Policy for Patents and Copyrights

Upon recommendation by the Faculty Senate I approve the following policy for patents and copyrights. This document supersedes part B., 2. of EM 75-10 and takes precedence over any other portion of that earlier executive memorandum. Please bring the new policy to the attention of interested faculty, staff, and students. It is effective immediately.

PATENTS AND COPYRIGHTS

The university encourages its employees to present their ideas and creative works for wide dissemination. Within that intent, the university community believes that public benefit takes precedence over profit making, either by the university or by the individual scholar. Full protection of the traditional rights of employee scholarship and productivity are intended in this policy; the requirement for scholarly productivity as a requisite for retention or promotion will not be interpreted as conveying proprietary rights to the university for the products of that scholarship. For purposes of this document the term employee shall include all faculty, staff, and students employed in either part-time or full-time capacity.

University policy regarding discovery, invention, or scholarly productivity by its employees must recognize the obligations of, and opportunities for, a public university to contribute to society the results of its efforts. Such contributions that have potential for copyright or patent raise complex questions about obligation, equity of rewards, relations between sponsors and the inventor or author, and evolving federal and state legislation and policy. Therefore, it is important to the university, its employees, and the public it serves, to define policy for copyright and patents in a manner providing fair and equitable process for all parties.

This policy has the following objectives: (1) to enable and encourage free expression of ideas and dissemination of scholarship; (2) to protect the university's assets and imprimatur; (3) to establish procedures for the equitable sharing of income between the author or inventor where university or third-party sponsorship is involved; and (4) to maintain all the rights, privileges, and self-determination provided by the policies of the university.

The administration of the policy for patents and copyrights shall be as follows: (1) there is established by this policy a six-member Committee on Patent and Copyright Policy to be appointed by the Dean of the Graduate School and Director of Research from among the members of the Research Council; (2) the committee will provide information and counsel, and make recommendations for decisions on all patent and copyright matters submitted to it by employees, either voluntarily or as a requirement of this copyright and patent policy. The committee will be chaired ex-officio by the Director of Research and he will forward all committee actions to the Vice President for Academic Affairs, who will in turn submit with recommendations to the President of the University those items requiring final decision. The University President will make the final decision and advise all interested parties of the results of the decision. In those matters where action is required as a consequence of a decision to proceed with legal patent or copyright activity, the President will include a plan of procedure as part of the formal decision. The President may proceed on behalf of the university or third party sponsors where appropriate and the author and inventor; or he may recommend assignment of the recommendation will require approval by the Board of Directors of the University Foundation, and the Foundation will subsequently continue to act on behalf of the university, the author or inventor, and any involved sponsors. It is a requirement of assignment to the Foundation that any action differing from the initial conditions of assignment will require full approval of all concerned parties. Appendix (i) to this policy details the organization and responsibilities of the Committee on Patents and Copyrights Policy; Appendix (ii) describes the University Foundation organization, responsibilities, and relationships to the university.

Policy on Copyrightable Materials and  
Other Intellectual Property

The university policy on copyright is to assure that copyrightable material developed by its employees, either in conjunction with or aside from university employment, will be the property of the author except when: (1) the material is prepared by special contractual agreement with the university or as a specific special university assignment; (2) the university makes the enterprise possible through extra or special support directly for that purpose to the author; or (3) obligations to third-party sponsors are incurred as part of the enterprise. Whenever possible, the university and author will develop written agreement prior to initiation of activities that are defined under the three previous listings. Such agreement will document the employee's effort and other contribution as

well as the nature, extent, and cost of university support. Conditions for recovery of costs and distribution of income to all principals to the agreement will be defined in the agreement. In the absence of an agreement prior to the initiation of a work, and when there are significant additional costs to the university, the author is expected to reimburse the university for those costs and to negotiate an appropriate sharing of income, such reimbursement will not exceed income. The negotiation will be carried out by the author and the Director of Research; the Committee on University Patent and Copyright Policy will be consulted upon request by either party to this negotiation. All recommendations will be forwarded to the Vice President for Academic Affairs for transmission to the President for final decision on behalf of the university.

An employee's obligation to teach or conduct scholarly works, or to carry out obligations accepted in sabbatical or difference in pay leave proposals will not be interpreted as a special university assignment or contract unless specified by all parties.

The use of instructional television represents an opportunity for copyright and income based upon employee activity. When additional work is required of the employee, the university will provide the appropriate support, and in the event of income derived as the result of copyright and subsequent sale, will provide equity to the employee involved.

The terms relevant to copyright policy include the following:

1. Copyrightable Works - the types of work which may be subject to copyright include:
  - a. literary works such as books, journal articles, poems, manuals, memoranda, tests, programmed instructional material, databases, syllabi, bibliographies, glossaries, and proposals;
  - b. musical works including accompanying words;
  - c. dramatic works, lectures, and unpublished scripts;
  - d. pantomimes and choreographic works (if fixed in notation or video tape);
  - e. video and audio tapes and cassettes;
  - f. live video or audio broadcasts;
  - g. pictorial, graphic, and sculptural works, including photographs, diagrams, or sketches;
  - h. motion pictures and other audio-visual works;
  - i. sound recordings;
  - j. computer programs <sup>1</sup>

<sup>1</sup>From a strictly legal standpoint, computer programs may be copyrighted rather than patented. However, from the university standpoint they are closer to inventions and will normally be so treated. Resolution of this definition, when needed, will be negotiated by the Committee on Patent and Copyright Policy.

2. Author - an author is considered one or more individuals working singly or in consort, to produce copyrightable material.
3. Special University Support - Special university support is considered as the use of: funds administered by authority of the university regardless of source; the use of university facilities or equipment; or any defined contractual arrangement between author and the university. Normal use of university facilities in pursuit of teaching and scholarship activities is excluded from this definition.
4. Contractual Agreement - a contractual agreement is any enforceable agreement between the university and other individuals or parties.
5. University Name - The university name shall be used as follows:  
Copyright (year) California State University, Chico. All rights reserved.

In the event of assignment to the University Foundation the pursuit of copyright action the university name shall be used as follows: Copyright (year) University Foundation; California State University, Chico. All rights reserved.

No other institutional, school, or departmental name is to be used in the copyright notice when the university is a party to the action.

University income from commercial exploitation of copyrightable materials will be directed to support of faculty research and development activities, and to institutional support. The President will report annually to the Faculty Senate concerning the magnitude and use of such funds.

Employees are urged to consult with the Committee on Patent and Copyright Policy whenever there is question about the need to involve the university formally in any planned or completed authorship.

#### Policy on Patents

It is the policy of the university to encourage research and related scholarship. The conduct of such activity is deemed to be in the public interest; in the course of so doing it is assumed that discoveries of a patentable nature may be made. Whenever a development is made that is believed to be patentable the university will take action to assure that the patentability is in the best interest of the public, the inventor, the institution, and any third-party sponsors who have been involved in the process.

Employees are expected to disclose to the university all patentable discovery or invention made by them during the normal course of their professional role at the university. In the event that university support in the form of financial assistance or the use of physical facilities is

provided, the university may have equity in any income derived from such activity. In all cases, it is presumed that the university has responsibility to assure that patentable discovery made by its employees is made available to society in an expeditious manner.

The following policies will guide the process of seeking patents for developments made by university employees.

1. Whenever possible, agreements will be negotiated in advance between the university, the inventor, and any third parties involved in support of the research. Such agreement will define the conditions for proceeding with the patent process and for the distribution of any income.
2. All agreements will assure repayment to the State of California for all direct costs involved in support of the research leading to income. Such reimbursement will not exceed income.
3. In the event of third-party support involving third-party requirements for patent provision, the university will assure compliance by its employees.
4. It is the policy of the university to announce in all proposals for sponsored research the following: The university reserves the rights to patents resulting from this proposed work in accordance with its policy for patents and copyrights.

This reservation may be waived, where third-party policy requires, by approval of the Vice President for Academic Affairs.

5. In the event of a discovery deemed suitable for patent and where previous agreement has not been made, the inventor has three options:
  - a. The inventor may request permission to pursue the patent on his own initiative; such request must be made to the Director of Research, referral of the request to the Committee on Patent and Copyright Policy may be made by either party. The inventor must demonstrate that university support or third-party obligation was not significant; and the request must be approved by the President.
  - b. The inventor may enter into negotiation that will allow the university or the University Foundation, on behalf of the institution, the inventor, and any third-party supporter, to determine the patentability and potential public use and administration of any patents obtained. Such requests are submitted to the Director of Research, and may be referred by the director or the inventor to the Committee on Patent and Copyright Policy for recommendations prior to forwarding to the Vice President for Academic Affairs for transmittal to the President for final approval.

- c. The inventor may request the Director of Research to review the advisability of taking no legal action toward patent and that the findings be published as a matter of public information. If approved by the President, the invention will be considered in the public domain and there will then be a statutory bar against obtaining a patent on the invention.

The following definitions are applicable to this policy:

1. Patents - the term patent shall herein include inventions, patents, and licensing.
2. Inventor - an inventor is one or more individuals who singly or as a group produces a patentable product.
3. Contractual Agreement - a contractual agreement is any enforceable agreement between the university and other parties.
4. Special University Support - special university support is considered as the use of funds administered by authority of the university, regardless of source; the use of university physical facilities or equipment; or any defined contractual arrangement between the inventor and the university. Normal use of university facilities in pursuit of teaching and scholarship activities is excluded from this definition.
5. University Name - the university name will be used as follows:  
California State University, Chico.

In the event of assignment to the University Foundation the pursuit of patent rights on behalf of the university, the name used will be:  
University Foundation, California State University, Chico.

No other institutional, school, or departmental name is to be used in the patent process when the university is a party to the action.

6. Computer Programs - while from a strictly legal point of view computer programs may be copyrighted rather than patented, it is the policy of the university to consider them under the patent policy section. Waiver to treat them under copyright policy may be given upon request to the Committee on Patent Copyright Policy and with approval by the President.

University income from commercial exploitation of patented discoveries will be directed to support of faculty research and development activities, and institutional support. The President will report annually to the Faculty Senate concerning the magnitude and use of such funds.

Employees are urged to consult with the Committee on Patent and Copyright on all issues where there is concern about the patentability of an idea.

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