

Who Owns What?

[Basics](#) | [Sorting Through U.T. Ownership](#) | [Getting Permission](#)

[Home](#)
[Fair Use](#)
[Who Owns What?](#)

People typically need to know who owns what for two reasons:

- [UT Copyright Policy](#)
- [Regents' Rules](#)
- [Distance Learning](#)
- [Software](#)
- [Registration](#)
- [Offsite](#)

1. They are creating a work, either alone or in collaboration with others, and want to know who will own what or who will have what rights in the finished work.
2. They want to use another's work beyond the bounds of fair use and need to know whom to ask for permission.

[Creating MM](#)
[In the Digital Library](#)
[Copyright Management](#)
[Licensing Resources](#)
[Online Presentations](#)
[Ask a Lawyer](#)
[Offsite](#)

The basics of who owns what are the same regardless of which concern one has, so we will cover the basics first, then apply them to these two situations.

[If you are creating Courseware, please use our new Courseware Contracts forms to help you generate draft contracts!](#) The contracts will address who owns the Courseware, who has what rights to use it, for how long, and a host of other issues.

The Basics

- [The author is usually the owner.](#)
 - [Except when the work-for-hire rules apply:](#) The author's **employer** owns work(s)
 - created by an employee within the scope of employment, **or**
 - that fall within one or more of the nine statutory categories, where the agreement commissioning the work is documented in writing and signed by the author before work begins
 - The nine statutory categories include: contribution to a collective work; part of a movie or other audiovisual work; a translation; a supplementary work; a compilation; an instructional text; a test; answer material for a test; or an atlas.
 - If a work does not fit within the statutory definition of a work-for-hire, the employer may still own it if it is created pursuant to a contract with an assignment of copyright.
 - An author-owner is free to assign copyright to anyone, so a

written contract can change these basic rules.

- Many publishers require assignment of copyright as a condition of publication.
- [The U.T. System Intellectual Property Policy](#) also changes the ownership rules:
 - It permits faculty ownership of scholarly, artistic, literary, musical and educational materials within the author's field of expertise.
 - [If the University wants to use such a work, to recover expenses of its creation and/or share in royalties if the work is commercialized, it should establish standard University rights that apply to such works](#) or negotiate its rights in a [contract](#) with the faculty author.
- Ownership can be complicated. Some categories of works that used to be distinct and about which there were few issues of ownership may now be merged into a single work.
 - Scholarly works owned by faculty members can be implemented in software, which is usually identified as an invention and owned by the Board. The following Policies sort through these situations:
 - [Intellectual Property Policy Section 2.32](#)
 - [Administrative Software Policy](#)
 - [Administrative Distance Learning Policy](#)
- Other issues arise because of collaboration. The more cooks there are stirring the stew, the more complicated it becomes to figure out who owns what. This kind of complication arises in the following circumstances:
 - Creation of multimedia courseware
 - [Telecourses and distance learning](#)

Both of these and other similar situations usually involve:

 - Inter-institutional collaborations
 - [Student contributions](#)
 - Contract labor contributions
 - Non-faculty University employee contributions
- In order to be joint authors of a work, each person must:
 - Contribute [copyrightable expression](#) and
 - Intend at the time the work is created that all contributors will be joint owners of the whole finished work
- Finally, some issues arise because University resources are scarce and must be allocated wisely and recovered when possible. So, even if the University is not an owner of a work under the work-for-hire rules, the University may have an interest in acquiring rights or recovering its investment in a work

created with [significant amounts or kinds of University resources](#). If such a work is commercialized, the University may even wish to share in the royalties. All of these rights should be addressed in [a contract](#).

Sorting Through Ownership of Copyright Works Created on University Campuses

If you would like to use the form below to analyze who owns a copyright work, please keep in mind that it is designed for works that faculty or staff members on a University campus might create. For example, ownership of rights in a movie production would be beyond the form's capacity to respond. The law that applies is the same, but the creation of a sufficiently sensitive form would be way beyond my capabilities!

If you are just beginning to create a work, please take advantage of our [Courseware Contracts form to generate a draft contract](#).

Who is an Author?

An author is someone who contributes copyrightable expression to the work.

What is Copyrightable Expression?

Copyrightable expression is original authorship, fixed in a tangible medium of expression.

Examples of copyrightable expression, assuming they are original, could be:

Poetry; prose; computer programming; artwork; musical notation; recorded music and/or song; animations; video footage; Java applets; a Web page; architectural drawings; photographs.

Examples that do not qualify as copyrightable expression:

Mere facts; exact duplications of public domain works; ideas; systems; works created by employees of the Federal Government; titles and short phrases; logos and slogans; forms that only collect information (rather than provide information).

Enter the name of an author of the work in question:

The rest of the information you enter on this form should be for this particular author. If there are multiple contributors, clear the form after initial submission and repeat the process for each contributing author

to determine who joint owners of a work may be.

Does the Author or an Employer Own the Contribution?

1. First, we have to know who the Author works for:

- ☐ A component of the U.T. System.
- ☐ An employer unaffiliated with the U.T. System.
- ☐ No one: The author is a freelancer or the work is **clearly** not within the author's scope of employment for any employer.

2. Then, we must know if the author is a faculty member:

- ☐ The author is a faculty member.

Has the Author Contractually Changed Legal Ownership of the Contribution?

3. Finally, we must know whether the author has entered a contract that changes any of this.

A common example might be a third party sponsorship agreement related to the author's contribution that characterizes the author's work as a deliverable under the contract and transfers copyright to the sponsor.

- ☐ There is a contract that may affect the outcome of this analysis.

Submit

Reset Form

Like the Result? If Not, Change It!

Once you know who owns what, you may decide to make some changes to bring about a more desirable result. If you feel you need an [assignment of copyright](#) from someone it must be in writing and signed by the owner of the copyright. This could happen, for example, if a contributor hired someone to write computer code without a contract. Probably neither of them expected the programmer to own copyright in the code, but that's what the law would provide as the result. It is better to have the contract [at the beginning](#), but it can be fixed after the fact, if the parties are willing. Even if you only need a [license](#) (ie., *permission to use* a work rather than *assignment of all the rights* in it), it should be in writing so that the rights to use are clearly stated and documented.

Keep all your records of this exercise and any contracts you collect or

create in the process together. You will need them if you ever want to publish or commercially distribute the work. Most publishers want assurances that you own the work or have enough rights in it to give them the rights they need to publish.

Getting Permission

If you will apply this information about ownership to the problem of getting permission from a copyright owner to use a work, please see the document entitled, "[Getting Permission](#)."

[Top](#) | [Search](#) | [Mailto](#)

Comments to Georgia Harper
gharper@utsystem.edu
Last updated: August 27, 2000