

1. Title

Intellectual Property Rights and Obligations

2. Rule and Regulation

Sec. 1 Intellectual Property Owned by the Creator. Intellectual property developed or created by a U. T. System employee outside the course and scope of employment of the individual which is developed or created on his/her own time and without the support of the U. T. System or any of its institutions or use of their facilities or resources, is the exclusive property of the creator.

Sec. 2 Intellectual Property Owned by U. T. System. Intellectual property either developed within the course and scope of employment of the individual or resulting from activities performed on U. T. System time, or with support of State funds, or from using facilities or resources owned by the U. T. System or any of its institutions (other than incidental use) is owned by the Board of Regents. To effectively implement this rule and provide certainty to individuals subject to this policy, U. T. System institutions may promulgate institutional rules, regulations, or policies defining the course and scope of employment for persons or classes of persons and specifying that authorized (pursuant to existing rules and procedures) outside employment is or is not within an employee's course and scope of employment.

2.1 Determination of U. T. System's Interest. Before intellectual property subject to ownership by the Board of Regents is disclosed to any party outside the U. T. System, to the public generally, or for commercial purposes, and before publishing same, the creator shall submit a reasonably complete and detailed disclosure of such intellectual property to the president of the creator's institution for determination of the U. T. System's interest. The institution will regularly and promptly communicate with the creator during this decision-making process.

2.2 Election Not to Assert Ownership Interest. If the institution's president elects not to assert U. T. System's interest, the U. T. System Office of General Counsel and the primary creator shall be notified in writing within 20 business days after a decision is made not to assert

ownership rights that the institution will offer the released intellectual property to the creator (see [Series 90101](#), Section 8), except where prohibited by law or contractual obligations or requirements. Thereafter, he or she will be free to obtain and exploit a patent or other intellectual property protection in his or her own right and the U. T. System and its institutions shall not have any further rights, obligations, or duties with respect thereto except that, in appropriate circumstances, the institution's president may elect to impose certain limitations or obligations, including, but not limited to, a nonexclusive license for the creator, U. T. System, and any of its institutions to use the released invention for patient care, teaching, scholarly and other academically related purposes, and nonprofit research.

- 2.3 Later Release of Invention. Except where prohibited by law or contractual obligations or requirements, the institution's president may elect to release an invention to its creator at any time after asserting U. T. System's interest, with notice to the U. T. System Office of General Counsel (see [Series 90101](#), Section 8); however, such a release must include provisions for the recovery of patent and licensing expenses, if any, as well as the retention of income rights, and may include certain limitations or obligations, including those set forth in Section 2.2 above.
- 2.4 Protection and Commercialization of Intellectual Property. With respect to intellectual property in which the U. T. System or any of its institutions asserts an interest, the institution's president, or his or her designee, shall decide how, when, and where the intellectual property is to be protected and commercialized. Outside counsel services may be contracted with the prior consent of the U. T. System Vice Chancellor and General Counsel and, if required by law, the approval of the Attorney General. U. T. System shall establish an intellectual property data collection system.
- 2.5 Reimbursement of Licensing Costs and Allocation of Income. In those instances where the U. T. System or any of its institutions licenses rights in intellectual property to third parties, and other than with regard to elections under Section 2.2 above, the costs of licensing,

including, but not limited to, the costs to operate and support a technology transfer office and the costs of obtaining a patent or other protection for the property on behalf of the Board of Regents must first be recaptured from any royalties or other license payments received by the U. T. System or any of its institutions. The remainder of any such income (including but not limited to license fees, prepaid royalties, minimum royalties, running royalties, milestone payments, and sublicense payments) shall be divided as follows:

50% to creator(s)
50% to U. T. System.

With the prior approval of the Board and after review by the U. T. System Vice Chancellor and General Counsel, the Vice Chancellor for Research and Technology Transfer, and the appropriate Executive Vice Chancellor, an institution may adjust the allocation of royalties set forth herein for a creator.

Sec. 3 Intellectual Property Involving Sponsored Research. Intellectual property resulting from research supported by a grant or contract with the federal government, or an agency thereof, with a nonprofit or for-profit nongovernmental entity, or by a private gift or grant to the U. T. System or any of its institutions shall be subject to ownership by the Board of Regents.

3.1 Nonconformance with Intellectual Property Guidelines. Administrative approval of such grants and contracts containing provisions inconsistent with this policy or other policies and guidelines adopted by the Board imply a decision that the value to the U. T. System or any of its institutions of receiving the grant or performing the contract outweighs the impact of any nonconforming provisions on the intellectual property policies and guidelines of the U. T. System or any of its institutions (Reference Regents' *Rules and Regulations*, [Series 90105](#), Number 2, Section 2).

3.2 Conflicting Provisions. The intellectual property policies and guidelines of the U. T. System or any of its institutions are subject to, and thus amended and superseded by, the specific terms pertaining to intellectual property rights included in federal grants and

contracts, or grants and contracts with nonprofit and for-profit nongovernmental entities or private donors, to the extent of any conflict.

- 3.3 Cooperation with Necessary Assignments. Those persons subject to this policy whose intellectual property creations result from a grant or contract with the federal government, or any agency thereof, with a nonprofit or for-profit nongovernmental entity, or by private gift to the U. T. System or any of its institutions shall make such assignment of such creations and will execute and deliver such documents and instruments as is reasonably necessary in each case in order that the U. T. System or any of its institutions may discharge its obligation, expressed or implied, under the particular agreement.
- 3.4 Sharing of Royalty Income. In the event that two or more persons who are entitled to share royalty income pursuant to Number 2, Section 2.5 of this Series (or equity pursuant to Regents' *Rules and Regulations, Series 90103* concerning equity interests) cannot agree in writing on an appropriate sharing arrangement, that portion of the royalty income to which the creators are entitled will be distributed to them as the institution's president or, in the event that the creators are located at two or more institutions within the U. T. System, the Chancellor may deem appropriate under the circumstances and such decision shall be binding on the creators.
- 3.5 Geographical Scope of Protection. A decision by the U. T. System or any of its institutions to seek patent or other available protection for intellectual property covered by Number 2, Section 2 of this Series shall not obligate the U. T. System or any of its institutions to pursue such protection in all national jurisdictions. The U. T. System's decision relating to the geographical scope and duration of such protection shall be final.

3. Definitions

None

4. Relevant Federal and State Statutes

None

5. Relevant System Policies, Procedures, and Forms

Regents' *Rules and Regulations*, [Series 90101](#) – Rules for Intellectual Property: Purpose, Scope, Authority

Regents' *Rules and Regulations*, [Series 90103](#) – Equity Interests

Regents' *Rules and Regulations*, [Series 90104](#) – Business Participation and Reporting

Regents' *Rules and Regulations*, [Series 90105](#) – Execution of Legal Documents Related to Intellectual Property

Regents' *Rules and Regulations*, [Series 90106](#) – Income from Intellectual Property

6. Who Should Know

Administrators
Faculty
Staff
Students

7. System Administration Office(s) Responsible for Rule

Office of General Counsel

8. Dates Approved or Amended

February 8, 2007

9. Contact Information

Questions or comments regarding this rule should be directed to:

- bor@utsystem.edu