

UH Intellectual Property Policies and Procedures

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Types of Intellectual Property

- Copyright
- Patent
- Trademark
- Trade secret

Copyright Protection

- Copyright protects “original works of authorship” that are fixed in “a tangible form of expression”
- Copyright protects the expression but not the ideas or facts expressed
- Rights begin at the moment of “fixation”

Copyright Notice

- since March 1989: copyright notice is no longer required for published works
- notice is voluntary but recommended
- proper notice: © year, name

Copyrightable Works Include:

- Literary works (lecture notes, manuals, tests, web pages)
- Musical works (songs, musical plays)
- Dramatic works (dramatic readings)
- Pantomimes and choreographic works
- Pictorial, graphic, and sculptural works (paintings, photographs, cartoon characters, maps)
- Motion pictures and other audiovisual works (slides)
- Computer programs and documentation
- Architectural works (building design, blueprints)

Need Copyright Permission To:

- Make and distribute copies of the copyrighted work
- Perform the work publicly (plays, film, or music)
- Display the work publicly (art display, or material used on the internet or television)
- Make “derivative works” (modifications, adaptations, new uses of a work, or translating work to another media)

Copyright Permission Exceptions

- FAIR USE
- TEACH Act
- For preservation by libraries

FAIR USE

- Allows limited use for research, education, criticism, news reporting, and parody
- Allows limited copying of works for educational and research purposes
- Allows copies of class handouts of very short excerpts of copyrighted works
- Allows quoting for purposes of reporting the news or criticizing or commenting on a particular work of art, writing, speech or scholarship

TEACH Act

- Allows performance or displays of copyrighted material as part of systemic mediated instructional activities...as part of an accredited non-profit educational experience

Length of Copyright Protection

- Single author works – life of author plus 70 years
- Joint works- life of last surviving author plus 70 years
- Works for hire – 95 years from date of publication or 120 years from date of creation, whichever expires first

UH OWNERSHIP OF COPYRIGHTS

- UH will assert ownership of copyrights developed by faculty, staff, or graduate students for:
 1. Films, audiovisual works, slide programs, film strips
 2. Sound recordings and video recordings containing original performances
 3. Programmed instruction materials

UH Ownership of Copyrights

UH will assert ownership of copyrights developed by faculty, staff or graduate students, for:

Computer programs, software, and documentation of:

1. UH supported work
2. Extramurally supported work
3. UH commissioned work

UH Ownership of Copyrights

UH will not assert ownership of copyrights developed by faculty, staff, or graduate students for:

1. Books, journal articles, texts, study guides, lab manuals, tests
2. Lectures and unpublished lecture notes
3. Musical works
4. Dramatic works
5. Works of visual art
6. Architectural works
7. Undergraduate student copyrights that are created in the course of their education (“**for credit**”)

How To Obtain Copyright Protection

- Submit completed and signed UH Intellectual Property Disclosure Form to OIPM (forms are on DOR website)
- Intellectual Property Committee reviews and makes decision to:
 - 1) pursue commercialization
 - 2) transfer rights to research sponsor (if required by sponsor agreement)
 - 3) waive ownership to creator (UH retains 10% interest in future revenues)

Income Distribution of Commercialized Copyrights

- Creator – 40% Net Income
- UH - 40% Net Income
- Creators Department – 13% Net Income
- Creators College – 7% Net Income

Intellectual Property Disclosure Form

- Title/Abstract/Detailed description
- Novelty/improvement over existing technology
- Inventors/collaborators
- Date of Conception
- Funding received
- Public disclosures (past & future)
- Technology related or similar to invention

Patents

A patent is an intellectual property right granted by the U.S. Government to an inventor “to exclude others from making, using, offering for sale, or selling the invention throughout the United States or importing the invention into the United States” for a limited time in exchange for public disclosure of the invention when the patent is granted.

TYPES OF PATENTS

- **UTILITY:** any new and useful process, machine, article of manufacture, or composition of matter, or any new and useful improvement.
- **DESIGN:** a new, original, and ornamental design for an article of manufacture protects the appearance of the product.
- **PLANT:** any asexually reproduced distinct and new variety of plant.

Patentability Requirements

- Useful – the invention must have a function.
- Novelty – the invention must be new and not previously patented or disclosed (published or publicly known) anywhere in the world.
- Nonobviousness –the invention must produce unexpected or surprising results to one skilled in the art. Published or publicly known information must not teach or suggest to make the invention.

Computer-Related Patentability Requirements

- Computer-related products such as software, data structures, and collections of data are evaluated for a practical application.
- Computer-related products must produce a useful, concrete and tangible result.
- Computer-related products must be “Functional Descriptive Material.”

Functional Descriptive Material

- Includes data structures and computer programs which impart functionality when used as a computer component.
- The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions."

Patentable Computer Related Matter

- Functional Descriptive material in combination with an appropriate computer readable medium must be capable of producing a useful, concrete and tangible result when used in a computer system.

Length of Patent Protection

- Utility and Plants: 20 years from the earliest filing date
- Design: 14 years from the date of issue

UH Ownership of Patents

- UH owns any inventions by faculty or staff utilizing UH resources that is discovered while performing employment responsibilities.
- UH owns any inventions by graduate students conceived or first reduced to practice in graduate research or graduate thesis preparation credit courses.
- UH does not own inventions by undergraduate students that is created in the course of their education (“**for credit**”).

Trademarks

- Word



- Symbol



- Slogan JUST DO IT.

- Product or packaging design



that identifies a specific product and distinguishes it from others in the marketplace.

UNIVERSITY of **HOUSTON**

Other Trademarks

- Color Marks: brown for delivery vehicles (UPS)
- Configuration Marks: shape of USPS mailbox
- Sensory Marks: NBC chimes, MGM lion roar, duck quacking AFLAC



3 Levels of Trademark Protection

- Common Law (™): No registration or fees. Rights result from use of the mark with the product
- State Registration (™): Registration and small fee (varies by state). Protection varies by state, protection only within the state.
- Federal Registration (®): More expensive fees. Must use or have a genuine intent-to-use the mark in interstate commerce.

Trademark Availability

A trademark is not available if:

- The mark or a confusingly similar mark is already federally registered or is the subject of a pending federal registration
- The mark or a confusingly similar mark is already being used in the same market in connection with similar goods or services.

UH TRADEMARKS

- UH owns any and all trademarks relating to the University of Houston
- Contact OIPM regarding trademark protection

Trade Secret

- A formula, practice, process, design, instrument, pattern, or compilation of information which is not generally known or reasonably ascertainable, by which a business can obtain an economic advantage over competitors or customers.
- Advantages: property of its owner as long as it remains secret and can be used on a global basis.
- Disadvantages: once the secret is public, the owner cannot prevent others from making, selling, or using the invention. Very costly to keep the information secret.



Questions?

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