

Concordia University Wisconsin Intellectual Property Rights

1. Preamble

It is proposed that contracts, policies, and guidelines which bear on creation, ownership, storage, and use of intellectual properties of courses:

- a. Foster the creation of the best possible courses;
- b. Foster dissemination of new knowledge in maintaining high academic standards;
- c. Provide incentives for various constituencies of Concordia University Wisconsin (CUW) to participate fully in the use and creation of courses;
- d. Recognize that the creation and dissemination of courses come in a wide variety of contexts (i.e. traditional on campus, Adult Ed, CueNet, BadgerNet, Distance Learning, Web-based, etc.);
- e. Support the concept that ownership of the intellectual property rights in courses is not necessarily an 'all-or-nothing' proposition; rather, rights that belong to owners of intellectual properties may be allocated to support mutual interests of CUW and its various constituencies;
- f. Foster within the CUW community collective and individual ability to access, acquire, and store information and works, to help scholars and students in the proper use and citation of works of others, and to maintain coordination and contact with publishers, software vendors, and other information providers;
- g. Allow for appropriate adaptation of contracts, policies, and guidelines to address challenges and opportunities presented as technologies and cultures continue to evolve; and
- h. Operate under a policy framework in which negotiations for contracts proceed in good faith.

2. Definitions and Distinctions

To implement effective and fair intellectual property rights policy for Courses, these distinctions and definitions are proposed:

a. "Faculty" and "Work-for-Hire"

- (i) "Faculty"** shall refer to a person currently in the employ of CUW, and/or who was, at the time of creation of an intellectual property, so employed. This may be/have been a full-time faculty member or adjunct (part-time) faculty or other staff member, including part-time student staff. Provisions of this policy shall govern relationships (e.g. control of intellectual property, sharing of income resulting from use of intellectual property) with an individual after he/she ceases to be an employee of CUW.
- (ii) "Work-For-Hire"** shall refer to a contractual agreement that CUW initiates and enters into with an individual (may or may not be current faculty member) to complete a specific task (i.e. develop a course module, syllabi, or other course materials). The contract for such work shall state that this work will become the property of CUW (i.e. as is currently done in the Distance Learning Program).

b. "Customary" and "Extraordinary" Support

- (i) "Customary"** conditions apply, but are not necessarily limited to, situations in which a faculty member (full time or adjunct) is provided with normal support, such as standard office and laboratory space, library facilities, ordinary access to computers and networks, and done in performance of a standard employment contract.
- (ii) "Extraordinary"** conditions apply, but are not necessarily limited to, situations in which a faculty member initiates a request for substantial use of specialized or unique staff, facilities, equipment or other special compensation to be provided by CUW to support the faculty member in creating specific materials (e.g. software, video, multimedia materials, music, etc.). Under "Extraordinary" conditions, an employee enters into a specific contract with CUW that details ownership of the work following established guidelines for such agreements.

c. "Intellectual Content" and "Commercialization."

- (i) "Intellectual Content"** refers to material

contained within a course; namely, syllabi, lecture notes, bibliographies, readings, examinations, and other elements created by employees.

- (ii) "Patents" refers to development of a specific invention (e.g. equipment, etc.).
- (ii) "Commercialization" covers activities such as marketing, distribution, dissemination, licensing, and institutional management, among other services provided by CUW or other entities.

d. "Development" and "Teaching." With respect to courses, faculty engage in two distinct activities:

- (i) "Development" refers to creation of a new program or course, which may include syllabi, lecture notes, bibliographies, readings, examinations, and other elements in advance of instruction. The individual (or individuals jointly) engaged in these activities is called "Developer."
- (ii) "Teaching" refers to the activity in which faculty instructs students. The individual (or individuals jointly) engaged in this activity is called the "Teacher" or "Instructor."
- (iii) It is recommended that faculty be compensated separately for Development and Teaching.

e. "Copyright/Patent Ownership" and "Transfer of Copyright."

- (i) Under "Customary" support the copyright/patent ownership of course materials (both normal and supplemental) remains with the developer.
- (ii) Under Extraordinary conditions, the determination of "Copyright Ownership" and "Transfers of Copyright" for commercialization, if necessary, is outlined in the contract established between the Developer and CUW.

3. Concepts

a. Faculty Oversight.

In order to assure high quality courses, standard faculty processes are to be applied to review and approve new (or sufficiently different) courses.

b. Portability. Agreements may contain these elements:

- (i) Faculty members are free to use their course materials, developed under customary conditions, at other institutions without CUW's approval.
- (ii) Course materials developed under a "Work-For-Hire" contract are owned by CUW and may not be used elsewhere by the developer.
- (iii) Whether items developed at CUW under Extraordinary conditions may be used by the developer at other institutions will be determined by the contract entered into by the developer and CUW.
- (iv) Negotiated licensing fees may apply to any other institution when a former faculty member teaches courses developed at CUW under Extraordinary conditions.

4. Contractual Agreements

Under the guidance of legal counsel, CUW administration and the Faculty Senate will establish recommendations for contractual agreement between the faculty and CUW bearing on development, teaching, and dissemination of courses.

Developed by the Ad Hoc CUW Intellectual Property Committee 9/27/2001; adapted with permission from policy developed for Stevens Institute of Technology by Robert Ubell and Stevens Tech Ad Hoc Intellectual Property Rights Committee 10/99.

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