

# Purdue Policy VIII.4.1: Copyright

- **Principle of University Ownership.**
  - The University permits authors to retain the copyright to Instructional Copyrightable Works and Scholarly Copyrightable Works. Excepting only Instructional Copyrightable Works and Scholarly Copyrightable Works, the University shall own the copyright to each Copyrightable Work conceived in whole or in part during the course of any employment, research, or scholarship activity involving or relating to the use of University Resources.

# Instructional Copyrightable Work

- means a Copyrightable Work that
  - a) is authored by an identifiable University faculty member or instructor primarily for the instruction of students,
  - b) is not specifically commissioned by the University, and
  - c) is not a recording of a teaching performance made to or for University students.

# Scholarly Copyrightable Work

- means a Copyrightable Work created by any person subject to this policy primarily to express and preserve scholarship as evidence of academic advancement or academic accomplishment. Such works may include, but are not limited to, scholarly publications, journal articles, research bulletins, monographs, books, plays, poems, musical compositions and other works of artistic imagination, and works of students created in the course of their education, such as exams, projects, theses or dissertations, papers and articles.

## License to University for Instructional or Scholarly Copyrightable Works

- Each Instructional or Scholarly Copyrightable Work shall, by operation of this policy, be subject to a perpetual nonexclusive, royalty-free license from the author to the University to use, duplicate, and internally distribute the Instructional or Scholarly Copyrightable Work for any pedagogical, research, or educational purpose of the University, subject to attribution of original authorship and to internal academic procedures and requirements of the department and school of origin of the Instructional or Scholarly Copyrightable Work. The foregoing license shall be broadly construed to enable the University's efforts to preserve research integrity and prevent fabrication, falsification, and plagiarism.

# Patent

- “...a grant by a national sovereign government to an applicant for a specific and limited period of time during which the grantee has a legal right to exclude others from making, using, or selling his or her claimed invention in exchange for the grantee’s providing a full disclosure as to how the invention may be made, may be used, or functions.” [Thomas D. Mays, in Macrina, *Scientific Integrity, Third Edition*, Chap. 9]
- This exchange of limited monopoly for an enabling disclosure viewed as one of the most powerful forces for advancing the technological basis of a nation’s economy.

# What can be “patented”?

- “Inventions”
  - processes
  - machines
  - products
  - composition of matter
  - new and distinctive variety of a plant that is asexually reproduced
  - designs

# Patents must be granted

- Patent application to USPTO or foreign patent offices

# Criteria for patentability

- Useful
- Novel
- Non-obvious to one skilled in the art
- Reduced to practice

# Duration of patent protection

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- 20 years from the filing date
- 14 years for design patents

# Filing date

- In US, within 1 year of first public, enabling disclosure
- Outside US, generally patent application must be first public, enabling disclosure
- There are additional differences between US and foreign patent laws.

# Who owns a patent?

- Inventor(s) is(are) original owners of a patent
  - “inventor” has a precise legal definition).
- Commonly, employers require, as a condition of employment, that employee assign rights to certain inventions to the company (those made in the course of employment and/or through use of employer’s resources or facilities).

# Purdue Policy VIII.4.1: Inventions

- **Principle of University Ownership.**
  - The University shall own each Invention conceived in whole or in part during the course of any employment, research, or scholarship activity involving or relating to the use of University Resources.

# Inventions from Federally Funded Research

- Prior to 1980: U.S. Government claimed title to inventions from federally funded research
- Bayh-Dole Act of 1980
  - recipient of federal grants and contracts may claim title to inventions created with the use of federal funds
  - obligations (reporting, due diligence, acknowledgment of federal support, sharing royalties with inventors, use of revenue for research or instruction)

# Technology Transfer

- University technology-very early stage of development, not immediately useful
  - Requires significant additional \$\$ for R&D
- Most University inventions not protected by patent
  - Placed in public domain by publishing in open literature
- To provide incentive for investment in technology with commercial potential
  - file patent application to establish priority
  - license patent exclusively/non-exclusively to developer

# Who benefits from Technology Transfer?

- Licensee
  - Sales
- Inventor
  - Technology is used
  - Share in royalties
- University
  - Royalties support further research and education
- Public
  - Access to technology developed with tax \$\$