

# UNLV Intellectual Property Policy

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### Section 1. Preamble

1. The Nevada System of Higher Education (NSHE) and its member institutions which include the University of Nevada, Las Vegas (UNLV) are dedicated to teaching, research, and public service. The personnel at UNLV recognize as two of their major objectives the creation of new knowledge and the dissemination of both old and new knowledge. A byproduct of these objectives is the development of new and useful products and processes and the publication of scholarly works. Such activities: (1) contribute to the professional development of the individuals involved, (2) enhance the reputation of the institutions concerned, (3) provide additional educational opportunities for participating students and (4) promote the general welfare of the public at large.

2. Inventions and Copyrighted Works that are conceived, created and produced by UNLV personnel, students and others are often aided in whole or in part by the use of Significant University Resources. The intent of this policy is to: (1) define the rights, privileges and incentives of inventors and authors; (2) to ensure that these inventors and authors are further encouraged and supported in their creative activities; and (3) to facilitate the commercialization and utilization of UNLV inventions and creative works for the public good.

3. The foregoing considered, the President of the University of Nevada, Las Vegas and the Board of Regents of the NSHE have established the following policy concerning Inventions, Copyrighted Works and other types of Intellectual Property that result from the use of Significant University Resources.

### Section 2. Definitions

1. "Inventions" are defined as all new and useful processes (including computer programs), machines, manufactured products, compositions of matter, any new and useful improvements thereof, and any new uses for these products or processes that were not obvious to one skilled in the art at the time of invention.

2. "Inventors" are defined as those persons who have contributed conceptually to at least one claim in an issued patent. A person who just reduces an Invention to practice or suggests an idea of a result to be accomplished, rather than the means of accomplishing it, is not an Inventor or co-Inventor.

3. "Copyrighted Works" are defined as original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Copyrighted works include: literary works (which include everything not specifically listed in the remaining categories, such as course materials and software); musical works (including any accompanying words); dramatic works (including any accompanying music); pantomimes and choreographic works; pictorial, graphic and sculptural works; motion pictures and other audiovisual works; sound recordings; and architectural works.

4. "Intellectual Property" is a category of intangible property which includes: Inventions and issued patents; Copyrighted Works and registered copyrights; trademarks; trade secrets; know-how; mask works; and tangible research property.

5. "Net Income" is defined as the income received by UNLV from a NSHE owned Invention, Copyrighted Work, or other form of Intellectual Property, minus a fifteen percent (15%) management fee; any applicable facility and administrative costs; and all third party payments or obligations directly attributable to patenting, copyrighting, trade marking, marketing, and transferring Intellectual Property.

6. "Personnel" refers to all UNLV employees.

7. "Work for Hire" is defined as a work product prepared by an employee of UNLV within the scope of his or her employment or a work specially ordered or commissioned under terms that have been expressly agreed upon in a written instrument that states that the work shall be considered a work made for hire.

8. "Significant University Resources" is defined as the use of UNLV or NSHE facilities, materials, equipment, Personnel, or funds or other resources that are under the control of or administered by UNLV, which are not excluded in Section 3, below.

### **Section 3. Ownership of Intellectual Property**

1. Except as excluded in paragraphs 2 and 3 below, Intellectual Property that is not donated to the public and that is conceived or created by UNLV Personnel as a Work for Hire or that results from their or anyone's use of Significant University Resources, will be owned exclusively by the NSHE on behalf of UNLV in accordance with the provisions of this policy, unless expressly agreed upon in a prior written agreement between the NSHE and a third party entity.

2. In determining ownership of Intellectual Property, UNLV and the NSHE do not construe the normal use of office or library facilities or desktop personal computers for word processing, desktop publishing, electronic filing, or network communications as constituting the use of Significant University Resources.

3. Copyrighted Works authored in whole or in part by UNLV Personnel are the personal property of the authors, unless: (1) the work is commissioned by UNLV as a Work for Hire under a signed written agreement; (2) the work is created under an agreement between the NSHE on behalf of UNLV and a third party that assigns copyright ownership to either the NSHE or the third party, or (3) the work is software created using Significant University Resources and the NSHE files for patent protection or copyright registration on behalf of UNLV.

### **Section 4. Inventions**

1. Any Invention that has been conceived or reduced to practice by UNLV Personnel or through the use of Significant University Resources must be disclosed to the Technology Transfer Office, unless no third party entity has rights to such Invention and the Inventors have donated it to the public.

2. Ownership of Inventions shall be determined as follows:

a. Except when donated to the public or as otherwise specified in a written agreement between the NSHE on behalf of UNLV and a third party entity, Inventions shall belong to the NSHE if: (1) the Invention is conceived or reduced to practice by UNLV/NSHE Personnel and the Invention is directly related to the field of expertise for which the UNLV/NSHE employee was hired, or (2) through use, by any person, of Significant University Resources such as facilities, materials, equipment, Personnel, or funds, or other resources that are under the control of or administered by UNLV. Inventors who are not UNLV/NSHE employees, have not used Significant University Resources, and are not under obligation to assign their ownership rights to the NSHE shall retain ownership of their Inventions. Co-Inventors own an undivided interest in the Invention unless ownership is either assigned or is contractually obligated to be assigned to a third party.

b. Inventors may acquire ownership in Inventions which are: (1) not within the field of expertise for which the UNLV employee was hired and (2) do not involve the use of Significant University Resources.

c. In the event that there is a question about the ownership of an Invention, the Invention must be disclosed to the Technology Transfer Office at UNLV. Such disclosure is without prejudice to the Inventor's ownership claim and shall be kept confidential. In determining ownership interests in an Invention, the Director of the Technology Transfer Office may determine that the NSHE has no property interest in the Invention because its conception or reduction to practice was unrelated to the Inventor's area of expertise at UNLV, did not involve the use of Significant University Resources, or for such other reasons as may be set forth in writing and approved by the Vice President for Research and Graduate Studies at UNLV.

d. Sponsor-Supported Efforts, Prior to signing any agreement with a third party sponsor where the use of Significant University Resources is involved or that may involve patent or Intellectual Property rights, UNLV Personnel must bring the proposed agreement to the attention of the University by filing a potential Conflict of Interest disclosure according to the University Conflict of Interest Policy. All research and consulting agreements with private sponsors

shall contain Intellectual Property terms that are consistent with this Policy. The sponsor may receive an option to license any resulting Intellectual Property or may under limited circumstances obtain an option for an assignment of Intellectual Property, on terms to be negotiated by the Technology Transfer Office at UNLV. Where ownership rights are vested in the NSHE, the Inventor or author shall share in any Net Income received by UNLV under the terms of this Policy.

## **Section 5. Copyrighted Works**

1. The Board of Regents acknowledges that faculty, staff and students who are employees of UNLV regularly prepare for publication, usually through individual effort and initiative, articles, pamphlets, books and other scholarly works which are subject to copyright and which may generate income. Publication may also result from work supported partially or completely by the institution or other public or private sector entities.

2. Copyright establishes ownership and control of original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. In contrast to a patent which protects novel and useful products and processes which at the time of conception were not obvious over those present in the prior art, copyright covers the "artistic expression" in particular (1) literary works (which includes books, periodicals, manuscripts, advertising copy, computer programs, databases, and basically anything that does not fall under the following categories and that can be expressed in words, numbers, or other verbal or numerical symbols); (2) musical works (including any accompanying words); (3) dramatic works (including any accompanying music); (4) pantomimes and choreographic works; (5) pictorial, graphic and sculptural works; (6) motion pictures and other audiovisual works; (7) sound recordings; and (8) architectural works. Copyright protection does not extend to any idea, concept, process, procedure, method of operation, or principle, regardless of the form in which it is described, explained, illustrated, or embodied. In contrast to patent protection, copyright is established automatically as soon as the work is fixed in any tangible medium of expression, but certain additional rights attach when the Copyrighted Work is registered with the United States Copyright Office at the National Library of Congress.

3. It is the policy of UNLV and the NSHE that ownership of all Copyrighted Works shall remain with the author/creator unless: (1) the work is commissioned by UNLV as a Work for Hire under a signed written agreement; (2) the work is created under an agreement between the NSHE on behalf of UNLV and a third party that assigns copyright ownership to either the NSHE or the third party, or (3) the work is computer software that was created using Significant University Resources and the NSHE files for patent protection or copyright registration on behalf of UNLV.

4. Under the copyright laws of the United States, commissioned works of non-employees are owned by the author/creator and not by the commissioning party, unless there is a written agreement to the contrary. Therefore, UNLV or NSHE commissioned contractors must enter into written agreements with the NSHE that specify ownership to Copyrighted materials.

5. Any recording, broadcasting or distribution of classroom, laboratory or other instruction must be approved in advance by the copyright holder. Unless such activity has been conducted under an executed agreement between the NSHE and the parties involved, such activities shall not be considered to involve the university and shall not be covered by sovereign immunity. All use of Significant University Resources by persons who are not NSHE employees must be undertaken under an executed agreement between the NSHE and the parties involved.

6. In all events, UNLV shall have the right to perform its obligations with respect to Copyrighted Works, and other types of Intellectual Property under any contract, grant or other arrangement which third parties, including sponsored research agreements, license agreements and the like.

7. Except as provided in Section 3, or agreed upon by the President of UNLV, Significant University Resources are to be used solely for UNLV purposes and not for personal gain, personal commercial advantage, or for any other non-UNLV purposes.

## **Section 6. Administration**

1. The administration of Inventions, Copyrighted Works and other types of Intellectual Property at UNLV:

a. The Technology Transfer Office (TTO), associated with the UNLV Research Foundation, shall be responsible for administering all Inventions, Copyrighted Works and other types of Intellectual Property owned by the NSHE on behalf of UNLV. In addition, an Intellectual Property Committee composed of the Vice President for Research and Graduate Studies (or designate), the Vice President for Finance (or designate), a faculty member appointed by the UNLV Faculty Senate, and the Director of the Technology Transfer Office shall make recommendations to the President of UNLV regarding procedures, guidelines, and responsibilities for the administration and commercialization of Intellectual Property owned by the NSHE on behalf of UNLV, and such other matters as the President shall determine. The TTO shall report annually to the UNLV Faculty Senate, the President of UNLV and to the Chancellor of the NSHE: the number of Invention disclosures; the number of patent applications filed; the number of patents issued; the number of copyrights registered; the number and a short description of the technologies transferred to private sector entities; and the amount of income generated from such technologies.

b. It will be the responsibility of the Director of the TTO to determine ownership of Intellectual Property, to negotiate the terms of all technology transfer agreements, material transfer agreements and confidentiality agreements and to resolve disputes among co-Inventors and co-authors/co-creators.

c. Any disagreement between the Inventor(s) or author(s)/creator(s) and the Director of the TTO concerning ownership of Intellectual Property may be appealed to the Vice President for Research and Graduate Studies at UNLV. If the issue is not resolved at this level, a final appeal may be made to the Provost and the President of UNLV.

d. The income received by UNLV from the transfer of Intellectual Property to third parties that is subject to this policy shall be shared with the Inventor(s) or the author(s)/creator(s) as stated in Section 7 below, it should be understood that if there is a plurality of Inventors or authors/creators, the portion accruing to the Inventors or authors/creators will be distributed on an equal share basis unless otherwise specifically agreed to in writing by all of the Inventors or authors/creators. The Inventor(s) or author(s)/creator(s) at or before the time of filing a patent application or copyright registration must agree to sign any required declarations or assignments and assist the TTO in perfecting title in the name of the NSHE.

e. In the implementation of UNLV's policies and procedures with respect to the patenting or trademarking of NSHE owned Intellectual Property, the Director of the TTO may elect any of the following courses;

(1) retain outside counsel, upon the Chancellor's approval, to draft, file, and prosecute patent or trademark applications;

(2) draft, file, and prosecute patent or trademark applications from within the TTO; or

(3) release and transfer title or UNLV's rights in an Invention to the Inventor within a prescribed period of time.

f. In the implementation of UNLV's policies and procedures with respect to copyright registration of NSHE owned Copyrighted Works, the Director of the TTO may elect any of the following courses:

(1) retain outside counsel, upon the Chancellor's approval, to file for copyright registration;

(2) file for registration from within the TTO; or

(3) release and transfer title or UNLV's rights in a Copyrighted Work to the author(s)/creator(s).

g. In the implementation of UNLV's policies and procedures with respect to the licensing of NSHE owned Intellectual Property, the Director of the TTO may elect any of the following courses:

(1) develop and manage a licensing program through an independent patent assistance organization;

(2) develop and manage a licensing program through an affiliated nonprofit corporation;

(3) develop and manage a licensing program within the TTO; or

(4) release an invention to which the NSHE has title or an interest to the Inventor for management and development as a private venture after the execution of an agreement providing for the division of income and for managing any potential conflicts of time, interest and commitment.

h. In the implementation of UNLV's policies and procedures with regard to distance education courses, UNLV requires compliance with all federal copyright laws, including the provisions of the TEACH Act, 17U.S.C. Sec 110(2). In accordance with the TEACH Act, UNLV requires, among other things: (1) limitations on the use of copyrighted materials; (2) limiting access to course materials to enrolled students; (3) use of copyrighted material only as part of instructional activities; (4) providing informational materials to students, faculty and staff regarding copyright laws; (5) providing notice to students that course materials are subject to copyright laws; (6) limitations on digitizing analog works; (7) limiting retention of copies of course materials; (8) preventing unauthorized transmission of digital materials; and (9) non-interference with technological measures taken by copyright owners to prevent retention and distribution.

### **Section 7. Distribution of Income**

1. The Inventor(s) or the author(s)/creator(s) of Intellectual Property that is owned by the NSHE shall share sixty percent (60%) of the Net Income from the transfer of the Intellectual Property to private sector parties.
2. The Inventors' or the authors/creators' academic unit(s) shall share twenty-five percent (25%) of the Net Income.
3. The Office of the vice President for Research and Graduate Studies shall received fifteen percent (15%) of the Net Income to: (1) pay for unrecovered patent and technology transfer costs incurred by the TTO, and (2) stimulate research and scholarly activities at UNLV.

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