

Key Terms

Intellectual Property – Intellectual property refers to creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce. Some Intellectual Property is eligible for registration such as patents, copyrights or trademarks. Throughout this policy the term Intellectual Property shall include Tangible Research Property, as defined below, whether or not the Tangible Research Property is eligible for patent, trademark or copyright protection.

Author/Creator – This refers to the Gettysburg employee that has authored or created a work that constitutes Intellectual Property and that is subject to this policy.

Patent – A utility patent is a property right granted by the government to an inventor for a new, non-obvious and useful process, machine, manufacture or composition of matter, or any useful improvement of one of the foregoing. A design patent is a property right granted by the government to an inventor for an ornamental design. Throughout this policy inventions subject to either utility or design patent protection are referred to as “Inventions.”

Copyright – In contrast to a patent, which protects an idea and its implementation, copyright protects the expression of an idea, not the idea itself. Copyright is a form of protection provided under federal law for "original works of authorship", including literary (which includes software code), dramatic, musical, architectural, cartographic, choreographic, pantomimic, pictorial, graphic, sculptural, and audiovisual creations. Copyright protection does not extend to any idea, procedure, process, system, title, principle, or discovery. Similarly, names, titles, short phrases, slogans, familiar symbols, mere variations of typographic ornamentation, lettering, coloring, and listings of contents or ingredients are not subject to copyright. Copyright covers the expression of works that are fixed in a tangible medium (e.g. written or recorded).

Tangible Research Property - Tangible research property (TRP) includes items produced in the course of research projects sponsored by Gettysburg or by external sponsors. TRP includes such items as biological materials, engineering drawings, clinical data, computer software, integrated circuit chips, computer databases, prototype devices, circuit diagrams and equipment.

Ownership of Intellectual Property

Unless subject to a specific agreement between the Author/Creator of the relevant Intellectual Property and Gettysburg, and to the extent that the Intellectual Property can be owned by the Author/Creator then, as between the Author/Creator and Gettysburg, the Author/Creator shall own all right title and interest to the Intellectual Property. Absent any obligation imposed by an agreement between the Author/Creator and Gettysburg, Gettysburg shall have no obligation to assist the Author/Creator with protecting or commercializing any Intellectual Property or avoiding any loss of Intellectual Property rights or protections. Authors/Creators acknowledge that certain disclosure or failures to timely seek formal protections for some Intellectual Properties can result in a loss of rights or diminution of protections available and that Gettysburg bears no responsibility to prevent such an occurrence.

Either prior to the creation of the Intellectual Property or at any point during its creation or later use, the Author/Creator and Gettysburg may enter into a formal agreement involving the funding, protection, commercialization, ownership or any other aspect of any Intellectual Property. Such an agreement shall only be established if both the Author/Creator and Gettysburg mutually agree on the terms.

Works Put into Service of the College

Unless a written agreement governing the College's use, licensing or ownership of any Intellectual Property is executed between the College and the Author/Creator, then to the extent that any Intellectual Property subject to this Policy is utilized by the College for its own internal use the Author/Creator agrees to grant, and hereby does grant, the College a perpetual, royalty-free, fully paid up, non-exclusive license to use and continue to use the Intellectual Property as long as such is for the Colleges internal use. Non-limiting examples of internal use of Intellectual Property by the College include use of software to facilitate a College administrative or educational function, use of dramatic works to facilitate a dramatic performance produced by the College or use of educational materials for College coursework.

Jointly Developed Works

If Intellectual Property is to be developed jointly between Gettysburg's employees and employees or representatives of other institution(s)/organizations, Gettysburg shall negotiate an agreement in good faith with the other institution(s) which shall govern the ownership of the Intellectual Property as between it and the other institution(s).

Bayh-Dole Act

For any federally sponsored research, Gettysburg is obligated by federal regulations to promptly report (within two months) to the appropriate federal agency any inventions conceived or reduced to practice during the course of a government-sponsored research program. The Author/Creator shall cooperate with Gettysburg in meeting any of the reporting requirements. The Bayh-Dole Act permits a university, small business, or non-profit institution to elect to pursue ownership of an invention in preference to the government.

Procedure

In the event that an Author/Creator desires to engage Gettysburg in an agreement regarding any Intellectual Property the request should be made to the Executive Vice President who may require that the Author/Creator provide any information necessary to permit Gettysburg to evaluate whether to enter into a formal agreement with the Author/Creator. Such information may include, among other things, the use of Gettysburg's resources to develop the Intellectual Property, potential for protection of the Intellectual Property and potential for its commercialization. Gettysburg shall have no obligation to engage in agreements with an Author/Creator or to act on any particular timeline if an agreement is explored.