

SLASIAC Subcommittee on Copyright Policy

May 19, 2011, 2-3:30pm

Teleconference

Participants: Shane Butler, Jan Carmikle, Robin Garrell, Mara Hancock, Charles Louis, Mary MacDonald, Wendy Streitz
Staff: Joanne Miller
Guest: Sherylle Mills Englander (for first agenda item)
Absent: Robert Anderson, Kathryn Atchison

Meeting Notes (DRAFT)

1. Intellectual Property Policy Review Working Group Request:

“Ownership of software and other copyrighted works developed with the use of University time and resources that evidence the same practical applications as patentable inventions should be retained by the University.”

Sherylle Mills Englander, the Director of UCSB’s Office of Technology and Industry Alliances, provided clarification about the working group’s recommendation to revise the Policy on Copyright Ownership. She noted that the University’s goal in intellectual property ownership was “to help the public” by optimizing the potential of the work in question (whether that be software or patentable inventions or other).

In addition, Sherylle said the problem area for campus Technology Transfer Offices is that there is a seeming inequity or complication when the work is produced from a “sponsored agreement” with the University versus a work resulting from “independent academic effort.” Tech Transfer personnel see the “scholarly/aesthetic” wording in the policy, and feel that some software research results do not fall into that category.

Sherylle cited examples of private licensing opportunities for software or potential medical discoveries, and of conflicting interests that can arise between the University and faculty members. She said there was the impression that the 1992 policy was out of date and did not address software, but Mary MacDonald said that the policy was specifically intended to include software as a “scholarly” work (in which a designated academic appointee would own copyright). Mary commented that while the digital realm may have changed dramatically since 1992, software was well established at that time. **Mary suggested that rather than start with altering language in the Policy on Copyright Ownership, University leadership be consulted first about the feasibility or desirability of establishing University ownership of software developed by faculty (Designated Academic Appointees).**

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There was no consensus on what, if anything, needs to be done. Co-chair Robin Garrell suggested that Sherylle and Shane Butler (who opined on the issues from the faculty perspective) draft a document framing what might be the principles involved in the maintenance of the University's intellectual output.

Action: Sherylle Mills Englander agreed to work with Shane Butler to draft a list of issues and principles surrounding the ownership of faculty work.

2. UC's Policy and Guidelines on the Reproduction of Copyrighted Materials for Teaching and Research

In the last meeting, the Subcommittee determined that the 1986 "Policy and Guidelines on the Reproduction of Copyrighted Materials for Teaching and Research" was out of date and needed a revision. In addition, an Office of General Counsel Copyright Working Group has determined that a more comprehensive review of the UC policies on use of copyrighted materials would be appropriate. Meanwhile, a revised version of the existing Policy has been prepared.

Mary MacDonald prepared an interim revised Policy and Guidelines designed primarily to update information in the Guidelines but which contain some additional changes, such as strengthening the language about "fair use" in the Policy, deleting the recitation of the "Ad-Hoc Guidelines", and eliminating the statement that the Policy and Guidelines supersede any campus guidelines. Mary noted that a more comprehensive modification was needed in light of the developments in the digital delivery of academic material, and that Provost Gene Lucas, the Chair of SLASIAC, was deciding whether the Subcommittee on Copyright Policy or a separate task force should be convened to draft such changes. She stated that she believed the proposed changes in the current draft revision could be made without the extensive review needed by a new Policy and Guidelines.

The group briefly discussed the purpose of having a UC policy, and Mary explained that the Digital Millennium Copyright Act and Joanne said the TEACH Act require a policy and guidelines regarding copyright and the use of others' copyrighted works. Joanne noted that the Office of the President has an educational website on copyright for the UC community at:

<http://www.universityofcalifornia.edu/copyright>. This site was an effort sponsored by the predecessor to the SLASIAC Subcommittee on Copyright Policy (the Standing Committee on Copyright).

There was discussion about how much of the Policy and Guidelines should be revised at this time, and the consensus was that the changes be limited to those parts that were clearly outdated and to leave further revisions to the body that will be charged with a comprehensive redrafting of the Policy and Guidelines.

The suggestion was made that the subcommittee members send their notes to Joanne about what is most in need of change to the policy.

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Action: Subcommittee members should send comments to Joanne (joanne.miller@ucop.edu) by **June 3** about what is missing or needs changing in the current policy and guidelines.

3. New information on the Policy on Ownership of Course Materials with regard to lecturers at UC

The Policy on Ownership of Course Materials states that all “Designated Instructional Appointees” are covered by the policy, and defines those appointees as:

“University employees who serve as Instructors of Record and have a general obligation to produce course materials. Included are all members of the Academic Senate and Clinical Professors. Appointees in other academic titles may also be designated by the President.”

The current MOU covering lecturers expressly states that as it pertains to lecturers, they are covered by the same UC *policies* as Senate faculty but does not explicitly say that they have the same *rights*. During the 2003 negotiations that resulted in the current contract, the management team told the UC-AFT that lecturers would enjoy the same rights as Senate Faculty with respect to copyright.

As the University develops its on-line or education program, the issue of whether and to what extent lecturers have an ownership interest in the course materials they develop is important. This was discussed at a meeting of stakeholders at UCOP on Tuesday, May 17. The outcome was that there is still some uncertainty about the status of Unit 18 lecturers and their course ownership rights, and these should be clarified with the upcoming contract negotiations.

There is no action for the Subcommittee, but Joanne Miller will keep the members informed about the issue.