

UC Copyright Ownership Policy Working Group

April 22, 2013, Conference Call

Members:	Jan Carmikle, Sherylle Mills Englander (chair), Kat Fibiger, Brian Kolner, Eugene Volokh, Jim Whitehead
Consultant:	Martha Winnacker
Staff:	Joanne Miller, Katie Fortney

Introductions

Working group members introduced themselves, and provided some background on their copyright interest and experience.

Review of Charge and Timeline

The group agreed on the timeline: three months for fact-gathering and three months for analysis of results and crafting a recommendation to SLASIAC. [Note: Deliverables should include principles regarding faculty copyright ownership as well as suggestions for changes to the policy.]

Sherylle Mills Englander asked law professor Eugene Volokh to describe the “work-for-hire” aspect of copyright law, which says that copyright ownership of a work prepared by an employee within the scope of his or her employment belongs to the employer. Volokh noted that there is a historical “teacher exception” to the work-for-hire rule, which has traditionally applied to academics so that, for the most part, they own the copyrights to the work they create while employed at a university. It’s not clear, however, whether this exception survives; some courts have said that it has been preempted by the Copyright Act of 1976. The University of California, like many other institutions of higher education, has chosen to codify the tradition in a policy.

Specific issues that arose during introductions and in general discussion of the current policy and copyright ownership at UC included:

- Clarification of terminology; e.g., “designated academic appointee,” “contracted facilities work,” etc.
- Potential for different ownership outcomes based solely on funding source (e.g., grant-funded vs. not)
- Difference between software that is developed as a result of research vs. software developed as a by-product of a research project.
- Differentiation of faculty from non-faculty (and variations therein)
- Not ignoring the potential of commercialization of copyrighted works for bringing funds to the University.

Next Steps

1. Survey the copyright ownership policies of other research institutions. (Kat, Sherylle, Joanne, Jim)

2. Description of “case studies” that demonstrate when the copyright policy is confusing, led to inequities, etc.

3. Investigation of a survey for the UC community in order to gather broad-based opinions from anyone interested in the copyright ownership policy.

Joanne Miller will be in touch to schedule the next meeting.