

12-12-1997

SR-97-98-20 (FPC)

Marshall University

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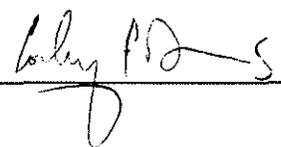
FACULTY PERSONNEL COMMITTEE  
RECOMMENDATION

**SR-97-98-20 (FPC)**

Recommends that the intellectual property of ownership rights of faculty who develop and/or teach the content of E-courses be clearly stated in a contractual agreement in accordance with Executive Policy Bulletin #9. For example, see Item VI. Ownership Rights, Sections A, B, C, and D of Executive Policy Bulletin #9 - Patent and Invention Policy for Marshall University. (Attached).

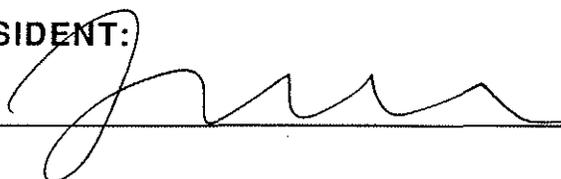
**RATIONALE:**

**FACULTY SENATE PRESIDENT:**

APPROVED BY SENATE:  DATE: 12-12-97

DISAPPROVED BY SENATE: \_\_\_\_\_ DATE: \_\_\_\_\_

**UNIVERSITY PRESIDENT:**

APPROVED:  DATE: 12-16-97

DISAPPROVED: \_\_\_\_\_ DATE: \_\_\_\_\_

**COMMENTS:**

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portfolio. The Executive Director for Research and Economic Development or his designee will present periodic reports on the status of disclosures and patent applications to the committee for their review. When necessary, the committee shall meet with the Executive Director for Research and Economic Development or his representative when an inventor asks the Executive Director for an expedited review by the Faculty Patents Committee of decisions relating to, or policies affecting, his/her invention or discovery. The Faculty Patents Committee shall report all decisions to the President of the university through the Executive Director for Research and Economic Development, or his/her designee.

## V. DISCLOSURE

All members of the Marshall community who are covered by this policy shall disclose the nature and detail of their anticipated invention or discovery to the Executive Director for Research and Economic Development, or his/her designated representative at the earliest possible date.

Within 120 days after such disclosure, the Executive Director for Research and Economic Development or his/her designee shall notify the inventor in writing whether it is the university's intention to retain its interest and to acquire assignment of all ownership rights of the invention or discovery. If such notification cannot be made during that time period, the inventor shall be notified as to the reason for the delay and the additional time necessary to make such determination. The principles to be used in determining ownership rights are given in Section VI.

## Start \* VI. OWNERSHIP RIGHTS

### ✓ A. Ownership Rights in the University

All inventions or discoveries shall be deemed to be a proprietary interest of Marshall University if the inventor was employed or otherwise financially supported by the university, and if he/she used university facilities, materials or time to conceive and develop the discovery or invention.

If the university decides not to request assignment or ownership rights, and there are no restrictions by the sponsor of the research, the university will release its proprietary interest to the inventor.

### ✓ B. No Ownership Rights in the University

The ownership rights to a discovery or invention are considered to be ~~exclusive property of the inventor, if the university has not~~ contributed to the conception or development of the discovery or

invention in the way of funds, space, materials or facilities and the discovery or invention was conceived and developed by the inventor on his/her own time.

✓ C. Determination of Ownership Rights

In case where there is a disagreement between the inventor and the university as to ownership rights or the retention of such rights by the university, a committee comprised of the Executive Director for Research and Economic Development or his designee, the General Counsel and an individual with expertise in the field chosen by the inventor shall recommend to the President what further action the university should take.

✓ D. Ownership Rights in Sponsored Programs

In the case of programs sponsored by government agencies or private firms with which the university has negotiated a particular agreement regulating patents, inventions, licensing, etc., these regulations will govern. For all federal agencies in accordance with 37 CFR 401 with which there is no such agreement, the university normally must agree to provide an irrevocable, non-exclusive free license to the government for the use of patents arising from programs which they supported.

~~stop~~ VII. OBTAINING A PATENT

If the rights to an invention or discovery are determined to belong to the university, the Executive Director for Research and Economic Development, or his designee, will determine the desirability of acquiring assignment of such rights and filing for domestic (U.S.) or foreign patents. If the university decides to file a patent application, one of the following alternatives, at the inventor's option, will be pursued:

- A. The university will provide the services of its patent attorneys as well as the services of patent development and promotional agencies, at the university's expense.
- B. The inventor may, at his/her own expense, consult with any attorney of his/her choice or take any other steps he/she deems advisable toward obtaining and developing a patent. However, the ownership right of the invention and any patent obtained thereupon shall still reside with the university, and the division of any proceeds shall be in accordance with general university policy on patents.

