

AREA OF RESPONSIBILITY: DIVISION OF ACADEMIC AFFAIRS

RESPONSIBLE CONTACT: PROVOST/VICE PRESIDENT, ACADEMIC AFFAIRS/ACCREDITATION LIAISON

POLICY IDENTIFICATION: INTELLECTUAL PROPERTY RIGHTS

EFFECTIVE DATE: 1/03/08

LAST REVISED: 05/2022

The aim of the University's policy on patents, copyrights, and other intellectual property defines the rights and responsibilities of faculty, staff, and students with respect to ownership and administration of intellectual property. The policy is to provide recognition to individual inventors in research, scholarship, education, and encourage the development of work products, and original content. It is also to protect that which may have financial as well as scientific and scholarly value.

Ownership of Intellectual Property

Except for student theses, projects, and other works, rights in patentable inventions, tangible research property, trademarks, and copyrightable works, including those made or created by Virginia Union faculty, students, staff, and others participating in VUU programs, including visitors, are as follows:

1. Inventor(s)/author(s) will own Intellectual Property that is:
 - a. Not developed during, or pursuant to, a sponsored research or other agreement (the faculty advisor, administrative officer, or the Division of Sponsored Research and Innovation contracts administrator can advise on the tenets of the agreements that apply to specific research); and
 - b. Not created as a "work-for-hire" by operation of copyright law (a "work-for-hire" is defined, in part, as a work prepared by an employee within the scope of his or her employment) and created pursuant to a written agreement with Virginia Union providing for a transfer of copyright or ownership of Intellectual Property to Virginia Union; and
 - c. Not developed with the significant use of funds or facilities administered by Virginia Union.
2. Ownership of all other Intellectual Property will be as follows:

- a. Ownership of Intellectual Property developed during, or pursuant to, a sponsored research or other agreement will be determined according to the terms of such agreement;
- b. Ownership of copyrightable works created as “works-for-hire” or pursuant to a written agreement with Virginia Union providing for the transfer of any Intellectual Property or ownership to Virginia Union will vest with Virginia Union;
- c. Ownership of Intellectual Property developed by faculty, students, staff, and others participating in Virginia Union programs, including visitors, with the significant use of funds or facilities administered by Virginia Union will vest with Virginia Union.

Significant Use of Virginia Union–Administered Resources

When Intellectual Property is developed by Virginia Union faculty, students, staff, visitors, or others participating in Virginia Union programs using significant Virginia Union funds or facilities, Virginia Union will own the Intellectual Property. If the material is not subject to a sponsored research or other agreement giving a third-party right, the issue of whether a significant use was made of Virginia Union funds or facilities will be reviewed by the inventor’s/author’s direct supervisor/department head and a recommendation forwarded to the unit Vice President who will make a recommendation to the President for a final decision.

Textbooks developed in conjunction with class teaching are excluded from the “significant use” category and not considered “works-for-hire,” unless such textbooks were developed using VUU-administered funds paid specifically to support textbook development. Otherwise, the author is the owner.

Generally, an invention, software, other copyrightable material, or tangible research property will not be considered to have been developed using Virginia Union funds or facilities if all the following apply:

1. Only a minimal amount of restricted or unrestricted funds have been used;
2. The Intellectual Property has been developed outside of the assigned area of research of the inventor(s)/author(s) under a research grant or sponsored project;
3. Only a minimal amount of time has been spent using significant Virginia Union facilities or only insignificant facilities and equipment have been utilized (use of office, library, machine shop facilities, and traditional desktop personal computers are examples of facilities and equipment that are not considered significant); and
4. The development has been made on the personal, unpaid time of the inventor(s)/author(s).

When an Intellectual Property is not subject to a sponsored research or other agreement (such as an equipment agreement), but has been developed using significant Virginia Union funds or facilities, the President may, at his/her discretion, grant a release allowing the inventor(s)/author(s) exclusive or non-exclusive rights to relevant royalties, patents, and/or licenses.

Ownership of Copyrights in Theses/Projects

The ownership of copyrights in student theses/projects is governed by the following:

1. Copyright ownership of theses generated by research that is performed in whole or in part by the student with financial support in the form of wages, salaries, stipend, or grant from funds administered by the University shall become the property of the University.
2. Copyright ownership of theses/projects generated by research performed in whole or in part utilizing equipment or facilities provided by the University under conditions that impose copyright restrictions shall be determined in accordance with such restrictions. Questions regarding restrictions imposed on any of the University's facilities or equipment may be addressed to the administrative officer(s) of the unit/department or to the Associate Vice President of Sponsored Research and Innovation.
3. Students will own the copyrights to theses/projects not within the provisions of items 1 and 2 above; however, a student must, as a condition to a degree award, grant royalty-free permission to the University to reproduce and publicly distribute copies of his/her thesis/project.

Visiting Professor and Fellows

All members of the Virginia Union community – including visiting professors and fellows – who participate in either sponsored research or University-funded research or who use significant funds or facilities administered by the University are subject to the term of Virginia Union's Intellectual Property policy.

Consulting Agreements

It is the responsibility of individual members of the Virginia Union community to ensure that the terms of their consulting agreements with third parties do not conflict with their commitments to the University (per the provisions of the Faculty Handbook and Staff Handbook). Everyone should make the nature of his or her obligations to the University clear to any third party for whom he or she expects to consult. The University will not negotiate any consulting agreements on behalf of, or accept any liability for, any faculty, student, or staff member who engages "work for hire" as a consultant.

Organization

The Division of Sponsored Research and Innovation negotiates the patent and copyright terms for each research agreement with every government and industrial sponsor, subject to approval by the President.

Disclosures and Technology Transfer

The federal government funds a significant amount of research at the University, and the University is obligated by federal regulations to report promptly to the appropriate federal agency any inventions conceived or reduced to practice during a government-sponsored research program. The University similarly is obligated to report inventions to its industrial sponsors who provide financial support for research.

To comply with these policies and contract terms, inventors and authors must report (in writing) to the Division of Sponsored Research and Innovation any Intellectual Property created during a sponsored research agreement or with the use of significant funds or facilities administered by the University. This information will be tracked and catalogued in the Division of Sponsored Research and Innovation.

Works for Hire

A “work for hire” is a work product created during the author’s employment. Copyright of the work product belongs to Virginia Union University. For example, works created by writers of university publications, or data collected for university assessment purposes are considered to have been created during the author’s employment and are the property of Virginia Union University. Removal of work product upon termination of employment with the University will result in prosecution to the full extent of the law.