# Intellectual Property Policy

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## SECTION I. PURPOSE

The University of St. Thomas mission and convictions affirm the commitment of students, faculty and staff to advance the common good and pursue truth in all its forms through intellectual inquiry, the integration of knowledge, and the imaginative and creative exploration of new ideas. Consistent with this commitment, St. Thomas students, faculty and staff regularly develop, use and share creative work, including original works of authorship, inventions, discoveries and distinctive words, names, symbols and designs. St. Thomas resources support the development, use and sharing of this work, and St. Thomas actively seeks sponsorship and support for the work from external sources.

These original "works of the intellect" comprise a form of property that commonly is referred to as intellectual property. Like other property, intellectual property is subject to rights of ownership and use that can be transferred at the owner's discretion.

When resources of a nonprofit organization like St. Thomas are involved in the development, use or disposition of intellectual property, there are legal, equitable and public interest considerations that can affect rights and obligations related to the intellectual property. This policy is intended to clarify the respective rights and obligations of St. Thomas and its students, faculty, staff, volunteers and visitors with respect to the creation, use and disposition of intellectual property in light of these considerations, and to promote the creation, use and transfer of intellectual property consistent with the St. Thomas mission, convictions and obligations as a nonprofit university.

## SECTION II. SCOPE AND APPLICABILITY

This policy applies to and governs the use, ownership and disposition of intellectual property by St. Thomas and its students, employees (faculty, staff and student workers), volunteers and visitors, who are collectively referred to in this policy as covered persons .

## SECTION III. GUIDING PRINCIPLES

A. St. Thomas encourages members of the St. Thomas community to engage in creative, innovative and entrepreneurial activity that is consistent with the university's mission and advances its commitment to the common good.

D. St. Thomas is committed to protecting the traditional rights of faculty with respect to the academic works they create.

D. St. Thomas is committed to compliance with laws protecting the rights of intellectual property owners.

teaching or professional engagement responsibilities and for student presentations, St. Thomas will use such recordings or transmissions only for archival and limited non-commercial purposes unless otherwise agreed by St. Thomas and the faculty member or student, and St. Thomas will not own copyright in any recordings made at the instigation of the faculty member or student rather than St. Thomas.

Covered persons will own copyright in all other copyrighted works they create except as otherwise set forth in this policy or agreed in writing by St. Thomas and the creator(s).

b. If a student worker creates a copyrighted work or a joint work as part of the strthgen ( )TJ 0 -1.4 (e)-9 (

licensing such rights to third parties. While St. Thomas has no obligation to provide assistance to protect intellectual property in which St. Thomas has no ownership rights, upon request by a faculty member, St. Thomas may provide such assistance in accordance with Section V.B.3 above.

c. St. Thomas also encourages faculty to make their academic works available for maintenance and publication in St. Thomas institutional repositories and, when possible, to preserve their rights to do so. To the extent faculty make their academic works available to St. Thomas institutional repositories, St. Thomas will retain a perpetual, royalty-free, nonexclusive, nontransferable, worldwide license to maintain, publish and make available for public use copies of such works in St. Thomas institutional repositories, and to publicly disseminate any metadata for such works.

**3. C C S S O S E .**

a. Students will be the sole owner(s) of copyright in the copyrighted works they create, unless the works are institutional works, joint works (see Section VII.B.4 below), or research data generated in connection with research conducted under a principal investigator who is not the student (see Section VII.B.3(c) below).

**4. J [illegible]**

Unless otherwise provided in this policy or agreed by the creator(s), copyright in joint works will be jointly owned by the persons who would have had sole ownership of copyright under this policy had the work been created by each of them individually rather than jointly.

SECTION VIII. INVENTIONS AND PATENT

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inventions to third parties unless the Vice Provost for Academic Affairs or the vice provost's designee first has notified the inventor(s) that St. Thomas will not assert its ownership and other rights under this policy.

B. Confidentiality and Disclosure Obligations

Certain disclosures of information about an invention can severely limit or eliminate the ability to protect the intellectual property rights in the invention. Accordingly, covered persons are required to comply with the following requirements relating to confidentiality and disclosure:

**1. C O T P .**

Sponsored research projects and other agreements or arrangements with third parties typically are subject to contractual confidentiality and nondisclosure obligations. Covered persons are expected to familiarize themselves with, understand and continuously comply with any contractual confidentiality and nondisclosure obligations that apply to projects in which they are involved.

**2. S . T C R .**

Regardless of whether a project is subject to a confidentiality or nondisclosure agreement with a third party, all covered persons are required to maintain confidentiality regarding the details of an invention that is an institutional work, a joint invention in which St. Thomas has ownership rights,

which St. Thomas has ownership rights, or another invention in which St. Thomas has ownership rights under this policy, the inventor(s) should notify the Office of the Provost for assistance.

D. Determination of Ownership and Assignment of Rights

1. Upon disclosure of an invention that is an institutional work, a joint invention in which St. Thomas has ownership rights, or another invention in which St. Thomas has ownership rights under this policy, the Office of the Provost or, for faculty members, the relevant dean, in consultation with the Office of General Counsel, will confirm that the disclosed invention is in fact a work in which St. Thomas has ownership rights. If so, the Office of the Provost or, if applicable, the relevant dean, will determine whether St. Thomas will assert its rights with respect to the invention. In making this determination, St. Thomas will consider its legal obligations, including but not limited to its contractual and statutory obligations to third parties, and whether it is in the university's best interests and the public interest for St. Thomas to own (or jointly own) the invention and related patent rights. The relevant dean will consult with the Office of Provost prior to determining not to assert rights in an invention. The Vice Provost for Academic Affairs, the vice provost's designee, or the relevant dean will notify the inventor(s) promptly after the determination is made.

2. If St. Thomas determines to assert its sole ownership rights, each inventor is required promptly to assign to St. Thomas all of the inventor's right, title and interest in the invention, including but not limited to all patent rights, in the form and manner reasonably requested by St. Thomas. Subject to the statutory and contractual obligations of St. Thomas, the inventor(s) generally will retain the right to create, use and publish academic works with respect to the invention for education, academic research and other non-commercial purposes.

E. Filing of Patent Application; Cooperation

1. Subject to its agreements with third parties, St. Thomas will have sole discretion to determine whether to file a patent application with respect to inventions solely owned by St. Thomas. St. Thomas will consider its best interests and the public interest when making this determination. Factors that St.

invention in accordance with any written agreement between the inventor(s) and St. Thomas or, if none, as follows:

1. **A** **R**. Revenues derived from the commercialization or licensing by St. Thomas of inventions and related intellectual property rights it owns will be received and administered by the Office of the Provost.

2. Deduction of Expenses**.** Direct expenses incurred by St. Thomas in the process of perfecting, transferring, protecting and licensing/commercializing the rights in such inventions will be deducted before calculating and distributing the net revenues.

3. **A** **N R**. Unless otherwise agreed by the inventor(s) and St. Thomas, the distribution of net revenues will be distributed as follows:

    a. 50% of the net revenues will be allocated to the inventor(s). In the event of multiple inventor(s), the allocation will be divided equally among them, except as otherwise may be agreed by the inventor(s) and approved by the Office of the Provost.

    b. 25% of the net revenues will be allocated to the applicable college, school or division, to be shared equally with the relevant department or program.

    c. 25% of the net revenues will be allocated to St. Thomas to cover indirect expenses, with any excess revenues to be allocated at the discretion of St. Thomas.

G. Equity Participation.

From time to time, covered persons may be offered the opportunity to accept equity in return for their contributions to the development of inventions for third parties. Covered persons may not accept equity in connection with inventions created with the use of St. Thomas resources (regardless of whether the invention is an institutional work, and regardless of whether the use of St. Thomas resources was significant) unless the proposed equity position is disclosed, reviewed and approved in advance in writing by the Office of the Provost. The purpose of this disclosure and review is to assess potential conflicts of interest and ensure compliance with St. Thomas policies. If St. Thomas accepts an equity interest in lieu of cash revenues, the equity interest will be considered to be part of the revenues derived from an invention and will be allocated accordingly.

**5. H I S.T ?**

Where resources are provided by St. Thomas for the common benefit of all faculty, staff or students, or all faculty or students in a particular discipline, school, college or department, the use of those common resources will not constitute use of significant St. Thomas resources. Where resources require special acquisitions, additional approvals or otherwise are not provided as a common benefit, they are likely to constitute the significant use of St. Thomas resources. Whether or not there has been significant use of St. Thomas resources in creating a work will be determined by the Office of the Provost, after consultation with the creator, the creator's immediate supervisor, and the Cabinet member with most direct responsibility for the creator.

For purposes of illustration, use of standard-issue university computers, office space, library resources, and STELAR Center resources do not constitute the significant use of St. Thomas resources with respect to creating a work. Faculty Development Center grants also will not be considered the significant use of St. Thomas resources for purposes of this policy. Student use of the Maker Space and resources offered by the Schulze School of Entrepreneurship to students starting new ventures also does not constitute the significant use of St. Thomas resources.

In contrast, any of the following circumstances could constitute the significant use of St. Thomas resources in creating intellectual property, unless otherwise agreed by St. Thomas: the acquisition by St. Thomas of specialty equipment (such as a high performance computer) for use only by select faculty within a department or for use by select faculty for a particular project, the release of a faculty member from regular employment duties outside the routine sabbatical process in order to permit the faculty member to work on a particular project, compensation in excess of the contracted salary level in exchange for specified work outside an employee's regular duties, or financial support by St. Thomas outside the ordinary course. Other situations that could constitute significant use include the use of a chemistry laboratory and supplies by a humanities faculty member for a project that is not clearly related to the faculty member's teaching or professional engagement responsibilities, the renovation of space

Appendix A to

and St. Thomas, and you may be added as a party to that agreement rather than maintaining a separate agreement with the third party.

It is important to keep in mind that agreements with St. Thomas regarding intellectual property ownership and rights must be signed by the Executive Vice President and Provost or another authorized St. Thomas signatory. Academic administrators and individual faculty members are not authorized to sign agreements on behalf of St. Thomas unless the EVP and Provost has delegated signature authority to them in writing. This includes confidentiality and nondisclosure agreements. All agreements with St. Thomas involving intellectual property require advance review by the Office of General Counsel.

## B. COPYRIGHT AND FAIR USE

**1. U.S. ?**

Under U.S. law, copyright initially and automatically belongs to the creator of the work, unless the work is a work made for hire. A work made for hire is a work created by an employee acting within the scope of employment, or a work created by an independent contractor pursuant to a special order or commission that meets certain conditions established by law. U.S. law provides that if a work made for hire was created by an employee within the scope of employment, then the copyright belongs to the employer rather than the creator of the work.

**2. A ?**

No. Copyright only protects works that are considered to be original works of authorship under the law. For example, a course syllabus for an introductory-level course in a discipline with a mandated or well-established curricular progression might not be an original work that qualifies for copyright protection. If a work does not meet this standard, then it is not co byl

**4. D ?**

that are available to all faculty who request them is not considered to be significant use of St. Thomas resources.

If St. Thomas requests to use the faculty member's pre-existing academic works in connection with an online course developed by St. Thomas, the faculty member will retain copyright in those works, and any use by St. Thomas would require a license from the faculty member.

**6. C I , , , , , S . T. , , , , S . T. ?**

In general, no, unless you are an adjunct faculty member. Developing or teaching an online course for another institution while serving as a full-time faculty member at St. Thomas likely would give rise to an actual or perceived conflict of interest with St. Thomas. Under St. Thomas policies (including the Faculty Handbook, the Policy on Outside Employment applicable to faculty, and the Conflicts of Interest Policy), full-time faculty could not develop or teach a course for another institution unless you obtain advance written approval of the Executive Vice President and Provost, which is unlikely to be granted to full-time faculty members absent unusual circumstances.

**7. I , , , , ,

consent to St. Thomas recording and using your lectures for this purpose. A videographer hired by St. Thomas attends and records each of your classes for the semester.

In this case, the videos of your lectures and the instructional materials prepared by your colleague will be considered to be institutional works, and St. Thomas will own the copyright in the videos and instructional materials. If St. Thomas decides to incorporate excerpts from the videos into the online program it develops, St. Thomas will enter into an agreement with you regarding the long-term use, editing and distribution of the lectures that also addresses your ability to use the recordings for personal, non-commercial educational and research purposes. In general, St. Thomas is likely to permit you to retain copies of the videos and to show the videos to a small number of colleagues at another institution as a reference to prepare for a similar course, but would not permit you to sell the recordings to another institution or for another institution to use them as the basis for an online course it offers, unless St. Thomas receives some compensation or other consideration for such use.

Whether or not you enter into an agreement with St. Thomas, you can continue to use freely the underlying content of the lectures for any purpose you choose, including giving the same lectures at another institution if you leave St. Thomas. Whether or not your colleague can use the specific instructional materials developed for the program at another institution will depend on the agreement between your colleague and St. Thomas, which may vary based on the type of materials and how they are used at St. Thomas. Regardless of the agreement terms, you and your colleague will be able to develop new and original instructional materials based on the academic content of the course and your knowledge, thinking, theories and conclusions about that subject matter.

C. INVENTIONS AND PATENT

**1. U.S. ?**