



GUIDELINES FOR THE USE AND OWNERSHIP OF INTELLECTUAL PROPERTY DEVELOPED BY GRADUATE STUDENTS AT TRENT UNIVERSITY

Intellectual Property

All members of the University community must abide by Trent University's intellectual property policies and respect the intellectual property rights of others. It is the responsibility of all graduate students to read and familiarize themselves with Trent's policies and guidelines on intellectual property. The statement of the Research Office can be found at:

<http://www.trentu.ca/research/ip.php>. Students are also encouraged to look at the Canadian Association of Graduate Studies (CAGS) publication on Intellectual Property: "*A Guide to Intellectual Property for Graduate Students and Post doctoral Scholars*" published by the Canadian Association for Graduate Students: http://www.cags.ca/media/docs/cags-publication/Guide_Intellectual_Property.pdf

The following Guideline concerns the work done by a graduate student or research assistant and is intended to provide a short summary of the policies concerning intellectual property that are in place.

Guideline:

Introduction

This Guideline is intended to clarify the types of Intellectual Property (IP) and to assist in determining ownership of Intellectual Property created or developed in whole or in part by Trent University Graduate Students. This guideline covers the rights of current and former Trent students while attending the University and after they leave. Intellectual Property rights do not extinguish when the student leaves the University; they survive for life.

This Guideline applies equally to all graduate students and research assistants ("students") and is to be read in conjunction with Trent University's Research policy on Intellectual Property and the TUFA Collective Agreement provisions ("TUFA Agreement").

I) Ownership of Student-Created Intellectual Property

Intellectual Property includes copyrights, patents, trademarks, industrial design, integrated circuit topographies, plant breeder rights, computer programs, and trade secrets. Examples of Intellectual Property most relevant to Students at Trent include (but are not limited to) essays, research papers, lab assignments, articles, theses, dissertations, books, lectures delivered, research data, maps, photographs, videos, tapes, computer software, inventions and equipment, databases, e-

materials. In order to be protected by law, an item must satisfy three criteria: (a) it must be an original creation; (b) it must be a specific expression of an idea, not the idea itself; and (c) the item must be fixed in a physical form.

In most circumstances, ownership of intellectual property rights rests with the creator of the work, however this Guideline, along with Canadian Intellectual Property Statutes, provides certain exceptions. Pursuant to Section 13(3) of the Copyright Act, copyright to a work, such as literary works or computer software, developed or created in the course of employment is held by the employer, in the absence of an agreement to the contrary. Special provisions apply, however, to any work that is an article or other contribution to a newspaper, magazine or similar periodical.

To the extent covered by Section II below, Section 13(3) of the Copyright Act shall not apply to works created by a student in the course of employment with Trent (including employment as a teaching assistant). In such circumstances, the student is the first owner of the copyright in the work. This follows the example of Article IV.7.2 of the TUFA Agreement which specifically excludes the application of section 13(3) of the Copyright Act to members: members hold the copyright in their original works, including lectures, lab manuals and other teaching materials, with some exceptions.

Students may enter into contractual agreements, such as with supervisors, the University, corporate sponsors or other third parties, which may grant or determine Intellectual Property rights. Any such preexisting contract shall govern ownership rights.

All Students are strongly encouraged to discuss any potential Intellectual Property issues with their graduate supervisors and to make the appropriate agreements in advance concerning ownership of Intellectual Property.

Any conflict between Canadian intellectual property laws and this guideline shall be resolved in favour of the applicable Canadian law.

a) Course Work: Examinations, Reports, Papers or Labs

The Student holds copyright in any work submitted to meet a course requirement, or as part of a thesis or master's project. However, the following conditions are placed on the submission of the work:

- a) The original physical document becomes the property of the University.
- b) The University is granted a non-exclusive, royalty-free and perpetual license to reproduce and circulate the works for internal use as part of the University library collection and for teaching and research purposes.
- c) If a work was created with a substantial use of Trent resources, then the University reserves the right to a 25% share of net revenue generated by the work. The payment of salaries to graduate students and research assistants shall not be construed as use of the University's funds.

Trent holds the copyright in works that are directly requested or specifically commissioned by the University.

b) Theses, Dissertations and Master's Projects

The Student holds copyright in the finished thesis or master's project, subject to the following exceptions. Ideas themselves cannot be the subject of Copyright. If the Student developed the ideas contained in their thesis with a supervisor or research group, the rights to publish or commercially exploit the resulting work are shared with the supervisor, research group, and the

University.

Where a Student's thesis or master's project has been supported (in whole or in part) by research grants, there may be other contractual agreements affecting ownership and commercial exploitation. Students and supervisors should make themselves aware of these conditions prior to beginning the work.

The Student shall display the international copyright notice, referring to the written work only, on the title page of the thesis or master's project, pursuant to Section 3.1 of the Graduate Student Handbook. The Graduate Student's Handbook, Section 6.1, also requires a Non-exclusive License to Reproduce Theses be granted to the National Library of Canada. The University is granted a non-exclusive, royalty-free and perpetual license to reproduce and circulate the works for internal use as part of the University library collection.

Computer Programs

Computer programs and software are legally protected by Canadian copyright law. Where a student develops a program or software as part of a course, project or thesis, the student is the owner of the copyright. However, the student is required to grant the University a royalty-free license to use and distribute the software for educational, administrative and research activities within the University. This license does not include the right to use the software for commercial purposes. Use of Software in the administration of the University shall not be considered a commercial purpose.

Where computer programs are developed using software owned or licensed by the University, the student must follow the terms and conditions of the license or purchase agreement. Computer programs developed at the direct request of a supervisor, faculty or staff are the exclusive property of the University.

c) Research Data

Where data for a thesis, dissertation or MA project is collected by a Student independently then it is the property of the Student, unless a prior agreement exists with a professor or funder. Once a thesis has been passed, data collected by the student for these purposes remains with the student unless other prior agreements exist with a professor or funder.

Where the data is acquired as part of a joint effort, or using research instruments developed wholly or in part by the research supervisor, University or third party, ownership of the Intellectual Property in the data is shared. All parties involved are responsible for ensuring that proper acknowledgments of contributions are made when the data are released in any form.

d) Equipment and Inventions

Inventions, improvements in design or developments ("Inventions") discovered, constructed, developed or designed as part of course or thesis work is the property of the University if University resources (including, but not limited to, the work, funding, raw materials, and work space) have been applied, in whole or in part, to the discovery, construction, design or development of such Inventions.

Inventions are the property of the student ONLY IF the Invention was made without use, in whole or in part, of the University's funds, services, facilities, support and/or technical personnel.

Neither the use of normal academic facilities as defined in Article IV.1.3. of the TUFA Agreement nor the payment of salaries/stipends to students shall be considered use of the University's funds, services, facilities, support and/or technical personnel.

The University shall have the first option to carry out development of the Invention(s) towards commercialization.

The University shall share equally with the student any revenue generated by the University as a result of commercialization of any Invention made by a student with the use, in whole or in part, of the University's funds, services, facilities, support and/or technical personnel.

II) Teaching

Intellectual Property created by the student for the purposes of teaching or assisting in teaching is owned in the first instance by the student. This includes course outlines, lectures, laboratory manuals, and all other teaching materials including, but not limited to, multimedia instructional aids prepared by the student using University facilities as defined in Article IV.1.3. of the TUFA Agreement (ie. computers, library, office and laboratory space, telephone, etc.).

At the discretion of the student, the student may grant a non-exclusive license to the University or a faculty member to reproduce and circulate the work for internal teaching and research purposes. Such license shall include the right to edit, modify, add to, or delete any part of the work.

III) Disclosure of Intellectual Property:

All Students must give notice to the University when Intellectual Property is believed to exist, through the "Preliminary Intellectual Property Disclosure Form," submitted to the Office of Research. Further, Students shall give notice to their supervisors and to the Dean of Graduate Studies of any Intellectual Property that may be commercially valuable or give rise to commercially valuable Intellectual Property.

Students must disclose the details of their inventions or discoveries through the "Invention Disclosure Form," which is submitted to the Office of Research.

All students shall give timely notice to the Dean of Graduate Studies and the University, in writing, of any application to protect their Intellectual Property, including without limitation an application for patent, copyright, or trademark registration.

For more information on intellectual property rights:

Copyright Act, R.S.C. 1985, c. C-42

Patent Act, R.S.C. 1985, c. P-4