CHAPTER 14 – INTELLECTUAL PROPERTY

Section 14.10 – Intellectual Property Policy:

Section 1 - Philosophy and Objectives:

While the discovery of patentable processes or inventions and the creation of other intellectual property is not the primary objective of UIW/IWHS/SACHS, for any such discoveries or creations, it is the objective of the Board of Trustees to provide an intellectual property policy that will encourage the development of inventions and other intellectual creations for the best interest of the public, the creator, and the research sponsor, if any, and that will permit the timely protection and disclosure of such intellectual property whether by development and commercialization after securing available protection for the creation, by publication, or both. This policy is further intended to protect the respective interests of all concerned by ensuring that the benefits of such property accrue to the public, to the inventor, to UIW/IWHS/SACHS and to sponsors of specific research in varying degrees of protection, monetary return and recognition, as circumstances justify or require.

Section 2 - General Policy:

2.1 The intellectual property policy shall apply to all persons employed by UIW/IWHS/SACHS and the component institutions of UIW/IWHS/SACHS, to anyone using UIW/IWHS/SACHS facilities under the supervision of UIW/IWHS/SACHS personnel, to undergraduates, to candidates for masters and doctoral degrees, and to postdoctoral and predoctoral fellows.

2.2 Except for intellectual property included in Subsections 2.3 and 2.4, this policy shall apply to and UIW/IWHS/SACHS may assert ownership in intellectual property of all types (including, but not limited to, any invention, discovery, trade secret, technology, scientific or technological development, and computer software) regardless of whether subject to protection under patent, trademark, copyright, or other laws.

2.3 Property that is subject to ownership: Scholarly or educational materials, art works, musical compositions and dramatic and nondramatic literary works related to the author's academic or professional field, regardless of the medium of expression.

2.31 Students, professionals, faculty and researcher authors - UIW/IWHS/SACHS shall not assert ownership of works covered by this Subsection authored by students, professionals, faculty, and nonfaculty researchers. UIW/IWHS/SACHS encourages these authors to carefully manage their copyrights.

2.32 Software - UIW/IWHS/SACHS will normally assert ownership in software as an invention; however, original software which is content covered by Subdivision 2.31, or that is integral to the presentation of such content, shall be owned in accordance with Subdivision 2.31.

2.4 Notwithstanding the provisions of Subsection 2.3, UIW/IWHS/SACHS shall have sole ownership of all intellectual property created by an employee who was hired specifically or required to produce it or commissioned by UIW/IWHS/SACHS or a
component institution of UIW/IWHS/SACHS. Except as may be provided otherwise in a written agreement approved by the President the provisions of Subdivision 5.23 relating to division of royalties shall not apply to intellectual property owned solely by UIW/IWHS/SACHS pursuant to this Subsection 2.4.

2.5 Any person who as a result of his or her activities creates intellectual property that is subject to this Policy, other than on government or other sponsored research projects where the grant agreements provide otherwise, should have a major role in the ultimate determination of how it is to be made public, whether by publication, by development and commercialization after securing available protection for the creation, or both.

2.6 UIW/IWHS/SACHS will provide review and management services for patentable inventions as well as other intellectual property either by its own staff or by other means.

2.7 It is a basic policy of UIW/IWHS/SACHS that intellectual property be developed to serve UIW/IWHS/SACHS and the public interest. This objective usually will require development and commercialization by exclusive licensing, but the public interest may best be promoted by the granting of nonexclusive licenses for the period of the patent. These determinations will be recommended and made in accordance with the administrative procedures hereinafter set out and with the approval of the Board of Trustees.

2.8 Other than incidental use, neither the facilities nor the resources of UIW/IWHS/SACHS may be used (i) to create, develop or commercialize intellectual properties unrelated to an individual's employment responsibilities (See Subsection 4.1); or (ii) to further develop or commercialize intellectual properties that have been released to an inventor (See Subdivision 5.22) except as the President may approve where UIW/IWHS/SACHS retains an interest under the terms of the release.

Section 3 - Management Responsibilities:

3.1 Intellectual Property Advisory Committee. To help administer the intellectual property policy and to make recommendations to the President for referral to the Board of Trustees (in those cases when action by the Board of Trustees is required), an Intellectual Property Advisory Committee may be established.

3.2 University Counsel. University Counsel will have responsibility for all legal matters relating to intellectual property. Among other responsibilities, University Counsel will secure protection for intellectual property when appropriate and will police infringements; maintain central databases and files of patent applications, issued patents, copyrights, licenses and agreements; negotiate and preparing license and other agreements; review and approve as to form all agreements relating to intellectual property.

3.3 The Vice President for Business & Finance will assist in business and financial matters relating to intellectual property, coordinate evaluating royalty and/or equity transactions, and review and approve agreements relating to equity transactions; represent UIW/IWHS/SACHS on boards of directors of entities in which UIW/IWHS/SACHS holds equity and the right to a Board of Trustees position; serve as a repository for certificates of shares in entities in which UIW/IWHS/SACHS holds
equity and represent UIW/IWHS/SACHS's interest with respect thereto; and coordinate with and cooperate with University Counsel in all such matters.

Section 4 - Classification of Discoveries by Source of Support:

4.1 Intellectual property that is unrelated to the individual's employment responsibility and which has been developed as a result of the individual's efforts on his or her own time with no UIW/IWHS/SACHS support or use of UIW/IWHS/SACHS's facilities.

4.2 Intellectual property that is related to the individual's employment responsibility, or has resulted either from activities performed by the individual on UIW/IWHS/SACHS time, or from using UIW/IWHS/SACHS facilities.

4.3 Intellectual property that has resulted from research supported by a grant or contract with the Federal Government or an agency thereof, a nonprofit or for profit nongovernmental entity or by a private gift to UIW/IWHS/SACHS.

Section 5 - Property Rights and Obligations:

5.1 Intellectual property unrelated to the individual's employment responsibility that is developed on an individual's own time and without UIW/IWHS/SACHS support or use of UIW/IWHS/SACHS facilities (See Subsection 4.1) is the exclusive property of the creator and UIW/IWHS/SACHS has no interest in any such property and no claim to any profits resulting there from. Should the creator choose to offer the creation to UIW/IWHS/SACHS, the President shall recommend whether UIW/IWHS/SACHS should support and finance a patent application or other available protective measures and manage the development and commercialization of the property. If the creator makes the offer after obtaining a patent or other protection, the President shall recommend whether UIW/IWHS/SACHS should reimburse the creator for expenses in obtaining such protection. If the President so recommends and the creation is accepted for management by UIW/IWHS/SACHS, the procedures to be followed and the rights of the parties shall be those set out in Subdivision 5.23.

5.2 Intellectual property either related to the individual's employment responsibility, or resulting from activities performed on UIW/IWHS/SACHS time, or from using UIW/IWHS/SACHS facilities is subject to ownership by UIW/IWHS/SACHS. (See Subsection 4.2 and Subsection 2.2.)

5.21 Before intellectual property covered by Subsection 4.2 is disclosed either to the public or for commercial purposes, and before publishing same, the creator shall submit a reasonably complete and detailed disclosure of such intellectual property to the President of UIW/IWHS/SACHS for determination of UIW/IWHS/SACHS's interest. In those instances, however, where delay would jeopardize obtaining the appropriate protection for the property, the creator may request the approval of the President and University Counsel, to file a patent application or take other steps to obtain available protection prior to the administrative review provided in the following two subdivisions (See Subsection 5.22 and Subsection 5.23). If the request is granted, the creator may proceed with the filing of a patent application or other available protective measures pending the determination of UIW/IWHS/SACHS's interest; provided, however, that the creator shall be reimbursed for reasonable expenses in filing the patent application.
or taking other steps to obtain protection if the decision of UIW/IWHS/SACHS is to assert and exploit its interests. Either the Chairman of the Intellectual Property Advisory Committee or the President shall notify University Counsel of any such application.

5.22 If the President recommends that UIW/IWHS/SACHS not assert and exploit its interest, and that recommendation is approved by University Counsel, the creator shall be notified within ninety (90) days of the date of submission that he or she is free to obtain and exploit a patent or other intellectual property protection in his or her own right and UIW/IWHS/SACHS shall not have any further rights, obligations or duties with respect thereto except that, in some instances UIW/IWHS/SACHS may elect to impose certain limitations or obligations or retain income rights, dependent upon the degree of UIW/IWHS/SACHS support involved in the creation of such property.

5.23 With respect to intellectual property in which UIW/IWHS/SACHS asserts an interest, University Counsel in consultation with the President (or his/her designee) shall decide how, when, and where the intellectual property is to be protected. If UIW/IWHS/SACHS decides to patent or seek other available protection for such intellectual property, it may proceed either through its own efforts or those of an appropriate private firm or attorney to obtain protection and manage the intellectual property. It shall be mandatory for all employees, academic and nonacademic, to assign the rights to intellectual property and patents to UIW/IWHS/SACHS when such creations fall within Subsection 5.2. In those instances where UIW/IWHS/SACHS licenses rights in intellectual property to third parties, the costs of licensing and obtaining a patent or other protection for the property on behalf of UIW/IWHS/SACHS shall first be recaptured from any royalties received by UIW/IWHS/SACHS, and the remainder of such royalty income (including license fees, prepaid royalties and minimum royalties) shall be divided as follows:

50% to Creator
50% to UIW/IWHS/SACHS

With the prior approval of the Board of Trustees the allocation of royalties set forth herein may be adjusted, but in no event shall the creator receive more than 50% or less than 25% of such proceeds. The division of royalties from patents or other intellectual property managed by an intellectual property management concern will be controlled by the terms of UIW/IWHS/SACHS's agreement with such concern, as approved by the Board of Trustees. Any other deviation from this rule requires the prior approval of the Board of Trustees.

5.3 Intellectual property resulting from research supported by a grant or contract with the Federal Government, or an agency thereof, with a nonprofit or for profit nongovernmental entity, or by a private gift or grant to UIW/IWHS/SACHS shall be subject to ownership by UIW/IWHS/SACHS (See Subsection 4.3).

5.31 Administrative approval of application requests to, and acceptance of grants or contracts with, the Federal Government or any agency thereof, with a nonprofit or for profit nongovernmental entity, or a private donor that contain provisions that are inconsistent with this policy, or other policies and guidelines adopted by the
Board of Trustees from time to time imply a decision that the value to UIW/IWHS/SACHS of receiving the grant or performing the contract outweighs the impact of any nonconforming provisions of the grant or contract on the intellectual property policies and guidelines of UIW/IWHS/SACHS.

5.32 The intellectual property policies and guidelines of UIW/IWHS/SACHS are subject to, and thus amended and superseded by, the specific terms pertaining to intellectual property rights included in Federal grants and contracts, or grants and contracts with nonprofit and for profit nongovernmental entities or private donors, to the extent of any conflict.

5.33 In those instances where it is possible to negotiate UIW/IWHS/SACHS-wide intellectual property agreements with the Federal agencies or nonprofit and for profit nongovernmental entities or private donors and thereby obtain more favorable treatment for the creator and UIW/IWHS/SACHS, every effort will be made to do so with the cooperation and concurrence of University Counsel after consultation with the President.

5.34 Employees of UIW/IWHS/SACHS whose intellectual property creations result from a grant or contract with the Federal Government, or any agency thereof, with a nonprofit or for profit nongovernmental entity, or by private gift to UIW/IWHS/SACHS shall make such assignment of such creations as is necessary in each case in order that UIW/IWHS/SACHS may discharge its obligation, expressed or implied, under the particular agreement.

5.35 In the event that two or more persons are entitled to share royalty income pursuant to Subdivision 5.23 (or equity pursuant to Section 6) and such persons cannot agree on an appropriate sharing arrangement as evidenced by a clear and unequivocal written agreement transmitted to University Counsel, that portion of the royalty income to which the creators are entitled under this Policy will be distributed to such persons in such portions as the Vice President of Business & Finance may deem appropriate under the circumstances and such decision shall be binding on the creators.

5.36 A decision by UIW/IWHS/SACHS to seek patent or other available protection for intellectual property covered by Subsection 5.2 shall not obligate UIW/IWHS/SACHS to pursue such protection in all national jurisdictions. UIW/IWHS/SACHS's decision relating to the geographical scope and duration of such protection shall be final.

Section 6 - Equity Interests:

6.1 In agreements with business entities relating to rights in intellectual property owned by UIW/IWHS/SACHS, UIW/IWHS/SACHS may receive equity interests as partial or total compensation for the rights conveyed.

6.2 With the approval of the Board of Trustees, employees of UIW/IWHS/SACHS who conceive, create, discover, invent or develop intellectual property may hold an equity interest in a business entity that has an agreement with UIW/IWHS/SACHS relating to the research, development, licensing or exploitation of that intellectual property.
6.3 UIW/IWHS/SACHS may negotiate, but shall not be obligated to negotiate, an equity interest on behalf of any employee as a part of an agreement between UIW/IWHS/SACHS and a business entity relating to intellectual property conceived, created, discovered, invented, or developed by the employee and owned by UIW/IWHS/SACHS.

6.4 Dividend income and income from the sale or disposition of equity interests held by UIW/IWHS/SACHS pursuant to agreements relating to intellectual property shall belong to UIW/IWHS/SACHS and shall be distributed in accordance with the provisions of Section 10.

6.5 Dividend income and income from the sale or disposition of an equity interest held by a UIW/IWHS/SACHS employee pursuant to an agreement between UIW/IWHS/SACHS and a business entity relating to rights in intellectual property conceived, created, discovered, invented or developed by such employee shall belong to the employee.

Section 7 - Business Participation:

7.1 Any UIW/IWHS/SACHS employee who conceives, creates, discovers, invents or develops intellectual property shall not serve as a member of the Board of directors or other governing Board, or as an officer or an employee (other than as a consultant) of a business entity that has an agreement with UIW/IWHS/SACHS relating to the research, development, licensing, or exploitation of that intellectual property without prior review by University Counsel and approval by the President and the Board of Trustees.

7.2 When requested and authorized by the Board of Trustees, an employee may serve on behalf of the Board of Trustees as a member of the Board of directors or other governing Board of a business entity that has an agreement with UIW/IWHS/SACHS relating to the research, development, licensing or exploitation of intellectual property.

Section 8 - Reporting:

Any employee covered by Subsections 6.2, 7.1, or 7.2 shall report in writing to the President or to such other person as may be designated by the President, the name of any business entity in which the person has an interest or for which the person serves as a director, officer or employee and shall be responsible for submitting a revised written report upon any change in the interest or position held by such person in such business entity. These reports shall be forwarded to the Vice President of Business & Finance and University Counsel by October 1 of each year for filing with the Board of Trustees.

Section 9 - Approval of and Execution of Legal Documents Relating to Rights in Intellectual Property:

9.1 Agreements that grant an interest in UIW/IWHS/SACHS intellectual property may be executed and delivered in accordance with the provisions of this policy following any required review by University Counsel.

9.2 Any document altering substantially the basic intellectual property policy of UIW/IWHS/SACHS as set out in the preceding Sections and other policies and guidelines that may be adopted by the Board of Trustees shall have the advance approval of the President and the Board of Trustees as an agenda item. Such an
alteration in a sponsored research agreement shall not be considered substantial and the agreement may be executed and delivered as set forth in Subsection 9.1 if, in the judgment of the President the benefits from the level of funding for the proposed research and/or other consideration from the sponsor outweigh any potential disadvantage that may result from the policy deviation.

9.3 The President may execute, on behalf of UIW/IWHS/SACHS, legal documents relating to UIW/IWHS/SACHS’s rights in intellectual property, including, but not limited to, declarations, affidavits, powers of attorney, disclaimers, and other such documents relating to patent applications and patents; applications, declarations, affidavits, affidavits of use, powers of attorney, and other such documents relating to trademarks; and other documents approved pursuant to Subsections 9.1 or 9.2. The President or designee may execute, on behalf of UIW/IWHS/SACHS, institutional applications for registration or recordation of transfers of ownership and other such documents relating to copyrights.

Section 10 - Income from Intellectual Property:

10.1 The portion of the net income UIW/IWHS/SACHS retains from royalties and any other intellectual property-related income shall be used for purposes approved by the Board of Trustees in accordance with standard budgetary policies. With the approval of the Board of Trustees such income may be accumulated in an endowment fund with the income to be distributed as may be approved by the Board of Trustees.

10.2 With the prior written approval of the President future royalties payable to a faculty member pursuant to Subdivision 5.23 may be assigned to UIW/IWHS/SACHS by the faculty member and designated for use in research to be conducted by such faculty member.

Section 11 - Implementation of Intellectual Property Policy:

University Counsel shall prepare and distribute such model agreements and recommended procedures as may be considered appropriate for the implementation of the provisions of this policy as well as other policies and guidelines adopted by the Board of Trustees.

Section 12 - Construction of Documents:

Unless otherwise required by law or UIW/IWHS/SACHS’s Rules and Regulations, each intellectual property agreement approved hereunder shall be construed in accordance with the Intellectual Property Policy in existence as of its approval date.

Section 14.20 – UIW/IWHS/SACHS Intellectual Property Policy In Plain English:

This Policy Statement answers fundamental questions about intellectual property, such as What is it? To whom does this Policy apply? Who owns intellectual property created by UIW/IWHS/SACHS employees and under what circumstances must the owner share royalties? It will also answer other questions like How does the UIW/IWHS/SACHS identify and evaluate intellectual property? May
UIW/IWHS/SACHS employees own equity interests in companies that commercialize intellectual property? Who is responsible for obtaining patent protection? Who must approve license agreements? If you have a question about intellectual property that is not answered here, you may refer to the Official Policy or contact Bob Kunczt at the Office of the University Counsel.

What is intellectual property subject to this Policy?

This Policy covers all types of intellectual property. The following examples are not exhaustive: the Policy applies to other types not listed here, regardless of whether they may be protected by patent, copyright, trademark, trade secret or other law.

- Inventions
- Discoveries
- Trade secrets
- Trade and service marks
- Writings
- Art works
- Musical compositions and performances
- Software
- Literary works
- Architecture

To whom does this Policy apply?

- All UIW/IWHS/SACHS employees
- Anyone using UIW/IWHS/SACHS facilities under the supervision of UIW/IWHS/SACHS personnel
- Undergraduate and graduate students
- Postdoctoral fellows
Ownership: The Starting Point

This is the starting point for understanding this Policy: UIW/IWHS/SACHS owns the intellectual property created by its employees under the conditions stated below.

When does UIW/IWHS/SACHS own employee-created intellectual property?

Any one of these circumstances will result in UIW/IWHS/SACHS ownership:

1. If intellectual property is created by an employee within the scope of employment; or
2. If intellectual property is created on UIW/IWHS/SACHS time, with the use of UIW/IWHS/SACHS facilities or state financial support; or
3. If intellectual property is commissioned by UIW/IWHS/SACHS
   - Pursuant to a signed contract; or
   - If it fits within one of the nine categories of works considered works for hire under copyright law
4. If intellectual property results from research supported by Federal funds or third party sponsorship.

When does an employee own intellectual property?

1. If it is unrelated to the employee's job responsibilities and the employee made no more than incidental use of UIW/IWHS/SACHS resources; or
2. If it is an invention that has been released to the inventor in accordance with this Policy; or
3. If the intellectual property is embodied in a professional-, faculty-, researcher- or student-authored scholarly, educational, artistic, musical, literary or architectural work in the author's field of expertise (from here on, a "scholarly work"), even though such a work may be within the scope of employment and even if UIW/IWHS/SACHS resources were used –
   
   **UNLESS** it is a scholarly work (i) created by someone who was specifically hired or required to create it or (ii) commissioned by UIW/IWHS/SACHS or a component institution of UIW/IWHS/SACHS, in either of which cases, UIW/IWHS/SACHS, not the creator, will own the intellectual property.

Who are professionals and researchers?

The use of the terms "professionals" and "researchers," together with faculty members and students, is intended to encompass all those individuals who routinely create scholarly works.
For example, if a library administrator writes a book about Texas History, his/her field of expertise, UIW/IWHS/SACHS will not assert ownership of the book.

In the case of educational materials that involve significant institutional resource contributions, UIW/IWHS/SACHS retains rights, for example, to use the work and to recover its investment. And in some cases, (see below) UIW/IWHS/SACHS may be a joint author and owner of such works.

What is considered to be within the scope of my employment?

Works related to an employee's job responsibilities, even if he or she is not specifically requested to create them, will belong to UIW/IWHS/SACHS as works-for-hire. A copyright work is related to your job responsibilities if it is the kind of work you are employed to do and you do it, at least in part, for your use at work, or for use by fellow employees, your employer or your employer's clients. The work should be performed substantially at work using work facilities, but your use of personal time or other facilities to create the work will not change its basic nature if it is related to your job as described above. Works that have nothing to do with job duties will remain the property of the employee, so long as he or she makes no more than incidental use of UIW/IWHS/SACHS facilities.

For example, if your job is "Safety Engineer", a software program that you create on your own initiative to run on each employee's computer to show a graphic of their nearest fire exits is related to your job duties and will belong to UIW/IWHS/SACHS, even if no one asked you to create it and you did some of the programming at home on your own computer. A program that you create that does not relate to your job, that neither you nor others use at work, and that you created on your own time would belong to you.

How do I know if I have been "specifically hired or required to create" a work?

In some cases this will be clear from your job description. For example, faculty members are required by their institutions to create certain materials for use by their departments. In other cases a faculty member may be hired to create specific materials, such as online course materials for a specific
class or department. In such a case, UIW/IWHS/SACHS will own the copyright in the materials and any other resulting intellectual property.

There are several ways to clarify circumstances that are confusing or are exceptions to the more general rules.

1. Professionals, faculty members, researchers or students employed to create specific intellectual property, or hired to create intellectual property generally, should review and sign a single-page acknowledgement to clarify ownership of the works they create. The acknowledgment also applies to other employees who are hired to create intellectual property (i.e. adjunct faculty) and to whom the royalty sharing provisions may not apply as discussed below. UIW/IWHS/SACHS has agreed to pay a royalty to full-time faculty for development of online courses and the Work for Hire Acknowledgement will be used to acknowledge the ownership and royalty agreement.

2. In general, it's always better to ask questions about the ownership of intellectual property before its creation to avoid misunderstandings.

May a work be jointly owned by an employee and UIW/IWHS/SACHS?

This is very likely to be the case for works protected by copyright such as multimedia courseware products and distance learning materials. Anyone who contributes the kind of expression protected by the law is a joint author if the contribution is intended to be part of an integrated whole. UIW/IWHS/SACHS's employees who work as programmers, graphic artists, video technicians, script writers, etc., create just this kind of expression. When added to a faculty member's contribution, the result is a jointly-authored work, owned by UIW/IWHS/SACHS and the faculty member. There can be other author-owners as well. The article, *Who Owns What?* explains this more thoroughly.

When must the owner of intellectual property share royalties or other benefits from commercialization?

In the vast majority of cases, the owner, whether UIW/IWHS/SACHS or an employee, will retain all royalties or other benefits from any commercialization of intellectual property. These are the exceptions:

- An employee owner must share benefits with UIW/IWHS/SACHS
  - From commercializing a UIW/IWHS/SACHS invention released to him or her; or
b. If the work embodying the intellectual property required significant resource contributions from UIW/IWHS/SACHS or a component to create or develop the intellectual property. In this case, the parties should execute an agreement regarding the sharing arrangement before starting the project that will result in creation of the intellectual property.

- UIW/IWHS/SACHS will share royalties from commercialization of intellectual property it owns if the work is an invention, discovery, trade secret, trade or service mark, or software, regardless of how protected.

a. **UNLESS** the employee creator was hired specifically or required to create the intellectual property or the work was commissioned by UIW/IWHS/SACHS or a component institution of UIW/IWHS/SACHS, in either of which cases the royalty-sharing provisions of this Policy shall not apply and the owner shall retain all benefits from commercialization.

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**What should I do if I think I have created intellectual property subject to the Policy?**

As noted above, intellectual property includes works protected by copyright, patent, trade secret and other laws, but we do not handle all intellectual property in the same way. Scholarly works are handled differently from inventions, discoveries and ideas because our concerns about protecting them are different, as explained below.

**Inventions:** UIW/IWHS/SACHS will normally own all inventions created by employees within the scope of their employment and must be sure that it can legally protect the invention if it hopes to license it. Since publication of the idea embodied in the invention bars the filing of a patent application in every country in the world except the United States, and starts a one-year clock running on the right to file a patent application in the United States, publication is a very important event - one UIW/IWHS/SACHS would like to know about **before** it happens! Because of these concerns, the Policy requires that inventors disclose their inventions to the Intellectual Property Advisory Committee well before they submit any information about the invention for publication, make any public disclosure or even a private disclosure to a commercial entity.

The Intellectual Property Advisory Committee reviews disclosures to decide whether UIW/IWHS/SACHS should assert its interest in an invention or release the invention to the inventor.
Sometimes this process may take some time, so that occasionally, the inventor may wish to file a patent application while the Committee's review is proceeding. If the institution authorizes such a patent application and the UIW/IWHS/SACHS decides later to assert its interest, the inventor will be reimbursed for patent expenses.

**Scholarly works:** Scholarly works are owned by their authors if the author is a professional, faculty member, a non-faculty researcher or a student. Their scholarly works do not have to be disclosed to or reviewed by the institution. Scholarly works are usually protected by copyright rather than patent. Copyright protects works of authorship from the moment of their fixation in a tangible medium of expression, that is, instantly and automatically. As a result, the rigorous institutional review given to possibly patentable inventions is unnecessary to protect an interest in copyright works.

Our main concerns with scholarly works owned by professionals, faculty, non-faculty researchers and students are to allocate and recover resources that may be contributed to the creation of such works. If a project involves the use of significant UIW/IWHS/SACHS resources, the creator and UIW/IWHS/SACHS should agree before the project begins on use of facilities, allocation of rights to use the work, and recovery of expenses and/or sharing of benefits from commercialization of the work.

**Who secures patents or other legal protection?**

If intellectual property belongs to UIW/IWHS/SACHS, UIW/IWHS/SACHS will secure patent or trademark protection. Individuals who own a copyright work or invention must secure protection themselves, at their own expense.

**Who may take an equity interest in or serve as an officer, director or employee of a company that commercializes UIW/IWHS/SACHS intellectual property?**

Although UIW/IWHS/SACHS is free to take an equity interest in a licensee as partial or full consideration for the license of UIW/IWHS/SACHS intellectual property, it could be a conflict of interest for an employee of UIW/IWHS/SACHS or a component institution to also be an employee, officer,
director or stockholder in a corporation or other business entity that licenses UIW/IWHS/SACHS intellectual property. Because of this possible conflict of interest UIW/IWHS/SACHS or component institution employees may hold equity interests in licensees or be employees, officers or directors only after approval by President of UIW/IWHS/SACHS.

Approval and Execution of Documents

Patent, technology and software license agreements and other agreements that convey an interest in UIW/IWHS/SACHS intellectual property are reviewed by the University Counsel and executed by the Vice President for Business & Finance.

Work-for-hire Acknowledgment

The UIW/IWHS/SACHS Intellectual Property Policy contains two provisions (Subsection 2.3 and Subdivision 5.23) that do not apply if the individual who created the property was required or hired specifically to create it, but there may be times when it is unclear to either the employee, the employer or both, whether an employee was required or hired to create intellectual property. The purpose of this acknowledgment is to help identify individuals who have been required or hired to create intellectual property, discuss the application of the Rules with them, and record that they understand.

There are two circumstances likely to cause confusion:

- Professional, faculty, researcher or student employees required or hired specifically to create the kinds of works they would normally own under Subsection 2.3 of the Intellectual Property Policy (scholarly, educational, artistic, musical, literary or architectural works).

- Any employee required or hired specifically to create the kinds of works for which royalty-sharing incentives are usually provided under Subdivision 5.23 of the Intellectual Property Policy (inventions, discoveries, trade secrets, trade and service marks, and software).

UIW/IWHS/SACHS may discuss and execute acknowledgments with these two types of employees and any other employees in similar circumstances where confusion may be likely.