

THE LUTHERAN UNIVERSITY ASSOCIATION, INC.
d/b/a VALPARAISO UNIVERSITY

Faculty Policy on Intellectual Property

I. Rationale

The purpose of the University's Intellectual Property policy is to foster the creation and dissemination of knowledge and to provide certainty in individual and institutional rights associated with ownership and with the distribution of benefits that may be derived from the creation of intellectual property. This policy applies to faculty creating intellectual property related to the scope of their employment with the University.

II. Copyrights

Generally, copyright ownership of any academic, pedagogical, scholarly, or artistic work generated by a faculty member in the course of his or her University responsibilities will initially vest with the individual faculty author. The University shall have a royalty-free nontransferable license to use the work for noncommercial purposes.

Ownership of such works will or may vest with the University in the following circumstances:

1. The ownership will vest with the University when a faculty member is being specifically compensated for creating the work and/or given leave time to create a specific work at the request of the University, or if the work is created pursuant to an agreement that it is a work-for-hire within the meaning of applicable copyright laws. In such a case, the faculty member shall have a royalty-free nontransferable license to use the work for noncommercial purposes.
2. If the work is being created pursuant to an agreement between the University and a third party that contains obligations or restrictions related to copyright ownership, the work will be treated in accordance with such agreement.
3. In the event the University involvement in the creation and development of the work is more than incidental, including but not limited to, use of resources such as funds, facilities, equipment or other University resources, or the work consumes so much of the author's time that it becomes tantamount to a conflict of commitments as outlined in section **2.5.5** of the *Faculty Handbook* then ownership of royalties or income or both shall be fairly and equitably apportioned between the author and the University. This policy encourages, wherever feasible, that the University and the author reach agreement prior to the commencement of a project on the rights that the University and the author will have in the resulting copyrightable materials.

Copyright ownership for University business-related works, including but not limited to promotional materials, policy guides, reports, normal University publications, or other general business works, shall vest with the University.

III. Trademarks

University trademarks (marks, words, symbols and other identifying indicia) are the exclusive property of Valparaiso University. The creation and use of University trademarks is managed through the office of Integrated Marketing and Communication. University trademarks may not be used in any fashion without prior written approval. No marks other than those approved by the University may be used.

IV. Patents and Copyrighted Software

A. For purposes of this policy, the following definitions apply:

1. Inventor. Any one or more faculty that create an Invention.
2. Invention. Any patentable or potentially patentable work or Software, and any copyrighted or potentially copyrighted Software, created by an Inventor related to the scope of their employment with the University.
3. Direct Costs. All costs incurred by and through the University directly related to the development of the Invention, including costs to copyright, trademark and patent the Invention but not salaries and overhead of the University personnel.
4. Income. All monies paid or payable to the University (or the Inventor, as the case may be) in consideration of an assignment, sale, or license of rights in the Invention, including without limitation, assignment or upfront licensing fees or royalties, milestone payments, advanced royalties, royalties on sales of products incorporating or utilizing the Invention, other running royalties, sublicensing fees, equity and options to equity. In the event that the University (or the Inventor, as the case may be) itself (or himself or herself) commercializes the Invention, or in any way exploits the Invention or derives revenues otherwise than through an assignment or license, Income shall also include money compensation based on sales made by the University (or the Inventor, as the case may be).
5. Net Income. All Income less any Direct Costs.
6. Software. Any computer program including, but not limited to, microcode, subroutines, and operating systems.

B. Patent and Copyright Process and Revenue Sharing Agreement Process

To best preserve the interests of all parties, disclosure of an Invention to the University must be made as close to the point of conception as possible. When a faculty member creates any invention, the faculty member shall promptly notify his or her Dean. Together, the Dean and the faculty member will work together and determine if it is an Invention subject to this policy. If it is, the Dean shall notify the Provost and together, they shall have up to six (6) months to decide whether the University will accept

ownership rights to the Invention and will pursue a Patent and/or Copyright. In the interim, there shall be no publication on the invention without the approval of the Dean or Provost. If the University chooses to pursue Patent and/or Copyright, the Inventor agrees to promptly sign an Intellectual Property Assignment, transferring all ownership rights to the University, and the Inventor shall have the right to enter into a Revenue Sharing Agreement. The Inventor shall represent, warrant, and covenant his or her exclusive rights to the Invention (not including any rights held by the University) and assigns any and all of his or her ownership rights in the Invention to the University. The Inventor shall also represent, warrant, and covenant that he or she is under no obligation, and will not hereafter enter into any obligation, to any third party that would interfere with or impair said ownership or his or her ability to assign said ownership rights or the performance of any other of his obligations under such Assignment. The Inventor will not do any act that might impair the ability to procure a Patent, trademark, and/or copyright protection, as applicable, on the Invention, but will rather make all reasonable efforts needed to aid the University in procuring, defending, or prosecuting a Patent, trademark, or copyright of the Invention. Once the Assignment and Revenue Sharing Agreement are signed, the University shall be the sole owner of the Invention and shall pay all costs associated with any patent, copyright, trademark, marketing, or other expenses. Any Net Income shall be shared annually between the University and the Inventor, as provided for in the Revenue Sharing Agreement.

If the University decides not to pursue a Patent or Copyright on the Invention, the University will provide the author with an Intellectual Property Assignment, transferring any ownership interests of the University in the Invention to the Inventor, subject to a royalty-free nontransferable license to the University to use the invention for noncommercial purposes and to publish any data associated with or arising from the use of the Invention.

1. Invention Revenue Sharing

All Net Income shall be shared annually between the University, the College of the Inventor, and the Inventor (or a University account for his use while employed at the University), as follows:

<u>Total Net Income</u>	<u>Total % to Inventor(s)</u>	<u>Total % to Inventor's Valpo Account</u>	<u>Total % to Inventor's College</u>	<u>Total %to University</u>
\$0-\$100,000	50	0	0	50
\$100,001-\$500,000	25	25	25	25
\$500,001-\$750,000	25	15	25	35
\$750,001-\$1,000,000	25	10	25	40
\$1,000,001 +	25	0	25	50

The first column is the total percentage allocated to any and all inventors of the Invention, including non-faculty and 3rd party inventors. The second column represents the percentage allocated to an account which shall be owned by the University but the funds in which account may be expended based on the decisions of the inventor during such time the inventor is a member of the faculty. The third column represents the

percentage that shall be paid to the University but allocated to the College within the University in which the inventor has a faculty appointment, which amounts may be expended as provided in the College's budget or as otherwise approved by the Dean of the College. The fourth column represents the percentage that shall be paid to the University.

2. Confidentiality

To the extent allowed by law, the Inventor shall not disclose any matters related to the research leading up to and following the Invention, data related to the formulation of the Invention, any patent, trademark or copyright applications, commercialization plans, licensing agreements or like documentation unless the University authorizes the consent of such disclosure. The Inventor shall reimburse the University for all costs it may incur, including any loss of Net Income (past and future), court costs and attorney fees that result from Inventor's breach of this section.

3. Patent and Revenue Sharing Process Summary:

- a. Invention Disclosure Form
- b. Dean and Inventor meet to determine if the invention is subject to this policy
- c. If the invention is subject to this policy, the University has up to six (6) months to do due diligence in determining if it shall pursue a Patent or Copyright on the Invention
- d. If the University determines it will pursue a Patent or Copyright, fill out: (1) Intellectual Property Assignment; Inventor to Valparaiso University; (2) Revenue Sharing Agreement
- e. If the University determines it will not pursue a Patent or Copyright, fill out Intellectual Property Assignment; Valparaiso University to Inventor.

V. Conflict Resolution

The University and any faculty member who are not in agreement regarding the application of this policy to any particular situation agree to submit such disagreement to a settlement conference in which the following persons shall participate in a good faith effort to resolve the disagreement: faculty member, the Provost or a representative of the Provost's Office, the Dean of the College where the faculty member has an appointment and the department Chair of the faculty member's Department. In the event the disagreement is not resolved as a result of the efforts of the parties to settle the disagreement in the foregoing manner, the matter shall be submitted to the President of the University, or his/her designee, whose decision shall be final and binding on the parties. Nothing in this policy or dispute resolution procedure shall diminish or alter the rights of faculty members under the University's procedures for shared governance set forth under the *Faculty Handbook*.

VI. Exemptions

This policy shall not apply to the extent it conflicts with any written agreement in which the University is a party, including a grant, between the University as one party, and a third party and/or a faculty member as the other party or parties.

VII. Adoption and Amendment of this Policy

This policy has been adopted by the Academic and Student Affairs Committee of the University's Board of Directors, effective October 30, 2015, and may be amended or modified only by such Committee or by the Board of Directors of the University.