



Policy on Copyright

(Approved by the President)

PREAMBLE

The University of Maryland Biotechnology Institute (UMBI) bases ownership of copyright on the characteristics of the work effort, e.g., the work may be an independent creative act in the course of employment or it could be a commissioned work produced under contract. Contextual factors such as use of resources, etc., will remain important in determining contract terms and in interpreting the policy.

I. POLICY

It is the policy of UMBI that copyrights arising from aesthetic, scholarly, or other work developed through independent efforts and not part of a directed UMBI or The University System of Maryland (USM) assignment shall reside with the originator. Independent effort is defined as the product of inquiry, investigation, or research to advance truth, knowledge, or the arts where the specific choice, content, course, and direction of the effort is determined by the individual without assignment or supervision by UMBI or USM.

All rights in copyrights for all other works arising from the use of UMBI or USM resources whether directed or commissioned or contractually determined shall belong to the Regents.

In conformity with this policy, the Chancellor and the UMBI President are authorized to enter into agreements with respect to ownership, licensure, disposition of royalty income, resolution of disputes, and other rights related to copyrights under their respective jurisdictions. They are authorized to register copyrights, accept copyrights from third parties, and to sell or grant licenses or assignments in the name of the Regents for any rights to copyrights under their jurisdiction.

II. OWNERSHIP BY CATEGORY OF WORK

A. Scholarly/Aesthetic

In keeping with traditional academic practice and policy, ownership of copyrights to scholarly or aesthetic works that are prepared through independent effort and not part of a directed assignment, shall reside with the originator except as otherwise provided in this Policy. The general obligation of faculty to produce scholarly works does not constitute such a directed assignment.

B. Personal

The copyright to any work that is prepared outside the scope of employment and without the use of UMBI or USM resources by an employee shall be the property of the employee.

C. Sponsored/Contracted

The Board of Regents asserts its right to copyrightable works created under sponsorship or contract. Copyright ownership of sponsored works and contracted works shall be governed by such agreements or contracts. Any sponsored work agreement which provides for ownership by other than the Board of Regents shall also provide the Board of Regents with a free-of-cost, non-exclusive, world-wide license to use and reproduce the copy-righted work for research and education purposes, except where prohibited by

law or government regulation.

D. Commissioned

When UMBI or USM commission the production of a work, title normally should be with the Board of Regents. In all cases, copyright ownership shall be specified in the written contract. Any commissioned work agreement which provides for ownership by other than the Board of Regents, shall also provide the Board of Regents with a free-of-cost, non-exclusive, world-wide license to use and reproduce the copyrighted work for research and education purposes, except where prohibited by law or government regulation.

E. Acquired by Assignment or Will

The Board of Regents may acquire copyrights by assignment or will pursuant to the terms of the written agreement or testament.

III. REVENUE SHARING FOR NON-CONTRACTED WORK

The Board of Regents may assign or license its copyrights to others. USM, through UMBI, shall share with the originator(s) revenue which it receives through copyrights. Specific provisions of grants or contracts may govern rights and revenue distribution. Consequently, revenues received from such copyrights may be exclusive or payments of royalty shares to donors or contractors. Moreover, UMBI may contract with outside persons or organizations for the obtaining, managing and defending of copyrights, and any royalty share or expenses contractually committed to such persons or organizations may be deducted before revenues accrue or before the originator's share is distributed. The revenues (net, if applicable, per the preceding paragraph) which are received from a copyright will be applied first to reimburse UMBI or USM for any specific, incremental expenses incurred by it in generating the copyright and in marketing, licensing and defending the rights. After provision for such expenses, such revenues shall be shared as follows: (1) the first \$5,000 will be paid to the originator(s); (2) thereafter the originator(s) will receive seventy-five percent of such revenues. Applicable laws, regulations or provisions of grants or contracts may, however, require that a lesser share be paid to the originator.

To the extent consistent with State, USM, and/or UMBI budget policies any net revenue received on account of a copyright, after sharing with the originator(s), will be dedicated to research and to the promotion of original works. If practicable, 85% of USM's and/or UMBI's share of new revenue from each copyright will be designated for research in the originator's Center or analogous unit up to \$100,000 in a fiscal year for a particular Center or analogous unit. If use of such funds for research within the originator's Center or analogous unit is not practicable, the funds should usually be designated for research in a related Center or unit. The remaining part of the new revenues shall be devoted to research, incentive for creative works, and development of intellectual property as directed by the President or Director, or designee (or, for the System Office, the Chancellor or designee).

IV. DEFINITIONS

For purposes of interpretation of this policy, the following definitions shall apply:

A. Aesthetic Work

A work that is a result of original artistic expression.

B. Commissioned Work

A work produced for UMBI or USM by others pursuant to a contract at UMBI's or USM's expense.

UMBI Policies and Procedures

- C. Contracted Work
Work produced by and for other at the others' expense, using UMBI or USM facilities pursuant to a contract.
- D. Copyright
The intangible property right granted by statute providing the owner the following exclusive rights over a work: to reproduce, to prepare derivative works, to distribute, to perform publicly, and to display publicly.
- E. Direct University Assignment
Any written or oral instruction or task assigned to an originator.
- F. License
A contract in which a copyright owner grants permission to exercise one or more of the rights under copyright.
- G. Originator
Any person who produces a work by his or her own intellectual effort, including student employees.
- H. Royalties
A payment made to an owner of a copyright for the privilege of practicing a right under the copyright.
- I. Scholarly Work
Work such as, but not limited to, books, articles, other such publications, lectures, and computer software resulting from independent effort.
- J. Software
A work comprising statements or instructions to be used directly or indirectly in a computer to bring about a certain result and any associated documentation containing operational instructions. (In cases where software is found to be patentable, UMBI's Policy on Patents will govern.)
- K. Sponsored Work
A work produced by or through UMBI or USM pursuant to a contract, grant, or other agreement.
- L. UMBI or USM Resources
All buildings, equipment, services, funds (regardless of source), and other facilities under the control of the Board of Regents.
- M. Work
Any copyrightable expression including, but not limited to writings, lectures, musical or dramatic compositions, sound recordings, films, videotapes, computer software, architectural designs, and works of art.

REVIEWED AND RECOMMENDED: S. Gaylen Bradley Vice President Academic Affairs Date

APPROVED: Rita R. Colwell President, University of Maryland Biotechnology Institute