

Policy On Intellectual Property

Claremont McKenna College (CMC) encourages the production of creative and scholarly research, works and inventions, known broadly as intellectual property, among faculty, students and staff. The products of this scholarship may create rights and interests on behalf of the creator, author, inventor, public, sponsor and CMC. The purpose of this policy is to support and reward scientific research and scholarship, and help faculty, students and staff identify, protect, and administer intellectual property matters and define the rights and responsibilities of all involved.

1. Application of Policy

The policy applies to works created by all classifications of faculty, staff and students of CMC and to non-employees such as consultants and independent contractors, who create works on behalf of CMC, unless a written agreement exists to the contrary.

2. Identification of Intellectual Property (“Intellectual Property”)

Intellectual property shall consist of the following:

(1) Copyrightable material produced from creative and scholarly activity, such as text (manuscripts, manuals, books, and articles); videos and motion pictures; music (sound recordings, lyrics, and scores); images (print, photographs, electronic, and art); and computer software (programs, databases, web pages, and courseware); and

(2) Patentable works such as patents (processes, machines, manufactures, or compositions of matter); devices; and software excluded from copyrighted materials; and

(3) Trademarked materials, such as words, names, symbols or logos, domain names, trade dress, and slogans or any combination of words which has been adopted by CMC to identify itself and to distinguish itself and its sponsorship from others.

(4) Trade Secrets.

3. Ownership and Use

(1) **General Rule.** Keeping with the view that one of CMC's primary benefits to society is the production of original works by its employees and students, and in order to best encourage such activity, it is the general policy of CMC that Intellectual Property shall be the property of the author or creator. CMC may assert ownership rights to Intellectual Property developed under circumstances set forth further below.

To qualify as “substantial College assistance,” the College’s participation in or developmental activity leading to intellectual property must be material, significant, and beyond the resources normally provided to individual employees, staff members, and students. Without limiting the foregoing, the College does not regard the College’s provision of normal and customary compensation, student financial aid, library resources, office or laboratory facilities, office staff or laboratory support, telecommunications facilities, individual personal computers, and ordinary and reasonable access to

the College's computer network and websites or similar College-provided electronic communication tools used for non-commercial scholarly pursuits, as constituting "substantial College assistance."

(2) Patentable Intellectual Property

Responsibility for Disclosure of Patentable Intellectual Property: CMC personnel who alone or in association with other entities create or intend to create patentable subject matter with any use of CMC resources must disclose the matter and obtain prior authorization from the Office of the Dean of the Faculty (or designee). Such disclosure shall be made when it can be reasonably concluded that a patentable subject matter has or will be created, and sufficiently in advance of any publications, presentation, or other public disclosure to allow time for possible action that protects rights to the intellectual property for the creator and CMC. Creators are encouraged to seek the advice of the Dean of the Faculty (or designee) in determining whether the subject matter is patentable or whether CMC desires to pursue patenting the matter. If CMC decides not to invest in a patent application, the faculty member may proceed with no obligation to share resulting income with the College.

Determination of Rights to Patentable Subject Matter: Except as set forth below, the creator of patentable intellectual property shall retain his/her rights, and CMC shall not assert ownership rights. CMC will assert ownership rights to patentable intellectual property developed under any of the following circumstances:

- Development was funded by an externally sponsored research program or by any agreement which allocates rights to CMC.
- Development required substantial use of CMC resources. Participation of students directly in the development, or indirectly through use and feedback that substantively influences development, constitutes significant use of CMC resources.
- The creator was assigned, directed, or specifically funded by CMC to develop the material.
- Material was developed by administrators or staff in the course of employment duties and constitutes work for hire under US law.

(3) Other Intellectual Property

Responsibility for Disclosure of Intellectual Property: In contrast to historical business practice, the tradition of academic institutions is to give faculty members the right to retain ownership of their Intellectual Property. This policy protects that traditional right, and faculty are not obligated to disclose the creation of these materials, even when the product might have commercial value, unless the material was developed under one of the qualifying conditions listed in the next section in which case the creator is responsible for timely disclosure. However, faculty are encouraged to disclose any protectable material that has commercial value to the extent that they may wish assistance in

copyright protection and marketing in exchange for profit sharing with CMC. All disclosures should be made to the Office of the Dean of the Faculty.

Determination of Rights to Intellectual Property: Except as set forth below, the creator of Intellectual Property shall retain his/her rights, and CMC shall not assert ownership rights. However, creators will be expected to grant non-exclusive, royalty-free, perpetual licenses to CMC for Intellectual Property that is developed for CMC courses or curriculum, guaranteeing that CMC has the right to continued use of such material for educational purposes at CMC without charge. CMC may assert ownership rights to Intellectual Property developed under the following circumstances:

- Development was funded as part of an externally sponsored research program under an agreement which allocates rights to CMC.
- A faculty member was assigned, directed, or specifically funded by CMC to develop the material, and CMC has negotiated an understanding or formal contract with the creator.
- Material was developed by administrators or other non-faculty employees in the course of employment duties and constitutes work for hire under US law.
- Development required substantial use of CMC resources. Participation of students directly in the development, or indirectly through use and feedback that substantively influences development, constitutes significant use of CMC resources. Any income from books, papers, or computer programs are assigned in full to faculty members, except that the College may expect that substantial College assistance in developing the material will be reimbursed to the College.

(4) Intellectual Property Developed Under Sponsored Research Agreements

Ownership of Intellectual Property developed pursuant to an agreement with any sponsor will be governed by the provisions of that agreement. Sponsored research programs funded by private sponsors will generally provide for CMC to retain title to all intellectual property that arises in the course of the research program with the sponsor retaining an option to acquire commercialization rights through a separate license agreement. Government and nonprofit sponsors generally allow rights to intellectual property that arises from the research program to vest with CMC, subject to certain retained rights held by the federal government.

(5) Special Agreement

The overriding principle underlying this Intellectual Property Policy is to encourage creativity and inventiveness, so CMC reserves the right to allow some flexibility in applying this policy on a case-by-case basis. In such cases, ownership and use of materials developed pursuant to a special agreement between CMC and the creator/author will be governed by the principles of that agreement.

4. Administration

Office of the Dean of the Faculty: The Policy on Intellectual Property shall be administered by the Office of the Dean of the Faculty and the stated terms and provisions of the policy shall be determined and interpreted by the Dean of the Faculty.

Intellectual Property Review Committee: In implementing this policy, a standing Intellectual Property Review Committee shall (1) review policy provisions from time to time, as needed, with recommendations for change or amendments to the Dean of the Faculty; (2) serve as a non-binding decision-making body in the case of any dispute relating to this policy; (3) review other issues as requested by the Office of the Dean of the Faculty or other interested parties. The Intellectual Property Review committee shall consist of the Dean of the Faculty and four tenured or tenure-track faculty members appointed by the Dean.

Dispute Resolution: In the event a party does not accept the non-binding decision of the Intellectual Property Review Committee with regard to a dispute, that party can request a binding arbitration by a panel of three arbitrators pursuant to, and administered by, the America Arbitration Association. This decision will be final.

Changes to Policy: CMC reserves the right to change this policy from time to time. The Dean of the Faculty will normally consult with the Intellectual Property Review Committee regarding proposed changes to the policy. However, the President has the sole authority to present recommendations to the Board of Trustees for changes to this policy.

5. Royalties

All revenues derived from CMC-owned Intellectual Property including electronic media will be received and administered by the Office of the Dean of the Faculty. For each specific piece of Intellectual Property owned by CMC, costs incurred in the process of perfecting, transferring, and protecting CMC rights to the property paid by CMC will first be deducted from the gross income available before distribution. An accurate accounting of all such costs shall be made available to the author/creator upon request. The distribution of net proceeds (income less all costs including that of an agency engaged to provide patent administration services) that is received from CMC-owned Intellectual Properties shall be shared equally between the creator and CMC absent agreement otherwise. CMC and/or creator may, in appropriate circumstances, take equity positions in companies licensed to market or use Intellectual Property.

6. Use of CMC names/logos

Faculty, staff, and students may use the CMC name and logos to identify themselves (John Doe, Professor of History, Claremont McKenna College). CMC name(s) and logos shall not be used by individuals or entities in a manner that implies institutional endorsement or responsibility for particular activities, products, or publications involved, for commercial purposes, or by any individual or group promoting itself, without the express written permission of the Dean of the Faculty consistent with CMC's Trademark Policy.