

NEW JERSEY INSTITUTE OF TECHNOLOGY COPYRIGHT POLICY

OBJECTIVES

The copyright policy of the Institute seeks to protect and promote the traditional academic freedom of the Institute's faculty, staff, and students in matters of publication; seeks to balance fairly and reasonably the equitable rights of authors, sponsors, and the Institute; and attempts to ensure that any copyrightable material in which the Institute has an equity interest is utilized in a manner consistent with the public interest.

OWNERSHIP AND DISPOSITION OF COPYRIGHTABLE MATERIAL

Copyright ownership and the rights thereof are terms defined by Federal law. The Institute believes that its copyright policy objectives will best be attained within the context of the Federal Law by defining the equities of ownership of copyrightable material in terms of the following categories:

A. Copyright ownership of all material (including software, but excluding these and books) which is developed in the course of or pursuant to a sponsored research or other agreement shall be determined in accordance with the terms of the sponsored research or other agreement, or in the absence of such terms, the copyright shall become the property of the Institute.

Comment: Normally, research contracts sponsored by the government provide the government with specified rights in copyrightable material developed in the performance of the research. These rights may consist of title to such data vesting solely in the government or the reservation of a royalty-free license to government, with title vesting in the Institute. In some cases, the government prohibits any private copyright ownership. Grants and other types of sponsored research agreements, whether by the government or by private industry, may, on the other hand, provide no specific provision concerning rights in such material.

The purpose of this provision (which applies to all academic and research employees of the Institute) is to ensure that the Institute will be free to dispose of all such data in a manner consistent with its obligations to the sponsor and to the public.

In cases where a researcher wishes to publish Category A material in journals or other media, Federal law now requires the written consent of the owner of the copyright. Requests for such consent, which will normally be routinely provided, should be addressed to the Office of Sponsored Programs. The Office of Sponsored Programs is responsible for the processing and management of copyrights under the direction of the Institute Patent Committee.

B. Copyright ownership of all material (including software, but excluding these and books) which is developed with the significant use of funds, space or facilities administered by the Institute, including but not limited to classes and laboratory facilities, but without any NJIT obligation to others in connection with such support shall reside in the Institute.

Comment: The Institute shall exercise its rights in such material in a manner that will best further NJIT's basic aims as an educational institution, giving full consideration to making the material available to the public on a reasonable and effective basis, avoiding unnecessary exclusions and restrictions, and providing adequate recognition of the authors.

In this respect NJIT recognizes and reaffirms the traditional academic freedom of its faculty and staff to publish freely without restriction. In keeping with this philosophy, NJIT will neither construe the provision of office or library facilities as constituting significant use of Institute space or facilities, nor will it construe the payment of salary from instructional accounts as constituting significant use of Institute funds, except for those situations where the funds were paid specifically to support the development of such material.

Publications not prepared within the scope of an Institute employee's duties are excluded from the ownership provisions of this category. Textbooks developed through the use of classes are excluded from the provisions of this category, unless such textbooks were developed using Institute-administered funds paid specifically to support such textbook development.

All persons who have developed copyrightable material through the significant use of NJIT space, funds, or facilities shall be required to transfer copyright ownership of such material to the Institute as a condition of such use.

C. Copyrightable material not within the provisions of Categories A and B of this policy shall be the sole property of the author, except the theses, as discussed below.

Theses created by students shall be governed by the following provisions:

D. Copyright ownership of theses generated by research which is performed in whole or in part by the student with financial support in the form of wages, salaries, stipend or grant from funds administered by the Institute shall be determined in accordance with the terms of the support agreement, or in the absence of such terms, shall become the property of the Institute.

E. Copyright ownership of theses generated by research performed in whole or in part utilizing equipment or facilities provided to the Institute under conditions that impose copyright restriction shall be determined in accordance with such restrictions.

F. Copyright in theses not within the provisions of Categories D and E of this policy shall be the property of the author. However, the student must, as a condition of a degree award, grant royalty-free permission to the Institute to reproduce and publicly distribute copies of the thesis.

As with faculty and research staff, the Institute wishes to encourage broad dissemination of all such material. Requests for permission to publish Category D and E theses should be addressed to the Office of Sponsored Programs.

COPYRIGHT ROYALTIES

Royalty income received by the Institute through the sale, licensing, leasing or use of copyrightable material, under Categories A and B, in which the Institute has acquired a property interest, will normally be shared with the author and the department, laboratory or center within the Institute where the material originated. The gross royalties received by the Institute will usually be distributed as follows:

1. To the Institute, 60%;
2. To the author(s), a total of:
35% of the first \$50,000 in accumulated gross royalties,
25% of the next \$50,000 in accumulated gross royalties,
15% of the accumulated gross royalties thereafter;
3. To the originating department, laboratory, or center within the Institute:
5% of the first \$50,000 in accumulated gross royalties,
15% of the next \$50,000 in accumulated gross royalties,
25% of the accumulated gross royalties thereafter.

Authorship shall be determined by the director of the originating department, laboratory or center. If there is an appeal regarding the determination of authorship, that determination will be reviewed by the President, or his designee in consultation with the University Attorney. Where, after review, authorship cannot be determined, the percent share of royalties intended for the author shall be distributed instead to the originating department, laboratory, or center. (As used herein, the phrase “originating department,” “laboratory” or “center” means the department, laboratory or center which administered the funds, space and facilities used in developing the copyrightable material.)

The Institute reserves the right at its discretion to deduct from gross royalty income prior to any such distribution, expenses such as litigation which may be incurred in enforcing or defending the copyright or in licensing the copyrightable material.

INVENTION AND COPYRIGHT AGREEMENTS

The policies set forth above constitute an understanding which is binding on Institute faculty and staff, students, and others as a condition of their participating in Institute research programs or their use of funds, space or facilities. Where the Institute may have had an obligation to assign rights in inventions or copyrights to a sponsor, or may itself acquire rights under this policy, it will require a formal invention and copyright agreement.