

## **Copyrighted Works Created at OSU**

### **Copyright ownership resides with the University if the work is:**

Including any educational or professional materials developed with institutional resources

#### ***Sponsored Work:***

Work first produced by or through the University in the performance of a written agreement between the University and a sponsor.

Sponsored Work does *not* include copyrighted works created through independent academic effort and based upon the finding of the sponsored project, unless the sponsored agreement states otherwise.

#### ***Commissioned Work:***

Work produced for the University by non-University personnel, or University personnel acting outside the scope of their employment, pursuant to a written agreement.

#### ***Contracted Facilities Work:***

Work produced by non-University personnel, or University personnel acting outside the scope of their employment, using designated University facilities and pursuant to a written agreement.

#### ***Institutional Work:***

All work made by University employees (except for those situations specifically excluded below) within the scope of their employment.

#### ***Work Acquired by Assignment or Will:***

A copyright acquired by the University through assignment or will pursuant to the terms of a written agreement.

### **Copyright ownership resides with the originator of the work if it is:**

#### ***Scholarly/Aesthetic Work:***

Work originated by a Designated Academic Appointee as a result of independent academic effort, unless the work is also a deliverable under Sponsored Work or Contracted Facilities Work, or there are other special overriding ownership provisions in place. Examples of such works: *books, musical, or dramatic composition, architectural designs, paintings, sculptures.*

#### ***Personal Work:***

Work developed by a University employee outside the scope of their University employment and without University resources.

#### ***Student Work:***

Work produced by a registered student without the use of University funds, that is produced outside the course of University employment, and is not a Sponsored Work or Contracted Facilities Work (see below.)

### **Ownership of jointly originated works:**

Ownership of works that are created by more than one person will be determined by assessing the category of work for each originator as outlined above. Pursuant to copyright law, joint owners of copyrighted works must account to each other regarding use of works. If a copyrighted work results from a group project of a sponsored project, the work may be owned by the University or jointly owned by several authors and the University. For help on determining ownership, contact the OSU Office for Commercialization and Corporate Development.

### **Frequently Asked Questions about Copyright**

#### **If it belongs to the University, does that mean I can't distribute it?**

Not at all! The University supports broad dissemination of copyrighted works created at the University, however, there are legal liabilities that arise when works are distributed and the University must take steps to minimize risk to the author and the University when the University owns the work. An author of a work that belongs to the University may elect to distribute the work so that it may be freely used for research and non-profit purposes, as long as campus procedures are followed.

## **What are the different methods for distributing copyrighted works?**

Copyrighted works are not "sold"; rather, the owner of the copyright allows a user to exercise some or all of the owner's copyrights. This transaction of granting permission is considered to be a grant of a license. Any OSU-owned copyright transactions need to go through the office for commercialization and corporate development.

Licenses can be simple letters or permission statements granting the requester the right to use the work in a particular way, or they can be complex agreements signed by both parties. There are several risks involved with using and distributing copyrighted works and the owner and the licensee seek to balance their risks and rewards. The type of license to be used is determined by the risks involved with the proposed use.

A journal article is generally not a risky venture. The work is not likely to infringe a copyright, and there is no product liability. A photo carries little risk once ownership is clearly established. Software is a different matter. Software is a product; it is expected to perform a particular function, and there are expected performance standards. Should such a product fail or cause damage to someone's computer or records, they could sue the University, and the authors, unless the University takes appropriate legal steps to minimize liability.

The different types of licenses for University-owned copyrighted works include: Permission letter, on-line permission statement, software internal use license, commercial license. All licenses need to go through the Office for Commercialization and Corporate Development.

**Permission Letter** - The permission letter is used to allow articles reprints in third-party publications, copying for a lecture materials handout, and other. Fees are determined by the owner of the copyright and are likely to be based on the market value of the work and expected impact on future sales. In many cases, permission is granted for a nominal fee for educational applications.

**On-line Permission Statement** - Many computer software programs may be distributed electronically so that anyone may use them for non-commercial purposes, without fee, with a simple on-line license that includes **mandatory legal disclaimer statements**. This type of license may not be used if there are any fees required or if granting the commercial rights to recipients. If you wish to use this method of distribution, you may download the standard Software On-Line Permission Statement and follow the procedures for using this type of license distribution.

**Software Internal Use License** - Software may be licensed to end-users for their internal use for a fee, if desired. Such licenses must be signed by University and the end-user, and only offices designated to enter such agreements may do so.

**Commercial Software or Multimedia License** - There are substantially greater risks to the University and authors when commercial use rights are granted, particularly in the areas of product liability, export regulations, and intellectual property infringement. All these risks expose the authors and the University to significant financial risk unless appropriate language is included in the license agreement. All commercial uses of University-owned (in whole or in part) copyrighted works must be licensed with an agreement signed by both parties.

## **A company wants to distribute a work that belongs to the University. Can they?**

Companies and individuals may use University-owned copyrighted works for commercial purposes only if they have prior written permission from the University. In most cases, this will require a written license to use and distribute the work. Fees may or may not be required. The University must ensure that certain terms and conditions are included in all copyright licenses; the OSU Office for Commercialization and Corporate Development is the designated office with the authority to enter such agreements.

## **How is the money generated from licensing copyrighted works used?**

The University shares royalties arising from licenses of University-owned copyrighted works with the authors of the work and their departments, according to campus policy.

**What do I do if the work belongs to me?**

If you have created personal work in accordance with the OSU Policy on Copyright Ownership, you control how the work may be used. You may not use the name of the University to promote or identify the work, nor may you grant anyone else this right; it is your personal work.

It is important to remember when licensing your personal work that if you "assign" or grant "exclusive rights" to your copyrights to a publisher, you will *not* be able to use your work without first obtaining permission from the publisher. If you wish to use your work for teaching or further research, you need to retain this right and expressly state this in the agreement.

For any further information on copyrighted works, please contact the Office for Commercialization and Corporate Development.