COPYRIGHT ADMINISTRATION

Administration of the University's copyright policy requires the interpretation and application of the basic University policy (see Guide Memo 76.) and consideration of the range and classification of copyrightable materials and relevant principles of copyright and related law.

1. BASIC PROVISIONS OF COPYRIGHT POLICY

The University policy on copyright has the following basic provisions:

a. The University will claim copyright in cases where, under copyright law, it is the author of a work. The University is the "author" and entitled to both common law and statutory copyright where:

(1) A University employee creates a copyrightable work upon the order or the request of the University in the course of discharging the obligations of his or her employment (a "work for hire"); or

(2) A person acting as an independent contractor creates a copyrightable work upon the order or request of the University (a "commissioned work").

Note: Where the University creates a copyrightable work in performance of a contract or grant from an outside agency the work would be a commissioned work of the agency and belong to it if there is no agreement to the contrary.

b. In cases (other than noted above) where creation of a copyrightable work involves substantial use of University personnel, facilities, supplies, or equipment it is the policy of the University that the ownership rights be negotiated between the University and the individual author(s).

c. The University reserves the right to claim title to a work for copyright purposes, or require publication without copyright, in cases where such a claim or requirement is necessary to discharge the University's legal obligations.

d. Copyright in a work published by the University under contract with an author may be taken in the name of the University, provided the use of the University's name has been approved by established procedures.

2. ADMINISTRATIVE PROCEDURES

a. Copyrighting of material—The Staff Counsel's Office in the Office of the Vice-President for Business and Finance is responsible for the administration of the University's copyright policy.

(1) The Staff Counsel for Copyright Affairs advises members of the faculty, staff, and students on advisability or necessity of copyright, assists with the preparation of notices of copyright, prepares agreements respecting ownership, publication, and assignment of rights in copyrighted work, and reviews requests to use copyrighted works owned by the University. The Staff Counsel's Office oversees a central repository of items copyrighted or considered for copyright and maintains the University's central files on copyright matters.

(2) Inquiries should be addressed to the Staff Counsel for Copyright Affairs, Office of the Vice-President for Business and Finance, 105 Encina Hall.

b. Material involving third-party contractual obligations—Significant questions of copyright in connection with the University's contracts and grants usually pertain to readily identifiable items. These items are described prospectively in the project proposal or the contracting/granting document, together with rules and regulations governing the ownership and transference of rights. Information and assistance in this area can be obtained from the Patent and Copyright Manager, Sponsored Projects Office.

(1) The prospective principal investigator should be aware of clauses concerning copyright matters, and any explicit agreements or releases required should be obtained from personnel involved before an award is accepted. All who work on sponsored projects are subject to the terms and conditions of the awards as accepted by the University.

c. University-owned material

(1) The form of the University's name to be used in notices of copyright is "The Board of Trustees of the Leland Stanford Junior University." No other institutional or departmental form is to be used.

(2) Approval for copyrighting material in the name of the University vests in the President, the appropriate vice-president, and other officers as designated by them. Individual students, faculty, and staff do not have authority to copyright material in the name of the University.

(3) University Relations is responsible for monitoring use of the University's name. It reviews material proposed for copyright in the name of the University or publication by the University and advises on whether the material is compatible with the University's public relations objectives. University officers should consult with the University Editor, University Relations office, if they have any questions about the propriety of any material.

(4) Scholarly books, journals, and monographs also may be approved for publication and copyright in the name of the University by appropriate deans, institute directors, and the Director of the Stanford University Press.

d. Material involving substantial University assistance—Determination of when use of University personnel, facilities, supplies, or equipment is "substantial" is a matter of judgment which must be based on the context of the situation, practices in particular disciplines, schools, or departments, and the degree of pressure for alternative uses of any scarce resources involved. However, the University's copyright policy is not intended to hamper the free exercise of individual initiative and creativity in cases where the University does not incur significant real costs as the result of such work.

(1) Under University policy, projects for the production of copyrightable works which involve substantial use of University personnel, facilities, supplies, or equipment require prior approval by the cognizant academic or administrative officers. Special agreements with individual authors regarding ownership of, and all rights in, copyrightable works resulting from such approved projects are negotiated with the assistance of the Staff Counsel for Copyright Affairs.

(a) Such agreements are required where the dean or other appropriate organizational head foresees the likelihood of gross income in excess of $500, and will include coverage of the disposition of income, after expenses, among the author(s), department, and University.

(b) The Staff Counsel for Copyright Affairs should be consulted at the time the need for an agreement is under consideration.

(c) The Technology Licensing Manager advises and assists the Staff Counsel in the development and negotiation of agreements with third parties for the licensing of copyrighted materials in such areas as computation techniques, videotaped materials, films, and sound recordings.

(2) Proposals for special agreements, after review with the Staff Counsel, are forwarded first to the dean or other appropriate organization head for approval, and subsequently to the cognizant vice-president for approval. Approved proposals are executived by the Vice-President for Business and or his designee.

e. Privately owned materials—Individual faculty members, staff, and students are entitled to copyright their own material in their own names at any time and are encouraged to do so.

3. COPYRIGHT LAW

a. Property law—Copyright law is a particularly complex and highly specialized and technical branch of property law. Other areas of law which may affect the disposition and use of copyrightable works include those relating to the right of privacy, libel, freedom of speech under the First Amendment, and developing case law which attempts to prevent unjust commercial exploitation of another's ideas.

b. Property rights—Property rights in copyrightable unpublished material are created by state law (common law copyright) and in published copyrightable material by the federal Copyright Act (statutory copyright). Common law copyright is not generally regarded as an adequate safeguard for copyrightable works if they are not intended solely for private and personal use.

c. Necessity for precaution before publication–Publication is a technical and specially defined word in copyright law. The Staff Counsel for Copyright Affairs should be consulted before *any* distribution of a copyrightable work occurs. Publication of a work, either intentionally or inadvertently, results in permanent loss of common law protection and places the work in the public domain unless proper action *has been* taken to obtain statutory copyright.

4. EXAMPLES OF COPYRIGHTABLE MATERIALS

The Copyright Act states that "the works for which a copyright may be secured. . .shall include all the writings of an author." The interpretation of "writings" is extended to cover practically all tangible expression of intellectual creation.

The following is a modified listing of copyrightable materials typically of interest in the University:

a. Books, journal articles, texts, glossaries, bibliographies, study guides, laboratory manuals, syllabi, tests, and proposals.

b. Lectures, musical or dramatic compositions, and unpublished scripts.

c. Films, film strips, charts, transparencies, and other visual aids.

d. Video and audio recordings.

e. Live video and audio broadcasts.

f. Programmed instruction materials.

g. Computer programs.