

Intellectual Property Policies at Canadian Universities

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Intellectual Property Policies at Canadian Universities

This work is a continuation and extension of Dr. Bruce P. Clayman's original idea and piece *University intellectual property policies*. His original compilation included seventeen major universities in Canada in March of 2004. The interest was sparked at his university, Simon Fraser University, where he, as VP, Research initiated revisions to its own intellectual property policy.

The present study examines the policies at schools selected from Research Infosource's *Canada's Top 50 research universities 2009* (<http://www.researchinfosource.com/>). The top thirty research universities were chosen based on amount of research funding they brought in. Funding ranged from \$19,000,000 to \$844,000,000 for the thirty schools.

This review was conducted through web-based research and e-mail correspondence to the offices of research. The data was collected directly from the website of each school. Information relating to intellectual property and copyright policy was generally available through the school's office of research and/or faculty collective agreement.

The biggest difficulties were identifying each school's definition of intellectual property and then what considered as being beyond the normal utilization of school resources. It was often the case that IP was considered as creator-owned property if utilization of school resources was within "normal" levels. There was a general consensus regarding ownership of copyright; it was to remain with the creator. There was also a general consensus regarding usage of copyright and patent rights; usage was to be made available to the university regardless of whether or not commercialization resulted. Therefore, if a piece of intellectual property was created by a faculty member, the school typically would have royalty and license-free usage of it.

Comparing both 2004 and 2010 data, there have been a few changes for some schools. Policies are generally more specific now and sensitive to the nature of patents in the realms of software, websites and electronic works. Some separate entities have been set-up at arm's length from the university to focus solely on the commercialization and business processes of patents.

Finally, there were only three schools that did not have information available due to language barriers and website re-structuring. University of Saskatchewan has advised that they are currently updating their policy and have not provided an estimated time of completion. Sherbrooke and Université du Québec à Montréal (UQAM) had limited English availability on their websites though I am certain, given enough time, written or telephone correspondence would have provided myself with a translated policy document. An e-mail was sent to Sherbrooke and a response is awaited.

Table 1 (following) represents the 'state of the art' as of August 2010. Note the extensive footnotes that are required to explicate policies at most of the institutions.

Table 1
Intellectual Property Policies at Canadian Universities
 Compiled by May Hen
 August 2010

University	Copyright			Patent		
	Ownership of IP	Revenue to University if Commercialized by Creator	Revenue to University if Commercialized by University	Ownership of IP	Revenue to University if Commercialized by Creator	Revenue to University if Commercialized by University
UBC	Creator ¹²	0%	N/A	University ¹⁵	Negotiated ¹⁴	50% ¹³
SFUⁱ	Creator ⁱⁱ	15% ⁱⁱⁱ	30% ^{iv}	Creator ²	15% ³	30% ⁴
UNBC	Creator ^{5,7}	N/A	N/A	Creator ^{6,7}	Negotiated ⁸	Negotiated ⁸
UVIC	Creator ⁹	20% ¹⁰	Negotiated ¹¹	Creator ⁹	20% ¹⁰	Negotiated ¹¹
Alberta	Creator ¹⁶	5%	5%	Creator ¹⁷	33.33% ¹⁸	66.67% ¹⁸
Calgary	Creator ¹⁹	Negotiated, 10%-25% ²⁰	50% ²¹	Creator	Negotiated, 10%-25% ²⁰	50% ²¹
Lethbridge	Creator ²²	Negotiated or 25% ²³	50% ²⁴	Creator	Negotiated or 25% ²³	50% ²⁴
Saskatchewan⁸⁴	N/A	N/A	N/A	N/A	N/A	N/A
Regina	Creator ²⁵	0% ²⁶	Negotiated ²⁷	Creator ²⁵	0% ²⁶	Negotiated ²⁷
Manitoba	Creator ²⁸	0% ²⁹	0% or Negotiated ²⁹	Creator ^{30,31}	50% ^{32,33}	50% ^{32,34}
Toronto	Creator	0%	25% ³⁵	Creator ³⁶	25% ³⁷	Up to 40% ³⁸
McGill	Creator ^{39,40}	0% ^{39,40}	0% ³⁹	Joint ⁴³	30% ⁴²	40% ⁴¹
McMaster	Joint, Creator or University ⁴⁴	25% ⁴⁵	50% ⁴⁶	University ⁴⁷	25% ⁴⁵	50% ⁴⁶
Ottawa	Creator ⁴⁸	0% ⁴⁸	Negotiated ⁴⁸	University ⁴⁹	20% ⁵⁰	20% ⁵⁰
Western Ontario	Creator ^{51,54}	25% ⁵²	50% ⁵³	Creator ⁵¹	25% ⁵²	50% ⁵³

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Queens	Creator ⁵⁵	0% or Negotiated ⁵⁶	Negotiated ⁵⁶	Creator ⁵⁷	Negotiated ⁵⁶	Negotiated ⁵⁶
Guelph	Creator ⁵⁸	0%	25% ⁵⁹	Creator ⁶⁰	0% ⁶¹	Negotiated ⁶²
Waterloo	Creator ⁶³	0% or negotiated ^{64,65}	Negotiated ^{64,65}	Creator ⁶⁶	Negotiated ^{64,65}	Negotiated ^{64,65}
Carleton	Creator ⁶⁷	Negotiated ⁶⁸	Negotiated ⁶⁹	Creator ⁷⁰	0% ⁷⁰	50% ⁷⁰
York	Creator ⁷¹	0% ⁷¹	Negotiated ⁷¹	Creator ⁷¹	N/A ⁷²	N/A ⁷²
Laurentian	Creator ⁷³	0%	50% ⁷⁴	Creator ⁷⁵	0% ⁷⁶	50% ⁷⁷
Ryerson	Creator ⁷⁸	0%	0%-50% ⁷⁹	Creator ⁸⁰	10% ⁸¹	0%-40% ⁸²
Montreal ⁸³	N/A	N/A	N/A	N/A	N/A	N/A
Laval ^{85,106}	Creator ^{107,110}	50% ¹⁰⁸	50% ¹⁰⁸	University ^{107,111}	50% ¹⁰⁹	50% ¹⁰⁹
Sherbrooke ⁸⁶	N/A	N/A	N/A	N/A	N/A	N/A
UQAM ⁸⁷	N/A	N/A	N/A	N/A	N/A	N/A
Institut national de la recherche scientifique (INRS) ⁸⁸	Creator ¹⁰⁴	N/A ¹⁰⁴	N/A ¹⁰⁴	Not Explicit ¹⁰⁴	15%-50% ¹⁰⁵	15%-50% ¹⁰⁵
Concordia	Creator ⁸⁹	N/A ⁹⁰	N/A ⁹⁰	Creator ⁸⁹	5% ⁹¹	50% ⁹¹
Dalhousie	Creator ⁹²	0% or 90% ⁹³	50% or 90% ^{93,94}	Creator ⁹⁵	0% ⁹⁵	50% or 90% ^{93,94}
Memorial University of Newfoundland	Creator ⁹⁶	0% ⁹⁶	0% ⁹⁶	Joint ⁹⁷	25%-50% ⁹⁸	25%-50% ⁹⁹
New Brunswick	Creator ¹⁰⁰	0% ¹⁰⁰	0% ¹⁰⁰	Negotiated ¹⁰¹	Negotiated or 50% ¹⁰²	Negotiated ¹⁰³

Footnotes follow

Footnotes

ⁱ Effective July 22, 2004, the *Copyright Policy* (R 30.01) and the *Patent Policy* (R 30.02) were replaced with the *Intellectual Property Policy* (R 30.03). This amalgamation of both policies aimed to simplify and clarify the policy environment. It remains in effect for intellectual property created from July 22, 2004 onwards. (Simon Fraser University, *Intellectual Property Policy*)

ⁱⁱ *Intellectual Property Policy* (Simon Fraser University, R 30.03, Ownership 5.1)

ⁱⁱⁱ After first \$25,000 in annual revenues per creator

^{iv} Annual revenues

⁵ “Author is owner of copyright except in cases where: Works created or modified by members of the University as assigned tasks in the course of their normal employment, and which are intended to assist in the operation, administration and/or management of the University’s affairs. This includes works created, modified, or adapted as assigned tasks by members of the University in the process of course planning and administration (for example, course outlines, and final examinations). Copyright of teaching materials created by the Member shall remain with the member” (University of Northern British Columbia, *Faculty Agreement*, p. 140).

⁶ “Any invention developed as a result of activity involving University support and/or facilities and/or equipment, shall be subject to a non-exclusive, royalty-free, irrevocable license to the University under all patents arising from the invention, but without the automatic right to exploit commercially, sub-license or sell any product or process which is patented or arises from such patented invention” (University of Northern British Columbia, *Faculty Agreement*, p. 140).

⁷ “Except in certain well-defined situations, this policy provides that the ownership of IP rights rests with the creator(s) of the IP” (University of Northern British Columbia, *Faculty Agreement*, p. 136).

⁸ See: sub-heading *Sharing of proceeds* (University of Northern British Columbia, *Faculty Agreement*, p. 136)

⁹ See section 5.2 Revenue Sharing (University of Victoria, *University of Victoria policy manual*, p. 6)

¹⁰ If revenue is above \$5,000 per annum (University of Victoria, *University of Victoria policy manual*, p. 6)

¹¹ In case of course materials: “the University and University member shall receive equal shares of the net revenue resulting from commercialization of course materials (see 3.3)” (University of Victoria, *University of Victoria policy manual*, p. 6).

¹² Literary works are owned by the creator. Discoveries, Inventions, Audiovisual and Computer Materials are owned by the university. See *Patents and licensing* for definition (The University of British Columbia Board of Governors, p. 2).

¹³ See *Patents and licensing* (Policy no. 88), section 4 <http://www.universitycounsel.ubc.ca/policies/policy88.pdf>

¹⁴ See *Patent* http://www.uilo.ubc.ca/advancing/intellectual_property/patenting.html

¹⁵ See *Patents and licensing* (Policy no. 88), section 3 <http://www.universitycounsel.ubc.ca/policies/policy88.pdf>

¹⁶ unless “staff member who has been engaged by the University to prepare such works for the University or part of whose normal responsibilities to the University is the preparation of such works” (*University of Alberta Faculty Agreement*, Article 10 – Copyright, p.13)

¹⁷ See “Ownership” in *University of Alberta Faculty Agreement*, Appendix C – Patent policy, p. 73

¹⁸ see “Commercialization by the inventor” and “Commercialization by the university” in *University of Alberta Faculty Agreement*, Appendix C – Patent Policy, p. 74

¹⁹ See “Ownership” section 4.12 in *Intellectual property policy*, University of Calgary, p. 5

²⁰ See “Commercialization by the Creator” section 4.29 in *Intellectual property policy*, University of Calgary, p. 8

²¹ See “Commercialization Through the University” section 4.30 in *Intellectual property policy*, University of Calgary, p. 9

²² See “Intellectual Property” article 30.01.3 and “Copyright” article 30.02.3 in *The University of Lethbridge Faculty Handbook*

²³ See “Intellectual Property” article 30.01.7c (iii) in *The University of Lethbridge Faculty Handbook*

²⁴ See “Intellectual Property” article 30.03.8 in *The University of Lethbridge Faculty Handbook*

²⁵ According to the “Policy Statement” in the University of Regina’s *Intellectual Property Policy*: “Intellectual Property created by an Academic Staff Member is owned by the Academic Staff Member as Creator”(section i). However, intellectual property created by Employees who are not Academic Staff Members are Institutional Works (section ii). And “Institutional Works are owned by the University”(section iii). Therefore if the creator is not an Academic Staff Member (an employee of the University who holds an academic appointment), then the University owns the intellectual property.

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²⁶except to cover any reasonable costs. See “Commercialization Partnership with the University” section iv (University of Regina, *Intellectual property policy*)

²⁷See “Commercialization Partnership with the University” section ii (University of Regina, *Intellectual property policy*)

²⁸See section 2.4.1 - Ownership of Copyright in Works is with the University Member. Software is an exception which is categorized as Other Intellectual Property (Section 2.4.3). See Section 2.5 for the provisions of Other Intellectual Property (University of Manitoba, *Intellectual property*).

²⁹Unless resources over and above what the University normally contributes towards the commercialization process is utilized, the University member is entitled to the revenues of commercialization. If beyond the normal amount of resources are utilized, then an agreement must be made to covered costs incurred by the university (University of Manitoba, Section 2.4.10 - Agreement to share revenue and/or costs)

³⁰If the IP is considered a ‘work’ then it is owned by the University Member. If the IP is considered “other intellectual property” then it is may be owned by the University Member under very specific conditions, especially software. See Section 2.5.5 Exception – Software for more details (University of Manitoba, *Intellectual property*).

³¹If the IP is considered ‘other intellectual property’ and commercialized with the University, the university will have ownership of the IP. As per Section 2.5.9 - Commercialization by the University, “if the University decides to proceed with Commercialization, the University Member shall make an assignment to the University of all his/her rights in the Other Intellectual Property and the University shall commence commercialization activities” (University of Manitoba, *Intellectual property*).

³²See section 2.5.10 Revenue Sharing (University of Manitoba, *Intellectual property*)

³³See section 2.5.8 Commercialization independent of the University (University of Manitoba, *Intellectual property*)

³⁴See section 2.5.9 Commercialization by the University (University of Manitoba, *Intellectual property*)

³⁵If substantial use of university resources are used. See Disclosure and Revenue Sharing Section 3.1 - Substantial Use of University Resource (University of Toronto **Governing Council**, *Copyright policy*)

³⁶Unless the University commercializes then creator assigns all rights to the University (University of Toronto **Governing Council**, *Inventions policy*)

³⁷Net revenues; see Commercialization Section 4.2 (University of Toronto **Governing Council**, *Inventions policy*)

³⁸See Commercialization Section 4.1 (University of Toronto **Governing Council**, *Inventions policy*)

³⁹“The author is entitled both to determine how the work is to be disseminated and to keep any income derived from the work.” See section 4.1 - Policy on Copyright (McGill University, *Policy on intellectual property*)

⁴⁰Except software which would be joint ownership. See Policy on Software and Inventions - Section 5.1 (McGill University, *Policy on intellectual property*)

⁴¹After first \$10,000(net) is allocated to the Inventor, after that 40% University/60% Inventor. See Section 9.1.1 – Revenues (McGill University, *Policy on intellectual property*)

⁴²After first \$100,000, considered royalties, is paid out where 80% goes to the inventor and 20% goes to the University. See Section 9.1.2– Revenues (McGill University, *Policy on intellectual property*)

⁴³See Section 5 - Policy on Software and Inventions (McGill University, *Policy on intellectual property*)

⁴⁴“the general rule is that whoever creates the work owns the copyright in the work, unless they are an employee (in which case the employer owns the copyright) or there is an agreement to the contrary. The university has special arrangements with its faculty and students, set out in the Joint IP Policy, so that academic researchers” (*Copyright at McMaster*, 2010). See McMaster University’s *Joint intellectual property policy* for more details as copyright preamble directs queries to said policy.

⁴⁵or negotiated, IP Board makes the final determination. See Section 14.4 - Revenue sharing with IP creators (McMaster University, *Joint intellectual property policy*)

⁴⁶or negotiated, IP Board makes the final determination. See Section 14.3 - Revenue sharing with IP creators (McMaster University, *Joint intellectual property policy*)

⁴⁷See Section 9 - Initial ownership of intellectual property (McMaster University, *Joint intellectual property policy*)

⁴⁸See “Copyrights” and “Software” (University of Ottawa, *Research grants and ethics*)

⁴⁹See “Inventions” (University of Ottawa, *Research grants and ethics*)

⁵⁰After first \$100,000 of net revenues is paid with 20% to the University, 50% will be allocated to the University thereafter. See “Distribution of revenue” Section 35.1.3 (University of Ottawa, *APUO collective agreement [article 35]*)

⁵¹See “Executive Summary” (*Procedures: Intellectual property policy*, University of Western Ontario)

⁵²See “Intellectual property” Section 11 (University of Western Ontario, *Faculty collective agreement*, p. 78-80)

⁵³See “Intellectual property” Section 10 d and e (University of Western Ontario, *Faculty collective agreement*, p. 78-80)

⁵⁴See “Copyright” (University of Western Ontario, *Faculty collective agreement*, p. 78-80)

⁵⁵See “COPYRIGHT – Who owns it?” (Parteq Innovations, *Frequently asked questions*)

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⁵⁶ See “5.3 Revenues from Intellectual Property” (Queen’s University, *Report of the Senate Ad Hoc Committee on Intellectual Property*)

⁵⁷ See “5.1 Ownership of Intellectual Property” (Queen’s University, *Report of the Senate Ad Hoc Committee on Intellectual Property*)

⁵⁸ See “Copyright ownership” Section 1 (University of Guelph, *Copyright policy*)

⁵⁹ After 75% to university is paid until all preparation or development costs incurred by the University are recovered, then 25% to university thereafter (University of Guelph, *Copyright policy*)

⁶⁰ See Section 2: “Ownership of Intellectual Property” (University of Guelph, *University of Guelph intellectual property policy*)

⁶¹ See section 6.2 “Ownership by Creator” (University of Guelph, *University of Guelph intellectual property policy*)

⁶² See section 6.1 “Ownership by University” (University of Guelph, *University of Guelph intellectual property policy*)

⁶³ See Section 6b. “Copyright - Ownership of Copyright” (University of Waterloo, *UPolicy 73 -- Intellectual property rights*)

⁶⁴ See Section 3. “Statement of principles” (University of Waterloo, *UPolicy 73 -- Intellectual property rights*)

⁶⁵ See Section 11. “Default arrangements for revenue sharing” (University of Waterloo, *UPolicy 73 -- Intellectual property rights*)

⁶⁶ See Section 7b. “Patents - Ownership of patents” (University of Waterloo, *UPolicy 73 -- Intellectual property rights*)

⁶⁷ See Article 14: Innovation Transfer, Patents And Copyright (Carleton University, *Collective agreement...*)

⁶⁸ See “Exploitation” Section 14.2(f)(ii) (Carleton University, *Collective agreement...*)

⁶⁹ See 14.4(b) “Employer facilitated research” (Carleton University, *Collective agreement...*)

⁷⁰ Or 50/50” of any right, title and interest to any invention, improvement, design or development made by the employee” if significant university resources were used as stipulated in Section 14.1 (b) and 14.3 (b) (Carleton University, *Collective agreement...*)

⁷¹ See Article 23 “Patents and Copyrights”

⁷² Not stipulated in Article 23 - Patents and Copyrights. Patent policy is what ever “existing practices” are. “23.01 The parties agree to abide by the existing practices in respect of patent policy insofar as they relate to terms and conditions of employment. The payment of salary to employees and the provision of a normal academic environment in which to work shall not be construed as use of the University’s funds or use of its facilities as regards patent matters” (York University Faculty Association and York University Board of Governors. *Collective agreement*, p. 87)

⁷³ See Article 6.35.1 “Copyright” (Laurentian University Faculty Association and The Board of Governors of Laurentian University, *Collective agreement...*)

⁷⁴ After the original production costs have been recouped by the University at a rate of 75% to the University 25%) to the author. See 6.35.15 “Copyright” (Laurentian University Faculty Association and The Board of Governors of Laurentian University, *Collective agreement...*)

⁷⁵ Creator patents See Article 6.30.2 “Patents” (Laurentian University Faculty Association and The Board of Governors of Laurentian University, *Collective agreement...*)

⁷⁶ 0% university See Article 6.30.3 “Patents” (Laurentian University Faculty Association and The Board of Governors of Laurentian University, *Collective agreement...*)

⁷⁷ 50% university See Article 6.30.4 “Patents” (Laurentian University Faculty Association and The Board of Governors of Laurentian University, *Collective agreement...*)

⁷⁸ See “Copyright” Section C.3 to C. 5

⁷⁹ In no case shall the University's share of such royalties exceed 50% of gross royalties or other proceeds in any year. As soon as the University has recovered the full amount of the extraordinary support mentioned in this paragraph, its share of gross royalties or other proceeds shall be lowered to a figure no higher than 40% in any year. See Section C. 11 “Copyright”

⁸⁰ See “Patents and related intellectual property” Section D.3

⁸¹ Of gross revenues. University will recover extraordinary costs at a rate of 50% of gross revenues if significant University resources were used if the Creator chooses to commercialize outside of the University yet still utilize University resources. See “Patents and related intellectual property” Section D.5

⁸² Of gross revenues. “In no case shall such an agreement grant the creator less than 50% ownership (such amount to be divided among the creators where there are more than one), and in no case shall such an agreement grant the creator(s) less than 60% of net revenues in any given year, net revenues being understood as the revenues which remain after the University has recovered its extraordinary support costs”(p. 161). See “Patents and related intellectual property” Section D.6

⁸³ Was unable to navigate through the English portion of the website for the University of Montreal in order to obtain the intellectual property policy or the department website. The content available on the English website was not as rich therefore I was unable to obtain more than the above information. Univalor is an entity affiliated with the University that appears to be the commercialization arm. As per the Univalor website, “the mission of Univalor is to transfer to industry the university inventions developed by researchers

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attached to the Université de Montréal, its affiliated schools and most of its affiliated hospitals”(Univalor, 2010). As per section 10 of the FAQ’s, the profits of commercialization are determined through a revenue-sharing agreement between the creator and the institution. It is not known if this is pre-existing or is negotiated.

⁸⁴IP Policy link was under construction during most recent attempted access on July 13, 2010. E-mailed contact person listed on website regarding this matter on same day. Response from Thomas Roberts of the Industry Liaison Office was received July 22, 2010: “I am currently preparing the material for posting to our web-site. This won’t take too long because I have all the required elements; I just have to compile it. There is no other ready source but me. I will sent you this material as soon as I have it ready (before it is posted)”(personal communication).

⁸⁵Unable to find the collective agreement or IP policy on the English website. It appears, when switching from French to English, that the content on the English website is substantially less content-rich. Have sent an e-mail to the assistant of the Vice-President of Research July 27, 2010. Awaiting response.

Website is: <http://www2.ulaval.ca/en/research.html>

Contact is: Thierry Bourgeois - Assistant to the Vice-Rector

Phone: 418 656-2131, ext. 13506

Email: Thierry.Bourgeois@vrr.ulaval.ca

⁸⁶Unable to find the collective agreement or IP policy on the English website. It appears, when switching from French to English, that the content on the English website is substantially less content-rich. Research Department website states that English site is currently under construction. Have sent e-mail to Office of the Vice-Rector, Research at vrr@USherbrooke.ca on July 27, 2010. Awaiting response.

Contact number on website is (819) 821-8283 website: <http://www.usherbrooke.ca/recherche/en/>

⁸⁷As per website: “the UQAM website doesn’t have an English version for the moment. This page is a general presentation of the university.” Used Google translator to navigate through the research website, could not find collective agreement nor IP policy. PDF’s that were available, were not translatable by Google Translate application.

⁸⁸Unable to navigate through English website. Content on English version bare. Google Translator does not help identify left hand-side menus. Sent e-mail inquiry to communications@adm.inrs.ca on July 27, 2010. Awaiting response. Website: <http://www.recherche.uqam.ca/> and http://www.uqam.ca/en/about/presentation_en.htm

⁸⁹See “Copyright” Section 24 to 32 (Concordia University, *Policy on intellectual property*)

⁹⁰Nothing explicitly stipulated in “Copyright” Section 24 to 32 (Concordia University, *Policy on intellectual property*)

⁹¹See “Distribution of revenues generated by commercialization” Section 16 (Concordia University, *Policy on intellectual property*)

⁹²See Section 23.01 “Article 23: Copyrights, Patents and Author’s Rights” (Dalhousie Faculty Association, *DFA - Board of Governors Collective Agreement*)

⁹³If teaching materials created for University are sold and make a profit, 10% will go to Creator (Section 23.06).

⁹⁴If University commercializes, then profits are split 50/50 (See Section 23.10 “Article 23: Copyrights, Patents and Author’s Rights”). (Dalhousie Faculty Association, *DFA - Board of Governors Collective Agreement*)

⁹⁵“The Board makes no claim to any invention, improvement, design or development made by a Member without the use of the Board’s funds or support or technical personnel. The payment of a regular salary to a Member and the provision of an academic environment in which to work shall not be construed as the use of the Board’s funds” See Section 23.15“Article 23: Copyrights, Patents and Author’s Rights”. (Dalhousie Faculty Association, *DFA - Board of Governors Collective Agreement*)

⁹⁶See “Copyrights” Section A14. (Memorial University of Newfoundland, *Intellectual Property*)

⁹⁷See “Appendix A” Section A2 (Memorial University of Newfoundland, *Intellectual Property*)

⁹⁸**No university help:** “The share of the royalties accruing to the **University** shall be: fifty (50) percent of the first \$200,000; forty (40) percent of the next \$200,000; twenty-five (25) percent of the remainder.” See “Appendix A – Patents” Section A10 (Memorial University of Newfoundland, *Intellectual Property*)

⁹⁹**With university help:** “The share of royalties accruing to the **researcher** shall be: fifty (50) percent of the first \$200,000; forty (40) percent of the next \$200,000; twenty-five (25) percent of the remainder.”

See “Appendix A – Patents” Section A11 (Memorial University of Newfoundland, *Intellectual Property*)

¹⁰⁰See “Ownership” Article 38.03b (The University of New Brunswick and The Association of University of New Brunswick Teachers, *Collective agreement...*)

¹⁰¹“In situations where it is determined that intellectual property has been developed with normal University of New Brunswick resources, the University has a right to negotiate an agreement with the Employee(s) to own and/or manage the intellectual property.” See “Commercialization” Section 38.04 b(ii) (The University of New Brunswick and The

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Association of University of New Brunswick Teachers, *Collective agreement...*)

¹⁰²See “Commercialization” Section 38.04 b(ii) (The University of New Brunswick and The Association of University of New Brunswick Teachers, *Collective agreement...*)

¹⁰³See “Commercialization” Section 38.04 c(ii) (The University of New Brunswick and The Association of University of New Brunswick Teachers, *Collective agreement...*)

¹⁰⁴An e-mail response was received August 2, 2010 regarding my query for an English translation of the School’s intellectual property policy (Institut national de la recherche scientifique). “The first owners of copyright over works at INRS are the authors. You will not find a statement to that effect in the Intellectual Property Policy. Instead, for employees the operative text is in Collective Agreements (basically the same text, in all the Collective Agreements between INRS and its different groups of employees). From one Collective agreement to another the text reads as follows (see section 21.02 reproduced below):

- (e) As for patents, the issue of ownership is not mentioned in the same way in the Collective Agreements as with copyright. Indeed, there is simply a general statement (see section 21.01 reproduced above) referring to the application of the Intellectual property Policy to such matters. In the intellectual Property Policy itself, there is no explicit statement to the effect that deals with patent ownership.
- (f) A combined reading of sections 3.1 to 3.4 inclusively of the Intellectual Property Policy however leads to the conclusion that ownership lies first with the inventor, who has an obligation to declare inventions to INRS. INRS has 120 days to decide whether it « picks up » the rights. If it does not, the inventor disposes of the invention as he or she sees fit; (there is no requirement to sign any papers in this regard to transfer ownership, since ownership lies initially with the inventor). For the same reason, there is a paper signing requirement if INRS does in fact decide to pick up the rights to an invention.”

(Stephen Fitzpatrick -Conseiller juridique - Secrétariat général –Affaires juridiques, Institut national de la recherche scientifique. Personal Communication)

¹⁰⁵An e-mail response was received August 2, 2010 regarding my query for an English translation of the School’s intellectual property policy (Institut national de la recherche scientifique). “See sections 4.4 and 4.6 of the IP policy (for the original of his translation below).

- (a) As to patented inventions, inventors personally receive a portion of the proceeds which flow from commercialisation. The inventors opt for one of two payment formulas :
 - 50% of net proceeds (gross income minus all provable expenses related to the protection /commercialization of the IP); or
 - 15% of all income plus 2000,00\$ upon delivery of a Canadian patent.
- (b) As to Software and know-how the developers receive 15% of all income
 - 50% of net proceeds (gross income minus all provable expenses related to the protection /commercialization of the IP); or
 - 15% of all income plus 2000,00\$ upon delivery of a Canadian patent.
- (c) As to the portion which returns to INRS, at least 90% of that amount is made available to the research center within INRS from which the invention, software or Know-How originated.”

(Stephen Fitzpatrick -Conseiller juridique - Secrétariat général –Affaires juridiques, Institut national de la recherche scientifique, Personal Communication)

¹⁰⁶An e-mail response was received July 28, 2010 from Thierry Bourgeois, Adjoint au vice-recteur à la recherche et à la création for Université Laval regarding an English translation of their intellectual property policy. I was provided two links: one for copyright and one for patents. The linked articles were in French and therefore a personal translation from Thierry Bourgeois was provided in his e-mailed response.

¹⁰⁷“Patents: The University has rights on any invention created by a member of the University (professor, research professional or student) when this invention has been developed using resources from the University (equipment, personnel, material, laboratories) or if it is the result of a research program of any type where the member is involved” (Translation from Thierry Bourgeois, Personal Communication)

¹⁰⁸“Copyright: The University is the owner of the copyright when the work has been commissioned or financed by the University or any organization through an agreement with the University. In this particular situation, although the document mentions that revenues are shared with the authors "according to the standards applied to similar works", there is no mention of any percentage but we generally apply the same rule as for inventions that is 50%-50% sharing of net revenues”(Thierry Bourgeois, Personal Communication)

¹⁰⁹“Revenues are shared according to either one of these rules:

- a) 50% of net revenues to the inventors (after deduction of any payment made by the University to protect the technology or other legal expenses) the other 50% to the University

or

b) 25% of bulk (before deduction) revenues to the inventors and 75% to the University

Note: Rule a) : 50-50 of net revenues is chosen in 99% of cases”

(Thierry Bourgeois, Personal Communication)

¹¹⁰ Also see original copyright policy at: http://www.vrr.ulaval.ca/rech/Reglement_1980.html (Universite Laval, *La propriété intellectuelle à l'Université Laval*, 2010)

¹¹¹ Also see original patent policy at: http://www.vrr.ulaval.ca/rech/Brevets_1974.html (Universite Laval, *Les brevets d'invention à l'Université Laval*, 2010)

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