Who owns my intellectual property?

Navigating MIT Ownership of Intellectual Property Policy

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What is intellectual property?

The fruits or product of human creativity that may be protected under the law

- Inventions
- Literary and artistic works
- Code
- Symbols, names, images, and designs

Intellectual property is protected by:

- Patents
- Copyrights
- Trademarks
Why Protect IP?

➢ Stimulate and promote further innovation and creativity
➢ Benefits creators and society
➢ Mission of the TLO – to disseminate via technology license

With Limits:
Patent is good for 20 years from the date of the filing of the patent application
The aim of the Institute's policy on patents, copyrights, and other Intellectual Property is to make available Institute technology to industry and others for the public benefit, while providing recognition to individual inventors and encouraging the prompt and open dissemination of research results.

**WHY**

The federal government, research sponsors require MIT to own and control certain intellectual property as a condition of receipt of funds.

**HOW**

All members of the MIT community — including visiting scientists and fellows — who participate in either sponsored research or Institute-funded research or who use significant funds or facilities administered by the Institute must agree to the terms in MIT's Invention and Proprietary Information Agreement and sign the agreement.
The Why: Foundational to Research Sponsors

• Federal regulations (35 U.S.C. 18 § 200-212, the “Bayh-Dole” Act) and contracts with research sponsors, external collaborators, and third-party providers of resources used in MIT facilities (e.g., data, equipment, or software) specifically require MIT to direct the disposition of intellectual property produced during MIT research projects.

• Sponsored research agreements

• IP Rights in Exchange for Funds. Common rights granted:
  • Government non-exclusive license
  • Sponsor internal use and option to exclusive license
  • MIT required to own IP
What is the IPIA?

- Contract between MIT and inventors
- Establishes assignment to and ownership by MIT of intellectual property created by the inventor using significant MIT funds or resources
- IP is protected and can be utilized by the inventor to create a patent
Ownership of Intellectual Property

Inventors will own:
- Not developed during sponsored research
- Not created as a “work-for-hire”
- Not developed with significant use of funds or facilities

MIT will own:
- Developed by participants of sponsored research
- Created as a “work-for-hire”
- Participating with MIT programs with significant use of funds or facilities
Research pursuant to a sponsored research agreement

• Sponsored scope of work
• Federal or industrial grant
• Can be interpreted broadly
• In the case of industrial grants, applies also to sponsor employees – MIT ownership stake in research inventions
Significant Use of Funds or Facilities

• MIT administered funds or facilities –
  • Industrial or federal sponsorship
  • MIT-administered salary
  • Funded equipment (e.g., Beaver Works)
  • Includes biological material, data sets

• Significant Use
  • More than incidental
  • Insignificant facilities: office, library, machine shop facilities, computers
“Work-for-Hire”

• Under copyright law of the United States
• Applies to commissioned works – MIT considered the author and copyright ownership
• Not a work conducted during scope of employment
• Scholarly publications, teaching materials
Questions to consider

• Was I doing a job for the Institute?
• Was I in a research lab or using a special resource that is not available outside of MIT?
• Was I working under a sponsored research project or using MIT-administered materials?
• Was I receiving funds from the Institute other than financial aid?
• Was I collaborating with other researchers or faculty on campus?
Navigating gray areas

• If uncertain – or if you need written documentation – prepare a waiver request
• Confirms the invention is not owned by MIT – valuable to investors
• Requires full disclosure of invention and facilities and funding used
• Signature by department head or lab director – sent to TLO for review
• The Vice President for Research will make the final decision on this issue and on any dispute or interpretation of policy relating to Intellectual Property.
Questions?

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