

To: All Yale Faculty

From: Alison Richard

Date: October 8, 2001

Re: Intellectual Property Rights and Information Technology

Yale's Committee on Cooperative Research has at my request been grappling with issues associated with recent advances in information technology and their impact on teaching and learning, and the faculty's commitment to the University's core educational mission. These discussions, in turn, led the Committee to a careful review of Yale's Copyright Policy. In the Spring of 2000, the Committee issued a report, entitled *Intellectual Property Rights and Information Technology*. This report was circulated among faculty who had been members of various advisory committees on information technology in years past, and I held a series of meetings with these faculty to listen to and discuss their comments and reactions. These were subsequently considered by the Committee during the 2000-2001 academic year and incorporated into a final report, issued at the end of the Spring term 2001.

In addition to offering a detailed discussion of the different forms of distance learning and outside teaching, and their effect on the faculty's relationship to the University, the report makes recommendations regarding an appropriate approach for the University to take regarding these developments. In particular, the report proposes that there be open communication with the faculty and disclosure of the range of external teaching activities which faculty wish to pursue, so that we may together develop a productive approach toward these developments, encouraging their effective use and preserving the University's and faculty's mutual commitment to the University's core educational mission. The Committee also recommended changes in the Copyright Policy, which have been incorporated into our current Policy, as well as modifications to those sections of the Faculty Handbook that address outside teaching by Yale faculty.

I have asked the Committee to advise me further in the current semester on the most effective means of implementing the report's recommendations concerning the disclosure of faculty teaching activities. In order to fully inform the Committee's deliberations, I am forwarding the report to all faculty members and asking you to share with me (by letter or email) any suggestions you may have regarding implementation of the report's recommendations. I will forward all faculty comments and suggestions to the Committee, which intends to conclude its deliberations by the end of the calendar

year. A copy of this letter and of the report may be found at <http://www.yale.edu/provost/reports/iprit.pdf>

I thank you in advance for your attention to this important matter. Let me also take this opportunity to thank the members of the Committee on Cooperative Research and especially the chairs, Sharon Oster and Ian Shapiro, for their dedication and leadership in bringing this report on these challenging issues to its present form.

**REPORT OF THE COMMITTEE ON COOPERATIVE RESEARCH  
REGARDING INTELLECTUAL PROPERTY RIGHTS  
AND INFORMATION TECHNOLOGY**

**September 1, 2001**

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## SECTION I: INTRODUCTION AND EXECUTIVE SUMMARY

In the last decade, advances in information technology have created exciting opportunities for improving teaching and learning. The Center for Media Initiatives is but one way Yale University is trying to facilitate and encourage its faculty to experiment with the use of new interactive modes of instruction and communication. At the same time, the growth of both technology and commercial opportunities in education has further complicated the oversight of the development, use and control of intellectual property in the University. The same technology that creates opportunities for faculty to improve and expand their teaching also creates challenges for universities that have a legitimate stake in the allegiance of the faculty to the institution and in the intellectual property they have helped to support. For several years, the Committee on Cooperative Research has been grappling with the complicated set of issues associated with these new modes of teaching and learning. This report represents our current thinking on appropriate University policy.

In crafting our proposals, we have attempted to be sensitive to a number of tensions. First, while the University should encourage faculty innovations in teaching, it also has a legitimate obligation to protect the intellectual capital of the community against dilution by inappropriate levels of outside activities, as well as against those seeking a free ride on the University's investments. Second, the Committee recognizes that policies in this area coexist somewhat uncomfortably -- the Patent Policy claims ownership and control over certain faculty output, whereas the Copyright Policy yields considerable ownership rights to the faculty. Finally, the Committee has struggled to respond to the rapid pace of innovation, which has made even the definition of the new products quite difficult. In our view, the current report should be viewed very much as a work in progress.

There are at present two sets of University policies that bear on faculty involvement in new learning and teaching technologies: issues involving faculty commitments as set forth in the Faculty Handbook, and in the Policy on Conflict of Interest and Conflict of Commitment on the one hand, and the Copyright and Patent Policies on the other. It is the view of the Committee that modest revisions of policies in both these areas, coupled with judicious interpretation of their meaning, provide a reasonable framework within which to view the new distance learning issues and other interactive modes of instruction.

Current University policy, encapsulated both in the Faculty Handbook and in the policy on Conflict of Interest and Conflict of Commitment, limits the teaching which Yale faculty can do outside the University during the academic year. It is the Committee's view, which we expand in Section II of this Report, that these rules also govern faculty participation in distance learning endeavors and that the University should make its policies on that aspect of outside teaching clear and explicit. For example, in the context of modern technology, teaching via the Internet parallels teaching at another university while employed at Yale, and should be governed in the same way. [Note that we are not referring to ownership of teaching materials here, but rather to conflict of commitment in the core area of teaching]. At present, there is ample common law to inform faculty of precisely what activities "count" as conventional teaching outside of Yale (i.e. giving a course elsewhere counts, but a single seminar does not) and are thus disallowed or at least regulated. In the case of distance learning, the lines are currently less clear,

often relating less to the way material is produced than to the way it is used. In the face of these blurry lines, the Committee recommends that the University be expansive in its requirements of which activities faculty should disclose, even as we recognize that many of the disclosed activities will be ones which the University seeks to encourage rather than limit. Expansive disclosure should enable the University to encourage innovations which redound to the benefit of faculty and of Yale, while limiting activities that represent clear conflicts of interest or commitment. Such disclosure can help promote the kind of true partnerships between faculty and the University envisioned by the Center for Media Initiatives and which are currently common in the sciences.

In the case of activities that the University permits and/or encourages, there may also be some copyright claim by the University over the royalties generated by the activity. In Section III of the Report we describe situations in which it might be appropriate for the University to make a copyright claim over teaching materials. At present, the Committee is of the view that, with some minor modifications, the current Copyright Policy adequately protects the ownership and royalty claims of the University and the faculty, though once again some explication of those claims would be prudent.

In sum, we propose a two-pronged approach to the issues posed by the new technological and commercial opportunities in distance learning. First, the University should open communication with the faculty, seeking broader disclosure of the range of activities which faculty seek to pursue. Such disclosure will help the University coordinate and promote efforts in interactive modes of instruction, while safeguarding its intellectual property. Second, the University should make more explicit the application of its copyright and royalty sharing rules to this area.

We turn now to a further discussion of these two policy arenas.

## **SECTION II: FACULTY TEACHING CONFLICTS**

Recently, universities have become increasingly engaged with the possibilities created by "distance learning." For instruction within Yale itself, these new technologies offer possibilities of enhancing the close communication between faculty and students that is one of Yale's hallmarks. For distance learning that occurs outside of Yale, the picture becomes more complex. In some situations, interactive modes of instruction and communication directed to an outside audience create value for both the individual faculty member and for Yale itself. It is for these situations, among others, that the new Center for Media Initiatives was developed. In addition, the University has entered into a partnership (the University Alliance for Lifelong Learning) with three other institutions, to disseminate teaching materials via the Internet, initially to alumni of these institutions. However, to the extent that "virtual" forms of teaching made available outside of Yale duplicate or compete with teaching offered at the University, the unique value of a Yale education is reduced. There is in addition the risk that the commitment of the faculty to Yale will be diverted in pursuit of the revenues derived from these outside activities.

Of course, the community has long recognized the University's rights to limit faculty teaching outside of Yale. As stated in the Faculty Handbook (Sec. XI.D, p. 101):

The faculty, in considering relationships with non-University institutions, must be guided by the principle that such relationships must not be in conflict with the general interests, policies and mission of the University.<sup>1</sup>

The Committee suggests that the University disseminate a clarification or explanation of this policy, stressing that in order to avoid conflicts of interest and commitment faculty members who wish to teach elsewhere, including through audiovisual and/or interactive representations, should obtain prior University approval. Teaching elsewhere has historically been controlled by the University because of its potential effect on the core education mission of the school. Accordingly, the Faculty Handbook explicitly mandates that "[e]mployment during the academic year at other educational institutions is prohibited by the Corporation unless specifically approved by the Provost." Faculty Handbook XI.D.2.

In the case of the broad class of activities known as "distance learning," the lines between activities that are mutually beneficial to Yale University and to its faculty, and those that potentially undermine Yale's position, are somewhat less clear. In part for this reason, the Committee recommends a policy of prior approval, rather than a simple extension of the blanket prohibition suggested by the Faculty Handbook provision cited above. It is expected that, over time, a body of common law will develop in this area as it has in others, allowing for the promulgation of more well-defined blanket rules about permissible activities. For example, traditionally allowed activities such as presentations of seminars and lectures at conferences or other institutions, delivering summer courses, serving as visiting professor during unpaid academic leaves, would all continue to be permitted even if they are remunerated. For certain other activities, however, discussion and negotiation seem more appropriate at this point, and this requires appropriate disclosure.

Even with prior approval being required, of course, the distinction between what is included and what is not may be difficult in some cases. At present, faculty teach at a distance through the written word; indeed such "teaching" is integral to the mission of a great university. Drawing lines between this teaching -- which clearly requires no notification to the University-- and more interactive distance teaching will not always be easy. In particular contexts, it may also be difficult to differentiate "teaching" from "non-teaching" activities. We recommend that "teaching" be defined to be any compensated dissemination of information as an employee, independent contractor or consultant or through sale of copyrighted material that includes visual, audio and/or interactive engagement of the faculty (in person or via some other medium). As mentioned above, this definition of teaching should exclude normal academic participation in faculty seminars or occasional lectures at other schools or research institutions.

To aid in understanding what the rule is intended to cover and not to cover, we include a discussion of several examples. It is our expectation, as we indicated earlier, that in time the

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<sup>1</sup>See also Yale University Policy on Conflict of Interest and Conflict of Commitment ("each member of the Yale community has an obligation to act in the best interest of the University, and must not let outside activities or outside financial interests interfere with that obligation.").

university would prepare a list of clear examples of activities that are automatically allowable so that case-by-case adjudication is minimized.

The following are expected to be among the cases that are automatically allowable:

**Example Number 1:**

Professor delivers an endowed three-lecture series (open to students, faculty and the public) at another University and receives a \$10,000 honorarium. This would not constitute a type of "teaching" that would require disclosure and prior Provost approval.

**Example Number 2:**

Professor participates for four hours on a conference panel in which the audience consists of professors and members of the general public. This would not constitute a type of "teaching" that would require disclosure or prior Provost approval.

**Example Number 3:**

Professor posts a plain text version of her textbook on the Internet and receives income (from either the advertising or the sale of the copyrighted material). This would not constitute a type of "teaching" that would require disclosure or prior Provost approval

The next examples would require prior approval:

**Example Number 4:**

Professor co-teaches a semester course at another institution – leading class discussion 7 weeks of the semester and receives a \$10,000 honorarium. This would constitute a type of "teaching" that would require disclosure and prior Provost approval.

**Example Number 5:**

Professor posts video images of a series of her lectures on the Internet for the use of students enrolled at another institution. This would constitute a type of "teaching" that would require disclosure and prior Provost approval.

**Example Number 6:**

Professor for a fee prepares a series of videotapes for a course offered by "The Teaching Company." This would constitute a type of "teaching" that would require disclosure and prior Provost approval.

**Example Number 7:**

Professor for a fee participates in a chat room in which she interactively answers questions of non-Yale students. This would constitute a type of "teaching" that would require disclosure and prior Provost approval.

**Example Number 8:**

Professor for a fee delivers a series of lectures in person for an ungraded "course" to individuals possibly denominated as students but who are not working toward a

degree, license or credential. This would constitute a type of "teaching" that would require disclosure and prior Provost approval.

While we are recommending a broad definition of "teaching," the new policy should emphasize that we are not prohibiting all such teaching outside Yale. Rather the policy merely requires disclosure and prior approval from the Provost's office or its designate. It is important to emphasize that it is our expectation that many such activities will be embraced by the University. The Committee recommends that the policy itself state that the approval of such requests will be guided by considerations of conflict of interest and commitment. Only when a request to teach outside Yale clearly competes with Yale's core educational mission, does the Committee recommend that it not be approved.

### **SECTION III: THE COPYRIGHT POLICY**

The Committee was also asked to explore the Copyright Policy of the University to determine how it applied to the products of distance learning, and whether revisions were needed in the face of technological changes. In the end, it was the view of the Committee that the current policy serves the University well, and only a modest revision is required. As in the discussion of faculty teaching, however, some more communication between the University and faculty about the current rules would be helpful. The appendix to this Report describes the suggested policy changes.

The formal Copyright Policy of Yale University assigns the property rights in books, articles and other scholarly writings to the author, except under particular circumstances. In this sense, the Copyright Policy is quite different from the Patent Policy, which assigns property rights over inventions to the University. While one can identify some differences in the production process involved in patentable versus copyrightable material,<sup>2</sup> which could then be used to justify the difference between two policies, in fact, much of the difference arises from the interplay of history and tradition rather than the working out of academic or economic common sense. At Yale and at other universities, faculty have historically exercised ownership rights over the books and articles they create, while university inventors have not. As Yale re-thinks its own copyright policy, it needs to be aware both of the historical convention and the market realities created by the copyright practices of other universities. In particular, trying to assert ownership claims over materials -- like books -- that have historically belonged to faculty is clearly much less justifiable than asserting similar claims over intellectual property resulting from new information technologies, where there have been no historical rights. Indeed, in designing policies around new technologies it may be wise to view the current university policy vis-à-vis books as an historical artifact rather than a policy precedent.

In practice, faculty often produce material which has commercial potential using new technologies with active cooperation of the university. At Yale, the Center for Media Initiatives and more generally the ITS Department of Academic Media and Technology, are taking a lead in working with faculty to develop new products. Under these circumstances, we would expect

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<sup>2</sup> For example, the production of inventions typically involves more university resources than does the production of a book or article. Note, however, that there are exceptions to this rule when significant University resources have been expended.

royalty-sharing issues to be resolved before any project starts. Indeed, at present there are a number of initiatives going on in which the University and faculty are actively partnering and issues of ownership have been easily resolved. More complicated questions arise when faculty undertake activities without active university cooperation. In this case, the disclosure requirements described earlier will be helpful in allowing early discussions of copyright claim and royalty sharing issues.

As a consequence of history and practice the current Yale Copyright Policy assumes faculty ownership, except under certain “exceptional cases” in which the University stakes an ownership claim. This structure, under which faculty own the rights to copyrighted material unless certain conditions hold, exists in most of Yale’s peer schools as well. In the Yale policy, there are three cases in which University ownership is asserted: material which results from assigned tasks; material which is patentable as well as copyrightable; and certain “special circumstances.”<sup>3</sup> Similar exceptions are carved out in the policies of other universities, as the attached survey provided by the Office of Cooperative Research indicates. In what follows, we expand on the last category with particular attention to information technologies. In many cases, the ways in which the new media are used rather than the means by which they were produced, creates ownership claims for the university.

### **What Circumstances Create University Ownership?**

The current Yale University copyright policy makes an ownership claim for the University based on “unusual commitments of resources.” The committee recommends (see the appendix) that the language of this provision be changed to read “substantial commitment of resources.” We do not mean to include under “substantial” resources normal use of Yale’s libraries, faculty offices, departmental office equipment or University owned personal computers, or identification of an individual as a faculty member at Yale.

In the current policy, a range of different types of resources are relevant for University ownership. Resources used can be **financial, such as use of University staff or students, and use of University materials or facilities, or they can involve the University name and reputation.** The use of student images is covered under the human subjects supervision and creates issues well beyond ownership claims. ‘Substantial commitment of resources’ will clearly be an elastic term, and some case-by-case interpretation will be required to implement the policy. Substantial resources might for instance be the use of the services of the Center for Media Initiatives, or the operation of a website on a Yale server maintained by a person on the Yale payroll.

### **Other examples:**

**IN THE EXAMPLES THAT FOLLOW, THE LINCHPIN OF THE UNIVERSITY CLAIM IS NOT FINANCIAL RESOURCES, BUT THE USE OF THE YALE NAME. THESE CASES ARE LIKELY TO BE THE TRICKIEST IN THE NEW TECHNOLOGICAL ENVIRONMENT BECAUSE THEY ARE THE MOST LIKELY TO OCCUR WITHOUT PRIOR KNOWLEDGE OF THE UNIVERSITY.**

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<sup>3</sup> In addition, in cases of sponsored research, ownership rights are typically specified in the agreement.

- a) A Yale Professor has his or her lectures, that were developed for a Yale course, videotaped for distribution and sale. The taping was done through an independent company, without using university financial resources. The taping is done on Yale premises in a recognizable Yale facility.

**Analysis:** In this case, a University claim would derive from the appeal to Yale's name and reputation by creating the impression that this was a videotaped Yale course.

Contrast this case with the following:

- b) A Yale Professor delivers a set of lectures in a studio outside of Yale and markets them under an independent name, while being acknowledged as a "Yale Professor of X."

**Analysis:** Here, there is no university claim to royalties, inasmuch as Yale has no legal right to prevent an individual from identifying him or herself as a Yale professor. Notice, however, that this case does trigger a required disclosure under the rules described in Section II of this document.

A more complicated, intermediate case is as follows:

- c) A Yale professor delivers a set of lectures which are clearly identified as the same as in a course taught at Yale. The tapes are produced and distributed by an independent firm, without use of Yale physical facilities or explicit reference to the University.

**Analysis:** This case is in a gray area because there is implicit use of the Yale name and reputation. Some universities – Johns Hopkins, for example – seem to be taking the position that course development falls under the definition of 'work for hire' and is thus covered under the 'assigned task' provision in their (and our) policy. In the past, before technology enabled the commercialization of courses, most faculty believed that they "owned" their courses. Syllabi and course materials were and still are distributed widely to students, much to the benefit of education generally. It is in the commercializing of this product that the issue of ownership crops up, but we have found no simple resolution in this case.

As in the case of the guidelines for faculty disclosure, the Committee anticipates that, over time, a body of common law on royalty sharing rules will emerge. The examples above provide a flavor for the kinds of situations likely to arise, but are, of course, only a beginning.

#### **SECTION IV: CONCLUSION**

The University and its faculty are on the cusp of technological and commercial opportunities that may forever change the transmission of knowledge on the Yale campus and beyond. In the natural sciences, both Yale and the greater community have long benefited from the partnership and sharing of resources between faculty and the University, and at times, the outside community. Trying to navigate in a world in which this same sense of partnership

affects the core activity of the University—its teaching—is a major challenge as we move forward. The Committee views this report as a first step along the path.

## **APPENDIX: POLICY AMENDMENTS**

The Committee is of the view that the University's best interests would be served if issues involving distance learning were treated under its current rules, rather than through a new policy. In our deliberations, however, we did uncover several areas, both in the Faculty Handbook and the Copyright Policy, where some amendment of current policy might be helpful as the University confronts the new technology. In the case of the Faculty Handbook and Conflict of Interest and Commitment Policy, we have suggested broad areas of concern. The Committee has not attempted to draft language for these policies. In the case of the Copyright Policy, the clear purview of the Committee, specific language is suggested.

### **AMENDMENTS TO THE FACULTY HANDBOOK**

As we indicated earlier, the current Faculty Handbook (p. 102) expressly prohibits employment at other educational institutions during the academic year, unless specifically approved. In practice, such approval is rare. In order to signal faculty about the applicability of these rules to the distance learning situation, we recommend that amendments be considered in the following three areas:

1. Participation in distance learning ventures at any time in the calendar year, whether or not for profit, requires prior approval.
2. The rules apply to teaching via audio and visual representation of the faculty, as well as teaching in person.
3. The rules apply to a broad definition of teaching, which includes work for payment as an employee, independent contractor or consultant or through sale of copyrighted material that includes visual and/or audio representation of the faculty to students working toward a degree, license or credential or in an educational setting in which the audience are denominated as students or are said to be taking part in a class, lecture, seminar, course or the like.

We note that in the context of distance learning item 1 is less salient, given that once a product is created, there is no control over the part of the calendar year in which it can be used. Nevertheless, an amendment to the Handbook may make these matters clearer.

## AMENDMENTS TO THE COPYRIGHT POLICY

The committee recommends the following changes in the current copyright policy. These changes are first displayed in "strikeout" form, highlighting what is new (underlined) and what has been deleted (struck out). The strikeout version is then followed by the full text of the proposed new Copyright Policy.

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Proposed changes:

### Yale University Copyright Policy

#### 1. General.

In the course of teaching, research and other intellectual and administrative activity at the University, faculty, staff, postdoctoral fellows and postdoctoral associates, students and others may create works that are protected by copyright. The federal Copyright Law provides that most original works of authorship are protected by copyright automatically when they are fixed in tangible form. Copyrightable works of authorship include, among other categories, books, articles and other written works; musical and dramatic works; pictures, films, videos, sculptures and other works of art; computer software; and electronic chip designs. Works by Yale faculty, staff, postdoctoral fellows, postdoctoral associates and students may be found in any of these categories. As a matter of fundamental policy, the University encourages the wide dissemination of scholarly work produced by members of the Yale community, including copyrightable works.

#### 2. Ownership.

Under the Copyright Law, the copyright to a work created by a person in the course of his or her employment belongs to the employer rather than to the individual creator. The law provides, therefore, that works created by faculty members in the course of their teaching and research, and works created by staff members in the course of their jobs, are the property of the University.

It is traditional at Yale and other universities, however, for books, articles and other scholarly writings by a faculty member to be deemed the property of the writer, who is considered to be entitled to determine how the works are to be disseminated and to keep any income they produce. This tradition reflects the University's commitment to encourage members of the Yale community to write and to publish what they wish. In recognition of that longstanding practice, the University disclaims ownership of works by faculty, staff, postdoctoral fellows and postdoctoral associates and students, ~~whether in traditional or nontraditional forms~~ except in the following cases:

a. Assigned Tasks:

.....  
.....

d. ~~Special Circumstances~~ Commitment of University Resources

~~Where~~ When the University makes substantial commitments of resources to, or expenditures of resources for, a project, the University may be entitled to ownership of any works created. The term “substantial” is not meant to include ordinary use of Yale’s libraries, faculty offices, departmental office equipment or University owned personal computers. The Provost will determine whether ~~such~~ substantial commitments exist in a particular case and whether the University ought therefore not to disclaim ownership of such works. Where feasible, the Provost will make this determination before the work is created and at the beginning of the project, and will so inform the principal investigator or other responsible faculty member.

In any case in which there is a question about the University’s ownership of a work, the issue will be decided by the Provost ~~after review by~~ in consultation with the Committee on Cooperative Research, ~~Patents and Licensing~~ and the Office of the General Counsel.

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Full text of proposed new policy:

## Yale University Copyright Policy

### Table of Contents:

- 1.General
- 2.Ownership
- 3.Students and Postdoctoral Fellows
- 4.Use of Income from University-Owned Works
- 5.Assistance from the Office of Cooperative Research
- 6.Modification: Effective Date

### 1. General.

In the course of teaching, research and other intellectual and administrative activity at the University, faculty, staff, postdoctoral fellows and postdoctoral associates, students and others may create works that are protected by copyright. The federal Copyright Law provides that most original works of authorship are protected by copyright automatically when they are fixed in tangible form.

Copyrightable works of authorship include, among other categories, books, articles and other written works; musical and dramatic works; pictures, films, videos, sculptures and other works of art; computer software; and electronic chip designs. Works by Yale faculty, staff, postdoctoral fellows, postdoctoral associates and students may be found in any of these

categories. As a matter of fundamental policy, the University encourages the wide dissemination of scholarly work produced by members of the Yale community, including copyrightable works.

## 2. Ownership.

Under the Copyright Law, the copyright to a work created by a person in the course of his or her employment belongs to the employer rather than to the individual creator. The law provides, therefore, that works created by faculty members in the course of their teaching and research, and works created by staff members in the course of their jobs, are the property of the University.

It is traditional at Yale and other universities, however, for books, articles and other scholarly writings by a faculty member to be deemed the property of the writer, who is considered to be entitled to determine how the works are to be disseminated and to keep any income they produce. This tradition reflects the University's commitment to encourage members of the Yale community to write and to publish what they wish. In recognition of that longstanding practice, the University disclaims ownership of works by faculty, staff, postdoctoral fellows and postdoctoral associates and students, except in the following cases:

a. Assigned Tasks. The University will own the copyright to works created (i) by staff members or postdoctoral fellows or postdoctoral associates in the course of their assigned duties of employment, (ii) by student employees in the course of their assigned duties of employment, including duties as teaching or research assistance, or (iii) by faculty members as part of an assigned task where the assignment explicitly states that the work will be owned by the University.

b. Outside Agreements. Where copyrighted materials are developed by an investigator in the course of sponsored research funded by an outside agency pursuant to an agreement approved by the Office of Grant & Contract Administration (Medical School Office) or the Office of Cooperative Research, ownership of the copyright will be determined by the applicable terms of the funding agreement.

c. Patentable Works. Where a copyrighted work, such as certain computer software, is also patentable, the University Patent Policy will apply to it, notwithstanding any inconsistent provisions of this policy.

d. Commitment of University Resources. When the University makes substantial commitments of resources to, or expenditures of resources for, a project, the University may be entitled to ownership of any works created. The term "substantial" is not meant to include ordinary use of Yale's libraries, faculty offices, departmental office equipment or University owned personal computers. The Provost will determine whether substantial commitments exist in a particular case and whether the University ought therefore not to disclaim ownership of such works. Where feasible, the Provost will make this determination before the work is created and at the beginning of the project, and will so inform the principal investigator or other responsible faculty member.

In any case in which there is a question about the University's ownership of a work, the issue will be decided by the Provost in consultation with the Committee on Cooperative Research, and the Office of the General Counsel.

### 3. Students and Postdoctoral Fellows.

Because students and postdoctoral fellows are in many cases not employees of the University, the Copyright Law would not automatically make the University the owner of copyright to their works. To assure fairness, the provisions of this Copyright Policy are made applicable to students and postdoctoral fellows, especially as stated in paragraph 2.a. above, as a condition of their enrollment or affiliation at the University.

### 4. Use of Income from University-Owned Works.

a. Division. Any income which the University receives from the licensing, sale, lease, or other use of copyrighted works owned by the University pursuant to this Copyright Policy will be shared as determined by the University in its sole discretion.

The University will ordinarily share net income with the creator or creators of the work on the same terms as those of the University Patent Policy. For this purpose, net income means gross income less the University's costs for securing the copyright, for defending it against infringement and for licensing or otherwise using the work.

b. Disposition of University Shares. The portion of net income that is not paid to the creator or creators of a work will be used as determined by the University in its sole discretion. The University will ordinarily use that portion of net income for the purpose of research or scholarly activity, with preference being given to the field in which the work was generated.

### 5. Assistance from the Office of Cooperative Research.

A faculty member, staff member, fellow or student who has created and under this policy owns a copyrighted work, and who wishes to engage the Office of Cooperative Research for assistance in licensing or otherwise exploiting the copyright, may request such assistance from the Office of Cooperative Research. If that Office provides such assistance, all net income from its licensing efforts will be shared between the University and the creator(s) as provided in the Patent Policy.

### 6. Modification: Effective Date.

This policy is subject to modification or revocation by the Corporation at any time, in its discretion. This policy is effective from the date of approval by the Corporation with respect to works created after that date and shall remain in effect until modified or revoked.