

**Virginia Polytechnic Institute and State University  
Intellectual Property Committee Meeting  
January 16, 2013, 12:00-1:00p.m.  
325 Burruss Hall**

**FULL COMMITTEE**

The Intellectual Property Committee met on January 16, 2013.

The following members were present: Bill Knocke (chair), John Burton, Steve Capaldo, Laurie Coble, Mark Coburn, Kay Heidbreder, John Jelesko, X.J. Meng, Joe Merola, Ken Miller, Mike Miller, Peggy Quesenberry, and Steve Sheetz. Wendy Vaughn attended and recorded the minutes.

Those members/guests not in attendance: Robert Broadwater, Robert Harvey, Kristen Mittelman, Masoud Safdari, Tomalei Vess and Robert Walters.

**Call to Order**

Bill Knocke called the meeting to order at 12:00p.m. Wendy Vaughn was introduced and welcomed to the committee.

**Approval of Minutes**

On a motion made and seconded the minutes for the October 17, 2012, meeting were unanimously approved.

**Old Business**

The primary focus of the meeting was a wrap-up of discussion related to proposed revisions to Policy 13000. Multiple key issues were introduced and discussed. The first modification introduced was to slightly modify the language in Section 2.4A of the IP policy. This modification will specifically address language concerns in the current IP policy that arise following the US Supreme Court decision in the case of Stanford vs. Roche. Steve Capaldo commented that the new language proposed for the policy will remedy any questions on this issue. Kay Heidbreder also commented that there is a provision in VA Commonwealth law that under condition of accepting a paycheck from the university, all employees are agreeing to all the terms conditions of the policy . A question was raised and discussed by the committee on faculty knowledge of the procedure. Bill Knocke mentioned that this policy update (and others that will occur in the policy) will all be included in the online educational program that was developed in 2012 with respect to Policy 13000. There was also a recommendation that addressing this specific IP policy issue in the Terms of Faculty Offer document provided to newly hired faculty may be a worthwhile course of action. This point should probably be considered for the training provided to new department heads since these individuals typically prepare Terms of Faculty Offer documents.

The next major modification considered was in relation to the language provided regarding ownership of IP generated by unfunded students. Tomalei Vess drafted language for the policy on student ownership. Kay Heidbreder raised a question on employment or receiving payment from Virginia Tech if financial aid is included as income. Tomalei Vess stated that students receiving undergraduate research fellowships are a form of a scholarship.

After significant discussion the following language was recommended for inclusion in the updated IP policy:

Students, visiting scholars, and volunteers are required to sign any IP rights to the University when:

- 1) Working on a research project funded by Virginia Tech or an entity outside of Virginia Tech; (or)
- 2) Employed or receiving payment from Virginia Tech; or related to the project for which the IP was created; (or)
- 3) University resources not typically available to the public are used in the creation of the IP; (or)
- 4) Required by the Office of the Vice President for Research at the request of the faculty member directing the research.

Courses specifically designed to promote entrepreneurship, innovation, or economic development, instructors may request advanced approval to vest all IP ownership created in the course with the student.

Steve Capaldo commented that visiting scholars are considered employees of the university even though most are in fact self funded. Visiting scholars working on a sponsored research project will be asked to sign a document to indicate their understanding that any IP generated in association with their work on the sponsored research project reside with the university. Scholars should come through the Office of International Affairs and complete a University Affiliate form for access to certain university programs as a hokie passport card, and accessibility to the library. Suggested training on procedures associated with visiting scholars should be addressed by training at the department head level.

Bill Knocke commented that in governance this policy change would have to go through CGSP, and CUSP for endorsement. Opportunities for student ownership of IP for those not funded by the university could be viewed as significantly reduced by this proposed language. However, Bill expressed the viewpoint that the existing language on student ownership of IP in Policy 1300 is almost impossible to enforce due to not being able to define the dollar amount in association with the use of university resources. The proposed language mentioned above is quite comparable to that found in IP policies from several peer institutions.

The third major area of language modification related to issue of Commissioned Works. Steve Capaldo drafted the proposed language that was considered by the IPC. Bill Knocke requested Ruth Walkes (Director, VT Center for the Arts) and Ben Knapp (Director, ICAT) to review the language that Steve had proposed. Ruth indicated that the proposed language is fine with an addition of a statement that contracts associated with Commissioned Works are to be negotiable on a case by case basis. Steve indicated that inclusion of such wording in the section of the policy was appropriate.

The following language was approved by the IPC to address the notion of Commissioned Works:

Virginia Tech as the commissioning party, shall be expected to maintain certain rights of third parties. These rights are negotiable on a case by case basis, but generally the university expects:

- a) Exclusive right to give premiere performances of the commissioned work; and
- b) Exclusive performance rights for a limited period of time; and
- c) Exclusive right to give premieres in other venues; and
- d) Right to make the first commercial recording of the work; and
- e) The right to be credited as the commissioner of the work in published editions, recordings, and programs for all future performances.

A few additional minor textual modifications were also discussed. A change will need to be addressed throughout the policy to reflect the new title of Bill's position as the Associate Vice President for Research (removing the word Programs). Also, the procedure for generating nominations to the IPC was discussed. The current policy states two different procedures by which nominations are to be solicited. Procedurally, individuals are nominated by the Associate Vice President for Research and the appointments come through the President's office. A motion was made by Kay Heidbreder, and seconded to update the policy with language that nomination procedures should reflect current IPC procedures. The motion carried.

The committee also discussed an update to Section 2.1C and determined that the term for all non-student IPC members should be three years. Finally, Bill Knocke suggested a minor text change in Section 2.4E (Right of Appeal) that would provide for more generic language ("supervisor or unit chair" as opposed to "department head"). This will better address the current situation where many research faculty do not belong to traditional academic departments.

Bill Knocke the reviewed with the IPC a list of the various commissions plus the Faculty Senate and Staff Senate, all entities within University governance that will be contacted to endorse the proposed new version of Policy 13000.

## **Adjournment**

There being no further business the meeting was adjourned at 1:05p.m.

Respectfully Submitted,

Wendy Vaughn  
Administrative Support to the IP Committee

Addendum to IPC Minutes:

Bill Knocke called a special meeting of the IPC for January 30<sup>th</sup>, at which time final discussion and deliberations occurred among committee members regarding the language included in the updated version of Policy 13000. Following discussion a motion was made and seconded to forward the updated version of Policy 13000 to the Commission on Research which will serve as the “host commission” for the review of this policy within University governance. The motion was unanimously passed.