

# Review of International and South African University IP Policies and Strategies

## Introduction

This paper is based on a brief desk review of international and South African university IP Policies and Strategies, in order to compile an understanding of the key issues that require coverage in an IP Strategy. The review also intended to include a specific focus on ODL institutions. However, only one IP policy from an ODL institution was located.

The following ODL institutions' websites were searched in an attempt to locate relevant IP policies (note that this search was limited to institutions which have the entire/some parts of their websites in English).

- Athabasca University
- Bangladesh Open University
- Karnataka State Open University
- Nalanda Open University
- National Open University of Nigeria
- Open Polytechnic of New Zealand – there is no specific IP policy, but IP issues are covered in the Academic Statute
- Open University (UK)
- Open Universities Australia – could not locate IP policy, although partner universities such as RMIT and Griffith University have their own IP policies.
- Open University of Hong Kong
- Open University of Israel
- Open University of Japan
- Open University of Tanzania
- The Indira Gandhi National Open University
- Uttranchal Open University
- Vardhman Mahaveer Open University
- Wawasan Open University

From the review, it appears that the ODL institutions either do not have a specific IP policy OR that they have not published their policy online. On its website, the Open University noted that it has an IP policy, but as it is currently in the process of updating this policy, it is not available online. Their Enterprise-Innovation Office was thus contacted via email to obtain the latest version of their IP policy. The policy reviewed was the Research and Enterprise Intellectual Property Policy. The email communication further elucidated that there was another policy governing teaching materials and a brief explanation of the Open University's stance was provided via email.

## South African universities

The following policies of South African universities were consulted:

- North West University - Policy on the Management of Intellectual Property at the NWU

- Stellenbosch Policy In Respect Of The Commercial Exploitation Of Intellectual Property
- University of Cape Town Intellectual Property Policy
- University of Fort Hare Policy on Intellectual Property
- University of Johannesburg Policy on Intellectual Property
- University of Pretoria Intellectual Property Policy
- University of Western Cape Research Policy, Section 10: Intellectual Property Policy

The following International university IP policies were reviewed:

- Cambridge University - University's Regulations concerning the ownership of intellectual property rights
- Griffith University Intellectual Property Policy
- Harvard University – Statement of Policy in Regard to Intellectual Policy
- Intellectual Property Policy of Carnegie Mellon University
- Massachusetts Institute of Technology - Guide to the Ownership, Distribution and Commercial Development of M.I.T. Technology
- Massey University Intellectual Property Policy
- RMIT University Intellectual Property Policy
- The John Hopkins University Intellectual Property Policy
- The Open Polytechnic of New Zealand Academic Statute
- The University of Vermont Intellectual Property Policy Statement
- University of Ibadan Intellectual Property Policy
- University of Waterloo Policy 73 – Intellectual Property Rights

University IP policies tend to cover research as well as teaching activities, although Open University has indicated that they have two separate policies for these activities.

## **Key Issues**

### **Introduction**

The introduction to the policies (usually the South African policies) generally link to the national IP policy; and in South Africa, this is the Intellectual Property Rights from Publicly Financed Research and Development Act, no 51 (2008). This usually provides a context for the institutions' IP policy and in some instances reference is also made to this national policy in the main body of the policy where applicable.

The introduction may also make reference to other related university policies. It may also point to relevant university offices that are responsible for IP issues at the university.

Some policies also include definitions for key terms used in the policy. In some instances these are provided at the start of the policy. In other instances these are included in appendices. Note that not all policies include a definitions section.

### **Purpose/Objective/Principles**

Some policies specifically outline the purpose of the policy. For example:

*The purpose of this Policy is to provide a framework for the management of intellectual property developed by staff, students and other parties at the University of Fort Hare (University of Fort Hare)*

*To ensure that Intellectual Property Rights generated by Massey University Staff and Students are used to maximise the flow of benefits to the community, enhance the reputation and wealth of the University, encourage Staff and Students to benefit from their commercially viable activities and to protect the rights of Staff, Students and the University where Intellectual Property Rights are concerned (Massey University)*

Others may include a policy statement, which describes the nature of the policy document; whilst others may highlight the objectives of the IP policy, for example, Griffith University notes:

*The University objectives are to:*

- a) encourage the development and advancement of knowledge;*
- b) disseminate knowledge and promote scholarship;*
- c) contribute to society through the practical application of IP; and*
- d) Commercialise IP for the benefit of Staff, Students and the University.*

Carnegie-Mellon University usefully outlines the principles of their policy relating to faculty, staff and students to the university.

*Intellectual property is created by individuals, or by groups of individuals, who are entitled to choose the course of disclosure; academic freedom of individuals is a higher priority than possible financial rewards.*

*There exists a historical tradition allowing authors to retain ownership of intellectual property rights from textbooks and works of art.*

*The university is the support of the whole campus community, and is thereby entitled to share in financial rewards.*

*There should be incentives for all parties to pursue financial rewards together, consistent with the expressed goals of the policy. The distribution of these rewards should reflect, insofar as possible, the creative contributions of the creator, and the resources contributed by and risks assumed by both the creator and the university in developing intellectual property.*

*Since it is frequently difficult to meaningfully assess risks, resources and potential rewards, negotiated agreements are to be encouraged whenever possible.*

Note that these variations are likely the result of university stipulations/procedures regarding the layout of policies.

## **Scope**

The policies may also note upfront the scope of the policies. For example, the Stellenbosch University policy stipulates:

*This IPP is not intended to be comprehensive in all respects, but forms part of SU's integrated management model and should be read in conjunction with the University's other policies including the SU Policy on Research, the SU Policy on Full Cost and the SU Policy on Short Courses. Specifically, this IPP is intended to stipulate the way in which IP that originates in the SU environment shall be dealt with... (Stellenbosch University)*

and University of Fort Hare indicates,

*The intellectual property covered by this Policy covers registerable and non-registerable inventions, trademarks, trade secrets, copyrights (including software), designs and plant / animal breeders' rights as more fully set out below. (Fort Hare)*

whilst North West University indicates that its policy specifically:

- 1. deals with ownership of intellectual property and the exploitation thereof in Parts 2, 3 and 4 of this document;*

- 2. sets out in Part 5 the way in which the University endeavours to ensure that inventors and authors who are staff and students of the University obtain a fair share of the net income derived from the commercialization of such intellectual property; and*
- 3. addresses the issue of accommodating indigenous knowledge as part of intellectual property in Part 6.*

It may also note the scope of application of the policy – so for example that the policy would only apply from the time it has passed and would not affect other agreements made prior to the policy.

The policy usually clearly indicates who the policy applies to (employees, students, service providers etc). It may also note that it covers all their campuses, temporary, permanent, contract workers, students etc.

### **Review**

Mention may be made that the policy will be reviewed periodically, for example that the policy will be checked and reviewed every three years to ensure alignment with the university strategic plan and national and international regulations. This may also be mentioned at the end of the policy.

### **Management of IP**

Although this may not necessarily be a section within the IP policy, most policies make reference to an office at the university responsible for dealing with IP matters. The aim of this is to provide resources to support the university, its staff and students to secure the commercial development of intellectual property.

The policies also generally outline the procedures that need to be followed when noting IP or creating an invention and this usually involves the above office.

### **Responsibilities**

Some policies outline the responsibilities of various stakeholders regarding IP. For example, it may indicate what the role of supervisors is towards postgraduate students in making them aware of IP issues and procedures to follow in theses involving IP or commercialisation of IP. It may also highlight other leadership roles regarding IP such as the role of the Head of Department or the role of university administration.

### **Ownership of Intellectual Property**

University IP policies commonly set out the provisions governing the ownership of IP originating in the university environment. This section also usually delineates provisions per affected group (staff, students etc).

#### **Work created within the scope of employment**

Generally, IP created by employees who were specifically employed to produce a certain IP is owned by the university, if the IP was created within the normal scope of employment – for example, computer programmes created on the job by staff computer programmers. Other institutions note that the university is automatically assigned IP rights when they accept employment or enrolment. Usually, the default is that works created in the scope of normal work rests with the university. In the case of Cambridge:

*Research undertaken by University staff in the course of their employment by the University shall include all research conducted under the obligation to do so, expressed or implied, in their terms of employment. The time when, and the place where, particular research results are reached or achieved shall be factors to be taken into consideration in assessing whether the research is in the course of employment.*

*Where results arise from a staff member's normal course of University employment, and those results are registrable, the University has the initial right to apply for an invention patent or other IP right. The University or its nominee, currently Cambridge Enterprise Ltd (CE), will become the owner of such IP right and the creator(s) will be named on the application.*

In other examples:

*The University owns all rights, title and interest in and to Intellectual Property developed as a result of support either directly from or channeled through the University. By accepting employment with or enrollment in the University, faculty hereby assign and agree to assign to the University all of their rights, title and interest in and to Intellectual Property developed as a result of University support. (John Hopkins University)*

*The University owns all (Research and Innovation) R&I intellectual property created or developed by staff in the course of his or her duties. (RMIT University)*

*The Polytechnic asserts ownership of all Intellectual Property Rights associated with Intellectual Property (IP) created by staff in the course of their employment, whether created for teaching purposes or otherwise and whether the material is created on the staff member's initiative or at the direction of the Polytechnic. (The Open Polytechnic of New Zealand)*

At MIT, inventors/authors can own IP in certain instances, for example:

*Inventor(s)/author(s) will own Intellectual Property that is:*

- i. not developed in the course of or pursuant to a sponsored research or other agreement (the faculty advisor, administrative officer, or the Office of Sponsored Programs contracts administrator can advise on the terms of the agreements that apply to specific research); and*
- ii. not created as a "work-for-hire" by operation of copyright law (a "work-for-hire" is defined, in part, as a work prepared by an employee within the scope of his or her employment) and not created pursuant to a written agreement with MIT providing for a transfer of copyright or ownership of Intellectual Property to MIT; and*
- iii. not developed with the significant use of funds or facilities administered by MIT*

*Ownership of all other Intellectual Property will be as follows:*

- i. MIT owns Intellectual Property made or created by MIT faculty, students, staff or others participating in research pursuant to a sponsored research agreement to which MIT is a party;*
- ii. ownership of copyrightable works created as "works-for-hire" or pursuant to a written agreement with MIT providing for the transfer of any Intellectual Property or ownership to MIT will vest with MIT;*
- iii. ownership of Intellectual Property developed by faculty, students, staff, and other participating in MIT programs, including visitors, with the significant use of funds or facilities administered by MIT will vest with MIT. (MIT)*

For staff, policies can also highlight different conditions for contract research, consultation work, post doctoral appointment, and university staff engaged in joint projects with organisations outside the university. For example, at University of Pretoria:

*Visiting lecturers and researchers must sign a confidentiality agreement prior to their visit and also assign to the University their rights in respect of IP created or started during their visit. Any other division of such rights must be agreed beforehand in writing. In return, the University ensured the appropriate benefit sharing arrangement in a manner similar to University staff (University of Pretoria)*

## Use of University Facilities

Policies may often determine ownership based on the level of use of university facilities.

*The creator owns all intellectual property created without substantial use of university facilities, including intellectual property rights in computer software and data bases.(Carnegie Mellon)*

Some may be quite specific about what this means. For example:

*When an invention, software, or other copyrightable material, mask work, or tangible research property is developed by M.I.T. faculty, students, staff, visitors or others participating in M.I.T. programs using significant M.I.T. funds or facilities, M.I.T. will own the patent, copyright, or other tangible or intellectual property. If the material is not subject to a sponsored research or other agreement giving a third party rights, the issue of whether or not a significant use was made of M.I.T. funds or facilities will be reviewed by the inventor/author's department head or center director and a recommendation forwarded to the Technology Licensing Office (TLO), in the form of the letter that is Form 1 in Appendix A.*

*M.I.T. does not construe the use of office, library, machine shop or Project Athena personal desktop work stations and communication and storage servers as constituting significant use of M.I.T. space or facilities, nor construe the payment of salary from unrestricted accounts as constituting significant use of M.I.T. funds, except in those situations where the funds were paid specifically to support the development of certain materials.*

*Textbooks developed in conjunction with class teaching are also excluded from the "significant use" category, unless such textbooks were developed using M.I.T. administered funds paid specifically to support textbook development.*

*Generally, an invention, software, or other copyrightable material, mask work, or tangible research property will not be considered to have been developed using M.I.T. funds or facilities if:*

- (1) only a minimal amount of unrestricted funds have been used; and*
- (2) the invention, software, or other copyrightable material, mask work, or tangible research property has been developed outside of the assigned area of research of the inventor/author under a Research Assistantship or sponsored project; and*
- (3) only a minimal amount of time has been spent using significant M.I.T. facilities or only insignificant facilities and equipment have been utilized. Use of office, library, machine shop facilities, and of traditional desktop personal computers and Project Athena are examples of facilities and equipment that are not considered significant; and*
- (4) the development has been made on the personal, unpaid time of the inventor/author.*

Such policy stipulations often also apply to students:

*Where a student is involved in a project or specific commission in respect of which the University or any party to an agreement with the University has provided funds, equipment, facilities or supervision, the University may require the student to be a party to an intellectual property and/or confidentiality agreement before commencement.(RMIT University)*

*It is the general policy of the University that University Students shall have ownership rights in Intellectual Property developed by them independently or as a part of their coursework, except where it is developed using University funds, or where the University student has a formal employment relationship with the University, or where the University has external obligations with respect to Student Intellectual Property. (Vermont University)*

## Students

There appears to be a difference in how universities assign IP with regards to students' work, with some being more restrictive. For example

*Unless otherwise agreed between the student and the UP TTO and in consultation with the University staff member who is the student supervisor, students are required to assign to the University any IP that may vest in them by virtue of the performance of their study obligations. Such assignment automatically takes place during registration. This also applies to copyright*

*in all works created in the normal course and scope of their studies at the university (University of Pretoria)*

Others are more loosely defined:

*Unless otherwise indicated, Students own and can Deal With any IP, which they create in the course of their Enrolment at the University.*

*The University will exercise its reasonable discretion to assess whether:*

- a) the University owns all or part of the IP;*
- b) there is any University Owned IP incorporated in, or used to create, the IP;*
- c) the University is entitled to a share in any proceeds from Commercialisation of the IP and to claim this share from Students; and/or*
- d) the University requires that Students enter into a Commercialisation Agreement with the University. (Griffith University)*

*Subject to any employment relationship between the University and a student or any provision in this policy, any R&I intellectual property created solely by a student is owned by that student. Where a student contributes to the development of R&I intellectual property through research or other activities involving other students or members of staff or uses existing University intellectual property (background intellectual property), the moral rights of authorship of all those contributing to the creation of the intellectual property will be recognised in accordance with University policy (RMIT University)*

In some instances, the same rules for staff may apply to students:

*The policy for ownership of an invention developed by a student is the same as for any other member of the MIT community. It depends on:*

- 1. Whether the invention was created by a student in a capacity as an MIT employee*
- 2. Whether the invention was created using MIT resources*
- 3. Whether the invention was created under a contract or grant to MIT*

## **Teaching Materials**

There are also different ways in which teaching materials are addressed. At the University of Waterloo, IP usually belongs to the creator with some exceptions:

*Except as stipulated below, it is University policy that ownership of right in IP created in the course of teaching and research activities belong to the creator(s).*

*The exceptions are:*

- The University normally retains ownership of IP rights in works created as 'assigned tasks' in the course of administrative activities.*
- Owners of IP rights in scholarly works created in the course of teaching and research activities grant the University a nonexclusive, free, irrevocable license to copy and/or use such works in other teaching and research activities, but excluding licensing and distribution to persons or organizations outside the University community. Any such licensing and/or distribution activity would be authorized only by an additional license from the owner(s).*
- In sponsored or contract research activities, ownership of IP rights may be determined in whole or in part by the regulations of the sponsor or the terms of the contract. Participants in these research activities must be made aware of any such stipulations of the contract by the Principal Investigator, that is, the leader of the research project.*

In general appears that IP created as part of work requirements generally belong to the university. Thus, it follows that teaching materials are usually covered under this clause. At Open University, copyright in teaching materials is retained by the University.

MIT on the other hand has specific conditions regarding teaching materials:

*In the case of copyrightable works developed by the Faculty, MIT's mission has generally been best served by allowing the individual faculty member to decide when, how, and in what form*

*these works should be disseminated. [See policies on intellectual property (Section 13.1.1, Ownership of Intellectual Property) and textbooks (Section 13.1.3, Ownership of Copyrights in Theses).] Where significant Institute resources are involved in producing a work (see Section 13.1.2, Significant Use of MIT-Administered Resources), or where there are contractual requirements, MIT and the faculty author share ownership of the work and responsibility for the decisions.*

*Students should also be recognized as creators and authors of their own material. The academic and financial rights of students should be honored in the creation and dissemination of educational materials.*

### **Research and other scholarly works**

Universities may have a separate IP policy regarding research, although in many instances research is covered under the general IP policy of a University. Open University has a specific IP policy pertaining to research. The content of the policy is similar in nature to that of other universities.

In keeping with scholarly tradition, most policies indicate that creator retains all rights to the following types of intellectual property, without limitation: books (including textbooks), educational courseware, articles, non-fiction, novels, poems, musical works, dramatic works, pictorial, graphic and sculptural works, audio-visual works, and sound recordings, regardless of the level of use of university facilities.

*Copyright to, and royalty from, literary or scholarly works in tangible or electronic form (e.g., textbooks and other curricular materials, reference works, journal articles, novels, music, photographs, etc.) produced by faculty members as a part of their usual teaching, service, and research activities, and which do not result directly as a specified deliverable from projects funded in whole or in part by the University or a sponsored research agency shall belong to the faculty who prepared such works and may be assigned or retained by them. (John Hopkins University)*

*Textbooks developed in conjunction with class teaching are excluded from the "significant use" category and not considered "works-for-hire," unless such textbooks were developed using MIT administered funds paid specifically to support textbook development. Otherwise, the author is the owner. (MIT)*

*University staff are entitled to decide that the results of any research undertaken by them in the course of their employment by the University shall be published or disseminated to other persons to use or disclose as they wish in accordance with normal academic practice. (Cambridge)*

### **Externally sponsored work**

Policies usually articulate that work conducted under an agreement between an external sponsor and the university that specifies the ownership of such intellectual property shall be owned as specified in an agreement. There are usually specific university procedures related to this agreement.

### **Collaboration**

Policies may stipulate agreements that need to be signed in instances of collaborative work. This is usually via the office in charge of IP at the university.

### **Contracts**

The policy may also stipulate that contract agreements must be signed via the university office and will indicate who the IP rests with – usually the university owns the IP unless otherwise agreed.

## University Trademark

Some policies make mention of the use of the university's trademarks. For example:

*The University owns various registered and unregistered trade marks and reserves all its rights in respect of any marks that include e.g. its name or coat of arms or whether there is a suggestion of an association with the University. Use of the University's trade marks for private purposes or gain is strictly prohibited. The University reserves the right to license its name or registered trade marks to commercial partners. Such a license is only valid if agreed in writing and signed by a duly authorised University official (University of Pretoria)*

*The University also has a compelling interest in ensuring that its name and insignias are properly used, especially that the use of its name or insignia to imply association with the institution is accurate and appropriate, and that it receives a fair share of any commercial fruits from the use of its names. (Harvard)*

## Disclosure and protection of intellectual property

Policies generally outline the procedures that creators need to go through to register their IP.

Creators are required to disclose their inventions or creations (IP). There are usually university regulations which define how these should be done, usually via filling in necessary forms. There are sometimes clearly stipulated

*The commercial office at the university usually decides on the commercial viability of an invention or creation*

Some policies have separate clauses regarding inventions and patent – it considers issues such as registrable inventions.

The university usually decides on whether the IP needs to be protected (if it is to be protected, the university usually bears this cost). If it decides not to protect, then the IP appears to be offered to the inventor.

## Commercialisation/Commercial Exploitation of IP

From the review of the policies, it appears that most policies tackle the issue of commercialisation of IP.

Universities may articulate the benefits of commercialisation. For example, Griffith University notes:

*IP is a valuable asset that can be utilised to create benefits for the community and for Staff, Students and the University. With respect to most inventions, successful Commercialisation requires protection by patents.*

*Commercialisation plays an important role in the uptake of research outputs through the utilisation of IP, and promotes the reputation of the University. The University considers the Commercialisation of IP to be an integral component of the University's research activity.*

The policy may detail the procedures of commercialisation. The decision to commercialise IP is usually done via the appropriate office and the inventor. The process usually requires an arrangement with the office in charge of IP at the university to ensure that suitable arrangements are in place to protect IP before disclosure occurs. This may entail the creators signing an agreement with the university

The policy may also articulate what would happen if the University decides not to Commercialise the IP or the Creators are not prepared to support the Commercialisation of the IP in accordance with the

Commercialisation Strategy – for example, the University may amend the Commercialisation Strategy or choose not to protect and Commercialise the IP. If the University is unable to successfully Commercialise the IP, the University will assign the IP to the Creators upon request.

The policy can also stipulate the need for confidentiality particularly with regards to patents:

*However, if University staff decide that the results of their research should be commercialized, they should be aware that, in respect of patents and similar rights in inventions and new technology, protection for and subsequent commercialization of such inventions may be jeopardized if information about the inventions is made available to the public anywhere in the world before all relevant applications for protection have been lodged. Any statement, oral or written, which is made to another person or persons who are under no obligation to keep the information confidential will negate the validity of a patent for the invention in many countries. (Cambridge)*

*For potential commercially exploitable Research IP, reasonable steps should be taken to maintain confidentiality prior to registered protection. Whilst copyright and trademarks are unaffected by public disclosure, public disclosure of patentable inventions will limit or preclude the University's ability to protect them. Adequate records and notes of the development of patentable inventions (reports, notebooks, data, designs etc.) should be kept in compliance with the University's Code of Practice for Research. (Open University)*

### **Income Derived from Commercial Exploitation of IP/Royalty Distribution**

Policies usually also articulate how the net proceeds from commercialisation will be shared by the affected stakeholders. The policy may stipulate how revenues will be divided between the inventor and the university. The policy may include a table outlining how the split will occur, can include a share for departments and schools, and usually indicates percentages of who gets what. There is usually no difference between staff and students regarding how the revenue would be split.

Some policies are quite detailed about this and even include clauses about how revenue will be determined upon death or termination from the university (For example John Hopkins University)

### **Open Licenses**

In the policies reviewed, little mention was made of open licenses. However, some universities do address this issue, but in different ways.

University of Cambridge notes:

*Material or other subject matter that is developed in the University of which the copyright is owned by the University, including any that may fall under Regulation 8, may be released under Open Source or similar arrangements on the authority of the Head of Department in which the material is created. The Head of Department may delegate such authority within a Department without restriction. (When material is derived from material acquired under Open Source arrangements that require any distribution of derived material to be under the same arrangements, no authority to distribute need be sought.)*

UCT notes the following about the use of open source software and creative commons licensing:

*Open Source and Creative Commons Materials*

*Open Source and Creative Commons licences are mechanisms for exploiting material that is automatically protected (copyright) or where other forms of Intellectual Property Protection have been sought.*

*9.1 Open Source. UCT has adopted Open Source as the default for research and teaching related to software development at the university. At the outset of a project involving Open Source licensing, an Employee or Student should submit the Open Source license agreement*

*that is intended to be used to govern the licensing of the project outputs to RCIPS for review, to ensure compliance with the requirements of the IPR Act and policies and guidelines of NIPMO.*

*9.1.1 Where necessary RCIPS shall refer agreements to NIPMO to seek approval for their use.*

*9.1.2 Where necessary and required, RCIPS shall in writing authorise investigators to enter into the Open Source license agreements in their personal capacity.*

*9.2 Creative Commons. UCT supports the publication of materials under Creative Commons licences to promote the sharing of knowledge and the creation of Open Education Resources. UCT undertakes certain research projects that seek to publish the research output in terms of a Creative Commons licence.*

*9.2.1 Author(s) of Copyright protected materials that are listed in clauses 8.2 and 8.3 is free to distribute their material under a Creative Commons licence.*

*9.2.2 Author(s) of Copyright materials that are listed in clause 8.1 should seek permission from RCIPS, who on behalf of UCT, may grant permission for the material to be distributed under a Creative Commons licence.*

With regards to research, the Open University makes mention of its Open Access Research IP:

*In line with The Open University's mission of making its research publicly available, barring IP that is to be commercially exploited, or is restricted by an assignment/transfer agreement or ethical consideration, all IP may be made available under an Open Source or Creative Commons Licence. The RSQ office can provide advice and support on the most appropriate licence and the suitability of specific research for such dissemination. In the case of patentable discoveries where the market is too uncertain or the risk too high for the University to commit significant early investment, or for patents unlicensed after significant marketing effort (time, money, resources), such IP can be made available to third parties free of charge under an Easy Access IP Licence (managed by the RSQ Office). The University will still enjoy a royalty-free non-transferable, non-exclusive licence to use such IP for teaching and research activities. (Open University)*

At Harvard, a number of faculties and schools have adopted OA policies for scholarly articles authored by Harvard faculty members. The Open Access policies grant the university non exclusive license to use and distribute a faculty member's articles, provided that the articles are not sold for a profit.

MIT OCW makes specific mention of IP on its website:

*The intellectual property policies created for MIT OpenCourseWare are clear and consistent with other policies for scholarly materials used in education. Faculty retain ownership of most materials prepared for MIT OpenCourseWare, following the MIT policy on textbook authorship. MIT retains ownership only when significant use has been made of the Institute's resources. If student course work is placed on the MIT OpenCourseWare site, then copyright in the work remains with the student. Prior to making any course materials publicly available, the MIT OpenCourseWare team has reviewed all material extensively to determine the correct ownership of the material and obtain the appropriate licenses to make the material openly available on the Web. We will promptly remove any material that is determined to be infringing on the rights of others.*

Some universities provide the option of creators of IP to place the creation in the public domain. This is usually subject to exclusions in other clauses; but nevertheless, such an approach means that the both the creator and the university waive all ownership rights to said property.

*University action may, in some instances, include exercising ownership and thereafter placing the Intellectual Property in the public domain. (Vermont University)*

Others make mention of open source software:

*The University will not lay claim to ownership of open-source software. However, employees, contract workers and students are required to disclose to the TTIS OFFICE their intention to create or to participate in the creation of open-source software.*

## **Conflict of Interest**

Policies also tend to stipulate that there should not be a conflict of interest regarding university work and work outside the university and its implications on IP:

*Faculty who engage in permitted outside professional services, including without limitation consulting to private companies, are responsible for ensuring that those activities and any related contractual arrangements are consistent and do not conflict with all applicable University policies and applicable contractual provisions, including those relating to intellectual property, and Conflict of Interest and Commitment, (Vermont University)*

## **Dispute Resolution**

Policies usually indicate procedures that should be followed should there be a dispute regarding IP. It can also indicate the relevant people (posts) that should be contacted in the event of a dispute. For example:

*In the event of a dispute over IP between an employee or research student and the University, in the first instance an attempt will be made to resolve the dispute by informal discussion and reference should be made to the Academic Staff Terms and Conditions (employees) or Research Students Agreement/Research Student Handbook (students). If unsuccessful, the Originator or representative of the University may refer the dispute for an appeal meeting to IPRAG, set up in accordance with Academic Staff terms and conditions (section 21). Human Resources will be consulted and informed of the outcome of the informal/formal discussions and, whenever possible, a member of Human Resources will attend the meetings. (Open University)*