

1 Copyright Ownership and Management of Software

2 Effective: September 5, 2013

3 Contact: [Office of Intellectual Property and Technology Transfer \(OIPTT\)](#)

5 Contents

6 [Introduction](#)

7 [Definitions](#)

8 [Policy Statement](#)

9 [Scope](#)

10 [Distribution Rights and Responsibilities of Faculty and Staff](#)

11 [Distribution Rights and Responsibilities of Students and Student Organizations](#)

12 [Determination of Ownership](#)

13 [Distribution of University-Owned Software](#)

14 [Royalties](#)

15 [Rights to Use](#)

16 [Resources](#)

18 Introduction

19 Iowa State University (hereafter, “the university”) is dedicated to teaching, research and dissemination of
20 knowledge for the benefit of society. The use of computers at the university frequently results in the creation of
21 software, which may be of benefit to others. The purposes of this policy are to:

- 22 • Facilitate scholarly collaborations;
- 23 • Fairly balance the interests of authors of software and proper stewardship of university resources;
- 24 • Protect the rights of sponsors of research; and
- 25 • Encourage effective and efficient distribution of rights in the software developed at Iowa State
26 University.

27 Software may be protected by patent and/or copyright laws, but most software is protected by copyright laws
28 alone. This policy applies to non-patentable software.

29 It is the intent of this policy that ownership of non-patentable software generally vests in the author in the same
30 manner as traditional scholarly works, unless there are contractual obligations to the contrary, or in the cases
31 that the work is a work for hire.

32 This policy supplements the university’s patent and educational materials policies. It is not intended to address
33 other copyright works such as literary and instructional works nor dramatic, musical and artistic works created
34 by university employees or students. [top](#)

35 Definitions

36 The following definitions apply for the purposes of this policy.

37 **Faculty:** Individuals holding appointments described in Section 3.3 of the Faculty Handbook. For persons with
38 dual appointments, to the extent the software results from faculty work, such individuals will be treated as
39 faculty.

40 **Software:** Anything directly or indirectly executable in an electronic device including, but not limited to,
41 executable code, source code, source code listings, microcode, subroutines, operating systems, high level
42 languages, embedded code (such as applications, software libraries, drivers, database applications and html
43 applications); and software documentation including chip architecture, design details, algorithms, processes,
44 flow charts, formulae, and user manuals.

45 **Staff:** Persons on appointment at the university, including professional and scientific, merit, contract temporary
46 and casual appointments.

47 **Substantial university resources:**

48 Substantial university resources include--

- 49 • Funding received through a grant or contract
- 50 • Specialized research equipment, tools or services used without reimbursement

51 Substantial university resources do not include:

- 52 • Resources typically provided to employees, such as desktop or laptop computers and the software
53 utilized on such computers
- 54 • Specialized research equipment, tools or services for which the costs have been reimbursed by the
55 employee
- 56 • Student instructional support covered by tuition and fees (for students not on appointment)
- 57 • Support received by student organizations through the student fee allocation process

58 **University software:** Software developed in whole or in part at Iowa State University and in which the
59 university or the ISU Research Foundation maintains an ownership interest. University software does not
60 include software licensed from a third party for use by the university or its departments, faculty, staff, and/or
61 students. [top](#)

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63 **Policy Statement**

64 Non-patentable software developed by faculty, staff, students and student organizations will be owned by its
65 author(s) unless there is a prior agreement, or the work is a work for hire as described below.

66 **Agreement**

67 Software ownership may be determined by agreement between a student, faculty or staff member and the
68 university. Software ownership also may be determined by the terms of a sponsored research agreement or other
69 agreement with a third party. In such cases, the agreement takes precedence over this policy. The Vice President
70 for Research (VPR) (or delegate) has the authority to sign and approve such agreements with faculty, staff,
71 students, student organizations and third parties.

72 **Works for hire**

73 In the following circumstances, the work will be deemed a work for hire and considered university software:

74 **Substantial university resources:** If substantial university resources have been used in the development of the
75 software, it will be university software.

76 **Collaborative work:** The work of individuals as part of a team in which the software's development is a
77 university-initiated effort lead by a university team leader will be considered a collaborative work, owned by the
78 university, even though each component did not use substantial university resources. A collaborative work may
79 involve individuals at other institutions, in which case university ownership shall extend only to the components
80 developed at the university, unless the outside individuals and their institution have agreed to university
81 ownership.

82 **Works derived from using university software:** Except as provided by an agreement with a licensee of
83 university software, faculty, staff, students and student organizations that are granted access to university
84 software, and that develop derivative works do so with the understanding that such improvements are owned by
85 the university unless the original software has been released under an open source license for distribution, in
86 which case use by faculty, staff, students and student organization shall comply with the open source license.

87 **Administrative work:** The work of individuals who work in offices whose primary mission is support of the
88 administrative and business functions of the university, such as Information Technology Services (ITS),
89 Business Services, Communications and Marketing will be considered works for hire under copyright law, and
90 owned by the university. For example, software developed to assist in the registration of students by Student
91 Affairs or ITS staff would be university software.

92 **Commissioned works:** Software commissioned by the university from faculty or staff to meet specified
93 university administrative, teaching, research or outreach needs shall be owned by the university.

94 **Extension work:** Software created by faculty or staff for the purpose of providing information or services to the
95 general public as part of the extension mission shall be owned by the university.

96 Ownership is subject to the rights and conditions in this policy as well as the university's guidelines, procedures
97 and processes applicable to software. [top](#)

98 **Scope**

99 **Ames Laboratory**

100 Software developed at Ames Laboratory will be governed by the Ames Laboratory contract and Department of
101 Energy policies and directives on ownership and open source publication. The federal government owns
102 software developed at the Ames Laboratory unless a release has been secured. Upon issuance of a release, this
103 policy will apply.

104 **Patentable works**

105 Software which is patentable shall be handled under the patent policy.

106 **Works published as scholarly work**

107 Where ownership in the software to be published vests with the university (university software) or with a third
108 party sponsor, authors of the software are by this policy granted the right to allow publication of software as part
109 of a scholarly work (such as a journal article or textbook) with the following limitations:

- 110 • The author may not assign ownership rights in software;
- 111 • Publication must be consistent with underlying obligations in sponsorship agreements; and
- 112 • The author must notify the publisher of the prior rights and the article must include appropriate notice of
113 the ownership interest of the university or third party. [top](#)

114 **Distribution Rights and Responsibilities of Faculty and Staff**

115 Faculty and staff who own software as provided above need not (but may) seek a confirmation that the
116 university does not claim ownership (see Resources below for Guidelines). The university retains the right to
117 use such software developed in the course of duties at the university. Distribution rights and responsibilities for
118 such software are as follows:

119 **External distribution and use**

120 Faculty and staff may distribute and grant licenses for the use of the software they own without university
121 permission. However, faculty and staff should be aware that prior to distribution a thorough review of the
122 development of the software must be conducted by the Office of Intellectual Property and Technology Transfer
123 (OIPTT) to identify all legal authors and rights of any third parties to determine the rights to commercialize (see
124 Resources below for Guidelines). Use of the software in any future sponsored research activity will require full
125 disclosure of ownership to avoid complications related to conflict of interest.

126 Faculty and staff owned software may be distributed under an open source license. Faculty and staff owners
127 using university facilities to distribute software must follow Guidelines determined by the OIPTT.

128 The university assumes no responsibility for liability arising out of distribution of software not owned by the
129 university.

130 **Internal distribution and use**

131 Unless there is a written agreement to the contrary, no transfer of title or rights to the software occurs when a
132 faculty or staff member distributes his/her software to, or allows its use by, faculty, staff, students, or student
133 organizations; and no right is granted to the recipient to allow third-party use of the software.

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135 Faculty and staff recipients of software owned by other faculty, staff, students or student organizations have no
136 right to transfer title or permit use of such software, and must request written permission from the owner to
137 allow use or distribution of software to third parties. [top](#)

138 **Distribution Rights and Responsibilities of Students and Student Organizations**

139 Students and student organizations that own software as provided above need not (but may) seek a confirmation
140 that the university does not retain ownership.

141 **External distribution and use**

142 Students and student organizations may sell, license or distribute their software to third parties, but do so at their
143 own risk, unless they have entered into an agreement with the university or the ISU Research Foundation where
144 the university or its Research Foundation explicitly assumes the risk.

145 **Internal distribution and use**

146 Unless there is a written agreement to the contrary, students and student organizations that distribute or allow
147 faculty, staff, students or student organizations to use their software do not transfer title or rights to the software;
148 and no right is granted to the recipient to allow third-party use of the software.

149 Student recipients of software owned by faculty, staff, students and student organizations have no right to
150 transfer title or permit use of such software, and must request permission from the owner to allow use or
151 distribution of software to third parties or to persons other than as designated by the owner. [top](#)

152 **Determination of Ownership**

153 The implementation and management of this policy, including determination of ownership, will be the
154 responsibility of the authors' department(s). The OIPTT should be consulted if software ownership
155 determination is not clear, or for assistance in determining whether the software might be patentable.

156 If ownership is questionable, determination will favor ownership by the faculty or staff member or student. A
157 faculty, student or staff member who disagrees with the determination of ownership may appeal to a committee
158 convened by the VPR which shall include the following members:

- 159 • A representative designated by the VPR, who will chair the committee;
- 160 • The associate dean for research of each author's college, and, if the author is not in a college, a
161 representative of the Senior Vice President for Business and Finance;
- 162 • An OIPTT representative;
- 163 • Each author's department chair, or in the case of a non-academic unit, the director of the unit; and
- 164 • A representative of the senate or council based upon each author's status (for example, Faculty Senate,
165 Professional and Scientific Council, Graduate and Professional Student Senate, or Government of the
166 Student Body). [top](#)

167 **Distribution of University-Owned Software**

168 If software is owned by the university, the university shall consult with the author with respect to appropriate
169 distribution. If the software is assigned to the ISU Research Foundation, the Research Foundation shall assume
170 that obligation.

171 **Royalties**

172 The author of software which is owned and licensed by the Iowa State University Research Foundation (ISURF)
173 shall receive royalties as provided by the ISURF's Royalty Distribution Policy.

174 **Rights to Use**

175 Unless prohibited by an agreement with a third party or otherwise, the university grants a royalty-free right for
176 students, student organizations, faculty and staff who have developed university software to continue to use the
177 software for non-commercial and non-profit research and educational purposes while they are at Iowa State
178 University. However, as provided by this policy, derivative works based upon university software shall be
179 owned by the university.

180 When software is owned by a faculty or staff member, the university retains the right, and the employee grants a
181 royalty-free right, for the university to use the software for non-commercial and non-profit research and
182 educational purposes. [top](#)

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186 **Resources**

187 **Links**

- 188 • [Patent Policy](#)
- 189 • [Royalty Distribution Policy, ISURF](#)
- 190 • [Faculty Handbook, Section 3.3](#)
- 191 • [Office of Intellectual Property and Technology Transfer \(OIPTT\)](#)
- 192 • [ISU Research Foundation \(ISURF\)](#)
- 193 • [Ames Laboratory](#)
- 194 • [Vice President for Research \(VPR\)](#)
- 195 • [Information Technology Services \(ITS\)](#)
- 196 • [Senior Vice President for Business and Finance](#)
- 197 • [Faculty Senate](#)
- 198 • [Professional and Scientific Council](#)
- 199 • [Graduate and Professional Student Senate \(GPSS\)](#)
- 200 • [Government of the Student Body \(GSB\)](#)

201 **Files**

- 202 • [Guidelines: Copyright Ownership and Management of Software \[PDF\]](#)
- 203 • [Substantial Use of University Resources \(Guidelines\) \[PDF\]](#)
- 204 • [Case Studies: Copyright Ownership and Management of Software \[PDF\]](#)
- 205 • [Form Agreements for Noncommercial Use of Software \[PDF\]](#)

206