

Intellectual Property Summary

By the Office of Commercialization

Employees may wonder about their obligations and rights regarding intellectual property (IP) at WSU. [WSU Executive Policy 38 \(EP38\)](#) details management of IP created using WSU resources (including employee time). EP38 applies to all forms of IP protection—patent, copyright, trademark, and trade secret—and a wide spectrum of circumstances of IP development at WSU. Staff at the [Office of Commercialization \(OC\)](#) are available to discuss details of particular projects with WSU employees and students. IP issues of common interest to employees appear below, in a plain language summary of EP38.

Ownership. WSU does not claim ownership over every creative work authored at WSU, but WSU does own patentable inventions and works created by WSU employees which result from substantial use of WSU resources (e.g., paid time, facilities, equipment, data) or from terms of written agreements or grants to WSU. For WSU owned IP, employees are obligated to assign IP rights to WSU. In contrast, employees own IP they develop wholly on their own time and where use of WSU resources is deemed to be “minor or incidental.” EP38 references the [WSU Faculty Manual](#) for additional elaboration on claims to creative works.

Disclosure to WSU. Disclosure through the OC’s [Inventor Portal](#) is *mandatory* for WSU owned patentable inventions. WSU has Federal reporting requirements for inventions conceived or reduced to practice under Federal grants. Research efforts may involve more than one form of IP; a software application, for example, might involve all forms of traditional IP along with other valuable intellectual capital in the form of data and know-how. Disclosure is *encouraged* for WSU owned copyrightable works (and other IP) suitable for commercialization, but not involving a patentable invention.

Publication and discussion with third parties. Employees working for a WSU researcher should coordinate with their supervising principal investigator for discussion or publication outside WSU or at WSU events open to public (e.g., journal article, poster, conference presentation). In cases where patenting is desired, applications should be filed prior to publication. Premature publication can impact patentability as well as the value of related future IP. The OC takes some time to assess and protect suitable inventions, but will not unreasonably delay academic publications describing WSU inventions.

Inventorship/authorship. Conception is key to inventorship, as defined by courts and recognized by the [U.S. Patent and Trademark Office](#). Authorship of an academic manuscript is not equivalent to inventorship of an invention enabled by that manuscript. WSU “contributors” are participants who do not qualify as inventors or authors but were essential to development of WSU IP. Inventors, contributors, and/or authors determine contribution percentages and list percentages in disclosures. WSU-owned copyrightable works must be marked “© Washington State University. 20**. All Rights Reserved.” WSU is the institutional author of works produced “for hire” by WSU.

Division of royalties. WSU generally distributes net income from licensed IP according to tabulated patent royalty schedule within EP38, with up to fifty percent (50%) divided between inventors/contributors/authors according to contribution percentages, and based on the type of invention, in accordance with Section IV of the WSU Faculty Manual.

Startups. Licensing IP to existing enterprises or startups can incentivize creative efforts and support further research. Inventors, authors, and contributors are often best positioned and motivated to commercially develop IP they created. The OC works with and licenses IP to startups arising out of WSU research, with due regard for separate policies such those governing management of [conflicts of interest](#).

This document is only a summary of EP 38, as of the Revised Date. It does not encompass all details of EP 38 as written or amended. Employees are responsible for reviewing and adhering to all University policies related to research, intellectual property and otherwise.