

POLICY AND PROCEDURE MANUAL

Policy Title:	INTELLECTUAL PROPERTY POLICY	Area of Responsibility: VICE PRESIDENT, ACADEMIC
Policy Section:	APPLIED RESEARCH	
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10.3 INTELLECTUAL PROPERTY POLICY

Introduction

St. Clair College seeks to encourage creativity, innovation and invention among its faculty, students and staff. The College invests in this endeavor by making available its own facilities, equipment, personnel, marketing, and IT resources. The College also actively seeks specific support for research activity from external sources, both public and private.

Inventions, discoveries, and creative works that are developed by individuals at the College may have commercial and/or scientific and scholarly value. The intent of this policy is to provide guidelines for protecting this creative activity, and to help assure that any intellectual property produced will be utilized for the benefit of the College, and the public. To help meet this policy’s objectives, the College may make available, through the Applied Research and Development department, the technical and legal assistance in procedures necessary to protect ownership of intellectual property and to aid in its commercial development.

Purpose

The specific purpose of this policy includes the following:

1. Encourage creativity among the faculty, students and staff.
2. Increase the likelihood that ideas, innovations, inventions, and creative works produced at the College are used to benefit the College and public.
3. Outline the process for disclosure of inventions by faculty, students and staff to the College.
4. Encourage collaborative applied research projects with external partners and provide guidelines for sharing intellectual property, royalties, licensing agreements, etc. with external partners.
5. Encourage the commercialization of intellectual property that arises from research and innovation at St. Clair College.

Changes to this Policy

The College reserves the right to change this policy from time to time. Proposed changes normally will be developed by the Vice President, Academic Office, in consultation with the appropriate stakeholders. Changes to the College's Intellectual Property policy are approved by the Senior Operating Group.

Scope

The Vice President, Academic will be responsible for the day-to-day management of all College intellectual property issues, and is empowered to negotiate the College's rights under these policies.

This policy applies to St. Clair College personnel including faculty, administrators, support and technical staff, students, visiting scholars, contractors, consultants, and all others whose work or study affiliation is with the College, whether compensated by the College or not.

College personnel are covered to the extent that their creative work involves the use of College resources such as space, facilities, equipment, staff, or funds, as stipulated for the particular circumstances described in this policy.

All intellectual property produced at the College by College personnel, and/or which arises from joint initiatives with outside parties, such as industry or sector partners, are covered by this policy.

Definitions

Intellectual Property (IP) is any form of knowledge or expression created by one's intellect that can be legally protected. It is the product of the act of creation, such as: inventions; creative works; technical information; prototypes; drawings; specifications; know-how; electronic or paper documents; software (including source code and object code); industrial designs; multimedia or audiovisual materials; photographs; and curriculum and teaching materials. Individuals and/or institutions can own Intellectual Property in the same way they can own physical property. An owner of Intellectual Property can control and receive payment for its use. Intellectual Property may be registered, through an appropriate national registry office, affording it a certain level of protection for a period of time. Intellectual Property may be licensed or assigned.

College owned Intellectual Property may be protected, developed or commercialized at the College's option and expense. There are six main types of Intellectual Property protection under Canadian law: copyrights, industrial designs, integrated circuit topographies, patents, trademarks and trade secrets.

Copyrights: Copyrights include, without limitation, all creative works, electronic or paper documents, software (including source code and object code), multimedia or audiovisual materials, photographs, and any other materials that may be copyrightable under Canadian law.

Copyrightable material shall include educational or research software, but shall not include software other than educational or research software.

Industrial Designs: Industrial Design is the features of shape, configuration, pattern or ornament (or any combination of these features) applied to a finished article made by hand, tool or machine. To be eligible for registration with the Industrial Design Office, the design must be an original.

Integrated Circuit Topographies: Integrated circuit topographies are considered a form of intellectual property. Topographies are innovative, three-dimensional circuit designs used in many different products. Examples include automobiles, industrial robots, cameras, spacecraft and computers.

Patents: Patents include, without limitation, all inventions, discoveries, know how or other material that is patentable under Canadian law, as well as all software that is excluded from “copyrightable material”.

Trademarks: Trademarks include a work, symbol, design or a combination of these features, used to distinguish the wares or services of one person or organizations from those of others in the marketplace or any other feature that is considered a trademark under Canadian law.

Trade Secrets: Trade secrets are ideas or know-how (business methods, processes, machines, formulas, patterns and techniques) that are kept secret from one’s business competitors.

Intellectual Property Developed by College Employees

With respect to intellectual property developed by St. Clair College employees within the scope of their employment with funds administered by St. Clair College, the ownership rests with St. Clair College unless a specific agreement is made to the contrary. The College will assert ownership rights to protectable Intellectual Property developed under any of the following circumstances:

- Development required use of College resources (e.g. facilities, equipment, funding) or more than minimal use of College personnel
- The creator was assigned, directed, or specifically funded by the College to develop the material
- Material was developed by administrators or staff in the course of employment duties and constitutes work for hire under Canadian law

The College has rights to patentable material derived from research carried out with any use of St. Clair College resources. However, patentable material developed independently by the creator outside of normal duties associated with the creator’s position and with no use of College resources is vested with the creator and/or with the organization whose resources were used.

Under specific circumstances and at its sole discretion, the College may choose to waive these rights as outlined in the section titled *Waiver or Return of Rights* of this document.

Intellectual Property Developed by Students

When intellectual property is developed by a student through academic activities (student projects or curriculum-based projects without third-party agreements), the ownership of the intellectual property remains with the student, as long as that student is the original owner of the intellectual property.

In cases where a student requires additional support or utilization of resources from the College, the College will negotiate a proportionate ownership of the IP with the student.

For intellectual property developed by a student while working on a research project (independent, curriculum based, or grant funded project) with a partner, the ownership will be specified within the signed agreement between the College and its partner. No signed agreement will limit student's ability to complete his or her academic requirements.

Each student on the student team owns an equal share to the results of the project. If the project results in a commercially viable product and one or more members of the student team wish to sell the results or develop a business based on the product, then each student team member must negotiate appropriate terms with the other team members in order for the product to be commercialized. St. Clair College is not a party to any negotiated agreements between students.

Disclosure

College personnel, who alone or in association with others (within or outside the College) create IP, with any use of College resources, that may be protected are responsible for disclosing the subject matter to the College. Disclosure Process: Intellectual Property that is disclosable hereunder shall be disclosed to the Vice President, Academic. The Vice President, Academic will meet with the creator to review the disclosure. During this meeting the Vice President, Academic will gain an understanding of the invention what is "novel" about the creations, and what potential future development plans may exist to pursue.

Following the preliminary evaluation of the potential Intellectual Property creation, it will be assessed by the Vice President, Academic to determine if it is ready to commercialize or whether further research is required before the invention can hold any commercial value.

Commercialization: If the College personnel should decide to pursue commercialization of the invention, the Applied Research and Development department will:

- Complete a review of the registration and protection and marketability of the Intellectual Property, and prepare a recommendation for the Senior Operating Group regarding the protection and the commercialization of the Intellectual Property
- Be responsible, working with creators, for obtaining patent, copyright, or other protection of Intellectual Property owned by the College hereunder, and for marketing and licensing of all such Intellectual Property rights
- Set up and manage individual expense and income accounts for Intellectual Property that is vested in the College under this policy

Commercialization of Independently Developed Intellectual Property: College personnel who wish to pursue the commercialization of their independently developed and owned intellectual property through the College may offer such Intellectual Property to the College by disclosing the Intellectual Property to the Applied Research and Development department. The Applied Research and Development department will evaluate the commercial potential of the Intellectual Property and make a recommendation to the Senior Operating Group regarding the acceptance of the Intellectual Property. Acceptance of such Intellectual Property by the College will be made at the sole discretion of the College and will require creator(s) to accept all provisions of this policy including the assignment of rights and income distributions.

Intellectual Property Pursuant to Third-Party Agreements

Ownership of intellectual property arising from collaborations with third-parties shall be governed by the terms of a research collaboration agreement, which will specify (but is not limited to) the nature of ownership, method of protection of intellectual property, and payment of royalties or fees, if applicable.

Waiver or Return of Rights

Since the College aims to encourage creativity, it reserves the right to allow for flexibility in applying this policy on a case-by-case basis at its sole discretion. The College may, as its sole discretion, waive, transfer or license to the creator its rights to any Intellectual Property when such action does not conflict with obligations to other interested parties. This could occur for instance, if the costs of protecting and developing the Intellectual Property are not likely to be matched by anticipated income. If at any time the College elects to terminate its effort to seek protection of Intellectual Property, or to discontinue commercial development, the inventor shall, upon filing a request with the College and completing appropriate transfer of rights, be free at his or her own expense to seek a patent or copyright, and/or develop, license, and otherwise use the material, subject to the College's rights to reimbursement of incurred costs and sharing of future royalties, in amounts to be negotiated between the College and the creator on a case-by-case basis.

Conflict Resolution: The Applied Research and Development department is responsible for the administration of this policy. The Applied Research and Development department will handle questions regarding the application, interpretation or implementation of the policy, or regarding disagreement among creators concerning assignment of rights or sharing of royalties. Disagreement with any determination made by the Applied Research and Development department may be directed to the Senior Operating Group for a final determination.