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Pepperdine University
Graduate School of Education and Psychology

DESCRIPTIVE STUDY ON DIGITAL CONTENT COPYRIGHT OWNERSHIP

A dissertation proposal submitted in partial satisfaction
of the requirements for the degree of
Doctor of Education in Educational Technology

by

Daniel Ibarondo Cruz

February, 2018

Paul Sparks, Ph.D. – Dissertation Chairperson

This dissertation, written by

Daniel Ibarondo Cruz

under the guidance of a Faculty Committee and approved by its members, has been submitted to and accepted by the Graduate Faculty in partial fulfillment of the requirements for the degree of

DOCTOR OF EDUCATION

Doctoral Committee:

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Christopher Harz, Ed.D.

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DEDICATION

I dedicate this doctoral dissertation to my three wonderful, intelligent, and extremely patient and loving children: Gabriella Maria Ibarrodo Padilla, Daniel Lucas Ibarrodo Padilla, and Gabriel Enrique Ibarrodo Padilla. They were all my guiding light and pitched in at home to provide me the space and time I needed. Together we did it as a team and came out alive! Their patience, support, and understanding have been my strength and I hope we didn't put too many life events on hold. May this serve to equally inspire to pursue higher education, graduate studies, and lifelong learning. In this light, to my family members, Frankie Cunningham and Alison Ibarrodo who were there when I needed them most!

Undoubtedly, dedicated to my parents Aida Ibarrodo and Gumersindo Ibarrodo, who supported and encouraged all of my educational endeavors. Forever grateful for the economic sacrifices they made which helped me to not only become the first generation college graduate in my family but also supported the many foundational educational pursuits culminating in my doctorate.

To Manuel del Valle, Esq., my college professor, mentor, law colleague, and friend who sharpened my critical thinking and critical analysis skills in his law courses and use of the Socratic method. Words could never describe his impact on my education and professional career. All I do is in furtherance of his example, commitment, and passion as a law professor.

To Dr. Marisela A. Rodriguez, my most very dear friend and Pepperdine University colleague who provided encouragement and support since meeting on day one. Her friendship was genuine and heartfelt, and her support unquestionable. She reviewed my dissertation process for so many years, and even assisted by caring for my children in so many roles and capacities. I could write thousands of pages on how special she was and continues to be to my children and

me. Dr. Marisela is a true friend, servant leader, and educator whom I honor with tons of love, respect, and admiration.

To my other mother who God gave me when my biological one passed away, Iretha Fletcher, whose unconditional love, support, advice was crucial at important steps along the way. To my family who equally helped in crucial moments and those that did not make it to witness the culmination: Natividad Melendez (sister); Anthony Ibarondo (brother); Freddy Ibarondo (brother, deceased); and, Norberto Ibarondo (brother, deceased). Dedicated to all of my amazing nieces, nephews, and cousins, aunts, and uncles who provided support and encouragement in their special ways. Dedicated as well to my special friends and confidants (in alphabetical order) Russell Araya, Esq., Dr. Michael Bush, Dr. Andrea Cameron, Brandon Duck, Esq., Dr. Jairo Garcia, Dr. Troy McGrath, Mr. Randall Peters, Miguel Porrata, CPA, Dr. Angela Ramos, Rafael Francisco Rivera Virella, Pharm. D., Mr. Juan Rodriguez, Jr., Mr. Victor Torres, and Richard R. Zayas, Esq., who collectively entered my life journey and became my strength and supportive inner circle as I managed life, family, professional endeavors, and dissertation. Dedicated to everyone in my 1977-1978 high school class and eternal family from the Centro Residencial de Oportunidades Educativas de Mayagüez (CROEM). CROEM has been the best foundational educational experience ever and my classmates have always been the best supportive strength of all that I do. Lastly, dedicated to all of my ancestors from Puerto Rico who lived, struggled, and survived so that I can live, struggle, and survive.

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This dissertation would not have been possible without the guidance and directives of Dr. Paul Sparks, my dissertation chair whose guidance, advice, and patience with me was impeccable. Dr. Sparks never gave up on me despite the many moments of life's trials and tribulations. My committee members Dr. Linda Polin, and Dr. Christopher Harz have all dutifully served to provide excellent advice and guidance during through all stages leading up to the final defense. I also thank, acknowledge, and honor all of my professors and the many folks at Pepperdine University who provided support, assistance, and advice along the way. A very special heartfelt acknowledgment in His grace to (in alphabetical order): Sara G. Barton, University Chaplain; Yas Djadali Hardaway, Executive Director of Career Services and Adjunct Faculty; Tabatha Jones Jolivet, Associate Vice President; Autumn Luscinski, Assistant Dean of Faculty and Staff Development; Stacy Rothberg, Associate Dean of Student Affairs; and, Jane Tado, Academic Advisor, Education Division. When I needed angels, they collectively responded to my prayers.

VITA

Daniel Ibarrodo Cruz, J.D., Ed.S.

EDUCATION

Pepperdine University, Malibu, California
Educational Technology (Ed.D.), August 2017

Seton Hall University, South Orange, New Jersey
Education Specialist (Ed.S.), August 2005

Harvard University, Boston, Massachusetts
I.E.M. – Institute for Education Management, July 2005

State University of New York at Buffalo School of Law, Buffalo, New York
Doctor of Jurisprudence (J.D.), May 1989

Fordham University, New York, New York
B.A. in Political Science, May 1983

HONORS, AWARDS, and RECOGNITIONS**National Council of American Executives (2014)**

Top Ranked U.S. Executives

Instructional Technology Council (ITC) Leadership Academy (2013)

Nominated and selected by the Instructional Technology Council for leadership in instructional technology.

Brooklyn Borough President Proclamation (1996)

Recipient of a proclamation conferred by the Brooklyn Borough President for civic service and excellence in designing continuing education programs for senior citizens.

Seton Hall University Graduate Fellowship (1994)

Recipient of a fellowship for pursuit of graduate studies in education.

Fordham University Distinguished HEOP Alumni Award (1994)

Conferred by Fordham University at the 25th Anniversary of the Higher Education Opportunity Program (HEOP) sponsored by the New York State Board of Education.

Dale S. Margulis Award (1989)

Conferred by the faculty of the State University of New York at Buffalo School of Law and Class of 1989 for demonstrated leadership and service in the law school and City of Buffalo community.

American Bar Association Journalism Award (1989)

National competitive journalism award conferred by the American Bar Association.

Legal Methods Achievement Award (1989)

Conferred by the faculty of the State University of New York School of Law and Class of 1989 for excellence in legal methodology.

PROFESSIONAL EXPERIENCE**President & CEO (January 2000 - Present)**

Advancement & Development Associates

Fort Worth, TX

Founder, President and CEO of a federal government relations firm representing institutions of higher education in the areas of (1) institutional development; (2) academic and educational technologies; (3) academic program development and expansion; and, (4) physical and virtual improvement and expansion.

2003–2010 Achievements

- Developed client short and long-range strategic plans for the effective integration of computing and educational technologies into the instructional programs to achieve institutional learning goals, mission, and vision. This included planning for the acquisition of new computing, research, and educational technologies. Obtained over \$6 million in funding to support these efforts.
- Provided leadership for clients' academic and curriculum development process related to appropriate integration strategies and technologies to support institutional goals and student achievement. Obtained over \$4 million in funding to support these efforts.
- Provided leadership and strategic vision to clients towards integrating technology in the teaching-learning process and educational support services such as library, media, and computer labs. Obtained over \$2 million in funding to support these efforts.
- Drafted a student success and retention plan for a client to increase student persistence, retention, and graduation rates in STEM programs. Obtained \$2 million in funding to support these efforts.
- Engineering Laboratory Acquisition for Research and Integration of Technology: Conceived and drafted a U.S. Department of Education (CCRAA) proposal and successfully obtained over \$4 million in funding for (1) the purchase of research equipment for eight engineering laboratories, and, (2) the integration of technology into the teaching-learning process.

- 2 + 2 Transfer Programs: Conceived and drafted a U.S. Department of Education (CCRAA) proposal and successfully obtained over \$1.5 million in funding for the development of an engineering bridge program for the enrollment of 2-year engineering program students into a 4 year program.
- Development of New Academic Programs: Conceived and drafted a U.S. Department of Education proposal and successfully obtained over \$2 million in funding for the development of new undergraduate and graduate programs in graphics arts, design, and technology.
- Freshmen Retention Rates: Conceived and drafted a U.S. Department of Education TRIO-Student Support Services proposal and successfully obtained \$814,602 to support the retention of first-year students. Institutional Marketing: Sharply increased public relations and marketing efforts to increase national recognition of the Polytechnic University of Puerto Rico.
- Conceived, developed, and marketed the first national “Hispanics in Engineering National Conference” (2004) with over 100 leading stateside engineering colleges, national laboratories, government agencies, and corporations in attendance. Conceived and drafted a National Science Foundation proposal and obtained full funding for the conference.
- Evaluated and assessed clients’ practices in the use of educational technologies to support student success initiatives and staff professional development.

1999-2003 Achievements

- Provided federal government relations for clients in assisting members of the U.S. Congress on the policy development of important legislation regarding the U.S. Department of Education Title V Strengthening Hispanic Serving Institutions program and Pell Grant program. Provided federal government relations services on behalf of clients and national educational associations with regards to the Higher Education Reauthorization Act.
- Seasoned grant writer with an 85% success rate. Directly obtained over \$60 million in Federal government funding for college and university clients. Obtained over \$25 million in funding from private entities, individuals, and corporations. Pro-actively developed and negotiated strategic partnerships between federal government agencies, national research laboratories, businesses, and corporations for academic program support.
- Renovation of the Library and Technology Initiatives: Conceived and drafted a U.S. Department of Education proposal and successfully obtained over \$2 million in funding for (1) the construction/renovation of library facilities in a newly purchased campus, and, (2) development of a Technological Research and Educational Service Center for faculty and students.

- Undergraduate & Graduate Engineering Scholarships: Conceived and drafted a National Science Foundation proposal and successfully obtained over \$400,000 in scholarship funding to assist in the retention of top tier engineering undergraduate and graduate students based upon academic achievement.
- Construction of an Administration and Student Services Building: Conceived and drafted a U.S. Department of Education proposal and successfully obtained \$2 million in funding for (1) the construction of a technologically “smart” building to house the President’s office, executive council, all administrative student support services; and, (2) the creation of a technology-based Teaching-Learning Center for faculty and students.
- University Endowment Fund: Conceived and drafted a U.S. Department of Education proposal to establish an endowment fund and successfully obtained \$200,000 (\$40,000 per year over five years) to provide scholarships to economically disadvantaged students.
- Engineering Program Support: Conceived and drafted a U.S. Department of Education proposal and successfully obtained over \$2 million for (1) engineering laboratory equipment acquisition to enhance laboratory research experiences for faculty and students in six undergraduate engineering programs, and (2) the development of a constructivist retention program.
- Institutional Reengineering: As a member of the President’s Board of Advisors at Atlantic College, conceived and drafted a U.S. Department of Education proposal and successfully obtained \$2 million in funding to reengineer the institution from a primarily associate and certificate program awarding institution to a major college offering undergraduate and graduate degrees in graphic arts, design, and technology.
- Technology and Development of Learning Communities: As a consultant for the Chancellor at the Inter-American University of Puerto Rico-Aguadilla Campus, designed and drafted a U.S. Department of Education proposal and successfully obtained \$1.5 million in funding for the “Application of Information Technology to Enhance Core Competencies.” The project merged technology with the designing of learning community modalities for use in non-traditional classroom settings and distance learning courses.

Instructional Designer (August 2010 - 2015)

Mountain View College

Dallas, TX

Reporting to the Vice President for Academic Affairs and Student Success, provide leadership to the Academic Deans and other campus support services to coordinate support for online faculty and students to increase student retention and success in online courses. Evaluate online course content for consistency with institutional quality standards; insure best practices in the use of course/learning management systems; Provide online faculty professional development training, online material development, instructional design methods, and appropriate use of instructional

technologies. Assist with ongoing development and assessment of technology related courses. Provide general and technical advice to faculty during course development. Collaborate with faculty and other instructional services staff to develop curriculum materials and specific lecture or demonstration that integrate technology. Facilitate campus participation in faculty technology training workshops. Plan, develop, and conduct faculty workshops on online quality education standards (Quality Matters) for assessment and evaluation. Responsible for implementing policies and procedures that reflect the mission and goals of the college and the District. Collaborate with all college-wide stakeholders to develop and implement e-learning strategy for the design, execution, implementation, and evaluation of all online educational activities, including instructor-led courses, virtual training, and online courses. Complete SACS reports for online education. Member of the Technology and Distance Education committees and various faculty and staff hiring committees.

Achievements

- Developed and implemented the college's first *Academic Technologies Strategic Plan* and *Distance Education Teaching Certification* and obtained approval by the administration and faculty. The *Academic Technologies Strategic Plan* was designed to implement appropriate instructional strategies for integrating technology into all modes of instruction. The *Distance Education Teaching Certification* was designed to provide faculty training in online pedagogy and technical training on Blackboard.
- Created the college's first *iDesign Faculty Lab* to train, promote, and support the use of educational technologies.
- Evaluated online course content for consistency with the *Quality Matters* rubric and standards. Achieved the college's first *Quality Matters* program approved courses.
- Developed the college's first faculty and student *Distance Education Technology Surveys* to benchmark data on technology and online instruction knowledge and usage to identify instructional and training needs.
- Provided distance education professional development to faculty and staff and trained over 130 faculty in the use of Blackboard, current and emerging capture technologies, and Web 2.0 Tools.

Director of Corporate, Foundations, and Government Relations (Jan. 2008 – Feb. 2009) Southeastern University Lakeland, FL

Responsible for pro-actively obtaining external funding from corporations and foundations in support of the university's capital campaign drive and "The Leadership Forum". Duties included making presentations to corporations and foundations; submission of proposals; follow up activities, and researching corporations and foundations.

Achievement

- Successfully obtained a \$10 million dollar single gift from a private corporation. This was the first largest single gift the university had received.

Special Assistant to the Chancellor for International & External Affairs (Jan. 1997 – Sept. 1999)

University of Puerto Rico

Mayagüez, PR

Chancellor's cabinet level position in the nation's largest public university enrolling and graduating Hispanic engineers. Represented the university at national higher education associations (AASCU, ACE, HACU, NASULGC) and accreditation bodies (MSA, ABET). Campus representative for the Institute of International Education (IIE). Advised the International Studies program and developed national and international exchanges. Traveled extensively throughout the United States developing strategic partnerships with stateside universities, research laboratories, corporations, and government. Advised the Chancellor on federal regulatory matters with regards to external funding. Assisted and trained faculty in the drafting of grant proposals submitted to the federal government, foundations, and corporations. Obtained academic program and research funding support by initiating corporate, foundation and government partnerships.

Achievements

- Directly obtained over \$10 million in government and corporate funding for national and international academic and research endeavors.
- Served as Project Director for the campus' first \$2 million grant from the U.S. Department of Education Title V program. Drafted the proposal.
- Obtained a \$6 million research vessel gift for the oceanography program from the National Oceanic and Atmospheric Administration (NOAA).

Director, School of Professional Studies (July 1995 – July 1996)

Pratt Institute

New York, NY

Provided departmental leadership for various programs offered by the School of Professional Studies. Interviewed, hired, supervised, and evaluated faculty and staff; managed department budget. Program Director for the Summer Pre-College Program, Continuing Education, and International Study Abroad Programs in Denmark, France, Italy, and Copenhagen. Drafted strategic planning reports with budgetary and enrollment projections.

Achievements

- Conducted a marketing program and doubled Pre-College Program enrollment from 60 to 120 students in its first year.

- Developed the International Study Abroad Programs in Europe.
- Strategically partnered with Elderhostel, Inc. to bring the Elderhostel program to the college. Received an honorary “Elderhostel Day in Brooklyn” in the program’s first year by the Brooklyn Borough President.

Associate Dean of Extension Centers (May 1993- May 1994)

Mercy College

New York, NY

Managed student enrollment, development, operation and assessment of six extension centers; supervised and evaluated program directors, faculty and staff; exercised leadership in budget preparation, developed and managed budget and developed strategic plan for student enrollment; oversaw degree plan preparation and qualification for graduation. Promoted the extension center academic program to community organizations. Member of the college committees for academic standing, retention, assessment, and cultural diversity.

Achievement

- Increased student enrollment from 400 to over 1,500 in 8 months.

UNIVERSITY TEACHING EXPERIENCE

Adjunct Professor, Communications & Education
Mountain View College (Fall 2012, Online)

- Learning Frameworks

Adjunct Professor, Graduate School of Education
Southeastern University (Spring 2009)

- School Law

Adjunct Professor, Graduate Program in Educational Technology
Caribbean University (Fall 2005, Fall 2006 via Online & Distance)

- Fundamentals of Educational Technology
- Design and Implementation of Educational Technology Projects
- Research and Evaluation of Educational Technology Models
- Design of Instructional Models Utilizing Information Systems

Adjunct Professor, Graduate School of Education
Inter American University of PR (Fall 1998, Spring 1999)

- Evaluation of Curriculum and Teaching (Doctoral course)
- Evaluation of Administration and Supervision (Doctoral course)
- Grant Writing for Information Systems and Technology (Masters level course)

Adjunct Professor, College of Arts & Sciences
University of Puerto Rico (Fall 1997)

- Introduction to Social Sciences
- Introduction to Political Science

Adjunct Professor, Department of History & Government
Mercy College (Fall 1992, Spring 1993)

- United States History Since 1877
- Political Power in the United States
- Introduction to Latin American History
- The College Experience (Multi-Disciplinary course)

Adjunct Professor, Department of Government
Dowling College (Spring, Fall 1992)

- United States Government
- International Relations
- Government and Politics

Adjunct Professor, Department of Political Science
Brooklyn College (Fall 1992)

- American Political Parties
- Law and the Political Process

INTERNATIONAL EXPERIENCE

- Advisor on international education project collaborations in the Middle East, Russia, Marshall Islands, and Nigeria. (2008-2013)
- Developed university-university initiatives with the University of Puerto Rico-Mayaguez Campus and universities in Sweden, Spain and Mexico. (1997-1999)
- Developed Pratt Institute's international study abroad programs in Copenhagen, France, Italy, and Denmark. (1995-1996)

CONSULTING EXPERIENCE

- Atlantic College – Advisor to the President
- Caribbean University - Advisor to the President
- InterAmerican University of Puerto Rico – Advisor to the Chancellor
- Polytechnic University of Puerto Rico – Advisor to the President

COMMUNITY SERVICES

Webmaster and Social Media Administrator – Nance Elementary School PTA (2012-2013)

Council Delegate, Northwest ISD, Council of PTA's Association (2011-2012)

Co-Presenter, "How to Make a Talking Book", Fort Worth ISD Technology Conference (2012)

SPECIALIZED SKILLS

- Languages:* Spanish: Fluent in reading, speaking and writing.
- Research:* Lexis-Nexis, Westlaw, Ebrary, ERIC, all EBSCO databases, all Wilson Databases, and numerous others.
- Software:* Windows (all versions), Microsoft Office Suite for Mac and PC; MS Access, Lotus Notes, Dreamweaver, Macromedia, Endnotes, Camtasia, ECHO 360, Tegrity, PeopleSoft, and numerous MAC & PC based software products, Blackboard, Moodle, and Sakai.
- Hardware:* PC platform, Mac platform, Scanners, Modems, Digital Cameras & Video, Smart Boards, iPads, Tablets, Distance Education platforms, and numerous others.
- Business:* Extensive knowledge in law, educational technologies, corporations, public policy development; higher education accreditation, strategic planning, Federal government relations; intellectual property, business plan development.

KEY SKILLS

- Integration of Educational Technologies in the Teaching-Learning Process
- Strategic and Visionary Planning in Current and Emerging Technologies
- Data-Driven Planning and Decision-Making
- External Resource Funding
- Seasoned Grant Writer
- Faculty Professional Development Training, Planning and Implementation
- Curriculum Design
- Developing Online Courses and Programs
- Working with diverse constituents and stakeholders
- Public Speaker at Conferences and Seminars
- Teaching undergraduate and graduate courses in law, business, international relations, education, and technology
- Project management, evaluation, and assessment

PROFESSIONAL MEMBERSHIPS and ASSOCIATIONS

- Master Reviewer – Quality Matters, Inc.
- Member – Board of Advisors of Atlantic College
- Member - Board of Directors - SUNY Buffalo School of Law Alumni Association
- Member & Government Relations - Hispanic Association of Colleges and Universities (HACU)
- Member - Council for the Advancement and Support of Education (CASE)
- Member - Association of Fundraising Professionals (AFP)
- Member – Phi Alpha Delta Law Fraternity
- Member – American Evaluators Association

ABSTRACT

The purpose of this dissertation was to study perceptions of faculty and administrators at institutions of higher education on copyright ownership of faculty-created digital course content. The central question for this study was: Who had copyright ownership rights of faculty-created digital content and in what manner was copyright ownership developed, implemented, and asserted at institutions of higher education. The five research questions were: (a) How were copyright ownership policies of faculty-created digital content developed and implemented at institutions of higher education?; (b) How were faculty involved in the development of copyright ownership agreements?; (c) What institutional policy and contractual documents contained specific language on copyright ownership rights of faculty-created digital content?; (d) How were institutional assertions of copyright ownership of faculty-created digital content allocated and managed?; (e) How were copyright ownership issues of faculty-created digital content resolved? A descriptive study approach was used to study administrator and faculty perceptions on copyright ownership at five institution types within the State of Texas and the Commonwealth of Puerto Rico. A total of 100 random faculty and administrator participants were sent the online survey link via e-mail. The online survey included closed-ended and open-ended questions. Descriptive statistics were used to analyze the results from the closed-ended and open-ended questions. In summary, the findings showed that within the participating respondent groups: (a) Most faculty were not involved in the development of copyright ownership policies; (b) Institutions asserted copyright ownership through some institutional document/policy and not through contractual agreements; and, (c) Copyright ownership issues did not arise between the institution and faculty. With the portability of digital content, and the need to utilize and develop said content within the university setting, more faculty and administrators should be aware of,

and be involved in copyright ownership policies. The field of study of copyright ownership in accordance to faculty and administrator digitally created content was limited, and more studies should be conducted with a larger population.

Keywords: Copyright Ownership, Faculty-Created Digital Content, U.S. Copyright Law; Higher Education Intellectual Property, AAUP Copyright Ownership Statement, Online Education, Portable Digital Content.

Chapter One: Statement of the Problem

Overview

This chapter outlines the problem and provides an overall conceptual framework for the proposed descriptive study. The chapter begins with an overview of the context and background that frames the descriptive study. Following this, the chapter provides the problem statement, the statement of purpose, research questions, conceptual framework, overview of the methodology, the significance of the study, limitations, and summary. The chapter concludes with definitions of key terminology used.

Background of the Problem

Open Educational Resources (OER), Open Courseware (OCW), and the more recent development of Massive Open Online Courses (MOOC) presented copyright ownership challenges to traditional copyright laws and practices at institutions of higher education. Centivany (2011) argued that the college or university employer owned all copyrights to faculty-created works, although traditionally, in asserting copyright ownership, institutions of higher education had an unwritten policy that allowed for faculty to possess all copyright ownership rights to textbooks they produced. Institutions of higher education traditionally had not asserted any copyright ownership claims of these faculty-created textbooks. Despite providing resources such as an office, telephone, fax machine, computer, e-mail message, library research, and perhaps even a research assistant or department secretary, copyright assertions were not made over textbooks (Centivany, 2011). However, this same copyright ownership practice had not held true for faculty creation of digital content in an Open Educational Resource (OER), Open CourseWare (OCW), and Massive Open Online Courses (MOOC) environment in higher education.

OER, OCW, and MOOC, had recently dominated discussions on college campuses, suggesting that their use in higher education had served to be a disruptive innovation. Clayton Christensen, a Harvard Business School professor and author of *Disrupting Class: How Disruptive Innovation Will Change the Way the World Learns*, coined the term disruptive innovation (Christensen & Horn, 2013). Christensen described disruptive innovation as the introduction into the market of a new technology, a new product, or a new service, that sought to promote change and obtained a competitive advantage over the competition. Viewed within this context, disruptive did not have a negative connotation such as to interrupt or cause disorder, but rather to replace something. Disruptive innovations could seem to be contrary to contemporary preferences but often proved to be successful in creating new market opportunities. The innovative concept and use of an OER, OCW, or MOOC in higher education could have been considered to be a disruptive innovation in perhaps changing the delivery of higher education programs or become another fad to contend.

One of the main challenges with OER, OCW, and MOOC was in the area of copyright ownership of faculty-created digital content (Fitzgerald & Olwan, 2008). With OER, for example, faculty could elect to protect their digital content under the Creative Commons License (CCL). This license allowed for faculty-created digital content to be freely copied, distributed, displayed, and implemented, without traditional copyright ownership violations whatsoever (Fitzgerald & Olwan, 2008). In practice, the original creator of the digital content requested that attribution to the developer be provided. The following end user, using the original or derivative product in a non-commercial manner, would equally license any derivative work under the same Creative Commons License (Fitzgerald & Olwan, 2008). With MOOC, traditional copyright laws remained applicable, and the very nature of having multiple contributors in developing

digital content for MOOC raised joint copyright ownership issues, especially when one of those contributors was a college or university faculty (Dames, 2013).

Of the many similarities and differences between OER, OCW, and MOOC, there was one major similarity and one major difference pertinent to this descriptive study on copyright ownership. The major similarity between OER, OCW, and MOOC was that they all employed a large amount of digital content creation (Haggard, 2013). The difference was with regards to copyright ownership licensing (Rhoads, Berdan & Toven-Lindsey, 2013). OER, such as MIT's OpenCourseWare, were openly licensed under CCL and MOOC, such as those offered by Udacity and Coursera, were not openly licensed. In essence, OER were developed and provided in the public domain by institutions of higher education with no profit motive, and MOOC providers were for the most part for-profit corporations with shareholders profit interests. This descriptive study focused on copyright ownership with regards to faculty-created digital content in an OER, OCW, and MOOC environment at institutions of higher education.

The copyright issues, as determined by a review of the literature, for faculty-created digital content, included the following:

1. How were copyright ownership policies of faculty-created digital content developed and implemented at institutions of higher education?
2. How were faculty involved in the development of copyright ownership agreements?
3. What institutional policy and contractual documents contained specific language on copyright ownership rights of faculty-created digital content?
4. How were institutional assertions of copyright ownership of faculty-created digital content allocated and managed?
5. How were copyright ownership issues of faculty-created digital content resolved?

As colleges and universities integrated or planned the use of OER, OCW, and MOOC into their academic offerings, the allocation and management of copyright ownership of faculty-created digital content became a major concern (Dames, 2013).

Statement of the Problem

OER, OCW, and MOOC served as disruptive innovations that presented challenges to traditional copyright ownership policies and practices at institutions of higher education with regards to faculty-created digital content. OER have been licensed under CCL allowing for the use and portability of digital content without copyright ownership issues (Bonvillian & Singer, 2013). MOOC, on the other hand, challenged traditional copyright ownership assertions based upon legal and higher education institutional policy concepts such as joint works, work-for-hire, and unilateral institutional declaration (Centivany, 2011). Given the new copyright challenges they presented, MOOC could potentially create problematic and contentious relations at institutions of higher education and their respective faculty over copyright ownership of digital content (Dames, 2013). Because of this, the problem studied was: What were the copyright ownership challenges and rights with regards to faculty-created digital content in an OER, OCW, and MOOC environment at institutions of higher education?

Purpose Statement

The purpose of this descriptive study was to examine faculty and administrator perceptions of copyright ownership rights of faculty-created digital content in an OER, OCW, and MOOC environment at institutions of higher education. The literature review demonstrated there were multiple approaches to copyright ownership utilized at colleges and universities throughout the United States. Given the recent advent of OER, OCW, and MOOC, institutions of higher education might not have had intellectual property policies that delineated copyright

ownership of faculty-created digital content within this context (Kranich, 2008). Each institution of higher education defined and developed its copyright ownership policy dependent upon its organizational culture, norms, intellectual property policies, and employee contracts (Centivany, 2011). Consequently, a descriptive study of copyright ownership with regards to faculty-created digital content on the challenging issues raised by OER, OCW, and MOOC will add to the body of knowledge on these disruptive innovations, and how copyright ownership was developed, allocated, implemented, and managed.

Research Questions

This descriptive study obtained an understanding of the faculty and administrator perceptions of copyright ownership of faculty-created digital content at institutions of higher education, by addressing the following research questions:

1. How were copyright ownership policies of faculty-created digital content developed and implemented at institutions of higher education?
2. How were faculty involved in the development of copyright ownership agreements?
3. What institutional policy and contractual documents contained specific language on copyright ownership rights of faculty-created digital content?
4. How were institutional assertions of copyright ownership of faculty-created digital content allocated and managed?
5. How were copyright ownership issues of faculty-created digital content resolved?

Conceptual Framework

The five research questions forming the conceptual framework for this descriptive study were developed directly from the review of literature. The framework categories were: copyright ownership implementation, development of copyright ownership agreements, copyright

ownership contractual statements, copyright ownership assertions, and resolution of copyright ownership issues.

The first research question asked: How were copyright ownership policies of faculty-created digital content developed and implemented at institutions of higher education? This question sought to determine the manner in which institutions of higher education developed their copyright ownership policies. These could be developed either through administrative procedures, shared governance, and faculty involvement.

The second research question asked: How were faculty involved in the development of copyright ownership agreements? This question sought to identify the institutional process in developing copyright ownership policies and the extent to which faculty participated in the elaboration of these policies. The review of literature informed that some institutions of higher education adhered to a shared governance model in which faculty were consulted and involved in the development of institutional policies. Other institutions had a top down hierarchical model, in which the college or university administration developed policies and all constituents were required to adhere to these policies. Some institutions adhered to the Universal Institutional Declaration practice. In this practice, institutions of higher education unilaterally declared that copyright ownership of all works created by faculty vested with the institution for an indefinite future. Other practices included approval of institutional policies by either faculty participation on administrative committees or a faculty senate approval process.

The third research question was: What institutional policy and contractual documents contained specific language on copyright ownership rights of faculty-created digital content? This question sought to obtain information on institutional documents with a specific statement of copyright ownership of faculty-created digital content. In addition to a Universal Institutional

Declaration, other practices included detailing copyright ownership in an Intellectual Property policy or stating copyright ownership in a faculty handbook or faculty employment contract. The manner in which copyright ownership was implemented in institutional policies or documents was important in determining the copyright ownership rights of faculty-created digital content and the assertions by the institution and the faculty.

The fourth research question asked: How were institutional assertions of copyright ownership of faculty-created digital content allocated and managed? This question sought to identify the allocation and management of copyright ownership. Some institutions of higher education assigned an equal ownership between the faculty and the institution. The ownership may be divided, for example, in a fifty to fifty percent equation, seventy-to-thirty or sixty-to-forty. At some institutions, the ownership percentages were determined by the level of institutional resources provided to the faculty in creating digital content. Given the digital technology and software tools freely available on the Internet, some institutions asserted that they owned the faculty-created digital content based upon faculty employment status or the work for hire rule.

The fifth research question asked: How were copyright ownership issues of faculty-created digital content resolved? This question sought to obtain information on how past, current or potential copyright ownership issues, conflicts, and challenges were settled between the institution and faculty. The review of literature suggested that copyright ownership issues and challenges were resolved internally between the institutions of higher education and faculty. For the most part, institutions of higher education preferred to settle these challenges and issues in-house than to seek legal recourse. This research question in the survey sought to ascertain whether any issues arose at all with the institutions of higher education participating in the study,

determine whether there were any issues reported by the faculty and administrators, and, how were these issues, if any, resolved.

The analysis of the institutional intellectual property policies asked: What copyright ownership statements, if any, were included in institutional intellectual property policies? This analysis of the intellectual property policies of the respective respondents' institutions of higher education sought to determine whether faculty were involved in the development of intellectual property policy; whether there were contractual agreements; and, whether the intellectual property policy contained specific statements on digital-content copyright ownership.

The conceptual framework for this descriptive study on copyright ownership of faculty-created digital content in an OER and MOOC environment at institutions of higher education provided an organizational structure for categorizing the study's findings as well as these findings' subsequent analysis, interpretation, and synthesis. The five research questions, along with the five conceptual framework categories served to frame this descriptive study's methodology. Below is an overview of the methodology more fully explained in Chapter Three.

Overview of Methodology

A descriptive study design was used for an examination of faculty-created digital content copyright ownership at institutions of higher education. A descriptive study was an orderly scientific and disciplined process that involved recognizing and identifying a topic or practice, selecting an appropriate sample of participants, collecting valid and reliable data, and reporting conclusions (Cohen, Manion, & Morrison, 2011). The descriptive study approach allowed for the use of surveys for obtaining data for the research questions on copyright ownership rights. This formal instrument served to examine institutional practices, assertions, implementations, development, and issues of copyright ownership practices of faculty-created digital content.

The institutions of higher education for this descriptive study were selected within the State of Texas and the Commonwealth of Puerto Rico. Both jurisdictions were home to a large diversity of types of institutions of higher education. The diversity of institution types provided the researcher with the opportunity to identify and select a representative sampling.

Five category types of institutions of higher education were identified: community college, liberal arts college, four-year + grad university, research university, and a doctoral degree-granting university (teaching). One of each of these types of institutions were identified in the State of Texas and the Commonwealth of Puerto Rico. The State of Texas and the Commonwealth of Puerto Rico, as a matter of public policy, provided faculty and administrator e-mail messages on the institution's Web site. A mix of five faculty and five administrators' publicly available e-mail messages were randomly selected from each college-university Web site so that a total number of ten participants were available for each institution type. Within the State of Texas, a total of fifty e-mail messages containing the online survey link was sent to the randomly selected faculty and administrators. The same process was utilized for randomly selecting equal numbers of faculty and administrators from each of the institution types within the Commonwealth of Puerto Rico. In sum, a total of 100 faculty and administrator participants were sent the online survey link via e-mail message. The survey included closed-ended and open-ended questions. The responses obtained from the open-ended section were thematically coded. Using the Saldana (2013) method, the analysis of narrative responses was conducted to look for thematic patterns. This descriptive study method provided for this type of research design. The unique strength of the descriptive study method was its ability to deal with a full variety of responses and data. The responses obtained from the survey provided for a descriptive study of college and university copyright ownership rights with regards to faculty-created digital

content. This descriptive study of practices and perceptions of copyright ownership of faculty-created digital content served to add to the limited body of knowledge of college and university copyright ownership in the information technology age.

Significance

The significance of this descriptive study was threefold. First, it served to add to the limited body of knowledge and research in the area of college and university copyright ownership rights of digital content in an OER, OCW, and MOOC environment. Secondly, it had significant potential for practical applications in college and university faculty copyright ownership rights. Lastly, it had the potential to provide insights into the challenges that traditional copyright ownership policies encounter in an OER, OCW, and MOOC environment at institutions of higher education.

Limitations

This descriptive study had certain limitations of which some are directly related to the inherent nature of conducting descriptive studies. Descriptive studies identify what was “being done” or rather, the current practice. As such, descriptive studies were considered to be static and not dynamic, providing a description of the current state of affairs. Given that traditional copyright laws had not changed substantially in the last five years, current copyright ownership practices in an OER, OCW, and MOOC environment allowed the researcher to juxtapose these three practices and provide relevant conclusions and recommendations.

Definition of Terms

Copyright: A right established by the U.S. Constitution and codified into law in which the creators of tangible products in the arts were provided with protections against infringement upon their creation for a determined time period.

Digital Content: Course content that had been developed with educational or instructional technologies and which allowed for the creator to incorporate the artifact created in an online course. An example of this would be lecture capture video or a multimedia presentation.

Joint Works: Under copyright law, a collaboration between two or more authors in which their contributions joined into a single cohesive work. Each author of a joint work had equal rights to register and enforce the copyright, regardless of how their shares in the work were divided (Centivany, 2011).

Open Educational Resources: Open Educational Resources (OER) were teaching, learning, and research resources that resided in the public domain or have been released under an intellectual property license that permits their free use and re-purposing by others. Open educational resources included full courses, course materials, modules, textbooks, streaming videos, tests, software, and any other tools, materials, or techniques used to support access to knowledge (Yuan; Powell, 2013).

Open CourseWare: OCW was an educational initiative developed by the Massachusetts Institute of Technology (MIT) that made the core teaching materials for all MIT graduate and undergraduate classes available at no cost to Internet users around the world. OCW had been compared to the open source software movement because course materials on the OCW site were “open and freely available worldwide for non-commercial purposes such as research and education, providing an extraordinary resource, free of charge, which others can adapt to their needs” (Rhoads; Berdan, 2013 p.88).

Massive Open Online Course: A Massive Open Online Course (MOOC) had many definitions dependent upon how the MOOC was being offered. For this study, a MOOC was defined as an educational resource that had assessment mechanisms and an endpoint, offered

entirely online, and was free to use without admission criteria, and the course involves dozens, hundred, or thousands or more students (Dames, 2013).

Unilateral Institutional Declaration: Some colleges and universities had promulgated policies that proclaimed traditional academic works to be the property of the institution. Faculty handbooks, for example, sometimes declared that faculty members should be regarded as having assigned their copyrights to the institution. The Copyright Act, however, explicitly required that a transfer of copyright, or of any exclusive right (such as the exclusive right to publish), be evidenced in writing and signed by the author-transferor. If the faculty member was indeed the initial owner of copyright, then a unilateral institutional declaration cannot affect a transfer. It was not likely that a valid transfer could be affected by the issuance of appointment letters to new faculty members requiring that they abide by a faculty handbook that purported to vest in the institution the ownership of all works created by the faculty member for an indefinite future (Centivany, 2011).

Work for Hire: The pertinent definition of “work made for hire” (Centivany, 2011, p.395) was a work prepared by an “employee within the scope of his or her employment” (Centivany, 2011, p. 395). In the typical work-for-hire situation, the content and purpose of the employee-prepared works were under the control and direction of the employer; the employee was accountable to the employer for the content and design of the work. In the case of traditional academic works, however, the faculty member rather than the institution determined the subject matter, the intellectual approach and direction, and the conclusions. This was the very essence of academic freedom. Were the institution to own the copyright in such works, under a work-made-for-hire theory, it would have the power, for example, to decide where the work was to be published, to edit and otherwise revise it, to prepare derivative works based on it (such as

translations, abridgments, and literary, musical, or artistic variations), and to censor and forbid dissemination of the work altogether (Centivany, 2011).

Summary

In the absence of a national or uniform college and university policy with regards to copyright ownership rights of faculty-created digital content, each college-university was left to develop its copyright ownership policy. These policy development practices differed for each institution of higher education. Technological and social media developments also allowed for new trends and policies associated with these such as OER, OCW, and MOOC. The literature suggested that the lack of specific standards on copyright ownership of faculty-created digital content, and its development, assertion, and implementation created potentially problematic relations between the institution of higher education and its faculty over ownership.

Given that each institution of higher education was left to define and implement its copyright ownership policy dependent upon its organizational culture, norms, policies, faculty contracts, and institutional practices, a descriptive study allowed for an understanding of copyright ownership rights, policies, and practices with regards to OER, OCW, and MOOC. This descriptive study examined copyright ownership practices at one community college, liberal arts college, four-year + graduate university, research university, and a doctoral degree-granting university (teaching) located in the State of Texas and the same five types of institutions located in the Commonwealth of Puerto Rico.

Issues of copyright ownership rights of faculty-created digital content were multi-layered and complex. Factors that impacted the complexity included those of a contractual nature, allocation, assertion, issue resolution, and management of copyright ownership at institutions of higher education. Chapter Two examined the literature with regards to copyright ownership

practices in higher education and the challenges presented by copyright laws and policies with faculty-created digital content.

Chapter Two: Review of Relevant Literature

Overview

Institutions of higher education grappled with complex challenges, issues, and competing interests as they drafted or revised intellectual property policies in this rapidly changing information technology era (Kranich, 2008). The development of the OpenCourseWare (OCW) movement had its origins in 1999 when the University of Tübingen in Germany openly published lecture videos (Christensen, Horn, 2013). The movement expanded on a global scale in 2002 when the MIT launched the MIT OCW project; the goal of the OCW project was to provide free learning opportunities available to all humanity on a global scale (Vest, 2004). Additionally, MIT reasoned that the development of OCW would allow all students worldwide, not only MIT students, to be better prepared to engage in their classes and better prepared for content knowledge acquisition. This project was quickly followed by the development of similar OCW projects at Yale University, the University of California - Berkeley, and the University of Michigan (Open Learning Initiative, 2014).

OER, OCW, and MOOC challenged the traditional concept of copyright ownership at institutions of higher education (Cheverie, 2013). MOOC took a great leap forward in higher education and became the subject matter discussion in educational conferences. Also, it entered the discussion on teaching, learning, and academic offerings with the announcement by Georgia Tech to offer a masters degree in computer science that was based entirely on MOOC (Straumsheim, 2013). Discussions on the relevance and sustainability of MOOC centered around the ability to provide academic credit and credentialing. As part of the entrenchment of MOOC in higher education, MOOC providers and their higher education partners had specific issues to address, and one of these was the copyright ownership of faculty-created digital content

(Cheverie, 2013). Although online and distance education had been around for more than a decade, the global scale and the manner of delivering MOOC presented new copyright challenges that institutions of higher education were only beginning to comprehend (Yuan & Powell, 2013).

Some MOOC providers, for example, stated in their college and university contracts that the provider had a proprietary claim on any and all materials included in their MOOC courses (Cheverie, 2013). This proprietary claim extended to the MOOC provider, which had the right to license to the MOOC user all terms of access as well as the use of the course materials. The MOOC provider proprietary claim also granted to the provider the ownership rights of user-generated content (Cheverie, 2013). The latter conflicted with the traditional copyright ownership protection practice that gave copyright ownership to faculty of the digital content in the courses that they developed (Cheverie, 2013). The copyright ownership exception of “fair use” equally presented a traditional copyright challenge for faculty as well given the global reach potential of MOOC (Cheverie, 2013).

OER equally presented new copyright ownership challenges to institutions of higher education (Cheverie, 2013). OER, for example, were licensed under the Creative Common License (CCL) while MOOC were licensed under traditional copyright ownership laws subject to contractual terms specified in the MOOC provider agreements (Cheverie, 2013). Under traditional copyright ownership, faculty wholly owned the digital content they create. However, there were variations in the practice in which faculty-created digital content copyright ownership was diminished or altered. For example, at some institutions of higher education, faculty copyright ownership percentages were reduced by institutional contracts (Cheverie, 2013). Faculty who created digital content under the CCL, allowed for their digital content to be freely

used, altered, and improved upon by other users. The CCL practice provided the original developer with creator's credit, and the new product created would be equally offered to other users under the same free CCL terms and conditions (Kleinman, 2008). For the most part, digital content created by faculty and licensed under the CCL had not been controversial at institutions of higher education, unless the college or university prohibited licensing under the CCL (Cheverie, 2013). Greater propensities for copyright ownership challenges and issues occurred under a MOOC partnership agreement given that these tended to affect the traditional work-for-hire or joint works copyright ownership laws. The key difference with a MOOC was that faculty consent for copyright use was not required given that the MOOC partnership agreement was made between the institution and the MOOC provider (Cheverie, 2013).

The study of traditional copyright ownership practices led to an understanding of copyright ownership under both the CCL and MOOC partnership agreements. To understand the challenges and issues of faculty-created digital content copyright ownership in an OER, OCW, and MOOC environment, one study at the University of Idaho implemented an anonymous survey among faculty members, to understand what were the perceptions about open access, and how they pertained to faculty at institutions of higher education. The findings obtained from the University of Idaho study were that the challenges for faculty were not a result of understanding OCW, but rather the fear and lack of motivation to what was open access (Gaines, 2015).

Traditional Copyright Ownership Law and Institutional Practices

The American Association of University Professors (AAUP, 1999) policy statement with regards to intellectual property and copyright ownership rights supported the position that faculty were full owners of the copyrighted works they created. Copyright laws informed that as original creators, faculty owned the copyright within certain exceptions (U.S. Copyright Act of 1976,

2011). While these exceptions did not apply to the research problem that formed the basis for this study, they were explained here to further frame the context of the subject problem.

Copyright and its legal protections traced its origins to the U.S. Constitution (U.S. Copyright Act of 1976, 2011). The constitution provided the U.S. Congress with all powers in the creation of copyright laws with the intent and purpose of providing protection to the authors' works and furthermore limited this protection by time. The statute of limitations for copyrighted works depended upon the classification of the work created. The rationale for limiting copyrighted works by timed limitations was so that the works could at some point enter the market, allowed for public access, and used, as well as encouraged, others to build upon the work and further other creative products (U.S. Copyright Act of 1976, 2011). In turn, the time limitations served the public good insofar as it influenced the growth, development, and improvement of society.

Title 17 of the U.S. Code defined copyright as the independent and original expression of an author recorded in a tangible and fixed form (U.S. Copyright Act of 1976, 2011). Examples of copyrighted works included poems, video lectures, software creations, multimedia, case studies, and lecture notes, web-based contents, PowerPoint presentations that contained course content, and traditional publications such as books and recordings. There was a two-step process in creating a copyrighted work (U.S. Copyright Act of 1976, 2011). The first involved the recording of the work. Recording the work simply meant that the work went through the production stage from an idea or concept, something intangible, to that of a tangible format such as a book, a work of art, or a document. Upon recording, the work was immediately copyrighted. The second step in protecting a copyrighted work was by registering the work with the copyright office. Upon doing so, the author of the work received additional legal protections related mainly to the

possibility of infringement. The current practice and wisdom was for authors of copyrighted materials to proceed with this second step insofar as copyright infringement was a strong possibility (U.S. Copyright Act of 1976, 2011).

Intellectual property encompassed a range of assets that was created by authors, musicians, artists, and inventors. Dependent upon the type of asset created, copyright laws provided legal protection to these creations as either copyrighted patents, trademarks, and trade secrets (U.S. Copyright Act of 1976, 2011). The intent of the law was to encourage the further development of other creations and allowed the creator to seek legal protection from infringement or the unauthorized use or misuse of the created property (U.S. Copyright Act of 1976, 2011). Given that the copyright and patent protections were included in the U.S. Constitution in Article I, Section 8, Clause 8, the intellectual property laws were codified in federal statutes. Copyright creations were protected by the Copyright Act in 17 U.S.C.A. Sections 101 et seq., patents were protected in the Patent Act in 35 U.S.C.A. Sections 101 et seq., and trademarks were protected in the Trademark Act in 15 U.S.C.A. Sections 1501 et. seq.

Intellectual property laws provided the creators with the right to profit from the work created for a limited time period (U.S. Copyright Act of 1976, 2011). As per the U.S. Copyright Act of 1976 (2011), the time limit for copyrighted materials was 70 years beyond the death of the author (U.S. Copyright Act of 1976, 2011). Intellectual property laws were primarily protected by civil laws and rarely fall under criminal law. While some copyright laws did provide for criminal penalties, intellectual property laws were mostly concerned with protection against infringement and compensation for infringement (U.S. Copyright Act of 1976, 2011). Thus, it was the owner of the copyrighted product that was responsible for enforcement. Intellectual property laws gave the owners the right to enforce their copyright protections in civil court, and

the court awarded damages when the unauthorized use of the copyrighted product had occurred. To obtain the protection of the courts, the copyrighted creation must have been fixed in a tangible form.

The American Association of University Professors (AAUP, 1999), approved the following statement by the Association's Special Committee on Distance Education and Intellectual Property Issues, "Within that tradition, it has been the prevailing academic practice to treat the faculty member as the copyright owner of works that are created independently and at the faculty member's own initiative for traditional academic purposes" (p. 193).

Examples of copyrighted works included class notes and syllabi both of which were drafted by the faculty and distributed to students; books and articles; works of fiction and nonfiction; poems and dramatic works; musical and choreographic works; pictorial, graphic, and sculptural works; and educational software, commonly known as courseware. This practice has been followed for the most part, regardless of the physical medium in which these traditional academic works appear; that is, whether on paper or in audiovisual or electronic form. This practice should therefore ordinarily apply to the development of courseware for use in programs of distance education.

With regard to matters of proprietary rights and educational policies, the AAUP (1999) statement further stated:

The institution should establish policies and procedures to protect its educational objectives and the interests of both those who create new material and those who adapt material from traditional courses for use in distance education. The administration should publish these policies and procedures and distribute them, along with requisite information about copyright law, to all concerned persons. The policies should include

provisions for compensating those who create new course materials or who adapt course materials originally prepared for traditional classroom usage, including any use or reuse of recorded material. Provision should also be made for the original teacher-creator, the teacher-adapter, or an appropriate faculty body to exercise control over the future use and distribution of recorded instructional material and to determine whether the material should be revised or withdrawn from use. (p. 193)

Intellectual property constructs. *Assets.* Copyrightable assets were intangible or tangible. Intangible assets did not necessarily form a part of faculty creations but potentially in theory they could give rise to legal protections. An intangible asset was usually considered to be non-recorded or digitized items such as a brand, or a goodwill, which unto itself was incapable of being perceived. The ownership of the brand was a copyrightable asset. Copyright ownership of intangible assets had not entered the discussion of faculty creations but the possibility exists if for example, a particular faculty member was well known publicly as an expert in a certain academic area and this expertise was part of the brand of the professor. For purposes of this study, tangible assets were considered. Tangible assets were any artifacts that faculty could create and that creation was recorded or digitized. Examples of tangible assets were faculty notes, recorded lectures (audio), video-recorded lectures, learning objects, drawings, PowerPoint slides, Prezis, music creations, YouTube videos, Flickr or Instagram postings, Facebook postings used as part of the course content, and/or perhaps even annotations or comments to a student essay where faculty imparts specific knowledge as part of their expertise. The latter certainly held true for corporations that financed an employee's education and stipulated in the agreement that the corporation and not the student was the owner of the students' thesis or dissertation as well as any accompanying notes/notebooks the students used in the course of their academic

pursuits. The portability of these assets developed additional concerns for faculty especially where the faculty had not distributed the asset into the realm of copyrightable legal violation and protection, and also that this action could have been conducted by third parties, whether it be a student or the institution. New media currently known, and new media that had not been developed as of yet, had the effect of creating multiple layers of what constituted a copyrightable asset, who asserted copyright ownership of the asset, the institution or the faculty. Apart from direct intellectual property concerns with faculty-created digital content, one of the key questions was What constitutes intellectual property when working with students? There may be classroom situations where students, both online and in face-to-face courses, engaged in recording a faculty lecture or taking pictures of faculty notes and sharing these online in a public environment. In this scenario, students were not aware that this act was a violation of the faculty members' intellectual property. This raised a slew of questions beginning with, as an employee of the college-university, did the institution own the copyright to faculty lecture recordings and notes and therefore was it the institutions' responsibility to assert a copyright protection, or was it the individual faculty member that must assert a copyright protection? What if, unknowingly at the moment, the student uploads a faculty lecture onto social media that began to generate some income from the recording? A student could not be able to assert copyright ownership given that the student was not the original creator of the asset. Nevertheless, yet another realm existed when students were hired as assistants for faculty, whether teaching or research, and the student collaboration that served to create a tangible copyrightable asset. This possibility arose mostly in research environments and it was wise for the institution to develop a copyright ownership contract for the student to adhere to.

Asset violations and protections. What constituted a violation of an assets' copyright and was subject to the owners' legal protection was dependent upon various factors most of which reverted back to an understanding of the faculty originator of the asset and whether the originator ceded copyright ownership in whole or in part to the institution of higher education.

Nonresearch intensive institutions of higher education have even engaged in the development of MOOC or purchased MOOC from third party course content providers. This alone created another quagmire for copyright ownership and intellectual property policies and legalities. Consider, for example, when course content was jointly created or constructed. A co-creation may have entailed a possible scenario where faculty X worked with faculty Y created course content. The employment scenario for each would have created a difficult position when asserting copyright ownership. For example, this was determined that faculty X was specifically hired to create online course digital content and faculty Y engaged in the co-creation as part of an institution's multidisciplinary endeavors, yet faculty Y's employment contract did not specify that the creation of digital content was part and parcel of the employment contract. In this very plausible hypothetical, consider if the co-creation was for the development of a MOOC provider.

MOOC providers for the most part stated in their institutional contracts that the provider had a proprietary claim on any and all materials included in their MOOC courses (Cheverie, 2013). This proprietary claim extended to the MOOC provider, which had the right to license to the MOOC user all terms of access as well as the use of the course materials. The MOOC provider proprietary claim also granted the provider the ownership rights of user-generated content (Cheverie, 2013). The latter conflicted with the traditional copyright ownership protection practice that gave copyright ownership to faculty of the digital content they developed (Cheverie, 2013). The copyright ownership exception of fair use equally presented a traditional

copyright challenge for faculty as well, given the global reach potential of MOOC (Cheverie, 2013). The key issue here for faculty was that in this scenario, faculty copyright consent was not required given that the MOOC partnership agreement was made between the institution and the MOOC provider (Cheverie, 2013). As such, faculty would not have, under any circumstances, copyright ownership of their digital content when their respective institutions contract with third party MOOC providers.

Methods of Limiting Copyright Ownership

The differences in college and university practices of faculty copyright ownership was further diminished by institutions of higher education asserting either the Independent Contractor, Unilateral Institutional Declaration, Work-for-Hire, Joint Works, and Substantial Resource policies. The tug of war between university-faculty copyright ownership rights were made even more visible when there was no uniform approach to settling these issues in academia (Haggard, 2013). Colleges and universities were not bound to accept and implement the AAUP statement on copyright ownership. To the contrary, the trend had been for colleges and universities to seek institutional ways to diminish faculty copyright ownership rights by asserting some basis for ownership (Hart, 2008). These institutional assertions included the following three practices:

Unilateral Institutional Declaration—In this practice, the college or university unilaterally declared that copyright ownership of all works created by faculty vests in the institution for an indefinite future.

Works Made for Hire—In this practice, the college or university state that all traditional academic works were works made for hire with the consequence that the institution was regarded

as the initial owner of copyright. This institutional claim was often stated to be justified by the faculty's use of college or university technology resources and services.

Substantial Resource Policy—In this practice, the college or university asserted copyright ownership of faculty-created courseware upon the basis that the college or university supplied delivery mechanisms, such as videotaping, editing, and marketing services, computers, software programs, and technology resources. This practice might have provided the institution with a stronger claim to coownership rights.

Technology Advances Affecting Copyright Ownership

Technology advances created a situation where faculty need not rely upon university technology resources and services to develop digital content (Masson, 2010). This type of faculty-created digital content allowed for situations where faculty made their digital creations available to other institutions of higher education. This had the potential of increasing faculty personal financial compensation (Perlmutter, Levin, Torsen Stech, & Chaitovitz, 2013). Thus, the next level of technology advancement required a review of university copyright ownership policies to ascertain whether technology affected changes in university-faculty copyright ownership matters (Flaherty, 2013). The researcher had experienced these issues on a professional level (See APPENDIX A).

Online education in higher education today was a growing field, yet sometimes devalued and spurned by the traditional bricks and mortar colleges and universities (Hart, 2008). Today, these same colleges and universities have increased their online education course offering vis-à-vis student demand for learning anytime, anywhere and the competitive growth of for-profit colleges and universities (Orr, 2012). Traditional bricks and mortar colleges institutions had been challenged by the growth of for-profit institutions of higher education such as Phoenix

University, Capella University, Strayer University, Nova University, and others, as they made a strategic and financial decision to provide online education courses in order to compete for the increased demand for online education courses, programs, and degrees (Bonvillian & Singer, 2013).

Digital technologies have made it possible for college or university faculty to record a live classroom lecture in the comfort of their home and immediately produced the lecture making it available to their students via the web, mobile phone, or personal computer within a matter of minutes (Kranich, 2008). As emerging technologies progress, faculty could increasingly have found themselves without the need to access university-provided investments in on-campus technology resources, and services available to them that created digital content to enhance their online courses. The ability to utilize free and available cloud-based computing software and Web 2.0 tools to create digital content was a major game changer with regards to copyright ownership of faculty-created digital content (Bonvillian & Singer, 2013). This situation begged the question, “Does the university, faculty, or both have copyright ownership to faculty-created digital content?”

There were three important aspects from the collective understanding of these prior studies that were relevant to this research. These were: (a) faculty perceptions, practices, expectations, and issues with regards to university intellectual property policy and ownership of digital content they create (Orr, 2012), (b) university advocacy and communications of intellectual property policies (Hart, 2008), and (c) online education ownership rights statements contained or missing from university intellectual property policies (Kranich, 2008).

As per U.S. copyright law, since course materials were created and developed by faculty, all course materials were intellectual property (Bunker, 2001). This included, among others,

everything such as the copyrighted books and supplemental course materials that students purchased and used in the course, the college or university trademark, and the notes, lectures, and presentations that faculty prepared and provided students. The U.S. Copyright Office even published a report discussing copyright in the digital media (Perlmutter; Levin 2013). Online education added to this set of intellectual property by the multimedia, video, audio and learning objects created by faculty in designing an online course (Carr, 2012).

Despite the interest, the body of knowledge on university intellectual property policies and ownership rights remained scarce (Hart, 2008). The researcher conducted an electronic search through ProQuest utilizing the keyword combinations of intellectual property and faculty, intellectual property and online education, intellectual property and distance education, intellectual property and courseware, which produced no more than 16 dissertations peripherally related to the subject matter of this research. Expanding the keyword combinations and adding the term copyright or phrase ownership rights, and multiple combinations thereof, produced the same results.

It was understood that online courses were tangible copyrightable property, unlike face-to-face courses that existed mostly as spoken lectures and as such were not considered to be copyrightable unless the lectures were recorded (Bunker, 2001). Since 2002, with regards to college and university faculty, some studies noted that (a) faculty were not aware of their institutions' intellectual property policy (Kranich, 2008), (b) faculty were not aware of their ownership rights as affirmed by the American Association of University Professors (AAUP) (Kranich, 2008), (c) knowledge of intellectual property policies did not factor in decisions for faculty to engage in online education (Gaines, 2015), (d) faculty were not fully aware of the tenets of academic freedom (Blanchard, 2010), (e) faculty aware of their institutions' intellectual

property rights were of the belief that the institution had full ownership rights (Hart, 2008), and, (f) faculty understood that there was a shared ownership of online courses created and courseware (Hart, 2008).

In a related study, faculty reported legal issues and rewards was of low-level significance in participating in online education, although it was noted that the majority of the 233 participants did not answer correctly the question of intellectual property rights (Hart, 2008). The faculty participants selected for another survey were invited to participate regardless of whether they participated in online course delivery or not.

Although the majority of the faculty reported low levels of concerns about legal issues and rewards, Delaney (2009) found that the majority of the 223 respondents did not answer the intellectual property rights question correctly. Three assumptions were made from the Delaney (2009) study. The first was that community colleges per se are not colleges traditionally engaged in research and patent activities. As such, the propensity for having faculty knowledgeable in intellectual property and digital content ownership issues diminished significantly. The second assumption was that doctoral-granting research-extensive institutions of higher education were more sophisticated than community colleges with regards to intellectual property rights given that they have legal counsel and administrative offices solely dedicated to implementing and tracking intellectual property rights matters with regards to faculty and researchers. The third assumption was faculty not engaged in online course delivery were less inclined to be concerned with and knowledgeable of intellectual property rights and ownership issues. If faculty were not engaged in online course delivery, they were less inclined to create digital content.

Intellectual property rights were by law divided into three areas: patents, trademarks, and copyrighted works (U.S. Copyright Act of 1976, 2011). Universities usually trademark their

university logo, motto, and the names of their sports teams. Within universities, those hired to conduct research were interested in ascertaining their contractual relationship with the university with regards to the patent rights of any creations resulting from research (Merges, 2011). Most research-extensive universities utilized patent rights as part of the negotiable benefits in attracting researchers for employment (Delaney, 2009). The third area was faculty-created works that were subject to copyright protection (Hart, 2008).

For this study, the context was solely focused with those of copyrighted works. The reason: university researchers not engaged in teaching, let alone online teaching, and researchers were usually keenly aware of their university's intellectual property policy (Hart, 2008). Teaching faculty, on the other hand, might be aware of their intellectual property rights with regards to manuscripts and published books, but were not aware of their ownership rights with regards to digital content that they created or may create (Kranich, 2008). Teaching faculty were the university constituents more prone to examine how best they could teach and reach their students in online courses (Mackness, Roberts & Lovegrove, 2013). This creative inquiry led them to utilize current and emerging technologies for their digital content creation. Upon realizing the portability and distribution of their creation, that was when the faculty encountered obstacles posed by their university's intellectual property policy or perhaps lack of policy.

For the most part, universities were not interested in exerting or pursuing copyrights for traditional scholarly works such as books, publications, and course materials developed. New and emerging technologies created controversy that affected university-faculty perceptions, practices, and expectations with regards to ownership of the digital content they created (Slaughter & Rhoades, 2010). At some universities, in light of the current economic crisis, budget crunches, and diminishing state funding support, administrators began to revise

intellectual property policies and looked to these traditions in asserting copyright ownership (Mangan, 2012).

The information technology age tenets were to provide more access to knowledge and information for the public good. An almost necessary expectation was to challenge paradigms and create new ones so that new technology can be created. These practices were aligned with the AAUP policy on faculty ownership of created works. The purpose of this descriptive study was to research faculty and administrator perceptions, practices, development, implementation, and issues with regards to copyright ownership of faculty-created digital content.

Decreasing government funding for public institutions of higher education and increased competition for online education at private and for-profit universities have served to search for other revenue sources (Clotfelter, Ehrenberg, & Getz, 2008). Likewise, increased online courses and online degree programs served to potentially create additional revenue sources for faculty teaching online courses (Kranich, 2008). The latter were in a position to create digital content and sell and market these to other colleges and universities on a national or even internationally, and thereby obtained increased personal revenue.

Orr (2008) and Hart (2008) both found in their respective studies that intellectual property issues or related legal issues were low-level concerns among faculty. Recently, the University of Louisiana made public for circulation among faculty, a revised version of an intellectual property policy that was written in 2007. Faculty did not pay much attention to the original 2007 policy and only began to be concerned when they read the revised version in 2011 that changed the traditional practice of ownership rights. In the revised version, the policy provided copyright ownership rights to the university from faculty books and artistic works (Mangan, 2012).

With regard to audio and video recordings, two artifacts in the development of digital content for use in online. The University of Louisiana's intellectual property policy stated that (a) the university reserved the right to exert copyright claims, and, (b) the university prohibited faculty from utilizing these recording for personal use. Also, this university reserved the right to use these for educational use only, and the recordings shall not be used for the personal gain or benefit of the institution (Mangan, 2012). Digital content developed by faculty was treated as a patent in the intellectual property policies at some universities (Kranich, 2008). Also, faculty involvement was not part of the intellectual property policy formulation nor required to sign the intellectual property policy.

The majority of the research conducted to date with regards to intellectual property and online education was mainly with regards to entire course development and subsequent ownership (Masson, 2010). In some institutions of higher education, course materials developed by faculty were treated in the institutions' intellectual property policy as a patent (Barker, 2011). Faculty involvement was not part of the intellectual property policy formulation nor required to sign the intellectual property policy (Baer, Donohue, & Cantor, 2012).

Current and emerging technologies allowed for faculty to create entire online courses and a myriad of digital content without any use whatsoever of university technology resources and services (Orr, 2012). In these situations, was the university entitled to claim intellectual property rights? This study extended current knowledge to the body of research in university intellectual property policy development in the information age with regards to faculty ownership issues of digital content. Specifically, it examined situations where faculty could create digital content that was portable and easily distributed on the Internet without any use at all of university technology resources and services.

This study equally researched the intellectual property policies of the respective institutions of higher education from the faculty and administrator participants. The digital age has affected the drafting of intellectual property policies. Recently, the University of Louisiana made public for circulation among faculty, a revised version of an intellectual property policy that was written in 2007. Faculty did not pay much attention to the original 2007 policy and only began to be concerned when they read the revised version in 2011, which changed the traditional practice of ownership rights. In the revised version, the policy provided copyright ownership rights to the university for digital content created (Mangan, 2012). With regards to audio and video recordings, two popular artifacts in the development of digital content for use in online education, the University of Louisiana's intellectual property policy stated that (a) the university reserved the right to assert copyright claims, and, (b) the university prohibited faculty from utilizing these recording for personal use (Mangan, 2012). The information technology age provided readily accessible technology available on the Internet, where faculty could creatively create digital content materials and deploy them within minutes to the Internet utilizing learning management systems that were freely available to faculty.

Consider then the following issues colleges and universities grapple with in regards to intellectual property policies in an information age. If, for example, a university professor designed an online course wholly upon the professor's own initiative, and utilized the university's technology lab to record three lectures for a 15-week course, did the university of the professor own the course? The reply may be, (a) look to see what the intellectual property policy stated, (b) look to see what the employment contract stated, (c) look to see what copyright law stated, (d) the professor owned it because it was the professor's initiative, and the professor barely used university resources, (e) the university owned it because the professor was under the

university's employ and university technology resources and services were used, or (f) the university and the professor were shared owners.

If a professor developed digital content without the use of university provided technology resources and services, could the university assert intellectual property rights? Expanding the latter scenario, what if the same university professor created the digital content during the non-teaching calendar months? In this scenario, did the professor solely own the digital content created or could the university assert an intellectual property right?

At colleges and universities throughout the United States, the drafting of intellectual property policies has been developed with regards to faculty members and researchers engaged in the science, medical, health, technology, and engineering fields (Hart, 2008). For some research institutions, these policies have fluctuated from administrative policies which stated that the university was the sole copyright owner of all intellectual property developed on the campus and other research institutions stated in contractual agreements that both the faculty/researcher have certain percentage rights to copyright ownership of intellectual property (Blanchard, 2010).

Copyright, Royalties, and Creative Common Licenses

In the development of faculty-created digital course content, faculty should be aware that in developing digital content the temptation may exist to search the Internet for assets or artifacts, download these, and either use or modify them by their course content. There are perils to this approach. Nearly every digital asset available on the Internet has certain legal rights attached to it. These may be through either a copyright of some sort, a royalty that may be free or sold, or CCL. The most easily identifiable assets and free of any legal entanglements are those available in the public domain. These are assets in which their time limitations have expired, have been forfeited, or are no longer applicable (Perlmutter; Levin 2013).

Copyright. Copyrightable assets are those that are privately owned and protected by law. The legal protections include monetary value and time limitations. The creators of copyrightable works have a vested interest in receiving compensation for the use of their works, and they have exclusive rights to determine how their asset is distributed or used (Perlmutter; Levin, 2013).

Royalties. Assets in this category may either require monetary compensation for its use or may be royalty free. Royalty assets are copyrighted and thus protected by law. These may require the payment of a “royalty” for use, may be sold in volume or may be entirely free. One common example of these are photographs available on the Internet. The photographs may have a watermark identifying the owner, for example, Getty Images, and some may be sold in bulk to colleges and universities. A popular use for royalty assets is when colleges and universities purchase a “license” for its use and the license usually provides a time limitation with an expiration date subject to renewal (Perlmutter; Levin, 2013).

Creative commons license. Assets with a CCL are a hybrid between the traditional copyright artifact and public domain. Assets copyrighted with a CCL allow for subsequent users to modify or alter the asset as long as the original creator is identified. This allows for multiple modifications by subsequent users and creates a string of “authors” to the modified asset. In this manner, the original creator waives any copyright ownership for the benefit of subsequent users or creators. There are more than four categories of CCL, and these differentiate the legal protections by the type of protection the original creator selected (Kleinman, 2008).

In the advent and continued growth of online education, as well as the technologies developed to enhance these, the very same intellectual property policies had been utilized for university faculty not engaged in research and who were solely dedicated to teaching (Cheverie, 2013). As such, this created a policy issue where (a) intellectual property policies had not kept up

with the information technology age and related online education technological developments, (b) faculty engaged in online teaching and creating course content in digital form were of the belief that they are the sole owners of the digital content they created or they have no ownership rights in the digital content they created, and (c) university intellectual property policies were based on the premise that the institution owned all or part of the digital content created by faculty (Slaughter; Rhoads, 2010). The interaction of these three factors had served to create divergent issues and conflicts of ownership with regards to digital content developed by faculty. Research conducted in this area would serve to assist university administrators in developing intellectual property policies consistent with the information technology age and the ever-increasing developments in new technologies.

With the Internet and Web 2.0 tools as game changers, faculty could create digital content easily, and considering the ease of electronic portability and distribution, university faculty was no longer dependent or beholden to utilizing university provided technology resources and services. The information age thus diminished the university's reliance on "time and place" (Nimmer, 2011, p. 827) as a justification for claiming any intellectual property rights. Likewise, with the increasing technological advances and cloud computing allowing for faculty to develop digital content during their summer and winter vacation periods, the university's reliance on any of the employer-employee doctrines and rules were severely diminished (Slaughter & Rhoades, 2010). With free or low-cost Web 2.0 tools available to all, faculty could create digital content and lecture-capture from the comforts of their home during their calendar time off from their teaching load, with the basic hardware of a personal computer, webcam, and Internet connection (Perlmutter; Levin 2013).

The development of new and emerging technologies had affected how universities drafted their intellectual property policies and implemented these policies (Cheverie, 2013). One of the major disruptions occasioned by new and emerging technologies for the teaching profession had been in course content delivery (Bonvillian & Singer, 2013). While technology had impacted how colleges and universities educate students, it also altered how knowledge and course content was delivered (Mackness, Waite, Roberts, & Lovegrove, 2013). One of the impacts had been in increasing the development of online education (Yuan & Powell, 2013). Online education, in most or all of its components, required the development of faculty-created digital content, unlike traditional courses where the spoken word (not recorded or digitized) was the norm (Christensen & Horn, 2013). This form of creation was subject to intellectual property protection because the course content were tangible works; which was one of the requirements of copyrights laws (Dames, 2013).

Taking into consideration the AAUP's policy that faculty was entitled to full ownership and by interpretation and logic, that faculty were entitled to full ownership of the digital content they create, it was then imperative to look at what should a university intellectual property policy contained with regards to faculty ownership of digital content. The Internet and the availability of Web 2.0 tools for digital content creation, the ease of immediate distribution of digital content, and the portability of digital content were game changers with regards to university intellectual property policies and faculty ownership of digital content (Christensen & Horn, 2013). Some colleges and universities stated that some ownership contractual agreement between the university and faculty, indicating relevant percentages of ownership, if applicable, would serve to settle course content ownership (Delaney, 2009). Some colleges and universities affirmed that since the faculty member was an employee, any course content developed (regardless of media)

created an intellectual property interest for the university (Dames, 2013). These colleges and universities based their intellectual property policy upon the work-for-hire doctrine, the independent contractor doctrine, and the teacher exception rule. Some colleges and universities affirmed that the use of university provided technology resources and services created an intellectual property interest for the university (Blanchard, 2010). These relied upon the policy of institutional investments made to provide for time and place resources and services made available to faculty.

Prior studies had been conducted with regards to university-faculty situations in which (a) faculty utilized university technology resources and services to create online courses, (b) the university claimed intellectual property ownership based upon employment rules, theories and doctrines such as work-for-hire, and, (c) the substantial resource rule where the university would measure how much of the university technology resources faculty utilized in deploying course materials. The latter was applied in situations where faculty created course materials, with some assistance from the university's technology resources and services, but deployed the course materials utilizing the university's servers, learning management system, or Web site.

This study examined faculty and administrator perceptions, practices, expectations, and issues about copyright ownership of faculty-created digital content. The survey questions were geared towards studying (a) what would be their perceptions if there was no current university issue with regards to digital content ownership, (b) what were the current digital content ownership rights practices at colleges and universities, (c) what were faculty expectations with regards to digital content ownership they created or may create, and, (d) what were current issues with regards to faculty digital content ownership.

Summary

The literature review identified the conceptual framework, which in turn guided the development of the five broad research questions that formed the foundation for the methodology as explained in Chapter Three. The literature equally identified the methods and process which best guided this descriptive study. This study was insightful in providing further knowledge to the research base on copyright ownership of faculty-created digital content.

Chapter Three: Methodology

Overview

This chapter describes the research methodology and includes specific and detailed information in the following areas: (a) review of the problem, (b) research questions, (c) research design, (d) sample population, (e) instrumentation and data collection, (f) data analysis, (g) validity and reliability, (h) ethical considerations, and (i) limitations of the study. It concludes with a description of the protection of human subjects.

Review of the Problem

OER, OCW, and MOOC had an impact on faculty-created digital content copyright ownership rights. These allowed faculty to create digital content to support online and distance education courses and served to study university-faculty copyright ownership rights and begged the question, “Does the university, faculty, or both have copyright ownership to faculty-created digital content?” This descriptive study’s purpose was to research university-faculty copyright ownership rights with regard to faculty-created digital content in the information technology age.

This descriptive study expanded current knowledge to the body of research in university-faculty copyright ownership rights with regards to faculty-created digital content and the perceptions for faculty and administrators, knowledge, implementation, practices, and resolutions of issues. Prior related studies in the area of college and university intellectual property policies and copyright ownership had primarily focused on full ownership of online courses in distance education programs (Hart, 2008; Orr, 2008). While these studies were peripherally related and added to the body of knowledge in this field, the portability, distribution, and “at will” aspects of faculty-created digital content provided another challenge to university-faculty copyright ownership.

Research Questions

This study addressed the following five broad category research questions to provide a greater understanding of copyright ownership of faculty-created digital content:

1. How were copyright ownership policies of faculty-created digital content developed and implemented at institutions of higher education?
2. How were faculty involved in the development of copyright ownership agreements?
3. What institutional policy and contractual documents contained specific language on copyright ownership rights of faculty-created digital content?
4. How were institutional assertions of copyright ownership of faculty-created digital content allocated and managed?
5. How were copyright ownership issues of faculty-created digital content resolved?

The five research categories derived directly from the literature review in Chapter Two and served to develop the conceptual framework categories. These conceptual framework categories served to direct the methods in which the research was conducted.

Research Design

The study entailed identifying and selecting five higher education institution types in the State of Texas and the Commonwealth of Puerto Rico. These institutions were community college, liberal arts college, four-year + grad university, research university, and a doctoral degree-granting university (teaching). While residing in Texas and working in Puerto Rico, the researcher identified one of each of these types of institutions in the State of Texas and the Commonwealth of Puerto Rico. Upon identifying and selecting these colleges and universities, the next step was to identify an equal number of faculty and administrators at each of the five institution types and e-mail message each the link to the online survey. The State of Texas and

the Commonwealth of Puerto Rico provided e-mail messages for faculty and administrators on institutional Web sites, and the researcher randomly selected an equal number of participants from each institution and each jurisdiction. This study's survey participants were faculty and administrators selected from the five higher education institution types previously listed.

Sample population. *The selection of universities.* The institutions of higher education for this descriptive study were selected within the State of Texas and the Commonwealth of Puerto Rico. Both jurisdictions were home to a large diversity of types of institutions of higher education. The diversity of institution types provided the researcher with the opportunity to identify and select a representative sampling.

The selection of faculty and administrators. A mix of five faculty and five administrators' publicly available e-mail messages were randomly selected from each college-university Web site so that a total number of ten participants were available for each institution type. Within the State of Texas, a total of 50 e-mail messages containing the online survey link was sent to randomly selected faculty and administrators. The same process was utilized for randomly selecting equal numbers of faculty and administrators from each of the institution types within the Commonwealth of Puerto Rico for a total of 50 random participants. In sum, a total of 100 faculty and administrator participants were sent the online survey link via e-mail (See APPENDIX B). The online survey included information about the study and its particulars (See APPENDIX C and APPENDIX D).

Instrumentation and Data Collection

The researcher developed an online survey to disseminate to the selected faculty and administrator participants. The questions reflected three distinct sections: (a) Demographics, (b) Copyright Ownership, and (c) Copyright Ownership Issue Resolution. The first section asked

respondents about the type of institution of higher education they were employed at; respondents' employment status; employment classification; and years of service as either a faculty member or administrator. The second section of the online survey obtained data on copyright ownership practices at their respective institution of higher education. The set of questions on copyright ownership practices involved ownership perceptions of faculty and administrators, development, implementation, participation, assertions, and issue resolution. The third and last section consisted of three open-ended questions on possible copyright ownership issues that have arisen with regard to faculty-created digital content and how they were resolved.

An online survey was sent to faculty and administrators in the State of Texas and the Commonwealth of Puerto Rico (See APPENDIX D). The online survey was distributed via e-mail to the 100 participants in December 2015. The online survey was closed in February 2016. The initial contact to administrator and faculty participants were conducted via e-mail message. The researcher sent an invitational e-mail message to the identified faculty and administrators explaining the study. The e-mail message narrative contained a description of the study, consent form, the method to be utilized, the rationale for their selection, as well as the benefits and potential risks for participating in the study (See APPENDIX C). The informed consent form acknowledged the acceptance for each participant and allowed for withdrawal from the study for any reason. The consent form was provided to each faculty and administrator participant via e-mail message as part of the online survey. Once the consent form was electronically signed, participants had access to the online survey questions. The survey did not collect the identity of the participants, and no computer IP addresses of any sort were collected or stored.

Demographic data. The first five questions of the survey pertained to obtaining demographic data from respondents with regards to the institution type, employment status,

appointment classification, years of employment as a faculty member, and years of employment as an administrator. Table 1 outlines the three sections of the survey, and the specific survey questions related to each area.

Table 1

General Survey Sections and Questions

General Survey Section	Specific Survey Research Questions
Section 1: Demographics	(Q2) My institution is a... (Q3) Which of the following categories best describes your employment status? (Q4) What is the classification of your appointment? (Q5) How many years have you been a faculty member? (Q6) How many years have you been an administrator?
Section 2: Copyright Ownership	(Q7) What is the copyright ownership policy for faculty created digital content at your institution? (Q8) Does your institution's copyright ownership policy have a specific statement on "digital content ownership?" (Q9) Are faculty members involved in the development of copyright ownership policies at your institution? (Q10) How does your institution inform faculty of digital content copyright ownership policy? (Q11) Do you create digital content for your courses?

(continued)

General Survey Section	Specific Survey Research Questions
	<p>(Q12) What form of the following online learning platforms do you utilize?</p> <p>(Q14) What institutional issues, if any, have arisen with regards to copyright ownership of faculty created digital course content and how were they resolved?</p>
<p>Section 3: Copyright Ownership Issue Resolution</p>	<p>(Q13) What institutional issues, if any, have arisen with regards to copyright ownership of faculty created digital course content and how were they resolved?</p>

The first question in this category (Survey Q2) asked what type of institution of higher education the respondents were employed by. Respondents were asked to choose which type of institution closely resembled their institution. The options available to the respondents were (a) Community College; (b) Liberal Arts College; (c) Four Year + Grad School; (d) Research Institution; and (e) Doctoral Degree Granting Teaching Institution. Out of the 12 consenting respondents ($N = 12$), only nine ($n = 9$) responded to the question. Three respondents stated Community College, six respondents stated Four Year + Graduate School, and no respondents stated Liberal Arts College, Research Institution (Four Year + Grad School), or Doctoral Degree Granting Teaching Institution.

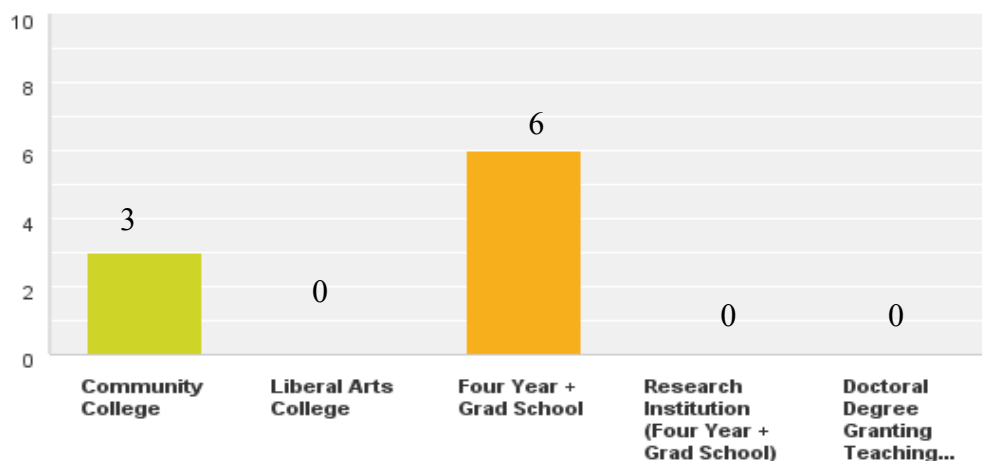


Figure 1. Respondents' selection of institution type

A majority of the consenting respondents six out of nine ($n = 9$) answered that their institution was a Four Year + Grad School type. The second largest group, three out of nine ($n = 9$) answered that their institution was a Community College. As such, from the five types of institutions of higher education, the Four Year + Grad School and Community College were the two main types of institutions which formed the basis for the Types of Institution classification in analyzing the survey results.

The second question (Survey Q3) asked about the respondent's employment status at their respective institutions of higher education. Respondents were asked to choose which type of employment status they held at their institution of higher education. Out of the 12 consenting respondents ($N = 12$), only nine ($n = 9$) responded to the question.

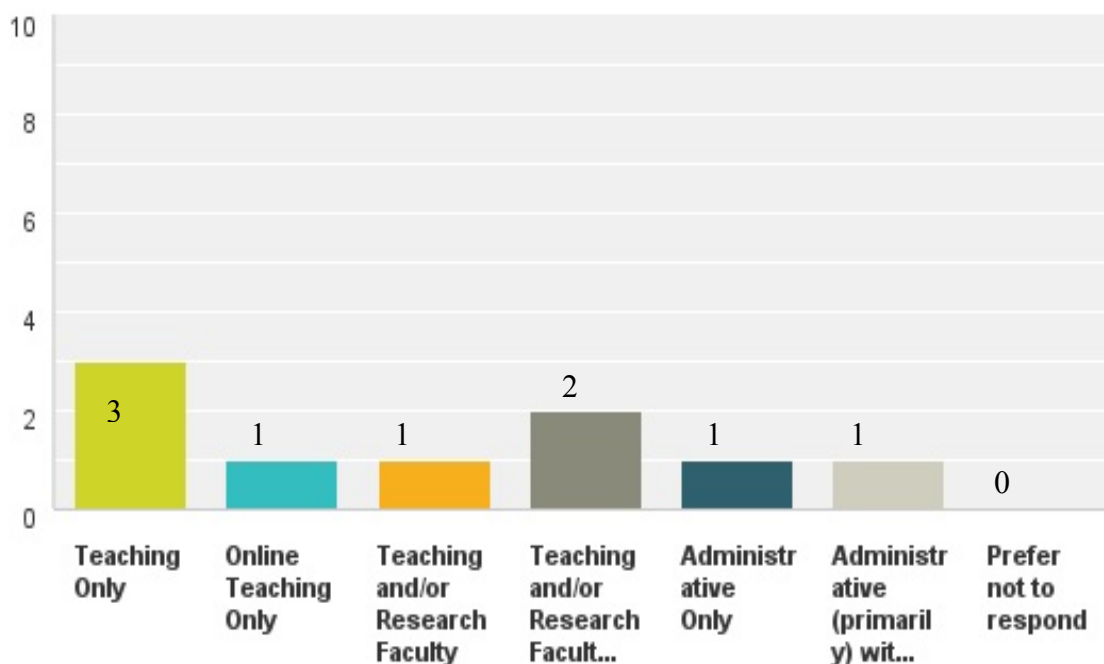


Figure 2. Respondents' selection of employment status

The majority of the respondents were three out of nine ($n = 9$), and informed their employment status was Teaching Only. The second largest group, two out of nine, ($n = 9$), answered that their employment status was Teaching and/or Research Faculty (primarily) with some Administrative Responsibility. Of the remaining categories, one respondent answered for each: Online Teaching Only ($n = 9$); Teaching and/or Research Faculty ($n = 9$); Administrative Only ($n = 9$); and, Administrative (primarily) with some Teaching and/or Research Responsibility ($n = 9$).

The third question (Survey Q4) asked about the respondent's appointment classification at their respective institution of higher education. Respondents were asked to select which type of appointment classification they currently held at their institution. Out of the 12 consenting respondents ($N = 12$), only nine ($n = 9$) responded to the question. The majority respondents, four out of nine ($n = 9$), stated Full Professor, and one respondent each stated Part-Time

Professor ($n = 9$); Associate Professor ($n = 9$); Assistant Professor ($n = 9$); Instructor ($n = 9$); and, Administrator ($n = 9$). No respondents stated Guest or Visiting Lecturer, or Prefer not to respond.

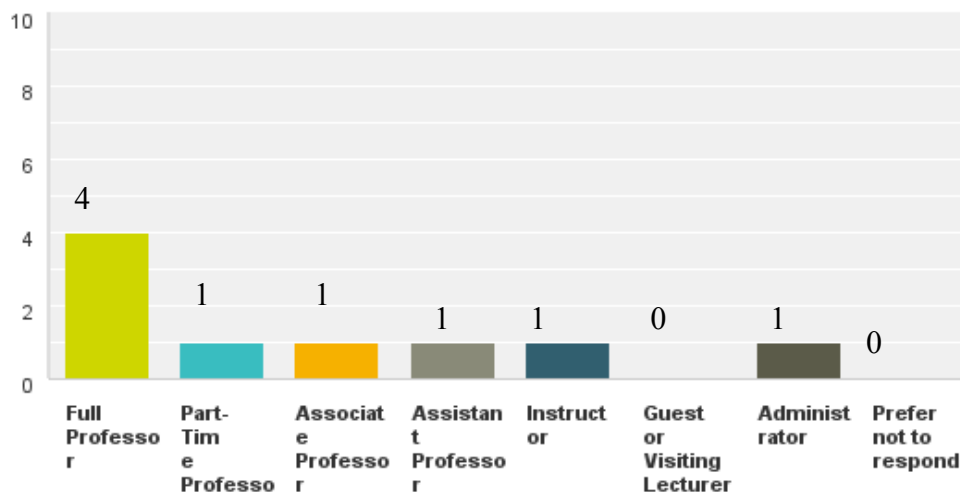


Figure 3. Respondents' selection of appointment classification

While this survey question corresponded to seven specific categories of appointment classifications as stated, the responses were holistically categorized into two appointment classifications: Professor and Administrator. Within this further grouping of the responses, the vast majority, eight out of nine ($n = 9$), of the respondents are classified as Professor and one respondent ($n = 9$) is classified as Administrator. As such Professor appointment classification constitutes the vast majority of the respondents for this question.

The fourth question (Survey Q5) asked about the respondent's years of employment as a faculty member at their respective institution of higher education. Respondents were asked to select from three groupings of employment length of time at their respective institution: 1–5, 5–10, and, 10+. Out of the 12 consenting respondents ($N = 12$), only 9 ($n = 9$) responded to the question. Four out of nine respondents stated 10 years or more ($n = 9$); two out of nine respondents stated between 5–10 years ($n = 9$); and, two out of nine respondents stated 1–5 years ($n = 9$). One out of nine respondent ($n = 9$) stated, Prefer not to respond. As such, in a further

categorization, four of the respondents selected that they had between 1–10 years of employment as a faculty and four selected that they had more than 10 years of employment as a faculty member.

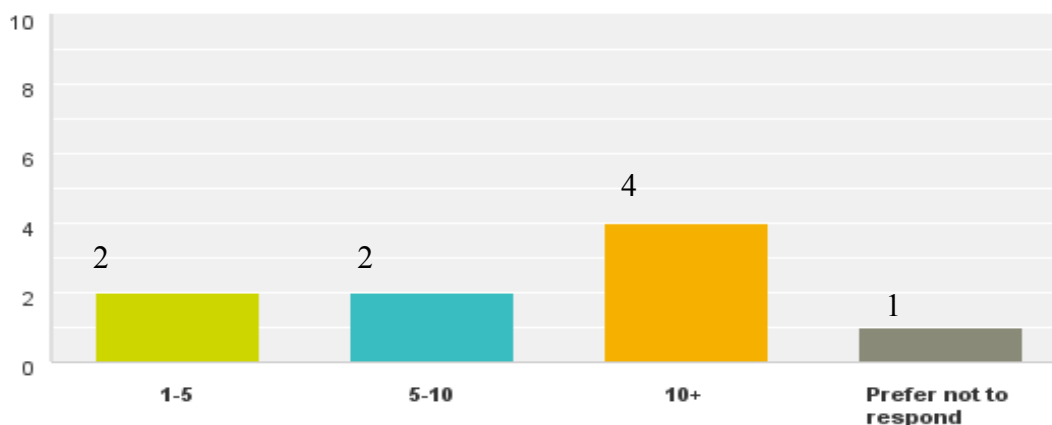


Figure 4. Respondents' years of faculty employment

The fifth and last question (Survey Q6) in the survey's "Demographics of Respondents" section, asked about the respondent's years of employment as an administrator at their respective institution of higher education. Respondents were asked to select the years they have been in an administrative role at their institution. Out of the 12 consenting respondents ($N = 12$), only 9 ($n = 9$) responded to the question. Three out of nine respondents ($n = 9$) selected 10 years or more, two out of nine respondents ($n = 9$) selected between 5–10 years, and one out of nine respondents ($n = 9$) selected between 1–5 years. Three out of nine respondents ($n = 9$) selected Prefer not to respond. As such, in a further categorization, three of the respondents selected between one to 10 years of employment in an administrative role, and three selected that they had more than 10 years of employment in an administrative role.

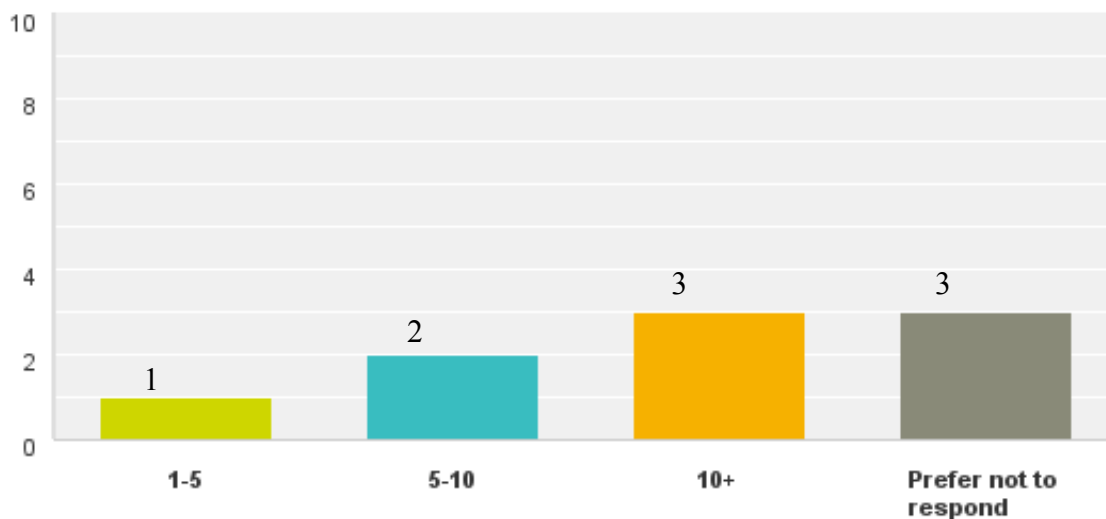


Figure 5. Respondents' years of administrative employment

An analysis of the demographic results of the respondents was: All of the respondents worked at a brick and mortar university that was a four-year university with graduate programs. Most of the respondents had been faculty members for over 10 years and were full professors. Some of the professors had administrative experience. Most of the administrative respondents had more than ten (10) years of administrative employment.

Data Analysis

Basic numerical data analysis was used to report the responses from the quantitative closed-ended questions contained in the survey. Each survey question was numerically summarized. To review consenting responses for themes or categories related to the research question, the exploratory model by Saldana (2013) was utilized whereby the narrative responses were coded, sorted, synthesized, and theorized (See APPENDIX I). Reading through the responses from the survey, the researcher underlined key words related to each study's research question and identified as relevant from the literature review. With this method, the thematic coding required identifying distinct concepts and categories in the narrative responses to form the units for analysis. A typical open-coded method would categorize the text narrative into first

level concepts, second-level categories, and master headings. This method was more typically used when there could be numerous responses and more options in the range of responses. In this thematic coding method, the researcher used self-identified concepts and categories, while re-reading the text responses in order to categorize the self-identified concepts. This accurately represented the whole of the survey responses and established a relationship between the concepts and categories. The researcher outlined the responses in accordance with the possible open-ended response categories while leaving the door open to possible new realities and responses.

Validity and Reliability

The researcher initially developed the survey and provided it to Dr. Troy McGrath, a researcher and subject matter expert, for validity and reliability. Dr. McGrath tested the survey with a group of professors of his peers and confirmed that the closed-ended and open-ended survey questions were clear and readily understandable. Dr. McGrath confirmed that the responses to the survey questions were equally clear and responsive to the five research question areas.

Limitations of Study

This descriptive study had certain limitations of which some are directly related to the inherent nature of conducting descriptive studies. Descriptive studies identified what was “being done” or rather, the current practice. Given that traditional copyright laws with regards to copyright ownership had not changed substantially in the last five years, current copyright ownership practices in an OER, OCW, and MOOC environment allowed the researcher to juxtapose these practices with U.S. copyright law and provided relevant conclusions and recommendations. Additionally, as this was a randomized sampling of participants implemented

via e-mail message, respondents may or may not have participated in the survey or answered all of the survey questions, if they felt that this study did not apply to them.

Summary

The descriptive study approach was suitable to researching university-faculty copyright ownership. The literature review provided the foundation for an understanding of university-faculty copyright ownership rights with regards to digital content and the perceptions of faculty and administrators, knowledge, practices, and resolutions of this problem. Copyright ownership rights, assertions, implementation, and practices data obtained from the college and universities served to add to the research base of these issues. Chapter Four provides a data analysis of the survey findings of copyright ownership rights practices and faculty and administrator perceptions of faculty-created digital content. Chapter Five provides a conclusion of the research study, implications, conclusions, and recommendations for conducting future research in this field.

Chapter Four: Results

Overview

Chapter 4 presents a review of the data and demographics, data collection, survey instrument, data analysis, presentation of key findings, and summary of key findings. The chapter concludes with a chapter summary.

This descriptive study obtained an understanding of copyright ownership practices and perceptions of faculty and administrators at various types of institutions of higher education and specifically regarded the (a) development and implementation of copyright ownership; (b) faculty involvement in copyright ownership policy development; and (c) the institutional copyright ownership agreements, assertions, and resolution of issues with regards to college-university-faculty copyright ownership rights. The AAUP statement on copyright ownership served as the starting point for this study. The AAUP (1999) copyright ownership statement stated, “faculty who created digital content own one hundred percent of their digital content unless they contractually ceded their ownership in whole or in part to their respective institutions of higher education.”

Participants

Between December 2015 and February 2016, an online survey was distributed to faculty and administrators at various institutions of higher education within the State of Texas and the Commonwealth of Puerto Rico. The survey participants for this study were faculty and administrators randomly selected from five types of institutions of higher education: community college, liberal arts college, four-year + grad university, research university, and a doctoral degree-granting university (teaching). The researcher selected one of each of these types of institutions from the both jurisdictions. Faculty and administrator e-mail messages were publicly

available on the Web sites for each of these institutions. A mix of five faculty and five administrators were randomly selected from each college-university Web site so that a total number of 10 participants were selected from each institution type. A total of 50 e-mail messages containing the online survey link were sent to randomly selected faculty and administrators. The researcher also implemented the same process of selecting participants from the five institutional types within Puerto Rico. The same process for randomly selecting equal numbers of faculty and administrators from each of the institution types was implemented, until 10 participants' e-mail messages were obtained for a total of 50 random participants from Puerto Rico.

Having collected 100 e-mail messages evenly distributed among 50 faculty and 50 administrators at the identified five types of institutions of higher education in the State of Texas and the Commonwealth of Puerto Rico, an e-mail message was sent to all potential participants. The e-mail message contained information on how to participate in the online survey, informed consent, the anticipated time for completing the survey, and information on protecting the privacy of the participants. The survey contained closed-ended and open-ended questions.

Data Collection

An online survey was sent to faculty and administrators in the State of Texas and the Commonwealth of Puerto Rico. The online survey was distributed via e-mail to 100 participants in December 2015. The online survey was closed in February 2016. At the point of closing the online survey, 13 participants had responded. Of these 13 participants, one participant was disqualified, given that the participant declined to sign the informed consent agreement. This left 12 participants who signed the informed consent and agreed to participate in the online survey.

There may have been several factors attributing to the low response rate. These were: (a) This was an anonymous survey. An anonymous survey method was originally selected for this

study for randomization. However, anonymous surveys distributed via public links such as Survey Monkey may have created the notion that responses could be electronically traced. (b) While the survey explained to respondents that no electronic data was being collected, participants may nevertheless have felt that there was some manner in which the responses could be traced back to the respondent. As an anonymous survey, participants might not have been inclined to complete a survey due to fear of retaliation to the answers provided. (c) As an anonymous survey not from their university, participants may have felt that the survey was not relevant to their university.

Survey Instrument

The data obtained from the online survey was divided into three distinct sections: (a) Demographics, (b) Copyright Ownership, and (c) Copyright Ownership Issue Resolution. The first section asked respondents about the type of institution of higher education they were employed at; respondents' employment status; classification of their employment; and years of service as either a faculty member or administrator. The second section of the online survey obtained data on copyright ownership practices at their respective institution of higher education. This was whether the institution's copyright ownership policy had a specific statement with regards to digital content ownership. This section included open-ended questions that obtained information on the organizational practices with regard to the following faculty involvement in development copyright ownership policies: data on how institutional copyright ownership policy was disseminated; data on whether faculty was engaged in creating digital content; and data on what platforms were utilized such as OER, OCW, and MOOC. The third and last section consisted of three open-ended questions on any issues that had arisen, with regards to faculty copyright ownership of digital content that was created by faculty.

Data Analysis

Descriptive statistics were used to report the frequency of the answers from the quantitative closed-ended questions contained in the survey (See APPENDIX E). Each survey question was summarized using frequency and demonstrated along with the percentage of responses (See APPENDIX F). Each closed-ended question also contained an optional open-ended response, in which respondents could clarify their choices (See APPENDIXES G, H, and J). To review consenting responses for themes or categories related to the research question, the exploratory model by Saldana (2013) was utilized whereby the narrative responses were coded, sorted, synthesized, and theorized (See APPENDIX I).

Reading through the responses from the survey, the researcher underlined keywords related to each study's research question, and identified as relevant from the literature review. Utilizing this method, in the thematic coding process the researcher looked for distinct concepts and categories in the narrative responses in order to form the units for analysis. A typical open-coded method categorized the text narrative into first level concepts, second-level categories, and master headings. This method was used when there could be numerous responses and more options in the range of responses. In this thematic coding method, the researcher used self-identified concepts and categories, while re-reading the text responses in order to confirm that the self-identified concepts and categories. This accurately represented the whole of the survey responses and established a relationship between the concepts and categories. An example, survey question Q13, asked, "What institutional issues, if any, have arisen with regards to copyright ownership of faculty created digital course content and how were they resolved?" This could have potentially provided a myriad of responses; however, the results showed otherwise. The vast majority of the responses were none, not sure, or no response. Had there been more

respondents from research-intensive institutions of higher education, the responses may have been more elaborate and extensive. Given the institutional types from those responding, copyright ownership issues may or may not be matters of institutional concern and or may be handled in a less public manner.

Thematic coding process. The methodology used for the thematic coding of open-ended question responses was developed by Saldana (2013) as detailed in *The Coding Manual for Qualitative Research*. As defined by Saldana (2013), within qualitative inquiry a code was a word or short phrase that assigns a summative attribute for a portion of language-based or visual data. In this sense, the narrative responses for open-ended survey questions 9, 13, and 14, were considered to be the language-based data. Saldana (2013) described a two-cycle process for coding. The first cycle was to identify that portion of the language-based data to be coded. This ranged from a single word, to a full sentence, to an entire page of narrative text. Upon identifying the narrative data to be coded, in the second cycle, the researcher extrapolated from the data narrative the narrative's primary content and essence. As seen in APPENDIX I, the narrative responses were not lengthy and as such, they would constitute the first cycle level stage. In the second cycle level, the responses' content and essence was the use of institutional resources and it belongs to the university, or in essence, university owns. The use of Institutional resources as part of the coding process determined the nature of the open-ended question. The second level coded response to this question was university owns. The next step in the thematic coding process created categories from the responses. In this regard, coding was a process in which things (language or visuals) were arranged in a systemic order, made part of a system or classification, which categorized it. The themes for the coded responses were already stated within the subject of the open-ended questions. In addition, there were no further narrative in the

responses to suggest the development of new themes. Given the short narrative responses to this descriptive study, there was no need to continue the thematic coding process beyond the development of the categories and themes already established as seen in Appendices G, H, and J.

Analysis of Intellectual Property Policies

Developments in the digital age and technology resources available to faculty in the creation of their digital content require a review of institutional intellectual property policies to determine whether these are current or lag behind U.S. copyright law and copyright ownership practices of faculty created digital content. The ten universities and their respective type selected for this study were from the State of Texas and the Commonwealth of Puerto Rico. These were:

State of Texas

1. University of North Texas (UNT; Research Institution)
2. Texas Christian University (TCU; Doctoral Degree Granting—Teaching)
3. Dallas County Community College District (DCCCD; Community College)
4. University of Texas at Arlington—College of Liberal Arts (UTA; Liberal Arts College)
5. Southern Methodist University (SMU; Four-Year + Grad)

Commonwealth of Puerto Rico

1. University of Puerto Rico (UPR; Research Institution)
2. Caribbean University (CU; Doctoral Degree Granting-Teaching)
3. ICPR Junior College (ICPR; Community College)
4. Atlantic College (AC; Liberal Arts College)
5. Polytechnic University of Puerto Rico (PUPR; Four-Year + Grad)

The Intellectual Property (IP) policies of these colleges and universities were obtained in order to conduct an analysis of each. Two institutions were nonresponsive to this request: Southern Methodist University and Atlantic College. As such a total of eight IP policies were obtained. The University of Puerto Rico and Polytechnic University of Puerto Rico provided additional documents in support of their IP policies.

An analysis of the IP policies was conducted with regards to the following criteria as determined from the survey questions and the literature review: faculty involvement in the development of the IP policy; contractual agreements; and, specific digital-content copyright ownership statements. Table 2 below details the contents of each of the eight IP policies in accordance to the selected criteria.

Table 2

Analysis of College-Universities IP Policies

College-University	Faculty Involvement in IP Policy Development	Contractual Agreements	Specific Digital-Content Copyright Ownership Statements
UNT	Not determined from IP Policy	Yes	Yes. It should be noted at the outset that in all cases except work made for hire, the faculty member retains the ownership and copyright of the work as well as the ability to market the work commercially.

(continued)

College-University	Faculty Involvement in IP Policy Development	Contractual Agreements	Specific Digital-Content Copyright Ownership Statements
TCU	No. Administration Determines	Yes	Yes. Faculty members hold copyright in materials they create. TCU will own courses that are created. The creation and use of distance education materials will be considered property owned jointly by the faculty member and TCU.
DCCCD	Yes. IP Committee Membership	No	Yes. A faculty member may be hired to create online course materials. In such a case, the College District shall own the copyright in the materials and any other resulting intellectual property. Joint ownership of intellectual property between an employee and the College District is likely to be the case for works protected by copyright, such as multimedia courseware products and distance learning materials.

(continued)

College-University	Faculty Involvement in IP Policy Development	Contractual Agreements	Specific Digital-Content Copyright Ownership Statements
UTA	Yes. IP Committee Membership	Yes	No
UPR	Yes. IP Committee Membership	No	No
CU	Yes. IP Committee Membership	No	No. IP policy contains a universal declaration stating that the university is the sole owner of all copyrightable works created.
ICPR	No.	No	No
PUPR	No. Administration Determines	Yes	No. Copyrightable works created by Members of the University Community in the course of his/her employment are considered to be works made for hire under the Copyright Law, with ownership vested in the employer.

Dallas County Community College District (DCCCD). The IP Policy for the Dallas County Community College District (DCCCD) allowed for faculty participation in the IP Committee, had no contractual agreements with faculty for intellectual property, and if the

faculty was a work-for-hire employee the community college owned all copyrightable works created. All multimedia courseware products and distance learning materials was jointly owned between the faculty and the community college (See APPENDIX K).

University of North Texas (UNT). The University of North Texas' IP Policy (Online Courseware Intellectual Property) was contemporary in nature. It wholly allowed for faculty to own their online course content, and faculty received royalties from their creations as well (See APPENDIX L). The exception to faculty ownership was work-for-hire faculty who may be expected to create online courseware. This IP policy was progressive in that it allowed for faculty to engage in online course development with economic compensation. In the IP Policy for UNT one could not determine whether faculty participated in the development of the IP policy.

Texas Christian University (TCU). Texas Christian University's IP policy did not contain faculty participation in its development, it had contractual agreements with faculty, and the IP policy contained specific statements on copyright ownership (See APPENDIX M). In addition, if the revenue generated (royalty) from the copyrightable work was less than \$100,000, the creator received 50% of the income. If the revenue generated more than \$100,000, the creator received 40% of the income.

University of Texas at Arlington (UTA)—College of Liberal Arts. The University of Texas at Arlington—College of Liberal Arts' IP policy IP policy development allowed for faculty involvement. This had contractual agreements with faculty, but the IP policy did not have a specific statement on copyright ownership of digital content (See APPENDIX N).

Caribbean University (CU). The Caribbean University IP policy allowed for faculty participation on the IP policy committee, did not have any contractual agreements, and did not

have a specific statement on copyright ownership of digital content (See APPENDIX O). At CU, all faculty employees were subjected to the work-for-hire, rule and as such, the university was the sole owner to all copyrightable works created by faculty.

Polytechnic University of Puerto Rico (PUPR). The IP Policy for the Polytechnic University of Puerto Rico did not allow for faculty participation in the IP Committee. PUPR did have contractual agreements with faculty for intellectual property. (See APPENDIX P).

ICPR Junior College (ICPRJC). The ICPR Junior College IP Policy was completely void of any copyright ownership of faculty-created digital content. In fact, it was completely void of any acknowledgement to faculty created course content. The IP policy solely spoke to the fair use and plagiarism of library and textbook materials used by students in the development of their individual course assignments (See APPENDIX Q).

University of Puerto Rico (UPR). The University of Puerto Rico IP policy allowed for faculty participation in copyright development by serving on the IP committee. There were no contractual agreements, nor specific copyright ownership statements with regards to faculty-created digital course content (See APPENDIX R).

Of all of the eight colleges and universities responding to the IP policy requests, two of the universities submitted additional forms that were part and parcel of the contractual agreements in intellectual property assertions. The Polytechnic University of Puerto Rico contained an Intellectual Property Form where the originator was required to voluntarily disclose the development of a copyrightable work (See APPENDIX S). In addition to this form, the researcher originator was required to voluntarily disclose any IP policy inventions developed, and submit the Originator Assignment document to the IP committee (See APPENDIX T). The

University of Puerto Rico, as a major research institution, required all researchers to submit the Invention Disclosure Form to the IP committee (See APPENDIX U).

Presentation of Findings

Perceptions of copyright ownership. The first section of the survey focused on the demographic data of the respondents; the second section of the survey focused on copyright ownership of faculty created digital content. The definition of “digital content” was ever changing at a rapid pace. Some examples of digital content used in the development of course content materials created with the use of educational technologies were: lecture capture videos, YouTube videos, presentations that utilized web 2.0 tools such as Prezi, audio and video creations that used programs such as Camtasia. Primarily, these were used for the creation of online courses and degree programs that were provided to students and the public in platforms such as OER, OCW, and MOOC. This section of the survey copyright ownership had seven survey items within the following five areas: Policy Development, Specific Copyright Ownership Statement, Copyright Ownership Implementation, Institutional Copyright Ownership Policy, and Faculty Creation of Digital Content.

Presence of specific copyright ownership statement. In this subcategory of the second section of the survey, respondents were asked (Survey Q8) whether their respective institution’s copyright ownership policy had a specific statement on digital content ownership. Respondents were asked to respond, yes, no, or prefer not to respond. Out of the 12 consenting respondents ($N = 12$), only nine ($n = 9$) responded to the question. Five out of nine respondents ($n = 9$) stated Yes and four out of nine respondents ($n = 9$) stated No.

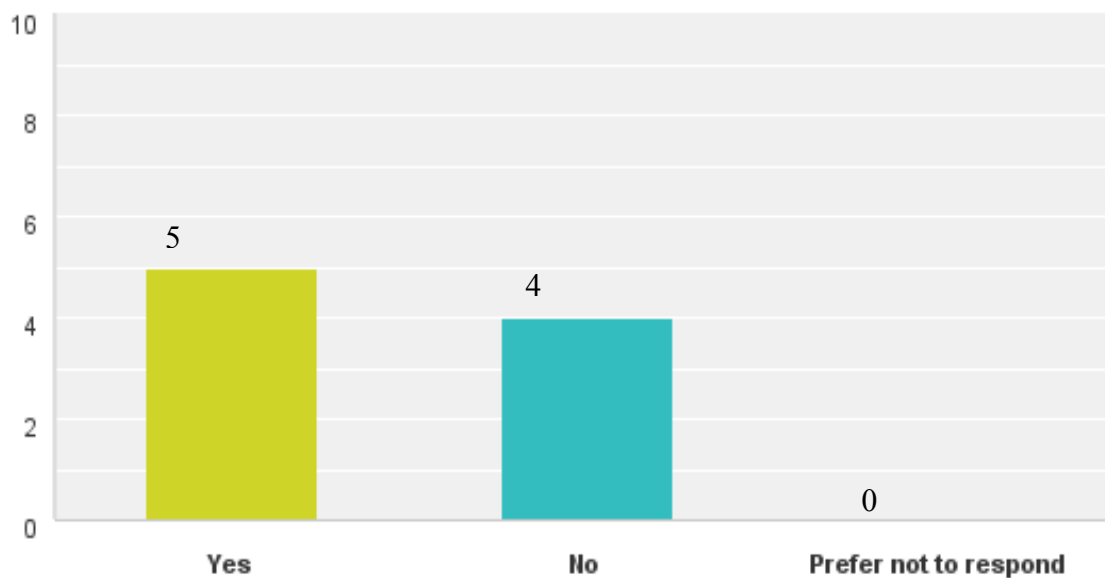


Figure 6. Presence of specific copyright ownership statement

Implementation of copyright ownership. In this subcategory of the second section of the survey, respondents were asked (Survey Q9): How does your institution inform faculty of digital content copyright ownership policy? Out of the 12 consenting respondents ($N = 12$), only nine ($n = 9$) responded to the question. Four out of nine respondents ($n = 9$) respectively answered for each of the statements of Faculty Handbook, and Institutional Policy Distribution. Two out of nine respondents ($n = 9$) stated, Contained in Intellectual Property Policy. No one answered Employment Contract, or Prefer not to respond. One respondent added a comment in the optional open-ended feature. The statement was We had to take an online training over it.

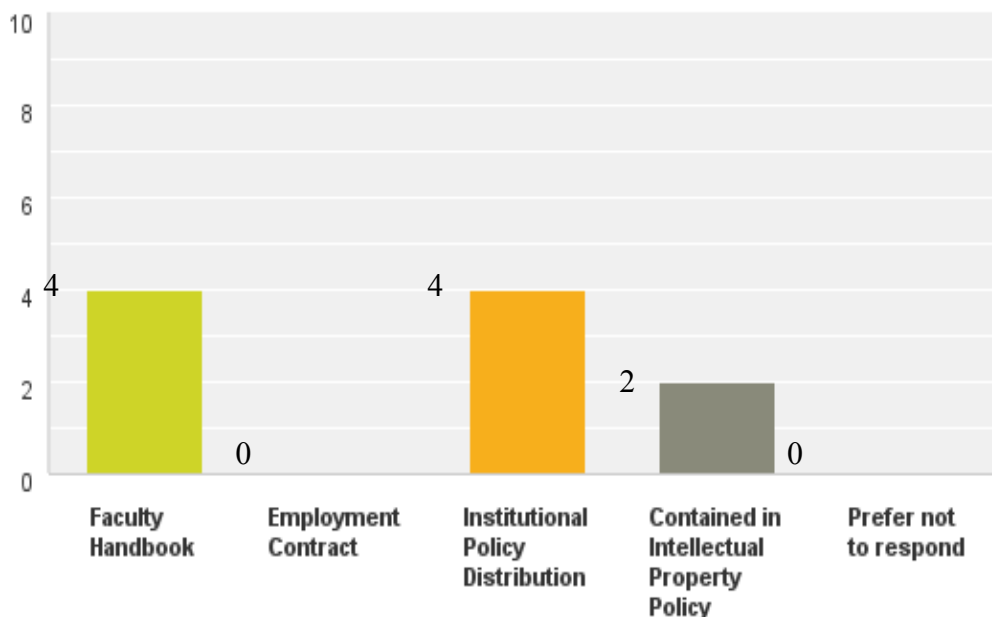


Figure 7. Faculty awareness of copyright ownership policy

As seen in Figure 7, most of the respondents stated that the institution informed faculty members through the Faculty Handbook or the Institutional Policy Distribution. As a result of analyzing the data obtained from this section of the survey, the second finding emerged. This was Finding 2. The majority of respondents, who were faculty and administration (85.8%), perceived that they were not involved in the development of copyright ownership policies. The remainder of respondents, who were faculty and administrators (14.2%), perceived faculty involvement through their respective faculty academic senate.

Institutional copyright ownership policy. In this subcategory of the second section of the survey, respondents were asked (Survey Q6): What is the copyright ownership policy for faculty created digital content at your institution? Out of the 12 consenting respondents ($N = 12$), only nine ($n = 9$) responded to the question. Eight out of nine respondents ($n = 9$) stated, The institution owns it all. One out of nine respondents ($n = 9$) stated, Prefer not to respond. No respondents stated, The institution owns a portion, The faculty owns all, or The faculty owns a

portion. One respondent added a comment in the optional open-ended feature. This comment was “I am not quite sure. Because I have never heard anything, I would guess we own it, but that may not be true.”

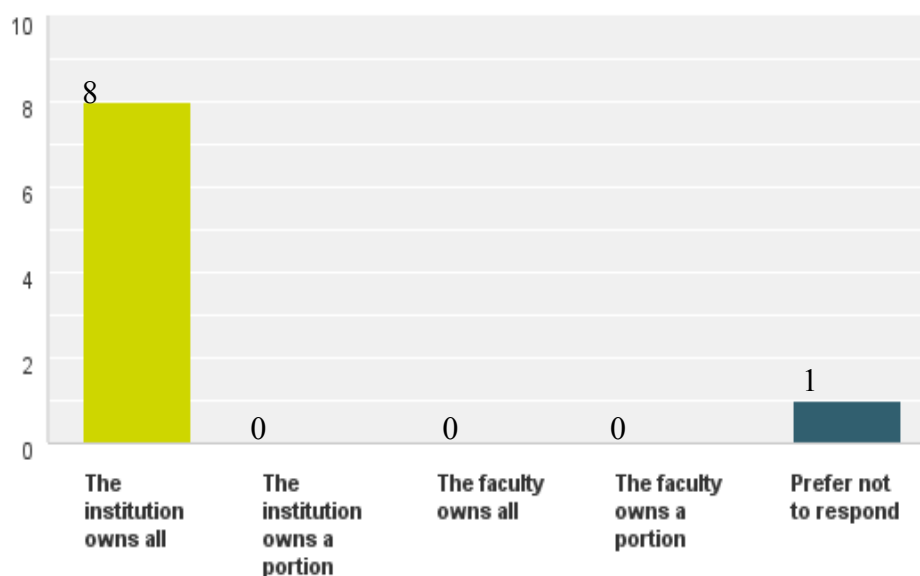


Figure 8. Institutional copyright ownership policy

Contrary to U.S. copyright law, an overwhelming majority of respondents stated that the institution owned the copyright to all faculty-created materials. By analyzing the data obtained in this section of the survey, another finding emerged. Finding 4 was: The majority of respondents who were faculty and administrators (85.8%) perceived that their respective institutions of higher education owned all of their digital content created, and they had no copyright ownership rights at all.

Integrating the data results from Survey Questions 6, 8, and 9 in the Policy Section, another finding emerged. This was Finding 5: All respondents who were faculty and administrators ($n = 9$) perceived that copyright ownership of faculty-created digital content was not negotiated or determined via an employment contract. The majority of respondents (55.56%) informed that copyright ownership policies were contained in institutional policies. As informed

in the results, no respondent stated that copyright ownership of faculty-created digital content was negotiated: the overwhelming majority stated that it was provided to them by their institution.

Faculty creation of digital content. In this last subcategory of the second section of the survey, respondents were asked two close-ended questions and one open-ended question. The two close-ended questions were: Do you create digital content for your courses? (Survey Q10) and What form of the following online learning platforms do you utilize? (Survey Q 11). The open-ended question (Survey Q13) for the respondents was; What is your institution's policy with regards to faculty ownership of faculty created digital content?

With regard to the first question for this subcategory: Do you create digital content for your courses? out of the 12 consenting respondents ($N = 12$), only nine ($n = 9$) responded to the question. Seven out of nine respondents ($n = 9$) answered, Yes. Two out of nine respondents answered No. No one answered, Prefer not to respond.

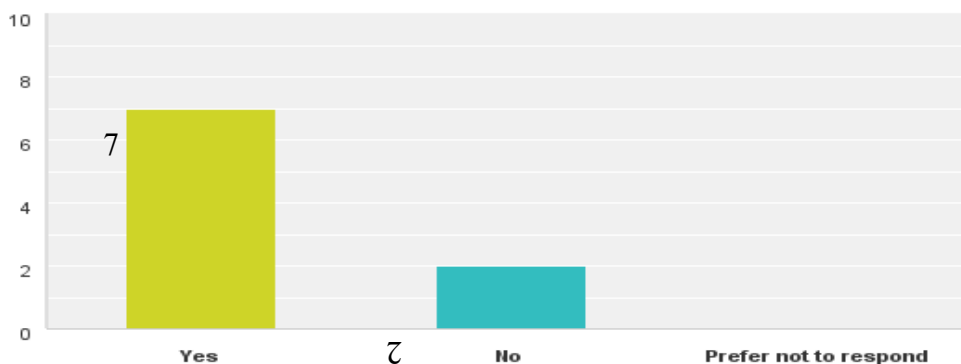


Figure 9. Faculty creation of digital content

With regards to the second question in this subcategory (Survey Q11), respondents were asked: What form of the following online learning platforms do you utilize? Out of the 12 consenting respondents ($N = 12$), only nine ($n = 9$) responded to the question. Seven out of nine respondents ($n = 9$) answered None of the above. Two out of nine consenting respondents ($n = 9$) answered

MOOC. No respondents answered OCW, OCR, All of the above, or Prefer not to respond. Three respondents added comments in the optional open-ended feature. These comments were: (a) Blackboard Learn, (b) Online courses are developed using Multimedia Learning Modules that contain digital content, and (c) Black Board. As seen in Figure 10, only a few respondents had used these online platforms.

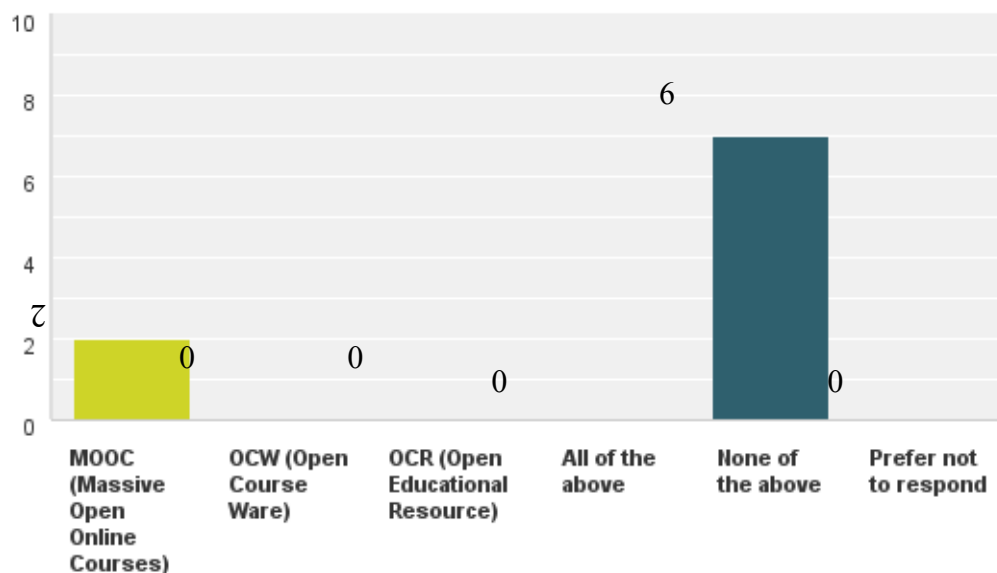


Figure 10. Online platforms utilized

Policy development. The question in the Policy Development subcategory (Survey Q9) was an open-ended question, in which respondents were asked whether faculty members at their respective institutions of higher education were involved in the development of copyright ownership policies (See Figure 11).

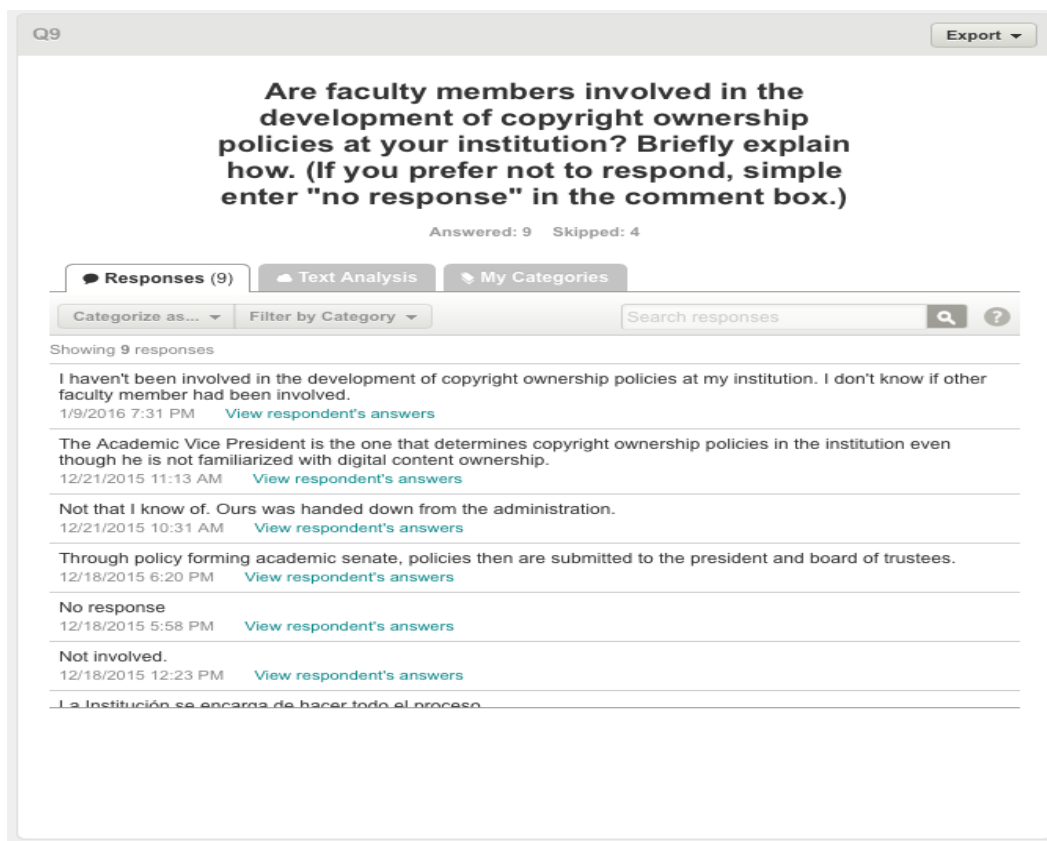


Figure 11. Faculty involvement in copyright policy development

Out of the 12 consenting respondents ($N = 12$), only nine ($n = 9$) responded to the question. Respondents were provided an option to enter a no response in the comment box. Of the nine consenting responses, the researcher discarded two responses from those that opted for stating no response thereby providing a total of seven ($n = 7$) responses to this question. The responses to this question were brief statements. The total words for all responses consisted of 78 words with an average of nine words per response (See APPENDIX G). To review consenting responses, for themes or categories related to the research question, a model by Saldana (2013) was used for analyzing the data utilizing this method, the thematic coding required looking for distinct concepts and categories in the narrative responses in order to form the units for analysis. Using typical open-coded method categorized the text narrative into first-level concepts, second-

level categories, and master headings. APPENDIX I showed how the researcher used the model by Saldana, and coded the responses from the open-ended question.

The following categories emerged from grouping keywords and phrases from the responses. The categories result from recurring word frequencies, the goal of which was to uncover the major elements of whether faculty members were involved in the development of copyright ownership. The total responses to open-ended survey question 9, where respondents were asked whether faculty members at their respective institutions of higher education were involved in the development of copyright ownership policies, were as follows:

Respondent # 1: No. This is determined by administrators.

Respondent # 3: No response

Respondent # 5: La institución se encarga de hacer todo el proceso. (Translation: The institution is in charge of the entire process.)

Respondent # 6: Not involved.

Respondent # 7: No response.

Respondent # 8: Through policy forming academic senate, policies then are submitted to the president and board of trustees.

Respondent # 10: Not that I know of. Ours was handed down from the administration.

Respondent # 11: Contained in Intellectual Property Policy.

Respondent # 13 I haven't been involved in the development of copyright ownership policies at my institution. I don't know if other faculty member had been involved.

The following themes and their respective responses listed below were in order of the highest frequency of occurrence:

Administration Determines	-	Three responses
No Involvement	-	Two responses
Academic Senate	-	One response
Intellectual Property Policy	-	One response

Since the majority of respondents were full professors with some administrative experience, as seen in APPENDIX F, the results of Administration Determines and No Involvement were similar answers given that both did not involve faculty in the policy development process. This research question was to determine faculty involvement in the development of copyright ownership policies. Grouping the responses to Administrative Determines and No Involvement, in the majority of the responses (five of $n = 7$), there was no faculty involvement in the development of copyright ownership policies. Therefore, by analyzing this narrative data, the first finding emerged in the study Finding 1: All respondents ($n = 7$), who were faculty and administrators, perceived that copyright ownership of faculty-created digital content rested with the institution as stated through either the faculty handbook, institutional policy, or copyright ownership statement contained in the institution's Intellectual Property policy.

Faculty creation of digital content. The last and third question (Survey Q13) in this subcategory, Faculty Creation of Digital Content, was an open-ended question in which respondents were asked: "What is your institution's policy with regards to faculty ownership of faculty created digital content?" Out of the 12 consenting respondents ($N = 12$), only nine ($n = 9$) responded to the question. Respondents were provided an option to enter a no response in the comment box. Of the nine consenting responses, the researcher discarded two responses given their lack of clarity thereby providing a total of seven responses to this question (See Figure 12).

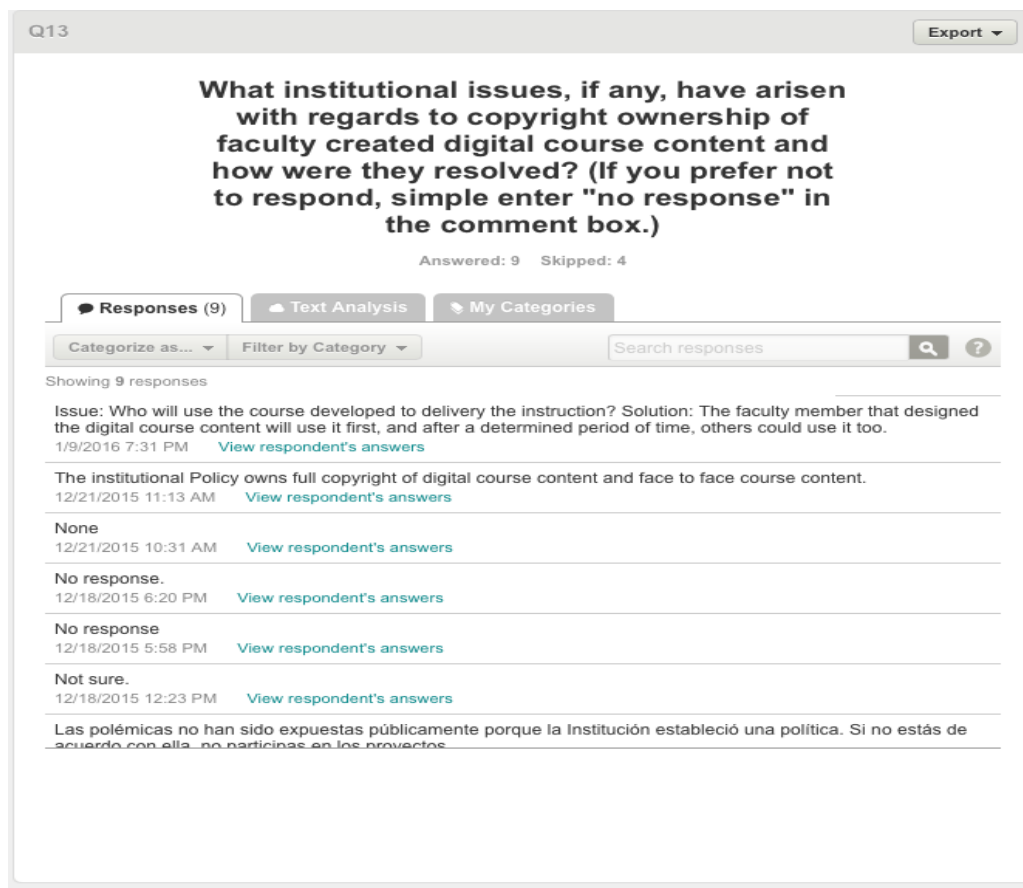


Figure 12. Resolution of institutional issues

The responses to this question were brief statements (See APPENDIX H). The total words for all responses consisted of 72 words with an average of eight words per response. To review consenting responses, for themes or categories related to the research question, a model by Saldana (2013) was used for analyzing the data: reading through responses, identifying key words and statements, and sorting this data into categories or codes.

Respondent # 1: We are allowed to own it.

Respondent # 3: All belongs to the institution.

Respondent # 5: Todo trabajo realizado con recursos de la institución, enseñando a sus estudiantes y pagado como clase al profesor, le pertenece a la Universidad. (Translation: All work is performed with institutional

resources, teaching students and paid per course as a professor, it belongs to the University.)

Respondent # 6: There is no faculty ownership.

Respondent # 7: The institution keeps the ownership of faculty created digital content.

Respondent # 8: University's ownership.

Respondent # 10: Not sure.

Respondent # 11: Full ownership of copyright.

Respondent # 13: If it is delivered using Blackboard learning platform, then the institution will be the owner.

Reading through the responses, the researcher underlined key words related to the study's research questions and identified as relevant from the literature review (See APPENDIX I). The following categories emerged from grouping key words and phrases from the responses; the goal of which was to uncover the major elements of copyright ownership of faculty created digital content. Thematic responses are listed below in the order of the highest frequency of occurrence:

Institution Owns	-	Five responses
Faculty Owns	-	One response
Not sure	-	One response

This open-ended research question was asked to determine if there were other possibilities and/or practices of institutional policies with regards to faculty ownership of faculty created digital content. In the majority of the responses (five of $n = 7$), the institution is the owner of faculty created digital content. The two discarded responses given its lack of responsiveness and clarity to the question were: Full ownership of copyright and If it is delivered using Blackboard learning platform, then the institution will be the owner. The first response was

discarded given that it did not state whether it was the faculty or the institution that had full ownership. The latter was discarded given that the response singularly quantified that if the digital content were delivered using Blackboard, then the institution would own it. This response begged the question whether copyright ownership of faculty created digital content would be different if Blackboard were not used.

Copyright ownership issue resolution. The third and last section of the survey focused on the resolution of any copyright ownership issues (Survey Q14) of faculty created digital content. Respondents were asked: What institutional issues, if any, have arisen with regards to copyright ownership of faculty created digital course content and how were they resolved? This open-ended research question sought to explore current copyright ownership issues of faculty created digital course content and how these issues were resolved. Out of the 12 consenting respondents ($N = 12$), only nine ($n = 9$) responded to the question (See Figure 13). The responses to this question were brief statements.

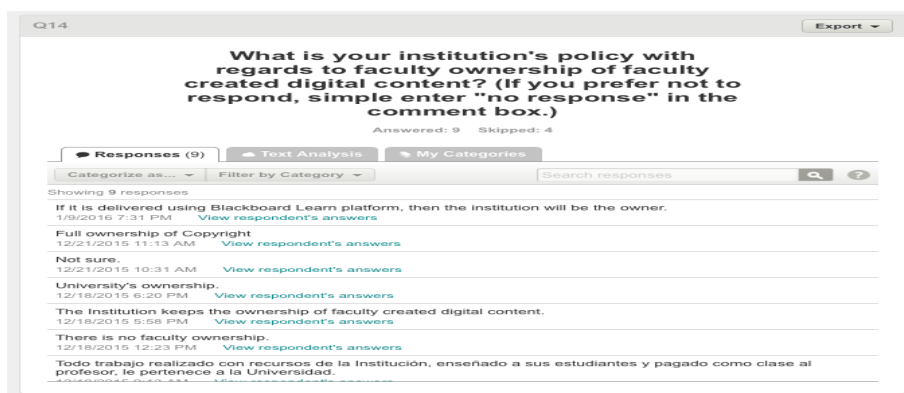


Figure 13. Institutional policies

The total words for all responses consisted of 91 words with an average of four words per response. To review consenting responses for themes or categories related to the research question, a model by Saldana (2013) was used for analyzing the data: reading through responses, identifying key words and statements, and sorting this data into categories or codes. Reading

through the responses, the researcher underlined key words related to the study's research questions and identified as relevant from the literature review showed how the researcher underlined key words related to the study's research questions, and what was relevant, as per the literature review (See APPENDIX J). The narrative data responses are specified as follows:

Respondent # 1: We are allowed to own it.

Respondent # 3: All belongs to the institution.

Respondent # 5: Todo trabajo realizado con recursos de la institución, enseñando a sus estudiantes y pagado como clase al profesor, le pertenece a la Universidad. (Translation: All work is performed with institutional resources, teaching students and paid per course as a professor, it belongs to the University.)

Respondent # 6: There is no faculty ownership.

Respondent # 7: The institution keeps the ownership of faculty created digital content.

Respondent # 8: University's ownership.

Respondent # 10: Not sure.

Respondent # 11: Full ownership of copyright.

Respondent # 13: If it is delivered using Blackboard learning platform, then the institution will be the owner.

The following themes emerged from grouping key words and phrases from the responses. The themes result from recurring word frequencies, the goal of which was to uncover the major elements of copyright ownership issues and their resolution of faculty created digital content.

Themes are listed below in the order of the highest frequency of occurrence:

No Issues - Three responses

No Response	-	Two responses
Course Usage	-	One response
Ownership	-	One response
Participation	-	One response

Summary of Key Findings

As per the previous data, copyright ownership issues did not arise at the respective institutions of higher education of the survey respondents. This was consistent with current case law. Copyright ownership issues at institutions of higher education rarely entered the courtroom. The fact that nearly 2/3 of the respondents had no copyright ownership issues at their respective institutions can be attributed to the types of institutions where the respondents were employed at as well as the complexity of copyright ownership policies. For the most part, the literature suggested that copyright ownership issues rarely arose at nonresearch intensive institutions. This was due to the general acceptance of an institution's copyright ownership policy and the accepted practice that the institution owns all faculty created digital content. However, this practice was not in accordance with U.S. copyright law, which stated that a creator of digital content had one hundred percent ownership at the instance of creation and lost some portion of ownership, or ceded ownership, if it was specifically stated in an employment contract. At research institutions, copyright ownership was more complex and issues may occur; however, none of the respondents to the survey were from said research-intensive institutions.

The employment length of time data were integrated into respondents' answers in Survey Question 6: What is the copyright ownership policy for faculty created digital content at your institution? and Survey Question 12, developed Finding: 6: There were no differences of all

respondents' perceptions of copyright ownership assertions dependent upon length of employment time.

Identifying the responses for Survey Question 2, the types of institution of higher education respondents were employed by, and the responses from Survey Question 11, the types of online learning platforms utilized, developed Finding 7: All respondents who were faculty and administrators (100 %) perceived that there were no known issues with regard to copyright ownership at their respective institutions of higher education. Table 3 provided the relationship to the survey items to the research questions and reported the findings for the research questions.

Table 3

Relationship of Research Questions, Survey Items, and Findings

Research Questions	Survey Items	Findings Relative to Research Questions
How are copyright ownership policies of faculty created digital content developed and implemented at institutions of higher education?	(Q10) How does your institution inform faculty of digital content copyright ownership policy?	There were no differences in copyright ownership assertions of faculty created digital course content dependent upon on participating institution types.
How are faculty involved in the development of copyright ownership agreements?	(Q9) Are faculty members involved in the development of copyright ownership policies at your institution?	At the majority of the institutions, there was no faculty involvement in the development of copyright ownership policies.

(continued)

Research Questions	Survey Items	Findings Relative to Research Questions
What institutional policy and contractual documents contained specific language on copyright ownership rights of faculty created digital content?	(Q8) Does your institution's copyright ownership policy have a specific statement on "digital content ownership?"	For the majority of faculty, copyright ownership of the digital content they created was not relinquished via an employment contract.
How are institutional assertions of copyright ownership of faculty created digital content allocated and managed?	<p>(Q7) What is the copyright ownership policy for faculty created digital content at your institution?</p> <p>(Q11) Do you create digital content for your courses?</p> <p>(Q12) What form of the following online learning platforms do you utilize?</p> <p>(Q14) What institutional issues, if any, have arisen</p>	<p>At the majority of the institutions, copyright ownership of faculty created digital content rested with the institution through their faculty handbook, institutional policy, or copyright ownership statement contained in the institution's Intellectual Property policy.</p> <p>The majority of faculty understood that their respective institutions of higher education owned all of their digital content</p>

(continued)

Research Questions	Survey Items	Findings Relative to Research Questions
	with regards to copyright ownership of faculty created digital course content and how were they resolved? (close-ended)	created and they had no copyright ownership rights at all. For the majority of faculty, at their respective institutions of higher education, there was no difference in copyright ownership assertion of digital content created whether they were created for a MOOC, OCW, or OER.
How are copyright ownership issues of faculty created digital content resolved?	(Q13) What institutional issues, if any, have arisen with regards to copyright ownership of faculty created digital course content and how were they resolved? (open-ended)	There were no issues with regards to copyright ownership at the participating issues of higher education.

In summary, several key findings emerged from this study:

- Finding 1. All respondents who were faculty and administrators, perceived that copyright ownership of faculty-created digital content rested with the institution as

- stated through either the faculty handbook, institutional policy, or copyright ownership statement contained in the institution's Intellectual Property policy.
- Finding 2. The majority of respondents, who were faculty and administration (85.8%), perceived that they were not involved in the development of copyright ownership policies. The remainder of respondents, who were faculty and administrators (14.2%), perceived faculty involvement through their respective faculty academic senate.
 - Finding 3. All respondents who were faculty and administrators (100%) perceived that copyright ownership of faculty-created digital content was not negotiated or determined via an employment contract. The majority of respondents (55.56%) informed that copyright ownership policies were contained in institutional policies.
 - Finding 4. The majority of respondents who were faculty and administrators (85.8%) perceived that their respective institutions of higher education owned all of their digital content created and they had no copyright ownership rights at all.
 - Finding 5. There were no differences of all respondents' perceptions of copyright ownership assertions dependent upon institution type.
 - Finding 6. There were no differences of all respondents' perceptions of copyright ownership assertions dependent upon length of employment time.
 - Finding 7. All respondents who were faculty and administrators (100%) perceived that there were no known issues with regards to copyright ownership at their respective institutions of higher education.

Summary

This chapter presented the selection of research participants, data collection process, data analysis, the three sections of the survey instrument, and research findings. The research findings of copyright ownership practices of faculty-created digital course content at their respective institutions of higher education were summarized as follows: copyright ownership rested solely with the institution; the institution was the sole owner of faculty created digital content; the institution's asserted copyright ownership through faculty handbook, institutional policy, or copyright ownership statement contained in the institution's Intellectual Property policy; faculty had no copyright ownership rights in the digital content they created; faculty copyright ownership of the digital content they had created was not relinquished via an employment contract; there was no difference in copyright ownership assertion of digital content created whether it was created for a OER, OCW, and MOOC; there was no difference in copyright ownership assertions of faculty created digital course content dependent upon on institution type; and, at the majority of the institutions, there was no faculty involvement in the development of copyright ownership policies. The following Chapter 5 includes a discussion of key findings, conclusions, and recommendations for further study.

Chapter Five: Conclusions

Overview

Chapter 5 presents a discussion of key findings, conclusions, implications for policy and practice, and recommendations for further study. This chapter commences with a brief review of the proposal (problem, literature review, and methodology) then follows with a discussion of the key findings, conclusions, implications for policy and practice, recommendations for further study, and concludes with a summary.

Problem

Faculty-created digital content had increased in recent years as a result of new and emerging technologies, such as the development of OER, OCW, and MOOC. The upsurge of these platforms was the result of increased development of online education. Traditionally, as with all customary faculty creations, such as full textbooks or chapters, the copyright ownership of these formations was guided by institutional copyright ownerships policies and practices. Colleges and universities stated copyright ownership of said traditional works asserted ownership based upon three considerations. These considerations were:

1. The institution provided substantial resources such as office space, library research usage, staff, computers;
2. The faculty being an employee of the college-university; or
3. The development of traditional works was expected as part of an employment contract.

Currently, faculty-created digital course content could be created without the use of any university-provided technology resources and services. Many digital courses' content could be created during time periods when faculty was not engaged during work hours, and digital course

content was fully portable easily distributed. As such, this led to study faculty perceptions of copyright ownership within the current era of OER, OCW, and MOOC.

These online course platforms served as delivery methods of academic innovations that presented challenges to traditional copyright ownership policies and practices at institutions of higher education with regards to faculty-created digital content. OERs have been licensed under CCL that allowed for the use and portability of digital content and publicly extended the copyright ownership process (Bonvillian & Singer, 2013). MOOC, on the other hand, challenged traditional copyright ownership assertions based upon legal and higher education institutional policy concepts such as joint works, work-for-hire, and unilateral institutional declaration (Centivany, 2011). The development of MOOC presented copyright challenges created ownership issues at institutions of higher education and their respective faculty over copyright ownership of digital content (Dames, 2013). In light of copyright ownership, there were some challenges presented by OER, OCW, and MOOC, which provided the major problem studied: How were copyright ownership policies developed, implemented, asserted, and resolved at institutions of higher education? Juxtaposed with these institutional practices were copyright ownership laws and legal principles. As such, this begged an understanding on whether college-university copyright ownership policies were developed and implemented in accordance with U.S. copyright laws.

Literature Review

To understand the challenges and issues of faculty-created digital content copyright ownership with OER, OCW, and MOOC, a review of the literature was conducted with regards to copyright ownership of faculty-created digital content at institutions of higher education. The starting reference point was the American Association of University Professors' (AAUP)

policies on copyright ownership (1999). This AAUP policy stated that copyright ownership rested within the faculty creator unless they ceded, in whole or in part, copyright ownership in a contract to their college-university. This AAUP policy was consistent with U.S. copyright laws.

While copyright ownership issues of faculty-created digital content may have currently existed, and that either faculty or administrators were willing to discuss, a review of case law records on a national scale using the Lexus-Nexus database for legal research provided no relevant search results in this area.

The review of literature revealed that there were myriad practices, perceptions, and policies with regards to copyright ownership. Each institution of higher education defined and developed its own copyright ownership policy, dependent upon its organizational culture, norms, intellectual property policies, and employee contracts (Centivany, 2011). Copyright ownership matters were of low-level importance for faculty of some institutions (Dames, 2013). Copyright ownership policies even fluctuated from situations from where the university was the sole copyright owner of all intellectual property developed, to contractual agreements between the institution and faculty/researcher determined the copyright ownership percentage rights, to copyright ownership between the parties (Blanchard, 2010).

In another extensive research study, research showed that at most of the institutions of higher education surveyed, faculty was normally informed of copyright ownership policies by what was understood to be a college-university practice referred to as the Universal Institutional Declaration (Centivany, 2011). In this practice, no contract was entered into between the faculty and the institution. Nevertheless, the institution asserted copyright ownership via institutional policies such as an intellectual property policy or copyright ownership statement. With regards to faculty involvement in the development of copyright ownership policies, research conducted to

date with specific regards to online education, demonstrated that at most institutions of higher education, faculty were not involved in the development of copyright ownership policies (Hart, 2008; Kranch, 2008). Other practices included faculty involvement and approval of institutional copyright ownership policies by either faculty participation on committees, or through a faculty academic senate approval process (Centivany, 2011).

For the most part, universities were uninterested in exerting or pursuing copyrights for traditional scholarly works such as books, publications, and course materials, but currently new and emerging technologies created issues that affected university-faculty perceptions, practices, and expectations with regard to ownership of digital course content they created (Slaughter & Rhoades, 2010). However, at some universities, with budget crunches and diminished state funding support, college-university administration began to revise intellectual property policies and looked to these traditions in asserting copyright ownership (Mangan, 2012). With regard to different types of institutions, community colleges were not traditionally engaged in research and patent activities, and as such its faculty had a low propensity for being knowledgeable in intellectual property and digital content copyright ownership issues (Delany, 2009).

The literature review guided the development of the five broad research questions outlined in this chapter. These research questions formed the basis for the methodology, as explained in Chapter Three. The literature equally identified the methods and evidence which best guided this descriptive research study. This descriptive study was important by developing further knowledge to the research base on copyright ownership issues of faculty-created digital course content. This current area of copyright ownership of faculty-created digital content was made more significant by advances in the technology age with regards to OER, OCW, and MOOC.

Methodology

The descriptive study approach was appropriate for researching college-university copyright ownership policies and faculty perceptions with regards to faculty-created digital content. This method was preferred when researching contemporary events and upon which the research questions were based upon “how” or “what.” This research study utilized an online survey with eleven closed-ended questions and three open-ended questions. The survey participants for this study were faculty and administrators randomly selected from five types of institutions of higher education: community college, liberal arts college, four-year + grad university, research university, and a doctoral degree-granting university (teaching). A mix of ten (10) faculty and ten (10) administrators were randomly selected from each college-university Web site so that a total number of twenty participants were available for each institution type. Therefore, a total of 100 faculty and administrator participants were sent the online survey link via e-mail message.

The following five research questions were explored:

1. How were copyright ownership policies of faculty-created digital content developed and implemented at institutions of higher education?
2. How were faculty involved in the development of copyright ownership agreements?
3. What institutional policy and contractual documents contained specific language on copyright ownership rights of faculty-created digital content?
4. How were institutional assertions of copyright ownership of faculty-created digital content allocated and managed?
5. How were copyright ownership issues of faculty-created digital content resolved?

Discussion of Key Findings

The data obtained in this study was consistent with prior research stated in the literature review. Some institutions of higher education adhered to a shared governance model in which faculty were consulted and participated in the development of institutional policies that affected them. Some institutions had a “top down” hierarchical model in which the administration developed policies and faculty were required to adhere and implement these policies (Centivany, 2011). A discussion of key findings was provided for each of the five research questions in the following sections. The key findings, as stated in Chapter 4, are:

Research Questions

RQ1: How were copyright ownership policies of faculty-created digital content developed and implemented at institutions of higher education?

This research question was to determine faculty involvement in the development of copyright ownership policies. Grouping the responses from Administrative Determines and No Involvement, in the majority of the responses (five of $n = 7$), there was no faculty involvement in the development of copyright ownership policies. Therefore, by analyzing the narrative data, the first finding emerged in the study Finding 1. All respondents ($n = 7$), who were faculty and administrators, perceived that copyright ownership of faculty-created digital content rested with the institution as stated through either the faculty handbook, institutional policy, or copyright ownership statement contained in the institution’s Intellectual Property policy.

There were three findings directly related to this research question: Finding 1. All respondents (100%), who were faculty and administrators, perceived that copyright ownership of faculty-created digital content rested with the institution as stated through either the faculty handbook, institutional policy, or copyright ownership statement contained in the institution’s

Intellectual Property policy; Finding 4. The majority of respondents who were faculty and administrators (85.8%) perceived that their respective institutions of higher education owned all of their digital content created and they had no copyright ownership rights at all; and, Finding 5. There were no differences of all respondents' perceptions of copyright ownership assertions dependent upon institution type. Collectively, these three findings were significant because, as further discussed in the section on RQ3, copyright law stated that an employment contract specifically detailing the terms of copyright ownership was the legal manner in which the creator of the work ceded all or a portion thereof of their copyright ownership. These findings were equally affirmed by prior research, in that the protocol level and practice of copyright ownership was dependent upon institution type as well as the type of faculty in question.

Of the five types of colleges and universities associated with the faculty survey respondents participating in the survey primarily came from two institution types: Four Year+ Grad School and Community Colleges. There were no respondents from Liberal Arts College, Research Institution, or a Doctoral Degree Granting (Teaching) institution. For the two institution types in this study, copyright ownership matters were of low-level importance (Dames, 2013). At colleges and universities throughout the United States, the drafting of intellectual property and copyright ownership policies were in large part developed with regards to faculty members and/or researchers engaged in the science, medical, health, technology, and engineering fields. At some research institutions, these policies fluctuated from administrative policies, which stated that the university was the sole copyright owner of all intellectual property developed on the campus, and other research institutions which stated in contractual agreements that both the faculty/researcher had certain percentage rights to copyright ownership of intellectual property (Blanchard, 2010).

RQ2: How were faculty involved in the development of copyright ownership agreements?

This research question sought to ascertain whether faculty were directly involved in the development of copyright ownership policy. Out of the 12 consenting respondents ($N = 12$), only 9 ($n = 9$) responded to the question. Respondents were provided an option to enter a “no response” in the comment box. Of the nine (9) consenting responses, the researcher discarded two (2) responses from those that opted for stating “no response” thereby providing a total of seven ($n = 7$) responses to this question. The responses to this question were brief statements. The total words for all responses consisted of 78 words with an average of nine words per response (See APPENDIX G). To review consenting responses, for themes or categories related to the research question, a model by Saldana (2013) was used for analyzing the data utilizing this method, the thematic coding required looking for distinct concepts and categories in the narrative responses in order to form the units for analysis. Using typical open-coded method categorized the text narrative into first level concepts, second-level categories, and master headings. APPENDIX I showed how the researcher used the model by Saldana, and coded the responses from the open-ended question.

The following categories emerged from grouping keywords and phrases from the responses. The categories result from recurring word frequencies, the goal of which was to uncover the major elements of whether faculty members were involved in the development of copyright ownership. The total responses to open-ended survey question 9, where respondents were asked whether faculty members at their respective institutions of higher education were involved in the development of copyright ownership policies, was as follows:

Since the majority of respondents were full professors with some administrative experience, the results of Administration Determines and No Involvement were similar answers given that both did not involve faculty in the policy development process. This research question was to determine faculty involvement in the development of copyright ownership policies. Grouping the responses for Administrative Determines and No Involvement, in the majority of the responses (five of $n = 7$), there was no faculty involvement in the development of copyright ownership policies.

There was one finding directly attributed to this research question: Finding 2. The majority of respondents, who were faculty and administration (85.8%), perceived that they were not involved in the development of copyright ownership policies. The remainder of respondents, who were faculty and administrators (14.2%), perceived faculty involvement through their respective faculty academic senate. Research conducted to date, with specific regard to intellectual property and online education, demonstrated that at most institutions of higher education, faculty were not involved in the development of copyright ownership policies (Hart, 2008). For the respondents at the community college level and four-year + graduate schools, faculty were not involved in the development of copyright ownership policies. This was consistent with the literature review in that faculty from nonresearch-intensive institutions of higher education rarely are concerned or knowledgeable about copyright ownership policies.

RQ3: What institutional policy and contractual documents contained specific language on copyright ownership rights of faculty-created digital content?

This research question sought to identify whether institutional policies indicated that a copyright ownership policy or statement was specifically indicated in some of contractual document between the faculty and the institution. For this research question, respondents were

asked (Survey Q8) whether their respective institution's copyright ownership policy had a specific statement on digital content ownership. Respondents were asked to respond, yes, no, or prefer not to respond. Out of the 12 consenting respondents ($N = 12$), only nine ($n = 9$) responded to the question. Five out of nine respondents ($n = 9$) stated Yes and four out of nine respondents ($n = 9$) stated No. In addition, respondents were asked (Survey Q9): How does your institution inform faculty of digital content copyright ownership policy? Out of the 12 consenting respondents ($N = 12$), only nine ($n = 9$) responded to the question. Four out of nine respondents ($n = 9$) respectively answered for each of the statements of Faculty Handbook, and Institutional Policy Distribution. Two out of nine respondents ($n = 9$) stated, Contained in Intellectual Property Policy. No one answered Employment Contract, or Prefer not to respond. Collectively, these were identified as Finding 3. All respondents who were faculty and administrators perceived that copyright ownership of faculty-created digital content was not negotiated or determined via an employment contract. The majority of respondents (55.56%) informed that copyright ownership policies were contained in institutional policies that the majority of the respondents did not enter into a specific contract ceding all or a portion thereof of copyright ownership rights. Faculty perceived that copyright ownership of faculty-created digital content was not negotiated or determined via an employment contract. This was significant insofar as it affirmed prior research that employment contracts were the least used documents to allocate copyright ownership and further affirmed that for faculty-created digital content, the practices identified by prior research identifying Faculty Handbook" and Institutional Policy Distribution, was the respective practice for informing, allocating, and asserting their respective institutions of higher education copyright ownership policy. The latter, collectively referred to as the Universal Institutional Declaration practice, while commonplace,

was not consistent with copyright law. This became more complex considering that some institutions were engaged in third party contracts for OER, OCW, and MOOC. While prior research demonstrated that faculty contractual arrangements for copyright ownership over their digital content was a rare practice at institutions of higher education, contracts between institutions of higher education partners and third-party providers such as Coursera and EDUx stated that the third party providers had a proprietary claim on any and all materials that were developed in their MOOC. This proprietary claim extended to the MOOC provider having the right to license to the MOOC user all terms of access as well as the use of the course materials. The MOOC provider proprietary claim also granted to the third-party provider the ownership rights of user-generated content. This, in effect, was contrary to the AAUP copyright ownership statement that asserted that complete ownership rests within the faculty creator unless they ceded, in whole or in part, copyright ownership in a contract. In accordance to the AAUP (1999) copyright ownership statement, faculty may cede ownership in whole or in part of their creations to their institution via a contractual agreement. This AAUP policy was consistent with U.S. copyright ownership law. This research finding demonstrated that no single faculty member acknowledged having entered into a contractual agreement for asserting any possible copyright ownership. It also was contrary to copyright law. With third party providers, the copyright contract was entered into between the institution and the third-party provider, with no input at all of the faculty. However, faculty who created digital content and whose institution entered into a third-party contract, ceded copyright ownership in a practice contrary to copyright law, to both the institution and the third party provider. Therefore, OER, OCW, and MOOC served as delivery methods of academic innovations that presented challenges to traditional copyright ownership policies and practices at institutions of higher education with regard to

faculty-created digital content. OER have generally been licensed under Creative Commons Licenses that allows for the use and portability of digital content and publicly extends the copyright ownership process (Bonvillian & Singer, 2013). MOOC, on the other hand, challenged traditional copyright ownership assertions based upon legal and higher education institutional policy concepts such as joint works, work-for-hire, and unilateral institutional declaration (Centivany, 2011). The development of MOOC currently presented copyright challenges that created ownership issues at institutions of higher education and their respective faculty over copyright ownership of digital content (Dames, 2013).

RQ4: How were institutional assertions of copyright ownership of faculty-created digital content allocated and managed?

This research question sought to identify how are institutional assertions of copyright ownership of faculty-created digital content allocated and managed. The responses to this question were brief statements (See APPENDIX H). The total words for all responses consisted of 72 words with an average of eight words per response. To review consenting responses, for themes or categories related to the research question, a model by Saldana (2013) was used for analyzing the data: reading through responses, identifying key words and statements, and sorting this data into categories or codes.

Respondent # 1: We are allowed to own it.

Respondent # 3: All belongs to the institution.

Respondent # 5: Todo trabajo realizado con recursos de la institución, enseñando a sus estudiantes y pagado como clase al profesor, le pertenece a la Universidad. (Translation: All work is performed with institutional

resources, teaching students and paid per course as a professor, it belongs to the University.)

Respondent # 6: There is no faculty ownership.

Respondent # 7: The institution keeps the ownership of faculty created digital content.

Respondent # 8: University's ownership.

Respondent # 10: Not sure.

Respondent # 11: Full ownership of copyright.

Respondent # 13: If it is delivered using Blackboard learning platform, then the institution will be the owner.

Reading through the responses, the researcher underlined key words related to the study's research questions and identified as relevant from the literature review (See APPENDIX I). The following categories emerged from grouping key words and phrases from the responses; the goal of which was to uncover the major elements of copyright ownership of faculty created digital content. Thematic responses are listed below in the order of the highest frequency of occurrence:

Institution Owns	-	Five responses
Faculty Owns	-	One response
Not sure	-	One response

This open-ended research question was asked to determine if there were other possibilities and/or practices of institutional policies with regards to faculty ownership of faculty created digital content. In the majority of the responses (five of $n = 7$), the institution is the owner of faculty created digital content. The two discarded responses given its lack of responsiveness and clarity to the question were: Full ownership of copyright and If it is delivered using Blackboard learning platform, then the institution will be the owner. The first response was

discarded given that it did not state whether it was the faculty or the institution that had full ownership. The latter was discarded given that the response singularly quantified that if the digital content were delivered using Blackboard, then the institution would own it. This response begged the question whether copyright ownership of faculty created digital content would be different if Blackboard were not used.

Findings 4 and 5 were equally affirmed by this section: Finding 4. The majority of respondents who were faculty and administrators (85.8%) perceived that their respective institutions of higher education owned all of their digital content created and they had no copyright ownership rights at all; and, Finding 5. There were no differences of all respondents' perceptions of copyright ownership assertions dependent upon institution type. Respondents were provided close-ended and open-ended questions in order for the researcher to determine consistencies or differences in responses particularly with the open-ended responses. Digital technologies made it possible for college or university faculty to essentially record a live classroom lecture in the comfort of their home or private space, and immediately produced the lecture, making it available to their students via the web, mobile phone, or personal computer within a matter of minutes. In this research finding, the majority of faculty understood that their respective institutions of higher education owned all of their digital content created, and they had no copyright ownership rights at all. The findings from this research area were consistent with prior research. Research conducted on copyright ownership of fully faculty-created online course suggested that as emerging technologies progress, faculty may increasingly find themselves without the need to access university provided technology resources and services available to them to create digital course content. The ability to utilize free and available cloud-based computing software and Web 2.0 tools that created digital content was a game changer with

regards to copyright ownership of faculty-created digital content. In addition, this research question area determined that length of employment was not a significant factor and thus Finding 6. There were no differences of all respondents' perceptions of copyright ownership assertions dependent upon length of employment time. It may be that given the low-level propensity of faculty interest in copyright ownership matters at these two types of institutions, length of time was not a factor. For research-intensive institutions, length of time may be factor given the higher level of interest in copyright ownership matters.

RQ5: How were copyright ownership issues of faculty-created digital content resolved?

This research question determined whether there were any copyright ownership issues and how they were resolved. The third and last section of the survey focused on the resolution of any copyright ownership issues (Survey Q14) of faculty created digital content. Respondents were asked: What institutional issues, if any, have arisen with regards to copyright ownership of faculty created digital course content and how were they resolved? This open-ended research question sought to explore current copyright ownership issues of faculty created digital course content and how these issues were resolved. Out of the 12 consenting respondents ($N = 12$), only nine ($n = 9$) responded to the question (See Figure 13). The responses to this question were brief statements.

Copyright ownership issues did not appear to arise at the respondent's respective institutions of higher education. As such, Finding 7. All respondents who were faculty and administrators perceived that there were no known issues with regards to copyright ownership at their respective institutions of higher education was consistent with the review of the literature and with current case law. Copyright ownership issues at institutions of higher education were rarely, if at all, litigated. A review of case law records through 2010–2016 on a national scale

using the Lexus-Nexus database for legal research provided no past, current, or active cases in this area. There was no reporting of copyright ownership issues at the respective institutions of higher education from the survey respondents. There were no copyright ownership issues at the two types of institutions in this study and this could be attributed to the types of institutions where the respondents were employed at as well as the complexity of copyright ownership policies. For the most part, copyright ownership issues rarely arose at nonresearch-intensive institutions. This was a result of the general acceptance by faculty and administrators of an institution's copyright ownership policy although the institutional policy was not in compliance with U.S. copyright law. The standard institutional policy was that the institution owned all faculty-created digital content. In accordance with U.S. copyright law, the creator of digital content had 100% copyright ownership at the instance of creation and could only lose some portion or all of their copyright ownership rights if it was specifically stated in an employment contract. At research institutions, copyright ownership was more complex and issues may arise; however, none of the respondents to the survey were from such research-intensive institutions. Colleges and universities were not bound to accept and implement the AAUP (1999) statement on copyright ownership. The trend had been for colleges and universities to develop institutional policies that asserted complete copyright ownership or diminished faculty copyright ownership rights by institutional policies. U.S. copyright law stated that the original faculty creator was the owner unless the copyright ownership was ceded in whole or in part via a college-university contract (AAUP, 1999). From findings in this study and the review of literature, institutions of higher education rarely entered into negotiated copyright ownership contracts with individual faculty at nonresearch-intensive institutions.

Institutional Intellectual Property Policies

This portion of the research study entailed conducting an analysis of the intellectual property policies of the respondents' respective institution of higher education. An analysis of the intellectual property policies was conducted to determine whether faculty were involved in the development of intellectual property policy; whether there were contractual agreements; and, whether the intellectual property policy contained specific statements on digital-content copyright ownership.

All of the respondents in this study indicated that copyright ownership policy was created by the college-university administration, and faculty was informed of this policy via some form of institutional document or policy. Faculty was not informed via an employment contract. Institutions of higher education normally informed faculty of copyright ownership policies by what was understood to be a college-university practice referred to as the Universal Institutional Declaration (Centivany, 2011). In this practice, institutions of higher education unilaterally declared that copyright ownership of all works created by faculty vested in the institution for an indefinite future, and this policy statement was implemented through an institutional policy, faculty handbook, or intellectual property policy. The data obtained in this study was consistent with prior research and established the first finding (Finding 1). All of the respondents perceived that copyright ownership of faculty-created digital content rested with the institution as stated through either the faculty handbook, institutional policy, or copyright ownership statement contained in the institutions' Intellectual Property policy.

This descriptive study allowed for the identification and selection of the participating universities but required the anonymity of the individual respondents. As such, a correlation could not be made between the analysis of the IP policies of the participating colleges and

universities and the individual responses. However, data shows that with regards to faculty involvement in the development of IP policies, four institutions allowed for faculty participation and three did not. Comparing this with the survey question 9 response, it was difficult to gauge from the open-ended responses whether the IP policy analysis was consistent with the respondent responses. Three survey respondents stated no, that faculty were not involved and the other respondents informed that that they were not sure. Survey question 8 asked whether the university had a specific statement on copyright ownership of faculty-created digital content. The IP policy analysis determined that three institutions stated yes and five institutions stated no” Of the nine respondents for this survey question, five informed yes and four informed no. This dichotomy in the responses may reflect, as the literature suggested, that faculty at nonresearch-intensive universities may not be aware of their institutions’ IP policy. The last column of the IP analysis informed that for five of the eight institutions, the college or university owned the copyright for faculty-created digital content. The survey responses for this question (SQ 14), determined that the college or university owned most.

Conclusions

This study brought to light the complexities of not only the copyright ownership issues of faculty-created digital content, but also the multi-layered complexities of copyright ownership of asset creations, intellectual property issues contained in third party OER, OCW, and MOOC provider contracts, the various affected groups in a college-university setting such as students, faculty, administrators, legal counsel, and the institution itself. The major conclusions found in this study are:

- College-university copyright ownership policies were inconsistent with U.S. copyright law.

- College-university faculty were not involved in the development of institutional copyright ownerships.
- Institutions of higher education may not necessarily engage in providing legal protection to faculty especially in matters that affect them, such as ownership of the digital content created.
- College-university copyright ownership and intellectual property policies were primarily developed with the institutions' interest, mostly financial, and may not take into consideration the faculty member as the originator of the digital content created.
- Colleges and universities may not properly inform faculty of their copyright ownership rights either through legal counsel, professional development, or contractual agreements.
- At institutions with no copyright ownership contractual agreements, copyright ownership issues were subject to potentially arise given the complexities and multi-layered aspects of this matter, and be litigated in the courts.
- Colleges and university faculty may not be aware that their respective institutions may be contractually engaged in the creation or purchase of third party course content providers and in these agreements the faculty cedes all of their created enhancements to the online course.
- Colleges and universities needed to consider drafting intellectual property policies in accordance to U.S. copyright laws, and that furthermore detail the implications and rights of all constituent groups such as students, faculty, administrators, and the institution itself.

- In light of the multi-layered complexities of copyright ownership and intellectual property, colleges and universities should consider a back-to-basics approach and begin with the AAUP premise as well as U.S. copyright law premise, that faculty as originators of digital content, were the sole owners of the creations unless this ownership was ceded to the institution in whole or in part. This conclusion was evermore necessary given the current copyright ownership practices, and the future development of more legal complexities.
- Faculty should be consulted by their institutions on the specifics of how their digital course content creations were ceded to third party OER, OCW, and MOOC providers.
- Faculty should be informed on how their respective institutions may or may not be monetizing on their creations and considered some copyright co-ownership.
- Colleges and universities should consider drafting intellectual property policies in favor of faculty ownership rights in the information technology age.

Implications for Policy and Practice

The findings of this descriptive study have implications for institutions of higher education in the development of their respective copyright ownership policy development and practices. To reiterate, the major overarching principle of U.S. copyright ownership law was that copyright ownership was entirely vested in the original creator of the work. The creator of said work owned 100% of the copyrightable work and this percentage was diminished dependent upon entering into a legal contract, in which the creator ceded all or some portion of the work to an entity. In this study, the practice in which copyright ownership was developed, implemented, and asserted, at the respective types of institutions of higher education in which the respondents were employed, demonstrated that the policy practice of copyright ownership was not consistent

with U.S. copyright law (2011) unto itself, or reflected in the premise of the AAUP (1999) copyright ownership statement. Results from this study showed that copyright ownership of faculty-created digital content had not been enshrined in any employment contract. The study researched the practice in which copyright ownership was determined, and there was no indication that a copyright ownership statement was stipulated in an employment contract. In addition, there was no indication or suggestion that a copyright ownership statement was stipulated in any possible addendum to an employment contract or in the engagement of a contract addendum as work-for hire prior to the engagement in the development of digital content. The implications based upon this study were:

- College and university administrators and faculty should become knowledgeable of copyright ownership rights as informed by the AAUP (1999) copyright ownership statement and U.S. copyright law so that faculty was best informed of their legal rights as creators of digital-content.
- College and university administrators and faculty should become knowledgeable in the process of copyright ownership development in order to have equity in ownership in the development of faculty-created digital content.
- Colleges and universities should engage in shared governance best practices between administrators and faculty in matters related to copyright ownership specifically understanding institutional practices of copyright ownership in an era of OER, OCW, and MOOC.

Recommendations for Further Research

This descriptive study expanded on the current knowledge of research in copyright ownership of faculty-created digital content. Prior studies in this area primarily focused on full

ownership of online courses in distance education programs. While these studies were peripherally related to this study and added to the body of knowledge in this field, current factors such as the transitive nature of digital content, its portability, and third party contractual agreements for OER, OCW, and MOOC, all served to present new copyright ownership challenges and issues that affected traditional practices in copyright ownership.

Each institution of higher education in this study defined and developed its copyright ownership policy dependent upon its organizational culture, norms, intellectual property policies, and employee contracts also followed current research (Centivany, 2011). Consequently, a descriptive study of copyright ownership with regards to faculty-created digital content added to the body of knowledge on these disruptive innovations and how copyright ownership policies were developed, allocated, managed, and asserted. The results of this study were useful for higher education faculty and administrators as they seek to enhance or develop copyright ownership policies in a technology information age. As a result of this research, the recommendations for future research are:

- Repeating this study on a larger scale, including a variety of types of higher education institutions including fully online institutions, public and private, urban and rural;
- Researching whether faculty orientations included informational sessions on copyright ownership of the digital content they created;
- Researching more in depth the number of institutions of higher education entering into a contract with faculty that specifically delineated copyright ownership and how that affects faculty, administrators, and the institution;
- Researching more in depth how universities who have Intellectual Property policies should include a specific statement on copyright ownership of faculty-created digital

- course content if they were to continue using the Universal Declaration policy and how that affects faculty, administrators, and the institution;
- Researching more in depth when faculty are engaged in the development of copyright ownership policies at their institutions of higher education and how that affects the quality of their courses;
 - Given the portability of digital content, college and university faculty might revisit their respective institution's policy.

Summary

The research for this study was conducted by randomly selecting a mix of faculty and administrators from five types of institutions in the State of Texas and the Commonwealth of Puerto Rico. While the resulting information and perceptions of copyright ownership practices obtained from the participating respondents' respective institutions of higher education were useful for an understanding of the perceptions of copyright ownership of faculty-created digital content, it was not generalizable. Future studies in this area could include a larger number of higher education institutions throughout the United States and its jurisdictions. This study focused on five types of institutions of higher education. Given that online education is growing and with it the possibility of growth in faculty-created digital content, future research should be conducted at institutions with substantial online programs and course offerings. These can be studied vis-à-vis institutions of higher education with little to no online programs.

This study included research-intensive and doctoral degree-granting institutions of higher education. Although there were no responses from research-intensive institutions, this could have increased a further understanding of faculty-created copyright ownership given that faculty at research-intensive institutions may be involved in the creation of digital content at greater levels.

The results of the online survey indicated that the majority of the faculty and administrators adhered to their respective institutional practices of copyright ownership. The various implementation methods identified, to wit, faculty handbook, intellectual property policy, copyright policy, suggested that these practices were not in line with applicable copyright laws. None of the respondents in this study reported having specifically signed contracts with their respective institutions in which copyright ownership was distributed.

This research brought important considerations to the body of knowledge of copyright ownership of faculty-created digital course content. Significantly, the study demonstrated that the practice of copyright ownership by institutions of higher education was not consistent with U.S. copyright law, which required a contract between the faculty and the institution in the allocation of copyright ownership. College and university administrators engaged in developing copyright ownership policies should consider faculty involvement in developing copyright ownership policies and co-ownership of faculty creations. Additionally, this should be considered in light of revenue streams produced by increasing online course offerings, certificates, and academic programs. Allowing for faculty to be on an equal level with administrators in copyright ownership, contract negotiations, and potential for course ownership, would benefit both constituent groups. While this study demonstrated that there was still plenty of confusion over copyright ownership policies and their alignment with U.S. copyright law, professional development for faculty in copyright ownership and intellectual property policy development should serve as an avenue to develop a deeper clarity of copyright ownership.

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APPENDIX A

The Researcher

My passion in the study of copyright ownership, intellectual property, and the impact of new and emerging technologies in this area of education law and policy, primarily stem from my dual professional background and experiences in law and educational technologies. During the obtainment of my Doctorate in Jurisprudence (1986-1989), I had the opportunity to study and develop an interest in intellectual property. This became an emerging interest as I undertook graduate coursework in the doctoral program in educational technologies at Pepperdine University. As a result, I became particularly fascinated by the differing practices and developments of intellectual property and ownership rights in higher education. As I continued to research the differences in practice among institutions of higher education, I found that the Internet and new and emerging technologies are game changers.

In 2010, I was hired as an Instructional Designer in Dallas, Texas. My duties and responsibilities, among others, are to assist faculty in designing their online courses and provide professional development training in new and emerging technologies. In this administrative capacity, I am also responsible for disseminating online education policies and the development of policies where there are none. Thus, the topic area of this study came about from the combination of all of these professional and educational experiences.

Reviewing literature on the topic, I came to realize that there is a lack of understanding of faculty copyright ownership rights with regards to the digital content they create. With new and emerging technologies providing faculty with the opportunity to develop digital content without the use of university technology resources and services, the issue of ownership creates an even more gray area for the assertion of university intellectual property rights.

APPENDIX B

E-mail Narrative

December 1, 2015

Dear _____:

EMAIL NARRATIVE:

This e-mail message is sent requesting your voluntary participation in a doctoral dissertation descriptive study on copyright ownership of faculty-created digital content. The survey can be found at <https://www.surveymonkey.com/r/KSCVNLV>. Results of the survey are expected to inform to the body of literature on intellectual property issues and specifically copyright matters with regards to copyright ownership development, implementation, assertions, and issue resolution.

The survey will take approximately 20 minutes to complete. The study has been approved by Pepperdine University's Internal Review Board (IRB) requirements for research with human subjects. All participants are requested to read the online consent form and indicate their consent on the online consent form. Upon agreeing to participate and signing the consent form, the survey questions will automatically open for your responses. If you do not agree to participate, the survey questions will not appear. No personal identifying information is requested nor collected. This includes an electronic identification such as a computer IP address.

This study is being solely conducted with five institutions of higher education in the State of Texas and five institutions of higher education in the Commonwealth of Puerto Rico. I greatly appreciate your consideration, time and participation. Thank you for your professional courtesy.

Respectfully,

Daniel Ibarrodo, J.D., Ed.S.
Ed.D. Candidate
Pepperdine University
College of Education & Psychology

APPENDIX C

Descriptive Study Information

NOTE: The link to this consent form will be sent in the e-mail message to potential participants and made available online in Survey Monkey. Participants will select a box [] indicating whether they (a) agree to participate in the survey or (b) do not want to participate in the survey.

Descriptive Study on Digital Content Copyright Ownership

Please review the following information. A link at the bottom of the page will take you to the survey.

1. Study Title: Descriptive Study on Digital Content Copyright Ownership
2. Study Site: This study is being conducted via an online survey by a doctoral student at Pepperdine University located in Malibu, California. The consent form will be available online via Survey Monkey using an online address associated exclusively with the primary investigator.
3. Investigators: The following investigator is available for questions about this study, TWF, 9am-4pm by telephone; or weekdays, 8am-5pm by e-mail.
Daniel Ibarrodo, J.D., Ed.S. (Ed.D. Candidate)
Dr. Paul Sparks, Professor (Supervising Chair)
Pepperdine University, College of Education & Psychology
Malibu, California
4. Purpose of the Descriptive Study: The purpose of study is to research university-faculty copyright ownership perceptions, practices, expectations, and issues with regards to ownership of faculty-created digital content. The researcher comprehends that a better understanding of this issue is twofold. On one level, the study will further inform on intellectual property and copyright practices at colleges and universities. Secondly, in the interest of online education, it furthers an understanding of institutional copyright ownership practices vis-à-vis U.S. copyright ownership laws.
5. Subjects: The population for this study are faculty members and administrators from five types of colleges and universities in the State of Texas and the Commonwealth of Puerto Rico.
6. Participant size: Approximately 50 college-university faculty and administrators in the State of Texas and 50 college-university faculty and administrators in the Commonwealth of Puerto Rico.
7. Procedures: Subjects will spend approximately 20 minutes answering closed-ended and open-ended questions in an online survey.
8. Benefits: There are no immediate benefits for the individuals who participate in the study. The possible benefits of this study are: (a) that the results from this study are expected to be useful for all university-faculty participants in reviewing their institutions' copyright ownership policy with specific regards to ownership of faculty-created digital content, and (b) in the absence of any specific intellectual property rights with regards to digital content, the university-faculty participants may desire to draft policies in this regard so as to minimize any potential sources of conflict.
9. Risks: The procedures associated with this descriptive study represent no more than minimal risk as there are no invasive procedures being performed, and there will be no individual identifying information requested or collected. All study data will be coded and any

identification of the participants will be discarded and destroyed upon the transcription of the recorded interviews. Data will remain in electronic format for analyses.

10. Right to refuse: Subjects may choose not to participate or to withdraw from the study at any time without penalty or loss of any benefit to which they might otherwise be entitled.

11. Privacy: Results of the study may be published, but no names or any other identifying information will be included in the publication. Subject identity will not be obtained through data collection procedures. Solicitation documents, including educational institution of respondents, will remain confidential unless the law requires disclosure.

12. Consent: The consent for this study is available entirely through an electronic format associated with the online survey. Participants must select an electronic "consent" option in order to participate. If you have any additional questions regarding study specifics, you may contact the study investigator. If you have questions about subjects' rights or other concerns, you may contact Pepperdine University's Institutional Review Board.

APPENDIX D

Survey Questions

Table 1: General Survey Sections and Specific Survey Questions

General Survey Section

Specific Survey Questions

Section 1: Demographics

(Q2) My institution is a...

(Q3) Which of the following categories best describes your employment status?

(Q4) What is the classification of your appointment?

(Q5) How many years have you been a faculty member?

(Q6) How many years have you been an administrator?

Section 2: Copyright Ownership

(Q7) What is the copyright ownership policy for faculty created digital content at your institution?

(Q8) Does your institution's copyright ownership policy have a specific statement on "digital content ownership?"

(Q9) Are faculty members involved in the development of copyright ownership policies at your institution?

(Q10) How does your institution inform faculty of digital content copyright ownership policy?

(Q11) Do you create digital content for your courses?

(Q12) What form of the following online learning platforms do you utilize?

(Q14) What institutional issues, if any, have arisen with regards to copyright ownership of faculty created digital course content and how were they resolved?

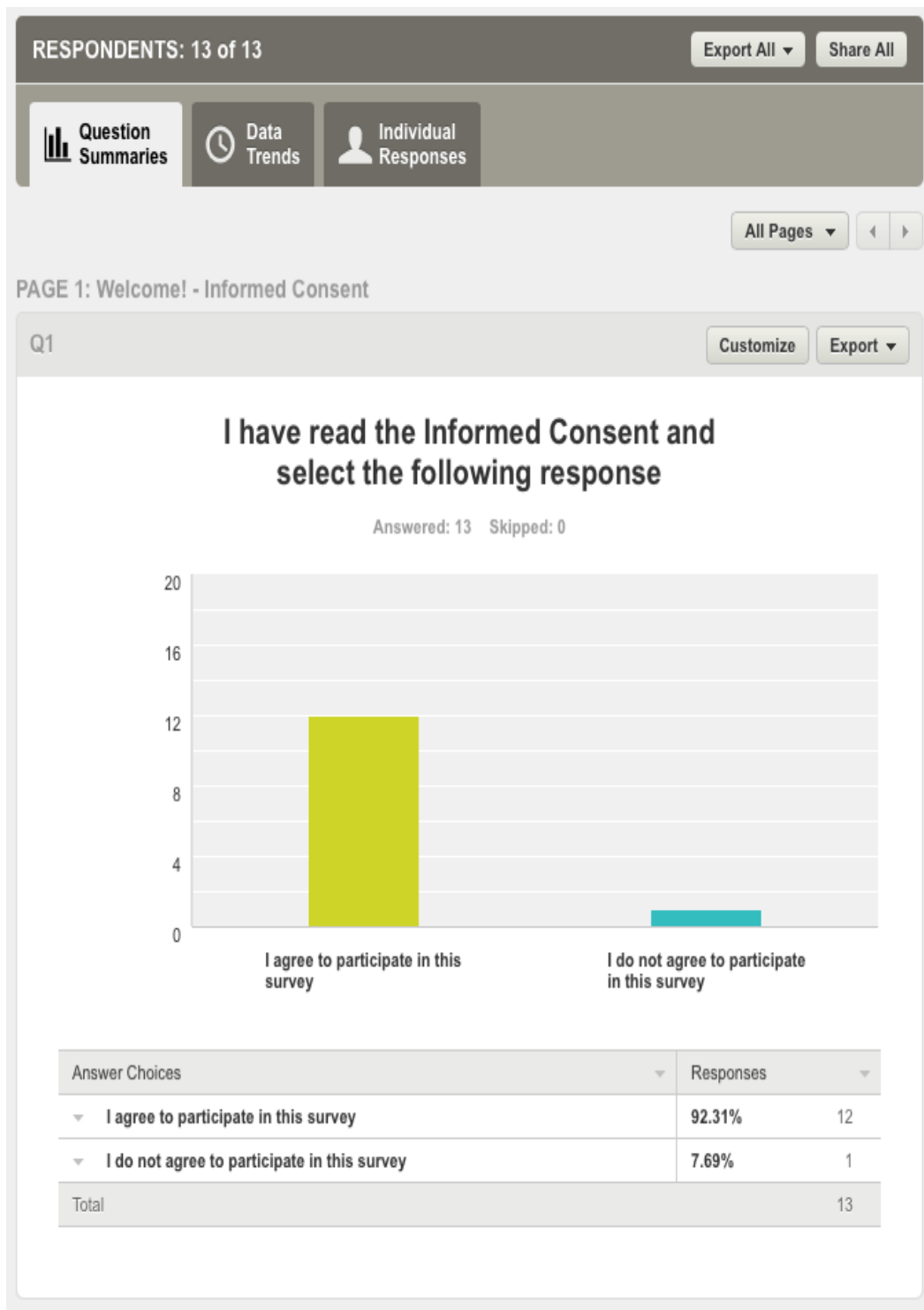
Section 3: Copyright Ownership Issue Resolution

(Q13) What institutional issues, if any, have arisen with regards to copyright ownership of faculty created digital course content and how were they resolved?

APPENDIX E

Survey Results

Online Survey Results as viewed from the Survey Monkey Web site.



PAGE 2: Survey

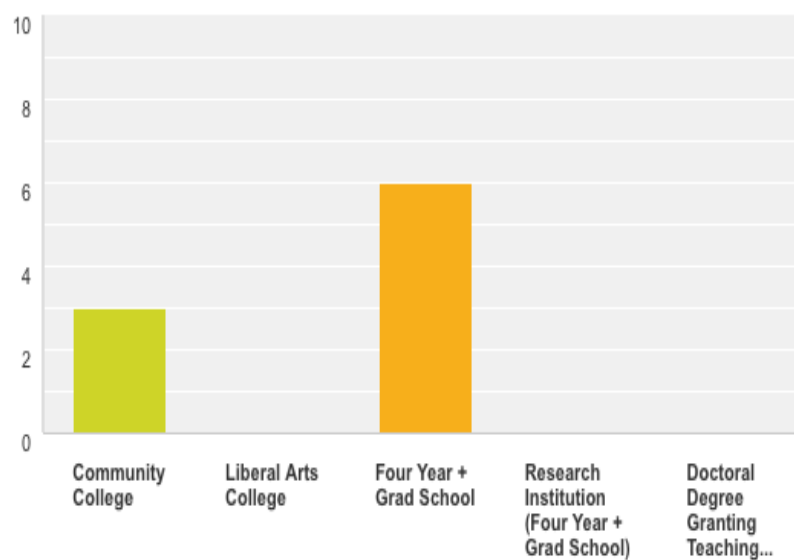
Q2

Customize

Export ▾

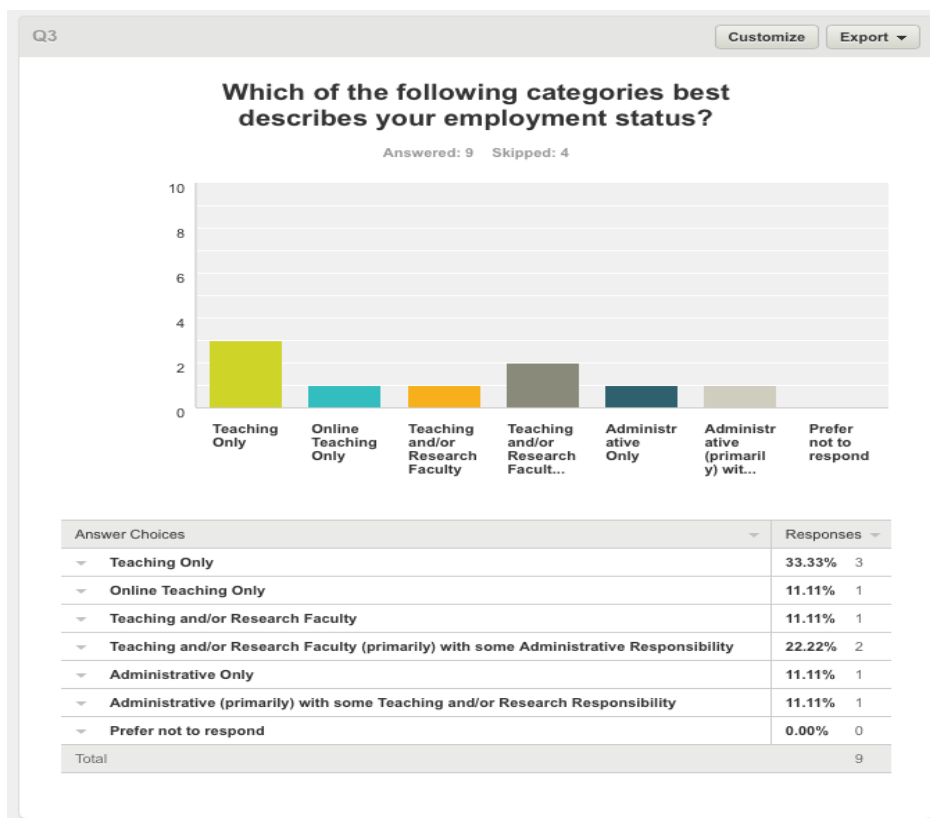
My institution is a

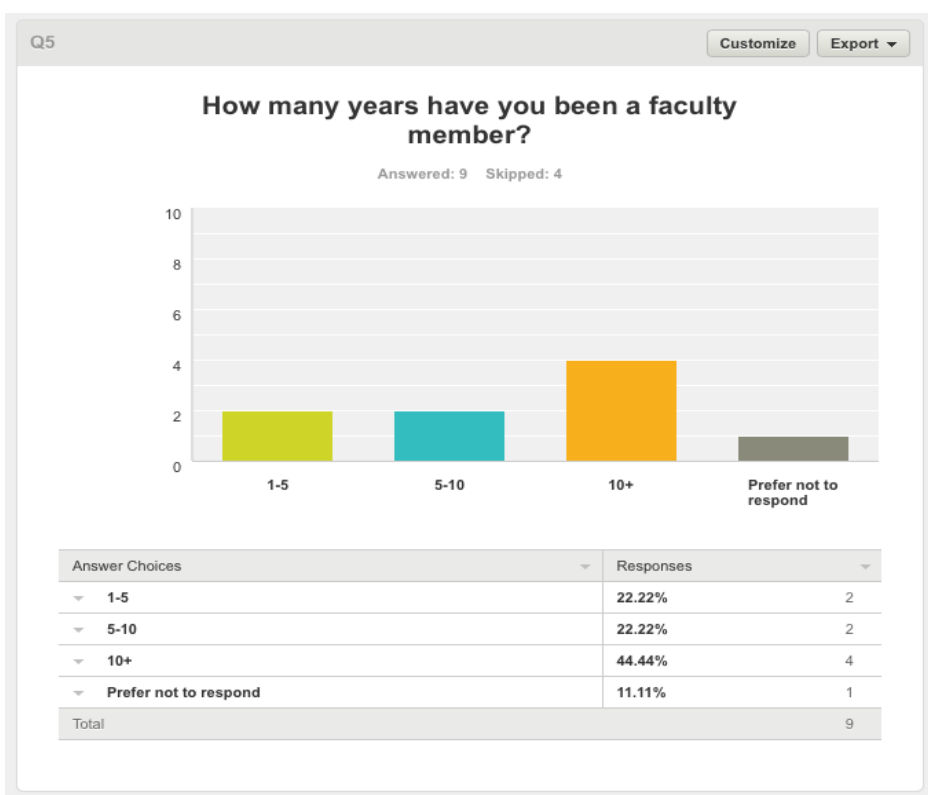
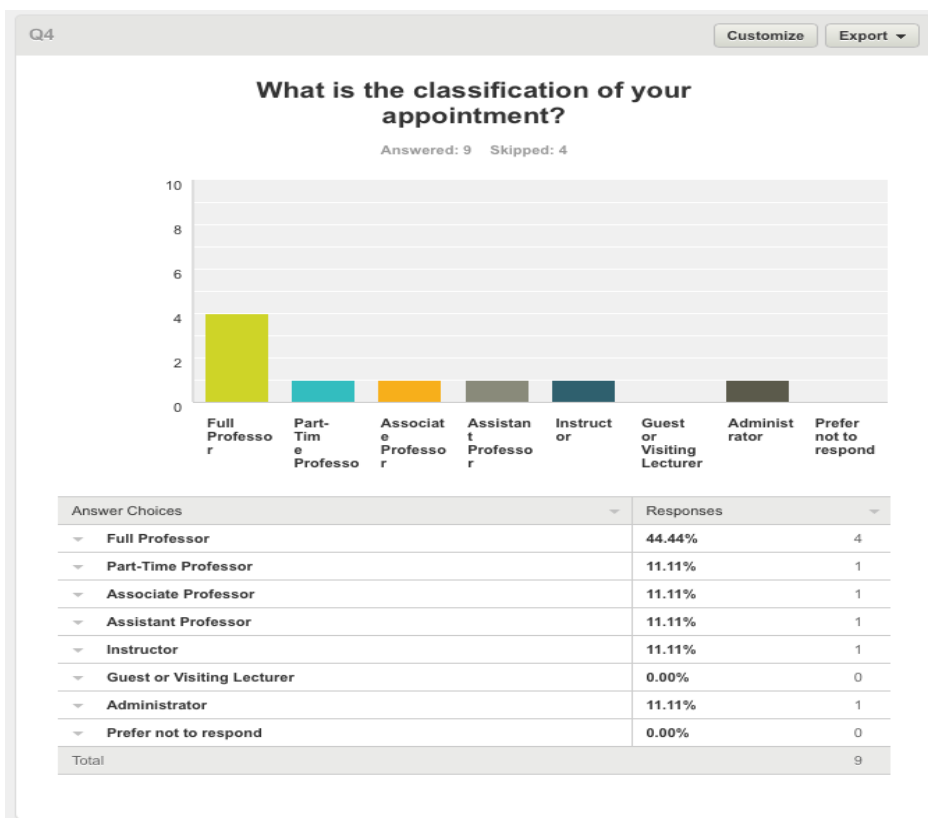
Answered: 9 Skipped: 4

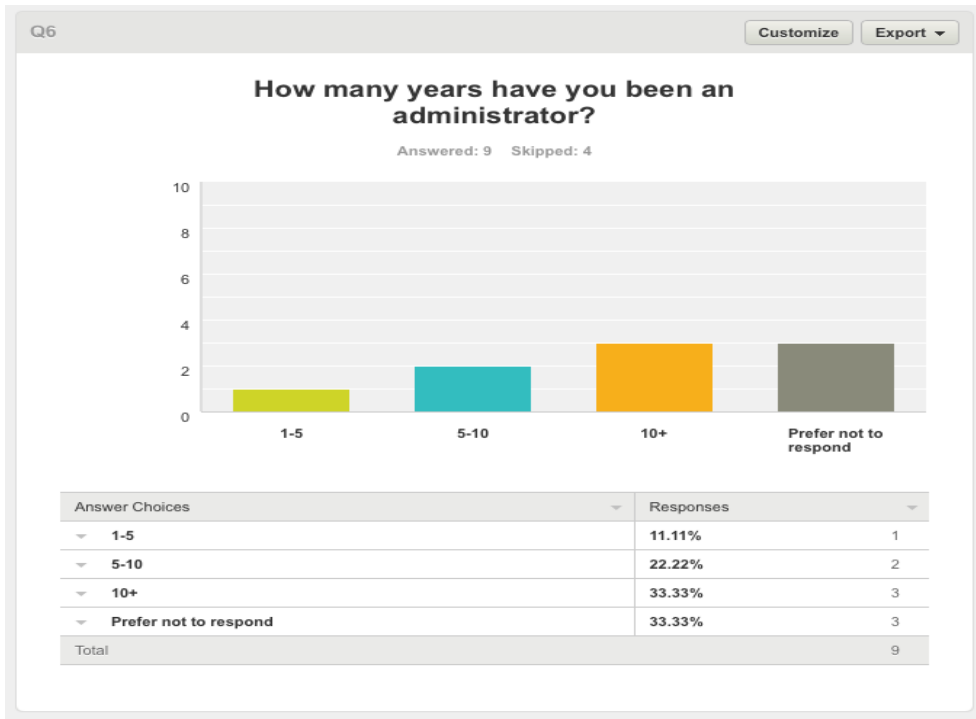


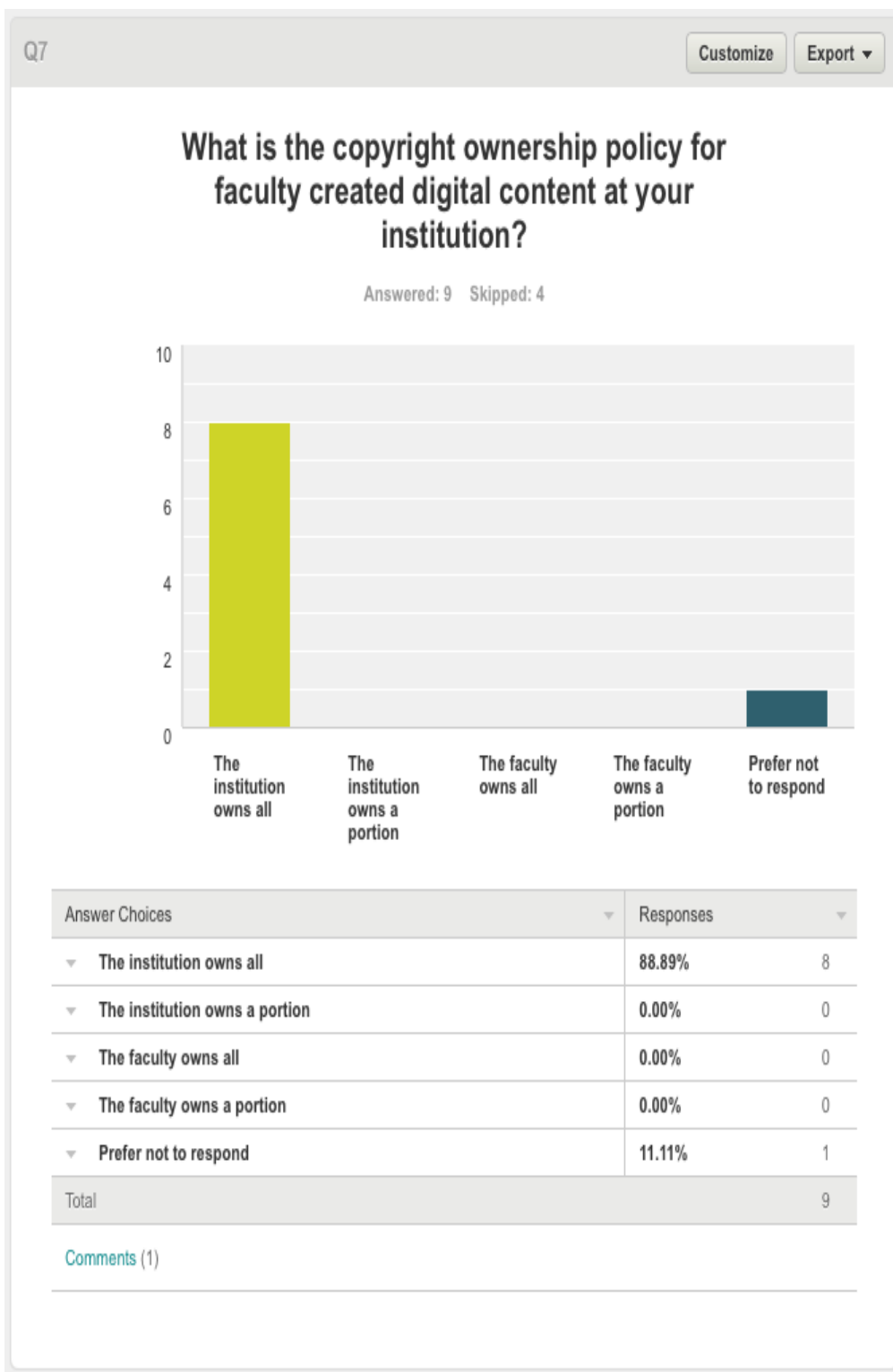
Answer Choices	Responses
Community College	33.33% 3
Liberal Arts College	0.00% 0
Four Year + Grad School	66.67% 6
Research Institution (Four Year + Grad School)	0.00% 0
Doctoral Degree Granting Teaching Institution	0.00% 0
Total	9

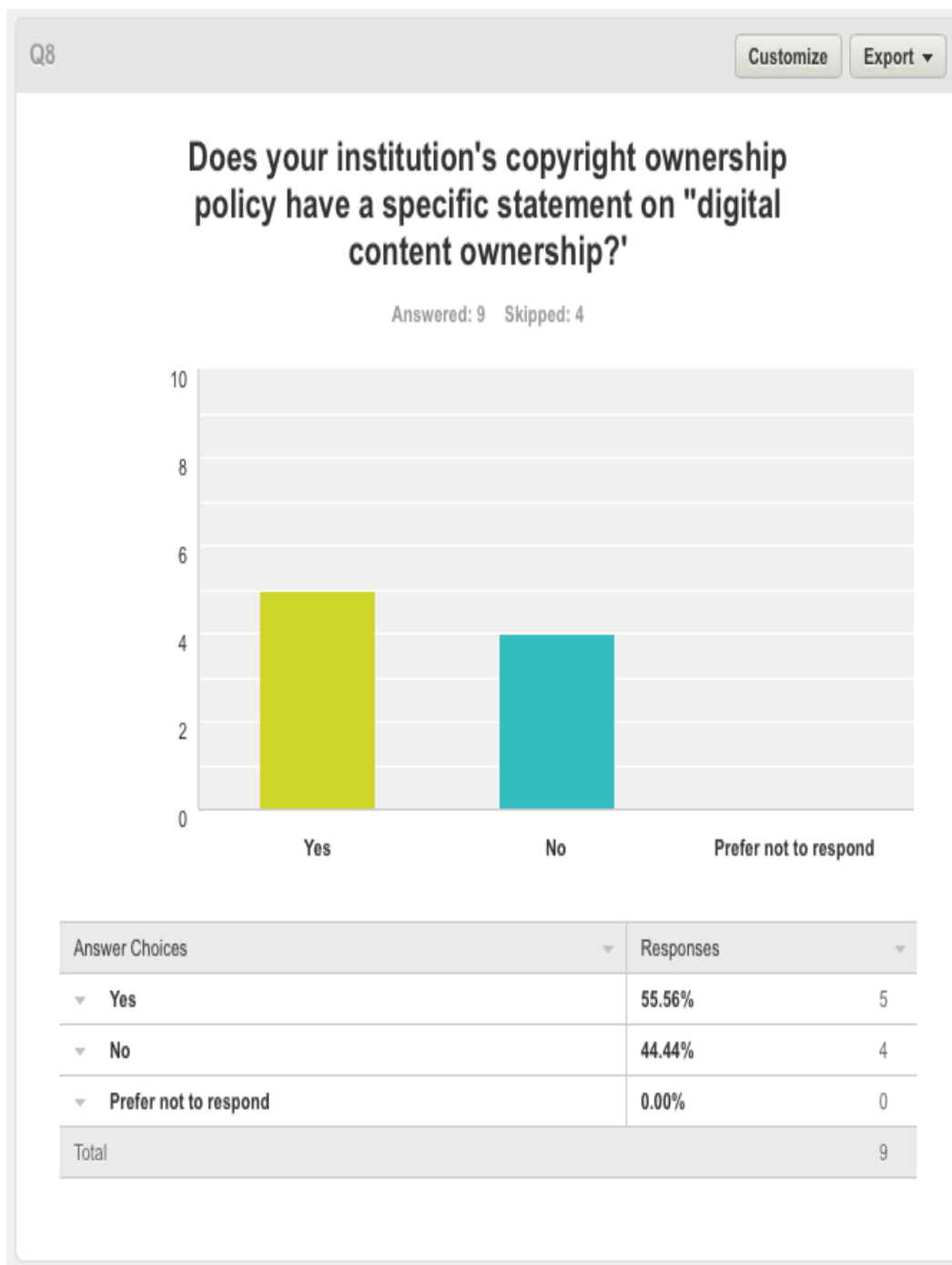
[Comments \(1\)](#)













Q9 Export ▾

Are faculty members involved in the development of copyright ownership policies at your institution? Briefly explain how. (If you prefer not to respond, simple enter "no response" in the comment box.)

Answered: 9 Skipped: 4

● Responses (9) Text Analysis My Categories

Categorize as... ▾ Filter by Category ▾ Search responses  

Showing 9 responses

I haven't been involved in the development of copyright ownership policies at my institution. I don't know if other faculty member had been involved.
1/9/2016 7:31 PM [View respondent's answers](#)

The Academic Vice President is the one that determines copyright ownership policies in the institution even though he is not familiarized with digital content ownership.
12/21/2015 11:13 AM [View respondent's answers](#)

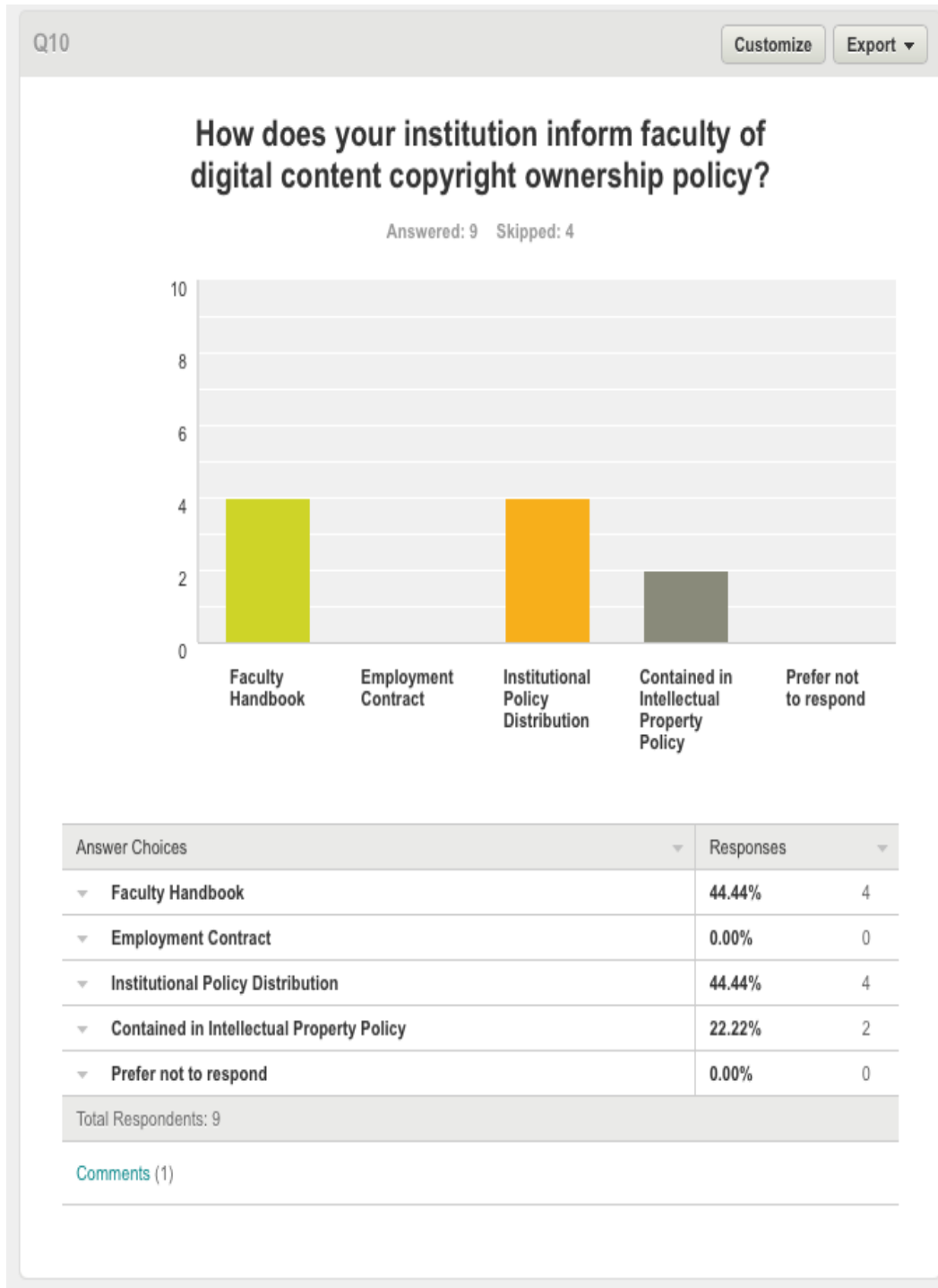
Not that I know of. Ours was handed down from the administration.
12/21/2015 10:31 AM [View respondent's answers](#)

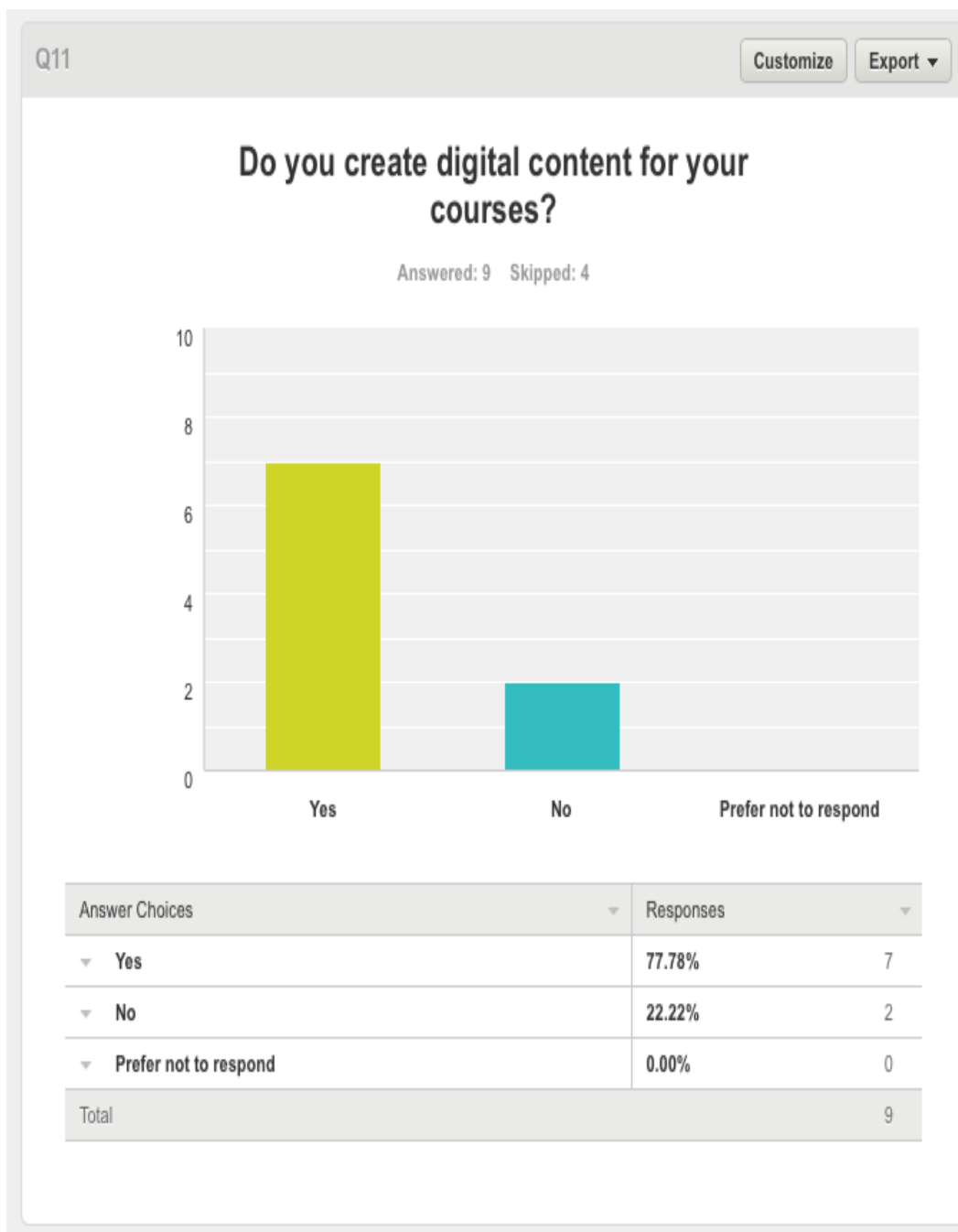
Through policy forming academic senate, policies then are submitted to the president and board of trustees.
12/18/2015 6:20 PM [View respondent's answers](#)

No response
12/18/2015 5:58 PM [View respondent's answers](#)

Not involved.
12/18/2015 12:23 PM [View respondent's answers](#)

La Institución se encarga de hacer todo el proceso





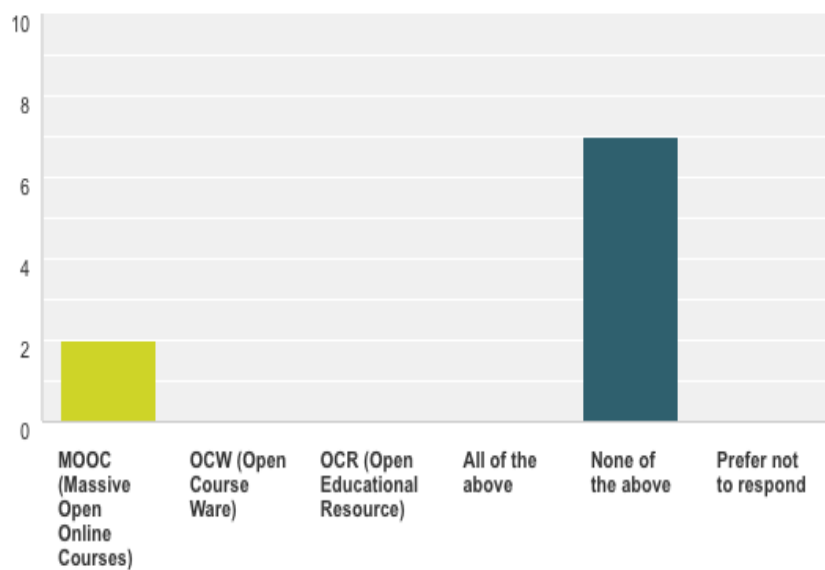
Q12

Customize

Export ▾

What form of the following online learning platforms do you utilize?

Answered: 9 Skipped: 4



Answer Choices	Responses
▼ MOOC (Massive Open Online Courses)	22.22% 2
▼ OCW (Open Course Ware)	0.00% 0
▼ OCR (Open Educational Resource)	0.00% 0
▼ All of the above	0.00% 0
▼ None of the above	77.78% 7
▼ Prefer not to respond	0.00% 0

Total Respondents: 9

[Comments \(3\)](#)

Q13 Export ▾

What institutional issues, if any, have arisen with regards to copyright ownership of faculty created digital course content and how were they resolved? (If you prefer not to respond, simple enter "no response" in the comment box.)

Answered: 9 Skipped: 4

● Responses (9)
▲ Text Analysis
📁 My Categories

Categorize as... ▾
 Filter by Category ▾
 Search responses

Showing 9 responses

Issue: Who will use the course developed to delivery the instruction? Solution: The faculty member that designed the digital course content will use it first, and after a determined period of time, others could use it too.
1/9/2016 7:31 PM [View respondent's answers](#)

The institutional Policy owns full copyright of digital course content and face to face course content.
12/21/2015 11:13 AM [View respondent's answers](#)

None
12/21/2015 10:31 AM [View respondent's answers](#)

No response.
12/18/2015 6:20 PM [View respondent's answers](#)

No response
12/18/2015 5:58 PM [View respondent's answers](#)

Not sure.
12/18/2015 12:23 PM [View respondent's answers](#)

Las polémicas no han sido expuestas públicamente porque la Institución estableció una política. Si no estás de acuerdo con ella, no participas en los proyectos.

Q14 Export ▾

What is your institution's policy with regards to faculty ownership of faculty created digital content? (If you prefer not to respond, simple enter "no response" in the comment box.)

Answered: 9 Skipped: 4

Responses (9) | Text Analysis | My Categories

Categorize as... ▾ | Filter by Category ▾ | Search responses

Showing 9 responses

If it is delivered using Blackboard Learn platform, then the institution will be the owner.
1/9/2016 7:31 PM [View respondent's answers](#)

Full ownership of Copyright
12/21/2015 11:13 AM [View respondent's answers](#)

Not sure.
12/21/2015 10:31 AM [View respondent's answers](#)

University's ownership.
12/18/2015 6:20 PM [View respondent's answers](#)

The Institution keeps the ownership of faculty created digital content.
12/18/2015 5:58 PM [View respondent's answers](#)

There is no faculty ownership.
12/18/2015 12:23 PM [View respondent's answers](#)

Todo trabajo realizado con recursos de la Institución, enseñado a sus estudiantes y pagado como clase al profesor, le pertenece a la Universidad.
12/18/2015 9:42 AM [View respondent's answers](#)

APPENDIX F

Individual Survey Responses

Individual Responses as per Survey Monkey. (Closed-Ended and Open-Ended Survey Questions)

The researcher, who was bilingual in both English and Spanish, implemented all translations.

Individual Respondent # 1

Demographics: Community College
Online Teaching Only
Part-Time Professor
5-10 (faculty)
10+ (administrator)

Close-Ended Research Questions Responses:

For this respondent, RQ #7 (copyright ownership for faculty created digital content) response is “the institution owns all.” RQ # 8 response is “no.” RQ # 10 response is through “Faculty Handbook.” RQ # 11, respondent creates digital content for courses. RQ #12, response is “MOOC.”

Open-Ended Research Questions Responses:

SQ # 9 Response: No. This is determined by administrators.

SQ # 13 Response: None

SQ # 14 Response: We are allowed to own it.

Individual Respondent # 3

Demographics: Four Year + Grad School
Teaching Only
Full Professor
5-10 (faculty)
5-10 (administrator)

Close-Ended Research Questions Responses:

For this respondent, RQ #7 (copyright ownership for faculty created digital content) response is “the institution owns all.” RQ # 8 response is “yes.” RQ # 10 response is through “Institutional Policy Distribution.” RQ # 11, respondent creates digital content for courses. RQ #12, response

is “none of the above.”

Open-Ended Research Questions Responses:

SQ # 9 Response: No response

SQ # 13 Response: Not that I’m aware of.

SQ # 14 Response: All belongs to the institution.

Individual Respondent # 5

Demographics: Four Year + Grad School
 Administrative (primarily) with some Teaching and/or Research
 Responsibility
 Full Professor
 10+ (faculty)
 5-10 (administrator)

Close-Ended Research Questions Responses:

For this respondent, RQ #7 (copyright ownership for faculty created digital content) response is “the institution owns all.” RQ # 8 response is “yes.” RQ # 10 response is through “Intellectual Policy Distribution.” RQ # 11, respondent creates digital content for courses. RQ #12, response is “none of the above.”

Open-Ended Research Questions Responses:

SQ # 9 Response: La institución se encarga de hacer todo el proceso.

SQ # 13 Response: Las polémicas no han sido expuestas públicamente porque la institución estableció una política. Si no estas de acuerdo con ella, no participas en los proyectos.

SQ # 14 Response: Todo trabajo realizado con recursos de la institución, enseñando a sus estudiantes y pagado como clase al profesor, le pertenece a la Universidad.

Individual Respondent # 6

Demographics: Community College
 Teaching Only
 Instructor
 1-5 (faculty)
 Prefer not to respond (administrator)

Close-Ended Research Questions Responses:

For this respondent, RQ #7 (copyright ownership for faculty created digital content) response is “the institution owns all.” RQ # 8 response is “no.” RQ # 10 response is through “Faculty Handbook.” RQ # 11, respondent does not create digital content for courses. RQ #12, response is “none of the above.”

Open-Ended Research Questions Responses:

SQ # 9 Response: Not involved.

SQ # 13 Response: Not sure.

SQ # 14 Response: There is no faculty ownership.

Individual Respondent # 7

Demographics: Four Year + Grad School
Teaching and/or Research Faculty
Full Professor
10+ (faculty)
Prefer not to respond (administrator)

Close-Ended Research Questions Responses:

For this respondent, RQ #7 (copyright ownership for faculty created digital content) response is “the institution owns all.” RQ # 8 response is “yes.” RQ # 10 response is through “Institutional Policy Distribution.” RQ # 11, respondent creates digital content for courses. RQ #12, response is “MOOC.”

Open-Ended Research Questions Responses:

SQ # 9 Response: No response.

SQ # 13 Response: No response.

SQ # 14 Response: The institution keeps the ownership of faculty created digital content.

Individual Respondent # 8

Demographics: Four Year + Grad School
Teaching and/or Research Faculty (primarily) with some Administrative Responsibility
Assistant Professor
10+ (faculty)
10+ (administrator)

Close-Ended Research Questions Responses:

For this respondent, RQ #7 (copyright ownership for faculty created digital content) response is “the institution owns all.” RQ # 8 response is “yes.” RQ # 10 response is through “Faculty Handbook, Contained in Intellectual Property Policy.” RQ # 11, respondent does not create digital content for courses. RQ #12, response is “none of the above.”

Open-Ended Research Questions Responses:

SQ # 9 Response: Through policy forming academic senate, policies then are submitted to the president and board of trustees.

SQ # 13 Response: No response.

SQ # 14 Response: University’s ownership.

Individual Respondent # 10

Demographics: Community College
Teaching Only
Full Professor
1-5 years (faculty)
No response (administrator)

Close-Ended Research Questions Responses:

For this respondent, RQ #7 (copyright ownership for faculty created digital content) response is “prefer not to respond.” RQ # 8 response is “no.” RQ # 10 response is through “faculty handbook.” RQ # 11, respondent creates digital content for courses. RQ #12, response is “none of the above.”

Open-Ended Research Questions Responses:

SQ # 9 Response: Not that I know of. Ours was handed down from the administration.

SQ # 13 Response: None

SQ # 14 Response: Not sure.

Individual Respondent # 11

Demographics: Four Year + Grad School
Administrative Only
Administrator
Prefer not to respond (faculty)
10+ (administrator)

Close-Ended Research Questions Responses:

For this respondent, RQ #7 (copyright ownership for faculty created digital content) response is “the institution owns all.” RQ # 8 response is “no.” RQ # 10 response is through “Contained in Intellectual Property Policy.” RQ # 11, respondent creates digital content for courses. RQ #12, response is “none of the above.”

Open-Ended Research Questions Responses:

SQ # 9 Response: Contained in Intellectual Property Policy.

SQ # 13 Response: The institutional policy owns full copyright of digital course content and face to face course content.

SQ # 14 Response: Full ownership of copyright.

Individual Respondent # 13

Demographics: Four Year + Grad School
Teaching and/or Research faculty with some Administrative Responsibility
Associate Professor
10+ years (faculty)
1-5 years (administrator)

Close-Ended Research Questions Responses:

For this respondent, RQ #7 (copyright ownership for faculty created digital content) response is that the institution owns all. RQ # 8 response is that there is a “specific statement” on digital copyright ownership. RQ # 10 response is through “institutional policy distribution.” RQ # 11, respondent creates digital content for courses. RQ #12, respondent does not use any of the platforms stated.

Open-Ended Research Questions Responses:

SQ # 9 Response: I haven’t been involved in the development of copyright ownership policies at my institution. I don’t know if other faculty member had been involved.

SQ # 13 Response: Issue: who will use the course developed to delivery the instruction?
Solution: The faculty member that designed the digital course content will use it first, and after a determined period of time, others could use it too.

SQ # 14 Response: If it is delivered using Blackboard learning platform, then the institution will be the owner.

APPENDIX G

Open-Ended Survey Question #9 Responses

Individual Responses to Open Ended Survey Question # 9

The researcher, who was bilingual in both English and Spanish, implemented all translations.

Respondent # 1

SQ # 9 Response: No. This is determined by administrators.

Respondent # 3

SQ # 9 Response: No response

Respondent # 5

SQ # 9 Response: La institución se encarga de hacer todo el proceso.
(Translation: The institution is in charge of the entire process.)

Respondent # 6

SQ # 9 Response: Not involved.

Respondent # 7

SQ # 9 Response: No response.

Respondent # 8

SQ # 9 Response: Through policy forming academic senate, policies then are submitted to the president and board of trustees.

Respondent # 10

SQ # 9 Response: Not that I know of. Ours was handed down from the administration.

Respondent # 11

SQ # 9 Response: Contained in Intellectual Property Policy.

Respondent # 13

SQ # 9 Response: I haven't' been involved in the development of copyright ownership policies at my institution. I don't know if other faculty member had been involved.

APPENDIX H

Open-Ended Survey Question #13 Responses

Individual Responses to Open Ended Survey Question # 13.

The researcher, who was bilingual in both English and Spanish, implemented all translations.

Respondent # 1

SQ # 13 Response: None

Respondent # 3

SQ # 13 Response: Not that I'm aware of.

Respondent # 5

SQ # 13 Response: Las polémicas no han sido expuestas públicamente porque la institución estableció una política. Si no estas de acuerdo con ella, no participas en los proyectos. (Translation: The issues have not been expressed publicly because the institution established a policy. If one is not in agreement, then don't participate in the projects.

Respondent # 6

SQ # 13 Response: Not sure.

Respondent # 7

SQ # 13 Response: No response.

Respondent # 8

SQ # 13 Response: No response.

Respondent # 10

SQ # 13 Response: None.

Respondent # 11

SQ # 13 Response: The institutional policy owns full copyright of digital course content and face to face course content.

Respondent # 13

SQ # 13 Response: Issue: who will use the course developed to delivery the instruction?

Solution: The faculty member that designed the digital course content will use it first, and after a determined period of time, others could use it too.

APPENDIX I

Thematic Coding of Open-Ended Questions

Thematic Coding of Survey Question # 9

Open-ended survey question # 9 (SQ9) was, “Are faculty members involved in the development of copyright ownership policies at your institution?”

The thematic coding in accordance to Saldana (2013), begins with capturing the narrative responses or what he refers to as “narrative data.” The responses below constitute the narrative data responses for open-ended question #9.

- Respondent # 1** No. This is determined by administrators.
- Respondent # 3** No response.
- Respondent # 5** La institución se encarga de hacer todo el proceso.
(Translation: The institution is in charge of the entire process.)
- Respondent # 6** Not involved.
- Respondent # 7** No response.
- Respondent # 8** Through policy forming academic senate, policies then are submitted to the president and board of trustees.
- Respondent # 10** Not that I know of. Ours was handed down from the administration.
- Respondent # 11** Contained in Intellectual Property Policy.
- Respondent # 13** I haven’t’ been involved in the development of copyright ownership policies at my institution. I don’t know if other faculty member had been involved.

The categories for this open-ended question would be: “Faculty are involved in the development of copyright ownership policies;” “Faculty are not Involved in the development of copyright ownership policies;” and “Not sure about faculty involvement in the development of copyright ownership policies.” Underlined and italicized are the second cycle categories:

- Respondent # 1** No. This is determined by administrators.
- Respondent # 3** No response
- Respondent # 5** La institución se encarga de hacer todo el proceso.

(Translation: The *institution is in charge* of the entire process.)

- Respondent # 6** *Not involved.*
- Respondent # 7** *No response.*
- Respondent # 8** Through policy forming *academic senate*, policies then are submitted to the president and board of trustees.
- Respondent # 10** *Not that I know of.* Ours was *handed down from the administration.*
- Respondent # 11** *Contained in Intellectual Property Policy.*
- Respondent # 13** *I haven't been involved* in the development of copyright ownership policies at my institution. *I don't know if other faculty member had been involved.*

Some of the responses were ambiguous and it could not be determined whether faculty were involved or not in the development of copyright ownership policies. The ambiguity of the narrative responses did not give rise to the development of any other possible category. The ambiguous responses and thus discarded as not responsive are:

- Respondent # 3** *No response.*
- Respondent # 5** La institución se encarga de hacer todo el proceso.
(Translation: The *institution is in charge* of the entire process.)
- Respondent # 7** *No response.*
- Respondent # 10** *Not that I know of.* Ours was *handed down from the administration.*
- Respondent # 11** *Contained in Intellectual Property Policy.*
- Respondent # 13** *I haven't been involved* in the development of copyright ownership policies at my institution. *I don't know if other faculty member had been involved.*

Respondent # 5 stated that the “institution is in charge,” and this response is not clear whether by “institution” it means faculty and administrators or administrators only. Respondents # 3 and # 7 did not provide a response and thus discarded. Respondent # 10 stated that he/she did not know but then added that the policy was “*handed down from the administration.*” The researcher determined this narrative was non responsive for the same reasons as that of Respondent # 5. Respondent # 11 stated that is was “*Contained in Intellectual Property Policy.*” The researcher determined this narrative was non responsive for the same reasons as that of Respondents # 5 and #10. It is not clear from the response whether faculty were involved in the development of the IP policy. Respondent # 13 stated that he/she was not involved but is not

aware if other faculty were involved. The narrative response from Respondent # 13 was personal in nature and not organizational and as such was discarded.

As such, 3 of the 9 responses were usable for secondly cycle coding categories and thematic coding. Five (5) narrative responses were discarded as unresponsive. Thus, two of the respondents determined that faculty were not involved and one of the respondents determined that faculty were involved.

In accordance to Saldana (2013), the categories generate “themes.” However, because the respondents did not provide longer narrative responses to this question and instead provided short narrative responses, the thematic coding process was made easier to place the narrative data into a singular theme. The theme for this open-ended question is “Faculty Involvement.”

Thematic Coding of Survey Question # 13

Open-ended survey question #13 (SQ13) asked, “What institutional issues, if any, have arisen with regards to copyright ownership of faculty created digital course content and how were they resolved?”

The thematic coding in accordance to Saldana (2013), begins with capturing the narrative responses or what he refers to as “narrative data.” The responses below constitute the narrative data responses for open-ended question #13.

Respondent # 1	None.
Respondent # 3	Not that I’m aware of.
Respondent # 5	Las polémicas no han sido expuestas públicamente porque la institución estableció una política. Si no estas de acuerdo con ella, no participas en los proyectos. (Translation: The issues have not been expressed publicly because the institution established a policy. If one is not in agreement, then don’t participate in the projects.
Respondent # 6	Not sure.
Respondent # 7	No response.
Respondent # 8	No response.
Respondent # 10	None
Respondent # 11	The institutional policy owns full copyright of digital course content and face to face course content.
Respondent # 13	Issue: who will use the course developed to delivery the instruction? Solution: The faculty member that designed the digital course content will

use it first, and after a determined period of time, others could use it too.

The categories for this open-ended question would be: “Institutional Issues of Copyright Ownership.” The second cycle categories would be determined by the narrative responses (Saldana, 2012).

- Respondent # 1** *None.*
- Respondent # 3** *Not that I'm aware of.*
- Respondent # 5** Las polémicas no han sido expuestas públicamente porque la institución estableció una política. Si no estas de acuerdo con ella, no participas en los proyectos. (Translation: The *issues have not been expressed publicly* because the institution established a policy. If one is not in agreement, then don't participate in the projects.
- Respondent # 6** *Not sure.*
- Respondent # 7** *No response.*
- Respondent # 8** *No response.*
- Respondent # 10** *None.*
- Respondent # 11** The *institutional policy owns full copyright of digital course* content and face to face course content.
- Respondent # 13** Issue: who will use the course developed to delivery the instruction?
Solution: The *faculty member that designed the digital course content will use it first, and after a determined period of time, others could use it too.*

Some of the responses were ambiguous and it could not be determined whether there were any copyright ownership issues at respondents' respective institutions of higher education. The ambiguity of the narrative responses did not give rise to the development of any other possible category. The ambiguous responses and thus discarded as not responsive are:

- Respondent # 1** *None.*
- Respondent # 3** *Not that I'm aware of.*
- Respondent # 5** Las polémicas no han sido expuestas públicamente porque la institución estableció una política. Si no estas de acuerdo con ella, no participas en los proyectos. (Translation: The *issues have not been expressed publicly* because the institution established a policy. If one is not in agreement, then don't participate in the projects.

- Respondent # 6** *Not sure.*
- Respondent # 7** *No response.*
- Respondent # 8** *No response.*
- Respondent # 10** *None.*
- Respondent # 11** The *institutional policy owns full copyright of digital course* content and face to face course content.
- Respondent # 13** Issue: who will use the course developed to delivery the instruction?
Solution: The *faculty member that designed the digital course content will use it first, and after a determined period of time, others could use it too.*

Respondent # 3 stated that the he/she was “unaware” of any issues and from this response is could not be determined whether there were or weren’t issues. Respondent # 5 stated that “*issues have not been expressed publicly.*” As such, these narrative data were discarded. Respondents # 7 and # 8 did not respond to the question and as such these two were discarded. The narrative from respondents # 11 and # 13 were not responsive to the question and these were discarded.

As such, 2 of the 9 responses were usable for secondly cycle coding categories and thematic coding. Seven (7) narrative responses were discarded as unresponsive. Thus, two of the respondents determined that there were no issues of copyright ownership.

In accordance to Saldana (2013), the categories generate “themes.” However, because the respondents did not provide longer narrative responses to this question and instead provided short narrative responses, the thematic coding process was made easier to place the narrative data into a singular theme. The theme for this open-ended question was “Institutional Copyright Ownership Issues.”

Thematic Coding of Survey Question # 14

Open-ended survey question #14 (SQ14) asked, “What is your institution’s policy with regards to faculty ownership of faculty-created digital content?”

The thematic coding in accordance to Saldana (2013), begins with capturing the narrative responses or what he refers to as “narrative data.” The responses below constitute the narrative data responses for open-ended question #14.

- Respondent # 1** We are allowed to own it.
- Respondent # 3** All belongs to the institution.
- Respondent # 5** Todo trabajo realizado con recursos de la institución, enseñando a sus

estudiantes y pagado como clase al profesor, le pertenece a la Universidad.
(Translation: All work is performed with institutional resources, teaching students and paid per course as a professor, it belongs to the University.)

- Respondent # 6** There is no faculty ownership.
- Respondent # 7** The institution keeps the ownership of faculty created digital content.
- Respondent # 8** University's ownership.
- Respondent # 10** Not sure.
- Respondent # 11** Full ownership of copyright.
- Respondent # 13** If it is delivered using Blackboard learning platform, then the institution will be the owner.

The categories for this open-ended question would be: "Faculty own it;" "Institution owns it;" "Joint Ownership" and "Not sure." Underlined and italicized are the second cycle categories:

- Respondent # 1** We are allowed to own it.
- Respondent # 3** All belongs to the institution.
- Respondent # 5** Todo trabajo realizado con recursos de la institución, enseñando a sus estudiantes y pagado como clase al profesor, le pertenece a la Universidad.
(Translation: All work is performed with institutional resources, teaching students and paid per course as a professor, it belongs to the University.)
- Respondent # 6** There is no faculty ownership.
- Respondent # 7** The institution keeps the ownership of faculty created digital content.
- Respondent # 8** University's ownership.
- Respondent # 10** Not sure.
- Respondent # 11** Full ownership of copyright.
- Respondent # 13** If it is delivered using Blackboard learning platform, then the institution will be the owner.

Respondent # 1, to previous survey questions had a dual role as faculty and administrator. As such, it could not be determined what "we" meant. As such, this response was discarded.

Respondent # 11 was discarded for the same reasons as Respondent # 1. Respondent # 10 was not “not sure” and this response was discarded.

As such, 6 of the 9 responses were usable for secondly cycle coding categories and thematic coding. Three (3) narrative responses were discarded as unresponsive. Thus, six (6) of the respondents determined that the institution owns the copyright to faculty-created digital content and none of the respondents determined that faculty owned it.

In accordance to Saldana (2013), the categories generate “themes.” However, because the respondents did not provide longer narrative responses to this question and instead provided short narrative responses, the thematic coding process was made easier to place the narrative data into a singular theme. The theme for this open-ended question is “Copyright Ownership.”

APPENDIX J

Open Ended Survey Question #14 Responses

The researcher, who was bilingual in both English and Spanish, implemented all translations.

Respondent # 1

SQ # 14 Response: We are allowed to own it.

Respondent # 3

SQ # 14 Response: All belongs to the institution.

Respondent # 5

SQ # 14 Response: Todo trabajo realizado con recursos de la institución, enseñando a sus estudiantes y pagado como clase al profesor, le pertenece a la Universidad. (Translation: All work is performed with institutional resources, teaching students and paid per course as a professor, it belongs to the University.)

Respondent # 6

SQ # 14 Response: There is no faculty ownership.

Respondent # 7

SQ # 14 Response: The institution keeps the ownership of faculty created digital content.

Respondent # 8

SQ # 14 Response: University's ownership.

Respondent # 10

SQ # 14 Response: Not sure.

Respondent # 11

SQ # 14 Response: Full ownership of copyright.

Respondent # 13

SQ # 14 Response: If it is delivered using Blackboard learning platform, then the institution will be the owner.

APPENDIX K

DCCCD IP Policy

Dallas County Community College District**Intellectual Property Policy**

(Searched online on January 12, 2017 at
[http://pol.tasb.org/Policy/Download/358?filename=CT\(LOCAL\).pdf](http://pol.tasb.org/Policy/Download/358?filename=CT(LOCAL).pdf))

Dallas County Community College District 057501

INTELLECTUAL PROPERTY CT (LOCAL)

INTELLECTUAL PROPERTY

PURPOSE

DEFINED

The purpose of this intellectual property policy is to:

1. Protect instructional quality;
2. Protect the investment of time and resources on behalf of the College District;
3. Encourage the creativity of faculty, staff, and students; and
4. Support sharing of instructional materials and resources among faculty and staff.

This policy covers all types of intellectual property and applies to other types not listed here, regardless of whether they are protected by patent, copyright, trade secret, or other law. The following examples are not exhaustive:

1. Inventions;
2. Discoveries;
3. Trade secrets;
4. Trade and service marks;
5. Writings;
6. Art works;
7. Musical compositions and performances;
8. Software;
9. Literary works; and
10. Architecture.

In this policy, the following definitions apply:

OTHER DEFINITIONS

“College District-Supported Work” is intellectual property that was or will be created, modified, developed, or reproduced under one or more of the following circumstances:

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1.

a.

b.

By a College District employee in the course and scope of employment.

Except for a “scholarly work,” a work considered created in the course and scope of employment if it is related to an employee’s job responsibilities, whether or not the employee was specifically requested to create the work. Job responsibilities include tasks or activities that are included in a position description that are assigned by the supervisor or that are commonly expected of all persons in the job category. Creation of the work would normally

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Dallas County Community College District 057501

INTELLECTUAL PROPERTY

APPLICABILITY

OWNED BY AN EMPLOYEE

All College District employees and students are covered by this policy, as well as anyone using College District facilities under the supervision of College District personnel.

Intellectual property is owned by an employee:

1. If such intellectual property is unrelated to the employee’s job responsibilities and the employee did not use College District resources to create the property (personal work);
2. If it is an invention that has been released to the inventor in accordance with this policy;
or
3. If the intellectual property is embodied in a professional, faculty-, or student-authored scholarly, educational (i.e., course materials), artistic, musical, literary, or architectural work in the author’s field of expertise (from here on, a “scholarly work”).

Unless it is a scholarly work created by someone who was specifically hired or required to create it or commissioned by the College

2. “Incidental Use” of College District resources means that the normal consumption of College District-owned supplies or College District-paid utilities as is consumed in the ordinary course of

work or study by the routine authorized actions of similar types of employees or students. Examples of incidental use are use of electronic mail, remote connection through a College District server, word processing, or other computing resources provided to all College District employees or students without restriction to quantity of use, library materials available to the public, and use of College District resources according to an approved course of instruction.

“Personal Work” is intellectual property that is unrelated to the employee’s job responsibilities, and the employee has not used College District resources to create the property.

3. c. CT (LOCAL) occur during College District time with College District resources, but an employee’s use of personal time or

other facilities will not change its characterization as a College District-supported work if it is related to the employee’s job responsibilities.

By a College District employee through efforts undertaken, in whole or in part, when the employee is on duty to conduct College District business. This provision shall not apply to convert the ownership of a “scholarly work” to a College District-supported work for faculty.

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Dallas County Community College District 057501

INTELLECTUAL PROPERTY CT (LOCAL)

PROFESSIONALS AND RESEARCHERS

District, the College District, not the creator, shall own the intellectual property.

The use of the terms “professionals,” “faculty members,” and “students” is intended to encompass all those individuals who routinely create scholarly works.

For example, if a library administrator writes a book about Texas history, his or her field of expertise, the College District will not assert ownership of the book. Similarly, if an employee writes a scholarly journal article, the College District will not assert ownership of the work, even though the author is not a faculty member.

In the case of educational materials that involve significant College District resource contributions, the College District retains rights, for example, to use the work and to recover its investment. In some cases [see JOINT OWNERSHIP, below], the College District may be a joint author and owner of such works.

Scholarly works are owned by their author/creator if the author is a professional, a faculty member, or a student. Their scholarly works do not have to be disclosed to or reviewed by the institution. Scholarly works are usually protected by copyright rather than patent. Copyright

protects works of authorship from the moment of their fixation in a tangible medium of expression, that is, instantly and automatically. As a result, the rigorous institutional review given to possibly patentable inventions is unnecessary to protect an interest in copyright works.

The College District's primary interests with scholarly works owned by professionals, faculty members, and students are to allocate and recover resources that may be contributed to the creation of such works. If a project involves the use of significant College District resources, the creator and the College District shall agree before the project begins on use of facilities, allocation of rights to use the work, recovery of expenses, and sharing of benefits from commercialization of the work.

Except for scholarly works, works related to an employee's job responsibilities, even if he or she is not specifically requested to create them, shall belong to the College District as works-for-hire. A copyright work is related to an employee's job responsibilities if it is the kind of work he or she is employed to do, at least in part, for use at work, or for use by fellow employees, the College District, or the College District's clients. The work should be performed substantially at work using work facilities, but use of personal time or other facilities to create the work will not change its basic nature if it is related to the employee's job as described above. Works that have nothing to do with job duties shall remain the property of an

SCHOLARLY WORK

WORKS CREATED WITHIN THE SCOPE OF EMPLOYMENT

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INTELLECTUAL PROPERTY CT (LOCAL)

EMPLOYEES SPECIFICALLY HIRED OR REQUIRED TO CREATE A WORK

employee, so long as the employee makes no more than incidental use of College District facilities.

For example, if an employee's job with the College District is related to safety, a software program that the employee creates on the employee's own initiative to run on each employee's computer to show a graphic of the nearest fire exits is related to job duties and will belong to the College District, although no one asked the employee to create it and some of the programming was completed at home on a personally owned computer. A program that the employee creates that does not relate to his or her job, that is not used at work by the employee or others, and that was created on personal time shall belong to the employee.

An employee will know if he or she has been specifically hired or required to create a work in part by considering the employee's job description. For example, faculty members are required by the College District to create certain materials for use by their departments. In other cases a faculty member may be hired to create specific materials, such as online course materials for a specific class or department. In such a case, the College District shall own the copyright in the materials and any other resulting intellectual property.

There are several ways to clarify circumstances that are confusing or are exceptions to the more general rules.

Professionals, faculty members, or students employed to create specific intellectual property or hired to create intellectual property generally shall review and sign the single-page acknowledgment to clarify ownership of the works they create. The acknowledgment also applies to other employees who are hired to create intellectual property and to whom the royalty-sharing provisions may not apply, as discussed below.

In general, employees should ask questions about the ownership of intellectual property before its creation to avoid misunderstanding.

The College District recognizes that individual questions may arise that call for specific and individual consideration. The Chancellor shall designate an Intellectual Property Committee, to be composed of such administrators and faculty representatives as he or she deems appropriate, to address and resolve such questions in a manner consistent with College District property.

Any one of these circumstances shall result in ownership by the College District if the intellectual property:

1. Is created by an employee within the scope of employment;

INTELLECTUAL PROPERTY COMMITTEE

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INTELLECTUAL PROPERTY

CT (LOCAL)

Is created on College District-paid time, with the use of College District facilities, or with state financial support;

Is commissioned by the College District:

1. Pursuant to a signed contract; or
2. If it fits within one of the categories of works considered works-for-hire under copyright law, including contribution to a collective work, part of a movie or other audiovisual work, a translation, a supplementary work, a compilation, an instructional text, a test, answer material for a test, or an atlas.

Results from research supported by federal funds or third- party sponsorship through the College District.

ELECTRONICALLY DEVELOPED COURSE MATERIALS

In general, electronically developed course materials (EDCM) embody text, graphics, and sound created by an employee directing a course or used by that employee with the permission of the creator. Ownership of the resulting intellectual property varies according to the following circumstances. For example:

1. If an owner of a personal or scholarly work independently combines that work into HTML documents without more than incidental use of College District resources, a personal or scholarly work owned by the creator is the result. If the faculty member or employee who is the owner of a personal or scholarly work requests authorized personnel to copy a course or its content, or both, from a template or shell in “BlackBoard” or similar system into another template or shell in the same system, the copying process is considered an incidental use.
2. If an owner of the same personal or scholarly work delivers it to a College District employee who combines the work, for example, with additional expression and linking organization into an HTML document, then the resulting work is a College District-supported work, jointly owned by the College District and the employee. The College District’s ownership interests extend to the EDCM but not to the underlying work(s).

Therefore, a faculty member’s lecture notes, manuscript excerpts, graphs, exam questions, and similar material that constitute scholarly or personal works retain that status despite incorporation into EDCM, but the addition of original expression by others within the scope of their employment makes the final product a College District-supported work.

2.

3.

4.

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CT(LOCAL)-X

Dallas County Community College District 057501

INTELLECTUAL PROPERTY CT (LOCAL)

JOINT OWNERSHIP

A College District-supported work results when the EDCM contains any underlying College District-supported work, regardless of the manner of creation of the EDCM.

If an employee receives a stipend or release time, the College District-supported work is owned by the College District.

Joint ownership of intellectual property between an employee and the College District is likely to be the case for works protected by copyright, such as multimedia courseware products and distance learning materials. Anyone who contributes the kind of expression protected by the law is a joint author if the contribution is intended to be part of the integrated whole. The College District's employees who work as programmers, graphic artists, video technicians, script writers, and the like create this expression. When added to a faculty member's contribution, the result is a jointly authored work, owned by the College District and the faculty member. There can be other author-owners as well.

In the majority of cases, the owner, whether the College District or an employee, shall retain all royalties or other benefits from any commercialization of the intellectual property with the following exceptions:

1. An employee owner shall share benefits with the College District from commercializing a College District invention re- leased to the employee or if the work embodying the intellectual property required significant resource contributions from the College District to create or develop the intellectual property. In this case, the parties shall execute an agreement regarding the sharing arrangement before starting the project that will result in creation of the intellectual property.
2. The College District shall share royalties from commercialization of intellectual property it owns if the work is an invention, discovery, trade secret, trade or service mark, or software, regardless of how protected.

If an employee/creator was hired specifically or required to create the intellectual property or the work was commissioned by the College District, the royalty-sharing provisions of this policy shall not apply, and the owner (the College District) shall retain all benefits from commercialization.

Intellectual property includes works protected by copyright, patent, trade secret, and other laws, but all intellectual property is not handled in the same way. Scholarly works are handled differently from inventions, discoveries, and ideas because concerns about protecting them are different, as explained above.

SHARING ROYALTIES OR OTHER BENEFITS FROM COMMERCIALIZATION

ACTIONS

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Dallas County Community College District 057501

INTELLECTUAL PROPERTY CT (LOCAL)

INVENTIONS

The College District shall normally own all inventions created by employees within the scope of their employment and must be sure that it can legally protect the invention if it hopes to license it. Since publication of the idea embodied in the invention bars the filing of a patent application in every country in the world besides the United States, and starts a one-year clock running on the right to file a patent application in the United States, publication is a very important event—one the College District would like to know about before it happens. Because of these concerns, inventors shall be required to disclose their inventions to the College District well before they have submitted any information about the invention for publication, made any public disclosure, or even made a private disclosure to a commercial entity.

Occasionally, the inventor may wish to file a patent application while the College District's review is proceeding. If the College

District authorizes such a patent application and then decides later to assert its interest, the inventor shall be reimbursed by the College District for patent expenses.

If intellectual property belongs to the College District, the College District may secure patent or trademark protection. Copyrights do not require significant time or expense, and individuals who own a copyright work or invention may secure protection themselves, at their own expense.

Although the College District is free to take an equity interest in a licensee as partial or full consideration for the license of College District intellectual property, it could be a conflict of interest for an employee of the College District to also be an employee, officer, director, or stockholder in a corporation or other business entity that licenses College District intellectual property. Because of this possible conflict of interest, College District employees may hold equity interests in licensees or may be employees, officers, or directors only if approval is granted by the College President or Chancellor.

Patent, technology, and software license agreements, and other agreements that convey an interest in College District intellectual property, are reviewed by the College District's legal counsel.

PATENTS AND OTHER LEGAL PROTECTIONS

EQUITY INTEREST AND MANAGEMENT

APPROVAL AND EXECUTION OF DOCUMENTS

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APPENDIX L

UNT IP Policy

Policies of the University of North TexasChapter 6
Faculty Affairs**06.032 Online Courseware Intellectual Property**

Policy Statement. This policy addresses the use of distributed learning at the University of North Texas. Distributed learning is a pedagogy whereby students are instructed via electronic transmissions, often utilizing electronically published course materials. Electronically published course materials are materials utilizing electronic transmissions to teach students at sites distant from the faculty member. The purpose of this document is to protect the rights of both the faculty member and the University and to encourage the offering of quality distributed learning programs. It should be noted at the outset that in all cases except work made for hire, the faculty member retains the ownership and copyright of the work as well as the ability to market the work commercially. Licensure, which is the right to market the electronically developed course materials, is addressed under the ownership and compensation heading in each of the five categories specified in Section IV. Electronically published course materials have been a part of the curriculum at the University, but for a variety of reasons, there are still many questions about the rights and responsibilities of University and its faculty members with respect to these methods of instruction. Since the demand for distributed learning appears to be increasing and the continuing development of electronically published course materials in various media seems likely, it is important to address the issues raised by the creation, use and distribution of various forms of electronically published course materials and clarify the rights and responsibilities of each of the parties involved. This policy is a supplement to the UNT Policy 08.001 Copyright Compliance and only addresses distributed learning. To the extent this policy conflicts with the Copyright Compliance policy on issues involving distributed learning, this policy prevails.

Application of Policy. Total University.

Definitions. None.

Procedures and Responsibilities.

1. Issues Raised

- i. Who owns copyright in electronically published course materials and how should such rights be protected?
- ii. What are the responsibilities of faculty members to utilize various technologies to meet the needs of their currently enrolled students?
- iii. Under what circumstances faculty members should be expected to prepare electronically published course materials for use by students not currently enrolled in their classes?

- iv. What are the rights of faculty members with regard to the continuing use of electronically published course materials?
- v. Who may receive royalties from the sale or licensing of electronically published course materials?
- vi. What procedures should be followed to limit liability for infringement of copyright or invasion of privacy or publicity if electronically published course materials contains material that belongs to someone other than the University or faculty creator(s) or contains others' likenesses?

2. General Guidelines

a. **Copyright Ownership.**

The Copyright Compliance policy recognizes that in most instances faculty members own copyright in scholarly works created by the faculty members. Faculty members thus normally hold copyright in electronically published materials they create on their own initiative. University of North Texas's Policy recognizes ownership of copyright in works created under contract or as works for hire as residing with the University. Electronically published course materials created jointly by faculty authors and others, whose contributions would be works for hire, will be jointly owned by the faculty author and the University. Any owner of copyright in electronically published course materials may secure copyright registration; joint owners may, but do not have to, agree to bear responsibility for enforcement of the copyright. Faculty members should note that ownership of works of students is controlled by Copyright Law, which means that students own copyright in their works and faculty members must obtain their permission to incorporate student work in a faculty-authored work. Specific ownership rights are addressed in Section IV below.

b. **Faculty Responsibility to Currently Enrolled Students.**

Faculty members have a responsibility to meet the reasonable needs of their currently enrolled students, including those needs best addressed by the use of technologies to make class materials readily available. For example, if recordings may be needed by remote or handicapped students, they should be created in the ordinary course of teaching and made available under reasonable circumstances. Electronically published course materials such as tape recordings and videotapes created in the ordinary course of instruction and not intended for use beyond the end of the current semester or by students other than those registered for the class are the property and responsibility of the faculty member who creates or authorizes them. Faculty should be willing to utilize technologies appropriate to the circumstances to make their course materials reasonably available to their currently registered students. Faculty may dispose of such materials in whatever manner they choose at the end of each semester and in accordance with the Records Retention Policy.

c. **Course Development.**

Faculty may receive course release(s) for duties performed in the best interests of the

University's instructional program, including the development of electronically published course materials. Course release does not automatically determine the appropriate category to place the work. Normally, a course release would imply at least a minimal allocation of University resources i.e. category II.

d. Revision Rights.

Faculty members should normally retain the right to update, edit or otherwise revise electronically developed course materials that become out of date, or, in certain circumstances, should place a time limit upon the use of electronically developed course materials that are particularly time sensitive, regardless of who owns copyright in the electronically developed course materials. These rights and limitations may be negotiated in advance of the creation of the electronically developed course materials and may be reduced to writing. Absent a written agreement, each faculty member will have the right and moral obligation to revise work on an annual basis in order to maintain academic standards. If a faculty member does choose to revise the work and such revision is done in a satisfactory manner, the faculty member retains the rights to full royalties as discussed below for another year. If the University believes a revision is necessary and no timely revision is made or if the revision made, in the University's opinion, does not maintain academic standards, the University may refuse to market the product, or the University may employ another person to update the work and charge the cost of updating the faculty member's portion of the revision against any royalties paid to the original author.

e. Royalties.

In accordance with the Copyright Compliance policy, faculty members shall receive all royalties that may accrue from the commercialization of electronically published course materials they create on their own initiative. On the other hand, the University retains all royalties that may accrue from the commercialization of electronically published course materials created by faculty members pursuant to contract or as a work for hire, including electronically published course materials created as a condition of employment. Copyright law permits joint owners to pursue commercialization either jointly or separately, with accounting. Other circumstances may require review on a case-by-case basis (such as the creation of electronically developed course materials initiated by a faculty member but using substantial University facilities.) Absent a contract specifying to the contrary, specific division of royalties is addressed in Section IV below. In instances of joint ownership between faculty members where the University also retains rights to royalties, the faculty members shall determine by written document the division of royalties. Absent a written document of division of royalties, the faculty members shall divide their share pro rata based on participation.

f. Contributed Materials.

Liabilities may be incurred with respect to the inclusion of materials in electronically published course materials other than materials created by the author of the electronically developed course materials and inclusion of voices or images of persons in the electronically developed course materials, including audience members and guest lecturers. It is the policy

of University that all faculty and staff comply with the law, including copyright and privacy laws; therefore, it is the responsibility of the creator of electronically published course materials (normally the faculty member) to obtain all permissions and releases necessary to avoid infringing copyright or invading the personal rights of others. Guidelines for the use of student works are available on the Center for Distributed Learning Web Site (<http://www.cdl.unt.edu/index.cfm>).

g. Use of University's Name.

Faculty members must observe the same requirements that apply in other contexts with respect to the use of the University's name.

h. Protecting the Work.

The University of North Texas will determine whether to register the copyright and will be responsible for enforcement of works it owns. Faculty members will make such decisions and take such steps to protect works they own. Any one of the authors of a joint work may register and enforce the copyright in the names of all owners, with accounting.

i. Retention of Nonexclusive License.

Except in category I below, the University shall retain a non-exclusive educational license to reproduce and use the electronically developed course materials in teaching University classes on or off campus. Compensation to the faculty member for use of the course shall be as specified below.

j. Administration.

The Patent/Copyright Officer and Committee shall be responsible for the administration of this policy and applying the policy equitably across the campus. The faculty member should first meet with his/her department chair and dean to determine which category the electronically published materials will be assigned and the ownership, institutional resource commitment and the royalties. A copy of the agreement will be forwarded to the Patent/Copyright Officer and Committee for their review and assurance that the policy is being applied in an equitable manner. The Patent/Copyright Officer shall inform the dean and department chair of any inequitable applications of the policy and it shall be the responsibility of the dean and department chair to resolve the issue with the faculty member. If any dispute arises between the faculty member and department chair

and dean, they shall initially attempt to resolve the disputed issue. Issues that cannot be resolved by the parties shall be handled in the same manner as in the Copyright Compliance policy.

3. Specific Categories Assigning Ownership and Royalties

Please Note: Categories I-IV do not address the case in which a UNT faculty member uses their own work in a UNT class. For this case, see Category V. Faculty members should meet

with their Department Chair and Dean prior to creating electronically developed course materials for distributed learning in order to reach an agreement as to the appropriate category classification. It is understood that in some circumstances this category classification may change based on a modification in University support for the project.

Category I – Totally Faculty or Staff Generated.

Description of Individual and University

Contribution:

The work resulted from an individual's efforts on his own personal time without any direct support from or through UNT and without the use of any UNT resources beyond those normally provided by the University.

Examples:

1. A faculty member in Sociology works with a publishing company to create a Web-based course. The publishing company provides 700 hours of instructional design and production support and the course is mounted on the company's server. All of the work is done on the faculty member's own time, but some of the development is done on weekends using the faculty member's office computer. UNT- licensed development software that is available throughout the department is also used. The course is mounted on a commercial server.
2. A professor in forensic psychology is approached by the publishing arm of a learned society to create a CD containing 2,000 images of evidence that this professor has photographed in preparing for classes over the years. The professor took the photographs on weekends using own camera and film, but on the department's copy stand. The learned society creates and markets the CD.

Ownership and Compensation

The individual owns all intellectual property, may receive compensation for work and retains distribution rights.

Category II – Minimal University Resources.

Description of Individual and University Contribution:

The work resulted from the individual's efforts with minimal resources above and beyond those normally provided.

Examples:

1. A faculty member works with Digital Inc., a Web course publishing company, to put the course, *Serving an Aging Population*, totally on the Web. The University provides funds to purchase time from the University's Center for Media Production to videotape two hours of lecture to be streamed as part of the course. In addition, the University's Media

Library checks out to the faculty member one of two digital recording workstations for a period of two weeks. Digital Inc. spends over 300 hours recording materials provided by the faculty member and creating the Web course, and mounts the course on their server. The faculty member works on the project almost exclusively on their own time.

2. An adjunct faculty member who teaches Accounting Principles for Non-Profit Agencies for the University volunteers to put half of the course on the Web. The University provides 30 hours of training on WebCT, the Web platform utilized. The University also provides twenty hours of assistance in creating a Power Point Presentation to be used as part of the course. The adjunct faculty member spends 200 hours creating the course on their own time. The course is mounted on the University's server.

Ownership and Compensation

The individual owns intellectual property and has the right to distribute the work. The individual may receive compensation for any distribution outside the University course delivery. The University has a non-exclusive educational license to use the work as part of UNT course delivery. In such case, the faculty member will be compensated per student enrolled in a UNT course at a rate negotiated with the University or as otherwise agreed to by the University and the faculty member.

Category III– Substantial University Resources Are Provided.

Description of Individual and University Contribution:

The work resulted from the individual's efforts with substantial University resources above and beyond those normally provided.

Examples:

1. A faculty member volunteers to make their department's Literature for Children Course totally available on the Web. The faculty member is provided with a course release in the Spring Semester and paid for a course in the Summer to develop the product, but also contribute some of her own time. The University provides a substantial grant to purchase a digital camera to use in the project or a .5 FTE Web developer housed in the department for a semester to work with the faculty member. Personnel from the University Center for Distributed Learning record speakers for the class, digitize audio and video, totaling over 300 clock hours of production and support services. The course is mounted on the University's server.
2. The University's Executive MBA's Program decides to offer the degree by taping courses and allowing employees of two corporations to download the courses to view on their own schedules. Three faculty from the EMBA Program will rotate grading and answering questions for each course. A faculty member who teaches Human Resource Management volunteers to offer the first course. During the next year, this faculty member is given a course release each semester and paid for two courses in the Summer. The University funds production time in the Center for Media

Production for the production of the tapes. The Center for Distributed Learning contributes significant hours in digitizing the tapes. The faculty member spends 60 hours over the year of their own time designing the course for television delivery. The University mounts the course on its server.

Ownership and Compensation

The individual owns intellectual property and has the right to distribute it and receive compensation for any distribution outside the University course delivery. The University has a non-exclusive educational license to use the work as part of UNT course delivery. In such case, the faculty member will be compensated per student enrolled in a UNT course at a rate negotiated with the University. The University also has a non-exclusive commercial license to market the course outside the University. If licensed for commercial purposes either by the University or the faculty member, the University and the faculty member will each receive a percentage of the royalty as negotiated. In case of multiple authors, the authors will share the royalty pro rata based on their participation.

Category IV– Work Made For Hire – University Assigns Duty to Faculty or Staff Member to Develop a Work.

Description of Individual and University Contribution:

An employee of the University was contracted to develop a specific product. The University provided all resources for the work. The work was carried out totally as a part of the faculty or staff member's assigned time.

Example:

1. The Chair of the Secondary Education Department assigns a faculty member to a course that will be videotaped and broadcast the next year to sites in five school districts as part of a new Master's Program offered by the department. The faculty member is given course releases for the Fall and Spring Semester and is paid a task payment. All of the design and production work is done during working hours. The faculty member is assigned a .5 FTE research assistant for the academic year. The Center for Media Production contributes 250 hours in the design and production of the videotapes.

Ownership and Compensation

The University owns all intellectual property, has an exclusive educational and commercial ownership and license authority. The faculty or staff member is not entitled to payment of royalty.

Category V– Faculty Member Uses Own Work as Part of Course Offering at UNT.

Description of Individual and University Contribution:

The faculty member is using a work that he/she created as part of teaching at UNT.

Examples:

1. See Category II, Example 1 above. In this case, the faculty member might offer the course at UNT. The University would pay the previously negotiated fee to Digital, Inc. for access to the course materials, but this payment would not include compensation to the faculty member beyond the standard course compensation.
2. See Category III, Example 2 above. In this case, the faculty member might teach the course to students in the program. There would be no compensation to the faculty member beyond the standard compensation for teaching the course. If the University used the materials with another faculty member, the faculty member who designed the materials would be compensated on a per student basis as negotiated with the University.

3. Ownership and Compensation

Ownership will be determined by categories one through four. There will be no extra compensation beyond normal teaching compensation for use of the work.

Responsible Party: VP Academic Affairs

References and Cross-references

UNT Policy 08.001 Copyright Compliance.

Approved: 02/11/2000

Effective:

Revised: 7/03; 4/2011 reviewed with no change; formatted.

APPENDIX M

TCU IP Policy

**Texas Christian University
Intellectual Property Policy and Procedures****Table of Contents**

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Texas Christian University Intellectual Property Policy

I. Preamble and Objectives

Texas Christian University (TCU) has among its primary purposes teaching, research, and the expansion and dissemination of knowledge. TCU recognizes that commercially valuable intellectual properties sometimes arise in the course of research and other activities conducted by employees and students using University resources and facilities. The University has an interest in protecting such intellectual properties in order to:

- f. Serve the public good by promoting the disclosure, dissemination, and utilization of inventions which arise in the course of the University's research through established channels of commerce;
- g. Provide incentives to members of the University community who create such inventions; and
- h. Support further research and development by securing for the University a share in the proceeds of such inventions.

The TCU Intellectual Property Policy (hereinafter "Policy") has been established to provide for an equitable allocation of responsibilities and rewards among inventors, their departments and schools, the University, and any external organizations that have sponsored and financed research activities at the University. Under this policy, intellectual properties can be managed so as to further the University's mission, enhance the value of such properties, and maximize benefits to the University, inventors and authors. These policies and procedures apply to the reporting of inventions by investigators, prosecution of patent rights by the University, development of commercial applications, distribution of financial benefit and expense within the University, and distribution of a share of net income from inventions to the inventor(s).

II. University Ownership of Intellectual Property

Generally, and subject to more specific guidelines for each type of intellectual property listed later in this policy, TCU will assert ownership of intellectual property created by TCU personnel, including employees and students, under the following circumstances:

Development required, among other things, use of TCU resources (e.g. facilities, equipment, funding, personnel). TCU may assert rights to patentable material and trade secrets derived from research carried out with any use of TCU's resources. TCU may assert rights to copyrightable material developed with substantial use of TCU resources.

The creator was assigned, directed, or specifically funded by TCU to develop the material.

Material was developed by administrators, staff members, or other non-faculty employees in the course of their employment duties and constitutes work for hire under U.S. law.

Development of the intellectual property was funded by an externally sponsored research program or by any agreement which allocates rights to TCU.

4. Definitions

Key terms in this policy are defined below for the reader's convenience, and are intended to illustrate the different types of intellectual property. Intellectual property that does not fit

within one of the definitions listed below but qualifies as one or more of these types of intellectual property under U.S. law is covered under this policy.

Intellectual Property means certain creations of the human mind that are granted legal aspects of a property right. These property rights include patents, copyrights, trademarks, trade secrets, and any other such rights that may be created by law in the future. Intellectual property shall consist of, for example and without limitation: inventions, creative works, patentable subject matter, copyrightable materials, know-how, electronic or paper documents, software (including source code and object code), multimedia or audiovisual materials, photographs, trade secrets and trademarks.

Patent means a grant issued by the U.S. or a foreign patent office that gives an inventor the right to exclude others from making, using, or selling the Invention within the United States or other geographic territories for a period of years from the date of filing of the patent application. Patentable intellectual property generally consists of inventions, whether this be a machine, an article of manufacture, a method of doing something, a chemical or DNA sequence or the method of its use, products of genetic engineering, or improvements to any of these things. Patent protection may also apply to plants and to ornamental designs of articles of manufacture.

Invention means any new or useful process or discovery, art, method, technique, machine, device manufacture, software, composition of matter, or improvement thereof.

Inventor(s) means any individual or individuals associated with the University who makes an invention.

Invention Disclosure means a form that reports and describes a new invention, signed by the inventor(s).

Copyright means an original work of authorship that has been fixed in any tangible medium of expression from which it can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Copyright includes a bundle of rights: the right to make reproductions of the work, the right to distribute copies of it, the right to make derivative works that borrow substantially from a copyrighted work, and the right to make public performances or displays of most works. Copyrightable intellectual property generally includes all creative works, electronic or paper documents, software (including source code and object code), multimedia or audiovisual materials, musical compositions, photographs, paintings, sculptures, architectural works and any other materials that may be copyrightable under U.S. law (whether or not produced in the U.S.).

Author means a person who creates a copyrighted work.

Trademark means a word, name, symbol, or device (or any combination) adopted by an organization to identify its goods or services and distinguish them from the goods and services of others. Items such as, but not limited to, names, seals, logos, mascots, etc. are examples of trademarks.

Trade Secret means information, including a formula, pattern, compilation, program, device,

method, technique or process, which derives independent economic value from not being generally known or readily ascertainable by other persons, and is the subject of reasonable efforts to maintain its secrecy. Trade secrets are a compilation of information that is not generally known or accessible and which gives a competitive advantage to its owner. Examples of this include, but are not limited to, the method of making a product or the ingredients which go into it, and customer and prospect lists.

Software means any computer program or database, or part thereof, designed to accomplish a task or allow a user to produce, manage, analyze, or manipulate a product, such as data, text, a physical object or other software. Software may be protected by patent, copyright, or trade secret.

Sponsored Research Agreement (SRA) means a contract between the University and a sponsoring organization that sets the terms and conditions for the conduct of a faculty research or training project. An SRA typically includes a description of the work to be performed, the terms of payment, ownership of intellectual property, publication rights, and other legal assurances. Sponsored programs funded by private sponsors will generally provide for TCU to retain all intellectual property that arises in the course of the research program with the sponsor retaining an option to acquire commercialization rights through a separate license agreement. Government and nonprofit sponsors generally allow rights to intellectual property that arises from the research program to vest with TCU.

Royalties means all compensation of whatever kind received from the sale, license, or other transfer of intellectual property rights by the University to a third party. This includes, but is not limited to, percentage payments, up-front fees, milestone payments, shares of stock, and any other financial or in-kind consideration.

Intellectual Property Review Committee (IPRC) means the advisory body, appointed by the Chancellor and reporting to the Associate Provost for Research that shall advise on the interpretation and implementation of these policies. It shall be the function of the IPRC to advise the Associate Provost for Research with respect to 1) guidelines and procedures for implementation of the this policy; 2) interpreting and applying this policy in individual cases; 3) resolving disputes concerning the interpretation and application of this policy; and 4) recommending such changes in University policy, as may from time to time be desirable.

Associate Provost for Research means the person designated by the Vice Chancellor for Academic Affairs to perform the duties and administer the policies described herein.

Work Made For Hire: Intellectual property produced in the performance of a grant or contract or as a part of an employee's assigned work responsibilities.

IV. Ownership and Disclosure of Patents and Inventions

3. Ownership of Inventions

Any invention resulting from activities related to an individual's employment responsibilities

or with support from University-administered funds, facilities, personnel, or other

resources of TCU shall be assigned to the University. This applies to any TCU employee, (including without limitation faculty, administration, and staff members) or any student, who is engaged, whether or not for compensation, in University research work from which an invention or copyrightable work is developed.

2. An invention unrelated to an individual's employment responsibilities that is developed exclusively on his or her own time without any University funds, resources or facilities shall be owned by the inventor.

3. Ownership of an invention developed in the course of, or resulting from, work supported by a grant or contract with a governmental entity or a nonprofit or for-profit nongovernmental entity, shall be determined in accordance with the terms of the grant or contract or, in the absence of such terms, shall be owned by and assigned to the University, as otherwise provided in this policy.

4. TCU will assert ownership to patentable intellectual property when the creator was assigned, directed, or specifically funded by TCU to develop the material, or when the material was developed by administrators or staff in the course of their employment duties and constitutes a work for hire under U.S. law.

B. Disclosure of Inventions

The right of employees and students to publish the results of research remains inviolate, subject only to the terms of a grant or SRA funding the work. However, any public disclosure of an invention, such as a presentation, publication, or grant proposal, prior to filing a patent application, limits patent rights and reduces an invention's commercial value. It is important for the inventor to be aware of the potential harm of premature publication, which severely undermines the patentability of an invention. Because of the great costs associated with bringing a product to market, companies are usually willing to develop technology only if it is protected by patents. Therefore, employees and students are encouraged to disclose their inventions as soon as they are reduced to practice and prior to sending out manuscripts or grant applications. The inventor should consult the Associate Provost of Research whenever he or she has a question about patent rights.

3. Disclosure Requirements

When an inventor conceives or reduces to practice an invention and judges that it may be valuable and serve the public good, that individual is required to promptly report the invention to the University, usually within 30 days of discovery or creation. Inventions must be fully disclosed to the Associate Provost for Research in good faith using the Invention Disclosure Form which may be found by following the "Intellectual Property" link on the TCU Research webpage (www.research.tcu.edu) or at <http://www.research.tcu.edu/default.asp?id=page&pid=sp219&parent=176>.

2. It is the inventor's responsibility to identify all co-inventors at the time of disclosure on the Invention Disclosure Form and to submit in writing, on the proper disclosure form, the percentage of any potential revenue each of the co-inventors shall receive. Should the inventors fail to agree on a division, the IPRC shall make a recommendation on such distribution to the Associate Provost for Research.

To protect and preserve the intellectual property rights defined in this policy and to comply with federal regulations, inventors shall execute assignments and other appropriate documents as may be requested by the Associate Provost for Research to

perfect the University's ownership and rights to inventions.

4. Procedure for Determining Patent Protection and Commercialization

The Intellectual Property Review Committee ("IPRC") shall review all invention disclosures, evaluate their patentability and potential commercial value, and make a recommendation to the

Associate Provost for Research. A sufficient period of time will be provided to insure that adequate review and consideration is given to patentability and the identification of potential corporate sponsors. A majority of the members of the committee shall constitute a quorum.

2. The Associate Provost for Research shall make a determination whether the University should seek patent protection for an invention. That determination will depend upon the availability of funds and an assessment of the invention's commercial value. No inventor shall have a right to have an invention patented.

3. If the creator does not agree with the decision of the Associate Provost for Research, a written appeal may be submitted to the Provost within 30 days of notification of the decision. The Provost will respond within 10 working days. If the creator wishes to appeal again, a written

appeal may be submitted to the Chancellor within 10 working days. The decision of the Chancellor is final in such matters.

E. Disposition of Inventions

TCU may dispose of its rights to inventions as follows:

1. By using such rights for the public good;
2. By commercially developing the rights; or
3. By releasing the rights to the inventor(s) on the conditions listed below in Section IV.G.

F. Commercial Development of Patent Rights:

1. Agreements that grant to companies the rights to commercially develop inventions are encouraged. The Associate Provost for Research is responsible for negotiating such agreements, on behalf of the University, and in close coordination with Inventors.

2. Inventors shall, whenever practicable, be advised and consulted on the progress of license negotiations, but in no event shall they have a right of approval to the legal or payment terms of any agreement. The University shall not have a duty to an inventor to secure a minimum royalty.

G. Release of Rights to Inventor:

1. If, upon final review, it is determined that the disclosure will not be patented, licensed or otherwise commercialized by the University, then the Associate Provost for Research shall cause

ownership rights to be waived by the University in favor of the inventor or author.

2. Rights released to the inventor will be on the condition that the University receives a paid-up, nonexclusive license to use the invention for research purposes.

3. Once rights are released to the inventor, the inventor may pursue a patent at his or her own expense; University funds may not be used for this purpose.

4. Rights released to the inventor will be on the additional condition that expenses

previously incurred by TCU will be reimbursed by the inventor if monies from subsequent commercial exploitation of the invention become available.

V. Copyright Ownership

TCU encourages the preparation and publication of copyrightable works that result from teaching, research, and scholarly and artistic endeavors by members of the faculty, staff and student body. Creative works that are protectable by copyright belong, under the general law, to an employer if they are created by an employee within the scope of his or her employment. In keeping with academic tradition, however, TCU does not expect ownership rights for pedagogical, scholarly, or artistic intellectual property, such as scholarly books, articles, and other publications (including those in electronic form), works of art, literature, and music compositions and recordings. Included are all copyrights in papers, theses and dissertations written as a student to earn credit in University courses or to satisfy University degree requirements.

The policy of allowing an employee or student who authors or contributes to a published manuscript, journal article, student thesis, textbook, or other scholarly work to own the copyright in that work is intended to accommodate the requirement of many publishers that copyright be assigned by the author(s) to the publisher before publication can proceed. Although TCU generally will allow faculty, staff, other employees, and students to own the copyright in pedagogical, scholarly, and artistic works, TCU still owns all other rights, such as patent rights, in any ideas or other matter described in such works.

A. University Ownership of Copyrightable Materials

Copyrights in works such as those described above are owned by their creators, despite the use of University resources, unless they fall within one of the exceptions listed below, in which case TCU may assert ownership rights in copyrightable intellectual property:

1. Development was funded as part of a sponsored program under an agreement that allocates rights to TCU.
2. A faculty member was assigned, directed, or specifically funded by TCU to develop the material, and TCU has negotiated an understanding or formal contract with the creator.
3. The material was developed for an institutional purpose in the course of employees' prescribed duties. These include works on which there have been simultaneous or sequential contributions over time by numerous faculty staff, or students.
4. The material was developed, among other things, with substantial use of University resources, such as use of staff time, networks, equipment, or direct funding that would not occur but for the development of the intellectual property.
5. The material is a non-pedagogical, non-scholarly, or non-artistic work created by TCU employees in the course of their employment, such as computer software, databases, user interfaces, user or other technical manuals or documentation, and other computer-related materials.
6. The material was prepared for TCU business purposes. For example, TCU would own all rights to any writings, photographs, videos, or sound recordings made by TCU employees that are prepared for possible inclusion in an internal TCU resource, a TCU print

publication, or on TCU's website.

B. TCU License for Teaching and Classroom Materials

Authors of copyrightable teaching and classroom materials developed for TCU courses or curriculum shall grant the University a non-exclusive, royalty-free, perpetual license to use, display, copy, distribute, and prepare derivative works so that TCU's continued use of such material for educational purposes would not be jeopardized.

C. University Assistance for Protection and Marketing of Independently-Owned Copyrightable Materials

Faculty, staff or students are not obligated to disclose the creation of copyrightable material, even when the product might have commercial value. Faculty, staff and students are, however, encouraged to disclose any copyrightable material that has commercial value to the extent that they may wish assistance in copyright protection and marketing in exchange for profit sharing with TCU. All disclosures should be made to the Associate Provost for Research. The procedures listed above in section IV.D. will be followed to determine whether University resources should be utilized to protect and market such copyrightable materials.

VI. Trademarks

Trademarks associated with any other form of intellectual property covered in this policy will be considered jointly owned by the creator and TCU unless otherwise specified.

VII. Trade Secrets

Trade Secret is a legal term referring to any information of knowledge, whether or not patentable or copyrightable, which is not generally known or accessible, and which gives a competitive advantage to its owner. Trade secrets are proprietary information. Making such knowledge widely known destroys its value as a competitive advantage. To the extent possible, and in keeping with TCU's objectives, such knowledge should be protected.

A. Determination of Rights to Trade Secret Subject Matter.

Except as set forth below, the creator of a trade secret shall retain his/her rights, and TCU shall not assert ownership rights. TCU will assert ownership rights to a trade secret developed under any of the following circumstances.

1. Development required, among other things, use of TCU resources (e.g. facilities, equipment, funding, personnel). TCU has rights to trade secret material derived from research carried out with any use of TCU's resources. However, trade secret material developed independently by the creator outside of normal duties associated with the creator's position and with no use of TCU resources is vested with the creator.
2. The creator was assigned, directed, or specifically funded by TCU to develop the material.
3. Material was developed by administrators or staff in the course of employment duties and constitutes work for hire under U.S. law.
4. Development was funded by an externally sponsored program or by any agreement which allocates rights to TCU.

B. Disclosure Requirements:

1. TCU personnel, who alone or in association with others, create a trade secret with any use of TCU resources, are responsible for notifying TCU. Such notification shall be made when it can be reasonably concluded that the subject matter has been created, normally within 30 days of the creation.
2. Any employee with intellectual property falling into the trade secret category should contact the Dean or Vice Chancellor with administrative oversight of his or her unit for assistance in determining what form of protection should be sought. Some trade secrets are patentable or copyrightable. However, once disclosed, they are no longer secret and thus enjoy legal protection afforded under patent or copyright law. To enjoy perpetual protection, trade secrets must not be disclosed as part of the patent or copyright process. Disclosure of a trade secret, except when assigned or sold, voids its value as a secret.
3. Creators are also encouraged to seek advice of the Office of Sponsored Programs.
4. In order to protect intellectual property as trade secret, TCU will enter into a non-disclosure agreement with the employee prior to proceeding.

VIII. Distribution of Revenue

A. Activities related to the protection and marketing of University intellectual properties are intended to be self-supporting. Thus, the Associate Provost for Research is charged with the responsibility of using the University's resources carefully, with a view to promoting the fiduciary interest of the institution as a whole. TCU is not obligated to protect or develop any Invention, copyrighted work, or other intellectual property unless it has made an explicit contractual agreement to do so. However, once it has made this agreement, distribution of any revenue that results from any invention, copyrighted work, or other intellectual property will be handled in the manner described below.

B. TCU assumes financial responsibility for intellectual property it owns. These responsibilities include, but are not limited to, assessment of the commercial value of inventions, costs of prosecuting patents and their administration, registering copyrights, marketing and licensing intellectual property, defense of infringement charges, and any litigation involving the intellectual property.

C. Income earned from the sale, licensing, or other transfer of intellectual property of the University shall be received solely by the University and shall, except where a grant or SRA specifies otherwise, be distributed successively as follows:

- 1) Reimbursement of all direct expenses related to protection and exploitation of the intellectual property, such as those listed in Section VII.B above.
- 2) Any remaining net revenues received by TCU for intellectual property subject to this policy shall be distributed as specified in table below.

	Creator	Lab of the Creator	Department of the Creator	College/school of the Creator	IP Pursuit Fund	University Research
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≤ \$100,000	50%	10%		20%	10%	10%
> \$100,000	40%	10%	10%	25%	5%	10%

D. Net Revenue calculations are based on the total net revenue received over the life of the invention.

E. Where there is more than one inventor or author, distribution shall be prorated according to the contribution of each as may be agreed in writing between the parties, or, if an agreement cannot be reached, then the IPRC shall make a recommendation on such distribution to the Associate Provost for Research. The determination of the Associate Provost for Research may be appealed according to the procedures listed in section IV(D)(2-3).

F. Royalties are payable to inventors and authors only upon actual receipt by the University.

IX. Administration of the Intellectual Property

The Associate Provost for Research along with the Office of Sponsored Programs will be responsible for day-to-day management of all University intellectual property issues, and shall be empowered to negotiate the University's rights under these policies, unless otherwise stipulated as in the case of Trademarks. Intellectual property disc losable hereunder shall be disclosed to the Associate Provost for Research's Office, which will be responsible for timely review of all disclosures. The Office will confer with the Intellectual Property Review Committee for a review of the patentability and marketability of the intellectual property and shall be responsible for working with creators, for obtaining patent, copyright or other protection of intellectual property owned by TCU, and for contracting for marketing and licensing of all such intellectual property rights as appropriately directed by the Provost.

X. University Assistance with Independently-Owned Intellectual Property

TCU personnel who wish to pursue the commercialization of the independently developed and owned intellectual property through TCU may offer such intellectual property to TCU by disclosing the intellectual property to the Office of the Associate Provost for Research. The office will work with the Intellectual Property Review Committee to evaluate the commercial potential of the intellectual property and make a recommendation to the Provost regarding the acceptance of the intellectual property. Acceptance of such intellectual property by TCU will be made at the sole discretion of TCU and will require creator(s) to accept all provisions of this policy, including the assignment of right and income distributions.

XI. Copyright Infringement and Fair Use

Using the protected works of others in the creation of a new work, or in classroom teaching, will subject the author to infringement liability unless the use falls within the exceptions outlined in current copyright law. Fair use doctrine provides limited copying of copyrighted works without permission of the owner for certain teaching and research purposes. In determining fair use, the purpose and character of the use, the nature of the copyrighted work, the amount and substantiality of the portion used and the effect of the use upon the potential market for, or the

value of, the copyrighted work will be considered. The last of these factors is considered most important in determining whether a particular use is fair. When in doubt, the user should obtain permission to use the material in question.

XII. Intellectual Property in Distance Education

Faculty members hold copyright in materials they create on their own initiative in the course of performance of their teaching responsibilities, regardless of the medium of delivery. TCU will own courses that are created, if creation of the course and/or its delivery means is the primary condition of employment. Faculty members have a responsibility to meet the reasonable needs of their currently enrolled students, including those addressed by the use of technologies that make materials readily accessible. Notwithstanding this responsibility, the creation and use of distance education materials intended for use beyond the current semester or for commercial purposes will be considered property owned jointly by the faculty member and TCU.

XIII. Intellectual Property Developed in Collaboration

Works created through the joint efforts of TCU faculty members and non faculty (staff, post-doc, etc.), within the scope of their employment will be considered owned by TCU. Works created by TCU faculty members and others outside the employ of TCU may result in ownership that is altered by agreement of the parties. Joint authors may choose to cooperate in the commercialization of their work, or to commercialize separately. A TCU faculty member may assign his or her rights in a joint project to TCU, assuming such assignment is not prohibited by a prior agreement and TCU agrees to accept the assignment.

XIV. Creator Equity Participation

TCU policy on Disclosure of Conflict of Interest does allow creators to receive equity in return for their contributions to companies as founders or consultants, as long as the creator discloses his/her equity position and is otherwise in compliance with the TCU Conflict of Interest requirements. In the event the creator receives equity from the company, and TCU has negotiated as licensor a royalty-bearing license, or an option for such a license, with respect to intellectual property, the creator shall agree to waive his or her share of Net Royalty Income received by TCU and it shall be retained by TCU.

XV. Texas Christian University Name, Trademark, or Seal

Use of the TCU name, trademark or seal on letterhead and business cards is standardized and regulated by the Office of Marketing and Communication. Any questions regarding the use of the TCU name, trademark or seal in circumstances other than the ones listed above should be referred to the Vice Chancellor for Marketing and Communications. Any questions regarding the use of the University name, trademark, or seal in circumstances other than the ones listed above should be referred to a University officer. Trademarks associated with any of the aforementioned intellectual property shall be the joint property of the creator and TCU. TCU will assist the creator of a product in registering and protecting a trademark associated with any property in which TCU has an assigned interest.

Approved by Chancellor's Cabinet, October 15, 2013.

APPENDIX N

UTA IP Policy

University of Texas at Arlington (College of Liberal Arts)

Intellectual Property Policy (Located online at <https://www.uta.edu/policy/hop/5-702>, searched on January 12, 2017)

Intellectual Property Policy

Contents

2. General
3. Intellectual Property Advisory Committee Procedures
4. Classification of Discoveries by Source of Support
5. Changes to the Intellectual Property Policy

3 **General** The University of Texas System and its component institutions adhere to the Basic Intellectual Property Policy as stated in the Board of Regents of The University of Texas System, *Regents' Rules and Regulations*, Rule 90101. Accordingly, all faculty and staff of UT Arlington should adhere to the following policy guidelines, which supplement the Basic Intellectual Property Policy.

- a The University of Texas System is entrusted with the responsibility to see that all inventions and intellectual creations made at component institutions are administered in the best interests of the public, the creator, and the research sponsor, if any, and will permit the timely protection and disclosure of such intellectual property whether by development and commercialization after securing available protection for the creation, by publication, or both. It is therefore essential to foster and maintain a favorable environment for research and scholarly and creative endeavors throughout the University community. UT Arlington will provide an additional incentive for research and development by virtue of an enlightened intellectual property policy.
- b The intent of this policy is to encourage inventiveness and creativity and at the same time protect the respective interests of all concerned by ensuring that the benefits of such property accrue to the public, to the inventory, to the University, the UT System, and to sponsors of specific research in varying degrees of protection, monetary return and recognition, as circumstances justify or require.
- c This policy shall apply to all personnel employed by UT Arlington, to anyone using University facilities under supervision of University personnel, to candidates for masters and doctoral degrees, and to postdoctoral and predoctoral fellows.
- d Except for intellectual property included in Paragraph E below, this policy shall apply to and the Board of Regents and University may assert ownership in intellectual property of all types (including, but not limited to, any invention, discovery, trade secret, technology, scientific or technological development, and computer software) regardless of whether subject to protection under patent, trademark, copyright, or other laws.
- e The Board of Regents and University will not assert an interest in faculty produced

textbooks, scholarly writing, art works, musical compositions and dramatic and non-dramatic literary works that are related to the faculty member's professional field unless such work is commissioned by the University or is a work for hire pursuant to Paragraph F below.

- f The Board and University shall have sole ownership of all intellectual property that it commissions or that is produced as a work for hire for the University. Except as may be provided otherwise in a written agreement approved by the President of the University and the Chancellor of the UT System, the provisions of *Regents' Rules and Regulations*, Rule 90102, relating to division of royalties shall not apply to intellectual property owned solely by the Board and University pursuant to this paragraph.
- g Any person who as a result of his or her activities creates intellectual property that is subject to this Policy, other than on government or other sponsored research projects where the grant agreements provide otherwise, should have a major role in the ultimate determination of how it is to be made public, whether by publication, by development and commercialization after securing available protection for the creation, or both.
- h It is a basic policy of the UT System and University that intellectual property be developed primarily to serve the public interest. This objective usually will require development and commercialization by exclusive licensing, but the public interest may best be promoted by the granting of nonexclusive licenses for the period of the patent. These determinations will be recommended and made in accordance with the administrative procedures hereinafter set out and with appropriate approval of the Board of Regents.

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7 *Intellectual Property Advisory Committee Procedures*

- a To assist in the administration of the Policy, the Committee makes recommendations to the President regarding cases where referral to the UT System and the Board of Regents is required.
- b The Committee is a University-wide standing committee of five members appointed by the President. The Director of the Grant and Contract Services serves as an ex officio member without vote. The term of office of the Committee members shall be for two years, effective September 1 through August 31, and members may be reappointed by the President for additional terms. Faculty appointments provide for a system of rotation. If for any reason a Committee member resigns, the President shall appoint another individual to serve the remainder of the unexpired term. The chair of the Committee shall be appointed by the President. The Committee is a general University committee reporting to the President through the Provost. Notice of Committee appointments is listed and disseminated by administrative memoranda at the beginning of each academic year.
- c Appropriate UT System offices assist the Intellectual Property Committee in giving advice to faculty and staff affected by this policy and to coordinate details in respect to procedures for protecting and marketing intellectual property.
- d The Provost shall consult at an early stage with the UT System Office of General

Counsel with regard to the negotiation of terms that deviate from model agreements.

- e The Intellectual Property Advisory Committee will have the responsibility of:
- iv. reviewing inventions and disclosures;
 - v. recommending to the President through the Provost the disposition of the invention. The recommendation should specifically state whether the invention should be retained by the University or released to the inventor for his/her own pursuit;
 - vi. acting in an advisory capacity in matters of dispute relating to intellectual property;
 - vii. assisting in increasing intellectual property awareness among research personnel;
 - viii. maintaining liaison with the Office of Grant and Contract Services in the screening of proposals submitted for extramural funding. The Office of Grant and Contract Services requires that any project activity involving possible patents or copyrights be so noted on the "Proposal Review/Certification for Extramural Funding" form; and
 - ix. reviewing the intellectual property policy when required and formulating recommendations for change.

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Classification of Discoveries by Source of Support Intellectual property is classified into one of three categories based upon the source of support.

- a The intellectual property is unrelated to the individual's employment responsibility and has been developed as a result of an individual's efforts on his/her own time with no University support and no use of University facilities.
- b The intellectual property is related to the individual's employment responsibility or has resulted either from activities performed by the individual on University time or with the support of state funds or from use of University facilities.
- c The intellectual property has been developed as a result of research supported by a grant or a contract from:
 - iv. the federal government or associate agency;
 - v. a nonprofit or for-profit nongovernmental entity; or
 - vi. a private gift to the University.
- d Each of these categories has its own property rights and obligations as summarized below:

- iv. Intellectual property that is unrelated to the individual's employment responsibility and is the result of an individual's efforts on his/her own time with no University support or use of University facilities: Such intellectual property is the exclusive property of the creator, and the UT System has no right or interest in any creation obtained or any resulting profits. Should the creator choose to offer the creation to the UT System, the President shall recommend as to whether the UT system should support and finance a patent application or other available protective measures and manage the development and commercialization of the

property. If the creator offers the creation after obtaining a patent or other protection, the President shall recommend whether the UT System should reimburse the creator for expenses in obtaining such protection. If the President so recommends and the creation is accepted for management by the UT System, the division of royalties or other income, after costs of licensing and obtaining a patent or other protection for the property have first been recaptured, shall be as follows: 50 percent to creator, 50 percent to UT System. The division of royalties and other income from patents or other intellectual property managed by an intellectual property management concern will be controlled by the terms of the UT System's agreement with such concern, as approved by the Board. Any other deviation from this requires prior approval of the Board.

- v. Intellectual property that is related to the individual's employment responsibility or results from activities as a result of individual research on University time and/or with the support of state funds and/or use of University facilities: Before publishing or making other public disclosure (publication is considered public disclosure and the right to seek patent protection may be lost), the creator must submit a reasonably complete and detailed disclosure of the intellectual property to the President for determination of University interest. (In cases where delay from this review would jeopardize obtaining the patent, the creator, with written approvals of the chair of the Intellectual Property Advisory Committee, the President, and the UT System Office of General Counsel may file for patent application prior to completion of the review.) Where the President determines to assert the University's interest, either the President or the chair of the Intellectual Property Advisory Committee shall notify the UT System Office of General Counsel of such application. The division of royalties and other income, after patenting and licensing costs have been recaptured, shall be as follows: 50 percent to creator, 50 percent to UT System. In cases where the President recommends that the UT System not assert and exploit its interest, and that recommendation is approved by the UT System Office of General Counsel and the Office of the Chancellor, the creator shall be notified within 180 days of the date of submission that he/she is free to obtain and exploit a patent or other intellectual property in his/her own right, and the UT System and the University shall not have any further rights, obligation, or duties thereto.
- vi. Intellectual property resulting from research supported by the federal government or associated agency, a nonprofit or for-profit nongovernmental entity, or a private gift or grant to the University: Award instruments that contain provisions which are not consistent with this policy or other policies and guidelines adopted by the Board from time to time imply a definite decision that the value to the University of receiving the grant or performing the contract outweighs the impact of any non-conforming provisions of the grant or contract as this relates to the basic intellectual property policies and guidelines of the University. The intellectual property policies and guidelines of the

University are subject to, and thus amended and superseded by, the specific terms pertaining to intellectual property rights included in federal grants and contracts, or grants and contracts with non-profit and for-profit nongovernmental entities or private donors, to the extent of any conflict. In those instances where it is possible to negotiate System-wide intellectual property agreements with the federal agencies, or nonprofit and for-profit nongovernmental entities, or private donors and thereby obtain more favorable treatment for the creator and the University, every effort will be made to do so with the cooperation and concurrence of the Office of Asset Management and the Intellectual Property Committee and the chief administrative officer. Employees of the University whose intellectual property creations result from a grant or contract with the federal government, or any agency thereof, with a nonprofit or for-profit nongovernmental entity, or by private gifts to the University shall make such assignment of such creations as is necessary in each case in order that the University may discharge its obligation, expressed or implied, under the particular agreement. UT Arlington recognizes the advantages of and encourages cooperation between the University and industrial research organizations. The provisions for joint research arrangements with industry will take into account:

- the extent of the industrial participant's research and education programs;
- the impact of the joint effort on the University's research and education programs;
- the protection of rights of researchers to publish scholarly works; and
- the interests of the state and its citizens.

- e The balancing of equities among these interests may require joint arrangement between the University and private concerns on a case by case basis which provides for:
 - iv. granting of exclusive information prior to publication or patent application;
 - v. non-exclusive licensing, with a royalty in an amount to be negotiated;
 - vi. exclusive licensing for a limited period of time, with royalty in an amount to be negotiated;
 - vii. exclusive licensing for the life of the patent, with a royalty in an amount to be negotiated; or
 - viii. other provisions properly equating the above-noted equities, including the rights of the University to terminate an exclusive license upon the industrial participant's failure to develop and/or exploit the invention in the best interest of the public.
- f Notwithstanding the above, the Board of Regents should own the rights to all patentable discoveries, unpatentable technology, technical know-how, and other intellectual property resulting from the research project.

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Changes to the Intellectual Property Policy Any agreement altering substantially the Basic Intellectual Property Policy of the UT System as set out in the preceding sections

and other policies and guidelines that may be adopted by the Board of Regents shall have the advance approval of the President, the Office of the Chancellor, and the Board of Regents as an agenda item

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APPENDIX O

CU IP Policy

Caribbean University

Intellectual Property Policy



POLÍTICA DE DERECHOS DE AUTOR

2. Ley Número 55 del Estado Libre Asociado de Puerto Rico del 9 de marzo de 2012

Se conoce como la Ley de Derechos Morales de Puerto Rico. Esta Ley protege los derechos morales o extra patrimoniales de los autores que no sean artistas visuales según ello se define en la Ley Federal de "Copyright".

V. Definiciones

Para mayor comprensión de este documento y que los términos sean aplicados de forma justa, clara y en ley se definen los siguientes conceptos:

1. **Derechos económicos o patrimoniales** - De acuerdo a la Ley Federal 17 USC secs. 101 et seq. son los derechos que tiene un autor a explotar económicamente su obra, incluyendo los:
 - a. derechos de reproducción
 - b. derechos a distribuir su obra mediante venta, préstamo, alquiler o donación
 - c. derechos a hacer obras derivadas
 - d. derechos a exponer o presentar su obra al público
 - e. derechos a ejecutar o a interpretar su obra en público
2. **Trabajo por encargo ("work made for hire")** - De acuerdo a la Ley Federal 17 USC secs. 101 et seq. es la doctrina legal que define las condiciones para la posible titularidad de un patrono sobre la obra de sus empleados y del contratante sobre la de sus contratistas. Caribbean University reconoce que la jurisprudencia ha establecido consideraciones especiales sobre la aplicabilidad de esta doctrina en el ámbito académico y universitario.
3. **Uso justo ("Fair Use")** - De acuerdo a la Ley Federal 17 USC secs. 101 et seq. de los Derechos de Autor protegidos es el grado de disponibilidad de la obra para uso o reproducción sin autorización expresa del autor. Los tribunales de justicia admiten el uso justo como una defensa válida ante alegaciones de violación. También reconocen la posible elegibilidad para dicha defensa de actividades cónsonas con el quehacer universitario definidas en la ley.
4. **Exenciones** - De acuerdo a la Ley Federal 17 USC secs. 101 et seq. es el uso de material protegido que está exento de restricciones por razón de su naturaleza. Esto incluye la reproducción de materiales para fines docentes en los salones de clase de instituciones educativas y para fines de investigación en las bibliotecas institucionales. Las exenciones se aplican conforme a las condiciones estipuladas en la ley.
5. **Derechos Morales o Extra Patrimoniales** - De acuerdo a la Ley de Propiedad Intelectual del Estado Libre Asociado de Puerto Rico son aquellos que permiten al autor que no sea un "artista visual" según se define en la Ley Federal, a defender la integridad

APPENDIX P

PUPR IP Policy

**INTELLECTUAL PROPERTY POLICY OF THE
POLYTECHNIC UNIVERSITY OF PUERTO RICO 2009**

I. PREAMBLE

The Polytechnic University of Puerto Rico, hereinafter referred to as the “University,” is a nonprofit institution involved in teaching, research, and the dissemination of knowledge to the public. Faculty, staff, and students at the University, hereinafter referred to as “Members of the University Community,” recognize the value of generating knowledge and the institutional need to encourage the production of creative and scholarly works and the development of new and useful materials, devices, processes, and other inventions, some of which may have potential for commercialization. Such activities contribute to the professional development of the individuals involved, enhance the reputation of the University, provide additional educational opportunities for participating students, and promote the general welfare of the public at large.

Such creative and scholarly works and inventions that have commercial potential may be protected under the laws of various countries that establish rights called “Intellectual Property,” a term that includes patents, copyrights, trade secrets, trademarks, plant variety protection, and other rights. Such Intellectual Property often comes about because of activities of Members of the University Community who have been aided wholly or in part through use of facilities of the University. It becomes significant, therefore, to insure the utilization of such Intellectual Property for the public good and to expedite its development, publication, and marketing. The rights and privileges, as well as the incentives, of the authors, creators, or inventors, hereinafter referred to as the “Originators,” must be preserved so that their intellectual capabilities and those of other Members of the University Community may be further encouraged and stimulated.

In order to establish the rights and obligations of the Members of the University Community in Intellectual Property of all kinds, the University has established the following Intellectual Property Policy. The University shall require, as a condition of employment, that all University faculty and staff agree to recognize and adhere to this policy. Students and other individuals working on research projects utilizing University assistance or University resources, facilities, property, funds, equipment, or other University Intellectual Property will be required to agree to recognize and adhere to this policy.

II. RIGHTS TO INTELLECTUAL PROPERTY

6. Sponsor-Supported Efforts

“Sponsor-Supported Efforts” generally refer to efforts made by Members of the University Community (mostly professors, research staff, and students) as part of or pursuant to a project or research supported by a grant or contract with the Federal, State, Puerto Rico or other government (or an agency or public corporation thereof), or a non-governmental entity (whether for profit or non-profit), or by a private gift or grant to the University. The University’s Sponsored Research Office shall review any such grant or contract from such government, non-government or private entities and determine which efforts qualify as “Sponsor-Supported Efforts”. The Sponsored Research Office 2004 Test Drive User may solicit case-specific or continuous assistance from any other party or University office to complete this task.

Sponsored project agreements often contain specific provisions with respect to ownership of Intellectual Property developed during the course of such work, in which case the terms of such sponsored project agreement in relation to such ownership shall prevail. To the extent a sponsored project agreement is silent on the matter, all rights in Intellectual Property, including ownership, shall vest in the University, except as otherwise required by law. Income, if any,

derived from such Intellectual Property developed from Sponsor-Supported Efforts shall be shared in accordance with Section III.G, unless otherwise provided under the corresponding sponsored project agreement.

18. University-Assigned Efforts and University-Assisted Efforts

“University-Assigned Efforts” generally refer to efforts made by Members of the University Community as part of their scope of employment, a contract, prior agreement, or assignment. “University-Assisted Efforts” generally refer to efforts made by Members of the University Community or others while making significant use of the University resources, facilities, property, funds, equipment, or other University Intellectual Property. Ownership of Intellectual Property developed as a result of assigned University effort, such as “University-Assigned Efforts”, shall reside with the University. Copyrightable works created by Members of the University Community in the course of his/her employment are considered to be works made for hire under the Copyright Law, with ownership vested in the employer. Notwithstanding the above, any general obligation a Member of the University Community might have to produce scholarly and creative works does not constitute a work for hire or a specific University assignment. In any such case, said Member of the University Community shall grant a non-exclusive, perpetual, royalty-free license to the University to copy, reproduce, publicly distribute copies, make derivative works, and publicly exhibit such scholarly and creative works. Work specifically supported by University shall be considered assigned efforts rather than the general obligation to produce scholarly and creative works. For example, the copyright to textbooks, presentations and journal articles not specifically requested or ordered by the University nor due through a contract shall generally be owned by the Originators; nevertheless, the Originators may still have an obligation to present and disclose the content of any work to be published to the

Sponsored Research Office so the work may be approved for publication. Furthermore, even when the Originator may own the copyright to a work, the Sponsored Research Office may determine that other Intellectual Property to the work (such as patents or trademarks) belongs to the University.

Ownership of Intellectual Property developed by Members of the University Community through an effort that makes significant use of University resources, such as “University Assisted Efforts”, shall reside with the University. In general, the University shall not construe the provision of office space, access to library resources, or off-line office computers as constituting significant use of University resources. Significant use of University resources shall include, but not be limited to, use of research funding, use of University-paid time within the employment period, use of support staff, use of telecommunication services, and the use of facilities other than office or library resources.

The Sponsored Research Office shall make a recommendation to the Intellectual Property Committee provided for in Section III.A. as to whether Intellectual Property should be considered a result of University-Assigned Efforts or University-Assisted Efforts. The Intellectual Property Committee shall make the final determination. The Intellectual Property Committee may also direct the Sponsored Research Office’s evaluation process with rules and guidelines, as necessary.

Income, if any, derived from such Intellectual Property developed from University-Assigned Efforts or University-Assisted Efforts shall be shared as described below in Section III.G.

C. Individual Efforts

“Individual Efforts” generally refer to efforts made by Members of the University Community

(mostly professors, research staff, and students) without making significant use of University resources, facilities, property, funds, equipment, or other University Intellectual Property. The Sponsored Research Office shall make a recommendation to the Intellectual Property Committee as to whether there was “significant use” and thus, whether Intellectual Property should be considered a result of Individual Efforts or of University-Assisted Efforts. As previously stated, the Intellectual Property Committee may direct the Sponsored Research Office’s evaluation process with rules and guidelines as necessary.

Ownership of Intellectual Property developed by Members of the University Community through Individual Efforts shall reside with the Originator of such Intellectual Property, provided that:

5. There was no significant use of University resources in the creation of such Intellectual Property; and
6. The Intellectual Property was not developed in accordance with the terms of a sponsored project agreement; and
7. The Intellectual Property was not developed by faculty, staff, or students as a specific University assignment.

It shall be the responsibility of the Originator of the Intellectual Property to demonstrate to the Sponsored Research Office that this classification applies.

D. Theses, Capstone, and Graduate Projects

The ownership to the copyright of a thesis, capstone, and graduate project will vary as follows:

- i. Students will generally own the copyright to their theses, capstone, and graduate projects, but they shall grant a non-exclusive, perpetual, royalty-free license to the University to

copy, reproduce, and publicly distribute copies of such theses, capstone or graduate projects.

- ii. Theses, capstone and graduate projects generated pursuant to research financially supported, whether in whole or in part, from funds administered by the University, shall be owned by the University, except as otherwise agreed upon in any agreement, contract, or support or funding agreement.
- iii. The ownership to the copyright of theses, capstone and graduate projects generated pursuant to research performed, whether in whole or in part, with resources, facilities, property, funds, equipment, or other Intellectual Property provided to the University under certain conditions regarding copyright ownership shall be determined pursuant to such conditions.

All Intellectual Property to a thesis, capstone or graduate project, other than the copyright, shall be managed as provided in the other sections of this Intellectual Property Policy.

E. Consulting

Consulting for outside organizations may be performed by University faculty or staff subject to the terms of this Intellectual Property Policy. Any such consulting agreement with an outside organization must include a statement that the faculty member or staff has obligations to the University as described in this Intellectual Property Policy. In the event that there is any conflict between the obligations of a faculty member or staff under this Intellectual Property Policy and their obligations to the outside organization for whom they consult, the obligations under, and the terms of this Intellectual Property Policy shall prevail.

F. Research Notes, Data Reports, and Notebooks

Copyright protection subsists in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Research notes, research data reports, research notebooks, and software created during research are included within the definitions of copyrightable materials and software. Their ownership is determined by Paragraphs II.A. through II.D.

G. University Use

The University shall have and retain the right to use Intellectual Property resulting from University-Assigned Efforts and from University-Assisted Efforts. The University shall also have and retain the right to use Intellectual Property resulting from efforts that make significant use of University resources.

k. ADMINISTRATIVE PROCEDURES A.

Responsibility

The principles and policies set forth in this document shall be administered by the Sponsored Research Office under the guidance and advice of an Intellectual Property Committee. The Intellectual Property Committee shall consist of the following five members: the University's Vice President for Academic Affairs, the University's Legal Advisor, the University's Vice President of Finance, and two others, to be appointed by the President of the University. One of these five members shall be designated by the President to serve as Chair. Additional ad hoc members may be added by the Chair at any time as considered necessary.

B. Disclosure of Intellectual Property

The federal government provides a significant amount of funding to various departments of the University. Certain federal laws and regulations require that the University reports any inventions conceived or reduced to practice to the federal agencies sponsoring or funding the research that led to said inventions. When a private, commercial, or industrial sponsor funds research efforts, the University usually incurs in similar obligations to report inventions.

Due to the foregoing, Members of the University Community must report and disclose to the Sponsored Research Office any Intellectual Property that they have invented, reduced to practice, made, authored, conceived, sketched, designed or otherwise created or originated as part or consequence of (a) a research funded by any governmental agency or authority; (b) a research funded by any private entity or third party; (c) a sponsored research agreement; or (d) the use of significant University resources, facilities, property, funds, equipment, or other Intellectual Property.

In addition, Members of the University Community shall promptly provide to their corresponding Department Director and to the Sponsored Research Office a disclosure describing their creative and scholarly works and new material, devices, processes, or other inventions which they consider may have commercial potential and which are a result of Sponsor-Supported Efforts, as defined in Section II.A., University- Assigned Efforts or University-Assisted Efforts, as defined in Section II.B. or of Individual Efforts, as defined in Section II.C..

5. Confidentiality

Certain contractual obligations and governmental regulations require that information be maintained in confidence. Additionally, some works, such as certain computer software, may best be protected and licensed as trade secrets, and inventions must be maintained in confidence for limited periods to avoid the loss of patent rights. Accordingly, the timing of publications is important, and Members of the University Community shall use their best efforts to keep the following items confidential:

All information or material designated as confidential in a contract, grant, or the like;

4. All information or material designated or required to be maintained as confidential under any applicable governmental statutes or regulations; and

5. All information relating to Intellectual Property developed by Members of the University Community which may be protected under this Policy, until application has been made for protection.

D. Administration of Sponsor-Supported Efforts (II.A.), University-Assigned Efforts, and University-Assisted Efforts (II.B.)

The Sponsored Research Office has the responsibility to evaluate Intellectual Property developed from Sponsor-Supported Efforts, and from University-Assigned Efforts and University-Assisted Efforts, and to recommend to the Intellectual Property Committee whether to protect and license or otherwise commercialize such Intellectual Property.

E. Administration of Individual Efforts (II.C.)

It shall be the responsibility of Members of the University Community who are Originators to demonstrate to the Sponsored Research Office that Intellectual Property made, discovered, or developed while employed at the University as a result of

individual effort meets the criteria set forth in Section II.C. Individual Efforts. In each case recommended by the Sponsored Research Office to, and agreed upon by, the Intellectual Property Committee, the Intellectual Property will be acknowledged as belonging to the Originator to dispose of as the Originator sees fit. Notwithstanding the above, the disclosure requirement defined in Section III.B. is waived for works of authorship such as scholarly publications and articles and instructional material for internal use, which are readily shared with the public by the Originator, either in writing, electronically, digitally or through any other communications or technological means, without the need for further development or business or legal input.

F. Declined Sponsor-Supported Effort and University-Assigned-or-Assisted Effort Intellectual Property

Whenever the Intellectual Property Committee chooses not to protect, license or otherwise commercialize Intellectual Property, or chooses to cease protecting, licensing or otherwise commercializing Intellectual Property that is classified under Sponsor-Supported Efforts (II.A.) or under University-Assigned Efforts or University-Assisted Efforts (II.B.), such Intellectual Property, may be assigned by the University to the Originator to dispose of as the Originator sees fit, subject to any obligations to the sponsor or any other obligations under the law.

4. Revenue Sharing with Originators

Inventions

Net revenue, which is gross receipts received by the University from licensing or otherwise commercializing any inventions (whether patented or not), minus the out-of-pocket costs incurred by the University in protecting and licensing or otherwise

commercializing such inventions, shall be distributed as follows:

2. First \$5,000 of accumulated net revenue: 100% to Originators
3. Over \$5,000: 33% to Originator; 33% to the budget of Originator's department within the University; 34% to the University's Administration.

2. Other Intellectual Property

Net revenue, which is gross receipts received by the University from licensing or otherwise commercializing intellectual property other than inventions, minus the out-of-pocket costs incurred by the University in protecting and licensing or otherwise commercializing such intellectual property, shall be distributed as follows:

- (1) 33% to Originator; 33% to the budget of Originator's department within the University; 34% to the University's Administration.

In any case, the Originators share of net revenue shall be divided equally among joint Originators of jointly developed inventions or intellectual property, unless a written statement signed by all joint Originators that provides for a different distribution is filed with the President prior to the first distribution of shared net revenue.

IV. MISCELLANEOUS

A. Assignment

Whenever it is determined that Intellectual Property is owned by PUPR, the Originator(s) must assign the Intellectual Property to the University through the execution of an Assignment Agreement or any other document or agreement reasonably required by PUPR to perfect the assignment.

B. Amendments

This Intellectual Property Policy may be amended at any time at the discretion of the Intellectual Property Committee. Any new policy will become effective upon approval by a majority of the Intellectual Property Committee.

IV. DEFINITIONS

“Copyrightable Materials” shall include the following, whether in written, electronic, digital or any other form: (1) books, journal articles, texts, glossaries, bibliographies, study guides, laboratory manuals, syllabi, tests, and proposals; (2) lectures, musical or dramatic compositions, unpublished scripts; (3) architectural or engineering sketches and designs; (4) films, filmstrips, charts, transparencies, and other visual aids; (5) video and audio tapes or cassettes; (6) live video and audio broadcasts; (7) programmed instructional materials; (8) Mask Works; (9) research notes, research data reports, and research notebooks; and (10) other materials or works other than software which qualify for protection under the copyright laws of the United States or other protective statutes whether or not registered there under.

“Individual Efforts” refers to efforts made by Members of the University Community (mostly professors, research staff, and students) without making significant use of University resources, facilities, property, funds, equipment, or other University Intellectual Property.

“Intellectual Property” shall be deemed to refer to Patentable Materials, Copyrighted Materials, Trademarks, Software, and Trade Secrets, whether or not formal protection is sought.

“Mask Work” means a series of related images, however fixed or encoded: (i)

having or representing the predetermined three-dimensional pattern of metallic, insulating, or semiconductor material present or removed from the layers of a semiconductor chip product; and (ii) in which series the relation of the images to one another is that each image has the pattern of the surface of one form of the semiconductor chip product.

“Members of the University Community” shall refer to Faculty, staff, and students at the University.

“Novel Plant Variety” means a novel variety of sexually reproduced plant.

“Originators” shall refer to authors, creators, or inventors of Intellectual Property.

“Patentable Materials” shall be deemed to refer to items other than software which reasonably appear to qualify for protection under the patent laws of the United States or other protective statutes, including Novel Plant Varieties and Patentable Plants, whether or not patentable there under.

“Patentable Plant” means an asexually reproduced distinct and new variety of plant.

“Software” shall include one or more computer programs existing in any form, or any associated operational procedures, manuals or other documentation, whether or not protect able or protected by patent or copyright. The term “computer program” shall mean a set of instructions statements, or related data that, in actual or modified form, is capable of causing a computer or computer system to perform specified functions.

“Sponsor-Supported Efforts” refers to efforts made by Members of the University Community (mostly professors, research staff, and students) as part of or

pursuant to a project or research supported by a grant or contract with the Federal, State, Puerto Rico or other government (or an agency or public corporation thereof), or a non-governmental entity (whether for profit or non-profit), or by a private gift or grant to the University.

“Trademarks” shall include all trademarks, service marks, trade names, seals, symbols, designs, slogans, or logotypes developed by or associated with the University.

“Trade Secrets” means information including, but not limited to, technical or nontechnical data, a formula, a pattern, a compilation, a program, a device, a method, a technique, a drawing, a process, financial data, financial plans, product plans, or a list of actual or potential customers or suppliers which: (i) derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

“University” shall refer to The Polytechnic University of Puerto Rico.

“University-Assigned Efforts” refers to efforts made by Members of the University Community as part of their scope of employment, a contract, prior agreement, or assignment.

“University-Assisted Efforts” refers to efforts made by Members of the University Community or others while making significant use of the University resources, facilities, property, funds, equipment, or other University Intellectual Property.

APPENDIX Q

ICPRJC IP Policy

ICPR Junior College (Puerto Rico) Intellectual Property Policy (Located in ICPR Junior College, General Catalog 2016-2018, page 63)**Política de Derechos de Autor**

ICPR Junior College con el objetivo de proteger, reconocer y divulgar los derechos y responsabilidades de la Propiedad Intelectual de los miembros de la comunidad estudiantil establece una Política Institucional de Derechos de Autor. Esta Política ofrece apoyo y la orientación necesaria para la protección de los derechos de los profesores, empleados no docentes y estudiantes, o aquel que sea en derecho titular de la Institución.

La Política Institucional sobre Derechos de Autor cumple los siguientes objetivos:

1. Proveer un procedimiento para hacer accesible al público el trabajo intelectual protegido, que es producto del que hacer intelectual institucional.
2. Fomentar la investigación y el desarrollo de ideas, así como la publicación de las investigaciones, mediante la debida orientación y asesoramiento sobre el modo de proteger y registrar los Derechos de Autor.
3. Definir la interpretación institucional sobre la aplicabilidad de la jurisprudencia y reglamentación vigente, tanto en el ámbito jurisdiccional de los Estados Unidos como en el del Estado Libre Asociado de Puerto Rico, sobre el producto intelectual sujeto a protección bajo Derechos de Autor.
4. Proteger los intereses de la Institución y orientar a sus empleados y estudiantes a cómo proteger sus Derechos de Autor.

Restricciones Relacionadas con los Derechos de Autor

La Ley de Derechos de Autor (Título 17 *United States Code*) controla el fotocopiar u otras formas de reproducción de recursos con Derechos de Autor. Bajo ciertas condiciones específicas en la Ley, las bibliotecas y archivos están Autorizados a proveer fotocopia o reproducción. Una de esas condiciones es que la Fotocopia o reproducción “solo se utilizará para propósitos de estudio privado, académico o de investigación” o “uso justo” (*fair use*).

Si el usuario utiliza una fotocopia o reproducción para otros propósitos que excedan el “uso justo”, podrá ser procesado por infracción a los Derechos de Autor.

Determinar que constituye “uso justo” depende de factores subjetivos. A continuación Varias guías o recomendaciones con el objetivo de ayudarnos a determinar el “uso justo” de un libro o una obra.

APPENDIX R

UPR IP Policy

CONSEJO DE EDUCACION SUPERIORApartado 71295, Estación Postal U.P.R. Río Piedras, Puerto Rico 00931
Tel. (309) 758-3350

4927

Fecha: 19 de mayo de 1993 10:24 A.M.

Aprobado: Baltasar Corrada del Río



Secretario de Estado
 Por: *Ramón E. del Valle*

Secretaría Auxiliar de Estado
 Certificación Número 93-140

Yo, Ismael Ramírez Soto, Director Ejecutivo del Consejo de Educación Superior, CERTIFICO:-----

Que el Consejo de Educación Superior, en su reunión ordinaria del miércoles, 19 de mayo de 1993, aprobó la siguiente:

POLITICA INSTITUCIONAL SOBRE DERECHOS DE AUTOR

I INTRODUCCION

La Universidad de Puerto Rico, como institución de educación superior pública, plantea como misión la promoción de la docencia, la investigación y el servicio a la comunidad. Todos los elementos de esta misión inciden de una u otra manera con la trasmisión del conocimiento. Por tanto, es la intención de la Universidad de Puerto Rico lograr que el conocimiento producto de sus funciones, o transmitido mediante sus actividades, logre redundar en beneficio y servicio a la comunidad.

El desarrollo y la transmisión del conocimiento en el contexto universitario se expresa mediante diversas manifestaciones artísticas, creativas, literarias y científicas. Así, la misión universitaria es consubstancial con la letra escrita, el libro, el artículo, la conferencia, la obra artística, el guión, y la composición musical o fotográfica, entre muchos otra manifestaciones, y también con medios más recientes como por ejemplo, el programa de computadora, la videocinta y el material instruccional programado.

Casi noventa años de quehacer universitario han validado la función institucional de alentar, promover y apoyar estas manifestaciones, para que sean fructíferas y trascendentes y así contribuir a la cultura y a la ciencia, tanto en el ámbito nacional, como en el internacional. Esa obra creativa de los miembros de la facultad, los empleados no docentes y los estudiantes debe ser objeto de debida protección intelectual, para beneficio de ellos, de la institución, y de la comunidad en general.

**PARA USO OFICIAL
 LIBRE DE DERECHOS**



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Página 2

Con el propósito de proteger, reconocer y divulgar los derechos y responsabilidades de Propiedad Intelectual de los miembros de la comunidad universitaria y de la Universidad en sí, por la presente se establece una Política Institucional de Derechos de Autor cónsona con la misión de la Universidad de Puerto Rico. Esta Política está dirigida a ofrecer el apoyo y la orientación necesaria para la protección de los derechos de los profesores, empleados no docentes y estudiantes, sobre el producto de su trabajo intelectual o industrial, o aquel que sea en derecho titular a la Universidad, incluyendo el derecho de recibir ingresos y otros beneficios tangibles de la obra.

II OBJETIVOS

La Política Institucional sobre Derechos de Autor cumple los siguientes objetivos:

- ◆ servir al interés público al proveer un procedimiento para hacer accesible al público el trabajo intelectual protegido que es producto del quehacer universitario;
- ◆ fomentar la investigación y el desarrollo de ideas, así como la publicación de las investigaciones y otras formas de expresión intelectual, mediante la debida orientación y asesoramiento sobre el modo de proteger y registrar los Derechos de Autor, y sobre el beneficio económico que pueda generar tal protección y registro;
- ◆ definir la interpretación institucional sobre la aplicabilidad de la jurisprudencia y reglamentación vigente, tanto en el ámbito jurisdiccional de los Estados Unidos como en el del Estado Libre Asociado de Puerto Rico, sobre el producto intelectual sujeto a protección bajo Derechos de Autor; y
- ◆ proteger los intereses de la Universidad, y orientar a sus empleados y estudiantes a cómo proteger sus Derechos de Autor.

III ALCANCE

Esta política compete al personal docente y no docente de la Universidad de Puerto Rico, tanto a tiempo completo como a tiempo parcial, a profesionales, contratistas y a todos los estudiantes de la institución.



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Esta política será parte de las condiciones de empleo y de contratación de la Universidad - incluso de los estudiantes que sean empleados - y de las condiciones de matrícula de cada estudiante de la Universidad de Puerto Rico.

IV BASE LEGAL

La Política Institucional sobre Derechos de Autor de la Universidad de Puerto Rico reconoce los siguientes estatutos, según actualmente vigentes o según sean enmendados en el futuro, como pertinentes y aplicables a la protección de derechos de autor en la Universidad:

- ◆ Ley Federal de Derechos de Autor de 1976 (Copyright Act of 1976, 17 U.S.C., 101 et seq.) que entró en vigor el 1ro de enero de 1978. Esta ley cubre la protección de los derechos económicos o patrimoniales de un autor.¹
- ◆ Ley Número 96 del Estado Libre Asociado de Puerto Rico del 15 de julio de 1988 (según enmendada por la Ley Número 11 de 2 de junio de 1989), la cual se conoce como la Ley de Propiedad Intelectual. Esta ley cubre la protección de los derechos morales o extrapatrimoniales del autor.

V DEFINICIONES ESENCIALES:

La Política Institucional sobre Derechos de Autor de la Universidad de Puerto Rico reconoce que las siguientes definiciones esenciales son pertinentes y fundamentales en la protección de Derechos de Autor en la Universidad:

A. Bajo la Ley Federal (17 U. S. C. sec. 101 et seq.)

- ◆ Derechos Económicos o Patrimoniales son los derechos que tiene un autor a explotar económicamente su obra, incluyendo los:
 - derechos de reproducción;
 - derechos a distribuir su obra mediante venta, préstamo, alquiler o donación;
 - derechos a hacer obras derivadas;
 - derechos a exponer o presentar su obra al público; y
 - derechos a ejecutar o a interpretar su obra en público.

¹ A partir del 1ro de junio de 1991, entró en vigor la Ley Federal de Derechos de Artistas Visuales ("Visual Artists Rights Act" - V.A.R.A.) la cual reconoce los derechos morales sólo para artistas gráficos, fotógrafos, escultores y pintores de cuadros según los criterios particulares establecidos por dicha Ley.



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- ◆ Trabajo por Encargo ("work made for hire") es la doctrina legal que define las condiciones para la posible titularidad de un patrono sobre la obra de sus empleados. La Universidad de Puerto Rico reconoce que la jurisprudencia ha establecido consideraciones especiales sobre la aplicabilidad de esta doctrina en el ámbito académico y universitario.
 - ◆ Uso Justo ("fair use") de los Derechos de Autor protegidos es el grado de disponibilidad de la obra para uso o reproducción sin autorización expresa del autor. Los tribunales de justicia admiten el Uso Justo como defensa válida ante alegaciones de violación. También reconocen la posible elegibilidad para dicha defensa de actividades consonas con el quehacer universitario definidas en la ley.
- B. Bajo Ley de Propiedad Intelectual del Estado Libre Asociado de Puerto Rico:
- ◆ Derechos Morales o Extrapatrimoniales son aquellos que permiten al autor de una obra defender la integridad de ésta, su reputación y prestigio, la atribución de su autoría, el derecho a determinar el momento de la primera divulgación de la obra, y a retirar ésta cuando haya sido alterada sin autorización del creador de forma que ya no representa su pensamiento, aunque sin perjudicar el derecho legítimo adquirido por terceros.
 - ◆ Autor de una obra es aquel que pueda acreditar ser creador de la obra completa o parte de ésta, recibiendo así la protección de las leyes relativas a Derechos de Autor.
 - ◆ Obra creada por empleado es aquella creación realizada por un funcionario gubernamental en el ejercicio de sus deberes, siendo el titular de la obra el Estado Libre Asociado de Puerto Rico.

VI MATERIALES OBJETO DE REGISTRO Y DE PROTECCION

- A. Bajo la ley federal de Derechos de Autor², son registrables y objeto de protección:
- ◆ obras literarias;
 - ◆ obras musicales, incluyendo cualquier obra de acompañamiento;
 - ◆ obras dramáticas, incluyendo su acompañamiento musical;
 - ◆ pantomimas y trabajos coreográficos;

² 17 U.S.C. Sec. 102.



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- ◆ obras pictóricas, gráficas y escultóricas;
- ◆ películas y otras obras audiovisuales;
- ◆ grabaciones de sonido; y
- ◆ obras arquitectónicas.

B. Podrán inscribirse bajo la ley de Puerto Rico:

- ◆ libros, artículos de revista, textos, bibliografías, tesis;
- ◆ obras gráficas de todo género;
- ◆ fotografías, películas y videos;
- ◆ composiciones musicales;
- ◆ guiones teatrales y filmicos;
- ◆ obras literarias;
- ◆ esculturas;
- ◆ diseños arquitectónicos;
- ◆ códigos fuentes ("source codes") de programas de computadoras; y
- ◆ manuscritos y obras inéditas mediante presentación personal del autor.

VII PROPIEDAD DE LOS DERECHOS DE AUTOR A PROTEGERSE Y REGISTRARSE

El personal docente y los estudiantes de la Universidad de Puerto Rico serán titulares de las obras creadas en el transcurso normal de las actividades académicas y de estudios, salvo pacto en contrario.

Sin embargo, la Universidad de Puerto Rico será titular cuando estas obras sean producto del ejercicio de funciones administrativas u académicas específicamente comisionadas y oficialmente asignadas por la institución, según las estipulaciones y alcances del concepto vigente de trabajo por encargo, salvo pacto en contrario.

También será titular parcial la Universidad de Puerto Rico en casos de donde la Universidad haya previsto la obra y haya definido previamente su participación o financiado, facilitado o propiciado de manera directa o intencional su desarrollo, sujeto a los términos acordados, y salvo pacto en contrario.

Los autores retendrán la titularidad sobre obras desarrolladas mediante y durante sabáticas, licencias, sustituciones de tareas, destacados y otras situaciones similares, salvo pacto previo en contrario. La titularidad de trabajos de tesis y otros requisitos académicos similares recaen en el/los estudiante(s) que reciben crédito académico por ellos, salvo pacto en contrario.



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La Universidad establece que la titularidad del autor sobre su obra no le exime de la responsabilidad de otorgar a la Universidad el debido reconocimiento explícito, según corresponda, por aportaciones, apoyos o colaboraciones que hayan facilitado su diseño, desarrollo o divulgación. De la misma forma, no exime a los estudiantes de su responsabilidad de señalar si sus obras fueron desarrolladas como parte de los requisitos de cursos o grados académicos. En todo caso, la Universidad de Puerto Rico retiene derecho a reclamar dicho reconocimiento.

Será potestad y responsabilidad de empleados y estudiantes registrar y proteger las obras bajo su titularidad.

VIII PROCEDIMIENTOS PARA DETERMINAR TITULO Y PARA RESOLVER DISPUTAS RELATIVAS A LA TITULARIDAD DE DERECHOS DE AUTOR

En caso de controversia en cuanto a la titularidad de obras y derechos de autor, o relativa a cualquier otra disposición de esta política, dicha disputa será sometida a la consideración del Rector del Recinto del querellante, quien podrá hacer una determinación final sobre el asunto conforme a las disposiciones de ley y reglamento aplicables. La determinación del Rector obligará a todas las partes. En caso de disputas que impliquen la jurisdicción de más de un Recinto, dicha disputa será elevada a la atención del Presidente de la Universidad. Toda decisión está sujeta a apelación conforme a los reglamentos universitarios y las leyes vigentes.

IX COMITÉ DE PROPIEDAD INTELECTUAL

Se insta a cada unidad a crear o sostener un Comité de Propiedad Intelectual integrado por miembros de la comunidad universitaria. Este Comité podrá ayudar en el proceso de orientar e informar a la comunidad universitaria sobre la forma de proteger y registrar sus obras. Podrá además proveer asesoramiento y ayuda técnica al Rector y a otras autoridades universitarias en la aplicación cabal y apropiada de esta Política Institucional y en otros asuntos relativos a los Derechos de Autor y a otras áreas del campo más amplio de Propiedad Intelectual.

Los miembros del Comité serán nombrados por el Rector de cada unidad, y deberán rendirle un informe anual del trabajo realizado.

X ENMIENDAS

Las disposiciones de esta Política podrán ser enmendadas conforme a la reglamentación de la Universidad de Puerto Rico.

Las enmiendas estarán sujetas a la aprobación del Consejo de Educación Superior, por recomendación del Presidente de la Universidad.



Certificación Número 93-140
Página 7

XI VIGENCIA

Esta política comenzará a regir a partir de la fecha de adopción por el Consejo de Educación Superior y dejará sin efecto cualquier otra que pueda existir o estar en vigor en la Universidad de Puerto Rico.

Y para que así conste, expido la presente certificación bajo el sello de la Universidad de Puerto Rico, en Río Piedras, Puerto Rico, hoy día veinte de mayo de mil novecientos noventa y tres.

Ismael Ramírez Soto
Director Ejecutivo

Tmd

APPENDIX S

PUPR IP Form

Polytechnic University of Puerto Rico***Intellectual Property Disclosure Form*****Introduction**

This Intellectual Property Disclosure Form assists the Polytechnic University of Puerto Rico (hereinafter “PUPR” or the “University”) in the recording of intellectual property generated by faculty, staff, or students of PUPR or by others to whom PUPR’s Intellectual Property Policy (the “IP Policy”) may apply (PUPR’s faculty, staff, or students, and others to whom the IP Policy may apply shall be referred to collectively hereinafter as the “Originators”). It provides the basis for a determination of patentability, for the drafting of a patent application, and/or for registering a copyright. It also assists in the evaluation and, when applicable, commercialization of the inventions developed as part of the academic endeavors of its faculty and students.

This document carries important legal ramifications, and thus, should be prepared carefully.

This Intellectual Property Disclosure Form should be completed by any Originator when something new and useful has been conceived or developed, or when unusual, unexpected, or non-obvious research results have been achieved.

Where appropriate, the University may seek to patent University intellectual property and license such intellectual property to industry for further development and commercialization. Royalties derived from any such license will be shared with the inventor(s) in accordance with the University’s Intellectual Property Policy.

This Intellectual Property Disclosure Form should also be completed when other forms of intellectual property are developed by an Originator, unless such intellectual property is specifically excluded by the IP Policy from being disclosed such as materials used solely by the Originator in the teaching of a course.

As with inventions, royalties from the commercialization of intellectual property, if any, will be shared with the Originator(s) in accordance with the IP Policy.

Procedure

All inventions and creative works developed by the Originators either through Sponsor-Supported Efforts, University-Assigned Efforts, University-Assisted Efforts, or Individual Efforts, as such terms are defined in the IP Policy, shall be promptly reported to PUPR’s Director of the Sponsored Research Office through the submission of this Intellectual Property Disclosure Form.

As per the IP Policy currently in effect, PUPR will determine if the invention or creative work is a University-Assigned Effort, a University-Assisted Effort, or an Individual Effort. To the extent that the invention or creative work is determined to be a University-Assigned Effort or a University-Assisted Effort, PUPR will evaluate the methods of protection applicable to the discovery, development, design, creation, and/or invention object of the disclosure and may submit recommendations to obtain legal assistance from internal or external counsel.

When an invention or improvement appears to have commercial and/or economic value, assistance will be sought by PUPR from a patent attorney and/or agent for applying for a patent. In furtherance of the foregoing, PUPR will research the market and identify third parties for the commercialization of the invention, discuss with potential licensees, negotiate all the appropriate agreements, and monitor progress, among other efforts, all in order to pursue the licensing and protection of the invention.

The foregoing notwithstanding, PUPR will not use economic or commercial value as the only factor for determining, pursuing, and enforcing protection and, at its sole discretion, may evaluate any other factors.

All assignments, licenses, or any other agreements involving the commercialization of any intellectual property owned by PUPR, will be reviewed by PUPR legal counsel, to ensure compliance with Federal and Puerto Rico laws.

APPENDIX T

PUPR Originator Form

Originator Assignment to Polytechnic University of Puerto Rico

This Assignment Agreement is entered into by the author(s), creator(s) or inventor(s) (the “ORIGINATOR(S)”) included as signee(s) herein and the Polytechnic University of Puerto Rico (“PUPR”), to assign the intellectual property (as defined below) entitled “_____” and described in the attached Intellectual Property Disclosure Form:

WHEREAS ORIGINATOR(S) acknowledge(s) the intellectual property was conceived and/or reduced to practice as a result of University-Assigned Efforts or University-Assisted Efforts, as such terms are defined in the Intellectual Property Policy of PUPR, or of Sponsor-Supported Efforts, under which terms ownership of intellectual property shall vest in PUPR.

WHEREAS Under such Policy, whenever it is determined that intellectual property is owned by PUPR, PUPR is entitled to obtain a formal assignment from the ORIGINATOR(S) of his/her (their) entire right, title, and interest in and to the intellectual property and related technology.

NOW THEREFORE,

1. The ORIGINATOR(S) assign(s) and transfer(s) to PUPR all right, title, and interest in and to:
 - a. the invention(s)/discovery(ies) described in the Intellectual Property Disclosure Form;
 - b. any technical information, know-how, trade secret, process, procedure, composition, biological materials, device, method, formula, protocol, technique, software design, tradename, trademark, copyright, copyrightable material, drawing, or data which is related to the invention(s)/discovery(ies);
 - c. any related Patent Application(s), including all provisionals, divisionals, continuations, continuations-in-part, reissues, continuing patent applications, substitutions, renewals, extensions filed, and all patent(s) issued thereon in the United States and all other countries; and
 - d. all improvements to the invention(s)/discovery(ies) made or invented by the ORIGINATOR(S) during employment with the University or while bound by PUPR’s Intellectual Property Policy.

For purposes of this Agreement, paragraph 1(a)(b)(c)(d) will be collectively hereinafter be referred to as “INTELLECTUAL PROPERTY”:

2. ORIGINATOR(S) is (are) authorized to use the INTELLECTUAL PROPERTY for PUPR educational and research purposes.

3. ORIGINATOR(S) agree(s) to cooperate fully with PUPR and its Licensee(s) in all respects, including the preparation of patent applications and execution of related documents as may be necessary to fully exercise the assignment rights granted in this Agreement. ORIGINATOR(S) also agree(s) to take all actions that may be necessary to enable PUPR to obtain, defend, and enforce the intellectual property rights in the INTELLECTUAL PROPERTY, including executing documents, cooperating with retained counsel, and testifying in all legal proceedings.
4. ORIGINATOR(S) acknowledge(s) that PUPR is solely responsible for negotiating and contracting with third parties for the patenting, licensing, sale, and/or transfer of INTELLECTUAL PROPERTY and agree(s) not to negotiate or contract with third parties or interfere with PUPR's exercise of its rights to do so.
5. In exchange for the assignment of rights under this agreement, ORIGINATOR(S) will receive royalties from commercialization of the INTELLECTUAL PROPERTY as outlined under PUPR's Intellectual Property Policy.
6. ORIGINATOR(S) hereby warrant(s) that he/she (they) is (are) ORIGINATOR(S) of the INTELLECTUAL PROPERTY and that no assignment, sale, agreement, or encumbrance has been made or will be made or entered into by ORIGINATOR(S) which would conflict with this Assignment.
7. ORIGINATOR(S) further agree(s) to supply PUPR, upon request, access to all lab notebooks and any other material, which contain information about the INTELLECTUAL PROPERTY.
8. PUPR will provide the ORIGINATOR(S) with an annual statement showing the total royalties and other commercialization income received by PUPR and all expenses incurred within one hundred twenty days (120) days of the close of PUPR's fiscal year. If there are any net royalties, PUPR shall distribute the ORIGINATOR(S) share with the annual statement.
9. By signing below, I (we) agree that I (we) have not knowingly omitted the inclusion of other potential inventors or creators and that the information provided in this form is accurate and complete to the best of my (our) knowledge.

This Agreement shall be binding upon and inure to the benefit of the ORIGINATOR(S) and ORIGINATOR(S)' successors and heirs.

ORIGINATOR

Name

Signature

Date

ORIGINATOR

Name

Signature

Date

ORIGINATOR

Name

Signature

Date

ORIGINATOR

Name

Signature

Date

Form IP - 01
2005

UPR INVENTION DISCLOSURE FORM

<u>Inventor 2</u>	
Name (last, first middle/MI):	
Office Phone:	Office Fax:
Office: Address: City/State:	Campus:
Home Phone:	Mobile:
Home Address: City/State	
Citizenship:	E-mail:
<i>Please sign and date after reviewing and understanding each section of this document.</i>	
INVENTOR'S SIGNATURE	DATE

<u>Inventor 3</u>	
Name (last, first middle/MI):	
Office Phone:	Office Fax:
Office: Address: City/State:	Campus:
Home Phone:	Mobile:
Home Address: City/State	
Citizenship:	E-mail:
<i>Please sign and date after reviewing and understanding each section of this document.</i>	
INVENTOR'S SIGNATURE	DATE

SIGNATURE OF WITNESS _____ DATE _____

SIGNATURE OF WITNESS _____ DATE _____

Revised 10/05

Form IP - 01
2005

UPR INVENTION DISCLOSURE FORM

<u>Inventor 4</u>	
Name (last, first middle/MI):	
Office Phone:	Office Fax:
Office: Address: City/State:	Campus:
Home Phone:	Home :
Home Address: City/State	
Citizenship:	E-mail:
<i>Please sign and date after reviewing and understanding each section and attachments of this document.</i> <small>INVENTOR'S SIGNATURE</small> <small>DATE</small>	

<u>Inventor 5</u>	
Name (last, first middle/MI):	
Office Phone:	Office Fax:
Office: Address: City/State:	Campus:
Home Phone:	Home :
Home Address: City/State	
Citizenship:	E-mail:
<i>Please sign and date after reviewing and understanding each section and attachments of this document.</i> <small>INVENTOR'S SIGNATURE</small> <small>DATE</small>	

SIGNATURE OF WITNESS DATE

SIGNATURE OF WITNESS DATE

Revised 10/05

Form IP - 01
2005

UPR INVENTION DISCLOSURE FORM

<p>III. SPONSORSHIP AND SUPPORT IF THE RESEARCH THAT LED TO THE INVENTION WAS SPONSORED, PLEASE FILL IN THE DETAILS AND ATTACH A COPY OF THE CONTRACT OR AGREEMENT</p> <p>A. Government agency name:</p> <p>Contract/grant number:</p> <p>Period of grant:</p> <p>B. Name of industry, university, foundation or other sponsor:</p> <p>C. Has the invention been disclosed to industry representatives? Yes <input type="checkbox"/> <i>(Please provide details, including the names of companies and their representatives)</i> No <input type="checkbox"/></p> <p>D. Has the inventor disclosed the invention to the sponsor agency? Yes <input type="checkbox"/> <i>(Please include a copy of the document)</i> No <input type="checkbox"/> Why?</p>
--

<p>IV. TECHNICAL BACKGROUND OF INVENTION</p> <p>A. Describe the technical problem(s) overcome by the invention:</p> <p> </p> <p> </p> <p> </p> <p> </p> <p> </p> <p>B. Closest related art:</p> <p> </p> <p> </p> <p> </p>

SIGNATURE OF WITNESS DATE

SIGNATURE OF WITNESS DATE

Revised 10/05

UPR INVENTION DISCLOSURE FORM

Disclose only one invention for each form.

B. Describe alternative elements: <i>Describe equivalents that can be substituted for elements described above.</i>

VI. RELATED INFORMATION
A. UPR project name: _____ _____
B. UPR products that will use the invention: _____ _____
C. Relevant prior art: <i>List prior art documents you are aware of that describe background information or other approaches to solving the problem. Include copies.</i> _____ _____ _____ _____
D. If the invention is related to a Standards activity, describe the activity: _____ _____ _____ _____
E. UPR materials: <i>List any UPR materials that describe any aspect of the invention. Include copies of the materials.</i> _____ _____ _____ _____

SIGNATURE OF WITNESS

DATE

SIGNATURE OF WITNESS

DATE

Revised 10/05

UPR INVENTION DISCLOSURE FORM

Disclose only one invention for each form.

VII. DATES
A. When did you first think of this invention?
B. Date of first written description of the invention (attach copy):
C. To whom and when was the invention first disclosed?
D. When did you first perform any experimental work toward carrying out the invention? (Optional)
E. When were you satisfied that you had solved the problem toward which your invention had been directed? (Optional)
F. Dates of sales or offers to sell invention or product including invention: <small>Include description of sale(s) and offer(s).</small>
G. Has anyone observed the progress of your experimental work?

SIGNATURE OF WITNESS

DATE

SIGNATURE OF WITNESS

DATE

Revised 10/05

UPR INVENTION DISCLOSURE FORM

Disclose only one invention for each form.

H. Dates and description of disclosures to any person that is not an UPR employee (past and future): <i>Include advertisements, publications, outside disclosures, trade shows, and conferences.</i>
Identify and attach copies of all notebook pages and other documents relevant to the dates specified above.

SIGNATURE OF WITNESS DATE_____
SIGNATURE OF WITNESS DATE

Revised 10/05

UPR INVENTION DISCLOSURE FORM

Disclose only one invention for each form.

List of Attachments

Number each attachment and list below. If none, write "None" for Attachment 1.

No.	Attachment Description	Number of Pages
1.	_____	
2.	_____	
3.	_____	
4.	_____	
5.	_____	
6.	_____	
7.	_____	
8.	_____	
9.	_____	
10.	_____	

SIGNATURE OF WITNESS DATE

SIGNATURE OF WITNESS DATE

Revised 10/05

APPENDIX V

Pepperdine University IRB Letter

PEPPERDINE UNIVERSITY

Graduate & Professional Schools Institutional Review Board

November 16, 2015

Daniel Ibarrondo Cruz
[REDACTED]

Fort Worth, TX 76131

Protocol #: E0715D05

Project Title: Descriptive Study on Digital Content Copyright Ownership

Dear Mr. Ibarrondo Cruz

Thank you for submitting your application, *Descriptive Study on Digital Content Copyright Ownership*, for exempt review to Pepperdine University's Graduate and Professional Schools Institutional Review Board (GPS IRB). The IRB appreciates the work you and your faculty advisor, Dr. Sparks, have done on the proposal. The IRB has reviewed your submitted IRB application and all ancillary materials. Upon review, the IRB has determined that the above entitled project meets the requirements for exemption under the federal regulations (45 CFR 46 - <http://www.hhs.gov/ohrp/humansubjects/guidance/45cfr46.html>) that govern the protections of human subjects. Specifically, section 45 CFR 46.101(b)(2) states:

(b) Unless otherwise required by Department or Agency heads, research activities in which the only involvement of human subjects will be in one or more of the following categories are exempt from this policy:

Category (2) of 45 CFR 46.101, research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless: a) Information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and b) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation.

Your research must be conducted according to the proposal that was submitted to the IRB. If changes to the approved protocol occur, a revised protocol must be reviewed and approved by the IRB before implementation. For any proposed changes in your research protocol, please submit a **Request for Modification Form** to the GPS IRB. Because your study falls under exemption, there is no requirement for continuing IRB review of your project. Please be aware that changes to your protocol may prevent the research from qualifying for exemption from 45 CFR 46.101 and require submission of a new IRB application or other materials to the GPS IRB.

A goal of the IRB is to prevent negative occurrences during any research study. However, despite our best intent, unforeseen circumstances or events may arise during the research. If an unexpected situation or adverse event happens during your investigation, please notify the GPS IRB as soon as possible. We will ask for a complete explanation of the event and your response. Other actions also may be required depending on the nature of the event. Details regarding the timeframe in which adverse events must be reported to the GPS IRB and the appropriate form to be used to report this information can be found in the *Pepperdine University Protection of Human Participants in Research: Policies and Procedures Manual* (see link to "policy material" at <http://www.pepperdine.edu/irb/graduate/>).

Please refer to the protocol number denoted above in all further communication or correspondence related to this approval. Should you have additional questions, please contact Kevin Collins, Manager of the Institutional Review Board (IRB) at gpsirb@pepperdine.edu. On behalf of the GPS IRB, I wish you success in this scholarly pursuit.