

Hamilton College

Policy on the Determination of Ownership of Intellectual Property (IP)¹

Introduction

(I) Hamilton College seeks to encourage creativity among its faculty, students, and staff. The College invests in this endeavor by making available its facilities, equipment, personnel, and information resources. The College also actively seeks specific support for creative activity from external sources, both public and private.

To help meet these policy objectives, the College makes available (through the office of the Vice President for Academic Affairs (VPAA)) technical and legal assistance in procedures necessary to protect ownership of intellectual property and to aid in its commercial development.

The specific aims of this policy include the following:

- 1) to encourage creativity among the faculty, students and staff;
- 2) to increase the likelihood that creative works produced at the College are used to benefit the public;

(II) “Intellectual property” (IP) is copyrightable, patentable, or trademark/service mark materials. Law determines the definitions of these.

(III) For purposes of this policy, “College Resources” refers to any type of resource and/or assistance provided, directly or indirectly, by the College, including, but not limited to, space, facilities, equipment, staff, or funds.

(IV) For purposes of this policy, “College Personnel” refers to College faculty, administrators, staff, and other employees (including students working for the College as part-time employees). College Personnel are covered by this policy to the extent that their creative work involves the use of College Resources.

(V) All IP produced by College Personnel using College Resources is covered by this policy.

(VI) For the purposes of this policy, “Identity Interest” is a College interest in IP that is more integral to, and reflects more directly on, the identity of the College than on the identity of the individuals who create it. In particular, the College has an identity interest in College publications disseminated beyond the College, such as the catalog, institutional web pages, the alumni bulletin, admissions brochures, and campaign materials.

¹ This policy draws, with permission, from a similar policy at Swarthmore College.

(VII) For the purposes of this policy, “Functional Interest” is a College interest in IP that is used or intended to be used to ensure the effective functioning, coordination and management of ongoing operations. For example, it has a functional interest in administrative and personnel procedures, including software used for College operations, and internal handbooks and reports.

(VIII) Determination of Rights to Intellectual Property: Except as set forth below, ownership of any IP shall default to the creators.

Ownership will **not** default to the creators when:

- The College has an identity or functional interest in the IP. In this case, the default is College ownership.
- The College directed, or assigned the creators to a project that resulted in the development of the IP. In this case, the default is College ownership.
- The College and the creators of the work have entered into a written agreement regarding the work. Ownership will then be determined by the terms of the agreement.
- Development of the IP was funded as part of an externally sponsored research program under an agreement that allocates rights to the College.
- The IP was developed with extraordinary or substantially more use of College Resources than would normally be provided for the creators’ employment duties. This might occur as disproportionate use of staff time, networks, equipment, direct funding, or other College Resources. In these cases the College and the individual should enter into a written agreement regarding ownership of the work at an early stage of its development, generally before the use of extra College Resources begins. Ownership will then be determined by the terms of the agreement. In the absence of an agreement, ownership defaults to the creator.

In cases where IP is owned by the College, the IP is also covered by The Hamilton College Policy on College-owned Intellectual Property.

Special Agreements

(IX) The College recognizes that even when IP is clearly the property of individuals, those individuals may wish to transfer rights to the College in exchange for help in developing, disseminating, and protecting their creations. The College will readily consider such requests. Such requests are especially recommended when the IP is created by a group.

(X) Conversely, in some cases government legislation, regulations and case law dictate that IP ownership resides with the College, but the College stands willing to transfer such rights or parts of such rights back to individuals or their designees, to the extent allowed by law, if to do so is consistent with the policies herein explained.

Conflict Resolution

(XI) Administration of this policy shall be the responsibility of the VPAA. Questions should be directed to the VPAA regarding the application, interpretation, or implementation of the policy, or regarding disagreement among inventors and/or creators concerning assignment of rights or sharing of royalties.