



## BOV POLICY # 35 (2019) INTELLECTUAL PROPERTY POLICY

**Policy Title:** Intellectual Property Policy  
**Policy Type:** Board of Visitors  
**Policy Number:** BOV Policy #35  
**Approval Date:** March 19, 2021  
**Responsible Office:** Dean of the School of Graduate Studies and Research  
**Responsible Executive:** Provost and Vice President for Academic Affairs  
**Applies to:** All University employees, students and affiliate entities.

### POLICY STATEMENT

Norfolk State University (NSU) encourages and supports the intellectual pursuits, creative activities, and inventions of its faculty, employees and students. The results of these endeavors may be the subject of patent application(s), copyright(s), or other tangible material that is commonly referred to as “Intellectual Property.” As a state university of the Commonwealth of Virginia, NSU is required by the State to have an “Intellectual Property Policy” that covers these products.

The University shall retain all rights, title, and interest in any, and all, Intellectual Property generated, created, or developed in facilities operated or controlled by the University, supported by funds administered by the University, and/or performed in the course of regular duties by University members while utilizing University resources. The University retains the non-exclusive, royalty-free right to use, for non-commercial purposes, works produced by its employees and/or Affiliates while acting within the scope of employment unless exempted by other provisions of this policy.

Use of the University’s name in connection with the commercialization of a faculty, staff or student work must be approved in advance by the University, through the School of Graduate Studies and Research.

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### DEFINITIONS

**Affiliate Entity or Affiliate:** Visiting faculty, full- and part-time agents and employees, full- and part-time students (both undergraduate and graduate), interns and residents, and fellows (pre- and post-doctoral), whether or not they receive all or any part of their salary or other compensation from the University.

**Assigned Duty:** Intellectual Property created by an Affiliate where the University has specifically directed the Affiliate to develop/produce the Intellectual Property.

**Copyrighted Work:** An original work of authorship fixed in any tangible medium of expression, including but not limited to literary, musical, dramatic and pictorial materials, sound and visual recordings, computer software programs, creative arts, documents, and transcripts, published or unpublished, which property rights are protected by common law and federal copyright law, as further defined by Title 17 of the U.S. Code. Copyright protection does not protect ideas, concepts, systems or methods of doing something. (<https://www.copyright.gov/help/faq/faq-protect.html>)

**Disclosure Document:** A report of a development, invention or creation of Intellectual Property.

**Invention:** Inventions shall include all new, useful and non-obvious discovery, machine, process, composition of matter, article of manufacture, design, model, or technological development, including without limitation all circuits, computer hardware and software, communications protocols, antennas, chemical or polymeric compounds, ceramic, mixed or purified metal, catalyst, cure, biological organism, whether or not genetically engineered, including, microbes, cell lines, cultures, clones, biological or plant material, strain, variety, etc., and modifications, improvements, or extensions thereof.

**Intellectual Property (IP):** Intellectual Property shall include, without limitation, any Invention (whether patentable or not); certain Copyrightable subject matter; Trademarks; engineered materials (ceramic, metal, polymer or hybrids thereof); genetically engineered crops, animals, bacteria, fungi, or other members of the plant or animal kingdoms; crops or animals made during a breeding program; bacteria, viruses, and other microbes identified or isolated from any source; samples of biological materials; microchip masks and data sets defining such masks; three dimensional printing processes and/or data sets or information for the same; and any other



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information, data or materials produced by NSU faculty and Affiliates during their association with NSU and/or through the Use of Substantial University Resources. Within this Intellectual Property Policy, Intellectual Property may be more simply referred to as “technology”.

**IP Pool:** The IP Pool is a budget designated for covering any development expenses incurred by the University for goods and services to administer, protect, develop, and/or enhance the marketability or other aspect of an Intellectual Property, including, but not limited to, patent expenses, protection or litigation of Intellectual Property rights, marketing expenses, consulting fees, and expenses incurred in dealing with equity interests. The Dean of SGSR retains a percentage of all revenues from commercialization to subsidize IP expenses per the Distribution Table referenced in this policy.

**Net Revenue:** Gross revenue less all incurred or accrued development expenses and holdbacks for any known contingent liabilities.

**Originator:** In the context of an invention, those in the creative group which gave rise to the new product, concept, or idea. In the context of software or other copyrightable subject matter in which NSU has an ownership interest, those which created portions of the work. In the context of other valuable Intellectual Property, those which are the sources of the Intellectual Property.

**Patents:** Patents include all domestic or foreign patent applications or patents issuing therefrom, or reissues, re-examinations, continuations, divisionals, and extensions thereof.

**Sponsored Research:** Research performed under the support of, and compensated by, a sponsoring agency.

**University Research:** University research is defined as research and related activities by any person, which are related in any way to duties or responsibilities for which he/she has been compensated either by or through the University; or for which facilities owned, operated, or controlled by the University are used in a significant manner. University Research includes, but is not limited to, Sponsored Research or research which involved a significant use of general funds or which involved a Significant Use of University Resources.

**Significant Use of University Resources:** For the purpose of this policy, this means substantial and dedicated support of the University, including Sponsored Research, or other grants received by the University. Utilization of University laboratories or special instrumentation, dedicated services provided by University employees, special financial assistance or extensive use of shared facilities constitutes significant use. In contrast, the use of a computer in a faculty office, other commonly used equipment for teaching and learning activities, use of incidental supplies, and nominal use of University personnel or shared facilities are not considered significant use.



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### **CONTACTS**

The Dean of the School of Graduate Studies and Research officially interprets this policy. The Dean of the School of Graduate Studies and Research is responsible for obtaining approval for any revisions as required by BOV Policy # 01 (2014) *Creating and Maintaining Policies* through the appropriate governance structures. Questions regarding this policy should be directed to the Dean of the School of Graduate Studies and Research.

### **STAKEHOLDERS**

All University employees, students and Affiliate entities.

### **INTELLECTUAL PROPERTY POLICY CONTENTS**

The purpose of the Intellectual Property Policy is to:

1. Provide an incentive for creative intellectual effort and the advancement of knowledge for the benefit of humanity;
2. Ensure that the rights, privileges and interest of the University, its employees, students, and any supporting sponsor or other stakeholders, are recognized and protected through the development of fair agreements and procedures;
3. Encourage employees, students and/or stakeholders of the University, to realize the tangible benefits of Intellectual Property endeavors; and
4. Advance and encourage further research within the University, with revenues accruing to the University from Intellectual Property endeavors and commercialization.

NSU is the owner of all Intellectual Property (as defined in the definition above) and, according to this Intellectual Property Policy, all NSU faculty and Affiliates hereby assign all rights in the Intellectual Property to NSU. Under this Intellectual Property Policy, NSU has an option to commercially exploit all such Intellectual Property within its sole discretion. Should NSU exercise its option to include the Intellectual Property as an asset to be commercialized by NSU according to this Intellectual Property Policy, originators of the Intellectual Property will execute all documents NSU deems necessary or desirable by NSU for seeking and/or securing and/or recording its ownership rights in the Intellectual Property in US and foreign governmental agencies, courts, and the like. Regardless of whether NSU exercises its option to include the Intellectual Property as an asset to be commercialized, NSU shall retain a fully paid-up, non-revocable, non-exclusive license to make and use the Intellectual Property for non-commercial, research, instruction, and educational purposes.



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### Ownership

1. To the extent not proscribed by law or contract, the University shall own all Patents on Inventions made by NSU faculty and Affiliates or made using Significant Use of University Resources, and the NSU faculty and Affiliates hereby affirm the same.
2. To the extent that any other person may have an ownership right in Intellectual Property which was developed with a Significant Use of University Resources or Sponsored Research/resources and/or was developed wholly or significantly with general funds, that person shall be required to transfer any such ownership interest to the University.
3. To the extent permitted by the *Virginia Code*, all applicable regulations, and State Council on Higher Education for Virginia Guidelines, the University may enter into contracts with sponsors of research in which the sponsor asserts an ownership interest. If the University enters into such a contract or other funding vehicle, the terms of that contract or other funding vehicle shall take precedence over this policy. If the sponsor does not assert an ownership interest, the ownership vests with the University as provided in this policy. As a non-profit institution, NSU retains a full claim on innovations made with the help of federally funded research as stated in the Bayh-Dole Act (37 CFR paragraph 401).
4. To the extent permitted by the *Virginia Code*, all applicable regulations, and State Council on Higher Education for Virginia Guidelines, the University may enter into partnership contracts with outside parties for research or other sponsored activities. If the University enters into such a contract, the terms of that contract shall take precedence over this policy.
5. Pursuant to *Virginia Code* Section 23.1-1301, and Title 17 and Title 35 of the *United States Codes* the University may, upon the approval of the Board of Visitors, transfer its interests in Intellectual Property to other persons or entities. Such transfers will meet all applicable legal requirements. Refer to the Transfer of IP section within this policy for additional requirements.
6. The school name and all trademarks used to promote the school, whether or not registered, are important assets owned by NSU. Commercialization of any technology or product by any NSU faculty or Affiliate, or any third-party licensee or optionee, may not employ the school name or any of its trademarks without the prior written authorization of NSU.
7. NSU does not take ownership in any Copyrightable Work created by NSU faculty or Affiliates that is created using generally available University Resources when such works are not made pursuant to an expressly Assigned Duty, and retains only a non-exclusive right to use the Copyrightable Work for educational and non-commercial purposes in such works. These works include novels; music, artwork; pictorial works; films and film

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clips; instructional materials developed for student instruction; textbooks, papers, and other publications; and software related to the author's research or position at NSU.

NSU has ownership of copyrights in all software developed for performing a university function including without limitation library related software, software involving securing financial aid, software for addressing the needs of foreign students, software for managing a building project, software for managing remote student testing and/or coursework participation, etc. NSU has ownership of copyrights in all Copyrightable Works wherein Significant Use of University Resources were expended including without limitation software specifically requested to be developed by university personnel using university resources; coursework (audio, audio visual, visual, textual) specifically requested to be developed by university personnel using university resources for distance learning, professional certifications, student instruction, etc.; and pictorial, artistic, editorial, and audiovisual works requested to be developed by university personnel using university resources (e.g., for NSU promotional material, for subjects of interest for NSU, etc.). NSU's ownership of certain Copyrightable Works set forth in this paragraph begins at the creation of the Copyrightable Works, and NSU faculty and Affiliates agree to immediately notify the Intellectual Property Committee of its creation, and, should the Intellectual Property Committee deem it necessary or desirable, the authors of the Copyrightable Works will execute any assignment documents NSU deems suitable for recording NSU's ownership interest at the U.S. Copyright Office or any foreign counterpart office equivalent thereto.

If there is a dispute concerning ownership of a copyright, the Intellectual Property Committee is charged with deciding on ownership between NSU and the originators. If desired by an NSU faculty member or Affiliate to clarify copyright ownership by the NSU faculty member or Affiliate, a description of the copyrightable subject matter may be submitted to the Intellectual Property Committee, and the Intellectual Property Committee will confirm ownership being with either NSU or the originators within ninety (90) days of submission.

8. Even in cases where the University retains ownership of Intellectual Property under this policy, it may cede such ownership to the responsible Originator(s) by written agreement provided it is approved by the Board of Visitors. Alternatively, the University may license an Intellectual Property asset to the Originator(s) under reasonable terms.
9. The University may relinquish any claim to Intellectual Property that is determined by the Intellectual Property Committee not to be the product of University Research and other programs, or the University has no interest in pursuing.
10. The University retains a non-exclusive, royalty-free right to use, for non-commercial purposes, works produced by its Affiliates.



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11. Use of the University's name in connection with the commercialization of Affiliates work must be approved in advance by the University, through the Dean of the School of Graduate Studies and Research.

### **Intellectual Property Committee:**

The Intellectual Property Committee, in consultation with University Counsel is responsible for making policy recommendations to the Provost for dealing with patents, copyrights, and related mechanisms for the protection and/or exploitation of intellectual properties. The Dean for Graduate Studies and Research shall serve as the non-voting Chairperson of the Committee. The Committee shall be composed of five (5) members: (1) recommended by the Vice President for Finance and Administration, (1) recommended by the Provost and Vice President for Academic Affairs and (3) members recommended by the Faculty senate through an election process from the general faculty. All terms are for three (3) years and members may be reappointed for a maximum of one (1) extra term. In the event a member resigns from the committee or is unable to serve, that member will be replaced (per the description above). The new member will be appointed to complete the current term.

### **IP Committee Administrative Responsibilities:**

The responsibility for the administration of the NSU Intellectual Property Policy is assigned to the Dean of Graduate Studies and Research. The Intellectual Property Committee shall perform the following duties:

- To develop standards and procedures appropriate for the implementation of this policy to the Provost and Vice President of Academic Affairs;
- To promulgate invention and creative work Disclosure Documents that are subject to change from time to time;
- To hear and make recommendations to the Provost and Vice President of Academic Affairs on disputed ownership of discoveries, inventions, and copyrightable materials;
- To determine, whether the University has an interest in such property;
- Advise the responsible Originator whether Intellectual Property is patentable or copyrightable;
- To hear and make recommendations to the Provost and Vice President of Academic Affairs on disputed equities of the University and the Originator of the Intellectual Property in which the University has a proprietary interest;
- To make recommendations to the Provost and Vice President of Academic Affairs for the sharing of royalties between the University and the Originator of the Intellectual Property

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in which the University has a proprietary interest when in conflict with the established distribution;

- To promulgate such guidelines and procedures as may be necessary for the implementation of the Intellectual Property Policy, subject to review and approval of the Provost and Vice President of Academic Affairs. Obtain, maintain, approve, and ensure compliance with all signed agreements between the University and each Originator, between the University and a sponsoring agency, and between the Originator and the sponsoring agency;
- Take appropriate steps on behalf of the University for securing patent rights and copyrights in Intellectual Property in which the University has an ownership interest;
- To oversee the Administration of the royalties accruing to the University as a result of the implementation of this policy;
- Establish guidelines for use of royalties accruing to the University as a result of the implementations of this policy;
- Inform the Originator of all requirements regarding patents in any grant, contract agreement, or other funding source accepted by the University;
- With the aid of the Originator, provide all invention reports and other pertinent information regarding patents required by the terms of a grant, contract, agreement, or other funding source to which the University is a party;
- The IP Committee will render the recommendations to the Provost and VPAA within 90 working days.

### **Disclosure of Intellectual Property by Originators**

Originators of any Intellectual Property, whether or not protectable by patent, copyright, or other mechanism, will timely complete an invention or creative work Disclosure Document either prior to public disclosure (abstract, poster session, publication, meeting presentation, etc.) or within thirty (30) days of origination of an Invention, completion of copyrightable subject matter in which NSU has an ownership interest as set forth in point 7 of the “Ownership” section of this policy (e.g. work created pursuant to an Assigned Duty, work created with a Significant Use of University Resources, etc.), or creation of the Intellectual Property, whichever is earlier, and provide it to the Dean of Graduate Studies of Research. Failure to provide the Disclosure Document or to timely provide the Disclosure Document may jeopardize the rights of the University, and will result in administrative actions up to and including forfeiture of any distributions that may be due the Originators. The Disclosure Document will be utilized by the IP Committee to make decisions on whether to commercialize the Intellectual Property. For more details on procedures, refer to the IP Procedures and Timeline Document.





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### Distribution

The University may seek to secure and commercially exploit Intellectual Property by whatever manner it deems to be within the best interest of the school, and within the sole discretion of the University. If the University successfully licenses third parties to commercialize any Intellectual Property, the University, after it recovers its overhead costs and other expenses for securing Patents, Copyrights, Trademarks or other forms of protection on the Intellectual Property, will share whatever revenues or other things of value it obtains for the license including all up-front payments, milestone payments, option payments, royalties on sales or use of licensed products or processes, stock, warrants, or other financial instruments according to the following schedule:

	<u>% Distribution of net revenue</u>
Originator(s)	50
SGSR (IP Pool)	10
University IDC	10
Originator's School	10
Originator's Department	20

Any research contracts, grants, consulting agreements and other funding vehicles from or with the United States Government or other funding entities must be honored. Such documents that are at variance with this policy may be referred to the Intellectual Property Committee for recommendations prior to approval. The University President reserves the right to reallocate the University's 50% distributions as identified above.

### Right to Appeal

The Originator covered by this policy shall have the right to appeal application of the policy regarding ownership of a patent or copyright, or any procedure relating thereto, to the Provost and Vice President of Academic Affairs (PVPAA). A written request for appeal must be made to the PVPAA and a copy of the appeal forwarded to the Intellectual Property Committee Chair. The request must contain a statement of the specific nature of the appeal, the grounds upon which the appeal is based, and a summary of the facts supporting the applicant's position, and any material the applicant believes is relevant. If, in the judgment of the PVPAA, the resolution of the appeal requires technical expertise, the PVPAA shall appoint a Committee of five (5) faculty members and administrators to make a recommendation regarding the resolution of the appeal. The PVPAA has discretion to accept or reject the Committee's recommendation and make a recommendation to the President. The researcher has the right to appeal the decision of the PVPAA to the President. The President is the last level of appeal and all decisions are final.

### Transfer of Intellectual Property

Except when the governor's prior written approval is required, the University's governing board may transfer ownership of any Intellectual Property in which it claims an interest.



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If NSU commences commercialization of Intellectual Property, e.g. by filing a provisional application, but later, within its sole discretion, does not want to proceed further with commercialization efforts, NSU may license the asset to the Originator/Originating group under reasonable terms.

If no laws prevent NSU from returning ownership to the Originators (e.g. rules pertaining to federal and state funding, etc.) and if NSU has not created an intangible asset in the form of a Patent or Copyright registration, and further if, NSU has filed a provisional application but the Originating group will not be claiming priority to the filing, and if NSU chooses not to commercialize the technology, NSU may permit the Originators to pursue commercial exploitation of the technology in their own private capacity subject only to the right of NSU to retain a fully paid-up, non-revocable, non-exclusive license to make and use the Intellectual Property for non-commercial, research, instructional, and educational purposes, and will provide the Originators with written notice of the same.

The governor's prior written approval is required for transfers of title to patents and copyrights that were:

- A. developed wholly or predominantly through the use of state general funds, by an employee of the University acting within the scope of his or her assigned duties;  
or
- B. developed wholly or predominantly through the use of state general funds, and are to be transferred to an entity other than the following:
  - an entity whose purpose is to manage intellectual properties on behalf of nonprofit institutions;
  - an entity whose purpose is to benefit the transferring institution; or
  - the Innovation and Entrepreneurship Investment Authority.

When prior written approval is required, the University should send a description of the Intellectual Property and the proposed transaction to the State Council of Higher Education for Virginia. Within thirty (30) days, the Council will recommend action to the governor, including any conditions the Council thinks should be attached to the proposed transfer. The governor also may attach conditions to the transfer.

It should be noted that the governor's approval is not required for the granting of a license to use Intellectual Property, but only when the actual title is to be transferred.

### **Conflict with Statutes or Regulations**

Nothing in this policy shall be interpreted in a manner that conflicts with any applicable Federal or state law, any applicable implementing regulations, or State Council on Higher Education for



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Virginia Guidelines. To the extent that there is a clear conflict, the applicable law, regulations, or guidelines control the outcome.

### **EDUCATION AND COMPLIANCE**

Faculty and staff will be required to take a mandatory Awareness's MOAT review of this policy. Upon reading this policy, each faculty/staff member will be required to sign an Acknowledgement Form. Both documents are contained within Norfolk State University MOAT Vault. To reinforce understanding of this policy, the policy will be shared with new faculty/staff during orientation. Tracking will be utilized to ensure compliance with completing the Acknowledgement Form in MOAT.

Failure to comply with this requirement will be reported to the employee's supervisor. Additionally, failure to comply with this requirement will result in OIT revoking access to NSU's email, electronic doors, networks, and student systems. The reinstatement process requires a reinstatement form to be completed and signed by a supervisor and could take several days for the process to be completed.

### **PUBLICATION**

This policy will be widely published and distributed to the University community. To ensure timely publication and distribution thereof, the Provost will make every effort to:

- Communicate the policy in writing, electronic or otherwise, to the University community within 14 days of approval;
- Submit the policy for inclusion in the Online Policy Library within 14 days of approval; and
- Educate and train all stakeholders and appropriate audiences on the policy's content as necessary. Failure to meet publication requirements does not invalidate this policy

### **REVIEW SCHEDULE**

- Next Scheduled Review: March 2024
- Approval by, date: Board of Visitors, March 19, 2021
- Revision History: May 3, 2019; December 11, 2020
- Supersedes: University Intellectual Property Policy, dated May 15, 1999



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### **RELATED DOCUMENTS**

Special Reviews:

<https://www.nsu.edu/Academics/Faculty-and-Academic-Divisions/Schools-and-Colleges/School-of-Graduate-Studies-and-Research/Sponsored-Programs/Pre-Award-Policies-and-Procedures>

[Intellectual Property Disclosure Notification](#)

Virginia State and Local Government Conflict of Interests Act, Code of Virginia [§2.2-3100](#), et seq.

Virginia Public Procurement Act, Code of Virginia [§ 2.2-4300](#)

### **FORMS**

[Mutual Non-Disclosure Agreement](#)

NSU Invention Disclosure Document: *(Form needs to be uploaded to Sponsored Programs)*

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<b>Intellectual Property &amp; Technology Transfer Regulations (Source: ACUA.org)</b>			
<b>Statute</b>	<b>Regulation</b>	<b>Summary</b>	<b>Reporting Requirement</b>
<b>American Jobs Creation Act of 2004</b>  <a href="#"><u>26 U.S.C. § 170</u></a>		<ul style="list-style-type: none"> <li>For contributions of patents and certain other intellectual property made to a 501(c)(3) after June 3, 2004 the taxpayer's initial contribution deduction is limited to the lesser of the donor's basis in the contributed property or the fair market value of the property.</li> </ul>	The institution is expected to file <a href="#"><u>Form 8899</u></a> (Notice of Income from Donated Intellectual Property) <b>by the last day of the first full month following the close of the institution's taxable year</b> to which the net income from the contribution is properly allocable.
<b>Bayh-Dole Act of 1980</b>  <a href="#"><u>35 U.S.C. §§ 200-212</u></a>	<a href="#"><u>37 C.F.R. § 401</u></a> <a href="#"><u>48 C.F.R. § 927</u></a> <a href="#"><u>48 C.F.R. § 952</u></a> <a href="#"><u>48 C.F.R. § 970</u></a>	<ul style="list-style-type: none"> <li>Establishes a uniform policy for the disposition and licensing of rights to patentable inventions discovered in the course of federally-funded research.</li> </ul>	The University has several reporting requirements regarding federally funded inventions.
<b>Cooperative Research and Technology Enhancement Act (CREATE Act)</b>  <a href="#"><u>Public Law No. 108-453</u></a>	<a href="#"><u>37 C.F.R. § 401</u></a>	<ul style="list-style-type: none"> <li>Amends the Patent Act to provide that sharing of confidential information under a joint research agreement that was in effect on or before the date the claimed invention was made will not be the basis of an obviousness determination under patent law.</li> <li>Promotes patentability of inventions created between universities and the private sector by treating inventions as having a sole owner.</li> </ul>	Not Applicable
<b>Trademark Revision Act</b>		<ul style="list-style-type: none"> <li>Subject to the principles of equity, the owner of a famous mark that is distinctive,</li> </ul>	Not Applicable

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<p><a href="#"><u>15 U.S.C. § 1051</u></a> <a href="#"><u>Public Law No. 109-312</u></a></p>		<p>inherently or through acquired distinctiveness, shall be entitled to an injunction against another person who, at any time after the owner's mark has become famous, commences use of a mark or trade name in commerce that is likely to cause dilution by blurring or dilution by tarnishment of the famous mark, regardless of the presence or absence of actual or likely confusion, of competition, or of actual economic injury.</p>	
<p><b>U.S. Patent Act</b>  <a href="#"><u>35 U.S.C. §§ 1-390</u></a></p>	<p><a href="#"><u>Consolidated Patent Rules, 37 C.F.R. § 1-150</u></a></p>	<ul style="list-style-type: none"> <li>• The consolidated patent laws specify the subject matter for which a patent may be obtained and the conditions for patentability. They also include requirements related to representation before the U.S. Patent and Trademark Office, applications for registration, examination procedures, amendment of applications, publication and post publication procedures, appeals, petitions, post registration practice, correspondence in trademark cases, classification of goods and services, and procedures under the Madrid Protocol.</li> <li>• The laws establish the Office to administer the law relating to the granting of patents and contain various other provisions relating to patents.</li> </ul>	<p>Not Applicable</p>
<p><b>Visual Artists Rights Act</b></p>		<ul style="list-style-type: none"> <li>• Protects moral rights for fine art works, but does not protect audiovisual works and probably</li> </ul>	<p>Not Applicable</p>

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<p><a href="#">17 U.S.C. § 106A</a></p>		<p>does not apply to most multimedia creations.</p>	
<p><b>U.S. Copyright Act</b> <a href="#">17 U.S.C. § 107</a></p>		<ul style="list-style-type: none"> <li>• Limitations on exclusive rights: Fair use Notwithstanding the provisions of sections 106 and 106 A, the fair use of a copyrighted work, including such use by reproduction in copies or phono records or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include—             <ol style="list-style-type: none"> <li>(1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;</li> <li>(2) the nature of the copyrighted work;</li> <li>(3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and</li> <li>(4) the effect of the use upon the potential market for or value of the copyrighted work.</li> </ol> <p>The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.</p> </li> </ul>	<p>Not Applicable</p>