Hello Ken,

The Intellectual Property Rights Committee (IPRC) discussed the comments from the Faculty Affairs Committee regarding CAP 263 (as reflected in the FAC’s Jan. 23, 2015 Minutes) at the IPRC’s meeting held on March 16, 2016. One important fact that should be noted is that CAP 263 is not a new intellectual property policy, but merely an embodiment of AS-637-05, which was developed through faculty participation and approved by the Academic Senate in 2005. I have summarized the observations and decisions of the IPRC below.

1. The FAC indicated that “extraordinary support” needs further clarification. The IPRC members are not sure what form of extra clarification is needed, nor do they initially believe that such extra definition would be a good idea. The committee notes that the existing language, which relies on the notion of “normal” resources, allows for unknown future funding sources to be addressed in a reasonable fashion. The committee also notes that any dispute about what is normal will be reviewed by the IPRC (263.10.1.2.3), that the University’s equity interest cannot exceed 50% (263.9.1), and that the faculty has sole rights to annual net proceeds under $50,000 (263.9.2). The committee members believe that the existing language and its protection of faculty rights appears to be suitable. If the FAC wishes to draft revised language that addresses its specific concerns, the IPRC would be happy to review it.

2. The FAC expressed concerns about ownership of IP rights to online courses. The FAC Minutes indicate that there is concern over the notion of “extraordinary support” and its relationship to IP ownership. The IPRC notes that the IP Policy provides for faculty ownership even in the event that the university provides extraordinary resources (263.6.1.1), and that only the issue of equity participation, as noted above, derives from such support. The IPRC believes that the FAC is probably most concerned about the application of section 263.6.1.2, which provides for university ownership under limited and specified circumstances when the University initiates creative projects, including those involving online course development. Although the IPRC discussed the possibility that faculty participation may not always be entirely “voluntary”, the committee concluded that the requirement of a written document, as specified in the policy, suitably protects the faculty, and is a reasonable approach for handling such situations. Again, if the FAC wishes to draft revised language that addresses its specific concerns, the IPRC would be happy to review the proposed changes.
3. The FAC asked several questions about the timing and content of the rights ownership/sharing agreement required with university initiated projects under 263.6.1.2. The IPRC does not see any ambiguity in the policy about the timing, which is prior to initiation, or the content of such agreements. If the FAC disagrees, the IPRC would be interested in reviewing proposed revisions.

4. The FAC raised questions regarding the patent section, 263.7.1.3, which is identical to the provision addressing faculty creations governed by copyright. This IPRC’s view is no different here as with 263.6.1.2. Regarding the question about what is meant by “the university initiates”, the IPRC believes that IPRC review of disputes, if any should ever arise, best handles the situation.

The IPRC appreciates the time the FAC put into reviewing the IP rights policy, and the areas it noted that might be of concern. Please let me know if you have any comments or questions that you would like to share with the committee.

Lee

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