



The Mico University College
DO IT WITH THY MIGHT

INTELLECTUAL PROPERTY POLICY

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The Mico University College

INTELLECTUAL PROPERTY POLICY

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For more information about policy development, consult the Policy Formulation and Management Policy on The Mico website at themico.edu.jm/policies.



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1. INTRODUCTION

The Mico University College (herein after called the Institution) recognizes that the advancement of knowledge and learning and the generation of new ideas useful for national development and societal improvement is an important purpose of higher education. The institution therefore accepts that faculty, staff and students, in the course of their employment or enrolment at the institution, and in their research, scholarly or administrative functions may generate innovative ideas, products or technology which may require protection under local and international intellectual property laws. This policy outlines the parameters by which the interests of inventors/creators, as well as the institution itself will be protected, while ensuring that the wider society benefits from the invention/work.

2. PURPOSE

The purpose of this policy is to define the rights and responsibilities of the Institution as well as its faculty, staff, and students with respect to ownership and administration of intellectual property.

This Policy also sets out the terms, conditions, and procedures for faculty, staff, students and the Institution to establish and maintain their interests in intellectual property created at or used by or at the Institution; and the ownership and protection of such intellectual property.

3. SCOPE

This policy applies to all faculty, staff, and students and relates to all forms of intellectual property subject to legal protection in Jamaica.

4. DEFINED TERMS

Intellectual Property: – means and refers to all forms of creations generated from thought, the ownership of which is subject to legal protection in Jamaica. These creations including but not limited to patents, copyrights, trademarks and service marks, tangible research property, and rights in data and other proprietary information and broken down as follows:

- patentable discoveries and inventions, which may include any new and useful process, machine, article of manufacture, or composition of matter;
- copyrightable works, which may include written and graphic works, computer software, and photographic, video, and audio works.



- trade or service marks, which is a word, name, symbol, or device used to identify the institution, its goods or services;
 - tangible research property includes matter such as biological materials, varieties, prototype devices, and engineering designs;
 - protectable data includes the recorded factual material as well as supporting materials such as experimental protocols and code written for statistical analyses commonly accepted in the scientific community as necessary to validate research findings.
- Creator – Any inventor, developer, designer, author, or originator of intellectual property covered by this policy, including faculty, students and staff of the Institution.
- Staff / Faculty (Personnel) – Persons who are employed to The Mico Institution either full-time or part-time, including but not limited to academic staff, adjunct staff, student employees, contractual employees, or any other staff employed by or assigned to the Institution. For the purpose of this Policy, student employees are included under the term "Personnel" only when acting within the framework of their employment at the Institution.
- Substantial Use – The utilization of the Institution funds, space, facilities, equipment, personnel (including undergraduate and graduate students), or other resources beyond that which is normally provided to carry out assigned duties. Normal use of assigned office space, office equipment, library resources, or administrative staff would not be considered “substantial use.”
- Scope of Employment – All activities performed by Personnel as an employee of the Institution, including but not limited to the obligation of faculty members to teach, perform administrative activities as assigned, develop or create curricular or course materials and to conduct research.
- Students – Persons enrolled in the University or University courses, acting within the framework of their academic course work or program.
- Institution – The Mico University College
- President – The President of the University College or person designated by him/her from time to time in each instance.



- Academic Content – The components of an academic programme, consisting of specific and organized knowledge and leading the student to particular learning outcomes. Academic Content is comprised of Core Course Materials and Personalized Course Materials.
- Scholarly Works – Scholarly Works are works authored by Personnel for the purpose of dissemination of knowledge and prepared for potential publication outside of the University (e.g. journal articles, scholarly papers or texts). The author of such works is the exclusive copyright holder for the work, unless or until the right is transferred, or was prepared using the institution resources, or for the institution, or as a result of different contractual arrangements, or as a result of benefits received.
- Institution Work – Any research, creation or development activity which is undertaken in connection with:
- i) the scholarship, duties, and responsibilities for which personnel is employed to undertake or otherwise compensated by the Institution, or which is conducted with the substantial use of the Institution's facilities or resources; or
 - ii) an externally funded project.
- Royalty – Payments to Intellectual Property Owners over a specific time period for the use of that intellectual property or part thereof. (Type of Royalties include: Performance Royalties, for music; Stock Royalties, for the use of images; and Book Royalties; Book Royalties for the right to publish and Franchise Royalties, where the franchise holder pays the company for the use of its asset).

5. GENERAL PROVISIONS

5.1. Ownership

- i) Intellectual property created by Personnel and/or students working on any Institution project (research or otherwise) shall be owned by the Institution if it is created either:
 - a) within the scope of Institution employment; or
 - b) with substantial use of the Institution's Resources.



- ii) The Institution shall own all academic content developed by its faculty. Academic content includes
- a) all intellectual property customarily considered by institutions of higher education as being academic materials, including, but not limited to, course outlines, syllabi, simulations, lectures, materials, reading lists, and similar materials;
 - b) all recordings, transcriptions or other data developed or produced at or through any conference, meeting, assembly or other gathering of an academic nature and involving any number of students or Personnel as part of a course.
 - c) all intermediary technology and any physical and virtual technology in which the material at (a) and (b) above are embodied or in which they are delivered.

Academic Content consist of Core Course material and Personalized Course Materials, within the above definition.

- Regular Course Materials – are any and all Academic Content that are used in or support an Institution course. Such material may include course outlines, syllabi, simulations, case studies, lecture notes, reading lists, slideshow presentations, photographs and other similar materials which were developed based on the requirement of a particular course or in response to a specific request from the Institution. [N.B. A course containing at least 60% of the content of any other course shall be considered the same course, despite having a different name and/or code. The course/programme that was first developed shall be considered to be the original course and the other course shall be a considered a copy].
 - Personalized Course Materials – are any and all Academic Content developed to address the need or support a particular aspect of the Course. These materials are developed or used by a particular course lecturer to facilitate his/her own teaching style or needs. It does not include academic content developed within the Scope of Employment but outside of the Personnel’s teaching responsibilities.
- iii) In accordance with established academic tradition, the Institution will not normally claim ownership for works such as textbooks, articles, papers, scholarly works, artistic works or personalized course materials. Creators therefore retain copyright in such works, unless such works are created under a grant or sponsored program that specifies ownership rights by way of agreement.



- iv) If the intellectual property is created outside the scope of the Institution employment and without any significant use of the Institution's Resources, the individual shall own the intellectual property.
- v) For legal protection of intellectual property the Institution must abide by the regulations and procedures of the Jamaica Intellectual Property Office (JIPO)

5.2. Acquisition

The Institution may acquire ownership or use of intellectual property by assignment, license, gift, bequest, or any other means, and the use of such intellectual property shall be governed by a contract or other reference document stipulating the specific terms of use.

5.3. Administration of Intellectual Property which is not University-owned

The Institution, where appropriate, may administer intellectual property owned by another entity or person, under an agreement with the owner.

5.4. Third Party Agreements;

- i) Government Sponsorship.
Any project that is funded, in whole or in part, by a government agency shall be subject to the specific statutes and regulations governing the agency. Those statutes and regulations may govern the ownership or interests in or rights to use intellectual property created as part of such project. The rights of the Institution, Personnel and Students will be subject to the effect of those statutes and regulations, as applicable and as in effect from time to time.
- ii) Other Third Party Agreements.
The ownership, interests and rights of the Institution, Personnel and Students of and in intellectual property created under or governed by Third Party Agreements will be subject to the effect of Third Party Agreements. Third party agreements can only be made with the authorization of the President.

5.5. Patents

The Jamaica Intellectual Property Office indicates that a patent is *"a grant by the State, to the inventor, of a monopoly in the use of an invention, thereby excluding others from making, using or selling the invention within the country of grant for fourteen years, without the authorisation of the inventor. The inventor must in turn*



fully describe the invention. The disclosure of the invention allows others to work the invention at the end of the protection period and also assists in the spreading of technological information”.

The Institution shall own all rights to all patentable inventions/creations arising from University Work. The Institution shall decide whether to pursue legal protection of such works within six months of being advised by the Creator of the invention/creation. In such an eventuality, the Institution shall stand the costs of the legal pursuit. Where the Creator has done substantial work on the invention/creation outside of his/her University work, the Institution shall allow the Creator to apply for a patent or to licence the work.

Where there is a third party agreement with respect to an invention, the agreement must include at minimum:

- a. The technical specifications of the invention, and any version numbers in the case of software or other intangible technology
- b. The period for which the agreement is valid
- c. The authorized user(s) of the invention if it is that only specific individual shall have access
- d. All applicable restrictions on the use and distribution of the invention
- e. Conflict-resolution procedures
- f. The legal jurisdiction within which the agreement is to be interpreted

5.6. Copyrights

The Jamaica Intellectual Property Office indicates that, a copyright consists of a bundle of different rights held by a creator of literary, artistic, musical or dramatic works. These works are protected automatically once the works are in a written or recorded form. *“To secure proof of authorship in the work, creators [may] mail a copy of the work to themselves (in a sealed self-addressed envelope) by registered mail through the post-office. The unopened envelope containing a copy of the work can be submitted in [a] Court of Law as evidence linking the work with the person claiming authorship”.*

The Creators of works such as textbooks, articles, papers, scholarly works, artistic works or personalized course materials are the exclusive copyright holders for the works and shall have and retain the copyright in such works, unless such works are created under a grant or sponsored program that specifies ownership rights by way of agreement, or unless or until the right is transferred, or the work was created using the institution resources, or for the institution, or as a result of different contractual arrangements, or as a result of benefits received.



A copyright owner shall have the exclusive right to:

- reproduce the work in copies (e.g., through photocopying)
- store and distribute copies of the work
- prepare transitional or other derivative works
- perform or display the work publicly
- authorize others to exercise any of these rights
- reuse the work in teaching, future publications, and in all scholarly and professional activities,
- disseminate the work on/through any platform or medium he/she chooses.

6. CONFLICT OF INTEREST AND CONFIDENTIALITY

All Personnel and in particular Researchers shall:

- i) ensure that their agreements with third parties do not conflict with their obligations to the institution and especially where it applies to private consultancy and other research service agreements with third parties;
- ii) keep the business of the institution in confidence, and exercise all due diligence regarding confidentiality arrangements and provisions; hence every fact, information, solution or data related to any research carried out at or by the institution, whose disclosure, could damage or endanger the institution's lawful financial, economic or market interests will warrant confidentiality. Where there is doubt concerning conflict of interest or confidentiality issues Personnel shall consult with the person or department designated by the institution;
- iii) report promptly all potential and existing conflict of interest.

7. RESPONSIBILITIES

7.1. Institution:

The Institution shall

- i) have all the copyrights with respect to intellectual property created by Personnel in the Scope of Employment (other than Personalized Course Materials or Scholarly Works) or Students using the Institution's Resources;
- ii) own all computer programmes, software and business practices created by Personnel/Students within the scope of employment/enrolment or where substantial University Resources has been used.
- iii) ensure that its intellectual property is duly protected under the laws of Jamaica.



The Institution with respect to patents shall:

- iv) evaluate in good faith and within a reasonable time, inventions disclosed, and decide whether it has ownership rights, and further whether or not to seek protection of its ownership rights. The Institution shall advise the inventor accordingly;
- v) may, at its discretion and consistent with the public interest, license intellectual property to the Creators on an exclusive or non-exclusive basis, however, Creators must demonstrate technical, financial and business capability to commercialize the intellectual property. Agreements with Creators shall be subject to review and approval of conflict of interest issues in accordance with applicable Institution policy;
- vi) may assign ownership to the Creators as allowed by law, subject to the rights of sponsors and to the retention by the Institution of a license which at a minimum shall grant the University the right to use intellectual property in its programs of teaching, research, and public service on a perpetual, royalty-free, worldwide, non-exclusive basis;
- vii) remit to Creators or their legal heirs their share of revenues (royalties) from inventions.

7.2. The Board of Directors

The Board of Directors shall

- i) Have responsibility for the Institution's intellectual property (including its logos, symbols, trademarks, service marks etc.);
- ii) authorize the President to have operational oversight for the implementation of this Policy.

7.3. The President

The President shall:

- i) Have the authority to enter into agreements with respect to ownership, licensure, disposition of intellectual property, disposition of royalty or like income and other matters related to intellectual property in which the Institution has an interest and may enforce, defend, manage, and/or take any action relevant to the Institution's intellectual property and its rights in intellectual property;
- ii) report annually to the Board of Directors on intellectual property activity at the University, including data for the preceding year on disclosures, patents etc.



7.4. Institution Committee on Intellectual Property (UCCIP)

There shall be a Institution Committee on Intellectual Property, established in the Institute of Technological and Educational Research (ITER) chaired by its Director. The UCCIP shall report to the Vice President of Academic Affairs, on intellectual property matters generally, ownership etc.

The Institution Committee on Intellectual Property (UCCIP) shall:

- i) receive disclosures from Creators regarding any potential intellectual property;
- ii) where warranted, assess the protection and commercialization of the institution's intellectual property, and shall ensure that the Creator is kept abreast of the procedure;
- iii) may register intellectual property; seek protection under copyright, trademark, patent laws or other applicable laws;
- iv) seek legal advice in deciding on intellectual property matters;
- v) where warranted, acquire legal protection (i.e. register the intellectual property), if needed, and shall proceed with all due diligence to obtain protection under copyright, trademark, patent laws or other applicable laws, and shall ensure that the required commercialization plans are followed through.
- vi) Document all patents and copyrights which are owned or being pursued by the institution and its personnel, whether by way of application, acquisition or lease etc.

7.5. Responsibilities of Personnel and Students

Personnel and Students shall:

- i) have all rights in copyright of all intellectual property created without the use of substantial Institution Resources;
- ii) ensure that their primary commitment of time and intellectual contributions is to the Institution, to education activities, research and the academic programs of the institution;
- iii) ensure that their conduct with regards their job requirements, research, scholarly works there are no conflicts of interest or commitment;
- iv) comply with Institution guidelines on intellectual property and in particular with the fair use of copyrighted material, citing sources and obtaining the required permission to use copyrighted material, therefore Personnel and Students shall:



- understand the context of the work, and hence not reproduce verbatim or to any substantial effect from any reference material;
 - use quotes to indicate that the work has been taken from another source;
 - cite sources giving the details regarding source material, the author(s), date of publication etc. in accordance APA format;
 - use plagiarism checkers, as appropriate;
- v) disclose creations (including computer programmes and software) developed within the scope of employment or with substantial Institution resources, and which may be subject to University ownership in a timely manner, fully, and in writing. (Computer programmes shall include a digital-time-stamped copy of the software programme with the appropriate annotations); the disclosure should be made even when there is uncertainty regarding the Institution's rights;
- vi) not sign any Agreement or other documentation (especially where these may terminate, limit or in any way affect the University's rights) unless authorized to do so. This is in relation to
- patents with respect to inventions of which the Institution has or may have ownership or rights to use;
 - Use of the Institution's name or brand; or
 - transfer, with respect to a properly authorized agreement;
- Where Personnel or Students have taken action or entered into agreement without authorization, the Institution is not bound to honour those actions or agreements.**
- vii) on request, execute all legal documents designed to assist the University, or its assignees, in proving or benefiting from such rights, as deemed appropriate by the University.

8. REVENUE SHARING

The Institution shall share revenues gain from intellectual property as follows:

8.1. Copyrights

Personnel, as employees of the institution, are compensated for their work in accordance with the job requirements and in alignment with the compensation policy of the Institution. The job requirements of academic staff besides effective classroom teaching and academic advising and counselling of students, include the development of the curriculum with the creation of courses, as well as research and publications (i.e. the creation of intellectual property) which shall be owned by the Institution. However, where staff members have produced works such as textbooks, articles, papers, scholarly works, artistic works or



personalized course materials, they shall be the exclusive copyright holders for the works and shall have and retain the copyright in such works except where there are other arrangements.

8.2. Patents

The Institution shall devise a structure and criteria for sharing of gross royalty income from inventions/creations and licensing of inventions/creations between the Creator and the Institution, as applicable. The income to the Institution shall be distributed within the institution in accordance with the Entrepreneurial Policy.

In cases where there has been substantial use of Institution resources, the Institution shall recover all costs associated with the development of the invention/creation including but not limited to cost estimates for man-hours, utilities and other resources consumed. The recovery may include the commercialisation of the invention or any other suitable approach. Where a third party contract dictates the apportionment of Revenue different from this Policy, the terms of agreement shall govern the disbursement.

8.3. Royalties

Royalties are payments to intellectual property owners for the use the intellectual property and shall be granted by agreement to include a detailed description of the intellectual property, the scope and limits of the use, details of the payments, including beneficiaries in the case of death.

9. REFERENCES

- a) The Laws of Jamaica (The Copyright Act, The Patent Act, The Trade marks Act)
- b) Research Policy (The Mico Institution)
- c) Conflict of Interest Policy
- d) Entrepreneurial Policy
- e) Use of Marks Regulations