



**The American University of Kurdistan  
Policy of Intellectual Property Rights  
\*Subject to Board Approval**

Policy Number: AS040

Expiry date of the Interim Policy:  
February 3, 2024

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**I. INTRODUCTION**

- a. **Authority:** The Board of Trustees (herein referred to as “Board”) at The American University of Kurdistan (herein referred to as “AUK” or “University”) is authorized to establish rules and regulations to govern and operate the University and its programs.
- b. **Purpose:** The purpose of this policy is to encourage and enable technology development and other marketable forms of intellectual property and transfer them for the benefit of the public.
- c. **Scope:** All University employees are covered by this policy. Also covered are non-employees (including students, visitors, volunteers, fellows, and scholars) who are aided by a significant use of University resources.

**II. ROLES AND RESPONSIBILITIES**

- a. **Responsible Executive:** Provost
- b. **Responsible Administrator:** Office of Provost
- c. **Responsible Office:** Office of Provost
- d. **Policy Contact:** Provost

### III. DEFINITION

**Inventions** are, as defined under U.S. federal patent law, novel and useful ideas relating to processes, machines, manufactures, and compositions of matter. An invention can be made solely or jointly with others as co-inventors. To be recognized legally, a **co-inventor** must have conceived of an essential element of an invention or contributed substantially to the general concept. Similarly, patent is defined by Iraqi Patent Law No. 65, 1970, and modified in 2004

**Copyrightable works** are, as defined under U.S. federal copyright law, original works of authorship that have been published in any tangible medium of expression from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. These works include:

- Literary works, such as books, journal articles, poems, manuals, memoranda, tests, instructional material, databases, bibliographies.
- Computer software, which in addition to being copyrightable, may also be patentable.
- Musical works including any accompanying words;
- Dramatic works, including any accompanying music;
- Pictorial, graphic, and sculptural works, including photographs, diagrams, sketches, and integrated circuit masks;
- Motion pictures and other audiovisual works such as videotapes; and sound recordings.

Copyright is similarly defined by the Kurdistan Law No. 17, 2012, and the Iraqi Law No. 3, 1971, A **trademark** includes any word, name, symbol, or device, or any combination, used, or intended to be used, in commerce to identify and distinguish the goods of one manufacturer or seller from goods manufactured or sold by others, and to indicate the source of the goods.

**Discoveries** are defined for the purpose of this policy as new products or processes that are not patentable inventions or copyrightable works but that may contain or be based on proprietary information. Examples include tangible research property such as biological materials (including cell lines) and chemical substances; prototype devices and equipment; and research data. Discoveries sometimes may be protected as trade secrets.

**An intellectual property record**, according to the 19 U.S. Code § 4341 intellectual property is a record, other than a financial or administrative record, that is produced or collected by or for faculty or staff of a state institution of higher education in the conduct of or as a result of study or research on an educational, commercial, scientific, artistic, technical, or scholarly issue, regardless of whether the study or research was sponsored by the institution alone or in

conjunction with a governmental body or private concern, and that has not been publicly released, published, or patented.

**A royalty** is a payment made to an owner of intellectual property for the privilege of practicing a right under a patent, copyright, or discovery. The term ‘royalty’ does not apply to funds awarded to the University under sponsored agreements nor to gifts made to the University.

**Significant use of university resources** is the use of University facilities, staff or funds, as well as appropriated time from the employee’s obligated working time per the job description, in order to produce the scholarly creation

#### **IV. POLICY STATEMENT**

This policy supports AUK’s mission of focusing on transformative knowledge, innovative research, and ethical community service. AUK believes that respect for intellectual labor and creativity is crucial to academic endeavor and enterprise, and that, whenever practical, it should make the results of scholarly activity and production available to industry and the public on a reasonable and effective basis while also giving scholars the proper recognition. It applies to all inventions, discoveries, creations, trademarks, and copyrightable works made or authored by covered individuals, and to any royalties derived therefrom. It does not apply to university service marks, nor to property belonging to others or in the public domain. All University employees are covered by this policy. Non-employees will benefit significantly from the creation and use of such products, such as students, visitors, volunteers, fellows, and scholars.

#### **VI. POLICY PROCEDURES**

##### **Discoveries and Inventions**

- All rights to and interests in discoveries or inventions, including patents thereon, which result from research or investigation conducted in any lab or research facility of AUK or involve significant use of the University facilities or resources, shall be the sole property of AUK. All rights and interests in software, although it is copyrightable, shall be the property of the University when it is required for an invention or is part of an invention. Covered individuals who make or participate in the making of such discoveries or inventions in the course of fulfilling their AUK responsibilities or with use of university resources shall promptly disclose their discovery or invention together with all the details to the Provost.

## POLICY – Intellectual Property Rights

- Rights to inventions arising in the course of government or other externally sponsored research are controlled by the terms of the agreement between AUK and the sponsor and/or applicable KRG and Iraqi regulations.
- Inventors shall be entitled to share in any royalty income received by AUK for their discoveries or inventions, in accordance with the University's royalty distribution schedule below. The University shall maintain distributions of an inventor's respective share of such royalties after the inventor terminates his or her AUK employment.
- Covered individuals agree to assist and cooperate with AUK in obtaining and enforcing patents, including, without limitation, executing and delivering all assignments, documents and instruments reasonably requested by the University in conjunction with obtaining and enforcing patents within the KRI, Iraqi or any foreign jurisdiction.
- AUK shall collaborate with the inventor for patent application and shall also maintain patent protection for disclosed inventions. However, upon recommendation of the Provost, and approval of the President, AUK may choose in certain cases not to pursue a patent application, or maintain a patent, or otherwise market that invention, then the University may assign ownership to the inventor(s) while retaining a royalty-free license to use the invention for non-commercial purposes.
- AUK will consult with the inventor(s) who discloses a discovery or invention before marketing such discovery or invention.

### **Copyrightable Works**

- Covered individuals retain ownership of their own copyrightable works unless the work is a work-for-hire or is subject to a separate written agreement that requires assignment to AUK or to a third party. In the case of assignment to AUK, the author will retain the right to use the material for his or her own non-commercial purposes. It is emphasized that the legal copyright owner is the author of the work—the person(s) who gives tangible expression to the idea regardless of who might have been the original creator of that idea. For example, if a student writes a paper based on a professor's idea, and the professor is not a co-author of the work, the student is, by law, the sole copyright owner.
- The Office of Grants Management (OGM) is responsible to secure, register copyrights in all works owned by or assigned to AUK. Covered individuals shall cooperate with and sign all documents requested by OGM to enable such processes. Moreover, AUK shall cooperate with and sign all documents reasonably requested by a covered individual to

enable her/him to secure, register and enforce in Iraq and any foreign countries, copyrights all works owned by or assigned to that individual.

- Traditional scholarly products by faculty and other employees have customarily been considered to be the restricted property of the author regardless of the medium in which the work is embodied. Such traditional products include, but are not limited to, journal articles, textbooks, monographs, works of art, and musical compositions. AUK does not claim any ownership rights to such works, unless there was significant use of University resources as defined above. In addition, the author of such traditional works is responsible for compliance with applicable copyright laws. If such works embody a patentable invention, the inventor will disclose and assign ownership of the invention to the University in accordance with the above procedures on "Discoveries and Inventions."
- Royalties earned from the commercialization of traditional faculty/employee works will accrue entirely to the author(s) as personal income, unless copyright was previously assigned to AUK or significant University resources were used in the production of the work. For traditional faculty products requiring significant use of university resources, the author(s) will repay the University for identifiable resources from any personal income earned. Before making significant use of university resources in the creation of such works, covered individuals shall consult with their Dean/Director, who shall have the opportunity to consult with OGM and the Provost prior to approval.
- In order for AUK to be able to investigate allegations of scientific misconduct as per the AUK academic integrity policy AS004, AUK will have access (that is specified by an investigative committee) which may include records, notebooks and other repositories of information. As for externally funded research the grantor decides what is confidential or not. The research project Principal Investigator is responsible for the maintenance and retention of research data. Information on required retention periods may be obtained from the Department Chair/Dean, or from the external grantor.
- In the case of developing distance learning courseware, instructional software, and other multimedia works involving significant University resources, a written agreement is required between AUK and the creator(s) outlining the rights and responsibilities of the parties. The agreement will cover, the ownership of the courseware, the right of the creator/s to erase videotape or delete from a Web server any or all of the course content at the conclusion of a course, the need for written permission from the creator(s) for the modification, reuse, or sale of courseware, the responsibility for obtaining copyright

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permission for items used in the creation of courseware, and the distribution of royalties.

- AUK Faculty may request the Provost to assist them through OGM in the application for their copyrights. The Legal Advisor will assist in registering the copyright. Copyright owners may assign their copyrights to AUK, which may, at its option, endeavor to commercialize the copyrighted work. Any royalties generated would be shared in accordance with the royalty distribution schedule attached to this policy.
- A student, as a condition of enrollment at AUK, grants royalty-free permission to the University to reproduce and publicly distribute, on a noncommercial basis, copies of student project reports, theses, or dissertations, including any computer software developed as part of the student project, thesis or dissertation. In certain situations, the Provost, in consultation with the Dean and the capstone project, thesis, or dissertation advisor, may conclude that joint ownership by the University and student is appropriate for the computer software developed as part of a student's project, thesis or dissertation. Upon approval by the President, the Legal Advisor
- shall prepare an agreement between the University and the student as soon as practicable during the process of carrying out the research project but prior to the final submission of the student capstone project report, thesis, or dissertation. Notwithstanding the preceding, if the student authors copyrightable material that is either subject to requirements of a sponsored agreement or is research data, such material will be owned by AUK or the supervising faculty member pursuant to any such sponsored agreement and this policy.

### Trademarks

- Any trademarks created by a covered individual at the request of AUK shall be owned by the University.
- Trademarks created by a covered individual in association with an invention, discovery, or copyrighted material shall be owned by the same party that owns the invention, discovery or copyrighted material.

### Intellectual Property Records

Documents relating to the development and protection of intellectual property rights. They include all deeds, documents of title, certificates, correspondence and other records or documents. These records should be maintained for the life of such intellectual property right.

## RESPONSIBILITIES

1. Inventors are responsible for promptly disclosing the inventions they make to the Provost when required by this policy. The Provost may call upon inventors for advice and cooperation in order to assist AUK's efforts to patent and/or market the invention.
2. Copyright holders are responsible for assigning copyright ownership to the University when required by this policy. Copyright assignments should be processed through the Provost.
3. Inventors and copyright holders of AUK-owned discoveries or other scholarly products, as well as holders of proprietary information owned by external grantors are responsible for taking reasonable steps to prevent unauthorized use or inadvertent public disclosure of such discoveries and information. These steps may include requiring those who have access to the discovery or information to sign a non-disclosure agreement.
4. The Provost and OGM with the advice of Dean/Director, the inventor or author, and outside organizations as appropriate, are responsible for:
  - Administering, in a confidential and expeditious manner, all intellectual property disclosed to him.
  - Conducting patent searches, marketability assessments, and license negotiations by OGM.
  - Licensing, marketing, and distributing by OGM and (either directly, through members of the AUK community, or through outside organizations) intellectual property in which the University has rights.
  - Providing information on intellectual property issues to the AUK community.
  - Interpreting requirements of sponsored agreements regarding intellectual property.
  - Providing assistance in registering the copyright to any works in which the University has rights and, upon request, in registering the copyright to faculty-owned work.
  - Arranging the distribution by the Provost of royalty income earned by AUK under license agreements or other arrangements in accordance with the royalty distribution schedule below.

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- Defraying the costs (either directly or through licensees) of patent applications, maintenance fees, registration fees, and other costs incurred in administering intellectual property by the applicant and in case of a successful application AUK will reimburse 50% of the costs.
  - Preparing or assisting in preparing reports on intellectual property matters, including royalty income, for members of the University community, external sponsors, and other requesting organizations.
  - Determining by AUK's Legal Advisor the rights of the University in any invention, discovery, or copyrightable work covered by this policy. Inventors and authors may appeal this determination to the Provost.
5. The Provost and the OGM Director are responsible for ensuring that professional consulting agreements awarded by the University contain appropriate provisions for protection of university intellectual property rights.

### ROYALTY DISTRIBUTION SCHEDULE

Covered individuals who are makers of inventions and discoveries or authors of copyrighted works, and who share royalties received by AUK, may request their share of such income. Net royalties are defined as gross royalty income less actual expenses incurred by the University in administration of the intellectual property, including but not restricted to legal fees and patent maintenance fees. Distribution of the net royalties will follow one of the following schemes:

#### **A. For net royalties up to \$50,000:**

In this case, the inventor(s)/author(s) share shall be one-half of net royalty income.

#### **B. For net royalties are in excess of \$50,000:**

In this case, the inventor(s)/author(s) share shall be 40% of the excess above \$50,000.

For example, for \$200,000 net royalties, the total inventor(s)/author(s) share shall be

$$0.5 \times \$50,000 + 0.4 \times [(\$200,000 - \$50,000)] = \$85,000$$



## References

1. U.S. federal copyright law (<https://www.copyright.gov/title17/title17.pdf> ).
2. Iraqi Patent Law No. 65, 1970, and modified in 2004, ([https://www.taglegal.com/Uploadfiles/Iraq\\_Patent\\_Industrial\\_Designs\\_Plant\\_Varieties\\_No\\_65\\_1970.pdf](https://www.taglegal.com/Uploadfiles/Iraq_Patent_Industrial_Designs_Plant_Varieties_No_65_1970.pdf) ).
3. Iraqi copyright law, (<https://www.wipo.int/wipolex/en/legislation/details/10345>)
4. U.S. federal patent law (<https://www.law.cornell.edu/uscode/text/35> ).
5. Kurdistan Law No. 17, 2012, (<https://www.tamimi.com/law-update-articles/copyright-protection-in-iraqi-kurdistan/>)
6. The Iraqi Law No. 3, 1971 <http://www.e-lawyerassistance.com/LegislationsPDF/iraq/CopyrightLawAr.pdf>.
7. 19 U.S. Code § 4341-Intellectual Property, (<https://www.law.cornell.edu/uscode/text/19/4341#:~:text=In%20this%20subchapter%2C%20the%20term,L> ).
8. AUK academic integrity policy AS004, (<https://auk.edu.krd/wp-content/uploads/2022/06/AS004-Academic-Integrity.pdf> )

## VII. POLICY HISTORY

- a. **Approved by:** University Cabinet
- b. **Adopted:** Interim Policy