

Intellectual Property Policy

Nota Bene

Within this policy the term AACT Board of Trustees (i.e. "BOT") shall be the BOT Executive Committee or full board membership, unless specifically stated. All decisions unless specifically stated are by majority vote. The BOT has the final right to determine all uses of its intellectual property.

Intellectual Property Overview

The AACT's policy on intellectual property pertains to patentable inventions and copyright-protected products (termed "products") created by AACT members, staff members, other individuals, appointees, and/or entities (termed "AACT members, staff members or other entities") under the AACT's direction or supervision.

This policy also pertains to use of the AACT name, logo, tagline and similar identifying written or visual entities (termed "name").

The intellectual property of the products of teaching, research, scholarship, pedagogy, artistic endeavor or similar activities belong to the AACT member when the product is not the result of a specific assignment, grant, contract or commission, and where there is no substantial AACT contribution to its creation. Substantial contribution may include, but is not limited to, direct or indirect salary support for AACT members, staff members or other entities and/or use of AACT services and facilities beyond what is customarily provided to AACT members.

The AACT has an interest in and reserves the right to review, negotiate, and sign agreements for the use or sale of products outside the immediate educational setting. These products include but are not limited to:

1. Materials specifically commissioned by the AACT.
2. Materials to which the AACT has made a substantial contribution.
3. Materials developed with the assistance of outside funding where terms of the grant, contract or agreement are binding on the author(s) or the AACT.

Examples of materials in which the AACT reserves the right to review, negotiate, and sign contracts, licenses and agreements as provided include but not limited to:

1. Video or audio recordings
2. Motion pictures

3. Programmed instructional materials
4. Computer programs and software
5. Computer-assisted instruction courseware
6. Three-dimensional materials and exhibits
7. Books, monographs or other print materials

Combination of the above and other types of materials, e.g., multimedia and other instructional materials.

Certain intellectual property products, particularly software, are subject to both copyright protection and patent protection. If a product is created that is subject to both copyright protection and patent protection, a finding under this policy that either the copyright or patent to the product is owned by the author(s), this policy does not obviate the AACT's right to claim ownership in any associated co-protected copyright or patent. For example, a software product is developed that the copyright is determined to be the authors. The AACT may still claim the right of ownership of the patent for the software.

Copyright

Overview A copyright is a form of intellectual property protection provided by law for certain original products including written products, software, and selected audio, visual, or performed compositions. The copyright protects the particular form of expression rather than the subject matter or content of the product. One cannot copyright an idea, only the particular expression of the idea. Unlike patent protection, copyright protection exists from the time an original product is created, and vests immediately when the product is fixed in a "tangible medium" for the first time. Such tangible media might include paper, a computer disk, or granite.

Objective The objective of the AACT Copyright Policy is to advance the mission of the AACT by:

1. Encouraging and supporting the exercise of innovation, and creativity
2. Structuring the rights of ownership and the rights to use copyright materials created by AACT members, staff members or other entities in a way that:
 - a. Enables the timely dissemination of materials resulting from the teaching, research, scholarship, pedagogy, artistic endeavors or similar activities of AACT members, staff members or other entities;
 - b. Permits the AACT to retain a copyright in and/or use materials created by AACT members, staff members or other entities under certain circumstances
 - c. Permits the AACT to meet contractual obligations to outside entities
 - d. Accommodates and is consistent with related AACT policies.
 - e. Assures compliance with applicable laws and regulations in the management of copyright materials

Summary: Consistent with the AACT's mission and the expressed desire to encourage dissemination of the results of teaching, research, scholarship, pedagogy, artistic endeavors or similar activities, the AACT agrees that in most cases, individual creators of copyrightable products of teaching, research, scholarship, pedagogy, artistic endeavors or similar activities, typically will hold personal copyright ownership of those products. The policy also specifies a limited body of products that will be owned by the AACT. In some cases, "individual" ownership might be distributed over a group of joint authors or creators. In other cases, an individual or

group of individuals might hold joint ownership with the AACT.

Individual Ownership of Copyrights The AACT does not claim ownership of copyright in teaching, research, scholarship, pedagogy, artistic endeavors or similar activities regardless of the mode of expression except when a product is described in "AACT Ownership of Copyrights" below. Therefore, in those instances where the AACT does not claim ownership of a copyright, the copyright will be owned by those defined as authors or creators under copyright law unless there is a contrary contractual or statutory obligation. This disclaimer of AACT ownership interest in copyright materials applies to AACT members, staff members or other entities. AACT claims no ownership of copyright in any product created outside the scope of the AACT membership or association. For clarity, the AACT does not claim copyright to products created by a member as part of their normal employment outside the AACT.

AACT Ownership of Copyrights: The AACT has ownership, or the right to obtain ownership by assignment, of copyright in:

1. Any particular and identifiable product created pursuant to either an oral or written agreement between the author and the AACT
2. Products created in the context of carrying out administrative duties for the AACT
3. Any product created by a team of AACT members, staff members or other entities of such size or over such an extended period of time that determination of a discrete number of authors would be impossible, impractical, or potentially unfair
4. Any product created under the terms of a contract or other binding agreement with an entity, other than the AACT, when such contract or agreement requires AACT ownership of the product
5. Any product created by AACT BOTs, AACT leadership (including Committee, Regional or Special Interest Group Chairs) or staff members whenever such product is the product of their assigned tasks or is a reasonably expected product of their position in the AACT. Products made by staff members generally are subject to AACT ownership because they are either "assigned tasks" or "reasonably expected outcomes" of employment

Copyright Disclosure Personally owned copyright products of this policy need not be disclosed. All other products created under this policy should be disclosed. Disclosure will be made in writing and should be made promptly to the BOT. Such disclosure shall be made as soon as possible when any of the following criteria apply: 1) a third party has a contractual basis for asserting a right to use the product (e.g., as a consequence of a sponsored-research agreement); 2) a third party has expressed interest in obtaining rights to use the product; 3) the creator(s) of the product believe that a third party could become interested in obtaining rights to use the product if made aware of an opportunity to do so; 4) the creator(s) of the product wish to assert personal copyright ownership in the product and so wish to request a determination of their personal standing under the terms of this policy; 5) the creator(s) of the product are unclear regarding copyright ownership and wish to request a determination.

In those cases when a disclosure is made in order to request a determination of copyright ownership, the AACT BOT will consider the disclosure at the next regularly scheduled BOT meeting. The BOT may act upon the disclosure using the information in the disclosure only, or the BOT may seek additional council from other knowledgeable individuals such as legal counsel. The final determination on these questions shall be the responsibility of the BOT. Upon final resolution of the issues raised by the disclosure, the author(s) and the AACT, where appropriate, will execute such agreements as are necessary to document clearly the rights and responsibilities of all parties.

Patent

Overview Patent protection provides the owner with a limited period of time in which the owner can exclude others from making, using, offering to sell, or selling the invention. The resulting temporary exclusive rights to the invention can provide an incentive for a patent owner or a licensee to invest the resources required to advance the invention toward commercialization and use by the public. In return for offering temporary exclusive rights to the owner of a patent, a government requires the owner of the patent to make details of the invention available to the public in the patent document. Under United States law, the life of a patent extends 20 years from the date of application.

A patent is the grant of a property right by a government to the owner of an invention. Unlike copyright protections, patent rights do not follow automatically from the act of creation. The inventor or the patent's owner generally must request patent protection from the government of each country in which a patent is desired. The Patent Office in each country then will examine the application against its own laws and regulations and will—in due course—either deny or allow the grant of a patent in its jurisdiction. Because patent laws and associated administrative procedures are fairly complex, patent applications generally are prepared and prosecuted by specialists working on behalf of the inventor or owner.

Objective The primary objective of the AACT's patent policy is to enable the public to use and benefit from inventions originating by the product of AACT members, staff members or other entities in pursuit of its mission. In pursuing this objective, the AACT will seek to manage inventions in a way that advances the missions of the AACT. The patent policy further provides a framework for the orderly transfer of inventions to the private sector in exchange for equitable compensation to the AACT as well as to individual inventors.

Summary of the Patent Policy The AACT will assume ownership of patents on qualifying inventions made by the AACT members, staff members or other entities. Earnings from patents subject to this policy will be distributed according to the provisions of this policy.

Applicability of the Patent Policy The policy applies to inventions meeting either of the criteria below. For convenience, inventions meeting either of these criteria will be designated as “qualifying inventions.”

1. Any particular and identifiable product created pursuant to either an oral or written agreement between the inventor and the AACT
2. Inventions created in the context of carrying out administrative duties for the AACT

3. Any invention created by a team of AACT members, staff members or other entities of such size or over such an extended period of time that determination of a discrete number of authors would be impossible, impractical, or potentially unfair
4. Any invention created under the terms of a contract or other binding agreement with an entity, other than the AACT, when such contract or agreement requires AACT ownership of the product
5. Any invention created with a significant use of AACT resources for any reason.
6. Any invention created by AACT BOTs, AACT leadership (including Committee, Regional or Special Interest Group Chairs) or staff member whenever such product is the product of their assigned tasks or is a reasonably expected product of their position in the AACT. Products made by staff members generally are subject to AACT ownership because they are either “assigned tasks” or “reasonably expected outcomes” of employment

The BOT shall assume ownership of patents to qualifying inventions. In order for the BOT to assume ownership, inventors subject to this policy shall assign to the BOT their entire right in obtaining patent protection and in licensing the patent rights to others. Federal law will be followed in all instances. The AACT’s right to require assignment from its employees or appointees will be understood as a condition of employment or appointment.

If the AACT informs in writing the inventor(s) that it does not wish to file a patent application in any territory based on a disclosure by the inventor(s), the inventor(s) may request from the AACT an opportunity to take on the prosecution of the patent application. The inventor(s) may request that the AACT waive its rights to the invention in the territory(ies) in which the AACT has elected not to file. The AACT will not unreasonably deny such a request. However, any waiver of rights will be subject to the interests of any third parties, including, but not limited to, sponsors of the research leading to the invention. In addition, any waiver of the AACT’s rights in the patent application will expressly allow the AACT to continue to use the invention for the AACT missions and will be limited to the scope of the invention as disclosed and as used as a basis for the AACT’s determination not to file an application in the territory(ies). The AACT waiver of its interest in an invention may result in personal ownership of the invention by the inventor(s) who wish to conduct further research and development on the invention.

Such inventor(s) should be mindful that use of personally owned patents under the AACT’s purview may create a conflict of interest requiring disclosure and management under the AACT’s policies pertaining to conflict of interest.

Licensure of Inventions Assigned to the AACT Consistent with the objectives of this policy and subject to the rights of any other parties, the AACT will seek diligently to license to others the right to use inventions under patents assigned to it.

Disclosure Any individual who believes that he or she has made, or contributed to the making of, a qualifying invention must disclose the invention in writing to the AACT BOT. Disclosure should be made promptly.

Income Distribution from Intellectual Property

If the AACT shall receive all payments due under a contract, license or agreement for a product, it shall distribute such earnings under the terms of this policy biannually. Prior to any distribution, the AACT shall recover any out-of-pocket expenses incurred in applying

for, maintaining or defending the licensed copyright(s), patent(s) or other owned intellectual property. Also prior to any distribution under this policy, the AACT shall make any payments to others required by the contract, license or agreement including but not limited to inter-institutional and inter-organizational contracts, licenses or agreements for the management of jointly owned products. Gross AACT earnings, less the AACT's out-of-pocket expenses, less payments required to others, is designated as "distributable income."

Distributable income shall be allocated as outlined below:

1. 25% of distributable income to author(s)
2. 25% of distributable income to the AACT general funds
3. 50% of distributable income to the AACT Development

Fund For clarity, please note the following:

1. The distribution protocols outlined do not apply to personally owned intellectual property (i.e. copyrights and patents) but only to intellectual property owned by the AACT on behalf of the AACT
2. In order to qualify for a share of distributable income allocated to "author(s)," an individual must have held a mutually acknowledged ownership interest in the intellectual property to the product and must have assigned any legitimate copyright and/or patent ownership he or she held to the AACT
3. In the event that no authors have assigned intellectual property ownership to the AACT, no author(s)' share will be allocated. In this case, all distributable income shall be allocated pro rata to the other recipient groups. Also if an author(s) declines distributable income, no author(s)' share will be allocated. In this case, all distributable income shall be allocated pro rata to the other recipient groups.

An accounting of the determination of distributable income and its actual distribution shall be provided yearly to all authors by the AACT.

Use of the AACT Name

The use of the AACT name, logo, tagline and similar identifying written or visual entities (termed "name") for any purpose in any AACT endeavor not previously sanctioned by BOT is prohibited. The BOT has the final right to determine all uses of the AACT name.

Products and Services Specific prior written approval by the BOT is required for the use of the name by any AACT member, staff member or other entity where the sponsored program, other activity or endeavor involves:

1. The sale or distribution, for financial consideration, of a product or service
2. A financial payment to the AACT, AACT sponsored programs, or endeavor
3. A fundraising, advertising or promotional effort for any entity other than AACT
4. Publications of the AACT including course materials, catalogues, textbooks, electronic media, websites, etc. either published directly by the AACT or indirectly by a third party
5. Journals in printed or digital form published by the AACT directly or indirectly by a third party

Use of Name by Individuals

AACT members or staff members acting in their official AACT roles as an AACT member or staff member may use the name of the AACT for self-identification purposes before the general public.

AACT members or staff members acting as individuals may use the name of the AACT for self-identification purposes before the general public, with the following exceptions:

1. The name may not be used in any event, writing, broadcast, or other media presentation, advocating, or endorsing the sale of an item of commerce, be it product or service, where the AACT is represented as benefiting from, having an interest in, or advocating such sale.
2. The name may not be used by such AACT member or staff member in any event, writing, broadcast, or other media presentation, where both of the following apply:
 - The context is such that the average recipient of the presentation would reasonably believe that it was the AACT itself rather than merely the AACT member or staff member that was advocating or endorsing the sale of an item of commerce, be it product or service, and
 - The AACT member or staff member has a pecuniary interest, direct or indirect, in the product or service, or receives money or any valuable thing, any commission, percentage, discount or other payment, gift, bonus, tip, or gratuity, directly or indirectly, as a result of participating in the presentation.

In addition, when using the AACT name as an individual for self-identification, there should be some additional statement to the effect that the views represented are not official ones of AACT, it's BOT, sponsored programs or endeavors or programs.

AACT members or staff members may use their name in conjunction with the AACT's name for self-identification purposes in connection with products or services when they are the subject of a pending U.S. patent, a valid in-force U.S. patent, or a U.S. copyright, in which a pecuniary interest is held by the AACT, and which arose out of AACT teaching, research, scholarship, pedagogy, artistic endeavors or similar activities, or in other manner arose out of an sponsored program, other activity or endeavor by the AACT.

Product Endorsement The AACT usually does not endorse products or services. Requests for potential endorsements will be made on an individual basis and should be referred to the Executive Director. Individuals or entities that contract with the AACT for goods or services are not permitted to imply an endorsement by the AACT of their goods or services by virtue of their contract with the AACT. Accurate statements which describe a fact but do not express an endorsement (e.g., "the AACT is one of Consultant ABC's clients") may be allowable with advance permission of the BOTs.

Trademark Registration No one may register or authorize the registration of any trade or service mark of the AACT in the United States or any foreign country without the prior written permission of the BOT.

Licensing for Merchandise No one may grant or receive a license for the AACT name for use on merchandise (such as T-shirts, mugs, calendars, and jewelry) without the prior

written permission of the BOT.

Use of AACT Name in Television and Films Requests from outside entities to include references to the AACT name in films, television programs, and similar programs should be referred to the Executive Director.

Policy on Unauthorized Use by Third Parties Legal council represents the AACT's interests in connection with unauthorized uses of AACT's name by third parties, and will be guided in their actions by the standards embodied in this policy and principles of copyright and trademark law.

AACT Name Review Process

The AACT, its BOT, its members and staff members have a responsibility to ensure that the activities with which the AACT name is associated are accurately maintained with standards consistent with its mission. The BOT holds the final right to determine all uses of the AACT name.

Maintenance of standards is normally assured through normal review processes. Relevant standards of quality and appropriateness should be established and maintained. Even some projects that satisfy the standards of quality may not appropriately use the AACT name (e.g., partisan political activities or outside ventures carried on by individual AACT members), or are explicitly prohibited by the AACT bylaws and/or other AACT policies.

A formal request for approval to use the AACT name for products, services or other reasons be sent to the BOT and will be reviewed as requests are received. The BOT may grant or deny use of the AACT name based upon the information in the formal request only. The BOT or its designee may also appoint a review committee for the request during the quarterly BOT meeting or in a timely manner after that meeting. The BOT may also seek additional council from other knowledgeable individuals such as legal counsel.

If a review committee is established, a review committee will review any product, service or other potentially appropriate use. The review committee will consist of at least two impartial AACT members. The review committee will prepare an initial or final report for the BOT within 6 weeks of its appointment. The initial or final report will include an overall description of the product, assessment of whether the BOT should or should not approve use of the AACT name and reasons for that assessment, specific feedback to be given to the author and a will identify if this is an initial or final review. If the review committee recommends further changes be made to the product before recommending approval (i.e., submits an initial review), the author(s) will work with the review committee to establish an appropriate timeline to make the necessary changes.

Once the changes have been made, the review committee will submit their final review. The BOT will make a final decision in a timely manner after a final report is submitted, usually at the next regularly scheduled BOT meeting.

The BOT may consider an expedited review of the product. Reasons for an expedited

review should be clearly stated in the formal request for approval. The BOT will make all decisions regarding expedited review.

The review committee and BOT should consider the general criteria of accuracy, appropriateness, and fair value when authorizing the use of the AACT name. Specifically, the following factors should be considered:

1. Whether the association between the AACT and the activity endeavor product, or publication is accurately represented;
2. Whether the activity, endeavor product, or publication, and the manner in which it is associated with AACT name, are appropriate to the AACT mission
3. Whether satisfactory arrangements have been made concerning the interest (if any) to be held by the AACT in intellectual property and income resulting from the proposed sponsored program, other activity or endeavor, or publication.

Questions of Interpretation

Questions concerning the interpretation of this policy should be referred to the Executive Director.

Grievance

Any AACT member, staff member or other entity who believes he or she is adversely affected by any action or non-action of the AACT BOT Intellectual Property policy may appeal in writing to the full BOT for re-consideration. The appeal will be considered at the next scheduled full BOT meeting. A decision made by a majority of the full BOT will be final and will be made in a timely manner.

Date of Policy Effectiveness

This policy shall apply prospectively after the date of its approval by the BOT.