

Copyright Policy

General Description

Policy Summary:

Trinity University endeavors to comply with copyright law and encourages all members of the Trinity community to obey the provisions of the copyright law. Trinity understands that copyright law applies to digital resources and that any unauthorized redistribution of music, movies, text, software or other protected media may be a violation of the law. Various policies relevant to specific issues of copyright are referenced in links noted below. Please refer to them for detailed information on Trinity expectations related to conformance to copyright law.

Purpose:

The term “intellectual property rights” refers generally to the ownership rights over a creative work. The most common types of intellectual property are trademarks, patents and copyrights. Copyright is a form of protection of intellectual property provided by the laws of the United States to the authors of original works. Copyright is an issue of particular seriousness because technology now allows the easy copying and transmission of some protected works. All members of the University community are responsible to comply with all legal statutes regarding intellectual property, including the Digital Millennium Copyright Act (DMCA). The Copyright Policy addresses this responsibility. The Copyright Policy also outlines the ownership of Information Technology intellectual property which will be generated within the University.

Scope:

The Copyright Policy applies to anyone using Trinity University’s computer systems, networks, and data systems. This includes faculty and staff members, students, external vendors, guests and other members of the University community.

Policy Content

Summary

The University's designated agent for notices under the Digital Millennium Copyright Act is Jason Hardin (Library). For more information on copyright and intellectual property, please refer to the Library's resource - http://libguides.trinity.edu/policies_copyright

Federal copyright laws also protect the software available for use on computers at the Trinity University. The software provided through the University for use by faculty, staff, and students may be used only on computing equipment as specified in the various software licenses.

Faculty, staff, or students must not copy or reproduce any licensed software or intellectual property found on University computing equipment, except as expressly permitted by the

software license, author, or granting authority. Faculty, staff, and students may not use unauthorized copies of licensed software on University-owned computers.

Digital Millennium Copyright Act (DCMA)

United States copyright law is based in the U.S. Constitution, giving Congress the authority "To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries." (Article I, sec. 8) Those exclusive rights to one's own intellectual property include literary, dramatic, musical, artistic, works in any medium (printed, digital, other recording media) as well as software.

Copyrighted works include the following broad categories:

- Literary Works
- Musical works, including accompanying words
- Dramatic works, including accompanying music
- Pantomimes and choreographic works
- Pictorial and graphical works
- Sculptural works
- Motion pictures and other audiovisual works
- Sound recordings in all formats
- Architectural works
- Photographs
- Museum reproductions of paintings or other works of art
- Software

Copyright law has been modified from time to time to address issues related to new publishing and distribution technologies. The DMCA of 1998 deals with transmission and use of digital works. The DMCA recognizes that digital transmission of works adds complexity to copyright law.

The federal government requires colleges and universities to establish policies and plans to "combat unauthorized distribution of copyrighted materials by users of the institution's network without unduly interfering with the educational and research use of the network." The DMCA does provide non-profit educational institutions with some protections if individual members of the community violate the law. However, for Trinity University maintain this protection, the University must immediately respond to complaints from copyright holders when someone in the University community has infringed on their copyright by using material without permission.

It is the responsibility of all students, faculty, and staff at Trinity University to understand and comply with US Copyright Law, in particular the Copyright Act of 1976 and DMCA. Additional information on U.S. copyright law is found on the United States Copyright Office Internet site. Members of the University community should familiarize themselves with the sanctions for violations of the DMCA. The DMCA prohibits downloading or distribution of copyrighted works

without the owner's permission for use as required or recommended reading for any course taught at or in connection with Trinity University. DMCA does not shield Trinity University from vicarious liability for this type of copyright infringement.

Examples of copyright infringement found in a university setting:

- A faculty member places a number of full-text articles on a class Internet page that is accessible to anyone who can access the Internet.
- Students download MP3 files of music and videos files and send them to friends without the copyright holder permission.
- Students use BitTorrent or similar peer-to-peer file sharing utilities to download copyrighted music without permission from the copyright holder.
- Students use BitTorrent or similar peer-to-peer file sharing utilities to make copyrighted works stored on their hard drive available to others to download
- A student prepares a Internet page assignment for a course and uses corporate logos without permission.
- Without the copyright holder's permission, a faculty member places an electronic copy of a standardized test on the department's Internet site.
- A staff member enhances the departmental Internet site with music that is downloaded and artwork that is scanned from a book, all without attribution or permission.
- A student scans a photograph that has been published and uses it without permission as the background of his/her Internet site.
- A student develops an e-commerce site for a class and, without permission, scans in photographs of products that came from commercial Internet sites.
- A student selects a segment of a movie and places it on his Internet site.

The University Library can assist the Trinity University community in accessing sites which provide legal options for content use.

Ownership of Work

Information technology intellectual property may be generated as the result of work undertaken by outside vendors but sponsored by the University, work sponsored internally by the University, work generated by University employees in the scope of employment, and by students at the University. The creator of any intellectual property that is or might be owned by the University under this policy is required to make reasonably prompt written disclosure of the work to the University's provost, and to execute any document deemed necessary to perfect legal rights in the university and enable the university to file patent applications and applications for copyright registration when appropriate. This disclosure to the provost should be made at the time when legal protection for the creation is contemplated, and it must be made before the intellectual property is sold, used for profit, or disclosed to the public. Whenever legal protection for intellectual property is anticipated all persons engaged in such creative activity are encouraged

to keep regular notebooks and records. The following governs ownership of intellectual property created at the University:

- In keeping with academic traditions at the University, the creator retains all rights to the following types of intellectual property, without limitation: books (including textbooks), educational courseware, articles, non-fiction, novels, poems, musical works, dramatic works including any accompanying music, pantomimes and choreographic works, pictorial, graphic and sculptural works, motion pictures and other similar audio-visual works, and sound recordings, regardless of the level of use of university facilities. This provision does not include computer software (other than educational courseware) or data bases. This provision applies regardless of any university sponsorship of the work, and it may be modified only by a specific prior agreement between the creator and the university. The use of University-owned computers and other facilities in the preparation of books and similar works does not alter this provision, though other university policies may limit such use or require reimbursement to the University. Similarly, the use of externally sponsored resources does not alter this provision, unless the creator is effectively notified in advance of such limitations to his or her rights.
- The creator owns all intellectual property created without substantial use of University facilities, including intellectual property rights in computer software and databases.
- The creator originally owns intellectual property created with substantial use of University facilities but no external or internal sponsorship, and retains said ownership by commercial development of said property subject to the following: (i) the University shall receive 15% (fifteen percent) of the net proceeds to the creator above \$25,000 (twenty-five thousand dollars) in constant 1984 dollars from all sources (in the case of patents and copyrights, this provision shall be limited to the life of the patent or copyright), and (ii) the University shall receive a perpetual, non-exclusive, non-transferrable, royalty free license to use said intellectual property. In the case of software, this license includes access by specified University personnel to the source listings, and the University shall require each person to whom a disclosure is made to execute in advance a binding confidentiality agreement in favor of and enforceable by the creator. If the intellectual property is created solely by a student or students, the creator is exempt from the obligation to pay to the University a fraction of his net proceeds, but not from the provision of this paragraph for a non-exclusive license to the university. If the creator develops an intellectual property that is covered by this provision, he must make full and fair disclosure to the University of all such sources of compensation relating to that intellectual property.
- When intellectual property is created with substantial use of University facilities, but not directly arising from sponsored research, the creator will originally retain the rights to the property, provided that he desires to commercially develop the property himself or to make it available to the public. If, however, the creator elects not to commercially develop same

or fails to show diligence in pursuing such development, then the ownership rights to that property may be acquired by the University. At the time the intellectual property is disclosed to the university's provost, or at any time thereafter, the University may request that the creator decide whether he will develop the intellectual property or will grant the rights to the University, and execute documents to pass on the title. Such a decision must be made within one year of the request or the creator will automatically lose his rights in favor of the University.

- The University originally owns intellectual property created with substantial use of University facilities provided by an external agreement or internal university sponsorship and retains said ownership by commercial development of said property, subject to the following: in all cases, the creator shall receive 50% (fifty percent) of the net proceeds to the University.
- When intellectual property is created with substantial use of University facilities provided by external or internal sponsorship, the University will originally retain the rights to the property, provided that it desires to commercially develop the property or to make it available to the public. If, however, the University elects not to commercially develop same or fails to show diligence in such development, the ownership rights to that property may be acquired by the creator. This assignment of rights to the creator may be prohibited by the terms of an external sponsorship agreement with the University or by an internal University sponsorship declaration, but in such cases the creator must be notified in advance.
- Ownership of intellectual property created as a result of work conducted under an agreement between the University and an external provider (such as a vendor) will be governed by specifications of the agreement governing the work. When an intellectual property is created with substantial use of University resources provided by an external research contract or a specific University sponsorship agreement, and when that contract or agreement either does not specify the disposition of the intellectual property rights arising from that sponsorship, or it permits the University and/or creator to retain or acquire such intellectual property rights, the University will originally retain the rights to such intellectual property.
- When the university provides funds or facilities for a particular project to the extent of substantial use, it may also choose to designate itself as sponsor of that work. The university may declare itself the owner of intellectual property resulting from said work. In such cases, the University must specify in advance the disposition of any intellectual property rights arising from the project.
- Intellectual property which is the subject of a specific agreement between the university and the creator(s) thereof shall be owned as provided in said agreement. Such agreements

by the university and the faculty are encouraged.

- Intellectual property created by university employees who were employed specifically to produce a particular intellectual property shall be owned by the University if said intellectual property was created within the normal scope of their employment. Faculty are presumed not to be hired to produce a particular intellectual property. On the other hand, computer programs written on the job by staff computer programmers would fall under this provision.
- Work done by individuals as consultants to outside firms is presumed not to involve unreimbursed substantial use of university facilities, and the rights to intellectual property created under consulting agreements are retained by the outside firms or the individual as specified by the terms of the consulting agreement. Consulting work must not make substantial unreimbursed use of University facilities except by explicit prior agreement. Any member of the University community who is engaged in consulting work or in business is responsible for ensuring that provisions in his agreements are not in conflict with this policy of the University or with the University's commitments. Each creator of intellectual property should make his obligations to the University clear to those with whom he makes such agreements and should ensure that they are provided with a current statement of the university's copyright policy. Appropriate sample contract wording to cover various possible external consulting arrangements shall be available from the university provost.

Performance Evaluation

Consequences of Policy Violation:

Enforcement:

To ensure adherence to the Copyright Policy, Trinity University reserves the right as described above to monitor the University community use of copyright materials.

Any behavior in violation of this policy is cause for disciplinary action. Violations will be adjudicated, as appropriate, by the CIO, the Office of the Dean of Students, the Office of Housing and Residential Life, and/or the Office of Human Resources. Sanctions as a result of violations of this policy may result in, but are not limited to, any or all of the following:

- Attending a class or meeting on copyright law issues, as well as successful completion of a follow up quiz;
- Loss of University computing, e-mail, and/or voice mail privileges;
- Disconnection from the residential hall network;
- University judicial sanctions as prescribed by the student Code of Conduct;
- Monetary reimbursement to the University or other appropriate sources;

- Reassignment or removal from University housing and/or suspension or expulsion from the University;
- Prosecution under applicable civil or criminal laws.F. Reporting Violations

Reporting Violations:

Agent for Notification of Claims of Infringement

To notify the Trinity University administration of a claim of infringement of copyright, please contact our Agent for Notification of Claims of Infringement:

Jason Hardin

Elizabeth Huth Coates Library
Trinity University
One Trinity Place
San Antonio, TX 78212

Phone: 210-999-8181

Fax: 210-999-8182

Requirements

Approvals:

Chief Information Officer

Terms and Definitions:

Term:	Definition:
Creator	Any person or persons who create an item of intellectual property.
Intellectual Property	Includes any patentable invention, any copyrightable subject matter, or trade secret. It also includes works of art, and inventions or creations that might normally be developed on a proprietary basis. In this policy, intellectual property is limited to the information technology.
Net proceeds to the university	All proceeds received by the university on intellectual property that it assigns, sells or licenses, minus any application, litigation, interference, or marketing costs directly attributable to the intellectual property being licensed. Deducted costs shall be reasonable and fair, and shall be properly disclosed; the sources and amounts of compensation shall also be properly disclosed.
Net proceeds to the creator	All proceeds received by the creator from intellectual property owned by him that he sells, assigns or licenses, less the costs of application, legal protection, or litigation, interference, travel and other marketing costs directly attributable to the intellectual property being exploited. Such net proceeds do not include compensation legitimately received by the creator for consulting services or interest or other return on invested labor or capital. Deducted costs shall be reasonable and fair, and shall be properly disclosed; the sources and amounts of compensation shall also be properly disclosed.
Substantial use of university facilities	The extensive unreimbursed use of major University laboratory, studio or computational facilities, or human resources. The use of these facilities must be important to the creation of the intellectual property; merely incidental use of a facility does not constitute substantial use, nor does extensive use of a facility commonly available to all faculty or professional staff (such as libraries and offices), nor does extensive use of a specialized facility for routine tasks. Use will be considered "extensive" and facilities will be considered "major" if similar use of similar facilities would cost the creator more than \$5000 (five thousand dollars) in constant 1984 dollars if purchased or leased in the public market. Creators wishing to directly reimburse the University for the use of its facilities must make arrangements to do so before the level of facilities usage for a particular intellectual property becomes substantial. (This provision is not intended to override any other department or university policy concerning reimbursement for facilities usage.)
Digital	A 1998 US law intended to update copyright law for electronic commerce

Term:	Definition:
Millennium Copyright Act (DMCA)	and electronic content providers. It criminalizes the circumvention of electronic and digital copyright protection systems.

Related Documents

Related Documents:

Document Type:	Document Name:	Document Number:
Policy	Appropriate Use Policy for Students	ITS-0003
Policy	Peer to Peer File Sharing	ITS-0004

Revision Management

Revision History Log:

Revision #:	Date:	Nature of Change:	Recorded By:
v1.0	8/14/2019 2:26 PM	New document	Courtney Cunningham