By Sara Ulius

Intellectual Property Ownership in Distributed Learning

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Institutions should develop policies to retain college/university and faculty use over intellectual property materials when sold or licensed to outside companies or organizations (“shop rights”).

Once ownership of materials has been established, institutions should register works (particularly modularized, Web-based training materials or other materials designed for long-term or repeated use) with the U.S. Copyright Office. Although registration is not necessary to secure copyright under U.S. law, works must be registered before infringement suits can be reviewed.

In addition to written agreements asserting ownership, registration is often beneficial. If ownership is complicated or when multiple derivative uses are anticipated.

For better or worse, no single policy can be written to address the varied needs and concerns of all institutions. Some institutions desire strong institutional control over the intellectual property used in distributed learning, whereas others prefer to allow faculty a greater degree of freedom in the license or distribution of such materials. Moreover, the available technological resources and the ways in which technology is used in distributed learning likewise vary. Consequently, colleges and universities that are looking for ways to enrich and better support the learning of traditional students, as well as nontraditional and recreational learners. Moreover, in an era of state budget cuts and a tight economy, distributed learning technologies often serve as a way to recoup costs or to profit from the investment in the technology.

While some faculty members may view the digital classroom and may believe that digital course materials should be used at the campus level through policy and through written contractual agreements. Institutions should articulate the resource usage level at which ownership vests with faculty members and the level at which ownership vests with the institution. This “tipping point” in ownership will likely differ between institutions and will likely be a reflection of the campus culture. For larger institutions with diverse departments or a wide array of technology uses, the tipping point may need to be determined at the departmental level. While clarifying some of the boundaries of institutional copyright ownership, the process of articulating resource “tipping points” also affords both faculty and the institution a better glimpse of the resources required to develop distributed learning materials.

Institutions should create written agreements to articulate rights affor ded to both faculty and college/university parties.

Institutions should ensure that campus intellectual property policies comply with existing “non-compete” policies and agreements.