

Amendments to the Grace on IPR

We the undersigned members of the Regent House propose that Grace 1 of 5 October 2005 be amended as set out below.

Amendments (1) – Draft Ordinance on IPR

Regulation 1: add

‘In that case, students and visitors shall acquire not just the same obligations as staff members but the same rights.’

Regulation 2: delete “students or the University, on behalf of, and with the knowledge of,”. Replace “or students” with ‘students or visitors’.

Regulation 4: in first sentence, replace “research” with ‘work’, and delete “in accordance with normal academic practice”.

Regulation 6: delete all and replace with

‘By default all intellectual property rights arising from the work of University staff, students or visitors shall belong to their creators. This shall include all rights arising automatically, such as copyright, moral rights and unregistered design rights; and the initial right to apply throughout the world for patents and for other types of intellectual property that are dependent on registration, deposit or grant. Creators shall also retain rights over information, such as trade secrets and confidential know-how.’

Regulation 7: delete all and replace with

‘The above rights are subject only to the rights of any third parties which the creators may have previously agreed.’

Regulation 9: replace “on the authority of” with ‘unless the creators are specifically instructed not to do so by’; and delete the following two sentences.

Regulation 10: replace “regulation 7” with ‘regulation 6’.

Regulation 11: delete “by virtue of Regulations 6-8” and add, after “University staff member”, the words ‘or student’.

Regulation 12: delete all and replace with

‘Where creators have been supported by institutions or funds other than their department and that lie within the Cambridge community, including colleges, scholarship funds and funds controlled by research teams, these institutions or funds shall acquire a pro-rata interest in any revenues resulting from the exploitation of relevant intellectual property that would otherwise have accrued to the department.’

Regulation 14: after “interdependent intellectual property” in 14(c), add

‘he or she will be treated in exactly the same way as a member of University staff under these regulations.’

Then delete all text up to and including “Regulation 15” at the end of the following paragraph.

Last sentence of Regulation 14: replace “it undertakes to provide the student with” with the words ‘the student shall enjoy the same rights as University staff members under these regulations, including’

Regulation 15: delete “a person referred to in Regulation 12’ and add after “student”, ‘a visitor or other relevant creator’. Replace in the next sentence “staff members, a person referred to in regulation 12 and/or a student” with ‘such creators’.

Regulation 16: add to the second last sentence:

‘and also by Regulations 4, 9, 10, 12, 14, 15, and 32-40’.

Regulation 18: delete all and replace with

‘If University staff, students or visitors decide that the results of their activities should be the subject of commercial exploitation, and these results include rights to apply for a patent to which the University is entitled as a condition of research funding, they must notify Cambridge Enterprise. In the event that they wish Cambridge Enterprise to be involved in filing a patent application, they must provide full disclosure of the relevant results, and assist Cambridge Enterprise in determining who all the creators

are and whether any agreements affect the exploitation. Cambridge Enterprise shall ensure that students' supervisors and contract researchers' line managers are aware of a decision to exploit.'

Regulation 19: delete "The university staff" and replace by

'University staff, students, visitors or other relevant creators who wish its involvement'

Regulation 20: delete "in accordance with regulation 6"

Regulation 21: delete "the rights referred to in regulations 6 and 20" and replace with 'its rights to apply for patents'

Add 'explicit' before "contravention" in the following sentence.

Regulation 22: after "staff" add

', students, visitors or other relevant creators'

replace "of the type referred to in Regulations 6 and 20" with

'for a patent'

replace "University staff" the second time with 'creators'

Regulation 23: delete last sentence and replace with

'In that case the rights shall revert to the creators with financial arrangements as in Regulation 21'

Regulation 24: at both line 2 and line 6 after "University staff member", add

', student, visitor or other relevant creator'

Third time it occurs, replace "University staff member" with 'creator'

Delete "under Regulation 7" and "under regulation 6".

Regulation 25: delete first paragraph and replace with

'Where the University or its designated nominee receives licensing income from the commercialisation of intellectual property rights under these regulations, then by default any direct costs, as defined in the Schedule to these regulations, shall be deducted and the net revenue shared between the creators and the relevant University institutions as specified in the Schedule to these regulations. It shall be open to the creators and Cambridge Enterprise to negotiate different terms, for example when the creators contribute further assets of their own under regulation 24.'

After "University staff" in paragraph 2 add

', students, visitors or other relevant creators'

Regulation 26: After "University staff member" add

' member, student, visitor or other relevant creator'

Regulation 27: delete “in accordance with regulation 7”

After “University staff member” add

‘, student, visitor or other relevant creator’

Regulation 28: first sentence, replace “informal rights referred to in Regulations 7 and 10” with ‘rights not requiring registration’

Delete all text in this Regulation after the second sentence and replace with

‘In every case, such agreements must be made with the explicit written consent of the creators of such rights. The University may not bind any staff member, student or visitor to intellectual property agreements without their informed consent, freely given.’

Regulation 31: replace “entitled to use” with ‘entitled to make commercial use of’.

New regulation 40: add

‘Where the University acquires or has in the past acquired intellectual property rights other than patents (or the right to apply for a patent) which have arisen from the activities of University staff, students or visitors as a result of conditions attached to research funding, or as a result of Grace 6 of 21 March 2001, and these rights have not been assigned to any third party by virtue of an assignment notified by the Treasurer to the Finance Committee by the 12th October 2005, the University by virtue of these regulations assigns these rights back to their creators.

‘For the avoidance of doubt, in any case where the University asserts ownership of intellectual property rights under these regulations for the purpose of commercial exploitation, it must do so within 30 days of the creation of those rights or, in the case of registrable rights, of notification by the creators; or else by virtue of these regulations it assigns the rights back to the creators.’

Amendments (2) – Schedule

Royalty income From subsections (a) through (c) delete the word “reasonable” and add ‘that is agreed with the creators or that, should they not be contactable in time, is urgent and reasonable in the circumstances’

Subsection (f) - replace ”inventor” with creator’

Add before last paragraph the following new paragraph:

‘Where colleges or other University institutions have supported the relevant creation, their pro-rata share in accordance with Regulation 12 shall come from the Department’s share in this Schedule.’

In last paragraph, replace ‘these schedules’ with ‘this Schedule’.