

Policy on Intellectual Property

Section 1 - Principles and Objectives

This policy sets forth the rules applying to ownership, distribution, and commercial rights to intellectual property developed by McGill University academic staff, administrative and support staff, and students, as well as procedures that govern the use and distribution of intellectual property.

The primary functions of the University are education, research, and dissemination and creation of knowledge. The University's mission statement calls for "providing service to society in those ways for which we are well suited by virtue of our academic strengths". The University affirms the principles of wide freedom of research and of free publication of the information generated. To carry on research solely or even primarily in anticipation of profits would be incompatible with the University's objectives and primary functions. However, it must be recognized that software or inventions resulting from research often serve the public interest best when they reach the private sector under appropriate agreements and are protected by patents, if applicable. Even though some inventions and software may not be proper matter for intellectual property protection and are better disseminated through publication in learned journals, the University and the inventor, in some cases, wish to promote their commercial development. The University and the inventor should be allowed to benefit financially from transactions resulting from commercial development.

Intellectual property is the product of a cooperative relationship among academic staff, administrative and support staff, students, and the University and derives from the creative energies of the individual fostered by the academic community and the environment, including infrastructure provided by the University. The inventor and the University (and affiliated institutions) have a shared interest in the intellectual property. As hospitals and research institutes affiliated with the University may have contributed to the resources and the environment that led to inventions or software, agreements between the University and its affiliated institutions will provide for proper recognition of the financial and other interests of all parties.

Since the University draws its operating and research funds in large measure from the governments of Quebec and of Canada, the commercial development of its intellectual property must, to the extent possible, result in benefits to Quebec and Canada. The University further recognizes that the presence of a vibrant, local, knowledge-based economy is beneficial to its members and wishes to contribute to its development.

The objectives of this policy are:

to serve the public interest by contributing to the development of useful and morally acceptable products, services, and processes;

to contribute, to the extent possible, to the socio-economic well-being of Quebec and Canada;

to ensure equitable returns to the University in support of its academic mission, to affiliated institutions, and to the inventors.

Section 2 - Definitions

For the purpose of this policy, the following definitions apply.

"Author" means an employee of the University, whether academic or administrative and support staff, or another physical person associated with the University, who has written or created a work.

"Contract of employment" means a contract by which a person undertakes to do work for remuneration, according to the instructions and under the direction or control of the University.

"Days" means calendar days, unless used in conjunction with a qualifying word indicating a different meaning.

"Electronic research material" or "ERM" means the electronic representation, in whole or in part, of an invention or software, and includes but is not limited to, digitized blueprints, programming source codes, and executable programs.

“Field of academic research” means the particular areas of research in relation to which an inventor has published works, or has received funding, or has made inventions or has developed software, in the course of his or her academic duties at any time during the six years preceding the date of disclosure of an invention or software.

“Field of academic research and teaching” means the fields in relation to which an inventor has been teaching, and the particular areas of research in relation to which he or she has published works, or has received funding or has made inventions, or has developed software or learnware, in the course of his or her academic duties at any time during the six years preceding the date of creation of learnware.

“Founder” means an inventor who accepts a significant role in the initial development phase of a spin-off company based wholly or in part on his or her invention or software.

“Incidental use” means a use that plays a minor role in, and is not essential to, the development of an invention or software.

“Invention” means any new and useful process, formula, machine, manufacture or composition of matter, within the purview of the Patent Act.

“Inventor” means any employee of the University, whether academic or administrative and support staff, who is defined as such under patent legislation. In this policy, the term “inventor” shall also be used in reference to development of software. The word “inventor” shall also mean a physical person, such as a visiting professor or a post-doc, temporarily working or doing research at the University.

“Know-how” means a skill or ingenuity that is available or known only to a limited number of persons, that is related to a licensed invention or software, and that is made known or available under license to the licensee of that invention or software.

“Lead inventor” means that member of a group of co-inventors designated by the group to act as its contact person with the University.

“Learnware” means software designed for teaching purposes that provides for interaction with the user, or makes use of a multimedia product, or both. It includes technology-enabled learning products in electronic format.

“Moral rights” means non-commercial rights related to the right of an inventor to claim authorship and to protect the integrity of his or her work.

“Multimedia product” means a product where software allows for interaction between the user and various media technologies such as the reproduction of sound and image.

“Net income” means all consideration, including, without limiting the generality of the foregoing, royalties, cash, equity, and options, but excluding any and all consideration granted to a founder in accordance with section 9.4, received by the inventor(s) and the University from the sale, licensing, or other disposition of an invention or software, less the costs specifically related to the protection, licensing, distribution, or commercial development of the invention or software. Considerations include equity and options taken in lieu of royalties.

“Net total income” means the sum of net income and of any and all consideration granted to founder in accordance with section 9.4.

“Net royalties” means all royalties, including, without limiting the generality of the foregoing, any one-time payment, milestone payment, or pass-through royalty, received by the inventor(s) and the University from the sale, licensing, or other disposition of an invention or software, less the costs specifically related to the protection, licensing, distribution, or commercial development of the invention or software.

“OTT” means the Office of Technology Transfer of McGill University.

“Software” means any set of instructions that is expressed, fixed, embodied, or stored in any manner and that can be used directly or indirectly in a computer in order to bring about a specific result.

“Tangible research material” or “TRM” means the tangible embodiment of an invention or software, and includes but is not limited to biological materials or physical devices.

“Work(s)” means literary, scientific, technical, dramatic, musical, artistic, architectural work material, and any original production within the purview of the Copyright Act, with the exception of software.

Section 3 - Application of the Policy

This policy does not apply to students of the University except where:

- a) they have contributed to a work with one or more authors;
- b) they have contributed to an invention with one or more inventors, or they have created an invention that they wish to develop with the help of the University.

Students who qualify under the above exceptions shall be treated as authors or inventors, as the case may be.

Section 4 - Policy on Copyright

- 4.1 *Copyright:* In relation to any work, the author owns copyright. The author is entitled both to determine how the work is to be disseminated and to keep any income derived from the work.
- 4.2 *Exceptions:* Notwithstanding section 4.1, copyright in a work might not belong to the author if:
 - a) the work was created as a result of research sponsored by a third party pursuant to a written agreement with the University, wherein copyright is determined by specific terms of the agreement. Unless the terms of the agreement give ownership of copyright to the third party, copyright is owned by the University until all rights, such as a license or an option, granted to the third party under the agreement have been exercised or have become extinguished, at which point, the author becomes the sole owner of copyright;
 - b) the work was created pursuant to a formal agreement with the University, wherein copyright is determined by specific terms of the agreement;
 - c) the work contains software as the primary constituent.
- 4.3 *License to University:* The University is automatically granted a non-exclusive, royalty-free, irrevocable, indivisible, and non-transferable license to use, for its own academic purposes, all works created by an author:
 - a) with University assistance; or
 - b) with the use of University equipment, facilities, or resources; or
 - c) in the course of academic duties or work in the course of study, research, or teaching.

This license shall confer to the University neither commercial rights, nor the right to reproduce published works. The University shall not disseminate works in a way that would allow persons who are not members of the University community to have electronic access to them. For the purpose of this section, the University’s “own academic purposes” refers to research carried on at the University, by professors, students, and staff of the University, and teaching by professors of the University to students registered at the University.

Section 5 - Policy on Software and Inventions

- 5.1 *Ownership of Rights to Inventions:* Subject to sections 5.3 and 5.4, the inventor and the University jointly own the rights to inventions created by an inventor
 - a) with University assistance; or
 - b) with the use of University equipment, facilities, or resources; or

- c) in the course of academic duties or work in the course of study, research, or teaching.
- 5.2 *Ownership of Rights to Software:* Subject to sections 5.3 and 5.5, the inventor and the University jointly own the rights to software created by an inventor
- a) with University assistance; or
 - b) with the use of University equipment, facilities, or resources; or
 - c) in the course of academic duties or work in the course of study, research, or teaching; and in the case of learnware, in the fields in which the inventor has been teaching and doing research at any time during the six years preceding the date of creation of such learnware.
- 5.3 *Exception to Joint Ownership – Administrative and Support Staff:* Notwithstanding sections 5.1 and 5.2, where the invention or software was created by an inventor who is a member of the administrative and support staff of the University, as a result of activities covered by his or her contract of employment, the rights to such invention or software are owned by the University.
- 5.4 *Specific Exceptions Applicable to Inventions:* Notwithstanding section 5.1 and subject to section 5.3, the following categories of inventions are not jointly owned by the University and the inventor, and may be owned by the inventor, the University, a third party, or jointly by two or more parties, as the case may be:
- a) where developed in the course of research sponsored by a third party pursuant to a written agreement with the University, wherein ownership rights are determined by specific terms of the agreement. Unless the terms of the agreement give ownership of the invention to the third party, such invention is owned by the University until all rights, such as a license or an option, granted to the third party under the agreement have been exercised or have become extinguished, at which point the invention becomes jointly owned by the University and the inventor;
 - b) where developed in the course of a consulting agreement between the inventor and a third party;
 - c) where made by an inventor in a domain outside his or her field of academic research, and where only incidental use has been made of University facilities and resources. The rights are then owned by the inventor;
 - d) where made by an inventor who is a member of administrative and support staff of the University, as a result of activities not covered by his or her contract of employment, and where only incidental use has been made of University facilities and resources. The rights are then owned by the inventor;
 - e) where the University assigned its rights to the inventor in accordance with section 8.4 of this policy. The rights are then owned by the inventor;
 - f) where the inventor assigned his or her rights to the University in accordance with section 7 of this policy. The rights are then owned by the University.
- 5.5 *Specific Exceptions Applicable to Software:* Notwithstanding section 5.2 and subject to section 5.3, the following categories of software are not jointly owned by the University and the inventor, and may be owned by the inventor, the University, a third party, or jointly by two or more parties, as the case may be:
- a) where developed in the course of research sponsored by a third party pursuant to a written agreement with the University, wherein ownership rights are determined by specific terms of the agreement. Unless the terms of the agreement give ownership of the software to the third party, such software is owned by the University until all rights, such as a license or an option, granted to the third party under the agreement have been exercised or have become extinguished, at which point the software becomes jointly owned by the University and the inventor;
 - b) where developed in the course of a consulting agreement between the inventor and a third party;

- c) where limited to the electronic form of a work, or where it is ancillary to a work. The rights are then owned by the inventor;
 - d) works of art, including works of art expressed in multimedia format. The rights are then owned by the inventor;
 - e) in the case of software which does not constitute learnware, where developed by an inventor in a domain outside his or her field of academic research, and where only incidental use has been made of University facilities and resources. The rights are then owned by the inventor;
 - f) where constituting learnware developed by an inventor in a domain outside his or her field of academic research and teaching, where only incidental use has been made of University facilities and resources. The rights are then owned by the inventor;
 - g) where developed by an inventor who is a member of administrative and support staff of the University, as a result of activities not covered by his or her contract of employment, and where only incidental use has been made of University facilities and resources. The rights are then owned by the inventor;
 - h) where the University has assigned its rights to the inventor in accordance with section 8.4 of this policy. The rights are then owned by the inventor;
 - i) where the inventor assigned his or her rights to the University in accordance with section 7 of this policy. The rights are then owned by the University;
 - j) where constituting learnware developed as part of a web-based course specifically funded by the University, the rights are then owned or apportioned in accordance with a written agreement between the University and the inventor.
- 5.6 *Disclosure:* Inventors are required to disclose to OTT those inventions and software described in sections 5.1, 5.2, 5.3, 5.4.a, and 5.5.a that they wish to develop for commercial purposes before they are publicly disclosed. This disclosure is to be made to OTT, acting as the delegate of the Vice-Principal (Research), through a "Report of Invention" (ROI).
- 5.7 *Moral Rights:* Inventors of software may wish to defend their moral rights to their work. The University shall then provide appropriate advice and guidance to these inventors.

Section 6 - Commercialization

- 6.1 *Use of the Word Inventor:* For the purpose of this section, except where otherwise specified in the text, the word inventor shall, in cases where there is more than one inventor, mean the lead inventor, or the founder.
- 6.2 *Decision of Inventors:* Inventors are not obliged to seek commercial development of their work, and the University will respect the decision of the inventor not to commercialize his or her invention or software. Unless the software is owned by a third party pursuant to section 5.5a or 5.5b, or by the University pursuant to section 5.5j, inventors of software are free to license or distribute it without profit, or to put it in the public domain so that it is easily accessible, as long as their plan to disseminate such software is in accordance with guidelines developed and from time to time updated by the Senate Committee on Technology Transfer for that purpose.
- 6.3 *Preliminary Review:* OTT shall acknowledge receipt of the ROI. Within 30 days of receipt of the ROI, OTT shall meet with the inventor to discuss the various options open to him or her regarding commercialization of the invention or software, and sources of information about those options. At the inventor's request, meetings with experienced University inventors may also be arranged.
- 6.4 *Cooperation between the Inventor and OTT:* Participation of both the inventor and OTT in the decisions regarding the commercialization of an invention or software is essential to the development and implementation of a successful commercialization plan. The inventor and OTT shall cooperate in the development of a commercialization plan which will serve the interests of both the University and the inventor. Inventors shall not protect or commercialize invention or software independently of the University.
- 6.5 *Commercialization Plan:* Within 90 days of receipt of the ROI, or a longer delay if accepted by all

parties, OTT and the inventor will prepare a mutually acceptable commercialization plan outlining the options to be considered for the development of the invention or the software. The plan will be prepared in the spirit of this policy and will address matters such as the need for further evaluation, additional research, intellectual property protection, seed funding, potential sources of financing, as well as delays. The plan shall outline the responsibilities of OTT and the inventor in the commercialization process. The commercialization plan may result in the assignment to the inventor of the rights of the University in the invention or software, under section 8.4. Should OTT and the inventor fail to agree on a mutually acceptable commercialization plan, the matter shall, at the inventor's choice, be resolved through the dispute resolution and appeals processes, pursuant to sections 10 and 11, or be resolved through the assignment of the invention or software to the inventor pursuant to section 8.4e.

- 6.6 *Use of Invention or Software:* In cases where the University and the inventor have divergent ethical concerns in relation to the use of the invention or software by third parties, the matter will be resolved in accordance with the mechanisms and procedures outlined in sections 10 and 11 of this policy.
- 6.7 *Negotiation of Transaction:* Except for cases where the rights have been assigned to the inventor under section 8 of this policy, and except in respect of a founder, OTT shall be responsible for the implementation of the commercialization plan, including, without limiting the generality of the foregoing, the negotiation of any and all agreements with third parties.
- 6.8 *Documentation:* The inventor shall execute any document reasonably required for the purpose of protecting the invention or software and furthering its commercial development.
- 6.9 *Protection of Intellectual Property:* The University may seek patent protection or copyright registration of the intellectual property underlying the invention or software as appropriate. It does not seek protection for inventions or software that, in its judgment, do not have significant commercial potential. The University ceases to pursue protection of intellectual property where successful commercial development seems unlikely. Except as otherwise provided in this policy, the cost incurred in the protection of intellectual property is borne by the University.
- 6.10 *Alternate Arrangements:* Whenever appropriate, and provided they do not represent undue risk or generate unreasonable expenses for the University, OTT will consider proposals from the inventor(s) aimed at lawfully minimizing the impact of income tax legislation for the inventor(s).
- 6.11 *Expenses:* In circumstances where the rights to the invention or software are assigned to an inventor under section 8.4c or 8.4e, all costs incurred by OTT in the protection of the intellectual property shall be borne by such inventor, and reimbursed to OTT within a reasonable period of time.
- 6.12 *Learnware:* OTT shall consult the Vice-Principal (Information Systems and Technology) in cases involving learnware.
- 6.13 *Tangible Research Material:* Tangible research material (TRM) may be distributed for academic purposes under agreements forbidding transfer to third parties. Where TRM is distributed for academic purposes, OTT charges recipients only costs related to reproduction, shipping, and handling. Where commercial development is envisaged, or where TRM is received from, or transferred to, a commercial entity, contracts concerning distribution or receipt of TRM are made through OTT.
- 6.14 *Electronic Research Material:* Electronic research material (ERM) may be distributed for academic purposes under agreements forbidding transfer to third parties. Where ERM is distributed for academic purposes, OTT charges recipients only costs related to the reproduction, shipping, and handling. Where commercial development is envisaged, or where ERM is received from, or transferred to, a commercial entity, contracts concerning distribution or receipt of ERM, including but not limited to physical transfer on a storage medium, and electronic transfer via fax, telephone, or internet, is made through OTT.

Section 7 - Assignment of Rights

- 7.1 *Assignment:* Except in cases where the rights of the University are assigned to the inventor(s) under section 8.4, all rights to inventions or software that an inventor wishes to develop for commercial purposes shall be assigned by the inventor(s) to the University within 30 days of

completion of the commercialization plan, at the latest. Except for moral rights where they exist, which shall remain with the inventor, the University shall then become the sole owner of all rights to the invention or software.

Section 8 - Decision Not to Commercialize and Transfer of Rights to Inventor

- 8.1 *Decision Not to Initiate Commercial Development:* After an invention or software is disclosed to the University, OTT shall decide whether it will pursue commercialization of such and shall inform the inventor of its decision within 90 days of receipt of the report of invention. Should the inventor disagree with that decision, he or she may, in writing, refer the matter to the Vice-Principal (Research), who will accept or reject the OTT recommendation and promptly communicate his or her decision to the inventor(s).
- 8.2 *Decision to Stop Commercial Development:* Once commercial development of an invention or software has been initiated, OTT may at some point in time decide to cease efforts toward commercial development. Should the inventor disagree with that decision, he or she may, in writing, refer the matter to the Vice-Principal (Research), who will accept or reject the OTT recommendation and promptly communicate his or her decision to the inventor(s).
- 8.3 *No Appeal:* Notwithstanding section 6.5, a decision made by the Vice-Principal (Research) not to initiate commercial development under section 8.1, or to stop on-going commercial development under section 8.2, shall be final and shall not be subject to appeal under section 10 of this policy.
- 8.4 *Transfer of Rights:* The University shall assign its share of the rights to inventions or software to the inventor(s) in the following cases. In such cases the inventor(s) shall then become the sole owner of the rights to the invention or the software.
- a) The University declines to pursue commercialization, or decides to cease its efforts to commercialize the invention or software, under sections 8.1 or 8.2 of this policy;
 - b) The University has been unsuccessful in commercializing the invention or software within a reasonable period of time;
 - c) The University and the inventor(s) agree that the inventor(s) can successfully commercialize the invention or software independently of the University. In such a case, the inventor(s) shall use best efforts to ensure benefits to Quebec and to Canada. Written approval of the Vice-Principal (Research) shall be obtained by the inventor(s) before he or she enters into any commercialization agreement, including, without being limited to, a license agreement, a shareholders' agreement, and an option agreement, that place the inventor(s) in a situation of potential conflict of interest, in particular in the case of an agreement with an enterprise in which the inventor has a substantial interest;
 - d) The inventor(s) wish to develop software for the purpose of licensing or distributing it without profit, or for the purpose of putting it in the public domain so that it is easily accessible, and his or her plan to develop such software is in accordance with guidelines developed and from time to time updated by the Senate Committee on Technology Transfer for that purpose;
 - e) OTT and the inventor(s) have failed to agree on a mutually acceptable commercialization plan, and the inventor(s) has chosen not to take advantage of the dispute resolution mechanisms contained at sections 10 and 11. In such a case, the inventor shall use best efforts to ensure benefits to Quebec and to Canada. Written approval of the Vice-Principal (Research) shall be obtained by the inventor(s) before he or she enters into any commercialization agreement, including, without being limited to, a license agreement, a shareholders' agreement, and an option agreement, that places him or her in a situation of potential conflict of interest, in particular in the case of an agreement with an enterprise in which the inventor has a substantial interest.
- 8.5 *Documentation:* Whenever rights are assigned to the inventor under section 8.4, the University shall execute any document reasonably required for the purpose of protecting the invention or software and furthering its commercial development.
- 8.6 *Inventor with a Private-Sector Affiliation:* Where an invention or software is developed by an inventor who is receiving a salary from a private-sector enterprise for the purpose of working at the University, the University will consider licensing the private-sector enterprise to use such invention

or software on terms that will take into account the University's relative contribution.

Section 9 - Revenues

- 9.1 *Sharing of Income:* Net income derived from the commercialization of inventions or software shall be shared between the inventor(s) and the University on the following basis:
- 9.1.1 *Commercialization by the University:* In the case where the University is responsible for the commercial development of the invention or software, the first \$10,000 of net royalties shall accrue to the inventor. Of the balance of net income, 60 per cent shall go to the inventor(s) and 40 per cent shall go to the University.
- 9.1.2 *Commercialization by the Inventor(s):* In the case where the University assigns the rights to the inventor(s) under section 8.4, and the inventor(s) is responsible for the commercial development of the invention or software, net total income shall be apportioned as described below:
- a) *Royalties:* Of the first \$100,000 of net royalties, 80 per cent shall go to the inventor(s) and 20 per cent shall go to the University. Of any net royalties above \$100,000, 70 per cent shall go to the inventor(s) and 30 per cent shall go to the University.
- b) *Equity, Options, and Other Consideration:* Of the balance of net total income, 70 per cent shall go to the inventor(s) and 30 per cent shall go to the University.
- 9.1.3 *Alternative Arrangements:* In cases covered by section 9.1.2, and where it is required by the conditions of the market specific to the transaction being contemplated, the University will consider reasonable proposals aimed at agreeing on an equitable sharing of net total income different from that provided in said section.
- 9.2 *Allocation of University's Share of Income:* In respect of royalties, the University's share of income shall be apportioned as follows: 25 per cent to central administration, 25 per cent to the faculties of the inventors, 25 per cent to OTT, and 25 per cent to graduate fellowships. In respect of equity in the share capital of a company, the University's share of income shall be divided among central administration, the faculty(ies) of the inventor(s), OTT, and research and fellowships on the basis of the following formula. In respect of equity, the share of central administration shall be earmarked for special projects that are not covered by the general budget of the University.

	Central Administration	Faculty(ies)	OTT	Research and Fellowships
\$1 to \$1M	33 1/3%	33 1/3%	16%	17 1/3%
\$1M to \$3M	47%	20%	14%	19%
Over \$3M	65%	10%	0%	25%

- 9.3 *Multiple Inventors:* In cases where there is more than one inventor, the lead inventor shall provide OTT with an agreement, signed by all inventors, covering the distribution of each inventor's share of the net income. The lead inventor is responsible for the identification of all inventors, including students.
- 9.4 *Founders:* A founder of a spin-off company may receive equity (shares or options) over and above his or her share of net revenues as an inventor under this policy.
- 9.5 *Sharing with Other Academic Institutions:* Where an invention or software is developed wholly or in part by an inventor during a temporary stay at another academic institution, or by an individual from another academic institution on a temporary stay at the University, or jointly by an inventor working at the University and a member of another academic institution working at the other institution, rights to such invention or software and net income shall be shared between the University and the other academic institution, taking into account the policies of both institutions. The sharing of net income will normally take into account the relative contributions of the individuals and their institutions. If the other academic institution is a research institute affiliated

with a McGill teaching hospital, the sharing of ownership and net income shall be governed by agreements in place between the University and its teaching hospitals.

- 9.6 *Exception:* Inventions or software resulting from activities carried out by an inventor who is a member of administrative and support staff under a contract of employment are excluded from this section, unless there is a written agreement to the contrary between such inventor and the University.

Section 10 - Dispute Resolution

Any dispute with respect to the application of this policy shall be referred to the Vice-Principal (Research) under this section. All material relevant to the dispute shall be provided to the vice-principal by all parties to the dispute, within 10 working days of the day on which the matter is referred to him or her. The vice-principal shall invite comments by interested parties and shall be free to consult with experts, if required. All information provided to experts by the vice-principal shall be treated as confidential by such experts. The vice-principal shall share the opinion of the expert with all interested parties and shall invite them to comment within a fixed delay. The vice-principal shall promptly advise the parties in writing of his or her decision in the matter.

Section 11 - Appeals

- 11.1 *Intellectual Property Appeals Committee:* There shall be an Intellectual Property Appeals Committee that shall hear appeals from decisions of the Vice-Principal (Research) or his or her delegate. The Intellectual Property Appeals Committee shall consist of six members appointed for three-year terms commencing September 1st, staggered, and one student member, appointed for a term of one year.
- 11.2 *Appointment of Committee:*
- 11.2.1 Prior to the 1st day of April each year, the President of the McGill Association of University Teachers or the President's designate and the Principal or the Principal's designate shall submit to the Senate Nominating Committee a jointly approved slate of names of academics and members of administrative and support staff of the University and/or Board members. This slate shall include at least one and a half times as many names as there are vacancies on the Intellectual Property Appeals Committee to be filled that year.
- 11.2.2 Prior to the 1st day of April of each year, the Executive Chairperson of the Post-Graduate Students' Society of McGill University, and the Principal or the Principal's designate, shall submit to the Senate Nominating Committee a jointly approved list of two names of graduate students, and the name of one undergraduate student.
- 11.2.3 From the slate proposed under section 11.2.1, and except in respect of the vacancy created by the end of the term of the student member, the Senate Nominating Committee shall strike a panel of nominees equal to the number of vacancies to be filled and shall also designate the chair and vice-chair of the Intellectual Property Appeals Committee. The Intellectual Property Appeals Committee shall include academics involved in teaching or research in a suitably broad range of those disciplines generally generating commercialization projects. The Senate Nominating Committee shall also recommend the appointment of one student member from the slate proposed under section 11.2.2.
- 11.2.4 The chair and vice-chair shall be persons qualified by education and experience to make decisions on matters that may be submitted to the Intellectual Property Appeals Committee.
- 11.2.5 The panel thus struck shall be submitted to Senate and to the Board of Governors for approval.
- 11.2.6 In the event of rejection of the panel in whole or in part by Senate or the Board of Governors, the procedure set out in sections 11.2.1 and 11.2.2 shall recommence.
- 11.3 *Hearing Subcommittee:*
- 11.3.1 The Hearing Subcommittee shall be composed entirely of members of the Intellectual Property Appeals Committee and shall include:
- i) the chair or vice-chair;

- ii) one member selected by the Vice-Principal (Research); and
 - iii) one member selected by the party who has brought an appeal before the Intellectual Property Appeals Committee.
- 11.3.2 If the Vice-Principal (Research) and the party who brought the appeal submit the same name, the chair shall choose that person and one other member of the Intellectual Property Appeals Committee to form the Hearing Subcommittee.
- 11.3.3 In the event that a vacancy occurs in the Hearing Subcommittee, the party who nominated the member in respect of whom such vacancy occurred shall forthwith nominate a replacement. In the event that the vacancy occurs in respect of the chair or vice-chair, the one shall replace the other, if available; if not available, the replacement shall be chosen by lot from the remaining members of the Intellectual Property Appeals Committee.
- 11.3.4 The members of the Hearing Subcommittee shall not be informed of the identity of the party who nominated them.
- 11.4 *Conflict of Interest:* No member of the subcommittee shall sit in a particular instance if that person:
 - a) is a member of the same department (or, in a faculty without departments, of the same faculty) as the party who is bringing an appeal; or
 - b) is in a position of conflict of interest.
- 11.5 *Notice of Appeal:* Subject to section 8.3, a party to a dispute may appeal the decision of the Vice-Principal (Research) or his or her delegate within five working days of receipt of such a decision, by filing a written notice of appeal with the Office of the Secretary-General. Within 10 working days of filing of the notice to appeal, the appellant shall file all relevant documentation and representations with the Office of the Secretary-General. The appellant shall notify the Vice-Principal (Research) and all other parties having an interest in the outcome of the dispute of his or her request to appoint a Hearing Subcommittee, and shall promptly provide them with a copy of the notice to appeal and all documentation and representations filed with the Office of the Secretary-General.
- 11.6 *Dispute on Commercialization Plan:* Where the dispute submitted to the Hearing Subcommittee concerns the commercialization plan, the parties shall file with the Hearing Subcommittee the plans they are proposing. The Hearing Subcommittee shall have jurisdiction to decide which of the commercialization plans should be implemented. The Hearing Subcommittee shall also have the power to propose an alternative commercialization plan, in which case it shall indicate which of the parties shall be responsible for its implementation.
- 11.7 *Secretary:* The Office of the Secretary-General shall provide a secretary for the Intellectual Property Appeals Committee.
- 11.8 *Hearing and Decision:* The Hearing Subcommittee shall conduct the appeal in a manner consistent with principles of natural justice and shall ensure that all parties having an interest in the outcome of the decision have an opportunity to make representations and shall render a decision within 15 working days of its constitution, unless the parties consent in writing to a longer delay.
- 11.9 *Advisors:* A party to the appeal has the right to be assisted by a member of the University community who has agreed to act in an advisory capacity to that party. The advisor shall receive no remuneration for acting as an advisor.
- 11.10 *No Further Appeal:* The decision of the subcommittee shall be final and binding upon all parties.
- 11.11 *Reports:* The Intellectual Property Appeals Committee shall report annually to Senate on the administration of the procedures described here.

Section 12 - Enforcement

Acceptance of this policy is a condition of employment by the University, or engagement as a visitor in any University program. Students registered at McGill are also bound by this policy. This

policy also applies to academic staff or administrative and support staff on sabbatical leave or leave of absence unless the host institution or company has rules which preclude the application of this policy and the University agrees in writing to other arrangements.

The University, inventors, and authors shall execute all documents, forms, and agreements reasonably required to give full effect to this policy.

The policy shall apply to any and all work, invention, and software disclosed after the date fixed for implementation of this policy.

Section 13 - Review

Every year, OTT shall report to the Senate Committee on Technology Transfer on the application of this policy. The Senate Committee on Technology Transfer shall review the report presented by OTT and make any recommendation it deems appropriate to Senate for possible forwarding to the Board of Governors.

The Senate Committee on Technology Transfer shall also review this policy at intervals of no more than two years commencing from the date of its implementation and report to Senate on the results of its review.

Policy on Intellectual Property

Source:

Senate	April 18, 2001	Minute 11
Board of Governors	May 30, 2001	Minute 11

Amendments:

Executive Committee	June 26, 2001	Minute 8
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