

PraxisUnico Conference 2012: Impact through innovation

Southampton, 14-15 June 2012

Topical Issues - Student IP

AUTM in collaboration with the NCIIA (National Collegiate Inventor and Innovators Alliance), ACCT Canada and PraxisUnico are currently undertaking a survey relating to Student IP. Phyl Speser, VP AUTM & Foresight started the discussions by giving an overview of the background to the student IP survey.

Phyl observed that student IP issues are on the rise in the US as a result of the greater involvement of students in research projects during their undergraduate education, and following the recent high profile US case of Stanford v Roche. Generally in the US universities claim entitlement to student IP in one of 3 ways:

- By contractual ownership – the student assigns the IP to the university
- By constructive ownership – the university takes the position that if the student comes onto its premises, the university should own the student's IP – Phyl noted that this doesn't always work, and has led to litigation in the US.
- By conditional ownership – the rights to the IP are transferred to the university by virtue of the student's use of facilities and resources.

As part of the survey AUTM will be collecting examples of university policies and guidelines relating to student IP. These policies and guidelines will be published. AUTM is also collecting views on what is being done well and what are the pitfalls. The outcomes of the survey will be:

- 1) To develop a series of webinars for students and TTOs.
- 2) To produce a resource guide to summarise what universities do and give example of policies.
- 3) To prepare a new chapter in the AUTM Technology Transfer Manual covering student IP.

The specific issue around student IP generated during placements to third parties was raised and debated. It was noted that universities are often asked to enter into agreements with the companies to transfer ownership of the student's IP to the company. What should the TTO's role be in these discussions? Should the university encourage the student to sign over his/her IP? It was noted there may be a conflict of interest for the university in this situation. It was also noted that the university should avoid putting any duress on the student to sign, as the student may be very impressionable and will sign if University asks.

The suggestion was made that there may be a difference between undergraduate students on work placement and post graduate students, particularly where the post graduate student is receiving a stipend from the company and may be using company facilities. It was noted there may also be a difference between taught postgraduate students vs research post graduate students, particularly where research post graduate students are working very closely with highly performing research teams.

It was also noted that there is a difference between IP created by students using university facilities i.e. as part of their student experience, in comparison to student entrepreneurs who typically set up companies in parallel to their academic studies and that different policies may apply.

From a quick survey of the room, it appears that a few institutions currently have student IP policies. Most people thought that such policies should be developed. Those universities that do have policies typically require assignment of the student's IP to the university and in return commit to sharing revenue on the same basis as with employed academics. The question was posed: do students think that is fair?

It was noted that there may be some policy issues to be considered. Universities have to recognise that students are taking out significant loans and delaying getting a job to go to university. This may be a difficult choice, and this may have an impact upon the student's views around IP ownership. The question was mooted as to whether payment of fees by undergraduate students would/ should make a difference to the validity of asking the student to assign over his/ her IP? Is the prospect of student litigation on the rise?

It was noted that this is a constantly evolving area and that some institutions now extend support beyond current students to recent graduates especially in areas such as product design.

It was noted that the corollary of universities claiming ownership of student IP is students misappropriating university IP. It is increasingly easy for student-run companies to raise funds using university IP through e.g. crowd sourcing but the company may have no affiliation with the university.