The Academic Senate continued its debate over a proposed copyright policy Monday with many participants arguing that the policy, which sets different rules for print vs. electronic works, could stifle faculty creativity and entrepreneurialism.

But representatives from the committee that drafted the policy, and some senators, countered that University claims of ownership of copyrighted works would only be triggered in a small minority of cases and that the University has a right to recoup costs when it invests extraordinary resources in faculty projects. A vote on the policy was postponed until January.

In other discussion Monday, President Bernard Machen reported on Board of Regents and Legislative issues, the Senate approved new academic programs, and a proposed policy governing University-related web sites was presented.

**UPDATED DRAFT OF COPYRIGHT POLICY CIRCULATED**

The proposed copyright policy represents work over more than two years by the Patent Review and Copyright committees to update the University's intellectual property regulations.

The University has always taken the position that it owns any patents issued to faculty members. The proposed policy would not affect patented inventions. The focus of committee work has been to address computer software, which can be eligible for both patents and copyrights, and to define "substantial use of University resources," which can trigger a University ownership of any work.

Key provisions of the policy are:

The University waives any claim to faculty scholarly publications, texts, etc. published in print form unless the institution asserts an interest before the faculty member begins a project.

If computer software, or other works in electronic form, are patented, the standard patent policy applies and the University owns the creations.

If a patent is not issued (or is never sought), computer software and other electronic works belong to the faculty creators, just as printed materials do, unless substantial University resources were used to put the work into electronic form.

A draft containing revisions since the last meeting was circulated, but it did not contain major changes. Rita Reusch, professor of law and a member of the Copyright Committee, said the most important change was reversing a proposal to change the name of the Technology Transfer Office (TTO) to the Intellectual Property Licensing Office. A name change, it was decided, could lead to misperceptions among off-campus parties about the office's roles and functions.

Other changes included: A clarification that any University contracts with third parties (such as external funders), or other laws, would supersede the policy in determining ownership of scholarly works; A provision permitting a dean or supervisor to refer a question about whether a project would involve substantial use of University resources to a vice president before the project started (a sort of appeal in advance); and A provision giving faculty members who market or license works themselves a higher percentage of revenues than if they use TTO services.

Reflecting what seemed to be the dominant view among debate participants, Dr. Laurence Meyer, associate professor of dermatology, said the lines between print and electronic publishing are vanishing, and possibly the only way to protect faculty members' financial interest in their intellectual creations is to exempt all media from University ownership.

Dr. Lee Hollaar, professor of computer science, argued that the policy could create time lags that could prevent any income flow from otherwise marketable software.

Up to a year after a faculty member completes a software package, the University can elect to file for a patent, at which point the institution also takes ownership of the copyright to the software, he said. "It can take many years to find out if the patent will issue or if the rights will revert to the owner." By then, the commercial licensing potential may be gone.

Hollaar said the policy fails to consider cross-disciplinary activities. The policy defines "substantial use of University resources" as use of resources in excess of those ordinarily provided to faculty in the same discipline. The policy also says that when a dean, department chair, or other supervisor finds that substantial use has occurred, the faculty member may appeal the decision to the senior vice president responsible for the department.

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In a cross-disciplinary effort, there could be two definitions of substantial use, and the appeal could go to two senior vice presidents, he said.

Suzanne Stensaas, clinical professor in neurobiology and anatomy, said longstanding policy that faculty members generally own works resulting from their teaching, research, scholarly, or artistic activities "has to apply to all media." She asked, "Why should faculty (be required to) put their intellectual property into the hands of the University" when they haven't done so for the past 30 years?

Patricia Reagan, associate professor of health education, said she believes that in the current draft, the policy intent is fairly clear. But she said "it's the kind of policy that could prevent people from doing something that is on the cutting edge, and then moving it from one medium to another," because taking the work the extra step might trigger "substantial use."

The draft states that if the University takes ownership of a copyrighted work, revenues will first go to reimburse University contributions to production of and providing legal protection for the work. Remaining net revenue will be divided between the creator and institution, with the creator generally receiving 40 percent of the first $20,000, and lower percentages of revenues increments above $20,000.

Dr. Philip Smith, chair of chemical and fuels engineering, expressed concern that the policy focuses more on financial gain than on dissemination of knowledge by placing works in the public domain. "If the University owned rights, would it consider the benefits of offering (a work) free to the public" rather than making a profit on it? he asked.

Reusch said possibly a philosophy statement could be added to the beginning of the policy addressing the value of free public dissemination of works. Dr. Clifford Drew, associate vice president for academic affairs and a member of the Copyright Committee, invited people interested in public domain issues to draft such as statement.

Some senators said many faculty are just learning about and beginning to discuss the policy. The senate was told that Dr. David Pershing, senior academic vice president, is sending a memorandum to all faculty directing them to the policy draft on the Senate web site.

**PRESIDENT OUTLINES LEGISLATIVE PRIORITIES**

President Machen said the University's priorities in the upcoming Legislature will be continuing the salary equity efforts launched last year, a $900,000 base increase for libraries, and funding for instructional technology infrastructure.

He noted that Gov. Michael Leavitt has discussed an initiative to increase the number of Utah graduates in engineering and technology. If the governor includes funding for the initiative in his budget, the University expects to receive some of those dollars.

Meanwhile, the Board of Regents is expected to approve a base tuition increase at its December meeting, Machen said. The percentage approved will be averaged across all institutions, so the University's increase could ultimately be higher than the base percentage.

Commenting on the November election results, Machen said that now that the transit tax increase has passed, the University will encourage UTA to use resulting funds to complete light rail from Rice/Eccles Stadium to the Health Sciences Center. He said he was personally disappointed by passage of the English-only initiative. Describing the measure as "prejudicial," he said the University community "may need to redouble our efforts to show the world that this is not what Utah is all about."

**NEW BA, MINORS APPROVED**

In other action, the Senate unanimously approved a proposal to offer a bachelor of arts degree in environmental studies in addition to the current bachelor of science. The Senate was told the move would bring environmental studies in line with other departments that offer both a BA and BS. To earn a BA, students would complete all current BS requirements as well as a foreign language requirement.

The Senate also unanimously approved two new minors in ethnic studies. One was in ethnic studies in general and the other a specialized minor in Asian Pacific American studies. For the general minor, students would combine courses from all ethnic studies areas. The Asian Pacific American minor would complement existing minors in African American, American Indian, and Chicano Studies.

**SENATE PREVIEWS WEB POLICY**

In other discussion, the Senate previewed a proposed World Wide Web Resources Policy that would govern all web sites using or linked to University networks.

Paula Millington, manager of media solutions in Media Service, said the policy is designed to ensure that the image and identity of the University is protected in web publishing and that sites comply with laws on copyright, equal access, privacy, etc.

The policy would require departments, programs, and other administrative units register their official sites with the University webmaster, and to meet minimum design standards, such as carrying a link to the University's home page and an email address or other electronic link for the site webmaster. The policy would establish a procedure, consistent with the federal Digital Millennium Copyright Act, for handling any copyright infringement complaints.

It would require sites to be accessible to users of alternate communication mechanisms, such as text-to-speech or text-to-Braille browsers, or to carry a notice that site information will be provided in alternate forms upon request.

The policy also sets standards for sites requesting social security numbers or other personally identifiable information, sites posting advertising or other commercial speech, and sites engaging in e-commerce (e.g., selling University goods and services).

Millington said development of the policy began when she called together approximately 400 webmasters from across campus. Drafters have sought additional input from the Information Technology Council, the University's general counsel, and the president's cabinet. The Senate Executive Committee has reported the proposal out for consideration by the full Senate.