



Statement to the AAU Membership on University Technology Transfer and Managing Intellectual Property in the Public Interest

AAU Working Group on Technology Transfer and Intellectual Property

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Universities have a responsibility to be good stewards of discoveries and intellectual property developed from research supported by federal funding. In recent years, however, some critics have asserted that universities' technology transfer operations place too much emphasis on maximizing revenues and not enough on moving new ideas quickly into the marketplace, where they can advance the public good. In October 2014, the Association of American Universities (AAU) formed a working group on technology transfer and intellectual property with the task of reaffirming that the primary goal of university technology transfer operations is to advance the public interest. The Association of Public and Land-grant Universities (APLU) has created the APLU Task Force on Managing University Intellectual Property for a similar purpose.

The AAU group, co-chaired by Robert Brown, President of Boston University, and Eric Kaler, President of the University of Minnesota, has developed the following statement proposing steps that AAU universities can take to ensure that their technology transfer policies and practices serve the public interest and align with the core university missions of education, the creation and dissemination of knowledge, and public service. The APLU task force is issuing a parallel statement.

In 1980 the Bayh-Dole Act created a uniform patent policy among the many federal agencies that fund research, enabling universities, nonprofit research institutions, and small businesses to retain patent and licensing rights to inventions developed by their investigators and supported by federal research funding. The purpose of Bayh-Dole is to facilitate the rapid transfer of research discoveries into the commercial sector to advance the public good.

Before Bayh-Dole was enacted, the federal government retained ownership of federally funded discoveries, but the government often neglected to license those discoveries to the private sector for further development. Bayh-Dole sparked technology transfer by creating an incentive for universities to secure patent protection for inventions resulting from federally funded research; this, in turn, allowed businesses to gain the necessary rights to develop and commercialize those research discoveries.

The system of public-private technology transfer that was established under the Bayh-Dole Act has been extraordinarily successful in moving university discoveries from research laboratories to the marketplace. Technology transfer has provided a rich return on public funding for basic research in the form of countless innovative products that benefit consumers, create jobs, and contribute to U.S. economic competitiveness and technological leadership internationally.

The most recent survey by the Association of University Technology Managers (AUTM) shows that U.S. universities executed 5790 license agreements and options with companies and were issued 5163 U.S. patents in 2013. This represents 59 percent more license agreements and options executed and 55 percent more patents issued to universities than just 10 years earlier. During the same period research performed at universities led to the formation of nearly 750 new start-up companies, more than doubling the number of university based start-ups created compared to 2003. While these start-up companies provide economic benefits to the nation, they are especially important to the regions and states in which research universities are located; more than three-quarters of these new start-up companies had their primary place of business in the licensing institution's home state. AUTM also reports that in 2013 there was over \$22 billion in sales of products based on academic research with more than 700 new commercial products created. A recent Biotechnology Industry Organization (BIO) study estimates that between 1996 and 2010, patents commercialized from university and nonprofit organizations (supported mainly by federal R&D dollars) contributed as much as: \$836 billion to the US gross domestic output; \$388 billion to the US gross domestic product; and supported a cumulative total of 3 million person years of employment.

To ensure that universities are good stewards of discoveries and intellectual property developed from research supported by federal funding, many universities have developed and implemented policies and procedures drawn from key recommendations made in 2010 by a National Research Council (NRC) committee, chaired by Washington University in St. Louis Chancellor Mark Wrighton, and principles articulated in a 2007 white paper developed by a small subset of research universities along with the Association of American Medical Colleges entitled, [*Nine Points to Consider in Licensing University Technology*](#).

The first recommendation of the NRC committee's 2010 report, [*Managing University Intellectual Property in the Public Interest*](#), states:

The leadership of each institution—president, provost, and board of trustees—should articulate a clear mission for the unit responsible for IP management, convey the mission to internal and external stakeholders, and evaluate effort accordingly. The mission statement should embrace and articulate the university's foundational responsibility to support smooth and efficient processes to encourage the widest dissemination of university-generated technology for the public good.

The NRC report further stresses the responsibility of university leaders to develop and adhere to patent and licensing policies and practices that do not predicate licensing on the goal of raising significant revenue for the university, but rather, to the greatest extent practicable, aim to "...maximize the further development, use, and beneficial social impact of their technologies."

The NRC report endorses several of the principles set out in the [*Nine Points to Consider in Licensing University Technology*](#) white paper. The 'Nine Points' document outlines a clear set of "...core values that can and should be maintained to the fullest extent possible [by universities] in all technology transfer agreements." Since it was written and distributed, the principles delineated in the Nine Points document have been widely endorsed by over 100 research

universities and associations, including AAU, and many institutions have implemented policies and practices that align with these principles.

This working group encourages all AAU universities to take similar steps. Specifically we urge them to:

- 1) Develop and state a clear mission and vision for university management of intellectual property in accordance with the recommendation made in 2010 by the NRC committee;
- 2) Reaffirm or affirm the university's commitment to adhering to technology transfer practices that best serve the public interest and which are guided by principles such as those outlined in the Nine Points document. Publicly document current policies and procedures and implement new ones as necessary that align with these principles;
- 3) Make visible existing institutional policies that restrict the university from working with entities (so-called patent trolls) which acquire IP rights with no real intention of commercializing the technologies and instead rely solely on threats of infringement litigation to generate revenue. In instances where such policies do not exist, move swiftly to establish them. Such policies should not prevent universities from seeking assistance from entities that can legitimately help them to protect their intellectual property.
- 4) Develop procedures and criteria for evaluating a university's technology transfer units that do not rely solely upon measuring revenue generation, but focus on aligning the work of these units with the research university's core missions of discovery, learning, and the promotion of social wellbeing. To support this effort, the AAU will work with allied organizations to identify alternative ways to assess the value of federal investments in research and the effectiveness of university technology transfer operations.

Research universities are fundamental to this nation's innovation ecosystem. We believe the actions we are recommending here can help assure the public and policymakers that universities continue to be focused on their primary missions, and that their technology transfer operations are being managed in a way that serves these missions.