OFFICE OF THE CHANCELLOR

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MEMORANDUM

November 6, 2012

To: Dr. Andy Mooneyhan , Chair
Shared Governance Oversight Committee

From: Tim Hudson
Chancellor

Re: Proposal 12FA-001, System Patent Policy

I received the following proposal from the Shared Governance Oversight Committee (SGOC). Pursuant to the governing language contained in the Faculty Handbook, I have reviewed the proposal carefully, consulted with other parties as appropriate, and hereby document my response:

- Proposal 12FA-001, System Patent Policy. The SGOC met on September 24, 2012, to decide the disposition of the proposal. The SGOC determined that the proposal should receive an expedited review under the direction of the Faculty Handbook Committee. Set to review the proposal were the Faculty Senate, Staff Senate, Deans Council, Chairs Council, SGA, and GSC. Following review, the constituency groups supporting the proposal are Faculty Senate, Staff Senate, Deans Council, SGA, and GSC. Chairs Council rejected the proposal.

- Response: I support the position of the constituency groups (Faculty Senate, Staff Senate, Deans Council, SGA, and GSC) on Proposal 12FA-001, System Patent Policy.

Pursuant to the Shared Governance Proposal Review Process, the campus community will be informed of my decision, which will be done through the ASU Daily Digest. Please accept my heartfelt appreciation for your leadership and extend my appreciation to the SGOC members for their active service to our university.

/mb

xc: Executive Council

MARILYN C BREWER

From: ANDY MOONEYHAN
Sent: Monday, November 05, 2012 2:31 PM
To: Tim Hudson
Cc: Angela Daniels; LYNITA M COOKSEY; MARILYN C BREWER; Chris Collins
Subject: 12FA-001 Patent Policy
Attachments: SGOC Report to the Chancellor 12FA-001 System Patent Policy.doc; 12FA-001 SGOC Patent Policy.xlsx

Dr. Hudson
Attached is the SGOC report for policy 12FA-001, the system patent policy and the disposition. Five of the six groups voted to approve the policy. A hard copy will follow today. Feel free to contact me if you have any questions, Sincerely, Andy Mooneyhan

Andy Mooneyhan
2012-2013 SGOC Chair

From: ANDY MOONEYHAN
Sent: Monday, November 05, 2012 2:18 PM
To: ANDY MOONEYHAN
Subject: Patent Policy

TO: Dr. Tim Hudson, Chancellor ASU Jonesboro
FROM: Andy Mooneyhan, Chair SGOC
DATE: November 5, 2012
RE: Shared Governance Proposal 12FA-001 System Patent Policy

The SGOC received the above mentioned proposal and set the disposition for the proposal on September 24, 2012. It was determined to be a shared governance issue and receive an Expedited review under the direction of the Faculty Handbook Committee. The constituency groups set to review this proposal were the Faculty Senate, Staff Senate, Dean's Council, Chair's Council, SGA and GSC. The proposal was sent to the responsible committee and the constituency groups after the disposition meeting. The Chair's Council was the only constituency group that DID NOT support the proposal. Constituency groups supporting the proposal with comments are reflected on the attached comments page.

Constituency Groups:	Approve Y/N	Comments
_X_ Faculty Senate	Y	Attached
_X_ Staff Senate	Y	Attached
_X_ Dean's Council	Y	Attached
_X_ Chair's Council	N	Below
_X_ SGA	Y	Attached
_X_ GSC	Y	None

Dissenting Opinion:
Dissenting Groups: Chair's Council
Comments: NONE

> "Thanks to everyone who voted on the SGOC proposal 12FA001: System Patent Policy. This was the best response rate we've had to a proposal since I become the convener. The results were 2 for; 19 against. I have CC'd the chair of the SGOC committee on this reply. There were no additional comments beyond those discussed at our meeting"

Respectfully submitted,

Andy Mooneyhan

Comments from Constituency Groups supporting the proposal:

Faculty Senate:

I wanted to clarify the faculty senate's position on the patent policy vote. It was supported (not unanimously) and comments of concern included the timeframe allowed the university to file a provisional patent. Some felt I year is too long as it COULD prohibit publication, presentation, etc. A shorter window would be preferred. Another concern is the potential for ongoing retention of a patentable invention without action under 4C. I do not think this is the intent but if that is the case, this is not clear to many. Julie

Staff Senate:

The US is changing next year to a first file patent policy. So those that file first have all rights which could present potential problems with the time frames listed. The implications from this could/would be lack of publications for both faculty and staff and lose rights for patents.

1) Under Development Section 4.D (2nd Paragraph)
Reduced the Notice of Intent from ninety (90) days to sixty (60) Days. This coincides with the current policy at ASU-Jonesboro.

2) Under Development Section 4.D (incorporate following verbiage in regards to timeline listed):
The University will make every effort to apply for provisional patents as soon as possible or as soon as the University agrees to participate as a patent.

The last sentence in last paragraph under Development: If ASU chooses to patent an invention or discovery and did file but then takes no steps within 2 years, the Originator may request that ASU transfer its rights subject to the retention of a Royalty-Free License or assign all rights to the Originator. ASU shall respond within thirty (30) days to the request of the Originator designating whether ASU will take action 2 or 3 as listed in 4.C.

Deans Council:

The Academic Deans Council met on Monday, October 1st and unanimously recommended approval of 12FA-01, the ASU System Patent Policy, with the following recommended addition for clarification purposes only.

Under section 2F, Patentable Inventions or Discoveries, add the phrase, "at the moment of creation" to the first sentence as follows:

Patentable Inventions or Discoveries. Patentable Inventions or Discoveries shall be defined as set out in the current United States Code at the moment of creation. Patentable Inventions or Discoveries include any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof.

Similarly, under Section E, Distribution of Income, add the same phrase to the last sentences of distribution scenarios 1, 2, and 3 as follows:

E. Distribution of Income

In consideration of the provision of facilities or compensation by ASU to allow Originators to create Patentable Inventions or Discoveries and in consideration of disclosure and immediate assignment of Patentable Inventions or Discoveries by Originators to ASU, Net Income from the commercialization of a Patentable Invention or Discovery will be distributed as follows:

1. For the first ten thousand dollars ($10,000.00) of Net Income, the Originator, Originator's heirs, successors, or designee shall receive eighty-five percent (85%) of that Net Income with the remaining fifteen percent (15%) belonging to the ASU campus at which the Originator is or was employed or enrolled at the moment of creation.

2. Once the ten thousand dollar ($10,000.00) plateau has been reached, Net Income up to two million dollars ($2,000,000.00) will be divided fifty percent (50%) to the Originator, Originator's heirs, successors, or designee with fifty percent (50%) belonging to the ASU campus at which the Originator is or was employed or enrolled at the moment of creation.

3. Once the two million dollar ($2,000,000.00) plateau has been reached, Net Income will be divided forty percent (40%) to the Originator, Originator's heirs, successor, or designee with sixty percent (60%) belonging to the ASU campus at which the Originator is or was employed or enrolled at the moment of creation.

SGA:

SGA voted last night. We vote in favor of the Patent policy. Here are senate comments:

- We agree with staff senate about eliminating the first step in the last paragraph.
- Students were also leery about the profit percentage break up.
- Students did not feel as if it was perfect, but it was the lesser of two evils.
- Students would like clearer wording or at least some clause that talks about students having some say in production or usage.

Shared Governance Proposal Review Process

Proposal: 12FA001

Date Received: September 24, 2012

Is Proposal a SGOC Issue?

_X__ Yes ___ No

Responsible Assigned Committee:

Handbook

Type of Review:

_X_ Expedited

____ Full

___ Extended

Handbook Issue: _X_ Yes ____ No

Constituency Groups:

Approve Y/N	
_X_	Faculty Senate
_X_	Staff Senate
_X_	Dean's Council
_X_	Chair's Council
_X_	SGA
_X_	GSC
_X_	Vice Chancellor(s)

Notes:

Patent Policy

	Expedited (39 Business Days)	Full (64 Business Days)	Extended (93 Business Days)
SGOC Establish Disposition	2 Days	3 Days	5 Days
	Due By:	Due By:	Due By:
	9/26/2012		
SGOC Forward to Responsible Committees and SGCs	2 Days	3 Days	5 Days
	Due By:	Due By:	Due By:
	9/28/2012		
SGCs Send Comments to Responsible Committee	7 Days	14 Days	21 Days
	Due By:	Due By:	Due By:
	10/10/2012		
Responsible Committee Prepare Final Draft Send to SGOC	7 Days	14 Days	21 Days
	Due By:	Due By:	Due By:
	10/19/2012		
SGOC Sends Final Draft to Constituency Groups for Final Up/Down Vote	2 Days	3 Days	5 Days
	Due By:	Due By:	Due By:
	10/23/2012		
Consistency Groups Vote & Notify SGOC	7 Days	14 Days	21 Days
	Due By:	Due By:	Due By:
	11/1/2012		
SGOC Tally Votes & Sends Final Report	2 Days	3 Days	5 Days
	Due By:	Due By:	Due By:
	11/5/2012		
Chancellor Review & Response	10 Days	10 Days	10 Days
	Due By:	Due By:	Due By:
	11/19/2012		