



Harvard University Supplement to the Royalty Sharing Policy for Intellectual Property

Adopted by the University Committee on Patents and Copyrights, January 19, 2001 and amended March 2003

Usual Distribution Methods for License Income

Harvard's standard royalty distribution policy states that for the first \$50,000 of net income, the inventors as a group receive 35%, the inventor's department receives 30%, the Dean of the inventor's School receives 20%, and the University receives 15%. Generally, half the departmental share is placed in a special account under the control of the inventor(s). There is a slightly different formula applied to cumulative net income over \$50,000 – the inventors as a group receive 25% and the inventor's department receives 40%, but the rest of the distribution remains the same.

The following standard procedures shall be followed for income received for a single invention/case:

1. Each inventor receives equal shares of the inventor(s)' portion, unless all inventors agree otherwise. A deviation from the policy of equal sharing requires a written agreement of all inventors.
2. If multiple patent applications and patents deal with a single invention/case, each inventor's share shall be determined by a weighted distribution based on the number of US patents/applications on which each inventor appears (only the US patents/applications that are active on the date payment is due are considered). Because new patent applications may be filed over several years or applications may be abandoned and thus inventors may be added or deleted, each inventor's share may change over time. If it is determined that one or more additional individuals are inventors on a patent application for which distributions have already been made, the other inventor(s) on that patent application will not receive further distributions until the individuals newly determined to be inventors have been made whole.
3. If there are Harvard inventors from different schools or departments, then each School's share is divided equally among the Schools and the departmental share is divided equally among the departments, irrespective of the number of inventors in each School or department.
4. If several inventors work in the same laboratory, the head of the laboratory controls the "laboratory share" (i.e., the half of the departmental share under the control of the inventors). If there are two laboratories involved, that share is split equally, irrespective of the number of inventors in each laboratory.
5. If an inventor(s) leaves the originating laboratory and establishes his/her(their) own laboratory within Harvard, he/she(they) may request that a portion of the laboratory share be made

available to the inventor(s)' new laboratory. Decisions on such requests will be made on a case-by-case basis by the originating Dean or Dean's designee with input from the laboratory head, department chair and OTL/OTTL.

6. If an inventor who heads a laboratory moves his/her laboratory to a new department or School but retains a Harvard appointment, the laboratory share may, upon request to OTL/OTTL, be reallocated to his/her new department and School. However, the balance of the departmental share and the School share will remain with the original department and School.
7. If all inventors leave Harvard, the "laboratory share" reverts to the originating department – it does not follow the inventors to a new institution.
8. An inventor may waive his/her personal share and direct the money to his/her laboratory for support of research, provided IRS requirements are met.
9. An inventor may assign some or all of his/her personal share to other individuals or organizations, provided IRS requirements are met.
10. If there are no "inventors" – i.e., the invention is a work-for-hire or the result of a project in which there is prior agreement that contributors will not receive any personal share of income – the inventors' share is added to the laboratory share.

NOTE: If the inventors disagree regarding the sharing among inventors, any one of the inventors may request that the Director of OTTL (or OTL in the case of inventions with only Faculty of Medicine inventors) work with the inventors to "broker" an agreement. If that fails and any inventor wishes, he/she may appeal to the Committee on Patents and Copyrights. Any such appeal shall only apply to as yet undistributed income and future income.

The following variation to the above shall apply when more than one invention/case is included in a license agreement:

1. Ordinarily each invention/case included in a license shall be considered of equal value. Absent any objection from the inventors prior to the distribution of income, license income not specifically linked to an invention/case will be equally divided among all inventions/cases included in the license.
2. If OTTL and/or OTL determines (either as the result of its own evaluation or as the result of input from a licensee or the inventors) that the inventions/cases should have unequal value, they will notify those individuals identified as inventors at that point in time. Absent any objection from the inventors prior to the distribution of income, license income not specifically linked to an invention/case will be divided among the inventions/cases according to that determination.
3. If all the inventors of all the inventions/cases included in a license agree upon the relative value of those inventions/cases, income from that license will be allocated according to that valuation.

4. At such time as income is clearly attributable to individual inventions/cases (e.g., when the product being sold only uses one invention), income shall be allocated to the inventions/cases actually generating the income.

NOTE: If any of the inventors of an invention/case disagree with the above determinations, he/she may appeal to the Committee on Patents and Copyrights. Any such appeal shall only apply to allocation of income received after the appeal unless the appeal is made within thirty days of the inventors being notified of the license agreement and the planned valuation of the inventions/cases.

The above procedures supplement the Royalty Sharing Policy for Intellectual Property. For situations not specifically covered in the Policy or these procedures, OTTL and OTL shall use their best judgment and may consult with department heads, Deans, the Provost's office, or the Committee on Patents and Copyrights as they deem necessary. As additional procedures are adopted, they will be reported on a periodic basis to the Committee and added to this document.