



Intellectual Property Survey Questions

Section 1: Respondent Identification

1. In what type of organization do you primarily work?

- University
- Private
- Public
- Other

University Respondent

2. At which university are you based?

- Acadia
- Alberta
- Athabasca
- Atlantic Baptist University
- Augustana University College
- B.C. Institute of Technology
- Bishop's
- Brandon
- British Columbia Brock
- C-CORE
- Calgary
- Cape Breton
- Carleton
- Centre de recherche info de Montréal
- Centre for Engineering Research Inc.
- Cité Universitaire
- Concordia
- Corporation du Fort St-Jean
- Dalhousie
- École de technologie supérieure
- École nationale d'administration publique
- École Polytechnique
- First Nations University of Canada
- Guelph
- HEC Montréal
- Huntsman Marine Science Centre
- Institut national de la recherche scientifique
- Institut Armand-Frappier
- King's
- Lakehead
- Laurentian
- Laval
- Lethbridge
- Loyola University
- Macdonald College
- Malaspina University-College
- Manitoba
- McGill
- McMaster
- Memorial Univ. of Nfld
- Moncton
- Montréal
- Mount Allison
- Mount Saint Vincent
- New Brunswick
- Nipissing
- Northern British Columbia
- Nova Scotia Agricultural College
- NSCAD University
- Okanagan University College
- Ontario Institute for Studies in Education
- Ottawa
- Prince Edward Island
- Québec – Siège social
- Québec à Chicoutimi
- Québec à Montréal
- Québec à Rimouski
- Québec à Trois-Rivières
- Québec en Abitibi-Témiscamingue
- Québec en Outaouais
- Queen's
- Redeemer University College
- Regina
- Royal Military College of Canada



- Royal Roads
- Ryerson
- Saint Mary's
- Saint Paul University
- Sainte-Anne
- Saskatchewan
- Sea to Sky University
- Sherbrooke
- Simon Fraser
- St. Francis Xavier
- St. Jerome's University
- St. Mary's University College
- St. Thomas
- Technical University of BC
- Technical University of Nova Scotia
- Thompson Rivers
- Toronto
- Trent
- Trinity Western
- TRIUMF
- United Nations University
- University College of the Fraser Valley
- Univ. Technologies International Inc.
- UOIT
- Vaccine & Infectious Diseases Org.
- Victoria
- Waterloo
- Western Ontario
- Wilfrid Laurier
- Windsor
- Winnipeg
- York

3. Which position do you hold at your university?

- Vice-President, Research
- Industry-Liaison Office Director / Technology Transfer Office Director
- Industry-Liaison Officer / Technology Transfer Officer
- Full Professor
- Assistant Professor
- Associate Professor
- Adjunct Professor
- Other, please specify

4. In what field of science do you primarily work?

- Agricultural Engineering
- Analytical Chemistry
- Animal Biology
- Applied Mathematics
- Artificial Intelligence
- Astronomy and Astrophysics
- Atmospheric Science
- Biochemistry
- Biomedical Engineering
- Cell Biology
- Chemical Engineering
- Civil Engineering
- Condensed Matterphysics
- Design and Manufacturing
- Earth Science
- Electrical and Electronic Engineering
- Environmental Engineering
- Evolution and Ecology
- Fluid Mechanics
- Food Science and Technology
- Forest Engineering
- Fuel and Energy Technology
- Genetics
- Geochemistry and Geochronology
- Geographical Information
- Geophysics
- Hydrology
- Industrial Engineering
- Information Technology
- Inorganic Chemistry
- Life Sciences Research Related to Human Health and Disease



- Materials Science and Technology
- Mechanical Engineering
- Medical Sciences
- Microbiology
- Mining and Mineral Processing
- Molecular Biology
- Nuclear Engineering
- Oceanography
- Organic Chemistry
- Physical Chemistry
- Physical Geography
- Physics
- Plant and Tree Biology
- Polymer Chemistry
- Psychology
- Pure Mathematics
- Robotics
- Social Sciences and Humanities
- Soil Science
- Space Science
- Statistics and Probability
- Structural Engineering
- Theoretical Physics and Chemistry
- Other, please specify

Private Sector Respondent

5. How many employees are in your company?
 - Small business (<20 full-time employees)
 - Medium business (20-99 employees)
 - Medium-large business (100-500 employees)
 - Large business (>500 employees)

6. Where is your Head Office located?
 - Canada
 - United States
 - Other, please specify

7. Which of these best describes your main job function?
 - Administration/Management
 - Law/legal services
 - Sales/Marketing/Product Support
 - Scientific Research
 - Other, please specify

8. In which sector does your company operate?
 - Advanced Materials Manufacturing
 - Business Services
 - Business, Professional, and Labour Organizations
 - Communications and Broadcasting Services
 - Computing Industries
 - Consulting Services
 - Consumer Products Industry (Non-Electronic)
 - Educational Services
 - Electrical and Electronic Products
 - Engineering, Scientific and Technical Services
 - Fabricated Metals Industry and Products
 - Farming and Agricultural Industries
 - Fishing and Related Industries
 - Food and Beverage Industries



- Forestry Industries
- Health Services
- Industrial and Heavy Engineering Construction
- Machinery (Non-Electrical)
- Mining and Quarrying Industries
- Non-Metallic Mineral Products
- Nuclear Industry and Products
- Optical and Photographic Equipment
- Petroleum and Chemical Products
- Petroleum and Natural Gas Industries
- Pharmaceuticals and Medical Products
- Polymeric Manufacturing
- Primary Metals Industry
- Printing and Publishing
- Public Administration
- Scientific and Professional Equipment
- Textile Industry and Products
- Transportation Equipment Industry
- Transportation Services
- Utilities
- Waste Management Services
- Other, please specify

Public Sector Respondent

9. Which branch of government do you work for?

- Federal
- Provincial
- Municipal

10. Which of these best describe your main job function?

- Administration/Management
- Law/legal services
- Policy
- Scientific Research
- Other, please specify

11. In which sector do you operate?

- Agricultural Engineering
- Analytical Chemistry
- Animal Biology
- Applied Mathematics
- Artificial Intelligence
- Astronomy and Astrophysics
- Atmospheric Science
- Biochemistry
- Biomedical Engineering
- Cell Biology
- Chemical Engineering
- Civil Engineering
- Condensed Matterphysics
- Design and Manufacturing
- Earth Science
- Electrical and Electronic Engineering
- Environmental Engineering
- Evolution and Ecology
- Fluid Mechanics
- Food Science and Technology



- Forest Engineering
- Fuel and Energy Technology
- Genetics
- Geochemistry and Geochronology
- Geographical Information
- Geophysics
- Hydrology
- Industrial Engineering
- Information Technology
- Inorganic Chemistry
- Life Sciences Research Related to Human Health and Disease
- Materials Science and Technology
- Mechanical Engineering
- Medical Sciences
- Microbiology
- Mining and Mineral Processing
- Molecular Biology
- Nuclear Engineering
- Oceanography
- Organic Chemistry
- Physical Chemistry
- Physical Geography
- Physics
- Plant and Tree Biology
- Polymer Chemistry
- Psychology
- Pure Mathematics
- Robotics
- Social Sciences and Humanities
- Soil Science
- Space Science
- Statistics and Probability
- Structural Engineering
- Theoretical Physics and Chemistry
- Other, please specify

Other Respondent

12. Please tell us about your organization.

13. Please describe your main job function.

14. In which sector do you operate?

- Advanced Materials Manufacturing
- Building Construction and General Contracting
- Business Services
- Business, Professional, and Labour Organizations
- Communications and Broadcasting Services
- Computing Industries
- Consulting Services
- Consumer Products Industry (Non-Electronic)
- Educational Services
- Electrical and Electronic Products
- Engineering, Scientific and Technical Services
- Fabricated Metals Industry and Products
- Farming and Agricultural Industries
- Fishing and Related Industries
- Food and Beverage Industries
- Forestry Industries
- Health Services
- Industrial and Heavy Engineering Construction
- Machinery (Non-Electrical)
- Mining and Quarrying Industries
- Non-Metallic Mineral Products



- Nuclear Industry and Products
- Optical and Photographic Equipment
- Petroleum and Chemical Products
- Petroleum and Natural Gas Industries
- Pharmaceuticals and Medical Products
- Polymeric Manufacturing
- Primary Metals Industry
- Printing and Publishing
- Public Administration
- Scientific and Professional Equipment
- Textile Industry and Products
- Transportation Equipment Industry
- Transportation Services
- Utilities
- Waste Management Services
- Other, please specify

Your institutional Intellectual Property Policy

15. Who owns the intellectual property rights on inventions created at your institution (excluding research contracts)?

- Institution Owns
- Researcher Owns
- Joint Ownership (institution and researcher)
- No policy on ownership
- Do not know
- Other, please specify

16. Who owns the Copyright created at your institution (excluding research contracts) for:

- a. Computer software or database?
 - Institution Owns
 - Researcher Owns
 - Joint Ownership (institution and researcher)
 - No policy on ownership
 - Other
 - Do not know
- b. Educational Materials?
 - Institution Owns
 - Researcher Owns
 - Joint Ownership (institution and researcher)
 - No policy on ownership
 - Other
 - Do not know
- c. Other Materials?
 - Institution Owns
 - Researcher Owns
 - Joint Ownership (institution and researcher)
 - No policy on ownership



- Other
- Do not know

Section 2: Questions on NSERC's Current IP Policy

NSERC claims no rights of ownership of IP associated with an award, but expects that any IP resulting from research it has wholly or partly funded will be owned, and will continue to be owned, by the institutions or the NSERC funded researcher(s) who created the IP, or both. Assignment of IP ownership is not permitted. Joint ownership of an invention is recognized as a result of an industrial partner's or other organization's intellectual contribution to the project as determined by the principles of inventorship.

Under the current IP Policy, companies and other receptor organizations may be granted access to research results via a non-exclusive license or, where appropriate, an exclusive license bounded by field of use. Licensing terms are at the discretion of the university and its partners. Within the constraints imposed by the desirability of facilitating eventual commercial benefits, the university researchers must be free to use the research results for academic purposes, and students must be able to publish and defend their theses. NSERC does not support classified or secret research. Companies involved in an NSERC-funded university-industry collaboration are allowed to review all publications and remove any company proprietary information; however, delay of a publication is limited to a maximum of six months in order to file for intellectual property protection. There is no delay permitted for the defense of a thesis.

While NSERC does not become involved in the negotiation of an agreement between a university and its collaborators, including industrial sponsors, NSERC's RPP Directorate does require that a copy of the signed research agreement be submitted to and approved by NSERC to ensure that it conforms to NSERC's policy, before it will release the first installment of a RPP award. Although submission of IP agreements may not be requested for other NSERC programs, the above policy applies to all NSERC awards, including those in the Discovery Grant program.

17. The current policy states that ownership of IP must remain with the university and/or the university researcher. Do you feel this policy has been or could be a barrier to initiating a collaboration with:

- a. Other Canadian academic researcher?
 - Yes, a very significant barrier
 - Yes, a significant barrier
 - Neutral
 - No, an insignificant barrier
 - No, a very insignificant barrier
 - Not applicable
- b. Public sector researchers (e.g. NRC researchers)?
 - Yes, a very significant barrier
 - Yes, a significant barrier
 - Neutral
 - No, an insignificant barrier



- No, a very insignificant barrier
- Not applicable
- c. Foreign researchers?
 - Yes, a very significant barrier
 - Yes, a significant barrier
 - Neutral
 - No, an insignificant barrier
 - No, a very insignificant barrier
 - Not applicable
- d. Industry?
 - Yes, a very significant barrier
 - Yes, a significant barrier
 - Neutral
 - No, an insignificant barrier
 - No, a very insignificant barrier
 - Not applicable

17. Please explain your responses to the above questions in the area below:

18. Do you feel the policy regarding ownership has been or could be a barrier to the commercialization or implementation of research results?

- Yes, a very significant barrier
- Yes, a significant barrier
- Neutral
- No, an insignificant barrier
- No, a very insignificant barrier
- Not applicable

19. Explain your response to the above question in the area below:

20. Please indicate your level of agreement with the following statement: "The policy sufficiently protects the right of its grantees:"

- a. To publish
 - Strongly Agree
 - Agree
 - Neutral
 - Disagree
 - Strongly Disagree
- b. To continue their academic research
 - Strongly Agree
 - Agree
 - Neutral
 - Disagree
 - Strongly Disagree

21. Please explain your responses to the above question in the area below:



22. Please indicate your level of agreement with the following statement: "The current 6 month delay for publication is sufficient time to file for intellectual property protection."

- Strongly Agree
- Agree
- Neutral
- Disagree
- Strongly Disagree

23. Please explain your response to the above question in the area below:

24. Please indicate your level of agreement with the following statement: "The policy sufficiently protects the rights of students:"

- a. To defend his/her thesis
 - Strongly Agree
 - Agree
 - Neutral
 - Disagree
 - Strongly Disagree
- b. To publish
 - Strongly Agree
 - Agree
 - Neutral
 - Disagree
 - Strongly Disagree

25. Please explain your response to the above question in the area below:

Issues to Consider

The current policy requirement for ownership by the university and/or university researchers was intended to ensure that researchers and universities retained the right to use their research results for academic purposes (educational, research and publication) and to realize maximum benefit for Canada and Canadians of research partially funded by the taxpayer. Without ownership rights to their IP, there was concern that academic researchers could face losing not just the right to publish, but the right to use and build upon their intellectual property. There was also concern that assignment of ownership of the IP to a third party could result in lost benefit to Canadian taxpayers if the ownership of IP were assigned offshore either directly, or indirectly through the later sale of a Canadian company, or rendered valueless as a result of a company bankruptcy. Offshore assignment is of particular concern in the case of international collaborations where no Canadian companies are involved.

Recently, however, concerns have been raised that the lack of assignment of ownership of patent rights may act as a barrier to effective commercialization and exploitation of the research results and hence limit its potential impact. This may be particularly true for start-up companies wherein their ability to secure patent ownership rights may directly affect their capacity to attract investment. It may also be problematic for an established industrial partner since, depending on the country, the rights of a licensee may be very restricted compared to those of an owner. For example, it has been argued to NSERC that in the United States, an exclusive licensee may not have the necessary substantive rights to sue for infringement (Biagro Western Sales, Inc. v.



Helena Chemical Company, 160 F.Supp. 2d 1136, (Cal. 2001)).

While various universities have indicated that NSERC's IP Policy has been very effective as a baseline in their negotiations with companies, in many other instances universities appear to perceive it as a deterrent and would prefer to negotiate IP ownership depending on the nature of the proposed research, the involvement of the company and the expected benefits.

Finally, NSERC does not follow up on any awards to ensure that there is no assignment of IP following the completion of NSERC funding. NSERC is aware of several cases where assignment has occurred, either to a collaborating company or, more frequently, to a university spin-off.

Please note that the expression 'collaborative project' is used here to mean a collaborative project with an NSERC-funded researcher that is using NSERC funds for the collaborative project and another individual or entity that is not eligible to receive NSERC funding.

Section 3: Questions on Assignment

26. Should assignment of IP ownership rights be permitted under the policy?
- Yes
 - No
 - Under certain conditions
27. Please select the different situations where you believe assignment of IP ownership rights should be permitted under the policy. If your response is not indicated in the choices below, please specify under "Other" and provide additional information in the text area provided. Select as many checkboxes as required.
- Ability to commercialize the IP would be jeopardized
 - Ability to attract seed funding would be jeopardized
 - Potential assignee is a Canadian small-medium enterprise (SME)
 - Potential assignee is a Canadian start-up company
 - Potential assignee is a Canadian company
 - Potential assignee is a foreign company with no manufacturing and/or R&D presence in Canada
 - Potential assignee is a foreign company with no manufacturing and/or R&D presence in Canada and where no suitable Canadian assignee has been identified
 - Potential assignee is a partner in a university-industry collaborative grant
 - To permit a licensee to university-owned IP to sue for infringement
 - IP is jointly owned and assignment facilitates the management of the IP
 - Cash investment has been provided by the partner in the development of the IP
 - There is a potential for economic benefit to the university and/or researcher
 - Other, please specify your response in the text area below:
28. Collaborative projects are frequently based upon a partner's background IP. During the course of a collaborative project, foreground IP that is an improvement to the partner's background IP may be solely developed by the NSERC-funded researcher. Under the current policy, ownership of the improvement would reside with the institution and/or researcher. Should such solely developed foreground IP that is an improvement to the



partner's background IP be sufficient grounds for assignment of the ownership rights of the improvement to the partner?

- Yes
- No
- Under certain conditions. Please explain your answer in the area below:

29. Should assignment of university and/or researcher owned IP automatically require a license back to the university and/or researcher for academic and educational purposes?

- Yes
- No
- Under certain conditions. Please explain your answer in the area below:

30. In the event that IP ownership is assigned to a company and commercialization does not ensue within a specified delay, should ownership of the IP revert to the university and/or researcher?

- Yes
- No
- Under certain conditions. Please explain your answer in the area below:

Section 4: Questions on Joint Ownership

31. In the case of a collaborative project, is a cash contribution by an industrial partner sufficient grounds to justify joint ownership of foreground IP solely developed during the project by the NSERC-funded researcher?

- Yes
- No
- Under certain conditions. Please explain your answer in the area below:

32. In the case of a collaborative project, is use of background IP belonging to a partner sufficient grounds to justify joint ownership of foreground IP solely developed during the project by the NSERC-funded researcher?

- Yes
- No
- Under certain conditions. Please explain your answer in the area below:

Section 5: Questions on Licensing

33. Given the possibility that an exclusive licensee's right to sue for infringement may be limited, should the university and/or university researcher, as owners of the IP, be required to join an infringement action, at the cost of the licensee, to safeguard that licensee's right to sue for infringement?

- Yes
- No
- Under certain conditions. Please explain your answer in the area below:

34. Should an up-front, exclusive license granted to an industrial partner prior to the start of an NSERC-funded project be bounded by field of use?



- Yes
- No
- Under certain conditions. Please explain your answer in the area below:

Section 6: Questions on Publication

35. In a collaborative university-industry project, an industrial partner is entitled to the removal of its proprietary information from a proposed publication. Are there concerns that assignment of university and/or researcher-owned IP to an industrial partner will limit the ability of an academic to publish, on the grounds that the research results could now be defined as the industrial partner's company secrets or proprietary information?

- Yes
- No
- Under certain conditions. Please explain your answer in the area below:

Section 7: Other Issues

36. Are there any other issues that you feel should be considered by NSERC's Expert Panel in its review? Please insert your response in the text area below: