

NUMBER: 327

SUBJECT: INTELLECTUAL PROPERTY, CREATIVE WORKS, AND COPYRIGHTS

APPROVAL DATE OF LAST REVISION: AUGUST 15, 2005; JANUARY 24, 2011; NOVEMBER 23, 2015, APRIL 23, 2018

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327.1 – PURPOSE

Creative works, such as discoveries, writings, instructional material, art works, and know-how frequently result from Bridgerland Technical College (BTECH) employee involvement in teaching, research, and service activities. Creative works generally have certain intellectual property rights (ownership, use, possession, disposal rights, etc.) associated with their creation and existence.

327.2 – POLICY

BTECH supports academic freedom principles including the right to freely publish scholarly works and research. The College is entrusted with the responsibility of administering its own intellectual property in the best interests of the public.

Subject to inventor and author rights as indicated herein and subject to listed exceptions, BTECH acquires and retains all rights to curriculum, documents, forms, catalogs, brochures, Web sites, inventions, improvements, and discoveries of BTECH employees and non-BTECH employees, including students, created by/or through the use of employees, students, facilities, equipment, or materials owned or paid for by BTECH.

It is the policy of BTECH to maintain a central repository for all BTECH official documents, curriculum, catalogs, brochures, forms, policy manuals, handbooks, etc., in an electronic format; and where applicable, in a “hard-copy” format. This repository of BTECH official documents, etc., is maintained for the purpose of protecting BTECH intellectual property rights and to improve the consistency of official publications. The electronic repository will be managed by the Information Systems Department/Staff under the direction of Administration. The hard-copy format will be managed and maintained by Administration.

327.2.1 – EXCEPTIONS

327.2.2 – WORKS RESULTING FROM CONSULTING AGREEMENTS

Unless otherwise agreed, BTECH makes no claim to ownership of inventions, improvements, or discoveries developed pursuant to consulting or other agreement between BTECH employees and non-BTECH sponsors provided:

- (a) the services are performed pursuant to BTECH consulting policy; and
- (b) there is no transfer of BTECH inventions, improvements, or discoveries by the BTECH employee consultant without written permission of the BTECH; or
- (c) BTECH approves in writing the intellectual property provisions of the consulting agreement.

327.2.3 – WORKS CREATED ON PERSONAL TIME

BTECH acquires and retains all rights to curriculum, documents, forms, catalogs, brochures, and Web sites created by any BTECH employee for BTECH purposes. Unless otherwise agreed, the College makes no claim to ownership of work created by an employee entirely on his or her own time for purposes outside of instruction and that is not an “employment invention” (see Utah Employment Invention ACT UCA 34-39).

Employees may elect to assign their interest in works, not otherwise owned by BTECH, to BTECH to facilitate commercialization efforts or support specific academic or research programs.

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BTECH employees and users of BTECH resources agree to execute necessary documentation to effectuate the provisions of this policy.

Employees involved in efforts outside of BTECH must comply with Section 300.307, Conflict of Interest, of the Policy Manual.

327.3 – PROCEDURES

327.3.1 – DISCLOSURE

All intellectual property covered by this policy, excluding intellectual property covered in 327.2.2 and 327.2.3, but including intellectual property resulting from consulting, and/or private business ventures (if related to employee's area of employment expertise), will be disclosed in writing by the inventor(s) and author(s) to the appropriate BTECH authority (any Vice President).

327.3.2 – PROCESSING OF INTELLECTUAL PROPERTIES

If BTECH does not have rights to the disclosed intellectual property, BTECH will indicate the same in writing to the inventor or author.

- (a) Sponsor rights. BTECH's Vice Presidents, in consultation with the President, and when necessary, the applicable Assistant Attorney General, will be responsible for assuring that the intellectual property provisions of sponsored research agreements are satisfied.
- (b) Inventor or author rights. Within a reasonable time frame (usually within ten weeks) of receipt of the disclosure, the inventor(s) or author(s) will be notified in writing by the appropriate administrative authority (Vice President) of the decision regarding the disposition of the intellectual property. A monetary award of \$1,000 in total will be distributed to the inventor(s) of an intellectual property upon which a patent is obtained by BTECH or its designee. Inventor(s) and author(s) are entitled to royalty sharing as provided herein.
- (c) BTECH rights. BTECH retains:
 - (i) the right to commercialize BTECH-owned intellectual property;
 - (ii) the right to receive an assignment of title from the inventor(s) or author(s) in the name of BTECH or its designee; and
 - (iii) the right to assign responsibility for the management and/or marketing of intellectual property rights.

If BTECH, or its designee, abandons commercialization efforts after it formally retains an intellectual property, then the inventor or author will be properly notified in writing and all rights shall revert to the inventor(s) or author(s). However, if BTECH or its representative has incurred expenses in the development and commercialization of the intellectual property, these expenses are to be paid by the inventor(s) or author(s) under a separate agreement to be negotiated between the inventor or author and BTECH regarding recovery of costs or in sharing in royalties after the inventor or author receives commercial gain.

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327.3.3 – LICENSING

BTECH or its designee may dispose of BTECH intellectual property as it deems appropriate. BTECH or its designee may grant an exclusive license if it is determined that such a grant is required in the public interest to encourage the marketing and eventual public use of the intellectual property.

327.3.4 – ROYALTIES

All expenses incurred by BTECH, or its designee, will be paid from proceeds prior to distribution of net income. When BTECH, or its designee, has title to an intellectual property and royalty or other income results to BTECH, it will be shared, except where specified otherwise by the funding source, on the following basis:

NET INCOME	INVENTOR(S) OR AUTHOR(S)	GENERATING BTECH DEPARTMENT	BTECH
\$0 - \$5,000	100%	- 0 -	- 0 -
\$5,001 - \$50,000	40%	30%	30%
\$50,001 - \$250,000	35%	33%	32%
\$250,000+	33%	33%	33%

Net income is defined as gross royalties and/or other receipts received by BTECH, or its designee, less deductible costs (administrative and patent expenses). The generating department’s share will be disbursed by the director or department head. Such funds will ordinarily be used for research or academic activities of the inventor(s) or author(s) as long as the inventor(s) or author(s) remain(s) with BTECH. Co-inventor(s) or author(s) share the inventor(s) or author(s) share in proportion to their relative contributions unless otherwise agreed to among themselves. Payments to inventor(s) or author(s) is not employment consideration, but rather is considered to be a non-employee, royalty payment.

327.3.5 – AGREEMENT

The policies set forth above constitute an understanding which is binding on BTECH employees and non-BTECH employees as a condition of their employment and/or participation in BTECH programs or their use of funds, space, or facilities for such activity.

327.4 – RESPONSIBILITIES

327.4.1 – CONTROLLER

The Controller is responsible for the disposition of BTECH intellectual property, including general BTECH trademarks, if any exist.

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327.5 – USE OF COPYRIGHTED WORKS

327.5.1 – POLICY

BTECH recognizes that United States copyright law, in conformance with its constitutional foundation, grants special and exclusive, but limited rights to authors as an incentive to create and distribute their works. These rights are limited to ensure that they do not impose an undue obstacle to education and the free exchange of ideas.

It is the policy of BTECH to respect this balance by providing: explanations of copyright law which outline protected rights of copyright holders; guidelines which offer an overview to the potential of "fair use" rights in specific educational settings; and a service which facilitates both the determination of possible "fair use" and the obtaining of permission including payment of fees for educational uses that may otherwise not be allowable under "fair use."

It is the responsibility of each BTECH employee to fully comply with applicable copyright law. Prior to using any copyrighted material, BTECH employees will determine whether the use violates any copyright or whether it falls within certain criteria obviating the need for permission including the "fair use" exceptions. BTECH employees are financially responsible for copyright infringement unless use is authorized by BTECH through BTECH's Bookstore/Copy Center copyright permission service.

327.5.2 – PROCEDURES

BTECH employees may use the BTECH copyright service provided through BTECH's Bookstore/Copy Center to seek copyright permission from copyright holders. The Bookstore/Copy Center serves as a central clearinghouse for copyright permission services. The Bookstore/Copy Center can provide assistance in determining the need for copyright permission and, where necessary, obtain permission and ensure the reproduction and timely delivery of materials.

327.5.3 – RESPONSIBILITIES

It is the responsibility of each BTECH employee to fully comply with applicable copyright law.

327.5.4 – PENALTIES

Uploading or downloading works protected by copyright without the authority of the copyright owner is an infringement of the copyright owner's exclusive rights of reproduction and/or distribution. Penalties for copyright infringement include civil and criminal penalties. In general, anyone found liable for civil copyright infringement may be ordered to pay either actual damages or "statutory" damages. BTECH will cooperate fully with any investigation by public authorities related to illegally downloaded and/or copyrighted information. Members of the BTECH community, including students, faculty, and staff, who are found to have been using the College's information technology system to download or upload works protected by copyright will be subject to the full extent of fines and penalties imposed, disciplinary action, and possible termination.

327.6 – USE OF NON-BTECH WORKS

327.6.1 – POLICY

It is the responsibility of BTECH employees to ensure that their usage of non-BTECH intellectual property is with appropriate authorization by the intellectual property owner. This includes, but is not limited to, patent infringement, disclosure of confidential information, trademark infringement, and copyright infringement.

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327.6.2 – PROCEDURES

Prior to any use of non-BTECH intellectual property by BTECH employees, the BTECH employee will determine whether the use violates any intellectual property rights of third parties. If there is a reasonable likelihood of violation, the employee will obtain appropriate permission from the copyright holder before using such intellectual property including the disclosure of confidential information.

327.6.3 – RESPONSIBILITIES

It is the responsibility of BTECH employees to ensure there is no unauthorized use by employees of non-BTECH works. It is further the responsibility of BTECH employees to ensure the confidentiality of third-party information in the possession of BTECH personnel, provided it is appropriately submitted to BTECH pursuant to the Utah Governmental Records Access and Management Act (GRAMA).

327.4 – GENERAL BTECH TRADEMARKS

(Note: This section will be completed and approved at a later date.)