

# Intellectual Property, Patents, and Copyright (IPPC) Committee Annual Report

**Pelagia-Irene (Perena) Gouma, Chair**

**2022-2023**

## Duties and Responsibilities:

1. Review, recommend, and advise the university senate on matters relating to the university policy on intellectual property, patents, and copyright and faculty rules 3335-13-06 and 3335-13-07 of the Administrative Code.
2. Convene at least twice per year to review the procedures used in implementing and administering the university policy on intellectual property, patents and copyrights, and where deemed necessary, develop and recommend changes in standards and procedures to the vice president for technology commercialization, the vice president for research, the executive vice president and provost, and other appropriate officers of the university.
3. Consult with the vice president for technology commercialization, the vice president for research when requested.
4. Serve as a board to which a researcher may appeal actions of the vice president for technology commercialization, subject to appropriate review of the standards and procedures contained in the policy on patents and copyrights.

## Membership:

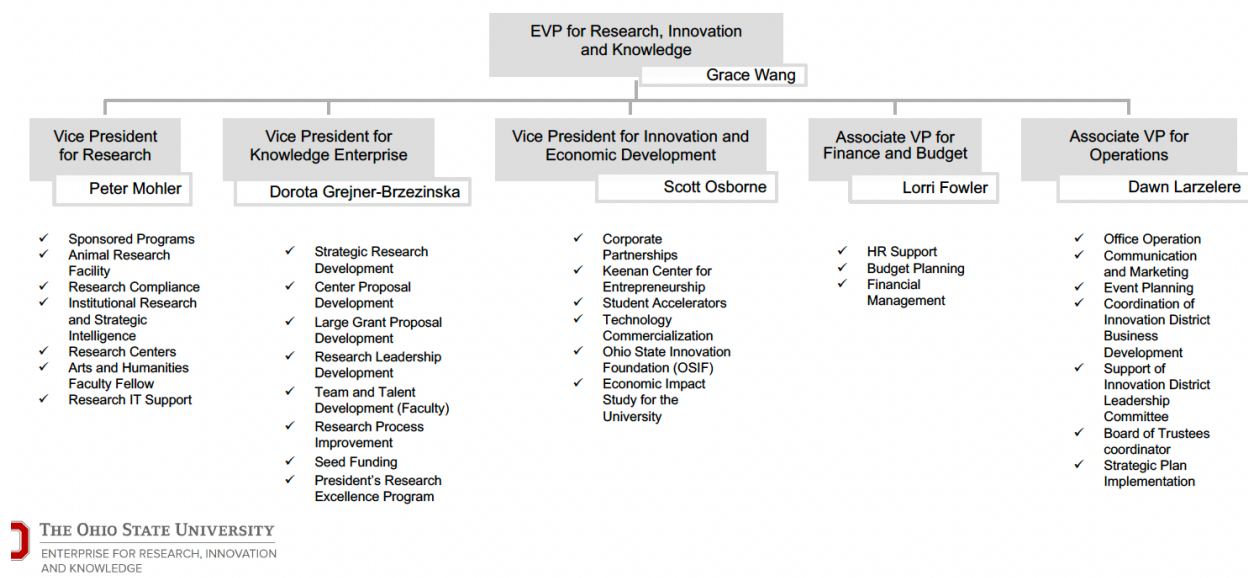
Member	Source	Term Expires
Stephanie Schulte	Presidential	2023
Mark Foster	Presidential	2023
Guy Rub	Faculty Council	2024
Vijay Pancholi	Faculty Council	2024
Pelagia Gouma (Chair)	Faculty Council	2024
Ash Faulkner	Faculty Council	2024
Tracy Owns	Faculty Council	2025
Christopher Coss (secretary)	Presidential	2025
Sarah Sturgill	CGS	2023
Scott Osborne	Innovation and Economic Development (OIED)	
Peter Mohler	VP, research	

In addition to these members, Kevin Taylor, Cynthia Carnes, Donald Taylor, Kim Potter (Office of Compliance) and Kristy Baker (Asst. Director, Office of sponsored Programs) participated in some of the monthly meetings.

**Activities 2022-2023:**

The committee met six times over the past year (September 20, 2022; October 18, 2022; November 29, 2022; January 21, 2023; and May 2, 2023). The October and January meetings were commenced in person, and IPPC was hosted by The Technology Commercialization Office (TCO) using their conference facilities. The focus of the proceedings during these meetings was the re-organization of the Research Enterprise and how it affected the Intellectual Property (IP) Policy. The Enterprise Organizational Chart at the beginning of the academic year 2022-2023 is shown in Figure 1 below.

**Enterprise organizational chart**



**Figure 1.** ERIK Organizational Chart (October 2022).

The creation of the Enterprise for Research, Innovation, and Knowledge (ERIK) resulted in the need to update administrative matters within the Office of Research (OR) and TCO. Kim Potter, Director of Policy and Engagement, Office of the University Compliance and Integrity, asked the Chair of the IPPC to sign a compliance document that would implement changes to the IP document. This request, however, appeared to be in direct conflict with the University’s Faculty Rules.

The due process to be followed is spelled out in Rule 3335-13-06:

“... the committee [IPPC] shall review all proposed changes to the policy, and shall also have the power to initiate its own proposed changes to the policy. The chair of the committee shall also be designated as a member of the policy writing group for any revisions to the policy. Revisions shall be promulgated through the university policy process and then recommended to faculty council and the university senate. **All revisions to the policy must be approved by the faculty council**

**and the university senate**, in addition to the other approvals required by the university policy process.”

The argument of the Office of Compliance was that the required changes in the IP involved only technical changes and none of substance, whereas the argument of the IPPC was that it would need to review the proposed changes in detail to determine what they are, while following the rules at all times. The proposed changes in the IP policy which were presented to IPPC by Kim Potter in the November meeting and further discussions followed between the IPPC and the TCO and the Office of Compliance regarding the “IP Rule Amendments”. In the process, it was determined that not all amendments involved “technical changes” but one specifically was a change of substance! Therefore, the discussion was moved to the next IPPC meeting for further deliberations and voting. It should be stated here that IPPC could not operate properly without the advice and guidance it received from Guy Rub, an IP law expert and a leading author of the IP Policy. Having his expertise available in this committee makes a lot of difference and going forward it will be important to consider always including at least one IP law expert as a member or advisor to this committee.

In the January meeting, IPPC voted on the rules and IP policy amendments. The motion to move the changes to the rules forward passed. Both parts of the motion to keep the first and the second highlighted sentences (*see Appendix 1*) in the policy also passed. There was small change to be made where the "Office of Research" text was deleted but now had to be recovered.

But then again, the strategy for moving forward differed between what the Office of Compliance thought is the right path to follow and what IPPC determined to be dictated by the rules:

Below are the two different approaches proposed for your further information:

#### **Path to moving forward as proposed by Kim Potter, Office of Policy**

1. On behalf of IPPC and at Perena’s request, Guy will work with the Senate Rules Committee to update Faculty Rule 3335-13-06 to allow an abbreviated approval process for technical policy changes, as agreed upon by IPPC and OIED. See first attachment.
2. In tandem with the rule change, Guy will work with the Senate to add section IX.B to the policy, which reflects the rule change. See second attachment.
3. Ideally, a Senate vote on #1 and #2 above will happen quickly, so we can present the proposed rule change to the Board of Trustees in May (rather than wait for the August Board meeting). We will only be taking the rule change to the Board. The Board resolution proposing the rule change should include the following WHEREAS statement just before the closing BE IT RESOLVED statement:
  - WHEREAS the university’s Intellectual Property policy will be updated to reflect this rule change and a transfer of policy ownership from the Office of Business and Finance to the Office of Innovation and Economic Development within the Enterprise for Research, Innovation and Knowledge (ERIK),

- where commercialization of intellectual property is now managed; these policy updates, and other future policy updates, may proceed through the university’s standard policy review and approval process and in accordance with the requirements of Rule 3335-13-06, and the Board of Trustees may be consulted but will not need to approve such changes.
4. Upon Board approval of the rule resolution, my office will circulate a proposed policy draft for review/approval signatures. The proposed policy will include section IX.B (as approved by the Senate) and the agreed-upon technical changes necessary to transfer policy ownership from B&F to OIED, fix broken links, update contacts, etc. The signers, in order, will be:
- Lisa Plaga (B&F, policy coordinator)
  - Kevin Taylor (OIED, acting policy coordinator)
  - Becky Kaufmann (Legal Affairs, reviewing attorney)
  - Mike Papadakis (B&F, SVP)
  - Scott Osborne (OIED, VP)
  - Peter Mohler (ERIK, interim EVP)
  - Perena Gouma (IPPC Chair)
  - Kim Potter, (OUCI, Director of Policy and Engagement)

**Path to moving forward as proposed by Guy Rub**

IPPC approves the addition of Section IX.B and recommends the rule change to the Rules Committee (done)	
The Rules Committee prepares the new <u>rule</u> (Guy to coordinate)	The amendment to the <u>policy</u> (adding IX.B) is being approved by the administrators who needs to approve it (I assume those are Lisa Plaga, Kevin Taylor, Becky Kaufmann, Mike Papadakis, Scsott Osbourne, and Peter Mohler, Kim to coordinate)
The Faculty Council approves the amendment to the policy. FC will also be updated on the proposed change to the rules (Rules + IPPC will coordinate this)	
The Senate approves the amendments to the rule and the policy (Rules + IPPC)	
The BOT approves the new rule (Rules)	
The technical changes are approved by Kim, IPPC, and Scott	

Proposed timeline: Faculty Council’s next meeting is on 3/2, so if we can complete the earlier stages by then, we can get it approved by the FC on 3/2 and by the Senate on 3/23. My sense (so far) is that the Rules Committee process is not going to take very long. But if we miss those deadlines, we can get it to the FC in early April and to the Senate in late April. Either way, we should get it to the BOT on May.

On 3/8/23 we were notified by Sara Watson that:

the rule changes (with associated resolutions) were voted out of the Rules Committee the previous week and were ready for a full Senate vote at the March 23 meeting. These are:

- **3335-13-06 and the IP Policy**- on non-substantive changes to the IP Policy

According to a note from Ben Givens on 2/13/23, The policy (but not the rule) change needed to be approved by a vote in FC before it went together with the rule change for vote in the Senate. These changes have passed but not without a heated discussion by Senate members. According to an email from Ben Givens on May 2<sup>nd</sup>, 2023: The 3335-13-06 rule change and the IP Policy change both were approved in the Senate on April 20, and will be on the agenda for the board of trustees meeting on May 16-17.”

This process was very important to ensure that we operate under a correct and accurate IP Policy. We learned a lot in what it means to have technical vs substantial changes and how sometimes it is not clear what an amendment constitutes and this reason makes it absolutely critical to afford expert legal advice for the proper operation of the IPPC committee. The fact that there are administrative changes happening all the time justify the effort we went through to update the rule and the IP Policy to meet the future needs too.

#### OLD BUSINESS:

Last year (2021-2022) IPPC dealt with a dispute hearing. Dispute hearing:

“- Facilities Information and Technology Services (FITS) submitted a resolution request to IPPC regarding an ongoing dispute with TCO. FITS and TCO submitted their position to IPPC in writing ahead of our monthly meeting, and on April 26 (2022), the committee conducted a hearing concerning this dispute. Representatives of FITS and TCO participated in the hearing. IPPC prepared a report with our assessment for the Provost Office and CFO. “  
The latter were to decide on further actions on this matter.

At the IPPC meeting held in March 2023, IPPC reviewed and discussed the Report sent by the previous Chair of this committee to the Provost Gilliam on June 23<sup>rd</sup>, 2022. It also reviewed and discussed the response received by Brad Harris on behalf of the Provost (*see Appendix 2*). It was decided to request clarification on FITS Compensation Recommendation.

#### FUTURE PLANS:

Going forward IPPC plans to revisit the following issues:

- The gender gap in intellectual property- and commercialization-related activities
- Metrics for commercialization-related activities (for annual reviews, promotion/tenure)
- Copyright as faculty right and as a responsibility

Finally, the term “direct expenses” in the IP Policy needs to be clarified.

**RE: Updated IP Policy**

Potter, Kim <potter.146@osu.edu>

Tue 11/1/2022 3:04 PM

To: Gouma, Pelagia-Iren <gouma.2@osu.edu>

Cc: Taylor, Kevin M. <taylor.153@osu.edu>; Rub, Guy A. <rub.1@osu.edu>

 1 attachments (208 KB)

Policy-Transfer-REDLINE-Intellectual-Property-20221101.docx;

Dear Perena,

Thank you, and I'm happy to attend another IPPC meeting to discuss this topic.

In the meantime, I'm attaching the proposed updates to the policy.

As Kevin explained at the last IPPC meeting, ERIK is now the umbrella organization for the Office of Research (led by Peter Mohler), the Office of Innovation and Economic Development (led by Scott Osborne), and the Office of Knowledge Enterprise (led by Dorota Grejner-Brzezinska). This administrative restructuring means we must transfer administrative ownership of the IP policy from the Office of Business and Finance, where TCO was formerly housed, to ERIK's Office of Innovation and Economic Development, where TCO now lives. The edits necessary to reflect this transfer are tracked in the enclosed. We also took this opportunity to fix broken hyperlinks, capitalization errors, and references to retired university policies. OIED also would like to edit section V.D as shown on page 5 and as explained in the third item below, as well as section VII.A as shown on page 7 and explained in the sixth item below.

In sum, here's a list of all the changes:

1. Transferred responsible office from Office of Business and Finance to Office of Innovation and Economic Development due to administrative restructuring under ERIK. (p. 1)
2. Fixed capitalization to conform to university policy template. (pp. 2-3, 6-7)
3. Transferred responsibility for administration of TAF proceeds distributions from Office of Research to TCO to reflect current administrative structure and process. (p. 5) (The responsibilities of the Industry Liaison Office (ILO), formerly housed within the Office of Research, have been absorbed into the Office of Innovation and Economic Development.)
4. Replaced senior vice president of business and finance with executive vice president for research, innovation, and knowledge to reflect current administrative structure. (pp. 7-10)
5. Replaced the newly retired Faculty Paid External Consulting policy and Conflict of Interest and Work Outside the University policy with the new, comprehensive Outside Activities and Conflicts policy. (pp. 8-9)
6. Removed the vice president for research from the list of leaders that the vice president responsible for TCO consults with when establishing operational guidelines and procedures as set forth in VII.A. Under the current administrative structure, the vice president for research is a direct report to the executive vice president for ERIK, so consultation with the provost and EVP is sufficient. (p. 7, 10)
7. Fixed broken hyperlinks in the Resources section. (p. 10-11)
8. Updated the website address for TCO in the Contacts table. (p. 11)



I look forward to discussing further.

Kim



**Kim Potter**

Director of Policy and Engagement

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Pronouns: she/her/hers

## Appendix 2

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**From:** Harris, Brad <[harris.54@osu.edu](mailto:harris.54@osu.edu)>  
**Date:** Tuesday, March 14, 2023 at 12:07 PM  
**To:** Gallego Perez, Daniel <[gallegoperez.1@osu.edu](mailto:gallegoperez.1@osu.edu)>  
**Cc:** Gilliam, Melissa <[gilliam.182@osu.edu](mailto:gilliam.182@osu.edu)>, Papadakis, Michael <[papadakis.6@osu.edu](mailto:papadakis.6@osu.edu)>, Devine, Kristine G. <[devine.99@osu.edu](mailto:devine.99@osu.edu)>, Mohler, Peter J. <[mohler.94@osu.edu](mailto:mohler.94@osu.edu)>  
**Subject:** FW: IPPC report on FITS-TCO dispute

Dear Professor Gallego Perez,

Provost Gilliam and Mr. Papadakis agree that IPPC should proceed with proposing an update to the IP policy. Do you need any formal support, beyond this email, to charge the IPPC with that task next year?



**Brad A. Harris**

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