

Media Action Network

Policy on Intellectual Property Rightsⁱ

POLICY STATEMENT

Media Action Network encourages the production of creative and scholarly research, papers and works of art, known broadly as intellectual property, among volunteers, and staff members. The products of this engagement may create rights and interests on behalf of the creator, author, inventor, public, sponsor and Media Action Network. The purpose of this policy is to support and reward works, activities and pursuits which advance Media Action Network's mission and to help staff members and volunteers, identify, protect, and administer intellectual property matters and define the rights and responsibilities of all involved. Media Action Network staff members and volunteers are encouraged to retain a non-exclusive, royalty-free license to allow them and Media Action Network to use work they author or create and intend to publish in furtherance of Media Action Network's mission.

APPLICABILITY

The policy applies to works created by all classifications of staff and volunteers of Media Action Network and to non-employees such as consultants, contributors and independent contractors, who create works on behalf of Media Action Network, unless a written agreement exists to the contrary.

POLICY

1. Identification of Intellectual Property ("Intellectual Property")

Intellectual property shall consist of the following:

- (a) Copyrightable material produced from creative and scholarly activity, such as text (manuscripts, manuals, books, and articles); videos and motion pictures; music (sound recordings, lyrics, and scores); images (print, photographs, electronic, and art); and computer software (programs, databases and web pages); and
- (b) Patentable works such as patents (processes, machines, manufactures, or compositions of matter); devices; and software excluded from copyrighted materials; and
- (c) Trademarked materials, such as words, names, symbols or logos, domain names, trade dress, and slogans or any combination of words which has been adopted by Media Action Network to identify itself and to distinguish itself and its sponsorship from others.
- (d) Trade Secrets.

2. Ownership and Use

(a) General Rule

Keeping with the view that one of the Media Action Network's primary benefits to society is the production of original works by its staff and volunteers, and in order to best encourage such activity, it is the general policy of Media Action Network that Intellectual Property shall be the property of the author or creator. Media Action Network may assert ownership rights to Intellectual Property developed under circumstances set forth further below.

(b) Patentable Intellectual Property

Responsibility for Disclosure of Patentable Intellectual Property: Media Action Network personnel who alone or in association with other entities create or intend to create patentable subject matter with any use of Media Action Network's resources must disclose the matter and obtain prior authorization from the Board of Directors (or designee). Such disclosure shall be made when it can be reasonably concluded that a patentable subject matter has or will be created, and sufficiently in advance of any publications, presentation, or other public disclosure to allow time for possible action that protects rights to the intellectual property for the creator and Media Action Network. Creators are encouraged to seek the advice of the Board (or designee) in determining whether the subject matter is patentable or whether Media Action Network desires to pursue patenting the matter.

Determination of Rights to Patentable Subject Matter: Except as set forth below, the creator of patentable intellectual property shall retain his/her rights, and Media Action Network shall not assert ownership rights. Media Action Network will assert ownership rights to patentable intellectual property developed under any of the following circumstances:

- Development was funded by an externally sponsored program or by any agreement which allocates rights to Media Action Network.
- Development required significant use of Media Action Network's resources (e.g. facilities, equipment, funding) or more than minimal use of Media Action Network personnel. Participation of Media Action Network volunteers directly in the development, or indirectly through use and feedback that substantively influences development, constitutes significant use of Media Action Network resources.
- The creator was assigned, directed, or specifically funded by Media Action Network to develop the material.
- Material was developed by Board Members or staff in the course of employment duties and constitutes work for hire under US law.

(c) Other Intellectual Property

Responsibility for Disclosure of Intellectual Property: In contrast to historical business practice, the tradition of academic institutions is to give staff members the right to retain ownership of their Intellectual Property. This policy adopts that traditional right, and staff members are not obligated to disclose the creation of these materials, even when the product might have commercial value, unless the material was developed under one of the qualifying conditions listed in the next section in which case the creator is responsible for timely disclosure. However, staff members are encouraged to disclose any protectable material that has commercial value to the extent that they may wish assistance in copyright protection and marketing in exchange for profit sharing with Media Action Network. All disclosures should be made to the Board of Directors (or designee).

Determination of Rights to Intellectual Property: Except as set forth below, the creator of Intellectual Property shall retain his/her rights, and Media Action Network shall not assert ownership rights. However, creators will be expected to grant non-exclusive, royalty-free, perpetual licenses to Media Action Network for Intellectual Property that is developed for Media Action Network purposes, so that Media Action Network's continued use of such material would not be jeopardized. Media Action Network may assert ownership rights to Intellectual Property developed under the following circumstances:

- Development was funded as part of an externally sponsored program under an agreement which allocates rights to Media Action Network.

- A staff member was assigned, directed, or specifically funded by Media Action Network to develop the material, and Media Action Network has negotiated an understanding or formal contract with the creator.
- Material was developed by board members or other employees in the course of employment duties and constitutes work for hire under US law.
- Development required significant use of Media Action Network's resources (e.g. facilities, equipment, funding) or more than minimal use of Media Action Network personnel. Participation of Media Action Network volunteers directly in the development, or indirectly through use and feedback that substantively influences development, constitutes significant use of Media Action Network resources.

(d) Intellectual Property Developed Under Sponsored Agreements

Ownership of Intellectual Property developed pursuant to an agreement with any sponsor will be governed by the provisions of that agreement. Sponsored programs funded by private sponsors will generally provide for Media Action Network to retain title to all intellectual property that arises in the course of the program with the sponsor retaining an option to acquire commercialization rights through a separate license agreement. Government and nonprofit sponsors generally allow rights to intellectual property that arises from the research program to vest with Media Action Network, subject to certain retained rights held by the federal government.

(e) Special Agreement

The overriding principle underlying this Intellectual Property Policy is to encourage creativity and inventiveness, so Media Action Network reserves the right to allow some flexibility in applying this policy on a case-by-case basis. In such cases, ownership and use of materials developed pursuant to a special agreement between Media Action Network and the creator/author will be governed by the principles of that agreement.

3. Administration

Board of Directors: The Policy on Intellectual Property shall be administered by Media Action Network's Board of Directors and the stated terms and provisions of the policy shall be determined and interpreted by the Board.

Intellectual Property Review Committee: In implementing this policy, the Board shall appoint a standing Intellectual Property Review Committee whose functions shall include (1) reviewing policy provisions from time to time, as needed, with recommendations for change or amendments to the Board; (2) serving as a non-binding decision-making body in the case of any dispute relating to this policy; (3) reviewing other issues as requested by the Board or other interested parties.

Dispute Resolution: In the event a party does not accept the non-binding decision of the Intellectual Property Review Committee with regard to a dispute, that party can request a binding arbitration by Media Action Network's full Board of Directors. This decision will be final.

Changes to Policy: Media Action Network reserves the right to change this policy from time to time. Proposed changes will normally be discussed among Media Action Network Board Members and the Intellectual Property Review Committee. Media Action Network's Board of Directors have the sole authority to change this policy.

4. Royalties

All revenues derived from Media Action Network owned Intellectual Property including electronic media will be received and administered by the Board of Directors. For each specific piece of Intellectual Property owned by Media Action Network, costs incurred in the process of perfecting, transferring, and protecting Media Action Network rights to the property paid by Media Action Network will first be deducted from the gross income available before distribution. An accurate accounting of all such costs shall be made available to the author/creator upon request. The distribution of net proceeds (income less all costs including that of an agency engaged to provide patent administration services) that is received from Media Action Network owned Intellectual Properties shall be shared equally between the creator and Media Action Network absent agreement otherwise. Media Action Network and/or creator may, in appropriate circumstances, take equity positions in companies licensed to market or use Intellectual Property.

5. Use of Media Action Network names/logos

Staff members, and volunteers may use Media Action Network's names, logos, and/or other marks as needed to identify themselves on matters related to Media Action Network business (including matters related to employment at Media Action Network). Use of Media Action Network name for any other private purpose is limited to use for identification by a current or former member of the Board, staff, and/or volunteers. Media Action Network names, logos, and other marks shall not be used by individuals or entities otherwise in a manner that implies Media Action Network endorsement or responsibility for particular activities, products, or publications involved, or by any individual or group promoting itself, without the express written permission of Media Action Network's Board or designee. Any and all use of Media Action Network names, logos, and/or other marks for commercial purposes is prohibited unless approved by the Treasurer or designee.

i Many portions of this policy are taken from the same or similar provisions in the policies of Tufts University, Washington and Lee University and Lehigh University.