

Overview of Patent Income Allocations

OVERVIEW AND BACKGROUND

Each spring, the campus receives notification of net patent income allocations from the Office of the President. This document describes the allocation of the patent funds.

For the year ending June 30, 2008, the Davis campus disclosed 181 inventions and had a total invention portfolio of 918 inventions. The campus has 409 active US and 436 active foreign patents and 433 plant licenses and 90 utility licenses.

For 2007-08, UC generated \$128.4 million in licensing income. The top campuses include UCSF \$66.4 million, UCLA \$37.7 million and UCSD \$30 million. UC Davis had the fourth highest income at \$9.1 million, followed by UCB \$7.6 million, UCI \$6.4 million and UCSB \$6 million. UC Davis has five of the top 25 earning UC inventions.

Income and expenses from patent activity are managed by the UC Office of Technology Transfer (OTT) as described below and in annual reports <http://www.ucop.edu/ott/genresources/annualrpts.html>.

Income. Technology transfer income from licensing includes royalty and fee income (including agreement issue fees, maintenance fees, and other payments). Short-term interest attributable to the campus net income is also credited to the campus.

Expenses. Technology transfer expenses are tracked and reported in several categories:

1. Direct legal and patent prosecution expenses less reimbursements that recover past patent and legal expenses.
2. Inventor share payments (35% of invention income less direct expenses through the close of the prior fiscal year).
3. General fund share retained by the Office of the President (25% of income net of direct expenses, inventor and joint share payments).
4. UC Office of Technology Transfer operational expenses incurred by staff at the systemwide office.

Net patent income (income less expenses outlined above) is allocated to the campuses. UC Davis campus practice is to return 25% of the net patent income to academic departments. The remaining 75% of the net patent income received is used to fund the local campus technology transfer office (note: some funds are allocated directly and the balance is used to reimburse general fund support). For UC Davis, the Innovation Access unit in the Office of Research is the local office of technology transfer (<http://research.ucdavis.edu/home.cfm?id=OVC,23>).

PATENT INCOME OVERVIEW
MAY 2009

Net income allocations have fluctuated a great deal over the last seven years as a result of accounting practices used by OTT (income and expenses are not always recorded in the same year) and the nature of patent processing (expenses occur up front and incomes trail by some number of years). A brief summary of patent financial activity from recent years is provided below.

Table 1. Patent Income Financial Activity by Year Funds Generated

(Note: Allocations lag by one year; therefore, 2005-06 activity drives 2006-07 allocations)

<i>Part A. PATENT INCOME AND EXPENSE REPORTED BY SYSTEMWIDE OTT – UC DAVIS ONLY (amounts in millions)</i>							
	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08
Plant Income	\$3.9	\$4.7	\$5.3	\$5.4	\$5.4	\$4.5	\$4.8
Utility Income	\$12.5	\$4.4	\$3.9	\$4.5	\$3.0	\$3.6	\$3.1
Total Income	\$16.4	\$9.0	\$9.2	\$9.9	\$8.4	\$8.1	\$7.9
Legal & Other Expenses							
Plant	\$1.5	\$1.3	\$1.8	\$1.6	\$1.6	\$1.4	\$1.2
Utility	\$4.6	\$2.0	\$2.9	\$3.1	\$2.4	\$2.2	\$1.7
Inventor payments							
Plant	\$1.5	\$1.4	\$1.6	\$2.0	\$2.0	\$2.0	\$1.7
Utility	\$1.8	\$5.3	\$1.6	\$1.6	\$1.7	\$1.2	\$1.7
Total Expense	\$9.4	\$10.0	\$7.9	\$8.3	\$7.7	\$6.8	\$6.3
Net Income/(loss)	\$7.0	(\$1.0)	\$1.3	\$1.6	\$0.7	\$1.3	\$1.6
Plant	\$0.9	\$1.9	\$1.9	\$1.9	\$1.8	\$1.1	\$1.8
Utility	\$6.1	(\$2.9)	(\$0.6)	(\$0.2)	(\$1.1)	\$0.2	(\$0.3)
<i>Part B. CAMPUS ALLOCATIONS (25% of Net Income to campus departments)</i>							
	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09
TOTAL RETURN	\$1.75M	None	\$320,200	\$412,000	\$175,000	\$321,660	\$394,700
CA&ES/Plant Sci	\$459,500	None	\$157,900	\$224,000	\$175,000	\$280,550	\$394,700
SVM/Epidemiology	\$168,500	None	\$82,500	\$93,000	None	\$18,560	None
CBS MCB	\$140,600	None	\$48,100	\$65,500	None	\$13,830	None
COE ECE	\$910,000	None	\$1,200	\$1,700	None	\$2,030	None
All others	\$72,500	None	\$23,000	\$23,400	None	\$6,710	None

Note: a new allocation methodology implemented in 2006-07.

UC DAVIS TRENDS

Income

Total patent income has fluctuated a great deal from high of \$16.4 million in 2001-02 driven by large one time licensing payment for an optical switch network to a low of \$7.9M last year. Plant patent income has increased 23% from \$3.9 million in 2001-02 to \$4.8 million in 2007-08. A revenue spike occurred in the two year period of 2002-2004 as a result of major

changes to overseas licensing practices. Utility patent income – net of the unusual one-time payment in 2001-02 – has fluctuated in recent years between \$3.0 million (last year) and \$4.5 million (2004-05). Individual utility patents are generally known to require long periods of time to realize positive income trends.

Expenses and Net Income

Expenses for plant patents have been relatively stable over time. Total expenses and inventor share payments have ranged from \$2.7 million in 2002-03 to a fairly constant cost of \$3.5 million for the last two years. As a result, net income for Plant patent activity has generally been consistent at about \$1.8 million for four of the last six years. [As noted above, there were more significant expenses in 2001-02 as part of a targeted effort to re-negotiate international agreements].

In contrast, utility expenses have varied significantly for several reasons:

- The patent prosecution process is long and requires many up front legal expenses before revenue is generated;
- Utility patents and licenses sometimes result in one-time payments rather than on-going payment; and
- The University's process records revenue in one year and issues the inventor's share payment based on that revenue in the subsequent year. For example, an \$8.8 million one-time payment for the Optical Switch Network was recorded as income in 2001-02 but major expenses including the individual inventor's share payment was not recorded until 2002-03 resulting in a deficit allocation.

As a result, net income (revenue less expense) tends to fluctuate and has been difficult to predict. The campus utility patent portfolio has been in deficit for five of the last six years.

UC DAVIS PATENT INCOME RETURN PROGRAM (DEPARTMENT ALLOCATIONS)

The campus returns 25% of net patent income to campus departments (Table 1, Part B). Campus allocations are generally allocated in spring and lag one year (i.e., allocation in 2008-09 is based on actual activity from 2007-08). The Office of Resource Management and Planning administers the allocation process.

Before 2006-07, the campus return program was as follows:

1. Determine total return amount set as the greater of 25% of net income received by the campus or zero. [Note: The loss of \$1.0 million in 2002-03 was anticipated and was covered using a portion of the net income received in the prior year.]
2. Available funds allocated to campus departments pro-rata using inventor payments.

3. Example:

- a. Net income received by campus = \$1,000,000
- b. Campus Patent Return program = \$250,000
- c. Faculty in the Department of XYZ received 10% of the inventor share payments; therefore, the department allocation is \$25,000.

Effective with the 2006-07 allocations, the campus return program was modified to better account for the differences between plant and utility patents as follows.

1. Determine total return amount set as the greater of 25% of net income received by the campus or zero. (Note: no change from prior years)
2. Divide total return amount into separate pools for plant and utility based on the pro-rata contribution of each activity to the net income received by the campus. Negative amounts are not considered (i.e., units cannot be cut based on this process).
3. Allocate the plant funding pro-rata based on plant inventor share payments. The majority of the funding is allocated to Plant Sciences, but a portion may go to other departments such as Viticulture and Enology.
4. Allocate the utility funding pro-rata based on utility inventor share payments.

5. Example:

- a. Net income received by campus = \$1,000,000 including \$800,000 from plant activity and \$200,000 from utility activity.
- b. Campus Plant Patent return program = $25\% * \$800,000 = \$200,000$

Faculty in the Department of XYZ received 10% of the plant inventor share payments so the XYZ department allocation is \$20,000.

- c. Campus Utility Patent return program = $25\% * \$200,000 = \$50,000$

Faculty in the Department of ABC received 10% of the utility inventor share payments so the ABC department allocation is \$5,000.

NOTE ABOUT RESEARCH ALLOCATIONS

UC Patent Policy (http://www.ucop.edu/ott/genresources/pat-pol_97.html) requires that 15% of net patent income be designated for research-related purposes at the inventor's campus for all inventions disclosed on or after October 1, 1997. The campus return program provides allocations to campus departments using a 25% return regardless of disclosure date. Therefore, the campus allocations are significantly higher than the UC policy requirement. A recap of the last few years follows.

PATENT INCOME OVERVIEW
MAY 2009

<u>Allocation Year</u>	<u>UC Research Share Amount</u>	<u>UC Davis Allocation Amount</u>
2004-05	\$13,268	\$320,191
2005-6	\$34,899	\$412,045
2006-07	\$84,253	\$175,000
2007-08	\$87,484	\$321,650
2008-09	\$157,000	\$461,500

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