Special Problems Incentivizing Disclosure of Inventions by Non-Faculty Inventors

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The Bayh-Dole Act, often credited with the explosion of university technology transfer, requires universities to incentivize invention disclosure by sharing the royalties generated by licensing. Many scholars have debated the effectiveness of university implementation, but most discussions that have focused on inventor compliance with Bayh-Dole requirements have explored faculty inventor motivations. Similarly, most university intellectual property (IP) policies are drafted specifically toward incentivizing faculty inventors to comply with invention disclosure requirements. However, in many cases, the invention is a joint product of some group of university members including not only faculty but also post-doctoral researchers, graduate students or technicians.

This paper contrasts the motivations and pressures of faculty with those of other members of the university research community, explores the conflicts that arise when faculty and non-faculty members are co-inventors and explains why better incentives directed at non-faculty inventors could increase disclosure compliance. Furthermore, the paper explores the ways in which current university IP policies fail to address the issues surrounding non-faculty inventors and thus fail to fully incentivize invention disclosure.