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Dr. Joshua Smith, Chair  
Board of Trustees' Academic Affairs Committee

Peter L. Barna, Provost  
Pratt Institute

November 15, 2006

**RE: ACADEMIC SENATE COMMENTS ON PRATT'S DRAFT IPP**

Dear Chairman Smith and Provost Barna,

Thank you for the invitation to present Senate comments on Pratt's draft Intellectual Property Policy (IPP) at the November 16 community testimony meeting of the Board of Trustees' Academic Affairs Committee. The Senate will be represented at that meeting by John Lobell, Architecture professor and Chair of the Senate's IPP committee. Professor Lobell will be accompanied by professors Stephen Klein and Jenny Lee.

We are pleased to submit in advance, the attached two-page comments and recommendations. Please feel free to distribute the document as deemed appropriate.

The Senate respectfully requests the following from the Board of Trustees' Academic Affairs Committee:

- a formal response to Senate comments and recommendations on the draft IPP; and
- an action plan, including timeline and infrastructure, for development of Fair Use policies and guidelines for Pratt Institute.

I thank you for the opportunity to participate in this process and look forward to further collaboration on this matter.

Sincerely yours,

Jenny Lee, President  
Academic Senate

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# ACADEMIC SENATE COMMENTS

## PRATT INSTITUTE'S DRAFT INTELLECTUAL PROPERTY POLICY

Oral presentation by Professor John Lobell, Chair of the Academic Senate's ad hoc Intellectual Property Policy Committee

November 16, 2006

### 1. SUPPORT

The Senate appreciates and supports the efforts of the Academic Affairs Committee of the Board of Trustees and the Provost in developing IP (Intellectual Property) policies for Pratt.

The Senate in general agrees with the policies recommended in the draft document "Pratt Institute Intellectual Property Policy" of October 4, 2006 with the following suggestions.

### 2. FAIR USE

The October 4 draft document addresses only IP. Equally important is Fair Use, and the Senate recommends that Fair Use policies and guidelines be developed in coordination with the IP policy as soon as possible. Fair Use policies and guidelines would address not only "network use, course packets, copy centers, Library," but also the use and distribution of material, including images, in digital and electronic form. This area has legal implications for Pratt, its students and employees, including faculty.

### 3. POLICIES, INFRASTRUCTURE, PROCESS, AND EDUCATION

The Senate recommends that robust IP and Fair Use policies, procedures and infrastructure necessary to support these policies be established and maintained by the Institute. This might include a point-person and support committee for IP under the Provost's office, and a point-person and support committee for Fair Use in the Library.

- **Policy:** Some of the policies in the October 4 document should be developed in greater detail and with better clarity.
- **Infrastructure:** Administrative responsibility, IP/Fair Use oversight structure (such as point-persons and committees), password protected servers on which to post proprietary material.
- **Process:** How are IP/Fair Use policies and procedures developed, implemented, supported and communicated. How will they be maintained and or modified?
- **Education:** How do faculty (particular new part time faculty), students and staff become informed of Pratt's policies and procedures?

It should be noted that throughout Pratt, often in unexpected places, there are people with immense expertise and experience in various subject matters. It is recommended that this expertise be tapped when policies and procedures such as those for IP (and related Fair Use) are formulated.

#### 4. FACULTY RESEARCH

The Senate appreciates that the recommended policy generally gives faculty ownership of their research and creative work. It is appropriate recognition that Pratt is primarily an art, design, architecture, information science, and liberal arts and sciences school and not a “research university.”

#### 5. STUDENT OWNERSHIP OF STUDENT WORK

The Senate recognizes the legitimacy of ownership by students of their own IP. Similarly, faculty ownership rights require protection. The Senate can envision cases in which faculty may disclose sensitive, proprietary material while teaching a course. Examples include the products of pre-patented, outside, or otherwise protectable, work, as well as the product of years of research. In such cases, we recommend that, at the faculty member’s option, enrollment be conditioned upon a student’s waiver of IP rights and entry into an appropriate non-disclosure agreement. Pratt should prepare and provide forms and administrative support to make this possible.

#### 6. DEFINITION OF “SPONSORED”

The proposed policy states that Pratt would have ownership participation in sponsored work, without taking into account the extent of institutional support including institutional funding levels, relative to the scope of project. A distinction should be made between individuals and organizations which receive nominal assistance/support (such as clubs, faculty grants) and those that are truly “sponsored” by substantial funding, material and administrative support. The policy should clarify how “sponsored” would be defined, and how it would apply in each case. This is an example of the need for “**3. Policy, Infrastructure, Process, and Education**” (*referred to, above*) to develop policy and ongoing procedures in this area. In order for the institute to assert its “sponsorship right” it must receive in advance, a sponsorship agreement signed by the Sponsoree. Absent the signed agreement the rights revert to Creators.

*Page 4 of Oct 4 Draft IPP document defines **Sponsored** as “Works created with financial funding or other forms of resources provided by the Institute or an external entity through a separate agreement with the Institute. These Works are created by Creator(s) in their capacity as a Faculty member, Student or Staff member and only in the course of their employment or studies at the Institute. All Creator(s) working on a Sponsored project shall be notified by the Institute in advance.”*

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Barbara Charton, School of Liberal Arts & Sciences  
Kathleen Creighton, School of Art & Design  
Stephen Klein, Library  
John Lobell (committee chair), School of Architecture  
Sean Sullivan, School of Art and Design  
Jenny Lee, ex-officio, Senate president

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