University of Arkansas Handbook for Starting Technology-Based Ventures

Preface

This guide should serve as your cookbook and "gut check" for evaluating whether or not you and your technology are ready to make the leap into the world as a technology startup. Do not assume this guide will cover every aspect or risk associated with planning, staffing, financing, launching and running a new business based on UA technology. Rather this guide should serve as an outline or index of important activities and resources to consider as you evaluate the available options for commercializing your technology. The good news for you as an inventor and potential entrepreneur is that a comprehensive infrastructure and support system has been put in place over the past few years to accelerate the creation of viable technology startups. The resources identified in this guide want to help you succeed. Please engage us early and often!

Checklist for a Startup

The following is a checklist to be used with this handbook.

An additional exemplary checklist with several self evaluations can be found at:

http://dwrgovernorscup.org/entrepreneurs-toolkit/start-up-checklist/

	Review available and new technology to create and assess the business concept This can include consultation with university researchers.	
	Contact Technology Licensing Office (TLO) for consultation. Website Link This consultation could include a review of existing technology available for license or a review of the processes for disclosing new inventions.	
	Research and estimate the potential market for the product	
	Choose personal role in business	
	Write business plan	
	Specify work needed until product is ready	
	Verbally prepare elevator speech	
	Choose necessary management team	
	Consult appendices C & D. These two appendices have important information about the unique steps required for starting a business in Arkansas and filing Arkansas's state level taxes.	
	Take necessary steps toward proper incorporation and taxation in Arkansas	
	Contact Innovate Arkansas for guidance.	
	Choose type of funding to seek	

So You Want to Do a Startup? These should be your first considerations.

a. Patents and Licenses (Refer to the Inventor Handbook in Appendix A for more detail)
Any idea with commercial potential requires some safeguards.

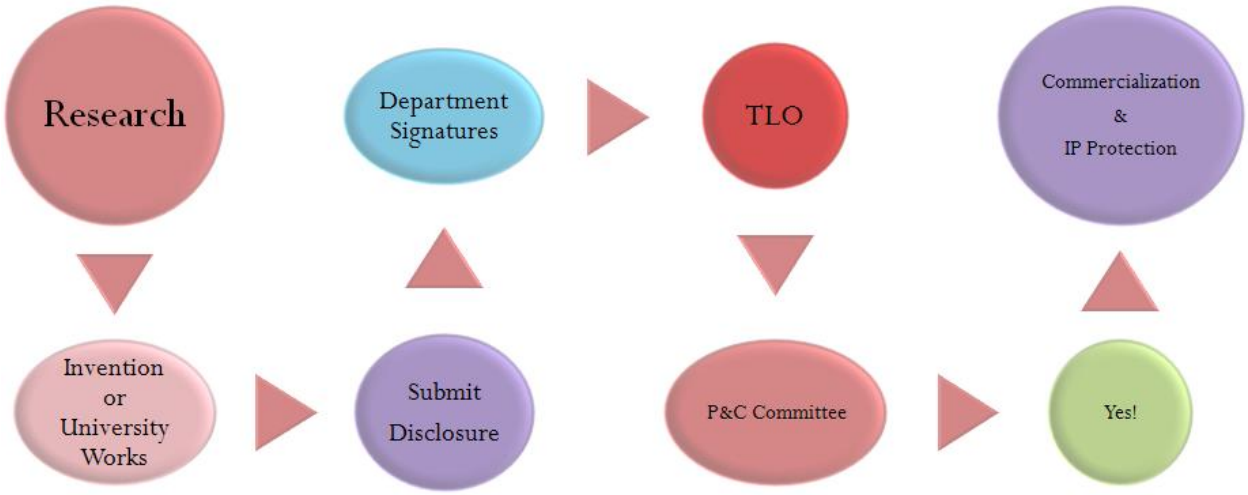
i. Protection of Intellectual Property
Inventions are crucial to the success of many businesses. If your invention embodies a new and better product or process that is unique, useful, and non-obvious you will want to protect the competitive advantage this gives you by obtaining a patent.

1. Consider patentability before you publish, demonstrate, publicly disclose in other ways, or offer to sell an invention. This can be crucial to securing commercial value. Engage with the University of Arkansas Technology Licensing Office early in the process by filing an *Invention Disclosure* or *University Works Disclosure* before you make your invention public.
2. When you cannot file first - take the following precautions:
    a. If you have to give a private presentation or speech - do not provide handouts. A private presentation is not considered a public disclosure. If appropriate, work with the Technology Licensing Office to get confidentiality agreements in place in advance of the presentation.
    b. If you must publish before filing - limit your description of the actual invention - talk about the benefits, not the invention.
    c. If you need to make an offer of sale - present it as a solution to a problem - without describing the actual invention.
    d. When dealing with business partners - always work through confidentiality agreements and get the Technology Licensing Office involved in the process.
    e. If timing is of the essence due to a pending publication or presentation, the Technology Licensing Office may be able to authorize a provisional application filing. These sorts of "fire drills" need to be a rare occurrence (and budget restrictions may come into play) so be sure to engage with the Technology Licensing Office early and often.

ii. University Faculty
If you are University Faculty, the University will sometimes pay for the cost of patenting, if the University believes the invention has significant potential commercial value or would be a substantial public good. This decision can be aided by having a credible licensee identified early in the process. Licensees can either be startups that include faculty members, other viable startup entities, or existing firms credible in the field. If the University does not believe your

invention has significant commercial value, the University may choose to waive the rights back to you.

1. While inventions are not the primary objective of university research, when they occur, the University of Arkansas has the responsibility of insuring that such inventions are used and controlled in a manner that benefits the public, the inventor, and the University to the fullest extent possible. It shall be the policy of the University to acquire and retain legal title to all inventions created by any person or persons to whom this policy is applicable. See Board Policy 210.1 at http://vcfa.uark.edu/Documents/BOTPol_0210_1.PDF for details.
2. When an invention has been made, disclose to the University by completing the following form. http://www.uark.edu/ua/tlo/files/Invention%20Disclosure%20Form%20June%202008.pdf



b. Personal Role in the Business

There are several different paths one can take to dedicate the time that they deem necessary for the successful commercialization of their intellectual property. Making the decision of which approach to take is one of the most important decisions to make. These approaches will vary from location to location in the private sector but, the more popular approaches are listed below. In all of these instances, careful review of University policy regarding conflict of interest and conflict of commitment should be

undertaken. The University does not want to unduly encumber participation in startup ventures by faculty and staff so long as these considerations are adequately managed.

i. Sponsored Research Agreements

Research agreements involve an organization paying the University or another organization to further develop or investigate an area of research.

ii. Licensed Intellectual Property

By licensing, the company pays the owner or the intellectual property for rights to the intellectual property.

iii. Consult for a company

In addition to having a sponsored research agreement or a licensing agreement, you can also serve as a consultant to an external organization.

iv. Temporary Leave

In some cases, a department head and the University will grant a temporary leave to allow faculty to start or join a company.

v. Extended or Permanent Leave

While this is not encouraged, if the scope and commercial potential of a given university-based startup is particularly great and could be aided by a larger time commitment, then this is also a possibility.

c. Exit / Harvest strategy

The phrase *Begin with the end in mind* might seem out of place when talking about startup. It seems the last thing you should be thinking about when starting a business is getting out of it. Even though this is the last thing you are going to do in your business, this needs to be one of the first things that is considered. Your approach to an exit or harvest strategy will especially limit the type of investors available.. For instance, if your plans are to hang on to the firm and keep it privately held, you want to steer away from Venture Capital. In any case where outside investment is sought, a clear plan for how the investors make money must be communicated. This can be done in a variety of ways such as the payment of dividends, loan or royalty payments, or capital appreciation of issued stock at the time of a sale or other liquidity event. Investors typically look for simplicity i.e. if "X" is invested today "5X" will be repaid in "N" years. Providing a return on investment (ROI) estimate is also an excellent idea. Just be sure to obtain appropriate counsel from business and legal experts before soliciting any outside investment.

II. Technology and Product Design

You will need to determine (1) how much more effort is required for a product to be ready to enter the market and (2) whether the remaining required work is needed to research and solve crucial problems or only to develop the actual business. Answers to both of these concerns can limit the amount and type of investments you will receive for starting your business.

III. Market Potential

Estimating the market or market potential for a new business or business expansion is critical in determining the economic feasibility of a venture. Estimating the market potential will determine if the market is large enough to support your business. Receiving assistance on

estimating market potential in the early stages of development will greatly improve the commercialization of your intellectual property.

i. At this point in the startup it is good to create a summary of your idea in a universal form so that it can be assessed by other professionals. One way to do this is to use what The Business Enterprise Center calls an "Idea Resume". For more help with this see attached Appendix B.

a. Presentation of the business plan.

It is important to have a practiced speech ready at a moment's notice. This short speech is also referred to as the elevator speech. There should be two different forms of this speech; the short version that consists of one or two sentences, and the long version that answers all of the following questions in around 45 seconds.

1. What is your product?
2. Who is your customer?
3. Who will sell it?
4. How many people will buy it?
5. How much will it cost to design and build?
6. What is the sales price?
7. When will you break even?
8. What investment do you need to take it to the next step?
9. What will that investment allow you to accomplish?

IV. Partners / Management team

The partners / management team decisions should be based on the interest in the business, the exit strategy, and the potential of the idea.

a. Executive

It is not uncommon for the founders to hand off control to a more experienced administrator. Because much of the new economy is uncharted territory, management must be able to react quickly to developments or changes in the marketplace. These could include:

i. Entrepreneurs from outside the University
ii. Business / Entrepreneurship students
iii. Business Professors

b. Marketing

The marketing function is extremely important for the company. In some cases, the chief marketing executive receives more compensation than the president. Some examples for this area could include:

i. Fractional CMO (often for a percentage of the company)
ii. Team Brokers

c. Financial

Good financial management can be particularly difficult in the new economy. Companies are pressured to achieve market leadership which is difficult to do once bountiful funding dries up, because the company is forced into balancing company growth with available resources. These team members can include

i. Fractional CFO (often for a percentage of the company)
ii. Angel Investors / Venture Capitalist

V. Incorporation and State Requirements

The state of Arkansas has provided two set of information that provides an enormous amount of help with the state requirements for new ventures. First, for most questions dealing with taxes, see Appendix C. Furthermore most questions dealing with starting and maintaining a business in Arkansas can be answered in Appendix D.

VI. Funding

The most successful new technology ventures generate tremendous returns for their investors. Interest in capturing a share of such potentially large returns has stimulated rapid growth in recent years in both the number and diversity of institutions specialized in supporting the commercial development and marketing of new technologies. The types of funding sources available depend on your technology and how well it is developed. These different types of funding are listed below.

i. Seed Money

Capitol from the founder is often the first source of funds which an entrepreneurial business can obtain. Sometime you can get additional money from friends and family because they will often invest in not only the idea of your business, but also in their confidence in your abilities. The largest determinant in how much you can raise via friends and family usually depends on who you know. Money from friends and family can often be used to finance the launch of your business through its creation and the initial development of your product until you seek another stage of financing.

ii. Research Money

This mainly consists of government research grants. While starting up a venture, you should examine scientific grants (especially SBIR / STIR grants). These grants can often be used to cover part or all of the cost of research and development of a program or technology that the government would like to encourage.

iii. Angel Money

Angel investments are what most entrepreneurs turn to when they first seek outside funding for their business. An Angel Investor is an individual who has significant funds or earning potential (other successful entrepreneurs, doctors, lawyers, etc...) who is seeking out potential high return investments. Angels will often invest between $10,000 to in excess of a $100,000 in a business, often seeking an equity stake in return for their investment.

iv. Venture Capital

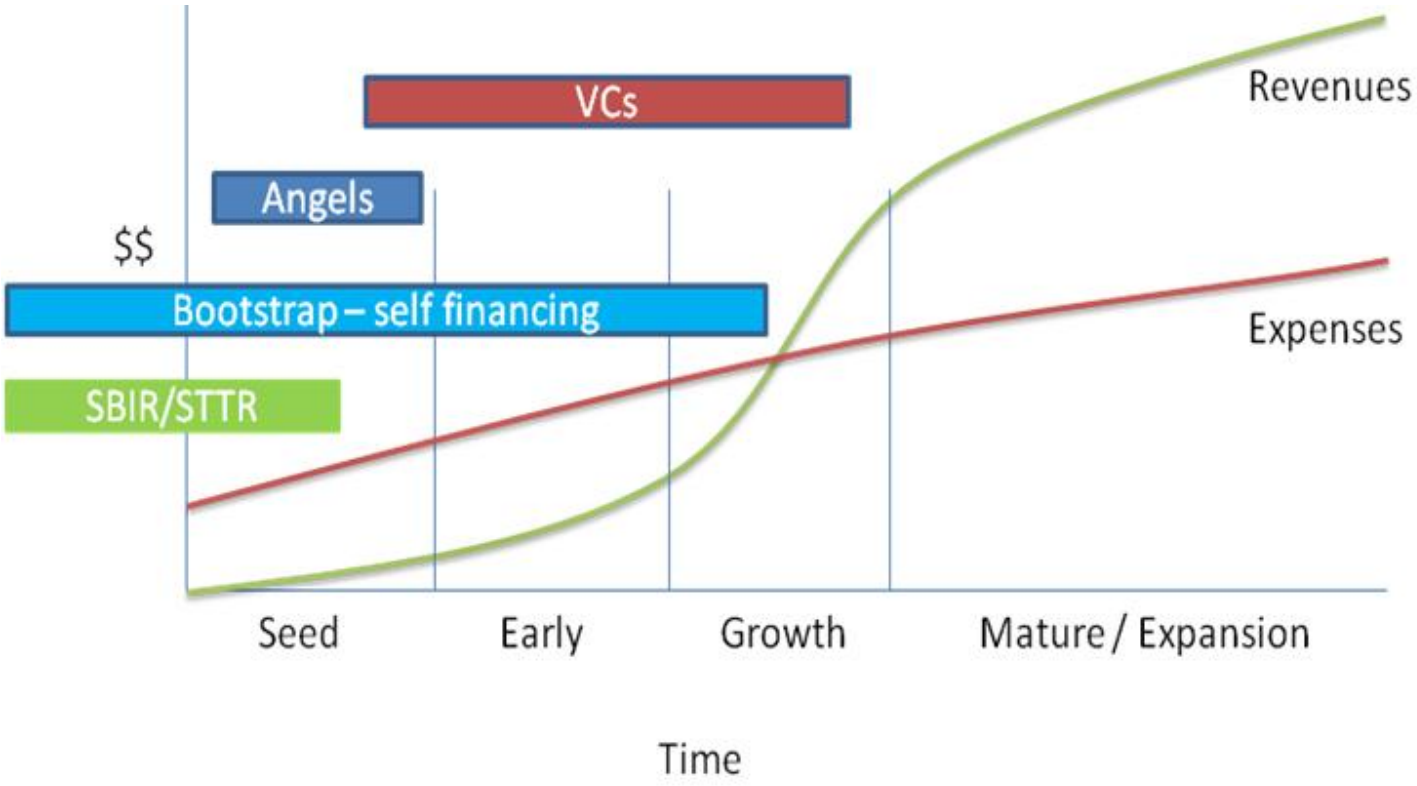
A venture capital fund provides outside capital to grow their business. A typical VC fund is a professionally managed fund, with a small number of partners who manage a pool of money raised from individual investors and institutional money. An entrepreneur can submit their business for investment consideration via the internet, but a higher level of success is often experienced through either contacting VCs known by the entrepreneur or using third party advisors who have relationships with a large number of funds.

v. Small Business Loans

If your company is in an area of the country in which the federal, state or local government is looking to encourage growth, you may qualify for a grant for start up funds or low interest loans. These grants are often for companies in either rural areas or areas in which the government would like to encourage redevelopment.

vi. Banks

Banks can be an excellent source of capital for your company, with certain limitations. The best time to look to a bank is when your business has an asset to borrow against. This can include financing current assets (either receivables or inventory), financing for the acquisition of equipment, or the business itself has a track record of generating cash. Having assets allows the bank to feel confident that the business will generate enough in the future to pay back the loan.



VII. Execution – where to get additional help in Arkansas

a. Resources: Business Assessment, Marketing, and Funding Preparation

i. Innovate Arkansas: www.innovatearkansas.org Innovate Arkansas has been chartered by the Arkansas Economic Development Commission (AEDC) to provide comprehensive mentoring, coaching, and consulting to knowledge and technology based early-stage companies. Innovate Arkansas staff have backgrounds in technology entrepreneurship, advanced technologies, marketing, sustainability, investment banking and law. The services are completely free to startups that become clients. Innovate Arkansas has staff presence in Fayetteville in the UA Innovation Center, Little Rock, and eastern Arkansas. The website includes key points of contact and discusses the Innovate

Arkansas process. Innovate Arkansas uses the EquityNet Enterprise Analyzer as part of the application process. The Enterprise Analyzer provides a rigorous process for business plan creation and evaluation. See www.equitynet.com for more information.

ii. ASBTDC: http://sbtdc.uark.edu/ Arkansas Small Business Technology Development Center (ASBTDC) is jointly funded by the US Small Business Administration and the University of Arkansas. The ASBTDC provides comprehensive small business support services that cover the spectrum of business functions. These services can include support for business plan development, financial analysis, marketing studies, and a host of training seminars covering business issues critical to small business success. The ASBTDC has a fully staffed office in the Reynolds Center on the University of Arkansas campus and at UALR and ASU.

b. Resources: Technology and Product

i. Technology Licensing Office: http://www.uark.edu/ua/tlo/ The University of Arkansas Technology Licensing Office (TLO) serves as the main point of contact for the management of University developed intellectual property. Intellectual property includes patents, copyright-protected materials, trademarks, trade secrets, and know-how. TLO functions to ensure University of Arkansas technology is commercialized and protected. In addition, the TLO provides outreach training and counseling for researchers and students regarding proper management and disclosure of intellectual property per Board of Trustee policy guidelines. The TLO should be engaged early in the process of considering a University startup to ensure maximum inventor, University, and commercial potential can be realized. The TLO has a staff of five with a diverse background covering patent law, life sciences, engineering, and entrepreneurship. The TLO resides in the UA Innovation Center.

c. Resources: Partner/Management Team

i. UA Walton College of Business – MBA / Entrepreneurship Program: The Walton College of Business runs a multidisciplinary entrepreneurship program that is both a focus track for the MBA program and a certificate program available to all graduate students, staff, and faculty. This program consists of practical coursework designed to develop venture-ready business plans and associated multidisciplinary teams. The teams compete in nationwide business plan competitions to hone their skills, and as a result make contact with a variety of venture finance sources and potential strategic partners. Several of the teams who have competed in the past have gone on to create viable startup ventures. The key point of contact for the program is Dr. Carol Reeves creeves@uark.edu.

d. Resources: Funding and State Incentives

ii. ASTA: http://www.accessarkansasscience.org/ The Arkansas Science & Technology Authority (ASTA) was created by statute in 1983 with the mission to bring the benefits of science and advanced technology to the people and state

of Arkansas. This mission is addressed by strategies to promote scientific research, technology development, business innovation, and math, science and engineering education. The Authority is comprised of a Board of Directors, Advisory Committees and staff. The Authority's activities are divided into three programmatic areas that include research, development and technology. The Board determines the allocation of funds to all projects supported by the Authority. Three Board standing committees, comprised exclusively of members of the Board, make recommendations to the full Board. Advisory Committees, comprised of Board and non-Board members, offer additional inputs to the Authority. ASTA provides a variety of funding opportunities for early-stage technology-focused startups. The programs include a variety of grants, loans, R&D tax credits, or royalty reimbursement oriented finance vehicles. ASTA cannot accept equity in private ventures which means their funding will be non-dilutive. Funding is limited across the various programs and is highly selective. When considering ASTA funding options start the process by engaging with Innovate Arkansas. Innovate Arkansas can ensure your venture is prepared to have the best possible chance of being successful in your application for ASTA funding.

iii. AEDC: http://arkansasedc.com/business-development/incentives.aspx Arkansas Economic Development Commission (AEDC) has the mandate to create opportunities for economic growth within the state. Their activities span a variety of development activities and include attracting new business into the state as well as providing incentives for existing business in targeted industries. Particular programs that offer investment tax credit incentives can be very helpful to early stage businesses trying to raise growth capital. As with the ASTA programs, start the process of investigating AEDC incentive programs by engaging with Innovate Arkansas.

iv. Fund for Arkansas' Future: http://www.arkansasfund.com The Fund for Arkansas' Future is a private member-managed, angel investor fund formed for the purpose of capitalizing early-stage, Arkansas-based companies with the obvious goal of generating strong returns for our investors. The Fund targets companies with strong intellectual property or subject matter knowledge that have a good chance for rapid growth in large markets. The Fund typically does equity investments in the $200,000 to $500,000 range. Prior to approaching the Fund engaging with Innovate Arkansas for investment preparation and business assessment can increase the chances of gaining the Fund's interest.

e. Resources: Locations/Real Estate / Incubators

i. UATDF/ARTP: http://www.uark.edu/ua/artp/ The University of Arkansas Technology Development Foundation is a 501(c)(3) organization formed to grow and manage the Arkansas Research and Technology Park. In cooperation with public and private business development entities, the Foundation bolsters University efforts to catalyze a technology-based economy in Arkansas. Specifically, the Foundation will validate, develop and transfer inventions made at the University to Arkansas companies and start-up ventures. University of Arkansas Technology Development Foundation and Technology Research Park

provide world-class incubator facilities and services. The Park is located south of the main UA campus and is home to the Genesis Center, Innovation Center, National Center for Reliable Power Transmission (NCREPT), the HiDec Fabrication facility, and the Enterprise Center. These facilities create an ideal environment for research, development, and early-stage company creation.

- For more information about becoming a client of the Innovation Center please contact Mr. Phillip Stafford at the following link http://www.uark.edu/ua/artp/contactus.html .
- For more information about becoming a client of the Genesis Incubator please contact Mr. David Whitmire at the following link http://www.uark.edu/ua/artp/contactus.html

ii. Virtual Incubation Company: http://www.virtual-incubation.com/ Virtual Incubation Company (VIC) is a private technology venture development firm. VIC works with young companies that own innovative technology with significant commercial potential. By partnering technology entrepreneurs with business and technology experts and knowledgeable investors, VIC provides the companies with senior management experience, knowledge of technology company start-up, and proven processes to execute business strategies. VIC has helped create many startups based on UA licensed technology. VIC has an excellent record of successfully receiving SBIR/STTR and other government funding for commercialization activities as well.

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Appendix A

Intellectual Property Handbook

A Guide to Policy, Law, and Procedures for Intellectual Property*

*University of Arkansas faculty and staff are required to comply with the provisions of the University of Arkansas Board of Trustees Policy, 210.1 and 210.2. This Handbook is intended merely as a guide to that end. This handbook is not to be viewed as official University policy.

Intellectual Property Handbook

In order to compete in a global economy and create sustainable twenty-first century industries and jobs, Arkansas must rely more on innovation than perspiration. Commercializing world-class university research across the spectrum of academic disciplines to create a sustainable, knowledge-based economy will be vital to Arkansas' future.

The University of Arkansas is committed to its mission of *creating a sustainable knowledge-based economic engine for Arkansas and the world through protecting and commercializing university research*. In 2006, that commitment was extended with the hiring of Dr. Lisa Childs as Patent Attorney and Associate Vice Provost of Research. Lisa leads a skilled and experienced Technology Licensing Office dedicated to managing and commercializing intellectual property.

This handbook is designed to give an overview of the process and timeline that a University Invention or University Work follows from its initial conception to commercial application. The handbook is intended as a reference for the following:

I. Intellectual Property: Definitions and Basics

Intellectual Property may be broadly defined as 'Creations of the Mind.' Intellectual Property (IP) is therefore unlimited in scope and unlike other finite property in many ways, including the processes and methods of taking, retaining and protecting title and associated rights.

IP may be broadly grouped into four categories: Patents, Copyrights, Trademarks and Trade Secrets/Know-how. The University of Arkansas has interest in all four categories

of IP and all are legitimate ways of protecting the interest of the author/inventor and the University. The following discussion will compare and contrast the four types of IP.

1. Patents

A patent is an agreement between an inventor and a Patent Authority (e.g., United States Patent Office). The agreement specifies that in return for full disclosure of the invention, the inventor is granted the right to exclude others from making, using, or selling the claimed invention in the territory of the Patent Authority. When a patent is granted, the right is extended to the inventor(s) or their assigns for a period of time, normally twenty years from the date of filing (so long as certain fees are paid).

Only the first inventor can properly obtain a United States patent. Merely identifying the commercial merit of an invention is not enough to make you an inventor. The law does, however, recognize that an invention may be made by more than one person. Joint inventors become joint owners in a patent unless they have agreed otherwise. This means that each joint inventor may exploit the patent completely independent of the other joint owners.

To be considered patentable, an invention must be a process, a machine, an article of manufacture, or a composition of matter, or any improvement thereof. Such an invention must also be (1) novel, (2) useful, and (3) nonobvious to a person possessing "ordinary skill in the art" in the field of the invention.

A new plant variety or a new, original, and ornamental design for an article of manufacture may also be the subject of a patent.

However, certain things are not patentable even though they may be novel, useful and nonobvious. For example, printed matter, naturally occurring substances, many methods of doing business, ideas, and scientific principles are unpatentable. Computer programs are difficult to patent, although a computer or algorithm may be part of a patentable process.

1. An invention must be novel. Novelty requires that your invention is, in fact, new. Thus, the inventor cannot obtain a US patent if the invention was:

1. Already known in the United States
2. Already described in a patent or publication more than one year before filing a patent application
3. In public use of offered for sale in the United States more than one year before filing a patent application.

Stricter criteria apply, however, if patent protection is sought in foreign countries. Any

commercial use or publication even one day before filing the patent application in the United States may prevent a valid patent from being issued in many foreign countries. Therefore, to preserve patent rights in foreign countries, the patent application must be filed in the United States before any public disclosure (including publications, seminars, and field days) or commercial use of the invention. Additionally, an inventor must be aware that in order to protect patent rights in the United States, a patent application must be filed within one year of any public disclosure of the invention.

2. An invention must be useful. The "useful" criterion for patentability refers to the condition that the invention has a beneficial purpose and also includes "operativeness" - that is, a machine which will not operate to perform the intended purpose would not be called useful. For example, perpetual motion machines are refused patents. The "useful" requirement is in flux at present. The areas of business methods, computers, and medical diagnostics have been impacted by recent court decisions.

3. An invention must be non-obvious. The "nonobvious" requirement is the most difficult to define. Mere simplicity of an invention does not necessarily mean that the invention is obvious. Obviousness is measured by what would have been obvious to one reasonably skilled in the applicable art rather than what would be obvious to the layperson. For example, merely changing arbitrarily the size or dimensions of a known machine or article of manufacture, or the amount or relative proportions of the constituents of a composition of matter, or the values of the operative parameters of a process is likely not nonobvious. The Supreme Court has recently decided a case which makes it easier to find inventions obvious.

Documenting your invention is an important step in obtaining the proper protection. An invention should be promptly and carefully recorded when it is conceived, together with its utility and a method for carrying out the invention. This "conception record" should contain as much detail as possible. An optimal conception record is one which provides sufficient evidence to enable the inventor to defend against or prosecute successfully a patent infringement suit. Conception is the point at which a definite idea has formed in the mind of the inventor of the complete and operative invention as it is to be reduced to practice, i.e., conception is complete when no more than routine skill is required to put the invention in the public's hands.

Ideally, the conception record should be signed by the inventor, and read, countersigned, and dated by at least one individual who is familiar with the subject but unlikely to be deemed co-inventors with the inventor. This record should be made in ink in the inventor's notebook, lab book or field book.

As the research progresses, the inventor's findings should also be recorded contemporaneously in the notebook in ink, without erasure, and promptly signed,

dated, and witnessed. A laboratory technician or colleague familiar with the work may serve as a witness. When an inventor has conducted a highly significant experiment, the results of which appear to be of substantial importance, it is advisable to arrange for someone else who is not a co-inventor to repeat the experiment with authenticated starting materials. This person should also identify the product and confirm its utility, so that he or she may serve as a corroborative witness to such "reduction to practice" in any litigation on the question of inventorship. In such a contest between rival applicants, the inventor's own evidence of priority activity requires corroboration by an independent witness having first-hand knowledge of the work or other contemporaneous documentation.

When the inventor has successfully carried out the invention and demonstrated its utility, i.e., reduced it to practice, the inventor has completed the process which, with the prior conception, constitutes the act of invention. This is an ideal time at which to disclose the invention to the University. An inventor may disclose an invention to the University at any time prior to this point but usually not before the actual conception of the invention.

2. Copyrights

A copyright is a form of legal protection extended to authors or artists for any original work of art, music, recording or writing. Copyright is secured automatically when the work is created, or when it is fixed in a tangible form for the first time.

The owner of a copyright has the right to print, reprint, sell, distribute, transform, revise, perform, display, prepare derivative works, and record the work. Failure to obtain the permission of the copyright owner to exercise any of these rights constitutes an infringement of the copyright. The copyright owner may seek sanctions or damages against such unauthorized use.

It should be noted that, unlike the patent system, copyright only protects the particular expression of an idea and not the idea itself.

A ‘fair use’ doctrine allows certain instances of use without the consent of the copyright owner, especially in academic settings. But the fair use is limited to small portions of the work. And fair use does not extend to use that reduces the value of the copyrighted work. Permission to use copyrighted material should always be sought if extensive passages are to be used or the user stands to gain financially from the use.

If an author of a copyrighted work wants to distribute or publish the work, a copyright notice should be placed on all publicly distributed copies in order to secure the exclusive rights of a copyright owner. No permission or registration is required by the Copyright Office. A proper copyright notice consists of three elements:

- 1. The copyright symbol, the word 'copyright', or the abbreviation 'copr.'
- 2. The year in which copies of the work were first distributed (although exceptions apply)
- 3. The name of the copyright owner

For example: © 2005 John Q. Researcher

Registration of a copyright with the United States Copyright Office is not a requirement for copyright protection. In general, it is a legal formality intended to make a public record of a particular copyright. Copyright owners obtain some advantages upon registration, including certain court requirements in infringement suits.

Although copyright registration is not required, works published[1] in the United States are subject to a mandatory deposit requirement. The copyright owner is required to submit the work to the Copyright Office (for use in the Library of Congress) within three months of publication. The United States Copyright Office allows electronic registration and submission of certain works as well as traditional 'hard copies'. The Copyright Office also exempts many categories of material from mandatory deposit. See 37 CFR 202.19,c.

With certain exceptions, a copyright remains in force during the life of the author plus 70 years. For anonymous works or those created under a pseudonym, the copyright extends to 95 years from the first publication.

One interesting exception exists for the works of the United States Government, which is not entitled to copyright. However, the US Government is not precluded from receiving and holding copyrights transferred to it by assignment, bequest, or otherwise.

The TLO can provide guidance for seeking permission to use or copy works of others, and can offer guidelines for fair use of copyrighted works. Overall the maxim, "when in doubt, get permission" is well heeded.

C. Trademarks/Service Marks

Trademarks are a form of IP protection that serves to distinguish the products or services of one individual, company, or organization from the products or services of others. A trademark can be a word, phrase, symbol, logo, design, or a combination thereof. A trademark may be a sound or color or color combination if they are distinct and create an association between the trademark and the product or service for the consumer. Some examples of familiar trademarks are:

[1] Publication requires that copies be distributed to the public by sale or other transfer of ownership or by rental, lease, or lending. 17 USC 101.

a. Symbol: Chevrolet Bowtie, McDonald's Golden Arches & Mr. Peanut.
b. Phrase: 'Like a good neighbor, State Farm is there' & 'You're in good hands with AllState'.
c. Design: Coca-Cola bottle
d. Logo: Nike swoosh & Rolls Royce interlocking R's.
e. Sound: NBC musical notes
f. Color: IBM Blue, Owens Corning Pink fiberglass insulation

A trademark confers an exclusive right to use the mark in association with that product or service. Trademarks protect the holder from infringement by others only as long as the mark is used in association with the product or service, but the trademark can theoretically last forever. Registering a trademark with the USPTO affords protection to the trademark holder in the entire United States.

Displaying the ® or Service Mark symbol in a prescribed and consistent manner is the duty of the owner of the Trademark.

The University of Arkansas' Razorback logo is a very valuable piece of IP, yielding substantial income through the licensed use of the logo on a variety of consumer products and services. However, protecting the Razorback logo from unlawful use requires persistent and sometimes expensive enforcement activity.

The University of Arkansas has registered Trademarks on a select number of inventions for the following reasons:

I. At the request of the Licensee of the invention
II. To create a marketplace 'brand' for an invention or family of inventions
III. To extend the royalty stream beyond the patent life of an invention

D. Trade Secrets/Know-how

A trade secret can be valuable IP that is otherwise not protected or protectable, thus the need for keeping the IP secret. Trade secrets have been used as a strategy for protecting proprietary knowledge, techniques, formulas, manufacturing processes and materials (know-how), customer identities and preferences, vendors, marketing strategies and other competitively valuable information.

One famous example of a trade secret is the Coca-Cola formula, giving the Coca-Cola Company a significant advantage in the soft drink market. Coca-Cola diligently guards their IP with numerous security measures to keep its formula a secret.

A trade secret strategy is appropriate when there are significant barriers to copying the technique, process or formulation from the product itself; that is when reverse engineering is unlikely.

Perhaps the greatest advantage of a Trade Secret is that the IP can be retained indefinitely through vigorous enforcement. Trade secrets are generally enforced by:

- allowing only those people with a 'need-to-know' to have access to the secret, and
- consistent use of a confidentiality agreement to prevent employees/affiliates from revealing proprietary knowledge during and after employment.

Know-how, although it may be a trade secret, can be described as the skills and experience acquired in a particular field. Know-how may not lend itself to patent protection nor need it be strictly guarded as is true for trade secrets. Nonetheless, transferring know-how (often via consulting agreements) can be valuable, making it possible for the recipient of the know-how to readily practice the technology.

However, secrecy does not prevent others from inventing the same product or process independently and exploiting it commercially. Maintaining a trade secret gives no right to exclusivity and the secret-holder remains vulnerable to anyone with the proprietary knowledge or know-how.

The University of Arkansas, being a publicly supported institution and a mission of delivering information to benefit the public, is unlikely to use trade secrets as an IP strategy, although transfer of know-how is not uncommon. However, in certain unusual cases, restricting know-how to the University or assigns may be the best way to protect the public interest.

II. Bayh-Dole and U of A Board of Trustees Policy

The Bayh-Dole Act of 1980 was in response to a growing perception that federally funded research was not making the economic and commercial impact intended. Bayh-Dole defines the following expectations for Universities receiving federal research funds:

- Report each disclosed invention to the funding agency
- May choose to retain title of IP developed under federally-funded research programs
- Collaborate with commercial interests to broaden the use of federally funded inventions

- File patents on inventions they choose to own
- Give licensing preference to US industry and small businesses
- Ensure that US government retains a non-exclusive, paid-up license to practice the patent throughout the world
- Actively attempt to transfer technology to commercial interests
- Share royalties with the inventor
- Use any remaining income for education and research

Bayh-Dole is the foundation for many of the University's technology transfer activities, but the Board of Trustees Policy is the framework. Two policies directly address the disposition of intellectual property (Board Policy **210.1** and **210.2**). The Board of Trustees of the University of Arkansas Patent and Copyright Policy requires that discoveries made at the University "are used and controlled in a manner that benefits the public, the Inventor, and the University to the fullest extent possible." In general, the Policy provides:

1. The University will acquire and retain legal title to all inventions.
2. Inventors are to furnish full and prompt disclosure of inventions.
3. The University will inform inventors of substantive decisions regarding inventions.
4. Inventors will assign patent rights to University.
5. The University may waive its rights to inventors.
6. In consideration of the disclosure and assignment of the invention, the University will share 50% of the first $200,000 in net revenues with the inventor, and 35% above $200,000. The remaining revenue is designated for patent administration and research purposes: 5% goes to the University System and the rest is distributed by the Chancellor.
7. That authors own the copyrights to all their works which are not the result of projects specifically funded by the University or a sponsor of the University.
8. The University owns the rights to all computer software produced at the University unless the software is generated solely for classroom instruction.

Board Policy 210.1 also outlines the makeup and responsibilities of the Patent & Copyright Committee.

III. Invention Disclosures & University Works Disclosures

The documents that most Universities use to initiate IP protection are called Invention Disclosures. These disclosures typically take one of two forms:

a) **Invention Disclosures** for patentable ideas and inventions.
b) **University Works Disclosures** for works that are appropriately protected by Copyright or Trademark.

The Invention Disclosure form issued by the Technology Licensing Office and approved in 2008 is available on the TLO website, **www.uark.edu/ua/tlo/**. The form consists of four key parts:

Part 1: Written Description-Invention Information

- Inventors
- Title of Invention
- Background (field of invention)
- Brief Summary of Invention
- Detailed Description of Invention
- Drawings

Part 2: TLO information

- Research Funding
- Earliest Verifiable Date of Invention
- Further Developments
- Public Disclosure of the Technology
- Related Publications
- Certification

Part 3: Non-confidential Summary

Part 4: Marketing Questionnaire

- Products and Services
- Competing Products and Services
- Possible Licensees
- Advantages

Most inventors find that completing the Invention Disclosure is simply a matter of arranging the text and data they have prepared for other reports or already have on file. The description of an invention need not rise to the level of a refereed publication.

However, there is some information that the TLO needs in order to file for a patent, or to market a patentable invention, that will require your cooperation and perhaps an exchange of questions and answers before the Invention Disclosure is ready for submission to the Patent & Copyright Committee. The Technology Licensing Officer will assist an inventor to make sure the Invention Disclosure is thorough, complete and

suitable for submission. It is important that you identify research funding so we can ensure that the University complies with Bayh-Dole and/or requirements of Sponsored Research Agreements. Also, reporting the prior public disclosure(s) helps the TLO evaluate the scope of the invention.

Inventors should note that an executed Invention Disclosure will be used to evaluate the invention, to identify statutory deadlines, and as the basis of a patent application, if one is filed. It is also used to determine how to distribute net revenues among inventors or authors. The Invention Disclosure is a legal document that can be used as evidence should issues involving patentability, inventorship, or enforcement arise. Thus issues of inventorship, date of invention, relevant documents and public disclosure are best resolved before submission to the Patent & Copyright Committee.

A complete, accurate and thorough Invention Disclosure helps the TLO and the Patent and Copyright committee determine the patentability, commercial potential and marketability of the invention.

IV. Patent and Copyright Committee

Board policy requires that each campus designate a faculty committee to review the operation of the Patent and Copyright Policy, recommend any necessary changes to the policy, and generally advise the University President on patent and copyright policy matters as requested. The University of Arkansas, Fayetteville and the Division of Agriculture have a joint Patent & Copyright Committee (P & C) comprised of five members representing the Fayetteville campus and three members representing the Division of Agriculture.

The P & C Committee reviews and evaluates invention disclosures, determines the rights of the University to inventions, and recommends disposition of inventions submitted to the University. The Technology Licensing Office makes recommendations to the P & C Committee concerning the patentability and commercialization of an invention. The recommendations include:

- Market and protect invention as appropriate.
- File copyright registration to be filed.
- File provisional patent application.
- Market as tangible research property (antibodies, reagents).
- Additional information requested from inventor or author; bring back to P & C Committee.
- Offer rights to funding organization or inventor/author.
- Take assignment.

After carefully considering invention disclosures, the P & C Committee votes to take action on the disclosure.

The P & C Committee is comprised of eight faculty members: five represent the Fayetteville Campus and three represent the Division of Agriculture. The Fayetteville Campus members are appointed by the Chancellor and the Division members are appointed by the Vice President for Agriculture. The members are appointed to a five-year term. Three ex-officio members also serve on the P & C Committee: the Vice-Provost for Research, the Director of Research Support and Sponsored Programs and the Director of the University of Arkansas Technology Development Foundation.

V. Public Disclosure of an Invention

A conflict exists between the traditional goals of a University and the requirements of a patent authority regarding the public disclosure of an invention. The mission of a Land-Grant University involves education, research and service to benefit the public, requiring the dissemination of knowledge while the protection of inventions often requires confidentiality for a certain period of time.

Public disclosure can take place in all of the following forms:

- News articles
- Refereed Publication
- Poster or Abstract at Scientific Meeting
- Public Field Day
- Progress Reports
- Public Presentations and Invited Papers
- Publication of Thesis or Dissertation
- Public defense of Thesis or Dissertation

Even mere speculation regarding an invention in a public setting can constitute a public disclosure. A single public disclosure creates an absolute bar for obtaining international rights for an invention. The United States Patent and Trademark Office, however, will grant domestic protection for patentable inventions, provided that a public disclosure has not been made more than one year before the date of filing.

In other words, a public disclosure destroys international rights immediately and starts a one-year clock for US rights.

Fortunately, there are ways to resolve the need for public disclosure while maintaining the invention's patentability and subsequent enforcement. First, a disclosure accompanied by a valid Confidentiality Agreement is not considered a *public* disclosure. Second, if an invention is discussed or disclosed in a setting where an expectation of confidentiality exists (many technical working groups require members to keep all material confidential), then the disclosure is not considered public. Thirdly, a thesis or dissertation may be kept in the Mullins Library "vault" for a period of time to avoid public disclosure.

The Technology Licensing Office can help you by preparing Confidentiality Agreements, reviewing abstracts and posters and arranging "vault" deposits. Our goal is to maintain the protection for your invention, allowing timely publication of your work with minimal inconvenience to you.

VI. Agreements Involving IP

The University of Arkansas faculty and staff frequently engage in cooperative research and collaboration with other institutions and private concerns. Most of these efforts require an agreement between the University of Arkansas and the other party which defines the collaboration, the responsibility of the parties and the disposition of intellectual property arising from the collaboration, if any.

The TLO can originate, review and seek the appropriate approval of the following agreements for Division faculty and staff:

1. **Confidentiality Agreement (CDA) and Non-disclosure Agreements (NDA).**

These agreements place restrictions on publishing or otherwise revealing proprietary information gained by the parties during the course of discussions of research, planning or commercialization. Some CDAs and NDAs restrict only the University, some restrict only the cooperating party, and some require that both parties keep the other's information in confidence.

2. **Material Transfer Agreement (MTA)**

MTA's often accompany a tangible material such as a chemical compound or biological sample to be used in research. Usually, the MTA defines the material, the permissible use of the material and the rights of the parties regarding any data or invention arising from use of the material. The University of Arkansas is a signatory on the *Universal Biological Materials Transfer Agreement,* a master agreement signed by many public research and educational institutions which defines the rights and responsibilities of members regarding biological material transfers.

3. **Sponsored Research Agreement (SRA)**

The TLO normally does not originate these agreements. But in cases where a sponsor of research wishes to reserve or assign special rights to intellectual property, the TLO may assist the Division of Agriculture Grants Officer or Office of Research and Sponsored Programs in crafting SRAs which protect the interests of the University and the faculty. Often SRAs anticipate an invention, patent filing and commercialization. Occasionally, a limited license to use an invention and an option to license the invention is granted to sponsors of research. These agreements may contain the terms and conditions of MTAs and CDAs. The expectations of sponsors and the University should be clearly defined in SRAs.

4. **Limited License and Option Agreement (Option)**

The University and a commercial partner may find it mutually beneficial to work together under the terms of an Option. This is especially true of an invention where techniques are not fully known or commercial viability is not apparent. Options anticipate a license opportunity and define the disposition of improvements and new inventions during the Option period. Reimbursing the University's patent costs and other fees/costs are generally negotiated as consideration for use of the invention under the Option.

5. **License Agreements (License)**

The University may grant licenses to use, manufacture and sell an invention to a commercial partner under a variety of terms and conditions, including Exclusive, Non-exclusive, Worldwide, Limited Territory, Royalty Bearing, Non-royalty Bearing and Paid-up licenses. A license usually requires a licensee to provide Commercialization Plan and meet milestones in order to keep the license in force.

All of the above agreements require a signature from the appropriate administrator with authority to act for and on behalf of the Board of Trustees of the University of Arkansas. The TLOA will help obtain an authorized signature for any of the above agreements.

VII. The IP Process

They say you don't want to see how the packer makes your sausage or how Congress makes your laws. The IP process isn't that bad, but it involves a number of steps, people, and signatures. Much of the process is invisible to the inventor, but inventors should be aware of a few key steps. The figures in this chapter illustrate the process required to bring an invention to a commercial product or service.

The first step is the invention of a new, useful and non-obvious process, machine, article of manufacture, composition of matter, or any improvement thereof. It isn't necessary for an inventor to know for certain if an invention is patentable when first created or discovered; the patentability can be determined later by the TLO or Patent Counsel. But an inventor should complete an Invention Disclosure Form promptly upon invention, as prescribed by Board of Trustees Policy 210.1.

The Invention Disclosure Form may be obtained from the TLO website or by request from any Technology Licensing Officer. The disclosure should be completed thoroughly to help determine the patentability, inventorship, commercial or social value, and obligations to outside sponsors of research. Completing the Invention Disclosure Form rarely requires much effort on the inventor's part because the information usually will be organized for publication anyway. Indeed, the disclosure does not require as much detail as most refereed publications.

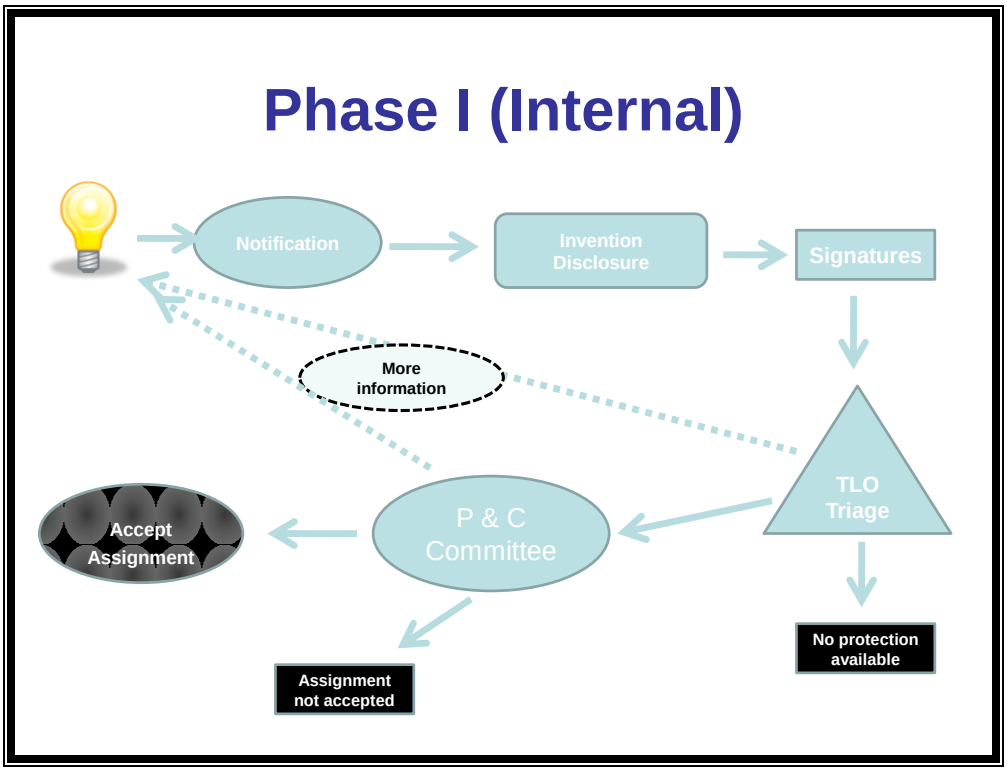


Figure 1

However, the TLO or the Patent & Copyright Committee (P & C) may request additional information to consider before accepting assignment on behalf of the University (Figure 1).

An Invention Disclosure is CONFIDENTIAL. It is not appropriate to send the disclosure to others, including the research sponsor, until the University has determined the disposition of the invention. The Invention Disclosure becomes a legal document subject to discovery by a court, so a complete and accurate record is essential.

Inventors normally receive word on the P & C's action within 60 days of submission of an Invention Disclosure, although the P & C does not normally meet during the summer.

Occasionally the P & C elects to have an Invention Disclosure reviewed by a patent attorney or patent reviewer. Upon conducting a patent search, a review of prior art in the field, and/or the commercial potential of the invention, a recommendation is made to the University concerning the invention. This step is lengthy and costly, but sometimes necessary to preserve the University's resources.

If the P & C elects to take assignment of an invention, two concurrent processes are initiated: Marketing and Protection. The invention is assigned to a Technology Licensing Officer who shepherds the invention through the steps illustrated below.

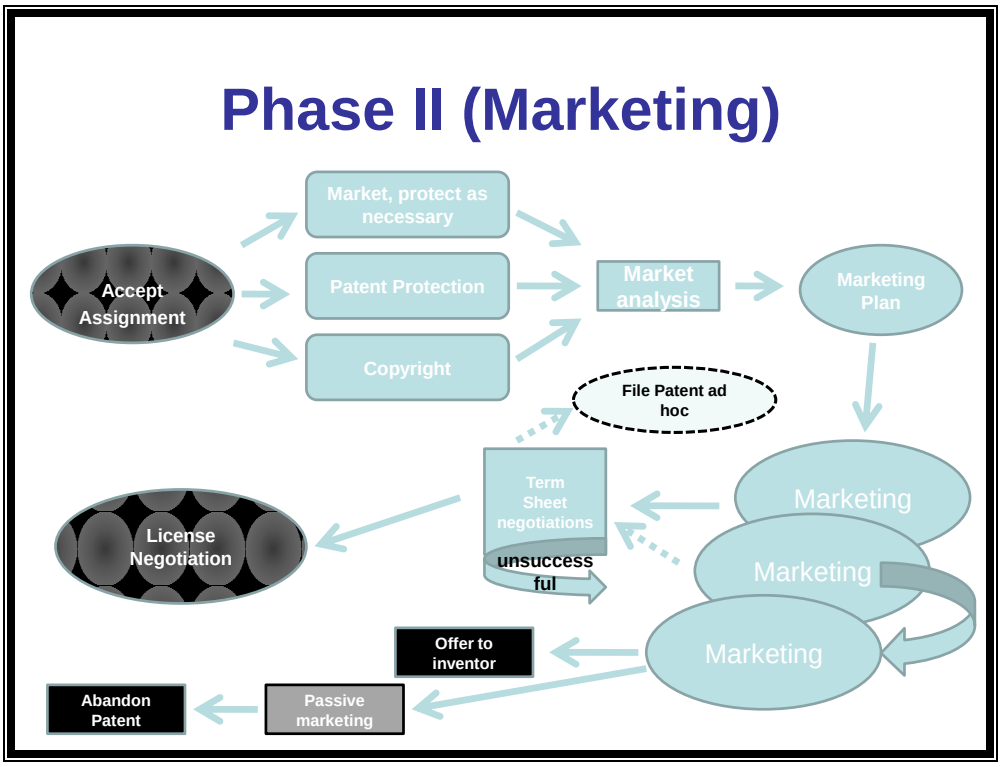


Figure 2

Marketing begins with an analysis of market conditions, trends, and those engaged in the relevant market. A Marketing Plan to contact the market players is launched based on the Market Analysis. A one-page, non-confidential Technical Brief describing the invention is often the best approach to introducing the invention to a prospective licensee. As Figure 2 and Figure 3 indicate, marketing an invention is often conducted sequentially, and may require recurring contacts with prospective industry partners.

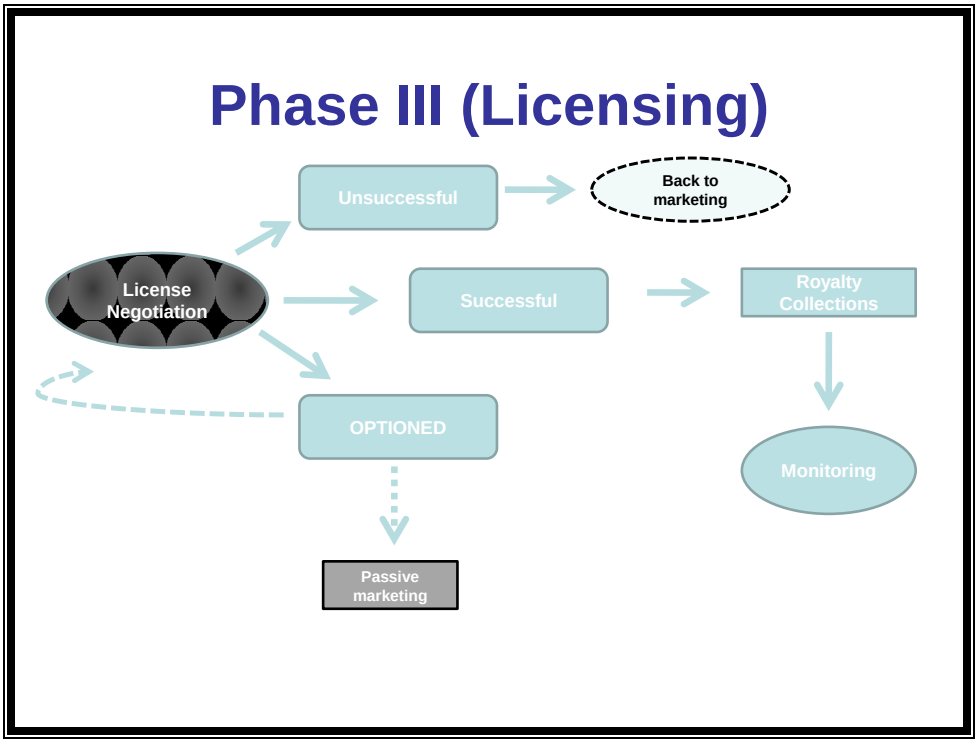


Figure 3

The TLO may request your cooperation, input and feedback when preparing the Tech Brief, the Marketing Plan or at various stages of the marketing process. It is important for inventors to recognize that while they will always be the inventors, they are not the *owners* of the invention. Thus, an inventor cannot negotiate on behalf of the University for rights, revenue or other disposition of their invention. The TLO invites input and feedback concerning the invention from inventors, but license negotiations must be administered by the appropriate administrator with the guidance of the TLO staff.

Many University inventions are never commercialized. Several factors affect the ability of a commercial partner to create a new product or service based on an invention, including:

1. **Research and Development**. Most inventions will require extensive R & D to produce working models or prototypes which are market ready.
2. **Regulatory requirements.** Many government agencies require a lengthy and expensive process for approval before a new product, process or service can be introduced.
3. **Patent issues.** Freedom to operate in the area of other patents, ability to obtain a patent of reasonable scope, etc
4. **Market conditions.** Does the invention serve a growing market, crowded market, shrinking market?
5. **Newer innovations.** Some inventions become obsolete rather quickly.
6. **Profitability.** Many inventions work beautifully and reliably, but cannot be manufactured and offered with a profit margin.
7. **Companion technology.** Some inventions require the use of additional technology to serve the market or adequately solve the market need. This companion technology may be controlled by a competitor or can capture the profitability, making the invention undesirable.
8. **Timing.** Sometimes an invention solves a problem the market does not yet recognize.

All of the above considerations are weighed by prospective licensees with respect to timelines, budget and risk management. The TLO may encourage a prospective licensee to sponsor research with the inventor in an effort to bring the invention closer to a viable product or service.

Another avenue for commercial partners to consider is a limited license to assess the invention for a period of time, referred to as an Option. An Option generally allows for the University to recover some patent costs and assures the partner an opportunity to license the invention. If the invention proves to be attractive to the partner during the Option, a license is generally forthcoming.

Inventors may request that the University waive its rights to their invention if the University has taken no steps to commercialize the invention or dedicate it to the public. Such a waiver request should be submitted to the TLO. However, the sponsor of the research (especially if a federal agency) may have rights to the invention if the University chooses not to pursue it.

Concurrent with the marketing the invention is the important task of protecting the invention, whether by patent, copyright or trademark. The University of Arkansas is fortunate to have the skills and services of Dr. Lisa Childs, Associate Vice Provost of Research and Patent Attorney who joined the University of Arkansas in 2006. Dr. Childs directs the prosecution of patents, generally using outside patent counsel with specific background and experience.

The prosecution of patents is often very complicated, time-consuming, expensive and unpredictable. The process illustrated in Figure 4 and Figure 5 can take years to complete. Recently, patent costs for University of Arkansas patents have ranged from $2,500 to hundreds of thousands of dollars. Where patent protection is warranted in several foreign countries, patent costs for certain inventions can exceed $100,000.

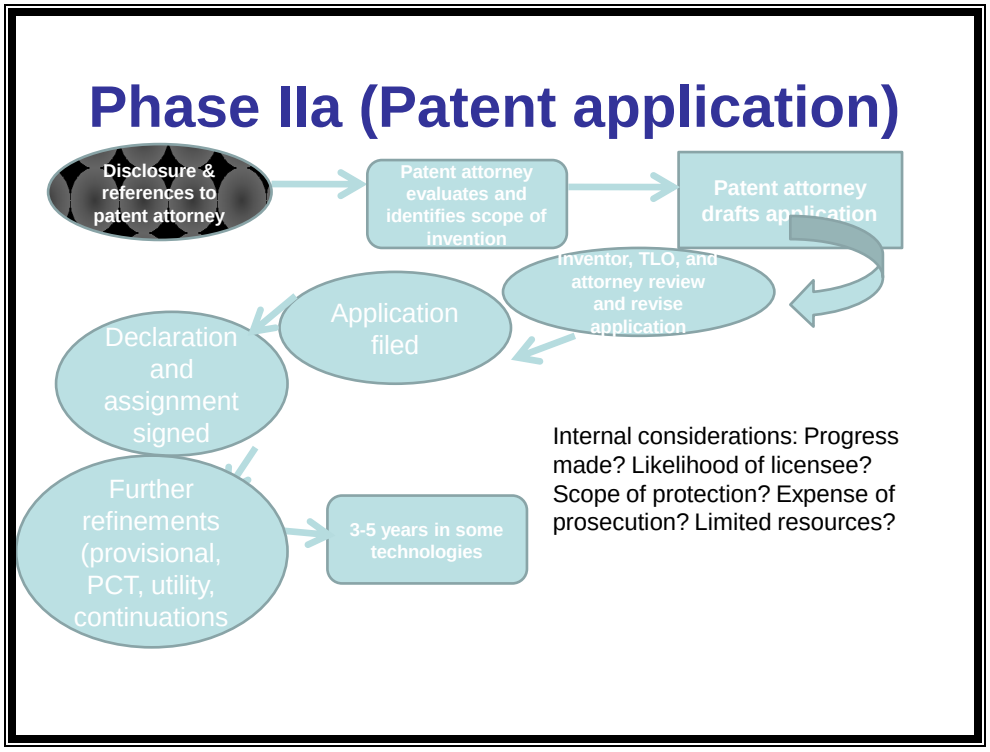


Figure 4

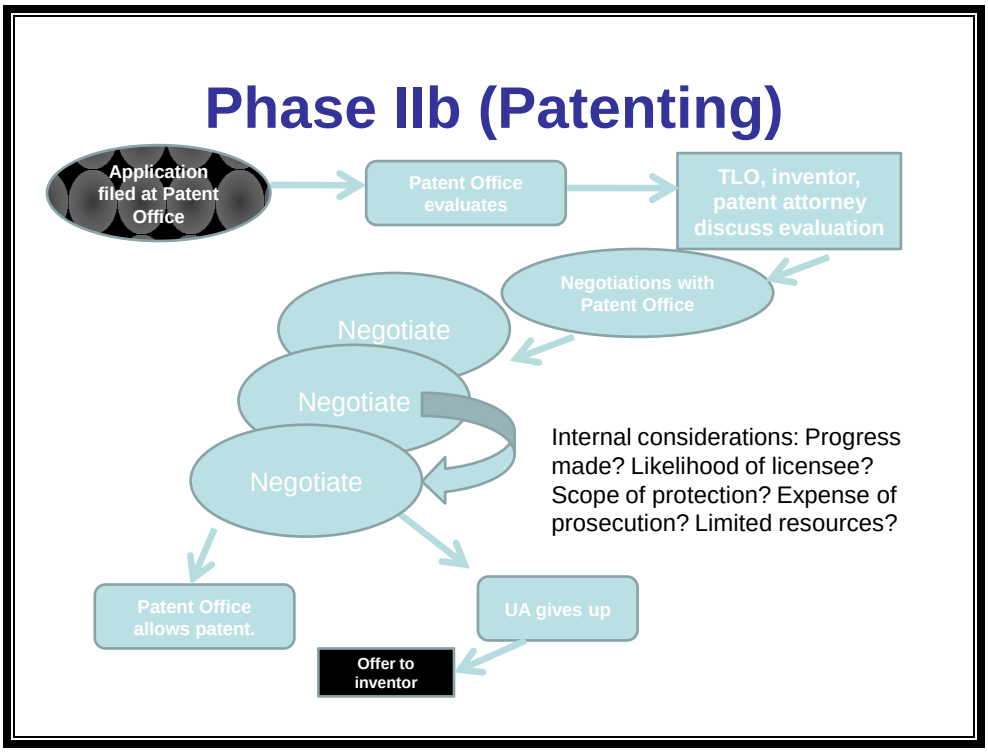


Figure 5

The TLO's job doesn't end with the signing of a license. A license almost always requires monitoring of licensee activities, reporting requirements and/or collection of license fees or royalties. In the case of a successful license arrangement, the TLO has the pleasure of distributing revenue to inventors and authors. Generally, distributions to inventors occur annually, but some license arrangements may allow for distributions twice-annually.

The TLO is always mindful of the relationship between an inventor and a licensee, and we seek to enhance the relationship with timely, accurate and professional communication throughout the license period.

VIII. Frequently Asked Questions (and some that should be)

The following question and answer format is perhaps the best way to address some issues of concern to inventors. The TLO may frequently change the answers in this section of the handbook because of the fluid nature of these issues.

I may have an invention. Now what do I do? You may always call the Technology Licensing Office. We will explain your rights and responsibilities as a University inventor, including the policy on sharing of royalty income. Often the first step in determining if your idea is a University Invention is preparing an Invention Disclosure Form.

When should I prepare an Invention Disclosure? A disclosure should be prepared and submitted to the Technology Licensing Office when the invention is clearly conceptualized. It is not necessary for the invention to be reduced to practice, to conduct efficacy trials, or have a working model.

How lengthy is an Invention Disclosure? We have received completed forms as short as eight pages all the way to fifty pages.

Should I divulge the whole idea on the disclosure or hold back the 'secret' information? Patent protection is granted by the Patent Office in exchange for a full and completed disclosure of an invention. Failure to fully disclose an invention endangers the patent. Thus, it is unwise to withhold anything material to an invention in the Invention Disclosure.

What is considered a public disclosure of an invention? Essentially any form of communication that makes the novel idea or inventive steps available to the public constitutes a public disclosure, including newspaper articles, journal articles, posters, theses or dissertations, web abstracts, papers, seminars, presentations, and conversations.

What is a Non-Confidential Summary? The TLO typically uses a one-page *Technical Brief* as a marketing tool to convey the general idea of an invention, the problem the invention is intended to solve and the status/availability of the technology. We can use your Non-Confidential Summary as framework for a Technical Brief. The Summary does not require performance/efficacy data or extensive drawings.

How much does a patent cost? Some patents are quick and inexpensive to obtain, while others require very expensive and time-consuming prosecution. Some of the variables that affect cost include the patent field, the number of claims filed, the number of claims allowed, the countries selected, the amount of information provided

by the inventor, how developed the invention is, and other factors. Patent costs for University of Arkansas inventions have ranged from $2,500 to over $100,000 for an issued patent. In addition to filing fees and patent attorney fees for issuance of a patent, there are maintenance fees to keep a patent in force.

When submitting an article for a research journal, should I note that my research findings are the subject of a patent application?

If the patent application has been filed, neither the University nor the inventor forfeits protection by making your peers aware that the application has been filed. However, there is debate as to the propriety and ethics of this type of disclosure. For an excellent treatment of the issue, see the following;

http://www.law.northwestern.edu/journals/njtip/v6/n1/2/#note1

http://www.sciencemag.org/about/authors/prep/coi.dtl

If you so elect, we suggest a statement could be placed in the section where affiliations and sponsors are identified, as follows:

The University of Arkansas has filed a patent application (Application No. __/_____) related to this work.

Will filing an Invention Disclosure prevent publication of my findings? Publishing research findings to benefit the public is at the heart of the University of Arkansas, Division of Agriculture. On rare occasions, the public benefit is greater when publishing a work is delayed for a short period of time in order to file for appropriate patent protection. The Technology Licensing Office will seek to minimize the delay, and only in cases where timely patent filing will enhance the value of the invention.

What about the Sponsored Research Agreement? In cases where an invention arises from sponsored research, the Sponsored Research Agreement may restrict publication, patent prosecution, commercialization and notice regarding the invention.

Who owns patents at the University of Arkansas? The Board of Trustees of the University of Arkansas.

What is the cost to the inventor or their respective department to obtain patents? If the Patent & Copyright Committee elects to take assignment of the invention or work, all patenting costs are paid by the University. In many cases, the

sponsor of research or licensee of the technology reimburses the University for patent costs.

What is the life of a patent? Generally, twenty years from the earliest filing date of a non-provisional application. The patent life is contingent upon payment of maintenance fees and there are provisions for certain patent term adjustments. (Note: design patents and plant patents have different life spans than utility patents).

Does the University pursue foreign patents? The University will pursue patents in foreign countries if warranted by commercial opportunities. However, the cost of translation and filing in many countries is prohibitive unless a commercial partner is identified to bear the patent costs.

May I license my own invention from the University? The Technology Licensing Office has negotiated licenses with firms owned or partially owned by University inventors. Such licensing arrangements are made subject to the prospect of the inventor-owned firm commercializing the technology, the interest and capability of third parties and University Conflict of Interest Policies.

Should I contact industry and offer to license the invention? The TLO welcomes your input in devising a Marketing Plan for your invention. Your contacts and cooperation in are often vital in the licensing process. However, licensing arrangements and negotiating licensing terms for University-owned technology are the responsibility of the Technology Licensing Officer and management.

Can I still use my invention after it is licensed to a company? Our licenses reserve the right to use a licensed technology for academic research and other nonprofit applications.

I have Co-inventors. How do we split up the revenue from our invention? The inventors should decide this issue. The Invention Disclosure form requires that each inventor agrees to 'the royalty split, of free will, made without coercion of any kind'.

Is computer software considered an invention? Normally software programs written by faculty are not patented, but considered a University Work subject to copyright. The University Works Disclosure Form is similar to an Invention Disclosure Form and the Patent & Copyright Committee is charged with decisions concerning University Works.

What if I write a book? A chapter in a book? University Policy states that a work of authorship that is funded by the University or a sponsor (in whole or in part) belongs to the University, and commercialization of such works follows University Policy. A work that is not funded by the University belongs to the author.

Appendix B

Idea Resume Form
Business Enterprise Center

Date: _____

Name the Idea: _____

Contact Name: _____

Contact Number: _____

Summary - 1 to 2 sentence description of your idea/project concept:

The Need - Describe and Test for valuable unmet potential

Describe the basic problem, frustration, or desire. What is the impact and how immediate is it? Is the need one of long-term risk prevention (vitamin) or immediate relief (painkiller)? Who are potential customers (classification or anecdote)? How/why are they unhappy with the solutions available today? What would they be willing to pay and can they afford it? How widespread may this group of customers be?

The Solution - Succinct, understandable description

What is "it"? - Is it a product or a technology that enables a host of products? Describe the offering (device, technology, service, customer and business model). What is it for? How does it meet the described need? How does it work? What does it replace& why is it better, faster, or cheaper? Who would use it? Why would anyone value it over alternatives? Are there other groups of customers or related needs that may benefit from a solution like this? Are there emerging trends that are just beginning to gain momentum?

Business Potential - How to Win

What is the unique advantage? Are others doing it (if so how is this different, if not why not)? How might profit be captured? What barriers are there to competition? How is the "market space" controlled? Outline any special business model and strategic control options or issues. What investments are necessary? Is it important to other businesses? Why will you win here?

Key Issues -

What are the primary objections or issues to viability? How could they be preliminarily tested/investigated at very low cost?

Idea Resume Form
Business Enterprise Center

Recommendations and Next Steps - Easy / Low Cost Validation

What initial sequence makes sense (recognizing the degree of testing will be iterative)? Assess cross-functional balance in next steps. Identify and consider balance/sequence of Progress, Information, Assessment, and Commitment steps. How developed will the business concept be by the completion of the next steps (e.g. ready for venture funding phase)? Will the "proof" (assumption validation) support the follow-on commitment level (seed funding)?

Requests and Key Alliances - What do you want / need

What resources are needed to move forward? Is this sufficient to complete the next steps? What do you want from the person you are sharing the plan with ? Can they give it to you? Are there interim resources required for the validation and assessment steps?

Estimated Financial Requirement to Next Checkpoint -

Timeline and Metrics to Next Checkpoint -

Benefits - Why Help?

What benefits accrue to the helper? What are the benefits for the specific organization and individual being solicited?

Momentum - Is this going anywhere?

Approximate date idea conceived, origin/inspiration, contacts to date, specific actions taken to move the idea forward. List endorsements or credibility enhancing elements.

Resulting Decisions: Author: Can the idea be extended to a business concept worth presenting?

What are the next steps?

Audience:

Go -> commit the requested support? Join the crusade?

Assist -> Agree to advocate and recommend to others? Pass on valuable contacts?

No-Go -> Take time to provide feedback?

Author: Based on feedback is it worth continued pursuit?
Does it need to be revised?
Does it need a new audience?

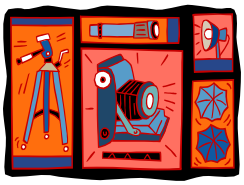
Appendix C

ARKANSAS

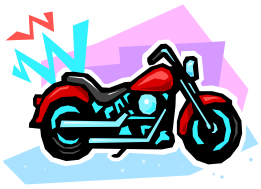
Starting a New Business

An Educational Brochure for Arkansas Taxpayers









Department of Finance and Administration
Revenue Division
P. O. Box 1272

Table of Contents

- This information was produced to give new business owners a general overview of the different areas of taxation required by the State of Arkansas. Please note that this brochure was produced as a guide and it is not the final word on Arkansas law.

SALES & USE TAX

Vendors located and operating in Arkansas must register under the Gross Receipts Tax Law if the vendor sells property or services subject to sales tax. Sales tax is levied on sales of tangible personal property and various types of services performed within Arkansas. A completed application for a sales tax permit and a Fifty Dollar ($50) non-refundable fee is required to register new businesses. It will take approximately eight to ten working days to process the application. The application form, "Application for Arkansas Business Permit," is available online, http://www.arkansas.gov/dfa/excise_tax_v2/et_su_forms.html.

The sales tax report, Form ST400, is due on the 20th day of the month following the tax period. Sales tax reports may also be filed online. To begin filing online, complete the information in "Create a new account" on the Sales Tax webpage, http://www.ar-tax.org/.

In addition to the 6 percent state sales tax, any applicable city and county sales taxes should also be collected and remitted. In addition to sales tax, a supplemental mixed drink tax of 10 percent is imposed on the sale of alcoholic beverages (excluding beer) at restaurants. Also, an additional four percent tax is due on the sale of all mixed drinks (except beer and wine) sold for "on-premises" consumption. There is a 3 percent "off premises" tax on retail sales of both liquor and beer. There is also a short term and long term rental tax, vehicle rental tax, aviation tax, and tourism tax.

If the new business will sell cigarettes or alcohol, additional documents must also be filed with the Alcohol Beverage Control Division and the Tobacco Control Board. Phone numbers and web page addresses are provided at the end of this publication.

A business making sales of tangible personal property from outside Arkansas by means of sales persons, solicitors, distributors, agents, or by taking orders for sales of the same, must register under the Compensating Use Tax Law.

If a business purchases items from outside of Arkansas for use, storage, distribution, or consumption within State boundaries and the Arkansas use tax is not collected by the seller, the business must register under the Compensating Use Tax Law and remit the use tax directly to the State.

If there is a change in the type of ownership, e.g., from a sole proprietorship to a LLC or to a corporation, the business must apply for a new sales tax permit.

For additional information, contact the Sales & Use Tax Section at the address below or access its website.

Revenue Division Sales and Use Tax Section
P. O. Box 1272
Little Rock, AR 72203-1272
Phone: (501) 682-7104 Fax: (501) 682-7904
http://www.arkansas.gov/dfa/excise_tax_v2/st_index.html

INCOME TAX WITHHOLDING

Employers are required to withhold tax from wages of employees who work within the State of Arkansas. Employers are not required to withhold Arkansas tax from the wages of any employee who does not work within the State of Arkansas, unless the employee is a resident of Arkansas and the state where they are employed does not have a state income tax.

An employer or withholding agent is required to register by completing a registration packet from the Arkansas Withholding Tax Section upon hiring the first employee. The packet contains:

- Withholding Registration (Form AR4ER)
- Withholding Chart and Instructions
- Arkansas Employee's Withholding Exemption Certificate (Form AR4EC)

Employers are required to remit monthly the full amount withheld from the wages of all employees. Payments are due on the 15th of the following month. Payments can be made by mail using the 941M form or by telephone, after an application for filing by phone is approved. Each year, some smaller businesses are reclassified as annual filers for the succeeding year. Notices are mailed to taxpayers when this occurs. The Federal Employer Identification Number (EIN) is used to report and remit withholding taxes.

The Annual Reconciliation (Form AR3MAR) and W-2 forms are due by the 28th of February of the following year, along with the 1099's.

For additional information, contact the Income Tax Withholding Section at the address below or access its website for forms and instructions:

Revenue Division Withholding Tax Unit
P. O. Box 9941
Little Rock, AR 72203-9941
Phone: (501) 682-7290 Fax: (501) 683-1036
http://www.arkansas.gov/dfa/dfa_taxes.html

FEDERAL Employer Identification Number:

A Federal Employer Identification Number (EIN), also known as a Federal Tax Identification Number, is a nine-digit number that the Internal Revenue Service (IRS) assigns to business entities. Taxpayers that give tax statements to employees are required to have an EIN. Taxpayers can apply for an EIN with the IRS using the Federal Form SS-4 by:

1. Telephone: Call the Toll-Free EIN number, 1-800-829-4933, Monday-Friday, 7:00 am – 10:00 pm to receive an EIN immediately.

2. Fax: Fax the completed Form SS-4 to (215) 516-3990 to receive an EIN within four (4) business days. The fax number is available 24 hours a day, 7 days a week.

3. Mail: Complete Form SS-4, date and mail it to: Internal Revenue Service, Attn: EIN Operation, Philadelphia, PA 19255. You will receive your EIN within 4 to 6 weeks.

4. Internet-EIN: Form SS-4 Internet-EIN (I-EIN) application opens another avenue for customers to apply for and obtain an EIN. www.irs.gov will lead you to the website to apply for an EIN. Online EIN is available 24 hours a day, 7 days a week.

MISCELLANEOUS TAX

The Miscellaneous Tax Section handles various areas of taxation for the Revenue Division, including:

Timber Processing
Severance Tax on Natural Resources
Cigarettes
Tobacco Products
Cigarette Paper
Imported Wine
Domestic Wine
Liquor and Beer
Amusements
Real Property Transfers
Soft Drinks
Beef, Wheat, Rice, and Soybean Promotions
Swine pseudo rabies eradication
Merchandise Vending
Beauty Pageant Registration Fees
Bromine and Museum Fund
Waste Tire Fee
Corn and Grain Sorghum
Catfish Fee Assessment
Construction Permit Surcharges
Brucellosis Assessment

For additional information, contact the Miscellaneous Tax Section at the address below or access its website:

Revenue Division Miscellaneous Tax Section
P. O. Box 896
Little Rock, AR 72203-0896
Phone: (501) 682-7187 Fax: (501) 682-1103
http://www.arkansas.gov/dfa/excise_tax_v2/mt_index.html

INDIVIDUAL ESTIMATED TAX

Every taxpayer subject to the Income Tax Act of 1987, as amended, shall make and file with the Department of Finance and Administration a declaration of the estimated tax for the income year if the taxpayer can reasonably expect their estimated tax to be more than $1,000. Estimated taxes are paid in quarterly installments. Payment due dates for estimated taxes are: April 15, June 15, September 15 and January 15.

An exception is granted to individuals whose income from farming for the income year can reasonably be expected to amount to at least 2/3 of the total gross income from all sources for the income year. These individuals may file and pay estimated tax on the 15th day of the 2nd month after the close of the income year. In lieu of filing any declaration, the income tax return and payment in full of the tax due may be made on the 15th day of the 3rd month after the close of the income year.

To avoid penalties for underestimating a tax liability, taxpayers must pay at least 90 percent of the current year's tax liability or 100 percent of the previous tax year's liability.

When filing for an extension of time for your income tax return, an additional estimated payment may be paid with the extension. This payment does not affect the underestimated penalty, but it does stop interest from accruing. The state extension form (AR1055) is not automatic and is valid for up to 90 days. Your AR1055 indicating whether it was approved or denied will be mailed to you. The Federal Extension Forms 4868 and 2688 are honored by the Department of Finance and Administration as valid state extensions.

Arkansas has not adopted the depreciation provisions contained in the Job Creation Workers Act of 2002 and the Jobs and Growth Tax Relief Reconciliation Act of 2003. Therefore, Arkansas income tax returns must be filed using depreciation and expensing of property provisions found in Sections 167, 168, 179 and 179A of the Internal Revenue Code of 1986, as in effect on January 1, 1999. Bonus depreciation is not allowed for Arkansas income tax purposes.

For additional information, contact the Estimated Tax Section at the address below or access its website:

Estimated Tax Unit
P. O. Box 3628
Little Rock, AR 72203-3628
Phone: (501) 682-7272 Fax: (501) 682-7692
http://www.arkansas.gov/dfa/income_tax/tax_individual.html

PARTNERSHIPS AND LLC's

Every partnership doing business in Arkansas or having income from Arkansas sources must file an Arkansas Partnership Income Tax Return. An Arkansas Partnership Return of Income (Form AR1050) is required, but federal schedules (including K-1s) are acceptable to support income and expenses. Limited liability companies (LLCs) are treated as partnerships for income tax purposes. Single member LLCs do not file a partnership return, they file Schedule C on their individual income tax return.

All resident and non-resident partners, including corporations, must report and pay taxes on any income derived from an Arkansas partnership. Composite filing for nonresident partners is accepted after an agreement letter has been signed requesting composite filing.

Act 965 of 2003 adopted the federal "check the box" regulations and requires partnerships and LLCs to file in the same manner in which the entity files and pays federal income tax. A taxpayer must calculate its Arkansas income tax liability using the same accounting method for Arkansas income tax purposes as used for federal income tax purposes (Ark. Code Ann. § 26-51-401).

Partnership tax returns (Form 1050) are due on the 15th of the fourth month after the end of the year. For calendar year filers the returns are due on April 15 of the following year. A taxpayer must calculate its Arkansas income tax liability using the same income year for Arkansas income tax purposes as used for federal income tax purposes (Ark. Code Ann. § 26-51-402).

The federal extension forms, "Application for Automatic Extension of Time to File U.S. Return for a Partnership, REMIC, or for Certain Trusts" (Form 8736) and "Application for Additional Extension of Time to file U.S. Return for a Partnership, REMIC, or for Certain Trusts" (Form 8800), will be honored as valid state extensions. If a federal extension form was not filed, the Partnership or LLC should file an Arkansas Extension Form AR1055. The AR1055 will be returned indicating whether the extension was approved or denied.

Arkansas has not adopted the depreciation provisions contained in the Job Creation Workers Act of 2002 and the Jobs and Growth Tax Relief Reconciliation Act of 2003. Therefore, Arkansas income tax returns must be filed using depreciation and expensing of property provisions found in Sections 167, 168, 179 and 179A of the Internal Revenue Code of 1986, as in effect on January 1, 1999. Bonus depreciation is not allowed for Arkansas income tax purposes.

For additional information, contact the Partnership Tax Section at the address below or access its website:

Partnership Tax Unit
P. O. Box 3628
Little Rock, AR 72203-3628
Phone: (501) 682-1100 Fax: (501) 682-7692
http://www.arkansas.gov/dfa/income_tax/tax_partnership_forms.html

SUBCHAPTER S CORPORATIONS
(Small Businesses)

Some corporations may elect to be treated as a "Small Business" or a "Subchapter S Corporation" (Sub-S) for tax purposes. The following conditions must be met to be recognized as an Arkansas Subchapter S Corporation:

1. The business must be registered with the Arkansas Secretary of State.
2. The business must elect Subchapter S treatment for federal income tax purposes by filing an Election by Small Business (Form 2553) with the Internal Revenue Service.
3. The business must file an Election by Small Business (Form AR1103) with the State of Arkansas during the first 75 days of the taxable year.

NOTE: Submitting an election to the IRS does not automatically allow filing as a small business corporation for Arkansas purposes.

The income tax return for a Subchapter S Corporation (Form AR1100S) is due on or before the 15th day of the third month following the close of a corporation's tax year. The return is filed with the Department of Finance and Administration's Individual Income Tax Section.

The federal extension form, "Application for Automatic Extension of Time to File Corporation Income Tax Return" (Form 7004), will be honored as a valid state extension. If a federal extension form was not filed, the Subchapter S Corporation should file an Arkansas Extension Form AR1055. The AR1055 will be returned indicating whether the extension was approved or denied.

A taxpayer must calculate its Arkansas income tax liability using the same income year for Arkansas income tax purposes as used for federal income tax purposes (Ark. Code Ann. § 26-51-402). A taxpayer must calculate its Arkansas income tax liability using the same accounting method for Arkansas income tax purposes as used for federal income tax purposes (Ark. Code Ann. § 26-51-401).

For additional information, contact the Subchapter S Corporation Section at the address below or access its website:

Subchapter S Corporation Group
P. O. Box 3628
Little Rock, AR 72203-3628
Phone: (501) 682-7276 Fax: (501) 682-7692
http://www.arkansas.gov/dfa/dfa_taxes.html

CORPORATION INCOME TAX

Every corporation organized or registered under the laws of this State, or having income from Arkansas sources as defined in Ark. Code Ann. § 26-51-101 et seq. (with an exception granted to corporations under Ark. Code Ann. § 26-51-303, exempt organizations that have notified DFA of its exempt status, and Ark. Code Ann. § 26-57-602, insurance companies which pay Arkansas Premium Tax) must file an income tax return.

All corporations that are eligible members of an affiliated group filing a Federal Consolidated Corporation Income Tax Return may elect to file an Arkansas Consolidated Income Tax Return. However, only corporations in the affiliated group that have gross income from sources within the State that is subject to Arkansas income tax are eligible to file consolidated income tax returns in Arkansas.

The Corporation Income Tax return (Form AR1100CT) is due on or before the 15th day of the third month following the close of a corporation's tax year. The return is filed with the Department of Finance and Administration's Corporation Income Tax Section. The mailing address is at the end of this tax section.

The Federal Extension (Form 7004) will be honored as a valid state extension. If you need to file a state extension and did not file the Federal Form, the Arkansas Extension Request (Form AR1055) may be used. Your AR1055 indicating whether it was approved or denied will be mailed to you.

A corporation must calculate its Arkansas income tax liability using the same income year for Arkansas income tax purposes as used for Federal income tax purposes (Ark. Code Ann. § 26-51-402). A corporation must calculate its Arkansas income tax liability using the same accounting method for Arkansas income tax purposes as used for federal income tax purposes (Ark. Code Ann. § 26-51-401).

Arkansas has not adopted the depreciation provisions contained in the Job Creation Workers Act of 2002 and the Jobs and Growth Tax Relief Reconciliation Act of 2003. Therefore, Arkansas income tax returns must be filed using depreciation and expensing of property provisions found in Sections 167, 168, 179 and 179A of the Internal Revenue Code of 1986, as in effect on January 1, 1999. Bonus depreciation is not allowed for Arkansas income tax purposes.

Any corporation having income from business activity which is taxable both within and without this state, other than activity as a public utility or the rendering of purely personal services by an individual, shall allocate and apportion his net income as provided in Ark. Code Ann. §26-51-701 through §26-51-723. A financial institution with

business activity which is taxable both within and without this state shall allocate and apportion its net income in accordance with Ark. Code Ann. § 26-51-1401 through § 26-51-1405.

Every domestic and foreign corporation doing business with Arkansas shall pay a graduated income tax on its entire Arkansas net taxable income based on the following tax rate:

Taxable Income	Tax % Rate
On the first $3,000 or any part thereof	1.0%
On the second $3,000 or any part thereof	2.0%
On the next $5,000 or any part thereof	3.0%
On the next $14,000 or any part thereof	5.0%
On the next $75,000 or any part thereof	6.0%
On income over $100,000	6.5%

Corporation Estimated Tax Payments:

Every corporation who can reasonably expect to owe an Arkansas income tax in excess of $1,000 must make a declaration and timely pay the estimated tax in equal quarterly installments. Those corporations whose income from farming for the tax year can reasonably be expected to amount to at least two-thirds (2/3) of the total gross income from all sources for the tax year, may file such declaration and pay the estimated tax on or before the 15th day of the 2nd month after the close of the tax year or in lieu of filing any declaration, may file an income tax return and pay the tax on or before the 15th day of the 3rd month after the close of the tax year.

To avoid an underestimate penalty, a corporation required to make quarterly payments must remit an estimated amount equal to or greater than ninety percent (90%) of the actual tax liability for the current tax year, or one hundred percent (100%) of the corporation's prior tax year's tax liability. The quarterly payments are due as follows:

Payment #	Due date
1	15th day of the 4th month of tax year
2	15th day of the 6th month of tax year
3	15th day of the 9th month of tax year
4	15th day of the 12th month of tax year

A corporation which has an estimated quarterly State income tax liability equal to or greater than twenty thousand dollars ($20,000) must pay its estimated quarterly State

income tax liability by Electronic Funds Transfer (EFT). Please refer to page 11.

For additional information, contact the Corporation Income Tax Section at the address below or access its website:

Revenue Division Corporation Income Tax Section
P. O. Box 919
Little Rock, AR 72203
Phone: (501) 682-4775 Fax: (501) 682-7114
http://www.arkansas.gov/dfa/income_tax/tax_corp_forms.html

MOTOR FUEL TAX

Any company requesting a gasoline or diesel fuel distribution license in Arkansas must contact the Motor Fuel Tax Section to obtain the proper application and bond forms. No sale of gasoline or diesel fuel is permitted in Arkansas without the appropriate license. For additional information, see below (*)

MOTOR CARRIER FUEL TAX

Arkansas is a member of the *International Fuel Tax Association (IFTA)*. The International Fuel Tax Agreement (IFTA) is a fuel tax reciprocity agreement among the 48 continental states of the United States and the 10 Provinces of Canada providing for a payment of motor fuel taxes on the basis of consumption of motor fuels used in the propulsion of motor vehicles.

The advantage of IFTA to both the jurisdictions and the motor carriers is a motor carrier is only required to obtain a single fuel tax license and vehicle credentials from their base jurisdiction which allows them to travel into all IFTA jurisdictions without further fuel registration. A single tax return is filed with the base jurisdiction and this tax return contains detailed information about vehicle operations within each IFTA jurisdiction.

For additional information, contact the Motor Fuel Tax Section or the Motor Carrier Fuel Tax Section at the address below or access its website:

(*)Revenue Division Motor Fuel Tax Section
P. O. Box 1752
Little Rock, AR 72203-1752
Phone: (501) 682-4800 Fax: (501) 682-5599
http://www.arkansas.gov/dfa/excise_tax_v2/mf_index.html

ELECTRONIC FUNDS TRANSFER

Ark. Code Ann. § 26-19-106 requires a corporation with an estimated quarterly income tax liability equal to or greater than $20,000 to pay its estimated quarterly income tax due by the Electronic Funds Transfer (EFT) method. Also, a business with an estimated monthly excise tax or income tax withholding liability of $20,000 or more must pay by EFT (Ark. Code Ann. § 26-19-105). In September or October of each year, the EFT requirements for the following year are set. The determination will be based on the business' average tax liability for its prior tax year.

For additional information on Electronic Funds Transfer, contact the following:

Corporate Income Tax Electronic Funds Transfer P. O. Box 919 Little Rock, AR 72203 Phone (501) 682-4775	**Miscellaneous Tax Electronic Funds Transfer P. O. Box 896 Little Rock, AR 72203 Phone (501) 682-7187**
Sales Tax Electronic Funds Transfer P. O. Box 3566 Little Rock, AR 72203-3566 Phone (501) 682-7105	Motor Fuel Tax Electronic Funds Transfer P. O. Box 1752 Little Rock, AR 72203-1752 Phone (501) 682-4813
Withholding Tax Electronic Funds Transfer P. O. Box 8055 Little Rock, AR 72203-8055 Phone (501) 682-7299	

OTHER IMPORTANT STATE CONTACTS

Name of Agency	Description
Alcoholic Beverage Control Division 1515 W. Seventh, Suite 503 Little Rock, AR 72201 Phone: (501) 682-1105 http://www.arkansas.gov/dfa/abc_administration/abcadm_index.html	Mixed drink and beer permits are issued by Alcoholic Beverage Control
Secretary of State Capitol Building, Room 058 Victory Building, 1401 W Capitol Avenue, Suite 250 Little Rock, AR 72201-1094 Phone (501-682-1010 http://www.sos.arkansas.gov	Corporations conducting business in Arkansas must file their corporate charter with the SOS. An annual franchise tax report is also filed with the Secretary of State.
Arkansas Workers Compensation Commission 324 Spring Street Little Rock, AR 72201 Phone: (501) 682-3930 http://www.awcc.state.ar.us/	Provides facts about Worker's Compensation in Arkansas. Administers actions required or authorized by Arkansas workers' compensation law.
Arkansas Employment Security Department One Pershing Circle North Little Rock, AR 72114 Phone: (501) 682-3268 http://www.arkansas.gov/esd/	Businesses with employees report wages and remit unemployment insurance to this department quarterly. Federal and State law requires that new employees must be reported to the New Hire Reporting Center. Online filing is available.
Tobacco Control Board 101 East Capitol, Suite 204 Little Rock, AR 72201 Phone: (501) 682-9756 http://www.arkansas.gov/atcb/	The Tobacco Control Board issued specific retail, wholesale and manufacturer's permits plus cigarette vending machine permits and stamps.
Arkansas Department of Labor 10421 West Markham Little Rock, AR 72205 Phone: (501) 682-4500 http://www.ark.org/labor/	Provides list of required State and Federal employee notices as well as safety services, wage and hour services, and other services.
State of Arkansas Contractors Licensing Board 4100 Richards Road North Little Rock, AR 72117 Phone: (501) 372-4661 http://www.arkansas.gov/clb/	Regulates the issuance of a license for contractors and regulates the Arkansas State Contractors Bond law.

OTHER IMPORTANT CONTACTS

Name	
Internal Revenue Service Internal Revenue Service Center Memphis, TN 37501 Phone: (800) 829-1040 www.irs.gov	
Department of Labor U.S. Occupational Safety and Health Administration (OSHA), Little Rock Area Office TCBY Building, Suite 450 425 West Capitol Avenue Little Rock, AR 72201 (501) 324-6291 (501) 324-5243 FAX http://www.dol.gov/	
Arkansas Small Business Development Center University of Arkansas at Little Rock 2801 S. University / Little Rock, AR 72204 Phone: (501) 324-9043 Fax: (501) 324-9049 http://asbdc.ualr.edu/	

For additional information on Personal Property and Real Estate taxes, contact the tax assessor and collector for the county in which the property and real estate are located.

April 2005