Power Imbalances and Royalty Sharing:
A Survey of University Technology Transfer Policies
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The Bayh-Dole Act, often credited with the explosion of university technology transfer, requires universities to incentivize invention disclosure by sharing the royalties generated by patent licensing. Many scholars have debated the effectiveness of university implementation of this requirement, and indeed, the low rate of disclosure of inventions by academic researchers to the university is often a bottleneck in technology transfer process. Unfortunately, most discussions focusing on inventor compliance with Bayh-Dole requirements have explored faculty-inventor motivations. Similarly, many university intellectual property (IP) policies are drafted specifically toward incentivizing faculty-inventors to comply with invention disclosure requirements. However, in most cases, university inventions are joint products of a group of university members including not only faculty but also post-doctoral researchers or graduate students. This collaborative nature of scientific research seems to have been lost in the design of the technology transfer system.

This paper explores the misalignment of incentives between faculty and non-faculty inventors in the university setting by focusing on the negotiation power imbalance between the two classes of inventors and the resultant problems. In light of this power imbalance, the paper then explores the royalty sharing strategies that universities use and the strategies’ potential to ameliorate or exacerbate the power imbalance. The technology transfer policies of the top 50 NSF-funded universities reveal that most universities likely do not consider the potential problems resulting from the power imbalance in setting university policies on royalty sharing among inventors.