

## The Free Market of Ideas <sup>1</sup>

World University is a for-profit institution offering fully accredited undergraduate and graduate level degree programs. World U specializes in professionally oriented baccalaureate, masters, and associate degree programs, and proudly advertises that it also provides the entire range of general education courses, including calculus, general chemistry, economics, basic accounting, introductory computer science, western civilization, world religions, introductory sociology, and the rest.

World U's sells courses not only to students directly, but also to other colleges and universities on a per-student site license cost. Your institution's Chief Financial Officer regularly points out that the savings to faculty personnel budgets far exceed the costs of subscribing. World University's courses are, in fact, exceptionally high-quality instructional experiences. The instructors are derived from the nation's leading teachers and scholars. The media-integration, the pedagogy, and the instructional assignments are designed by experts and fully pilot tested on real college students. There simply is no way that given college or university can duplicate for its students the quality of the faculty nor the sophistication of the presentations found in World University's courses. But, if the college has a star or two on the faculty, the World U would be interested in knowing about those people, for it is always looking to expand its range of course offerings.

Professor Omar Orleans of the Classics Department is just exactly one of those stars, thinks Dean Trymore Builder. Omar can mesmerize the students. His course in Ancient Civilizations is legendary. His use of the media is masterful, and his sense of superb wit weaves intelligence and perspective into all his presentations. No wonder its standing room only every semester. And Omar loves teaching it. If he goes on sabbatical we have to promise the students that he will teach double sections when he returns. Maybe I should nominate Omar do a course for World University. He's just the kind of person they're looking for. And that way we'd have something to use when he goes on his next sabbatical, or, worse, decides to retire.

**1. Is it a conflict of interests for the Dean to nominate Professor Omar Orleans to do a course for World University? Would it be a conflict of interest if the professor were to do the course with or without having been nominated by his Dean?**

**2. Should the college accept a finder's fee or commission from World University for nominating Professor Orleans? Assuming that the professor's course in Ancient Civilizations was developed, at least to this point, using the resources of the college and while the professor was an employee of the college, does the college own the rights to that course? Should it, rather than the professor, receive any royalties that might derive from the contract with World University? If not, why not? If so, what percent is due to the college?**

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<sup>1</sup>All characters, situations, and stories described here are fictional. No reference to actual persons, events, or institutions is intended or assumed. Drs. Peter and Noreen Facione developed and refined these hypothetical cases based on the experiences gained through their many decades of service as faculty, administrators, workshop presenters, and leadership consultants to colleges and universities throughout the nation.

**3. Should the college have some prior agreement in writing, either in a policy document or with the individual professor, before it nominates Professor Orleans? If the professor independently comes to terms with World University, what, if anything, can and should the college do to prevent him from using college owned resources for what might his own personal gain?**

In fact, there is no unpleasantness between Professor Orleans and the Dean about this. The Dean writes a three-way memorandum of understanding in which World University agrees to provide its version of this particular course to the college, if it ever wants to use it, for no charge. The college also agrees that all the royalties in this one case should go to Professor Orleans. The Dean is delighted with the national visibility it will receive as the college where Professor Omar Orleans teaches.

Professor Orleans tells his colleagues about the great deal he received and all the money he is now making from the royalties. A couple of years go by and the Professor is entirely delighted with the experience so far and encourages other faculty to see whether or not they might be nominated. Dean Builder is replaced with a new dean, Dean Getmine Keeper. The year that Professor Orleans is on sabbatical, Dean Keeper hires a one-year replacement Lecturer. He assigns the Lecturer to teach Ancient Civilizations and strongly encourages the young and enthusiastic Lecturer to design the course to be as similar to Professor Orleans' as possible. The Lecturer turns out to be an instant success.

Dean Keeper contacts World University and nominates the Lecturer to provide the Ancient Civilizations course. The Dean negotiates a two-way agreement with World University providing for the college to receive all the royalties. The Dean then offers the Lecturer a contract for services that calls for the Lecturer to work with World University to prepare what is described this time as the College's course in Ancient Civilizations. The Lecturer accepts that contract, provides a dynamic version of the course, and, having fulfilled the agreement, is not rehired. Professor Orleans returns from sabbatical and resumes teaching his version of Ancient Civilizations for the college.

**3. Was there anything unethical or unprofessional about Dean Keeper's actions? Why or why not? What ethical principles are violated or are in jeopardy of being violated.**

**4. Professor Orleans' royalties checks declines suddenly as World University finds that the newer version of the course is more successful. The Professor sues Dean Keeper and the College for \$1,000,000 for stealing his intellectual property and for violating his academic freedom. He argues that the course was his intellectual creation in the first place. The college, he says, does not have the right to alter the course in any way, for that is a violation of his academic freedom. Nor can it sell the course, for that is his intellectual property. In your view, will his law suits be successful?**

**5. At the professor's urging and with the support of his attorney, the Lecturer sues Dean Keeper and the College and World University for \$500,000 for theft of his intellectual property. In your view, will this suit be successful?**