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Custodian: Associate Vice-President Innovation & Strategic Initiatives

Contact: dvcreseach@canberra.edu.au

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In developing this policy the University had regard to the provisions of section 40B(1)(b) of the Human Rights Act 2004 (ACT).

PURPOSE:

1. The University aims to encourage an entrepreneurial environment in which learning, teaching, scholarship, research and innovation will flourish.
2. The University adheres to the principle that knowledge and ideas should be made available to the wider community and used to maximise the benefits to society.
3. This policy aims to provide a cooperative approach to rewarding those who generate Intellectual Property (IP).
4. This policy aims to facilitate, where appropriate, the commercialisation of IP created by the University's staff and students.
5. This policy aims to protect the University against unnecessary risks.
6. The University recognises the rights of Indigenous people to their genetic resources, traditional knowledge and traditional cultural expression.
7. The University recognises the moral rights of creators.
8. The key objectives of this Policy are to:
 - a. Meet the University's contractual obligations;
 - b. Facilitate utilisation of the products of scholarship and research;
 - c. Respect the ownership of Pre-Existing IP that a staff member, affiliate or student has disclosed to the University prior to joining the University;
 - d. Respect the rights of the creators of new IP;
 - e. Engage in effective IP management;
 - f. Encourage technology transfer;
 - g. Contribute to economic development and growth of the University; and
 - h. Protect the interests of staff members, affiliates, students and the University arising from the creation, protection and commercialisation of IP.

SCOPE:

This Policy applies to all staff, affiliates, and students of the University of Canberra.

PRINCIPLE:

1. Ownership of Intellectual Property produced by Staff

- 1.1. As a matter of law, the University owns the IP produced by staff in the course of their employment but, subject to principle 1.2, 1.3, and 1.4 below, the University assigns this IP to the creator by virtue of this policy.
- 1.2. The University retains ownership of IP in Course Materials created by staff in the course of their employment with the University.
- 1.3. The University retains ownership of IP in any patentable invention produced by staff in the course of their employment with the University.
- 1.4. Where the terms of a contract require the University to own or assign IP rights, the University retains ownership of the IP produced by staff in the course of their employment with the University to the extent required by the contract.

2. Licences and Limitations in Use of Intellectual Property owned by Staff

- 2.1. Subject to principle 2.3, a staff member grants a perpetual, royalty free, assignable licence to the University to use all IP created by them in the course of their employment, for uses related to its core missions in teaching and research.
- 2.2. A staff member grants a perpetual, royalty free, assignable licence to the University to use all pre-existing material, to which they have the rights, that is incorporated into Course Materials.
- 2.3. Staff may not use their IP in a way that damages the reputation or financial interests of the University.
- 2.4. If necessary, and with prior approval of the University IP Officer, a staff member may grant an exclusive licence to a third party to use IP which they own, in which case principle 2.1 does not apply.

3. Commercialisation by the University

- 3.1. Where the University commercialises any IP, the net proceeds of commercialisation received by the University will be disbursed as follows:
 - a. 40% to the creators determined in accordance with the relevant Procedures;
 - b. 30% to the University; and
 - c. 30% to the relevant Faculty or University Research Centre.
- 3.2. This applies regardless of whether the creator is still associated with the University at the time of commercialisation.
- 3.3. Principle 3.1 and 3.2 do not apply to the commercialisation by the University of Course Materials.

4. Access to Research Outputs

- 4.1. The University supports the dissemination of findings of publicly funded research to the wider community through Open Access publishing as required by the National Health and Medical Research Council (NHMRC) [\[1\]](#) and the Australian Research Council (ARC) [\[2\]](#) and other major national and international competitive research funding agencies.

4.2. The University collects data on research outputs for a number of purposes, including reporting to government for Excellence in Research for Australia (ERA) and the Higher Education and Research Data Collection (HERDC). These publications are automatically included in the University Research Publications Repository.

4.3. The University strongly encourages staff, affiliates and students to make available by open access other research outputs not covered under principle 4.1 and 4.2, by depositing a copy in the UC Library for inclusion in the University Research Publications Repository.

5. Staff Obligations

5.1. Staff should keep appropriate records in relation to IP owned by the University pursuant to Clause 1 of this policy.

5.2. Staff must notify the University when they create IP that may be a patentable invention and has commercial prospects.

5.3. Staff will assist the University in securing the commercialisation of patentable inventions as appropriate, including by assisting in the preparation of patent specifications, providing information required and assisting in negotiations with commercial partners.

5.4. Staff will ensure that they do not disclose details of a potential patentable invention in a way that is detrimental to any patent application for that invention or related inventions.

5.5. Staff will ensure that course materials are published or otherwise made accessible to the general public, including by electronic means, only with appropriate University approval.

6. Ownership of IP produced by Students

6.1. Subject to principle 6.2 and 6.3, students own the IP that they generate in the course of their studies at the University.

6.2. Where the terms of a contract require the University to own or assign the IP rights that belongs to a student, the University may require the student to assign their interest in order to participate in certain projects. This assignment will be on terms to be negotiated between the student and the University. Where a student assigns IP to the University, the student will be treated as staff for the purposes of principle 2 and 3 of this Policy.

6.3. Where the University requires the use of a student's IP for its purposes, the University may request a licence. This will be negotiated between the student and the University.

6.4. Where a student is also a staff member and the subject matter of the student's study is similar to the subject matter of the work for which the person is employed, principle 1 takes precedence over this clause.

7. Ownership of IP produced by Affiliates

7.1. Ownership and rights relating to IP created during an affiliate's work with the University must be resolved through negotiation between the University, the affiliate and other third parties such as the affiliate's employer.

7.2. Where an affiliate is also a staff member and the IP is created in the course of their employment, principle 1 takes precedence over this clause.

8. Moral Rights

8.1. The University and its staff shall respect Moral Rights and take reasonable steps to ensure others respect Moral Rights.

8.2. The University may, where appropriate, ask creators to consent to certain uses of their work, where Moral Rights may be affected.

9. Traditional Knowledge

9.1. The University and its staff will ensure that due recognition is given to the rights of Indigenous people to their genetic resources, traditional knowledge and traditional cultural expression.

9.2. The University and its staff, in the creation of IP, must adhere to and safeguard the ownership of the intellectual and cultural property rights of Indigenous people, including the ownership and use of cultural materials; ceremonial and “secret” issues; use of/reference to deceased people or their names; intrusion into ceremonial funeral sites; and respect for cultural values.

9.3. Where the creation of University or staff IP involves the genetic resources, traditional knowledge and cultural expression of Indigenous people, the owner will take all reasonable steps to consult with the relevant Indigenous groups to ensure that any decisions taken on the protection, development and commercialisation of that IP conform to the relevant Indigenous protocols and ethical guidelines.

10. Information and Education

10.1. The University will establish an IP education program with the following objectives:

10.2. to generate a better understanding of IP, and so contribute to the creation within the University of a more cooperative and productive environment for learning, teaching, scholarship and research.

10.3. to alert staff and students to any changes to this policy; and

10.4. to alert staff and students to their rights, responsibilities and opportunities in relation to IP;

10.5. The University will review periodically the effectiveness of the program and activities undertaken under clause 10.1.

11. Dispute Resolution

11.1. Except for a Student IP related dispute, which will be dealt with under the Student Grievance Resolution Policy (SGRP) of the University, in the event that any dispute arises in relation to the interpretation or operation of this policy, then the person claiming the existence of a dispute must notify the University IP Officer in writing by email of the nature and details of the dispute. Notification of the existence of a dispute is to be submitted as quickly as possible after a dispute has arisen and in any case within 14 days of a dispute arising.

11.2. The University IP Officer must, within 21 days of receiving notification of a dispute, convene a meeting of all those notified of the existence of the dispute and, at the discretion of the University IP Officer, such other persons as may be deemed necessary or relevant to addressing the issues of the dispute, to try to resolve the dispute.

11.3. In the event that the meeting in clause 11.2 does not take place within the period specified, or that the meeting and subsequent action fails to resolve the dispute within 30 days of the meeting, then the dispute shall be referred to the Vice-Chancellor for further action.

11.4. The Vice-Chancellor shall consider the issues of any dispute referred under clause 11.3 within 30 days and shall make a determination.

11.5. Clause 11 does not necessarily limit the right of any staff member, student or affiliate to use other available agencies and processes consistent with relevant Commonwealth legislation.

11.6. All matters associated with the resolution of IP disputes will be held confidential.

[1] NHMRC’s [Australian Code for the Responsible Conduct of Research](#) and [Revised Policy on the Dissemination of Research Findings](#)

[2] ARC’s [Open Access Policy](#)

RESPONSIBILITIES:

Responsibilities for implementing this policy are set out in the [Reporting and Managing Intellectual Property Procedure](#).

Transition and Commencement

1. This Policy commences on 27 June 2014 and applies only to IP created after commencement.
2. This Policy shall not be taken to override any contract which explicitly deals with IP existing at the commencement date specified above.

LEGISLATION:

This policy is governed by the *University of Canberra Act 1989 (ACT)* and informed by the Commonwealth laws and regulations on IP as amended or replaced from time to time, as follows:

1. Patents Act 1990
2. [Patents Regulations 1991](#)
3. [Trade Marks Act 1995](#) and [Trade Marks Regulations 1995](#)
4. Copyright Act 1968
5. [Designs Act 2003](#)
6. [Designs Regulations 2004](#)
7. [Plant Breeder's Rights Act 1994](#) and Plant Breeder's Rights Regulations 1994
8. National Principles of IP Management for Publicly Funded Research

SUPPORTING INFORMATION:

Other related documents:

1. [Reporting and Managing Intellectual Property Procedure](#)
2. [Charter of Conduct and Values](#)
3. [Secondary Employment Policy](#)
4. Honorary Appointments Policy
5. [Responsible Conduct of Research Policy](#)
6. UC Copyright Guide
7. [Student Grievance Resolution Policy](#)
8. Staff employment contract

DEFINITIONS:

Terms	Definitions
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Affiliates	those people given Emeritus and Honorary (including Adjunct, Professional Associate and Visitor) appointments in accordance with the relevant University policies and procedures.
Commercialise	to exploit commercially and includes: <ol style="list-style-type: none"> 1. in relation to an IP right: the exercise of all the rights exclusively granted to the holder of such IP rights by the laws of the jurisdiction in which the IP right subsists, including where permitted the right to sub-license those rights; 2. in relation to a product, kit, apparatus, substance, documentation or information resource (or any part of such materials): to make, distribute, market, sell, hire out, lease, supply, or otherwise dispose of it; and 3. in relation to a method or process: to use the method or process or to make, distribute, market, sell, hire out, lease, supply, or otherwise dispose of a product, kit or apparatus the use of which is proposed or intended to involve the exercise of the method or process.
Commercialisation Cost	means cost actually and/or directly attributable to the registration or protection of IP Rights or Commercialisation of IP, including all development, production, completion, sales, marketing, distribution and delivery costs and expenses so incurred.
Commercialisation Income	means the gross income or other commercially valuable consideration such as but not limited to royalties, licence fees and equity received as a result of or in connection with the Commercialisation of IP.
Course Materials	means any material produced by a staff member for teaching and learning purposes and may include but not limited to overhead transparencies, slides, photographs, maps, diagrams, handbooks, manuals, unit outlines, exercises, promotional and advertising brochures, and multimedia items regardless of whether these materials are still in development or have been completed.

Creator	<p>a member of staff, a student, or an affiliate who:</p> <ol style="list-style-type: none"> 1. in the case of a patentable invention subject to the <i>Patents Act 1990 (Cth)</i>: is an inventor; 2. in the case of a copyright work or similar subject to the <i>Copyright Act 1968 (Cth)</i>: is an author; 3. in the case of a trade mark subject to the <i>Trade Marks Act 1995</i>: is a person who developed or first used the trade mark; 4. in the case of designs registrable under the <i>Designs Act 2003 (Cth)</i>: is a designer; 5. in the case of plant breeder's rights, under the <i>Plant Breeder's Rights Act 1994</i>: is a principal breeder; 6. in the case of circuit layouts, under the <i>Circuit Layouts Act 1989 (Cth)</i>: is a designer; and 7. in the case of trade secrets and know how: is a creator of that body of knowledge.
Externally Funded Research Project	<p>a research project funded by and under a contract with an external party to be undertaken by UC staff, affiliates and/or students as the UC Specified Personnel.</p>
Intellectual Property	<p>includes any proprietary right concerning:</p> <ol style="list-style-type: none"> 1. Patents under the Patents Act 1990 (Cth); 2. Information that is subject to an employee's duty of fidelity to the employer; 3. Copyright vested by virtue of the Copyright Act 1968 (Cth); 4. Trade marks registered under the Trade Marks Act 1995 (Cth); 5. Unregistered trademarks used or intended for use in businesses; 6. Designs registered under the Designs Act 2003 (Cth); 7. New plant varieties under the Plant Breeder's Rights Act 1994 (Cth); 8. Circuit layouts (computer chips) under the Circuit Layouts Act 1989; 9. Trade secrets and confidential information protected by equity or the common law; and 10. All other rights resulting from intellectual activity in the industrial, commercial, scientific, literary and artistic fields.
Manage	<p>(and, by extension, Managing) to record, publish, keep confidential, file for any type of IP registration, and to exploit in any manner, whether or not for any consideration.</p>
Moral Rights	<p>has the meaning specified in the <i>Copyright Act 1968 (Cth)</i> and includes the right of attribution of authorship in respect of the work; the right not to have authorship of the work falsely attributed; and the right of integrity of authorship in respect of the work</p>

Net Proceeds of Commercialisation	means the net proceeds actually received by the University from commercialising IP.
Patentable Invention	has the meaning given by section 18 of the <i>Patents Act 1990 (Cth)</i>
Procedure	means the “Procedures for Reporting and Managing IP” and other document to be developed pursuant to this Policy or to implement this Policy as approved by the Director, Research Services Office.
Protection	means processes, including without limitation patenting, that establish ownership or control access to or use of rights in respect to IP so as to contribute to the viability of Commercialisation of the IP.
Research Outputs	a publication, report or creative work that meets the Department of Education’s definition of research and is eligible for inclusion in HERDC and ERA government reports.
Staff	means a person who is a member of the staff of the University, whether full-time, part-time, contract, sessional or casual and includes all academic, professional, technical and administrative officers and employees.
Student	any student (including undergraduate and postgraduate student) enrolled as a student in an approved course at the University, or in a course or program of study conducted by or on behalf of the University, and any casual learner participating in any formal or informal teaching programs offered by the University or on behalf of the University.
University	The University of Canberra and its controlled or related entities.
University Resources	means those resources resulting from the expenditure of the University’s funds and include equipment, accommodation, administrative facilities, support facilities (i.e. library, computing, power and telephone) and existing University IP. It includes the provision of relief from teaching, administrative or other responsibilities, but does not include the creator’s usual salary.
University Research Project	a research project undertaken by staff, affiliates and/or students in the course of their employment at the University and supported by the use of University Resources.

NOTES:

Context

1. Staff, students and affiliates create many forms of IP within the course of their activities at the University. In many instances, it is copyright material, but it may also be patentable inventions, designs, innovations, and plant breeder’s rights.
2. This policy acknowledges the rights and obligations of the University, its staff, students and affiliates in relation to some of the IP created by those people and sets out procedures for managing and reporting that IP.
3. The University has rights and obligations in relation to much of this IP because of the terms of the

agreements entered into by the University that have supported the creation of that IP and also because of the University's role as an employer.

4. This policy applies to all parts of the University. It may only be varied by agreement between the University and another party with the written approval of the University IP Officer.

5. No right granted to any staff, student, or affiliate, whether alone or in collaboration with others, under this policy includes the right to misappropriate or misuse or use without authority the IP of any party. This limitation includes, but is not limited to, an absolute prohibition on the unauthorised use, publication, or disclosure of any IP, including confidential information, to any party.