

# Intellectual Property Policy

## Purpose

This policy sets out the principles and practices of the University of New South Wales with respect to IP. Matters considered in this policy include the nature of IP, its ownership, exploitation and the associated specific procedures adopted within the University to manage IP.

## Scope

This policy applies to all staff (academic, professional, technical and administrative) and affiliates of the University and students (undergraduate and postgraduate).

This policy is incorporated by reference in the terms and conditions of the contract of employment of staff, letters of appointment of affiliates and in the conditions of enrolment of students.

The [Disbursement of Net Revenue from IP Commercialisation Guideline](#), the [Disclosing and Exploiting Intellectual Property \(IP\) Procedure](#) and the [Copyright Ownership Guidelines](#)



date of their employment or enrolment at UNSW. The University does not assert ownership over Pre-Existing IP. Staff and students must advise the Industry and Innovation office (Division of Research and Enterprise) of the existence of Pre-Existing IP that a staff member or student brings to the University within 30 days of their employment or enrolment (refer to the [Pre-existing Intellectual Property Notification Form](#)).

- 1.5. Ownership of course materials and scholarly works not specifically commissioned or created with use of university resources

The University does not assert ownership of any IP in scholarly books, journal articles, Course Materials, or other scholarly works or subject matter generated (whether in written or any other form) by staff or students, except where the work is:

- Specifically Commissioned by the University; or
- produced with the assistance of University Resources.

Subject to the above exclusions, the ownership of IP in scholarly books, articles, Course Materials, or other scholarly works or subject matter generated is retained by the Creator.

The Creator grants to The University a perpetual, royalty free, non-exclusive licence to use such scholarly books, journal articles, Course Materials, or other scholarly works or subject matter generated by that Creator for the University's teaching and research purposes. The non-exclusive licence to use such scholarly books, journal articles, Course Materials, or other scholarly works or subject matter persists should the Creator leave the employ of The University.

- 1.6. Ownership of course materials specifically commissioned

The University asserts legal and beneficial ownership of all Course Materials which are Specifically Commissioned. The University may, at its discretion, give the Creator(s) of Specifically Commissioned Course Materials a non-exclusive licence to use the Course Materials for teaching purposes, provided that such a licence will not extend to the use of the Course Materials for any purpose which is in direct competition to the University.

Where The University does not wish to commercialise Specifically Commissioned Course Materials and advises the Creator(s) accordingly, the Creator(s) may request the assignment of the ownership rights of those Course Materials to the Creator(s) or any one of them. The University will retain a non-exclusive licence for educational purposes.

- 1.7. Ownership of artistic, musical, dramatic or creative works

The University does not assert any right or claim to ownership of the IP in artistic, musical, dramatic or other creative works created or composed by its staff or students, except where these works have been Specifically Commissioned by the University, or are created in whole or in part with the use of University Resources.

## 2. Copyright

The University has in place Guidelines for Copyright. Further information on Copyright can be obtained from <http://www.gs.unsw.edu.au/copyright/index.html>.

- 2.1. **Copyright ownership statement**

All material in which the University owns the Copyright must include the following Copyright statement:

© *Copyright The University of New South Wales [year]*

## 3. Assignments of Intellectual Property

At the request of The University, Creators who are staff members will execute, in a timely manner, all such deeds of assignment and other documentation necessary to give effect to the IP ownership, protection, use, and commercialisation provisions set out in this policy.

3.1. Effect of this policy on existing arrangements

Despite any contrary provision in this policy, all existing legally binding contracts, deeds and agreements entered into by The University at the Effective Date of this policy, will remain in full force and effect. Their terms will prevail in the event that a conflict arises with this policy.

3.2. Assignment of IP ownership by the University

The University may assign its rights, title and interests in IP owned by it to NSi and to third parties.

3.3. Dealings by staff or students

No staff member or student may act on behalf of The University, or act in their own name, to assign, license, protect or otherwise deal with IP which is the property of, The University, or over which The University asserts rights under this policy, unless specifically delegated to do so in writing.

Where a student owns IP and there are no other staff or student Creators, a student may in their own name, assign, license, protect or otherwise deal with that IP in accordance with the \_\_\_\_\_

## 4. Students

4.1. Conditions to apply to students

Where students agree to be involved in research activities that could lead to the development of IP over which the University or a third party may claim ownership or other rights, the following conditions will apply:

Some projects may not be available to students who choose not to sign a confidentiality and/or IP assignment agreement.

## **5. Exploitation of Intellectual Property owned by the University**

Where a staff member or student develops IP over which the Un41.9271 TJ.dsser[tud)8-4(-7v)-9(ne(iv)3(er )-3p(i)-9(c)5righ(y

commercialisation of UNSW IP, for the management of the University's IP assets and for the disbursement of Net Revenue.

10.2.



## Appendix

### Legislative compliance

1. This policy supports the University's compliance with the following legislation:
  - 1.1.

<b>Exploit</b>	<p>means:</p> <p>a. in relation to an Intellectual Property right: the exercise of all the rights exclusively granted to the holder of such Intellectual Property rights by the laws of the jurisdiction in which the Intellectual Property right subsists, including where permitted the right to sub-license those rights;</p> <p>b. 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</p> <p>c. 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;</p> <p>and <b>Exploitation</b> is similarly defined.</p>
<b>Intellectual Property (IP)</b>	<p>means all statutory and other proprietary rights (including rights to require information be kept confidential) in respect of inventions, copyright, trade marks, designs, patents, plant breeder's rights, circuit layouts, know-how, trade secrets and all other rights as defined by Article 2 of the <i>Convention establishing the World Intellectual Property Organisation of July 1967</i>, all rights to apply for the same and, for the avoidance of doubt, includes:</p> <ul style="list-style-type: none"> <li>• Patents under the <i>Patents Act 1990 (Cwlth.)</i>;</li> <li>• Copyright and moral rights vesting by virtue of the <i>Copyright Act 1968 (Cwlth.)</i> in literary works (including computer programs), dramatic works, musical works, artistic works, films, sound recordings, broadcasts, published editions and certain types of performances;</li> <li>• Trade marks registered under the <i>Trade Marks Act 1995 (Cwlth.)</i>;</li> <li>• Designs registered under the <i>Designs Act 2003 (Cwlth.)</i>;</li> <li>• New plant varieties under the <i>Plant Breeder's Rights Act 1994 (Cwlth.)</i>;</li> <li>• Circuit layouts (computer chips) under the <i>Circuit Layouts Act 1989 (Cwlth.)</i>; and</li> <li>• Trade secrets and other confidential material under Common Law</li> </ul>
<b>Invention</b>	<p>means any IP that is patentable under the <i>Patent Act 1990 (Cwlth.)</i>.</p>
<b>Net Revenue</b>	<p>means the monetary amount retained by NSi from the Commercialisation Revenue received from the commercialisation of IP after:</p> <p>a. total Commercialisation Costs have been recovered or deducted from Commercialisation Revenue; and</p> <p>b. the legitimate claims of third parties are satisfied.</p>

NSi



- Version 1.1 approved by UNSW Council (CL000/34) on 22 May 2000 effective 22 May 2000. Clause 3.3 amended.
- Version 1.2 approved by UNSW Council (CL04/81) on 21 June 2004 effective 21 June 2004. Revised section 2, section 3.3, and re-formatting.
- Version 1.3 approved by UNSW Council (CL05/163) on 12 December 2005 effective 13 December 2005. Section 1; 7; and Unisearch changed to NewSouth Innovations in all applicable sections.
- Version 2.0 approved by Vice-Chancellor on 24 May 2010 effective 1 July 2010. Full review.
- Version 2.1 approved by Vice-Chancellor on 30 June 2010 effective 1 July 2010. Section 4.1.
- Version 2.2 approved by Head, Governance Support on 6 March 2013 effective 6 March 2013. Section 3, 4.1, 4.3, 4.4, 13, 14.1, 14.2 and 15.
- Version 2.3 approved by President & Vice-Chancellor on 1 August 2018 effective 1 August 2018. Administrative update to divisional and senior position titles and amendment to definition of NSi.
- Version 2.4 approved by Director of Governance on 7 October 2021 effective 7 October 2021. Administrative updates to divisional and senior position titles.
- Version 2.5 approved by Director of Governance on 27 June 2023 effective 27 June 2023. Update to senior position title and contact. Amendment to definition and link to Preexisting Intellectual Property Notification Form in section 2.4.
- Version 2.6 approved by Director of Governance and University Secretary on 1 August 2024 effective 6 August 2024. Administrative updates to outdated titles, links and references to policy.