



Research and Innovation Division

IP FELLOW, VOLUNTEER AND VISITING STUDENT ASSIGNMENT OF INTELLECTUAL PROPERTY POLICY

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Approved by:	University Council				
Custodian title & e-mail address:	Executive Officer, Commercial Research Development				
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Responsible Faculty/ Division & Unit:	Commercial Research Unit, Research and Innovation Division				
Supporting documents, procedures & forms of this policy:	IP Fellow, Volunteer and Visiting Student Assignment of Intellectual Property Guidelines IP Intellectual Property Guidelines UOW Commercialisation Revenue Policy Explanatory Guidelines IP Student Assignment of IP Policy Explanatory Guidelines Appointment of Fellows				
References & Legislation:	IP Intellectual Property Policy IP Commercialisation Revenue Policy IP Student Assignment of IP Policy				
Audience:	Public – accessible to anyone				
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1 Purpose of Policy

1. This policy applies to all Fellows, Volunteers and Visiting Students of the University of Wollongong (UOW). This policy sets out the approach taken by UOW in relation to the ownership and assignment of intellectual property developed by UOW Fellows, Volunteers and Visiting Students.
2. A set of explanatory guidelines accompanies this policy.
3. This policy, along with the Intellectual Property (IP) Policy, Student Assignment of Intellectual Property Policy and the Commercialisation Revenue Policy, forms UOW's Intellectual Property Policy Framework.

2 Background

1. UOW recognises that appointing Fellows and hosting Volunteers and Visiting Students has the following benefits to UOW:
 - a. allows UOW to obtain the benefit of teaching and/or research expertise outside its own pool of Staff Members;
 - b. allows UOW to host researchers and teachers from other institutions, which expands its own network and increases its national and international reputation; and
 - c. provides opportunities for the exchange of skills and experience.
2. During the course of their interactions with UOW, Fellows, Volunteers and Visiting Students may be involved in the development of IP.

3 Definitions

Word/Term	Definition
Administration Material	Any material or documentation in any format (such as policies, procedures, business plans, contracts, funding applications, reports, promotional brochures, business processes, software) that has been developed for the purposes of UOW administration, performance evaluation, marketing, and legal services.
Commercialise or Commercialisation	To use, apply, publish, manufacture, assign, licence, sub-licence, franchise, exploit, market, or otherwise use or dispose of the IP for the purpose of generating financial or other commercial returns.
Commercialisation Expectation	Where UOW has an expectation that it will manage Commercialisation of the IP.
Creators	Those persons who produce, invent, design, enhance, generate, discover, make, originate or otherwise bring into existence IP.
Fellows	Honorary and Visiting Fellows appointed by UOW to non-salaried, full-time or fractional positions titled "Associate Fellow", "Fellow", "Senior Fellow", "Principal Fellow", "Professorial Fellow", "Visiting Fellow", or "Research Fellow" who are not Visiting Students or Volunteers. Salaried Fellows are UOW Staff Members and are covered by UOW's Intellectual Property Policy.
Home Institution	The institution at which the Student has primary enrolment.
IP	Intellectual property, which includes rights (including rights of registration or application for registration and copyright) relating to: <ol style="list-style-type: none"> a. literary, artistic, musical and scientific works;



	<p>b. computer programs and algorithms;</p> <p>c. multimedia subject matter;</p> <p>d. performances of performing artists, phonograms and broadcasts;</p> <p>e. inventions in all fields of human endeavour;</p> <p>f. scientific discoveries;</p> <p>g. industrial designs;</p> <p>h. trade secrets and confidential information;</p> <p>i. trademarks, service marks and commercial names and designations;</p> <p>j. plant varieties;</p> <p>k. patents; and</p> <p>l. circuit layouts;</p> <p>but does not include any moral rights.</p>
Staff Member	All persons appointed to the academic or general staff of UOW, whether they hold full-time, part-time, casual or conjoint appointments.
Student	<p>A person:</p> <p>(i) who has been accepted for admission to or enrolled in any course or program offered at, or in conjunction with, the University of Wollongong or the Wollongong University College; or(ii) whose body of work, completed while so enrolled (e.g. a research thesis), is still under examination.</p>
Teaching Material	All works in which copyright subsists which are used by a Staff Member, Volunteer, or Fellow for teaching purposes and includes all information, documents, materials or digital items in any form created or used for the purposes of teaching and education at UOW. This includes but is not limited to lecture notes that are made available to students, computer-generated or overhead projector presentations (such as PowerPoint presentations), course outlines, examination documents, examination marking guidelines, course databases and data, assignments, tutorial problems and solutions, course handouts, photographs, images, sound recordings, video recordings, musical scores, and the related contents of course websites.
UOW	The University of Wollongong.
Visiting Students	<p>1. students whose Home Institution is not UOW; and/or</p> <p>2. students who undertake part of their research or training at UOW but are not enrolled with UOW (e.g. research practicum students whose Home Institution is not UOW).</p>
Volunteer	A person who is not a Fellow, Visiting Student, Staff Member or Student of UOW but is working on a UOW project in a voluntary capacity. An example of a volunteer is someone who is undertaking unpaid work experience at UOW, is doing an internship at UOW or is an Honorary Postdoctoral Research Associate of UOW. For the avoidance of doubt, a collaborating colleague from another University or research institution is not a Volunteer.



4 Application & Scope

1. For the avoidance of doubt, this policy applies to UOW Fellows, Volunteers and Visiting Students only. Salaried Fellows are considered Staff Members not Fellows. UOW's Intellectual Property Policy applies to current UOW Staff Members and to Students whose Home Institution is UOW.
2. All statements made in relation to a Fellow's employer in this policy, should be read to also apply to any third parties with legal rights to IP developed by a Fellow, Volunteer or Visiting Student.

5 Ownership of Intellectual Property Developed by Fellows, Volunteers and Visiting Students

1. UOW recognises that it can not presume to have an automatic right to IP developed by Fellows, Volunteers or Visiting Students because Fellows, Volunteers and Visiting Students are not employees of UOW (the law being that an employer is usually the owner of the IP created by its employees in the course of their employment).
2. UOW also recognises that Fellows, Visitors and Visiting Students may sometimes participate in projects:
 - a. that are funded by third party sponsors, where UOW will accordingly have contractual obligations to third parties;
 - b. where UOW has Commercialisation Expectations;
 - c. that are significantly reliant upon pre-existing IP owned or licensed by UOW; or
 - d. that develop Administration Material or Teaching Material.
3. Accordingly, where a project:
 - a. is subject to contractual obligations to third parties, or
 - b. has Commercialisation Expectations, or
 - c. develops Administration Material,
4. UOW will ask Fellows, Volunteers and Visiting Students participating in that project to assign any IP they generate in the course of the project to UOW.
5. In cases where the project involves pre-existing IP owned by or licensed to UOW, UOW may also ask the Fellow, Volunteer or Visiting Student to assign any IP that they generate in the course of the project to UOW. Alternatively, UOW may ask the Fellow, Volunteer or Visiting Student to sign a Data Access Agreement or Licence Agreement or Confidentiality Agreement before being provided access to the pre-existing IP.
6. The purpose of the IP assignment, licence or confidentiality agreement is to enable UOW to:
 - a. meet its contractual obligations to third parties;
 - b. be equipped to Commercialise the IP;
 - c. protect its own pre-existing IP and any improvements made to it; and
 - d. own any IP that is important to UOW's administration.
7. In the case where the project leads to the development of Teaching Material by the Fellow, Volunteer or Visiting Student, UOW will seek a non-exclusive, royalty-free, perpetual licence from the Fellow, Volunteer or Visiting Student to use and disseminate such material in the delivery of UOW courses and degrees.

6 Where Third Parties Have Rights to the Intellectual Property Developed by Fellows, Volunteers or Visiting Students

1. Fellows, Visiting Students and Volunteers will normally have the sole rights to the IP that they develop. However, this may not be the case if they have entered into some other arrangement with their Home Institution, employer or other third party.



2. Where a third party has rights to the IP developed by a Fellow, Volunteer or Visiting Student and UOW wishes to own or licence that IP (as per Section 5 above), UOW will ask that third party to also assign or licence its rights to UOW.
3. For ease of reading and interpretation of this policy, all statements made in relation to a Fellow's employer in this policy, should be read to also apply to any third party with legal rights to IP developed by a Fellow, Volunteer or Visiting Student.
4. UOW may ask Fellows, Volunteers or Visiting Students to sign a document to implement this policy and, if applicable, to procure any licences or permissions required to comply with this policy.

7 Decision to Assign/Licence Intellectual Property to UOW

1. A Fellow (and/or their employer), Visiting Student or Volunteer may choose not to assign IP to UOW or sign a Data Access Agreement, Licence Agreement or Confidentiality Agreement. If a Fellow (and/or their employer), Visiting Student or Volunteer makes this choice, and the project has not yet commenced with the involvement of the Fellow, Visiting Student or Volunteer, then:
 - a. the Fellow, Visiting Student or Volunteer, in conjunction with their UOW supervisor or host, will attempt to develop an alternative research program where UOW does not have a Commercialisation Expectation and is not subject to contractual obligations to third parties and is not reliant upon pre-existing IP owned or licensed by UOW; and
 - b. the Fellow, Visiting Student or Fellow will be excluded from the research where there is a Commercialisation Expectation or which is subject to contractual obligations or is reliant upon pre-existing IP owned or licensed by UOW.
2. If a Fellow, Visiting Student or Volunteer has already commenced on a project and IP with commercial value is subsequently developed, UOW will ask the Fellow, Visiting Student or Volunteer to assign their IP to UOW where there is a Commercialisation Expectation.
3. If a Fellow, Visiting Student or Volunteer does choose to assign IP to UOW, the Fellow, Visiting Student or Volunteer will:
 - a. receive a share of nett commercialisation revenues, along with other Creators; and
 - b. will not be prejudiced in submitting a thesis for examination, and being able to complete the requirements for the award of a degree.
4. If the Fellow, Volunteer or Visiting Student chooses not to licence UOW to use Teaching Material that they develop, then UOW will not be able to use this material.

8 Fellow's (and/or their Employer), Volunteer's and Visiting Student's Decision to Assign or Licence Intellectual Property to UOW

1. A Fellow (and/or their employer), Volunteer or Visiting Student may choose not to assign or licence their IP to UOW. If this occurs, the Fellow, Volunteer or Visiting Student will be excluded from the project if that project:
 - a. is one where there is a Commercialisation Expectation;
 - b. is subject to third party contractual obligations;
 - c. will lead to the development of Teaching Material or Administration Material; or
 - d. is reliant upon use of pre-existing IP owned or licensed by UOW.
2. If a Fellow, Volunteer or Visiting Student has already commenced a project and IP with commercial value is subsequently developed, UOW will ask the Fellow (and/or their employer), Volunteer or Visiting Student to assign their IP to UOW where there is a Commercialisation Expectation.
3. If the Fellow (and/or their employer), Volunteer or the Visiting Student does choose to assign IP to UOW, the Fellow (and/or their employer), Volunteer or Visiting Student will receive a share of UOW's nett commercialisation revenues, along with other Creators, as per UOW's Commercialisation Revenue Policy unless UOW comes to some other contractual arrangement with the Fellow (and/or their employer), Volunteer or Visiting Student.



4. Where a Fellow's employer has rights to the IP that the Fellow develops, the employer's share of the revenue that the Fellow would be entitled to as a Creator will be determined on a case-by-case basis as per UOW's Commercialisation Revenue Sharing Policy. In making such a determination, UOW will consider any existing contractual arrangements between the Fellow and their employer, any relevant policies of the Fellow's employer and subsequent negotiations between UOW, the Fellow's employer, and the Fellow. This will also be the case where any third-party has rights to any IP developed by a Fellow, Volunteer or Visiting Student.
5. Where a Visiting Student assigns IP to UOW, a Deed of Assignment must provide for the Visiting Student to retain copyright in a thesis or university assessment task (e.g. a report or essay). Where a Fellow, Volunteer or Visiting Student assigns IP to UOW, UOW will provide for the Fellow, Volunteer or Visiting Student to retain copyright in any publications unless UOW wishes to commercialise or publish the proposed publication.

9 Independent Legal Advice Prior to Assignment of Intellectual Property

1. The Fellow, Volunteer or Visiting Student will be given the opportunity to obtain independent legal advice prior to executing any IP Assignment Deeds.

10 Roles & Responsibilities

1. The relevant Manager of Innovation and Commercialisation (MIC) has a responsibility to:
 - a. comply to the terms of this policy;
 - b. once notified by the supervising or hosting Staff Member that a Fellow, Volunteer or Visiting Student will be involved in a project where UOW may want to own or licence the arising IP, determine what type of contract is appropriate and what the terms of the contract should be;
 - c. organise preparation of and negotiate the appropriate contracts;
 - d. ensure that Staff Members are aware of any Commercialisation Expectations in regards to IP that Staff Members notify the MIC of.
2. UOW Staff Members hosting or supervising a Fellow, Volunteer or Visiting Student have a responsibility to:
 - a. comply to the terms of this policy;
 - b. ensure that they notify the relevant MIC if a Fellow, Volunteer or Visiting Student is to commence on a project (and ensure that commencement does not occur until appropriate contracts are in place), where the project involves:
 - i. IP where UOW has Commercialisation Expectations;
 - ii. third-party sponsors;
 - iii. pre-existing IP licensed by UOW;
 - iv. pre-existing IP owned by UOW where UOW would need to protect this IP; or
 - v. the development of Teaching Material or Administration Material;
 - c. bring this policy to the attention of the Fellow, Volunteer or Visiting Student before they agree to host or supervise the Fellow, Volunteer or Visiting Student; and
 - d. ensure that they notify the relevant MIC if they realise that IP with potential Commercialisation Expectations is or may be developed by the Fellow, Volunteer or Visiting Student after commencement of the project.
3. The Fellow, Volunteer or Visiting Student has a responsibility to:
 - a. be aware of this policy and how it relates to them;
 - b. ensure that their employer, or any other third parties with claims to the IP that they develop, is also aware of this policy.



11 Version Control and Change History

Version Control	Date Effective	Approved By	Amendment
1	July 2007	University Council	New Policy
2	6 February 2009	University Council	Consequential amendment to the definition of "volunteer" to incorporate Honorary Postdoctoral Research Associates
3	6 May 2009	Vice Principal (Administration)	Migrated to UOW Policy Template as per Policy Directory Refresh