



Commercialisation Revenue Policy

Date Policy will take effect	23 June 2006		
Date of Next Review	June 2009		
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Reference/related legislation and policies	Intellectual Property Policy Student Assignment of Intellectual Property Policy Conflict of Interest Policy Student Deed of Assignment of IP		
Supporting documents and forms of this policy			
Supporting procedures/guidelines for this policy	Commercialisation Revenue Policy Guidelines		
Website Address			

1. Purpose of the Policy

This policy applies to all Staff Members and Students (under-graduate and post-graduate) of the University of Wollongong (UOW). It may also apply to other persons by agreement. This policy sets out the approach taken by UOW in relation to the sharing of revenue generated from Commercialisation of Intellectual Property (IP).

A set of explanatory Guidelines accompanies this policy.

This policy, along with the Intellectual Property Policy and the Student Assignment of Intellectual Property Policy, forms UOW's IP policy framework.

2. Background

UOW provides an environment that 1) encourages researchers to develop innovative ideas and 2) supports Commercialisation of these ideas. UOW wishes to reward Creators who develop IP with Commercial value by allowing them to share in the returns from Commercialisation. Therefore, this policy is intended to provide a personal incentive and reward for UOW researchers who have developed IP with commercial value. It is also intended that this policy will provide a clear framework for considering how Commercial Revenue should be distributed.

3. Definitions

In this Policy, the following definitions are used. References to the singular include the plural and references to the plural include the singular.

Commercialise or Commercialisation	means 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 Expenses	include, but are not limited to: (a) patenting expenses; (b) legal expenses incurred on the project (and not just on the particular deal giving rise to the Commercialisation Revenue); (c) external professional expenses incurred on the project (and not just on the particular deal giving rise to the Commercialisation Revenue), this might include: accountants expenses for financial modelling;

	<p>valuer's expenses, and other consultants expenses (commercialisation consultants, negotiators, other consultants); (d) travel and accommodation expenses incurred on the project (and not just on the particular deal giving rise to the revenue) by any person (whether Staff Member or an external professional); and (e) fringe benefits tax payable by UOW in relation to Commercialisation.</p> <p>The above list is not exhaustive and the determination of whether a particular expense is a Commercialisation Expense will be made by the Deputy Vice-Chancellor (Research). Commercialisation Expenses do not include: (a) UOW's administration expenses; or (b) the cost of undertaking research.</p>
Commercialisation Revenues	<p>include, but are not limited to: (a) royalties upon sales by a licensee; (b) royalties from sub-licence fees received from a licensee; (c) lump sum licence fees; (d) proceeds of sale of the IP; (e) signing fees; (f) milestone payments; (g) minimum annual payments; (h) reimbursement of patent prosecution and maintenance expenses; (i) dividends upon shares owned by UOW in a start up company to which it grants a licence; (j) proceeds of sale of shares owned by UOW in a start up company to which it grants a licence; and (k) damages from infringement proceedings.</p> <p>The above list is not exhaustive. The determination of whether a particular revenue is a Commercialisation Revenue available for distribution to inventors will be made by the Deputy Vice-Chancellor (Research).</p> <p>Commercialisation Revenue does not include the overhead component of research funds paid pursuant to a research agreement.</p>
Creators	means those persons who produce, invent, design, enhance, generate, discover, make, originate or otherwise bring into existence IP.
IP	<p>means intellectual property, which includes rights (including rights of registration or application for registration) relating to:</p> <ol style="list-style-type: none"> a. literary, artistic, musical and scientific works; b. computer programs and algorithms; c. multimedia subject matter; d. performances of performing artists, phonograms and broadcasts; e. inventions in all fields of human endeavour; f. scientific discoveries; g. industrial designs; h. trade secrets and confidential information; i. trademarks, service marks and commercial names and designations; j. plant varieties; k. patents; and l. circuit layouts; <p>but does not include any moral rights.</p>
Nett Commercialisation Revenue	is the gross Commercialisation Revenues received from Commercialisation of IP less Commercialisation Expenses.
Staff Member	means all persons appointed to the academic or general staff of UOW, whether they hold full-time, part-time, casual or conjoint appointments.
Student	<p>means 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</p>

	(ii) whose body of work, completed while so enrolled (e.g. a research thesis), is still under examination.
UOW	means the University of Wollongong.

4. Distribution of Nett Commercialisation Revenues

UOW will distribute Nett Commercialisation Revenues to Creators in accordance with UOW's Intellectual Property Policy, namely:

- (a) 50% to be shared by all of the Creators;
- (b) 50% to UOW, to compensate it for the use of its facilities, resources and commercialisation framework.

5. Equity in Companies

Equity in a start up company will be considered on a case by case basis. Creators will need to consider the taxation impact, if any, upon them of holding equity. Similarly, UOW will need to consider the fringe benefits tax impact, if any, upon it.

In cases where Creators may personally hold shares, the number of shares to be held between the Creators will be determined in accordance with the same principles that operate in relation to the distribution of Commercialisation Revenues, that is:

- (a) consider the "gross" number of shares available in accordance with the terms of the particular transaction;
- (b) consider the Commercialisation Expenses that would have been deducted from revenue to arrive at a "nett";
- (c) calculate the Creators' entitlement to this number of shares, being 50%;
- (d) convert this to a number of shares; and
- (e) arrive at the "nett" number of shares to be available to Creators.

Whether Creators may on a particular occasion hold shares personally, will be determined by the Deputy Vice-Chancellor (Research). Where Creators may personally hold shares, they will be required to forego any other Creators' entitlements.

6. Deed of Assignment

There will be a legal obligation upon UOW, contained in Deeds of Assignment from Staff Members and Students, to:

- (a) have this Commercialisation Revenue Policy; and
- (b) apply it.

7. Commercialisation Revenue Committee

There will be a Commercialisation Revenue Committee constituted on a case by case as required basis. The Committee will be composed of:

- (a) the Deputy Vice-Chancellor (Research) or their representative;
- (b) one other member of UOW staff selected by the Deputy Vice-Chancellor (Research);
- (c) one other member of UOW staff from a Department/School unconnected with any of the Creators and who is nominated by consensus by the Creators.

The Committee will have regard to:

- (a) the views of the Creators;
- (b) principles of inventorship;
- (c) principles of authorship; and
- (d) the advice of any expert, such as a patent attorney, from whom UOW obtains advice.

The Committee will make a recommendation to the authorised delegate(s) in regard to:

- (a) who is a Creator; and
- (b) in what proportions Creators will share in Commercialisation Revenues.

UOW's authorised delegate(s) will consider the recommendation made by the Committee and the delegate'(s) decision is final.

8. Communication

It is the responsibility of the Research and Innovation Division to develop and review the communication strategy for this policy.

9. Review and Change History of this Policy

Last Version Number	Date the Version was Reviewed	Authorised By (Committee or Individual)	Change Details
1	2006	Council	