

Intellectual Property Policy

1. COMPLIANCE OBLIGATION SUPPORTED

[Curtin University Act 1966 \(WA\)](#)

[Copyright Act 1968 \(Cth\)](#)

[Trade Marks Act 1995 \(Cth\)](#)

[Patents Act 1990 \(Cth\)](#)

[Designs Act 2003 \(Cth\)](#)

[Plant Breeders' Rights Act 1994 \(Cth\)](#)

[Circuit Layouts Act 1989 \(Cth\)](#)

2. PURPOSE

Curtin seeks to foster a culture which values and rewards technology transfer and entrepreneurial endeavour; promotes collaboration between the University, staff and industry; and maximises the benefits to Australia from publicly funded research. Curtin encourages staff to actively engage in commercialisation of intellectual property (IP) and be rewarded for that activity.

The [Intellectual Property Policy and Procedures](#) facilitate good practice and clarity of ownership when considering identification, protection, management and commercialisation of IP.

3. POLICY STATEMENT

3.1 Ownership of IP by employees

3.1.1 Unless otherwise agreed in writing, the University owns all IP developed, created, authored or otherwise contributed to by an employee:

- (a) in their course of duties; or
- (b) pursuant to a University project,

that is not artistic work, scholarly work or indigenous cultural and intellectual property (ICIP). This ownership is not impacted by whether or not the employee's involvement was outside of work hours or used resources other than University resources.

3.1.2 If an employee develops, creates or authors IP that is not related in any way to their course of duties or a University project and has not used any University resources in developing, creating or authoring that IP, then the employee owns that IP.

3.2 Ownership of IP developed, created or authored by students

A student owns IP developed, created or authored by them during their period of admission at the University, except where the IP arises from participation in a University Project, in which case the University will own the IP, unless otherwise agreed in writing with the student.

3.3 Scholarly work and artistic work

The University does not assert ownership over the IP in scholarly work or artistic work.

3.4 Indigenous cultural and intellectual property

3.4.1 The University acknowledges that Aboriginal and Torres Strait Islander communities are the custodians of their ICIP and have an interest in protecting their ICIP from exploitation that is contrary to their customary laws.

3.4.2 The University aims to give appropriate recognition, protection and respect to ICIP and its owners by ensuring that:

- (a) ICIP is used for a purpose permitted by the owners of the ICIP with informed consent and, if required, continued consent of its owners;
- (b) the ownership of ICIP made available for use in research and University

- Projects is not affected by that use;
- (c) ICIP is not used (obtained, appropriated, claimed, or commercialised) without the prior approval of the ICIP owners and any use occurs on mutually agreed terms;
 - (i) that owners of ICIP can expect that activities, projects and research conducted utilising their ICIP will be of benefit to Aboriginal and Torres Strait Islander communities, and that there is an equitable sharing of any benefits arising from the use of ICIP with those communities; and
 - (ii) the University respects any Aboriginal and Torres Strait Islander sacred site that is the subject of research and project work.

3.4.3 Where applicable, the University will collaborate in good faith to implement or develop protocols for implementing, in relation to ICIP, the [Australian Institute of Aboriginal and Torres Strait Islander Studies Code of Ethics for Aboriginal and Torres Strait Islander Research](#).

3.5 Moral rights

3.5.1 The University acknowledges the moral rights of originators as provided in the [Copyright Act 1968 \(Cth\)](#) including the right of fair attribution and the need for work not to be altered or used in a way that harms the reputation of the originator.

3.5.2 Where IP is created during a University Project, originators may be required to provide a written waiver of moral rights to the IP in favour of the University or a third party.

3.6 Commercialisation

3.6.1 Where the University decides to commercialise IP, originators will be rewarded by receiving a portion of the Net Revenue received by the University or as otherwise set out in the [Intellectual Property Procedures](#).

3.6.2 Where the University decides not to commercialise IP or to discontinue commercialisation already undertaken, the University may assign Ownership in the IP to the originator(s).

4. SCOPE OF POLICY

This Policy applies to all members of the University community (which includes Council members, students, employees, University Associates, Curtin controlled entities, and all persons participating in University business or activities, including whether as a visitor, adjunct appointee, service provider, or contractor).

5. DEFINITIONS

(Note: Commonly defined terms are located in the [Curtin Common Definitions](#). Any defined terms below are specific to this document)

Artistic Works

A painting, sculpture, drawing, engraving, photograph or any other work of artistic craftsmanship created or made for the sole purpose of aesthetic or artistic merit.

Commercialisation or Commercialise

In relation to IP means to make, sell, copy, adapt, apply, publish, develop, use, assign, license or otherwise use the IP for the purpose of generating financial or other commercial gains. This definition excludes tuition fees and student contribution amounts paid by students.

Course of Duties

The scope of duties as set out in the terms and conditions of any relevant enterprise bargaining agreement, contract of employment, duty statement or any other agreement between the individual and the University in effect at the time at which the IP was generated.

Indigenous cultural and intellectual property (ICIP)

The interests of Aboriginal or Torres Strait Islander people in their culture, heritage and knowledge

and includes the intangible and tangible aspects of their cultural practices, cultural expressions, resources and knowledge systems that have been and continue to be developed, nurtured and refined as part of expressing their cultural identity and includes any applicable cultural rights in favour of Australian Indigenous people that may be given effect under Australian law.

Intellectual Property (IP)

All statutory and other proprietary rights anywhere in the world, whether registered or unregistered, in relation to:

- (a) a patent, application for a patent, invention, manner, method or process of manufacture, or method or principle of construction as defined in the [Patents Act 1990 \(Cth\)](#);
- (b) a copyright work as defined in the [Copyright Act 1968 \(Cth\)](#);
- (c) a design as defined in the [Designs Act 1906 \(Cth\)](#);
- (d) a plant variety as defined in the [Plant Breeders' Rights Act 1994 \(Cth\)](#);
- (e) a circuit layout or semi-conductor chip layout or design or eligible layout as defined in the [Circuit Layouts Act 1989 \(Cth\)](#);
- (f) a trade mark as defined in the [Trade Marks Act 1995 \(Cth\)](#);

and all other rights as defined by Article 2 of the Convention Establishing the World Intellectual Property Organisation. It includes related rights and confidential information and know-how in relation to the above rights, or as otherwise determined by the University.

Net Revenue

In relation to a particular item or related items of IP, the revenue remaining after the deduction by the University of its reasonable costs incurred in the protection and commercialisation of University IP, including but not limited to an appropriate allowance for risk, in that particular item or related items of IP.

Originator

A person who develops, creates or authors IP, whether or not in conjunction with another person.

Revenue

The gross proceeds received by the University as a result of commercialisation of University IP. This will include but not be limited to any amount in the form of upfront fees, milestone payments, royalties, dividends and the proceeds from sale of shares in cases where shares have not been issued directly to originator(s) in consideration for their contribution. It specifically excludes:

- (a) research and development funds;
- (b) grants and direct investments;
- (c) donations from the University, sponsors or other third-parties; and
- (d) gross proceeds received by the University as a result of commercialisation of teaching materials and work commissioned by the University.

Scholarly Works

Any article, book, textbook, manual, manuscript or other material prepared or created by an employee in their course of duties for educational or scholarly purposes, but does not include teaching materials.

Sponsor

A third party, external agency or industry partner which has entered into an agreement with the University to undertake research or other services.

Teaching materials

Materials whether in electronic, written or any other form produced by University employees or students or commissioned by the University for use in, or in conjunction with, without limitation, a course, subject or unit offered or to be offered by or on behalf of the University or by an affiliated open learning or distance education agency. It includes without limitation lecture notes and material, syllabi, handouts, study guides, course software and assessment materials regardless of format (for example, printed, digital, electronic, multi-media presentations and web content). It

excludes personal lecture notes by employees that are not made available to students or personal notes taken by students to assist in study. If any work may be considered both teaching materials and scholarly or artistic works, for the purpose of this policy it will be treated as teaching materials.

University Associate

Any visiting academic, adjunct appointed to the University, any honorary or emeritus appointee or any person who is a member of another educational or research institution, and is engaged in teaching, research or other activities of the University.

University IP

IP owned by the University according to the terms of the [Intellectual Property Policy](#) or [Procedures](#) or otherwise as a matter of law.

University Project

Work or research administered by or on behalf of the University which:

- (a) is funded wholly or in part by a sponsor; or
- (b) is commissioned or otherwise funded by the University; or
- (c) uses or incorporates University IP or University resources or both; or is a collaborative project, which is either:
 - (i) a program of work conducted by more than one originator, where each originator's contribution to the IP cannot be separated from the contribution made by other originators; or
 - (ii) a program of work that originates from, or is an improvement to, University IP.

University Resources

Resources belonging to the University including without limitation, premises; infrastructure; facilities; funds; services; equipment; paid leave; and employee or University Associate's time.

6. SUPPORTING PROCEDURES

[Intellectual Property Procedures](#)

7. RELATED DOCUMENTS/LINKS

Internal

[Authorship, Peer Review and Publication of Research Outputs Policy](#)

[Conflict of Interest Procedures](#)

[Governance Requirements - Interests in Entities Procedures](#)

[Research Management Policy](#)

[Research Data and Primary Materials Policy](#)

External

[Australian Institute of Aboriginal and Torres Strait Islander Studies Code of Ethics for Aboriginal and Torres Strait Islander Research](#)

[Circuit Layouts Act 1989 \(Cth\)](#)

[Convention Establishing the World Intellectual Property Organisation](#)

[Copyright Act 1968 \(Cth\)](#)

[Designs Act 2003 \(Cth\)](#)

[National Principles of Intellectual Property Management for Publicly Funded Research](#)

[Patents Act 1990 \(Cth\)](#)

[Plant Breeder's Rights Act 1994 \(Cth\)](#)

[Trade Marks Act 1995 \(Cth\)](#)

Policy Compliance Officer	Rohan McDougall , Director, IP Commercialisation Research Office at Curtin
Policy Manager	Deputy-Vice Chancellor, Research
Approval Authority	Senior Executive Team
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REVISION HISTORY

Version	Approved/ Amended/ Rescinded	Date	Committee / Board / Executive Manager	Approval / Resolution Number	Key Changes and Notes
D001/1.1	Approved	29/09/2000	University Academic Board	UAB 132/00	Document No UAB 79/00
D001/1.1A	Amended	01/12/2000	University Academic Board	UAB 179/00	Updated Approval Authorities, effective 1 January 2001
A005/P1.3	Amended	09/05/2007	Council	C 58/07	Document No 00390/07
D001/1.2	Amended	28/05/2007	Director, Legal and Compliance Services		Formatting Amendment & Reference to Fraud Policy Changed to Corruption and Crime Commission Policy and Procedures
	Administratively Updated	20/03/2008	Director, Legal and Compliance Services		Reformatted and Amended to Reflect Organisational Chart
	Amended	25/03/2011	Academic Board	AB 39/11	Attachment 1 to Document No 00336/11
	Administratively Updated	06/10/2015	Director, Legal and Compliance Services	EC 76/15	Executive Manager Title Changes
	Approved	30/03/2017	Planning and Management Committee	PMC 14/17	Attachment A to Item 5 (was previously a combined policy and procedure, they are now separated)
	Approved	07/03/2024	Senior Executive Team	SET 10/24	Full Review