



## Intellectual Property Policy

### 1. STRATEGIC PLAN THEME AND COMPLIANCE OBLIGATION SUPPORTED

Strategic Plan Theme: [Research and Innovation](#)

### 2. PURPOSE

To determine the ownership of Intellectual Property (IP).

### 3. POLICY STATEMENT

#### 3.1. Ownership of IP created by a member of staff

3.1.1. Ownership of all IP created by a member of staff in their course of duties will vest in the University except for IP in the following:

- (a) artistic works;
- (b) indigenous works;
- (c) scholarly works; and
- (d) any other work where a member of staff has entered into a written agreement with the University which provides otherwise.

#### 3.2. Ownership of IP created by students

3.2.1. Ownership of IP created by students will vest in the students except where such IP;

- (a) arises from participation in a University project; or
- (b) incorporates University IP.

#### 3.3. University decides to commercialise

3.3.1. Where the University decides to commercialise University IP, the net revenue received by the University will be shared between the University and the originator(s). The manner of this sharing is set out in the *Intellectual Property Procedures*.

#### 3.4. University decides not to commercialise

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

### 4. RESPONSIBILITY FOR IMPLEMENTATION, COMPLIANCE MONITORING, MEASURING AND CONTINUAL IMPROVEMENT

These management positions are responsible for implementation and compliance monitoring of the policy in their work areas:

- Director, IP Commercialisation
- Line managers

### 5. SCOPE OF POLICY

This policy applies to all Staff and Students.

### 6. 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 utilise the IP for the purpose of generating financial or other commercial gains. For the

purposes of this Policy, this definition will exclude fees paid by Students enrolled in courses leading to the award of a Curtin degree or diploma.

### **Commissioned Work**

Means any work specifically commissioned by the University to improve its operations or other specific purpose as outlined in this policy.

### **Course Materials**

Either:

- (a) any copyright work whether in electronic, written or any other form of media created by a member of staff specifically for use in, or in connection with 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; or
- (b) any materials commissioned by the University specifically for use in, or in connection with 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.

### **Course of Duties**

For a member of Staff, means the scope of duties as a member of Staff 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 member of Staff and the University in effect at the time at which University IP or other IP was generated.

### **Indigenous Work**

A work created predominantly by people of Aboriginal and Torres Strait Islander descent having spiritual, cultural or traditional value.

### **Intellectual Property (IP)**

Includes any rights in relation to:

- 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);
- a copyright work as defined in the Copyright Act 1968 (Cth);
- a design as defined in the Designs Act 1906 (Cth);
- a plant variety as defined in the Plant Breeders' Rights Act 1994 (Cth);
- a circuit layout or semi-conductor chip layout or design or eligible layout as defined in the Circuit Layouts Act 1989 (Cth);
- a trade mark as defined in the Trade Marks Act 1995 (Cth);  
and including 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 Intellectual Property (IP), the revenue remaining after the deduction by the University of its reasonable costs incurred in the protection and commercialisation of University IP.

### **Originator**

Any person who authors, creates, develops or makes, whether in conjunction with another person or not, any IP.

### **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. However, revenue will specifically exclude R&D funds, grants and direct investments or donations from the University, Sponsors or other third parties and gross proceeds received by the University as a result of commercialisation of course materials and commissioned works.

### **Scholarly Works**

Any article, book, manual monographs, manuscripts, lecture notes and other materials prepared or created by member of staff, for educational or scholarly purposes, in the course of their duties but does not include course materials or computer works.

### **Sponsor**

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

**University IP**

IP owned by the University according to the terms of this policy or otherwise as a matter of law.

**University project**

A self-contained program of work or research administered by or on behalf of the University which:

- (a) is funded wholly or in part by a sponsor;
- (b) is funded wholly or in part by a specific contribution (in relation to the creation of IP means funding or resources which are contributed by the University, but excludes a scholarship awarded by the University as a contribution to a specific University project); or
- (c) 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 that of the other originators'; or
  - (ii.) a program of work that originates from, or is an improvement to, University IP, whether registered or not.

**7. SUPPORTING PROCEDURES**

[Intellectual Property Procedures](#)

**8. RELATED DOCUMENTS/LINKS**

[Conflict of Interest Procedures](#)

[Intellectual Property Procedures](#)

[Research Management Policy](#)

[Research Data and Primary Materials Policy](#)

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

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

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|----------------------------------|---|
| <b>Policy Compliance Officer</b> | <a href="#"><u>Rohan McDougall</u></a> , Director, IP Commercialisation |
| <b>Policy Manager</b>            | Deputy-Vice Chancellor, Research  |
| <b>Approval Authority</b>        | Senior Executive Team   |
| <b>Review Date</b>               | 1 <sup>st</sup> April 2022  |

**REVISION HISTORY**

| <b>Version</b> | <b>Approved/<br/>Amended/<br/>Rescinded</b> | <b>Date</b> | <b>Committee / Board /<br/>Executive Manager</b> | <b>Approval /<br/>Resolution<br/>Number</b> | <b>Key Changes and Notes</b>  |
|----------------|---|-------------|--|---|---|
| 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 |

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|--|--------------------------|------------|---|-----------|--|
|  | 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<br>(was previously a combined policy and procedure, they are now separated) |