Intellectual Property Policy

Section 1 - Purpose and Scope

(1) The University of Queensland (UQ or the University) under the University of Queensland Act 1998 (Qld) seeks to foster a research culture in which technology transfer and entrepreneurial endeavour are valued, rewarded, and University Intellectual Property (UQ IP) can deliver optimal impact. This has a broad benefit for society while providing valuable recognition for the University. The University recognises the importance of protecting Intellectual Property in the creation of commercial and practical benefits for the community and its partners. UQ facilitates the development of intellectual property through the provision of resources and specialised skills in the commercialisation process.

(2) This Policy and the associated procedure establish mechanisms by which the University is able to identify, protect, manage and Commercialise its intellectual property (IP).

(3) This Policy outlines the University's position on:

a. IP ownership;
b. Moral rights; and
c. Indigenous Knowledges.

(4) All University staff, students and title holders are required to conduct themselves in a manner consistent with the Australian Code for the Responsible Conduct of Research 2018 and the standards set out in the relevant UQ code or charter:

a. Staff and Title Holders: Staff Code of Conduct Policy;
b. Students: Student Code of Conduct Policy; and
c. Higher Degree by Research (HDR) candidates: Higher Degree by Research Candidature Charter Policy.

(5) This Policy applies to all University staff, students and a title holders.

(6) The IP and Confidentiality Deed for Visiting Researchers agreement applies to visiting researchers. This agreement must be finalised prior to the visiting researcher commencing their engagement with UQ.

(7) The process for IP commercialisation and disputes relating to IP matters will be dealt with in accordance with the Intellectual Property Procedure.

Section 2 - Principles and Key Requirements

Ownership Principles for Intellectual Property

(8) The University asserts ownership of all IP developed, created, authored or otherwise contributed to by University staff, HDR candidates and title holders in the course of their employment, enrolment or engagement with the University, unless as otherwise stated in this Policy.

(9) Without limiting the above principle, UQ IP includes IP created in the following circumstances (amongst others):

a. when using University resources;
b. in furtherance of the University's goals through employer-mandated directives;
c. in teaching materials (refer to clauses 12-13); or
d. where creation has resulted from the use of, or incorporates, UQ owned Background IP.

(10) The University does not assert ownership over:

a. IP in Scholarly or Creative Works, including those generated by HDR candidates (refer to clauses 14-15);
b. copyright in HDR candidate theses (refer to clauses 16-19),
c. IP created by students other than HDR candidates (refer to clause 20).

(11) Ownership of intellectual property in projects involving Third Parties will be determined by the third-party agreement with those parties to the project (refer to clauses 22-23).

Teaching Materials

(12) The University asserts ownership over all IP in teaching materials produced by University staff, students or title holders in the course of, or for use in, teaching at the University (for example, 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). Excluded are personal lecture notes by staff that are not made available to students or personal notes taken by students to assist in study. In the event that the work may be considered both teaching materials and a Scholarly or Creative Work, it will be treated in this Policy as teaching materials.

(13) The University grants to the originator of the teaching materials a perpetual, personal, royalty-free, non-exclusive, non-transferable licence to use such teaching materials for teaching, educational and research purposes at other educational institutions. The originator may not use the teaching materials to compete with the University directly and may not sublicense the teaching materials to others to generate royalties, license fees or similar commercialisation returns.

Scholarly or Creative Works

(14) The University does not assert ownership over the IP in scholarly or creative works. This includes copyright works that are intended for publication (for example, any article, book, manuscript, cinematograph films, sound recordings, sound and television broadcasts, or any literary, dramatic, musical, or artistic works,) regardless of format (for example, printed, digital or electronic versions).

(15) Unless there is a specific written agreement to the contrary (such as a contract with a book publisher), the originator grants the University a perpetual, irrevocable, royalty-free, unrestricted, non-exclusive licence to scholarly or creative works for teaching, educational and research purposes.

Higher Degree by Research Candidates

(16) HDR candidates retain copyright in their theses. HDR candidates grant to UQ a perpetual, irrevocable, royalty-free, non-exclusive, world-wide licence to use and reproduce the student theses for non-commercial educational, teaching and research purposes.

(17) The assignment of IP to the University by HDR candidates is a requirement of admission to the UQ HDR Program. This assignment of IP to UQ provides HDR candidates with the same opportunities, rights and responsibilities as University staff in relation to the commercialisation and protection of any IP they have contributed to or created.

(18) Any discussions involving third-party ownership of HDR candidate created UQ IP will not diminish the requirement of HDR candidates to assign IP to the University. In these instances, the University will negotiate ownership with any

third parties.

(19) Please refer to the Intellectual Property - for Higher Degree by Research (HDR) Candidates website for more information.

Students other than HDR Candidates

(20) The University does not assert ownership of IP created by students other than HDR candidates. However, it is acknowledged that some students (in particular honours students or postgraduate course work students with a research component) may collaborate with external entities on research projects. If there is potential for IP to be created, the University expects students to assign IP that the student may create to the University before project commencement. If the project does result in the creation of IP, students other than HDR candidates will be treated as HDR candidates per the Intellectual Property Procedure.

Brands, Trademarks, Domain Names and Business Names

(21) Where the Policy states that the University owns IP, and a brand, trademark, domain name or business name is used by staff or students in the promotion, naming or commercialisation of that IP, then the University owns that brand, trademark, domain name or business name and it must be registered in the name of, and owned by the University.

Contract Research and Consultancy

(22) Research or consultancy work with a person or organisation external to the University must have a contractual arrangement in place that considers the appropriate protection of the University's interests with regard to IP.

(23) Variation from the principles of University ownership of IP may occur when:

a. An external party engages UQ in Contract Research and fully funds the research costs of a project inclusive of UQ's full indirect costs, in accordance with the Research and Consultancy Costing and Pricing Procedure. If the project relies on or uses background IP and the external party requires access to the background IP in order to be able to use commercially the IP created during the contract research project, then a licence to the background IP negotiated through the University commercialisation company is required.
b. The activity is a consultancy.

Indigenous Knowledges

(24) The University recognises:

a. the significance and importance of Indigenous Knowledge;
b. that Indigenous Knowledge is living, vibrant and dynamic; and
c. that Indigenous Knowledge includes existing, emerging and future items and knowledge.

(25) The University aims to ensure that appropriate recognition, protection, and respect is given to Indigenous Knowledge and its owners. Consistent with this, the University and its staff will aim to ensure that:

a. Indigenous Knowledge is not used (obtained, appropriated, claimed, or commercialised) without the prior approval of the appropriate holders of such Indigenous Knowledge;
b. there is an equitable sharing of benefits arising from use of Indigenous Knowledge with the appropriate holders of such Indigenous Knowledge; and
c. where Indigenous Knowledge is used (obtained, appropriated, claimed, or commercialised), that it is on mutually agreed terms.

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Moral Rights

(26) The University recognises the moral rights of the originators of specific works in accordance with the Copyright Act 1968. These include the right of fair attribution, and the need for work not to be altered or used in such a way that it would harm the reputation of the originator. Where an originator agrees to be involved in research activities as part of a project between the University and an external sponsor or another third party, the originator may be required to provide a written waiver in respect of the originator's moral rights in relation to certain works that may be created during the project prior to work commencing.

Transition of Existing Agreements

(27) It is recognised that the University has existing agreements relating to intellectual property and disbursement of net proceeds at the date of publication of this Policy (27 November 2020). This Policy and associated procedures do not override existing agreements. Existing agreements will continue per the agreed terms until the expiration of the respective contract.

Section 3 - Monitoring, Review and Assurance

(28) The Deputy Vice-Chancellor (Research and Innovation) is responsible for the development and implementation of this Policy, and monitoring, review and assurance activities.

Section 4 - Recording and Reporting

(29) The Deputy Vice-Chancellor (Research and Innovation), or other nominee, may request reports from University Commercialisation Companies on intellectual property and commercialisation activities.

(30) All University records shall be managed, retained and disposed of in accordance with the Information Management Policy and Research Data Management Policy.

Section 5 - Appendix

Definitions

Term	Definition
Background intellectual property	Intellectual property that is created prior to, or independently of the particular University IP, research project or course of study.
Commercialise	Means to: a. develop, make, have made, use or market; b. in relation to the intellectual property, to exercise the rights exclusively granted to the holder of such intellectual property by the laws of the jurisdiction in which the intellectual property subsists; c. in relation to a product, kit, apparatus, substance, software, documentation or information resource (or any part of such materials), to develop, make, distribute, market, sell, hire out, lease, supply, or otherwise dispose of it; and d. in relation to a method or process, to use the method or process, to use the method or process to develop, 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 and process, or to use the method or process to provide a service, and "Commercialisation" is to be construed similarly.
Consultancy	generally defined as the provision of professional services based on existing knowledge (refer to the Consultancy, Secondary Employment and Internal Work Policy).

Term	Definition
Contract Research	Research activity(s) commissioned by or negotiated in partnership with, a funding provider that is not provided as a Research Grant and is intended to provide a direct benefit to the funding provider.
Funding Provider	A party providing research funding, including but not limited to government, commercial, or other external entities.
Originator (or originators)	University staff, student or title holder who: a. in the case of a patentable invention: is an inventor; b. in the case of a copyright work or similar: is an author; c. in the case of a word, colour, smell, slogan, image or similar to be used as a trademark: is a person who conceived, developed or first used the word, colour, smell, slogan, image or similar as a trademark; d. in the case of designs: is a designer; e. in the case of plant breeders rights: is a breeder; f. in the case of circuit layouts: is a designer; and g. in the case of trade secrets and know-how: is an originator of that body of knowledge.
Indigenous Knowledge[(1)]	Is knowledge, know-how, skills and practices that are developed, sustained and passed on from generation to generation within a community, often forming part of its cultural or spiritual identity. Indigenous Knowledge in a general sense embraces the content of knowledge itself as well as traditional cultural expressions, including distinctive signs and symbols associated with Indigenous Knowledge. Indigenous Knowledge in the narrow sense refers to knowledge as such, in particular the knowledge resulting from intellectual activity in a traditional context, and includes know-how, practices, skills, and innovations. [(1)] Adapted from the World Intellectual Property Organisation definition of 'Traditional Knowledge'.
Intellectual Property (IP)	All statutory and other proprietary rights (including rights to require information be kept confidential), anywhere in the world, whether registered or unregistered, in respect of inventions, copyright, trademarks, designs, patents, plant breeder's rights, circuit layouts, know-how, trade secrets and all other rights as defined by Article 2 of the Convention establishing the World Intellectual Property Organisation of July 1967.
Research	The concept of research is broad and includes the creation of new knowledge and/or the use of existing knowledge in a new and creative way to generate new concepts, methodologies, inventions and understandings. This could include synthesis and analysis of previous research to the extent that it is new and creative.
Researcher	Any University staff member, student or title holder who conducts, or assists with the conduct of, research at, or on behalf of, the University.
Staff	Continuing, fixed-term, research (contingent funded) and casual staff members.
Student	A person enrolled as a student at the University or undertaking courses or programs at the University.
Third Party	A party who is external to the University and excludes staff, students and affiliates.
Title Holders	Visiting academics, academic title holders, industry fellows, emeritus professors, adjunct and honorary title holders, and conjoint appointments.
University Resources	Resources of the University, which includes, without limitation, premises, infrastructure, facilities, funds, services, equipment, paid leave, and staff, student or affiliate’s time.

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