

Provision and Processing of Intellectual Property Rights for Students and Graduates at The University of Nottingham

1. Background

1.1 Intellectual Property (IP) and Intellectual Property Rights (IPR)

Intellectual property (IP) may be described as a product of the intellect or creative thinking. Individuals create intellectual property all of the time and whilst IP is an intangible form of property it is often expressed in tangible media for example as in written records.

Intellectual Property Rights are the legal rights conferred on the creators and owners of the intellectual property. The extent of these legal rights are defined in law which has been established based on international agreements and are therefore harmonised and implemented in a similar way in many countries.

1.2 Registered and Unregistered Rights

The two main groups of intellectual property are those rights which arise automatically and do not need to be registered (e.g. Copyright) and registered rights which are conferred by the relevant government or European office following registration of the right under established procedures (e.g. Patents and Trademarks).

1.3 Confidentiality

All students are advised to maintain confidentiality of any IP until an assessment is made on the commercial value of the IP and where appropriate an application has been filed. In the case of registered rights such as patent rights the registered protection is not available if the subject matter has already been publically disclosed.

Where a student becomes involved with working with a research group the student may be required to sign an agreement relating to the receipt of confidential information. Where the research group is funded by an industrial sponsor the student will not be able to work with the group unless they comply with the confidentiality obligations.

1.4 IP Ownership

Whilst the rights relating to different forms of intellectual property are different there is a common provision on ownership of the IP. Generally speaking the creator of the intellectual property owns the IP unless:

- a) It was created in the course of employment, in which case it is owned by the employer, or
- b) There is a legal contract which transfers the IP to a third party (e.g. Sponsor or Assignee)

Generally students are not employees of the University and they own the IP solely created by themselves. However this does not apply where the IP has been created jointly with other people or using facilities and other resources paid for by public funds or where a contractual arrangement exists which confers ownership rights on the IP created by the student.

1.5 Undergraduate Students and Postgraduate Students on Taught Courses (e.g. B.Sc or M.Sc)

Normally an undergraduate or postgraduate student on a teaching course will own their own IP unless the student is sponsored or funded by an organization and the contractual arrangement with the organization transfers ownership of IP to the organization.

A student on a teaching course will normally have limited opportunity to create IP relating to their studies. However, on some courses the student may be involved in project work. Depending on the circumstances, the project work may involve working with other students, academic staff or other employees of the University. In these conditions IP created may be jointly owned between the collaborating parties. Many of the research groups are funded by research grants or industrial sponsorship with an expectation that arising IP will be protected and where possible commercially exploited. Consequently, the student may be requested to sign an agreement relating to confidentiality and IP prior to being allowed to work with the research group. The confidentiality provisions will not affect the ability of the student to submit a written project report and in the event that the student has contributed to IP which is later commercially exploited they will be receive the same revenue share as they would if they were an employee of the University, this is detailed in Section 5.

1.6 On Research Based Degrees (e.g. M Phil PhD, MSc)

Postgraduate students studying for research based degrees will also own the IP created solely by themselves in the course of their studies unless a contractual arrangement exists with a sponsor or employer. However, these students are using publically funded facilities and working with academic staff predominantly their supervisors or other employees of the University so the University regulations require that the student shall assign any IP to the University if requested to do so. Usually the IP will have been created jointly between the student and University employees. When the University requests the student to assign the IP, it will enter a revenue sharing agreement with the student using the same scheme that applies to the University employees.

The University will request the assignment of the IP where: -

- a) The student is involved in a sponsored research project and the University has a contractual arrangement with the sponsor.
- b) The student has jointly created IP which has a commercial value and the University has decided to protect and exploit the IP.
- c) The student is the sole creator of the IP and the University technology transfer office leads in commercial exploitation of the IP.

The University will NOT request an assignment of the IP where: -

- a) The student whilst registered for a research based postgraduate degree is conducting most of his work at his employers premises and is not using University resources or collaborating with University staff.

Where the student has reason to believe that their specific circumstances are such that an assignment of their IP is inappropriate they should contact the University IP Management group. Where the IP management group agree, they will provide a letter to the student or their employer summarizing the agreed position and where appropriate in exceptional circumstances waive the right to request an assignment.

1.7 Students undertaking work experience with industry.

Where a student is obtaining work experience within industry or a commercial business they should be a written agreement to address the issues such as ownership of IP, use of background IP, confidentiality, publications and any other relevant contractual issues. Normally the contract will specify whether IP created in the course of work experience will be owned by the Company or student or the University.

1.8 Encouraging Enterprise

The University policy on assignment of IP by the students is largely based on the reasons set out in section 6 of these guidelines. However the University does encourage enterprise and entrepreneurship by its students and any student who has a proposal for the exploitation of IP should contact the Technology Transfer group to discuss their proposed business plans.

1.9 Contacting IP Management Group

The IP management group can be contacted through the Technology Transfer section of the Business Engagement and Innovation website or by contacting the e-mail tto@nottingham.ac.uk

2. Forms of IPR

To understand more about what is IPR, the different forms of IPR and how IPR can be protected, it is recommended you look at the following Intellectual Property Office site: -

<http://www.ipo.gov.uk/>

- 2.2** The types of student work which might be considered as IPR take a number of forms, including traditional written materials (such as course works, examination answers, reports, projects, learning logs, research logs), creative literary materials (prose and poetry), traditional artistic creations (in any artistic medium, including fine art, craftwork, sculpture, installation art, photography and film), digital artistic creations (digital graphics, sound, music), and composition work including the above.
- 2.3** In addition to the above material, students may also perform as part of their studies and/or assessment, and IPR may exist in such performances (such as musical and dramatic performances).

3. What the University Expects of you in Relation to IPR

- 3.1** By signing your Registration Agreement with the University you are agreeing to do the following: -
- a) Disclose any invention or other IPR which you create whilst a student or graduate of the University to an appropriate authority at the University. This could either be your supervisor, Head of School, or the IP Team within Business Engagement & Innovation Services.
 - b) When required by the University, to assign or transfer any IPR to the University, assist the University in this process, agree to execute all papers necessary in connection with any patent application and execute separate assignments in connection with such applications as necessary.

4. Benefits for you as a Student or Graduate of the University

- 4.1** The University wants you as a student or graduate of the University to benefit from any IP you create which can be exploited or commercialised by the University. The University has resources and expertise in the Technology transfer office for the evaluation, protection and commercial exploitation of IP. This expertise is used for IP created by the academic staff and most student IP is jointly created with university employees.

4.2 By agreeing to assign your IPR to the University you will be entitled to the same benefits offered to employees of the University as contained within the Staff Handbook which states: -

“Any costs incurred by the University in supporting the application, including staff costs, patent prosecution fees, development costs and the purchase of technical advice, shall be the first charge on any income arising.

Where revenue is generated from the exploitation of IPR, as an incentive to inventors and at its discretion, any net benefit received by the University will be shared between the inventor, the School/Division and the University on the following terms, which shall be revised from time to time.

The first £25,000 of the aggregate net revenue shall be apportioned:

- 50% to the Inventor(s)
- 30% to the Inventor(s) Department/School(s)
- 20% to the central funds

Thereafter, the aggregate net revenue shall be apportioned:

- 40% to the Inventor(s)
- 20% to the Inventor(s) Department/School(s)
- 40% to the central funds.”

5. Exceptions

5.1 There are several exceptions to the regulation. A student or graduate of the University is not required to assign or transfer the IPR contained in any of the following: -

- a) A thesis produced solely by the student or graduate unless, in the sole opinion of the University, contained within the thesis there exists any IPR which the University is entitled to or needs to protect;
- b) Scholarly texts, including research papers and textbooks.

5.2 Any monies accruing from the publication of such texts can also be retained by the student or graduate author.

6. Rationale for Institutional Claim over Student/Graduate Created IPR

6.1 The University feels the following are adequate reasons to justify the requirement for a student or graduate to assign or transfer ownership of IPR to the University.

- a) **Provision of Opportunity and Inspiration** - the University believes that it has set up and provided the context in which the IPR is produced. By setting the learning framework, the assignment exercise or the research objective, the institution has played a key part in the production of the IPR;
- b) **Provision of Facilities** - the IPR protected work may have been produced using the facilities of the University, such as the physical campus, information and communication technologies, the library and e-sources, and research laboratory facilities. The University's investment in these facilities has permitted the student/graduate to produce the IPR;
- c) **Provision of Supervision and Guidance** - the completion of student produced work is often with the assistance of staff – the very point of the learning provider. Whether this assistance is active, in terms of individual discussion of the work, or passive, in terms of prewritten general guidance, the student/graduate will benefit from this education in the production of the IPR. When staff has provided considerable input, there may even be a case for joint ownership;
- d) **University Share of Proceeds of Exploitation** - the University (where it is entitled to a share of IPR) might miss out on a fair share of the proceeds of any successful commercialisation by a student/graduate.
- e) **Lack of Student/Graduate Ability to Progress Valuable IPR** - there is a potential for failure to commercialise valuable IPR because the student/graduate (as rights owner) lacks the skills or finance (bearing in mind the high costs of legal provision for IPR agreements and protection).