

INTELLECTUAL PROPERTY POLICY

1. PURPOSE

Many of the activities that take place within the University involve the generation of new knowledge and this has the potential to make a difference in the world. This Policy sets out the University's position regarding the ownership of intellectual property (IP) developed by colleagues, students and certain others, together with the procedures in place for commercialisation of University owned IP.

2. OWNERSHIP OF IP

2.1 Colleagues

- 2.1.1 As a general principle, IP invented or created by colleagues in their role as an employee of the University of Westminster or its subsidiary companies produced in the course of employment is automatically owned by the University. This principle of IP ownership by the University is agreed between the employee and the University within the employment contract.
- 2.1.2 IP ownership by the University specifically applies to University employees in the following contexts:
- (a) IP invented or created in the course of a colleague's employment as defined in the employment contract, or where those duties are explicitly stated and explicitly pre-notified, as in the case of special assignments.
 - (b) IP invented or created by employees with the aid of the University facilities, including computer hardware or software owned or operated by the University.
- 2.1.3 Any IP invented or created by an employee which does not satisfy any of the context in 2.1.2, or is not otherwise covered by a contractual obligation, shall belong to the colleague.
- 2.1.4 The University recognises that colleagues including, part time fractional colleagues, may have alternative employment. The University recognises that it does not own IP created or invented by colleagues where that IP was created or invented outside of clause 2.1.2 and that such IP may be owned by the colleague's alternative employer.

2.2 Students

- 2.2.1 As a general principle, IP invented or created by students in the course of their studies or research activities is owned by the student. There are a number of exceptions to this general principle, and these are detailed in 2.2.5 (undergraduate and postgraduate taught students) and 2.2.6 (doctoral research students).
- 2.2.2 For all students where IP is generated in the course of their studies or research activities, the University has a free, irrevocable non-exclusive licence to enable the University to complete its commitments to the student. For example, to enable supervision and assessment of the student's work or to demonstrate the student's contribution to a project by including it in the student's portfolio and as relevant evidence in support of course work and/or learning outcomes.
- 2.2.3 Where any of the exceptions detailed in 2.2.5 or 2.2.6 apply, and the student is unwilling or unable to assign their rights in the IP to the University or sponsoring body, they shall not be prevented from registering (unless it is a precondition to receiving funding for payment of their tuition fees that they assign such rights to the University or sponsoring body). However, refusing to assign may result in the student being re-assigned to another project or activity with immediate effect to ensure that the University is in compliance with its contractual commitments.

- 2.2.4 Where IP generated by a student is owned by the University due to one or more of the exceptions outlined in 2.2.5 and 2.2.6, or in any other case where a student makes the decision to assign IP to the University for any other reason, the Student will be treated as if they were an employed colleague for the purposes of receiving support for commercialisation of the IP and for the sharing of any revenue.
- 2.2.5 Undergraduate and postgraduate taught students will only exceptionally be required to assign their IP to the University or to a third party. Usually, all IP generated in the course of studies, including Work-Based and Placement Learning (WBPL) Projects, will be owned by the party who created them (or jointly owned if created jointly), unless, agreed otherwise in writing between the parties.
- (a) Where a student is carrying out work on a project involving third parties, including WBPL projects, the student may be required to assign any IP Rights to the University or to the sponsoring body in accordance with the specific terms and conditions which apply to the sponsor or to the project.
 - (b) Where an employer or other third party wishes to own the IP that a student creates through a WBPL project, the student will be notified via Blackboard and asked to sign an agreement to give ownership to the employer or other third party.
- 2.2.6 For doctoral research students, the University or sponsoring third party will own the IP generated by the student in the following circumstance:
- (a) Where the student holds a sponsored studentship, under which the sponsor has a claim on the IP arising as part of the terms of the sponsorship.
 - (b) Where the student participates in a research project where any arising IP is to be owned by a third party or if the University is required to commit to license or exploit the IP.
 - (c) Where the student generates IP using the University's facilities and/or resources and it has been agreed by the University that those facilities and resources can be used only on condition that the University owns the IP arising.
 - (c) Where the student generates IP jointly with a University employee working in the course of his or her employment.
 - (d) Where the student is a doctoral researcher in receipt of a University bursary or University funding that covers their fees.

In the above circumstances, the student will be required to enter into a written arrangement to confirm the assignment of IP to the University or the sponsoring body (in the form of a deed of assignment or a studentship or research agreement).

The above list is designed to be illustrative and specific decisions will be explored on a case-by-case basis. Where any of these exceptions apply, the doctoral research student's supervisor should contact the Research and Knowledge Exchange Office via contracts@westminster.ac.uk and the University will discuss the IP position with the Student concerned to ensure a mutually acceptable agreement is reached.

2.3 Visiting Professors, Researchers, Scholars, Academics and Research Students

- 2.3.1 Occasionally, an individual may hold an appointment at the University but be neither employed by the University or its subsidiary companies nor registered as a student at the University. The University policy statement for Visiting Researchers, Scholars, Academics and Research Students sets out the process for such appointments and Visiting Professor status is awarded via a process set out through the Professors and Readers Awarding Committee.
- 2.3.2 As a general principle, the University will seek to own IP in those situations where a visiting colleague is working on a project or activity with the University, or through the University, or where the University's facilities are used to enable the project to take place.

- 2.3.3 However, it is imperative that IP ownership is agreed and clearly set out before the visit commences, as IP ownership will be determined on a case-by-case basis according to the specific contractual relationship or terms of appointment with the University.
- 2.3.4 It is the responsibility of the employed colleague who is hosting the appointed visitor to inform the Research and Knowledge Exchange Office via contracts@westminster.ac.uk so that the University can consider whether any agreement needs to be put in place with the visitor or any third party in relation to the IP rights and obligations of the visiting colleague.

2.4 Guest Lecturers and Speakers

This IP policy does not apply to guest lecturers and speakers who do not hold either an appointment or an employment contract with the University or its subsidiary companies, and who are not students. The University does not typically own the IP within materials developed by a guest lecturer or speaker. If the materials created and presented by a guest lecturer or speaker are to be used by the University after the event, and the IP is not owned by the University, the University should ask the guest lecturer or speaker for written permission to use the materials in the future. In these cases, the employed colleague responsible for inviting the guest lecturer or speaker should contact the Research and Knowledge Exchange Office via contracts@westminster.ac.uk so that appropriate arrangements can be made with the guest lecturer or speaker.

3. SCHOLARLY WORKS

- 3.1 Scholarly works produced by employees of the University, such as journal articles, conference papers, monographs, and works of art, fiction and personal notes, are an exception to the general principle that the University owns IP generated or created by employed colleagues.
- 3.2 The academic contract defines scholarly activity as activity that is “principally self-managed” and “includes the production of books, contributions to books, articles and conference papers, and is to be construed in the light of the common understanding of the phrase in higher education.” In the context of this policy, scholarly works are understood to be the output of such self-managed activities.
- 3.3 Scholarly works belong to the colleague (employed or visiting) or student (including visiting student) that created them.

4. PERFORMANCE RIGHTS

Performance rights exist independently of copyright and moral rights in a work. The performer is the first owner of the performance and will have rights in their performance and any recording, film or broadcast of that performance. A performer’s rights in a performance are enshrined in Part II of the UK Copyright, Designs and Patents Act 1988 (CDPA). In the case of a lecture, for example, a colleague (employed or visiting), student (including visiting) or guest lecturer or speaker will have performance rights in the delivery or ‘performance’ of that lecture. The University seeks to respect the rights of students, colleagues, visitors and guest lecturers or speakers to be acknowledged as performers. This is noted as an important part of the University’s Policy on the Use of Recording for Educational Purposes, which can be found [here](#).

5. MORAL RIGHTS

Moral rights provide for, amongst other things, the right of an author to be identified as such in relation to certain copyright works they create, such as literary and artistic works. The University will seek to identify the original author(s) of works when this is appropriate. This will be appropriate where the work is of literary, scholarly or artistic merit. It will not be appropriate where, for instance, the work is an administrative report or internal communication.

6. COMMERCIALISATION OF UNIVERSITY IP

- 6.1 Inventors/creators - whether colleagues, students or visiting colleague/appointees - are obliged to disclose IP that they have created and believe may hold commercial potential and where the University, under this policy, holds an interest. IP should be disclosed by downloading, completing and sending an [IP Disclosure Form](#) to the Research and Knowledge Exchange Office via contracts@westminster.ac.uk. The form and associated advice can also be obtained directly from contracts@westminster.ac.uk.
- 6.2 Following submission of the IP Disclosure Form, the University will work with the inventor(s) to establish the rights of ownership of the IP (including any obligations to third parties) and the relative contributions

of the inventor(s) to the generation of the IP. External advice may be sought by the Research and Knowledge Exchange Office to establish the potential commercial viability of the IP and marketability routes, including advising on whether application(s) for registered protection may be appropriate.

- 6.3 The University has an Enterprise Panel that reports to the University Planning Committee (UPC) and is responsible for decisions to seek registered protection via Patents. It is also responsible for decisions on the commercialisation of IP through spin-out, licencing and agreements with third parties where these establish a revenue based on University IP. In making decisions, the Enterprise Panel will seek input from the relevant inventors/creators, the Head of their relevant School/College, the Research and Knowledge Exchange Office and any additional external advisors that have been consulted.
- 6.4 The University is committed to ensuring that inventors/creators receive a fair share of any revenue generated from the commercialisation of IP that they have invented/created. The revenue sharing arrangements will vary depending on the commercialisation route taken. The University will recover all its costs related to protecting and/or commercialising the IP before compensation through revenue sharing is distributed to the inventor(s).
- 6.5 Where IP is commercialised through assignment or licensing, revenue sharing will normally be as follows.

| Net Revenue* | Allocated to Inventor(s)/Creator(s) | Allocated to University |
|--------------------|-------------------------------------|-------------------------|
| Up to £25,000 | 90% | 10% |
| £25,000 to £75,000 | 60% | 40% |
| Over £75,000 | 50% | 50% |

* Net income paid to an inventor will be subject to income tax and national insurance.

- 6.6 Where it is decided that there is merit in establishing a spin-out company, the Enterprise Panel will review all the circumstances and seek to identify a mechanism by which inventors/creators are fairly and equitably compensated, by equity participation, royalty or otherwise. Since every situation is different, compensation will be agreed on a case-by-case basis between the Enterprise Panel and the inventors/creators, taking into account all of the relevant circumstances, including any third party or joint ownership of IP, the level of support provided by the University, any third-party providing support or expertise and any agreements between such parties and the University.
- 6.7 In cases where the University decides not to pursue the commercialisation of IP that it owns or does not come to a decision within a reasonable timeframe, the creator(s)/inventor(s) may request that the IP is assigned to them. This will in principle be agreed where there is clear evidence that the IP provides no other benefit to the University and is not related to other IP in which the University has an interest. When assigning IP to inventors/creators under this process, the University will typically seek to retain the right to use the IP for academic and non-commercial purposes. All requests involving any transfer of rights from the University to another party should be made to the Research and Knowledge Exchange Office via contracts@westminster.ac.uk.
- 6.8 With reference to the academic contract 20.7, 20.8 and 20.9, in cases where the University takes the decision not to file for Patent protection or does not take a decision within a reasonable timeframe and you wish to apply for Patent either yourself or with another you must first inform the University of Westminster of your intention to do so. Within a reasonable period of time following such notification the University of Westminster must tell you whether it would object to your proposed application. The sole ground for such objection is that the patenting of the invention will involve or result in the disclosure to third parties of trade secrets or other confidential information belonging to the University of Westminster and that such disclosure may damage the interests of the University of Westminster.

Where the University of Westminster objects under 20.7 you hereby undertake in consideration of the payment of compensation to be determined under 20.8 below, not to proceed to apply for patent of the invention concerned nor to assist any other person to do so.

The calculation of compensation referred to above shall have regard to those factors set out in section 41 of the Patents Act. In the event that the University of Westminster cannot agree the amount of compensation it shall be competent for either you or the University of Westminster to apply to the President of the Law Society to appoint an arbitrator under the terms of the Arbitration Act, whose decision shall be binding.

6.9 The Research and Knowledge Exchange Office is responsible for supporting the commercialisation of University-owned IP. In all cases, the University will seek to carry out this responsibility in partnership with the inventors/creators. The Research and Knowledge Exchange Office will also advise on all issues surrounding ownership, transfer or commercialisation of IP. Where disputes arise, matters will be referred to the University's PVC Knowledge Exchange.

7. DEFINITIONS

Commercialization: Any form of IP intended to generate value, which may be in the form of a marketable product, process or service, commercial returns, or other benefit to society.

Creator: Any person to whom this Policy is applicable, who creates, conceives, reduces to practice, authors, or otherwise makes a substantive intellectual contribution to the creation of IP and who meets the definition of 'inventor' or 'author' as provided in the applicable UK IP laws.

Inventor: Any person to whom this Policy is applicable, who individually or jointly with others makes an Invention and who meets the criteria for inventorship under the applicable UK IP laws.

Intellectual Property (IP): All outputs of creative endeavour in any field for which legal rights may be obtained or enforced pursuant to the law. There are different forms of IP. Common types of IP in the University context include inventions and, software, databases, code, design, logos or literary, dramatic, musical or artistic works.

Intellectual Property Rights (IPRs): The proprietary rights that may be granted for an invention, mark, design, or other type of IP, should the statutory requirements for protection be met, resulting in for example, a patent, trademark or registered design.

Scholarly Works: All copyright works which are the outputs of colleagues, students, visiting Professors, researchers, scholars, academics and research students, including research, creative and other outputs in area(s) of their expertise. It does not include course materials.

Visiting colleague/appointee: Any person who is neither an employed colleague of the University or its subsidiary companies, nor a student who engages in work or studies at the University, including visiting Professors, researchers, scholars, academics and research students who conclude an Appointment agreement with the University.

Employee/employed colleague: Any person who is an employee of the University including academic, research, technical, administrative colleagues.

Student: A student registered on a course of study at the University

Date Policy Adopted: 22 June 2022

This Policy will be reviewed no later than 5 years following its adoption and any revisions made will be agreed in consultation with UCU.