

# Intellectual Property (IP)

Intellectual property (IP) refers to the products of your creativity e.g. original literary and artistic works, scientific inventions and discoveries, etc.

IP rights are the rights that you have over how your IP is used. There are two types and they're separate and distinct.

**Ownership/commercial/economic rights** give you the opportunity to generate income from your IP. These rights can be assigned or licensed to another party.

**Moral rights** concern your rights to be properly attributed or credited and to protect your work from derogatory treatment. While moral rights can't be transferred to a third party – even if you've assigned or licensed the economic rights – you can agree to let other parties infringe your moral rights.

## IP at the University of Sydney

IP at the University is regulated by the [Intellectual Property Policy 2016](#) (IP Policy) which deals with the following areas:

- ownership/economic rights of staff, students, and visitors
- reporting, development, and commercialisation of IP
- distribution of proceeds resulting from commercialisation
- moral rights associated with IP
- dispute resolution processes

Under the IP policy, you own the copyright in your thesis and scholarly works in the absence of any agreement to the contrary. You also own all other IP you create, unless:

1. You've entered into an agreement to assign or license your IP to USyd. You can be required to do this to participate in any research project that already has or may create IP in the future, or which has funding provided by a third party.

2. The supervisor or any other staff member has made a substantial intellectual contribution (defined for this purpose as being a contribution of 35% or more) to the creation of the IP.
3. The IP has been created using the University's background IP.

Even if you've assigned your IP rights you'll still most likely be entitled to a share of any commercial benefits in the future.

We strongly recommend that you gain independent [advice from our Legal Service](#) before you sign any agreement to transfer your rights. We will be able to assist you to understand the agreement and may be able to negotiate a variation of the conditions of your involvement in the research project.

## Why does IP matter to me?

In a collaborative or supervisory relationship that lasts over a period of years, it may become difficult to delineate as well as quantify respective contributions, meaning that issues may arise. SUPRA has seen a lot of research students in this position, and so we strongly recommend that you keep records/emails/drafts etc., so you're able to clarify your ownership of IP if you ever need to do so.

If you've created IP that you'd like to commercialise, you can contact the University's [contact the University's Commercialisation Office](#).

Initial advice is confidential and free, although any action taken by CDIP to develop your IP may require you to enter into an agreement with the University. This usually requires the assigning of your economic rights in return for a share of income.

## Authorship Credit

The law relating to IP and the moral rights that you have in your IP require that you be acknowledged appropriately as the author of your works.

The University's [Research Code of Conduct 2019](#) (the Code) sets out the responsibilities of researchers at the University (both staff and students). The Code clarifies the requirements for a claim of authorship and requires that contributions other than authorship also be properly acknowledged.

In order to be listed as an author you must have made a substantial intellectual contribution to the published work in one or more of the following areas:

- the conception and design of the project
- the analysis and interpretation of the research data or of the eligibility or suitability of potential subjects of research
- drafting significant parts of the work or critically revising it so as to contribute to the interpretation

Examples of substantial intellectual contributions include:

- developing the research design
- writing parts of the manuscript
- contributing or integrating theoretical perspectives
- developing conceptual models
- designing assessments
- analysing data
- interpreting results

It's important to note that, unlike the IP Policy, the Code does not quantify a minimum level for the substantial intellectual contribution to give rise to these rights. Further, the Code only states the minimum requirements. If there are funding provisions, discipline standards, best practice guidelines (eg. ICMJE), or journal requirements that apply, the Code requires that you must comply with the most stringent of any applicable requirements.

## Authorship order

There's no reference in the Code to authorship order decisions. As a general guide however, it's recommended that the order of authorship credit should reflect the relative contributions to that specific publication, regardless of an author's role in the overall project. Having said this, you'd ordinarily be listed as first author on any multiple-authored article that's based primarily on your thesis or Masters research report.

## Use of other people's intellectual property in your work

If you wish to reproduce part or all of a work that is subject to copyright in your thesis, you'll need permission from the copyright holder, even if it's freely available for download on the internet. You can't rely on the fair dealing provisions that allow use of some copyrighted material for research or study, because these provisions won't permit your thesis to be made available through open access, or allow all or parts of it to be published by a publisher.

Situations where it may be necessary to seek permission include using:

- lengthy quotes or excerpts of text from published books and journal articles
- entire works such as a journal article even if you're one of the authors
- a graph or a figure
- material on the internet
- artworks, diagrams, illustrations, maps and photos
- extracts from recorded music, or clips from TV programs and movies

To make sure you're not infringing someone else's IP rights:

1. Check the Terms of Use to clarify whether or not you need to seek permission. The material might have been made available open licence or under a Creative Commons license that permits your proposed use without further permission.
2. Check the copyright status of any material in your thesis that's already published. If you assigned or exclusively licensed all your copyright to your publisher, you can't make your thesis available open access without their permission.
3. If you find you need to seek permission, do this as soon as you can as it might take some time.
4. Make sure you correctly attribute other people. Failure to do so is not only infringement of their moral rights, but could leave you open to allegations of plagiarism. [Read more about academic integrity breaches and responding to an allegation.](#)

## Further information

- More information on Intellectual Property and Research Integrity can be found in the [SUPRA HDR Hub](#).
- More information on IP generally can also be found at [IP Australia](#) – the Federal Government agency responsible for managing IP rights in Australia

- The University library has [a range of online resources relating to copyright](#) with the publishing section being of particular relevance to higher degree research students
- [The Australian Copyright Council](#) has a wide range of information sheets relating to copyright
- If you need further assistance with an intellectual property or research integrity matter, [contact our legal or casework services for help](#).

## Disclaimer

This information is current as at December 2019 and is intended as a guide to the law as it applies to people who live in or are affected by the law as it applies in NSW. It does not constitute legal advice.

Last updated Feb 2020