

## Intellectual Property: A Guide for Students

These Guidelines outline the University's stance on intellectual property. The term 'intellectual property' (IP) refers to creations of the mind: inventions, literary and artistic works, and symbols, names, images and designs used in commerce. The law does not protect the right to own intellectual property unless the owner has taken steps to claim the legal ownership, except for the rights of copyright which are automatic. It is important to note that your ability to claim ownership may be lost or compromised if the invention has already been disclosed to others.

The University acknowledges that students make a major contribution to its research and scholarship, and wishes to reward the creativity of all of its members by assisting in the commercialisation of their ideas. However, in order to commercialise intellectual property, it is first necessary to protect it, so University policies are intended to help to protect the rights of all of its members, including students, as well as those of the University itself. As part of your enrolment process you will have agreed to abide by these policies.

### Important Points

Your rights to intellectual property are not automatically protected.

Make sure any IP agreement is in writing and get independent advice before signing it.

Before beginning your research discuss with your supervisor or Head of Department:

- whether or not intellectual property is likely to arise from your research;
- any restrictions that may be placed on disclosing the results of your research;
- ownership of the intellectual property arising from your research;
- authorship of any publications.

### Protecting Intellectual Property Rights

You do not lose any IP rights by enrolling as a student but you do agree to abide by the University's policies, including that covering intellectual property. The University recognises that any intellectual property which you may create during your research belongs to you unless it has been transferred to another by your written agreement or by operation of law. However, where the creation has been assisted by a staff member, the University also has some rights of ownership.

If you think that your research may lead to intellectual property which could be exploited commercially [The University of Auckland Intellectual Property Created by Staff and Students Policy](#) requires you to reveal this. This is so that the University may determine whether it has any rights to ownership and also to assist you in protecting and commercialising valuable ideas. If you are employed by the University then any intellectual property developed in the course of that employment will in any case be covered by this Policy and your employment contract.

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### Assignment of Rights

If a project has external funding the sponsor will usually require the University to enter into an agreement which secures for the sponsor some ownership of the intellectual property created during the project. If you are being paid to carry out your research you may therefore be asked to sign an agreement which assigns your intellectual property to a third party. If you are joining an existing research project, you may also be asked to sign an agreement relating to the sharing of ownership of intellectual property arising from that project.

In such cases you must be accorded the opportunity to seek independent legal advice before signing any agreement. You should also expect to have explained to you the potential intellectual property issues and the potential disadvantages of any contractual arrangements.

### Publication Rights

The University has statutory obligations and a mission which require dissemination of the results of its research. However in some circumstances there is a need to legally protect intellectual property or to treat certain aspects of research as being confidential for some period of time, so research sponsors or collaborators may sometimes require restrictions on publication of the results of a project. These may allow publication to be delayed for a reasonable period or for sponsors to review proposed publications to check for inadvertent disclosure of proprietary knowledge.

### Copyright

Copyright automatically takes effect when you complete any written work or some other kinds of work (such as films), so you are therefore the first owner of copyright for your thesis or dissertation. You can also make a claim to moral rights over your published work, namely the rights to be acknowledged as the author and to object to any derogatory treatment of it.

However this does not mean that you necessarily own all the rights to the knowledge contained in your thesis, and if you have signed an intellectual property agreement relating to your research you may not be able to publicise or disclose all the contents of your thesis without restriction.

### Your Thesis

Whatever restrictions are sought regarding publication, under no circumstances can a sponsor or other party impose restrictions on the assessment of your work or require your thesis to be altered for the purpose of examination. However a third party may ask that examiners be requested to sign an undertaking to observe confidentiality in respect of confidential information. A request to view the thesis prior to submission to examiners for the purpose of assessing the need for confidentiality is also reasonable.

You may also ask the University to place a thesis on restricted access for a period in order to allow steps to be taken to protect intellectual property embodied in it. The University may itself restrict access to theses it considers to be defamatory. These issues are covered by the [Examination Regulations](#).

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### Disputes

If you are unhappy with any decision made about intellectual property the Graduate Centre can advise you on the relevant rights of appeal or disputes procedures. You may also approach the Student Advocacy Network for support.

### Links

More detailed information regarding patents, designs, copyright and trademarks may be obtained from the *Intellectual Property Office of New Zealand*.

<http://www.iponz.govt.nz>