

Intellectual property and research: A guide for students and staff

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For more information or suggestions about topics this guide could cover, please contact Jim Houlihan, Knowledge Exchange and IP Commercialisation Manager at: tech.transfer@uwe.ac.uk or on 0117 3283642.

1. What is IP?

1a. The main IP rights:

Trade Marks protect organisational/company brands, logos, jingles.

Patents protect technical inventions in products and processes.

Registered Designs protect the appearance of things e.g. shapes, patterns, colours.

Design Right protects shapes and functional designs.

Copyright is very extensive and protects for example, written work, artistic works, software, web content, film, database rights, performance rights - see 1c. below.

“Know-how” is also intellectual property and part and parcel of academic research. It can be difficult to define know-how unless it is written down or recorded in some way. Know-how can be protected by Confidentiality Agreements (CDA), also known as “Non-Disclosure” Agreements (NDA).

Patents, Trade Marks and Registered Designs require registration. The Design Right and copyright are automatic rights and do not need to be registered.

1b. IP Tutor - an interactive guide for university students and staff by the UK Intellectual Property Office

IP Tutor is a series of short, easy to understand guides about each of the main IP rights and how innovators have used them.

The guides are arranged in four main areas of university activity and are similar to the four faculties of UWE Bristol: Creatives; Humanities; Science, Technology, Engineering and Maths; Business, Law and Accounting. Each guide takes about 40 minutes to complete, each one having 10 minute modules on Patents, Trade Marks, Designs and Copyright.

Visit the [IP Tutor website](#).

Note: You can get CPD accreditation for “IP Tutor” courses if you register for free on “IP Tutor”

1c. Copyright is in everything (well, almost)

Copyright covers a whole host of “works” for example literary works (e.g. written texts, software, and tables), artistic works, films, audio-recordings. “Artistic works” are much broader than traditional “art” and include for example, drawings, e.g. CAD diagrams, architecture, buildings, and models of buildings or sculptures. Literary works as well as being written can be spoken or even sung!

It is likely that staff and students at some point will want to use someone else’s copyright. Copyright law has certain exceptions which may allow you to copy others work for private study, non-commercial and educational purposes and for commentary or critical review if the copying is “fair”. What is “fair” depends on the situation. If you want to use someone else’s copyright you should find out what your obligations are, in the same way as you would want other people to respect your copyrighted work

Database rights are a branch of copyright and protect data in tables and spreadsheets, for example. Some collections of data may be covered by either or both the database right and copyright.

For UWE Bristol’s guidance on copyright for Students, Teaching and Research, [click here](#).

Important notice

If you intend to publish something that you think maybe an invention, something that has a technical content that may be patentable, please contact the Tech Transfer team for advice: tech.transfer@uwe.ac.uk. **Publication of an invention will render it not patentable if a patent application has not been filed before publication** - it makes no difference that the author and the inventor are the same person.

2. UWE Bristol’s IP policy - FAQs

Key Points

- Taught students own their IP.
- Research students may be asked to assign their IP to UWE Bristol.
- UWE Bristol owns IP created by staff (detailed below).
- UWE Bristol has a generous revenue sharing scheme if IP makes a profit.
- Scholarly works, for academic and non-commercial purposes are most often exempt from the IP policy.

Read the [UWE Bristol IP policy](#).

2a. Academic staff - Does UWE Bristol own the IP I generate?

Yes. IP laws (patents, copyright, unregistered design and registered designs), state that the owner is the person or persons who creates the IP. These laws also state that, if IP is created in the normal course of an employees’ duties, then the employer owns the IP - unless there is an agreement to the contrary. The rationale here is that IP is similar to any other piece of property - employers naturally own property created by their employees because the employee is being paid to create the property. Copyright law also states that, if it is not possible to distinguish the contributions of different authors in a co-authored work, then the work is jointly owned. An agreement to the contrary would typically be a contract in which an employer transfers the ownership of IP to the employee.

2b. Postgraduates on research-based degrees - Does UWE Bristol own the IP I generate?

It depends. We might ask you to assign any IP you create in the course of your work and studies to UWE Bristol. This is because PGRs are often similar to employees. Laws on IP ownership (as explained in 2a above) and the UWE Bristol IP policy gives UWE Bristol the discretion to ask you assign your IP to UWE Bristol. It is important to note that the UWE Bristol IP policy (as explained in 2e) enables revenues to be shared among the creators of IP should it be commercialised. If you are externally funded, the funder may wish to own the IP. Often companies supporting 50:50 PhDs may seek to own the IP. The Research Councils, on the other hand, usually leave IP ownership decisions to the university and, here, we take account of the fact that research is being funded by the tax payer.

We will look at IP ownership issues for PGRs on a case-by-case basis within the context of funding and how we can help the IP in research created by PGRs to be used in the best way. The University's fundamental intention is to create a great learning and development experience for all our staff and students. We are not like a profit-making organisation. We want our students and staff to be recognised and rewarded for any significant IP they create.

2c. Can external funders own IP generated in UWE Bristol?

For some externally funded projects, a condition of the funding may be that UWE Bristol transfers (assigns) the ownership of the IP to the funder. This is often the case when a company funds a large share of a project. In this event, UWE Bristol will retain the rights to use the IP for non-commercial research and teaching.

2d. Undergraduates and students on taught degrees - does UWE Bristol own the IP I generate?

No. In general you own any IP you create at UWE Bristol. However, if you are involved in some collaborative work, for example as part of your final year project, then we will discuss IP ownership issues with you.

Naturally, we advise you to get your own legal advice if you have any concerns about IP ownership issues, although we recognise that legal advice can be expensive and beyond the reach of a lot of students.

We would like to point out that university's fundamental intention is to create a great learning and development experience for all our staff and students. We are not like a profit-making organisation. We want our students and staff to be recognised and rewarded for any significant IP they create.

2e. Do I get any money if the IP which I help create makes a profit?

Yes, if UWE Bristol owns the IP and it is licensed. UWE Bristol must own the IP (see 2c above). The UWE Bristol IP policy has been established to ensure that innovators are rewarded for any commercialisation of their IP; once any costs associated with protecting the IP and its general administration costs are subtracted. The formula is quite simple. Once administrative costs are subtracted 50% of profits from the IP is split between the inventors/creators; 25% to the Faculty and 25% to RBI (RBI manages the administration of IP for the university). In coming up with this formula, we took account of the risk and general administrative burden of managing IP.

If the IP is transferred to a spinout company then the scenarios can vary but we will work

with you to find out what is fair and in your and the university's best interests.

2f. What happens if there are several inventors or creators?

The "50%" is split between the individuals involved. How this is split depends on each person's contribution to the IP from which a profit is generated. If potentially commercial IP is identified it is strongly advised that the contributors meet to discuss their relative contributions and to document them within at least a 10% range.

2g. Can I use the IP I create as a member of staff or as a postgraduate for further research?

The answer in most cases is "Yes". We usually seek to secure rights to use any IP which has arisen from a collaboration for further research in UWE Bristol. The general exception to this is if we perform contract research for a company, which can benefit departments by bringing in money, and the contractor wants total control of the IP.

2h. Can I publish my work that involves IP?

Core to UWE Bristol's mission is publishing in academic literature such as in journals and online forums. In most cases, therefore, the answer is "Yes, of course". The exception might be in science and technology research where decisions about patent filings need to be made before something can be disclosed in the public domain.

2i. Can I use someone else's copyright?

It depends. For genuine non-commercial private study, you may copy reasonable extracts of a work, if you appropriately acknowledge the author's work. There are many exceptions to copyright law in the realm of education, private study and also for commentary, critical review and news reporting. A significant factor in determining what is "fair" is the relative amount of a copyright work that is copied. For example, copying a whole book or DVD would not be considered as fair. Please refer to the Government's advice about [copyright exceptions](#), or the [University's guidance on copyright](#) for students, teaching and research.

2j. What happens when I use someone else's work as a starting point for my work?

This is a common situation with the new piece of work known as a "derivative" work. For example, if someone writes a play, they will have the copyright of that work. If someone else produces the play they will have the copyright in the performance rights, another person may make a film and there will be new rights in the film. If another person varies the ending of the play in writing, then that may create a new copyright but they will need to obtain the original playwright's permission to use the original text.

2k. What happens if I think the IP sharing arrangements are unfair?

Ideally you should try and resolve this with your colleagues; the earlier the conversations take place the better. However, you should remember that often IP does not generate a profit so it's best not to get too bogged down in the minutiae of individual contributions. Working together and being as fair and open as possible is an important factor in making any IP exploitation a success and in everyone's interests. Ultimately, the Pro Vice-Chancellor for Research and Enterprise will make a decision, if necessary.

Important notice

If you leave the university, either after postgraduate study or as a member of staff, please ensure that you leave your contact details with us so we can get in touch with you if the IP you were involved in is commercialised. You may be due a revenue payment.

3. IP and collaborative research

IP management in collaborative projects is on a case-by-case basis and will be detailed in the collaboration agreement. We seek to make IP terms and conditions in collaborative agreements align with the objectives of the project, and the intentions of the principle investigator and research team, that are fair to all parties. The overriding aim in configuring a collaborative agreement is to get the best impact possible from the research.

3a. Five things to think about concerning IP and collaborative research

- Who's contributing resources?
 - Funding
 - Materials and equipment
 - Intellectual contribution
- What are the expected outputs of the research?
- Who's best placed to exploit the outputs?
- How will you share any revenues that arise from commercialised research?
- How will you secure your rights for publication, further research and teaching?

3b. Common scenarios for the management of IP in collaborative research

(i) Each organisation owns the IP it generates and allows the collaborators to use it for the project. This option can work well if the collaborators' contributions are quite distinct. For example, if developing a biological testing kit one organisation develops the electronic aspects of the kit and therefore owns the IP in the electrical inventions, whilst the other will own any IP arising from their research about the biological molecules.

ii) The organisations jointly own the IP. Each organisation needs to be involved in decisions at each stage, such as the protection of the IP, licensing arrangements and paying for the IP costs. This can often be the case in copyright where several authors contribute to and edit a single document or a portfolio of literature in which it is not easy to distinguish between individual contributions.

(iii) The party best placed to manage and exploit the IP owns it, allows other collaborators to use it, and gives them a share of any revenues arising from the IP. In this event, if an external organisation owns the IP, the share due to UWE Bristol will be divided up in line with the UWE Bristol IP policy (see 2e and 2f above). This is often a good option and is a common approach in UK universities as the burden of administration and costs rests with one organisation. In this scenario, if UWE Bristol is the non-owning party we will seek to ensure that any staff and students involved in a project will continue to have strong rights to use and benefit from the IP.

Important notice

Please do not commit to IP ownership arrangements with external collaborators before consulting Jim Houlihan in RBI (tech.transfer@uwe.ac.uk) or the Contracts Team.