IP GUIDELINES

Background

The revised University Intellectual Property Policy (IP Policy) was approved by the University Council in July 2012 and is available on the web at: https://www.adelaide.edu.au/policies/1263/. The new IP Policy provisions have been implemented through the enrolment process and form part of the terms and conditions of enrolment that the student is required to sign.

These Guidelines have been compiled to assist staff and students regarding the implementation of the new IP Policy. Supervisors must read these Guidelines thoroughly in order to become familiar with the changes and how they relate to students as well as the requirements placed on them as supervisors.

Ownership

The general principle is that students are not employees of the University and in the absence of a contract or agreement to the contrary the student owns IP developed as a result of his/her project. However, there are two classes of IP where the general principle does not apply and where the University claims ownership of such IP from the outset. These two classes of University owned IP are where the student's IP arises from:

(a) a project that builds on pre-existing University IP (“Special Case A”); or
(b) a project that is being carried out for or in conjunction with an external third party (eg a Cooperative Research Centre, a company or other institution) whether under a separate formal agreement or not (“Special Case B”).

Supervisors are responsible for assessing up front (through the CCSP) if their students fall into class (a) or (b) in order to provide clarity to the students and for the appropriate actions to be taken by Adelaide Research & Innovation and/or the Adelaide Graduate Centre.

If students do not fall into either class but the Principal Supervisor believes it is still necessary for the University to own the student's IP then this must be referred to Adelaide Research & Innovation.

Where a student is to participate in a research project that involves a third party partner (e.g. a CRC, DSTO, CSIRO, SA Pathology, another University, industry party or a hospital etc) in any capacity the supervisor must report this through the CCSP. This will ensure that the University is in a position to meet its commitments under agreements with these organisations and not put the University in breach of contract which would result in potential liability to the third party. For all instances of Special Case B, and in certain other cases, the student will be sent a confirmatory IP Deed Poll which must be signed as evidence for the relevant third party of compliance by the University of its obligations under the third party agreement including ownership of the IP by the University.

Certain third party partners such as CSIRO/SA Pathology/MedVet/CRC’s have their own student agreements. As the student’s IP will now be owned by the University up front in the two classes where the University claims ownership (or where it has been assigned to the University through another mechanism), it will be up to the University to negotiate and sign an agreement with the third party partner.
Employment relationships

Further, if the University is making a claim to IP then the Principal Supervisor must consider whether any employment relationship the student might have would impact on the University's claim to IP, where the scope of employment and study are closely related. In such a situation the respective claim of the University and the rights of the employer to the student's IP may need to be reconciled to avoid conflicts or disputes. If this is the case the relevant Commercial Development Manager at Adelaide Research & Innovation will be able to discuss this with the Principal Supervisor and advise / arrange an appropriate agreement.

Confidentiality

Your attention is drawn to the IP Policy which includes responsibilities on staff and students to retain confidentiality of material to preserve the value of related IP and to ensure IP is protected before being published or publicly disclosed. Supervisors should also be aware that a sponsor (funding body) or third party collaborator might also have specific requirements with respect to presenting and publishing data/results of funded research (including by way of a presentation, slides or poster) under the relevant agreement and must ensure the student is aware of and complies with these obligations. If you think an embargo on disclosure of results, including in the form of the thesis or any other publication during the student's candidature might be required please advise the Adelaide Graduate Centre or if you need advice on the issue contact Adelaide Research & Innovation. You should be aware that for all cases where the University claims ownership of the IP in classes (a) and (b) the student's thesis will automatically be embargoed for a period of 2 years from submission. Publication of other material is subject to compliance with the relevant funding or other agreement.

Further information

Further information regarding IP is available through the Research Student Handbook on the Adelaide Graduate Centre's website.

If you need any further information or guidance in relation to student intellectual property, please contact the relevant Commercial Development Manager at Adelaide Research & Innovation. He or she will be able to link into legal advice and other services areas (such as Research Branch) as necessary, in order to assist with your query. Any enrolment or administrative queries should be referred to the Adelaide Graduate Centre.