

Intellectual Property Policy and Procedure

1. Purpose

The intent or purpose of this policy and procedure is to:

- encourage an environment in which teaching, research and scholarship can flourish;
- support the dissemination of knowledge and ideas; and
- maximise the benefits of commercialisation of the results of Institute research and innovation.

2. Scope

This policy and procedure applies to all Institute staff and students. This policy and procedure forms part of the terms of employment of staff, and part of the conditions of enrolment of students.

3. Definitions

Term	Definition
commercial exploitation	the application, publication, development, use, assignment, licensing, sub-licensing, franchising, exploitation or other utilisation of intellectual property for the use of generating financial or other commercial gains.
confidential information	information of any kind which, because of its character, is capable of protection by contractual or equitable means, and includes information of a valuable commercial or technical character.
copyright work	means any artistic work, literary work, dramatic work, musical work, sound recording, cinematograph film, television broadcast, sound broadcast or published edition of work, as those terms are defined by the Copyright Act 1968 (Cth).
create	Is to produce, invent, develop, generate, discover, make, originate or otherwise bring into existence, (and created/creation have the corresponding meanings).

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Original Issue:	17 November 2017
Considered by Policy Committee (PC):	03 November 2016
Considered by Executive Management Committee (EMC):	16 February 2017
Approved by Executive Management Committee (EMC):	31 October 2017
Endorsed by the Board of Directors (BOD):	17 November 2017
Current Version:	17 November 2017
Date of review extend by EMC:	13 June 2023
Review Date:	16 November 2027



Term	Definition
intellectual property (IP)	all intellectual and industrial property, including copyright work; any proprietary right which arises under, or is capable of being obtained under, the following statutes: Patents Act 1990 (Cth), Copyright Act 1968 (Cth), Trademarks Act 1995 (Cth), Designs Act 1906 (Cth), Circuit Layouts Act 1989 (Cth), Plant Breeder's Rights Act 1994 (Cth); the right to the protection under law of confidential information; and all other intellectual property as defined in Article 2 of the Convention Establishing the World Intellectual Property Organisation of July 1967.
IP Officer	Is the Executive Dean (or nominee).
literary work	a literary work under the Copyright Act 1968 (Cth) and includes a computer program.
moral rights	mean the following personal rights, as dealt with in the Copyright Act: <ul style="list-style-type: none">• right of attribution of authorship – an author's right to be identified as the author of a work,• right not to have authorship falsely attributed – an author's right to take action against false attribution, and• right of integrity of authorship of a work – an author's right to object to derogatory treatment of his or her work that prejudicially affects his or her honour or reputation
person	includes a body politic or corporate as well as an individual.
research	activities, including consultancy, that involve generation and/or application of knowledge, know-how and/or intellectual property.
resources	includes administrative support and other human resources.
staff member	Means all all fixed term, casual and continuing staff, trainees, interns and work experience staff; and includes the Chief Executive Officer (CEO) and members of the Institute's Executive

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Term	Definition
	Management Team.
student	any student enrolled in a course of the Institute.
teaching materials	means source or core teaching materials, such as texts, lecture notes, papers, overheads, powerpoint presentations and the like.

4. Policy Statement

- 4.1. The Institute responds to breaches of its intellectual property rights where appropriate in order to maintain its reputation or the value of its intellectual property.
- 4.2. Intellectual property is a term used to describe the results of intellectual activity and creative effort. Intellectual property assets are intangible, and their economic value exists largely in the set of exclusive rights that an owner has in the asset. Intellectual property may be protected through copyright, trade marks, patents, designs, circuit layouts and plant breeder's rights.
- 4.3. The Institute owns intellectual property created by a staff member for the purpose of research, teaching and administration in the course of the staff member's employment at the Institute.
- 4.4. Any intellectual property created solely by a student in the course of their studies with the Institute is owned by that student unless there is a contrary agreement between the student and the Institute.
- 4.5. The Institute owns intellectual property created by staff and students where other intellectual property has been contributed by the Institute or where the Institute has made a specific contribution of funding, resources, facilities, apparatus or supervision.
- 4.6. The Institute respects the moral rights of authors of teaching materials unless consent has been otherwise given to the Institute. The Institute manages the moral rights of creators as required under the Copyright Act 1968 (Cth).
- 4.7. Any staff member or student who becomes aware of the creation, exploitation or unauthorised use or infringement of any intellectual property to which this policy and procedure applies, must inform the IP Officer as soon as practicable in writing of all relevant details of the intellectual property, including the intellectual property's technical and commercial significance.

5. Procedure

- 5.1. The Institute will grant a non-exclusive, royalty free licence to reproduce, publish, perform, broadcast, disseminate and otherwise use for teaching and research purposes at the Institute, any intellectual property created by a staff member under 4.2 that does not have any potential for commercial exploitation. The staff member will, prior to any use of a licence granted under this clause, obtain

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written notification from the Institute that the intellectual property does not have any potential for commercial exploitation.

- 5.2. The Institute will negotiate with a staff member or student who creates any intellectual property that has any potential for commercial exploitation the apportionment of any net profit or other share derived from any commercial exploitation of the intellectual property. This section does not place any obligation on the Institute to commercially exploit the intellectual property, which the Institute may or may not deal with in its absolute discretion.
- 5.3. The Institute may enter into an agreement with any person in relation to the creation, ownership, licensing, use or commercial exploitation of intellectual property. Such an agreement prevails over any provision of this policy and procedure, which is inconsistent with the agreement and intellectual property will be owned in accordance with the agreement.
- 5.4. A staff member or student must, if required by the IP Officer, execute any document or do anything reasonably required by the Institute in relation to intellectual property created by the staff member or student in accordance to demonstrate, prove or assign intellectual property ownership to any person or secure intellectual property protection.
- 5.5. If a dispute arises as to the operation of this policy or procedure the matter will first be referred to the IP Officer.
- 5.6. If the matter cannot be resolved by the IP Officer, or if the staff member or student involved in the dispute notifies the IP Officer that he or she is not satisfied with the resolution of the IP Officer, the IP Officer must refer the matter to the Academic Appeals Committee for determination.

6. Responsibilities

- 6.1. The Institute is responsible for protecting intellectual property owned by it.
- 6.2. The IP Officer may set down guidelines and criteria for reporting the creation, exploitation, unauthorised use or infringement of intellectual property.
- 6.3. Staff and students must keep Institute owned intellectual property confidential.

7. Implementation and communication

This procedure will be implemented and communicated through the Institute via:

- the Institute's internal portal;
- Internal circulation to staff;
- Staff professional development;
- Student orientation programs;
- Student handbook.

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Supporting documents and References

Government legislation:

Copyright Act 1968 (Cth)

Institute documents:

Copyright Policy and Procedure
Responsible Conduct of Research Policy
MIT Staff Code of Conduct Policy

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