

## Academic Intellectual Property Policy

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### 1 PURPOSE

The Australian National Institute of Management and Commerce (IMC) acknowledges the importance of facilitating an academic environment that is committed to the advancement of knowledge. Ownership of Intellectual Property (IP) is an integral component of the scholarship and research outcomes that are encouraged in this environment. As a higher education provider, IMC is involved in the creation and dissemination of IP as well as upholding laws that ensure the protection of ownership of IP.

The purpose of this policy is to provide understanding regarding the rights and responsibilities associated with the ownership of IP. The policy details principles of ownership relevant to IMC, its academic staff and students. This policy should be read in conjunction with IMC's Authorship Policy.

### 2 SCOPE

This policy applies to students, academic staff and affiliates of IMC.

### 3 DEFINITIONS

**Affiliate** means an individual who is not a paid staff member of IMC but who is engaged by IMC to perform duties or functions, and/or is recognised for their contribution to IMC. Affiliates include honorary title holders (including honorary, adjunct, or visiting positions); consultants to IMC; members of IMC's committees and boards; or any other person engaged by IMC to perform duties or functions on its behalf.

**Commercialisation** means the use of IP for the purpose of commercial return or benefit.

**Course of Employment** includes work undertaken as outlined in relevant duty statements for particular positions, and any other work incidental to employment requirements.

**Intellectual Property (IP)** means the ownership rights of works created from the intellect. IP is protected by laws such as those associated with copyright, trademarks, patents, designs and confidentiality agreements.

**Moral Rights** means the rights associated with the ownership of IP and include the following rights: the right of fair attribution of authorship; the right for work not to be altered; and the right of integrity of material.

**Copyright** means the rights associated with created works including course materials and scholarly publications created by the *Copyright Act 1968* (Cth)

## **4 PRINCIPLES**

### **IMC's ownership of Intellectual Property**

4.1 IMC retains ownership of IP that has been created by staff in the course of their employment at IMC. This includes Unit teaching materials such as course outlines, multimedia resources, manuals, and handouts. This allows IMC the necessary access to further develop, update or adapt these materials to suit different educational or delivery needs. However, IMC grants staff who have created course and educational material to use the course and educational material for their own academic use, via a free, perpetual and irrevocable licence.

**NOTE:** This principle is consistent with the terms of sections 35(6) and s 196(4) of the Copyright Act 1968 (Cth).

4.2 To avoid the possibility of IMC wrongly claiming IP rights, measures must be taken to ensure that pre-existing IP is dealt with appropriately. Therefore, at the commencement of employment at IMC, academic staff must disclose any pre-existing IP or agreements with third parties that may be relevant to their employment at IMC.

4.3 At the completion of a staff member's employment, IMC has the discretion to give permission for future use of course materials solely for teaching and scholarly purposes, so long as materials are not used for any commercial gain. In such cases, when materials are used there must be clear acknowledgement that materials were developed whilst the staff member was employed by IMC. Moral rights are retained by IMC.

### **Academic employees' ownership of Intellectual Property**

4.4 Any IP developed from research activities by academics in the course of their employment at IMC remains with the academics, unless a royalty and/or income sharing agreement is agreed to by both parties.

Although employees retain ownership of IP in scholarly works, they must grant a perpetual, royalty-free licence to the Institute for the use of this material. IMC will take measures to identify the author of any work created by academic staff that is used for the Institute's purposes. The author retains moral rights to the material.

- 4.5 IMC has the right to claim IP ownership where work has been created:
- using IMC's resources; or
  - on the basis of research with colleagues; or
  - because of specific commissioning by IMC; or
  - with the support of funding/specific grants obtained by IMC.
- 4.6 , Academic staff must respect any IP rights of third parties in the course of their employment at IMC. Academic staff must sign an agreement on behalf of IMC if they wish to incorporate external IP into work at IMC. Staff must abide by copyright guidelines when using material where the copyright is owned by external bodies and/or IMC. Academic staff may publish any scholarly material but must acknowledge that it was created at IMC. If material is coauthored it cannot be published solely by one author. IMC retains the right to prohibit the use of its name and logo on published work.
- 4.7 Staff must maintain the confidentiality in relation to any material owned by IMC. In using confidential material owned by IMC staff must not make copies nor use it for any purpose other than that for which it was provided.
- 4.8 Commercialisation based on the utilisation of IP is seen as a positive outcome for IMC and its academic reputation. Generally, staff are given the opportunity to share in any financial or other benefit from the commercialisation of IP produced as a result of work completed in the course of their employment at IMC. Although specific agreements may be used as a basis for deciding on the nature of reward, generally it will be considered that the net proceeds will be shared between IMC and a staff member commensurate with the input of the staff member and IMC.

### **Affiliates' ownership of Intellectual Property**

- 4.9 Affiliates of IMC must adhere to ownership of IP guidelines in place for IMC's academic staff. This includes the need to disclose pre-existing IP and agreements with parties external to IMC. The rights of IP ownership, including copyright and moral rights, are commensurate with those of IMC employees.

IMC will retain ownership of IP in the circumstances outlined for employees in clause 4.5 above. In addition to these conditions, IMC will also retain ownership of IP if it has been created by an affiliate with use of background IP owned by IMC.

### **Students' ownership of Intellectual Property**

- 4.10 Prior to their acceptance of an offer, students must be provided with access to information regarding requirements of IP. Higher Degree Research students are required to participate in a research induction that includes ownership of IP.
- 4.11 Students at IMC retain ownership of IP created by them. Also, students have copyright and moral rights in published material arising from their research activities.

4.12 Particular circumstances precluding student ownership of IP include:

- Where material is used for teaching purposes;
- a staff member has created the material with the student a co-creator;
- there is a specific agreement in place such as one between IMC and a third party.

In cases where students agree to be involved in research with staff members or affiliates of IMC, students should be made aware of IP ownership conditions and, if necessary, an agreement should be signed before research begins.

4.13 Higher Degree Research students retain both the moral rights and copyright of their thesis. They also have ownership of IP and any publications and commercialisation arising from the thesis unless there is a pre-existing IP arrangement between the candidate and their supervisor(s) and/or a third party. Such arrangements can recognise background IP.

Should such an IP sharing arrangement be agreed to prior to the commencement of higher degree candidature it must be updated at six-monthly intervals when the candidate lodges their six-monthly report. The relative percentages of ownership can be varied depending upon the respective input of IP by the participants. Such IP agreements will be held by Student Administrative Services and a copy placed on the student's file.

IP agreements should only be signed by the candidate after they have received independent legal advice. IMC will pay the cost of the candidate obtaining such advice. Should any conflict arise between the candidate and Supervisor or third party as to the percentage ownership of IP then IMC's normal resolution procedures should be followed in seeking a resolution to the issue. (See 4.15 below)

### **Indigenous Knowledge Rights**

4.14 IMC, employees, affiliates and students must not claim ownership of over Indigenous knowledge. Where the creation of IP involves knowledge of Indigenous peoples all reasonable steps must be taken to consult with the relevant Indigenous groups and peoples to ensure that IMC conforms with all protocols and ethical guidelines.

### **Conflict Resolution**

4.15 All disputes involving IP must be investigated, managed and resolved according to IMC's Conflict/Grievance resolution policies. For detailed information regarding procedures including reporting, responsibilities, determinations and appeals, refer to the *Code of Conduct for Research*, *Workplace Grievance Policy* or *Student Grievance Mediation Policy and Procedures*.

## **5 RELATED DOCUMENTS**

- Authorship Policy*
- Workplace Grievance Policy*
- Copyright Guidelines*
- Code of Conduct for Research*
- Student Complaints and Appeals Policy and Procedure*

## 6 VERSION CONTROL

Historical Version	Approved by	Approval Date
2020.09	Academic Board	7 September 2020
2019.07	Academic Board	31 July 2019
2016.11	Academic Board	9 November 2016
2013.05	Academic Board	31 May 2013