



INTELLECTUAL PROPERTY INFORMATION FOR HDR CANDIDATES

Western Sydney University celebrates innovation by employees and students, and the commercialisation and dissemination of new intellectual property for the benefit of our university and the wider community.

Overview

Intellectual Property law may briefly be described as the law relating to ownership rights in human intervention or creativity. Specific intellectual property laws create and protect rights in things such as inventions, works of literature, drama or art, brands, circuit layouts, designs and plant varieties. The law also recognises certain rights and obligations in confidential information or trade secrets.

Inclusion of any university staff members or students as an inventor on a patent or as a creator of intellectual property arising from any activity is dependent on the individual meeting the legal requirements of the laws governing the grant or registration of such intellectual property.

Western Sydney University pursues the development of intellectual property through investment and attraction of funds to the University's research endeavours. Western Sydney University (in accordance with its legislative mandate) also undertakes the commercialisation of suitable intellectual property of the University.

Western Sydney University is also committed to fostering partnerships with industry through which intellectual property can be commercialised. These partnerships provide benefit by accessing industry sources of funding for research, and this provides benefits to staff and students, as well as the University.

Frequently Asked Questions

What is intellectual property or IP?

Intellectual property results from the application of someone's mind or intellect to create something new or original. Types of intellectual property include patents, trademarks, designs, trade secrets, copyright, circuit layout rights, plant breeder's rights, domain names and confidential information.

Intellectual property is a valuable asset which should be protected.

I am a higher degree research candidate – do I own my intellectual property?

Higher degree research candidates are not employees of Western Sydney University and generally own the intellectual property that they create, subject to any written agreement to the contrary (see further explanation below).

What is an Intellectual Property Deed of Assignment?

An Intellectual Property Deed of Assignment is a legal contract which transfers the ownership of your intellectual property rights from you to another party (for example Western Sydney University or an industry partner).

Why may I be asked to assign my interest in the intellectual property I have created at Western Sydney University?

As a research candidate, you may be asked to assign your interest in the intellectual property that you create to the university. This assignment will usually be a condition of your participation in projects that:

- a) Are funded by or involve industry collaborators (e.g. ARC Linkage grants)
- b) Have commercialisation horizons or objectives (e.g. Industry funded research agreement)
- c) Have pre-existing intellectual property owned by the university or a third party
- d) Result in intellectual property created jointly with the candidate's supervisor or other university staff.

What if I am asked to assign my intellectual property to Western Sydney University?

Western Sydney University may ask you at some point during your higher degree research candidature to assign your intellectual property rights to the university. The assignment is a 'trade' with the university for shifting the cost, risk and responsibility of the intellectual property management and commercialisation away from the candidate to the university, in return for a share in the net profits from commercialisation of the intellectual property.

All candidates have the option to obtain legal advice about the nature and effect of the Deed of Assignment. A list of independent legal advisors can be provided by Western Sydney University, or alternatively, you may obtain advice from any legal advisor who holds a current practicing certificate for any state in Australia.

If you choose to obtain legal advice from a legal advisor who raises a charge, the university will assist you in paying those legal expenses, up to a maximum of \$250 including GST and disbursements. Your legal expenses should not exceed this amount. Western Sydney University will make this payment directly to the legal advisor and upon the receipt of a tax invoice whether you do or do not proceed to sign the Deed of Assignment.

What are the benefits of agreeing to assign my intellectual property rights to Western Sydney University?

There are several benefits to agreeing to assign your rights – these include:

- a) The opportunity to work on a commercially focused research project
- b) The opportunity to be listed as an inventor on a patent application
- c) The opportunity to share (together with other inventors or creators) in the net profit from commercialisation (as detailed in the Intellectual Property Policy) that may be received by the university in the same manner as if you were an academic staff member at Western Sydney University.
- d) The cost, risk and responsibility of the intellectual property management and commercialisation of the intellectual property is shifted away from the student to the university, in return for a share in the net profits from commercialisation on the intellectual property.

Am I obligated to assign my intellectual property to the Western Sydney University?

Only under certain circumstances will you be obligated to assign your rights in the intellectual property. Students on industry sponsored projects have to sign over all intellectual property to Western Sydney University. This is to protect the legal position of Western Sydney University. In most cases, industry funded agreements are between Western Sydney University and the industry sponsor. The only way Western Sydney University can legally hand over (sell or assign) the project intellectual property is by owning it, and thus the student must assign their rights if they wish to work on the project.

What if I decline to assign the intellectual property to Western Sydney University?

If you are a Western Sydney University candidate not on a project involving an industry collaborator and your project is not commercially funded, and you decline to assign your rights in the intellectual property to Western Sydney University, you are entitled to do so, however, the cost, risk and responsibility in protecting and commercialising the intellectual property is entirely your own responsibility (i.e. Western Sydney University will not attend to the intellectual property protection and commercialisation costs on your behalf).

If you are a student on a project that has industry or commercial funding (and therefore legal obligations) and you decline to assign the intellectual property to the university, the university must, with the candidate, select an alternative research project, of equal academic merit, for the candidate to undertake, which does not involve an industry collaborator and is not commercially funded.

Who should I speak to for more information about the Deed of Assignment document or process?

For more information, contact the team at REDI:

http://www.westernsydney.edu.au/redi/home/intellectual_property