



Intellectual Property Policy (students)

1. What is Intellectual Property (IP)?

- 1.1 Intellectual Property (IP) is the output of creative endeavour which has value and originality. It is created through the development of new ideas, innovative new products, artworks, designs, processes, publications, creative content or output. Thus the creative work undertaken by students as part of their studies might be IP.
- 1.2 IP can be protected, for example, by registering patents, trademarks and designs. 'Intellectual Property Rights' (IPR) refers to rights of ownership of Intellectual Property. The main criterion for all forms of IPR is whether you have been responsible for creating something novel or innovative, representing progress on what went on before.
- 1.3 All students should read this policy carefully so that they are aware of the implications of the University's policy, and are best placed to exploit any IP they generate.
- 1.4 This Policy applies to all work undertaken while you are a student at the Arts University Bournemouth (AUB), and continues to apply to this work after you have left AUB.

2. Types of IPR

- 2.1 There are various types of IPR. Some exist automatically on the creation of work such as a copyright or design right whereas in the case of patents and certain aspects of design, action has to be taken to protect those rights, which may in turn be both difficult and costly
- 2.2 Definitions vary depending on whether what is created is in the artistic or literary fields (protected by a copyright) a new technology (patent), a product's shape or appearance (design right) or a sign to distinguish your product or service from others (trade mark) - but the principle is the same: rights cannot be granted over anything mundane or generic or which currently exists in the public domain or is owned by someone else.
- 2.3 A glossary of common IPR and their duration is contained in an appendix to this policy.

3. Ownership of IP

- 3.1 The generator of IP is identified as the 'inventor' or 'creator'. However this must be distinguished from "ownership", which is the right to use or exploit IP.
- 3.2 The student originator of IP will always be identified as its inventor, including in legal documentation such as a patent application.
- 3.3 The University retains the right to use, reproduce, modify and distribute student work for the purposes of marketing, publicity and otherwise enhancing the reputation of the University, without commercial gain.
- 3.4 The intellectual property rights of any work produced by any student in the course of his / her study rests with the student. However, it is important that students note the provisions under sections 4 and 5 below.
- 3.5 Where a student creates work outside the course of his / her study, ie where the work does not comprise part of the required learning for a course, or where the work is not submitted for or in support of assessment, the ownership rests solely with the student. The exception is where this work was the result of sponsorship or collaboration (see sections 5 and 6 below).
- 3.6 Written submissions to online communication tools such as discussion boards, chat rooms, blogs etc are treated as copyright works. The student retains the intellectual property rights of any such work, although the University retains an irrevocable non-exclusive royalty-free right to use, reproduce, modify and distribute such works for the purposes of marketing, publicity and otherwise enhancing the reputation of the University.
- 3.7 If work which you produced at AUB is used outside the University either while you are a student or after you have left, for example as part of an exhibition or for publication, an acknowledgement of AUB is required. You should contact the IPR team on ipr@aub.ac.uk for advice.

4. Protecting and exploiting Intellectual Property

- 4.1 There is further guidance about intellectual property on the [Intellectual Property Office's website](#) and on the [Design Council's](#) website. Students are strongly advised to read these guidelines to inform themselves about the legal and practical implications.
- 4.2 As the owner of the intellectual property, the student has a responsibility to identify, protect and manage his / her Intellectual Property effectively. However, the University wishes to support students, and may be best placed to help a student to exploit any IP that has been created. A student who believes that he / she may have produced any new IP which has value and originality should in the first instance contact a member of their course team. Alternatively, they can email the IPR team on ipr@aub.ac.uk for initial advice.
- 4.3 If staff have been involved in the project and may have some claim over the IP generated, it is important to read section 6 below on collaboration.
- 4.4 If it appears that new IP might have been generated, the student will be invited to discuss the work with a specialist, who can identify the potential for commercial exploitation. A decision whether or not to discuss the work with

the University is at the student's sole discretion, but students should note that failure to protect IP at the earliest opportunity can result in it being lost, and/or exploited by others.

- 4.5 Where appropriate, the University may agree to provide legal and financial support for a project, as well as ensuring that the IP is protected (for example, through applying for a patent or trademark).
- 4.6 Where the University agrees to support a project, this may be subject to conditions. These conditions may include the negotiation of a cost-recovery agreement, and where appropriate, an agreement on profit-sharing. Profit sharing arrangements will be negotiated on an individual basis with each student, but in general the inventor will be expected to receive up to 90% of the first £10,000 profit generated.
- 4.7 There may be occasions where a spin-out company would be the chosen route for exploitation of IP. In these instances, the University would normally claim an equity share in the company in return for detailed support for the company. The arrangements for companies will be negotiated on an individual basis.
- 4.8 It is worth noting that applications for patents in the UK cost £1,000 - £2,500, and international applications cost from £3,000 - £80,000 depending on the number of countries filed in.
- 4.9 If, following discussion, the University decides not to support the student in exploiting the IP, it will state this clearly in writing. The University may, at its discretion, offer some advice and support, but this will be on a case by case basis and cannot be guaranteed.

5. Commercial sponsorship (including live briefs)

- 5.1 There may be occasions where a third party owns the Intellectual Property generated through student work. This could occur where, for example, a commercial organisation sponsors a research project, or offers a live brief. In such cases the University will normally seek to reach an agreement whereby the student can retain the IP, but agrees to give the sponsor a licence to exploit the rights on a commercial or other negotiated basis. On occasions, retention of the rights in IP may not be feasible or commercially acceptable to the sponsor. Agreement with the sponsors clearly setting out the position will be negotiated before the start of the work in order to avoid subsequent disputes.
- 5.2 Commercial organisations may also require participating students to agree to a confidentiality clause, especially if their work is potentially commercially sensitive. Students must ensure they are clear about the terms which govern any work they do with or for a commercial organisation, including on placement or any other form of work-related learning.

6. Collaboration

- 6.1 Where work which generates IP is the product of collaboration between students, the student inventors should agree the way in which their status should be recorded, and any profits shared. The University will not seek to impose any specific structure (but students should note that failure to confirm

these details can lead to legal difficulties in the event that the IP is exploited). Advice can be sought from the University's IP team.

- 6.2 In the event of collaboration between staff and students leading to work which generates IP, it will normally be for the collaborating group to determine the attribution of rights, and revenue-sharing arrangements. These arrangements should reflect the nature of the collaboration, and the significance of each input. Advice can be sought from the University's IP team.
- 6.3 The University is conscious of the need to ensure that all those genuinely involved in a collaboration should have their work recognised and acknowledged. It wishes to ensure that no partner controls the assignment of rights and revenue by virtue simply of seniority. In the event of disputes between the collaborating partners, representation should be made to the IP team, who will establish a panel to determine the most appropriate assignment of rights. The panel will be chaired by a member of staff at Director level or above, and will include at least one staff member who is more senior than any involved in the dispute.

7. Intellectual Property Policy for staff

- 7.1 All students should note that there are separate arrangements for staff, and should not presume that the arrangements are identical.
- 7.2 Where a member of staff is also registered as a student, the staff arrangements will apply unless it can be demonstrated clearly that the work which generates IP was undertaken as part of the course of study.

8. Disputes

- 8.1 Any dispute about any aspect of IP as covered by this policy should be referred to the University IP team. In the event of a dispute which cannot be resolved through reference and implementation of this policy, or where one or more parties considers this outcome to be unjust, the University will establish a panel to review the case and reach a judgement. The panel will be chaired by a member of the senior management team, and will include two further members of the IP team. If the dispute also involves a student, the President of the Students' Union or nominee will be invited to join the panel as an observer. The decision of the panel will be final, and there is no appeal within the University.

9. Further information

- 9.1 The University has established an IPR team to provide advice on matters relating to intellectual property. The membership of the team will be revised and updated on a regular basis to ensure that it comprises the individuals with the most appropriate skills and knowledge.
- 9.2 Students can email jpr@aub.ac.uk for further information. Queries should be as detailed as possible to ensure that they can be directed to the right person.
- 9.3 Graduates are also eligible to use this service for a period of three years after graduation. A graduate should email jpr@aub.ac.uk for further information. Queries should be as detailed as possible to ensure that they can be directed to the right person.

Glossary

Copyright – this is an inherent right (which means that it is not applied for protecting creative works such as books, music, plays, films and broadcasts. Copyright protection occurs automatically once the work has been recorded in some way, such as by printing.

The period of validity of a copyright varies depending on the type of work. For dramatic, artistic or literary works the protection period in the UK is 70 years following the author's death, while for broadcasts and sound recordings protection lasts 50 years after first broadcast

Patents – a form of registered IPR that are used to protect technological inventions including processes. Although a patent doesn't automatically allow a rights owner to make or sell the item (since a product manufacture and distribution must conform to prevailing regulations) it does protect the rights owner by preventing others from exploiting or copying the IP (so it is sometimes called a 'negative right').

A Patent gives the inventor a monopoly right over the product and also allows him or her to license it for others to make and sell, in return for the payment of royalties. It is essential to apply for a patent early on in the process of the development of a new product or process since – in addition to the possibility of someone else copying it – a technology that is already in the public domain will not be registrable.

Obtaining a patent normally involves employing a patent lawyer to draft and file a patent application. You must prove your invention is new and inventive and is not 'excluded'. A search of worldwide patent databases will be made by the national Patent Office to find out if anyone has already filed a patent or disclosed a scientific article for the same technology. If not and if the new product is deemed to be 'novel and inventive' (that is not just a re-working of an existing idea) then the patent may be granted and the invention is protected from unauthorised use. In the UK this can take up to 4.5 years. A UK patent is valid for up to 20years. To maintain it, fees must be paid annually after the fifth year

Design Rights – these consist of both registered and unregistered forms. The distinctions between what exactly may be protected by each and the relative levels of protection, are complex and expert advice should be sought.

The more common type is the registered design, covering the appearance (that is, the shape or pattern) of a product or its packaging, as well as typefaces and graphics. To be registered in the UK (with the UK Intellectual Property Office), a design must be distinctive and novel – it should not 'remind an informed person of an existing design' as well as meeting other detailed criteria.

Whilst there are costs involved in obtaining registered design rights (compared with relying on unregistered design rights, which are free) this form of IPR can be treated in the same way as patents – for example by rights owners exploiting their IP through licensing – and it provides a good level of protection. A registered design right lasts for up to 25 year in the UK and must be renewed every five years

Trade Marks – registered trade mark rights protect the signs used to identify a company's products or services, distinguishing them from those owned by other businesses. Brand names and logos are perhaps the most familiar form of trade marks, but elements like a product's colour or shape, or even (at least in theory) a

smell associated with it, can be registered as trade marks. You can also register a slogan, logo or domain name

Various criteria are used to decide whether a distinctive sign is registrable. The use of a generic term, for example, would not be allowed as everyone should be free to use it, while those which merely 'designate the kind, quality, quantity, intended purpose, value, geographical origin....' of the goods or service are disallowed as insufficiently distinctive. However, if it can be shown that an otherwise mundane feature associated with a product (eg its colour) has become distinctively connected with the product, it may be allowed.

Registration normally uses the services of a trade mark lawyer and consists of filing an application with UK-IPO's Trade Mark Registry, followed by a search and examination. Before a Trade Mark is granted it is advertised in the UK Trade Marks Journal and can be opposed. A renewable fee is payable every ten years. A registered trade mark will remain valid indefinitely if the rights owner continues to use and renew it. Goods are classified under 45 class headings for the purpose of registration of marks.

Another type is the unregistered or common law trade mark. As with unregistered design rights, this form of protection is not frequently used as it has less force and relies on the common law offence of 'passing off' for protection. The '™' device indicates that a trade mark is subject to this type of rights whereas a registered trade mark can use the ® symbol. The term 'word mark' is applied to a form of trade mark based solely on typographic treatment of a piece of text that provides a recognised identity and branding.

Other rights – there are 'other rights' that apply to domain names, geographical indications, plant varieties – but the above are the main ones.

Appendix

Retaining student work

The University reserves the right to retain student work after students have left AUB.

Work may be retained either because it is of a very high standard, and might be used for future marketing or promotional activity (as described in section 2.3 of the policy above); or to support the learning and teaching process, which may include being used as an example for future students. Where possible, we shall retain a copy of the work rather than the sole or original copy.

The University will notify you when your work is to be retained, using a simple template; if it is used for marketing or promotional activity we shall normally credit you, but work which is used to support learning and teaching will be anonymised. Once we no longer wish to keep your work we will contact you and ask whether you wish us to return it to you. The University will pay the costs of returning the work to you in these circumstances. If we do not hear from you, or if you do not want the work returned, the University reserves the right to destroy any remaining work. It is important that you stay in contact with us, so that we can confirm this with you.

It is your responsibility to ensure that you take with you, at the end of the academic year, any work which you wish to keep. Shortly before the end of the academic year, we shall remind you of the need to clear the studios of all student work; if you have not collected it within the given timescale, the University reserves the right to destroy any work which remains. This is of particular importance if you are leaving the University.