Intellectual Property Policy

Section 1 - Background

(1) This Policy establishes sound principles for the encouragement of invention, creative work and technology transfer. The Policy promotes compliance with intellectual property laws, and sets out how Australian Catholic University governs intellectual property rights in order to meet its initiatives.

(2) This Policy describes the principles of ownership, licensing, management, commercialisation and use of Intellectual Property (IP) at ACU.

Section 2 - Purpose

(3) The purpose of this Policy is to:

a. clearly articulate who owns IP under most circumstances at ACU;
b. create a climate for the creation of IP including:
    i. the innovation and invention of commercially valuable products;
    ii. artistic works;
    iii. traditional and non-traditional research outputs;
    iv. 'Indigenous Cultural and Intellectual Property (ICIP)' (as per National and State Libraries Australasia, Position statement: Indigenous Cultural and Intellectual Property (ICIP));
    v. Open Educational Resources; and
    vi. scholarly works.
c. set out ACU's position on the use of Third Party Material (see Copyright Use of Third-Party Works Procedure) and associated IP (see Copyright Notice and Takedown Notice Procedure) compliance requirements (see Copyright Notices Signage Procedure).

Section 3 - Scope / Application

(4) IP means all current and future intellectual and industrial property rights and interests throughout the world, whether registered or unregistered, including trademarks (see the Trade Marks Act 1995 (Cth)), designs, patents, inventions, plant breeder's rights (see the Plant Breeder's Rights Act 1994 (Cth)), copyright (see the Copyright Act 1968 (Cth)) and analogous rights, circuit layouts (see the Circuits Layout Act 1989 (Cth)), confidential information (see the Privacy Act 1988 (Cth)), trade secrets, know-how and other intellectual property rights including as defined in Article 2 of the Convention Establishing the World Intellectual Property Organization (see TRT/CONVENTION/001) of 14 July 1967 as amended from time to time (including all statutory and other proprietary rights in respect of them and as amended from time to time), any common law rights, and any right to apply for registration of, or any application for, any such rights.

(5) This Policy applies to University Members and former staff, and former students. This Policy may apply to associates and others by adoption or agreement.

(6) If IP arises out of, or in connection with, a project that is the subject of an ACU agreement with a third person or organisation, despite any contrary provision in this Policy, the provisions of that agreement will govern rights in the IP.

Section 4 - Policy Statement and Principles

Ownership of Intellectual Property

(7) ACU will own from the time of is creation, and / or assert ownership of and / or entitlement to IP, if that IP is:

a. created by staff in the course of and within the scope of their employment, noting that ACU and a staff member may enter into an express agreement in writing about IP ownership or other entitlement;
b. copyright work created by staff in the course of their employment, including but not limited to documents, teaching materials, including PowerPoints, recorded lectures, memoranda, letters, administrative reports, meeting minutes, course outlines, final examinations lab manuals and scholarly works;
c. work created by or on behalf of ACU or a Faculty / Directorate by Affiliates for the specific use of ACU or a Faculty / Directorate;
d. work commissioned by ACU; and
e. created pursuant to specific sponsored or contract research activities, the ownership of which shall be governed (in whole or in part) by the sponsor's regulations or the terms of the contract.

(8) Subject to clause (7) above, ACU will not assert ownership of IP in:

a. literary works created by University Members including books, and journal articles; and cinematograph film, artistic, musical, dramatic, and sound recordings or other works when prepared for individual use or presentation at conferences.

(9) University Members will grant to ACU a world-wide, non-exclusive, non-transferable, royalty-free, perpetual and irrevocable licence to use the IP created as described in clause (8) above, for ACU activities including, for the purposes of teaching, research, ACU administration (including accreditation) and promotion of ACU.

(10) ACU is entitled to receive from the Copyright Agency (CA) any remuneration collected by CA in respect of the reproduction of any ACU owned works as described in clause (7).

(11) ACU lays no claim for IP created by undergraduate students.

(12) Postgraduate students may be asked to enter into an agreement in relation to IP rights, including to grant to ACU a world-wide, non-exclusive, non-transferable, royalty-free, perpetual and irrevocable licence prior to embarking on their course of study, in respect of any IP which may be generated by them in the course of their studies.

(13) Postgraduate students retain copyright ownership in their theses.

Innovation and Invention

(14) ACU wishes to create a climate for innovation and invention.

(15) ACU will develop procedures to support the protection and commercialisation of IP consistent with the following principles:

a. to facilitate engagement with external partners;
b. to support research including entrepreneurial and commercial endeavours;
c. to enable ACU and University Members to receive a monetary benefit from commercialisation of IP; and

d. to identify and manage appropriately risks to ACU associated with IP rights and entitlements, including commercialisation.

Indigenous Cultural and Intellectual Property (ICIP)

(16) Where the creation of ACU intellectual property involves Aboriginal and Torres Strait Islander interests or property and / or the use of Indigenous knowledge, ACU will consult with the relevant Aboriginal and Torres Strait Islander peoples, Traditional Owner groups and communities including Elders, to ensure that any decisions taken on the protection, development and commercialisation of that intellectual property conforms with relevant Aboriginal and Torres Strait Islander protocols and ethical rights and guidelines. This includes those published by Australian Institute of Aboriginal and Torres Strait Islander Studies (AITSIS) (see A Guide to applying The AIATSIS Code of Ethics for Aboriginal and Torres Strait Islander Research) and the National State Libraries of Australasia (NSLA), (see the National and State Libraries Australasia, Position statement: Indigenous Cultural and Intellectual Property (ICIP)), noting that the protocols and ethical guidelines may vary between different Aboriginal and Torres Strait Islander groups and communities.

Creative works

(17) ACU wishes to create a climate of creativity for the creation of artistic works.

(18) ACU may, from time to time, commission works from University Members for use by ACU.

Moral Rights

(19) ACU observes the Moral Rights of its University Members and of copyright owners of third party works in accordance with the provisions of the Copyright Act 1968 (Cth).

Open Education

(20) ACU is committed to the creation and dissemination of knowledge for the benefit of society. Where ACU is the copyright owner, ACU supports the use and sharing of Open Educational Resources (OERs) to widen access to education, and to improve both the cost-efficiency and quality of teaching and learning outcomes. ACU encourages the adoption, adaptation, and creation of high quality OERs where they contribute to quality learner experiences and success, and where ACU's reputation and priorities are promoted, including aspiration and inclusion.

(21) ACU supports the use of Creative Commons Licenses when making ACU learning and teaching materials available as Open Educational Resources.

(22) While ACU is committed to creating OERs, open licensing may not be appropriate where education materials are to be commercialised, contain confidential information, or where releasing the material would infringe a legal commitment by ACU and / or the author.

Third Party Copyright Material

(23) ACU supports and encourages the lawful use of third-party copyright materials to enhance the activities of ACU.

(24) ACU will develop procedures to ensure the use of third-party works at ACU is consistent with the following principles:

a. meets any requirements set out in the Copyright Act 1968 (Cth) (as amended), Copyright Regulations 2017 (Cth) (as amended), and statutory licences;
b. meets any contractual requirements determined by voluntary copyright licences entered into by ACU; and
c. implement best practice third-party copyright management recommended by Universities Australia or the

majority of Australian universities.

Section 5 - Disputes

(25) ACU wishes to resolve disputes arising with respect to matters covered by this Policy quickly, fairly and, wherever possible, without resort to litigation or other public dispute resolution process. The intent is to reduce the strains that such disputes and their resolution place on the parties so as to affect the work and relationship of those involved as little as possible.

(26) If any dispute arises between the University and a University Member covered by this Policy (including former staff members and former students) with respect to the application of this Policy, then it shall be resolved under this Section 5.

(27) If a dispute arises, then ACU will attempt to agree with the other party / parties to first attempt to resolve the dispute by mediation.

(28) If the dispute is not settled within a reasonable time by mediation, ACU will submit the dispute to expedited arbitration administered by, and in accordance with the Australian Disputes Centre (ADC) Guidelines. Failing agreement as to the arbitrator, the ADC would be given power to appoint a person (who is not the same person as the mediator) as arbitrator.

(29) Any mediation or arbitration should be held in conference at a centre where an ACU campus is located at the convenience of the individual(s) involved.

(30) Nothing in this procedure removes the right of a staff member, former staff member, student, or former student to seek other recourse available under law.

Section 6 - Roles and Responsibilities

(31) ACU will develop procedures to inform University Members and visitors of their responsibilities regarding IP and related rights and entitlements, including the use of third-party copyright material at ACU.

(32) For management and compliance in relation to IP, the following responsibilities are in place:

Deputy Vice-Chancellor (Research and Enterprise)	Responsible for research related IP matters including agreements.
Deputy Vice-Chancellor (Education)	Responsible for promoting understanding of and compliance with copyright laws, and licences relating to third party copyright material. Responsible for promoting responsible use of copyright works by students. Responsible for promoting responsible use of copyright works by staff and affiliates.
Deputy Vice-Chancellor (Corporate)	Responsible for promoting responsible use of copyright works by students. Responsible for promoting responsible use of copyright works by staff and affiliates. Management of non-research ACU IP.

(33) Compliance with Copyright and other IP obligations is each individual’s responsibility:

Students	are responsible for observing copyright and other IP legislation, and any restrictions or obligations under any licences or permissions in their use of third-party copyright material and IP. Students should not use ACU facilities or resources to infringe copyright and other IP. Students can be subject to the Student Academic Integrity and Misconduct Policy for: • IP misuse, including copyright infringement using ACU resources; • sharing or providing access to ACU assessment information.
National Lecturer in Charge	is responsible for the copyright compliance of third-party copyright material supplied to students enrolled in their subjects.
University members	are responsible for observing copyright and other IP legislation, and any restrictions or obligations under any contract, agreement, licence, or permissions in their use of third-party copyright material and IP. They should not use ACU facilities or resources to infringe IP. Using ACU facilities or resources to infringe IP may subject the University Member to disciplinary action or denial of access to ACU facilities or resources.

Section 7 - Review

(34) ACU may amend this Policy from time to time and review at least every 5 years, or when there are significant changes in Australian or international legal frameworks for IP and related legislation, and / or to improve the effectiveness of its operation.

(35) An ACU staff member or student who wishes to make any comments about this Policy may forward their suggestions to the Enquiries Contact listed on the Status and Details tab.

(36) Unless otherwise indicated, this Policy will still apply beyond the review date.

Section 8 - Further Assistance

(37) Any staff member who requires assistance in understanding this Policy should first consult their nominated supervisor who is responsible for the implementation and operation of these arrangements in their work area. Should further advice be required, staff should contact the Copyright Coordinator, copyright.officer@acu.edu.au.

(38) Any students who require assistance in understanding this Policy should first consult a teacher within their academic program. Should further advice be required, students should approach the Library.

Section 9 - Definitions

(39) For the purpose of this Policy:

Affiliates	Affiliates are people engaged by ACU and includes; • religious members • members of affiliated institutions performing work for ACU • volunteers • contractors and consultants performing work for ACU • agency staff, e.g. temporary staff • committee members who are not ACU employees • honorary members • visiting members • guests of University Members
Creative Commons Licenses	are simple, standardised ways to grant copyright permissions to works. https://creativecommons.org/licenses/ provides an explanation of the licences or available.
Indigenous Cultural and Intellectual Property (ICIP)	ICIP is an internationally recognised term that ensures that any decisions taken on the protection, development, and commercialisation of ICIP conforms with relevant Aboriginal and Torres Strait Islander protocols and ethical guidelines. See the National and State Libraries Australasia, Position statement: Indigenous Cultural and Intellectual Property (ICIP).

Intellectual Property	Intellectual Property includes, but is not limited to, works that are: • Patents registered or registrable under the Patents Act 1990 (Cth). • Trade marks registered or registrable under the Trade Marks Act 1995 (Cth) and trademarks or names protected at common law or under the Competition and Consumer Act 2010 (Cth). • Designs registered or registrable under the Designs Act 2003 (Cth). • Copyright protected under the Australian Copyright Act 1968 (Cth), including copyright in literary works (including computer programs), dramatic works, musical works, artistic works, sound recordings, cinematograph films, television and sound broadcasts and tapes and published editions as defined by the Act. Copyright protection is also afforded to works developed for teaching purposes: which includes but not restricted to study guides, laboratory manuals, TVI tapes, CAL and CML programs and other electronic courseware, radio and TV broadcasts, audio visual materials (including recorded lectures, tutorials, and seminars) and the like which have been developed to further ACU's teaching function. • Circuit layouts protected under the Circuits Layout Act 1989 (Cth). • Plant varieties registered or registrable under the Plant Breeder's Rights Act 1994 (Cth). • Any information which is regarded by ACU as confidential and as having a potential commercial value. • Any other rights as defined in Article 2 of Convention Establishing the World Intellectual Property Organization (TRT/CONVENTION/001) signed at Stockholm on July 14, 1967 and as amended from time to time. Includes such rights to the extent that they are added to or varied from time to time by legislation which amends or replaces, in whole or in part, any of the above-mentioned Acts.
Invention	Invention means an invention (whether or not qualifying for registration) under the Patents Act 1990 (Cth).
Moral Rights	Moral Rights are rights created under the Copyright Act 1968 (Cth) and include the right of attribution of authorship of a work, the right not to have authorship of a work falsely attributed and the right of integrity of authorship (that is, not to have a work subjected to derogatory treatment).
Non-exclusive, non-transferrable, royalty-free, perpetual and irrevocable licence,	'Non-exclusive, non-transferrable, royalty-free, perpetual and irrevocable licence' is a common licensing term used to allow the requestor to use the copyright works. 'Non-exclusive' allows ACU to use the copyright work but allows the copyright owner to make licensing agreements with other parties. 'Non-transferable' means ACU will not licence the work to third parties. 'Royalty-free' means ACU will not make any monetary payments for the use of the copyright work. 'Perpetual' means ACU's use the copyright work is never ending which cannot be terminated by the copyright owner. 'Irrevocable' means the copyright owner cannot withdraw one's permission once granted to ACU to use the copyright work.
Open Educational Resources	Open Educational Resources (OERs) are teaching, learning and research materials in any medium – digital or otherwise – that reside in the Public Domain or have been released under an open license that permits no-cost access, use, adaptation and redistribution by others with no or limited restrictions.
Staff	Staff means all academic, professional, and senior staff employed on a full-time, part-time, fractional, sessional, continuing, fixed term, and casual basis. Students employed by ACU are considered staff members for the capacity that they have been employed only. This can include former staff where residual clauses of their employment contract remains in force.
Student	A student is a person who is enrolled in any program, unit of study or research or non-award study offered by or at ACU.
Third-party copyright material	Third-party copyright material are copyright protected works under the Copyright Act 1968 (Cth). It includes both unlicensed and licensed works not created by ACU or ACU personnel.
University Members	University Members are the students, staff, and Affiliates of the ACU, including former staff where residual clauses of their employment contract remain in force.

Status and Details

Status	Current
Effective Date	8th March 2024
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Expiry Date	Not Applicable
Responsible Executive	Tania Broadley Deputy Vice-Chancellor (Education)
Responsible Manager	Janet Fletcher Library Director
Enquiries Contact	Library

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