



IP COMMERCIALISATION REVENUE POLICY

Date first approved: 23 June 2006	Date of effect: 23 June 2006	Date last amended: (refer to Version Control Table)	Date of Next Review: 1 April 2024
First Approved by:	University Council		
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Responsible Division & Unit:	Research Services Office, Research and Innovation Division (RaID)		
Supporting documents, procedures & forms of this policy:	Conflict of Interest Policy Intellectual Property (IP) Commercialisation Revenue Guidelines Intellectual Property (IP) Policy		
Relevant Legislation & External Documents:	Convention Establishing the World Intellectual Property Organisation , July 1976 Copyright Act 1968 (Commonwealth) Designs Act, 2003 (Commonwealth) National Principles of Intellectual Property Management Patents Act 1990 (Commonwealth) University of Wollongong Act 1989		
Audience:	Public		

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1 Purpose of Policy

1. This policy applies to all Staff Members and Students (under-graduate and post-graduate) of the University of Wollongong (UOW). It may also apply to other persons by agreement, such as UOW fellows and other associates. This policy sets out the approach taken by UOW in relation to the sharing of revenue generated from Commercialisation of Intellectual Property (IP) created as the result of research activity.

2 Definitions

1. References to the singular include the plural and references to the plural include the singular.

Word/Term	Definition (with examples if required)
Commercialise or Commercialisation	The process or activity of introducing novel products, process, or services into the market. An economic or societal gain is expected from the commercialisation of UOW generated IP. The activity will require a substantial investment of time and resources.
Commercialisation Expenses	<p>These include, but are not limited to: (a) patenting expenses; (b) legal expenses incurred on the project (and not just on the particular deal giving rise to the Commercialisation Revenue); (c) external professional expenses incurred on the project (and not just on the particular deal giving rise to the Commercialisation Revenue), this might include: accountants expenses for financial modelling; valuer's expenses, and other consultant expenses (commercialisation consultants, negotiators, other consultants); (d) travel and accommodation expenses incurred on the project (and not just on the particular deal giving rise to the revenue) by any person (whether Staff Member or an external professional); and (e) fringe benefits tax payable by UOW in relation to Commercialisation.</p> <p>The above list is not exhaustive and the determination of whether a particular expense is a Commercialisation Expense will be made by the Deputy Vice-Chancellor (Research & Innovation). Commercialisation Expenses do not include: (a) UOW's administration expenses; or (b) the cost of undertaking research.</p>



Commercialisation Revenues	<p>These include, but are not limited to: (a) royalties upon sales by a licensee; (b) royalties from sub-licence fees received from a licensee; (c) lump sum licence fees; (d) proceeds of sale of the IP; (e) signing fees; (f) milestone payments; (g) minimum annual payments; (h) reimbursement of patent prosecution and maintenance expenses; (i) dividends upon shares owned by UOW in a start up company to which it grants a licence; (j) proceeds of sale of shares owned by UOW in a start up company to which it grants a licence; and (k) damages from infringement proceedings.</p> <p>The above list is not exhaustive. The determination of whether a particular revenue is a Commercialisation Revenue available for distribution to inventors will be made by the Deputy Vice-Chancellor (Research & Innovation).</p>
Creators	<p>UOW Staff Members or Students who produce, invent, design, enhance, generate, discover, make, originate or otherwise bring into existence IP in their capacity as students or employees of UOW. Persons from other organisations are omitted from this definition, as this policy relates to providing incentives and reward for UOW staff and students who have developed IP with commercial value.</p>
Intellectual Property (IP)	<p>Any original product of the creator's mind or intellect, commonly developed through research or creative efforts (e.g. inventions; literary and artistic works; designs; and symbols, names and images used in commerce) as defined by Article 2 of the Convention Establishing the World Intellectual Property Organisation, July 1967.</p>
Nett Revenue	<p>Revenue from which all allowable and agreed expenses, overheads have been deducted.</p>
Staff Member	<p>All people employed by the University including conjoint appointments, whether on continuing, permanent, fixed term, casual or cadet or traineeship basis.</p>
Student	<p>A person registered for a course at the University of Wollongong.</p>
UOW	<p>The University of Wollongong.</p>

3 Application & Scope

1. UOW provides an environment that:
 - 1.1 Encourages researchers to develop innovative ideas; and
 - 1.2 supports Commercialisation of these ideas.
2. UOW wishes to reward Creators who develop IP created as the result of research activity with commercial value by allowing them to share in the returns from Commercialisation. Therefore, this policy is intended to provide a personal incentive and reward for UOW staff and students (where the students have assigned their IP to UOW) who have developed IP created as the result of research activity with commercial value. It is also intended that this policy will provide a clear framework for considering how Nett Commercialisation Revenue should be distributed. This policy does not apply to students who have not assigned their IP to UOW.



4 Distribution of Nett Commercialisation Revenues

1. UOW will distribute Nett Revenues to Creators:
 - 1.3 50% to be shared by all of the Creators;
 - 1.4 50% to UOW, to compensate it for the use of its facilities, resources and commercialisation framework.

5 Equity in Companies

1. Equity in a start up company may be considered as an alternative to the distribution of nett commercialisation revenues on a case by case basis, taking into consideration the complexity and inherent risks including actual, potential or perceived conflicts of interest of any arrangements. Creators will need to consider the taxation impact, if any, upon them of holding equity. Similarly, UOW will need to consider the fringe benefits tax impact, if any, upon it.
2. In cases where Creators may personally hold shares, the number of shares to be held between the Creators will be determined in accordance with the same principles that operate in relation to the distribution of Commercialisation Revenues, that is:
 - 2.1 consider the “gross” number of shares available in accordance with the terms of the particular transaction;
 - 2.2 consider the Commercialisation Expenses that would have been deducted from revenue to arrive at a “nett”;
 - 2.3 calculate the Creators’ entitlement to this number of shares, being 50%;
 - 2.4 convert this to a number of shares; and
 - 2.5 arrive at the “nett” number of shares to be available to Creators.
3. Whether Creators may on a particular occasion hold shares personally, will be determined by the Deputy Vice-Chancellor (Research and Innovation). Where Creators may personally hold shares, they will be required to forego any other Creators’ entitlements.

6 Deed of Assignment

1. IP Deeds issued by UOW to facilitate the assignment of IP from Creators to UOW should include a requirement to share commercialisation revenue (if any) in accordance with the requirements of the Intellectual Property Policy.

7 Commercialisation Revenue Committee

1. There will be a Commercialisation Revenue Committee constituted on a case by case as required basis, for example where a position on the Commercialisation Revenue distribution cannot be mutually agreed or the terms of an existing distribution agreement cannot be met. The Committee will be composed of:
 - 1.1 the Deputy Vice-Chancellor (Research and Innovation) or their representative;
 - 1.2 one other member of UOW staff selected by the Deputy Vice-Chancellor (Research and Innovation);
 - 1.3 one other member of UOW staff from a Department/School unconnected with any of the Creators and who is nominated by consensus by the Creators.



2. The Committee will have regard to:
 - 2.1 the views of the Creators;
 - 2.2 principles of inventorship;
 - 2.3 principles of authorship; and
 - 2.4 the advice of any expert, such as a patent attorney, from whom UOW obtains advice.
3. The Committee will make a recommendation to the authorised delegate(s) in regard to:
 - 3.1 who is a Creator; and
 - 3.2 in what proportions Creators will share in Commercialisation Revenues.
4. UOW's authorised delegate(s) will consider the recommendation made by the Committee and the delegate's decision is final.

8 Communication

1. It is the responsibility of the Innovation and Commercial Research Unit to develop and review the communication strategy for this policy.

9 Roles & Responsibilities

1. It is the responsibility of the Innovation and Commercial Research Unit to ensure that the requirements of this policy are followed when determining commercialisation revenue sharing.
2. It is the responsibility of Creators to cooperatively participate in the process of determining inventorship or authorship for the purposes of implementing this policy.

10 Version Control and Change History

Version Control	Date Effective	Approved By	Amendment
1	23 June 2006	University Council	New Policy
2	August 2007	Academic Senate	Minor modification to include Fellow, Visiting Student and Volunteer Assignment of IP Policy in IP Policy Framework.
3	6 May 2009	Vice-Principal (Administration)	Migrated to UOW Policy Template as per Policy Directory Refresh
4	9 March 2010	Vice Principal (Administration)	Future review date identified in accordance with Standard on UOW Policy
5	18 August 2010	N/A	Policy Custodian position title and email address changed to reflect new role
6	1 March 2011	N/A	Updated links to Supporting Documents
7	21 June 2011	Vice-Principal (Administration)	Updated to reflect change of name from Wollongong College Australia to UOW College



8	16 January 2012	Deputy Vice-Chancellor (Research)	Updated to reflect name change from Commercial Research Unit to Innovation and Commercial Research
9	6 September 2016	Deputy Vice-Chancellor (Research and Innovation)	Updated policy Custodian and Division responsibility to reflect structural change.
10	22 August 2017	Deputy Vice-Chancellor (Research & Innovation)	Updated to reflect UOW Policy Template, UOW definitions, Division titles and supporting documents with links.
11	1 April 2021	Vice-Chancellor	Redefinition of 'Creator's to ensure that the intent of the policy is clear.