

Sponsorship, Contracts, and Agreements

A guide for Research Students and their Supervisors

Category:	Research
Last Modified:	March 2005
Review Date:	August 2007
Approved By:	Academic Board
Contact Person:	Dean of Postgraduate Studies, Extn 4852/7723

Please note that this policy is currently under active review.

Introduction:

The University's position on intellectual property (IP) in the particular context of student research is outlined in this policy with guidelines for addressing such issues as copyright, embargoes, joint publications, sponsorship, contracts, & agreements.

Definitions:

Intellectual Property (IP) means any discovery, innovation, invention, form, shape, sound image, expression, technique, or process, which is the product of skill, effort, or intellect. Examples are written material, concepts, designs, compositions, software, databases, experimental data, and biological materials, including genes.

The "**Right to IP**" means any claim, right or interest in IP enforceable under the law of New Zealand or any other country where protection of IP has been sought.

Types of IP rights include:

- Copyright
- Patents and know-how
- Plant varieties
- Registered designs
- Databases and other potentially valuable information
- Trade secrets and other material subject to an obligation of confidence
- Trade marks
- Instructional material

Websites in New Zealand with further useful information are:

<http://www.iponz.govt.nz/pls/web/dbssiten.main> and
<http://www.frst.govt.nz>

Information on the University's research policies can be found in the UC Policy Library under the category, Research.

See also the Canterprise homepage, the point of contact at the University of Canterbury for all commercial work. See a link to the "Commercial and Other Outside Activities by Staff and Students Policy" under Related Policies below.

Policy Statement:

Postgraduate students and their supervisors must discuss and reach agreement on IP issues, any sponsorship, contracts or agreements that impinge on the research work, and potential royalty payments. Agreements should be well documented, and signed off by all parties before the thesis research proposal is formally registered with the university. Postgraduate students and their supervisors must also reach provisional agreement on authorship of any publications likely to derive from the thesis work. All these agreements must be re-examined, and revised if necessary, as the thesis work proceeds. It is important to avoid misunderstandings right from the start.

Guidelines:

1. Intellectual Property

Students' rights to IP and the responsibility of supervisors

Postgraduate students at the University of Canterbury own potentially valuable IP they create during their thesis work except (i) where the research or product development work has made more than incidental use of university resources (this does not include routine support services), or (ii) where the IP rights are already governed in some way by a written agreement with the university, possibly the supervisor, and/or some third party, under which a student has agreed to assign his or her rights. If the supervisor wishes to claim, with the university, any share in the rights to potentially valuable IP created during a student's research work, it is the responsibility of the supervisor to reach agreement with the student and the university before any substantial part of the work is done. It is also the supervisor's responsibility to ensure the student is aware of any existing agreements governing ownership of IP likely to be created during the student's research, understands them, agrees in writing to those parts of the agreements which govern IP, and is advised to seek independent expert advice before signing. All agreements that concern potentially commercially valuable IP must have been drawn up in conjunction with Canterprise, and the existence of any such agreement must be recorded on the student's formal application for approval and registration of the thesis research proposal.

Agreement or lack of agreement about a student's rights to IP cannot be a condition of enrolment in the university, but lack of agreement may mean that the student cannot work on a particular project for his or her thesis.

Where no agreement exists, the University of Canterbury does not require a postgraduate student to assign to the university any IP created during the course of the thesis work. Nevertheless, the

university will normally suggest the student assigns commercial IP rights to the university in exchange for a share in the royalties that may follow successful commercialisation. The reasons are:

1. A student generally lacks commercial skills, market familiarity and technical know-how to manage IP effectively;
2. Large organisations, including universities, are usually better placed to lodge, manage, and protect patents and other forms of IP than individuals;
3. The patent process can be expensive, up to \$100,000 in NZ, \$300,000 worldwide[†];
4. Protection of a patent can be even more expensive, and a US lawsuit typically costs \$1,000,000-2,000,000[†];
5. For an individual, the above “risks” may outweigh the possible benefits which are seldom completely assured.

[†] - figures from FRST’s IP policy document

The situation differs if the student develops IP during a period of employment by the university, as a tutor, teaching assistant, or research assistant, for example. In such cases, IP of potential commercial value developed in the course of that employment, with the exception of textbooks, would be claimed by the university, though the university would seek an agreement with the student on sharing the possible benefits of IP

2. Copyright

Students own and control the copyright of their theses, and the student will always be able to determine whether the text may be reproduced. Sometimes, however, the student will be obliged to restrict access to the thesis under some existing written agreement with another party, because the thesis refers, for example, to material that is of potential commercial value. The university must also agree to such restricted access, and this matter is dealt with below under “Embargoes”. Copyright does not extend to ownership of IP referred to in the thesis. For example, reference in a thesis to a patented or patentable product does not mean the student necessarily has any IP right to that patented or patentable product.

3. Embargoes

The university may agree to embargo a student’s thesis for up to two years for reasons such as:

- The applicant made a prior agreement with an outside person or body connected with the research that publication should be delayed after completion of the research, in order to protect new information of commercial value.
- The applicant is making or intends to make a patent application concerning the subject matter of the research.
- The applicant plans to publish all or some of the thesis and believes public access will jeopardise initial and subsequent IP rights.
- An embargo is necessary to ensure compliance with the law or to protect public safety (eg. where it refers to issues of national security; contains material which might be considered offensive).
- The subject of the thesis is an individual of high standing or mana who is still alive or only recently deceased.

Only in exceptional circumstances of national emergency, or where extremely sensitive personal information or offensive material is included in a thesis, will an embargo or restricted access beyond two years be considered.

See Appendix A for a form to be used for seeking approval of the Dean of Postgraduate Studies for an embargo. This form is designed to be used on submission of the thesis or on lodging the thesis in the library, but when the research involves development of potentially valuable IP, covered by a written contract or agreement with the university and possibly with the supervisor and/or a third party, the Dean's approval for the embargo must be sought before the contract or agreement is signed.

No embargo is possible with respect to examination of the thesis. The university will not agree to any person or organisation placing any restriction on the date of the examination or the inclusion of information or material in the thesis, even if that person or organisation supplied the information or material. However, a third party may, as part of a contract or agreement drawn up preparatory to or during the thesis work, require the examiners of the thesis to sign an undertaking to observe confidentiality in respect of confidential information or IP. The third party may inspect the thesis prior to submission in order to assess the need for such undertakings of confidentiality, but any such inspection of the thesis must be done in less than one month. The third party is not able to ask for the thesis to be altered for the purpose of examination, or to be altered subsequently before it is lodged in the library.

The student's absolute right to copyright, and the university's insistence that theses be made generally available, notwithstanding any agreement to embargo a thesis for up to two years, may mean that some research projects which involve confidential information, or which may result in commercially valuable IP, are not suitable for student research.

4. Joint Publications

The supervisor and student must discuss, and reach an agreement, on how the student's research, done for the thesis, might be published. Although the student owns the copyright of his or her thesis, the reality is that research work builds on and depends on the work of others, and due acknowledgement of such contributions must always be given. In the case of supervised research for a thesis, the research project or an idea may have originated with the supervisor, even if the project or idea was expanded on and developed by the student. It is therefore sometimes appropriate for the student and supervisor to publish work jointly.

Traditions on joint publication by student and supervisor (or other persons) vary with discipline and institution. Departments which have strong traditions on how to deal with joint authorship should ensure those traditions are documented so that students can examine and discuss them.

- If the student instigated the work, and carried it out with advice from the supervisor(s) and possibly other persons, then the supervisor(s) and any other persons who gave advice or assistance must be acknowledged in publications.
- If some of the ideas originated with the supervisor(s) or other persons, then it may be appropriate for those persons to be joint authors of any publications. This is a difficult area which requires early thorough discussion between supervisor and student. If joint authorship is agreed on, the student will normally be the first-named author if the student actually did the work and wrote the text of the publication.
- Supervisors are often faced with the problem of what to do with thesis work that the student hasn't, for some reason, published. It may not be adequate exposure of the student's work simply for it to be referred to in other publications. In such cases the supervisor may seek to write up the thesis work. If the supervisor's contribution to the work was substantial, it may be that the work could be published with the supervisor's name as first author and the student's name second. Such eventualities should be anticipated as part of the agreement between supervisor and student.

Students cannot object to others using or referring to their work, with due acknowledgement. It is wise, therefore, for students themselves to draw attention to their work by publication, whether or not it is by joint authorship. To this end, the university may provide a limited embargo on the thesis so that the student can publish the work before its contents are used and referred to by others.

5. Sponsorship, Contracts, Agreements

Sponsorship will often be subject to a contract or agreement that already involves the university and supervisor, and this matter has already been discussed above under **“Students’ rights to IP and the responsibility of supervisors”**.

Sometimes the student will be able to negotiate a new contract or agreement with an outside person or organisation. The student must obtain approval of the university before accepting any such sponsorship. Normally the sponsorship will fall into one of three categories:

1. **A scholarship.** In this case the student is given direct personal financial support, and possibly other support such as access to material, location, or information, but there are no requirements placed on the student other than perhaps to provide a copy of the thesis, and/or for the student to provide progress reports in order to receive continued support. Such support, in essence, represents an offer of a scholarship, and the student should approach the Scholarships Officer, who will draw up the appropriate individual agreement.
2. **A non-commercial research grant.** In this case funding provides for execution of the work, and/or provides other material or resources, possibly in addition to personal financial support. A non-commercial research grant contract or agreement may require the student to provide services such as providing the other party with data, and the other party may require information the student is provided with to be kept confidential, but the other party has no interest in claiming IP rights of commercial value. Such contracts or agreements should be drawn up with the assistance of the Research Office.
3. **Commercial sponsorship.** In this case the outside person or organisation has the expectation that the student’s research may result in potentially valuable IP, and the other party wishes to claim all or some part of the IP rights. Such sponsorship must be in terms of a contract or agreement drawn up with the assistance of Canterbury.

Related Policies, Procedures and Forms:

- Commercial and Other Outside Activities by Staff and Students Policy [*link not yet available*]
- [Research Conduct Policy](#)
- [Frequently Asked Questions Concerning Research Students](#)
- [Thesis Availability Policy](#)
- [Use of Thesis Form](#)

Notes:

1. This policy was developed in September 2002
2. The Scholarships Office is on level 3 of the Registry Building.
3. The Research Office is at 45 Creyke Road, adjacent to the main campus.
4. Canterbury is housed on the second floor of the Forestry Building. General enquiries about potentially valuable IP should in the first instance be addressed to Canterbury

© *This policy is the property of the University of Canterbury.*