

Higher Education Intellectual Property Rights Policy

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Contents

Introduction	2
Owning Intellectual Property	3
Student and Intellectual Property Rights (IPR)	3
Protect your intellectual property	4
Students will not own IP if they:	5
Staff	6
Intellectual Property belongs to the College when	7
Teaching Materials	8
Scholarly Materials	8

1. Introduction

Intellectual Property enables staff and students to own the work they create. This policy will provide a clear understanding of IP law for those who study and work at Hugh Baird College.

This policy sets out the College's Intellectual Property (IP) policy which governs the ownership protection and commercialisation of IP created by Employees and Students, including when collaborating with Third Parties (in the case of live briefs from clients). Owning some IP gives rise to IP Rights (IPR) which is usually a monopoly right enabling the owner of the IP to control and be rewarded for its use.

It may not be possible to protect IP and gain IPR unless it has been applied for and granted, but some IP protection such as copyright arises automatically without any registration as soon as it has been created.

This Policy provides a framework for the identification, ownership, protection and commercialisation of IP created, made and/or developed by Students and/or Employees.

This Policy applies to all Students and Employees, including any person who was (when the relevant IP was created, made and/or developed), but is not currently, a student and/or an Employee

1.1. What is Intellectual Property?

Intellectual property is something unique that you physically create.

IP can be divided into two categories:

- i. Industrial property, which includes inventions (patents), trademarks and industrial designs
- ii. The second category is Copyright, which covers literary and artistic works such as novels, poems, plays, films, musical works, and artistic works such as drawings, paintings, photographs, sculptures, and architectural designs. An idea alone is not intellectual property. Intellectual property (IP) refers to creative ideas that result in academic work, for example, inventions and literary and artistic works.

IP law assigns four main rights to the creators of intellectual property: patents, trademarks, designs, and copyright. Some of these rights are automatic and others need to be registered. Having the right type of intellectual property protection helps you to stop people stealing or copying what you have created:

- the names of your products or brands
- your inventions
- the design or look of your products
- things you write, make, or produce
- Intellectual Property covers, copyright, patents, designs, and trademarks

2. Owning intellectual property

2.1. You own intellectual property if you:

- created it (and it meets the requirements for copyright, a patent, or a design)
- bought intellectual property rights from the creator or a previous owner
- have a brand that could be a trademark, e.g. a well-known product name

Intellectual property can:

- have more than one owner
- belong to people, businesses, or **the college**
- be sold or transferred

2.2. Ownership of IP and the sharing of benefits

The Patents Act 1977 and the Copyright, Designs and Patents Act 1988, with any related IP legislation, make it clear that all forms of IP generated by an employee, made during the employee's normal duties, belong to Hugh Baird College. According to the law, any IP created by College Employees in the course of their normal duties shall be the property of college.

There are two exceptions, to this not all IP generated by staff during their employment necessarily belongs to the College.

- i. The College has decided not to make any claim over income generated by staff or students from academic publications, for example received through the publication of a book or article.
- ii. IP that is generated on research or other third-party contracts the terms of which may give third parties (usually the funding body in question) rights over some or all the IP.

3. Student and Intellectual Property Rights (IPR)

3.1 Intellectual Property is the product of thought, creativity, and intellectual effort. During their studies at the College

Where students generate IP during their study or research, they will own that IP unless one of the following applies:

- (i) they generate IP which is subject to governing terms or an agreement with an external organisation whereby the IP vests with college or a third party; or
 - (ii) they generate IP which builds upon existing IP generated by College Employees or Associates; or
 - (iii) they generate IP jointly with College Employees or Associates; or
 - (iv) they are, or have the status of, College Employee (in which case they are treated by college and the law as employees).
- proportion of the revenue received by College from Imperial Innovations

4. Protect your intellectual property

Protecting your intellectual property makes it easier to take legal action against anyone who steals or copies it.

4.1 Types of protection

The type of protection you can get depends on what you have created. You get some types of protection automatically; others you must apply for.

4.2 Automatic protection

Type of protection	<u>Examples of intellectual property</u>
Copyright	Writing and literary works, art, photography, films, TV, music, web content, sound recordings
Design right	Shapes of objects

4.3 Protection you must apply for (Keep these types of intellectual property secret until they are registered.)

Type of protection	<u>Examples of intellectual property</u>	Time to allow for application
Trademarks	Product names, logos, jingles	4 months
Registered designs	Appearance of a product including, shape, packaging, patterns, colours, decoration	1 month
Patents	Inventions and products, e.g. machines and machine parts, tools, medicines	Around 5 years

4.4 Using more than one type of protection

More than one type of protection could be linked to a specific product, e.g. you could:

- i. register the name and logo as a trademark
- ii. protect a product's unique shape as a registered design
- iii. patent a completely new working part
- iv. use copyright to protect drawings of the product

5. Students will not own IP if they:

- Receives a bursary from, or has his/her fees paid or subsidized by, a sponsor in which case ownership of such IPR will be subject to the arrangement between the Student, College, and Sponsor;

- Are an Employee of the College and developed the IPR in that capacity

- 5.1 Where Intellectual Property Rights developed, made, or created by students during their study or research at the College, the student will grant the College a non-exclusive licence to use the Intellectual Property Rights for teaching, research, innovation, or academic publication purposes.
- 5.2 Where students make, develop, create, or contribute to Intellectual Property Rights they shall bring this to the attention of their tutor or supervisor as soon as practicable, reporting full details and delivering up any copyright materials.
- 5.3 The College will explain to the student the issue of ownership in respect of all types of Intellectual Property through the development of appropriate documentation. When considering any Intellectual Property generated by one of its Students, the College will seek to strike a balance between fulfilling its duty of care to the student and exploiting intellectual property for the good of the College. In each case the College will be mindful of protecting any third-party rights that may be relevant in the generation of the Intellectual Property.
- 5.4 Where a student is on a placement as part of their college studies, the organisation or company that offers the placement will usually require as a condition of acceptance of that placement that the student assign to them, by way of a contract, their Intellectual Property rights in the work they create or develop while on the placement.
- 5.5 Depending upon the status of the Student, the College will accept this practice but will seek to negotiate the 'best terms' it can for the student and where applicable the College will seek to negotiate these terms in advance of acceptance by the student of the placement. The issue of Intellectual Property rights in a placement will always be viewed by the College on a case-by-case basis. Therefore, where a department is in discussions with an organisation or company for a student placement it is the Department's responsibility to clarify the position in respect of an IP generated by the students.
- 5.6 Student enrolled at the College who are sponsored or employed by an organisation may already be bound by Intellectual Property arrangements entered with their respective sponsors or employers.
- 5.7 In this case, it is the obligation of the student's employer to inform the College of its position with regards to ownership of any Intellectual Property resulting from the student, and to enter into a written agreement with the College to confirm the Intellectual Property ownership resulting from that Student.

6. Staff

- 6.1 Ownership of Intellectual Property (IP) created by the employee in the course of any duty under their contract shall be governed by the provisions of the **Patents Act 1977, Copyright, Designs & Patents Act 1988, and Registered Designs Act 1949**
- 6.2 No action or omission by the College in respect of protection or exploitation of IP generated by its employees shall imply a waiver of any proprietary claim to that IP that the College may have by operation of law.
Material produced in the course of employment includes work in any media generated using college equipment or facilities.
- 6.3 The provisions of sections 39 to 42 of the Patents Act 1977 ("the Patents Act") relating to the ownership of employee inventions and the compensation of employees for certain inventions respectively are acknowledged by the Hugh Baird College and by the individual

- 6.4 Employees agree that, by virtue of the nature of their duties and the responsibilities arising from them, they have a special obligation to further the interests of the Hugh Baird College within the meaning of section 39(1)(b) of the Patents Act.
- 6.5 Any invention, development, process, plan, design, formula, specification, program or other matter or work whatsoever (collectively "the Inventions") made, developed or discovered by you, either alone or in concert, whilst you are employed by the Hugh Baird College shall forthwith be disclosed to the Hugh Baird College and, subject to section 39 of the Patents Subsidiary Act, shall belong to and be the absolute property of the Hugh Baird College or such subsidiary as it may designate.
- 6.6 You shall at the request and cost of the Hugh Baird College (and notwithstanding the termination of your employment, howsoever arising), sign and execute all such documents and do all such acts as the Hugh Baird College may require:
- (a) to apply for and obtain in the sole name of the Hugh Baird College alone (unless the Hugh Baird College otherwise directs) patent, registered design, or other protection of any nature whatsoever in respect of the Inventions in any country throughout the world and, when so obtained, to renew and maintain the same;
 - (b) to resist any objection or opposition to obtaining, and any petitions or applications for revocation of, any such patent, registered design, or other protection; and
 - (c) to bring proceedings for infringement of any such patent, registered design, or other protection.
- 6.7 The Hugh Baird College shall decide, in its sole discretion, whether and when to apply for patent, registered design or other protection in respect of the Inventions and reserves the right to work any of the Inventions as a secret process in which event you shall observe the obligations relating to confidential information

7. Intellectual Property belongs to the College when:

- Material is produced for the purposes of the design, content, and delivery of a college course, whether used at the College's premises or used in relation to a community learning and/or e-learning.
- Material for projects specifically commissioned by the College;
- Material produced in connection with externally funded research projects
- Material produced in the support and service capacity of college staff (including, without limitation, software, finance records and administration reports, results, and data).
- If any College Employee wishes to involve any external third party in any College project, the Employee in question should ensure that an appropriate contract is put in place prior to involving such an Associate or third party. This is so that the College can consider what contractual arrangements need to be put in place to protect the College's position in respect of any IP generated by the project
- The College supports and promotes the principle of academic freedom and encourages its employees to advance their academic development and reputation through the publication of academic articles, conference papers and books.
- Under the terms of the College's standard employment contract, a College Employee shall own the copyright in:
 - Scholarly work produced as part of their professional career. This includes books, contributions to books, articles, and conference papers

- Material produced by a College Employee for their personal use and reference, including as an aid to teaching.

8. Teaching Materials

8.1 Ownership of IP in Teaching Materials

The College will own the IP in Teaching Materials created and/or developed by an Employee or a Student.

Declaration of Teaching Materials

All Employees shall declare to the College, on or before the start of his or her employment, any Teaching Materials that they are bringing with them for use at the College which they have already created and confirm the basis of their ongoing rights to use them

8.2 Commercialisation of Teaching Materials

The College is free to Commercialise Teaching Materials as it sees fit (whether for financial gain or not), including licensing or assigning the IP in Teaching Materials to Third Parties, or merging such Teaching Materials with other materials created within the College or elsewhere.

8.3 Employees

When a Creator of the materials ceases to be an Employee, they may enter negotiations with the College with a view to obtaining a licence from the College to make and retain a single copy of the Teaching Materials for their personal use and for non-commercial teaching and research purposes.

In the case of disagreement over these negotiations neither the former Employee nor his/her new employer is permitted to commercialise the Teaching Materials at all without the express written permission of the College.

9. SCHOLARLY MATERIALS

Ownership of Copyright in Scholarly Materials

- 9.1 The College waives its rights of ownership of copyright in Scholarly Materials, which means that such copyright is owned by the relevant Employee, except:
Where such copyright has been created with more than Incidental Use of College Resources;
- 9.2 Where such copyright has been created during, or pursuant to, a sponsored research or other agreement with a Third Party;
in relation to any item authored by an Employee whose job description specifically includes the creation of printed or electronic materials; and where publication of the Scholarly Materials in question might bring the College into disrepute.
- 9.3 If there is any doubt about who owns any Scholarly Materials, the matter should be discussed with the Employee's Line manager.

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