

# Intellectual Property Questionnaire

## INTRODUCTION

This questionnaire is designed to help you and the University to determine whether an issue in relation to the confidential information or intellectual property should be followed up.

Reporting documents or a research proposal completed by you and your supervisor, indicate that there is an issue relating to –

- (a) confidential information – which might include data or commercially sensitive information provided to you in confidence, or the results of your own research in certain circumstances; or
- (b) intellectual property – which might include inventions, patents, copyright, software, plant breeders' rights, trade marks, etc.

The guide below is designed to give you a very brief background to issues in relation to confidential information and intellectual property. In reading this guide, you should learn enough so that you can identify the issue when it arises either as part of your research or is raised by an external party who is providing either funding or resources to your research project

### ***1. Your Thesis - Dealing with Confidentiality***

In conducting your research, you may receive assistance or information from funding agencies and companies. The entity giving you that assistance or information may require certain restrictions on the publication of that information or of the research results or information produced in the project. Most of the time those restrictions are reasonable, but each request for restriction should be judged on its own merits. All obligations which affect your thesis and its publication should be written down as part of the correspondence and agreements between you and those parties. Some entities are unused to dealing with the academic environment and may ask for restrictions which are unreasonable. UWA seeks to protect students in this area.

Practical steps can be taken to minimise any inconvenience which may be suffered as a result of confidentiality restrictions. Examples include -

- (a) If a company requires you to get its consent before publishing your thesis, you should if possible send draft chapters to your company contact as those chapters are produced. This means that there should not be a significant delay at the end of the writing-up period while you wait for consent. In addition, keeping the company informed may assist you in your dealings with the company in relation to funding, employment and deadlines. Company contacts are frequently busy and quick approval of your whole thesis is often not realistic.
- (b) Consider whether it is really necessary to actually include certain confidential information in your thesis.
- (c) Alternatively, the data or confidential information may be presented in such a way that its confidential nature is still preserved. Specifics like names can sometimes have general labels substituted for them, without diminishing the value of the illustration that they may provide. Examples include research into the internal management of a company being publishable because the company is not identified, and research being published on an ore-body's structure where the location of the ore-body is not revealed.

- (d) Confidential information may be separated off into a schedule or an appendix, so that the thesis may be examined in confidence but shall not be published with the schedule or appendix on it.

## 2. *Other Forms of Intellectual Property*

The principal forms of intellectual property which may affect you (as well as the University and its staff) are patents and copyright. Other forms of intellectual property include plant breeder's rights, circuit layout rights, trademarks, and registered designs.

- (a) *Copyright* represents a bundle of rights which can be summarised as the right to reproduce other people's work. In the University environment that work normally refers to written works and artistic works (like illustrations, charts and diagrams) and also includes software. Copyright also applies to other things like sound recordings, broadcasts and film and video works. This has important implications if you are working in multi-media.

The basic rule is that you may not copy any significant or important portion of work belonging to somebody else without that person's permission. Do not assume that because the material is on the internet that it is in the public domain. Questions as to what quantities of material you may copy can be complex and you should seek advice on this if you are in doubt. The normal case is that the author of a work will own the copyright in it and this means that you will own the copyright in your thesis. The University regards this as important and takes steps to ensure that your copyright remains with you. If you do not own copyright in your own thesis, you become unable to copy it or publish it.

- (b) *Patents* are given for inventions. Inventions include both actual devices as well as industrial processes. This might therefore include both a new structure for a semiconductor chip, as well as a more efficient process for refining ores. Importantly, patents are also granted for particular DNA sequences (in some circumstances) and more rarely are also granted for software provided it is of a completely new type or operation.

Patents are a very powerful way of protecting intellectual property and are therefore both highly sought after and vigorously enforced. It is possible to infringe the rights in another's patent even though you built the relevant thing or devised the relevant process yourself. The patent rights belong to the person who got to the patent office first, and therefore care should be taken.

If you believe you have a patentable process or device, you should seek advice from your supervisor or the Legal Services Office. It will be important to know whether any external funding body (whether government or company) has made any prior claim on inventions from the project they are funding. You should keep such obligations in mind at all times.

- (c) The other forms of intellectual property do not arise within the University environment very often. Plant breeder's rights are being increasingly used within the Faculty of Agriculture and are an important tool in protecting their research. If part of your work is the development of new and stable varieties of plants then again you should seek advice from your supervisor or the Legal Services Office.

### 3. *UWA's Intellectual Property Policy*

Within UWA, intellectual property is dealt with according to the Intellectual Property Policy, available on the web at <http://www.legalservices.uwa.edu.au/page/16830> . You should also consult that document.

Although many such matters are not material, some have considerable importance. They may be important because disclosure of confidential information may cause someone damage or financial losses for which you or the University may be liable. Alternatively, it may be important because an invention has arisen within an externally funded research project and UWA must honour its obligations in relation to the ownership and commercialisation of that intellectual property.

This questionnaire has been designed to highlight the many ways in which intellectual property and confidential information issues arise. We would be grateful if you would complete it to the best of your knowledge, consulting your supervisor where necessary. Further advice may be obtained from the Intellectual Property and Contracts Officer on (08) 6488 1965.

The Legal Services Office can draw up any necessary documents. In addition, the Intellectual Property Office is available on the web at <http://www.legalservices.uwa.edu.au/page/16830> .

## YOUR DETAILS

Please fill in the following:

Student ID. \_\_\_\_\_

Your Name: \_\_\_\_\_

Supervisor's Name(s): \_\_\_\_\_

Date: \_\_\_\_\_

## QUESTIONS

### SECTION 1

Please answer all the questions you can, and circle the appropriate response.

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1. Your report indicates that a matter concerning intellectual property or confidential information has arisen in relation to your research. Is that correct?

Yes *please proceed to the next question*

No *please explain why this is so, and you then do not need to fill in the rest of this questionnaire.*

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2. If "yes", does that matter relate to –

(a) confidential information; or

(b) intellectual property; or

(c) both.

Tick one.

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3. For the purposes of this questionnaire "external funding" includes –

(a) direct funding (by assistance from a company under a private or other direct arrangement);

(b) indirect funding (pursuant to a government granting scheme, or participation in an externally funded project administered by UWA);

(c) in-kind funding contributions in the form of samples, equipment, commercially valuable data, etc); and

(d) all of the above, even when payable to you through the University accounting system.

Are you now or have you previously been in receipt of external funding for research or a project which has given rise to the confidential information or intellectual property?

Yes

No

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4. Have any arrangements been made with any company or person affecting your use of confidential data provided to you by that company or person?

Yes

No





