

## Intellectual Property (IP) and HDR candidates at James Cook University

James Cook University (JCU; the University) seeks to foster a culture where research, teaching, commercialisation, and entrepreneurial pathways are encouraged and supported to benefit the University, its staff and students, and the broader community. The University is committed to good practice in the identification, protection, management and commercialisation of the intellectual property (IP) created by its staff and students.

As an HDR candidate, it is a requirement of admission to your HDR degree that you assign IP to JCU. This assignment of IP to the University provides you with the same opportunities, rights, benefits, and responsibilities as university staff members in relation to the commercialisation and protection of any IP you have created or contributed to.

### *What is intellectual property?*

Intellectual property (IP) applies to all rights, anywhere in the world, whether or not registered or registrable (and including rights of registration and applications for registration) including, but not limited to:

- Patents under the *Patents Act 1990 (Cth)*;
- Copyright and moral rights vesting by virtue of the *Copyright Act 1968 (Cth)* in literary works (including computer programs), dramatic works, musical works, artistic works, films, sound recordings, broadcasts, published editions and certain types of performances;
- Trademarks registered under the *Trade Marks Act 1995 (Cth)*;
- Designs registered under the *Designs Act 2003 (Cth)*;
- New plant varieties under the *Plant Breeder's Rights Act 1994 (Cth)*;
- Circuit layouts (computer chips) under the *Circuit Layouts Act 1989 (Cth)*;
- Trade secrets and other confidential material under Common Law; and
- any other rights as defined in Article 2 of the Convention (Dated 14th July 1967) establishing the World Intellectual Property Organisation (as amended from time to time).

The University recognises HDR candidates as developing researchers and important participants in our academic community. Consequently, we endeavour to ensure that HDR candidates have the same benefits and protections as Staff Members in the commercialisation of research, as identified in the [Intellectual Property Policy and Procedures](#).

### *Why does the University ask you to assign your IP?*

IP assignment transfers the right to use, commercialise and protect IP to another entity. By assigning your IP to the University, you will receive the same benefits and protections as Staff Members in the commercialisation of intellectual property.

This means that JCU will negotiate on your behalf to commercialise and protect inventions and will provide the administrative, legal, financial and commercial expertise required to do so.

It also means that the costs of protecting and commercialising your discovery or invention will be borne by the University, and you will receive a share of any commercial returns. This is important as the research that you do may:

- be part of a larger project involve other Staff or students of the University,
- involve international collaboration such as a joint PhD,
- involve confidential information or data that has already been generated,

- involve scholarships or research costs which are significantly funded by the University or a third party.

By assigning your IP to the University, we can negotiate with third parties such as industry bodies or investors on behalf of all our participants.

### *Does assigning the IP created in my research affect my ability to publish?*

Copyright is a type of IP right that protects creative works, such as:

- musical works,
- films sound recordings,
- dramatic works,
- written works such as your thesis and,
- publications from your thesis.

Copyright does not protect a concept, idea, or fact, instead it protects the way ideas or information are expressed. Copyright allows the author or creator of the work to prevent others from copying the work without permission. You do not need to apply for copyright protection because, in Australia, copyright applies automatically upon creation of the work.

The term 'Thesis' means the student's thesis, or any other work submitted by the student for assessment purposes for the award of a research degree. This includes written forms of work and creative works. You will own the copyright in your thesis and any possible publications from your thesis (depending on the journal), even after assigning your project IP to JCU.

For more information on copyright, see the [Australian Copyright Council website](#).

### *How is IP assigned?*

By signing the Student Contract listing the conditions of offer including those listed in the Offer Schedule you agree to the assignment of IP to the university as described in JCU's [Intellectual Property Policy and Intellectual Property Procedure](#).

If you believe that your research project will use IP that you or a third party created before commencing at JCU, you should discuss this with your advisor.