**ALTO Project IPR e –Content Audit, Risk Evaluation Matrix, Guidance and Sources of Further Information**

Version 2

Author: John Casey

**First Published 2012**



ALTO (Arts Learning and Teaching Online)

Centre for Learning & Teaching in Art & Design (cltad)

University of the Arts London

272 High Holborn

London

WC1V 7EY

Email: [alto@arts.ac.uk](mailto:alto@arts.ac.uk)

**Copyright Licensing Statement and Attribution Conditions**

You are free to use this guide as along as you abide by the conditions of the licence. Except where otherwise indicated, content in this guide is licensed under a [Creative Commons Attribution-NonCommercial 3.0 Unported (CC BY-NC 3.0)](http://creativecommons.org/licenses/by-nc/3.0/) Licence



Attribution conditions: Credit the following organisations and people with creating this work whenever you copy, distribute and transmit or adapt this work or incorporate this work into a new work:

* John Casey
* University of the Arts London
* HEFCE

This guide is a copyright work © and is protected by international law. If you would like to use all or parts of this guide for purposes not included in the licence terms (e.g. for commercial use) then please contact the publishers at the address given above to discuss terms.

**NB** parts of this guide and referenced works (such as web sites) may have different conditions of use. These are indicated where possible; however it is the responsibility of the reader to comply with such requirements.

**Limitations of Indemnity**

The information contained in this guide is intended to be used as general background information and is not to be relied on as definitive or comprehensive guidance in any particular circumstances. To the extent permitted by law, neither the authors, their employers, nor any contributors to this open course guide shall be liable to any person for any claims, costs, proceedings, losses, expenses, fees or damages whatsoever arising directly or indirectly from any error or omission (whether negligent or otherwise) contained in this guide.

**Contents**

Introduction 4

General Guidance - Procedures 4

Draft Audit Form 6

IPR Risk Matrix and Evaluation Tools 6

Assessing the risks 6

Evaluating the level of impact 6

Assessing the probability or likelihood 6

Calculating the risk 7

Illustration of a Risk Profile/Matrix 7

Online Risk Calculator 7

Mitigating Risk 7

Vital Tools to Organise You Work 7

Guidance and Sources of Further Information 7

# Introduction

IPR issues are one of the biggest factors in e-content projects in academia failing to fully deliver. This short guide advocates a simple and systematic approach to dealing with IPR that has worked well in other projects. Funders are increasingly expecting IPR matters to be dealt with in a professional manner in academia to maximize dissemination of knowledge for the benefit of the public good –especially through open licensing. This can represent a challenge for a sector that has traditionally allowed its knowledge outputs to be locked behind restrictive commercial licensing agreements.

Use the simple and adaptable audit form, guidance notes and risk assessment tools to (a) collect essential information about content you wish to use (including any sub-components such as pictures) and (b) record your decision for using the content with a short rationale justifying your decision, (c) finally record your evaluation of any risk involved (Low/Medium/High) and any risk mitigating measures you are using. The form is intended as a starting point and should be adapted for your own purposes. You will find links in this document to other tools that you can use and adapt.

# General Guidance - Procedures

IPR in academia can cause some problems, mainly because there are low levels of awareness, poorly developed policy and considerable delusions about what is permitted in relation to education and accountability under the law. This short guide focuses purely on practical measures to make your life easy in relation to managing the risk relating to IPR in your work.

1. Start thinking about IPR from the outset of the project – leaving it to the end is a common basic mistake – your right to use content (or the lack of it) needs to be sorted out at the beginning and will have a critical effect on your project. Your project funding application will be more convincing if you allow a sensible amount for IPR management – and funders are getting much more savvy about this.
2. Appoint someone to take charge of IPR matters in your project – and to act as an advocate for taking this seriously
3. Make sure this person has a basic understanding of copyright and IPR issues – they don’t have to be experts in law – if they are new to this area get them to read the guidance materials listed at the end of this document and make sure they have access to legal advice.
4. The absolute and fundamental key to successfully dealing with IPR is record keeping. You need to carry out an IPR audit of your proposed content at the start of a project and record the results
5. When you gather information for your audit you will need to quite persistent and seek documentary proof where possible – ‘they said I can use it’ is not good enough! Always get copies of original publisher agreements and licences, if you are seeking permission from someone to use their content you can use a standards letter. Email permission, will do but you will need to keep a copy of it.
6. You need to have a shared and simple way of recording the information from your IPR audit, the form below is a starting point. At a pinch you could use a long Word document with all the information or a spreadsheet, the best option is to use a database package.
7. Once you have collected your information you need to assess the possible risks in using the content you have collected and what you might do to reduce (mitigate) the risk. This is a judgment you have to make on the basis of the information you have, your knowledge (or access to it) of IPR and risk factors and your willingness (or otherwise) to live with risk.

# Draft Audit Form

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Title** | **Location and Media Type (incl. file name)** | **IPR Info and status (Authors, Contributors, Publishers etc.)** | **Rights Clearance Terms and Usage Decisions** | **Risk Evaluation and Mitigation** |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

# IPR Risk Matrix and Evaluation Tools

This is taken from the JISC IPR Risk Assessment Toolkit (which you should read) at this address: <http://www.jisc.ac.uk/publications/programmerelated/2009/scaiprtoolkit/2riskassessments.aspx>

## Assessing the risks

Since the likely impact and probability of the specific risks encountered by content creators will vary per project, in order to fully understand the risks it will be important to consider the following factors in accordance with each type of project. These will include:

* The type of content being used
* The scale of the project
* The likelihood that the rights holder is litigious
* Non-litigious types of risk that may be encountered
* The relationships and/or potential relationship that the content creator/organisation has with the rights holder
* The context of use of the content
* The audience and distribution of the content, including the scale of what is being copied or adapted
* Whether the content is being commercially exploited
* The employment of risk mitigation strategies

Once these have been established, IPR risks can be calculated by the application of the following framework to determine the level of impact and probability, and thus the level of risk:

## Evaluating the level of impact

This is the negative impact of any of the risks described below materialising, and the impact (financial and non-financial) upon the organization (whose rights you may be infringing). Impact can be calculated by allocating a score of 1–5, 1 being the lowest and 5 the highest level of impact

## Assessing the probability or likelihood

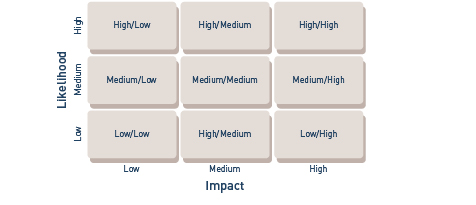
This might be based upon the likelihood of the problem arising, the probability of the rights holder coming forward and/or the likelihood of the rights holder seeking legal or other types of redress. Impact can be calculated by allocating a score of 1–5, 1 being the lowest and 5 the highest level of impact

## Calculating the risk

The risk score can be calculated by multiplying the impact (I) x probability (P): the higher the score, the greater the risk.

I x P = Risk

## Illustration of a Risk Profile/Matrix



## Online Risk Calculator

There is a useful IPR risk calculator at this address that will help you understand the issues: <http://www.web2rights.com/OERIPRSupport/risk-management-calculator/> Read the instructions before use!

## Mitigating Risk

There is a useful table at this address that covers common scenarios and suggests mitigation strategies – it even provides spaces for you to enter your risk factors and scores:

<http://www.jisc.ac.uk/publications/programmerelated/2009/scaiprtoolkit/2riskassessments.aspx#assessments>

# Vital Tools to Help You Organise Your Work

There are a set of really useful flowcharts available at this address <http://www.web2rights.org.uk/charts.html> that have been created by the JISC funded WEB2Rights project (<http://www.web2rights.org.uk>) that guide you through the processes involved in managing your IPR.

You should also check out the UK Strategic Content Alliance Toolkit at this address which has a comprehensive set of guidance and tools:

<http://www.jisc.ac.uk/publications/programmerelated/2009/scaiprtoolkit.aspx>

# Beginners Guides and Sources of Further Information

These guides provide a nice way into the subject and are widely used:

* To kick things off watch this short video at this address <http://www.youtube.com/watch?v=CUVW5fhQP2k> it is about creating open educational resources but introduces everything you need to do and think about in dealing with other peoples content. It is produced by the OER IPR support project and they have their own YouTube Channel at this address: <http://www.youtube.com/user/OERIPRSupport>
* A good place to start reading is with this very brief introduction to copyright: <http://www.jisclegal.ac.uk/ManageContent/ManageContent/tabid/243/ID/2028/Copyright-Law-Essentials-14042011.aspx>
* Next is this short leaflet Copyright Law for e-Learning Authors: <http://www.jisclegal.ac.uk/ManageContent/ManageContent/tabid/243/ID/129/Copyright-Law-for-e-Learning-Authors-01062005.aspx>
* There is also a longer but very user-friendly introduction to intellectual property rights (IPR) issues for e-learning content developers and managers called Intellectual Property Rights (IPR) in Networked E-Learning: a beginners guide: <http://www.jisclegal.ac.uk/ManageContent/ManageContent/tabid/243/ID/130/Intellectual-Property-Rights-IPR-in-Networked-E-Learning-28042006.aspx>
* The UK government funded guidance service JISC Legal <http://www.jisclegal.ac.uk/> provides a range of support materials and has a section dedicated to e-learning at <http://www.jisclegal.ac.uk/Themes/eLearning.aspx>.
* As mentioned above the JISC funded Web2Rights project has produced a useful set of guidelines and tools to help people publish their work to the web with confidence: <http://www.web2rights.org.uk/>.
* There is also the a useful and clear Copyright Toolkit produced by the UK educational charity Eduserv: <http://copyrighttoolkit.com/index.html>
* For those considering using Creative Commons Licences this publication is very useful, Creative Commons Licences – are they right for you?This article also appears in the Arts Libraries Journal vol.37 No.2 2012. You can download a free copy here: <http://alto.arts.ac.uk/904/>