

## **INTELLECTUAL PROPERTY RIGHTS (IPR): POLICY AND GUIDELINES**

### **Introduction**

The University of the Arts London is a place where creativity and the generation of ideas are paramount. The University wishes to ensure that the Intellectual Property arising from the creativity of its staff and students and through the use of its resources is protected and used for the benefit of all.

The protection and appropriate commercialisation of intellectual property at the University is in everyone's best interest. There is real potential to attract additional income for staff, students and the University from commercialising intellectual property. Additional income coming to the University in this way will be invested in further improvement of its services to staff and students.

If, through your studies, research or scholarly activity at the University you are developing new ideas, innovative new products, artworks, designs, processes, publications, creative content or output, then this policy could affect you.

The University's IPR policy is set out below. The objectives of this policy are:

- To encourage a culture where staff and students, working in partnership with the University, are supported, protected and rewarded;
- To apply new skills and knowledge so that the financial benefits deriving from innovations generated by staff and students are:
  - Shared
  - Used for investment in courses and services which further the University's academic mission;
- To ensure that the wider cultural and social benefits of knowledge generated at the University of the Arts London are widely shared, and whenever possible, commercialised.

## **Part 1. Policy**

### **1. General Policy**

- 1.1 Members of staff and students, where they elect to join with the University of the Arts London (the University), must comply with the University's policies, regulations and procedures relating to Intellectual Property Rights (IPR).
- 1.2 The University, through the Research and Enterprise Office, will normally identify and, where appropriate, protect all aspects of its Intellectual Property (IP).
- 1.3 The University will work in partnership with staff or students in developing IP to the fullest possible extent. This is explained further in the attached Part 2 Guidelines.
- 1.4 The University may assign ownership of its IP and/or the right to exploit that IP, through sale or licence, to another party.
- 1.5 Permission for the disposal of the University's IP and/or the right to exploit the University's IP must be given in writing by the Rector (or nominee). For these purposes the nominee will normally be the Pro Rector Research and Enterprise.
- 1.6 Within this Intellectual Property document, the word 'normal duties' is repeatedly used where it refers to an individual's working time commitment or to special projects assigned to that individual by the University (see Guidelines, p.7). The use of this phrase is not open-ended and is not intended to identify a claim to, or ownership of, any work(s), design(s), artistic production(s), creation(s), copyright(s), patent(s), invention(s), or any other Intellectual Property produced by any individual(s) in their own time, or before this Agreement came into practice, unless otherwise agreed.

## 2 Staff IPR

2.1 In the United Kingdom, Higher Education Institutions are normally regarded as being in legal ownership of the IP generated by staff during the course of their normal employment duties. The University will have ownership of IP produced in this way (*see the Ownership section in the Part 2 Guidelines*)

2.2 The University will not have ownership of the IP of any work generated outside of the contractual duties of a member of staff except where significant and substantial use of the University's resources has been made or where the University has commissioned the work. Under these circumstances, proportional ownership of the outcomes will be discussed and agreed.

2.3 The University will not assert its ownership over:

- The copyright of scholarly work;
- Work where the copyright is subject to a pre-existing agreement, e.g. a contract of employment with a previous employer;
- Unique/original works of fine art and design and works of fine craftsmanship produced in the course of research (e.g. as immediate research outcomes), which you are entitled to sell or retain, as the owner of the moral rights in those original pieces. However, the University will retain ownership of its intellectual property rights in the research outcomes, with a view to developing the artworks, designs and works of fine craftsmanship, in a commercial enterprise.

### **3. Student IPR**

- 3.1 Intellectual property rights originating from a student whilst at the University will normally belong to the student.
- 3.2 The University will not require any non-research student to part with any Intellectual property rights belonging to them, unless specifically requested by a University sponsor.
- 3.3 The University, through the Research and Enterprise Office, will seek to safeguard the interests of students in matters relating to the protection and commercial development of IPR belonging to the student.
- 3.4 In seeking to safeguard the interests of students in matters relating to the protection and commercial development of student IPR, the University may, at its discretion and in partnership with the student, enter into a voluntary arrangement with a student whereby he/she may be represented by the University in an agency capacity in return for the provision of services relating to the protection or commercial development of intellectual property.
- 3.5 Research students in receipt of a Research Studentship from the University shall be subject to the same arrangements with respect to IPR as that which apply to staff.
- 3.6 Where work is created jointly with staff of the University, the University will normally seek to obtain an assignment of the student rights in that work. Shared rights will normally be avoided but may be acceptable in limited cases where the student brings in a significant piece of background intellectual property created prior to joining, or outside of, the University project.

## Part 2

# GUIDELINES FOR THE PROTECTION & MANAGEMENT OF INTELLECTUAL PROPERTY RIGHTS (IPR)

*(These guidelines should be read in conjunction with the Part 1 Policy document)*

*Intellectual Property - the intangible property  
arising out of an original idea, creation or innovation*

- Because of the opportunities IP presents for creating a sustainable income stream, the protection and management of IP has become an increasingly important aspect of professional life for all HEIs. This is also the case for our creative staff and students, and of course, for the University itself. The IP Policy and these guidelines have been produced with this in mind. The intention is to provide a useful framework for proceeding with IP matters such that staff, students and University will all benefit.
- The Research & Enterprise Office provides guidance on all matters relating to the safeguarding of interests on any creative or research project undertaken by staff and students at the University.
- The University has selected the firms Denton Wilde Sapte, and Lloyd Wise as their preferred IP legal advisors, and Finers Stevens Innocent and Briffa for corporate and commercial matters. Please note that these firms must only be instructed by the Research & Enterprise Office, in coordination with the University Secretary's Office.
- In seeking to protect IP, the Research & Enterprise Office will also liaise with a wide network of specialist IP contacts, including the Patent Office, the OHIM, the Design Council, AURIL, ACID, DACS, the Copyright Licensing Agency, etc.
- Seminars on specific IP topics will run on a termly-basis starting from spring 2004. Enterprise activity in the Colleges already supports a range of IPR protection initiatives, and the aim is to build upon current programmes, such as that offered by LCC's Enterprise Centre for the Creative Arts (ECCA), such as 'Own-It' ([www.own-it.org](http://www.own-it.org)). Artquest's extensive legal library is also available for consultation and should prove an extremely useful reference source for visual artists ([www.artquest.org.uk/artlaw](http://www.artquest.org.uk/artlaw)). In addition, the Research & Enterprise Office will maintain a website incorporating further information on Enterprise activities throughout the University.
- In the longer term, the aim of the University is to implement a wide-reaching service aimed at the creative industries in the UK, encompassing the development of a best-practice protection & development policy, and the implementation of commercial activities in the UK and overseas.
- Overall, a significant proportion of any net returns achieved on the commercialisation of IP will be distributed to the staff team having contributed to the original idea and project, whilst the remaining portion will be ploughed back into the College and University budgets in support of academic and research activities. Thus we hope that the more significant the returns on the outcomes of projects, the better it will be for those individuals and for the University as a whole.

# 1. Ownership

## Students

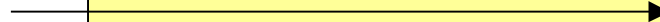
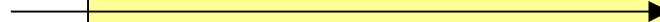
## Staff

## University ownership/ role

### 1. Work / materials produced in the course of the curriculum:

Own their own work

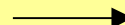
Commissions, sponsorship contracts, bursaries or competitions



Potential agency relationship

Have ownership of teaching aids produced for personal use and reference

Course materials produced for courses run at the University

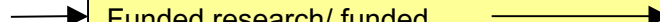


Owned by the University - Potential publishing and distribution deals via London Artscom Limited

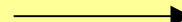
### 2. Work/ materials produced in the course of research, or in special projects specifically assigned by the University to the individual:

Have ownership of scholarly work , i.e. books, contributions to books, articles and conferences papers

Commissioned under research or commercial project or within incubator



Funded research/ funded project outcomes. *Have vested moral rights and the ability to sell/transfer a physical piece of unique art and design work*



Have ownership of practice-based publications, and any other publication commissioned or negotiated by the University itself

IP Rights owned by the University- management of protection, dissemination plan, and potential commercialisation



## Ownership: Who owns what?

**Q: Why would** the University claim ownership of my work?

**A: It depends.** If you are working outside of your normal duties, in your own time and without financial or material support from the University then you will own the IP emanating from your work. The University will not claim ownership in this event. By law however, any employee invention or creation arising in the course of normal duties, or duties directly assigned to the employee by the employer, belongs to the employer.

This is explained in your current contract of employment and in the IP Policy document.

Your ability to develop your professional interests outside the University is upheld by the policy. However, the IP guidelines provide specific recommendations on protecting the interests of the University (as well as your own) when engaging in additional activities.

### **How this will affect you in the course of your normal duties:**

**The University** will normally own the Intellectual Property Rights (IP) emanating from all work produced by you in the course of your normal duties whilst you are employed as a member of academic staff, a technician or a member of support staff, and also including:

- (i) Duties, which though not specifically listed as per your job description, are specifically assigned to you under various circumstances; and/or
- (ii) Duties where, because of your particular responsibilities, you have a special obligation to further the University's interests. This will include:
  - The copyright in any course materials you develop for a course run by the University that may in turn be produced, used or disseminated by the University.
  - All research outcomes save as when requested or otherwise stated by a funding authority.
  - Patents and Inventions that emerge from normal academic / support duties.
  - Designs, copyright, know-how and database rights that emerge from normal academic / support duties.
  - Anything else capable of being protected under current legislation

**You** will however retain copyright ***and*** ownership of

- Any academic paper you produce in relation to the research you undertake, as part of the wider HE dissemination strategy.
- Any course material produced by you for **your personal use** and reference, including as an aid to teaching.
- The copyright associated with scholarly work (this includes theoretical books, contributions to theoretical books, articles and conference papers) produced in furtherance of your professional career



You will also retain the **moral rights** and **physical ownership** of unique and original pieces of fine art and design, and works of fine craftsmanship that may be produced as outcomes of University funded research. You will be free to sell or transfer **those original pieces** and control their display. **However the University is entitled to retain the intellectual property rights in any derivations of such pieces via limited editions or series production, images rights exploitation, or through a licence agreement with a commercial entity.** These proceeds will then be shared with you (see Incentive Scheme on p. 17).

### **Work produced by you outside of your normal duties or special duties assigned to you by the University:**

You will retain IP ownership of any project undertaken in your own time through individual consultancy or commissions. For the sake of clarity, please ensure that you request permission to use any existing IP, usually called background IP, owned by the University. Normally, consultancy using University-owned background IP will be undertaken within the University consultancy framework. In any other circumstances, the Research and Enterprise Office will be pleased to discuss with you the possibility of licensing its background IP to third parties.

### **Ownership of students' work:**

The IP in Students' work will remain owned by the student, except in the circumstances below.

- **Where a project is commissioned by a third party (for instance a private company) in the course of a bursary, competition, sponsorship or any other specific project in relation to the curriculum** – In most cases, these negotiations will lead to the tie-in of two contracts: one between the University and the third party, and one between the University and the students, in relation to their IP. The IP negotiations should always be discussed with the Research & Enterprise Office. Where possible, the University will enter into an agreement with the students whereby in consideration for cash or kind (competition prizes, travel, etc.), the students may voluntarily agree to **assign** their IP to the University, prior to the University entering into the agreement with the third party. This is deemed a better process, as third parties generally want to enter into agreements with a corporate entity rather than with individuals.
- **Where a student is part of an incubator, or research team / centre** – a prerequisite step is to ensure again that the student **assigns all IP** to the University. The research student will normally have been remunerated through the research budget for his/her contribution. In addition, at the discretion of the Key Researcher, the student can benefit from the IP Incentive scheme (discussed in the Incentive Scheme Section of the Guidelines) in recognition of his/her pro-rata contribution to the project.
- **Where a student is in a work placement** – where a student is participating in a work placement scheme, the IP generated would normally be vested in

the employer, unless agreed to the contrary prior to the start of the work placement

### **The University as an agency for students**

It has been current practice in recent years for some HE Institutions to request students to sign away their own IP to the organisation upon enrolment. The University's stance is that any contractual arrangement with the student should be voluntary.

The University is however interested in assisting students to protect and commercialise their IP and to protect their moral interests. Where the University has recognised the potential of a student project, the student may be approached by the University in an agency capacity, and may appoint the University to undertake the commercialisation process on his / her behalf. Students may of course also approach the University to request an agency arrangement.

In the case where the University would act in an agency capacity, the University would also act as a 'best broker', thus enabling the student to benefit from expertise in the field of IP that he or she may not possess at the time of negotiations.

### **In summary**

#### **Ownership and the legal controls of IP:**

The legal controls in IP are as follows:

- **Disclosure:** the right to prevent disclosure of the project to the public, as well as the right to present to the public when ready (i.e. commercial launch), as well as the right to control public exhibition & display.
- **The right to pursue** infringement, defamation, passing-off, false trade description. This includes also the right to prevent reproduction, publishing, broadcasting, and television.
- **The right of attribution**, i.e. to transfer ownership.
- **Commercialisation:** the right to commercialise the derived IP, i.e. to issue licences and set up agreements with say, spin out companies and third parties

#### **Ownership also offers protection of an author's moral rights:**

As the author of the works, a person's rights are defined as follows:

- **Credits** in relevant communications and displays
- **The right to be identified** and to influence the work, with a view of preventing distortion, mutilation, modification, etc. if deemed prejudicial.
- The University will undertake to consult you in relation to **visual and material identity**, as well as **future commercialisation, management and maintenance**.

**Staff & Students** → **Research & Enterprise Office**

*Create, produce & innovate*

*Influence overall vision,  
project focus and  
objectives*

*Manage projects*

*Transfer knowledge,  
& publicise*

*Lead new ventures*

*Assesses initial ideas input from  
staff, students, and research teams*

*Coordinates research  
dissemination plan taking into  
account IP confidentiality*

*Supports research / project  
outputs for commercial potential*

**BEST PRACTICE OUTPUT**

*Issues IP policies, guidelines, procedures and  
systems*

*Maintains website, runs  
seminars and one-to-one advice*

*Participates in the generation of best practice  
within H.E., and across creative industries*

**COMMERCIAL OUTPUT**

*Reports to Enterprise Board and  
Investment Panel on a regular basis for:*

- *The set up of commercialisation plans, commercial negotiations and partnerships.*
- *Approval of the Board for the potential creation of spin-out companies*

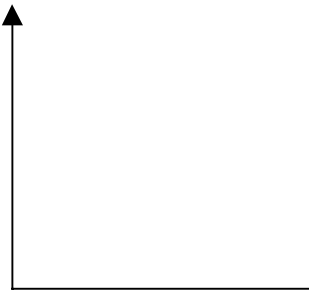
**LEGAL OUTPUT**

*Keeps all concept disclosures, IP records, and relevant information in a central database*

*Negotiates contractual IP arrangements from the outset of any project together with third parties involved*

*Manages direct relationships with UK & European Patent Offices*

*Consults and instructs appointed law firms (with the University Secretary's Office)*



## The Guidelines in Practice

**Q: What am I required to do**, and how will the University's IP be managed within the University?

**A: Just ensure that you observe the following points** when dealing with the University's IP (or your own!)

- Be aware of IP matters and **consult** the Research & Enterprise Office (REO) whenever necessary
- You are required to disclose i.e. communicate to the REO, any invention, discovery or creation etc., arising from your normal duties
- Consult your Dean, London Artscom (formerly DALI) & the Research & Enterprise Office at all times in the case of **joint academic collaboration or external negotiations** that are agreed under separate contract. A prior arrangement must always be sought with the third party, in terms of IP ownership or assignment, future exploitation and share of investments and liabilities, as well as income generation strategy. The Research & Enterprise Office has **sole responsibility** for transacting such negotiations with colleagues, in everyone's best interest.

**NB: External collaborators, particularly commercial organisations, will usually attempt to impose their own terms or agreements with an external third party, and it is particularly important not to agree anything verbally, or sign, any such agreement in the spur of the moment, but to refer these in all cases to the Research & Enterprise Office.**

- Ensure that an authorised signatory of the University always duly executes any legally binding document.
- Provide a standard and consistent answer to the IP section of **research grant applications**. A typical question that might be asked in a research grant application is set out below:

*What arrangements have been agreed for the handling of any intellectual property, royalty and/or income?*

The type of answer that should be given is as follows:

It is understood that all IP created for the purposes of this project proposal by the proposed Applicant and other participants employed by the University of the Arts are to be vested in the University. The University endeavours to negotiate IP arrangements in the proposed Applicant's best interests. The University and collaborating [academics/ university / third party] will therefore agree from the outset of any project on the conditions for use of the background IP brought by any collaborating [academics/University/third party] throughout the research. The ownership, protection and potential commercialisation of any Foreground IP arising from the research will also be subject to an IP agreement setting out the contractual grant and considerations agreed between the University and the collaborating [academics/ university / third party], as well as the scope and terms of any licensing scheme arising thereof.

- Make **financial provisions** for an **IP protection plan**, i.e. legal applications and registrations, within your research budget cost statement (save as and when the funding authority dictates otherwise). The Research and Enterprise Office can advise on likely costs.

Drawing up an IP protection plan involves the Research & Enterprise Office implementing a set of necessary safeguard actions in order to protect the value of the research outcomes e.g.:

- Prior search if deemed necessary, to determine whether the research outcome might infringe any existing IP owned by a third party
  - Filing of all IP applications with the relevant official organisations (e.g. UK Patent Office)
  - Review of the dissemination plan to check that it is drawn in accordance with the confidentiality rules pertaining to IP application filings
- Submit your design concepts to the Research and Enterprise Office for **European registration** — artwork and logos should be submitted in jpeg formats. Hard copy designs should be submitted preferably in a format not exceeding 24.6cm (h) x 16cm (w). Any design should always be submitted with three views: front, back and three-quarters
  - Issue the relevant **copyright assignment forms** (obtainable from the Research and Enterprise Office), to be signed and returned to the Research & Enterprise Office, to any student or external collaborator in the project.
  - Get your external contacts to sign, a **Non-Disclosure Agreement** (NDA - available from Research & Enterprise Office upon request) if discussing groundbreaking concepts, methodologies, and technologies.

**If you believe you are about to make, or have made an invention which can be protected by a patent (see the definition in Annex II), it is vital not to make any disclosure of the invention in any public way, including at an exhibition, lecture or presentation until the Research & Enterprise office has evaluated the invention to determine whether or not it is patentable. A disclosure, even to a limited academic audience, will destroy novelty and the invention will no longer be patentable. It is recommended that you only disclose your invention after a patent has been filed, but if for commercial reasons, you need to disclose prior to the application filing, then you should get your recipient to sign the University's NDA and not disclose until your recipient has done so.**

**Know-how is also valuable - so don't give it away!**

- Keep **an innovation book** : You should date and place your 2-D originals, and keep pictures of your 3-D prototypes in a place where you can easily locate them later. Your innovation book should detail the contribution of **all participants** in the project, as well as dates of significant innovations, and dates and details of public disclosure, PR and press articles, etc. It will be essential in identifying the due **credits** to all participants in the project. It will also provide the basis for building a claim should your IP be infringed in the future.
- Any documentation and materials, including your originals should include the mention ' [year in progress], [your name], the University of the Art London
- Do not use contracts as standards , or allow others to get you to sign a standard contract. In practice there is no such thing as a standard contract.
- Each research scenario / business deal has to be looked at on a case-by-case basis and contracts must reflect this. Confer with the Research and Enterprise Office.

## Commercialising IP

### Q: How do we commercialise a project?

**A:** Once the possible research / project outcomes are more evident, the Research & Enterprise Office will be available to **conduct an evaluation of the market potential** of a project. This will be done in consultation with the project originator, and should ultimately reflect two key goals, which are:

- **For the University:** to fulfil its objective of growing income via a set of commercialisation strategies for knowledge/ technology transfer to the wider community, and to seek retention of the IP for further research.
- **For you:** the ability to fulfil your personal ambition in terms of the actual implementation of your research and creative outcomes in practice and to receive recognition and the **agreed share of the financial proceeds**.

### To assign, license, or to spinout?

When research outcomes mature into commercial projects, a crucial question arises - whether to assign the IP, license it, or spin it out (i.e. form a company to produce and sell the research outcome).

The **assignment** would generally have been negotiated from the outset of the research project. It may be for instance that a private company wishing to retain all rights in the outcomes funded the research. An assignment fee or royalty would have generally been negotiated prior to the start of the research, and in that case, there isn't much you can do with the IP commercially since ownership has changed hands. However, you can request the company to grant you a licence for academic and non-commercial purposes. This situation is favoured when looking for a quick one-off transaction, for instance in research areas where very few innovations can be made, or in the areas of applied research, i.e. when exploring a company-specific situation.

**Licensing** arises when we wish to retain full ownership of the IP, but where say a company may wish to use the IP. The scope of the licence will be a matter of judgement in terms of the ability of a licensee to adequately use and exploit the commercial opportunity that the IP offers. A licence may be for a specific geographical area, a certain type of product, a certain period of time or a mixture of these.

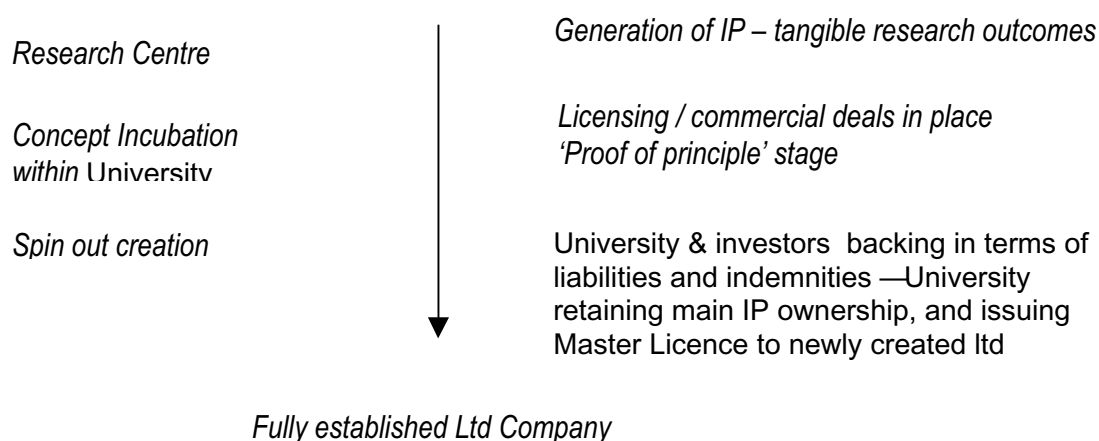
**The spinout concept** usually involves the launch of ideas into practice via a commercial venture i.e. setting up a company. This may give the ability to control a specific demand for products / services which would be assumed as being very distinct, and with an established proof of concept. It does actually make sense to spend some time licensing your concept, to estimate the returns, and to consider the spinout process once the concept has been tested via several commercial deals, and once a reputation has been established in the marketplace.

So, in essence, the licensing activities within the University can be seen as the incubation period of ideas and concepts waiting to be spun out into real company activities once they are deemed strong enough to function as independent entities.

Start-up or Proof of Concept funding might be available via various source including University schemes such as the Centre for Fashion Enterprise and future developments such as the Intelligent Media Institute. Nesta s Invention and Innovation and the Smart funding initiative may provide funds for prototyping and the proof of concept stage. The DTI also provides start-up advice kits, training sessions and funding. Requests for funding should be directed to your college Enterprise Network contact or to the Research and Enterprise Office for initial evaluation.

An idea, which satisfies an initial evaluation, may, once a satisfactory business plan has been produced\*, be brought forward for consideration by the University s Investment panel which includes business angels and venture capitalists. Once a successful pitch has been made to the Panel and ratified by the Enterprise Board then, subject to availability, an amount of funding will be provided.

Here s a simple graph of the process:



**Writing a business plan** \*(a good idea may qualify for support with writing the business plan)

The best way to assess the possible commercial value of an idea etc is to develop a commercial strategy and business plan

The Research & Enterprise Office will provide relevant guidance, support and advice in specific areas. The business plan should encompass:

- Executive summary
- Definition of the legal structure, or current legal arrangements (for instance if the research outcomes have been generated in collaboration with another university)
- Potential market fit for a project
- Competition analysis
- Customer profile and marketing analysis, including SWOT analysis (strengths, weaknesses, opportunities and strengths)
- Possible distribution and pricing strategy
- Financial analysis, including a 3-year plan on likely investments against planned returns
- Management and organisational profile, including key team members profile



## Branding

Branding will be crucial to the identity and commercial success of your project. You will need to think about this and how your new brand sits with existing brands including those of the University and its Colleges.

Appropriate branding will allow each project to benefit from the strong brand kudos emanating from each college's individual reputation, whilst reducing initial marketing investments, as the projects in question could be able to benefit from some of the University existing and proposed corporate marketing initiatives.

## Establishing revenue streams through licensing deals

Although licensing may not be the sole means of generating revenue, here is a table of licensing common practice across the creative industries, as a rough guide for future reference:

Type of product / IP	Standard royalty rates (on wholesale prices)
Lifestyle products: clothing & footwear, fashion accessories, toiletries, toys & gifts, stationery, homeware & furniture, entertainment products & gadgetry	8% to 15%
High end jewellery	Flat fee — or 0.1% to 1%
Food & beverages	3% to 6%
Software, multimedia	15% to 25%
Publishing	10% to 15% - royalty can be negotiated pro-rata to the number of contributors to an edition The Publisher would also generally take a 10% share.
Film, music, theatre productions	Pro-rata share depending on number of co-producers — There might be a initial investment threshold that needs to be recouped before royalties are earned
Works of fine arts [rights of re-sale]	Based on droit de suite* (to be introduced in the UK circa 2006) £1,800 threshold on re-sale — no royalty £1,801 to £30,000 — 4% £30,001 to £125,000 — 3% £125,001 to £210,000 — 1% £210,000 to £300,000 — 0.5% beyond £300,001: 0.25%, up to a maximum royalty of £8,000.

*\* Droit de Suite is an aspect of European legislation that will enable the originator of a work to receive a share of any increased value in a work when it is subsequently resold three years from its original date of creation, e.g. an original work by a young artist sells for £1000 but with the increased reputation of the artist it is subsequently sold for £10,000. The artist would share in the additional value with the seller.*

## Management of IP:

The Research & Enterprise Office will be solely responsible for approving / generating IP transactions with you and maintaining the IP portfolio under a central database.

## The Incentive Scheme

**Q: Will the University recognise and reward staff input to successful commercial projects?**

**A: Yes.**

The commercialisation of IP is a potential additional income stream for the University, its staff and students, via the development of commercialisation schemes, and the set up of spinout companies.

A staff incentive scheme has been set out to reflect a fair credit and reward approach to all types of transactions. This has been developed in line with other institutions incentive levels, and at a more beneficial level than standard industry rates.

The incentive scheme below lists types of commercial activities at the University and illustrates how benefits will be shared.

N.B. All aspects associated with IP and possible financial reward will be discussed with the individual(s) concerned and agreement reached based on full disclosure of the possible options, implications and outcomes.

### **Fine Arts / Design commissions**

Where the University is acting as a gallery or agent.

	<b>University of the Arts</b>	<b>Staff (individual or team) or Student</b>
Off the shelf artwork sale	20%	80%
Commissioned work	30%	70%

### **The University as an agency**

In its capacity as an agent (i.e. where IP is not owned by the University in the first place), the University would charge a commission for the provision of an IP commercialisation service.

<b>Net revenue</b>	<b>University of the Arts</b>	<b>Creator</b>
Up to £50,000	20%	80%
Beyond £50,000	30%	70%

## Consultancy and training services

Consultancy and any incentives relating to this activity will be subject to the conditions of the University Consultancy Framework.

## Publishing contracts

Where members of staff are contracted as part of a special project to produce a written work, or where they wish to be represented as writers by the University in an agency capacity, the royalties set out below will apply. It is usual for authors to receive a royalty, but for illustrators or designers to receive a flat fee for the work carried out. This is reflected in the table below. Where possible, royalties for commissioned illustrations and designs will also be sought.

	University of the Arts London	Staff (writer)	Staff (Designer)
Course material — content derived in relation to teaching activity at College	75-80% of royalties. Income is ploughed back into College where the concept originated from	writing fee 20-25% of royalties	design fee
General interest publications, i.e. coffee table books	50% of royalties Income also ploughed back into College	writing fee 50% of royalties	design fee

## Sale of IP rights derived from research and special projects:

Essentially, this implies sharing revenues arising out of licensing and production schemes, for instance in the commercialisation of a brand or design concept, a revolutionary technology, an animation or film pilot or any other performing arts production, etc.

Net revenues will be accounted as the gross revenues minus the costs of legal protection, production, administration, marketing, etc. (if any) borne by the University during the commercialisation process.

Net revenue	University of the Arts London	Staff (individual or team)
Up to £50,000	20%	80%
£50,001-£200,000	50%	50%
Beyond £200,000	60%	40%

## Spin out companies

Subject to funding, an IP revolving fund will be established in due course for the creation of spinout companies. The management of the fund will be ultimately ratified by an Enterprise Board, composed of governors, senior managers from the University, and of an Investment Panel, composed of outside specialist appointments. A suggested arrangement for equity/investment in spin out companies is set out below.

	<b>Equity / investment stakes</b>
<b>University of the Arts London</b>	5-25% in straight equity or options, investment from funds distributed via the Investment Panel
<b>Spinout Leader(s)</b>	Founder option scheme
<b>Spinout employees</b>	15-20% employee options
<b>Additional investors</b>	Straight equity, in principle no right of options

Some funds are also currently available to selected sponsored projects within the Centre for Fashion Enterprise. In due course it is expected that the London Development Agency will also be a direct source of funding for spinouts.

## Incentive Scheme Management

There are a few overall principles relating to the incentive scheme:

- Key Researcher / Project Managers will be required to allocate the relevant proportion of the Staff Revenue share between key participants (including students) in the research / project team if the work undertaken is achieved as a team effort (see page 8 above concerning the innovation book ).

This arrangement will allow each participant to receive a contribution in proportion to his or her participation. Should any dispute arise, then the University may be chosen as an objective arbitrator.

- Any part-time or freelance contribution in research projects and commercialisation should be budgeted via the traditional funding and salary routes. In essence, the incentive scheme only applies if the commercialisation process has been carried out successfully. Contributors should always expect to be remunerated throughout the production stage, and not on a success-only basis.
- The incentive scheme is a bonus to individuals, the Colleges and every stakeholder of the University. The University will systematically plough back commercialisation revenues into its courses and services to staff and students. Income collection will be made through London Artscom Ltd, which, in turn, will despatch funds to central budgets, the colleges, and the individuals concerned. It is planned that revenues under the Incentive Scheme will be distributed on a yearly basis.
- Conflicts of interests between teaching activities and commercial ventures should be avoided at all times. If in doubt, please contact the Research & Enterprise Office.
- Monetary benefits are not always the greatest reward — high quality teaching, smart research centres, and credit and recognition in the outside world are always an important outcome from any project.

And finally .

**FOR ENQUIRIES AND CONFIDENTIAL DISCUSSION OF YOUR IDEAS**, please contact the RESEARCH & ENTERPRISE OFFICE at 65 Davies Street, London W1K 5DA

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## ANNEX I — CASE STUDIES

### **A few success stories**

#### **Pierre Cardin —*the fashion licensing story***

Pierre Cardin is the pioneer of the fashion-licensing programme. The presentation of his 1960 cylindrical collection by 250 students in 1960 enthralled fashion distributors. Following the phenomenal launch of his ready-to-wear collection within the retail outlet Le Printemps, Pierre went on to implement a new business technique. As he realised that his expansion abroad would require investments in capital, infrastructure and human resources, he decided to bypass the initial investment phase altogether, and instead selected overseas companies to produce, promote and distribute his ready-to-wear collection against a set royalty fee. The scheme allowed Pierre Cardin to move faster in new territories.

#### **The Tate Gallery — *licensing in an art context***

The Tate has been extremely successful in devising an arts licensing programme encompassing the works of many artists under an umbrella brand — The Tate Gallery. The success lies in looking at specific product categories such as home & leisure for instance, and adding an innovative twist to the product lines. The Tate trademark acts as a stamp of approval on the overall product design quality whilst enabling the Tate to secure long-term commercial deals with reputable partners.

#### **Umbro & technological fit — *how industry and academia can collaborate effectively***

Umbro International Limited, faced with increasing competition from long-standing rivals Nike and Adidas, were looking to produce the perfect-fitting shoe, with add-on technological features that are so crucial on the football pitch. Umbro consequently commissioned The University of Liverpool to carry various tests on the benefits of kangaroo-leather use. The research was also carried in a lab environment where Manchester United players were used to scientifically test the grip qualities of the shoe. The launch of the new ZAI Pro in March 2002 was a real success, and sales saw a 20% uplift within a season.

#### **Teletubbies — *putting research into practice***

Andrew Davenport, co-creator and writer of the Teletubbies graduated from UCL with a BSc honours in Speech Sciences. A few years later, his background was put to good use in the writing of the Teletubbies, when he set up the research process at Ragdoll Productions, which followed children's subliminal speech learning processes in their own homes and in nurseries. 365 x 25 minute programmes have now been produced to date. The BBC, holding the merchandising rights for the world (except the US), has estimated the total merchandising turnover at £1.2 billion since the series launch in 1997.

**and some of our own**

### **THE DESIGN LAB, CSM — Breaking into the entertainment market**

As the games and animation sector is suffering from its biggest economic downturn ever this year, the Design Lab is the typical example of a very successful incubation scheme which offers an excellent alternative to developers and producers houses in need of innovative pilot concepts without the running costs of managing an entire studio. The Design Lab employs students on one-year contracts, where the diversity of briefs allows them to develop a solid portfolio that will launch their careers. The benefits are also mutual for the Design Lab and Central Saint Martins: both their reputation are maintained and supported by the incubation relationship and the high profile clients they deal with. Watch out for the arrival of Design Lab-incubated productions in the years to come. Negotiations over IP encompass a royalty return on both production and merchandising income.

### **FOXED, CSM — *Foxed rocks***

Foxed is a new product range stemming from the Design Against Crime initiative led by Dr Lorraine Gamman at CSM. Lorraine works in collaboration with a research assistant, Marcus Willcox, and a freelance designer, Jackie Piper, on the design of innovative anti-theft table and chairs prototypes. Presented in Milan in spring 2003, the concepts have generated international interest. Although further testing of the prototypes need to be carried out *in situ*, it is expected that the furniture range will be soon launched in partnership with bars, cafes and restaurants under the brand name Foxed at CSM .

### **ESDA - Electrostatic Detection Apparatus**

Developed in mid 1970s by Doug Foster, a research fellow at LCP who was working on a Home Office research contract at that time. Following initial interest in ESDA from police forces around the UK, Doug Foster went on to establish Foster Freeman Ltd., ([www.fosterfreeman.co.uk](http://www.fosterfreeman.co.uk)) a successful international company specialising in forensic detection equipment. When writing on paper, pad or notebook, indentations are created in the paper, which collect an electric charge that is denser than that which exists on the areas surrounding the indentation. Using a fine wire stretched between two electrodes, the paper is then charged with a corona discharge of 14K volts creating a stream of electrons that pass from the wire to the paper and collect more densely in the indentations. Toner is then applied which, because of the more concentrated electron presence, is attracted to the indentations and reveals written evidence that would otherwise remain undetected. ESDA has been used widely in the UK and internationally in the detection of evidence that has led to convictions. Notably it has also been used to overturn the conviction of the Guildford Five by showing that police notebooks had been altered to provide evidence that was used to secure their conviction.

## ANNEX II - DEFINITIONS OF INTELLECTUAL PROPERTY RIGHTS AND RESEARCH CATEGORIES

**Please note that these are UK definitions, and that other jurisdictions may have adopted different rules on the scope and nature of the rights described below. Please check with the Research and Enterprise Office if you have any questions.**

### **Copyright**

Copyright is a worldwide right arising from the recording of the original form of an idea. Copyright does not protect the idea as such, but the way an idea is tangibly expressed. The originality in expression is assessed qualitatively ( effort and evidence ) rather than quantitatively ( artistic merit ).

**Duration:** Copyright lasts for the author s life plus 70 years.

**The rule of copyright ownership** is: First author, first owner . However, please note that the owner of a copyright is the employer of any individual creating copyrighted works that falls within the scope of his/her normal duties or duties assigned to him/her. In any case, it must be asserted ( claimed ) by its author.

**Extent of right:** Copyright gives its owner the negative right to stop or prevent others from copying or infringing the work in its copyrighted form. Copyright in essence prevents plagiarism. Infringement is determined from the nature of what is copied (is it a significant qualitative element of the idea?) rather than the amount of the works that are copied.

The ability to prove copyright ownership will arise from the ability to prove the date of creation of the original work. It is therefore essential to mark and date any work, and if possible to keep the original in a safe place.

According to the UK Copyright Design and Patent Act 1988, works that can be copyrighted include:

- Dramatic and musical works.
- Artistic works including graphic works such as a painting, drawing, diagram, map, chart or plan, engraving, etching, lithograph, wood cut, photograph, sculpture, or collage irrespective of artistic quality; works of architecture such as a building or a maquette for a building; any work of artistic craftsmanship
- Literary works (including computer programmes)
- Sound recordings, films, broadcasts
- Some databases, although database rights may only last for 15 years if the contents of the database are qualified as rather mundane.

Copyrights are usually multi-layered. For instance, a magazine cover will include different types of copyrights for separate elements such as the text, the font, and the photography this may make the overall ownership issue quite complex.



### **Design rights and Registered Design rights:**

A Design right arises in an original product design and protects the outward shape and configuration of a 3-D product (excluding surface decoration). It is used in order to protect utilitarian articles, by opposition to artistic works, which can be copyrighted.

Design right does not protect the must-fit or must-match parts of an article, i.e. the parts that enable an article to functionally or aesthetically fit another. It cannot protect a method or principle of construction either.

**Duration:** Design rights last for 10 years following the product market launch, or 15 years from the date of creation of the design, whichever is the shortest.

As with copyright, it arises automatically, but only in the country of origin. It is therefore very important to keep records of the first date of creation, and whenever possible, of the original. It is also important to keep an accurate record of the first date of product launch. The protection can then be extended to additional countries via a formal application procedure using priority date (the date of creation in the country of origin). Under EC law, a design right lasts 3 years from the moment the design was introduced in the EU markets.

**Extent of right:** as with copyright, it is a right to prevent copying.

**European Community Registered Designs**, on the other hand, protects the novelty factor and aesthetic qualities of a design, and in particular the overall external shape, texture, and form. To be registered, the design must be new and have individual character. A new EU wide directive, effective as of 1<sup>st</sup> April 2004, now allows the registration of the design or part of the design on a European-wide level with a single application.

**Duration:** A registered design right needs to be acquired via a formal application process, and can be renewed for up to 25 years. However, the designer can benefit from a 12 month- grace period following the first public disclosure to start the formal application process. This allows the designer to test the commercial validity of the design without the need to pay any registration fees upfront, thus minimizing the bad investment risks.

**Extent of right:** a registered design grants a monopoly right to its owner -again the employee/employer rule applies- that can be renewed for up to 25 years.

Please note the discrepancy between UK and EU law in terms of ownership: the former states that ownership of a design or registered design is vested in the commissioner, hence not necessarily the author or his/her employer. Unless formally specified from the outset in the commissioning contract, the author (designer or his/her employing company) will not be able to retain design rights or registered design rights in any 3D design if it has been specifically requested and paid for by a third party.

By contrast, EU wide law vests ownership of a design in the creator, rather than the commissioner.

## **Patents:**

A patent protects incremental improvements in technology and significant inventions, ideas and concepts, save as for discoveries, scientific theories, methods, artistic works, and basic computer programmes. Any such invention must meet the requirements of novelty, invention and industrial application.

**Duration:**, a patent lasts for 20 years from the date of the patent grant.

***Until the patent application has been formally filed, information about a patent should never be publicly disclosed to any third party without a non-disclosure (NDA) or confidentiality agreement in place, as this would automatically cancel out the patent right.***

However, the inventor can file a provisional patent application including a basic description of the patent and initial drawings at the beginning of the research and development exercise for free. This entitles the inventor to a priority filing period of 12 months, within which it is safe to publish articles for academic purposes. At the end of the one-year priority period, the patent owner can decide whether to take the patent application to the next level.

The formal patent application process is costly and thorough. Although an initial filing is free, it will cost in the region of £5,000 to £7,000 to complete an application for a UK patent. It usually takes up to 5 years before the application matures into registration. Individual patents applications must be filed in every territory where protection is sought. An application for European, US and /or worldwide patents will increase costs dramatically.

**Extent of Rights:** A patent is a monopoly right in the country of invention

Whenever an employee makes a significant invention likely to be patentable in the course of his/her normal duties or duties assigned to him/her, the patent will belong to his/her employer. However, sections 39 to 41 of the UK Patents Act 1977 provide that should a significant income stream be derived by the employer from the patent, then the employee is entitled to a fair share of that benefit. However, no such case law has been passed as yet.

**Trademarks:**

A trademark is a distinctive name, shape, or logo, which is used to identify specific products or services coming from a trading source. The very same trademark can be registered by different proprietors to identify different products or services.

**Duration:** There is a formal registration process for trademarks, which lasts at best one year. The registration process can be filed independently in various countries or via protocol agreements to ensure the required geographic scope of protection. Any registration can be extended indefinitely every 10 years.

**Extent of rights:** a trademark is an exclusive right to protect one's business interests and goodwill. In goodwill, we mean the intangible assets of a company such as customer lists, brand awareness and reputation, etc. Once registered, it also enables the trademark owner to pursue any claim against a third party trying to infringe on the trade mark, and provides effective protection against the development of counterfeit goods. Just as with any other IP right, a trademark can be licensed to another party.

Owning a trademark does not confer any automatic rights to the corresponding Internet domain name. Although the law is currently in a state of flux in that area, it is essential to register domain names independently as well as trade marks in order to be entirely protected.

When choosing a trade name or logo, in addition to looking for any potential conflict with prior marks, it is relevant to consider whether the name or logo chosen may have the same corresponding meaning and interpretation abroad. Examples abound of companies launching products with names that lead to dubious interpretations in other countries

**Questions? Tel: 0207 514 8414**

**RAE Definitions of Practice-based Research and Scholarly Work  
(Source: Code of Practice on Research Ethics)**

**Definition of Research**

**The definition of research used in the Research Assessment Exercise (RAE) is based on the Frascati definition of research. The RAE definition is as follows:**

**Research** for the purpose of the RAE is to be understood as original investigation undertaken in order to gain knowledge and understanding. It includes work of direct relevance to the needs of commerce and industry, as well as to the public and voluntary sectors; scholarship\*; the invention and generation of ideas, images, performances and artefacts including design, where these lead to new or substantially improved insights; and the use of existing knowledge in experimental development to produce new or substantially improved materials, devices, products and processes, including design and construction. It excludes routine testing and analysis of materials, components and processes, e.g. for the maintenance of national standards, as distinct from the development of new analytical techniques. It also excludes the development of teaching materials that do not embody original research.

\* **Scholarship** for the RAE is defined as the creation, development and maintenance of the intellectual infrastructure of subjects and disciplines, in forms such as dictionaries, scholarly editions, catalogues and contributions to major research databases.

The definition of research includes the following:

- **Scholarship:** the analysis, synthesis and interpretation of ideas and information. (Boyer's definition of scholarship (1990) includes: the scholarship of discovery; the scholarship of integration; the scholarship of application; and the scholarship of teaching).
- **Basic research:** work undertaken to acquire new knowledge without a particular application in view
- **Strategic research:** work which is carried out to discover new knowledge which might provide for future application
- **Applied research:** work which is undertaken to discover new applications of existing or new knowledge
- **Consultancy:** the development and interpretation of existing knowledge for specific applications
- **Professional practice:** the interpretation and application of knowledge within a professional setting.