

Intellectual Property Guidelines for Graduate Students & Supervisors

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<http://fgs.athabascau.ca/docs/AU-IPGuidelines.Approved.o8.09.16.pdf>

Intellectual Property (IP) Considerations

Considerations when discussing IP or attempting to resolve IP issues:

- AU policies and procedures
- Regulations and professional codes
- IP law
- Third part agreements

Intellectual Property (IP)

- What is IP?
- What are IP rights?
- What are the IP rights of students?
- Does the thesis supervisor have any rights in the student's thesis/project work, discovery, or invention?
- Role of external funding in ownership
- Ownership if student creates a work as a research assistant or employee
- Authorship
- Disputes

What is IP?

“the product of intellectual or creative activity
that, to some extent, can be protected under
the law”

What are IP Rights?

IP rights allow the creator or inventor to benefit from their work or investment in a creation.

The IP owner has 2 fundamental rights:

- 1) the right to use the property without interference from others; and
- 2) the right to exclude others from using the property.

What types of I P can be protected?

- literary, artistic and scientific works
- scientific discoveries
- industrial designs
- trademarks, service marks, and commercial names and designations
- protection against unfair competition
- performances of performing artists

What are the IP Rights of the Student?

They have IP rights and rights to protection under the IP laws to all intellectual property they create, provided they satisfy the requirements of applicable law.

How can the IP of students be protected?

Two forms of legal protection are most relevant to students:

- ▶ Copyright
- ▶ Patents

Copyright

A **copyright** is the :

exclusive right to copy, publish, distribute, perform or exhibit in public, modify, translate,.. a work, and the right to authorize others to do so.

Copyright is automatic upon creation

Patents

A **patent** is:

a temporary, limited legal right granted to an inventor by the government to prevent others from manufacturing, selling, licensing or using the inventor's invention.

The inventor must apply for the patent

To obtain a patent, the invention must be 'novel', 'useful', and 'not obvious'.

What are the IP Rights of Students?

Generally, students will be the owners and have the IP rights to all intellectual property they create.

Does the thesis supervisor have any rights in the student's work?

Will depend upon the role the supervisor played in the student's thesis/project, discovery, or invention

Factors to consider:

- AU policies and procedures
- IP law
- any third party agreement
- professional codes of conduct in the discipline

Role of External Funding in Ownership

This depends upon:

- 1) The funding body;
- 2) The terms and conditions of the funder

What experience have any of the faculty members had with external funding of their own or of their students?

When the student is a RA, who owns the work/invention?

IP created by an employee in the course of their employment is deemed to belong to the employer unless there is an agreement providing otherwise.

Does anyone know what the case is at AU?

Authorship

- Determine this at the time of considering publishing the work
- Determine early who does what tasks
- Determine which tasks merit being first, second,... author
- the roles and contributions of authors may change as the project progresses

Disputes

- Initially discussion should occur between the student and the supervisor
- if issues cannot be resolved, the student can:
 - speak with the graduate program director
 - Dean of their faculty
 - FGS
 - AUGSA, Research Office, or the AU Ombuds office

Case Situation #1

A professor in your academic unit is well known for publishing the thesis work of students within several months of their graduation (without the student as an author or co-author). This is well known by most students and faculty. A student comes to complain to you about this.

What approach should be taken?

Case Situation #2

A student received minimal direction from their Supervisor in the research and the writing of their thesis. They prepare a manuscript on their thesis research. The new graduate wants to include all committee members as co-authors with themselves being the primary author. Initially, the graduate thought their Supervisor would be the second author. The graduate contacted the Supervisor numerous times to read the manuscript but did not receive any communication from the Supervisor. This occurred over a 10 month period.

Case Situation #2 (cont'd)

The graduate then decided to include their Supervisor as the last author and informed them of this. The Supervisor now responded to the graduate and was extremely angry and threatened the student and the other faculty members of academic dishonesty.

- a. Should the student have done something different?
- b. Is the Supervisor correct in their behavior and demand?

Resources on FGS Website

Creating a Letter of Understanding for Advisors or Supervisors of Graduate Students (2012)

Mentorship: A Handbook for Faculty and Graduate Students at the University of Regina

Electronic Submission of Theses/Dissertations

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