

Frequently Asked Questions: Intellectual Property Rights for Staff

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1. What is IP & how can it be protected & exploited?

Intellectual Property (IP) is any output that derives from the work of the mind or intellect such as ideas, information, creative works, discoveries and inventions. This property can be subject to legal protection known as IP rights.

The main types of IP rights are trademarks, industrial designs, know-how, copyright and patents. At the University, we mainly deal with know-how, copyright and patents.

IP rights are monopoly rights and hence, restrict people from using and exploiting others' IP (e.g. inventions or creative works). As any other property right, IP rights can be traded by their owners (e.g. they can be transferred or licensed to others).

2. As an employee of the University, what are my IP rights?

According to the UK patent law "*Inventions and various other forms of IP generated by an employee in the course of his or her normal duties belong to his or her employer*". In that regard, the University owns all IP (e.g. teaching material, computer programmes, technologies, inventions, know-how) generated by its employees during the course of their employment, unless specific research or employment contracts dictate otherwise. In this way, the University can efficiently protect (e.g. via applying for a patent) and exploit IP for the benefit of the institution as well as of the creators of this IP. In all cases, staff who have an inventive contribution to the generation of IP (please, see also FAQ10) will have moral rights to it as well as a fair share of benefits (e.g. financial returns) arising from it (see [University's IP Policy](#) regarding the revenue sharing scheme).

Nonetheless, the University will not claim ownership of staff IP that is considered to be scholarly work (e.g. personal notes, presentations, journal publications). It should be noted though that publication of scholarly work might be delayed should it contain patentable IP which belongs to the University and the latter has decided to file a patent application (see also FAQ9).

Detailed information about staff IP rights at the University of Kent can be found in the [University's IP Policy](#).

3. What is copyright?

Copyright is an Intellectual Property (IP) right that protects any kind of original creative work such as writings (e.g. plays, scripts, (e)-books), drawings, photos, paintings, sculptures, choreographies, music, films. It also protects publications, broadcasts, performances, databases and computer programmes.

The University's guidelines and policy on use of copyright material can be found at www.kent.ac.uk/copyright. The guidelines provide an overview of the types of material protected by copyright, the conditions under which these can be used legitimately and where to go for further guidance and support.

Copyright does not require registration since it is automatic as soon as an original literary or artistic work has been recorded in a physical format (analogue or digital). It typically lasts 70 years after the death of the creator of the work it is protected by it.

For further information, you may visit the [UK Intellectual Property Office](#) and the [World Intellectual Property Organisation](#).

4. What is a patent?

A patent is an Intellectual Property (IP) right granted by countries (e.g. the UK or the US) or territories (e.g. Europe) to a person/organisation (inventor/assignee). It protects methods or products with a technical or functional effect which are new, involve an inventive step and have an industrial application. Patents are valid for 20 years upon successful application to patent offices.

Applying for a patent is an expensive and lengthy legal process, but can support the commercialisation of a new method, technology or product. For further information, you may visit the [UK Intellectual Property Office](#), the [European Patent Office](#) and the [World Intellectual Property Organisation](#).

5. What is know-how & how can it be protected?

Know-how entails in-house information of how things are done. Otherwise known as trade secret (e.g. recipes, formulas of compounds, manufacturing practice, market analysis, engineering design of a machine, lab protocols, business practices or new enterprise ideas). It is based on secrecy and lasts for as long as owners of know-how want to keep it secret.

For disclosing know-how information between parties (e.g. two potential collaborators), confidentiality can be ensured via signing a Confidentiality Agreement. Confidentiality Agreements are also known as Non-Disclosure Agreements.

6. What are trademarks & industrial designs?

Trademarks are signs which distinguish goods and services (e.g. University of Kent logo). Registered trademarks may last for ever, provided that a renewal fee is paid every 10 years. For more information, you may visit the [UK Intellectual Property Office](#) as well as the [Office for Harmonization in the Internal Market](#).

Industrial designs protect the appearance of items (e.g. bottle shapes, package design). Registered designs last for 25 years. For more information, you may visit the [UK Intellectual Property office](#).

7. Regarding computer programmes, what IP rights apply to them?

Computer programmes are considered literary work and hence, they are entitled to copyright protection (copyright of software's source code). In the US, software are also subject to patent protection, nonetheless that is not the case in Europe. In Europe and the UK, they may be protected by a patent but they need to have a technical effect (e.g. controlling hardware). In this case a patent attorney's opinion (legal expert) is necessary and thus, Knowledge Exchange and innovation (KEI) should be contacted (commercialisation@kent.ac.uk).

8. I am working on an idea, method, technology or invention that could be of commercial interest. What steps should I take?

Often University employees develop ideas, inventions, new methods and technologies that could have an industrial application and commercial interest. These ideas or technologies need to be disclosed to KEI so that they can be assessed for their commercial potential and overall benefit.

If you have an idea, technology, method or invention of commercial potential, you are advised to refrain from any kind of public disclosure of it (e.g. give a presentation, publish results or talk to 3rd parties about it). If ideas or technologies of commercial importance become known to the public then their IP protection might not be realised (e.g. see FAQ9) and others might utilise them for their commercial needs and interests. However, if you would like to share in confidence information of commercial importance to 3rd parties (e.g. collaborators), you may do so under a signed Confidentiality Agreement (see also FAQ5).

Furthermore, you should contact KEI (commercialisation@kent.ac.uk) so that you disclose your idea or technology via filling in an *Invention Disclosure Form* (docx). The disclosure of your idea, invention or technology will be examined, in absolute confidence, by a panel of experts which includes Dr Gary Robinson, who is the University's Senior Commercialisation Manager.

KEI will provide feedback, guidance and support with respect to the commercial potential and possible further development of your idea or technology as well as the protection of IP.

9. I think I may have patentable results. What steps should I take?

If you think your work may be subject to patent protection, you need to refrain from any kind of public disclosure of it (e.g. give a presentation, publish results or talk to 3rd parties about it). If your invention is known to the public before you apply for a patent than means that your invention will not be new at the time of application to patent offices (hence, it won't be eligible for a patent). However, if you need to disclose patentable data to 3rd parties (e.g. collaborators) before a patent application is filed, you can do so under a signed Confidentiality Agreement (see also FAQ5).

Regarding patentability, there are three basic criteria that need to be satisfied for patent protection. Work must be new, innovative and must have industrial application. You can check whether your method, technology or invention is indeed novel, by searching the literature (e.g. [PubMed](#), [Google Scholar](#), [Scopus](#)) as well as patent databases such as the [European patent database](#) (has a worldwide coverage) and the [International patent database](#).

You also need to disclose your patentable results to KEI (commercialisation@kent.ac.uk) via filling in an *Invention Disclosure Form* (docx). The disclosure of your idea, invention or technology will be examined, in absolute confidence, by a panel of experts which includes Dr Gary Robinson, who is the University's Senior Commercialisation Manager.

KEI will provide feedback, guidance and support with respect to the potential protection of your work as well as its commercial value and possible further development.

10. I have contributed to a project, but am I entitled to have benefits arising from IP rights exploitation?

Working in a project does not automatically mean that you have made an inventive contribution to it. For example, you may not be able to claim inventive contribution if you have simply followed common practice or a manual or a protocol or the guidance and input of your colleagues. Inventive contribution means that you have provided original input, a new way of doing things, a new idea to be tested, a new theory to be examined. Inventive contribution is necessary for receiving benefits arising from IP rights.

11. I would like to publish my work or results. What should I take into consideration with respect to IP?

It is common practice that academics publish their outputs. These publications by academics (e.g. scientific articles in peer-reviewed journals) are considered scholarly work and hence, academics have the copyright for this material. Depending on the publishing company, academics may be asked to transfer their copyright to their publisher in order for their work to be published.

However, if the publication contains information of commercial value (e.g. patentable results), then academics may wish to postpone the publication until after the IP is protected (where applicable e.g. a patent application is filed, see also FAQ₉). Once IP is protected, then academics can freely publish their work and they may also be subject to benefits (e.g. royalty income) arising from the commercial exploitation of it (on the basis of their contribution, see also the *University's IP Policy* (PDF) as well as FAQ₁₀). Other reasons based on contractual agreements concerning research projects may also postpone publications (e.g. confidentiality clauses to protect know-how of commercial value).

12. May I use IP (e.g teaching material) I have contributed to outside the University?

You may use IP you have contributed to outside the University, provided that:

- it is meant to be used for academic or non-commercial purposes and
- no confidential or patentable information is disclosed

As far as teaching material is concerned, this belongs to the University but staff who have prepared it can use it for academic or non-commercial purposes (for instance, giving a non-profit seminar to an external audience). The same IP provisions listed above also apply for using teaching material. More information regarding teaching material and IP rights can be found in the *University's IP Policy* (PDF).

In all cases, KEI needs to be contacted (commercialisation@kent.ac.uk) so that your request to use University's IP is assessed (e.g. beneficiaries of IP, purpose of using it outside the University) and permission is granted.

13. As an employee of the University, am I allowed to place material online?

University's employees often place university-owned material and scholarly work (e.g. teaching material, software) online in order to facilitate studying and research. Should this material contain information with commercial potential permission, its online release needs to be discussed with KEI (commercialisation@kent.ac.uk) and approval also needs to be sought from the Head of School.

Although copyright protection is automatic, when University-owned material is placed online appropriate copyright notices (e.g. © year / creator / University of Kent) should be added. For more information, please refer to *University's IP Policy* (PDF).

14. May I transfer IP, to which I have contributed, to my future organisation?

It is possible that University-owned IP rights can be transferred to other institutions (for instance in case the principal inventor of a patented technology moves from the University of Kent to another University). In such cases, legal agreements between the two institutions will set the framework and the exact terms of the IP rights transfer (for instances, sharing the cost of patent application and future revenues).

In all cases, the University of Kent will be freely available to use this piece of IP for teaching and research. In cases where staff move to another institution, they will be able to negotiate a free license for the IP they have contributed to, for their teaching and research. Please contact KEI (commercialisation@kent.ac.uk) should you like to discuss such IP transfer or license.

15. If the University is not interested in protecting a particular piece of IP, could the creators of this IP instead own it?

The University might not be interested in protecting and exploiting a particular piece of IP. The creators of this IP could then enter into discussions with the University (commercialisation@kent.ac.uk) should they wish to pursue protection and exploitation themselves. IP ownership will be negotiated provided that other peoples' IP rights (e.g. co-inventors) are not infringed and that the University will be freely available to use this IP for teaching and research.

16. What steps should I take if I need to send or receive material to/from another organisation or researcher?

Materials such as software, biological material, compounds and databases are commonly transferred between organisations for research and development purposes. These materials are also considered as IP and belong to the organisation that has developed them. A Material Transfer Agreement needs to be in place so that the exact IP terms of the material transfer are determined. Should you wish to transfer material from/to the University of Kent, you need to contact KEI (commercialisation@kent.ac.uk) so that a Material Transfer Agreement can be put in place.

17. I would like to establish a spin-out company based on my academic work. What steps should I take?

The University welcomes entrepreneurial initiatives taken by members of staff such as the formation of spin-out companies. It is often the case that academics who have contributed to IP (e.g. patented technologies, copyrighted material or even know-how) form spin-out companies in order to better capitalise on the value of that IP by developing commercial outputs. It is possible that this IP is licensed from the University to the spin-out company in order to be efficiently exploited. In all cases, the University retains the right to freely use the IP for research and teaching.

If you think of forming a spin-out, please fill in a *Spin-Out Formation Questionnaire* (docx) and contact KEI (commercialisation@kent.ac.uk) for feedback and guidance.

For the formation of a spin-out company, a viable business plan should also be presented to the Head of School, KEI as well as other relevant committees (e.g. Finance and Research Committee). Based on the vision, the market analysis, the structure and finances of the spin-out as well as the benefit for the University, the latter will decide whether and how to support the spin-out's founding.

18. I would like to provide private consultancy work based on my academic expertise. Am I allowed to do that?

The University encourages Schools to undertake consultancy work as part of their business activity and interaction with the external community. However, members of staff might wish to provide private consultancy work based on their expertise. In this case, they ought to ask permission from the University with respect to the nature, content and delivery of their consultancy work (especially in cases that this might interfere with the University's consultancy activity). They should also be aware that their private consultancy will not be covered by the University's professional indemnity and public liability insurance.

In case the private consultancy requires the use of University facilities or IP, this should be discussed with the Head of School and KEI (commercialisation@kent.ac.uk) and specific terms of use will be

applied (e.g. financial returns to the School for the use of University-owned equipment or copyright material). More Information can be found in the *University's Consultancy Policy*(PDF).