Graduate Student FAQs Regarding the University of Calgary's Intellectual Property Policy

Faculty of Graduate Studies and University Research Policy Committee

The responses given below were approved by the Faculty of Graduate Studies Advisory Committee in March 1994 and reviewed by the Research Policy Committee in May 1994 and are considered to be a generally accurate interpretation and application of the University's Intellectual Property Policy. However, for graduate students, individual circumstances may alter the interpretation in specific cases. The responses contain references to legal matters. These are not to be relied upon as applicable to all cases and under all circumstances.

Does the University’s Intellectual Property Policy cover graduate students?

Yes, graduate students are covered by the policy both as students (for course work, thesis work, and independent study) and as employees of the University (e.g., as teaching assistants) or University Researchers (e.g., as research assistants). The policy does not, however, affect you or any work you do in any other capacity outside of the University.

Who owns the intellectual property graduate students create?

Generally, to be regarded as the original owner or co-owner of any intellectual property, you must have made a substantive and/or creative contribution to the creating of the property (the precise legal requirements vary for the various types of intellectual property - copyright works, patentable inventions, etc.). Moreover, you must not have created the property as an employee of another (in which case the employer is the legal owner) or have sold or assigned your rights to the property. At the University of Calgary, the Intellectual Property Policy governs ownership and other intellectual property issues.

Co-owners - Intellectual property can be jointly created and jointly owned. Many written works are co-authored, and many inventions are made by more than one inventor. Several researchers can contribute to the same body of scientific data. Provided the creators were not employed to write or do the work, co-creators or co-contributors to a single work (or property or data collection) share ownership and have the right to copyright, patent, or otherwise deal with the work. Generally, a creator, author or inventor is an individual who has made an original contribution to the work. Just how much or what kind of an original contribution is required to establish that individual as one of the legal authors or inventors is difficult to summarize. The facts of each case must be individually examined. In cases of dispute that cannot be otherwise resolved, advice and assistance of the Faculty Dean may be sought. The University will assist in formal dispute resolution through a mediator appointed by the Vice-President (Research). Decisions about the use of common or joint data and about jointly created work are best made between or among the creators and owners. The University acts as if jointly created works are equally owned by the creators unless the creators have made another agreement. The University also regards the appearance of an individual's name on a publication as indication that the person
named made an original contribution to the work qualifying them as an author with all the rights, responsibilities, and privileges of an author.

*What are the implications of co-ownership?*

Co-ownership occurs most often when scholarship is pursued in collaboration with other scholars and researchers and is most visible in the number of multi-author papers, patents, and conference presentations produced by university scholars, when several individuals are given credit for substantive contributions to the paper or the work reported in the paper. In universities, co-ownership usually entitles any of the owners to use the work, for example, for further research and to publish the work, with appropriate credit to the others who have contributed. This facilitates the continuity of research and scholarship within the University, particularly in the laboratory sciences where research is often the result of the collaboration and interaction of a group of individuals, and progress is made possible by building on what has gone before. Graduate students and their supervisors need to be especially sensitive to the implications of collaborative scholarship and research, not only observing the courtesies of the discipline but fully recognizing the contributions that each makes to the work and the rights that each has as a result of their individual contribution.

*Is ownership different if I create a work as an employee rather than as a graduate student?*

Yes, the policy may affect the work you do as a student differently from the work you do as an employee. As a graduate student, you own or co-own the intellectual property you create as part of your work for academic credit or a degree. You are entitled to publish the work, patent or copyright the work in your own name, as you or your co-creators see fit. The University has no rights of ownership and cannot use your work except for the purposes of academic review and evaluation. In submitting your work for credit, you consent to properly authorized University staff reviewing and evaluating the work for academic credit (a grade, degree, etc.). The work you do as an employee belongs to your employer unless your employer agrees to some other arrangement. If you are employed by the University, work which you are assigned or commissioned to do as part of the job normally belongs to the University.

*If I receive a University or outside scholarship, am I an employee?*

No, scholarships, fellowships, bursaries, etc., are not employment and your intellectual property rights as a student are usually unaffected. If you are in doubt, you should check the award regulations. If there is nothing stated to the contrary, you can reasonably assume that your rights are unaffected.

*What is the situation of Graduate Teaching Assistants?*

Graduate Teaching Assistants are hired to teach or to do teaching related work. Your course work, thesis work, and independent study are unaffected. However, if you are assigned as part of your GA(T) duties to produce written, recorded, or computerized course materials, those materials will be the property of the University. However, the University may permit you to use those materials if you ask. You should inquire of your department head. Notes that you may make for a lecture or a tutorial presentation are considered your private property unless you are specifically requested to make those notes for the University.

*What is the situation of students paid from professors' research funds?*

There is no simple answer. In such cases payments from a research grant may be the equivalent of a scholarship (support to enable the student to pursue academic studies without any of the duties of an employee). In other cases you may be an employee and work is the property of the professor, the University, or the project sponsor. At the University of Calgary, the student who has a Graduate Assistantship (Trust) holds the equivalent of a scholarship that assists the student
to pursue academic work and does not affect rights to that work. Persons paid to perform specific assigned tasks unrelated to their academic program are employed and, in the absence of another agreement, their work belongs to their employer. However, it is possible for both a student/supervisor and employer/employee relationship to co-exist and for work to be done both for an employer and for academic credit. These mixed situations require both parties to ensure that the rights of each are clear and understood. It is incumbent on professors to ensure a student is aware of any ownership, publication, or use restrictions on work students perform for pay, and it is equally incumbent upon students to inquire about any conditions of employment that may affect their use of any work for academic credit. Graduate students who are paid from professors' research funds should inquire and ensure they understand the nature of the payment and any restrictions on the use of the results of their work. Supervisors are responsible for informing graduate students of the nature of the arrangement and the limitation, if any, on the use of the student's work for academic credit or in a thesis.

**Does my course instructor have any rights in my course work?**

No, unless your instructor is a co-author, co-inventor, or a co-creator of the work or unless you were employed to do the work for your instructor. Similarly, you have no rights in the work of your course instructor and you may not copy or publish your instructor's written work or record lectures without permission. More information on recording lectures is contained in the Calendar.

**How might issues of confidentiality affect my course work and thesis research?**

Conditions of confidentiality which affect activities for academic credit must have your consent. In the case of thesis research, the University's freedom to select examiners must not be affected.

**Does my thesis supervisor have any rights in my thesis work?**

Only if your supervisor is also a co-creator or collaborator in the work or if there was an employment arrangement involved. Similarly, you may have rights in the research work carried out in collaboration with your supervisor. However, as sole author, you will be the sole owner of your thesis per se. Sole authorship of a thesis is a requirement of the Faculty of Graduate Studies. Note that it is possible for the results on which the thesis is based - the data and experimental results- to be co-created, but the thesis itself to be the work of, and owned by, a single author.

**Who owns my thesis?**

You are the owner of the copyright in your thesis. As the owner of the copyright, you are the only person who may copy the thesis or permit someone else to make copies. You have the sole right to publish, produce, or reproduce the thesis, in whole or in part. The University requires that you copyright your thesis in your own name, as the sole author. In doing so, you are claiming the work as your own original work and not that of someone else.

**Who owns the data in my thesis?**

The ownership of data is a complex matter. Indeed, the notion of ownership is not necessarily applicable to all information and data. To the extent that data can be owned, if you generated and compiled the data and were not in the employ of someone else to do the work, you will be the owner. However, it is possible that all or part of the data used in your thesis may belong to someone else or be co-owned by your supervisor or another researcher. Another who has made substantive contribution not generating the data or to the research or experimental design used in producing the data may have rights in the data. Provided that you have the permission of the owner, you may include such data in your thesis and still be able to copyright the thesis. Remember, copyright protects the writing, not necessarily the data or ideas contained in the thesis.
Is my thesis a publication?

Yes, your thesis is a publication, even if you only make a few copies. Your thesis also becomes widely available to the public through the deposit copies in the University and National libraries. However, under certain conditions, you may request that the library deposit copies not be available to the public for up to two years after the date of your thesis defence.

For more information, graduate students are advised to consult the University Calendar, the Faculty of Graduate Studies Calendar, and the Handbook of Supervision and Examination. The University's Intellectual Property Policy and general information about copyright works, patentable inventions and other forms of intellectual property is available from the Executive Secretary of the Intellectual Property Committee in the Office of the Vice President (Research).

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