

# THE GLASGOW SCHOOL OF ART

## Intellectual Property created by Students

### POLICY DETAILS:

Date of approval	5 <sup>th</sup> October 2016
Approving body	Academic Council
Supersedes	Fair Copyright and Intellectual Property (former Academic Calendar 3.3.11)
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Author	Colin Kirkpatrick, Senior Knowledge Exchange Manager
Responsible Executive Group area	Deputy Director (Academic)
Related policies and documents	Admission Terms and Conditions Business Development Policy
Benchmarking	Intellectual Asset Management for Universities (Intellectual Property Office, 2011) UK Higher Education Providers – Advice on Consumer Protection Law (Competition & Markets Authority, 2015)

## **1. Introduction**

- 1.1. This intellectual property (IP) policy deals with the ownership, protection and commercialisation of IP created by students of GSA (“Student IP”).
- 1.2. This IP Policy is a living document and may be subjected to change by GSA from time to time. We recommend that you review this IP Policy regularly.

## **2. What is Intellectual Property?**

- 2.1. Intellectual Property Rights (‘IPR’) are rights reserved to the owner of certain types of unique work. The owner of IPR has a spectrum of rights and most relevantly, he or she has the exclusive right to control the use or management of the work e.g. the right to reproduce or copy the work or make the work available to the public. Owners of IPR can also use these rights to stop third parties from using their work without their permission.
- 2.2. A useful guide to IPR can be found online at [www.ipo.gov.uk/blogs/iptutor/](http://www.ipo.gov.uk/blogs/iptutor/). The main types of IPR relevant to GSA students include:
  - 2.2.1. **Copyright** – a right which subsists in original literary, dramatic, musical or artistic works; sound recordings, films or broadcasts; and/or the typographical arrangement of published editions. This may include copyright within a student’s essay, thesis, drawings, paintings, photographs, designs etc. It arises automatically on creation and there is no need to register this right. It is good practice to mark your copyright work with the international © symbol, your name and the year of creation. The current relevant legislation for copyright is Copyright, Designs and Patent Act 1988.
  - 2.2.2. **Design Right** – a right which subsists in the shape or configuration (whether internal or external) of the whole or part of an article, other than surface decoration. This only protects the shape and configuration of objects, i.e. how different parts of a design are arranged together. It protects 3D objects and arises automatically on creation and there is no need to register this right. The current relevant legislation for design rights is Copyright, Designs and Patent Act 1988.
  - 2.2.3. **Registered Design** – a right which subsists in the appearance of the whole or part of a product resulting from the features of, in particular, the lines, contours, colours, shape, texture or materials of the product or its

ornamentation, e.g. the design of a watch, surface decoration, textiles or 3D patterns. You must register this right to obtain protection over this type of IPR. The current relevant legislation is the Registered Design Act 1949.

- 2.2.4. **Patent** – a patent may be granted for an invention where the invention is new, it involves an inventive step, it is capable of industrial application and it meets the legal requirements. You must register this right to obtain patent protection of the invention. The current relevant legislation is the Patents Act 1977.
- 2.2.5. **Trade Marks** – a trade mark is any sign capable of distinguishing goods or services of one business from those of the others e.g. 'V&A' is the trade mark used to distinguish a leading art and design museum from other design museums. A trade mark may consist of words (including personal names), designs, letters, numerals or the shape of goods or their packaging or even musical jingles. You must register the trade mark to obtain registered trade mark protection. The current relevant legislation is the Trade Marks Act 1994.

### **3. Undergraduate Students and IPR**

- 3.1. GSA does not claim any ownership of any Student IP by default. This means that undergraduate students own any Student IP they create during their study at GSA, e.g. any IPR arising in lecture notes, essays, drawings, paintings, photographs etc. (except for any third party content used in such work, i.e. content that was created or is owned by another person or organisation). However, if a student is also an employee of GSA, the student should refer to their employment contract and GSA's Business Development Policy for details on ownership of IP created during the course of their employment.
- 3.2. All students must keep private any information provided to them by GSA during the course of their studies which is of a confidential nature; they must only use this information for the purpose for which it was supplied and not disclose it to third parties.
- 3.3. While Student IP usually belongs to the student who created it, there may be circumstances when a student will be required to assign Student IP to GSA (or a third party, if appropriate). For example: -
  - 3.3.1. a student undertakes a sponsored studentship with a sponsoring third party who is claiming ownership of IP arising out of such studentship;
  - 3.3.2. participation in a research project or taught student project sponsored or funded by a third party including where the output may be potentially commercialisable IPR; or

3.3.3. collaborating with GSA in the production of teaching materials.

3.4. In the circumstances outlined in paragraph 3.3, GSA shall discuss and agree fair and reasonable terms with the student with regard to transferring ownership of the Student IP and, where appropriate, any sharing of income generated by commercialising the Student IP (the student is referred to paragraph 7 of this IP Policy for further information on commercialisation). To assign their rights in the Student IP to GSA (or a third party if appropriate), the student shall be required to sign an assignation of IP rights form, or other written document, which will be provided by GSA to the student. Where the student does not, following a request by GSA, assign his or her rights in relation to the Student IP as set out in this paragraph 3.4, then GSA may, at its discretion (acting reasonably), withdraw the student from the studentship, research programme or student project and/or other action which it deems appropriate.

#### **4. Postgraduate Students and IPR**

4.1. IP ownership of postgraduate students is determined by the source and condition of their grant. Externally funded postgraduate students shall be obliged to inform GSA of their grant terms and conditions at the point of enrolment. Ownership of Student IP will be as follows:

4.1.1 Postgraduate students sponsored by an external third party: IP ownership shall largely be determined by the requirements of the external third party funder, in its role as the sponsor. The student shall be required to enter into an agreement with GSA and the third party funder prior to commencing their studies, which may, depending on negotiations between GSA and the third party sponsor, include provisions assigning IP generated as part of the project to GSA and/or the third party funder.

4.1.2 Postgraduate students financed by GSA Research Grants: students financed by GSA research grants shall be required to assign their student IP to GSA, provided that this does not contravene their conditions of grant and other arrangements with other grant awarding bodies. They shall be required to enter into an agreement with GSA prior to commencing their studies.

4.1.3 Postgraduate students financed by themselves: students financed by themselves, their family or friends or via their own personal banking loan shall own their own Student IP.

4.1.4 Collaborating with GSA in the production of teaching materials: Student IP created by a post-graduate student in collaboration with GSA in the

production of teaching materials would be owned by GSA and the student will be required to enter into an IPR assignment prior to commencing the work.

## **5. Student Obligation to Disclose**

- 5.1. Where a student is involved in a studentship, research project or other arrangement involving a third party as envisaged under clauses 3 or 4 of this IP Policy, the student must disclose to GSA all Student IP and all associated materials and research results he or she creates under or in relation to such project as soon as reasonably practicable. For the avoidance of doubt, this paragraph 5 does not oblige a student to disclose all Student IP created in so far as such Student IP is non-material day to day work e.g. lecture or working notes but rather it is intended to cover material Student IP including but not limited to, project outputs and research reports.

## **6. IPR Licence to GSA**

- 6.1 All GSA students grant GSA a non-exclusive, fee-free, royalty-free, world-wide, perpetual, irrevocable, sub-licensable, transferable licence to use his or her Student IP on any medium (whether existing now or in the future) for non-commercial, administrative, promotional, educational, charitable (including fundraising), research and teaching purposes.
- 6.2 The licence granted under paragraph 6.1 shall take effect on the date the relevant IPR is created and the student shall do all such acts as are reasonable necessary as requested by GSA in order to give effect to paragraph 6.1 and this policy generally. When using the Student IP GSA shall use its reasonable endeavours to credit the Student as the creator of the relevant work.

## **7. Protection and Commercialisation of IP**

- 7.1 Where GSA and/or the student are of the view that Student IP is capable of being commercialised, GSA and the student may meet to discuss commercialisation. The extent to which GSA will be involved in any such commercial activity will be at GSA's discretion and may range from GSA not being involved, to it providing reasonable support to the relevant student to allow the student to commercialise the Student IP, to taking steps to protect and/or commercialise any Student IP itself; GSA's decision will take into consideration any agreement it has in place with any third party sponsor or funder as well as other relevant considerations.
- 7.2 When the situation described in 7.1 applies, it is vital that students keep IPR confidential, particularly in relation to patents, until GSA or, if applicable, a third party takes steps (if appropriate) to protect the IPR. Students are urged to discuss

any questions they have in this regard with GSA's Student Employability and Enterprise Manager.

- 7.3 Where GSA agrees to assist the student to commercialise his or her Student IP, GSA and the student shall agree fair and reasonable commercial terms (including ownership of the Student IP and/or sharing any income generated as a result of such commercialisation). Where GSA decides (with agreement from the student) to protect or commercialise the Student IP itself (as opposed to simply providing support to the student to do so), it may require the student to assign his or her rights in the Student IP to GSA and the student shall be required to provide reasonable assistance to GSA in the protection and/or commercialisation of any such Student IP as reasonably required. Where the Student IP is assigned to GSA for the purposes set out in this paragraph 7.3, GSA shall licence to the student such rights in the Student IP to allow it to continue to use the Student IP to complete his or her programme of study (including his or her course work and degree show) and shall also allow the student to use such Student IP for the furtherance of his or her career, subject always to such use being non-commercial.
- 7.4 If a student suspects, or has knowledge of, a third party infringing the Student IP it must notify GSA's Student Employability and Enterprise Manager within GSA as soon as reasonably practicable.
- 7.5 In the event GSA owns the Student IP (as opposed to a third party), whether as envisaged by this clause 7 or otherwise, and it decides not to protect or commercialise the IPR within 2 years of its being assigned to GSA, the student or students whom created the Student IP may request that GSA transfers ownership of the IPR back so as to allow the creators to protect and commercialise such Student IP. GSA shall act reasonably in responding to any such request and if granted, may impose certain restrictions on any such assignation for example, that the student uses GSA's branding when commercialising the Student IP.

## **8. Dispute Resolution**

- 8.1 In the event any student is dissatisfied with any decision or action taken by GSA in respect of this IP Policy, it should follow the process set out in GSA's complaint handling procedure at <http://www.gsa.ac.uk/about-gsa/our-structure/academic-services/complaints/>

## **9. Conflict**

- 9.1 In the event this IP Policy conflicts with any other GSA policy, terms and conditions or other written document, this IP Policy shall take precedence.