

AIE Institute Intellectual Property Policy and Procedure

1 Purpose and Scope

The purpose of this policy and procedure is to promote the development and commercialisation of knowledge generated in connection with teaching and scholarly activity at AIE Institute in accordance with the Intellectual Property License Agreement (IPLA).

It describes the principles of ownership, licensing, management, commercialisation and use of Intellectual Property (IP) created by AIE Institute staff, visitors, contractors, and students.

This policy and procedure applies to all AIE Institute staff, visitors, contractors, and students.

2 Objectives

AIE Institute is committed to:

- a. Supporting staff and students in their entrepreneurial and commercial endeavours
- b. Establishing mechanisms for the identification, protection, management and commercialisation of IP created by students
- c. Facilitating engagement with external industry partners and ensuring that AIE Institute IP is utilised for maximum benefit to AIE Institute
- d. Identifying and managing risks associated with commercialisation.

3 Implementation

The CEO has overall responsibility for the implementation of this policy and procedure, in particular with licensing and commercialisation. The Academic Director is responsible for the implementation of this policy and procedure with regard to the generation of educational resources, teaching and scholarly activity.

3.1 Scholarship and the creation of Intellectual Property (IP)

Scholarship activities are a core component to AIE Institute which benefit the needs of AIE Institute, staff and its students. The outcome of scholarship is the distillation of new or improved knowledge, appreciation or insights into teaching & curriculum and other elements of academic operations. Scholarship activities are also vital building blocks in helping to create internal capacity within AIE Institute that up-skills existing faculty so as to improve their knowledge and skills.

Staff who possess appropriate skills and expertise are involved in the continuous improvement and development of curriculum and other projects at AIE Institute. Staff chosen to undertake project development allocations are supervised by the Academic Director to ensure that both parties are able to learn and acquire new skills and, in the process, either advance knowledge or professional practice in a field or contemporary pedagogy.

Importantly, Scholarship activities carried out in conjunction with external industry partners enable the creation of AIE Institute IP which can be commercialised and generate a revenue stream for the benefit of AIE Institute. AIE Institute encourages its staff to engage in valuable IP industry partnership.

4 Procedure

4.1 Approach

AIE Institute's approach to scholarship is underpinned by the following tenets:

- a. A Creative work is accepted as scholarly equivalent if it supports the creation of new knowledge and/or the use of existing knowledge in a new and creative way so as to generate new concepts, methodologies and understandings
- b. AIE Institute distinguishes between (i) professional practice and (ii) scholarly practice; the first being necessary to provide the maintenance of expertise and knowledge to carry out the latter.

The Board of Directors may inform the direction and focus of AIE Institute's scholarship activities, including in conjunction with external industry partners.

4.2 Ownership of intellectual property

4.2.1 Staff IP ownership

Intellectual property created in pursuit of or incidental to the performance of a staff member's employment contract at AIE Institute is considered to have been created in the course of employment whether or not a staff member's express duties include a duty to develop IP. As such AIE Institute owns all IP created by staff in the:

- a. Course of their employment with AIE Institute
- b. Course of using funding, facilities or resources of AIE Institute
- c. Conduct or creation of any works commissioned by AIE Institute via separate agreement, other than the contract of employment, unless agreed otherwise which vests in AIE Institute at law.

In the case of scholarly works created by staff, AIE Institute assigns staff the right to publish such work subject to a perpetual, world-wide, royalty free, non-exclusive licence in favour of the Institute, consistent with their contract of employment.

All staff, contractors and contributors to AIE Institute IP with commercialisation potential must identify, keep confidential, be involved in and facilitate the commercialisation of IP. In particular, all staff have a specific duty to fully disclose to AIE Institute IP with potential commercial value, to the Academic Director in the case of education resources or to AIE Institute's CEO in the case of other AIE Institute IP.

Any distribution to staff from net commercialisation revenue received from commercialisation of education resources will be determined by the Board of Directors.

Commercialisation of AIE Institute IP (other than education resources) will be pursued by the CEO who will have the specific function of protecting and commercialising IP developed at AIE Institute and supporting staff in the recognition and identification of commercialisable IP.

AIE Institute consents to the use of AIE Institute education resources by staff to fulfil their teaching, research and training responsibilities at AIE Institute. This use does not include any use for commercial purposes, nor does it involve a transfer of ownership of AIE Institute IP.

Unless subject to a confidentiality or separate legal constraint, AIE Institute recognises that staff may personally use knowledge they have developed in the course of their employment at AIE Institute, once that employment ceases. That right does not extend to the reproduction of AIE Institute education resources.

4.2.2 Student IP ownership

This policy and procedure establishes special mechanisms for the identification, protection, management and commercialisation of IP created by students.

4.2.2.1 The Purpose – Commercialisation

AIE Institute wants students to be able to commercialise their projects after they graduate.

4.2.2.2 The Challenge – IP integrity

The IP students produce while at AIE Institute – source code, game design, music, 3D models, textures, animations, etc. – will be produced in collaboration with other students and incorporated into a larger work, usually a computer game or a film. Works that incorporate IP from many authors can be difficult to commercialise unless all the IP is properly identified, managed, and licensed or sold. A single intransigent creator can make the work worthless for everyone.

4.2.2.3 The Solution – AIE Institute as IP Custodian

The most effective way to protect the integrity of all the IP incorporated into a complex work like a computer game is to ensure all the IP is housed inside a single entity. Usually, this would be a joint-venture company the authors own, but that is not a feasible solution for students while they are studying and working in fluid groups. To overcome this, AIE Institute acts as “custodian” of all original IP its students create during their studies and agrees to assign that IP back to the students’ nominated commercialisation vehicle upon graduation.

4.2.2.4 How it works

The system works as follows:

- a. Enrolment: On enrolment, all students assign all their IP rights arising from their studies to AIE Institute.
- b. During studies: AIE Institute then acts as the single repository for the students’ IP.
- c. Upon graduation: AIE Institute transfers all the relevant IP to a business run by students or graduates of AIE Institute, who wish to commercialise it wherever possible.
- d. Dispute resolution: AIE Institute also performs a dispute resolution role in the event students are unable to agree about the IP’s commercialisation, which may involve separate licences being given to more than one team.

This approach reduces the risk of claims by other students that they own any of that IP. It will also assist with the attraction of industry and government funding, the generation of financial returns for businesses belonging to graduates of AIE Institute, and the ability for graduates of AIE Institute to benefit as much as possible from the IP they create.

4.2.2.5 The legal infrastructure

This arrangement requires tailored legal agreements to make it work. This is why AIE Institute requires students to agree to the IP Terms and Conditions when they enrol, assigning IP they create to AIE Institute, as a condition of study at AIE Institute.

The agreement also requires the students to waive their moral rights under the *Copyright Act 1968 (Cth)*. “Moral rights” are the rights of the author to be recognised as the author of a work, the right for authorship not to be attributed to someone else, and the right to object to the derogatory treatment of a work. These personal rights cannot be assigned or licensed, only be waived. Whilst AIE Institute will endeavour to attribute authorship wherever commercially practicable, AIE Institute requires a waiver of the moral rights of each student, and their consent to the infringement of their moral rights, to simplify the commercialisation of the IP. Despite the assignment of the IP to AIE Institute, the student always retains the right to use that IP for non-commercial uses such as promoting their skills and talent.

Under the IP Assignment Agreement, AIE Institute will reassign the IP where AIE Institute can be reasonably satisfied the relevant students/graduates:

- a. Were the primary originators of the IP.
- b. Have established an identifiable registered business to become the owner of the IP.
- c. Agree to acknowledge all creators of the original IP.
- d. Agree to re-author any work associated with the IP that was created with educational versions of software licences.
- e. Have produced any necessary research output as part of the requirements (e.g. thesis) for meeting the award of a qualification.

AIE Institute is the final arbiter of any dispute between students about who or how the IP should be assigned to best permit its commercialisation. This power is rarely needed, except where student teams split or have a “falling out”.

4.2.2.6 Miscellaneous considerations

AIE Institute retains the right to exclusively use any student work, photos, moving imagery or testimonials for marketing, promotional and related activities. Students may choose to opt-out of appearing in photos or moving imagery.

In order to participate in certain work integrated learning activities, students may be requested to assign their IP to industry partners as part of an internship agreement.

Assignment of student IP to AIE Institute will also be required for a student to work on an AIE Institute project as part of their coursework assessment (i.e. student collaboration projects such as group work).

Where a student assigns IP to AIE Institute and the IP is commercialised by AIE Institute, the student will be deemed a creator for the purposes of the Intellectual Property Protection and Commercialisation Procedure.

Where a staff member is also a student, AIE Institute owns all IP created by the staff member and takes precedence over their role as a student.

4.2.3 Visitors IP ownership

AIE Institute does not, as a matter of course, assert ownership of IP created by visitors. However, where the visitor is working as part of a project activity, and in particular where the activity is externally funded, AIE Institute may require the visitor to agree to an IP arrangement in line with project requirements in order to become involved, or continue involvement in the activity.

For avoidance of doubt, when a previous staff member transitions to, or returns to AIE Institute as a visitor or student, IP previously created by them as staff will remain owned by AIE Institute.

Provisions to properly manage background IP or AIE Institute IP to be used should be agreed and documented in a separate written agreement.

4.3 Licensing of education materials, scholarly works and creative works

4.3.1 Education materials

AIE Institute asserts ownership of IP in education materials generated by staff, students, visitors or contractors except where the work is specifically commissioned by AIE Institute through a separate agreement (for example, outside the scope of an employment contract).

4.4 Background intellectual property

Any staff, visitors, contractors, and students must inform AIE Institute of any background IP they wish to use in any project or activity prior to the commencement of that activity. The staff, visitors, contractors, and students must not use background IP owned by themselves or third parties, in work related to AIE Institute until there is a written agreement in place regarding AIE Institute's rights in respect of that background IP.

4.5 Joint intellectual property

Intellectual property can sometimes be owned jointly by two or more parties, where all parties have contributed jointly to creation of the IP. Where a student or visitor, has not assigned ownership of IP to AIE Institute, and the student or visitor and another party have created joint IP, all parties must reach written agreement on any dealings with that IP.

For students, IP arrangements with external advisors and other collaborators will be agreed in writing with AIE Institute (generally through a paragraph in the letter of invitation that clearly outlines IP ownership and licensing, or a term sheet).

4.6 Moral rights

AIE Institute recognises the moral rights of the creators of works in which copyright subsists in accordance with the *Copyright Act 1968 (Cth)*. These rights include the right of attribution of authorship, the right that a work not be falsely attributed and the right of integrity of authorship (that a work not be unreasonably treated, altered or used in such a way that it harms the reputation of the creator).

AIE Institute will, wherever possible, protect the moral rights of staff, students, visitors particularly where the specified acts may affect academic standing or the proper attribution of academic work intended for open publication. If necessary, under an agreement between AIE Institute and a third party, the creator may be requested to provide a written consent to specified acts with respect to their moral rights in works created pursuant to such third party agreement.

4.7 Confidentiality obligations

Staff, visitors, contractors, and students must not act in a manner which would result in:

- a. The loss of the opportunity to protect or commercialise AIE Institute IP
- b. AIE Institute being in breach of its obligations to third parties concerning IP.

4.8 Execution of documents

A creator must, as required by AIE Institute, execute all documents and do all acts that may be necessary or desirable in a timely manner to give full effect to the provisions of this policy and procedure.

5 Definitions

AIE Institute IP means intellectual property owned by AIE Institute in accordance with the Intellectual Property Policy and Procedure and includes IP referred to in the Intellectual Property License Agreement (IPLA).

Background confidential information means any data or information which a student, staff, visitor, or contractor is legally obliged to treat as confidential. An example of this could be as a result of the terms and conditions of a previous employment contract, or a non-disclosure agreement or Work Integrated Learning Agreement.

Background intellectual property means any IP owned by a student, staff, visitor, or contractor that is licensed to them from a third party, which may be used while the student, staff, visitor, or contractor has a connection with AIE Institute.

Commercialise means to exploit commercially and includes:

- a. In relation to an IP right; the exercise of all the rights exclusively granted to the holder of such IP rights by the laws of the jurisdiction in which the IP right subsists, including where permitted the right to sub-licence those rights
- b. In relation to a product, kit, apparatus, substance, documentation or information resource (or any part of such materials): to make, distribute, market, sell, hire out, lease, supply, or otherwise dispose of it
- c. In relation to a method or process: to use the method or process or to make, distribute, market, sell, hire out, lease, supply, or otherwise dispose of a product, kit or apparatus the use of which is proposed or intended to involve the exercise of the method or process.

Commercialisation – similarly defined to commercialise.

Creative work means an artistic, literary, musical, dramatic, film, sound, video game, game engine, software library, multimedia work, performance, diagram, map, chart, photograph or other creative work in which copyright subsists (irrespective of the medium in which the work is recorded).

Creator means any staff, visitor, contractor, and student who contributes to the creation, development or invention of any IP whether or not in conjunction with other persons.

Education material means all materials produced by staff, visitors, contractors, and students for use in, teaching at AIE Institute (for example, lecture notes and material, syllabi, handouts, study guides, course software and assessment materials) regardless of format (for example, printed, digital, electronic, multimedia presentations and web content), but excludes personal lecture notes that are not made available to students or personal notes taken by students to assist in study. To the extent a work may be both education materials and a Scholarly Work, it will be treated in this Policy as education materials.

Intellectual property (IP) means any and all industrial and intellectual property rights (whether or not registered or registrable or having to undergo any other process for grant, registration or the like) including rights in respect of:

- a. Literary, artistic, musical and dramatic works in which copyright subsists (including future copyright)
- b. Field and laboratory notebooks
- c. Video game, video game engines, tools, crypto related engines or routines, software libraries, databases, computer software and related material not otherwise coming within any of the other designated items of IP
- d. Cinematographic and multimedia works in which copyright subsists (including future copyright)
- e. Performances of performing artists, sound recordings and broadcasts
- f. Patentable and non-patentable inventions (including granted patents and patent applications)

- g. Registered and unregistered designs, plant varieties and topographies
- h. Circuit layouts and the like
- i. Registered and unregistered trademarks, trademark applications, service marks and commercial names and designations
- j. Scientific discoveries
- k. Confidential information, trade secrets and know-how and other proprietary information associated with any of the other designated items of intellectual property
- l. Any other intellectual property rights as defined in Article 2 of the Convention (Dated 14th July 1967) establishing the World Intellectual Property Organisation (as amended from time to time).

Moral rights has the meaning set out in the *Copyright Act 1968 (Cth)*.

Net commercialisation revenue means all gross revenue minus without limitation all commercialisation expenses including costs of AIE Institute out of pocket expenses, third-party out-of-pocket distribution and sales, all third party participations, fees, bonuses, financing costs, loan repayments and interest arising from commercialisation activities.

Scholarly works means copyright works that are created intended for collaborative industry related development, whether or not in collaboration with AIE Institute, and all academic publications (for example, any article, book, manuscript, or manual) and have been peer reviewed, regardless of format (for example, printed, digital or electronic versions) created by staff, visitors, contractors, and students.

Staff means the officers and employees of AIE Institute, and includes academic, professional, technical and administrative officers and employees.

Student means any student enrolled in an approved course at AIE Institute, or in a course or program of study conducted by or on behalf of AIE Institute.

Visitor includes any person given access to AIE Institute resources for the purposes of undertaking academic study, education, research or development, whether or not in collaboration with AIE Institute. For the avoidance of doubt, this policy applies to visitors during the period of their time at AIE Institute, and beyond where IP was generated during their time at AIE Institute.

6 Related Documents

The following policies and procedures are related to this policy:

- a. Intellectual Property License Agreement (IPLA)
- b. Staff Professional Development and Scholarship Policy and Procedure

7 Review

Three years from commencement.

8 Accountabilities

The Board of Directors is responsible for review and approval of this policy and procedure.