

# Guidelines for ASC Schools on the Use and Protection of Intellectual Property

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## 1. Introduction

***All ASC Schools should have or develop an Intellectual Property Policy.***

### **What is Intellectual Property?**

- a. Intellectual property (IP) refers to creations of the mind: inventions, literary and artistic works, and symbols, images, and designs used in commerce.
- b. IP is divided into two categories:
  - **industrial property** which includes inventions (patents), trademarks, industrial designs, and geographic indications of source;
  - **copyright**, which includes literary and artistic works such as novels, poems and plays, musical works, artistic works such as drawings, paintings, photographs and sculptures, and architectural designs. Rights related to copyright include those of performing artists in their performances, producers of phonograms in their recordings, and those of broadcasters in their radio and television programmes.

## 2. Patents and Protection

### **Types of IP relevant for schools**

- a. Literary (including computer programmes), artistic, musical and scientific works.
  - Copyright protects the original expression of ideas, not the ideas themselves.
  - Although making copies of copyright material can infringe exclusive rights, a certain amount of copying is permissible under the fair dealing provisions of the legislation.
  - Copyright is administered by the Attorney General's Department
  - [www.aq.gov.au/www/aqd.nsf/Page/Copyright](http://www.aq.gov.au/www/aqd.nsf/Page/Copyright)
- b. Multimedia subject matter
  - Copyright protection as above
- c. Performances of performing artists, phonograms and broadcasts
- d. Inventions and patents
  - a patent is a right granted for any device, substance, method or process which is new, inventive and useful.
  - a patent is legally enforceable and gives the owner exclusive rights to commercially exploit the invention for the life of the patent.
  - patents must be applied for and last for 20 years.
  - applications for patents must be filed with IP Australia.
- e. Scientific discoveries
  - Patent as in section (d)
- f. Industrial designs

- A design refers to the features of shape, configuration, pattern or ornamentation which gives a product a unique appearance.
  - Design registration is intended to protect designs which have industrial or commercial use. Designs which are essentially artistic works are covered by copyright legislation.
- g. Trademarks, service marks and commercial names and designations
- A trademark can be a letter, number, word, phrase, sound, smell, shape, logo or picture.
  - It is used to distinguish goods and services of one trade from those of another.
  - **All ASC school crests and names should be registered trademarks.**
  - Registrations should be filed with the Trade Marks Office of IP Australia and must be renewed every 10 years.
  - **Applications for Registration and renewal will be signed and lodged by the ASC as the school's legal entity.**

For further information go to [www.ipaustralia.gov.au/](http://www.ipaustralia.gov.au/)

### 3. School Policy Statement regarding IP

All ASC schools are required to publish a statement regarding Intellectual Property. It should also be contained, or referred to, (by directing staff to the school's Staff Handbook or other relevant document), in all Staff Letters of Appointment.

The wording below is not a legal document but has been provided by AISWA and may be used by schools when developing their own policy document pertaining to the ownership of intellectual property:

"All material produced for the School by a teacher, or any other employee, in the employ of the School during the School's time or time paid for by the School or using the School's resources remains the sole property of the School.

Similarly any material prepared for the School by an external source, including contractors and volunteers, which has been purchased or granted to the School is the sole property of the School unless stated otherwise.

The policy applies to all employees of the School and to any university student participating in a Teaching Practice or any other activity associated with the student's course."