

Monash University Procedure

Procedure Title	Intellectual Property – Dispute Resolution Procedures
Parent Policy	Intellectual Property – IP Commercialisation, Revenue Sharing Provisions and Dispute Resolution Policy
Date Effective	14-September-2017
Review Date	14-September-2020
Procedure Owner	Deputy Vice-Chancellor (Enterprise)
Category	Intellectual Property
Version Number	1.0
Content Enquiries	innovation@monash.edu
Scope	All staff All students All Affiliates
Purpose	To establish the mandatory processes for the fair and timely resolution of disputes about IP ownership, Commercialisation or Revenue Sharing.
PROCEDURE STATEMENT	

1. Informal resolution of disputes

- 1.1 If a dispute arises in relation to IP ownership, commercialisation, or commercialisation revenue sharing, the matter will first be referred by the relevant Dean and the Deputy Vice-Chancellor (Enterprise) to the Designated Person [https://www.monash.edu/__data/assets/pdf_file/0003/137082/provost-notice-re-designation-of-person-to-receive-notices-of-ip.pdf].
- 1.2 The Designated Person will attempt to resolve the dispute and in doing so may seek assistance and advice from within and external to the University, as appropriate.
- 1.3 If the matter cannot be resolved by the Designated Person, or if the staff member or student or affiliate involved in the dispute notifies the Designated Person that he or she is not satisfied with the resolution, then the Designated Person must notify the Provost or delegate (hereafter referred to as Provost) who shall refer the matter for final determination.

2. Formal resolution of disputes

- 2.1 Where there is a dispute notified to the Provost about IP ownership or commercialisation or commercialisation revenue sharing, it will be dealt with according to these procedures.
- 2.2 Where the Provost is satisfied that the dispute is unable to be resolved by the Designated Person, the Provost, or if the Provost is a party to the dispute, the Vice-Chancellor will determine the most appropriate mechanism for determination of the dispute. In making this determination the Provost or Vice-Chancellor will have regard to the role of the persons involved in the dispute in relation to the IP in question, the

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nature and complexity of the matters involved in the dispute, and the desirability of achieving a binding resolution of the dispute.

- 2.3 The Provost or Vice-Chancellor will appoint such person or persons he or she considers qualified and appropriate to determine the dispute. This may be a person or persons from within or external to Monash University.
- 2.4 The person or persons appointed to determine the dispute:
- 2.4.1 will identify the issues in dispute;
 - 2.4.2 will provide each party to the dispute with details of the issues in dispute and an opportunity to provide evidence and make submissions in support of their position on those issues;
 - 2.4.3 will identify any specialist expertise needed to assist to determine the issues in dispute;
 - 2.4.4 may seek information or advice from any other person or organisation considered to have information that may be relevant to determine the dispute;
 - 2.4.5 may in their absolute discretion convene a meeting or meetings to hear directly from any party to the dispute or any other person with information that may assist in the determination of the issues in dispute;
 - 2.4.6 where a party to the dispute is invited to attend a meeting, will provide that person with the opportunity to be accompanied and assisted by a person of their choice, which may include a legally qualified person if not less than 5 working days' notice of their attendance is provided to the Provost's appointee;
 - 2.4.7 may make enquiries and seek information on any manner as seen fit;
 - 2.4.8 may do anything reasonably necessary for or in connection with the determination of the dispute;
 - 2.4.9 is bound by the rules of natural justice but not the rules of evidence;
 - 2.4.10 will act with all reasonable expedition to determine the dispute having regard to the complexity of the issues in dispute and the availability of information and evidence necessary to determine the dispute;
 - 2.4.11 will notify each party of the expected timeline to determine the dispute and notify each party of any delay or expected delay to such timeline;
 - 2.4.12 may obtain independent legal or expert advice on any matter arising;
 - 2.4.13 will, in all other respects, determine their own procedure.
- 2.5 The person or persons appointed by the Provost or Vice-Chancellor shall be fully empowered to determine the matters in dispute.
- 2.6 Where more than one person is appointed by the Provost or Vice-Chancellor to determine the dispute, then one person shall be appointed as the Chair by the Provost. If two persons are appointed and cannot agree then the matter will be referred back to the Provost or Vice-Chancellor for decision. If three or more persons are appointed then the decision is made by a majority, with the Chair to have a casting vote in the event of no majority.
- 2.7 The parties to the dispute, the Designated Person and the Provost or Vice-Chancellor must be informed of the decision and reasons for it within 14 days of the decision being made.

Responsibility for implementation	Deputy Vice-Chancellor (Enterprise)
Status	New

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Approval Body	<p>Name: President and Vice-Chancellor</p> <p>Date:</p>
Definitions	<p>Designated Person: means the person designated by the Vice-Chancellor under Part 5 of the Monash University (Vice-Chancellor) Regulations to receive notices from the creators of IP that has the potential to be commercialised.</p> <p>Intellectual Property or IP: means all intellectual and industrial property rights conferred by statute, at common law or in equity, including patents, inventions, research data, designs, copyright, trade marks, brand names, product names, domain names, rights in circuit layouts, plant breeder's rights, trade secrets and any other rights arising from confidential information, and any other rights subsisting in the results of intellectual effort in any field, whether or not registered or capable of registration.</p>
Legislation Mandating Compliance	
Related Policies	<p>Copyright Compliance Policy</p> <p>Authorship Policy</p>
Related Documents	<p>Intellectual Property and Confidentiality Declaration</p> <p>Handbook for Doctoral Degrees – Chapter 6 Intellectual Property</p> <p>Handbook for Research Master's Degrees – Chapter 6 Intellectual Property</p> <p>Designation of person to receive notices from the creator of intellectual property with commercialisation potential</p>