Intellectual Property

INTELLECTUAL PROPERTY

Digital Essentials

THE UNIVERSITY OF QUEENSLAND LIBRARY

The University of Queensland

CONTENTS

MODULE OVERVIEW

Aims and objectives

This module will:

- explain Intellectual Property (IP) and its protection
- help you to understand your rights and obligations.

After completing this module, you will be able to:

- understand the implications of different types of IP
- take steps to protect your IP in different circumstances.

Module sections

1. Intellectual Property and its value
2. IP with automatic protection or no protection
3. IP requiring registration
4. IP at the University of Queensland and other workplaces
5. Is your idea original?
6. Indigenous Knowledge
7. Global implications
8. IP ownership
9. Social media and IP
10. Check your knowledge
11. Conclusion

Download versions are available on the homepage.

Duration:
Approximately 30 minutes

Student partnership

This module was developed with UQ student partners as part of a Student-Staff Partnership project.

Graduate attributes

Knowledge and skills you can gain from this module will contribute to your Graduate Attributes:

Respectful leaders

This module is part of Digital Essentials, a series of online modules to help you quickly build your digital skills so you can succeed in study and work.

Return to UQ Library.

1. INTELLECTUAL PROPERTY AND ITS VALUE

What is Intellectual Property (IP)?

IP refers to the ownership of creations or knowledge resulting from intellectual efforts. IP protects the idea and gives the owner the right to decide how others can apply it.

There are a few different types of IP, with copyright, trademarks and patents the most well-known. Each of these covers a different aspect of your creations, so it is important to know the difference between them all. We will cover these differences more as we go through the module.

The value of your IP

If you develop an idea or content that is new or original you may want to protect your ownership rights.

The value of your Intellectual Property (IP) (YouTube, 47s):

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Your ideas or content

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online here:

https://uq.pressbooks.pub/digital-essentials-intellectual-property/?p=90#h5p-8

2. IP WITH AUTOMATIC PROTECTION OR NO PROTECTION

- [Automatically protected IP](#)
- [Duration of protection](#)
- [Assert your ownership](#)
- [Works with no copyright protection](#)

Automatically protected IP

These types of IP are **automatically protected** for a certain duration:

- Copyright
- Trade secrets
- Circuit layouts.

🖱️ Check which types of IP have automatic protection

Click **Turn** to learn more about each type of IP. Click the arrow to move to the next slide.

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> *https://uq.pressbooks.pub/digital-essentials-intellectual-property/?p=92#h5p-9*

Duration of protection

The duration of protection depends on the type of IP.

Copyright

In Australia, "copyright for literary, dramatic, musical and artistic works generally lasts 70 years from the year of the author's death or 70 years from the year of first publication after the author's death. Copyright for films and sound recordings lasts 70 years from their publication or 70 years from the year in which they were broadcast." – IP Australia.

The Australian Copyright Council has a fact sheet explaining the duration of copyright in detail.

Trade secrets

Trade secrets don't have a limit on the length of protection. It is up to the owner of the trade secret to keep it a secret.

Circuit layouts

IP Australia explains that a circuit layout's "maximum possible protection period is 20 years".

Assert your ownership

You do not need to register to protect your rights for these types of IP but you can still take steps to assert your ownership.

It is not necessary but adding a **copyright notice (a "C" enclosed in a circle)**, followed by **your name and date** is a reminder to others that the work is owned by someone and **may help you prove your ownership** for example, if you are sharing the work online.

⚠ Copyright statement example

An example of a copyright statement that can be applied to a work is:

© The University of Queensland 2023.

Protecting your copyright, from the Australian Copyright Council, recommends:

- Keeping dated copies of material, such as recordings, documents, images
- Keeping copies of communication with people who have access to the work
- Any agreements about copyright are in writing, not just verbal.

For trade secrets, IP Australia recommends the use of confidentiality agreements for employees and others, to protect the knowledge.

If you are **commissioning creative works**, then the ownership of IP should be considered and included in the **terms and conditions** of the contract.

Works with no copyright protection

Some works might not meet the requirements to receive copyright protection. These include:

- **Data sets** – The data within a set is considered fact and is not able to be copyrighted. The formatting of the data within the set and the formatting of any graphs or tables could be copyrightable.
- **Screenshots**
- **Photographs** of **existing** works
- **Single words** – These might be able to be trademarked.
- Works created by **non-humans**. This includes content created by **Artificial Intelligence (AI)**.
  - The Complex World of Style, Copyright and Generative AI blog discusses some of the issues around copying works to train AI and whether that should be considered copyright infringement.

⊙ Using screenshots

While screenshots themselves aren't copyrightable, the underlying content in the screenshot is subject to copyright. If you want to publish a screenshot on a video, social media post or other web content you should **check the copyright owner's terms of use** or get their **written permission** first.

Examples of terms of use:

- Microsoft's Use of Microsoft copyrighted content grants permission to use screenshots of certain content only and lists a number of requirements for allowed

use.

- [Nintendo's Game Content Guidelines for Online Video & Image Sharing Platforms](#) states that they do not object to the sharing of footage or screenshots from Nintendo games subject to certain rules, including that it must include "creative input and commentary".

3. IP REQUIRING REGISTRATION

These kinds of IP require official registration to protect your rights:

- Patents
- Trademarks
- Designs
- Plant breeder's rights
- Geographical indications.

IP Australia has resources on applying for the different types of IP.

Check what type of IP requires official registration

Click **Turn** to learn more about each type of IP. Click the arrow to move to the next slide.

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> https://uq.pressbooks.pub/digital-essentials-intellectual-property/?p=94#h5p-10

IP protection in action

Patents

Medical drugs and vaccines are examples of processes that can be protected by patents.

In 2021, some governments recommended waiving IP protection for COVID-19 vaccines as a possible method of increasing the distribution of vaccines across the world.

Ⓡ Trademarks

McDonald's Golden Arches are an example of an internationally known trade marked logo. The word "McDonald's" is also a trade mark.

Registered trademarks are not the same as domain names. A domain name allows you to use the URL only. For example, in the Kylie vs Kylie international trade mark battle, Kylie Minogue owning the domain name www.kylie.com did not prevent Kylie Jenner from applying to trade mark the name "Kylie".

Designs

IP Australia recommends keeping your design a secret until you have applied for IP protection. For example, if you post your design on social media before you apply, it will be no longer be considered new and will affect your claim for the design rights.

Plant breeder's rights

The Case of the pirated blueberries explains some of the implications of growing and selling plants that have IP protection. In this case, a farmer grew and sold a variety of blueberry that a plant breeder had registered for exclusive rights to grow and sell.

Geographical indications

You can face a legal battle if you try to use a geographical indicator in your business, such as "Champagne Jayne" who got involved in a dispute with the Comité Champagne. The Comité Champagne, who state "Champagne only comes from Champagne", accused Champagne Jane of damaging the champagne brand.

IP Australia has more information about the different types of IP.

(?) What type of intellectual property (IP) is it?

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https://uq.pressbooks.pub/digital-essentials-intellectual-property/?p=94#h5p-11

4. IP AT THE UNIVERSITY OF QUEENSLAND AND OTHER WORKPLACES

The University of Queensland IP policy

The [Intellectual Property policy](#) regulates the ownership and protection of the University's Intellectual Property.

As a UQ undergraduate or postgraduate coursework student

In most cases, **undergraduate or postgraduate coursework** students, who are not employed by UQ:

- own the IP they create as students, and
- the university has automatic permission to use it for education, teaching and research purposes.

Examples would include if you publish an article or create an app as part of your academic work.

External collaboration

As an undergraduate or postgraduate coursework student at UQ, if you collaborate with external entities on research projects you are expected to assign IP to the University before project commencement, if there is potential for IP to be created.

If you are a coursework student in that situation, we recommend you read the IP policy and check the [Intellectual Property information from the Graduate School](#) for Higher Degree by Research (HDR) candidates at The University of Queensland.

Your IP as an employee

As an employee it is likely that the IP of anything you develop in the course of your work will belong to your employer.

Moral rights may remain with you even if your copyright is assigned to another party.

[Your IP as an employee (YouTube, 46s)](#) explains more about IP and moral rights:

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5. IS YOUR IDEA ORIGINAL?

You are unlikely to want to spend a lot of time or money developing an idea that somebody else already owns. IP owners can be vigilant in protecting their rights.

What might happen if you use someone else's IP

[Australian band, Men at Work, were found liable for copyright infringement](#) of the 1934 children's song Kookaburra Sits in the Old Gum Tree for a flute riff in their hit song Down Under released in the 1980s. In 2010, the owners of the rights to the song Kookaburra Sits in the Old Gumtree were [awarded 5% of the royalties from 2002 onwards](#).

If you want to compare the music in the songs, watch these 2 videos. [Men at Work – Down Under (YouTube, 3m41s)](#):

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And [Kookaburra Sits in the Old Gum Tree (YouTube, 55s)](#):

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Who owns the bear shape?

Many companies will take action to try to prevent infringement of their trade mark, such as [confectionary company, Haribo, protecting their bear shape](#).

Spanish students started a business selling alcohol-infused sweets in the shape of a bear. Haribo demanded the students stop selling the bears and transfer the ownership of the domain name of the students' business to their company.

One of the students asked "Who does the bear shape belong to? They're saying we can't use the bear shape, but we don't get that. A bear is an animal that lives in the woods. Why can't we use it for our sweets?" (Source: [The Guardian](#)).

⌖ Check if your ideas are new

[IP Australia](#) has links to check if your patent, trade mark, design or plant breed is already registered.

- Patents – Our [Patent guide](#) has key resources for finding patents, including the [Australian Patent Search (AusPat)](#) and other international patent offices.
- Trade marks – [Australian Trade Mark Search](#).
- Designs – [Australian Design Search](#).
- Plant Breeder's Rights – [Australian Plant Breeder's Rights Search](#).

6. INDIGENOUS KNOWLEDGE

What is Indigenous Knowledge?

IP Australia's [What is Indigenous Knowledge (YouTube, 1m)](#) explains what it means in Australia:

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Using Indigenous Knowledge

If your idea uses traditional knowledge or cultural expressions from an Aboriginal or Torres Strait Islander person, community or nation you should ensure that you do it in a way that recognises, respects and protects Indigenous Knowledge.

IP Australia's [Indigenous Knowledge IP Hub](#) explains the things you need to consider if you are drawing on Indigenous Knowledge, including:

- **Control** – Aboriginal and Torres Strait Islander people should have control over who uses their Indigenous Knowledge and how it is used.
- **Protection** – Aboriginal and Torres Strait Islander people aim to prevent unauthorised use of their knowledge.
- **Recognition** – It is important to recognise Aboriginal and Torres Strait Islander people as the owners of their Indigenous Knowledge.
- **Respect** – All aspects of Indigenous Knowledge should be handled respectfully.

The Aboriginal flag and copyright

The Aboriginal flag was created by Harold Thomas, a Luritja man, for a national Indigenous day in July 1971. In 2022, [Harold Thomas transferred the copyright to the Commonweath of Australia](#). Mr Thomas will retain moral rights over the flag.

Under the 2022 agreement, individuals do not need to ask permission or pay a fee for **personal use** of the Aboriginal flag, such as making their own flag or including the flag on a website. However, **commercial**

production of the flag remains with Flagworld who are exclusively licensed to manufacture and provide Aboriginal flags.

[▶] [Aboriginal Flag Debate – Behind the News (YouTube, 3m53s)](#) explains the situation prior to 2022:

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There was controversy surrounding the rights to reproduce the flag. Mr Thomas had granted the rights to three companies:

1. WAM Clothing to reproduce the flag on clothing. WAM Clothing also extended their exclusive licence to include physical and digital media.
2. Gifts Mate for the right to reproduce the flag on merchandise;
3. Flagworld for the right to produce the Aboriginal flag as a flag.

Due to these licensing agreements, anyone wishing to use the flag on clothing, merchandise, or in email signatures or on a website, had to get permission from the licence holder.

In 2019, two Aboriginal-owned clothing businesses received cease and desist letters from WAM Clothing, demanding that they stop using the Aboriginal flag on their merchandise because it violates WAM's exclusive licence agreement. The NRL, Cricket Australia and the AFL also received the same notices over the use of the flag on clothing.

[Thomas famously refused](#) to give permission for Google to reproduce the flag as part of a Google Doodle that would have been used on January 26, 2010.

The Torres Strait Islander flag

The [Torres Strait Islander flag](#) is also under copyright. The Torres Strait Island Regional Council are happy to grant permission in writing, prior to its use, as long as certain conditions are met, such as the creator of the flag is acknowledged.

7. GLOBAL IMPLICATIONS

International rights

There is worldwide protection for IP rights but laws can vary from country to country. IP Australia provides:

- Links to learn about IP protection by country
- Access to legal information around the world via WIPO Lex.

Descriptive term or brand name?

Super Ugg by Rettinghaus, CC BY-SA 3.0, via Wikimedia Commons.

It can get **complicated across international markets**.

One example:

Companies in Australia can sell sheepskin boots labelled as "ugg" boots. However, if they sell the boots outside of Australia to countries, where the term "UGG" is trade marked, they can get into legal trouble. An Australian company argued that in Australia "ugg" is a generic term used to describe sheepskin boots but the international company maintained that ugg is considered a brand.

Let us know what you think in the following form. The form is set to anonymous. We will get your response data but we won't know who has submitted it.

Check out the responses so far!

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8. IP OWNERSHIP

You can sell, transfer or licence your IP. A licence allows others to use your IP, according to the licence conditions, but you retain the ownership.

When deciding on an IP licence, think about why you want to licence it and how you want the licensee to use it.

The terms of a licence can override standard IP protections so it is important to understand and adhere to any licence conditions.

What is an IP licence?

[What is a licence? (YouTube, 53s)](#) explains what licences cover including exclusivity, duration, purpose, restricted uses and attribution requirements:

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Creative Commons licences and copyright

As a copyright owner, you can choose to licence your work to allow others to use it, while protecting your rights.

A popular alternative to the practice of buying and selling copyright licences is the [Creative Commons (CC)](#), which provides a free way to grant use of IP with proper attribution.

You can share your work with a [CC licence](#) to give permission to others to use and adapt your work. The licences are built by using a combination of four main conditions – BY, SA, NC and ND.

Creative Commons Licences

Click through each slide to learn more about these licences:

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>
> *https://uq.pressbooks.pub/digital-essentials-intellectual-property/?p=104#h5p-12*

As the copyright owner, you can select the type of CC licence that best suits your needs.

The [License Chooser](#) from Creative Commons can help you choose the appropriate licence for your work.

Make sure that you are the copyright owner or have permission from the copyright owner **before you use any content** for commercial purposes.

For example, if a person takes a photo for you, even if the photo is taken with your device, they are the copyright owner unless they transfer the rights to you.

📖 Copyright guides

The Library has [Copyright guides](#) to help you get a quick idea of your rights and responsibilities for different aspects of copyright.

9. SOCIAL MEDIA AND IP

Sharing content

Sharing your content on social media platforms before applying to protect your IP could **prevent you from securing the rights**.

As discussed in the IP registration section, if you share new designs or ideas online, before you have registered your ownership, it could affect your claim.

When you agree to the **Terms of Service** on social media you may grant permission for any content you post to be used by the service provider regardless of your IP rights. If you post your content and then later apply to protect your IP it may no longer be considered new.

IP Australia explains how to register your rights before promoting your design, trade mark, patent etc.

If it isn't your content, get permission

If you want to use material online that is not your own work and doesn't have a CC licence, you should get permission.

Link to other content rather than taking a screenshot or copying it, if you don't have permission. Many platforms also make an embed option available.

If it isn't your content, get permission (YouTube, 46s):

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Our guide to Permissions provides information on when to ask for permission and includes some example permission requests.

Who owns what on social media?

TikTokkers are writing Ratatouille, the musical demonstrates how complicated it can get in our online world to know who owns what. TikTok users have been creating content under the

hashtag #ratatouillemusical based on the 2007 film Ratatouille. The creators are located across the world and may face different IP laws depending on where they live.

Under TikTok's terms of service, users wave their moral rights. So anyone using the TikTok content doesn't have to attribute the creators. As noted earlier, in Australia, **moral rights** would normally require anyone using your work to **correctly attribute you** as the creator.

Find and use media explains ways to avoid infringing copyright when reusing others' content.

10. CHECK YOUR KNOWLEDGE

All the answers to the quiz questions can be found in this module.

Your response data will **not** be gathered if you answer the questions below. [Take a screenshot](#) of **Your result** at the end of the quiz if you are required to show you have completed it.

> (?) Intellectual Property quiz
>
> There are 6 questions to answer. After you answer a question, click the arrow to move to the next question.
>
> > *An interactive H5P element has been excluded from this version of the text. You can view it online here:*
> > *https://uq.pressbooks.pub/digital-essentials-intellectual-property/?p=73#h5p-13*

Note for Teaching staff: You can [download and embed both the module and H5P quiz](#) in your course.

Module summary

① Intellectual Property and its value

- There are a few different types of IP, with copyright, trademarks and patents the most well-known.
- If you develop an idea or content that is new or original you may want to protect your ownership rights.

② IP with automatic protection or no protection

- Copyright, trade secrets and circuit layouts are automatically protected for a certain duration.
- You can take steps to protect these types of IP.
- Some types of works such as datasets, screenshots and photographs of existing works have no copyright protection. However, it can be complicated so check first!

③ IP requiring registration

Patents, trademarks, designs, plant breeder's rights and geographical indications require registration to protect the IP.

④ IP at the University of Queensland and other workplaces

- The University of Queensland's Intellectual Property policy regulates the ownership and protection of the University's Intellectual Property.
- As an employee it is likely that the IP of anything you develop in the course of your work will belong to your employer.
- Moral rights may remain with you even if your copyright is assigned to another party.

⑤ Is your idea original?

If you develop a product or content it is important to consider if somebody else already owns the IP.

⑥ Indigenous Knowledge

If your idea uses traditional knowledge or cultural expressions from an Aboriginal or Torres Strait Islander person, community or nation you should ensure that you do it in a way that recognises, respects and protects Indigenous Knowledge.

⑦ Global implications

There is worldwide protection for IP rights but laws can vary from country to country.

⑧ IP ownership

- A licence allows others to use your IP, according to the licence conditions, but you retain the

ownership.
- Creative Commons licences provide a free way to grant use of IP with proper attribution.

⑨ Social media and IP

- Sharing your content on social media platforms before applying to protect your IP could prevent you from securing the rights.
- If you want to use material online that is not your own work and doesn't have a CC licence, you should get permission.

11. CONCLUSION

Congratulations!

You have completed the **Intellectual Property** module.

Tell us what you think

Use our Digital Essentials feedback form to give **anonymous** feedback on this module. You can provide your email if you would like us to reply to you.

Digital Essentials modules

Build your digital skills with Digital Essentials. Select modules from the 6 themes that match your interests and will help you succeed in study and work.

⌨ UQ systems

Use UQ systems module, includes:

- [Check your IT set up](#)
- [Book rooms](#)
- [Printing at UQ](#)

Assignment essentials

- [Find and use media](#)
- [Information essentials](#)
- [Write, cite and submit](#)
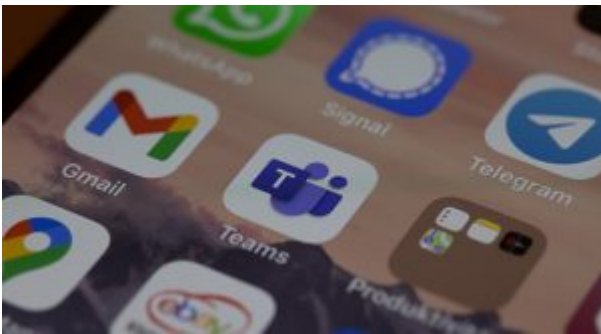- [Types of assignments](#)

Digital creation

- [Accessibility](#)
- [Choose the right tool](#)
- [Intellectual Property](#)

Digital security and safety

- [Digital security](#)
- [Internet essentials](#)
- [Social media](#)

Professional identity and skills

- [Communicate and collaborate](#)
- [eProfessionalism](#)

Work with information

- [Artificial Intelligence](#)

- [Work with data and files](#)
- [Document your research data](#)

How to use the modules

You can complete entire modules or check the **Module Overview** section to select just the parts you need.

Watch [Using Digital Essentials (YouTube, 1m 37s)](#), created by our student partners, for tips on how to use the modules to build your digital skills.

> 🖳 *One or more interactive elements has been excluded from this version of the text. You can view them online here: https://uq.pressbooks.pub/digital-essentials-intellectual-property/?p=78#oembed-1*

Read more about our [Student Staff Partnership project to improve the Digital Essentials modules](#).

Teaching staff – use the modules in courses

Teaching staff can embed or link the modules in courses to help build your students' digital literacy.

- There are interactive elements throughout each module and a short H5P quiz at the end.
- The modules are also available for your students to download in EPUB, PDF and HTML format to make them more accessible.

Import a module into Learn.UQ (Blackboard)

Instructions to embed a module in your course. Email us via dxdc@library.uq.edu.au if you have any questions.

- [Blackboard courses](#)
- [Blackboard Ultra courses](#).

Blackboard courses

[Embed Digital Essentials in Learn.UQ course (YouTube, 1m 55s)](#)

One or more interactive elements has been excluded from this version of the text. You can view them online here: *https://uq.pressbooks.pub/digital-essentials-intellectual-property/?p=78#oembed-2*

Text version of video instructions:

1. Go to the module home page
2. Select **Common Cartridge (LTI Links)** under the **Download this book** options.
3. Go to your Blackboard course
4. Go to **Course Management**
5. Click **Import Package/View Logs**
6. Click **Import Package**
7. Click **Select a Package** and navigate to the **.imscc** file you downloaded from the module
8. Scroll down to **Select Course Materials** and select **all** the options
9. Click **Submit**.

In your course site, the module will appear in a new [content area](#) in your course. Each module chapter will be a section. You can [copy, move and delete](#) the chapters in your course.

Blackboard Ultra courses

1. Copy the URL of your Pressbook
2. Go to the Learning Resources section in your Blackboard Ultra course
3. Click +
4. Click **Create**
5. Click **Teaching tools with LTI connection**
   a. Click to edit the title (where it has New LTI Link…) to enter your Pressbook's title
   b. Select Visible to students
   c. At **Configuration URL** enter your Pressbook's URL
   d. Add a **Description**
6. Click **Save**.

Note: You can click the More options dots to go back to make changes to the entry after you have saved it.

Add a weblink in the course menu

- You can provide <u>weblinks to the chapters</u> in the weekly folders in Learning Resources e.g. If you want your students to read the chapters in particular weeks.
- You can also add your book as a <u>weblink in the menu</u>.

Assess student learning

Most modules have a final short quiz created in H5P. You can download the H5P quiz from the module and embed it in your course if you would like to check your students' completions or to allow for the results to be transferred to the Grade Centre in your course.

The H5P quiz content will not record any completion data unless you download and add the H5P quiz directly to your course. Students can screenshot the quiz if they are required to show completion.

Add the final H5P quiz to your course

If you would like to check your students' responses and completion of a module you can:

1. Go to the final H5P quiz in the **Check your knowledge** section of the module
2. Click **Reuse** then **Download as a .h5p file**
3. Then <u>embed</u> or <u>link</u> the quiz in your course. Note: You will need a <u>H5P account</u>.