



Intellectual Property

This document is to complement the University Policy on Integrity in Research and Scholarship <http://www.brocku.ca/webcal/2007/graduate/acad.html>. In any apparent contradiction between this document and the Policy, the Policy will be the authoritative document. It is intended as a working guideline for researchers.

Ownership of Student-Created Intellectual Property (as found in the Faculty Handbook section III subsection 23) <http://www.brocku.ca/secretariat/facultyhandbook/section3.php#>

The Guidelines also apply to Research Assistants and Post Doctoral Fellows

Ownership of Student Created Intellectual Property and Other Works as well as that Created by Research Assistants and Post Doctoral Fellows:

For work done by a student, research assistant or post doctoral fellow, Brock has the following guidelines related to the interpretation of copyright and other aspects of intellectual property rights. These guidelines distinguish in general between items done solely by the student and those undertaken as part of a joint research effort.

In the former case, the intellectual property is primarily the student's, but the University reserves certain rights as detailed in the remainder of this section. In the latter case, the intellectual property rights involve the student, the research supervisor (and possibly other individuals as well), the University, and on occasion the financial sponsor of the research. (If the work is anticipated to have commercial possibilities, it is required that the parties involved agree in writing beforehand on the sharing of any financial returns.

Introduction

While no policy can anticipate or cover all possible situations, the University Policy on Integrity in Research and Scholarship and these guidelines are intended to cover the rights of current and former Brock students, research assistants and postdoctoral fellows both while attending the University, and after they leave the University, whether with or without a degree. Similarly, while it is difficult to provide a definitive definition of intellectual property (IP), the Government of Canada (Consumer and Corporate Affairs Canada: "Intellectual Property: What It Means to You") indicates that there are at least six types of IP:

1. Patents, for inventions and the creation of new kinds of technology;
2. Copyrights, for literary, educational, artistic, dramatic and musical works;
3. Trademarks, for words, symbols or pictures used to distinguish the goods or services of one person from those of another;
4. Industrial Designs, for the shape, pattern or ornamentation of an industrially produced object;
5. Integrated Circuit Topographics;
6. Plant Breeders Rights.

At Brock, given our mission and types of undergraduate and graduate programs, the most likely types of intellectual property to be created includes theses, dissertations, cognate essays, research papers, books, poems, plays, scripts, essays, articles, dictionaries, maps, lyrics, musical scores, sculptures, paintings, photographs, films, videos, tapes, computer software, databases, records, tapes, cassettes, WEB based materials and inventions (new kinds of technology). To be protected by law, an item must

satisfy three criteria: (a) it must be an original creation; (b) it must be a specific expression of an idea, not the idea itself; and (c) the item must be fixed in a physical form. These creations may occur via term papers, theses, or dissertations, research or cognate essays, course projects, cases, studio or laboratory assignments, etc.

Ownership rests initially with the creator of the work, unless the creator has been employed to create a work (e.g., research assistant or post doctoral fellow) in which case the copyright rests with the employer. It should be stressed, as well, that once a piece of work has been accepted for publication by a journal or a publisher, in the absence of an agreement to the contrary, it is the publisher who owns the work. Finally, work created while a student, remains his or her property for life after leaving.

Disputes over ownership, in whole or in part, may occur in team or collaborative work, where many individuals may have contributed to the creation of the work over a lengthy period of time. Disputes may also occur when someone other than the creator (i.e., the student) publishes the work after the student has left the University. Or, disputes may rise over authorship credit or the order of authorship for the work. To avoid such disputes, it is required that all members of a "research group" have read these guidelines and completed and signed the "Intellectual Property" form.

Examinations, Reports and Papers Done as Part of Course Requirements

When work that is eligible for copyright is submitted to meet a requirement of a course, the University acknowledges the student's ownership of the copyright, but places the following conditions on the submission of the work to meet course requirements.

- a) The original physical document becomes the property of the University. This applies particularly to examination answer scripts, and may also be applied to term papers and other course work.
- b) Except for examination answer scripts, the University receives a royalty free, non-exclusive licence to make copies of the work, for internal use within the University, and to circulate the work as part of the University Library collection.

Theses and Master's Project Reports

As with other papers, the University recognizes that the student holds copyright to the finished thesis. Copies of the thesis shall have on them in a prominent place on the title page the international copyright notice. The student is required to sign a license to the University library and an additional license to the National Library. These licenses grant the two libraries permission to reproduce the thesis and to circulate it, but do not affect ownership of the copyright.

However, the University also recognizes that the ideas in the thesis will often arise from interaction with others. In some cases, this interaction will have been solely with the thesis supervisor; in other cases, a larger research team will have been involved. For this reason, it is understood that the copyright refers only to the written document of the thesis. The ideas themselves - including any advances in theory, data, patentable ideas, or commercial exploitation of the work - may or may not be the exclusive property of the student. For the student who has worked closely with a supervisor, or as part of a research group, the rights to publish, patent or commercially exploit the results of the research are shared with the supervisor and/or the research group, and with the University. In those cases in which the work has been supported in part by research grants or contracts, there may be other conditions affecting any patent or commercial exploitation. (The student should be made aware that such conditions may apply before work begins and bears some responsibility to enquire as to details if they have any concerns.)

Computer Programs

Computer programs written as part of employment duties, as for example by a teaching assistant, are the property of the employer, as specified in the Copyright Act. Computer programs written as part of course work, a project or a thesis may also have value as a potentially marketable intellectual property. The University recognizes that such software may arise in two different ways, and

accordingly has two policies. In setting forth these policies, it is understood that in those cases in which software development draws upon other software owned or licensed by the University, the terms and conditions of the licence or purchase must be followed.

a) Where a student develops such software at the direct request of a supervisor, and under supervision, it is assumed that there is joint ownership of the intellectual property rights. In such cases, it is recommended that the individuals involved co-author a working paper documenting the software, rather than including it as an appendix to a thesis or report. Prior agreement between the student and supervisor that this is to be the case would be helpful.

b) Where a student develops such software on his/her own, as for example for an independent project in a course, copyright remains with the student. As a condition of using University computing facilities, the student is required to grant the University a royalty-free licence to use the software. This includes the right of the University to distribute copies of the software to Brock faculty, staff and students for the University's administration, education and research activities. This licence does not include the right to use the software for commercial use.

Research Data

As with computer software, the University recognizes that research is conducted and data are acquired in two different fashions. When the data are acquired as part of a joint or collaborative effort, such as one relying on the equipment within a laboratory, they are not solely the property of the student, although some of the data may ultimately appear in tables or appendices in a completed thesis. As a general rule, such data are the joint property of the student and the research supervisor, either of whom has the right to make them available to other individuals as well. Both student and supervisor are responsible for insuring that proper acknowledgment of the contributions of the student, supervisor, and other members of the research team is made when the data are released in any form.

When the data are acquired through the student's individual effort, and without the use of University laboratories or funding, then they are usually the property of the student making that effort. However, exceptions may occur when the student collects data using research instruments including interview schedules and questionnaires developed wholly or in part by the research supervisor or by some other person or agency. In such instances the right to ownership and/or use of the data may be shared among the parties involved. Given the range of possible alternatives it is not possible to set absolute guidelines in advance covering all such situations. Consequently, it is strongly recommended that students and supervisors make clear agreements in advance concerning the ownership and use of data collected in this fashion. Ownership of data may also be affected by the terms of a research contract that has supported the work.

Equipment

If University resources have been applied to the construction or design of equipment, it is not the property of the student, but of the University. Equipment constructed or designed as part of course or thesis work is the property of the student if the work, materials, and workroom space have been provided by the student or other non-University source. Ownership of newly constructed equipment may also be specified in a research contract that has supported the work.

Form

Please complete the following form and return, with signatures, to the Research Services Office at MC D250-A.

BROCK UNIVERSITY

INTELLECTUAL PROPERTY

Please complete form and return, with signatures, to the **Research Services Office**.

Name: _____ Department: _____

Telephone No: _____ Email: _____

Please indicate your status:

- | | |
|--|---|
| ☐ Undergraduate Research Assistant | ☐ Undergraduate Honours Thesis Student |
| ☐ Undergraduate Honours Project Student | ☐ Graduate Student |
| ☐ Post-Doctoral Fellow | ☐ Research Assistant |

I have read the document “ Ownership of Student-created Intellectual Property” and agree with the Brock guidelines on Intellectual Property contained therein.

Researcher's Signature: _____ Date: _____

Supervisor's Signature: _____ Date: _____

My supervisor and I have made specific arrangements that differ from these policies in the following manner:
(please attach separate sheet if required)

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Order of names on publications: Researcher first: ☐ Supervisor first: ☐ Alphabetic: ☐ Other ☐ (specify order)
Approval of deviation from the policies as noted above:

Researcher's Signature: _____ Date: _____

Supervisor's Signature: _____ Date: _____

RESEARCH SERVICES

Approval (required if specific arrangements are proposed)

Associate Vice-President Research: _____ Date: _____

copies to: Department
 Graduate Studies Office

The following, taken from pages 106/7 of the 1997/2000 Collective Agreement between Brock University and the Brock University Faculty Association may also serve as a guideline for Faculty.

Agreement under the
Brock University Policy on Integrity in Research and Scholarship Pertaining to
“Intellectual Property” Understandings.

The University understands that this Agreement is a minimum requirement and expects that Departments may wish to develop more extensive documents that directly apply to their discipline. In this regard, the University understands that “research group” could be for any combination of faculty, staff or students engaged in a scholarly endeavour.

The statements that follow paraphrase the principles set down in Section 5.0 (Intellectual Property) of the Brock University Policy on Integrity in Research and Scholarship. In particular, the signators to this Agreement understand and agree on the expected use and attributions of research ideas and data collected, including publication or commercial exploitation of the results, data deposition and public or other outside accessibility. We have appended any specific details of our understanding and agreements related to the points below, and forwarded copies to the Chair of the < > Department of and to the Dean of the Faculty of < >

- (1) All members of our research group at Brock University (names, and titles listed below) have completed our annual review of group research initiatives (see attached material).
- (2) With respect to data from work done by undergraduate or graduate students for their theses, we have discussed authorship expectations on publications emerging from these data prior to the start of work , and undertake to continue discussion prior to submission for publication (see attached material).
- (3) We understand that all members of the research group are responsible for insuring proper acknowledgment of each member when the data are released in any form.
- (4) We acknowledge that a complete set of all original research data will be retained by the principal investigator for a period of five (5) years from the date of publication of results based on the data, and that research collaborators will have free access to the relevant data at all times.
- (5) We agree to continue ongoing discussions concerning these matters and will provide an annual update on our understandings.

Principal Investigator:

Faculty Research Associate(s):

Staff Research Technician(s):

Post-doctoral Fellow(s):

Graduate Student(s):

Undergraduate Student(s):

Volunteer(s):