



POLICY: <p style="text-align: center;">Intellectual Property</p>		POLICY NUMBER: <p style="text-align: center;">R-3</p>
		PREVIOUS/REPLACES: <p style="text-align: center;">Intellectual Property</p>
APPROVED BY: <p style="text-align: center;">Executive Council</p>	EFFECTIVE DATE AS OF: <p style="text-align: center;">May 4, 2021</p>	PRIOR VERSIONS: <p style="text-align: center;">December 5, 2018</p>

1. Policy Statement:

Purpose:

The Manitoba Institute of Trades and Technology (to be referred to as MITT or Institute) recognizes the importance of creating Intellectual Property in the form of products, processes and services that enhance its programs and operations, and that support the social, economic and environmental development of the Institute and its students, employees, clients and communities.

This Policy has been developed to establish the expectations and standards of MITT regarding the creation, management, ownership, assignment and exploitation of any Intellectual Property developed by MITT employees, students and clients through the use of the Institute’s human, financial, infrastructure, facility and equipment resources.

Statement:

MITT employees, students, volunteers, clients and partners shall respect third-party Intellectual Property rights in the course of their employment, studies or participation in collaborative applied research projects, respectively.

MITT claims ownership to all Intellectual Property created by its employees in the course of their employment with the Institute, created by students in collaborative research projects undertaken with internal or external clients as part of their course requirements, created by contractors of MITT in the execution of their contracts and created by anyone utilizing the Institute’s resources without proper authorization.

As an educational institution, MITT believes it is generally outside its mandate to participate in the commercialization of Intellectual Property that is not germane to its mandate. In general, its clients are better equipped to exploit jointly developed Intellectual Property through implementation or commercialization. Thus, Intellectual Property created in the course of collaborative projects undertaken by MITT students and employees with external clients will be assigned to the clients for exploitation once all research contract terms and conditions have been fulfilled.

This Policy has been designed to provide maximum flexibility and minimum cost for clients to exploit jointly developed Intellectual Property. MITT believes this provides the optimum conditions for clients to implement or commercialize the Intellectual Property. It is the expectation of the Institute that successful exploitation of assigned Intellectual Property will result in clients giving back to MITT in the form of financial, equipment and infrastructure donations, and continuing to work on collaborative projects with the Institute where mutually beneficial.



Principles:

- 1.1. MITT considers Intellectual Property (IP) to consist of intangible assets created by humans that are or may be legally protected (foreign or Canadian trademarks, patent applications and granted patents, copyrights, industrial designs, integrated circuit topographies) or that are proprietary or confidential, though not legally protectable (inventions, disclosures, know-how, trade secrets).
- 1.2. MITT recognizes three types of IP:
 - 1.2.1. Internal IP that is created by the Institute for its own use, such as curricula, marketing materials, corporate training assets, proprietary software, processes, and the outputs of scholarly activities. MITT may implement this IP internally and may also seek to commercialize this IP through agreement with a third-party or, on an exceptional basis, on its own. In addition, it may include IP created by employees and students, subject to this Policy, that is not created for use by the Institute but may have commercialization potential, and other forms as determined by the President.
 - 1.2.2. External IP that is generated in collaboration with an external client through a collaborative research project that is brought to the Institute by the client.
 - 1.2.3. Vendor IP that is introduced to the Institute by vendors and suppliers through the goods and services they provide to the Institute on a contractual basis.
- 1.3. The administration and management of IP created at and owned by MITT shall be the responsibility of the "Centre for Learning and Innovation" (CLI).
- 1.4. With regards to the ownership of IP created by MITT employees or by individuals or enterprises under contract to MITT (contractors):
 - 1.4.1. MITT claims ownership to any and all IP created by employees and contractors of the Institute in the course of their employment or execution of their contracts, respectively; this IP may include curriculum, software, marketing materials and the outputs of research projects and scholarly activities.
 - 1.4.2. Copyright works are owned by the Institute and all moral rights of creators to the works will be waived in perpetuity. The Institute, at its discretion and with the permission of the creator(s), may give recognition to the creator(s) in a manner agreed to by both parties.
 - 1.4.3. Employees seeking to use MITT resources outside of their MITT employment to create IP must seek approval from the Institute in writing and enter into a contract, prior to commencing any work, that specifies any financial considerations that the Institute may receive for providing for access to the resources, terms and conditions on use of the resources, and the sharing of ownership in any IP created.
 - 1.4.4. MITT considers any IP created by employees outside of their MITT employment using any MITT resource, including computers, shop tools and laboratory equipment, without a contract with the Institute, to be the property of MITT.



- 1.5. Any IP created by an MITT employee prior to employment or outside of their employment with the Institute (on their own time and using their own resources) that the Institute would like to use, shall be purchased or leased, according to Institute policies, by the Institute with IP rights assigned, retained or shared as stipulated in the negotiated agreement between the Creator and the Institute.
- 1.6. With regards to the ownership of IP created by MITT students:
 - 1.6.1. Any IP created by students to fulfill course requirements, such as class assignments, works of art and literature and designs, shall be owned by the students, with the exception of:
 - 1.6.1.1. IP resulting from collaborative applied research projects conducted with internal or external clients to fulfill course requirements; this IP shall be owned by the Institute. Students shall sign an IP Waiver at the beginning of the course stating that, in consideration for the experience they will receive in working with a real-life client on a real issue, all IP created will be the property of MITT and any moral rights they have in any created works are assigned to the Institute in perpetuity.
 - 1.6.2. Students seeking to use MITT resources outside of their program of study to create IP must seek approval from the Institute in writing and enter into a contract, prior to commencing any work, that specifies any financial considerations that the Institute may receive for providing access to the resources, terms and conditions on use of the resources, and the sharing of ownership in any IP created.
- 1.7. With regards to the ownership of IP created by research volunteers:
 - 1.7.1. Any IP created by Research Volunteers due to their participation in collaborative research projects conducted with internal or external clients shall be owned by MITT.
- 1.8. With regards to the ownership of IP created in collaboration with external clients:
 - 1.8.1. MITT claims ownership of all IP created in collaborative research projects conducted with external clients and partners, regardless of which person or persons created the IP. This is to ensure that all IP assets are owned by one entity with the legal authority to exploit or dispose of the IP in its entirety.
 - 1.8.2. Any background information and IP that was in the possession of the client prior to the commencement of the collaborative research project shall remain in the possession of the client and not be deemed as making a part of the IP created through the project.
 - 1.8.3. The ownership of any IP created in collaborative research projects conducted with external clients will be assigned to the clients upon the fulfillment of two conditions:
 - 1.8.3.1. The client must be in the possession of a valid Research Contract entered into with the Institute and duly signed by an authorized MITT representative, and
 - 1.8.3.2. The client must have fulfilled all terms and conditions of the Research Contract including payment of all fees, reimbursement for any valid expenses as identified in the Research Contract, and verifying the in-kind contributions stipulated in the Research Contract.
 - 1.8.3.3. Once these conditions have been fulfilled, the Institute will issue a notice transferring ownership of the IP created in the collaborative research project from the Institute to the client.



- 1.9. All requests from non-MITT parties for access to MITT infrastructure, facilities and equipment to conduct applied research shall only be considered if the requestor is willing to structure the engagement as a collaborative contract research project conducted with MITT employees and students and subject to this and other relevant policies.
- 1.10. With regards to researcher use of researcher created IP and restrictions thereon:
 - 1.10.1. Students, research volunteers and employees creating IP in collaboration with internal or external clients shall have a non-exclusive right to the results of the research for non-commercial purposes in future research and in teaching conducted only while associated with the Institute as a student or employee.
 - 1.10.2. Researchers may reference their participation in the project on their resumes. However, no proprietary information should be disclosed without the express consent of all parties.
 - 1.10.3. Student academic progression shall not be delayed due to participation in collaborative curriculum-based applied research projects.
 - 1.10.4. Researchers have the right to publish research funded by a given Grantor if this is the Grantor's policy. Publications must be approved by all partners and should not expose any proprietary information without the express consent of all partners.
- 1.11. Disclosure of potentially protectable IP:
 - 1.11.1. Any IP created at and owned by MITT that has the potential to receive legal protection as a trademark, patent, industrial design or integrated circuit topography or that may be perceived as a trade secret shall be disclosed to the Centre for Learning and Innovation (CLI) prior to any publication or disclosure of the IP beyond the researchers and client(s). This includes internal or external IP created in a collaborative research project conducted with internal or external clients or in the course of Institute operations. Such disclosure is required so that the Institute can ensure that IP is properly protected and exploited in fulfillment of its obligations to clients, funders, researchers and the Institute.
 - 1.11.2. Copyrightable work need not be disclosed as copyright protection is automatic once the work is created. However, if there is a need or desire to register the copyright, this must be disclosed to CLI.
 - 1.11.3. CLI shall undertake a review of the disclosure to determine how it will deal with the IP that has been disclosed.
 - 1.11.3.1. For external IP created in collaborative research projects conducted with external clients, the client(s) shall have the first right of refusal to protect the IP. If they refuse, MITT shall determine if it will pursue legal protection, contract with a third-party to exploit the IP (including pursuing protection) or offer to negotiate a contract for the protection and exploitation of the disclosed IP with the MITT researchers who created the IP. If none of these options are viable, MITT shall leave the IP unprotected.



- 1.11.3.2. For IP created in collaborative research projects conducted with internal clients or in the course of Institute operations, CLI shall determine if the disclosed IP is legally protectable and, if so, the business case for so doing. Based on this review, the Executive Committee shall determine if MITT will pursue legal protection, contract with a third-party to protect and exploit the IP or offer to negotiate a contract for the protection and exploitation of the disclosed IP with the MITT employees who created the IP. If none of these options are viable, MITT shall leave the IP unprotected.

If the disclosed IP is deemed to be not protectable, but is deemed a trade secret, CLI shall determine if it confers an advantage to the Institute and, if it does, recommend steps to protect its disclosure outside of MITT.

- 1.11.3.3. Public disclosure of any protectable or protected IP created at MITT through publications, marketing activities, media releases or other means, shall be done with the agreement and participation of all clients and partners of the collaborative research project in which the IP was created, and in consultation with any researchers still employed with or students at MITT at the time of the public disclosure.

- 1.11.4. Any revenue sharing opportunities between MITT and employees of MITT will be addressed specifically in the Research Contract for that project.

1.12. With regards to Confidentiality:

- 1.12.1. MITT shall sign Confidentiality Agreements with external parties after appropriate review of and negotiation and agreement on terms and conditions.
- 1.12.2. MITT shall offer external parties requesting a Confidentiality Agreement an opportunity to sign an approved MITT Confidentiality Agreement that can be signed by an authorized representative of the Institute without further Institute or legal review.
- 1.12.3. All Research Contracts shall contain a Confidentiality clause, unless specifically removed by the client(s).
- 1.12.4. All employees engaged in collaborative research projects are expected to keep all confidential and proprietary matters pertaining to the project and the client confidential, whether or not a Confidentiality Agreement has been signed. A breach of confidentiality by an employee will be considered a breach by the Institute and the employee will be disciplined as provided for in other MITT policies.
- 1.12.5. Students engaged in collaborative curriculum-based applied research projects and research volunteers will not be included in any Confidentiality Agreements between the client and the Institute. Clients may negotiate Confidentiality Agreements with students and research volunteers independent of the Institute. MITT will provide a "Confidentiality Agreement" template create for student-client agreements and non-legally binding guidance to students and clients.

1.13. With regards to Vendor IP:

- 1.13.1. MITT students, employees, volunteers and clients shall comply with all terms and conditions regarding Vendor IP that is disclosed or provided to the Institute by the Vendor in fulfillment of a purchasing or licensing agreement.



- 1.13.2. Any IP enhancement to Vendor IP created by MITT employees, students, volunteers or clients participating in curriculum-based collaborative research projects shall be disclosed to CLI in accordance with Principle 1.11. As part of its review, CLI shall determine if the Vendor should be approached about licensing or purchasing the IP.
- 1.14. Audio, video and photographic recordings of classroom proceedings are only to be used by that class unless permission granted for other uses. Readers should refer to specific rules about reproduction of lessons for telecommunication in MITT's Copyright/Fair Dealing Policy.
- 1.15. MITT asserts that it has the right to be recognized or acknowledged in or associated with any IP created at or owned by the Institute. It also has the right to disassociate itself from any IP created at or owned by the Institute, should it so choose to do.

2. Scope:

This Policy applies to all:

- 2.1 MITT employees who engage in research activities as part of their duties and responsibilities, whether as administrators, clients or as researchers and research volunteers,
- 2.2 All students of MITT who engage in research delivered through curriculum or as research volunteers,
- 2.3 All volunteers of MITT who engage in research activities, and
- 2.4 All clients of MITT when engaging in research projects in collaboration with MITT.

3. Procedure:

To be determined after the policy has been endorsed.

4. Administration:

The Vice-President Academic is responsible for ensuring that this policy is adhered to.

5. Review:

This policy will be reviewed every five years by Executive Council.



6. Reference:

Research

1. Administration of Research
2. Ethical Conduct for Research Involving Human Subjects
3. Integrity in Research and Scholarship
4. Research and Innovation

General

1. Conflict of Interest
2. Copyright/Fair Dealing
3. Progressive Discipline
4. Privacy & Access to Information

Supporting Information

1. Canadian Intellectual Property Office (www.cipo.ca)
2. Colleges and Institutes Canada IP Tool Kit
(<https://www.collegesinstitutes.ca/resources/ip-toolkit/>)

7. Definitions:

See Applied Research Policy Definitions (R-6)