

Division	Relationships & Advocacy	Ref. No.	POL-1006
Department	Vice President		
Title	Intellectual Property		

1. PURPOSE AND SCOPE

The purpose of this policy is to set out the principles by which the Royal Australasian College of Surgeons (RACS) intellectual property (IP) and intangible assets are managed to deliver value and benefits to members, the surgical community and broader public.

Reference to 'IP' within this policy is to be interpreted as 'intangible assets, including IP'.

2. INTRODUCTION

The College is committed to excellence in training, education, research and the advancement of surgery.

The College's IP is created through the expert contributions of Fellows, Trainees and Specialist International Medical Graduates, employees and volunteers, on behalf of the College for the benefit across the Fellowship, the surgical profession and the community. It comprises many forms, including (but not limited to):

- training materials
- prevocational and professional development training
- assessment tools for surgical education and professional development
- information regarding disease and treatment options
- software programs, data bases and applications
- e-learning modules, videos and other forms of audio-visual content
- brands and logos
- use of the coat of arms

Pro bono contributions are essential to the core business of the College. The work, intellectual know-how and the outputs/assets are highly valued. As such, protecting the IP and maintaining its quality is of the utmost importance to the College. Much of the College's developmental work and core business is undertaken in a pro bono capacity. It is important that this contribution is acknowledged, and the resulting assets are maintained and available for use as the College deems appropriate.

3. OWNERSHIP OF IP

Ownership of existing or future IP created or developed as a result of the full or partial contribution or use of College resources (including employee time, expertise and coordination) will be vested in the College.

3.1. Acknowledgement of ownership

All IP of the College is denoted "© Copyright – Royal Australasian College of Surgeons. All rights reserved" or "© Copyright – RACS. All rights reserved", clearly acknowledging the College's ownership and indicating the right to use any IP is determined by the College. The "™" symbol denotes trade marks and "®" denotes registered trade marks that the College has exclusive rights to use, license and sell.

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3.2. Moral rights of author(s)

The College recognises that the moral rights in IP should be vested in the original creators or authors of works. The author has the right to be identified as the author of the IP, and reproductions and adaptations of that IP. The author has the right not to have the IP subject to derogatory treatment including material distortion, alteration, mutilation of the IP, or any other action that is prejudicial to the author's honour and reputation.

3.3. Employees

All College employees are required to sign an IP and confidentiality agreement when accepting employment at the College. IP created by an employee in the course of their work will be the property of the employer. This agreement acknowledges this and any IP generated by employees is owned by the College.

3.4. Fellows, Trainees and Specialist International Medical Graduates (SIMGs)

College Fellows, Trainees and SIMGs, through the College itself or through specialty societies and associations, are a valued pro bono workforce and provide assistance, expertise, know-how and input into a range of College IP. The College is committed to acknowledging the expert contributions of Fellows, Trainees and/or SIMGs made in a pro bono capacity within the resulting materials. These Fellows, Trainees and SIMGs are classified as Acknowledged Contributors for the purposes of this policy. This classification provides for broader use of the College materials by those Acknowledged Contributors who participated in the development of the IP, as detailed in section 4. Use of IP.

The College requires Fellows, Trainees and/or SIMGs who participate in College activities to sign an agreement acknowledging relevant RACS policies, including that IP vests in the College. Irrespective of such an agreement being signed, becoming involved in pro bono work with RACS, Fellows, Trainees and SIMGs are bound by this Policy.

3.5. Contractors, consultants and volunteers

Contractors, consultants and volunteers are not employees of the College, and accordingly are not covered by the usual position at law. In the absence of formal agreements with the College that specify the position in relation to IP, with the default position being to ensure that any IP is property of the College.

3.6. Specialty societies

The College and the specialty societies have agreements in place that govern ownership and rights for use of IP and associated arrangements.

3.7. Research

RACS, through the Foundation for Surgery, supports significant research activities. The College does not seek to claim ownership of legitimate rights of researchers, funded by the College or otherwise. Most research funded by College scholarships/grants will vest IP ownership with the researchers or their academic institution, as appropriate. Recipients or RACS scholarships/grants are, however, required to acknowledge RACS support.

IP resulting from research commissioned by the College on a contract basis, for the benefit of the College, will be owned by the College.

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3.8. Materials developed for external organisations

Where the College is engaged to create materials, funded by a third party, it is important that the IP in the materials created are preserved. The default position is ownership of existing or future IP created or developed as a result of the full or partial contribution or use of the resources of the College will be vested in the College. It is important that contractual agreements clarify IP ownership and rights for use.

4. USE OF IP

The College highly values its intellectual assets, much of which has been developed with the assistance of pro bono contributions. As such, protecting the IP and maintaining its quality is of the utmost importance to the College in the delivery of value and benefits to members, the surgical community and broader public.

College IP may be harnessed to generate revenue and return value to the membership through a graduated fee model, extending from 'free of charge' to 'for profit', as per the examples below.

IP	Fee	User category examples
College owned IP	Free of charge	<ul style="list-style-type: none"> For use in RACS activities Council members and Acknowledged Contributors of the material, for use in a not-for-profit/pro bono capacity
College owned IP	Subsidised	<ul style="list-style-type: none"> Fellows Trainees and SIMGs Acknowledged Contributors of the material,, for use in a paid/commercial capacity
IP is 'shared' with the other organisation on terms that do not financially or otherwise beneficially advantage that party over RACS)	Not for profit (at cost)	<ul style="list-style-type: none"> Specialty societies (as per agreements) Other medical colleges Government
IP licensed	For profit (commercial terms)	<ul style="list-style-type: none"> Universities Third party providers

All requests for use will be considered for approval on a case-by-case basis by the relevant Executive General Manager and approved by the College's Chief Executive Officer.

4.1. Fellows, Trainees and SIMGs pro bono contributors

Fellows, Trainees and SIMGs pro bono expertise, know-how and input into the development of College IP is acknowledged and highly valued. As such, Fellows, Trainees and SIMGs who have contributed expertise, know-how and input to the development of College IP in a pro bono capacity are Acknowledged Contributors and may request personal use of resulting materials.

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Requests for not-for-profit purposes that have no financial gain will be considered for use without charge. For example, profiling a College resource in an academic presentation in an unpaid, educational capacity.

Requests for commercial use will also be considered at a subsidised rate.

In either case, the College must be acknowledged as the IP owner and the most up-to-date version must be used to present the resource in its highest quality standard.

4.2. Fellows, Trainees and SIMGs with no pro bono input

All Fellows, Trainees and SIMGs may request use of College IP and will be eligible to a subsidised rate.

The College must be acknowledged as IP owner and the most up-to-date version must be used to present the resource in its highest quality standard.

4.3. Specialty societies

The College and the specialty societies have agreements in place that govern use of IP and associated arrangements.

4.4. Licensed use of College IP by external organisations

The College's IP, whether published on a website or otherwise made available, is subject to copyright and other IP rights, and should carry the usual "copyright notation" to warn those using the material that permission for use may be required. For example "© Royal Australasian College of Surgeons. All rights reserved."

External organisations must not use College IP unless:

- the College's express written permission is obtained; or
- where there is a clear notation that the material may be used by the public generally:
 - its use must only be for the purpose indicated
 - the material must be clearly labelled as College material
 - the material must be current and accurately reproduced and
 - the material must not be sold or used by any third party, or
 - sold or used for commercial purposes.

External organisations seeking to use College IP must apply in writing to the College for permission. All contracts with external organisations need to include a clause detailing IP parameters. In all cases, the College must be acknowledged as IP owner.

4.5. College logo and coat of arms

The College's logo and coat of arms are the most visible expression of the College's brand and authority. The brand identity guidelines must be observed when reproducing the logo or coat of arms in any format.

Only the College's Chief Executive Officer may authorise use of the College logo in publications of external bodies. Such use is reserved for when the College has had a role in the development of the material or accredits or authorises an event or material. Neither the College logo nor the coat of arms may be used unless express authority has been granted in writing.

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Permission to use the College logo will only be provided on the understanding that no other use shall be made of the logo, nor will it be distributed contrary to this purpose, misused, stored, copied or manipulated in any way.

4.6. Infringement

The College is vigilant in the identification of infringement of its IP rights and pursuit of those in breach of our rights. Instances of misuse and/or corruption may result in discipline action including the removal from the training program, termination of Fellowship, termination of employment and/or legal proceedings.

5. DEFINITIONS

- **“Access”** – Access to IP in both physical or electronic forms or forms which will allow for the use of IP or the general viewing, listening or consumption of the IP.
- **“Acknowledged Contributors”** - Fellows, Trainees and SIMGs who have contributed expertise, know-how and input to the development of College IP in a pro bono capacity.
- **“Author”** – The original creator[s] or author[s] of IP.
- **“Dealings” or “Deal”** – Dealing with IP means viewing, listening, reproduction or copying, communication to Fellows, Trainees or Employees for the purposes of employment, studying or expressly agreed purposes. Dealings do not include financial or commercial purposes unless agreed otherwise.
- **“Employees”** – Persons who are employed under contracts of employment by the College whether on full-time, part-time, casual, temporary, seasonal or one-off basis.
- **“Fellows”** – Fellows of the Royal Australasian College of Surgeons (FRACS)
- **“Intangible asset”** – Identifiable non-monetary asset without physical substance, inclusive of but distinct from IP
- **“Intellectual property” “IP”**– includes any thing, matter or right which may give rise to interests under the Copyright Act 1968 (Cth), Designs Act 2003 (Cth), Trade Marks Act 1995 (Cth), Patents Act 1990 (Cth), trade secrets or confidential information at Common Law. This includes all existing and future IP interests.
- **“Moral rights”** – the right of an author or other creator to protect the integrity of the resulting work
- **“Resources”** – may include financial resources, non-financial resources such as the College’s premises, equipment, tools, human resources or general academic resources and any valuable consideration.
- **“The College”** – The Royal Australasian College of Surgeons (RACS)
- **“Third parties”** – Parties other than “Employees”, “Fellows”, “Trainees” and “the College”, as the case may be.
- **“Trainees”** – Surgical Education Trainees
- **“Use”** – Use of IP includes, but is not limited to, all rights that are legally attached with the type[s] of IP at hand, communication to persons in any form, all dealings as defined in this policy and licensing or assignment to third parties. The purposes of use may include research, teaching, review, training, commercial exploitation, trading and financial.

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6. ASSOCIATED DOCUMENTS

Brand Identity Guidelines

Privacy of Personal Information Policy

Form – Assignment of Intellectual Property

Approver Chief Executive Officer
Authoriser Council