
Policy Title:	Intellectual Property Rights	Policy Version:	1
Policy No:	6772	Approval Date:	2004
Original Submission Date:	2004	Effective Date:	2004
Approval Body:	Academic Council	Revision Date:	20 July 2015

Policy Statement

Acsenda School of Management (ASM) reserves to itself all property rights to the outcome(s) or product(s) of work conducted while the employee works on Acsenda School of Management time. This overarching policy does not preclude separate arrangements between individuals and the institution.

Purpose

The purpose of this Intellectual Property Policy is to outline ASM's position on the creation and development of works within ASM, and the ownership of intellectual property rights in those works. Specific relationships will be clearly identified in any detailed agreements and supplementary documents that are developed within this policy framework.

Scope

Intellectual Property Rights

Intellectual property, or more properly intellectual property rights, refer to those rights conferred on authors or creators of the following types of works:

- Literary, artistic, and scientific works
- Inventions in all fields of human endeavour
- Scientific discoveries
- Industrial designs
- Trademarks, service marks, commercial names, and designations

Moral Rights

- Acsenda School of Management recognizes three types of moral rights:
 1. An author's right to be identified as the author of a work – the right of attribution of authorship
 2. The right of an author to take action against false attribution – the right not to have authorship of a work falsely attributed; and
 3. An author's right to object to derogatory treatment of the author's work that prejudicially and demonstratively affects the author's honour or reputation – the right of integrity of authorship of a work

Intellectual Property Rule - Ownership

Staff/Faculty

- a) Acsenda School of Management asserts ownership of all intellectual property created by a staff/faculty member in pursuance of the terms of his or her employment with Acsenda School of Management, including, without limitation, copyright in any material which is i) teaching material, ii) computer programs, iii) anything created at the express request or direction of Acsenda School of Management, or iv) anything which is the subject of an agreement with a third party (for example, a funding agreement).

- b) Acsenda School of Management does not assert ownership over copyright in any scholarly books, journal articles, conference papers, creative works, or proceedings, or texts written for non-commercial purposes.
- c) Acsenda School of Management retains a non-exclusive, royalty – free, perpetual license to use or develop any intellectual property rights in any of those things, although the creator may be entitled to a share of any commercial benefits obtained according to the rule.
- d) In relation to teaching material, Acsenda School of Management grants the author a non-exclusive, royalty – free, non-transferable, perpetual license to use teaching materials developed on Acsenda School of Management time for the sole purpose of teaching a course at Acsenda School of Management.
- e) In determining whether a work has been created by a staff/faculty member in the course of employment, ASM may have regard to the following factors (which are not exhaustive):
 - i. whether the employee created the work during prescribed working hours at ASM;
 - ii. whether the employee created the work on ASM premises, or using ASM resources and property to do so;
 - iii. whether ASM has remunerated or compensated the employee for the work
- f) Where ASM owns the intellectual property rights in a work, either by agreement with its author or creator, or pursuant to paragraphs (a) and (e), the creator or author, as the case may be, shall have a non-exclusive right to use the work, provided the creator or author exploits the work only in the course of employment with ASM, where the creator or author is an employee, and only in the course of contractual relationship with ASM where the creator or author is an associate of ASM and not an employee.
- g) Where an employee creates a work outside the course of employment with ASM, without using ASM’s resources in doing so, the employee shall be the owner of the intellectual property rights in the work.
- h) Where an employee creates a work during the leave year of a prepaid leave program, without using ASM’s resources in doing so, the work shall belong to the employee unless otherwise agreed by the parties.
- i) Where an employee wishes to use ASM resources to create a work outside the course of employment, the employee shall first be required to inform ASM of the creation of the work, so that a mutually satisfactory written agreement covering, among other things, ownership, use and revenue sharing, can be negotiated before the work is developed. In the absence of such a written agreement, ASM shall own the intellectual property rights in the work created.
- j) Every application by an employee for a professional development leave shall contain a full description of the proposed professional development activity. It is ASM’s intention to encourage employees to create works of innovation and discovery. Accordingly the application for professional development leave shall also contain a statement, signed by the employee and their supervisor, which sets out how any net profit from revenue generated by the commercial exploitation of such professional development activity, shall be shared between ASM and the employee Where a professional development leave is approved, the College shall own the intellectual property rights in any work created and for which work the leave was granted. Any application or request for a professional development leave shall be accompanied with, or contain, a statement in the following form:

"In compliance with Acsenda School of Management (ASM) Intellectual Property policy, ASM shall be the sole owner of the intellectual property in any work described in this document and created by the applicant. If the work is exploited and generates revenue, the applicant and ASM shall share the net profit on revenue generated as follows: (insert agreed-upon formula)

Students

Acsenda School of Management recognizes that students always own the intellectual property that they create unless:

- a) there is a legal prohibition; or
- b) there is written student consent

However, a student may agree to transfer his or her property rights. Where a student is involved in research activities that involve third party agreements, or where the activity involves the creation of intellectual property of a kind that may be developed in the

future, it is the responsibility of both the chief researcher and the student's supervisor to notify the student, before he or she begins work on the project, if the third party agreement requires the student to transfer his or her intellectual property or to give consent with respect to any moral rights, and to ensure that the student has a reasonable amount of time in which to take advice (which generally should not be less than 14 days).

Students shall be the owners of the intellectual property rights in works they create, except in the following situations:

- a) where ASM pays the students for the works they create, in which case ASM shall own the intellectual property rights therein;
- b) where the students use ASM resources and facilities to create the works, outside of their course requirements, in which case the students shall be required to obtain ASM's consent to the use of its resources and facilities. It shall be a condition to the giving of such consent, that ASM and the students enter into an agreement for the creation of the works, which agreement shall provide for, among other things, the ownership of any intellectual property rights in the works to be created, the exploitation of the works by the students and ASM, and the sharing of any revenue by the students and ASM from such exploitation.

Visitors/Non-Employee

Visitors/Non-employees usually have access to Acsenda School of Management resources. The Rule requires a visitor to disclose any intellectual property rights that he or she creates at Acsenda School of Management, and Acsenda School of Management may then decide whether it wishes to claim ownership. Acsenda School of Management may also require a visitor to sign an agreement in advance. This may also involve an agreement with other parties (e.g. home institution).

Intellectual Property Rule – Reporting and developing intellectual property

Staff/Faculty members are encouraged to report any intellectual property that they create. Apart from any commercial benefits that might accrue, such creation also contributes to Acsenda School of Management's profile. The Rule sets out a procedure for reporting through the Staff/Faculty member's supervisor and establishes how any commercial developments will be shared. Staff/Faculty should note that sharing commercial benefits does not apply to teaching materials used for delivery of courses at Acsenda School of Management.

Licensing Arrangements

Product Licenses

Where ASM acquires a license to use a supplier's product, ownership of the intellectual property in the product being licensed shall be determined according to the provisions of the license. Where the license does not contain any provisions relating to intellectual property ownership, it shall be presumed that the supplier is the owner thereof. Any variations to the license shall be made in writing.

Licensing Agreements

Where ASM enters into a license agreement with a third party to permit that third party to use materials or property developed or acquired by ASM, the license agreement shall be in a form approved by the ASM President and a copy shall be deposited with the ASM Library

Classroom Recordings

Permission to make audio or video recordings of academic related activities for educational purposes should be sought from the appropriate professor(s) and students as a matter of courtesy before making such recordings, and permission shall not be unreasonably withheld. Such recordings shall only be used for defined educational purpose(s) pursuant to the Provincial Personal Information Protection Act (PIPA) and the Federal Personal Information Protection & Electronic Documents Act (PIPEDA), or where

required to accommodate persons pursuant to the BC Human Rights Code. If ASM wishes to use such recordings for any other purpose, it will obtain written consent from all persons who are seen or heard in the recording. ASM shall own the content of the intellectual property recorded on audio or video tapes/discs developed or created in classroom activities by ASM employees, except material obtained for approved research projects that are part of a program of academic studies. ASM acknowledges and respects the performing rights of all performers and participants in classroom activities, and agrees to obtain their consent to the recording of their performances and activities. ASM will use such audio and video recordings solely for educational purposes.

Research Materials

A person wishing to gather research materials other than those specified in the Classroom Recordings section, must first obtain the prior approval of ASM. Where the person has obtained ASM’s approval, that person shall be the owner of any intellectual property rights in the research materials. Otherwise, ASM shall be the owner of the intellectual property rights.

Copyright Notice

Where ASM is the owner of copyright in any works created pursuant to this policy, or otherwise, it shall place the following copyright notice in a conspicuous place in the works:

© [year of publication] Acsenda School of Management.

Notwithstanding the above, consistent with the provisions of the Copyright Modernization Act 2012 ASM shall remain the owner of the copyright in all works created in the course of employment with ASM pursuant to this policy, or otherwise, whether or not the work is marked with the copyright notice as described above.

Employee-Owned Work

The adoption and inclusion of employee-owned works in ASM course materials will be made only with the prior approval of the appropriate ASM administrator in accordance with ASM Conflict of Interest Policy.

Commercialization of Intellectual Property

Where ASM owns intellectual property rights in a work which it wishes to commercialize, it may consult with the creator(s) on the best means for commercialization. The author or creator of a work in which ASM owns the intellectual property rights may, with ASM’s prior approval, pursue opportunities to exploit the work, and negotiate with third parties on behalf of ASM. ASM shall always be a party to any agreement resulting there from. The agreement may provide that the author or creator of the exploited work is entitled to share in the revenues contemplated under the agreement, upon the terms set out therein.

Use of the ASM name on Created Works

ASM has the right to be recognized or acknowledged in, or in association with, any work created in the course of employment/studies, by a ASM employee, student, or person with whom ASM is otherwise dealing, or to be disassociated from the work, and for work not created in the course of employment/studies as mutually agreed upon.

Definition

These definitions apply to terms as they are used in this policy.

Word/Term	Definition
Copyright	Copyright means the right to copy. In Canada, all original creative works are protected by copyright. Only the copyright owner has the right to decide when and how the work is copied. Under Canada's Copyright Act, the person who owns the copyright is most often the creator of the work. If the work is created in the course of employment, the employer holds

	<p>the copyright. Copyright protection is automatic upon the creation of a work, and applies whether or not a copyright statement appears on the material. In general copyright expires 50 years after the death of the author. For the purposes of this policy, copyright means, in relation to a work, the sole right to produce or reproduce the work or any substantial part of the work in any material form, including without limitation, in electronic form and to communicate electronic copies of the work.</p> <p>All ASM staff, students, and faculty shall conduct their work and teaching in accordance with ASM's Copyright Policy.</p>
Employee	Refers to anyone who is paid or on ASM Payroll including all staff and faculty.
Intellectual Property	For the purposes of this policy, intellectual property includes all of the interests and rights to all Canadian and foreign registered, pending and common law, trade names and trademarks; all Canadian and foreign issued patents and pending applications therefore; all Canadian and foreign copyrights, whether or not registered; rights of publicity; franchises and all technology rights and licenses, including computer software and all proprietary know-how, trade secrets, inventions, discoveries, developments, research and formulae, whether or not patentable; and all other proprietary information or property relating to works created at or in conjunction or in partnership with ASM, and any improvements, updates, enhancements, or modifications related to any of the foregoing.
Licensing Agreements	Licensing Agreements relate to written agreements between ASM and third parties, in which ASM grants the third parties the right to use materials proprietary to ASM (or proprietary to others, and in which ASM has licensing rights) upon terms and conditions set out in the written agreements.
Moral Rights	Whether or not ASM owns the intellectual property rights of a work, and in particular the copyright therein (pursuant to the Copyright Modernization Act, 2012), it will take steps to respect the moral rights of the authors or creators of the work. Specifically, it is understood that the author or creator has the right to request, where reasonable in the circumstances, to be given recognition of the work by name or by pseudonym; to remain anonymous; or to choose not to be associated with any modification of the work that is perceived to be prejudicial to his/her honour or reputation. The author or creator's moral right to the integrity of the work is infringed only if the work is distorted, modified or mutilated, or used in association with a product service, cause, or institution, to the prejudice of the author or creator's honour or reputation. Moral rights may be waived in whole or in part, but they cannot be transferred to others.
Product Licences	Product licences relate to licensing agreements between suppliers of proprietary products and materials, and ASM, in which ASM is granted the right to use those proprietary products and materials upon the terms and conditions set out in the product licenses.

Related legislation

Copyright Act [C-42] <http://laws-lois.justice.gc.ca/eng/acts/C-42/index.html>

the [Provincial Personal Information Protection Act \(PIPA\)](#)

the [Federal Personal Information Protection & Electronic Documents Act \(PIPEDA\)](#)

Related policies

Policy Number	Policy Title
6000	Public Performance Rights
6006	Copyright
9014	Student Rights and Responsibilities Policy
6751	Information Privacy and Security

Responsibility

All those who study, work, and/or volunteer at Acsenda School of Management are responsible for adhering to the Intellectual Property Rights Policy.