Intellectual Property and Copyright for Doctoral Researchers

As a student pursuing a doctoral degree, you are required to create a number of documents, including the dissertation or doctoral study/project. Questions about intellectual property and copyright sometimes arise, especially on projects where you are receiving guidance from faculty members. This overview provides some background on these issues, although it cannot substitute for counsel from an attorney. A lawyer with specific training in this domain can address the unique issues in a given situation. Recommendations and cautions are also offered.

Why Should You Pay Attention to This Topic?

You spent most of your academic career learning to cite the accomplishments of other scholars properly and to avoid plagiarism. Now, you have made a contribution to the general body of knowledge, and it’s your contribution that needs protection from inappropriate use. You are due the credit for your work.

Generally, the laws in the business world also apply to academic “products” (e.g., journal articles, books, training guides, presentations, videos, etc.). A few situations are unique to higher education, however, and a lot of sources contain misinformation that may lead a doctoral graduate to make a misstep. Here are some typical questions that you should consider when making choices about how to disseminate your research.

Are Intellectual Property and Copyright Different?

Sometimes these terms are incorrectly used interchangeably, and sometimes one is mistakenly used to mean the other. Intellectual property is a product that results from a creative act of intellect, for which the creator can seek legal protection. The discoveries and innovations by researchers are included in this broad definition. Further, the right to own original ideas and creative works is, in some cases, automatically protected worldwide, but authors can take steps to protect themselves further under U.S. copyright, patent, and trademark laws (Note: Because patents and trademarks are not typically pursued by doctoral students, they are not discussed in this overview. For more discussion of these types of protections, you may want to start with the WIPO site).

Copyright law is the legal means by which ownership in creative works is protected, after they are fixed in some medium, such as your dissertation or doctoral study document. The applicable laws vary across countries and regions and most are beyond the scope of this overview. Even though the author technically owns the copyright in a creative work the moment it was created, greater protection can be obtained through formal registration. An author does not have to disseminate the work (or even formally apply) for it to be protected under U.S. copyright law.
**Derivative Works**

One more term is worth clarifying: *derivative work.* A creative, intellectual product may often be the basis of other products based on that original idea (the underlying work). A key aspect is that the derivative work *extends* the original in some unique and creative ways. This extension can include new ways to present the information or application of the information to new contexts, as may be done in your first journal publication, a book, or even a training protocol based on your doctoral research. As such, these derivative works are protected under U.S. copyright law. You can also take steps to protect your rights for these products as well.

**Infringement of Copyright and Plagiarism**

*Infringement* of a copyright occurs when someone uses a copyrighted work without the owner’s permission. *Plagiarism* of a copyright occurs when someone pretends to have authored a copyrighted work belonging to someone else. What happens when you see that someone has potentially infringed or plagiarized your work? That answer depends a lot on the situation and the nature of the infringement, and the response can range from collegial outreach to engaging an attorney. If you believe that something for which you own the copyrighted was infringed or plagiarized, it is best to alert the publisher of that document as a starting point.

**Who Owns the Intellectual Property Rights to Your Dissertation or Doctoral Study?**

In most situations, especially at Walden, you own any original, intellectual property that is reflected in your academic work, including the dissertation or doctoral study. A few exceptions may exist:

- Group assignments or collaborations where you worked with other students on an assignment or project.
- In some situations, products you created during a supervised internship or practicum would typically belong to the partner organization or sponsor (see note below about the data you used).
- Research that is part of a broader research project that is funded by a grant held by your committee chair or other researcher; this is more likely to happen in the natural sciences.

If you think any of these exceptions apply to a project on which you are working, it is best to discuss the matter with the other parties involved in the project prior to commencing the project. It is easier to unravel and clarify these complexities before you start than it is to do so afterward.

**What About the Data You Collected?**

As the broader community of scholars and researchers has moved to increased transparency and sharing of research data, a question also arises about ownership of the data and evidence used during the research process. To answer this question, a distinction needs to be based on how you obtained the data.
There are three different scenarios:

- If you designed the study and collected *original* data for the purpose of answering your research question, then that information most likely belongs to you. As intellectual property, however, it is subject to the same qualifiers noted above, especially if you collected the data as part of a team or a grant program separate from your doctoral research.
- For existing *public* information and records, or datasets made available specifically for research purposes, you could not claim that information as your intellectual property. You can, however, claim ownership of the *conclusions* that you drew from your analysis of that information.
- If an organization provided operational data and/or encouraged its members to participate in your research to support its own processes, that partner organization would typically want to use those data as well, unless special arrangements have been made to give you exclusive rights to the data. You probably had to sign a data use agreement of some type to access them in the first place. Again, you can still claim ownership of your conclusions based on analysis of those data.

As noted previously, a researcher would be wise to clarify ownership of data used in a project, not only with any partner organization but also any collaborators involved in the project, before the research project commences. After these arrangements are made and the research has been completed, a researcher is not necessarily obligated to share any conclusions drawn from the data with a partner organization, although doing so is usually advisable and considered the act of a responsible researcher.

**Do You Hold the Copyright on Your Dissertation or Doctoral Study?**

As a condition of graduation from Walden, you are required to submit your dissertation or doctoral study to ProQuest for deposit. At that time, ProQuest offers the option of applying for your copyright. Walden encourages you to have ProQuest file an application for copyright on your behalf because doing so actually helps protect you and your work as well as provides documentation of your successful completion of the doctoral capstone. ProQuest does not claim ownership of your dissertation or doctoral study or any derivative works. For more detailed information on this topic, you should read this [ProQuest document](#).

The actual dissertation or doctoral study is one product that resulted from that creative act of intellect, but it is often not the only one. You will likely want to present and/or publish those conclusions in venues that reach a broader audience than people who read dissertations and doctoral studies, such as in research journals or at professional conferences. You might even develop a marketable tool or product from that research (e.g., a measurement instrument). In
those situations, you are able to pursue the appropriate protections under the law, for the intellectual property in these derivative works.

A point of confusion for many new scholars is their first journal publication. Most journals, not all, expect authors to transfer the copyright of the derivative work that appears in their journal to the publisher. What is important to keep in mind is that the copyright is on the published version of that work. The author still retains the rights to the intellectual property and any nonpublished or future works. Strangely enough, authors can violate the copyright of their published work in some situations by not honoring the terms of the contract with the journal publisher.

One word of caution: Increasingly, journal editors, conference organizers, and various other publishers of scholarly work are asking that authors sign an acknowledgment that this work has not been submitted and/or presented in this same way previously before they will even consider it. They want original content, not a reprise of something you have already published. So, while it is important to disseminate your research, each derivative work should extend the previous ones in some meaningful way.

Because you own the intellectual property, you are also free to self-publish or enter into a publishing contract for a book based on your research. If the latter, again be very cautious in these arrangements and have any contract reviewed by a knowledgeable lawyer…. especially if money or ownership rights are involved. Academic publishing is big business, and as in any big business, there are a few unscrupulous people who try to take advantage of others for profit. Beall’s lists of open-access predatory journals and predatory publishers may be a starting point as you make your choices.

Do Your Committee Members Have Any Rights to Your Work?

This question is particularly complicated because intellectual property and copyright laws do not always align with academic traditions. Even though they may have contributed substantially to the product, the members of your supervisory committee are technically not co-owners of the intellectual property (except in rare situations) or considered a co-author on your dissertation or doctoral study. Rather, their compensated contributions are acknowledged on the first page of your dissertation or doctoral study.

What is legal does not always align with what some scholars in some disciplines (not all) view as a tradition; that is, to list the committee on any derivative works based on the doctoral research project, especially that first publication. You may not be legally required to list them as coauthors, but doing so may be appropriate in some situations, especially if they have provided feedback on any subsequent manuscript based on your study.
If you wish to collaborate with one or more of your committee members to write a journal article based on your dissertation research, discuss the expectations of authorship in advance. You can find more guidance on authorship in our FAQ: Authorship Guidelines for Publications and Presentations. Importantly, no committee member should be listed as a contributor to a manuscript or presentation that is developed after the dissertation or doctoral study without his or her knowledge.

**How Do Editors and Consultants Fit Into This Situation?**

First, it is important to distinguish between journal editors, who coordinate the publication process for academic journals and make decisions on their content, and other types of editors who provide assistance on how the document is written and presented. You are likely not going to have a problem with journal editors when it comes to protecting your rights. Within that second group are people who call themselves “editor” but actually provide services that go beyond assuring the technical quality of a manuscript.

Walden University discourages the use of these types of “consultants” for completion of the doctoral capstone because their use can potentially compromise the academic integrity of the document. These same concerns are relevant beyond the dissertation and doctoral study, and unfortunately, it is also almost impossible to distinguish the good ones from the unscrupulous ones. More information on academic integrity related to consultants can be found in Guidance for Walden Students on the Use of External Consultants for Capstone Project.

For this discussion of copyright however, an individual who is compensated specifically for work on a project should not claim ownership of the intellectual product (which actually includes your supervisory committee). Therefore, if you hire a professional copy editor to help you edit your self-published book, you should examine the contractual terms of the engagement and be cautious of anyone who asks you to surrender your intellectual property rights and/or to sign a confidentiality agreement (which protects them, not you) as a condition of the contract. As noted throughout this overview, there are, unfortunately, people who want to take advantage of scholars who are eager to share their work.

**Questions**

No single overview can capture all the nuances related to intellectual property and copyright. A good rule of thumb: If money is involved in any form (now or potentially in the future), it is best to seek the guidance of a legal expert with a background in this area. Other questions, especially ones related specifically to your doctoral research at Walden, can be sent to CRQ@waldenu.edu.
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