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EUROPEAN
UNIVERSITY



FilmEU

Intellectual Property Policy

FilmEU Intellectual Property Policy

Version 1.0¹

Approved on: OCT 2023

Context:

- a. The European Universities Alliance for Film and Media Arts (FilmEU) is a collaboration between several higher education institutions, which is funded through grants.
- b. For the execution of FilmEU grants have been received by the participating higher education institution. In each of these cases, a Consortium Agreement has been agreed between the parties.
- c. FilmEU will produce educational and research outcomes that are protected by copyright and other intellectual property rights, while also producing an incubation plan that must have provisions for knowledge transfer.
- d. To regulate this, a general document must be created detailing the management of Intellectual Property in the context of the collaboration between the parties.

¹ This Policy is inspired by the WIPO Intellectual Property Policy Template for Universities and Research Institutions.

- e. This Policy therefore applies to the activities within the scope of each and every Grant and associated Consortium Agreement listed in Annex A to this Policy. Annex A can be amended from time to time, as necessary.
- f. All references to FilmEU in this Policy are to be understood as a reference to each and every Party to each of the Consortium Agreements listed in Annex A in so far as the activity of said Party is within the scope of the Consortium Agreement in question.
- g. This Policy applies to jointly owned Intellectual Property and complements clauses of the applicable consortium agreements.

1. Purpose of the IP Policy

- 1.1. **Promotion of IP utilization.** The intent of the IP Policy is to facilitate the widespread use of, through various modalities, FilmEU's Intellectual Property.
- 1.2. **IP management.** The IP Policy seeks to set the framework for the translation of the IP arising from FilmEU's activities into products, services, and processes. It encourages Staff Members, Students and Visitors to become Creators and to identify IP with potential commercial value. It also establishes clear rules and procedures for the management and Commercialization of such IP generated in the context of FilmEU.
- 1.3. **Balance of interests.** The IP Policy seeks to ensure legal protection, where applicable; effective management and Commercialization of IP; while at the same time not conflicting with the traditions

of education and scholarship, academic freedom, open and timely publications, sovereignty, open science as reflected in EU policy, and FilmEU's mission.

2. Relationship to other documents

- 2.1. **Relationship to FilmEU Members Policies.** In relation to the scope of the FilmEU project and activities, as detailed in Exhibit A, this IP Policy shall prevail over any other policies, rules or regulations that each FilmEU member uses. Members of FilmEU shall take all reasonable measures to ensure compliance with this IP Policy. For the sake of clarity, the policies, rules and regulations of each FilmEU member remain unaffected unless the activities performed fall under the scope of each project detailed in Exhibit A.
- 2.2. **Relationship to contracts.** This IP Policy can be derogated by contracts when specifically called out in writing and duly authorized in the context of the FilmEU Consortium.

3. Definitions

In this Policy the following definitions shall apply:

Artistic and Audio-visual Output. All copyright works of an artistic and/or audio-visual nature, such as films, animations, designs, installations, paintings, sculptures, or digital art, which are the outputs of academic Staff Members, Students or Visitors, including research, creative and other outputs in area(s) of his/her expertise.

Background IP. Any pre-existing IP created before the execution of any Research Project, or prior to a Creator becoming subject to this IP Policy, by virtue of Appointment in the case of a Visitor, employment contract in the case of a Staff Member, or registration in the case of a Student.

Commercialization. Any form of utilisation of IP intended to generate value, which may be in the form of a marketable product, process or service, commercial returns, or other benefits to society. **Commercialize** is similarly defined.

Course Materials. All materials used in, or in connection with, and for the purpose of, teaching an education course through the provision of lectures, tutorials, seminars, workshops, field or laboratory classes, assessments, practicum and other teaching activities conducted by FilmEU; and all IP in such materials.

Creator. Any person to whom this Policy is applicable, who, individually or jointly with others, creates, conceives, reduces to practice, authors, or otherwise makes a substantive intellectual contribution to the creation of IP. The notion of Creator includes authors and inventors under the applicable national and European laws.

Enabler. Any assistants, technicians, and other individuals who have indirectly contributed to the creation of IP by Creators - and as such may not be listed themselves as an author or inventor in terms of statutory IPRs - mainly through the execution of standard tasks or following through

on specific instructions, but without whose practical contribution the Commercialization would not have been possible.

FilmEU The European Universities Alliance for Film and Media Arts is a European Universities Initiative, funded by grants and operating under consortium agreements listed on Exhibit A. All references to FilmEU are to be understood as a reference to each and every party to those consortium agreements.

FilmEU IP. IP owned or co-owned by members of FilmEU as a result of the activities performed in the context of one or more projects listed in Exhibit A.

Gross IP Revenue. All revenue received by FilmEU on Commercialization of FilmEU IP before any deductions for IP Expenses.

Intellectual Property (IP). All outputs of creative endeavour in any field at FilmEU for which legal rights may be obtained or enforced pursuant to the law. IP may include:

- a. literary works, including publications in respect of Research results, and associated materials, including drafts, data sets and laboratory notebooks;
- b. teaching and learning materials;
- c. other original literary, dramatic, musical or artistic works, sound recordings, films, broadcasts, and typographical arrangements, multimedia works, photographs, drawings, and other works created with the aid of FilmEU resources or facilities;

- d. databases, tables or compilations, computer software, preparatory design material for a computer program, firmware, courseware, and related material;
- e. patentable and non-patentable technical information;
- f. designs including layout designs (topographies) of integrated circuits;
- g. trade secrets;
- h. know-how, information and data associated with the above; and
- i. any other FilmEU-commissioned works not included above.

Intellectual Property Rights (IPRs). The proprietary rights that may be granted for an invention, mark, design, plant variety, or other type of IP, such as patents, patent rights, design rights, copyrights, database rights, trade secrets, know-how, trademarks, trade names, service marks, and all applications and rights to apply for registration or protection rights pertaining thereto, in existence at the date hereof or created in the future.

IP Disclosure Form. A document describing any creation that may attract Intellectual Property protection pursuant to this Policy. A template is provided as Exhibit B.

IP Expenses. All expenses incurred by FilmEU in the management and Commercialization of IP for which Gross IP Revenue has been received.

IP Management Office (IPMO). The administrative unit responsible for day-to-day management of all IP-related activities of FilmEU.

Net IP Revenue. Gross IP Revenue less IP Expenses.

Research Contract. Any type of agreement between FilmEU and an external party or research sponsor, concerning research, which could result in IP being created at FilmEU. This shall include, but is not limited to, all sponsorships, donorships and collaborations with the external party or research sponsor.

Research Project. Any project that forms the basis of research undertaken by FilmEU and includes projects undertaken by a Student, under the supervision of a Staff Member or a Visitor.

Scholarly Works. All literary and visual works which are the outputs of academic Staff Members, Students or Visitors, including research, creative and other outputs in area(s) of his/her expertise. Scholarly Works do not include Artistic and Audio-visual Output.

Staff Member. Any person who is under a contract of employment with FilmEU including academic, research, technical, administrative and adjunct staff, whether full-time or part-time or on a temporary basis.

Student. Any student registered for an approved course at FilmEU.

Visitor. Any person who is neither a Staff Member nor a Student of FilmEU who engages in work at FilmEU, including visiting professors, adjunct and conjoint professors, teachers, researchers, scholars,

outsourcers and volunteers; and who concludes an agreement with FilmEU.

4. Scope of this Policy

- 4.1. **IP.** This Policy applies to all IP generated at FilmEU in the context of the projects and activities related to the agreements listed in Exhibit A. It will apply in particular to Staff Members, Students and Visitors that engage in those projects and activities.
- 4.2. **Background IP.** Upon commencing employment, enrolment or an Appointment, Staff Members, Students and Visitors must declare any existing IP they wish to exclude from the application of this Policy due to creation prior to their employment, enrolment or Appointment at FilmEU.
- 4.3. **Applicability.** This Policy applies to all Staff Members, Students and Visitors who participate in a Research Project or produce Artistic and Audio-visual Output or Scholarly Works. Rights and obligations under this Policy shall survive any termination of employment, enrolment or Appointment at FilmEU.
- 4.4. **Binding nature** This Policy constitutes an understanding that is binding on FilmEU Staff Members, Students and Visitors within the scope of that project, and FilmEU members shall ensure that:
 - 4.4.1. the employment contract or other agreement establishing any type of employment relationship between them and Staff Members are compatible with this Policy.

- 4.4.2. Students participating in a Research Project must sign an agreement before commencing the project, to the effect that they have read and will comply with the provisions of this Policy.
- 4.4.3. Visitors sign an agreement before commencing any activity at FilmEU. Such agreement shall place the Visitor under the scope of this Policy and shall make reference to this Policy, a copy of which will be made available to the Visitor.

5. IP Management

- 5.1. **Overseeing Body.** FilmEU shall designate a body to oversee the implementation and evolution of this Policy and provide strategic guidance to the IPMO.
- 5.2. **IPMO.** FilmEU shall establish an IP Management Office (IPMO) or designate a function within FilmEU or another organisation to act as such, to assist FilmEU in managing and Commercializing its IP in a form that will most effectively promote its development and use for economic and social benefit.
- 5.3. **Responsibilities of the IPMO.** The responsibilities of the IPMO shall include, but are not limited to:
 - a. Outreach/awareness to Creators;
 - b. Relationship management with Creators and Enablers;
 - c. IP management;
 - d. Technology marketing and IP contract negotiation;
 - e. IP contract management; and
 - f. IP costs and revenue distribution.

- 5.4. **Recording and monitoring.** IPMO or an external entity designated by the IPMO shall maintain records of FilmEU's IP in an appropriate form and in sufficient detail. It shall monitor the deadlines for the payment obligations related to the maintenance or annuity fees of protected IP, and shall, within a reasonable time, inform the person or department designated to make such payments.
- 5.5. **Accounting.** IPMO shall maintain income/expense accounting records on each IP so that revenue-sharing allocations can be calculated.

6. IP Ownership

- 6.1. **FilmEU ownership (Staff).** FilmEU owns all IP created by a Staff Member:
 - a. in the course and scope of his/her employment; or
 - b. making substantial use of FilmEU's resources.
- 6.2. **FilmEU ownership (Students).** IP emanating from a Student's Research Project shall be owned by FilmEU in the following circumstances:
 - a. if the IP is created by making Substantial Use of FilmEU's resources (excluding supervision) and there is no reimbursement agreement concluded between FilmEU and the Student; or

- b. if the Research carried out by the Student forms part of FilmEU's Research Projects.

6.3. **FilmEU ownership (Visitors).** Unless otherwise agreed to in writing by FilmEU and the Visitor's home FilmEU prior to the tenure at FilmEU, Visitors are required to assign to FilmEU any IP:

- a. created in the course and scope of their Appointment at FilmEU; or
- b. created by making Substantial Use of FilmEU's resources.

On departure from FilmEU, a Visitor must sign and submit to IPMO an IP Disclosure Form disclosing any IP created.

- 6.4. **Staff Member ownership.** Staff Members will own/co-own the IP they have created when such IP is outside the course and scope of their employment and without substantial use of FilmEU's resources;
- 6.5. **Student ownership.** IP created by a Student in the course of study at FilmEU (including theses, dissertations, Artistic and Audio-visual Output and other Scholarly Works) will be owned by FilmEU.

- 6.6. **License by FilmEU on Course Materials.** FilmEU grants the Creators of Course Materials a royalty-free, non-exclusive licence to use the Course Materials created by them for teaching and Research purposes at FilmEU. With the express prior written permission of FilmEU, such licence may be utilised for commercial purposes outside FilmEU.
- 6.7. **Publication.** FilmEU recognises and endorses the rights of Staff Members, Students and Visitors to publish their Scholarly Works and Artistic and Audio-visual Output, provided that they obtain prior written authorization from IPMO. Creators should be aware that premature public disclosure may result in the loss of IP protection rights. Therefore, they are strongly encouraged to make all reasonable efforts to identify any protectable IP as early as possible and to consult with IPMO in case of doubts.
- 6.8. **Embargo.** FilmEU may, in its sole discretion embargo Scholarly Works and Artistic and Audio-visual Output for up to two years, namely to protect information of commercial value, to make a patent application concerning the subject matter of the research, to ensure compliance with the law or to protect public safety (e.g., where it refers to issues of national security; contains material which might be considered offensive).

7. Moral Rights

- 7.1. **Recognition.** FilmEU undertakes to respect and protect the moral rights which law confers on Creators of certain works.

- 7.2. **Rights granted.** FilmEU acknowledges that moral rights vest in Creators of certain works irrespective of the copyright ownership thereof and include:
- a. the right of attribution of authorship in respect of the works;
 - b. the right not to have authorship of the works falsely attributed; and
 - c. the right of integrity of authorship in respect of the works.
- 7.3. **No waiver.** FilmEU will not require Staff Members, Students or Visitors to waive their moral rights as a condition of employment, enrolment, or funding.

8. Research Contracts

- 8.1. **Authority.** Staff Members, Students and Visitors shall not have the right to enter into a Research Contract with external parties on behalf of FilmEU unless they are authorized to do so by an official representative of FilmEU.
- 8.2. **Government rules.** Research Contracts shall comply with any applicable law and/or Government regulations and/or rules, which may be applicable to Research undertaken by FilmEU, in particular, as far as it relates to the ownership of IP resulting from such Research.

9. Disclosure and Collaboration

- 9.1. **Recording.** Creators shall keep appropriate records of their Research in accordance with FilmEU's applicable policy procedures and make reasonable efforts to ensure that only those individuals within FilmEU who have a need to have access to such records for the performance of their duties are granted such access.
- 9.2. **IP Disclosure.** Where a Creator identifies potential IP resulting from his/her Research or that of his/her team, he/she shall disclose such potential IP to IPMO promptly by filling in an IP Disclosure Form.
- 9.3. **Complete disclosure.** Creators must provide to IPMO such full, complete and accurate information as IPMO may reasonably require to enable it to sufficiently assess the technical and related features and functions, ownership, commercial potential and IP protection that might be applicable to such IP.
- 9.4. **Creatorship.** Creators shall, upon request, sign the appropriate legal documents provided by IPMO that attest to creatorship. Where there is more than one Creator, and there is a dispute as to the contribution to creatorship, IPMO shall in consultation with the Creators, assist in the determination of the percentage IP creatorship, failing which it shall be assumed that there was an equal undivided contribution.
- 9.5. **Assistance.** Once creatorship has been determined, the Creators shall be required to formally assign any right, title or interest they may have in that IP to FilmEU in the form of a contract that specifies the rights that will accrue to the Creator(s) and FilmEU and the obligations they will have to assist FilmEU with the Commercialization of that IP.

10. Decisions regarding IP Protection and Commercialization

- 10.1. **Evaluation and recommendation.** IPMO will analyse the information disclosed in the IP Disclosure within 90 days of formal receipt. The analysis will include: whether or not the subject matter is protectable as IP; an assessment of economic viability or marketability; and a determination of any rights of external parties, such as a funder or collaborator. After evaluation, IPMO will prepare a preliminary report with findings that enable FilmEU to decide if it will proceed with IP protection and Commercialization. IPMO shall share the preliminary report with the Creator(s), and seek their input.
- 10.2. **Decision to protect/Commercialize.** FilmEU will decide, as soon as reasonably practicable, whether or not it wishes to protect and/or Commercialize the IP. IPMO will use all reasonable efforts to notify the Creator(s) of FilmEU's decision within 90 days of formal receipt of the IP Disclosure. IPMO will also make a determination in relation to the validity of any claim made by a Staff Member, a Visitor or a Student that they are the true Creator(s) of that IP and in relation to their rights under this Policy.
- 10.3. **FilmEU's obligation to notify Creators of its decision.** Within no more than 60 days IPMO will notify the Creator(s) of the decision of whether FilmEU will or will not pursue IP protection and Commercialization of their IP Disclosure.
- 10.4. **IP abandoned or not Commercialized.** FilmEU reserves the right not to protect or Commercialize IP that it owns if after consultation with the Creators:

- a. there is no reasonable prospect of commercial success;
- b. it is not deemed to be in the best interest of FilmEU; or
- c. it is not deemed to be in the public interest.

10.5. **Transfer of Ownership.** If FilmEU is unable to or decides not to protect or Commercialize FilmEU IP, it should notify the relevant Creator(s) of its decision in writing and it will offer the Creator(s) the possibility of taking steps to return said IPRs to the Creator(s), contingent on any other superseding contract rights of external party(ies)/sponsor(s). If FilmEU assigns IPRs to the Creator in this situation, the assignment may be subject to one or more of the following terms and conditions:

- a. that upon Commercialization, FilmEU be compensated for any expenditure it may have incurred in connection with the protection and/or Commercialization of such IP; and/or
- b. that FilmEU be granted a non-exclusive, royalty-free licence to use the IP for Research and teaching purposes.

11. Commercialization

11.1. **Determination of the Commercialization Strategy.** Within 6 months of the decision to protect or Commercialise the IP FilmEU will determine, with input from the Creators, the most appropriate Commercialization strategy.

- 11.2. **Assistance to IPMO.** Creators of IP which has been selected for IP protection and Commercialization by FilmEU must provide IPMO with all reasonable support in the assessment, protection (including preventing premature disclosure and execution of any documents including deeds of assignment and deeds attesting to creatorship), and Commercialization of the IP.
- 11.3. **Discretion and Cooperation.** FilmEU shall have the sole discretion regarding the Commercialization of IP owned by it. Notwithstanding, FilmEU will ensure that reasonable efforts are made to keep the Creators informed and, where appropriate, involved in the Commercialization of the IP to which they contributed. The Commercialization of FilmEU IP will be planned, executed, and monitored by IPMO.
- 11.4. **Commercialization Pathways.** Modes of IP Commercialization may include:
- a. license, either exclusive or non-exclusive, and variations thereof
 - b. assignment (sale);
 - c. formation of a commercialization entity to which the IP is licensed or assigned in terms of this Policy;
 - d. non-profit use or donation;
 - e. joint ventures;
 - f. royalty-free access on humanitarian or other grounds; or
 - g. various combinations of the above.
- 11.5. **Guidelines.** Regardless of the mode of IP Commercialization, the transaction will be executed in a contract which:

- a. protects the interests of FilmEU, its Staff Members, Students and Visitors;
- b. retains rights for FilmEU to use the IP for educational and research purposes;
- c. assures that the IP will be utilized in a manner which will serve the public good;
- d. assures that the IP will be developed and brought to the marketplace as useful goods and services; and
- e. prohibits the use of IP in any illegal or unethical manner.

12. Incentives and Rewards

- 12.1. **Purpose and scope.** FilmEU, in the interest of promoting knowledge transfer, will give due consideration to incentives to researchers to foster Research that has socio-economic impact; such incentives may be financial or non-financial. A Creator/Enabler may receive incentives from each IP they created/enabled which is Commercialized.
- 12.2. **General.** FilmEU will award Creators/Enablers in the sharing of monetary benefits that may accrue to FilmEU from the Commercialization of FilmEU IP.
- 12.3. **Calculation of revenues for distribution.** Calculation of Gross IP Revenue, IP Expenses, and Net IP Revenue shall be in accordance with the following rules:

- 12.3.1. **Calculation of Gross IP Revenue.** “Gross IP Revenue” is defined as “*all revenue received by FilmEU for Commercialization of FilmEUal IP before any cost recovery or deductions for IP Expenses*” and includes, but is not limited to, outright sale of IP, option payments received, licence fees received, evaluation fees received, upfront and milestone payments received, royalty payments received, share of profits received, dividends received, commissions, income through disposal of equity, and direct sale of products or services.
- 12.3.2. **IP Expenses.** “IP Expenses” is defined as “*all expenses incurred by FilmEU in the management of IP for which Gross IP Revenue has been received*” and includes, but is not limited to, those expenses that relate to (i) FilmEU’s expenses incurred by payment to external entities for securing, maintaining and enforcing IP protection, such as patenting and litigation expenses; (ii) costs incurred by FilmEU in the licensing/assignment of IP, including marketing costs, contract negotiation and drafting costs; and iii) costs in making, shipping or otherwise distributing products, processes or services that embody the particular IP, but not including staff time or general administrative costs.
- 12.3.3. **Calculation of Net IP Revenue.** “Net IP Revenue” is calculated as the Gross IP Revenue less IP Expenses.

12.4. Sharing of revenues – Creators/Enablers

12.4.1. **Standard Creator's share.**

[•] % of the Net IP Revenue will be allocated to the Creator. Where there is more than one Creator, the Creators are entitled to an equal or *pro rata* share, based on contribution except where there is a prior written agreement between all the Creators to the contrary.

12.4.2. **Standard Enabler's share.**

FilmEU may elect to set aside[[•] % of the Gross or Net IP Revenue for an Enabler. Where there is more than one Enabler, the Enablers are entitled to an equal or *pro rata* share, based on practical contribution except where there is a prior written agreement between all the Enablers to the contrary.

12.4.3. **Payment.** Payment to the Creators/Enablers will be made by FilmEU on a periodic basis as agreed in writing, but no later than 12 months after receipt of the Gross IP Revenue by FilmEU. Payments may be subject to taxes, and FilmEU may, if so obliged by national tax laws, make any applicable tax deductions before making payments to the Creators/ Enablers.

13. Disputes

- 13.1. Breach of the provisions of this Policy shall be dealt with under the normal procedures of FilmEU, and in accordance with the relevant provisions of laws and regulations in force.
- 13.2. The applicable law and jurisdiction shall be the one determined under the applicable consortium agreement.
- 13.3. Any internal disputes or questions of interpretation arising under this Policy must be referred to IPMO for consideration and mediation by the FilmEU bodies.

14. Revision

This Policy may be amended at any time by a decision of FilmEU. In this case:

- a. all IP disclosed on or *after* the effective date of such amendment shall be governed by the Policy as amended; and
- b. all IP disclosed *prior* to the effective date of the amendment shall be governed by the Policy prior to such amendment, provided that the provisions of the Policy (as amended) shall apply to all IP licensed or otherwise Commercialized on or after the effective date of any such amendment regardless of when the IP is disclosed.

Exhibit A

Project Name	Consortium Agreement	Funding	Other observations

Exhibit B

INTELLECTUAL PROPERTY DISCLOSURE FORM

The purpose of this form is to record and provide information for the evaluation of Creations which are of potential commercial value.

1. Creators

1.1. Identification

Please complete details for each Creator, continue on a separate page if necessary.

Name			
Title			
Status*			
Work Address			
Home Address			
Email			
Telephone			
Nationality			

* Staff Member, Student, Visitor or others (please describe)

1.2. Contribution(s)

Please provide a brief description of the roles of those named in this disclosure:

2. Creation

2.1. Please choose a short title that we can use for your Creation

2.2. What is the Creation? (please describe in a few sentences)

2.3. When and where was the Creation first made?

2.4. What is the purpose of the Creation?

2.5. Does it solve any technical problem? If so, which one and how?
What could the final 'product' be used for?

2.6. (only answer if the answer to 2.5. was affirmative) What is new in the Creation and what are its advantages and disadvantages compared to existing solutions?

3. Disclosure

Disclosures

Please list, with dates, any past and planned written publications (e.g. journal papers/abstracts/posters/internet/other) or oral disclosures (e.g. presentations at internal or external seminars, disclosure to a company under a confidentiality agreement etc) presenting the Creation or data in it:

i). Past:

ii). Planned:

Signatures

Each person listed as a Creator should sign and date in the space below. By signing this document, you verify that the information given above is correct to the best of your knowledge and belief and you verify that you have read and understood the FilmEU IP Policy.

Name	Signature	Date

Signed by a representative of the IP Management Office:

Name:

Date:

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