



Managing and Respecting Intellectual Property

➤ What is the purpose of this document?

This document provides an overview of issues relating to intellectual property (**IP**) at the Sydney Archdiocese so that you know, in general terms, what you need to do to manage and respect IP owned by the Archdiocese and by third parties.

It is not possible in such a short document to be comprehensive. Please feel free, therefore, to contact the General Counsel (9390 5336) if you have specific questions or issues related to IP.

➤ What is "Intellectual Property"?

Intellectual Property refers to the rights that people have in works that they create or invent, such as a painting or the lyrics or composition of a piece of music.

Generally speaking, creators and inventors have exclusive rights for a period of time to deal with their creative works or inventions.

Methods of protecting IP which are commonly mentioned include:

- **copyright** (which protects original literary, artistic, dramatic or musical works and other works such as films and broadcasts and trade mark);
- **trade mark** (which protects words, symbols, pictures, sounds, smells or a combination of these to distinguish your goods and services from those of other traders); and
- **confidential information** (sometimes known as "trade secrets").

➤ Why should I care about IP?

By way of example, if you:

- create graphics;
- write articles;
- use graphics from the internet or other sources in a presentation;
- publish a newsletter with photographs;
- produce a DVD with music recordings or footage;
- use the Archdiocesan crest mark, "iactiv8" or "xt3",

then it is important that you know about managing and respecting intellectual property.

You should care about IP because it is other people's property and you should not use other people's property (whether it is tangible property such as a car or a bicycle or intangible property such as IP rights in a song or a photograph) without permission.

The value of IP owned by the Archdiocese is in protecting it. If you allow people to copy a painting or book or other work, then the economic value of the rights will be less. Protection of Archdiocese IP is also important in the context of the Catholic Church to ensure that IP is used in a way that does not bring the Church into disrepute. To this end, during World Youth Day preparations, careful controls were put in place to ensure appropriate use of the WYD08 Logo (a registered trade mark).

Policy for using third parties' IP

As you are not the owner of other people's IP, before you use third party materials, such as, reports, images, recordings, photographs or DVDs, you must ensure that proper permission (often referred to as "clearances") is obtained.

You should not assume that just because the Archdiocese is part of the Catholic Church and usually seeks to use third party IP for not-for-profit purposes, that the owner of the IP in a work will allow you to use the work or will allow you to do so free-of-charge. If you do not obtain proper permission (including meeting conditions of consent such as paying royalties), the owner of the IP could seek an injunction to prevent you from using the photo or sound recording or other work or sue the Archdiocese for damages such as lost royalties or a portion of profits.

Please consult with the General Counsel before using any third party materials to ensure that proper clearances and moral rights consents are obtained.

What are "moral rights"?

Individuals who own IP have rights called "moral rights" which are personal and cannot be assigned or transferred to someone else, even if copyright is owned by someone else.

"Moral rights" include the right to be attributed as author or creator of a work and not to have authorship or performance falsely attributed.

Authors or creators of a work can take action to enforce their moral rights when, for instance, their work is attributed to someone else or their work is changed or treated in a way that harms their reputation.

What do I need to know about "moral rights"?

You need to know that even if the Archdiocese owns copyright in a particular work, the creator of the IP retains moral rights in respect of that work.

Usually in agreements with contractors and third parties, the Archdiocese obtains consents in relation to moral rights. For instance, a contract might provide that there is no requirement to attribute authorship or that the author or creator consents to conduct which might otherwise infringe his or her moral rights or that the author or creator agrees not to sue the Archdiocese if his or her moral rights are infringed.

These are standard provisions in contracts relating to use or assignment of ownership in IP. They do not mean that the Archdiocese intends to infringe the rights of authors or creators or to treat a work in a way that is disrespectful or harms the reputation of the author or creator. Rather, provisions about moral rights in contracts make it clearer to both parties how the Archdiocese may use IP. Whether there is a breach of moral rights is often subjective (that is, a painter may say that the way you have framed a painting harms his reputation but you may disagree) so having clauses in a contract which say that the owner of the work consents to the Archdiocese acting in a way that might infringe the owner's moral rights may protect the Archdiocese from litigation, disputes or arguments about how it is using the IP.

➤ Ownership of IP created by employees

At times you will write articles or create graphics or generate other works in the course of your employment.

Something is in the "course of employment" even if you may not have been specifically requested to create the particular work so long as the creation of the work relates to your employment responsibilities.

You should be aware that the Archdiocese owns all IP created by employees during their employment.

We may ask you to sign documents which are necessary to ensure that the Archdiocese has full rights in the IP, including consents relating to moral rights.

➤ Ownership of IP created by contractors or consultants

From time-to-time the Archdiocese engages third parties to, for instance, take photographs or design graphics or paint a painting.

It is Archdiocese policy to own IP in works created by contractors and consultants engaged to create those works.

For the Archdiocese to own IP in such works, the people who provide goods or services to the Archdiocese will be asked to assign IP created during their engagement to the Archdiocese. This needs to be reflected in the contract with the contractor or consultant.

Standard agreements used by the Archdiocese should be used when engaging consultants and contractors. If you have any questions or concerns you should consult the Business Manager or the General Counsel.

➤ Confidential Information

All contractors and employees are required to keep information confidential and follow Archdiocese directions to preserve the confidentiality.

➤ Use of Archdiocese IP by employees

Archdiocese IP includes things such as trade marks such as the Archdiocesan crest, the "iactiv8" mark and the "xt3" mark and copyright in articles and publications by Catholic Communications.

You may only use Archdiocese IP (for instance in relation to photographs or articles owned by the Archdiocese) if you are authorised to do so. People who may authorise you to do so are the Director of Catholic Communications and the Business Manager.

You must use Archdiocese IP in an authorised manner, following any instructions that you are given.

For instance, you may be asked to identify a trade mark by using symbols (™ or ® depending on whether the mark is unregistered or registered) or by including a copyright notice on Archdiocese materials such as ©The Trustees of the Roman Catholic Church for the Archdiocese of Sydney.

Some IP which is used by the Archdiocese belongs to third parties and the Archdiocese has been allowed to use it. In such cases, you must ensure that any conditions of use which are notified to you are met. For instance, you may need to include a notice saying "Used by permission of [x]" or "used under licence to the Archdiocese of Sydney by [x]".

🔗 Policy for allowing third parties (other than employees) to use our IP

The Archdiocese takes requests to use its IP seriously. To allow third parties to use our IP requires permission of the Director of Catholic Communications or the Business Manager. Depending on who the third party is and the IP concerned, often a formal licence agreement or at least a short letter agreement will be required. Licences granted to third parties must be reviewed by the General Counsel.

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