

CATALAN INSTITUTE OF CLASSICAL ARCHAEOLOGY (ICAC)

HR STRATEGY FOR RESEARCH

MANUAL OF POLICIES AND PRACTICES FOR INTELLECTUAL AND INDUSTRIAL PROPERTY OF THE CATALAN INSTITUTE OF CLASSICAL ARCHAEOLOGY (ICAC)

1. Definitions

AUTHOR. An author is the natural person who creates a literary, artistic, or scientific work. All tangible and intangible original literary, artistic, and scientific creations expressed by any means or in any format currently known or that may be invented in the future are subject to copyright. The copyright to a literary, artistic, or scientific work belongs to the author by virtue of the author having created it.

The moral rights of the author are inalienable. They cannot be transmitted *inter vivos* or *mortis causa*. They are not extinguished with the passage of time. They do not enter the public domain and are not subject to prescription.

WORK. Output that can be copyrighted, including but not limited to articles, books, publications, lectures, conferences, multimedia materials, databases, and computer programs (software).

MORAL RIGHTS. Rights of a highly personal, unwaivable and inalienable nature attached to an author or performer throughout their lifetime and passed on to their heirs or successors. These include the right to attribution as the author of the work, the right to the integrity of the work, and the right to object to alteration of the work.

ECONOMIC RIGHTS. Rights related to the exploitation of the work that allow the owner to authorise or prohibit use of the work. Use of the work includes reproduction, distribution, public performance or communication, adaptation, etc. These uses may entail financial compensation.

The rights to use the work last for the life of the author and extend 70 years after his or her death.

2. ICAC research

2.1. Copyright ownership

ICAC research and technical staff are entitled to recognition of moral rights of authorship for works resulting from their research, development, innovation and transfer (hereinafter R&D+I+T), and/or academic and teaching duties at ICAC.

However, ICAC will have use rights for the works unless otherwise established contractually.

2.2. Doctoral thesis copyright ownership

Authors of doctoral theses and their supervisors will have ownership of the moral rights of the doctoral thesis. ICAC will have ownership of the use rights of works by doctoral students contracted by ICAC for this purpose.

ICAC, the URV, the UAB and doctoral candidates will sign a contract establishing authorship of the doctoral thesis, in which they will agree on the rights of authorship of the doctoral candidate and the signatory institutions.

By virtue of this contract, and considering that the universities of the Catalan University System participate in the Theses and Dissertations Online programme (TDX) of the Consortium of University Libraries of Catalonia (CBUC) and the Catalan Supercomputing Centre Consortium (CESDA), which aims to offer researchers, teachers and the university community in general an online database of full-text doctoral theses in digital formats, the parties will establish the terms for the assignment of use rights for the doctoral thesis in CBUC/CESDA.

2.3. Copyright ownership in specific circumstances

2.3.1. Collective works

If a work created by any member of ICAC staff in the performance of their R&D+I+T, academic or teaching duties is a computer program (software), ICAC will be the exclusive owner of its use rights.

If the computer program is developed jointly at the initiative of ICAC and with ICAC coordination, authorship and ownership of the use rights will be ICAC's in the event that it publishes and disseminates it under its name, unless otherwise agreed.

2.3.2. Computer programs (software)

If the work is developed jointly at the initiative of ICAC and with coordination by ICAC, the authorship and ownership of the use rights will be ICAC's if it publishes and disseminates it under its name, unless otherwise agreed.

2.3.3. Databases

ICAC will be the owner of use rights for databases created by any ICAC staff member in the performance of their R&D+I+T, academic or teaching duties at ICAC. In accordance with applicable regulations, databases are collections of works, data and other independent elements arranged in a systematic or methodical manner that are accessible individually by electronic or other means.

2.4. Other rights

2.4.1. Knowledge ownership

ICAC is the owner of knowledge produced by its staff, regardless of whether it is considered a protected trade secret or not.

2.4.2. Copyright

All works owned by ICAC must be clearly marked with the following statement, '©Institut Català d'Arqueologia Clàssica (ICAC), [year]. All rights reserved.

Right of attribution

All works in which ICAC staff participate directly or indirectly as part of their R&D+I+T, academic or teaching duties at ICAC must indicate their relationship with ICAC unless ICAC expressly waives this requirement.

3. Industrial property

3.1. What is considered industrial property in Spain?

Industrial property includes all intangible assets subject to an exclusive right, so it can therefore be considered a property right. Exclusivity means the owner can prohibit third parties from using it in commercial transactions without express authorisation. Recognition of these rights requires registration with the Spanish Patent and Trademark Office.

In Spain, industrial property includes, but is not limited to, the following:

- a) Patents and utility models: Protection of inventions that are novel, involve innovative processes, and are suitable for industrial application. Patent protection lasts for 20 years and utility model protection for 10 years. Patents and utility models are regulated by Law 24/2015 on patents.
- b) Industrial designs: Protection of the external appearance of products. Protection lasts for 25 years. Industrial designs are regulated by Law 20/2003 of 7 July on legal protection for industrial design.
- c) Trademarks and trade names: Protection of symbols and words that identify and differentiate a product or service provided by one company from the same product or service provided by another company. Trade names identify companies and distinguish them from other companies that offer identical or similar services or products. They are protected indefinitely. Trademarks and trade names are regulated by Law 17/2001 of 7 December on trademarks.

3.2. How are industrial property rights different from copyright?

The exclusive right to a work is the same as the exclusive right to an invention or a trademark. However, there are two fundamental differences. Copyright belongs to the author for the sole reason that the author created the work. Therefore, the work does not need to be registered. Registration is purely for evidentiary purposes. The second difference is the period of protection, which lasts for the life of the author and 70 years after his or her death.

In Spain, these are regulated by the Law on Intellectual Property (Royal Legislative Decree 1/1996 of 12 April approving the Consolidated Text of the Law on Intellectual Property, regularising, clarifying and harmonising applicable statutory provisions). Registration is required to obtain full recognition of the exclusive right to industrial property. The duration of protection varies according to the intangible asset in question.

3.3. Is the same terminology used internationally?

Bear in mind that internationally, 'intellectual property' encompasses both copyright and industrial property. The protection of these rights is unified through EU regulations and international treaties.

3.4. Can I apply for a patent in the field of archaeology?

Yes, if it meets the patentability requirements set out by law. Here is an example:

Patent: National patent P200201201(6) – COMBINED SYSTEM FOR *IN SITU* UNDERWATER ARCHAEOLOGICAL RECORDING AND CONSERVATION
<http://consultas2.oepm.es/ceo/jsp/busqueda/consultaExterna.xhtml?numExp=P200201_201>.

Utility model: Utility model U200402571 (9) – EQUIPMENT FOR TRANSPORTING AND SIEVING EARTH IN ARCHAEOLOGICAL EXCAVATIONS

<http://consultas2.oepm.es/ceo/jsp/busqueda/consultaExterna.xhtml?numExp=U200402_571>.

3.5. What if the inventor is an ICAC researcher or member of technical staff?

According to current legislation, exclusive industrial property rights are owned by the entities at which the inventor or researcher performs his or her duties. In other words, ICAC is the owner and holds use rights for the inventions of ICAC staff as a result of their R&D+I+T, academic or teaching activities at ICAC.

Regardless, ICAC respects the moral right to be recognised as an inventor.

3.6. Is ICAC's name a registered trademark?

Yes. ICAC registered its name as a mixed trademark in 2004, which provides protection to its logo and name. As such, ICAC is the only entity that can use this name and logo or authorise third parties to use them. http://consultas2.oepm.es/ceo/jsp/busqueda/consultaExterna.xhtml?numExp=M262782_2

4. Protection of image rights related to ICAC activities

4.1. Photographs, videos, and archaeological intervention

4.1.1. Can ICAC take and/or publish a photograph or video of me?

No. If you have not granted authorisation to ICAC to capture your image, ICAC is not allowed to take photographs or videos in which your image appears without your consent. ICAC will ask for your consent for this purpose when you join ICAC. You will be asked to sign a document authorising ICAC to take and publish your image during ICAC activities. However, Organic Law 1/1982 states that consent must be given expressly, and verbal authorisation *in situ* is considered express authorisation.

The rights to one's own image are regulated by Organic Law 1/1982 of 5 May on civil protection of the rights to honour, personal privacy and individual likeness.

4.1.2. What if we are presenting an archaeological site or inaugurating an event?

In that case, yes. Article 8 of Organic Law 1/1982 provides for certain exceptions for capturing and publishing photographs and videos. Consequently, the right to one's own likeness does not preclude capturing, reproducing or publishing images of a public event when the image of a specific person is merely incidental.

4.1.3. What if I am the author of the photograph?

If you are the author of a photograph and other people appear in the image, the right to the image of the people who appear in the photograph takes precedence over the author's right to the photograph. You must obtain authorisation from the people in the photograph to publish images of this type.

4.1.4. How can I obtain authorisations?

As stated in question 2 in this section, consent relating to image rights must be given verbally or in writing.

For authorisation from minors, Article 3 of Organic Law 1/1982 establishes that minors must provide consent if the minor is sufficiently mature to do so. However, to prevent potential issues related to interpretation, consent should be obtained in writing from a guardian of the minor.

The law on intellectual property also requires authorisation to transfer copyright rights. Authorisation must be specified in writing.

For copyright, remember that prior consent can be obtained through creative commons licences. For further information regarding the use of licences and their rights, visit the creative commons website:

<https://creativecommons.org/licenses/by-nc-sa/3.0/es/>

4.1.5. Is plagiarism similar?

Yes, because plagiarism is an infringement of copyright and can be prosecuted legally and is generally condemned socially. ICAC protects authors' rights and works to prevent illegal and unprofessional conduct that harms those involved as well as the institution. Accordingly, research and technical staff are asked to commit to work with scientific and academic rigour, to cite sources, and to guarantee the originality of the ideas expressed in their work.

ICAC reserves the right to take legal action to protect authors' rights.

4.2. Secrecy and confidentiality of content

ICAC research and technical staff must treat information related to any research performed at ICAC confidentially and maintain this confidentiality in order to protect ICAC's rights.

5. Regulatory annex

- [Royal Legislative Decree 1/1996 of 12 April approving the condensed text of the Intellectual Property Law, regularising, clarifying and harmonising applicable legal provisions](#)
- [Law 24/2015 of 24 July on patents](#)
- [Law 17/2001 of 7 December on trademarks](#)
- [Rovira i Virgili University Industrial and Intellectual Property Regulations](#)
- [UAB Industrial and Intellectual Property Regulations](#)

* Some sections of this protocol are based on the URV's industrial and intellectual property regulations approved by the Governing Council on 22 February 2018.

HRS4R AWARD

Case number: 2020ES474255

Name Organisation: Catalan Institute of Classical Archaeology / Institut Català d'Arqueologia Clàssica

Organisation's contact details: Legal Address: Plaça d'en Rovellat, s/n 43003 Tarragona (Spain)

Contact Address: Hrs4r@icac.cat

The Catalan Institute of Classical Archaeology is a public research centre established as a consortium by the **Generalitat de Catalunya** and the **Rovira i Virgili University**, with the participation of the Interuniversity Council of Catalonia.



UNIVERSITAT ROVIRA I VIRGILI

ICAC is recognized as a CERCA centre.

