



# LAW 473

## Intellectual Property Law

S2 External 2014

*Dept of Law*

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#### **Disclaimer**

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## General Information

Unit convenor and teaching staff

Unit Convenor

Niloufer Selvadurai

[niloufer.selvadurai@mq.edu.au](mailto:niloufer.selvadurai@mq.edu.au)

Contact via [niloufer.selvadurai@mq.edu.au](mailto:niloufer.selvadurai@mq.edu.au)

Credit points

3

Prerequisites

(6cp in LAW or LAWS units at 300 level) or (39cp including MAS214) or (39cp including BUSL250 and BUSL301)

Corequisites

Co-badged status

Unit description

This unit explores the various forms of intellectual property protected under statutory regimes and general law. The unit identifies and evaluates existing regimes of copyright, patents, plant breeders' rights, designs and trade mark, as well as the law of passing off and relevant aspects of unfair trading laws. The unit analyses the subject matter protected, conditions of such protection and what constitutes infringement for each head of protection. Students are taught to identify and explain the interrelationship and overlaps between different intellectual property regimes. Students learn how to apply intellectual property principles and policy in practical scenarios.

## Important Academic Dates

Information about important academic dates including deadlines for withdrawing from units are available at <https://www.mq.edu.au/study/calendar-of-dates>

## Learning Outcomes

On successful completion of this unit, you will be able to:

Display an understanding of the fundamental principles of intellectual property law

Display a knowledge of the specific rules in intellectual property law through the close examination of legislation and case law;

Demonstrate skills of legal analysis through the application of the law to hypothetical fact situations

Demonstrate skills relating to the provision of legal advice through the proper identification of legal issue(s), the application of the relevant law to the identified issues, and the provision of an accurate assessment of the likely outcome.

Demonstrate skills in the design of new laws and the reform of existing laws through an examination of the policy debates and law reform discourse in key areas.

## Assessment Tasks

| Name                                | Weighting | Due                    |
|-------------------------------------|-----------|------------------------|
| <u>Participation</u>                | 20%       | Weeks 1-12 of semester |
| <u>Case or legislation analysis</u> | 20%       | Friday, Week 7, 5pm    |
| <u>Exam</u>                         | 60%       | Monday, Week 13, 5pm   |

### Participation

Due: **Weeks 1-12 of semester**

Weighting: **20%**

Students are expected to complete the required reading and actively discuss the questions outlined in the Tutorial Questions in the weekly tutorial (see iLearn under each week). All students are encouraged to actively participate in each week's discussion. Participation will be assessed at all tutorials. External students are required to attend all of both days of the On-Campus Session ("OCS"). Students are required to demonstrate competence in participating in oral discussion in an academic environment. This involves thoughtfully responding to the issues raised and where appropriate, asking relevant questions.

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## Case or legislation analysis

Due: **Friday, Week 7, 5pm**

Weighting: **20%**

**You may choose to do either Question 1 or Question 2:**

### **Question 1 – Case analysis**

***Write an essay analysing a recent Australian case (handed down after 2008) that addresses any aspect of intellectual property law.***

- The selection of the case will depend on your area of interest.
- Focus on the issues in the case that relate to intellectual property law.
- The analysis should include the background to the case, the significance of the case, and the likely effect of the case.
- Assessment will be based on the quality of your analysis of case as well as the clarity of your discussion of the descriptive component of the case.
- Please use heading and sub-headings to structure your analysis.

**or**

### **Question 2 - Legislation Analysis**

***Write an essay analysing a recent Australian statute (enacted after 2008) that addresses any aspect of intellectual property law.***

- Selection of the statute will depend on your area of interest. You may, for example, consider the application and effect of a recent statute designed to govern activities involving an

aspect of intellectual property law.

- The analysis should include the background to the enactment of the statute, the reason for its enactment, the significance of the legislation, and the likely effect of the legislation.
- Assessment will be based on the quality of your analysis of the legislation as well as the clarity of your discussion of the descriptive component of the legislation.
- Please use heading and sub-headings to structure your analysis.

**Word limit** = 1,500 words, not including footnotes. Footnotes need to be confined to citations.

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- Demonstrate skills in the design of new laws and the reform of existing laws through an examination of the policy debates and law reform discourse in key areas.

## Exam

Due: **Monday, Week 13, 5pm**

Weighting: **60%**

The Exam consists of three questions covering all material covered in the unit. Each question is worth 20%. The exam will consist of one problem solving question and two essay questions. There will be a word limit of 1,200 words per question (Total of 3,600 words for full exam).

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- Demonstrate skills relating to the provision of legal advice through the proper

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- Demonstrate skills in the design of new laws and the reform of existing laws through an examination of the policy debates and law reform discourse in key areas.

## **Delivery and Resources**

All materials necessary to complete this unit are cited on the LAW 473 i-Learn site. The tutorial readings can be accessed via e-reserve. The textbook will need to be purchased from the co-op.

### **REQUIRED AND RECOMMENDED RESOURCES**

#### **Prescribed textbook**

- Andrew Stewart, Philip Griffith & Judith Bannister, *Intellectual Property in Australia*, 2010, 4th edition, LexisNexis Butterworths.

#### **Tutorial reading**

- In addition to the prescribed text book, additional reading (ie journal articles, cases and problems to be discussed in tutorials) will be required for each tutorial. These additional readings are found on e-reserve.

#### **Recommended journals**

- *Australian Intellectual Property Journal*, Thomson Reuters.
- *Media and Art Law Review*, The University of Melbourne.
- *Information Journal of Technology Policy and Law*, Inderscience Publications, Switzerland.

#### **Accessing full text of cases and legislation**

## Legislation:

All Commonwealth and State statutes and regulations can be found at <http://www.austlii.edu.au>. (Ensure reference is made, wherever possible, to consolidated legislation.)

## Case Law:

For *reported case law*, use the Macquarie University library databases to access the:

Lawbookonline database (e.g. CLR, FCR, FLR, NSWLR);

Lexisnexis (Aus) database (e.g. ALR, IPR).

For *unreported case law*, use: <http://www.austlii.edu.au>.

(Ensure reference is made, wherever possible, to reported case law.)

## Unit Schedule

| Week of Semester | Lecture                  | Tutorial   | Required Reading  | Assessment                |
|------------------|--------------------------|------------|---|---------------------------|
| 1                | Lecture 1 - Introduction | Tutorial 1 | Textbook - Chapter 1<br><br>Tutorial 1 Reading<br><br>(see e-reserve and i-Learn LAW 473) | Participation in tutorial |

|   |   |               |   |                           |
|---|---|---------------|---|---------------------------|
| 2 | Lecture 2 -<br>Copyright I  | Tutorial<br>2 | Textbook - Chapters 5 &<br>6<br><br>Tutorial 2 Reading<br><br>(see e-reserve and i-<br>Learn LAW 473)       | Participation in tutorial |
| 3 | Lecture 3 -<br>Copyright II   | Tutorial<br>3 | Textbook - Chapter 7<br><br>Tutorial 3 Reading<br><br>(see e-reserve and i-<br>Learn LAW 473)               | Participation in tutorial |
| 4 | Lecture 4 -<br>Copyright III<br><br>and<br>Confidential Information | Tutorial<br>4 | Textbook - Chapters 8,<br>9, 3 & 4<br><br>Tutorial 4 Reading<br><br>(see e-reserve and i-<br>Learn LAW 473) | Participation in tutorial |
| 5 | Lecture 5 -<br>Designs I  | Tutorial<br>5 | Textbook - Chapter 10<br><br>Tutorial 5 Reading<br><br>(see e-reserve and i-<br>Learn LAW 473)              | Participation in tutorial |
| 6 | Lecture 6 -<br>Designs II   | Tutorial<br>6 | Textbook - Chapter 10<br><br>Tutorial 6 Reading<br><br>(see e-reserve and i-<br>Learn LAW 473)              | Participation in tutorial |



|               |                               |                |  |   |
|---------------|-------------------------------|----------------|--|---|
| 7             | Lecture 7 -<br>Trade Marks I  | Tutorial<br>7  | Textbook - Chapter 19<br><br>Tutorial 7 Reading<br><br>(see e-reserve and i-Learn LAW 473)     | Participation in tutorial<br><br><b>Case or Legislation</b><br><br><b>Analysis is due Friday of Week 7, 5pm</b> |
| <b>RECESS</b> |                               |                |  |   |
| 8             | Lecture 8 -<br>Trade Marks II | Tutorial<br>8  | Textbook - Chapter 20<br><br>Tutorial 8 Reading<br><br>(see e-reserve and i-Learn LAW 473)     | Participation in tutorial   |
| 9             | Lecture 9 -<br>Patents I      | Tutorial<br>9  | Textbook - Chapter 11, 12<br><br>Tutorial 9 Reading<br><br>(see e-reserve and i-Learn LAW 473) | Participation in tutorial   |
| 10            | Lecture 10 -<br>Patents II    | Tutorial<br>10 | Textbook - Chapter 13<br><br>Tutorial 10 Reading<br><br>(see e-reserve and i-Learn LAW 473)    | Participation in tutorial   |

|    |  |                |   |   |
|----|--|----------------|---|---|
| 11 | Lecture 11 -<br>Protecting Business Reputation                                       | Tutorial<br>11 | Textbook - Chapters 16,<br>17, 18<br><br>Tutorial 11 Reading<br><br>(see e-reserve and i-<br>Learn LAW 473) | Participation in tutorial   |
| 12 | Lecture 12 -<br>Remedies, Commercialisation of IP, and<br>International Perspectives | Tutorial<br>12 | Textbook - Chapters 2,<br>21, 22<br><br>Tutorial 12 Reading<br><br>(see e-reserve and i-<br>Learn LAW 473)  | Participation in tutorial<br><br>TAKE-HOME EXAM AVAILABLE<br>ON FRIDAY, 5PM |
| 13 | TAKE-HOME EXAM DUE MONDAY BY 5PM   |                |   |   |

## Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central](#). Students should be aware of the following policies in particular with regard to Learning and Teaching:

Academic Honesty Policy [http://mq.edu.au/policy/docs/academic\\_honesty/policy.html](http://mq.edu.au/policy/docs/academic_honesty/policy.html)

Assessment Policy <http://mq.edu.au/policy/docs/assessment/policy.html>

Grading Policy <http://mq.edu.au/policy/docs/grading/policy.html>

Grade Appeal Policy <http://mq.edu.au/policy/docs/gradeappeal/policy.html>

Grievance Management Policy [http://mq.edu.au/policy/docs/grievance\\_management/policy.html](http://mq.edu.au/policy/docs/grievance_management/policy.html)

Disruption to Studies Policy [http://www.mq.edu.au/policy/docs/disruption\\_studies/policy.html](http://www.mq.edu.au/policy/docs/disruption_studies/policy.html) *The Disruption to Studies Policy is effective from March 3 2014 and replaces the Special Consideration Policy.*

In addition, a number of other policies can be found in the [Learning and Teaching Category](#) of Policy Central.

## Student Code of Conduct

Macquarie University students have a responsibility to be familiar with the Student Code of Conduct: [https://students.mq.edu.au/support/student\\_conduct/](https://students.mq.edu.au/support/student_conduct/)

## Student Support

Macquarie University provides a range of support services for students. For details, visit <http://students.mq.edu.au/support/>

## Learning Skills

Learning Skills ([mq.edu.au/learningskills](http://mq.edu.au/learningskills)) provides academic writing resources and study strategies to improve your marks and take control of your study.

- [Workshops](#)
- [StudyWise](#)
- [Academic Integrity Module for Students](#)
- [Ask a Learning Adviser](#)

## Student Services and Support

Students with a disability are encouraged to contact the [Disability Service](#) who can provide appropriate help with any issues that arise during their studies.

## Student Enquiries

For all student enquiries, visit Student Connect at [ask.mq.edu.au](http://ask.mq.edu.au)

## IT Help

For help with University computer systems and technology, visit <http://informatics.mq.edu.au/help/>.

When using the University's IT, you must adhere to the [Acceptable Use Policy](#). The policy applies to all who connect to the MQ network including students.

## Graduate Capabilities

### Capable of Professional and Personal Judgement and Initiative

We want our graduates to have emotional intelligence and sound interpersonal skills and to demonstrate discernment and common sense in their professional and personal judgement. They will exercise initiative as needed. They will be capable of risk assessment, and be able to handle ambiguity and complexity, enabling them to be adaptable in diverse and changing environments.

This graduate capability is supported by:

## Learning outcomes

- Demonstrate skills of legal analysis through the application of the law to hypothetical fact situations
- Demonstrate skills relating to the provision of legal advice through the proper identification of legal issue(s), the application of the relevant law to the identified issues, and the provision of an accurate assessment of the likely outcome.
- Demonstrate skills in the design of new laws and the reform of existing laws through an examination of the policy debates and law reform discourse in key areas.

## Assessment tasks

- Participation
- Case or legislation analysis
- Exam

## Discipline Specific Knowledge and Skills

Our graduates will take with them the intellectual development, depth and breadth of knowledge, scholarly understanding, and specific subject content in their chosen fields to make them competent and confident in their subject or profession. They will be able to demonstrate, where relevant, professional technical competence and meet professional standards. They will be able to articulate the structure of knowledge of their discipline, be able to adapt discipline-specific knowledge to novel situations, and be able to contribute from their discipline to inter-disciplinary solutions to problems.

This graduate capability is supported by:

## Learning outcomes

- Display an understanding of the fundamental principles of intellectual property law
- Display a knowledge of the specific rules in intellectual property law through the close examination of legislation and case law;
- Demonstrate skills relating to the provision of legal advice through the proper identification of legal issue(s), the application of the relevant law to the identified issues, and the provision of an accurate assessment of the likely outcome.
- Demonstrate skills in the design of new laws and the reform of existing laws through an examination of the policy debates and law reform discourse in key areas.

## Assessment tasks

- Participation
- Case or legislation analysis
- Exam

## Critical, Analytical and Integrative Thinking

We want our graduates to be capable of reasoning, questioning and analysing, and to integrate and synthesise learning and knowledge from a range of sources and environments; to be able to critique constraints, assumptions and limitations; to be able to think independently and systemically in relation to scholarly activity, in the workplace, and in the world. We want them to have a level of scientific and information technology literacy.

This graduate capability is supported by:

### Learning outcomes

- Display an understanding of the fundamental principles of intellectual property law
- Display a knowledge of the specific rules in intellectual property law through the close examination of legislation and case law;
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- Demonstrate skills relating to the provision of legal advice through the proper identification of legal issue(s), the application of the relevant law to the identified issues, and the provision of an accurate assessment of the likely outcome.
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### Assessment tasks

- Participation
- Case or legislation analysis
- Exam

## Problem Solving and Research Capability

Our graduates should be capable of researching; of analysing, and interpreting and assessing data and information in various forms; of drawing connections across fields of knowledge; and they should be able to relate their knowledge to complex situations at work or in the world, in order to diagnose and solve problems. We want them to have the confidence to take the initiative in doing so, within an awareness of their own limitations.

This graduate capability is supported by:

### Learning outcomes

- Demonstrate skills of legal analysis through the application of the law to hypothetical fact situations
- Demonstrate skills relating to the provision of legal advice through the proper identification of legal issue(s), the application of the relevant law to the identified issues,

and the provision of an accurate assessment of the likely outcome.

## Assessment tasks

- Participation
- Exam

## Creative and Innovative

Our graduates will also be capable of creative thinking and of creating knowledge. They will be imaginative and open to experience and capable of innovation at work and in the community. We want them to be engaged in applying their critical, creative thinking.

This graduate capability is supported by:

## Learning outcomes

- Demonstrate skills of legal analysis through the application of the law to hypothetical fact situations
- Demonstrate skills relating to the provision of legal advice through the proper identification of legal issue(s), the application of the relevant law to the identified issues, and the provision of an accurate assessment of the likely outcome.
- Demonstrate skills in the design of new laws and the reform of existing laws through an examination of the policy debates and law reform discourse in key areas.

## Assessment tasks

- Participation
- Case or legislation analysis
- Exam

## Effective Communication

We want to develop in our students the ability to communicate and convey their views in forms effective with different audiences. We want our graduates to take with them the capability to read, listen, question, gather and evaluate information resources in a variety of formats, assess, write clearly, speak effectively, and to use visual communication and communication technologies as appropriate.

This graduate capability is supported by:

## Learning outcomes

- Demonstrate skills of legal analysis through the application of the law to hypothetical fact situations
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and the provision of an accurate assessment of the likely outcome.

- Demonstrate skills in the design of new laws and the reform of existing laws through an examination of the policy debates and law reform discourse in key areas.

## **Assessment tasks**

- Participation
- Case or legislation analysis
- Exam

## **Engaged and Ethical Local and Global citizens**

As local citizens our graduates will be aware of indigenous perspectives and of the nation's historical context. They will be engaged with the challenges of contemporary society and with knowledge and ideas. We want our graduates to have respect for diversity, to be open-minded, sensitive to others and inclusive, and to be open to other cultures and perspectives: they should have a level of cultural literacy. Our graduates should be aware of disadvantage and social justice, and be willing to participate to help create a wiser and better society.

This graduate capability is supported by:

### **Learning outcomes**

- Demonstrate skills of legal analysis through the application of the law to hypothetical fact situations
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## **Socially and Environmentally Active and Responsible**

We want our graduates to be aware of and have respect for self and others; to be able to work with others as a leader and a team player; to have a sense of connectedness with others and country; and to have a sense of mutual obligation. Our graduates should be informed and active participants in moving society towards sustainability.

This graduate capability is supported by:

### **Learning outcomes**

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