



# LAW 868

## Electronic Commerce and the Law

MQC S2 External 2014

*Dept of Law*

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## General Information

Unit convenor and teaching staff

Unit Moderator

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Unit Convenor

Garritt

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By appointment

Credit points

4

Prerequisites

Admission to MIntTrdeComLaw or PGDipIntTrdeComLaw or PGCertIntTrdeComLaw or MIntRelMIntTrdeComLaw or 42cp in LAW units at 400 or 500 level or (admission to JD and 32cp in LAW units at 800 level)

Corequisites

Co-badged status

Unit description

This unit examines the law underlying the use of the internet and electronic commerce. The cross border nature of the internet has opened up global markets for goods and services, meaning that the unique nature of such transactions calls for a framework to promote legal certainty. The unrestricted flow of electronic information through cyberspace has meant that the relevant laws by necessity cannot be limited to national laws only. Instead, the internationalisation of law is essential to deal with this new medium. Topics to be studied include jurisdictional analysis of business transactions, Australian and international approaches, online consumer protection and internet gambling.

## 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:

The Unit LAW 868 seeks to provide a knowledge of the specific legal principles relevant to e-commerce law in through the close examination of legislation and case law.

The Unit LAW 868 seeks to develop 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.

The Unit LAW 868 seeks to develop 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 involving the development of laws to new and emerging technologies.

The Unit LAW 868 seeks to develop effective communications skill through intensive class participation and discussion.

The Unit LAW 868 seeks to provide an understanding of the fundamental principles of e-commerce law.

## Assessment Tasks

Name	Weighting	Due
<u>First Case Note</u>	10%	22 August 2014
<u>Second Case note</u>	20%	10 October 2014
<u>Research essay</u>	50%	21 November 2014
<u>Contribution to class</u>	20%	14 November 2014

### First Case Note

Due: **22 August 2014**

Weighting: **10%**

<http://www.judgments.fedcourt.gov.au/judgments/Judgments/fca/single/2012/2012fca1346>

The judgment in Seafolly v Madden is at the above link. Using the guide to preparing case notes, provide a short case note on this case.

In a sentence or two, describe the impact of the judgment on electronic commerce using Facebook.

The following webpages might be useful in understanding the case, but beware of plagiarising these:

<http://www.davies.com.au/pub/detail/684/seafolly-sues-competitor-over-misleading-and-deceptive-facebook-posts>

[http://www.addisonslawyers.com.au/knowledge/Social\\_Media\\_Aspects\\_of\\_the\\_Australian\\_Regulatory\\_Landscape448.aspx](http://www.addisonslawyers.com.au/knowledge/Social_Media_Aspects_of_the_Australian_Regulatory_Landscape448.aspx)

On successful completion you will be able to:

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## Second Case note

Due: **10 October 2014**

Weighting: **20%**

The task is to write a case note on two related cases:

1. <http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/cth/FCA/2009/960.html?stem=0&synonyms=0&query=allergy%20pathway>
2. <http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/cth/FCA/2011/74.html?stem=0&synonyms=0&query=allergy%20pathway>

What are the implications for electronic commerce on social networks?

You should not need more than 2000 words for this assignment, but there will be no penalty for up to 2,500 words

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- The Unit LAW 868 seeks to provide an understanding of the fundamental principles of e-commerce law.

## Research essay

Due: **21 November 2014**

Weighting: **50%**

The research essay can either be an extended case note (1 below), an essay answering one of the questions below. The word limit is 2,500 for the body of the text and does not include footnotes, references or the bibliography. However, extensive use of footnotes that should otherwise be part of main body of the text is unlikely to lead to a strong piece of work.

1. Case note on the series of cases between the ACCC and Google (and the Trading Post at first instance) including the impact of the High Court decision [http://www.hcourt.gov.au/cases/case\\_s175-2012](http://www.hcourt.gov.au/cases/case_s175-2012)
2. What is cloud computing and what are the risks associated with storing material "in the cloud"?
3. What are some of the ways that consumers form electronic agreements in Australia and what are their advantages and disadvantages to each of the merchant and the consumer?
4. What are some of the forms of intellectual property protection used by Apple?
5. What has limited the adoption of mobile banking in Australia? "It's just not safe to buy things on the internet" - discuss
6. An essay title of your choice that you have agreed with Chip

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- The Unit LAW 868 seeks to provide an understanding of the fundamental principles of e-commerce law.

## Contribution to class

Due: **14 November 2014**

Weighting: **20%**

The class participation mark will be based on your contribution to discussions in the sessions in Weeks 1 to 12.

One of the aims of tutorials is to develop your competence and skills in argument and discussion with others on the problems we consider. Your participation will be appraised according to the regularity and quality of your participation, the quality of your preparation for tutorials, and your willingness to contribute to discussions with your fellow students (whether electronically or in spoken form). In my assessment of your contribution, I will be using the marking criteria set out in the table:

**Grade Criteria**

0	Absent or did not demonstrate presence electronically
1	Present, not disruptive. Tries to respond when called on but does not offer much. Demonstrates very infrequent involvement in discussion.
2	Demonstrates adequate preparation: knows basic reading facts, but does not show evidence of trying to interpret or analyse them. Offers straightforward information (e.g., straight from the reading), without elaboration or very infrequently (perhaps once a tutorial). Does not offer to contribute to discussion, but contributes to a moderate degree when called on. Demonstrates sporadic involvement.
3	Demonstrates good preparation: knows required readings well, has thought through implications of them. Offers interpretations and analysis of readings to tutorial group. Contributes well to discussion in an ongoing way: responds to other students' points, thinks through own points, questions others in a constructive way, offers and supports suggestions that may be counter to the majority opinion. Demonstrates consistent ongoing involvement.
4	Demonstrates excellent preparation: has analysed required readings exceptionally well, relating it to recommended readings and other material. Offers analysis, synthesis and evaluation of readings, e.g., puts together pieces of the discussion to develop new approaches that take the tutorial group further. Contributes in a very significant way to ongoing discussion: keeps analysis focused, responds very thoughtfully to other students' comments, contributes to the cooperative argument-building, suggests alternative ways of approaching material and helps tutorial group analyse which approaches are appropriate, etc. Demonstrates ongoing very active involvement.

As part of the assessment for tutorial participation, you are required to submit a short report on your contribution to tutorial discussion and argument by the end of Week 13. I will take your report into consideration in assigning you a mark for tutorial participation and you can only improve your mark through your report.

Your report on tutorial participation should be based on your experience of tutorials: it should not be an evaluation of Chip (there will be other opportunities for you to do this!). In your report, you should try to highlight what you see as the strengths of your contribution to tutorials, and what you see as the reasons for any weaknesses in your contribution. Some of the other things you might mention include the preparation you have done for the tutorials in terms of both reading

and thinking. You can also note whether the readings clarified questions for you – or unsettled, disturbed, confused, perplexed or inspired you. Valuable and valued participation in tutorials is not a matter of monopolising the conversation. Valuable participation can also include how your own thoughts and words contributed to an intelligent and imaginative understanding and/or resolution of the questions being discussed.

You might find it useful to keep a weekly diary and to draw on that as the basis of your final report on your tutorial participation. If you keep a diary, you might consider the following activities:

- Learning and understanding material
- Planning study; coverage of assigned material
- Organisation of study and preparation
- Assisting other members of the class
- Contribution in full class groups
- Contribution in syndicates
- Expressing and countering arguments orally
- Understanding and expressing abstract and complex ideas orally
- Listening
- Comprehension of tutorial discussion

I would also find it useful if you could propose the mark that you feel is appropriate for your tutorial contributions.

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- The Unit LAW 868 seeks to develop effective communications skill through intensive class participation and discussion.

## **Delivery and Resources**

Delivery and resources

The class comprises recorded lectures and electronic based tutorial sessions. There will be a two-day intensive face-to-face session during the mid-semester break (19 September - 10 October). Dates are TBD, depending on student numbers and availability, which will be discussed after Week 1.

The unit is taught in weekly lectures and tutorials. In this Unit, the recorded lectures are intended to present information or teach students about a particular subject. The tutorials are electronic classes in which a tutor facilitates interactive learning with a small group of students. There are three forms of electronic interchange:



1. emails between the student and the lecturer
2. chat sessions which can run in real-time or with a delay; and
3. electronic forums for the exchange of views.

**As this is an external course, it is essential that students make a particular effort to engage with electronic discussions.**

Students are provided with reading lists comprising textbooks, journals, websites and other relevant reading materials related to the unit. Students will be required to read critically in order to further develop concepts and ideas referred to in the unit. The required readings will be used in both the lecture and the tutorial. The cases will be reviewed in the tutorial.

In addition to the readings, students will be expected to reflect on the application of the concepts to their careers. Reflective activities assist students in integrating the course content and in developing the ability to transfer knowledge and skills from the learning environment into the workplace. Reflective activities also facilitate the development of communication skills and an orientation to lifelong learning.

Students have access to the lecturer for one-on-one assistance/consultation when they have particular queries relating to unit content. This consultation may be in the form of a face-to-face meeting, phone call, chat session or via the discussion forum.

This unit uses research from external sources and provides you with an opportunity to practice applying research findings in assignments. This unit gives you opportunities to conduct your own research.

### **Technologies**

PC and Internet access are required. Basic computer skills (e.g., internet browsing) and skills in word processing are also a requirement.

Please consult teaching staff for any further, more specific requirements.

Unit materials, suggested solutions, announcements and other relevant information are found on the University's Learning Management System iLearn at: <http://ilearn.mq.edu.au> It is necessary to visit the unit site regularly

## **Unit Schedule**

Topic number	1
Title	Introduction
Date	8 August 2014
Required readings	<a href="#"><u>Fitzgerald, Fitzgerald, Middleton, Clark and Lim (2011 Chapter 1)</u></a>



Recommended readings	
Tutorial questions	<p>What is electronic commerce?</p> <p>Is there a difference between commerce and electronic commerce?</p>
Tutorial reading	<a href="#">Wirtz, Schilke and Ullrich (2010)</a>
Case	<p>Reno v. American Civil Liberties Union, 521 U.S. 844 (1997) United States Supreme Court</p> <p><a href="http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&amp;navby=case&amp;vol=521&amp;invol=844">http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&amp;navby=case&amp;vol=521&amp;invol=844</a></p>
Work due	None

Topic number	2
Title	Jurisdiction
Date	15 August 2014
Required readings	<div> <a href="#">Fitzgerald et al. (2011 Chapter 2)</a> </div>
Recommended readings	
Tutorial questions	<p>How do you limit jurisdiction on an e-commerce website?</p> <p>Can you choose the most favourable jurisdiction for your business?</p>
Tutorial reading	<a href="#">Wang (2008)</a>
Case	<p>Dow Jones and Company Inc v Gutnick [2002] HCA 56</p> <p><a href="http://www.austlii.edu.au/au/cases/cth/HCA/2002/56.html">http://www.austlii.edu.au/au/cases/cth/HCA/2002/56.html</a></p> <p><a href="http://www.austlii.edu.au/au/journals/MurUEJL/2004/26.html">http://www.austlii.edu.au/au/journals/MurUEJL/2004/26.html</a></p>
Work due	None

Topic number	3
Title	E-contracts I

Date	22 August 2014
Required readings	<a href="#">Fitzgerald et al. (2011 Chapter 7)</a>
Recommended readings	
Tutorial questions	How is the formal validity of electronic contracts determined? What is the approach to the substantive validity of electronic contracts?
Tutorial reading	<a href="#">Liangtao and Gang (2011)</a>
Case	Peter Smythe v Vincent Thomas [2007] NSWSC 844 <a href="http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/nsw/NWSC/2007/844.html?stem=0&amp;synonyms=0&amp;query=nswsc%20smythe">http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/nsw/NWSC/2007/844.html?stem=0&amp;synonyms=0&amp;query=nswsc%20smythe</a> <a href="http://www.findlaw.com.au/articles/4500/internet-shopping-how-a-contractual-agreement-is-f.aspx">http://www.findlaw.com.au/articles/4500/internet-shopping-how-a-contractual-agreement-is-f.aspx</a>
Work due	First case note

Topic number	4
Title	E-contracts II – trust and authentication
Date	29 August 2014
Required readings	<a href="#">Fitzgerald et al. (2011 Chapter 8)</a>
Recommended readings	
Tutorial questions	How does an electronic signature differ from a written one? What is the role of certification service providers? How do you define “trust” in an electronic transaction?
Tutorial reading	<a href="#">Clapperton and Corones (2007)</a>
Case	FTC v. Neovi, Inc., 604 F. 3d 1150 – US Court of Appeals, 9th Circuit 2010 <a href="http://scholar.google.com/scholar_case?case=12117356510269492601&amp;hl=en&amp;as_sdt=2,5">http://scholar.google.com/scholar_case?case=12117356510269492601&amp;hl=en&amp;as_sdt=2,5</a>
Work due	None

Topic number	5
Title	M-commerce, E-banking and m-banking
Date	5 September 2014
Required readings	<a href="#">Wessels and Drennan (2010)</a>
Recommended readings	
Tutorial questions	What are the impediments to the adoption of m-banking?  Is social media the driver of m-commerce?
Tutorial reading	The Australian ePayments Code:  <a href="http://asic.gov.au/asic/asic.nsf/byheadline/ePayments-Code">http://asic.gov.au/asic/asic.nsf/byheadline/ePayments-Code</a>
Case	Fox v. GMAC MORTGAGE, LLC, Dist. Court, SD Ohio 2011  <a href="http://scholar.google.com/scholar_case?case=4134978956717196679&amp;hl=en&amp;as_sdt=2,5">http://scholar.google.com/scholar_case?case=4134978956717196679&amp;hl=en&amp;as_sdt=2,5</a>  <a href="http://asic.gov.au/asic/asic.nsf/byheadline/ePayments-Code">http://asic.gov.au/asic/asic.nsf/byheadline/ePayments-Code</a>
Work due	None

Topic number	6
Title	Intellectual property and e-commerce
Date	12 September 2014
Required readings	<a href="#">Fitzgerald et al. (2011 Chapter 4 - warning, a long chapter!)</a>
Recommended readings	
Tutorial questions	Is the concept of "cyber-squatting" still relevant in a Web 2.0 world?  What is a patent troll and how would you deal with one?
Tutorial reading	<a href="#">Garg (2013)</a>
Case	Kazaa: Universal Music Australia Pty Ltd v Sharman License Holdings Ltd (with Corrigendum dated 22 September 2005) [2005] FCA 1242 (5 September 2005)  <a href="http://www.austlii.edu.au/au/cases/cth/federal_ct/2005/1242.html">http://www.austlii.edu.au/au/cases/cth/federal_ct/2005/1242.html</a>

Work due	None
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Topic number	7
Title	Security and internet crime
Date	19 September 2014
Required readings	<a href="#">Fitzgerald et al. (2011 Chapter 11)</a>
Recommended readings	
Tutorial questions	What are the risks that a law firm takes in using a cloud solution for document management? How do law enforcement agencies access emails on a lawful basis in Australia?
Tutorial reading	<a href="#">Iglesias, Nicholls and Travis (2012)</a>
Case	Kennedy v Baker [2004] FCA 562 (6 May 2004) <a href="http://www.austlii.edu.au/au/cases/cth/federal_ct/2004/562.html">http://www.austlii.edu.au/au/cases/cth/federal_ct/2004/562.html</a>
Work due	None

**Mid-semester break (Spring break) from 20 September to 6 October 2014 - Two day intensive: Dates TBD**

Topic number	8
Title	Privacy
Date	10 October 2014
Required readings	Privacy factsheet 17 from OAIC: <a href="http://oaic.gov.au/privacy/privacy-resources/privacy-fact-sheets/other/privacy-fact-sheet-17-australian-privacy-principles">http://oaic.gov.au/privacy/privacy-resources/privacy-fact-sheets/other/privacy-fact-sheet-17-australian-privacy-principles</a> <a href="#">Fitzgerald et al. (2011 Chapter 10)</a>
Recommended readings	

Tutorial questions	Has the office of the Information Commissioner been effective since its inception?  Do you grant an implied licence to your information that over-rides your privacy expectations when you post to Facebook or LinkedIn?
Tutorial reading	Privacy fact sheet 17: Australian Privacy Principles  <a href="http://oaic.gov.au/privacy/privacy-resources/privacy-fact-sheets/other/privacy-fact-sheet-17-australian-privacy-principles">http://oaic.gov.au/privacy/privacy-resources/privacy-fact-sheets/other/privacy-fact-sheet-17-australian-privacy-principles</a>
Case	ABC v Lenah Game Meats Pty Ltd [2001] HCA 63  <a href="http://www.austlii.edu.au/au/cases/cth/HCA/2001/63.html">http://www.austlii.edu.au/au/cases/cth/HCA/2001/63.html</a>
Work due	Second case note

Topic number	9
Title	Competition law and consumer protection and e-commerce
Date	17 October 2014
Required readings	<a href="http://www.acma.gov.au/~media/Regulatory%20Frameworks/pdf/Privacy%20and%20digital%20data_Final%20pdf.pdf">http://www.acma.gov.au/~media/Regulatory%20Frameworks/pdf/Privacy%20and%20digital%20data_Final%20pdf.pdf</a>  <a href="#">Council of Australian Governments (2009)</a>
Recommended readings	
Tutorial questions	What is third line forcing and how does it affect electronic commerce agreements?  How does competition law deal with electronic commerce in Australia?
Tutorial reading	
Case	Australian Competition and Consumer Commission v Apple Pty Limited [2012] FCA 646  <a href="http://www.austlii.edu.au/au/cases/cth/federal_ct/2012/646.html">http://www.austlii.edu.au/au/cases/cth/federal_ct/2012/646.html</a>
Work due	None

Topic number	10
Title	E-government
Date	24 October 2014

Required readings	<a href="#">Bélanger and Carter (2008)</a>
Recommended readings	<a href="#">Fitzgerald et al. (2011 Chapter 13)</a>
Tutorial questions	Can government involve itself in e-commerce Must e-government be an exception to the rules that apply to Governments?
Tutorial reading	None
Case	Getup Ltd v Electoral Commissioner [2010] FCA 869 <a href="http://www.austlii.edu.au/au/cases/cth/FCA/2010/869.html">http://www.austlii.edu.au/au/cases/cth/FCA/2010/869.html</a>
Work due	None

Topic number	11
Title	Telecommunications law, broadcasting law and electronic commerce – intermediary liability
Date	31 October 2014
Required readings	<a href="http://www.dbcde.gov.au/digital_economy/cloud_computing">http://www.dbcde.gov.au/digital_economy/cloud_computing</a>
Recommended readings	None
Tutorial questions	What is the relationship between carriers, carriage service providers and content service providers? What is a “three strikes” policy in respect of ISPs and how does a “safe harbour” regime limit ISP liability?
Tutorial reading	<a href="#">Burrell and Weatherall (2011)</a>
Case	Roadshow Films Pty Ltd v iiNet Ltd [2012] HCA 16 <a href="http://www.austlii.edu.au/au/cases/cth/HCA/2012/16.html">http://www.austlii.edu.au/au/cases/cth/HCA/2012/16.html</a>
Work due	None

Topic number	12
Title	International perspectives
Date	7 November 2014

Required readings	<a href="#">Flynn, Baker, Kaminski and Koo (2013)</a>
Recommended readings	None
Tutorial questions	How do free trade agreements interact with domestic law on electronic commerce? Does the proposed TPP FTA enhance or limit electronic commerce?
Tutorial reading	<a href="#">Flynn, Baker, Kaminski and Koo (2013)</a>
Case	None
Work due	None

Topic number	13
Title	Discussion of final assignment
Date	14 November 2014
Required readings	
Recommended readings	
Tutorial questions	
Tutorial reading	Tutorial Contribution Report Preparation
Case	
Work due	Final essay due on 21 November

## Learning and Teaching Activities

### Discipline Knowledge and Skills

Our postgraduates will be able to demonstrate a significantly enhanced depth and breadth of knowledge, scholarly understanding, and specific subject content knowledge in their chosen



fields.

## Critical, Analytical and Integrative Thinking

Our postgraduates will be capable of utilising and reflecting on prior knowledge and experience, of applying higher level critical thinking skills, and of integrating and synthesising learning and knowledge from a range of sources and environments. A characteristic of this form of thinking is the generation of new, professionally oriented knowledge through personal or group-based critique of practice and theory.

## Research and Problem Solving Capability

Our postgraduates will be capable of systematic enquiry; able to use research skills to create new knowledge that can be applied to real world issues, or contribute to a field of study or practice to enhance society. They will be capable of creative questioning, problem finding and problem solving.

## Effective Communication

Our postgraduates will be able to communicate effectively and convey their views to different social, cultural, and professional audiences. They will be able to use a variety of technologically supported media to communicate with empathy using a range of written, spoken or visual formats.

## Engaged and Responsible, Active and Ethical citizens

Our postgraduates will be ethically aware and capable of confident transformative action in relation to their professional responsibilities and the wider community. They will have a sense of connectedness with others and country and have a sense of mutual obligation. They will be able to appreciate the impact of their professional roles for social justice and inclusion related to national and global issues.

## Capable of Professional and Personal Judgment and Initiative

Our postgraduates will demonstrate a high standard of discernment and common sense in their professional and personal judgment. They will have the ability to make informed choices and decisions that reflect both the nature of their professional work and their personal perspectives.

## 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/)

### **Grades**

Macquarie University uses the following grades in coursework units of study:

- HD - High Distinction
- D - Distinction
- CR - Credit
- P - Pass
- F – Fail

Grade descriptors and other information concerning grading are contained in the Macquarie University Grading Policy which is available at:

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

For further information, please refer to page 71 of the 2013 Calendar of Governance, Legislation and Rules- Postgraduate Rules at

[http://universitycouncil.mq.edu.au/pdfs/2013-Postgraduate\\_rules.pdf](http://universitycouncil.mq.edu.au/pdfs/2013-Postgraduate_rules.pdf)

### **Grade Appeals and Final Examination Script Viewing**

If, at the conclusion of the unit, you have performed below expectations, and are considering lodging an appeal of grade and/or viewing your final exam script please refer to the following website which provides information about these processes and the cut off dates in the first instance. Please read the instructions provided concerning what constitutes a valid grounds for appeal before appealing your grade.

<http://www.city.mq.edu.au/reviews-appeals.html>

### **Special Consideration Policy**

The University is committed to equity and fairness in all aspects of its learning and teaching. In stating this commitment, the University recognises that there may be circumstances where a student is prevented by unavoidable disruption from performing in accordance with their ability. A special consideration policy exists to support students who experience serious and unavoidable disruption such that they do not reach their usual demonstrated performance level. The policy is available at: [http://www.mq.edu.au/policy/docs/special\\_consideration/policy.html](http://www.mq.edu.au/policy/docs/special_consideration/policy.html)

The University defines serious and unavoidable disruption to studies as resulting from an event or set of circumstances that:

- could not have reasonably been anticipated, avoided or guarded against by the student; **and**
- was beyond the student's control; **and**
- caused substantial disruption to the student's capacity for effective study and/or the completion of required work; **and**
- substantially interfered with the otherwise satisfactory fulfilment of unit or course requirements; **and**
- was of at least three (3) consecutive days duration within a study period and/or prevented completion of the final examination.

A Special Consideration application is deemed to be valid if all the following criteria have been satisfied:

- The Special Consideration application is completed by the student and submitted online through [www.ask.mq.edu.au](http://www.ask.mq.edu.au) within five (5) working days after the due date of the associated assessment task / final examination.
- The application contains supporting evidence to demonstrate the severity of the circumstance(s) and that substantial disruption has been caused to the student's capacity for effective study. (The University will not follow up on outstanding evidence, nor contact any person or body on behalf of the student. The application will be considered as submitted.)

- The original supporting documentation has been sighted by MQC reception staff within five (5) working days after the due date of the associated assessment task.
- Where the particular circumstances are medical in nature, a *Professional Authority Form* including the health professional's Medicare Provider Number is included. (If a *Professional Authority Form* cannot be obtained, an original medical certificate indicating the severity (serious / not serious) and impact of the circumstances must be included with the application.)
- Where the particular circumstances are non-medical in nature, appropriate supporting evidence indicating the severity (serious / not serious) and impact of the circumstances is included with the application.
- The student was performing satisfactorily in the unit up to the date of the unavoidable disruption. (If a student's work in the unit was previously unsatisfactory, subsequent unavoidable disruption will not overcome the fact that the earlier work was unsatisfactory).

### **Unacceptable grounds for Special Consideration**

The University has determined that some circumstances are not acceptable grounds for claiming Special Consideration. These grounds include, but are not limited, to:

- routine demands of employment
- routine family problems such as tension with or between parents, spouses, and other people closely involved with the student
- difficulties adjusting to university life, to the self-discipline needed to study effectively, and the demands of academic work
- stress or anxiety associated with examinations, required assignments or any aspect of academic work
- routine need for financial support
- routine demands of sport, clubs and social or extra-curricular activities.

### **Acute Problems**

The University defines acute problems as those involving fewer than three (3) consecutive days within a study period. In these cases, students should not apply for special consideration via [ask.mq.edu.au](http://ask.mq.edu.au), but contact their Unit Convenor within 5 working days of the assessment due date so that a local solution may be discussed, except where the disruption affects completion of a final examination. (If a final examination is affected, the student should submit a special consideration application via [ask.mq.edu.au](http://ask.mq.edu.au).)

**Prior Conditions** Conditions existing prior to commencing a unit of study are not grounds for Special Consideration, except in the event of unavoidable deterioration of the condition. The student is responsible for managing their workload in light of any known or anticipated problems. Students with a pre-existing disability/ chronic health condition may contact the [Disability Service](#) for information on available support.

In submitting a request for Special Consideration, the student is acknowledging that they may be required to undertake additional work and agreeing to hold themselves available so that they can complete any extra work as required. The time and date, deadline or format of any required extra assessable work as a result of an application for Special Consideration is not negotiable.

## **Attendance**

All Students are required to attend at least 80% of the scheduled course contact hours each Session. Additionally MQC monitors the course progress of international students to ensure that the student complies with the conditions of their visa relating to attendance.

This minimum level of attendance includes all lectures and tutorials. Tutorial attendance will be recorded weekly. If any scheduled class falls on a public holiday this will be rescheduled as advised by your Lecturer. Attendance at any mid-Session or in-class test is compulsory unless otherwise stated.

Unavoidable non-attendance due to illness or circumstances beyond your control must be supported by appropriate documentation to be considered for a supplementary test. Other non-attendance will obtain zero for the test. You should refer to the section below on Special Consideration for more details about this.

## **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 Support**

Students who require assistance are encouraged to contact the Student Services Manager at Macquarie City Campus. Please see reception to book an appointment.

Macquarie University provides a range of Academic Student Support Services. Details of these services can be accessed at <http://students.mq.edu.au/support/>

## 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)

At any time students (or groups of students) can book our Student Advising rooms on Level 6 by emailing [info@city.mq.edu.au](mailto:info@city.mq.edu.au) with a day and time and nominated contact person. There are additional student study spaces available on Level 1.

Macquarie University Campus Wellbeing also has a presence on the City Campus each week. If you would like to make an appointment, please email [info@city.mq.edu.au](mailto:info@city.mq.edu.au) or visit their website at: <http://www.campuslife.mq.edu.au/campuswellbeing>

UNIWISE provides:

- Online learning resources and academic skills workshops [http://www.mq.edu.au/learning\\_skills](http://www.mq.edu.au/learning_skills)
- Personal assistance with your learning & study related questions

## 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.

### IT Help

If you wish to receive IT help, we would be glad to assist you at <http://informatics.mq.edu.au/help/> or call 02 9850-4357.

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 and it outlines what can be done.

Students must use their Macquarie University email addresses to communicate with staff as it is University policy that the University issued email account is used for official University communication.

Students are expected to act responsibly when utilising Macquarie City Campus IT facilities. The following regulations apply to the use of computing facilities and online services:

- Accessing inappropriate web sites or downloading inappropriate material is not permitted.
- Material that is not related to coursework for approved unit is deemed inappropriate.
- Downloading copyright material without permission from the copyright owner is illegal, and strictly prohibited. Students detected undertaking such activities will face disciplinary action, which may result in criminal proceedings.

Non-compliance with these conditions may result in disciplinary action without further notice.

If you would like to borrow headphones for use in the Macquarie City Campus computer labs (210, 307, 311, 608) at any point, please ask at Level 2 Reception. You will be required to provide your MQC Student ID card. This will be held as a deposit while using the equipment.

For assistance in the computer labs, please see a Lab Demonstrator (usually they can be found in Lab 311, otherwise ask at Level 2 Reception).

## **Graduate Capabilities**

### **PG - Discipline Knowledge and Skills**

Our postgraduates will be able to demonstrate a significantly enhanced depth and breadth of knowledge, scholarly understanding, and specific subject content knowledge in their chosen fields.

This graduate capability is supported by:

### **Learning outcomes**

- The Unit LAW 868 seeks to provide a knowledge of the specific legal principles relevant to e-commerce law in through the close examination of legislation and case law.
- The Unit LAW 868 seeks to develop 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.
- The Unit LAW 868 seeks to provide an understanding of the fundamental principles of e-commerce law.



## Assessment tasks

- First Case Note
- Second Case note
- Research essay
- Contribution to class

## PG - Critical, Analytical and Integrative Thinking

Our postgraduates will be capable of utilising and reflecting on prior knowledge and experience, of applying higher level critical thinking skills, and of integrating and synthesising learning and knowledge from a range of sources and environments. A characteristic of this form of thinking is the generation of new, professionally oriented knowledge through personal or group-based critique of practice and theory.

This graduate capability is supported by:

## Learning outcomes

- The Unit LAW 868 seeks to develop 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.
- The Unit LAW 868 seeks to provide an understanding of the fundamental principles of e-commerce law.

## Assessment tasks

- First Case Note
- Second Case note
- Research essay
- Contribution to class

## PG - Research and Problem Solving Capability

Our postgraduates will be capable of systematic enquiry; able to use research skills to create new knowledge that can be applied to real world issues, or contribute to a field of study or practice to enhance society. They will be capable of creative questioning, problem finding and problem solving.

This graduate capability is supported by:

## Learning outcomes

- The Unit LAW 868 seeks to develop 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.

- The Unit LAW 868 seeks to provide an understanding of the fundamental principles of e-commerce law.

## **Assessment tasks**

- First Case Note
- Second Case note
- Research essay
- Contribution to class

## **PG - Effective Communication**

Our postgraduates will be able to communicate effectively and convey their views to different social, cultural, and professional audiences. They will be able to use a variety of technologically supported media to communicate with empathy using a range of written, spoken or visual formats.

This graduate capability is supported by:

## **Learning outcomes**

- The Unit LAW 868 seeks to develop effective communications skill through intensive class participation and discussion.
- The Unit LAW 868 seeks to provide an understanding of the fundamental principles of e-commerce law.

## **Assessment tasks**

- First Case Note
- Second Case note
- Research essay
- Contribution to class

## **PG - Engaged and Responsible, Active and Ethical Citizens**

Our postgraduates will be ethically aware and capable of confident transformative action in relation to their professional responsibilities and the wider community. They will have a sense of connectedness with others and country and have a sense of mutual obligation. They will be able to appreciate the impact of their professional roles for social justice and inclusion related to national and global issues

This graduate capability is supported by:

## **Learning outcomes**

- The Unit LAW 868 seeks to develop 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 involving the development of laws to new and emerging technologies.

- The Unit LAW 868 seeks to provide an understanding of the fundamental principles of e-commerce law.

## **Assessment tasks**

- First Case Note
- Second Case note
- Research essay

## **PG - Capable of Professional and Personal Judgment and Initiative**

Our postgraduates will demonstrate a high standard of discernment and common sense in their professional and personal judgment. They will have the ability to make informed choices and decisions that reflect both the nature of their professional work and their personal perspectives.

This graduate capability is supported by:

## **Learning outcomes**

- The Unit LAW 868 seeks to provide a knowledge of the specific legal principles relevant to e-commerce law in through the close examination of legislation and case law.
- The Unit LAW 868 seeks to develop effective communications skill through intensive class participation and discussion.
- The Unit LAW 868 seeks to provide an understanding of the fundamental principles of e-commerce law.

## **Assessment tasks**

- First Case Note
- Second Case note
- Research essay
- Contribution to class

## **Required reading**

Prescribed textbook:

B Fitzgerald, A Fitzgerald, et al, *Internet and E-Commerce Law: Technology, Law and Policy*, Thomson Lawbook Co, 2011.

Required and recommended texts can be purchased from the Macquarie University Co-op Bookshop or the Coop Bookshop at 153 Philip St, Sydney (near Martin Place). The prescribed textbook is also available electronically from Amazon. Both texts are available in the Macquarie Library.

The relevant chapters of the texts will be dealt with in the lecture. In addition, there is a required

reading and a case to review for each of the tutorials. These are set out in this Unit Guide.

The bibliography for the readings is set out below and these will be available from the library.

Bélanger, France and Lemuria Carter. 2008. "Trust and risk in e-government adoption." *The Journal of Strategic Information Systems* 17(2):165-176.

Burrell, Robert and Kimberlee Weatherall. 2011. "Providing Services to Copyright Infringers: Roadshow Films Pty Ltd v iiNet Ltd." *Sydney Law Review* 33(4):801-830.

Clapperton, Dale and Stephen Corones. 2007. "Unfair terms in clickwrap and other electronic contracts." *Australian Business Law Review* 35(3):152-180.

Council of Australian Governments. 2009. "An Intergovernmental Agreement signed by the Council of Australian Governments." Canberra.

Davidson, Alan. 2009. *The Law of Electronic Commerce*. Melbourne: Cambridge University Press.

Fitzgerald, Brian, Anne Fitzgerald, Gaye Middleton, Eugene Clark and Yee Fen Lim. 2011. *Internet and E-commerce Law: Business and Policy*. Sydney: Lawbook Co.

Flynn, Sean M., Brook K. Baker, Margot E. Kaminski and Jimmy Koo. 2013. "The U.S. Proposal for an Intellectual Property Chapter in the Trans-Pacific Partnership Agreement." *American University International Law Review* 28(1):105-202.

Garg, Nidhi. 2013. "Apple v. Samsung: Design Protection and Consumers." *Pace Intellectual Property, Sports & Entertainment Law Forum* 3(1):115-149.

Iglesias, Rebecca, Rob Nicholls and Anisha Travis. 2012. "Private Clouds with No Silver Lining: Legal Risk in Private Cloud Services." *Communications & Strategies*(85):125-140.

Liangtao, Sun and Chen Gang. 2011. "SWOT Analysis of E-Commerce Development in Yunnan Province." In *Innovative Computing and Information*, ed. Minli Dai: Springer Berlin Heidelberg.

Wang, Faye Fangfei. 2008. "Obstacles and Solutions to Internet Jurisdiction A Comparative Analysis of the EU and US laws." *Journal of International Commercial Law and Technology* 3(4):233-241.

Wessels, Lisa and Judy Drennan. 2010. "An investigation of consumer acceptance of M-banking." *International Journal of Bank Marketing* 28(7):547 - 568.

Wirtz, Bernd W., Oliver Schilke and Sebastian Ullrich. 2010. "Strategic Development of Business Models: Implications of the Web 2.0 for Creating Value on the Internet." *Long Range Planning* 43(2-3):272–290.

## **Technology Used and Required**

PC and Internet access are required. Basic computer skills (e.g., internet browsing) and skills in word processing are also a requirement.

Please consult teaching staff for any further, more specific requirements.

Unit materials, suggested solutions, announcements and other relevant information are found on

the University's Learning Management System iLearn at: <http://ilearn.mq.edu.au> It is necessary to visit the unit site regularly.