



BUSL315

Business Litigation and Disputes

S2 Day 2015

Dept of Accounting & Corporate Governance

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General Information

Unit convenor and teaching staff

Unit Convenor

John Selby

john.selby@mq.edu.au

Contact via john.selby@mq.edu.au

E4A 325

Thursday 2-3pm

Credit points

3

Prerequisites

BUSL201 and (BUSL250 or LAW204)

Corequisites

Co-badged status

Unit description

Legal action is an ever-present risk in commercial dealings. Traditionally this has occurred through the processes of civil litigation. However, the threat of criminal sanctions, and confronting the maze of administrative law have become everyday realities for businesses, their managers and employees. This unit investigates each of these processes in order to equip aspiring business leaders with a working knowledge of how business disputes are settled.

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:

To be able to distinguish between dispute resolution options

To integrate theory into practice when resolving business disputes

To develop skills to resolve business disputes by applying a variety of dispute resolution methodologies

To be able to analyse and synthesise the legal, economic, ethical and reputation aspects of a business dispute, its beginnings, process and outcome so as to produce a coherent

Response Strategy Report

To develop an understanding of the importance of legal documents and strategies in resolving business disputes

To apply collaborative teamwork skills to resolve business disputes

General Assessment Information

As they are each slightly different for each task, see above for specific information about submission methods, late submission options, extensions, penalties, etc for each assessment task.

Assessment Tasks

Name	Weighting	Due
<u>Tutorial Participation</u>	20%	Week 13
<u>Domain Name Dispute Decision</u>	40%	1 October 2015
<u>Presentation and Report</u>	30%	Weeks 11-13
<u>Reflection on Group Project</u>	10%	Weeks 11-13

Tutorial Participation

Due: **Week 13**

Weighting: **20%**

Active participation in the tutorial activities is expected each week. You must prepare for your tutorials in advance. Mere attendance will not gain you participation marks. You will be assessed in accordance with the Grading Policy.

Failure to attend or participate in three or more tutorials during weeks 2-13 of the semester will result in a deduction from your tutorial participation mark of 2% (out of 20%) for each tutorial absence. No extensions will be granted, except in accordance with the Disruption Policy

This task is expected to take 20 hours.

On successful completion you will be able to:

- To be able to distinguish between dispute resolution options
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Response Strategy Report

- To develop an understanding of the importance of legal documents and strategies in resolving business disputes
- To apply collaborative teamwork skills to resolve business disputes

Domain Name Dispute Decision

Due: **1 October 2015**

Weighting: **40%**

You will be given a claim and a response to a domain name dispute for which you will have to write the decision which resolves that dispute. You will submit your answer online through Grademark on iLearn. You will be assessed in accordance with the Grading Policy.

No extensions will be granted, except in accordance with the Disruption Policy. Late tasks will be accepted up to 72 hours after the submission deadline.

There will be a deduction of 20% of the total available marks from the total awarded marks for each 24 hour period or part thereof that the submission is late. For example, 25 hours late in submission = 40% penalty. This penalty does not apply for cases in which an application is made and approved under the Disruption Policy.

This task is expected to take 60 hours.

On successful completion you will be able to:

- To integrate theory into practice when resolving business disputes
- To develop skills to resolve business disputes by applying a variety of dispute resolution methodologies
- To develop an understanding of the importance of legal documents and strategies in resolving business disputes

Presentation and Report

Due: **Weeks 11-13**

Weighting: **30%**

In this two-part task, you will work in groups of five as in-house counsel to research and draft a report of up to 7500 words (1500 words per group member) setting out legal advice to your company's board in response to a litigation statement of claim received by the company. As a group, you will then make a twenty-minute in-tutorial presentation of the advantages and disadvantages of alternative strategies and to advise which strategy you propose the company should take (both legal and non-legal) in response to that claim. This will include analysis of the relevant legal, economic, ethical and reputation risks and bases for your recommended strategy.

The written report will be submitted online through Grademark - it is due one week prior to your

presentation. You will be assessed in accordance with the Grading Policy.

No extensions will be granted on the presentation. Late reports will be accepted up to 72 hours after the submission deadline.

This task is expected to take 50 hours.

There will be a deduction of 20% of the total available marks from the total awarded marks for each 24 hour period or part thereof that the report submission is late. For example, 25 hours late = 40% penalty. This penalty does not apply for cases in which a valid application under the Disruptions Policy is made and approved. Group members who miss their presentation will receive a mark of zero, but this penalty does not apply for cases in which a valid application under the Disruptions Policy is made and approved. Students who have received such approval under the Disruption Policy will be required to give a solo presentation to the Unit Convenor.

On successful completion you will be able to:

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Reflection on Group Project

Due: **Weeks 11-13**

Weighting: **10%**

Reflect on the skills required to complete a task as a group in the legal profession.

Think about how your group worked as a team to complete your group project, and the teamwork skills needed in the legal profession.

Answer the following questions:

- What did you contribute to this project?
- What did the other members of the group contribute?
- What is your assessment of how the group functioned as a team?
- What three teamwork strategies will you adopt to assist you to successfully complete group tasks in the legal profession?

Submit your answer individually in Grademark on iLearn - it is due by 5pm on the day after your presentation. You will be assessed in accordance with the Grading Policy.

No extensions will be granted on the presentation. Late reports will be accepted up to 72 hours after the submission deadline.

There will be a deduction of 20% of the total available marks from the total awarded marks for each 24 hour period or part thereof that the report submission is late. For example, 25 hours late = 40% penalty. This penalty does not apply for cases in which a valid application under the Disruption Policy is made and approved.

This task is expected to take 20 hours.

On successful completion you will be able to:

- To develop skills to resolve business disputes by applying a variety of dispute resolution methodologies
- To apply collaborative teamwork skills to resolve business disputes

Delivery and Resources

Classes:

1 x 2-hour online video lecture and 1 x 1-hour in-person tutorial per week

The timetable for classes can be found on the University website at: <http://timetables.mq.edu.au>

Students must attend all tutorials

Students must attend the tutorial in which they are enrolled and may not change tutorials without the prior permission of the course convenor

Prizes:

A Macquarie University Accounting and Corporate Governance Prize is available for the highest achieving student in this unit: http://www.businessandconomics.mq.edu.au/undergraduate_degrees/prizes_scholarships

Required and Recommended Texts and/or Materials:

Required Texts: Principles of Dispute Resolution by David Spencer (1st edition) and Principles of Civil Litigation (2nd edition) by David Bamford and Mark Rankin

These texts are available for purchase as a discounted bundle from the University Coop Bookshop

Additional required readings will be made available through iLearn

Technology Used and Required

Access to a Personal Computer with Broadband Internet Access

iLearn, Microsoft Powerpoint, VLC Media Player

Microsoft Office, Internet Browser, Email Client Software.

Unit Web Page:

Course material is available on the learning management system (iLearn)

Other than iLearn, there is no web page for this unit

Teaching and Learning Strategy:

This unit consists of 13 weekly lectures and 12 tutorials (no tutorial in week 1). Many tutorials will require active participation in small group exercises.

What is required to complete the unit successfully?

Both individual work (on your domain name decision and the Reflection Exercise) and group work (for your practical exercises in tutorials and for your group report and presentation) are required to successfully complete this Unit.

Unit Schedule

Week	Lecture Topic Schedule	Readings
1	Introduction & Societal Context of Business Disputes	Spencer Ch1 Bamford Ch1
2	Causes and Types of Business Disputes; Economics of Business Disputes	See Prescribed Readings on iLearn
3	Negotiation	Spencer Chapter 2
4	Mediation	Spencer Chapter 3
5	Arbitration	Spencer Chapter 4
6	Domain Name Dispute Resolution	See Prescribed Readings on iLearn
7	Civil Litigation Pt1: Jurisdiction and Parties, Practicalities	Bamford Ch2&3
Break		
8	Civil Litigation Pt2: How Courts Manage Cases, Procedural Decisions and Defining the Issues	Bamford Ch 4&5
9	Civil Litigation Pt3: Before Trial	Bamford Ch 6&7

10	Civil Litigation Pt4: Gathering Evidence, Expert Testimony and Court-Ordered ADR (Possible Guest Lecture)	Bamford Ch 8&9
11	Civil Litigation Pt5: Settlement, Compromises and Costs	Bamford Ch 10&11
12	Civil Litigation Pt6: Appeals and Enforcement of Judgments	Bamford Ch 12&13
13	Course Review	Covers all weeks

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

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

Disruption to Studies Policy 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/

Results

Results shown in *iLearn*, or released directly by your Unit Convenor, are not confirmed as they are subject to final approval by the University. Once approved, final results will be sent to your student email address and will be made available in [eStudent](#). For more information visit ask.mq.edu.au.

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) 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

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

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

- To be able to distinguish between dispute resolution options
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- To develop an understanding of the importance of legal documents and strategies in resolving business disputes

- To apply collaborative teamwork skills to resolve business disputes

Assessment tasks

- Tutorial Participation
- Domain Name Dispute Decision
- Presentation and Report
- Reflection on Group Project

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

- To be able to distinguish between dispute resolution options
- To integrate theory into practice when resolving business disputes
- To develop skills to resolve business disputes by applying a variety of dispute resolution methodologies
- To be able to analyse and synthesise the legal, economic, ethical and reputation aspects of a business dispute, its beginnings, process and outcome so as to produce a coherent Response Strategy Report
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Assessment tasks

- Tutorial Participation
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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

- To be able to distinguish between dispute resolution options
- To integrate theory into practice when resolving business disputes
- To develop skills to resolve business disputes by applying a variety of dispute resolution methodologies
- To be able to analyse and synthesise the legal, economic, ethical and reputation aspects of a business dispute, its beginnings, process and outcome so as to produce a coherent Response Strategy Report
- To apply collaborative teamwork skills to resolve business disputes

Assessment tasks

- Tutorial Participation
- Domain Name Dispute Decision
- Presentation and Report

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

- To be able to distinguish between dispute resolution options
- To integrate theory into practice when resolving business disputes
- To develop skills to resolve business disputes by applying a variety of dispute resolution methodologies
- To be able to analyse and synthesise the legal, economic, ethical and reputation aspects of a business dispute, its beginnings, process and outcome so as to produce a coherent Response Strategy Report
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- To apply collaborative teamwork skills to resolve business disputes

Assessment tasks

- Tutorial Participation
- Domain Name Dispute Decision
- Presentation and Report
- Reflection on Group Project

Changes from Previous Offering

Additional Video Lectures are being trialled in the unit this session. The word count of the group report and reflection tasks have been adjusted.

Research and Practice, Global & Sustainability

This unit uses research from academic researching at Macquarie University, including:

- John Selby, 'Enhancing Trust in Online Auctions: eBay's Australian Experience with Code and Law' (2007) 7(6) Computer Law Review International 172
- John Selby 'eBay's PayPal: Balancing Marketplace and Regulatory Regimes' (2008) 8(6) Computer Law Review International 168
- John Selby 'Competitive Justice: The Role of Dispute Resolution Providers under ICANN's UDRP' (2004) 1 Macquarie Business Law Journal 23
- Peter Gillies, 'Scope of Arbitration Clauses - Recent Developments' (2010) 21 Australasian Dispute Resolution Journal 33

and numerous primary and secondary legal materials published through AUSTLII <<http://www.austlii.edu.au>> and other external sources.

One of the prescribed textbooks is authored by Professor David Spencer, an expert on alternative dispute resolution, who worked at Macquarie University for many years.

The unit also builds upon the convenor's practical experience working as a lawyer resolving domain name disputes and as an arbitration coach, including presentations he has made to the United Nations Internet Governance Forum on the tension between dispute resolution processes within Internet Governance Institutions and International Trade Law Institutions. The convenor is undertaking an international collaborative research project to further explore those issues.

Changes since First Published

Date	Description
28/07/2015	The only change was to adjust my Student Contact Hours so as to better fit the Timetable, thereby enabling the students to more easily visit me during that contact time.