LAWS529

Information Technology Law

S1 Day 2017

Dept of Law

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General Information

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Credit points
3

Prerequisites
(24cp in LAW or LAWS units) or (39cp at 100 level or above including MAS214)

Corequisites

Co-badged status

Unit description
Cyberspace presents the law with many challenges. This unit introduces the basic legal issues raised by networked digital technologies such as the internet. Topics as diverse as jurisdiction; proprietary rights (copyright, trademarks, patents, domain names); privacy; e-commerce and its framework; and selected others are discussed. The emerging law and leading policy debates concerning information technology are studied.

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:

Demonstrate an understanding of the fundamental principles of information technology law.

Articulate the specific rules of information technology law through closely examining legislation and case law.

Apply the law to hypothetical fact situations through analogising and distinguishing.

Provide legal advice through properly identifying legal issue(s), applying the relevant law to the identified issues, and accurately assessing the likely outcome.

Develop skills for designing new laws and for reforming existing laws by examining policy debates and law reform discourse as applied to new or emerging technologies areas.

Present, articulate, and defend through oral legal reasoning responses to diverse questions within information technology law.

Undertake in-depth research of critical issues in information technology law utilising scholarly legal publications from both national and international sources.

Assessment Tasks

Name	Weighting	Hurdle	Due
Class participation	20%	No	Tutorials 1-12
Researcg Assignment	40%	Yes	14 April 2017, 5pm (Week 7)
Final Take-home assessment	40%	No	6 June 2017, 5pm (Week 13)

Class participation

Due: **Tutorials 1-12**
Weighting: **20%**

The tutorials are designed to extend the law outlined in the lectures through the consideration of specific issues discussed in scholarly articles, the intensive analysis of relevant cases, and the solving of hypothetical problem questions.

Tutorial Questions - The tutorial questions for each tutorial are found in the LAWS 529 iLearn site under the relevant week.

Tutorial Readings - Students are expected to listen to lectures on Echo on iLearn, complete the required reading and come ready to discuss the questions outlined in the Tutorial Questions.

What do I do if I miss a tutorial?

If you miss one tutorial, please do not email your tutor, and do not lodge an online Ask request. Instead, please see *your tutor* at the start or end of class with relevant documentation.

If you will be missing more than one tutorial, please lodge an Ask Disruptions to Studies application online at *ask.mq.edu.au*.

On campus session

External students are required to attend all of both days of the On-Campus Session.

Assessment of class participation

Class participation will be assessed on the quality and regularity of participation. Class participation will be assessed on the following criteria:

Ability to critically discuss the material - the student is able to demonstrate reading and engagement with the reading materials and lectures for each week. This will be demonstrated by ability to answer relevant questions, responding to and participating effectively in class debates, and by asking questions to clarify anything not understood.

Oral expression - the student is able to verbally express their ideas about the materials in a clear, coherent, and concise manner;

Engaging with other students - the student engages with others in the class, displaying respect for others' opinions, active listening, constructive feedback and dialogue;

Further detail is provided in the Participation Rubric on the LAWS 529 ilearn site.

On successful completion you will be able to:

- Apply the law to hypothetical fact situations through analogising and distinguishing.
- Provide legal advice through properly identifying legal issue(s), applying the relevant law to the identified issues, and accurately assessing the likely outcome.
- Develop skills for designing new laws and for reforming existing laws by examining policy debates and law reform discourse as applied to new or emerging technologies areas.
- Present, articulate, and defend through oral legal reasoning responses to diverse questions within information technology law.

Researcg Assignment

Due: **14 April 2017, 5pm (Week 7)**
Weighting: **40%**
This is a hurdle assessment task (see assessment policy for more information on hurdle assessment tasks)

Question for Research Assignment

The phrase “mandatory data breach notification” refers to a legal obligation to notify affected individuals and the relevant regulator when certain designated security incidents compromise

designated categories of information. In February 2015, the Parliamentary Joint Committee on Intelligence and Security (PJCIS) recommended the adoption of a new mandatory data breach notification scheme (See – Recommendation 38 of the PJCIS Advisory Report on the *Telecommunications (Interception and Access) Amendment (Data Retention) Bill 2014 (Cth)*, released 27 February 2015). In 2016, the federal Government introduced the *Privacy Amendment (Notifiable Data Breaches) Bill*. This Bill amends the *Privacy Act 1988 (Cth)* to introduce mandatory data breach notification provisions for agencies, organisations and certain other entities regulated by the *Privacy Act*.

Discuss the merits of introducing a mandatory data breach notification scheme in Australia. Analyse the likely advantages and disadvantages of such a scheme, and consider whether, and to what extent, the present law in this area should be amended. Your analysis should refer to existing Australian law, the law reform discourse and the present Bill.

- Due date - Friday 14 April, 5pm, via Turnitin on ilearn LAWS 529 site.
- Please refer to the assessment rubric for the assignment on the LAWS 529 i-learn site. Please note that the assignment requires **independent legal research** which goes beyond the legal materials provided in the unit.
- Word limit of 2,500 not including footnotes. Footnotes to be confined to references.

Application for an extension

In the absence of a successful application for special consideration due to a disruption to studies, any assessment task submitted after its published deadline will not be graded and will receive a mark of zero. All applications for a Disruption to Studies need to be made electronically via ask.mq.edu.au and should be accompanied by supporting documentation.

Please do not email to request an extension or email to seek the outcome of a lodge application. No information can be provide via email, all information will be provided via the Ask system.

Other relevant information

Word limits will be strictly applied and work above the word limit will not be marked. All assessments in the unit are to be submitted electronically. Plagiarism detection software is used in this unit. Please ensure all citations are in accordance with the *Australian Guide to Legal Citation*.

On successful completion you will be able to:

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- Provide legal advice through properly identifying legal issue(s), applying the relevant law to the identified issues, and accurately assessing the likely outcome.

- Develop skills for designing new laws and for reforming existing laws by examining policy debates and law reform discourse as applied to new or emerging technologies areas.
- Undertake in-depth research of critical issues in information technology law utilising scholarly legal publications from both national and international sources.

Final Take-home assessment

Due: **6 June 2017, 5pm (Week 13)**
Weighting: **40%**

Content

The Final Take-Home Assessment will consist of two questions covering all material covered in the unit. Each question is worth 20%. The assessment will consist of *either*: (a) one essay question and one problem solving questions; *or* (b) two essay questions.

Word length

A maximum word length of 1,200 applies to *each* answer. This amounts to a total of 2,400 words for the two answers.

Duration

The Final Take-Home Assessment is designed to be completed in 7 hours (including lunch and tea breaks). However, to provide flexibility, to support the multiple commitments of students and to accommodate disability, a period of four full days will be provided for the exam. Please take the above into account if you are applying for an extension.

Release and due dates

The Final Take-Home Assessment Questions will be posted on iLearn on Friday 2 June 2017 at 5pm. The answers are due by Tuesday 6 June 2017 at 5 pm.

Application for an extension

In the absence of a successful application for special consideration due to a disruption to studies, any assessment task submitted after its published deadline will not be graded and will receive a mark of zero. All applications for a Disruption to Studies need to be made electronically via ask.mq.edu.au and should be accompanied by supporting documentation.

Please do not email to request an extension or email to seek the outcome of a lodge application via email. No information can be provide via email, all information will be provided via the Ask system.

Other relevant information

Word limits will be strictly applied and work above the word limit will not be marked. All assessments in the unit are to be submitted electronically. Please note that plagiarism detection software is used in this unit.

On successful completion you will be able to:

- Demonstrate an understanding of the fundamental principles of information technology law.
- Articulate the specific rules of information technology law through closely examining legislation and case law.
- Apply the law to hypothetical fact situations through analogising and distinguishing.
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- Develop skills for designing new laws and for reforming existing laws by examining policy debates and law reform discourse as applied to new or emerging technologies areas.

Delivery and Resources

Prescribed textbook

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

Tutorial readings

- In addition to the prescribed text book, it is necessary to read the materials noted in the Tutorial Questions. The Tutorial Questions are found on the iLearn site. The Tutorial Readings are found on the iLearn site and in e-reserve.

Useful Journals

- *International Journal of Law and Information Technology,* Oxford University, UK.
- *Harvard Journal of Law and Technology,* Harvard University Press, USA.
- *Information Journal of Technology Policy and Law,* Inderscience Publications, Switzerland.
- *Media and Art Law Review*, University of Melbourne Press, Australia.
- *Northwestern Journal of Technology and Intellectual Property, Northwester University Press, Chicago, USA.*
- *Telecommunications Journal of Australia, Monash University Press, Australia.*

- *Pittsburgh Journal of Technology Law and Policy, Pittsburgh University Press, USA.*
- *Information and Communications Technology Law* 299-314, University of Surrey, UK.
- *Computer and Telecommunications Law Review,* Sweet & Maxwell, UK.
- *Computer Law and Security Review, Elsevier*, UK.

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 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.

Websites

See links to useful websites provided on LAW iLearn page.

Unit Schedule

Week	Date	Lecture (Uploaded on Echo)	Tutorial	Reading for Lecture	Reading for Tutorial
1	3 March	Lecture 1: Introduction	Tutorial 1	Fitzgerald Chapter 1	Reading prescribed under Week 1 on ilearn
2	10 March	Lecture 2: Jurisdiction	Tutorial 2	Fitzgerald, Chapter 2	Reading prescribed under Week 2 on ilearn
3	17 March	Lecture 3: E-contracts I	Tutorial 3	Fitzgerald, Chapter 7	Reading prescribed under Week 3 on ilearn

4	24 March	Lecture 4: E-contracts II	Tutorial 4	Fitzgerald, Chapter 7	Reading prescribed under Week 4 on ilearn
5	21 March	Lecture 5: Patents	Tutorial 5	Fitzgerald, Chapter 5	Reading prescribed under Week 5 on ilearn
6	7 April	Lecture 6: Trade marks and domain names	Tutorial 6	Fitzgerald, Chapter 6	Reading prescribed under Week 6 on ilearn
7	14 April **RESEARCH ASSIGNMENT IS DUE ON 14 APRIL, 3PM**	Lecture 7: Content Regulation	Tutorial 7	Fitzgerald Chapter 3	Reading prescribed under Week 7 on ilearn
8	5 May	Lecture 8: Copyright I	Tutorial 8	Fitzgerald, Chapter 4	Reading prescribed under Week 8 on ilearn
9	12 May	Lecture 9: Copyright II	Tutorial 9	Fitzgerald, Chapter 4	Reading prescribed under Week 9 on ilearn
10	19 May	Lecture 10: Internet Crime	Tutorial 10	Fitzgerald, Chapter 11	Reading prescribed under Week 10 on ilearn

11	26 May	Lecture 11: Consumer Protection and Security	Tutorial 11	Fitzgerald, Chapter 8	Reading prescribed under Week 11 on ilearn
12	2 June May 2016 **FINAL ASSESSMENT QUESTIONS RELEASED THIS WEEK. Questions released on Friday 2 June, 5pm via iLearn Turnitin.**	Lecture 12: Privacy	Tutorial 12	Fitzgerald, Chapter 10	Reading prescribed under Week 12 on ilearn
13	**EXAM ANSWERS DUE THIS WEEK.** **FINAL TAKE-HOME ASSESSMENT is due on Tuesday 6 June, 5pm via ilearn Turnitin.**				

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_2016.html

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

Complaint Management Procedure for Students and Members of the Public http://www.mq.edu.au/policy/docs/complaint_management/procedure.html

Disruption to Studies Policy (in effect until Dec 4th, 2017): http://www.mq.edu.au/policy/docs/disruption_studies/policy.html

Special Consideration Policy (in effect from Dec 4th, 2017): https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policies/special-consideration

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://www.mq.edu.au/about_us/offices_and_units/information_technology/help/.

When using the University's IT, you must adhere to the Acceptable Use of IT Resources Policy. The policy applies to all who connect to the MQ network including students.

Graduate Capabilities

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

- Provide legal advice through properly identifying legal issue(s), applying the relevant law to the identified issues, and accurately assessing the likely outcome.
- Develop skills for designing new laws and for reforming existing laws by examining policy debates and law reform discourse as applied to new or emerging technologies areas.
- Present, articulate, and defend through oral legal reasoning responses to diverse questions within information technology law.
- Undertake in-depth research of critical issues in information technology law utilising scholarly legal publications from both national and international sources.

Assessment tasks

- Class participation
- Final Take-home assessment

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

- Articulate the specific rules of information technology law through closely examining legislation and case law.
- Apply the law to hypothetical fact situations through analogising and distinguishing.
- Provide legal advice through properly identifying legal issue(s), applying the relevant law to the identified issues, and accurately assessing the likely outcome.
- Develop skills for designing new laws and for reforming existing laws by examining policy debates and law reform discourse as applied to new or emerging technologies areas.

Assessment tasks

- Class participation
- Researcg Assignment
- Final Take-home assessment

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

- Demonstrate an understanding of the fundamental principles of information technology law.
- Articulate the specific rules of information technology law through closely examining legislation and case law.
- Present, articulate, and defend through oral legal reasoning responses to diverse questions within information technology law.
- Undertake in-depth research of critical issues in information technology law utilising scholarly legal publications from both national and international sources.

Assessment tasks

- Class participation
- Researcg Assignment
- Final Take-home assessment

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

- Articulate the specific rules of information technology law through closely examining legislation and case law.
- Apply the law to hypothetical fact situations through analogising and distinguishing.
- Provide legal advice through properly identifying legal issue(s), applying the relevant law to the identified issues, and accurately assessing the likely outcome.
- Develop skills for designing new laws and for reforming existing laws by examining policy debates and law reform discourse as applied to new or emerging technologies areas.

- Present, articulate, and defend through oral legal reasoning responses to diverse questions within information technology law.
- Undertake in-depth research of critical issues in information technology law utilising scholarly legal publications from both national and international sources.

Assessment tasks

- Class participation
- Researcg Assignment
- Final Take-home assessment

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

- Provide legal advice through properly identifying legal issue(s), applying the relevant law to the identified issues, and accurately assessing the likely outcome.
- Develop skills for designing new laws and for reforming existing laws by examining policy debates and law reform discourse as applied to new or emerging technologies areas.
- Present, articulate, and defend through oral legal reasoning responses to diverse questions within information technology law.

Assessment tasks

- Class participation
- Researcg Assignment
- Final Take-home assessment

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

- Articulate the specific rules of information technology law through closely examining legislation and case law.
- Provide legal advice through properly identifying legal issue(s), applying the relevant law to the identified issues, and accurately assessing the likely outcome.
- Present, articulate, and defend through oral legal reasoning responses to diverse questions within information technology law.
- Undertake in-depth research of critical issues in information technology law utilising scholarly legal publications from both national and international sources.

Assessment tasks

- Class participation
- Researcg Assignment
- Final Take-home assessment

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

- Provide legal advice through properly identifying legal issue(s), applying the relevant law to the identified issues, and accurately assessing the likely outcome.
- Undertake in-depth research of critical issues in information technology law utilising scholarly legal publications from both national and international sources.

Assessment tasks

- Class participation
- Final Take-home assessment

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:

Assessment task

- Final Take-home assessment