



# LAWS523

## Intellectual Property Law

S2 External 2017

*Dept of Law*

### Contents

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<a href="#"><u>General Information</u></a>	2
<a href="#"><u>Learning Outcomes</u></a>	3
<a href="#"><u>General Assessment Information</u></a>	3
<a href="#"><u>Assessment Tasks</u></a>	4
<a href="#"><u>Delivery and Resources</u></a>	6
<a href="#"><u>Unit Schedule</u></a>	8
<a href="#"><u>Policies and Procedures</u></a>	11
<a href="#"><u>Graduate Capabilities</u></a>	13

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## General Information

Unit convenor and teaching staff

Convenor and lecturer

Niloufer Selvadurai

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

Contact via Email - niloufer.selvadurai@mq.edu.au

W3A 621

Fridays 10-11

Lecturer

Andrew Morell

[andrew.morell@mq.edu.au](mailto:andrew.morell@mq.edu.au)

Contact via Email - andrew.morell@mq.edu.au

Tutor

Chip Van Dyk

[garritt.van-dyk@mq.edu.au](mailto:garritt.van-dyk@mq.edu.au)

Tutor

MD Jobair Alam

[mdjobair.alam@mq.edu.au](mailto:mdjobair.alam@mq.edu.au)

Contact via Email - mdjobair.alam@mq.edu.au

To be advised.

To be advised.

Tutor

Shafiqur Khan

[shafiqur.khan@mq.edu.au](mailto:shafiqur.khan@mq.edu.au)

Contact via Email - shafiqur.khan@mq.edu.au

To be advised

To be advised.

Andrew Morell

[andrew.morell@mq.edu.au](mailto:andrew.morell@mq.edu.au)

Credit points

3

Prerequisites

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

Participate constructively in discussion and other classroom activities in order to understand, analyse and critique the fundamental principles of intellectual property.

## General Assessment Information

### Research Assignment and Final Assessment

In the absence of a successful application for special consideration due to a disruption of studies, any assessment task submitted after its published deadline will not be graded and will receive a mark of zero. Applications for a Disruption of Studies must be made electronically via [ask.mq.edu.au](http://ask.mq.edu.au) and should be accompanied by supporting documentation. Students should refer

to the Disruption of Studies policy on the University website for complete details of the policy.

Please do not email your tutor or convenor to apply for an extension relating to the submission of your Research Assignment and/or Final Assessment, or to find out the outcome relating to an earlier application. All requests must be made via [ask.mq.edu.au](mailto:ask.mq.edu.au). All outcome notifications will also be provided via the online system.

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. Detailed moderation of assessments is conducted through the double-marking of a proportion of papers, circulation of a sample of marked papers and discussion between the convenor and markers.

### **Participation**

If you miss **one week of tutorials** - please see your tutor upon your return with relevant documentation. Please **do not** lodge an application via [ask.mq.edu.au](mailto:ask.mq.edu.au).

If you miss two consecutive weeks of tutorials or more - please do lodge an application as outlined for the Research Assignment and Final Assessment above.

## **Assessment Tasks**

Name	Weighting	Hurdle	Due
<a href="#"><u>Participation</u></a>	20%	No	Weeks 1-12 of semester
<a href="#"><u>Research assignment</u></a>	40%	No	8 September 2017
<a href="#"><u>Final Assessment</u></a>	40%	No	7 November 2017, 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. A participation mark out of 5 will be provided to students in week 4 of semester. This mark will form an assessment of

tutorial participation in the first three tutorials. A final mark out of 20 will be provided to students after the completion of the last tutorial. The mark out of 20 will incorporate the initial mark out of 5 covering the first three tutorials and encompass a further mark out of 15 for tutorials 4-12.

On successful completion 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.
- Participate constructively in discussion and other classroom activities in order to understand, analyse and critique the fundamental principles of intellectual property.

## Research assignment

Due: **8 September 2017**

Weighting: **40%**

### Research Assignment Question

To what extent should internet service providers be held liable for acts of copyright infringement committed by their customers? Discuss with reference to relevant legislation, case law and secondary sources. In your response you may also refer to relevant international developments and the present law reform discourse.

**Word limit** = 2,000 words, not including footnotes and bibliography. Footnotes need to be confined to citations. Citations should be in compliance with the *Australian Guide to Legal Citation*.

**Submission method:** Submission is via Turnitin on the LAWS 523 ilearn page.

On successful completion 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.

## Final Assessment

Due: **7 November 2017, 5pm**

Weighting: **40%**

The Final Assessment will consist of *two* questions covering all material taught in the unit. Each question is worth 20%.

**Word limit:** There will be a word limit of 1,200 words per question (not including footnotes). Total of 2,400 words (not including bibliography and footnotes). Footnotes need to be confined to citations.

**Citations:** Citations to be in compliance with the *Australian Guide to Legal Citation*.

The assessment questions will become available via ilearn on Friday 3 November 2017 at 5pm. The assessment will be due on Tuesday 7 November 2017, 5pm.

Submission method: Submission will be via Turnitin on ilearn.

On successful completion 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.

## Delivery and Resources

All materials necessary to complete this unit are cited on the LAW 523 i-Learn site. The textbook is available for purchase from the co-op.

## REQUIRED AND RECOMMENDED RESOURCES

### Prescribed textbook

- Andrew Stewart, Philip Griffith & Judith Bannister, *Intellectual Property in Australia*, 2014, 5th 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 Arts 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.)

## Computer resources

A computer and access to reliable internet is required for this unit.

# Unit Schedule

Week of Semester	Lecture	Tutorial	Required Reading	Assessment
1	Lecture 1 - Introduction	Tutorial 1	Textbook - Chapter 1  Tutorial 1 Reading  (see i-Learn LAWS523)	Participation in tutorial



2	Lecture 2 - Copyright I	Tutorial 2	Textbook - Chapters 5 & 6  Tutorial 2 Readings (see ilearn)  	Participation in tutorial
3	Lecture 3 - Copyright II	Tutorial 3	Textbook - Chapter 7  Tutorial 3 Reading (see i-Learn LAWS523)	Participation in tutorial
4	Lecture 4 - Copyright III and Confidential Information	Tutorial 4	Textbook - Chapters 8, 9, 3 & 4  Tutorial 4 Reading (see i- LearnLAWS523 )	Participation in tutorial.  A participation mark out of 5 will be provided to students in week 4 of semester. This mark will form an assessment of tutorial participation in the first three tutorials .
5	Lecture 5 - Designs I	Tutorial 5	Textbook - Chapter 10  Tutorial 5 Reading (see i-Learn LAWS523)	Participation in tutorial

6	Lecture 6 - Designs II	Tutorial 6	Textbook - Chapter 10  Tutorial 6 Reading  (see i-Learn LAWS523)	Participation in tutorial.  <b>RESEARCH ASSIGNMENT IS DUE ON 8 SEPTEMBER 2017, 5PM VIA TURNITIN ICON ON ILEARN</b>
7	Lecture 7 - Trade Marks I	Tutorial 7	Textbook - Chapter 19  Tutorial 7 Reading  (see i-Learn LAWS523)	Participation in tutorial
<b>RECESS</b>				
8	Lecture 8 - Trade Marks II	Tutorial 8	Textbook - Chapter 20  Tutorial 8 Reading  (see i-Learn LAWS523 )	Participation in tutorial
9	Lecture 9 - Patents I	Tutorial 9	Textbook - Chapter 11, 12  Tutorial 9 Reading  (see i-Learn LAWS523)	Participation in tutorial

10	Lecture 10 - Patents II	Tutorial 10	Textbook - Chapter 13  Tutorial 10 Reading  (see i- LearnLAWS523 )	Participation in tutorial
11	Lecture 11 - Protecting Business Reputation	Tutorial 11	Textbook - Chapters 16, 17, 18  Tutorial 11 Reading  (see i-Learn LAWS523)	Participation in tutorial.
12	Lecture 12 - Remedies, Commercialisation of IP, and International Perspectives	Tutorial 12	Textbook - Chapters 2, 21, 22  Tutorial 12 Reading  (see i-Learn LAWS523)	Participation in tutorial  <b>FINAL ASSESSMENT QUESTIONS WILL BE AVAILABLE ON FRIDAY 3 NOVEMBER 5PM ON I-LEARN SITE</b>
13	<b>FINAL ASSESSMENT DUE ON TUESDAY 7 NOVEMBER, 5PM</b>			

## 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\\_2016.html](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](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](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/](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](http://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](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://www.mq.edu.au/about\\_us/offices\\_and\\_units/information\\_technology/help/](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

- 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
- Research assignment
- Final 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

- 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.

- Participate constructively in discussion and other classroom activities in order to understand, analyse and critique the fundamental principles of intellectual property.

## **Assessment tasks**

- Participation
- Research assignment
- Final Assessment

## **Commitment to Continuous Learning**

Our graduates will have enquiring minds and a literate curiosity which will lead them to pursue knowledge for its own sake. They will continue to pursue learning in their careers and as they participate in the world. They will be capable of reflecting on their experiences and relationships with others and the environment, learning from them, and growing - personally, professionally and socially.

This graduate capability is supported by:

### **Learning outcome**

- Participate constructively in discussion and other classroom activities in order to understand, analyse and critique the fundamental principles of intellectual property.

### **Assessment task**

- Participation

## **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.
- Participate constructively in discussion and other classroom activities in order to understand, analyse and critique the fundamental principles of intellectual property.

## Assessment tasks

- Participation
- Research assignment
- Final 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

- 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.
- Participate constructively in discussion and other classroom activities in order to understand, analyse and critique the fundamental principles of intellectual property.

## Assessment tasks

- Participation
- Research assignment
- Final 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

- 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.
- Participate constructively in discussion and other classroom activities in order to understand, analyse and critique the fundamental principles of intellectual property.

### Assessment tasks

- Participation
- Final 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

- 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.
- Participate constructively in discussion and other classroom activities in order to



understand, analyse and critique the fundamental principles of intellectual property.

## Assessment tasks

- Participation
- Research assignment
- Final 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

- 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

- Research assignment
- Final 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:

## 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**

- Research assignment
- Final Assessment