



# LAWS824

## Intellectual Property Law

S2 Day 2017

*Dept of Law*

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#### **Disclaimer**

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## General Information

Unit convenor and teaching staff

Convenor and lecturer

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W3A 621

To be advised

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To be advised

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Andrew Morell

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Credit points

4

Prerequisites

(16cp in LAW or LAWS units at 600 level or above) and (admission to JD or LLM or GradCertLaw or GradDipLaw)

Corequisites

Co-badged status

### Unit description

This unit provides an understanding of the principles and practice of intellectual property law, encompassing the law of copyright, designs, trade marks, patents and confidential information. The unit begins by considering the theoretical underpinnings of intellectual property law, and progresses to a detailed examination of the existing regulatory frameworks and an analysis of the present law reform discourse. The unit will provide students with a doctrinal understanding of the relevant legal principles, and equip students with the capacity to apply legal principles to complex factual circumstances

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

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

Demonstrate advanced 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 highly developed 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 law.

## General Assessment Information

In the absence of a successful application for special consideration due to disruption of studies, any assessment task submitted after its published deadline will receive a mark of zero.

Applications for a Disruption of Studies are 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 for complete details of the policy and a description of the supporting documentation required. 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 convenor

and markers.

## Assessment Tasks

Name	Weighting	Hurdle	Due
Participation	20%	No	Weeks 1-12 of semester
Research Assignment I	40%	No	8 September 2017, 5pm
FINAL ASSESSMENT	40%	No	6 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. 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 sophisticated knowledge of the specific rules in intellectual property law through the close examination of legislation and case law;
- Demonstrate advanced 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 law.

### Research Assignment I

Due: **8 September 2017, 5pm**

Weighting: **40%**

#### RESEARCH ASSIGNMENT QUESTION

"Australia's patents law unduly stifles innovation by limiting the online sharing and dissemination

of information." Do you agree? Discuss with reference to relevant legislation, case law and secondary sources. In your response you should also consider theories relating to the proper role of patents law and the law reform discourse to date.

**Word limit** = 2,500 words, not including footnotes and bibliography. Footnotes need to be confined to citations. All citations should be in compliance with the *Australian Guide to Legal Citation*.

**Submission method:** Via Turnitin on the LAWS 824 iLearn page.

On successful completion you will be able to:

- Display an understanding of the fundamental principles of intellectual property law
- Display a sophisticated knowledge of the specific rules in intellectual property law through the close examination of legislation and case law;
- Demonstrate sophisticated skills of legal analysis through the application of the law to hypothetical fact situations
- Demonstrate highly developed 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: **6 November 2017, 5pm**

Weighting: **40%**

### FINAL ASSESSMENT

Consider the case of *Tylor v Sevin* [2014] FCCA 445. What are the implications of this case for the potential liability of parties who use images owned by other parties, without permission, on their websites? How satisfactory is the law in this area? Discuss with close reference to relevant legislation, case law and secondary sources. In your answer you should also consider the public policy basis of copyright laws and the law reform discourse.

**Word limit** = 2,500 words, not including footnotes and bibliography. Footnotes need to be confined to citations. All citations need to comply with the *Australian Guide to Legal Citations*.

**Submission method:** Via Turnitin on the LAWS 824 ilearn page.

On successful completion you will be able to:

- Demonstrate sophisticated skills of legal analysis through the application of the law to hypothetical fact situations
- Demonstrate highly developed 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 LAWS 824 i-Learn site. The textbook will need to be purchased from the co-op.

### **REQUIRED AND RECOMMENDED RESOURCES**

#### **Prescribed textbook**

- Andrew Stewart, Philip Griffith & Judith Bannister, *Intellectual Property in Australia*, 2014, 4th edition, LexisNexis Butterworths.

#### **Tutorial reading**

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

#### **Recommended journals**

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

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

#### **Legislation:**

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

### **Case Law:**

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

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

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

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

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

### **Computer resources**

Students will require a computer and access to reliable internet.

## **Unit Schedule**

Week of Semester	Lecture	Tutorial	Required Reading	Assessment
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1	Lecture 1 - Introduction	Tutorial 1	Textbook - Chapter 1  Tutorial 1 Reading  (see i-Learn LAWS 824)	Participation in tutorial
2	Lecture 2 - Copyright I	Tutorial 2	Textbook - Chapters 5 & 6  Tutorial 2 Reading  (see i-Learn LAWS 824)	Participation in tutorial
3	Lecture 3 - Copyright II	Tutorial 3	Textbook - Chapter 7  Tutorial 3 Reading  (see i-Learn LAWS 824)	Participation in tutorial

4	Lecture 4 - Copyright III and Confidential Information	Tutorial 4	Textbook - Chapters 8, 9, 3 & 4  Tutorial 4 Reading  (see i- Learn LAWS 824)	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. 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.
5	Lecture 5 - Designs I	Tutorial 5	Textbook - Chapter 10  Tutorial 5 Reading  (see i- Learn LAWS 824)	Participation in tutorial
6	Lecture 6 - Designs II	Tutorial 6	Textbook - Chapter 10  Tutorial 6 Reading  (see i- Learn LAWS 824)	Participation in tutorial.  <b>RESEARCH ASSIGNMENT IS DUE ON FRIDAY 8 SEPTEMBER 2017, 5PM. PLEASE SUBMIT VIA TURNITIN ICON ON ILEARN.</b>

7	Lecture 7 - Trade Marks I	Tutorial 7	Textbook - Chapter 19  Tutorial 7 Reading  (see i- Learn LAWS 824)	Participation in tutorial
<b>RECESS</b>				
8	Lecture 8 - Trade Marks II	Tutorial 8	Textbook - Chapter 20  Tutorial 8 Reading  (see i- Learn LAWS 824)	Participation in tutorial.
9	Lecture 9 - Patents I	Tutorial 9	Textbook - Chapter 11, 12  Tutorial 9 Reading  (see i- Learn LAWS 824)	Participation in tutorial.

10	Lecture 10 - Patents II	Tutorial 10	Textbook - Chapter 13  Tutorial 10 Reading  (see i- Learn LAWS 824)	Participation in tutorial
11	Lecture 11 - Protecting Business Reputation	Tutorial 11	Textbook - Chapters 16, 17, 18  Tutorial 11 Reading  (see i- Learn LAWS 824)	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 LAWS 824)	Participation in tutorial
13				<b>THE FINAL RESEARCH ASSIGNMENT IS DUE ON TUESDAY 6 NOVEMBER 2017, 5PM. PLEASE SUBMIT VIA TURNITIN ICON ON ILEARN.</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

### 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

- Demonstrate highly developed 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 law.

#### Assessment tasks

- Participation
- Research Assignment I
- FINAL ASSESSMENT

### 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

- Display an understanding of the fundamental principles of intellectual property law

- Display a sophisticated knowledge of the specific rules in intellectual property law through the close examination of legislation and case law;
- Participate constructively in discussion and other classroom activities in order to understand, analyse and critique the fundamental principles of intellectual property law.

## **Assessment tasks**

- Research Assignment I
- FINAL ASSESSMENT

## **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**

- Demonstrate sophisticated skills of legal analysis through the application of the law to hypothetical fact situations
- Participate constructively in discussion and other classroom activities in order to understand, analyse and critique the fundamental principles of intellectual property law.

## **Assessment tasks**

- Participation
- Research Assignment I
- FINAL ASSESSMENT

## **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 outcome**

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

## Assessment tasks

- Research Assignment I
- FINAL ASSESSMENT

## 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 outcome

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

## Assessment task

- Participation

## 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 outcome

- Demonstrate highly developed 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 I
- FINAL ASSESSMENT