



LAWS8068

Law and Technology

Session 1, Special circumstances 2021

Macquarie Law School

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Disclaimer

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Notice

As part of [Phase 3 of our return to campus plan](#), most units will now run tutorials, seminars and other small group activities on campus, and most will keep an online version available to those students unable to return or those who choose to continue their studies online.

To check the availability of face-to-face activities for your unit, please go to [timetable viewer](#). To check detailed information on unit assessments visit your unit's iLearn space or consult your unit convenor.

General Information

Unit convenor and teaching staff

Convenor and Lecturer

Niloufer Selvadurai

[Communications via iLearn communications portal](#)

Contact via Communications via iLearn communications portal

6 First Walk, Room 621

Fridays 9-10am during teaching term

Lecturer

Connor Hogg

Tutor

Suman Podder

Credit points

10

Prerequisites

Admission to LLM or MIntTrdeComLaw or (admission to JD and 80cp at 6000 level or above)

Corequisites

Co-badged status

Unit description

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

Important Academic Dates

Information about important academic dates including deadlines for withdrawing from units are available at <https://www.mq.edu.au/study/calendar-of-dates>

Learning Outcomes

On successful completion of this unit, you will be able to:

ULO1: Explain the fundamental principles of technology and e-commerce law and critique specific legal principles relevant to e-commerce

ULO2: identify legal issues relevant to e-commerce law and provide legal advice on e-commerce problems or disputes, including an accurate assessment of the likely outcome.

ULO3: Analyse policy debates and law reform discourse in key areas involving the development of laws to new and emerging technologies and propose law reforms where appropriate.

General Assessment Information

Research Assignment

Due date: 1 April 2021, 5pm (Week 6)

Weighting: 50%

2021 Research Assignment Question

What legal challenges are raised by the use of smart contracts? Is present Australian law effective in governing the formation, performance and enforcement of smart contracts? Discuss with close reference to relevant legislation, case law and reform discourse.

Independent legal research: Please note that responding to this assignment question will require **independent legal research** that goes beyond the prescribed materials provided in lectures, tutorials and readings.

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: All papers have to be submitted via Turnitin on the LAWS8068 ilearn. Please ensure that you are wholly happy with your paper before submitting. The system does not allow for automatic re-submission.

Marking Rubric for Research Assignment: Please see LAWS8068 ilearn page.

Moderation: The markers and convenor have a series of meeting to moderate the papers. The markers and convenor then undertake a process of blind marking of 10% of papers to establish an accurate and equitable marking standard. All Fail papers are double marked by the convenor.

Late Submission Penalty

Unless a Special Consideration request has been submitted and approved, (a) a penalty for lateness will apply – two (2) marks out of 100 will be deducted per day for assignments submitted after the due date – and (b) no assignment will be accepted more than seven (7) days (incl. weekends) after the original submission deadline. No late submissions will be accepted for timed assessments – e.g. quizzes, online tests.

Other relevant information

Please note that plagiarism detection software is used in this unit.

On successful completion you will be able to:

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

Professional Writing Task

Due: Friday 4 June, 5pm (Week 13)

Weighting: 50%

2021 Professional Writing Task Question

How effective is Australia's current competition law in supporting competition in digital platforms? What law reforms can be enacted to strengthen Australian law in this area? Write a Law Reform Submission for consideration by the Australian Government. In your Submission, analyse the effectiveness of present Australian law in this area and present option(s) for reform to enhance competition in digital platforms. You may analyse the Australian Competition and Consumer Commission's reports on this topic and the federal government's response to these reports.

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.

Rubric: The Rubric for the Research Assignment II is available on ilearn LAWS8068.

Moderation

The markers and convenor have a series of meeting to moderate the papers. the markers and convenor undertake a process of blind marking of 10% of papers to establish an accurate and equitable marking standard. The rubric used in marking is available on ilearn. All Fail papers are double marked by the convenor.

Application for an extension

All applications for Special Consideration 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.

Late Submission Penalty

Unless a Special Consideration request has been submitted and approved, (a) a penalty for lateness will apply – two (2) marks out of 100 will be deducted per day for assignments submitted after the due date – and (b) no assignment will be accepted more than

seven (7) days (incl. weekends) after the original submission deadline. No late submissions will be accepted for timed assessments – e.g. quizzes, online tests.

Other relevant information

All assessments in the unit are to be submitted electronically via the Turnitin link on the iLearn LAWS8068 page for this unit. 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.
- 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.

Assessment Tasks

Name	Weighting	Hurdle	Due
<u>Research Assignment</u>	50%	No	Week 6 - 1 April 2021
<u>Legal Brief</u>	50%	No	Week 13 - 4 June 2021

Research Assignment

Assessment Type ¹: Essay

Indicative Time on Task ²: 41 hours

Due: **Week 6 - 1 April 2021**

Weighting: **50%**

Prepare and present an essay based on detailed and extensive research on an issue in technology and e-commerce law and synthesise relevant scholarly literature and law reform discourse

On successful completion you will be able to:

- Explain the fundamental principles of technology and e-commerce law and critique specific legal principles relevant to e-commerce
- identify legal issues relevant to e-commerce law and provide legal advice on e-commerce problems or disputes, including an accurate assessment of the likely outcome.
- Analyse policy debates and law reform discourse in key areas involving the development of laws to new and emerging technologies and propose law reforms where appropriate.

Legal Brief

Assessment Type ¹: Professional writing

Indicative Time on Task ²: 41 hours

Due: **Week 13 - 4 June 2021**

Weighting: **50%**

Prepare a legal brief or law reform submission based on a contemporary topic related to technology and law.

On successful completion you will be able to:

- Explain the fundamental principles of technology and e-commerce law and critique specific legal principles relevant to e-commerce
- identify legal issues relevant to e-commerce law and provide legal advice on e-commerce problems or disputes, including an accurate assessment of the likely outcome.
- Analyse policy debates and law reform discourse in key areas involving the development of laws to new and emerging technologies and propose law reforms where appropriate.

¹ If you need help with your assignment, please contact:

- the academic teaching staff in your unit for guidance in understanding or completing this type of assessment
- the [Writing Centre](#) for academic skills support.

² Indicative time-on-task is an estimate of the time required for completion of the assessment task and is subject to individual variation

Delivery and Resources

Prescribed textbook

- B Fitzgerald, A Fitzgerald, et al, *Internet and E-Commerce Law: Technology, Law and Policy*, Thomson Lawbook Co, 2nd edition, 2011. (Whilst old, this is the only comprehensive textbook on Australian IT law. Being a niche market, there is a lack of in-depth textbooks in this area)

Tutorial readings

- In addition to the prescribed text book, it is necessary to read the materials cited in the Tutorial Questions. The Tutorial Questions are found on the iLearn site. The Tutorial Readings are also found on the iLearn site. Additional optional readings are also provided at this location.

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, Northwestern 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 commencing	Lecture (Uploaded on Echo)	Tutorial	Reading for Lecture	Reading for Tutorial	
1		Lecture 1: Introduction	Tutorial 1	Fitzgerald Chapter 1	Reading prescribed under Week 1 on ilearn
2		Lecture 2: Jurisdiction	Tutorial 2	Fitzgerald, Chapter 2	Reading prescribed under Week 2 on ilearn
3		Lecture 3: Online contracts I	Tutorial 3	Fitzgerald, Chapter 7	Reading prescribed under Week 3 on ilearn
4		Lecture 4: Online contracts II	Tutorial 4	Fitzgerald, Chapter 7	Reading prescribed under Week 4 on ilearn
5		Lecture 5: Data privacy law	Tutorial 5	Fitzgerald, Chapter 10	Reading prescribed under Week 5 on ilearn
6	RESEARCH ASSIGNMENT DUE Thursday 1 April 2021, 5pm via Turnitin	Lecture 6: Trade marks and domain names	Tutorial 6	Fitzgerald, Chapter 6	Reading prescribed under Week 6 on ilearn

7	RECESS	Lecture 7: Content Regulation	Tutorial 7	Fitzgerald Chapter 3	Reading prescribed under Week 7 on ilearn
8		Lecture 8: Copyright and technology law I	Tutorial 8	Fitzgerald, Chapter 4	Reading prescribed under Week 8 on ilearn
9		Lecture 9: Copyright and technology law II	Tutorial 9	Fitzgerald, Chapter 4	Reading prescribed under Week 9 on ilearn
10		Lecture 10: Cybercrime	Tutorial 10	Fitzgerald, Chapter 11	Reading prescribed under Week 10 on ilearn
11		Lecture 11: Online Consumer Protection and Competition	Tutorial 11	Fitzgerald, Chapter 8	Reading prescribed under Week 11 on ilearn
12		Lecture 12: Patents and technology law	Tutorial 12	Fitzgerald, Chapter 5	Reading prescribed under Week 12 on ilearn
13	LEGAL WRITING TASK - DUE FRIDAY 11 JUNE 2021, 5pm via Turnitin				

Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central \(https://policies.mq.edu.au\)](https://policies.mq.edu.au). Students should be aware of the following policies in particular with regard to Learning and Teaching:

- [Academic Appeals Policy](#)
- [Academic Integrity Policy](#)
- [Academic Progression Policy](#)
- [Assessment Policy](#)
- [Fitness to Practice Procedure](#)
- [Grade Appeal Policy](#)
- [Complaint Management Procedure for Students and Members of the Public](#)
- [Special Consideration Policy](#)

Students seeking more policy resources can visit [Student Policies \(https://students.mq.edu.au/support/study/policies\)](https://students.mq.edu.au/support/study/policies). It is your one-stop-shop for the key policies you need to know about throughout your undergraduate student journey.

To find other policies relating to Teaching and Learning, visit [Policy Central \(https://policies.mq.edu.au\)](https://policies.mq.edu.au) and use the [search tool](#).

Student Code of Conduct

Macquarie University students have a responsibility to be familiar with the Student Code of Conduct: <https://students.mq.edu.au/admin/other-resources/student-conduct>

Results

Results published on platform other than [eStudent](#), (eg. iLearn, Coursera etc.) 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 or if you are a Global MBA student contact globalmba.support@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 help you improve your marks and take control of your study.

- [Getting help with your assignment](#)
- [Workshops](#)
- [StudyWise](#)
- [Academic Integrity Module](#)

The Library provides online and face to face support to help you find and use relevant information resources.

- [Subject and Research Guides](#)
- [Ask a Librarian](#)

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

If you are a Global MBA student contact globalmba.support@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.

Changes from Previous Offering

This unit was formerly called "Technology and E-Commerce Law" and was offered in Semester 2 of the year.