# LAWS8068

# Law and Technology

Session 1, Online-scheduled-weekday 2024

*Macquarie Law School*

# Contents

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# 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

Lecturer
Marie-Eve Loiselle

Tutor and consultation academic
Atia Naznin
Contact via Communications portal via iLearn
tba

Credit points
10

Prerequisites
Admission to LLM or MIntTrdeComLaw or (Admission to JD and LAWS600 or LAWS8001)

Corequisites

Co-badged status

Unit description
Digital developments and emerging technologies present the law with a myriad of different challenges. This unit analyses the legal issues raised by networked digital technologies. Topics covered include establishing the country which has jurisdiction to hear a multinational internet dispute, the nature of copyright, patent and trademark protection for technological innovations, the governance of domain names, the protection of digital privacy, internet content control, social media governance, cybercrime and cyber security law. In each case, existing legal frameworks, scholarly discourse and evolving law reform debates are analysed and critiqued in detail.

## 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**: **Thursday 11 April 2024, 11.55pm (Week 7)**

**2024 Research Assignment Question**

*For Question and Submission Portal - See iLearn site under 'Assessment'*

**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 – five (5) 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: Tuesday 11 June 2024, 11.55pm (Week 14)**

***For Question and Submission Portal - See iLearn site under 'Assessment'***

**Word length**

2,400 words, not including footnotes. Note that footnotes must be confined to citations.

**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 – five (5) 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 |
|------|-----------|--------|-----|
| Legal Brief | 40% | No | Week 14, Tuesday 11 June 2024, 11.55pm |
| Research Assignment | 40% | No | Week, Thursday 11 April 2024, 11.55pm |
| Class participation | 20% | No | Weeks 1-12 |

## Legal Brief

Assessment Type [1]: Professional writing
Indicative Time on Task [2]: 15 hours
Due: **Week 14, Tuesday 11 June 2024, 11.55pm**
Weighting: **40%**

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.

# Research Assignment

Assessment Type [1]: Essay
Indicative Time on Task [2]: 15 hours
Due: **Week, Thursday 11 April 2024, 11.55pm**
Weighting: **40%**

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.

# Class participation

Assessment Type [1]: Participatory task
Indicative Time on Task [2]: 0 hours
Due: **Weeks 1-12**
Weighting: **20%**

Student participation in tutorial discussions, debates and/or presentations

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**

*Legal Issues in Information Technology,* **M Perry, A Roy, M De Zwart, Adams, N Selvadurai, H Forrest, Cormier & S McKenzie, 2022, First Edition**

**ISBN: 9780455245140 $99.00**

*Where to purchase*

- **Directly via the Thomson Reuters website:** https://legal.thomsonreuters.com.au/student/

- **Online Resellers:**

**Booktopia**: https://www.booktopia.com.au/

**Amazon:** https://www.amazon.com.au/

**Zookal**: https://www.zookal.com/

**Further optional reading (more detailed but old)**

- 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 Leganto 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.
- *Journal of Law and Technology,* UCLA 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 commencing | Lecture (Uploaded on Echo) | Tutorial | Reading for Lecture | Reading for Tutorial | |
|---|---|---|---|---|---|
| 1 | | Lecture 1: Introduction and Theoretical Frameworks | Tutorial 1 | | Reading prescribed under Week 1 on ilearn |

| | | | | | |
|---|---|---|---|---|---|
| 2 | | Lecture 2: Internet Jurisdiction | Tutorial 2 | | Reading prescribed under Week 2 on ilearn |
| 3 | | Lecture 3: The Regulation of New and Emerging Technologies | Tutorial 3 | | Reading prescribed under Week 3 on ilearn |
| 4 | | Lecture 4: E-Contracts and Smart Contracts Law | Tutorial 4 | | Reading prescribed under Week 4 on ilearn |
| 5 | | Lecture 5: Data Privacy Law | Tutorial 5 | | Reading prescribed under Week 5 on ilearn |
| 6 | | Lecture 6: Trade Marks and Domain Names | Tutorial 6 | | Reading prescribed under Week 6 on ilearn |
| 7 | **RESEARCH ASSIGNMENT IS DUE - Thursday 11 April, 11.55pm Week 7** **RECESS** | Lecture 7: Online Content and Social Media Regulation | Tutorial 7 | | Reading prescribed under Week 7 on ilearn |

| 8 | | Lecture 8: Digital Copyright Law | Tutorial 8 | | Reading prescribed under Week 8 on ilearn |
| 9 | | Lecture 9: Digital Patents Law | Tutorial 9 | | Reading prescribed under Week 9 on ilearn |
| 10 | | Lecture 10: Cybercrime Law | Tutorial 10 | | Reading prescribed under Week 10 on ilearn |
| 11 | | Lecture 11: Digital Competition and Consumer Law | Tutorial 11 | | Reading prescribed under Week 11 on ilearn |
| 12 | | Lecture 12: Technology and Human Rights Law | Tutorial 12 | | Reading prescribed under Week 12 on ilearn |
| 13 | No lectures or tutorials - revision | | | | |
| 14 | **Tuesday 11 June, 11.55pm, Week 14, via Turnitin** | | | | |

# Policies and Procedures

Macquarie University policies and procedures are accessible from Policy Central (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
- Assessment Procedure
- Complaints Resolution 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). 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) 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

# Academic Integrity

At Macquarie, we believe academic integrity – honesty, respect, trust, responsibility, fairness and courage – is at the core of learning, teaching and research. We recognise that meeting the expectations required to complete your assessments can be challenging. So, we offer you a range of resources and services to help you reach your potential, including free online writing and maths support, academic skills development and wellbeing consultations.

# Student Support

Macquarie University provides a range of support services for students. For details, visit http://students.mq.edu.au/support/

## The Writing Centre

The Writing Centre provides resources to develop your English language proficiency, academic writing, and communication skills.

- Workshops
- Chat with a WriteWISE peer writing leader

- Access StudyWISE
- Upload an assignment to Studiosity
- Complete the 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

Macquarie University offers a range of Student Support Services including:

- IT Support
- Accessibility and disability support with study
- Mental health support
- Safety support to respond to bullying, harassment, sexual harassment and sexual assault
- Social support including information about finances, tenancy and legal issues
- Student Advocacy provides independent advice on MQ policies, procedures, and processes

## Student Enquiries

Got a question? Ask us via AskMQ, or contact Service Connect.

## 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

In 2024, Week 12 is on 'Technology and Human Rights Law' - Formely, Week 12 was on 'International Perspectives on Technology Law'.

# Changes since First Published

| Date | Description |
|------|-------------|
| 11/02/2024 | The professional legal task is due on Monday 10 June (Kings birthday) - this version changes it to Tuesday 11 June (same everything else). So very sorry for the inconvenience |

Unit information based on version 2024.03 of the Handbook