



# LAWS824

## Intellectual Property Law

S2 Day 2018

*Dept of Law*

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## General Information

Unit convenor and teaching staff

Convenor and lecturer

Niloufer Selvadurai

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W3A 621

To be advised

Lecturer

Julian Dight

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To be advised

To be advised

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

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 seven (7) days (incl. weekends) after the original submission deadline.

## Assessment Tasks

Name	Weighting	Hurdle	Due
<u>Participation</u>	20%	No	Weeks 1-12 of semester
<u>RESEARCH ASSIGNMENT</u>	40%	No	14 September 2018
<u>FINAL ASSESSMENT</u>	40%	No	9 November 2018, 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.

**Marking Rubric for Participation:** Please see LAWS 824 ilearn page.

On successful completion you will be able to:

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- 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

Due: **14 September 2018**

Weighting: **40%**

In its 2014 [Copyright and the Digital Economy Final Report \(ALRC Report 122\)](#), the Australian Law Reform Commission recommended that Australia should adopt a fair use exception with a non-exhaustive list of four fairness factors to be considered in assessing whether use of another's copyright material is fair and a non-exhaustive list of eleven illustrative purposes. Do you agree with the Commission's recommendation? Discuss with close reference to relevant primary and secondary sources.

Please note that responding to this assignment question will require independent legal research that goes beyond materials provided in lectures and prescribed readings.

**Marking Rubric:** Please see LAWS 824 ilearn page.

**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:

- 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 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: **9 November 2018, 5pm**

Weighting: **40%**

## FINAL ASSESSMENT

Consider the case of *RPL Central v The Commissioner of Patents*, Full Federal Court, 11 December 2015. What are the implications of this case for patents law? How satisfactory is the law in this area? Discuss with close reference to relevant legislation, case law and secondary sources.

Please note that responding to this assignment question will require independent legal research that goes beyond materials provided in lectures and prescribed readings.

**Marking Rubric:** Please see LAWS 824 ilearn page.

**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*, 2017, 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
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 14 SEPTEMBER 2018, 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				THE FINAL RESEARCH ASSIGNMENT IS DUE ON TUESDAY 6 NOVEMBER 2018, 5PM. PLEASE SUBMIT VIA TURNITIN ICON ON ILEARN.

## Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central](https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central) (<https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central>). 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](#) (**Note:** *The Special Consideration Policy is effective from 4 December 2017 and replaces the Disruption to Studies Policy.*)

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

If you would like to see all the policies relevant to Learning and Teaching visit [Policy Central](https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central) (<https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/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/study/getting-started/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
- 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 task**

- Participation

## **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
- 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 task**

- Participation

## **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 task**

- FINAL ASSESSMENT