



LAWS824

Intellectual Property Law

S2 Block 2019

Macquarie Law School

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General Information

Unit convenor and teaching staff

Convenor and Lecturer

Julian Dight

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To be advised

To be advised

Rita Matulionyte

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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

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
Participation	20%	No	On Campus Session
RESEARCH ASSIGNMENT	40%	No	Friday of Week 6 by 5pm
FINAL ASSESSMENT	40%	No	Friday of Week 13 by 5pm

Participation

Due: **On Campus Session**

Weighting: **20%**

Students are expected to complete the required reading and actively discuss the questions outlined in the Tutorial Questions in the On Campus Session (OCS).

Moderation: OCS participation will be assessed on both the quality and regularity of participation. OCS participation will be assessed on the following criteria:

Ability to critically discuss the material - the student is able to demonstrate reading and engagement with the reading materials and lectures for each week. This will be demonstrated by ability to answer relevant questions, responding to and participating effectively in class debates, and by asking questions to clarify anything not understood.

Oral expression - the student is able to verbally express their ideas about the materials in a clear, coherent, and concise manner;

Engaging with other students - the student engages with others in the class, displaying respect for others' opinions, active listening, constructive feedback and dialogue;

Further detail is provided in the Participation Rubric on the LAWS824 ilearn site.

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RESEARCH ASSIGNMENT

Due: **Friday of Week 6 by 5pm**

Weighting: **40%**

In 2016, a contributor to a *Game of Thrones* web fan forum who promised to release information as to an upcoming event on the show received a “cease and desist” letter from the lawyers acting for the creator of the show. The letter threatened that an action for breach of copyright would be brought if the fan went ahead and published the spoiler. Can the publication of such a “spoiler” constitute an infringement of copyright in Australia? Is the law satisfactory in this regard? If not, how should it be amended? Discuss with close reference to relevant legislation and case law.

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.

Style: You must comply with AGLC 4.

Marking Rubric for Final Assessment: Please see LAWS 824 ilearn page.

Moderation: Prior to marking, the markers will meet to discuss the application of the rubric, and mark and discuss a sample of papers. After marking, the convenor will mark a selection of papers to ensure consistency. Papers that have been given a fail grade will be double marked.

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

Other relevant information: Please note that plagiarism detection software is used in this unit.

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: **Friday of Week 13 by 5pm**

Weighting: **40%**

FINAL ASSESSMENT

The Productivity Commission notes, on p. 263 of its 2016 Inquiry Report entitled *Intellectual Property Arrangements*, that “Patent protection may not be the most efficient and effective way of encouraging innovation through software. Software development typically builds sequentially on existing ideas, and is becoming cheaper. In some cases, development cycles are short, though where patents are granted, software tends to be longer-lived. In contrast, patents provide long term protection and can make follow-on innovation more difficult.”

Should Australian patents law be reformed to better encourage innovation? If so, what amendments should be made? Discuss with close reference to Australian legislation and case law.

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.

Style: You must comply with AGLC 4.

Marking Rubric for Final Assessment: Please see LAWS 824 ilearn page.

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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

Delivery - On Campus Session

The 12 tutorials will be delivered at a 2 day Intensive On Campus Session. Attendance on both days is compulsory. Day 1 of the Intensive will consider the material presented in lectures 1-6 and involve a discussion of tutorial questions assigned for these weeks. Day 2 of the Intensive will consider the material presented 7-12 and involve a discussion of tutorial questions assigned for these weeks.

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 tutorial reading (ie journal articles, cases and problems to be discussed in tutorials) will be required for each tutorial. These additional readings can be accessed via the LAWS 824 ilearn site. See

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.)

Unit Schedule

[illegible]

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](http://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central) (<http://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 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 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

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.

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 tasks

- Participation
- RESEARCH ASSIGNMENT

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
- 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

- Participation
- RESEARCH ASSIGNMENT

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 tasks

- Participation
- RESEARCH ASSIGNMENT

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