



LAW 868

Technology and E-Commerce Law

S2 Block 2019

Macquarie Law School

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General Information

Unit convenor and teaching staff

Convenor and Lecturer

Julian Dight

julian.dight@mq.edu.au

Contact via Email

Room 512: Monday, Tuesday, Thursday and Friday

By Appointment

Credit points

4

Prerequisites

Admission to LLM or MIntLawGovPP or MIntTrdeComLaw or MIntRelMIntTrdeComLaw or 42cp in LAW or LAWS units at 400 or 500 level or (admission to JD and 24cp in LAW or LAWS units at 800 level)

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:

1. Explain and critique specific legal principles relevant to e-commerce law.
2. Identify legal issues relevant to ecommerce law and provide legal advice on e-commerce problems or disputes, including an accurate assessment of the likely

outcome.

3. Examine 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.
4. Demonstrate effective communications skill through intensive class participation and discussion.
5. Describe and analyse the fundamental principles of e-commerce 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>RESEARCH ASSIGNMENT I</u>	30%	No	Friday of Week 6 by 5pm
<u>PARTICIPATION</u>	20%	No	On campus session
<u>RESEARCH ASSIGNMENT II</u>	50%	No	Friday of Week 13 by 5pm

RESEARCH ASSIGNMENT I

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

Weighting: **30%**

The Task is to write a case note on *Voller v Nationwide News Pty Ltd v Fairfax Media Publications Pty Ltd* [2019] NSWSC (24 June 2019)

This case has implications for the liability of Media Companies in defamation for comments made by third-party users. Write a case note analysing the potential significance of this case referring to both primary and secondary sources and any current law reform discourse in this area.

Word limit: 2000 words (Not including bibliography or footnotes) Footnotes must be confined to references only.

Submission: Submission is via turnitin.

Style: You must comply with AGLC 4

Marking Rubric for Case Note: Please see LAW 868 Ilearn page

Independent Research: Responding to this case note requires legal research that goes beyond the materials provided in the lectures, tutorials and prescribed readings

Note: No more than 25% of your case note should be devoted to a summary of the facts.

On successful completion you will be able to:

- 1. Explain and critique specific legal principles relevant to e-commerce law.
- 4. Demonstrate effective communications skill through intensive class participation and discussion.
- 5. Describe and analyse the fundamental principles of e-commerce law.

PARTICIPATION

Due: **On campus session**

Weighting: **20%**

The class participation mark will be based on your contribution to discussions at the On Campus Session (OCS).

Moderation: 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 LAW868 ilearn site.

On successful completion you will be able to:

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- 4. Demonstrate effective communications skill through intensive class participation and discussion.

RESEARCH ASSIGNMENT II

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

Weighting: **50%**

Prepare a research essay on the following question:

As cybercrime rises, legal scholars are considering a new law to enable victims of cybercrime to

“hack-back” and retrieve their data. While certain scholars consider that such action would be legal as a form of “self-defence” others consider that it would be illegal under the Cybercrime Act 2001 (Cth) as an unauthorised access to, modification or impairment of data. Discuss the legality of hack-back. If you consider hack-back may be illegal, further consider the risks and benefits of introducing a new law to enable victims of cybercrime to legally hack-back and retrieve their data.

Alternatively - You may design your own research question and submit it to your lecturer for approval. Please note that you may only undertake a research question if it has been approved by your lecturer. This approval may be requested and obtained via email.

Word limit: 3,500 words. (Not including footnotes. Footnotes must be confined to references.)

Submission: Submission is via Turnitin. A Turnitin icon will appear under the Assessment tab on ilearn.

Style: You must comply with AGLC 4.

Marking Rubric for Final Assessment: Please see LAW 868 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 extensive 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:

- 1. Explain and critique specific legal principles relevant to e-commerce law.
- 2. 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.
- 3. Examine 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.
- 4. Demonstrate effective communications skill through intensive class participation and discussion.
- 5. Describe and analyse the fundamental principles of e-commerce law.

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

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)

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 LAW 868 ilearn site. See

Recommended journals

- *Media and Art Law Review*
- *International Journal of Law and Information Technology*
- *Information Journal of Technology Policy and Law*
- *Journal of Telecommunications and the Digital Economy*
- *Journal of Information Technology*

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.)

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

- 2. Identify legal issues relevant to ecommerce law and provide legal advice on e-commerce problems or disputes, including an accurate assessment of the likely outcome.
- 3. Examine 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.

Assessment task

- RESEARCH ASSIGNMENT II

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

- 1. Explain and critique specific legal principles relevant to e-commerce law.
- 5. Describe and analyse the fundamental principles of e-commerce law.

Assessment tasks

- RESEARCH ASSIGNMENT I
- RESEARCH ASSIGNMENT II

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

- 2. Identify legal issues relevant to ecommerce law and provide legal advice on e-commerce problems or disputes, including an accurate assessment of the likely outcome.
- 3. Examine 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.

Assessment tasks

- RESEARCH ASSIGNMENT I
- RESEARCH ASSIGNMENT II

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

- 3. Examine 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.

Assessment tasks

- PARTICIPATION
- RESEARCH ASSIGNMENT II

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 outcomes

- 2. Identify legal issues relevant to ecommerce law and provide legal advice on e-commerce problems or disputes, including an accurate assessment of the likely outcome.
- 4. Demonstrate effective communications skill through intensive class participation and discussion.

Assessment task

- PARTICIPATION