



LAWS523

Intellectual Property Law

S2 External 2019

Macquarie Law School

Contents

<u>General Information</u>	2
<u>Learning Outcomes</u>	3
<u>General Assessment Information</u>	3
<u>Assessment Tasks</u>	3
<u>Delivery and Resources</u>	7
<u>Unit Schedule</u>	9
<u>Policies and Procedures</u>	12
<u>Graduate Capabilities</u>	14

Disclaimer

Macquarie University has taken all reasonable measures to ensure the information in this publication is accurate and up-to-date. However, the information may change or become out-dated as a result of change in University policies, procedures or rules. The University reserves the right to make changes to any information in this publication without notice. Users of this publication are advised to check the website version of this publication [or the relevant faculty or department] before acting on any information in this publication.

General Information

Unit convenor and teaching staff

Convenor and Lecturer

Julian Dight

julian.dight@mq.edu.au

Contact via To be advised

512

Monday, Tuesday, Thursday & Friday

Tutor

Connor Hogg

connor.hogg@mq.edu.au

To be advised

Niloufer Selvadurai

niloufer.selvadurai@mq.edu.au

Credit points

3

Prerequisites

(24cp in LAW or LAWS units) or (39cp at 100 level or above including MAS214) or (39cp at 100 level or above including (BUSL250 and BUSL301) or BUSL251)

Corequisites

Co-badged status

Unit description

This unit explores the various forms of intellectual property protected under statutory regimes and general law. The unit identifies and evaluates existing regimes of copyright, patents, plant breeders' rights, designs and trade mark, as well as the law of passing off and relevant aspects of unfair trading laws. The unit analyses the subject matter protected, conditions of such protection and what constitutes infringement for each head of protection. Students are taught to identify and explain the interrelationship and overlaps between different intellectual property regimes. Students learn how to apply intellectual property principles and policy in practical scenarios.

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 knowledge of the specific rules in intellectual property law through the close examination of legislation and case law;

Demonstrate skills of legal analysis through the application of the law to hypothetical fact situations

Demonstrate 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 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.

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 or OCS
<u>Research assignment</u>	40%	No	Friday of Week 6, 5pm
<u>Final Assessment</u>	40%	No	Friday of Week 13, 6pm

Participation

Due: **Weeks 1-12 of semester or OCS**

Weighting: **20%**

The tutorials are designed to extend the comprehensive and broad overview of IT law principles provided in the lectures by creating an opportunity for the in-depth consideration of selected specific issues. The tutorial discussion will be prompted by the consideration of scholarly articles, relevant cases, reform reports and the solving of hypothetical problem questions.

Tutorial questions: The tutorial questions for each tutorial are found in the LAWS 523 iLearn site under the relevant week.

Tutorial preparation and readings: Students are expected to listen to lectures on Echo on iLearn, complete the required readings (both the prescribed reading for the lectures and the tutorials) and come ready to discuss the questions outlined in the Tutorial Questions.

What do I do if I miss a tutorial? If you miss one tutorial, please do not lodge an online Ask request. Instead, see your tutor at the start or end of class with relevant documentation. Please do not email your tutor or convenor. If you miss *two or more consecutive tutorials*, please lodge an Ask Special Consideration application online at ask.mq.edu.au.

On Campus Session for External Students: The participation of External students will be assessed at the On-Campus Session (OCS). Students are expected to attend both days of the OCS. Tutorials 1-6 will be covered on Day 1. Tutorials 7-12 will be covered on Day 2. Please consult the Macquarie timetable for the date and venue of the OCS.

Moderation: Class participation will be assessed on both the quality and regularity of participation. Class 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 LAWS 523 ilearn site.

On successful completion you will be able to:

- Display an understanding of the fundamental principles of intellectual property law
- Display a knowledge of the specific rules in intellectual property law through the close examination of legislation and case law;
- Demonstrate skills of legal analysis through the application of the law to hypothetical fact

situations

- Demonstrate 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 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.

Research assignment

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

Weighting: **40%**

Research Assignment Question

Who owns copyright in works created by artificial intelligence (AI)? Is the present Australian law satisfactory in this regard? If not, how should it be amended? In your answer you may distinguish between different levels of automation in the creation of a work (i.e. works fully generated by AI and works partially generated by AI). Discuss with close reference to existing laws and relevant scholarly literature in the field.

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.

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: Submission is via Turnitin on the LAWS 523 ilearn page.

Bibliography: A bibliography should be provided.

Sources: Students may refer to sources outside the prescribed readings and lecture notes.

Special consideration: All requests for Special Consideration need to be made via the online Ask system. Please do not email your tutor or convenor as all requests have to go via the online Ask system.

Penalty for late submission: 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

Style: You must comply with AGLC.

Marking Rubric for Final Assessment: Please see LAWS 523 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.

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 knowledge of the specific rules in intellectual property law through the close examination of legislation and case law;
- Demonstrate skills of legal analysis through the application of the law to hypothetical fact situations
- Demonstrate 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 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, 6pm**

Weighting: **40%**

The Final Assessment will consist of *two* questions covering all material taught in the unit. Each question is worth 20%. There will be a word limit of 1,200 words per question (not including footnotes).

Word limit: Total of 2,400 words (not including bibliography and footnotes). Footnotes need to be confined to citations. Citations to be in compliance with the *Australian Guide to Legal Citation*.

Question release and due date: The Questions for the Final Assessment will be released on the Friday of Week 12, 5pm. The completed assessment is due on the Friday of Week 13, 6pm. As this is not a timed assessment, the Late Policy (outlined below) applies.

Submission method: Submission is via Turnitin on the LAWS 523 ilean page.

Bibliography: A bibliography should be provided.

Sources: Students may refer to sources outside the prescribed readings and lecture notes.

Special consideration: All requests for Special Consideration need to be made via the online Ask system. Please do not email your tutor or convenor as all requests have to go via the online Ask system.

Penalty for late submission: 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.

Style: You must comply with AGLC 4.

Marking Rubric for Final Assessment: Please see LAWS 523 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.

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 knowledge of the specific rules in intellectual property law through the close examination of legislation and case law;
- Demonstrate skills of legal analysis through the application of the law to hypothetical fact situations
- Demonstrate 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 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

Lectures

- Echo lectures accessed via LAWS 523 ilearn site

Tutorials or OCS

- Internal students - 12 weekly tutorials - See Unit Schedule below
- External students - 2 Day On-Campus Session. Students are expected to attend both days of the OCS. Tutorials 1-6 will be covered on Day 1. Tutorials 7-12 will be covered on Day 2. Please consult the Macquarie timetable for the date and venue of the OCS.

RESOURCES

Prescribed textbook

- Andrew Stewart, Philip Griffith & Judith Bannister, *Intellectual Property in Australia*, 2017, LexisNexis Butterworths. (Available at Co-Op)

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 Arts 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

Week of Semester	Lecture	Tutorial	Required Reading	Assessment
1	Lecture 1 - Introduction	Tutorial 1	Textbook - Chapter 1 Tutorial 1 Reading (see i-Learn LAWS523)	Participation in tutorial
2	Lecture 2 - Copyright I	Tutorial 2	Textbook - Chapters 5 & 6 Tutorial 2 Reading (see i-Learn LAWS523)	Participation in tutorial

3	Lecture 3 - Copyright II	Tutorial 3	Textbook - Chapter 7 Tutorial 3 Reading (see i-Learn LAWS523)	Participation in tutorial
4	Lecture 4 - Copyright III and Confidential Information	Tutorial 4	Textbook - Chapters 8, 9, 3 & 4 Tutorial 4 Reading (see i- LearnLAWS523)	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 .
5	Lecture 5 - Designs I	Tutorial 5	Textbook - Chapter 10 Tutorial 5 Reading (see i-Learn LAWS523)	Participation in tutorial
6	Lecture 6 - Designs II	Tutorial 6	Textbook - Chapter 10 Tutorial 6 Reading (see i-Learn LAWS523)	Participation in tutorial. RESEARCH ASSIGNMENT IS DUE ON THE FRIDAY OF WEEK 6, 5PM VIA TURNITIN ICON ON ILEARN

7	Lecture 7 - Trade Marks I	Tutorial 7	Textbook - Chapter 19 Tutorial 7 Reading (see i-Learn LAWS523)	Participation in tutorial
RECESS				
8	Lecture 8 - Trade Marks II	Tutorial 8	Textbook - Chapter 20 Tutorial 8 Reading (see i-Learn LAWS523)	Participation in tutorial
9	Lecture 9 - Patents I	Tutorial 9	Textbook - Chapter 11, 12 Tutorial 9 Reading (see i-Learn LAWS523)	Participation in tutorial
10	Lecture 10 - Patents II	Tutorial 10	Textbook - Chapter 13 Tutorial 10 Reading (see i- LearnLAWS523)	Participation in tutorial

11	Lecture 11 - Protecting Business Reputation	Tutorial 11	Textbook - Chapters 16, 17, 18 Tutorial 11 Reading (see i-Learn LAWS523)	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 LAWS523)	Participation in tutorial FINAL ASSESSMENT QUESTIONS WILL BE AVAILABLE ON THE FRIDAY OF WEEK 12, 5PM ON I-LEARN SITE
13				FINAL ASSESSMENT IS DUE ON THE FRIDAY OF WEEK 13, 6PM

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

Creative and Innovative

Our graduates will also be capable of creative thinking and of creating knowledge. They will be imaginative and open to experience and capable of innovation at work and in the community. We want them to be engaged in applying their critical, creative thinking.

This graduate capability is supported by:

Learning outcomes

- Demonstrate skills of legal analysis through the application of the law to hypothetical fact situations
- Demonstrate 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 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 tasks

- Participation
- Research assignment
- Final Assessment

Capable of Professional and Personal Judgement and Initiative

We want our graduates to have emotional intelligence and sound interpersonal skills and to demonstrate discernment and common sense in their professional and personal judgement. They will exercise initiative as needed. They will be capable of risk assessment, and be able to handle ambiguity and complexity, enabling them to be adaptable in diverse and changing environments.

This graduate capability is supported by:

Learning outcomes

- Demonstrate skills of legal analysis through the application of the law to hypothetical fact situations
- Demonstrate 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 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.

Assessment tasks

- Participation
- Research assignment
- Final Assessment

Commitment to Continuous Learning

Our graduates will have enquiring minds and a literate curiosity which will lead them to pursue knowledge for its own sake. They will continue to pursue learning in their careers and as they participate in the world. They will be capable of reflecting on their experiences and relationships with others and the environment, learning from them, and growing - personally, professionally and socially.

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.

Assessment task

- Participation

Discipline Specific Knowledge and Skills

Our graduates will take with them the intellectual development, depth and breadth of knowledge, scholarly understanding, and specific subject content in their chosen fields to make them competent and confident in their subject or profession. They will be able to demonstrate, where relevant, professional technical competence and meet professional standards. They will be able to articulate the structure of knowledge of their discipline, be able to adapt discipline-specific knowledge to novel situations, and be able to contribute from their discipline to inter-disciplinary solutions to problems.

This graduate capability is supported by:

Learning outcomes

- Display an understanding of the fundamental principles of intellectual property law
- Display a knowledge of the specific rules in intellectual property law through the close examination of legislation and case law;
- Demonstrate 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 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.

Assessment tasks

- Participation
- Research assignment
- Final Assessment

Critical, Analytical and Integrative Thinking

We want our graduates to be capable of reasoning, questioning and analysing, and to integrate and synthesise learning and knowledge from a range of sources and environments; to be able to critique constraints, assumptions and limitations; to be able to think independently and systemically in relation to scholarly activity, in the workplace, and in the world. We want them to have a level of scientific and information technology literacy.

This graduate capability is supported by:

Learning outcomes

- Display an understanding of the fundamental principles of intellectual property law
- Display a knowledge of the specific rules in intellectual property law through the close examination of legislation and case law;
- Demonstrate skills of legal analysis through the application of the law to hypothetical fact situations
- Demonstrate 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 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.

Assessment tasks

- Participation
- Research assignment
- Final Assessment

Problem Solving and Research Capability

Our graduates should be capable of researching; of analysing, and interpreting and assessing data and information in various forms; of drawing connections across fields of knowledge; and they should be able to relate their knowledge to complex situations at work or in the world, in order to diagnose and solve problems. We want them to have the confidence to take the initiative in doing so, within an awareness of their own limitations.

This graduate capability is supported by:

Learning outcomes

- Demonstrate skills of legal analysis through the application of the law to hypothetical fact situations
- Demonstrate 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.

Assessment tasks

- Participation
- Final Assessment

Effective Communication

We want to develop in our students the ability to communicate and convey their views in forms effective with different audiences. We want our graduates to take with them the capability to read, listen, question, gather and evaluate information resources in a variety of formats, assess, write clearly, speak effectively, and to use visual communication and communication technologies as appropriate.

This graduate capability is supported by:

Learning outcomes

- Demonstrate skills of legal analysis through the application of the law to hypothetical fact situations
- Demonstrate 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 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.

Assessment tasks

- Participation
- Research assignment
- Final Assessment

Engaged and Ethical Local and Global citizens

As local citizens our graduates will be aware of indigenous perspectives and of the nation's historical context. They will be engaged with the challenges of contemporary society and with knowledge and ideas. We want our graduates to have respect for diversity, to be open-minded, sensitive to others and inclusive, and to be open to other cultures and perspectives: they should have a level of cultural literacy. Our graduates should be aware of disadvantage and social justice, and be willing to participate to help create a wiser and better society.

This graduate capability is supported by:

Learning outcomes

- Demonstrate skills of legal analysis through the application of the law to hypothetical fact situations
- Demonstrate 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 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 tasks

- Research assignment
- Final Assessment

Socially and Environmentally Active and Responsible

We want our graduates to be aware of and have respect for self and others; to be able to work with others as a leader and a team player; to have a sense of connectedness with others and country; and to have a sense of mutual obligation. Our graduates should be informed and active participants in moving society towards sustainability.

This graduate capability is supported by:

Learning outcomes

- Demonstrate skills of legal analysis through the application of the law to hypothetical fact situations
- Demonstrate 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 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 tasks

- Research assignment
- Final Assessment