



LAWS12068 *Intellectual Property Law*

Term 1 - 2017

Profile information current as at 27/04/2024 06:59 pm

All details in this unit profile for LAWS12068 have been officially approved by CQUniversity and represent a learning partnership between the University and you (our student). The information will not be changed unless absolutely necessary and any change will be clearly indicated by an approved correction included in the profile.

Corrections

General Information

Overview

Intellectual property concerns legal rights over creativity and innovation. In Australia statutory rights exist in relation to Copyright, Patents, Designs, Trade Marks, Plant Breeder's Rights as well as rights relating to confidentiality, passing off and unfair competition. Intellectual property transcends national and international boundaries and is truly global in context. This unit will explore complex policy issues including: international trade; information technology; revolutions in agriculture, medicine and biotechnology; personality rights; creative commons; and the protection of traditional knowledge and culture. Intellectual Property is as dynamic as it is controversial.

Details

Career Level: *Undergraduate*

Unit Level: *Level 2*

Credit Points: 6

Student Contribution Band: 10

Fraction of Full-Time Student Load: 0.125

Pre-requisites or Co-requisites

Prerequisites: LAWS11057, LAWS11059, LAWS11061, LAWS11062, LAWS11063, LAWS11064, LAWS11060, (LAWS11065 or LAWS12055) Co-requisite: LAWS12065

Important note: Students enrolled in a subsequent unit who failed their pre-requisite unit, should drop the subsequent unit before the census date or within 10 working days of Fail grade notification. Students who do not drop the unit in this timeframe cannot later drop the unit without academic and financial liability. See details in the [Assessment Policy and Procedure \(Higher Education Coursework\)](#).

Offerings For Term 1 - 2017

- Distance

Attendance Requirements

All on-campus students are expected to attend scheduled classes - in some units, these classes are identified as a mandatory (pass/fail) component and attendance is compulsory. International students, on a student visa, must maintain a full time study load and meet both attendance and academic progress requirements in each study period (satisfactory attendance for International students is defined as maintaining at least an 80% attendance record).

Website

[This unit has a website, within the Moodle system, which is available two weeks before the start of term. It is important that you visit your Moodle site throughout the term. Please visit Moodle for more information.](#)

Class and Assessment Overview

Recommended Student Time Commitment

Each 6-credit Undergraduate unit at CQUniversity requires an overall time commitment of an average of 12.5 hours of study per week, making a total of 150 hours for the unit.

Class Timetable

[Regional Campuses](#)

Bundaberg, Cairns, Emerald, Gladstone, Mackay, Rockhampton, Townsville

[Metropolitan Campuses](#)

Adelaide, Brisbane, Melbourne, Perth, Sydney

Assessment Overview

1. **Presentation and Written Assessment**

Weighting: 50%

2. **Written Assessment**

Weighting: 40%

3. **Group Discussion**

Weighting: 10%

Assessment Grading

This is a graded unit: your overall grade will be calculated from the marks or grades for each assessment task, based on the relative weightings shown in the table above. You must obtain an overall mark for the unit of at least 50%, or an overall grade of 'pass' in order to pass the unit. If any 'pass/fail' tasks are shown in the table above they must also be completed successfully ('pass' grade). You must also meet any minimum mark requirements specified for a particular assessment task, as detailed in the 'assessment task' section (note that in some instances, the minimum mark for a task may be greater than 50%). Consult the [University's Grades and Results Policy](#) for more details of interim results and final grades.

CQUniversity Policies

All University policies are available on the [CQUniversity Policy site](#).

You may wish to view these policies:

- Grades and Results Policy
- Assessment Policy and Procedure (Higher Education Coursework)
- Review of Grade Procedure
- Student Academic Integrity Policy and Procedure
- Monitoring Academic Progress (MAP) Policy and Procedure – Domestic Students
- Monitoring Academic Progress (MAP) Policy and Procedure – International Students
- Student Refund and Credit Balance Policy and Procedure
- Student Feedback – Compliments and Complaints Policy and Procedure
- Information and Communications Technology Acceptable Use Policy and Procedure

This list is not an exhaustive list of all University policies. The full list of University policies are available on the [CQUniversity Policy site](#).

Previous Student Feedback

Feedback, Recommendations and Responses

Every unit is reviewed for enhancement each year. At the most recent review, the following staff and student feedback items were identified and recommendations were made.

Feedback from Email

Feedback

Some students asked for further asynchronous engagement options

Recommendation

We will further develop the use of cloud based resources such as Diigo as a site of student engagement and collaboration.

Action

The Diigo technology was not available. The discussion forums are used as the principal means of asynchronous student engagement. However feedback indicates fewer discussion forums would be better, and this will be implemented next iteration.

Unit Learning Outcomes

On successful completion of this unit, you will be able to:

1. Identify and apply legal principles relating to confidential information, copyright, patents, designs, trade marks, plant breeder's rights, unfair competition and the protection of business reputation.
2. Demonstrate an understanding of the legal and practical steps needed to ensure that intellectual property rights remain valid and enforceable.
3. Demonstrate a capacity to identify, apply and assess ownership rights and marketing protection under intellectual property law as applicable to information, ideas, creativity and innovation.
4. Critique intellectual property protection for indigenous knowledge and culture, information technology especially biotechnology and international trade.

Alignment of Learning Outcomes, Assessment and Graduate Attributes



Alignment of Assessment Tasks to Learning Outcomes

Assessment Tasks	Learning Outcomes			
	1	2	3	4
1 - Presentation and Written Assessment - 50%	•	•	•	•
2 - Written Assessment - 40%	•	•	•	•

Alignment of Graduate Attributes to Learning Outcomes

Graduate Attributes	Learning Outcomes			
	1	2	3	4
1 - Communication			•	•

Graduate Attributes	Learning Outcomes			
	1	2	3	4
2 - Problem Solving	•	•	•	•
3 - Critical Thinking	•	•	•	•
4 - Information Literacy				
5 - Team Work				
6 - Information Technology Competence				
7 - Cross Cultural Competence				•
8 - Ethical practice				
9 - Social Innovation				
10 - Aboriginal and Torres Strait Islander Cultures				

Alignment of Assessment Tasks to Graduate Attributes

Assessment Tasks	Graduate Attributes									
	1	2	3	4	5	6	7	8	9	10
1 - Presentation and Written Assessment - 50%	•	•	•							
2 - Written Assessment - 40%	•	•	•				•			
3 - Group Discussion - 10%	•	•	•		•					

Textbooks and Resources

Textbooks

There are no required textbooks.

Additional Textbook Information

Collected readings are listed in Moodle.

IT Resources

You will need access to the following IT resources:

- CQUniversity Student Email
- Internet
- Unit Website (Moodle)
- Prescribed text: Ann Fitzgerald and Dimitrios G Eliades, Introduction to Intellectual Property (Thomas Reuters (Professional) Australia Ltd, 2015).

Referencing Style

All submissions for this unit must use the referencing style: [Australian Guide to Legal Citation, 3rd ed](#)
For further information, see the Assessment Tasks.

Teaching Contacts

AJ George Unit Coordinator
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Schedule

Week 1 - 06 Mar 2017

Module/Topic	Chapter	Events and Submissions/Topic
Overview of intellectual property: ghastly caricatures	Ann Fitzgerald and Dimitrios G Eliades, <i>Introduction to Intellectual Property</i> (Thomas Reuters (Professional) Australia Ltd, 2015), Ch 1: Overview of Intellectual Property	

Week 2 - 13 Mar 2017

Module/Topic	Chapter	Events and Submissions/Topic
Copyright law: protecting creativity (was Mark Twain right?)	Ann Fitzgerald and Dimitrios G Eliades, <i>Introduction to Intellectual Property</i> (Thomas Reuters (Professional) Australia Ltd, 2015), Ch 2, 3.	

Week 3 - 20 Mar 2017

Module/Topic	Chapter	Events and Submissions/Topic
Confidential information and patent law: protecting secrecy and useful ideas (how to get that perfect chip sandwich)	Ann Fitzgerald and Dimitrios G Eliades, <i>Introduction to Intellectual Property</i> (Thomas Reuters (Professional) Australia Ltd, 2015), Ch 4, 5.	

Week 4 - 27 Mar 2017

Module/Topic	Chapter	Events and Submissions/Topic
Trade marks: protecting business signs (taking care of business)	Ann Fitzgerald and Dimitrios G Eliades, <i>Introduction to Intellectual Property</i> (Thomas Reuters (Professional) Australia Ltd, 2015), Ch 6.	

Week 5 - 03 Apr 2017

Module/Topic	Chapter	Events and Submissions/Topic
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Ann Fitzgerald and Dimitrios G Eliades, *Introduction to Intellectual Property* (Thomas Reuters (Professional) Australia Ltd, 2015), Ch 7.
 Australian Competition Law Organisation, *Australian Competition Law Overview* (June to September 2016) [australiancompetitionlaw.org](http://www.australiancompetitionlaw.org) <<http://www.australiancompetitionlaw.org/overview.html>> (**Outline of the Part IV provisions**)
 Prof Ian Harper et al, *Competition Policy Review: Final Report* (31 March 2015) <http://competitionpolicyreview.gov.au/files/2015/03/Part3_final-report_online.pdf> (Harper Review), (** **Read only Part 3, Section 9 (Intellectual Property)**).
 Australian Government The Treasury, *Response to the Competition Policy Review* (24 November 2015) <<http://www.treasury.gov.au/PublicationsAndMedia/Publications/2015/CPR-response>> (****Read only** the Responses to Recommendations 1, 6, 7, 13, 22, 23, 25, 27, 28, 30, 32, 33, 34, 38, 39. Note that the Government did *not* agree to Recommendation 6 that a separate inquiry be called into negotiating mandates to incorporate IP provisions in international trade agreements)
Universal Music Australia Pty Ltd v ACCC [2003] FCAFC 193
 <<http://www.austlii.edu.au/au/cases/cth/FCAFC/2003/193.html>>(**Skim**)

Passing off and Australian competition law (taking care of business II)

Vacation Week - 10 Apr 2017

Module/Topic	Chapter	Events and Submissions/Topic
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Week 6 - 17 Apr 2017

Module/Topic	Chapter	Events and Submissions/Topic
Remedies for infringement (How the West was won. Or not).	Ann Fitzgerald and Dimitrios G Eliades, <i>Introduction to Intellectual Property</i> (Thomas Reuters (Professional) Australia Ltd, 2015), Ch 8.	

Week 7 - 24 Apr 2017

Module/Topic	Chapter	Events and Submissions/Topic
IP reform (are we there yet?)	Productivity Commission, <i>Intellectual Property Arrangements</i> , Inquiry Report No 78 (2016) http://www.pc.gov.au/inquiries/completed/intellectual-property/report/intellectual-property-overview.pdf (just read the Overview; the Report is 600+ pages) Bruce Baer Arnold, 'Productivity Commission's recommendations on IP reform likely to be lost in election haze', <i>The Conversation</i> (online), 29 April 2016 < http://theconversation.com/productivity-commissions-recommendations-on-ip-reform-likely-to-be-lost-in-election-haze-58576 > (prediction after draft Report issued the same day, which seems like it may be fulfilled)	

Week 8 - 01 May 2017

Module/Topic	Chapter	Events and Submissions/Topic
Fair use has a posse (giddy up!)	Katharina Freund, "'Fair use is legal use": Copyright negotiations and strategies in the fan-vidding community', (2016) 18(7) <i>New Media & Society</i> < http://journals.sagepub.com/doi/pdf/10.1177/1461444814555952 >, 1. Productivity Commission, <i>Intellectual Property Arrangements</i> , Report No 78 (2016) < http://www.pc.gov.au/inquiries/completed/intellectual-property/report/intellectual-property.pdf > chapter 6 Australian Copyright Council, <i>Fair dealing: what can I use without permission?</i> , Information sheet G079v07 (May 2014) < file:///C:/Users/Dell/Downloads/Fair%20Dealing%20(G079v07)%20FINAL.pdf > Australian Copyright Council, <i>Quotes and Extracts</i> , Information sheet G034v11 (August 2014) < file:///C:/Users/Dell/Downloads/Quotes%20and%20Extracts%20(G034v11)%20FINAL.pdf >	

Week 9 - 08 May 2017

Module/Topic	Chapter	Events and Submissions/Topic
Bio-piracy, evergreening and globalisation (the Patenting Jack Sparrow)	Jim Chen, 'There's No Such Thing as Biopiracy ... and It's a Good Thing Too' (2006) 37 <i>McGeorge Law Review</i> , 1 < https://papers.ssrn.com/sol3/papers.cfm?abstract_id=781824 >.	

Week 10 - 15 May 2017

Module/Topic	Chapter	Events and Submissions/Topic
Patenting transhuman technologies (Frankenstein rules, ok?)	William Bartlett, ' <i>D'Arcy v Myriad Genetics Inc</i> [2015] HCA 35: the plurality's new factorial approach to patentability rearticulates the question in <i>NRDC</i> ' (2016) 24(1) <i>Journal of Law, Information and Science</i> < http://www.jlisjournal.org/abstracts/Bartlett.24.1.html# > Nick Bostrom, 'Human genetic enhancements: a transhumanist perspective' (2003) 37(4) <i>Journal of Value Inquiry</i> 493-506 < http://www.nickbostrom.com/ethics/genetic.html > Andrew Pollack, 'Scientists Announce HGP-Write, Project to Synthesize the Human Genome' <i>The New York Times</i> (online), 2 June 2016 < https://www.nytimes.com/2016/06/03/science/human-genome-project-write-synthetic-dna.html?_r=0 > Aparna Vidyasagar, 'Human-Animal Chimeras: Biological Research & Ethical Issues' on <i>LiveScience: Animals</i> , 28 September 2016 < http://www.livescience.com/56309-human-animal-chimeras.html >	

Week 11 - 22 May 2017

Module/Topic	Chapter	Events and Submissions/Topic
Trade marks and the leveraging of commercial interests (This Sick Beat®)	Katja Weckstrom, 'The Lawfulness of Criticising Big Business: Comparing Approaches to the Balancing of Societal Interests Behind Trademark Protection', (2007) 11(3) <i>Lewis & Clark Law Review</i> , 671 < https://papers.ssrn.com/sol3/papers.cfm?abstract_id=963220 >.	

Week 12 - 29 May 2017

Module/Topic	Chapter	Events and Submissions/Topic
Feedback, Reflection and Looking Forward Troubleshooting on assignments		

Review/Exam Week - 05 Jun 2017

Module/Topic	Chapter	Events and Submissions/Topic
		Group Discussion Due: Review/Exam Week Monday (5 June 2017) 3:00 pm AEST

Exam Week - 12 Jun 2017

Module/Topic	Chapter	Events and Submissions/Topic
		Research Paper Due: Exam Week Monday (12 June 2017) 3:00 pm AEST

Term Specific Information

Prescribed text: Ann Fitzgerald and Dimitrios G Eliades, *Introduction to Intellectual Property* (Thomas Reuters (Professional) Australia Ltd, 2015).

Assessment Tasks

1 Workshop Presentation and Written Paper

Assessment Type

Presentation and Written Assessment

Task Description

The latter part of this course is comprised of a series of weekly video-conferenced workshop activities that explore various topical themes in the IP debate. You will select one of the workshop modules from weeks 8-11 and act as one of the discussion leaders in that workshop, preparing for the workshop and engaging in discussion during the weekly zoom session. There will be a limited number of leaders in each workshop, depending on the number of students in the course. You will be able to select your workshop on Moodle from week 1 of term.

The assessment will include a 2000-word paper and a 500-word reflection on what you have learned in the process of preparing and presenting the workshop.

****Note:** your end of semester research paper must be on a different topic than your workshop presentation and paper.

Assessment Due Date

Due from weeks 8-11.

Return Date to Students

Maximum of two weeks from submission

Weighting

50%

Assessment Criteria

- Analysis of the key issues in the debate
- Application of legal principles to the social context
- Leadership in encouraging discussion and cultivating participation of others
- Communication and presentation skills (written, oral, multimedia if appropriate)
- Capacity for reflective thought

A full rubric is available on moodle.

Referencing Style

- [Australian Guide to Legal Citation, 3rd ed](#)

Submission

Online

Submission Instructions

Submitted via moodle.

Learning Outcomes Assessed

- Identify and apply legal principles relating to confidential information, copyright, patents, designs, trade marks, plant breeder's rights, unfair competition and the protection of business reputation.
- Demonstrate an understanding of the legal and practical steps needed to ensure that intellectual property rights remain valid and enforceable.
- Demonstrate a capacity to identify, apply and assess ownership rights and marketing protection under intellectual property law as applicable to information, ideas, creativity and innovation.
- Critique intellectual property protection for indigenous knowledge and culture, information technology especially biotechnology and international trade.

Graduate Attributes

- Communication
- Problem Solving
- Critical Thinking

2 Research Paper

Assessment Type

Written Assessment

Task Description

Research paper 2000 words.

In this course, you will be working within a collaborative research community and presenting a final individual paper on one of these topics:

- "Intellectual property rights have overstepped the bounds of reasonableness, and cannot be justified in their present form." Discuss. (Here, you need to decide whether or not you agree with the statement and argue accordingly. You can discuss IP rights generally using examples from different fields, or you may select one IP right in particular and focus on its merits or otherwise).
- What are the key priorities for current endeavours in Australian intellectual property law reform? Do you believe they will ultimately be implemented?

These topics are deliberately broad and one of your tasks will be to design your own thesis, in collaboration with your peers. Each student will have a unique thesis (which you will describe to others in the topic Moodle forum and make clear in your paper) but will also participate in a wider research community.

Further guidance for developing a thesis is available on Moodle.

You should share and discuss your research in the knowledge base for your topic group, via the discussion forums.

However, your paper must ultimately be your own work.

****Note:** your end of semester research paper must be on a different topic than your workshop presentation and paper.

Assessment Due Date

Exam Week Monday (12 June 2017) 3:00 pm AEST

Return Date to Students

Two weeks from submission

Weighting

40%

Assessment Criteria

- Topic research and sharing with the knowledge base
- Engagement in discussion with the knowledge base
- Design of individual thesis and establishing a central argument
- Application of legal principles to the social context
- Professional written expression and persuasiveness

A full rubric is available on moodle

Referencing Style

- [Australian Guide to Legal Citation, 3rd ed](#)

Submission

Online

Learning Outcomes Assessed

- Identify and apply legal principles relating to confidential information, copyright, patents, designs, trade marks, plant breeder's rights, unfair competition and the protection of business reputation.
- Demonstrate an understanding of the legal and practical steps needed to ensure that intellectual property rights remain valid and enforceable.
- Demonstrate a capacity to identify, apply and assess ownership rights and marketing protection under intellectual property law as applicable to information, ideas, creativity and innovation.
- Critique intellectual property protection for indigenous knowledge and culture, information technology especially biotechnology and international trade.

Graduate Attributes

- Communication
- Problem Solving
- Critical Thinking
- Cross Cultural Competence

3 Group Discussion

Assessment Type

Group Discussion

Task Description

This course is founded on teamwork, simulating good practice of a collaborative research community such as a government department. Therefore you are rewarded for sharing, engaging in discussion and cultivating the participation of others. In this assessment item you may focus on synchronous or asynchronous discussion, depending on your primary mode of engagement.

Assessment Due Date

Review/Exam Week Monday (5 June 2017) 3:00 pm AEST

Return Date to Students

Maximum of two weeks from submission.

Weighting

10%

Assessment Criteria

- Regularly engaging in synchronous and/or asynchronous discussion
- Providing constructive feedback to others
- Appropriate use of collaboration technologies including good etiquette and concise expression

A full rubric is available on moodle.

Referencing Style

- [Australian Guide to Legal Citation, 3rd ed](#)

Submission

Online

Graduate Attributes

- Communication
- Problem Solving
- Critical Thinking
- Team Work

Academic Integrity Statement

As a CQUniversity student you are expected to act honestly in all aspects of your academic work.

Any assessable work undertaken or submitted for review or assessment must be your own work. Assessable work is any type of work you do to meet the assessment requirements in the unit, including draft work submitted for review and feedback and final work to be assessed.

When you use the ideas, words or data of others in your assessment, you must thoroughly and clearly acknowledge the source of this information by using the correct referencing style for your unit. Using others' work without proper acknowledgement may be considered a form of intellectual dishonesty.

Participating honestly, respectfully, responsibly, and fairly in your university study ensures the CQUniversity qualification you earn will be valued as a true indication of your individual academic achievement and will continue to receive the respect and recognition it deserves.

As a student, you are responsible for reading and following CQUniversity's policies, including the [Student Academic Integrity Policy and Procedure](#). This policy sets out CQUniversity's expectations of you to act with integrity, examples of academic integrity breaches to avoid, the processes used to address alleged breaches of academic integrity, and potential penalties.

What is a breach of academic integrity?

A breach of academic integrity includes but is not limited to plagiarism, self-plagiarism, collusion, cheating, contract cheating, and academic misconduct. The Student Academic Integrity Policy and Procedure defines what these terms mean and gives examples.

Why is academic integrity important?

A breach of academic integrity may result in one or more penalties, including suspension or even expulsion from the University. It can also have negative implications for student visas and future enrolment at CQUniversity or elsewhere. Students who engage in contract cheating also risk being blackmailed by contract cheating services.

Where can I get assistance?

For academic advice and guidance, the [Academic Learning Centre \(ALC\)](#) can support you in becoming confident in completing assessments with integrity and of high standard.

What can you do to act with integrity?



Be Honest

If your assessment task is done by someone else, it would be dishonest of you to claim it as your own



Seek Help

If you are not sure about how to cite or reference in essays, reports etc, then seek help from your lecturer, the library or the Academic Learning Centre (ALC)



Produce Original Work

Originality comes from your ability to read widely, think critically, and apply your gained knowledge to address a question or problem