

Profile information current as at 18/04/2024 01:39 am

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.

General Information

Overview

This unit introduces you to the innovation ecosystem and the place of intellectual property (IP) within that ecosystem. In the first half of the unit, you will learn about Australia's statutory IP rights, including copyright, patents, designs, and trade marks, and the associated international IP conventions and treaties. You will also consider other rights regarding confidentiality, passing off and unfair competition, and data ownership/privacy. IP is an important business asset, and in the second half of the unit, you will investigate the protection and enforcement of IP; assignment, licensing, and the business risks involved in anti-competitive licensing. You will also be introduced to some fundamental considerations in the negotiation of IP licences, including relational contracting and design thinking.

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

Co-requisite LAWS11057 and LAWS11059 for Law students. Pre-Req of LAWS11030 and co-requisite of LAWS12076 for Business students.

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 - 2023

Online

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. Online Quiz(zes)

Weighting: 20% 2. **Online Test** Weighting: 30%

3. Written Assessment

Weighting: 50%

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 <u>University's Grades and Results Policy</u> 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 <u>CQUniversity Policy site</u>.

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 SUTE Teacher Evaluation Report

Feedback

The unit is well prepared and well taught. The unit is delivered by the best in the law of Innovation and Intellectual Property. The lecturer interacts with the students during tutorial times and always provides feedback on emails and moodle. I am glad I chose this unit as one of my electives and will be one of the laws I would like to practice in the future.

Recommendation

Excellent engagement with student should be maintained.

Feedback from SUTE Teacher Report

Feedback

I found the Unit Textbook to be too basal for completion of assessments and also in gaining a more intrinsic understanding of the area of law necessary to achieve the graduate learning outcomes, let alone be vocationally competent. I recommend these textbooks instead- Intellectual Property Law 2nd ed by Craig Collins and Heather Forrest, Intellectual and Industrial Property Law 3rd ed by Willian van Caenegem, and Australian Intellectual Property 3rd ed by Katy Bowrey et al. The lecturer ('Supo') was extremely knowledgeable and assistive, whilst also being a very empathetic person towards the complexities of students needs.

Recommendation

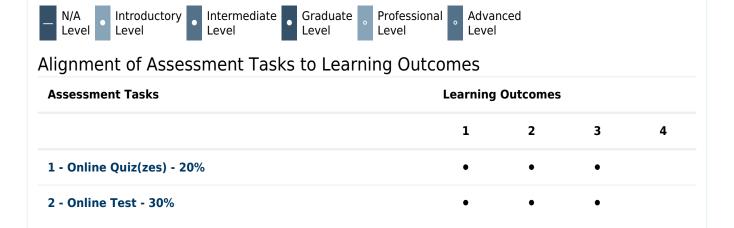
I recommend that Mark Davison et.al, Australian Intellectual Property Law (4th ed.) published by Cambridge University Press be added as a recommended textbook for topics covered in Week 1 to week 6 of the unit.

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. Critically analyse intellectual property protection and leveraging, including assignment and licensing strategies, for potential business and competition law risks.

Alignment of Learning Outcomes, Assessment and Graduate Attributes



Assessment Tasks	Learning Outcomes					
	1		2		3	4
3 - Written Assessment - 50%	•				•	•
Alignment of Graduate Attributes to Learnin	g Outcom					
Graduate Attributes		Learning Outcomes				
		1	L	2	3	4
1 - Communication					•	•
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	e Attribute	es				
Assessment Tasks	Graduate Attributes					
	1 2	3	4 !	5 6	7 8	9 10
1 - Online Quiz(zes) - 20%	•	•				
2 - Online Test - 30%		•				
3 - Written Assessment - 50%					•	

Textbooks and Resources

Textbooks

LAWS12068

Prescribed

Commercialisation of Intellectual Property

1st edition (2019)

Authors: Natalie Stoianoff, Fred Chilton, Ann L Monotti

Lexis Nexis Butterworths Chatswood , NSW , Australia ISBN: 9780409340648 Binding: Paperback

Additional Textbook Information

Textbooks can be accessed online at the CQUniversity Library website. Access may be limited. If you would prefer your own copy, purchase either paper or eBook versions at the CQUni Bookshop here: http://bookshop.cqu.edu.au (search on the Unit code)

View textbooks at the CQUniversity Bookshop

IT Resources

You will need access to the following IT resources:

- CQUniversity Student Email
- Internet
- Unit Website (Moodle)
- Webcam and microphone for participation in tutorials

Referencing Style

All submissions for this unit must use the referencing style: <u>Australian Guide to Legal Citation, 4th ed</u> For further information, see the Assessment Tasks.

Teaching Contacts

AJ George Unit Coordinator

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Stephen Colbran Unit Coordinator

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Schedule

Week 1 - 06 Mar 2023

Module/Topic

Chapter

Events and Submissions/Topic

Overview of intellectual property	 Study guide and lecture slides for week 1; Natalie P Stoianoff, Fred Chilton and Anne L Monotti, Commercialisation of Intellectual Property (LexisNexis Butterworths, 2019) (Text): Chapter 1, 'Setting the Scene for Intellectual Property Commercialisation'; and Chapter 2, 'Overview of Intellectual Property Rights'. Any other resources as advised on Moodle. 	
Week 2 - 13 Mar 2023		
Module/Topic	Chapter	Events and Submissions/Topic
Copyright Law	 Study guide and lecture slides for week 2; Any other resources as advised on Moodle. 	
Week 3 - 20 Mar 2023		
Module/Topic	Chapter	Events and Submissions/Topic
Patent Law	 Study guide and lecture slides for week 3; Any other resources as advised on Moodle. 	
Week 4 - 27 Mar 2023		
Module/Topic	Chapter	Events and Submissions/Topic
Trade marks	 Study guide and lecture slides for week 4; Any other resources as advised on Moodle. 	Multiple Choice Questions Due: Week 4 Friday (31 Mar 2023) 11:45 pm AEST
Week 5 - 03 Apr 2023		
Module/Topic	Chapter	Events and Submissions/Topic
Passing off and Australian competition law	 Study guide and lecture slides for week 5; Any other resources as advised on Moodle. 	
Vacation Week - 10 Apr 2023		
Module/Topic	Chapter	Events and Submissions/Topic
Vacation week	Vacation week	
Week 6 - 17 Apr 2023		
Module/Topic	Chapter	Events and Submissions/Topic
Designs and Confidential Information	 Study guide and lecture slides for week 6; Any other resources as advised on Moodle. 	
Week 7 - 24 Apr 2023		
Module/Topic	Chapter	Events and Submissions/Topic

The Bigger Picture of Innovation & IP: Regulatory Context	 Study guide and lecture slides for week 7; Text, chapter 3: 'Drivers of Innovation'; Amanda-Jane George and Julie-Anne Tarr, 'Addressing Australia's collaboration 'problem': Is there a Brave New World of innovation policy post COVID-19?' (Australian Journal of Public Administration); (Optional): Amanda-Jane George, Julie-Anne Tarr and Susan Bird, 'Forty Years of Freedom of Information (FOI): Accountability, Policymaking and the National Innovation and Science Agenda' (2020) 31 PLR 189-211; Any other resources as advised on Moodle. 	Assessment Task 2 Due: Week 7 Wednesday (26 Apr 2023) 11:45 pm AEST
Week 8 - 01 May 2023		
Module/Topic	Chapter	Events and Submissions/Topic
Commercialisation I: Ownership and Employment Issues	 Study guide and lecture slides for week 8; Text, chapter 4, 'Issues Regarding the Development of Intellectual Property'; Amanda George and Julie-Anne Tarr, 'Faculty and employee ownership of inventions in Australia' (2010) 28(1) Nature Biotechnology. (You will need your CQUniversity library login to access this link); Any other resources as advised on Moodle. 	
Week 9 - 08 May 2023		
Module/Topic	 Chapter Study guide and lecture slides for week 9; Text, chapter 5, 'Structures for Commercialisation'; 	Events and Submissions/Topic
Commercialisation II: Business Structures for IP Commercialisation, Funding	 Text, chapter 6, 'Funding Innovation and Commercialisation'; (Optional) Text, chapter11, 'Security and Insolvency', **but only paragraphs 11.1-11.46; Any other resources as advised on Moodle. 	
Week 10 - 15 May 2023		
Module/Topic	Chapter	Events and Submissions/Topic

Licensing I: Negotiation - Relational versus Adversarial Approaches (Or a Bit of Both?)	 Study guide and lecture slides for week 10; Text, chapter 8, 'Licensing of Intellectual Property Rights'; David Frydlinger, Tim Cummins, Kate Vitasek and Jim Bergman, 'Unpacking Relational Contracts' (Haslam College of Business, IACCM and Lindahl, 2017); Noel Byrne and Amanda McBratney, Licensing Technology (Jordan Publishing, 2006), chapter 4, 'Negotiating the Licensing Contract'; (Optional): Captain Greg Lazton, 'The FFG Enterprise - Excellence in Asset Management through Collaboration'; Any other resources as advised on Moodle. 	
Week 11 - 22 May 2023		
Module/Topic	Chapter	Events and Submissions/Topic
Licensing II: The licensing agreement (the nuts and bolts)	 Study guide and lecture slides for week 11; Text, chapter 9, 'Drafting Licences'; Text, chapter 10, 'Multimedia Licensing and Commercialisation in the Age of the Digital Entrepreneur'; Any other resources as advised on Moodle. 	
Week 12 - 29 May 2023		
Module/Topic	Chapter	Events and Submissions/Topic
Licensing III: Licensing and competition law	 Study guide and lecture slides for week 12; Any other resources as advised on Moodle. 	
Review/Exam Week - 05 Jun 2023		
Module/Topic	Chapter	Events and Submissions/Topic
		Assessment Task 3 Due: Review/Exam Week Thursday (8 June 2023) 11:45 pm AEST
Exam Week - 12 Jun 2023		
Module/Topic	Chapter	Events and Submissions/Topic

Assessment Tasks

1 Multiple Choice Questions

Assessment Type

Online Quiz(zes)

Task Description

This assessment task will consist of 10 multiple choice questions covering weeks 1 to 3. The assessment task will assess topics covered in weeks 1 to 3.

Due date - Week 4 Friday at 11:45pm.

Number of Quizzes

Frequency of Quizzes

Assessment Due Date

Week 4 Friday (31 Mar 2023) 11:45 pm AEST Complete and submit via link on Moodle.

Return Date to Students

One week after close of quiz.

Weighting

20%

Assessment Criteria

A sound understanding of the different IP regimes and their basic features - 40%

A good understanding of the nature and scope of copyright law - 30%

A good understanding of the nature and scope of patent law - 30%

Referencing Style

• Australian Guide to Legal Citation, 4th ed

Submission

Online

Submission Instructions

Complete and submit via link on 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

Graduate Attributes

- Problem Solving
- Critical Thinking

2 Assessment Task 2

Assessment Type

Online Test

Task Description

This assessment will examine student's knowledge of selected topics covered up to Week 6 and it will be based on hypothetical scenarios. You will be required to address legal problems on IP protection with the aid of primary and secondary legal sources. See further detailed information to be released on Moodle under the Assessment tile.

Assessment Due Date

Week 7 Wednesday (26 Apr 2023) 11:45 pm AEST Submit via link on Moodle.

Return Date to Students

Approximately two weeks from due date.

Weighting

30%

Assessment Criteria

This assessment will be assessed according to the following criteria: quality of the statement of the legal issue(s) (10%), and rules/legal principles (30%); correct and thorough analysis and application of the rules and legal principles to the legal issue(s) (40%); well thought-out conclusion (10%), and quality of the language usage and observance of proper structure, format, and instructions (10%).

Referencing Style

• Australian Guide to Legal Citation, 4th ed

Submission

Online

Submission Instructions

Submit via link on 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

Graduate Attributes

- Communication
- · Problem Solving
- Critical Thinking

3 Assessment Task 3

Assessment Type

Written Assessment

Task Description

Final research paper 2300 words.

In this unit, you will encounter some complex subject matter which will hopefully inspire your research curiosity. For this final piece of assessment, you are encouraged to pursue your own individual research interests within the bounds of the unit material. You may develop your own, unique research question to pursue (in consultation with the Unit Coordinator, who will be able to provide you with assistance in scoping your research question appropriately for the task). If you decide to develop your own research question to write on, you must have emailed your paper proposal to Unit Coordinator for approval by the end of week 5. Your paper proposal must demonstrate that you have considered the following issues in order to submit the paper on time and in a well-researched manner:

- 1. What is the research question or problem that you wish to write about? Clearly define the research problem and how you want to address it;
- 2. Why do you want to research this issue? You should show that you have at least conducted a preliminary review of the literature to demonstrate it is a research question worthy of study.
- 3. How are you going to do it? You should show that you have a defined schedule for your literature review that is achievable, to allow time for the write-up of your paper and submission by the due date.

If you do not wish to develop your own research question to write on, you will submit a final individual paper on only **ONE** of the following topics:

• 1. Proposition: "A failure to recognise autonomous artificial intelligence (AI) machines as an 'inventor' under patent law means that inventions devised by them are not patentable. This causes a stumbling block for commercialisation and is a failure to incentivise the emergent AI sector, which undermines one of the main rationales for the intellectual property system". Discuss.

(Here, you will need to research and explain the Artificial Inventor Project, take a stand (for or against) the proposition, and present a compelling argument justifying your position drawing on your knowledge gained in this unit. You will comment on legislative obstacles to patentability for Al-generated inventions, examine the extent to which Al-related commercialisation activities depend on patents, and the incentivisation rationale for the IP system. You will need to support your argument with appropriate research, citing legislation, case law, articles, reports, books, etc).

OR

• 2. Proposition: "The development of AI technology relies on availability of data to train the AI system. The Australian copyright system prevents free use of copyright materials to train AI systems, so policymakers should amend the legislation to provide for a "text and data mining" (TDM) exception to infringement, to free up access to copyright materials, incentivise AI innovations and stimulate the AI sector. It was incorrect for the United Kingdom (UK) government to cease its plans for an expanded TDM exception in its copyright law." Discuss.

(Here you will need to examine the UK's current TDM exception, critically examine innovation policy arguments for the UK's planned introduction of an expanded TDM exception to copyright, examine the most recent UK House of Lords report failing to support such an exception, and the UK Intellectual Property Office's immediate "pause" on the plan to introduce it (as at 4 February 2023). You will then need to draw on your knowledge gained

in this unit to compellingly argue (either) the UK's approach was correct as such an exception unfairly prejudices the creative industries' ability to commercialise their products (or) unlike the UK scenario, the TDM exception would be appropriate for Australia to incentivise the AI industry, which should be prioritised by policymakers. You will need to support your argument with appropriate research, citing legislation, case law, articles, reports, books, etc).

OR

• **3. Proposition:** "The ability to commercialise intellectual property is not fettered by considerations of competition law, because intellectual property is a legislatively backed form of monopoly interest." Discuss.

(Here, you will need to draw on your knowledge gained in this unit (particularly week 12) to take a stand for or against the proposition and present a compelling argument justifying your position. You will need to explain the nature of the Australian intellectual property system, licensing terms, and the policy intersections (if any) with the Australian competition law system. Your treatment of this proposition could, for example, focus on critical analysis of Australian IP licensing case law demonstrating your point, being discussed fully with reference to any relevant competition policy; or your treatment of this proposition might critically analyse a number of different terms in IP licence agreements that may or may not attract the interest of competition regulators, and the appropriateness of the competition regulators' approach to the issue. You will need to support your argument with appropriate research, citing legislation, case law, articles, reports, books, etc).

Assessment Due Date

Review/Exam Week Thursday (8 June 2023) 11:45 pm AEST Submit via link on Moodle.

Return Date to Students

Results to be released following certification of grades

Weighting

50%

Assessment Criteria

	High Distinction	Distinction	Credit	Pass	Fail
Formulation of argument for essays	Well-crafted argument that evidences a mastery of relevant legal and or issues. May make astute observations on pertinent social, cultural or ethical factors that bear directly upon the issue, while remaining concise. Logically persuasive line of reasoning on the topic(s) chosen.	Argument identifies all or almost all of the relevant issues and is progressed in a forthright, convincing manner. May make other pertinent connections on the subject matter without digressing into irrelevant issues.	Argument Identifies most of the relevant issues and discusses these with solid competence. May digress into irrelevant areas or show some unwarranted assumptions or leaps of logic.	Argument identifies a many of the relevant issues but may wander off topic or become distracted with irrelevancies.	Argument misses a significant proportion of the issues and/or focuses on irrelevant ones.
Written paper structure, format and writing style. Referencing style.	Exceptionally well written: clear, concise, free of spelling, grammatical errors; consistent and accurate referencing using the Australian Guide to Legal Citation (AGLC). Possibly with extra creative flair.	Very well written: clear, free of spelling, grammatical errors; consistent and accurate referencing using AGLC.	Overall well written: clear, mostly free of spelling, grammatical errors; mostly consistent and accurate referencing using AGLC.	Adequately written: may lack consistency; digresses; needs to develop ideas. Inconsistent or inaccurate use of AGLC.	Simplistic; tends to summarize; illogical or poorly developed ideas; many grammatical, spelling errors; too longwinded; little use of AGLC).
Written advice (if relevant to assessment)	Clear mastery of all suggested aspects of advice, comprehensive research to support advice, taking account of all practical legal and business issues. Demonstrates exceptional insights of benefit to the client's strategy and practice.	Very well written advice, demonstrating a high level of understanding of all issues, with commendable level of supporting research. Demonstrates valuable insights for client's strategy and practice.	Overall well written advice, demonstrating a good level of understanding of the issues, with a good level of supporting research. Demonstrates some insights for the client.	Adequately written advice covering most issues, with a sound level of research.	Simplistic advice, missing most or all of the issues, or incorrectly advising the client. Little evidence of independent research.

Referencing Style

• Australian Guide to Legal Citation, 4th ed

Submission

Online

Submission Instructions

Submit via link on 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 a capacity to identify, apply and assess ownership rights and marketing protection under intellectual property law as applicable to information, ideas, creativity and innovation
- Critically analyse intellectual property protection and leveraging, including assignment and licensing strategies, for potential business and competition law risks.

Graduate Attributes

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

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 <u>Academic Learning Centre (ALC)</u> 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