

**LWA316 Intellectual Property Law**

<b>Credit points:</b>	10	<b>Mode:</b>	Internal and external
<b>Assumed knowledge:</b>		<b>Location:</b>	N/A
<b>Pre-requisite(s):</b>	LWZ001 Legal Process, Research and Writing, or LWZ100A Introduction to Legal Studies AND LWZ100B Legal Interpretation But at least 80 credit points of law units completed recommended	<b>Learning method:</b>	OLR
<b>Year:</b>	2012		
<b>Semester:</b>	One	<b>Lecturer:</b>	Associate Professor David Price
<b>School:</b>	Law and Business	<b>Phone:</b>	61 8 89466959
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**Unit Description**

This unit concerns the legal protection given for certain types of intangible property. "Intellectual property" (or IP) in its modern sense refers to copyright in literary, artistic, or similar works and to their recording and performance: it also refers to "industrial property", that is, rights in respect of inventions, trade marks, industrial designs, and business goodwill. The course will encompass the major areas of IP, namely copyright and neighbouring rights, trade marks and trade names, patents and designs; it will also cover more briefly other areas of IP, such as, geographical indications, integrated circuits, plant breeders' rights, and trade secrets and confidential information. The major areas of IP will be considered both in the international environment as well as the Australian context.

**Learning Outcomes**

On completion of this unit a student should be able to:

1. Apply the major intellectual property regimes in Australia (e.g. copyright, designs, patents and trade marks) to hypothetical legal problems.
2. Assess the implications and operations of case law and statute law in the development of these regimes.
3. Identify major current and likely future controversial issues in intellectual property law, both domestically and internationally
4. Develop and persuasively argue, both in writing and orally, solutions to IP problem situations.

**Teaching and Learning Strategies**

LWA316 is a full semester unit. Students should be mindful of the following points:

<i>Unit Information Template: Version 4.0 13/11/09</i>	<i>Administered: TLQG</i>	<i>Approved: Senior DVC</i>	<i>Next Review: November 2010</i>
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This unit is based on a self-learning approach. Students are responsible for their own learning. The lectures are available to assist, but ultimately the student is responsible for obtaining mastery of this unit. Students who succeed are those who are self-starters and make best use of the resources available to them and are prepared to ask questions to seek out the information they need.

The lectures and Learnline material are not designed to teach students all aspects of the unit. They will provide the skeleton only, which the students must 'flesh out' themselves.

It will be assumed that students will have read the prescribed material prior to the topics being covered in the lectures. This reading is most important, as it will enable the student to comprehend the issues covered in the audio lectures

## Participation

The LWA316 Learnline site will be available to all students enrolled in the subject. Correct enrolment is necessary to ensure access to the site.

There will be 2 hours of lectures per week available on the Web. Lectures delivered at the Casuarina campus will be audiostreamed onto the Web and available from the unit's Learnline site. These should be available approximately 1 day after the lecture has been conducted.

Some lecture material will be pre-recorded in 30-40 minute "grabs"; and posted the day before the lecture in question.

Wherever possible electronic means will be also used to distribute material to students (including under 'Announcements' and 'Learning Materials').

There will be weekly 1 hour internal tutorials and 1.5 hour online tutorials, commencing in the second week of semester. External students in Darwin are welcome to participate in both their external and internal tutorials, and internal students are welcome to join in the online tutorials.

If external enrolment numbers require it, an additional set of online tutorials will be arranged at times to be determined.

Online tutorials will be provided over the Web through Learnline in designated Wimba Tutorial Rooms.

The times given in the schedule are in Central Standard Time.

For additional assistance with Library research, students should view the CDU Library law site at <http://libguides.cdu.edu.au/cdulaw> This site is designed to introduce students to finding legal information and sources. While it is Law specific, much of the information can be used generally.

For assistance with the content of the learning materials or feed- back contact your lecturer.

Specific details of individual class times can be obtained by accessing the class timetable at: <http://skua.cdu.edu.au/swsodd/>

## Resources

### Required textbook(s)

- Price, Bodkin, Arnold & Adjei, *Intellectual Property: Cases, Materials and Commentary*, 5<sup>th</sup> ed, Thomson Reuters, 2012.
- *Butterworths Intellectual Property Collection*, 2012, LexisNexis Butterworths, 2011
- *Australian Guide to Legal Citation*, 3<sup>rd</sup> edition, 2010, University of Melbourne

Required textbooks can be ordered from the CDU Bookshop through their website at <http://www.cdu.edu.au/bookshop>

### Additional Resources

#### Recommended Reading

- Collins, C. & Forrest, H, *Intellectual Property*, LexisNexis Study Guide Series
- Van Caenegem W, *Intellectual and Industrial Property*, LexisNexis Butterworths, 2009

#### Legislation

Most of the legislation and conventions/treaties listed below are included in Butterworths Intellectual Property Collection 2011. They are also available on the internet. The most useful access point for the Australian legislation is: [www.austlii.edu.au](http://www.austlii.edu.au), which is accessible through the CDU Library website.

Relevant Commonwealth legislation that will be addressed/referred to includes:

- *Copyright Act 1968*)
- *Patents Act 1990*)
- *Trade Marks Act 1995*
- *Designs Act 2003*)
- *Circuits Layout Act 1985*)
- *Plant Breeder's Rights Act 1994*
- *US Free Trade Agreement Implementation Act 2004*
- *Resale Royalty for Visual Artists Act 2009*

#### Conventions and Treaties

- WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement)
- Berne Convention for the Protection of Literary and Artistic Works (1886 as amended)
- Paris Convention for the Protection of Industrial Property (1883 as amended)
- Australia-US Free Trade Agreement 2004 (Chapter 17, Intellectual Property, only)
- Anti-counterfeiting Trade Agreement (ACTA) 2011
- Trans-Pacific Partnership Agreement (TPPA) 2012

#### Websites

Students should also familiarise themselves with the World Intellectual Property Organisation (WIPO) and World Trade Organisation (WTO) websites (both of which contain a vast amount of material on many aspects of IP – see below), particularly in relation to those topics dealing with the international context of IP and with IP and traditional knowledge (see below).

- World Trade Organisation (WTO) - [www.wto.org](http://www.wto.org)
- World Intellectual Property Organisation (WIPO) - [www.wipo.int](http://www.wipo.int)
- Office of the United States Trade Representative (USTR) - [www.ustr.gov](http://www.ustr.gov)
- Australia-US free trade agreement – [www.dfat.gov.au/trade/negotiations/US\\_fta](http://www.dfat.gov.au/trade/negotiations/US_fta)

The TRIPS Agreement can also be accessed on the WTO website, while the Berne and Paris Conventions can be accessed on the WIPO website.

#### Learnline (Online Learning System)

Learnline is Charles Darwin University's on-line learning system.

In this unit, Learnline will be used to:

- provide important announcements about the unit
- distribute lecture slides, and other study

- complete online assessments
- access feedback from tasks and grades for assessable work
- provide a communication point where you contribute to discussions as part of your assessment, and to interact with other students in the unit

You will need to connect to the Internet to access it, at <http://learnline.cdu.edu.au/>

If this is your first time using Learnline, click on 'Student Support' in the left-hand navigation panel BEFORE logging in.

It is recommended that all students have access to regular and reliable broadband access to complete unit requirements.

### e-Reserve

e-Reserve allows electronic copies of journal articles, book chapters and lecturer notes that have been recommended by a lecturer as part of their course reading requirements. You can access e-Reserve at <http://ereserve.cdu.edu.au.ezproxy.cdu.edu.au>.

This site is password protected. Your CDU student login will provide you access. You can then search for items by Lecturer, Unit Code, Title, Author, keyword, Year or Date if you have that information.

### Learning Schedule

Session No.	Week commencing	Lecture Topic	Recommended Reading
1	Week 1 – 27/02/12	Introduction to the Unit Background - What is IP?	Price, Chap 1
2	Week 2 - 05/03/12	The international context of IP – WTO, WIPO	<a href="http://www.wipo.int">www.wipo.int</a> ; <a href="http://www.wto.org">www.wto.org</a> Price, Chap 2
3	Week 3 – 12/03/12	Copyright and neighbouring rights – protected subjects; moral rights and economic rights	Price, Chaps 3 & 4
	Week 4 – 19/03/12	Copyright and neighbouring rights – ownership and exploitation, infringements, piracy	Price, Chaps 5 & 6
	Week 5 – 26/03/12	Copyright in the Digital Environment	Price, Chap 7
4	Week 6 – 2/04/12	Introduction to Trademarks	Price, Chap 13
<b>Mid Semester Break</b>			
	Week 7 – 16/04/12	Trademark infringements: well-known marks; passing off	Price, Chap 13
	Week 8 – 23/04/12	Trademarks and Geographical indications	Price, Chap 13
5	Week 9 – 30/05/12	Introduction to Patents – requirements for registrability	Price, Chaps 8, 9
	Week 10 – 07/05/12	Patents – exploitation and infringement	Price, Chaps 10, 11
6	Week 11 – 14/05/12	Industrial Designs Plant Breeder's Rights, Integrated Circuits, Trade Secrets	Price, Chap 14 Price, Chaps 15, 16

7	Week 12 – 21/05/12	Protection of Traditional Knowledge in the IP context	Price, Chap 17 <a href="http://www.wipo.int">www.wipo.int</a>
8	Week 13 – 28/05/12	Review Session/Revision Week	
	From 04/06/12	Exam Fortnight	

### Overview of Assessment

Item	Description/Focus	Value	Due Date
1.	Assignment	25%	<i>Tba, but generally end of week 8</i>
2.	Media IP Reflective Journal	30%	<i>Ongoing from week 2, completed by end of week 12</i>
3.	Final Exam	45%	<i>Tba, but during Central Exams Period at end of semester</i>

### Special Requirements

#### Assessment Item 1

**Description/Focus:** Assignment

**Value:** 25%

**Due date:** Tba, but generally end of week 8

**Length:** Approximately 2,500 words, not including tables of contents, bibliographies, footnotes or endnotes. Assignments that vary markedly from the word limit requirement may incur a penalty.

**Task:** The assignment topic or topics will be placed in the folder 'Assessments' on 'Learnline' towards the beginning of the unit. Students will have almost two months to complete the assignment before the due date.

**Preparation:** The assignment should be typed (1 1/2 or double spaced), with margins of at least 4 cms. It should be properly footnoted at the bottom of each page and contain a bibliography. Referencing and citations MUST accord with the style as set out in the Australian Guide to Legal Citation, 3rd edition.

Assignments MUST include a cover sheet with name, student number, the topic number chosen and the actual topic. Also ensure you include your name in a header or footer in the assignment itself.

Note that an assignment which cannot be easily identified as to its author because of failure to comply with the above requirements WILL NOT BE MARKED.

**Presentation:** The assignment should be submitted on or before the due date via the Online Submission provision in the Assessments area of the Learnline site. Students must ensure that the document constituting their assignment has been lodged AND saved within the Learnline submission site.

In exceptional circumstances, and only with the express approval of the lecturer, the assignment may be emailed.

**Assessment** Assessment criteria will be posted separately on Learnline under

criteria: Assessment

### Assessment Item 2

<b>Description/Focus:</b>	Media IP Reflective Journal
<b>Value:</b>	30%
<b>Due date:</b>	Ongoing from week 2
<b>Length:</b>	Each weekly report should be around 200 – 250 words in length. The report could cover just one or more IP items.
<b>Task:</b>	Each student will be required to maintain a journal on Learnline which will consist of weekly reports on items which the student has identified from the electronic or print media which deal with or relate to intellectual property matters. The journal exercise starts in week 2, and will continue until end of teaching for semester (week 12). This means students should lodge 10 weekly reports.
<b>Preparation:</b>	<p>The objective of this new exercise is to stimulate your thinking on and about IP matters in real-life scenarios, rather than just in the artificial classroom context.</p> <p>The report is not just a repetition of the content of the media item, but should identify and briefly comment on the related intellectual property issues and even refer to relevant statute or case law if appropriate or possible. The report need not be limited to IP in the Australian context; in fact IP issues in the international context is encouraged.</p> <p>Three examples of media news items that appear regularly and which will generate IP issues include:</p> <ul style="list-style-type: none"> <li>- The 2012 Olympic Games, which address an extremely broad range of IP matters;</li> <li>- The Academy Award Ceremony (The Oscars);</li> <li>- The Football World Cup.</li> </ul>
<b>Presentation:</b>	<p>The journal will be maintained through the Learnline site for this unit, with the link entitled 'Media IP Reports Journal'. Click on this link and a page will open inviting you to create a link. Your previous entries will still be visible and available for your editing, should you wish. Your individual journal and its entries will not be available for other students to see.</p> <p>Each student journal will be regularly reviewed and brief provided feedback as sought or required. Some general commentary will be available to all students.</p>
<b>Assessment criteria:</b>	Assessment criteria will be posted separately on Learnline under Assessment

### Assessment Item 3

<b>Description/Focus:</b>	Final Examination
<b>Value:</b>	45%
<b>Due date:</b>	Tba, but during Central Exams Period at end of semester
<b>Length:</b>	2 hours plus 20 minutes reading time
<b>Task:</b>	The final examination will be an <b>OPEN BOOK</b> examination. Any relevant material, other than that which is the property of the CDU Library, may be taken into the examination room. The examination may cover all the topics covered in this unit. Students should note that because of this factor standards and quality of answers should be correspondingly higher than a "memory only" exam.

The examination questions will reflect the course as it is presented in lectures, any reading guides, any lecture notes and all texts (primary and secondary). A given topic may be examined in more than one question.

Examination questions may be of any format including, analysis of and advice on hypothetical problems, essays on specified topics, policy discussions, case-notes or a quiz.

External students should take particular note of the University's requirements that they sit for the final examination at designated exam centres, except in exceptional circumstances. Further information and forms for external exam arrangements can be obtained from the Learnline site, Law Central 2011 External Students, or directly from the Library website <http://www.cdu.edu.au/library/forms/access/examarrangement.html>

<b>Preparation:</b>	N/A
<b>Presentation:</b>	N/A
<b>Assessment criteria:</b>	N/A

### CDU Graduate attributes

CDU graduate attributes refer to those skills, qualities and understandings that should be acquired by students during their time at the University regardless of their discipline of study. (See <http://www.cdu.edu.au/teachingandlearning/gradattributes.html>).

In this unit, the following graduate attributes are developed:

Attribute	Description	Learning outcomes
Acquisition	Can identify, retrieve, evaluate and use relevant information and current technologies to advance learning and execute work tasks.	1, 2, 3,
Application	Is an efficient and innovative project planner and problem solver, capable of applying logical and critical thinking to problems across a range of disciplinary settings and has self-management skills that contribute to personal satisfaction and growth.	1, 2 3,
Creativity	Can conceive of imaginative and innovative responses to future orientated challenges and research.	2, 3, 4
Knowledge base	Has an understanding of the broad theoretical and technical concepts related to their discipline area, with relevant connections to industry, professional, and regional and indigenous knowledge.	1, 2,
Communication	Demonstrates oral, written, and effective listening skills as well as numerical, technical and graphic communication skills in a cross generational environment.	1, 2, 3, 4
Team work	Has a capacity for and understanding of collaboration and co-operation within agreed frameworks, including the demands of inter-generational tolerance, mutual respect for others, conflict resolution and the negotiation of productive outcomes.	4
Social responsibility	Is able to apply equity values, and has a sense of social responsibility, sustainability, and sensitivity to other peoples, cultures and the environment.	3,
Flexibility	Can function effectively and constructively in an inter-cultural or global environment and in a variety of complex situations.	

Leadership	Can exercise initiative and responsibility, taking action and engaging others to make a positive difference for the common good.	
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### **University Plagiarism policy**

Plagiarism is the unacknowledged use of material written or produced by others or a rework of your own material. All sources of information and ideas used in assignments must be referenced. This applies whether the information is from a book, journal article, the internet, or a previous essay you wrote or the assignment of a friend.

**Plagiarism or other acts of academic dishonesty if proved may have very serious consequences for those wishing to be admitted to practise as a legal practitioner, as proven dishonesty may lead to refusal of admission by the relevant Legal Practitioners Admission Board.**

The University Plagiarism policy is available at:

<http://www.cdu.edu.au/governance/documents/3.3academicandscientificmisconduct.pdf>

### **Exam Rules**

Exam rules are available at

<http://www.cdu.edu.au/governance/documents/ExaminationRules.pdf>