



FACULTY OF  
BUSINESS AND ECONOMICS

# **INOV802 INTELLECTUAL PROPERTY CREATION, STRATEGY AND MANAGEMENT**

## **UNIT OUTLINE Semester 1, 2009**

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Professor Michael Vitale

**Year and Semester:** 2009, Semester 1

**Unit convenors:** Dr Jacinta Flattery-O'Brien, Professor Michael Vitale

**Prerequisites:** None

INOV 802 -*Intellectual Property Creation, Strategy, and Management* (4 cp) is designed for those involved in invention and research in which new ideas are created that need to be protected and then licensed, sold or developed into commercial products and services. In particular, it is designed for those who manage the technology aspects of a company or organisation. The unit is not designed to produce patent attorneys or lawyers; rather it provides a strong basis on which to work with such professionals for the purpose of protecting and exploiting intellectual property (IP).

The central focus of the unit is Intellectual property, particularly the protection of ideas through various forms of IP, and IP issues and strategies for the modern technology-based firm. The unit includes practical advice and understanding from the viewpoint of the inventor/developer of IP as well as the research manager.

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## CLASSES

INOV802 will be conducted by a combination of structured lectures, class discussions, and case studies. The lecture program is designed to impart essential knowledge of the theory and practice of IP creation, management, and strategy. The case studies, class discussions, and interactive sessions are designed to ensure that students understand the role and value of IP in the modern firm. Students are expected to actively participate in class discussions and consequently, class attendance and participation are expected and are included in assessment.

INOV802 is a post-graduate unit, which imposes special responsibilities on unit participants. Students are expected to attend each class having prepared the required weekly assignment, and to be willing to articulate, listen to, and critically analyse alternative views in a professional, courteous manner.

## LEARNING RESOURCES

There is no prescribed text; web-based resources are available.

The key learning resources to guide and support student learning in this unit are:

- This *INOV802 Unit Outline*;
- The *INOV802 Lecture Notes* - available from Blackboard <http://learn.mq.edu.au/>

## GRADUATE ATTRIBUTES / LEARNING OUTCOMES

On the completion of this unit, students will have the following knowledge and skills:

**Knowledge:** Students will know:

- the different forms of IP and IP protection, and their relevance to, and role in, different industries;
- how different industry structures lead to different royalty rates across industries and market segments (such as hardware, software, plants, etc.);
- the rationale for, and how to develop IP strategies and policies in a research laboratory (such as a university, company, or government lab), including inventorship, lab practice, papers, visitors, etc; and
- how and when to work with patent attorneys, agents, IP valuers, and IP advisory firms.

**Skills:** Students will be able to:

- review the IP strategy of a company ;
- set up an IP agreement (at the heads of agreement level) for a joint venture;
- advise researchers how to approach large firms to begin discussions aimed at an eventual commercial arrangement.

**Communication Skills:** Students will be able to communicate complex ideas in an effective and engaging way using written, oral, and presentation forms.

In addition to the discipline-based learning objectives, all academic programs at Macquarie seek to develop students' generic skills in a range of areas. One of the aims of this unit is that students develop additional problem-solving skills.

## TIMETABLE

Please notice that some classes begin at 6pm, while others begin at 7pm.  
All classes end at 9pm.

**1. 24 Feb    *INOV802 Road-Map***  
**6pm        *The Legal System and Intellectual Property (IP)***

- Unit structure and requirements
- Overview of IP and its importance and contribution

**Reading:** A starting point for the unit is IP Australia's website:  
[www.ipaustralia.gov.au](http://www.ipaustralia.gov.au). Browse this site and skim "IP Australia's role in protecting innovation".

**2. 3 March    *Patents***  
**6pm**

- Developing a patenting strategy
- Patent infringement and freedom to operate
- International IP law
- Australian patent procedure

**3. 10 March *IP Creation and Capture***  
**7pm**

Read "Fitness Anywhere," which will be distributed in advance, and be prepared to discuss this case study in class. Some questions to consider in your preparation:

1        As at the end of the case, would it be possible for Hetrick to obtain a patent for the TRX product? Why or why not? What else would you include in a patenting program?

2        List the ways in which a patent portfolio can be grown. Explain which of these best applies to Fitness Anywhere and explain why.

3        Randy Hetrick clearly faces a wide variety of options, choices, and demands on his time. In the overall scheme of things, how important is IP for the success of Fitness Anywhere? How much attention should Hetrick himself devote to IP? Why?

4        Based on the corporate strategy outlined in the case, name the top three IP management issues for Fitness Anywhere, explain why you have chosen those issues, and suggest how Fitness Anywhere should address them.

5        Based on the current commercial situation, how should Fitness Anywhere approach the task of managing freedom to operate risk? Be specific about the options, your suggested approach, and why. How should they tailor the approach as their resources grow?

6        Provide your thoughts on the steps that Hetrick can take to build an IP-savvy culture within his company.

**4. 17 March *Infringement and Enforcement*  
6pm**

- What is infringement?
- Avoiding infringement
- Strategies for defence in case of infringement suit
- Enforcement – considerations/consequences

**5. 24 March *Infringement case study*  
7 pm**

Read “X-IT and Kidde (A),” which will be distributed in advance, and be prepared to discuss this case study in class. Some questions to consider in your preparation:

- 1 What are X-IT’s strongest legal claims against Kidde?
- 2 What are the pros and cons of suing Kidde?
- 3 If you were Aldo DiBelardino, what would you do next?
- 4 If you were an outside investor in X-IT, would you fund a lawsuit against Kidde? Why or why not?

**6. 31 March *Copyright*  
6 pm**

- Copyrights vs patents
- Violation of copyright
- International copyright treaties
- Australian copyright procedure

**7. 7 April *Copyright case study*  
7 pm**

Read “Warner Bros. and BitTorrent,” which will be distributed in advance, and be prepared to discuss this case study in class. Questions will be distributed.

**14 April Mid-Semester Break  
21 April Mid-Semester Break**

**8. 28 April *Trademarks*  
6 pm**

- Trademarks compared with patents and copyright
- Trademark violations
- International trademark treaties
- Australian trademark procedure

**9. 5 May *Building a Company Around IP***  
**7 pm**

Read “Marvel Enterprises,” which will be distributed in advance, and be prepared to discuss this case study in class. Some questions to consider in your preparation:

- 1 Has Marvel’s winning streak been just a lucky fluke? If not, what has the organisation done that has led to its success?
- 2 Is Marvel’s success dependent on a limited set of blockbuster characters, most notably Spider-Man, and should Marvel continue to capitalise on those characters? Or is it time to seek growth in a larger set of lesser-known characters? If the latter, how should Marvel develop those characters? What are the IP implications of your answer to this question?
- 3 What are the main IP issues Marvel faces, and what should the company do about those issues?

**10. 12 May *IP Issues related to Information Technology and Business Processes***  
**6 pm**

**11. 19 May *IP licensing and IP licensing case study***  
**6 pm**

Read “Rambus Inc 2005,” which will be distributed in advance, and be prepared to discuss this case study in class. Some questions to consider in your preparation:

- 1 List and give examples of the types of IP you would expect to find in Rambus’s IP portfolio.
- 2 Briefly discuss the indicators that the case provides about how effective Rambus was at capturing, assessing and monitoring its own IP.
- 3 What methods did Rambus use to build its IP portfolio? What other alternatives are also available?
- 4 What methods did Rambus use to extract value from its IP portfolio? Comment on how successful they were and explain why you think this was the case.
- 5 Consider Intel’s perspective prior to the November 1996 deal with Rambus. Based on the information provided in the case, comment on what Intel is looking for in the deal and how that impacts on their IP due diligence efforts.
- 6 Briefly comment on the interaction between Rambus’s approaches to IP and marketing. What could they have done better?
- 7 What does the case reveal about the current content of Rambus’s IP strategy and the fit of that strategy with its business strategy? What has Rambus done well with regard to IP? In retrospect, what could have been done better?

8 Did Rambus's intellectual property strategy change during the period of the case? Explain (a) how you have come to your conclusion and (b) why it happened the way it did.

**12. 26 May IP licensing exercise**  
**6 pm**

Licensing is a complex issue requiring keen negotiation skills. This class will be dedicated to a licensing exercise in which students play the role of parties to a licensing arrangement. The aim is to arrive at an agreement for commercialization of IP originally developed in a university environment.

**13. 2 June Final Examination**  
**6 pm**

**ASSESSMENT**

Students will be assessed in five ways:

1. Class attendance and participation	10%
2. Weekly assignments (10 assignments, two points each)	20%
2. Written project due 26 May	30%
3. Presentation of project results	10%
4. Final examination	30%

1. In-Class Contribution: INOV802 is a post-graduate unit in which unit participants are expected to contribute to the discussion of issues.

2. Weekly assignments are aimed at encouraging the consolidation of learning as the Semester progresses, as well as helping students prepare for class.

3. Unit Project: During the semester, each student will undertake a unit project on an approved topic relating to the major themes of INOV802. Maximum length 1,500 words. Due at the beginning of class on 26 May. A one-page outline will be due on 28 April. The individual written assignment is designed to exercise the student's ability to apply the course material to a real-world situation. The ideal assignment is to describe and assess IP policies, practices, and processes in an organisation in which the student has worked, is working currently, or knows well for some other reason. The assessment should take into account the importance of IP to the organisation as well as the organisation's size, strategy, and structure. Students who find this topic impossible can submit, by 7 April, a proposal for a different topic. All project topics must be submitted and approved by the unit coordinator.

4. Presentation: Each student will make a brief presentation to the class about their unit project. The focus of the presentation is the communication of your unit project in oral format.

5. Final Exam: A 1 ½ hour unit exam will be set for the last week of classes.

## ADMINISTRATIVE ISSUES

1. Current email address: One of the ways we will communicate with you is via email sent to your MQ email address. Please check your MQ email regularly.
2. Correct Unit Enrolment: Please ensure that the unit in which you are enrolled is listed on all material submitted.
3. Correct Name: If you use a name other than your formal MQ enrolment name, please use both names when you submit assignments, etc. For example, if your formal name is John William Smith, and you use the name "Billy Smith", please use John William ("Billy") Smith on all submissions and documents so that you receive credit for your work.

## ASSIGNMENT PRESENTATION AND SUBMISSION

All INOV802 assignments submitted for assessment must adhere to the following standards.

1. **Plagiarism:** All assignments in INOV802 are to be entirely your own individual work, unless the assignment is designated as a team or collaborative project (See the statement regarding plagiarism in the next section).
2. **Cover Page:** For each assignment, use a cover (or title) page that provides the following information:
  - a) your full name and student number;
  - b) contact details: email address, postal address and phone number;
  - c) unit code and unit name (INOV802)
  - d) assignment number and assignment title;
  - e) an exact word count-not a guess or approximation-of the number of words in the body of your assignment. (Use Word's Tools menu and click on Word Count.)
3. **Presentation of Assignments:** Assignments should meet normal academic and professional standards of presentation, including:
  - a) all pages, excluding the cover page, should be numbered and stapled together;
  - b) page margins should be at least 2.5 cms on all four edges;
  - c) assignments should be free of typographical & grammatical professional
  - d) a font size between 11 and 12 points should be used.
4. **Submission Procedures:** Each assignment should be submitted as a single Word document and formatted for A4-size paper.
5. **Late Submissions:** It is the students' responsibility to submit each assignment on or before the due date. Late submissions will receive a deduction at the rate of 10% of the assignment's maximum mark for each day late. All requests for extensions must be in writing, fully documented, and be received before the due date.
6. **Feedback:** We will endeavour to mark and return assignments within 10 days of the due date so that you can benefit from the feedback. The timing of the feedback depends, in part, on overall student numbers.

## PLAGIARISM

If you take and use the work of another person-even with their permission-without clearly stating or acknowledging your source, you are falsely claiming that material as your own work and therefore, you are committing an act of plagiarism. This is wrong because:

- It violates the principle of intellectual and scholarly integrity;
- It devalues the grades and qualifications gained legitimately by other students.

The University defines plagiarism in its rules: "Plagiarism involves using the work of another person and presenting it as one's own." Plagiarism is a serious breach of the University's rules and carries significant penalties. You must read the University's practices and procedures on plagiarism; they can' be found in the *Handbook of Undergraduate Studies* or on the web at <http://www.student.mq.edu.au/plagiarism/>. The policies and procedures explain what plagiarism is, how to avoid it, the procedures that will be taken in cases of suspected plagiarism, and the penalties if you are found guilty. Penalties may include a deduction of marks, failure in the unit, and/or referral to the University Discipline Committee.

Cheating and/or plagiarism can be a temptation when students are experiencing difficulty with a heavy workload and seek to save time by using others' work. To avoid having students resort to cheating, the University provides many services to help students with their studies. (See Student Support Services below).

## UNIVERSITY POLICY ON GRADING

Academic Senate has a set of guidelines on the distribution of grades across the range from fail to high distinction. Your final result will include one of these grades plus a standardised numerical grade (SNG).

On occasion your raw mark for a unit (i.e., the total of your marks for each assessment item) may not be the same as the SNG which you receive. Under the Senate guidelines, results may be scaled to ensure that there is a degree of comparability across the university, so that units with the same past performances of their students should achieve similar results.

It is important that you realise that the policy does not require that a minimum number of students are to be failed in any unit. In fact it does something like the opposite, in requiring examiners to explain their actions if more than 20% of students fail in a unit.

The process of scaling does not change the order of marks among students. A student who receives a higher mark. For an explanation of the policy see: <http://rawmarkthananotherwillalsoreceiveahigherfinalscaledwww.mg.edu.au/senateIMQUonly/Issues/Guidelines2003.doc> or <http://www.mg.edu.au/senateIMQUonly/Issues/detailedguidelines.doc>.

## STUDENT SUPPORT SERVICES

Macquarie University provides a range of Academic Student Support Services.  
Details of these services can be accessed at <http://www.student.mq.edu.au>.

**END**

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