

Critical Perspectives on Copyright: LAWS6086 Intellectual Property Law

Module designed by Marie Hadley, with materials developed by Travis De Vries and Marie Hadley

This Module introduces students to the relationship between copyright law and society, through its focus on critical race perspectives on intellectual property law. The purpose of this module is to encourage students to approach law beyond legislation, cases, and rules to encompass the broader concept of *legality*. That is, law (legality) as it appears, intersects with, and is experienced in society. The relationship between law and society is approached through the relationship between art, law, and justice in this module.

This module is an introductory critical thinking module for law students in their 4th or 5th year of their undergraduate studies or 1st and 2nd year Juris Doctor students, who have had limited exposure to critical legal theory and/or law and society scholarship and/or contextual studies of law. It is taught 100% online. Within the Intellectual Property Law course, it follows a doctrinal Copyright Law module that provides an in-depth study of copyright principles.

This module is built around a visual text, critical theory, and case study. Learning activities involve peer-to-peer discussion, teacher-student interaction, and self-reflection.

I COURSE MATERIALS

Students were provided with a short overview video that provides an introduction to the module and its rationale.

A VISUAL TEXT

'Entropy Awakening' by Travis De Vries (digital artwork, 2022)



In this part of the module, students are asked to look at and reflect upon the artwork *Entropy Awakening* by Gamilaroi/Dharug artist Travis De Vries. They are asked to spend a few minutes looking at it and to consider its composition, features, "vibe", and how it might connect with or comment upon law (either in general, or specifically in relation to copyright law).

Students are asked to answer three reflection questions. Their responses are only visible to their lecturer.

Q1: In 100 words or less, tell the story of the artwork. What do you think the work is about?

Q2: How does the artwork make you feel?

Q3: How does this artwork critically engage with law?

B THEORY

Critical Race IP

In this part of the module, students are introduced to the theory of Critical Race Intellectual Property and its key tenets. They are asked to read an academic journal article before responding to a question prompt on the Course Discussion Forum. Their post on the Discussion Forum is visible to other students in the course, as well as the lecturer.

- **Reading:** Anjali Vats and Deirdre Keller, 'Critical Race IP', *Cardozo Arts and Entertainment Law Journal*, 735-796
- **Discussion Prompt:** What is Critical Race IP? In Vats and Keller's opinion, why is it important that we approach IP critically?

C CASE STUDY

Copyright and moral rights implications of anti-racism graffiti on public artworks

In this part of the module, students are asked to make connections between the representation/s of law in the De Vries artwork and their understanding of Critical Race IP, in the specific context of the *Copyright Act's* regulation of anti-racism graffiti. Students are asked to read an academic journal article on the copyright and moral rights implications of anti-racism graffiti on statues of historical figures linked to slavery and colonialism, before answering a Discussion Prompt on the Course Discussion Forum. Their post on the Discussion Forum is visible to other students in the course, as well as the lecturer.

- **Reading:** Marie Hadley, Sarah Hook, Nikolas Orr, 'Ideological Vandalism of Public Art Statues: Copyright, The Moral Right of Integrity and Racial Justice' (2022) 9(2) *Griffith Journal of Law and Human Dignity* 1-34
- **Optional reading:** Johanna Gibson, 'No More' (2020) 10(3) *Queen Mary Journal of Intellectual Property* pp 271-282
- **Discussion Prompt:** Do you see the Hadley, Hook, Orr article (and/or Gibson article) as an example of Critical Race IP? Why/why not?

II LEARNING ACTIVITY

After completing their readings and associated tasks, students are required to complete a compulsory learning activity. This activity – responding to a set question on the Discussion Forum – is directly relevant to their impending assessment. For information about this Assignment, see Part III below. Their post is visible to other students and the lecturer.

Students are asked to look at the *Entropy Awakening* artwork again, and respond to the following question:

- **Question:** What do you see as the relationship between 'Entropy Awakening' and the critique of intellectual property law advanced in Critical Race IP and/or the arguments put forward in the Hadley, Hook, Orr article? Explain your position, giving reasons.
- **Instructions:**
 - Please aim for approx. 300 words (you can do this in more than one post). You are encouraged to respond to the posts of other students (but do not have to)
 - Please be respectful towards the opinions of others
 - Do think critically - but don't worry about making your response perfect. You will get a chance to expand upon your response (and link it back even more tightly to IP law) in your assignment

III ASSESSMENT TASK

The assignment associated with this module assessed three modules (Introduction to Intellectual Property; Copyright and Related Rights; and Critical Approaches to Copyright Law). The assignment focused requires students to analyse copyright law in context and involves critical reflection (Q1) and short answer responses (Q2). Q1 requires close engagement with the Critical Approaches to Copyright module. It is possible to answer both parts of Q2 without reference to the Critical Approaches to Copyright Law module (should a student so wish).

Question 1

Part A: This question requires students to cut and paste their answer/s to the compulsory learning activity in the Critical Approaches to Copyright module (*What do you see as the relationship between 'Entropy Awakening' and the critique of intellectual property law advanced in Critical Race IP and/or the arguments put forward in the Hadley, Hook, Orr article?*). It is marked on a Pass/Fail basis.

Part B: This question requires students to respond to a quote from the Hadley, Hook, Orr article (a set reading in the Critical Approaches to Copyright module), with close reference to their answer to Q1A and the other Critical Approaches to Copyright course materials.

Question 2

Part A: Students are asked to respond to a question about whether Australian copyright law supports or constrains creativity.

Part B: Students are asked to consider the balance that Australian copyright law strikes between stakeholders and to recommend *one* change to the Copyright Act to achieve a more optimal balance between the interests of stakeholders.