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| **Qualification details** |  | | |
| **Qualification National**  **Code & Title** | **ICT40120 - Certificate IV in Information Technology – Programming (Release 1)** | **State code** | AC07 |
| **Qualification National**  **Code & Title** | **ICT40120 - Certificate IV in Information Technology – Networking (Release 1)** | **State code** | AC10 |
| **Qualification National**  **Code & Title** | **ICT40120 - Certificate IV in Information Technology – General (Release 1)** | **State code** | BFF9 |

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| **Assessment Title**  *(as per DAP)* | **Assessment 3 Dealing with Non-Compliance** | | | | |
| **Unit National Code**  **& Title** | **ICTICT451 Comply with IP, ethics and privacy policies in ICT environments** | | | **State code** | OBU08 |
| **Date Due** | Week 18 | **Date Received** | Week 10 | | |
| **Student Name & ID** | Richard Pountney 30007736 | | | | |
| **Student Declaration** | I declare that the evidence submitted is my own work:  RBP  ………………………………………………………….. | | | | |

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| **Assessor Name** |  | | | | | | |
| **Assessment Decision** | Satisfactory | | | Not Yet Satisfactory | | | |
| **Is student eligible for reassessment (Re-sit)?** | Yes | | No | **Reassessment Date** | | |  |
| **Assessor Signature** |  | | | **Date** | | |  |
| **Feedback to student** | | | | | | | |
| *Via Blackboard (LMS) – Please check [Grade] section.* | | | | | | | |
| **Feedback from student** | | | | | | | |
| *Via Blackboard (LMS) – Please use [Comment] section during submission.* | | | | | | | |
| **Student signature** | |  | | | **Date** |  | |

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| **Assessor Instructions** | |
| **Type of Assessment** | In Class, face to face |
| **Duration of Assessment** | 3 weeks |
| **Location of Assessment** | Blackboard |
| **Conditions** | Gather and observe evidence from the students as they perform the tasks. Students must complete all requirements of the assessment. Use the marking guide to confirm that students have completed the tasks correctly. |
| **Marking Checklist** | See Assessment 3 -MarkingGuide.docx |
| **Due Date** | Week 5 |
| **Student Instructions** | |
| **Purpose of Assessment** | The candidate must demonstrate the ability to complete the tasks outlined in the elements, performance criteria and foundation skills of this unit, including evidence of the ability to:   * Evaluate and implement at least three different types of intellectual property (IP) within an organisation * Assist, on at least two occasions, with the development and implementation of organisational IP, ethics and privacy policy and procedures. * In the course of the above, the candidate must:   + Assist with maintenance of organisational IP, ethics and privacy policy procedures   + Review potential risks and non-compliance incidents   + Contribute to the development of non-compliance incident recommendations.   The candidate must also be able to demonstrate knowledge to complete the tasks outlined in the elements, performance criteria and foundation skills of this unit, including knowledge of:   * key legislation required to evaluate and implement IP in the ICT industry * key policies, procedures and documentation in the ICT industry, including those related to:   + organisational IP policies and procedures   + codes of ethics pertinent to the ICT industry   + privacy   + key organisational communication processes and procedures related to identifying IP, ethics and privacy policies in ICT environments. |

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| **Duration of Assessment** | 3 weeks |
| **Location of Assessment** | Blackboard |
| **Reasonable adjustment** | In some circumstances, adjustments to assessments may be made for you. If you require support for literacy and numeracy issues; support for hearing, sight or mobility issues; change to assessment times/venues; use of special or adaptive technology; considerations relating to age, gender and cultural beliefs; format of assessment materials; or presence of a scribe you need to inform your lecturer. |
| **Required Resources** | Students will need a USB drive to save their work on. |
| **Assessment Submission** | All questions and activities must be attempted.  Use of research tools and peers in formulating answers is acceptable – but work submitted must be your own work.  Final project documentation is to be uploaded to the appropriate area in the Blackboard course created for this unit.  If you are marked as NYS (Not Yet Satisfactory) on your first attempt, you will be provided with another opportunity to re-attempt the assessment. |
| **Skills being assessed** | * Ability to use workplace health and safety practices for an office. * Ability to identify and fulfil requirements of a brief or set of tasks. * Ability to use appropriate software for completion of the assessment. * Ability to review, evaluate, correct and upload work to blackboard. |

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| **Assessment Contents** |
| **Answer the following questions and their parts (lettered), in full referring to the situations described.**  **Give reasons, explanations, examples and note any references used.**  **The completed assessment must be submitted to blackboard.**  **CONTEXT:**  This assessment investigates the skills and knowledge required to comply with the protection and lawful use of intellectual property (IP) and to implement relevant organisational ethics and privacy policies. The workplace can be a very competitive environment and colleagues can take credit for work that is not theirs in order to gain favour with a view to promotion.  **QUESTION 1 - TAKING CREDIT**  The following scenario takes place in a small engineering company.  *Ian Jones in marketing, accidentally receives a set of emails form an external client intended for his colleague, Patricia Roberts. In the E-mails a sales idea is outlined that will make the company a great deal of money. Ian goes to his CEO, Paul, who he plays golf with and outlines the idea. Paul implements the idea and credits Ian giving him a pay rise and promotion. Ian, in his new position as head of sales, promotes Patricia but does not tell her about the e-mails she missed or why he is promoting her.*   1. What are the moral and ethical points raised in this scenario?  * Ian has taken the idea for himself & hasn’t even told Patricia. Ian got all the credit that Patricia would have got.  1. How realistic is such a situation or similar in the business world?  * Realistic because it is vary common in business. Examples are the game industries.  1. What should Ian have done?  * Informed Patricia that he has received an email of her idea & would encourage Patricia to bring it up with the CEO.   A few months later, Patricia finds out about the misdirected e-mails and confronts Ian who does not know what to do and outlines the situation to Paul whilst playing golf.   1. What are some of the possible outcomes of these developments? 2. Paul could side with Ian or Patricia. 3. Paul could ask Patricia to give more information at work. 4. Paul could get both Ian & Patricia to meet in his office so he can get the story straight. 5. What outcome is morally most desirable?  * The 3rd outcome   Paul sacks Patricia, on the grounds that she is a troublemaker.   1. What recourse is available to Patricia?  * Fair works * Copyright Act 1968  1. With hindsight, what would you have done if you were Ian?  * I would have not told Paul & I would have informed Patricia that he has received the marketing email of her idea & would encourage Patricia to bring it up with the CEO.  1. With hindsight, what would you have done if you were Paul?  * Not talk about business during personal hours. After Patricia informed me about what she found, I would have got both Ian & Patricia to meet in my office on the next workday so I can get the story straight.  1. With hindsight, what would you have done if you were Patricia?  * I would have asked Ian why he was promoting me. If Ian told me the truth then I would have asked him to tell Paul where he got the idea.   **QUESTION 2 – NOT WHAT IT SAYS OR WAS SPECIFIED**  **CONTEXT:**  This assessment investigates the skills and knowledge required to comply with the protection and lawful use of intellectual property (IP) and to implement relevant organisational ethics and privacy policies. This case scenario highlights the use of different materials from those specified to a client.  **Scenario:** *You work for a solar installation company. You notice that the solar panels being installed are not the same as the rating on the purchase order. You ask your foreman if they are the correct panels and he says that our job is to just install what we are given.*   1. What are the moral implications of this situation?  * The customer is not getting the product that they paid for.   You do some google research on the panels and realize that they are far superior to what the customer is actually paying for.   1. How does this change, if at all, the moral implications of the situation?  * The product is better than it should be, so the customer is getting more than what they paid for.  1. If the panels were found to be inferior to those purchased, would you think the morality of the situation to be different?  * The customer should be informed about the product misplacement because it is worse than what they paid for.   You tell your foreman of your findings and he immediately checks on Google and informs his boss of the situation. The boss credits him with a bonus which he splits 50:50 with you. The future panels are as specified.   1. Is this situation morally ok with you? Give reasons for your answer.  * I would be ok with it if all parties are okay with it as well & if the customer doesn’t get any extra charges for it.   **QUESTION 3 – PONZI AND PYRAMID SCHEMES**  **CONTEXT:**  This assessment investigates the skills and knowledge required to comply with the protection and lawful use of intellectual property (IP) and to implement relevant organisational ethics and privacy policies. Moral infringement can sometimes be punished by large fines and very long prison sentences.  This is a true case:  *Bernie Madoff is a former American stockbroker who orchestrated the biggest Ponzi scheme in history, and also one of the largest accounting scandals. Madoff ran Bernard L. Madoff Investment Securities LLC. After the 2008 financial crisis, it was discovered that Madoff had tricked investors out of over $64.8 billion. Madoff, his accountant, David Friehling, and second in command, Frank DiPascalli, were all convicted of the charges filed against them. The former stockbroker received a prison sentence of 150 years and was also ordered to pay $170 billion in restitution.*   1. What is a Ponzi scheme, give an example?   <https://moneysmart.gov.au/investment-warnings/ponzi-schemes>  A Ponzi scheme is an investment scam that makes existing investors get money from new investors.   1. How did Madoff trick the investors?   <https://en.wikipedia.org/wiki/Madoff_investment_scandal>  His marketing was very good & it looked believable, so investors truly believed that he was reliable in which he technically was, but his connections were what helped with his downfall.   1. What is a pyramid sales scheme, give an example?   <https://en.wikipedia.org/wiki/Pyramid_scheme#:~:text=In%202003%2C%20the%20United%20States,internet%20mail%2C%20and%20that%20the>  Pyramid sales scheme customers would pay a registration fee to join a program to sell products & get more people to join the scheme so they can get paid as well.   1. Why are Ponzi and Pyramid sales schemes illegal?   They are illegal because they scam people of their money & don’t give it back. They also make people think that they will get an investment or that their money is going to a good cause.   1. Is there an argument that people who are fooled by these schemes through their own greed deserve to lose their money? Give reasons for your opinion.   No, because they don’t even know what they are doing & most of the time it would be when they are going through hardship so it is hard to look into it before it is too late.  **QUESTION 4 - DEFENCE OF PARODY - “It was just a joke”**  **CONTEXT:**  This assessment investigates the skills and knowledge required to comply with the protection and lawful use of intellectual property (IP) and to implement relevant organisational ethics and privacy policies. Is “it was just a joke” ever a defence against infringement?  **CASE 1 - In 2007, the high-end signature hand-bag and luggage maker, Louis Vuitton Malletier, lost an outrageous copyright infringement case against comedy fashion company Haute Diggity Dog.**  The comedy designers had released a line of parody products named Chewy Vuitton, to go along with other memorable knock-offs such as Chewnel No.5 and Sniffany & Co.  Remarkably, the U.S Court of Appeals ruled against the claim of copyright breach, stating that because of the element of parody, the products were adequately differentiated and unique, thereby negating any copyright or trademark infringement.   1. What is your opinion on the above case? Give reasons for your ideas.   Well, it being a ‘parody’ make it a joke or compliment, it also is a play on words for the naming.   1. Without the original famous product the parody does not work, so do you think Haute Diggity Dog should have paid Louis Vuitton for use of their brand name in their parody?   No, because it is a parody that is making a compliment to the original as well as doing a play on words.  **CASE 2 - S. Victor Whitmill v. Warner Bros. Entertainment Inc.** In the recent movie *The Hangover Part II*, Stu Price, a strait-laced dentist, wakes up after a night of debauchery in Bangkok to find a tribal tattoo wrapped around his left eye. The tattoo is identical to the one Mike Tyson has, and it alludes to the boxer’s cameo in the original 2009 movie*The Hangover*.  Tyson’s tattoo artist S. Victor Whitmill filed a lawsuit against Warner Bros. Entertainment on April 28, just weeks before the movie’s May 26 opening. He had obtained a copyright for the eight-year-old “artwork on 3-D” on April 19. He claimed that the use of his design in the movie and in advertisements without his consent was copyright infringement. Warner Bros., saw it as a parody falling under “fair use.”  On May 24, 2011 Chief Judge Catherine D. Perry of the United States District Court for the Eastern District of Missouri denied an injunction on the movie’s release but said Whitmill still had a case. If it meant avoiding a long trial, Warner Bros. said, in early June, that it would be willing to “digitally alter the film to substitute a different tattoo on Ed Helms’s face” when the movie is released on home video. But that ending was avoided on June 17, when Warner Bros. and Whitmill hashed out an agreement of undisclosed terms.   1. Do you think the tattoo design was fair use as a parody?   Yes, because it was a reference to Mike Tyson being in the first move   1. What should Warner Bros. have done about using the very recognizable Tyson tattoo?   They should have asked if they could use it as a cameo.   1. Digitally altering a film would cost a lot of money. How much do you think is fair payment for use of the tattoo?   Whatever the artists believe is fair.  **CASE 3 - Campbell v. Acuff-Rose Music, Inc.**  “Weird Al” Yankovic has a policy of writing a parody of a song only if he gets permission from the artist. In the late 1980s, the rap group 2 Live Crew attempted to play by the same rules. Luther Campbell, one of the group members, changed the refrain of Roy Orbison’s hit “Oh, Pretty Woman” from “pretty woman” to “big hairy woman,” “baldheaded woman” and “two-timin’ woman.” 2 Live Crew’s manager sent the bawdy lyrics and a recording of the song to Acuff-Rose Music Inc., which owned the rights to Orbison’s music, and noted that the group would credit the original song and pay a fee for the ability to riff off of it. Acuff-Rose objected, but 2 Live Crew included the parody, titled “Pretty Woman,” on its 1989 album “As Clean as They Wanna Be” anyway.  Acuff-Rose Music Inc. cried copyright infringement. The case went to the Supreme Court, which, in so many words, said, lighten up. “Parody, or in any event its comment, necessarily springs from recognizable allusion to its object through distorted imitation,” wrote Justice David Souter. “Its art lies in the tension between a known original and its parodic twin.”   1. Why do you think the music industry has so much IP theft and infringement?   I think it has so much because music is a type of common language that almost everyone can connect with so people like DJs & remixers like to make alterations or take parts of other songs to use for themselves.   1. Is sampling by DJs and artists IP infringement?... What is the legal situation regarding sampling?   It can be, especially if it takes more than a set amount from the original like more than 10% unless they are referencing the original. In most cases in the music industry, they like to share but they need to at least ask for permission from the original artist.  **QUESTION 5 – PLAGIARISM – Blatant copying**  **CASE 4 - Men At Work have been ordered to pay 5 per cent of royalties for plagiarizing part of their 1980s hit Down Under.**  In February the Federal Court ruled the iconic Aussie band plagiarized part of the song, which was penned in 1979 but only achieved worldwide success after a flute riff was introduced to the track two years later.  Larrikin Music said the band stole the riff from the children's song Kookaburra Sits in The Old Gum Tree.  Kookaburra Sits In The Old Gum Tree was written by Melbourne teacher Marion Sinclair for a Girl Guides jamboree in 1934 and has been sung by generations of Australian children ever since.  Larrikin owns the rights to the song and had been seeking up to 60 per cent of Down Under's profits as compensation.  The Federal Court was told that Men at Work's Business As Usual album, on which the song appears, had achieved huge commercial success both in Australia and overseas.  Today Justice Peter Jacobsen described Larrikin's compensation request as "excessive, over-reaching and unrealistic".  "Although the quotation from Kookaburra in the 1981 recording is - in my view - sufficient to constitute an infringement of copyright, other factors are to be taken into account in assessing the percentage interest payable in a hypothetical licensing bargain," he said.  Justice Jacobsen ordered Men At Work front man Colin Hay, fellow songwriter Ron Strykert and EMI to pay Larrikin 5 per cent of future profits, as well as royalties dating back to 2002.  <https://en.wikipedia.org/wiki/Down_Under_(song)>   1. What are your opinions on the fairness of the case above?   I think it is fair that it became 5% of future profits because of the copyright breach.  Marion Sinclair said that the song came to her from above and that she did not own it.  COLIN Hay has revealed that he believes the stress from the copyright case over Men at Work’s Down  Under contributed to the death of both his father Jim and bandmate Greg Ham.  <https://www.news.com.au/entertainment/music/men-at-works-colin-hay-says-down-under-lawsuit-contributed-to-death-of-his-dad-and-bandmate/news-story/db47d17797386c960b7a7737974ea1ce>   1. Do you think that these extra facts in any way change the ethics and morality of the Colin Hay case (*Larrikin Music Publishing Pty Ltd v EMI Songs Australia Pty Limited)* ?   Yes, because the original artist for Kookaburra was not bothered about it when she heard Down Under because she didn’t express any great interest in any propriety of Kookaburra. Larrikin bought it from Sinclair’s estate & wanted 60% of the profits of Down Under when there is just a few seconds of the flute of Kookaburra when he filed the lawsuit.   1. The music industry has many examples of infringement. Find, document, and comment on another example case of plagiarism in the music industry   An American Blues Legend, Willie Dixon sued Led Zeppelin because of uncanny similarities between Zeppelin’s songs ‘Bring It On Home’ & ‘Whole Lotta Love’ to Dixon’s songs ‘Bring It On Home’ & ‘You Need Love’. In both cases, the artists reached an agreement out of court for an undisclosed amount in damages & the including of Dixon’s name in songwriting credits.  Reference: [The Most Famous Music Copyright Infringement Cases (donotpay.com)](https://donotpay.com/learn/music-copyright-infringement-cases/)  **CASE 5 – THE ABORIGINAL FLAG**  Originally a protest flag, it's now recognised as the dominant symbol of Australia's Aboriginal people and is an official flag of the country.  WAM Clothing was granted the exclusive use of the Aboriginal flag on clothing, physical and digital media by its designer and copyright holder, the Luritja artist Harold Thomas, in November 2018.  Some Aboriginal people have been ordered to stop using the flag.  “How can one person or business have a monopoly over it? The flag belongs to all Aboriginal people. Why do they have to pay for it? It's a symbol of our people's survival. Many of us don't identify with the Australian flag because for us it represents colonisation and invasion." Gunditjmara woman Laura Thompson told the BBC at the time.  WAM Clothing has since offered Ms Thompson free use of the flag, but she refused, incensed by what she saw as a non-Aboriginal company seeking to profit from Aboriginal identity.  Community anger has also escalated over reports that one of WAM Clothing's owners was previously involved in a business which sold fake Aboriginal art.  Few people know that the flag is constrained by copyright laws.  Currently, Aboriginal groups must pay a non-Aboriginal-run business to reproduce the flag on cloth, clothing and merchandise.  The situation has angered many people. Indigenous MP Linda Burney - who has the flag tattooed on her arm - has declared the symbol is being "held hostage".  Amid increasing pressure, Australia's government is now reported to be considering taking over the copyright, but it faces complex legal and cultural issues.  <https://www.bbc.com/news/world-australia-49315063>  <https://www.worldtrademarkreview.com/brand-management/tale-two-flags>   1. What are the moral and ethical issues involved in this case?   Well, it makes people have trouble with even using the flag for commercial use, but it is okay for people to use it for non-commercial, so it is a bit confusing for people to know when it is okay & when it is not okay. The artist of the flag can do what he is doing with the flag, but the people get the impression that it is being held against them instead of being a symbol of who they are.  Use google with appropriate keyword search to find out the answers to the following questions.   1. Can you legally fly a pirate flag?   Not really because ships flying a foreign flag may be detained & inspected by warships or civil service ships.  Reference: <https://www.yachting.com/en-gb/news/what-flags-to-fly-where-to-put-them-on-your-boat#:~:text=Can%20I%20fly%20a%20pirate,even%20on%20the%20high%20seas>.   1. Can you legally make a shopping bag out of the American flag?   No because you can’t have the flag on anything on wearing apparel, bedding, or drapery. It should never be used for receiving, *holding, carrying*, or delivering anything.  Reference: <https://magazine.promomarketing.com/article/theres-no-law-u-s-flag-merchandise/>   1. What else can you find out about this case and any similar flag copyright case?   You can’t use any flag for clothing unless you get permission to do so.  **QUESTION 6 – NON-DISCLOSURE AGREEMENT (NDA)**   1. What is an NDA? discuss a real example.   A NDA is an enforceable contract that ensures confidentiality & protects sensitive information shared between parties.  Reference: <https://www.lawdepot.com/au/non-disclosure-agreement/>  Employment form are a form of NDA.   1. What are the ethical considerations in a Non-Disclosure Agreement (NDA) and IP Contract?   They are to protect an individual’s data &or a groups data (e.g., compony, indie team).   1. Review, analyse and comment on South Metropolitan TAFEs Copyright Policy and non-disclosure agreements.   I think it is all okay & a good use.   1. Examine occurrence and consequences of ethical infringement cases involving an NDA. Give two example cases.   If you shared another party’s confidential information & you signed a NDA then they can take legal action against you.  An NDA can detail the remedies of breaching a contract. An example is that it can state an amount of money that the receiving party must pay if they disclose the confidential information, or damages are not adequate remedy & that the disclosing party will be entitled to an injunction to prevent any further misuse of the information.  An example of a lawsuit the at the disclosing party can file are:   * Copyright infringement: The use of intellectual property without permission. * Misappropriation of trade secrets: The wrongful use of a trade secret. * Conversation: International interference with someone’s personal property   Reference: <https://www.lawdepot.com/au/non-disclosure-agreement/>  *You must include references to all information, video and picture sources. If your work is not referenced, it will be considered as PLAGIARISM.* |