



Competition Law Association

British Group of the
Ligue Internationale du Droit de la Concurrence
(International League for Competition Law)

www.competitionlawassociation.org.uk

GOLDING ESSAY PRIZE 2013

The CLA is offering a prize of £1000 to be awarded for an essay submitted by a student, trainee solicitor, pupil barrister, devil barrister (from Scotland) or trainee patent and trade mark attorney on the following topic:

Is there a role for Euro-defences following *Sun v M-Tech*?

Should there be a role for Euro-defences to intellectual property infringement and, if so, when?

A trade mark gives the proprietor the exclusive right to control the first marketing of goods bearing the mark in the EEA. In the recent case of Oracle v M-Tech Data Limited [2012] UKSC 27, the Supreme Court was asked to consider the relationship between that right and the treaty provisions relating to the free movement of goods (Arts 34-6 TFEU) and competition law (Art 101 TFEU). It is settled law that there are circumstances in which anti-competitive agreements can render intellectual property rights unenforceable, as recognised by the Court of Justice in Cases C-40/70, Sirena and C-144/81, Keurkoop. The Supreme Court, however, held that the unlawful conduct alleged by M-Tech was collateral to the monopoly that the claimant was seeking to enforce and therefore that its particular Euro defences could not succeed. But how far does the impact of the decision extend, does it apply to all intellectual property rights, is it correct, and what are the principles that should be applied (a) at a preliminary stage and (b) at trial?

The essay shall be of a maximum length of 5000 words (inclusive of footnotes) and the

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| OTHER COMMITTEE MEMBERS: | Euan Burrows, Kim Dietzel, Bruce Kilpatrick, Nathalie Lobel-Lastmann, Munesh Mahtani, Christopher Morcom QC, Giles Pratt, Nicholas Saunders, Christopher Stothers, Irina von Wiese | |

closing date for submission of entries is 28 February 2013. Entries should be formatted on A4 in at least 11 point font and 1.5 spacing with footnotes at the bottom of the page, and submitted in electronic form to the CLA secretary, Sharon Horwitz at sharon.horwitz@ofcom.org.uk.

Entrants should please place a codeword instead of their real name on the essay and include both the codeword and real name, with confirmation that the author satisfies the entry qualifications, in the covering e-mail.

Those already qualified as lawyers whether in the United Kingdom or a foreign jurisdiction are not eligible for the prize and the entry qualifications apply as at 28 February 2013.

The panel of judges will be:

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|---------------------------|--------------------------|
| James Flynn QC (Chairman) | Brick Court Chambers |
| George Peretz | Monckton Chambers |
| Christopher Stothers | Arnold & Porter (UK) LLP |

The decision of the judges is final and the CLA reserves the right not to award the prize if the judges consider that no entry is of a sufficiently high standard or to divide the prize between two or more entries if the judges so decide.

The CLA encourages all entrants to consider submitting their entries for publication, and may lend support to the submission of the winning entry. The winning entry must only be published if it is identified on publication as having won CLA's Golding Essay Prize. All entrants agree not to submit their entries for publication until after the judges have announced their decision.

With kind regards

Sharon Horwitz
Secretary

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