



9TH KIIT INTRA MOOT COURT COMPETITION

(KIMCC), 2017

Organised by:-

KIIT Law School Moot Court Society

School of Law, KIIT University.

Conducted on: March 4th- 5th, 2017 (Moot Proposition 1)

March 11th- 12th, 2017 (Moot Proposition 2)

KIMCC BROCHURE

1. MOOT PROPOSITION I
2. MOOT PROPOSITION II
3. THE KIMCC RULES, 2017
4. THE TIMELINE
5. THE REGISTRATION FORM

MOOT PROPOSITION I (For 1st and 2nd years)

1. Delsey Leather (hereinafter called as DLC) is a private limited company, headquarters in Kanpur and primarily engaged in the business of manufacturing of leather products. It carries on business mainly of manufacture of leather products. The Company does not engage in retail/direct sales of its products and participates only in the manufacture and sale of such manufactured products to other marketing entities, like Excel Leather, who sells the products under the latter's trade/business name to the latter's customers. The proceeds from the sale of the retail products forms part of the revenues/ profits of the marketing entity.
2. DLC, in a bid to internalise/cut cost and build internal competency, decided to float a separate division in the company for dealing in leather technology, which till date was outsourced to a third party.
3. However, given the fact that not many of its competitors having similar business models had not yet internalised such procedures, DLC was concerned that there would be high risk of attrition/ employee poaching by rival business organizations, given the fact that investments were costly, skilled workers were few, and the economic viability of such technology was high.
4. DLC feared that once it floated a separate division, it would incur huge costs for the required establishment, overhead, training of personnel, and likewise. If any such personnel would have left DLC immediately after being trained, without giving DLC the opportunity of utilising their trained skill for its own product/ processes, the Company would end up incurring huge losses as it would not be able to have a return on its investments.
5. To address this concern of theirs, DLC developed a scheme where they would induct fresh graduates as interns, provide them the requisite training, and then build their expertise by absorbing them as employees and giving them hands-on experience in this matter, where they would be required to work in close association and coordination with the other divisions of the company and also third party vendors, as applicable. However, they would consider only such graduates who would, apart from possessing the necessary merit and attitude, agree to successfully complete the mandatory three year training period, and serve the company for a further period of five years, which the Company considered was a necessary and reasonable period for building proficiency in the use and application of the technology as a part of the total work environment.

6. The Company has inducted the following terms and conditions in the offer letter of traineeship which it has started extending to several fresh inductees-

(a) That the trainee shall serve the company for a term of five years from the date of his/her joining the duties after successful completion of the traineeship period of three years, at a remuneration of Rupees 20,000 per month, and after completion of three years, salary of Rupees 40,000 per month, in addition to other benefits and facilities as extended by the Company.

(b) That in the event of the trainee's work being found satisfactory, during the traineeship period, he/she shall be entitled to retain his services for a period of seven years after the expiry of the training period of three years, in the post of an Assistant Leather Goods Technician

(c) That the trainee during the continuance of his/her employment shall well and diligently, according to the best of his/her ability, employ himself/herself in the service of DLC and shall obey the orders of DLC in all respects. He/she shall conform to and comply with the directions and regulations given and made by DLC and shall well and faithfully serve the company and use the utmost of his endeavour to promote its interest and shall not divulge nor communicate to any person or persons whatsoever any information which he may receive or obtain in relation to the affairs of company. He shall not wilfully absent himself from the duty at any time without the sanction of the company. The trainee shall not give his services or advice to any other person or company whomsoever, nor become interested nor engaged in any enterprise or undertaking either alone or jointly with other or any other in any business or trade during the apprenticeship period of three years and after joining as Assistant Leather Goods Technician;

(d) That the company shall be entitled to terminate the services of the trainee without notice on account of either of the following events, if the trainee shall at any time wilfully disobey or be found unable to perform or comply with all lawful instructions given to him by DLC or if he fails to observe proper discipline, or if he fails to carry out the conditions and stipulations of the agreement, or if he be considered guilty of neglect of duty, insobriety, dishonesty, insubordination, fraud, or other indiscretion or any offence under the law of the country irrespective of the fact whether the said agreement period would have expired or not.

(e) If the trainee fails to perform his duties to the satisfaction and approval of DLC they shall have the absolute discretion in deciding whether the services of the trainee are satisfactory or not. In the event of the Company terminating the Agreement under this clause, the Assistant Leather Goods Technician shall have no claim whatsoever against the Company."

7. Mr. Sahil Kumar had applied for and selected to join as a trainee under the said scheme, after having duly considered all the terms and conditions in the offer of traineeship. He joined as a trainee and he was posted in the factory located in Kanpur. He started his training in leather manufacture and was given full facilities to learn the technicalities thereof and to get specialised knowledge and experience therein. Sahil received special training in design conceptualization and range building by reason of his association with the factory located in Kanpur for a period of two years continuously. Sahil applied for leave on ground of illness from DLC. Thereafter he did not resume his duties and applied for further leave from time to time. Sahil wrote a letter to DLC after a period of 6 months requesting DLC to terminate his services.
8. Though Excel was a marketing entity of finished goods procured from companies like DLC, and it cannot be said that Excel and DLC were business rivals in the strict sense, yet they had a link in trade. Furthermore, Excel was also looking at expanding its business in newer and viable areas, in pursuance of which they decided to spinoff a subsidiary named Excel Leather Technologies Ltd. (ELT), in which Excel was the majority shareholder holding 81% share capital, and which was strictly focused on developing leather technology for use by third parties on commercial basis.
9. ELT extended an offer to Mr. Sahil to join their organization as Deputy Manager – Leather Technology, also offering a significant rise in the perquisite and remuneration which were earlier offered to him at DLC. Mr. Sahil promptly decided to take the offer of appointment and joined the services of the new company with immediate effect.
10. On coming to know about this subsequent employment, the concerned official of DLC wrote to the concerned representative at ELT to immediately terminate Sahil's employment as it resulted in breach of Sahil's contractual commitments to DLC, and that by continuing Sahil's employment, ELT would be held liable for contributing and promoting the breach of the earlier contract, to which ELT rebutted that it was not a party to the original contract and that it is not bound by its obligations.

11. DLC issued a final letter to ELT stating that despite not being a party to the contract, it is in the position of a beneficiary of the breach, as it is the entity likely to benefit the most from the expertise and knowledge gained by Sahil, and on the basis of which ELT had extended the offer of appointment to him. DLC also stated that if ELT did not terminate the appointment of Sahil within a week from the receipt of the letter, they would initiate appropriate action before appropriate forum.

DLC has instituted a suit against M/s Excel Ltd., M/s ELT and Mr. Sahil Kumar as co-defendants. The Court has framed the following issues for deliberation, and the Counsel of both the parties is directed to present the submission on the following issues:

1. Is the said agreement between DLC and Sahil unreasonable, being in total restraint of trade and against public policy?
2. If unreasonable, whether the breach of the contract by Sahil is actionable and to what extent?
3. Is ELT liable to be pleaded as a co-defendant, despite not being privy to the contract between DLC and Sahil?
4. Is Excel liable to be pleaded as a co-defendant, being the parent and majority shareholder of ELT, and having competitive nexus with DLC?

Note: Participants are free to frame additional issues on their own, which they can support on the basis of the above facts and legal principles.

MOOT PROPOSITION II (For 3rd years and above)

1. Raman Sundar, a Hindu hails from Bengaluru. He is a scientist by profession. After completing his Ph.D. from India, he went to Texas in the United States of America. He joined as a research fellow in a prestigious university in Texas. Owing to his academic brilliance, he soon rose through the ranks in the University and this helped him secure a US citizenship.
2. Saritha Paramshetti is a Hindu born in Mysuru, India hailing from a traditional conservative family and the only issue of well-off parents and is a software engineer by profession.
3. Raman and Saritha got married on 12th June 1999 with the blessings of their parents and spent the next three months in India. Soon after, they left for USA. She subsequently acquired the citizenship of USA.
4. Out of this marriage they had two children, one son and one daughter, Nirmal and Meghana. Nirmal was born in 2001 and Meghana in 2005. Both were born in USA.
5. By June 2010 the marital relationship between Raman and Saritha started deteriorating. The children, who were schooling in Texas, could feel the alienation of their father. Though Raman did not disclose any particular reason for discord, he started drinking and in his inebriated condition would ill-treat Saritha. He would frequently abuse her verbally and often also verbally abuse her parents. She suffered it silently for the sake of saving the marriage.
6. In October 2014 Raman, Saritha and their two children came to Mysuru to celebrate Dussehra. Raman stayed in India for a week and left for USA because of work constraints. Saritha and the children stayed back in Mysuru at her parents' place.
7. During her stay, the parents found Saritha to be mostly dull and dejected and anxiously enquired as to her well-being. Saritha revealed her plight and expressed her fear that her relationship with Raman could not be continued for long as she and her children could not suffer any longer.
8. After much thought and consultation with the Parents, Saritha decided to stay back along with the children in Mysuru for some time and wait for the response of Raman and then decide the future course of action.

9. She mailed Raman saying that she and children prefer to stay back in Mysuru and they will return only if he assured them of good behavior and proper treatment of Saritha and the children. Raman, who was apparently taken by surprise at the turn of events, returned within a month to India and apologized to Saritha and requested them to return with him to USA.

10. Soon after returning, Raman went back to his usual behavior and consequently Saritha and children flew back to Mysuru in April, 2015. Subsequently, in June Saritha arranged for the admission of the children in a school in Mysuru. Their schooling was a priority for Saritha and in order to catch up with local language required for schooling she arranged tuitions for the children.

11. In due course, Saritha decided to put an end to her marital relationship with Raman. She consulted a local lawyer and filed a petition for divorce in the Family Court at Mysuru in August, 2015. The Court ordered for issue of notice to Raman.

12. During the same period, Raman sensing that legal action would be taken, consulted a lawyer in Texas and filed a petition for the custody of his children. He contended that the children are US Citizens and it would be his legal right to be their guardian during their minority and it would be in the interest of children to be educated in USA under his care and custody. He further pleaded that the withdrawal of matrimonial company by Saritha was without any justification and also filed a petition for restitution of conjugal rights in a US Court against Saritha.

13. Raman secured an order from the US Court for the custody of children and it was ordered to be served in India to Saritha. Saritha, who received the order of US court, did not obey it. In October 2015, Raman therefore moved the Karnataka High Court at Bengaluru for an appropriate Writ to be issued to police department to hand over custody of children to him in compliance with the order passed by the US Court. Saritha contested the said Writ Petition, and pleaded that the order of US Court was passed without giving her an opportunity to be heard and hence not binding on her. She also contended that she is the rightful guardian of the children in India and hence guardianship of the children should not be handed over to her husband in USA. Simultaneously she moved to the Family Court at Mysuru for an order to allow her to retain custody of her children. This was moved as an interim application in the divorce petition filed by her. Pursuantly, the Family Court issued emergency notice to Raman.

14. In view of the contention raised by her husband in the Family Court to the effect that he has right to custody of children even under Indian law, Saritha was advised to challenge the very law as being opposed to Constitution of India. Hence she filed a Writ Petition challenging validity of Sec.19 [b] of Guardians and Wards Act, 1890 and Sec.6 [a] of Hindu Minority & Guardianship Act 1956. Raman contested the same.

15. The High Court of Karnataka heard both the parties and held on 4th December 2015, that the father is natural guardian of minors and the order of US court has to be enforced in India, because that court which had otherwise jurisdiction over citizens of USA could pass such order. As regards the claim of Saritha regarding custody of the children, the High Court held that the matter is still pending at the stage of her application in the Family Court. As to the Writ Petition challenging the provisions of the two afore-mentioned statutes recognizing father as guardian of children, the High Court held that they do not violate any provision of Constitution of India.

16. Saritha now approaches the Supreme Court of India, challenging the judgment passed by Karnataka High Court concerning the validity of the afore-mentioned enactments and also the scope of obedience in India to the order passed by the US Court, and further her right as guardian of the children was re-agitated on her behalf in the Supreme Court of India. Raman contested that the Karnataka High Court order was valid. Pursuant to the notice sent in this regard, the Union of India also defended the constitutionality of the impugned provisions.

17. Upon preliminary hearing, the Supreme Court framed the following issues:

- a. Whether the divorce petition and particularly the interim application for the custody of the children filed by Saritha in the Family Court at Mysuru are maintainable?
- b. Whether the order of the US Court is enforceable in India?
- c. Whether Sec.19 [b] of the Guardians and Wards Act, 1890 and Sec.6 [a] of the Hindu Minority and Guardianship Act 1956 are constitutionally valid?

Note: Participants are free to frame additional issues on their own, which they can support on the basis of the above facts and legal principles.

KIMCC RULES & PROCEDURE

A. TEAM COMPOSITION

1. Each team shall consist of three members, comprising of two speakers and one researcher.
2. Any alteration in the names of the team members shall be informed through e-mail before last date of registration i.e. **20th January, 2017** at kimcc2017@gmail.com. However any such alteration shall be permitted **only once**.

B. PARTICIPATION AND REGISTRATION PROCEDURE

1. Interested teams should register their team by submitting attached Registration Form to Mrs. Pratiti Nayak, Asst. Professor (Faculty Convenor) or Prasenjit Ghosh (Student Joint Convenor) before **20th January, 2017, 5:00 PM**.
2. The Moot Propositions are divided into two, the first Moot Proposition (“MOOT PROPOSITION I”) is for the first and the second year teams and the second Moot Proposition (“MOOT PROPOSITION II”) is for the third, fourth and the fifth year teams.
3. The Top 20 participants of the MOOT PROPOSITION I shall be allotted the National Moot Court Competitions from the list mentioned in the Annexure A. The top 20 participants of the MOOT PROPOSITION II shall be allotted the National Moot Court Competitions from the list mentioned in the Annexure B.
4. **In case a team wherein the participants are either from 1st year,2nd year and 3rd year,4th year,5th year shall be considered to be cross teams. Such cross teams will have a discretion to participate in either of the Moot Court Competitions to be conducted. However the allotment of the moot shall be on the basis of the slot (Moot Proposition I or II) they have chosen during their oral rounds.**
5. Memorial submission is mandatory in order to appear for the oral rounds.
6. No person to person query will be entertained, every query will be entertained through formal email at **kimcc2017@gmail.com**.
7. For further information of dates please refer to the Timeline attached.
8. **Participants are directed not to approach faculty members of KIIT School of Law, for consultation purpose. Violation of this rule would lead to disqualification.**

C. MEMORIAL SUBMISSION GUIDELINES / RULES

The following guidelines for the memorials must be strictly followed. Non compliance will entail penalties as provided below:

1. Teams have to prepare memorials for both the Appellant and the Respondent.
2. Teams shall submit soft copy at kimcc2017@gmail and **4 (four)** hard copies of the memorials for each side (Appellant & Respondent) (**Total 4 X 2 =08 Memorials**) on or before:

2nd March 2017, 5:00 PM for MOOT PROPOSITION I

9th March 2017, 5:00 PM for MOOT PROPOSITION II

to Mrs. Pratiti Nayak (Faculty Convener) in person.

3. The memorials have to be submitted on A4 size paper, printed on only one side, and must contain the following sections.

I.Cover Page;

II.Table of Contents;

III.Index of Authorities;

IV.Statement of Jurisdiction;

V.Statement of Facts;

VI.Statement of Issues;

VII. Statement of Arguments;

VIII.Arguments Advanced

IX.Prayer for Relief

4. The memorials must be printed in Times New Roman 12 font size with 1.5 line spacing. The footnotes must be in Times New Roman 10 font size with 1.0 spacing. And should contain the '**Team Code**' on cover page. (**Top-Right Corner**)
5. The arguments advanced should not exceed 15 pages.
6. The memorials as a whole should not exceed 25 pages including the cover page.
7. The memorials should be covered with a plastic cover or a spiral bound.
8. The memorials should have a margin measuring one inch on all sides of each page.
9. The page numbering should be on the bottom of each page.

10. **The Appellant's memorial cover page shall be printed on Blue Colour A4 size paper, and Respondent's memorial cover page on Red Colour A4 size paper.**
11. The teams have to use the latest edition of Blue Book for citation format throughout the memorial.
12. Footnotes shall contain only the citations. There shall be no speaking footnotes in the memorial.
13. **The maximum scores for the memorial shall be 100 marks. The memorials shall be evaluated on the following criteria** and any non-compliance with above criteria shall result in penalty of 2 marks per missing section.

PARTICULARS MARKS

- | | |
|-----------------------------------|----------|
| 1. Knowledge of Law and Facts | 30 Marks |
| 2. Proper and articulate analysis | 20 Marks |
| 3. Extent and use of Research | 20 Marks |
| 4. Clarity and Organization | 20 Marks |
| 5. Grammar and Style | 10 Marks |

TOTAL 100 Marks

D. ORAL ROUNDS

1. Each team will get a total of 15 minutes to present their case. This time will include rebuttal and sur-rebuttal. Any time exceeding the allotted time shall be penalised. The penalty shall be of 1 marks for every two minutes exceeded. However extension of time is permissible at the discretion of the judges.
2. There shall be two oral rounds per team, presenting both appellant and respondent.
3. The division of time per speaker is left for the discretion of the team subject to a minimum of 5 minutes per speaker.
4. The oral argument should be confined to the issues presented in memorial.
5. The researcher shall be present with the speaker during the oral rounds.
6. Passing of notes/chits to the speaker is not allowed.
7. The participants shall be mandatorily abide by the dress code as per prescribed by the Bar Council of India.

8. Strict Adherence to Court Manners shall be observed by all the participants.

9. Maximum scores for the oral rounds shall be 100 points per speaker.

The oral rounds shall be judged on the following criteria:

PARTICULARS MARKS

1. Knowledge of Law	20 Marks
2. Application of Law to Facts	20 Marks
3. Ingenuity and Ability to Answer	20 Marks
4. Style, Poise, Courtesy and Demeanour	20 Marks
5. Time Management	10 Marks
6. Organization	10 Marks

TOTAL 100 Marks

E. FINALITY OF DECISION

The decision of the judges with regard to the outcome of the rounds shall be final.

F. CLARIFICATIONS

All clarifications regarding the Moot Problem should be sent before 20.01.2016 to **kimcc2017@gmail.com**. No questions/clarifications over phone/ any means other than e-mail shall be entertained.

G. AWARDS

1. Winner –	KIMCC Winner's Trophy & Book Hampers
2. Runner's-up –	KIMCC Runner's up Trophy & Book Hampers
3. 2nd runner's up –	KIMCC 2nd Runner's-up Trophy & Book Hampers
4. Best Memorial –	KIMCC Best Memorial Award & Book Hampers
5. Best Speaker (Male) –	KIMCC Best Speaker Medal & Book Hampers
6. Best Speaker (Female) –	KIMCC Best Speaker Medal & Book Hampers
7. Best Researcher –	KIMCC Best Researcher Medal & Book Hampers

***All the participants would be provided with certificate of participation. Awards shall be separate Moot proposition I & II.**

THE TIMELINE

PARTICULARS	DATE
1. Disclosure of Moot Court Proposition	04-01-2017
2. Last Date of clarification	20-01-2017
3. Last Date of Registration	20-01-2017
4. Release of Clarification	25-01-2017
5. Team Code allotment	30-02-2017
6. Memorial Submission (Both Sides)	
Moot Proposition I	02-03-2017
Moot Proposition II	09-03-2017
7. Researchers Test	
Moot Proposition I	03-03-2017
Moot Proposition II	10-03-2017
8. Party Allotment & Exchange of Memorials	
Moot Proposition I	03-03-2017
Moot Proposition II	10-03-2017
Note: Time shall be notified later.	
9. Oral Rounds	
Moot Proposition I (For the 1 st and 2 nd Years)	
a. Round 1	04-03-2017
b. Round 2	05-03-2017
10. Oral Rounds	
Moot Proposition II (For 3 rd , 4 th & 5 th Years)	
a. Round 1	11-03-2017
b. Round 2	12-03-2017
13. Declaration of Result	27-03-2017
14. Award Function & Prize Distribution	5-04-2017

#Disclaimer: The KLSMCS, hereby reserves the right to add/modify/alter/repeal any of the above mentioned rules, dates and time with notification to the same effect.

ORGANIZING COMMITTEE

Prof. P K Sarkar

Chairman

KLSMCS

Prof. (Dr.) N.K. Chakrabarti

Director

School Of Law

Asst. Prof. Pratiti Nayak

Faculty Convenor

KLSMCS

Ms. Ashna Siddiqui

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“All KLSMCS Faculty and Student Members”

#(All Communications are to be addressed to the below mentioned official e-mail id.)

Email Id: kimcc2017@gmail.com

FOR REGULAR UPDATES

www.facebook.com/ksmcs

REGISTRATION FORM
(TO BE FILLED IN CAPS)
PARTICIPANTS DETAIL

SPEAKER 1

FULL NAME:

ROLL NO & SEMESTER:.....

GENDER:

CONTACT NO:

E- MAIL:

SIGNATURE

SPEAKER 2

FULL NAME:

ROLL NO & SEMESTER:

GENDER:

CONTACT NO:

E- MAIL:

SIGNATURE

RESEARCHER

FULL NAME:

ROLL NO & SEMESTER:

GENDER:

CONTACT NO:

E- MAIL:

SIGNATURE

For Cross- Teams, please select the desired Moot Proposition

MOOT PROPOSITION - I

MOOT PROPOSITION - II

[To be submitted to Ms. Pratiti Nayak (Faculty Convenor) or Prasenjit Ghosh (Student Joint Convenor) on or before 20th January, 2017 in person]