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First National Moot Court Competition 2014

MOOT PROPOSITION NMCC 2014

**COMPETITION MANUAL NMCC 2014 (UPDATED: REGISTRATION
DEADLINE EXTENDED TO NOVEMBER 7, 2014)**



**RAJIV GANDHI SCHOOL OF INTELLECTUAL PROPERTY LAW
INDIAN INSTITUTE OF TECHNOLOGY, KHARAGPUR
THE IIT LAW SCHOOL**

1st IIT LAW SCHOOL NATIONAL MOOT COURT COMPETITION
2014

(14th to 16th November 2014)

MOOT PROPOSITION

I

1. Tempai is a developed country situated in the Northern Hemisphere.
2. Because of the influence of Gamerican culture, the teenagers of Tempai have developed a tendency to get involved in social consumption of alcohol at an early age and as a result a majority of them develop an intestinal cyst, which has to be surgically removed.
3. The Government of Tempai, to promote medical research on these intestinal cysts, had passed an Act in the year 2025 which provided that any patient, who wishes to contribute to the Medical Research in the field of Intestinal cysts, may do so by voluntarily contributing his or her surgically removed intestinal cyst to a depository known as the Tempai Bio Material Depository (TBMD). The TBMD is a research undertaking of the Ministry of Health, Government of Tempai. The Act further provided that any such material voluntarily submitted would become the property of the Government of Tempai.
4. Riki is a teenage boy living with his parents in the suburbs of Tempa, the capital city of Tempai. On his sixteenth birthday, in February 2031, he too developed an intestinal cyst which was surgically removed. Riki, after following the due process, voluntarily submitted the surgically removed cyst to TBMD. The cyst was marked as “Riki’s Cyst” and kept in Incubator No. 9345 at TBMD for proper preservation and storage.
5. In December 2031, because of negligence of Ms. Krit, a medical intern at TBMD, Incubator no. 9345 became contaminated by the Chibola virus, a virus which affects human beings, causing them to sleep for 15 hours a day. Notably TBMD is also conducting research on Chibola virus. Chibola infection is a very rare disease and only four cases had been reported worldwide till date.
6. It was found out that all other samples kept in the Incubator 9345 except “Riki’s cyst” became infected with the Chibola virus. Upon further examination of Riki’s cyst sample by the scientists of TBMD it was found that the cyst was carrying a microbe within its cells. The microbe appeared similar in structure to Valkyrie 007, a microbe occurring naturally in soil, all around the world, but it had slight variations. Valkyrie 007, in its natural habitat, feeds on the humus content of the soil and is known to infect neither plants nor humans. The newly discovered microbe was named as Valkyrie X.

7. Surprisingly, the scientists, upon carrying out further medical examination on Riki, discovered that Riki's entire intestine had been harbouring Valkyrie X microbes which had caused his body to produce antibodies against the Chibola virus. However, the microbes were not causing any harm to Riki but were merely living benignly in the intestine.
8. Riki's case was published in the September 2032 issue of the International Journal of Health and Microbiology under the title: "*New microbes similar to soil microbes forming symbiosis with humans - Neo Evolution?*"
9. To unravel the mystery of the presence of Valkyrie X in Riki's body an investigation committee was constituted under the guidance of Prof. Suzi Wonjung, a senior scientist at TBMD, by the Government of Tempai. Unfortunately, Riki along with his family died in a car crash impending investigation.
10. Following publication of the article in September 2032, Kokichi Enterprise (Kokichi), one of Tempai's largest vaccine and pharmaceutical manufacturers, purchased Riki's cyst sample and all of TBMD's research for 100 Million Dollars for the development of a vaccine.
11. In 2035, there was a sudden massive outbreak of Chibola in the countries belonging to the Northern Hemisphere. To exploit the situation to the fullest, the expertise of Prof. Gogi Jung, a Nobel Laureate, was roped in by Kokichi to develop a vaccine. Within six months, Prof. Jung, developed a vaccine using Valkyrie X isolated from Riki's sample, which was capable of being safely administered to all persons irrespective of their age, race or gender. Kokichi invested about 10 Billion Dollars into this project. For the complete legal protection of its invention, Kokichi obtained patents across many jurisdictions (including Shankhamala).
12. Meanwhile, after successfully completing clinical trials, Kokichi started to sell and distribute the vaccine in the Northern hemisphere. The profit generated by the sales in the Northern Hemisphere approximately ran into hundreds of billions of Dollars.
13. In 2040, an outbreak of Chibola took place in Hazrat, one of the northern island states in the country of Shankhamala (*FIG. 1*). Shankhamala lies in the Southern hemisphere and it

has nine islands where each island has a unique set of flora, fauna and other biological resources. The Government of Shankhamala is similar to that of India and the laws of India are applicable *mutatis mutandis* and are *in pari materia* with the laws of Shankhamala, with any limited exception created within this problem. The only viable method of transport between the islands of Shankhamala is through an advanced ferry system owned and operated by the State.

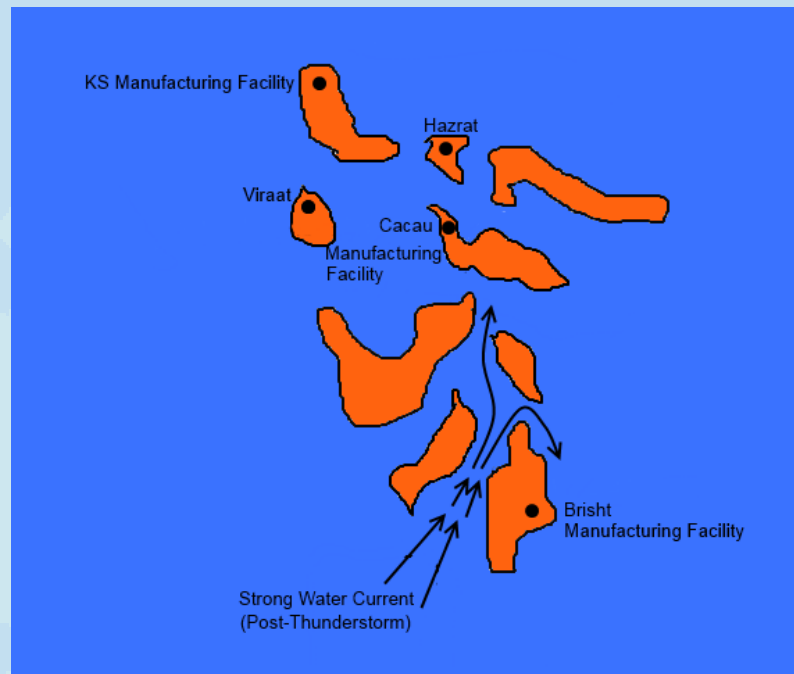


FIG. 1: Political Map of Shankhamala

14. By 2041, the Chibola outbreak had spread to all the islands of Shankhamala, except the island of Viraat, a small island in the North, inhabited exclusively by the Ghasi tribe. Kokichi, having established a presence in Shankhamala through its fully owned subsidiary, has started selling its patented vaccine drug in Shankhamala. The Ghasi tribe are the aboriginals of the island of Viraat.
15. The Ministry of Health, Govt. of Shankhamala, upon investigation found that the Ghasi tribals harness Valkyrie X in their intestine due to which they are immune to the Chibola virus. Further investigation showed that as part of the Tribe's religious rituals, each newborn baby in the tribe is taken to the temple of their chief deity, the Shrine of Seven Monks. Here the baby is administered with a special preparation made by boiling the soil

of the shrine with Ayurtulasi (a herb endemic to the island of Viraat and only one other nation in the Northern hemisphere) for three days, in a traditional vessel. In Viraat, the herb Ayurtulasi is found only on a particular mountain known as Astagiri. The Shrine of Seven Monks is located on the mountain of Astagiri which is sacred to the people of Ghasi tribe.

16. It was also discovered that as a result of this method of making the preparation, radical alterations take place in the Valkyrie 007 microbe and it gets converted into Valkyrie X. Valkyrie X, when taken as part of the preparation, lives in the intestine of the babies and makes them immune to Chibola virus. However, the preparation was found to be unfit for adult consumption, since adults would, without exception, throw up as soon as the preparation is administered to them.
17. The Archaeology Department of Shankhamala preserves in its museum the copy of an ancient manuscript found in the Shrine of Seven Monks in which there is mention of this ritual and an indication of the lifelong positive effect the ritual has on the health and well-being of the members of the Tribe.
18. The Ministry of Health, Government of Shankhamala in an attempt to investigate the link between the commercially available Chibola vaccine and the innate immunity of the Ghasi tribe to Chibola ordered an investigation into the source of Kokichi's Chibola vaccine development programme. The investigation revealed Riki's cyst sample to be the source from which the vaccine was developed. It was also found that Riki's parents were documentary film makers, and in the year 2016 when Riki was born, were visiting Viraat for making a documentary film on the Ghasi tribe and the Shrine of Seven Monks. At the time of his birth, upon the advice of the Tribal Chief of Ghasi Tribe, Riki was taken to the Shrine of the Seven Monks where he had undergone the same ritual.
19. Up conclusion of the investigation, the National Biodiversity Authority (NBA) of Shankhamala ordered Kokichi to share the benefits obtained from the sales of the Chibola vaccine on the grounds that they had accessed the biological resources and the associated traditional knowledge of Shankhamala and have derived commercial benefit from it. Kokichi was asked by the NBA to contribute a percentage of the total benefit from sales of the Chibola vaccine to the National Biodiversity Fund. Moreover, since Kokichi had

failed to seek prior approval before accessing the biological resources and before applying for protection of intellectual property based on research carried out on the biological resource, they had acted in contravention of the provisions of the Shankhamala Biodiversity Act and were therefore ordered by the NBA to deposit a fine of 10 billion Dollars. Aggrieved by the order of National Biodiversity Authority, Kokichi has filed a writ petition in the Supreme Court against NBA's order stating that they have accessed neither the biological resources in Viraat nor the traditional knowledge of the Ghasi Tribe for the development of the vaccine and therefore the imposition of a fine and the order to share benefits are not sustainable.

20. At the time of giving the aforementioned orders, the NBA had also filed a petition for revocation of Kokichi's patent on the Chibola vaccine before the Intellectual Property Appellate Board (IPAB) on grounds of traditional knowledge being non-patentable subject matter and that the invention is anticipated. IPAB had revoked the patent of Kokichi for the vaccine drug for Chibola on the grounds of prior use, obviousness and non-patentability of traditional knowledge. Kokichi has approached the Supreme Court by way of special leave petition to dismiss the order of IPAB. The Supreme Court has admitted the petition for hearing under Article 136, although alternative remedies have not been exhausted.

II

21. Kokichi Shankhamala Pvt. Ltd., (KS) the fully-owned subsidiary of Kokichi Enterprise in Shankhamala, started to manufacture and market the vaccine in Shankhamala. But as the said vaccine needed to be stored at a temperature of -20 degree Celsius, there were problems in successfully introducing the vaccine in the markets of Shankhamala because of a lack of appropriate storage infrastructure and established distribution channels. Subsequently, KS began exploring the possibility of use of a stabilizing agent (also known as stabilizer) in order to increase the shelf life of its vaccines. At the time of KS's first foray into the market, the other companies involved in the manufacture of vaccines in Shankhamala were Anek, Brisht, Cacau and Dhanush.

22. KS entered into a 5-year long cross licensing agreement with Cacau with an option for further extension for a term of 5 years, as part of which Cacau was granted a license to manufacture the Chibola vaccine among many other patented vaccines, and KS was granted the license to manufacture the stabilizers which were the intellectual property of Cacau.

23. KS's vaccine and stabilizer manufacturing units were located on the northernmost island of Shankhamala. Cacau's manufacturing operations were based in an island just above the middle of the group of islands comprising Shankhamala. Brisht, which was now the only other company to be involved in the manufacture of both vaccines as well as stabilizers, carried out its manufacturing operation from the southernmost island of Shankhamala.

24. Cacau is Shankhamala's leading manufacturer of pharmaceutical stabilizers according to market share. It also holds an expansive portfolio of patents related to stabilizers and their process of manufacture. Other Shankhamalan companies which can manufacture stabilizers of the same quality as Cacau include Brisht, Xanado, Yardin and Zavi among others (FIG. 2).

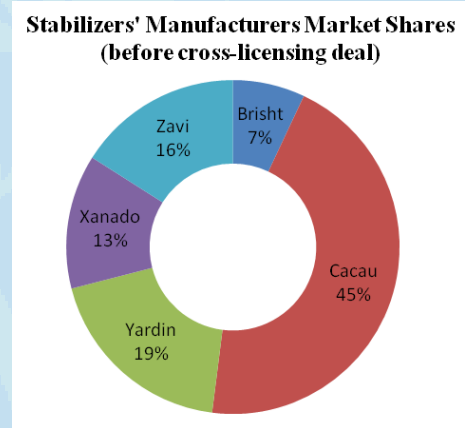


FIG. 2

25. Cacau, owing to its prominent position in the stabilizer market in Shankhamala and an established distribution network, had been the preferred pharmaceutical stabilizer supplier for Anek and Dhanush. However, in the aftermath of the cross-licensing agreement with KS, and its subsequent increase in production of its own vaccines, it did not maintain uniform supply of stabilizers to other vaccine manufacturers.

26. Soon after the cross licensing deal came into effect, Vaccine retail prices across Shankhamala came down by an average of 7% and the availability of the Chibola and other vaccines in southern Shankhamala increased manifold owing to the increased presence of vaccines manufactured by Cacau in that region.

27. The market shares of the various players in the vaccine market in Shankhamala over time are shown in the following diagram (FIG. 3).

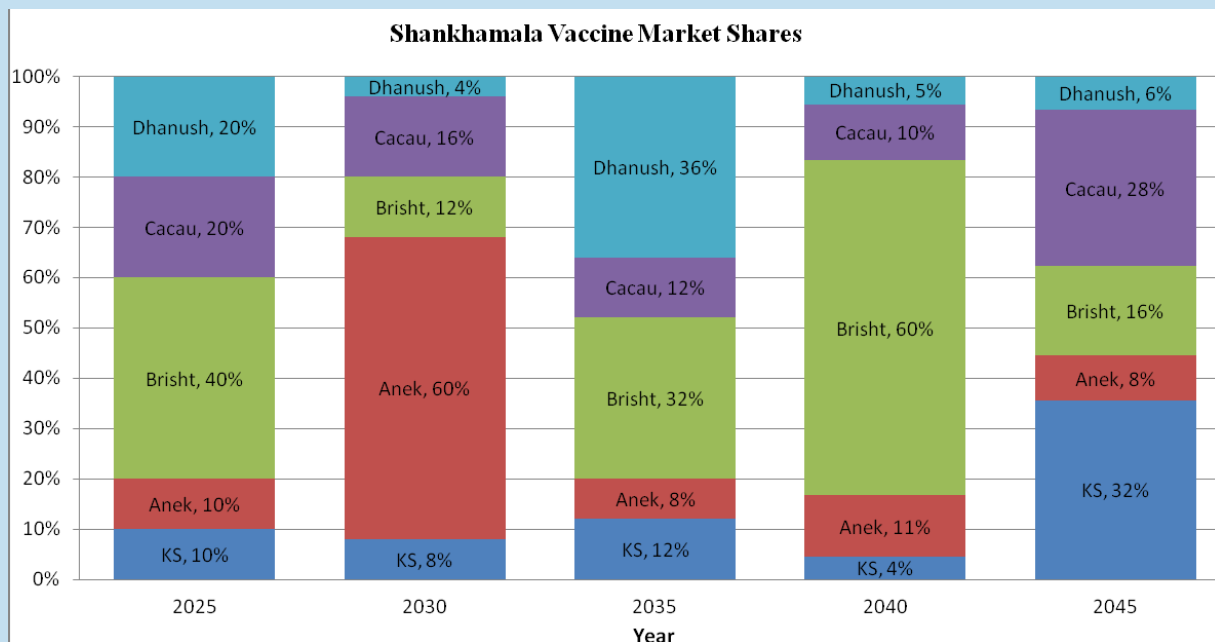


FIG. 3

28. In 2045, due to a powerful thunderstorm and the ensuing strong current near the southernmost island of Shankhamala, the ferry services to the southernmost island became disrupted for about a month. This led to a shortage of supplies including vaccines in the southernmost island during that time. Once services resumed, Brisht, with the aim of expanding its business operations and making the southernmost island self-sufficient in terms of essential vaccines, attempted to negotiate licensing deals with KS as well as Cacau for their respective patents, but the deals fell through because:

- a. An agreement could not be reached regarding the licensing fee and royalties.
- b. Brisht did not agree with Cacau's and KS's condition to price the vaccines within the existing price bracket for Chibola Vaccine.

29. Soon after, in 2046, Brisht filed a complaint with the Competition Commission of Shankhamala (CCS) alleging anticompetitive behaviour and abuse of dominance by KS and Cacau by:

- denying Brisht access to the market,
- refusing to deal with Brisht
- the use of dominant position in one market to enter into another market.
- attempting to control resale prices
- negotiating an Exclusive Supply Agreement between them

30. Upon finding *prima facie* evidence of anticompetitive behaviour and abuse of dominance by KS and Cacau under Sections 3(4) and 4 of the Competition Act of Shankhamala, the CCS directed the Director General (DG) of the CCS to conduct an investigation into the allegations.

31. The DG, upon careful consideration of the evidence, found the alleged companies guilty of anticompetitive behaviour under Sections 3(4) and 4 and submitted his report to the CCS and the Commission agreed with the DG's report in concluding that anticompetitive behaviour had been found to have been committed on the part of the companies.

32. Aggrieved by the order, KS and Cacau appealed before the Competition Appellate Tribunal (COMPAT); however, the COMPAT upheld the order of the Commission and found KS and Cacau guilty of contravening Sections 3(4) and 4 of the Act.

33. As a final recourse against the order of the COMPAT, the aggrieved parties approached the Supreme Court under Section 53T of the Act.

III

34. Meanwhile, in order to improve the quality and effectiveness of the Chibola vaccine, KS applied for the access to the plant Ayurtulasi for research purposes and also to test the

properties of the soil. The NBA of Shankhamala has granted them permission for the access to the plant Ayurtulasi and to undertake research in that area. The access given by the NBA is very limited in nature and many strict conditions have been imposed upon KS in order to protect the biodiversity of the particular region and also to protect the religious practices of the tribal population. Based upon the permission given by the NBA, KS has invested over a hundred million dollars for setting up a state of the art research facility in Viraat.

35. The people of Ghasi tribe however, soon became apprehensive about the decision of the NBA as they believed that access granted to a foreign MNC will spoil the sanctity of the mountain Astagiri and their customs will get disrupted. The Chieftain of the Ghasi tribe has filed a Writ Petition in the Supreme Court stating that the order of the Central Government to grant permission to KS to undertake research in the area in and around the mountain Astagiri will affect their fundamental right to practice and profess religion given in the Constitution of Shankhamala.
36. The Supreme Court of Shankhamala has decided to combine the Writ petitions, the Special Leave Petition and the appeal against the decision of the COMPAT in the interest of justice and equity and speedy resolution of the matter.

The arguments are to be made as follows: 9 51

- a) Writ Petition against order of NBA: KS v. NBA
- b) SLP in appeal against order of IPAB: KS v. NBA
- c) Appeal Under Section 53T of the Competition Act: KS & Cacau v. CCS & Brisht
- d) Writ Petition against order of NBA: Chieftain, Ghasi Tribe v. NBA & Union of Shankhamala



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1st IIT LAW SCHOOL NATIONAL MOOT COURT COMPETITION
2014

(14th to 16th November 2014)

COMPETITION MANUAL

(Rules and Registration Form)

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1. GENERAL

- 1.1. The 1st IIT Law School National Moot Court Competition, 2014 shall be held from **14th to 16th November 2014** at the Rajiv Gandhi School of Intellectual Property Law (IIT Law School), Indian Institute of Technology Kharagpur, West Bengal.
- 1.2. The administrator of the Competition shall be the **Moot Court Committee (MCC)** of Rajiv Gandhi School of Intellectual Property Law IIT Kharagpur.
- 1.3. The Competition shall be conducted in accordance with the rules mentioned hereunder. For the purposes of this competition, it will be presumed that all participants have read and submitted to these rules. The participants are required to comply with the rules and procedures prescribed herein.
- 1.4. **Important dates:**
 - 1.4.1. Soft copies of Registration Form along with soft copies (scanned) of the Demand Draft and Proof of Postage to reach the organizers via Email: 27th October 2014 (11:59 PM).
 - 1.4.2. Confirmation of Team Registration by MCC: 28th October 2014.
 - 1.4.3. Last date for requesting Clarifications about the moot problem (can be made on nmcc2014@rgsoipl.iitkgp.ernet.in) is 27th October 2014 and the Clarifications will be released on 28th October 2014.
 - 1.4.4. Hard Copies of the Registration Form along with the DD to reach the organizers via post: 3rd November 2014
 - 1.4.5. Last date for submission of soft copy of Memorials: 11th November 2014 (11:59 PM).
 - 1.4.6. Dates of Competition: 14th, 15th and 16th November, 2014

2. ELIGIBILITY AND PARTICIPATION

- 2.1. **Team Member Eligibility:** All students currently enrolled in three year or five year LL.B. or LL.M. degree in any Law School/College/University in India, are eligible to participate in the Competition.

- 2.2. **Team Composition:** Each team shall be composed of three (3) members, with two speakers and one researcher. A two (2) member team, in which both the members are speakers, is also eligible. No change in team composition shall be permitted once the registration of the team has been confirmed by the MCC. No additional/observer member shall be entitled to hospitality or certificate.
- 2.3. **Team Selection:** A total of **24 teams** shall be eligible for registration based on **first come first served basis (based on the receipt of the scanned copies of the DD, the duly filled Registration Form and the proof of postage to IIT)**. Only one team per institution is allowed to register in the competition.
- 2.4. The official language, for all purposes of the competition, shall be English only.

3. TEAM REGISTRATION

- 3.1. Each team is required to register by duly filling up the Registration Form provided with the invite for the competition. **The registration form is also provided at the end of this document (page nos. 17 to 19).**
- 3.2. Team members shall clearly fill up the form with correct spelling of each team member's name and other details, as may be required in the registration form. The names entered in the form will be used for all official purposes such as issuing of certificates, etc.
- 3.3. Each team must register through electronic means by sending a scanned copy of the duly filled registration form, the DD and proof of postage of the same (in the form of receipts of Courier, Speed Post, etc.), to nmcc2014@rgsoipl.iitkgp.ernet.in latest by 27th October, 2014.
- 3.4. A hard copy of Registration form duly filled and signed accompanied by the registration fee of Rs. 1000, in the form of a Demand Draft, must be sent to the address mentioned in the registration form. The DD should be made in favour of

CEP STC, IIT KHARAGPUR and should be payable at KHARAGPUR, WEST BENGAL.

- 3.5. **Team Identification Number (TIN)**: Each team shall be allotted a ‘Team Identification Number’ along with the confirmation email and teams shall only use the TIN for their identification at any time after the confirmation. The teams are not allowed to disclose their identity in any manner, other than by referring to their TIN. The TIN shall be used for completing registration formalities and in the Memorial submissions.

4. **WRITTEN SUBMISSIONS**

- 4.1. All Written Submission must comply with the requirements mentioned in this part of the Rules. The teams are required to carefully read and understand the rules mentioned in this part as any failure to abide by these requirements shall be penalized as mentioned under these Rules.
- 4.2. Soft copies of the Memorials for each side must be submitted by 11th November in both *.docx* and *.pdf* formats to nmcc2014@rgsoipl.iitkgp.ernet.in. The subject of the email must be “Memorial for TIN”; for e.g., if TIN allotted is ‘RG15’ the subject should read as ‘Memorial for RG15’.

Each document should be submitted after labeling the header for each page with TIN_A for the Appellant(s)/Petitioner(s) side and TIN_R for the Respondent(s) side.

Example:

योग: कर्मसु कौशलम्

For TIN allotted as ‘RG15’:

- | | | |
|-----------|---|------------------------------------|
| 1) RG15_A | > | (Appellant(s)/Petitioner(s) side), |
| 2) RG15_R | > | (Respondent(s) side). |
- 4.3. Three hard copies of the Memorial must be submitted to the registration desk upon arrival. Teams are required to bring extra copies of Memorials for their own use during oral submission rounds.

The hard copies of the Memorials must bear a cover page in conformity with the following scheme:

Petitioner(s)/Appellant(s): Blue

Respondent(s): Red

The evaluation of Memorial would be done based on the soft copy submitted.

4.4. The Memorial must not contain any disclosure about the team such as name(s) of members of the team or associated organization, any mark, character, text or any other form of identification mark in any part of the Memorial. Such act will attract penalty provision as per these rules and the MCC reserves the right to disqualify the team from the competition upon such act.

4.5. **Content of Memorial:**

4.5.1. The Memorial must necessarily consist of the following sections and no other section is allowed:

- A. Cover Page
- B. Table of Contents
- C. List of Abbreviations
- D. Index of Authorities
- E. Statement of Jurisdiction
- F. Statement of Facts
- G. Issues for Consideration
- H. Summary of Pleadings
- I. Written Submissions
- J. Prayer for reliefs

4.5.2. Cover Page shall necessarily and only have the following details:

- A. Team Identification Number [TIN] on the top right corner of the cover
- B. The name and place of the forum
- C. The relevant legal provision for filing the suit
- D. Name of the parties and their standing (Appellant, Petitioner, Respondent etc.)
- E. Memorial filed on behalf of...
- F. Counsel appearing on behalf of...

4.6. General requirements:

4.6.1. Memorials must strictly adhere to the following general requirements:

- A. All Memorials must be printed in Black and White on standard A4 white paper ONLY.
 - B. The font used must ONLY be Times New Roman, Size 12, with double line spacing.
 - C. The font used in the footnotes must ONLY be Times New Roman, Size 10, with double line spacing. However, the space between consecutive lines of a single footnote may be single spaced, subject to uniformity throughout the Memorial.
 - D. Speaking footnotes are not allowed.
 - E. Illustrative example of an acceptable footnote: *Ax v. By*, AIR 2014 SC 299, 300-301.
 - F. The *Harvard Blue Book* Style of footnoting (19th Edition) must be followed as far as practicable. As far as possible, footnoting must be uniform throughout the Memorial.
 - G. Each page of the Memorial must have a margin of one inch (1”) on all sides. No text must be placed within this margin of the page, other than the page number and the TIN.
- 4.6.2. The Written Submission (pleading) **shall not exceed 6000 words** including footnotes.
- 4.6.3. The MCC shall reserve the right to not evaluate submissions which are not in conformity with the aforementioned rules.
- 4.6.4. No amendments whatsoever shall be permitted to be made to the Memorial after the online submission has been made.
- 4.6.5 The Teams are advised to bring their compendiums/white paper book, the compendium/white paper book should not in any manner disclose the identity of the Participating Institution.

5. EVALUATION OF WRITTEN SUBMISSIONS

- 5.1. Memorial marks will carry one-third (1/3) weightage of the total cumulative marks in the Preliminary Rounds.
- 5.2. Memorials shall be evaluated on the following criteria:

Application and appreciation of facts of the proposition	20 Marks
Identification, structuring and presentation of issues	20 Marks
Application of legal principles, authorities and precedents	20 Marks
Ingenuity and logical reasoning	20 Marks
Lucidity, coherence and written composition of pleadings	10 Marks
Proper footnoting and formatting	10 Marks

- 5.3. Applicable penalties shall be deducted from each of the Memorials after each Memorial has been evaluated. The penalties deducted shall, in no condition, cause the marks to be reduced below two-fifth (2/5) of the maximum marks.
- 5.4. **RESEARCHER'S TEST:** A Researcher's Test shall be conducted at the Venue on 14th November 2014 before the start of the Preliminary Rounds to adjudge the Best Researcher.

6. ORAL SUBMISSIONS

- 6.1 The language of the Court shall be English only.
- 6.2 The time limit for the oral submissions shall be as per the respective rounds for each team.
- 6.3 This shall include the submissions of both the speakers from the team and the time reserved for rebuttal/sur-rebuttal.
- 6.4 The sur-rebuttal shall be limited to the rebuttals made by the opposing team.
- 6.5 The time split between the speakers must be communicated to the bailiff prior to the commencement of each Round.

- 6.6 Teams should adhere to the time restrictions to avoid imposition of penalties. In an event where the judges are of the opinion that a certain exigency does require an extension of time, they may extend the cumulative speaking time for a team by a maximum of five (5) minutes.
- 6.7 There shall be no communication, oral, written or in any other manner whatsoever, between team members seated on the table and the speaker. However, the Researcher is allowed to pass chits to the speaker in an orderly manner without disturbing the decorum of the Court.
- 6.8 **STRUCTURE OF THE ROUNDS** : The oral rounds shall comprise of:
- A. Preliminary Rounds
 - B. Quarter-Final Rounds
 - C. Semi-Final Rounds
 - D. Final Round

A. PRELIMINARY ROUNDS

- A.1. There shall be two Preliminary Rounds. Every team shall be given the opportunity to argue from each side in the Preliminary Rounds the schedule for which shall be determined by a draw of lots.
- A.2. Each team will be given a total of 30 minutes to present their case which includes rebuttal and sur-rebuttal.
- A.3. The division of time between the speakers is at the discretion of the team members, subject to a maximum of 18 minutes for any one speaker. Each team shall indicate to the court-clerk the allocation of its 30 minutes.
- A.4. Each moot shall be decided by the award of a maximum of nine (9) points. Of which a maximum of 3 points can be scored for the memorial scores and maximum of 3 respectively for each of two speakers.

- A.5. If the difference in memorial scores of the teams facing each other is equal to or exceeds seven percent (7%), then three (3) points are to be awarded to the team with the superior memorial scores and if the difference in memorial scores is less than seven percent (7%), then two (2) points are to be awarded to the team with the superior memorial scores and one (1) point is to be awarded to the other team
- A.6. If the difference in speaker scores of the teams facing each other as awarded by each judge in the preliminary round is equal to or exceeds seven percent (7%), then three (3) points are to be awarded to the team with the superior speaker scores and if the difference in speaker scores is less than seven percent (7%), then two (2) points are to be awarded to the team with the superior speaker scores and one (1) point is to be awarded to the other team.
- A.7. If two or more teams have the same number of wins and also the same cumulative points, the team with the higher cumulative oral rounds marks shall be ranked higher.
- A.8. If two or more teams have the same number of wins, the same cumulative points and also the same cumulative oral rounds marks, then the team with the higher gross memorial score, i.e., the score of the memorials without deducting penalties, shall be ranked higher.
- ❖ **The top 8 teams based on the points scored in the Preliminary rounds shall advance to the Quarter-Final Rounds.**

B. QUARTER-FINAL ROUNDS

- B.1. The side to be represented by the qualifying teams shall be determined by a draw of lots.
- B.2. Qualifying teams shall argue only for one side in the Quarter Finals. Each team shall get a total of 35 minutes to present their case. This time will include rebuttal and sur-rebuttal.
- B.3. The division of time between the speakers is at the discretion of the team members, subject to a maximum of 20 minutes for any one speaker. Each team shall indicate the time allocation to the court clerk.
- B.4. The Quarter Final Rounds shall be knockout rounds based on the points awarded by the judges.

❖ **The four winning teams shall advance to the Semi-Final Rounds.**

C. SEMI FINAL ROUNDS

- C.1. The side to be represented by the team shall be determined by a draw of lots.
- C.2. Qualifying team shall argue only for one side in the Semi Finals. Each team shall get a total of 40 minutes to present their case. This time will include rebuttal and sur-rebuttal.
- C.3. The division of time between the speakers is the discretion of the team members, subject to a maximum of 17 minutes for any one speaker. Each team shall indicate to the court-clerk the time allocation.

❖ **On the basis of knock out, 2 teams shall advance to the Finals.**

In case of a tie in any round (other than the Preliminary Rounds), the teams shall advance to the next round on the basis of highest memorial score.

D. FINALS

- D.1. Each team shall get a total of 45 minutes to present their case. This time will include rebuttal and sur-rebuttal.
- D.2. The division of the time is the discretion of the team members, subject to a maximum of 25 minutes for any one speaker. Each team shall indicate to the court–clerk the time allocation.

7. EVALUATION OF THE ORAL SUBMISSIONS

- 7.1. Speaker marks will carry two-third (2/3) weightage of the cumulative marks in the preliminary rounds.
- 7.2. Speaker marks, for the purposes of other Rounds of the Competition shall be utilized as determined elsewhere in these Rules.
- 7.4. The evaluation would be done on the following criteria:

Logical structuring and reasoning	10 Marks
Ingenuity and originality	10 Marks
Marshalling of facts	10 Marks
Articulation of issues	10 Marks
Presentation skills and communication ability	10 Marks
Response to questions posed	10 Marks
Application of legal principles	10 Marks
Use of authorities and precedents	10 Marks
Court etiquettes	05 Marks
Covering all the areas of the problem	05 Marks
Effective rebuttals	10 Marks

(Differently considered in ex-parte rounds, as stated below)

8. EXCHANGE OF MEMORIALS

- 8.1. There shall be an exchange of memorials between the respective opposing teams in accordance with the fixtures as determined by a draw of lots, prior to all the Rounds of the Competition.
- 8.2. The teams are prohibited from making any marks on the exchanged Memorials.
- 8.3. The teams are prohibited from making any copies of the exchanged Memorials.
- 8.4. At the conclusion of their respective Rounds, the teams are required to return the exchanged Memorials to the Bailiffs of the Court.

9. PENALTY

DELAY IN APPEARANCE/PRESENTATION

- 9.1. If a team scheduled to participate in the oral submissions of a Round does not appear for ten (10) minutes after the scheduled commencement of such Round, the other team shall have to make oral submissions ex-parte.
- 9.2. The criteria of rebuttals shall not be considered for evaluation in such cases, in place of which, an average for the same would be given on the basis of the marks scored by such team on the other criteria.

SCOUTING

- 9.3. Scouting by the speakers, researcher or any other person affiliated with a team will lead to immediate disqualification of such team.
- 9.4. Scouting shall be deemed to have happened if any person affiliated with a team is found:
 - a) Witnessing, hearing, observing, etc. the oral submissions in a Round, except where the Round is one in which the team to which he/she is affiliated is participating in; or

b) Reading a Memorial of a team except where:

- 1) It is of the team to which he/she is affiliated; or
- 2) The Memorials have been obtained on account of an exchange of memorials prior to a Round of the team to which he/she is affiliated.

GENERAL PENALTY

- 9.5. Penalty is imposed on the Memorial subject to Rule 5.3.
- 9.6. Failure to include all sections of the memorial (as mentioned in Rule 4.6.1) or the inclusion of an un-enumerated section, shall be penalized with Two (2) marks with each of such section.
- 9.7. Failure to include necessary information on the cover page of the memorial (as provided under Rule 4.6.2), or the use of a colour on the cover page contrary to the scheme mentioned under Rule 4.3 shall be penalized with Two (2) marks for each error.
- 9.8. Disclosure of identity of team or the associated institution as mentioned under Rule 4.4 and 4.6 shall be disqualified.
- 9.9. Delay in submission of Memorial shall be penalized with Two (2) marks on the first day of delay, with one (1) mark per day for every day thereafter, subject to a maximum cumulative penalty of five (5) points.
- 9.10. Substantive legal arguments (explanatory footnotes) outside of the approved sections of the Memorial as mentioned under Rule 4.6.1.D, shall be penalized with Two (1) mark, subject to a maximum cumulative penalty of six (6) marks. Further, such arguments will not be evaluated.
- 9.12. Incorrect Margins (as per Rule 4.6.1.G) shall be penalized with Two (2) marks, being a onetime penalty only.

- 9.13. Exceeding total number pages in the Memorial as mentioned under Rule 4.5.2 shall be penalized with One (1) mark for each extra page.
- 9.14. Improperly prepared structure/format of any of sections mentioned under the Rules shall be penalized with Two (2) marks, being a onetime penalty only.
- 9.15. Any Memorial found with plagiarism shall be subject to deduction up to three-fourth (3/4) of marks awarded towards Memorials, based on the extent of plagiarism.

10. CERTIFICATE OF MERIT

The competition embraces following Certificates of Merit:

- [A]. Winners Trophy
- [B]. Runners-Up Trophy
- [C]. Best Memorial
- [D]. Best Researcher
- [E]. Best Speaker - Preliminary Rounds
- [F]. Best Speaker - Final

The Moot Court Committee may also grant any other Prize/Awards to any participants/teams in the competition.

11. ACCOMODATION AND TRANSPORTATION

- 11.1. Accommodation will be provided for the participating teams within the IIT Kharagpur Campus, starting from the night of 14th November 2014 to the evening of 16th November 2014. Any extra guest shall not be entertained by the MCC.

12. MISCELLANEOUS

- 12.1. If any one of the members of a team is notified or informed of any detail or information concerning the Competition, it shall be deemed as if the said team as a whole has been duly notified or informed.
- 12.2. The copyright in the memorials submitted by the teams shall vest with the Rajiv Gandhi School of Intellectual Property Law, IIT Kharagpur. The acceptance of such vesting is a precondition to participation in the Competition.
- 12.3. In case of any doubt in the understanding or interpretation of any matter concerning the Competition, the decision of the MCC shall be final and binding.
- 12.4. The organisers shall resolve unanticipated or unexpected contingencies, if any, and the decision of the MCC in this regard shall be final. The acceptance of any such decisions of the Competition Administrator is a precondition to participation in the Competition.
- 12.5. The organisers reserve the right to use, amend, alter, vary or change, in any manner whatsoever, the Rules governing the Competition, which would be communicated to the teams within a reasonable period of time.
- 12.6. The teams are expected to reach the Venue by 14 November 2014 at 10:00 AM.

13. VENUE

Rajiv Gandhi School of Intellectual Property Law (RGSOIPL)
Indian Institute of Technology Kharagpur
Kharagpur, West Bengal - 721302

14. CONTACT INFORMATION

For any further information you can send an email to:

nmcc2014@rgsoipl.iitkgp.ernet.in; or contact the undersigned:

	Name	Contact Number
Registration	Manish Kumar	+91 9933947179
	Plabanee Roy	+91 9002271660
Hospitality	Nikhil Rote	+91 8670074856
	Prabha Prasad	+91 9002275607

Moot Court Committee

Registration Arrangements:

Prachi, Abhishek, Sarthak, Vikram, Nikhil, Samriti, Plabanee and Manish

Hospitality- (Travel and Food):

Antriksh, Nikhil, Pulkit, Abhishek, Meghnad, Bhavin, Prabha and Samrat

Itinerary and Judges:

Samriti, Richa, Monali, Shweta, Tanveer, Abhishek and Abhishek

Drafting of Problem:

Rohin. Tanveer, Aroah, Ganesh and Vasudevan

Rules and Regulations Governing the Competition:

Manish, Plabanee, Bhavin and Gunjan

Publicity and Poster:

Samrat, Sachin, Akhshay, Samrat, Antriksh, Trisom and Keshav

Accommodation:

Richa, Gunjan, Pankaj, Jayaganeshan, Meghnad

USE BLOCK LETTERS
SEND IT BACK TO MCC

TEAM REGISTRATION FORM
REGISTRATION FOR PARTICIPANTS:

Information of Participants:

The number of participants in a team May either be three (Two speakers and One researcher) or two (Two Speakers, one of which should also be the researcher).

TEAM REGISTRATION FORM:

Name, address and phone number of the Institution:

Team Member One: The Official Person of Contact for Team

Name of Participant: _____

Age & Gender: _____

Degree and Year/ Semester: _____

Mailing Address: _____

E-Mail: _____

Telephone/Mobile Number: **योग: कर्मसु कौशलम्** _____

Specify (Researcher/Speaker): _____

Date: _____

Signature: _____

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Team Member Two:

Name of Participant: _____

Age & Gender: _____

Degree and Year/ Semester: _____

Mailing Address: _____

E-Mail: _____

Telephone/Mobile Number: _____

Specify (Researcher/Speaker): _____

Date: _____

Signature: _____

Team Member Three:

Name of Participant: _____

Age & Gender: _____

Degree and Year/ Semester: _____

Mailing Address: _____

E-Mail: _____

Telephone/Mobile Number: _____

Specify (Researcher/Speaker): _____

Date: _____

Signature: _____

USE BLOCK LETTERS
SEND IT BACK TO MCC

REGISTRATION FEE

MODE OF PAYMENT: The mode of Payment is through Demand Draft (DD) only.

A Demand Draft of Rs. 1,000/- must be made in favour of “**CEP STC, IIT KHARAGPUR,**” payable at “**Kharagpur, West Bengal**”. Please write the name of the participating Institution and “For NMCC 2014” at the back of the DD. Please fill the following information regarding the DD:

Bank Name:

Demand Draft Number:

Date of Issuance:

Signature and Seal of the Head of Institution

Note: Kindly confirm registration by mailing the Hard Copy of the duly completed registration form along with the Demand Draft. The proof of postage of the same should be sent along with scanned copy of the registration form to nmcc2014@rgsoipl.iitkgp.ernet.in on or before 27th October 2014.

Mailing Address:

Moot Court Committee
Rajiv Gandhi School of Intellectual Property Law
Indian Institute of Technology, Kharagpur
Kharagpur, West Bengal - 701302