

1st Judgment Writing Competition by The Law Communicants

JUDGMENT WRITING COMPETITION, 2021

VIRTUAL EVENT



ORGANISED BY:

THE LAW COMMUNICANTS

**Last Date of Submission
28th February, 2021**

PROPOSITION

Intellectual Property Attorneys Association of Bishcandu v. Union of Bishcandu & NCLAT

Bishcandu is a peninsula with picturesque peaks and awestriking valleys attracting millions of tourists every year. Furthermore, Bishcandu is considered to be one of the fastest growing economies of the world having a huge market potential. A Democracy with Parliamentary form of government and the President as the Head of the State is present. Bishcandu is well-acclaimed for its impartial and powerful judicial systems which always attempts to protect democratic integrity and always upheld people's rights enshrined under its constitution. The Constitution and laws of Bishcandu are *pari materia* to that of India.

In 2012, a patent was granted and published to a Cryogenic Refrigeration System by one Air & Charm company, a foreign company, for a validity period of twenty years as per the Patent laws of Bishcandu. This system claims to relate to cryogenic refrigeration systems, commonly referred to as cryostats, for extreme low-temperature cooling, and has particular application to those cryogenic refrigeration systems utilizing the well known Joule-Thomson effect or cooling cycle. Such apparatus is especially useful in cryo-electronics systems for both fixed ground-station and airborne operations. The company Air & Charm filed Form-27 disclosing the working of patents in Bishcandu for the years 2013 until 2015. The cryogenic refrigeration system developed by Air & Charm had brought novelty and complete difference from industry in the fact that the apparatus developed by them is useful both in ground-station and airborne operations. King & Co a company incorporated under Bishcandu Companies Act has attempted several times to procure a license to manufacture and sell the said apparatus. However, for the years 2013 until 2015 the invention was not worked on ground of 'invention under testing and further development'. In 2015, the license was granted to one Charm Co., a subsidiary of Air & Charm company for distribution in Bishcandu.

The pricing of the apparatus was extremely heavy and remained unaffordable to many laboratories which wanted to test and use them in such projects. Due to this, King & Co saw a lucrative opportunity to procure a license for the same. In pursuance of the same, despite several communications, the same was not possible. King & Co sought to apply for a Compulsory License under Section 84 and applied to the Controller in regard to the same on the grounds that the reasonable requirements of the public are not satisfied on account of non-affordability of the price of the apparatus and the fact that it should be deemed to have not worked in Bishcandu as the working disclosure has not been submitted for the years 2016 and 2017. The Controller of Patents rejected the said argument and held that since there was a

license granted and attempt to work the same, such argument would not be accepted and further directed Air & Charm to file disclosures for 2016 and 2017.

In the meantime, Air & Charm had expanded their areas of operations in Bishcandu. King & Co, a company dealing with commercial and retail refrigerators wanted to know and reverse-engineer the technology that enabled the apparatus developed by Air & Charm to run both on ground and air. Air & Charm entered into licensing agreements with competitors of King & Co to supply refrigerating units of the same and has done so for around three months. King & Co attempted again to enter into a voluntary license agreement with Air & Charm, however, Air & Charm imposed exorbitant royalty rates and excessively high charges. They alleged that terms of agreement were discriminatory, highly unfair and refusal to deal in the same terms as were used in case of its competitors. King & Co filed information under Section 14(1) with the Competition Commission of Bishcandu (CCB) alleging violation of Section 4. CCB ruled that it had no power to issue a compulsory license and such power was reserved with the authorities under Patents Act. King & Co filed an appeal before the NCLAT which issued a compulsory license in favour of King & Co. Air & Charm Co filed a statutory appeal to Supreme Court.

The Intellectual Property Attorneys Association of Bishcandu (IPAAB) filed a petition before the Hon'ble Supreme Court of Bishcandu contending that CCB or NCLAT had no power to issue a compulsory license and the order was *ultra vires*. The Supreme Court clubbed both and posted them for common hearing before a Division Bench. The Division Bench identified certain questions of law and referred the matter for disposal before a Five-Judge Bench.

- I. Whether CCB has power to issue Compulsory License?
- II. Whether a Compulsory License may be issued on grounds other than those specified under Patents Act, 1970?
- III. Whether a *person interested* may pursue both remedies in Patents Act & Competition Act for obtaining compulsory license concurrently?

RULES AND REGULATIONS

TIMELINE OF THE COMPETITION:

Release of the proposition	15/01/2021
Last date of registration	25/02/2021
Last date of seeking clarifications	25/02/2021
Release of clarifications and Team Codes	26/02/2021
Submission of the Judgment	28/02/2021
Declaration of the Results	03/03/2021

AIM AND PURPOSE:

- The Judgment Writing Competition has been conceived with the aim of promoting researching abilities of law aspirants and the creative skills of interpreting and applying various legal provisions and drafting judgment.
- The Judgment Writing Competition will have the following principles and purpose:
 - (i) To introduce law aspirants to the mechanism of judicial drafting;
 - (ii) Application of various legal provisions in a particular set of facts; To develop the principles of justice, equity and good conscience in the mind of budding legal professionals;
 - (iii) To promote the spirit of rule of law and justice; and,
 - (iv) To interpret the law in a justifiable manner to meet ends of justice

TEAM COMPOSITION:

Each team shall consist of a minimum of 1 member and a maximum of 2 members.

- The participants shall be pursuing a 3-year LLB or 5-year integrated LLB program from any college within India.
- The team composition may not be altered after registration.
- Registration Fees for Judgment Writing Competition is **INR 300/- per team**.

FORMATTING GUIDELINES:

- The font of the entire body of the judgment must be '**Times New Roman**' with the font size of **12**.
- There shall be no footnotes or endnotes in the entire document, the authorities must be cited within the main body of the judgment itself.

- A line spacing must be kept at **1.5** points, uniformly throughout the document.
- The document must be neatly bordered from all the 4 sides.
- The Team Code and the Name of the Court must be in '**Bold**' in the cover page
- Any verbatim copying of any part of the judgment or the legal provision must be italicized and written within inverted commas only.
- The margins of the document must be set in '**Normal**' leaving **1"** all four sides.
- The size of the document must be in '**A4**' size.

SUBMISSION GUIDELINES

The judgment must be submitted online, through registered mail of the participants and should conform to the following guidelines:

- The judgment shall not exceed 12 pages, including the cover page.
- The team is required to cite authorities similar to judgments of courts. The teams must adhere to the 20th Bluebook citation format.
- The judgment shall conform to the format as mentioned below.
- The submission must be made in both .doc and PDF format via the Google Form.
- The name of the file should be the team code followed by the format of the file (e.g. if
- The team code is JD5, then the file name must be 'JD5_PDF' or 'JD5_DOC')

FORMAT OF THE JUDGMENT

Every judgment must mandatorily incorporate the points mentioned below, in the body of the judgment, failing which the participants may attract deductions:

- a) First Page
- b) Team Code
- c) Name of the Court
- d) Title, Number of the Case
- e) Date of Delivery of Judgment
- f) Nature of the Case(s) (Civil/Criminal/Writ)
- g) Any other relevant information team wishes to incorporate on first page similar to Judgments of the Indian Courts.
- h) Facts / History & Procedural History of the Petition / Suit / Appeal
- i) Admissibility / Maintainability of Petitions / Suits / Appeals
- j) Issues & Points for Determination
- k) Framing Specific Questions for determination
- l) Reference to Precedents, Other Sources (both authoritative & persuasive)

m) Decision on issues framed or points formulated

n) Decretal / Operative Part.

EVALUATION CRITERIA

The judgment shall be evaluated on the following parameters:

a) Adherence to Format of the Judgment	10 marks
b) Adherence to the Formatting Guidelines	10 marks
b) Clarity and coherence in the language	10 marks
c) Inclusion & Interpretation of Facts	10 marks
d) Identification of Issues involved	10 marks
e) Application of legal provisions	10 marks
f) Arguments of both the parties	10 marks
g) Ratio Decidendi & Justification of choice for the final decision	10 marks
h) Suggestive improvements in Indian law perspective	10 marks
i) Final sentencing and innovation in interpretation	10 marks

DEADLINE FOR SUBMISSION

- The judgment is to be submitted to admin@thelawcommunicants.com in both **docx and pdf** latest by **11:59 P.M. IST, February 28, 2021**.
- In case of multiple submissions, the last submission by the participant before the deadline will be considered for evaluation and any submission received after the deadline shall not be considered for evaluation, and the team shall be disqualified.

CLARIFICATIONS:

- The Participating teams can request for clarifications to the proposition on or before February 25, 2021, by sending an email to admin@thelawcommunicants.com
- The teams shall receive the final list of clarifications, along with their team code, on or before February 26, 2021.

SETTLEMENT OF DISPUTES:

The organizing committee and the host college shall have the final discretion in case of any dispute amongst the teams or any dispute regarding the results of the competition.

REGISTRATION:

- a) Last date of Registration is **28th February, 2021**
- b) The Registration fee for the competition is **Rs. 300/-** and the same shall be paid to the below mentioned details:
- c) Paytm (9968957864)
- d) Google Pay (9971912048) akarshsharma18@oksbi
- e) Phone Pay (9968957864@ybl)

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