



2009 – 2010 SAUL LEFKOWITZ MOOT COURT COMPETITION

OFFICIAL RULES

Advocates in the Saul Lefkowitz Moot Court Competition (the “Competition”) are expected to read and apply the Rules using reason and judgment. This is intended to simulate the role and responsibility of a lawyer appearing before a court. The Saul Lefkowitz Moot Court Competition Committee (the “Committee”) will not, therefore, generally provide advisory opinions on the application of the Rules unless the Advocate demonstrates to the Committee’s satisfaction that the Rules – which selectively incorporate the Rules of the U.S. Supreme Court by reference – provide no guidance on the relevant questions.

1. INTRODUCTION

The Competition was established in 1990 in honor of Saul Lefkowitz, Chairman of the Trademark Trial and Appeal Board of the U.S. Patent and Trademark Office. The Competition is an annual event consisting of Regional Competitions in Atlanta, Chicago, New York and San Francisco, and a Final National Competition in Washington, D.C.

The objective of the Competition is to introduce law students to important issues arising in United States trademark and unfair competition law. Law students who participate in the Competition have the opportunity to develop their brief writing and oral advocacy skills in a mock courtroom experience.

2. TEAMS

The Competition is open to teams of law school students from accredited law schools throughout the United States. Teams may consist of two, three or four students from the same school. **Each school may enter up to two teams.** No team member may hold a law degree from a law school in the United States. Team members must be matriculated in a full-time or part-time Juris Doctor (J.D.) or equivalent program in the law school they represent. Proof of current registration in law school for each team member (“Documentation”) **MUST** be attached to each team’s Entry Application Form (“Entry Form”). Each team also must have an active advisor from its law school faculty; the signature of the faculty advisor is required on the Entry Form.

EACH TEAM DESIRING TO PARTICIPATE MUST SUBMIT ITS TEAM ENTRY APPLICATION FORM AND SUPPORTING DOCUMENTATION, FULLY COMPLETED, BY E-MAIL TO lefkowitz@inta.org, TO BE RECEIVED BY THE INTERNATIONAL TRADEMARK ASSOCIATION (“INTA”) NO LATER THAN MONDAY, OCTOBER 19, 2009. EARLY ENTRY IS SUGGESTED, AND THERE IS NO REGISTRATION FEE TO ENTER. On the Entry Form, each team **MUST** specify the team member who will serve as the contact person for the team.

Before the end of November, each team will be assigned to one of four geographic regions and be given an alpha-numeric team number and its brief assignment. **This information will be e-mailed to the designated team contact person.**

The four regions are defined as follows:

<u>EAST</u>	<u>MIDWEST</u>	<u>SOUTH</u>	<u>WEST</u>
Connecticut	Illinois	Alabama	Alaska
Delaware	Indiana	Arkansas	Arizona
Washington D.C.	Iowa	Florida	California
Maine	Kansas	Georgia	Colorado
Maryland	Michigan	Kentucky	Hawaii
Massachusetts	Minnesota	Louisiana	Idaho
New Hampshire	Missouri	Mississippi	Montana
New Jersey	Nebraska	North Carolina	Nevada
New York	North Dakota	Oklahoma	New Mexico
Pennsylvania	Ohio	South Carolina	Oregon
Rhode Island	South Dakota	Tennessee	Utah
Vermont	Wisconsin	Texas	Washington
Virginia		West Virginia	Wyoming
		Puerto Rico	
		U.S. Virgin Islands	

Each region shall contain a minimum of four teams and a maximum of eighteen teams. Teams will be assigned, in the order in which their Entry Form and Documentation are received, to the geographic regions where their law schools are located. The Committee may assign teams to other regions at its discretion to meet the needs and goals of the Competition. **Teams entering a region that has received 18 team entries and thus is “full” may be offered the option to compete in another region with fewer teams.**

Any or all team members may participate in writing the team’s brief. Two team members will argue in each oral argument. Any two team members can argue for the team in each of the arguments.

There shall be **no replacement of team members after filing of briefs** except with the express written consent of the Committee. All teams are advised to make adequate plans (for required filings, travel, etc.) anticipating the possibility of adverse weather conditions or other delays.

3. THE PROBLEM

The Problem and Exhibits, along with the Entry Form and Official Rules, are available on INTA's website at www.inta.org/go/lefkowitz.

The Problem prepared by the Committee will be presented in a Memorandum Opinion that will include the findings of fact and conclusions of law of the lower court. The Problem will focus on one or more issues arising under the general subject of United States trademark and unfair competition law.

The Problem may **not** be used for any purpose other than the official Competition without prior written permission from INTA.

Note: This Rule prohibits use of the problem in intra-school competitions, particularly where the competition is used to select the team(s) representing the school in the Competition.

4. BRIEF

The brief shall be a written argument reflecting the issues to be decided by the Court.

Each team will be assigned the side of the argument it is to brief. Although each team will brief only one side, all teams will argue both sides (Appellant and Appellee) before the Court.

Each brief MUST follow the guidelines listed below:

- Each brief shall, without exception, be limited to **twenty-five (25)** double-spaced 8 1/2 x 11 inch pages, with printed matter (excluding page numbers) not to exceed 6 1/2 x 9 inches (1 inch margins all around).
- This twenty-five (25) page limitation shall include only the argument itself and the conclusion (i.e., the cover page, questions presented, table of contents, table of authorities, statement of the case, summary of the argument and appendices are not included in the twenty-five (25) page limit).
- Either a **proportionally spaced font** (Times New Roman, Arial) or a **monospaced font** (Courier) may be used. A proportionally spaced font must be 12-point or larger. A monospaced font may not contain more than 10 characters per inch.
- The alpha-numeric **team number** assigned to you **MUST** be the name of the PDF file of the brief filed with INTA (for example, AA1.pdf) and be on the cover of the brief in the lower right hand corner of each copy. Do not overwrite the .pdf extension when naming the brief as INTA may not be able to access your filing. **NOTE:** The name of the law school, the names of the team members and the geographical region **SHALL NOT** appear anywhere on the brief. Briefs shall not be signed, and no information (real or fictional) serving to identify a team or team member shall appear on or within the brief itself, including as part of the name of the PDF file of the brief filed with INTA.

Except to the extent that the Rules herein are not addressed, the Rules of the Supreme Court of the United States shall govern the format of the briefs. There need not be, however, a formal statement of jurisdiction. All citations shall be complete and in the form prescribed by The Bluebook: A Uniform System Of Citation (most recent edition).

Briefs **SHALL NOT** be exchanged between teams participating in the Competition (including teams from the same school). Although teams brief only one side, all teams will argue both sides before the Court and are expected to rely upon their own research and originality of thought in preparing for oral arguments.

By submitting a brief for the Competition, the team agrees that all rights in the brief, including copyrights and other intellectual property rights, are assigned to INTA. **Briefs are not returned after the Competition.**

Failure to conform to the provisions of this Rule will result in reduction of a team's brief score in an amount deemed appropriate in the judgment of the Committee.

5. FILING OF BRIEF

Each team shall file its brief as a PDF file by e-mail to lefkowitz@inta.org to be RECEIVED BY INTA ON OR BEFORE 11:59 p.m. U.S. Eastern Time, Friday, January 8, 2010. BRIEFS RECEIVED AFTER THAT TIME WILL NOT BE CONSIDERED. BRIEFS MAY NOT BE HAND DELIVERED TO INTA'S OFFICE. Failure to file a timely brief will result in automatic disqualification from the Competition. You will be notified of disqualification by e-mail. Please be mindful that there may be a heavy volume of filings at the end of the day, and file the brief early to avoid unnecessary problems.

IF YOU DO NOT RECEIVE AN AUTO-GENERATED E-MAIL REPLY CONFIRMING RECEIPT OF THE BRIEF BY INTA, AFTER FIRST CHECKING THE SPAM FILTER OF THE E-MAIL FROM WHICH THE BRIEF WAS SENT, PLEASE CALL OR E-MAIL THE ACADEMIC PROGRAMS COORDINATOR AT 212-642-1777 OR lefkowitz@inta.org BY 5:00 P.M. U.S. EASTERN STANDARD TIME (CLOSE OF BUSINESS) ON MONDAY, JANUARY 11, 2010 TO RECONCILE ANY SUBMISSION ISSUES. The auto-generated e-mail reply will be sent *only* to the e-mail address from which the brief was sent, which may or may not be the same e-mail address identified for the Team Contact in the Team Entry Application Form. Failure to timely contact INTA may result in automatic disqualification from the competition. You will be notified of disqualification by e-mail.

Briefs may not be revised or amended after they are filed. No supplemental briefs will be accepted.

6. REGIONAL COMPETITION

All Regional oral arguments will be conducted on one day: **Saturday, February 6, 2010**. Each team shall be advised by INTA of the location of its arguments by **Monday, January 11, 2010**.

Each team will compete in two rounds of oral argument: arguing as Appellant in one round and Appellee in the other round.

Oral arguments in the Regional Competition will be held in the following cities:

East Region	New York City
Midwest Region	Chicago
South Region	Atlanta
West Region	San Francisco

Each team is allotted **twenty (20)** minutes for each oral argument. The two team members can divide this time between them as they wish. In advance of the argument, the courtroom bailiff must be notified as to how the time will be divided.

The teams are responsible for observing the twenty (20) minute time limitation. The courtroom bailiffs, however, will assist with the use of time cards.

The courtroom bailiff will advise each arguing counsel when there are five (5) minutes, three (3) minutes and one (1) minute remaining of his / her allotted time. Once counsel is informed by the courtroom bailiff that the time has expired, counsel must conclude the argument or receive the Court's permission to continue.

Appellant may reserve up to five (5) minutes for rebuttal by notifying the bailiff prior to commencement of the argument. Rebuttal time may be utilized by only one team member, and the time reserved must be subtracted from the twenty (20) minute allotment for that team to present its case-in-chief. Appellant may waive reserved rebuttal time at the conclusion of Appellee's argument.

7. ADVANCEMENT TO THE NATIONAL FINALS

The team with the highest total score in each region will advance to the National Finals. (See Scoring). The winning team in each region will be announced at an awards ceremony after the final round of arguments. INTA will reimburse the winners of the Regional Competition for their reasonable hotel and travel expenses for attending the Finals, up to a maximum of U.S. \$1,000 per team. **All expenses must be submitted to INTA no later than Friday, April 12, 2010.** The National Finals will be held in Washington, D.C., on **Saturday, March 20, 2010** and will consist of two equally weighted rounds of arguments. Each team will argue twice, once as Appellant and once as Appellee.

Each team will be notified by **Tuesday, February 16, 2010** of the location and times of their arguments at the National Finals.

Each team is allotted **thirty (30)** minutes for each oral argument. Co-counsel may divide this time between them as they wish. In advance of the argument, the courtroom bailiff must be notified as to how the time will be divided.

The teams are responsible for observing the thirty (30) minute time limitation. The courtroom bailiffs, however, will assist with the use of time cards.

The courtroom bailiff will advise each arguing counsel when there are five (5) minutes, three (3) minutes and one (1) minute remaining of his / her allotted time. Once counsel is informed by the courtroom bailiff that the time has expired, counsel must conclude the argument or receive the Court's permission to continue.

Appellant may reserve up to five (5) minutes for rebuttal by notifying the bailiff prior to commencement of the argument. Rebuttal time may be utilized by only one team member, and the time reserved must be subtracted from the thirty (30) minute allotment for that team to present its case-in-chief. Appellant may waive reserved rebuttal time at the conclusion of Appellee's argument.

8. ORAL ARGUMENT

For the Regional Competition, the teams will be notified in writing, prior to the date of the argument, of the check-in time for the arguments in their region (National Finalists Teams will be notified of the location and times of arguments in accordance to Rule 7 above). At the time the teams report for the Regional Competition, they will be notified of their courtroom assignments and times of argument. **If any team is late in arriving at the designated check-in time, before the scheduled start of an argument, or after the lunch break, the Committee reserves the right either to declare a default or to assess penalty points.** Participants must be seated in their scheduled courtroom at the appointed time of argument.

At the commencement of each argument, the team members arguing the case shall introduce themselves by name to the Court. **The name of the team's law school SHALL NOT be mentioned or otherwise disclosed at any time before, during or after the argument.** Failure to comply with this Rule may result in automatic disqualification of the team from the Competition.

Oralists should be prepared to address all issues. Oralists are not required to argue all issues, but the failure to argue important issues may be considered by the judges.

No discussion with the judges is permitted until their critique, which shall be conducted by the judges after the oral argument.

PLEASE NOTE: Team members, coaches, faculty advisors or any other person affiliated with the team are permitted to attend **only** those arguments in which that team is participating. Other spectators are allowed to observe the argument only if no team raises an objection before the argument.

The recording or taping of any argument by a competing team or persons affiliated with the competing team is expressly forbidden. Failure to comply with this Rule will result in automatic disqualification from the Competition.

The Committee will make all attempts to ensure the impartiality of all judges. Any team that recognizes an affiliation between its team or the opposing team and any sitting judge should raise an objection prior to the argument. Failure to object before the argument commences is a complete waiver of this right.

Demonstrative exhibits are permitted.

9. OUTSIDE ASSISTANCE

No team may receive any outside assistance in the writing of its brief (including assistance from faculty members, coaches, and other students and practicing lawyers). This Rule shall not be construed to prevent the general discussion of the issues with faculty or others, or the general critique of argument by judges during the Regional Competition, provided that no such assistance is designed to influence the substance of the team's brief. Specifically:

- a. No team is permitted to review briefs (or drafts of briefs) prepared by anyone else relating to the specific case being briefed and argued in this Competition.
- b. No team may have its brief (or drafts of briefs) critiqued by any faculty member or other person who is not a member of that team prior to submission of the final brief to the Committee.
- c. Students may review briefs prepared for other cases or other competitions.
- d. Practice arguments are permitted, as are critiques and evaluations of such practice arguments, by faculty and others.
- e. Although general discussions of trademark law, and other legal issues related to the case, with faculty and others are permitted, such discussions may not focus on the specific case being briefed and argued in this Competition until after the deadline for submitting briefs has passed.

10. SCORING

Three judges will independently score each brief. A panel of three different judges will independently score each team's oral arguments

The judges' evaluations of the briefs and oral arguments should not be affected by their personal views of the merits of the case at bar. Copies of the judging criteria for the brief and oral argument are attached as Appendix I and II respectively.

In computing the total score for each team in both the Regional Competition and the National Finals, the brief score and the oral argument score will each count as 50% of the total score. In the event of a tie in total scores, the advancing or winning team shall be the team with the higher oral argument score.

In the event the oral argument scores also are tied in the Regional Competition, the advancing or winning team shall be the team with the higher score in the second round of oral argument. In the event those scores also are tied in the Regional Competition, there will be a tie-breaker oral argument.

Regional Awards

Regional awards will be announced at the conclusion of the regional oral argument rounds. An award for First Place Team will be given to the team with the highest total score resulting from brief and oral arguments combined in each of the four Regional Competitions. An award for Regional Best Brief will be given to the team receiving the highest brief score in each of the four regions. Also, in each of the four regions an award for Regional Best Oralist Team will be given to the team receiving the highest oral argument score (all rounds combined).

Regional Certificate Awards will be as follows:

First Place Team	(Highest combined brief plus oral score)
Second Place Team	(Second highest combined brief plus oral score)
Third Place Team	(Third highest combined brief plus oral score)
Best Brief	(Highest brief score in region)
Best Oralist Team	(Highest oral score in region)

National Awards

National awards will be announced at the conclusion of the National Finals. An award for Best Team will be given to the team with the highest total score resulting from its brief and oral argument scores in all rounds combined of the National Finals. An award for Second Place Team will be given to the team with the second highest total score resulting from its brief and oral argument scores in all rounds combined of the National Finals.

An award for Best Brief will be given to the team receiving the highest score nationally for its brief. An award for Best Oralist Team will be given to the team receiving the highest oral argument score (all rounds combined) at the National Finals. In addition, awards will be given to the team receiving the second highest score nationally for its brief and to the team receiving the second highest oral argument score (all rounds combined) at the National Finals. An award also will be given to the law school of the Best Team.

National Cash Awards will be as follows:

Best Team	\$	3,000
Second Place Team	\$	1,500
Dolores K. Hanna Best Brief	\$	1,000
Second Place Brief	\$	500
Best Oralist Team	\$	1,000
Second Place Oralist Team	\$	500
Law School of Best Team	\$	1,000

Cash awards are distributed after the Finals.

After the Finals, each team will be notified in writing of its oral argument, brief, and overall rankings in its region and nationwide. **Individual and team scores ARE NOT released.**

11. POWERS OF THE COMMITTEE

Other than as provided by these specific Rules, the Committee shall have sole discretion to assess penalties or to disqualify teams for failure to abide by any of the foregoing Rules.

The Committee shall have sole discretion to make all necessary interpretations of these Rules. All requests for Rule interpretations must be submitted by e-mail to lefkowitz@inta.org. If you do not receive a response within three (3) business days, please call the Academic Programs Coordinator at 212-642-1777.

At the Committee's discretion, the response to any inquiry may be sent to all participating teams. All decisions of the Committee regarding Rules interpretations are final.

The Committee shall have sole power to resolve any dispute, which may arise during the Competition. All objections must be submitted to the Committee in writing, or be put on the record at the commencement of oral argument. If an objection arises during the course of an oral argument, the objection must be submitted to the Committee immediately following the round in which the objection arose.

The Regional and National Competition Coordinators shall have the full authority of the Committee to interpret and apply these rules, including the assessment of penalties and the disqualification of advocates, concerning matters that arise in connection with the Regional and Final arguments.

APPENDIX I

Judging Criteria for the Brief

Scoring is based on a 100-point rating scale

<p>PART A: LEGAL ANALYSIS Maximum of 60 points TOTAL for the following:</p>
Focus on relevant issues
Originality and creativity
Effective use of cases and other authorities
Effectiveness in dealing with contrary arguments and authorities
<p>PART B: WRITING QUALITY Maximum of 40 points TOTAL for the following:</p>
Logical organization
Clarity in expressing arguments
Effectiveness of writing style
Use of proper grammar and citation form; overall appearance of the brief
<p>PART A AND PART B COMBINED NOT TO EXCEED 100 POINTS TOTAL.</p>

The Judges' evaluations of the briefs and arguments presented therein should not be affected by their personal views of the merits of the case at bar.

APPENDIX II

Judging Criteria for Oral Argument

Scoring is based on a 100-point rating scale

MAXIMUM FOR ALL CRITERIA COMBINED IS 100 POINTS TOTAL.
Coherence and clarity of argument
Effectiveness in responding to judges questions and ability to return effectively to argument after questions
Effectiveness of delivery and ability to engage in a dialogue with the court
Poise and demeanor
Use of most powerful arguments
Logical ordering of argument and effective use of time
Distinction of unfavorable authority
Mastery of facts of case being argued and the decision below
Knowledge and understanding of relevant precedent

The Judges' evaluations of the oral argument should not be affected by their personal views of the merits of the case at bar or any briefs the Judges have seen. Scoring is to be based entirely on the oral argument.

The Judges are encouraged to engage the participants in a dialogue, as the evaluation of the abilities of the participants according to the above scale becomes much easier to the extent that the Judges do so. The Judges also are asked to comment on the arguments and to provide critiques of the individual participants (but **not** disclose any scores), after the arguments in each round conclude.