

# **Rules and conditions for the ELSA Barcelona Moot Court Competition**

## **I. About the Organization**

### **I.1. General Remarks**

1. These Rules govern the Competition. The Rules may be revised or updated at any time and modifications will be applicable as soon as they are published on the website. The Vice President in charge of Academic Activities Of ELSA has the power to interpret the existing rules together with the Academic Board.
2. The ELSA Barcelona Moot Court Competition (hereinafter, *the Competition* or *the EBMCC*) is a judicial simulation organized by the local committee of THE EUROPEAN LAW STUDENTS ASSOCIATION, ELSA Barcelona UPF, in the spirit of contributing to the formation of Law students and young jurists, bringing theoretical training into practice, within the framework of a contest.
3. ELSA Barcelona-UPF is responsible for the entire organization of the competition. Baker McKenzie provides academic support and contributes to the organization of the Moot Court.
4. The Head OC, on behalf of and representing ELSA Barcelona-UPF, directs the organization of the competition, assuming responsibility for its proper progress, notwithstanding that the exercise of the organization is carried out jointly by the Organizing Committee (OC).
5. The logistics of the semifinals and Final corresponds to the OC in collaboration with the firm.
6. ELSA Barcelona UPF must publish, update and maintain a web page dedicated to the competition, which can also be articulated as a subdomain or a subsection of the main page.
7. All materials developed by ELSA Barcelona UPF for the competition, namely the rules of the competition, guidelines for Teams and Judges, Cases and Writings sent by the participants, as well as any other type of material or document of the same style are owned by ELSA UPF-Barcelona.

### **I.2. Organization and Structure**

8. Throughout the Competition, each Team will play both the Plaintiff and Respondent.
9. The Competition is structured in two main phases: the Written Phase and the Oral Phase, which in turn is divided in Semifinals and Final Rounds.
10. The EBMCC will be developed in its entirety in English, with the possibility of delivering the writings in Spanish or Catalan.
11. The Written Phase is eliminatory.
12. The Oral Phase ends the competition. A total of four (4) Teams, winners of the previous phase, will participate in it. This Phase will take place where the law firm and the Organizing Committee agree and will be organized by the second in collaboration with the first.
13. The Oral Phase will be composed, in turn, by two phases

**(1) Semifinals: 4 teams**

**(2) Final: 2 teams**

14. In the Oral Phase, each Team will play both the Plaintiff and Respondent. The determination of what roles each team will assume in subsequent phases corresponds to the law firm or the organizing committee.
15. The Semifinal will be regulated according to the following provisions:
  - (1) The four (4) teams, with the best qualified writing, will pass to the Semifinal of the Oral phase.
  - (2) The team with the highest score (1st) will face the Team with the lowest score (4th)
  - (3) The team with the second highest score (2nd) will face the Team that occupies the third position (3rd)

The two winning teams will move on to the Final Oral Round.

### **I.3. The Tribunal**

16. The Tribunal will be formed by a trademark tribunal, experts in the area, called "Judges" for the purposes of the Competition. It is strictly forbidden that the Judges provide academic or any other kind of support to the participants of the Competition and to the respective Coaches, before or during their celebration and until it is completely finished, including the Final Oral Phase. Otherwise, the Team will be sanctioned with the exclusion of the Competition.
17. Each member of the Tribunal will be assigned the same number of Writings for evaluation. In any case, a maximum of 2 Judges is established for the review of each Writing.
18. The OC will be in charge of the distribution of the Writings, in a random and anonymous way, as the best guarantee of impartiality and safeguarding the anonymity of each one of them. In spite of everything, especially in the face of the Oral Rounds, if any member of any team had any connection with any of the Judges, that member or the Judge himself should inform the Head OC. Failure to do so will apply the same sanction as an attempt to communicate with the Tribunal.
19. The members of the Tribunal enjoy full discretion in the evaluation of the Writings.
20. The Judges may ask questions and request clarification from the Speakers in the Oral Phase.
21. During the competition, the Court will have a Case Summary, of jurisprudence and applicable legislation and / or invoked by the Teams as well as of the different positions adopted by the Teams (hereinafter this compendium of documents is called "the Summary"). The Summary will be secret and will be reserved exclusively to the members of the court, who undertake to preserve their content from the knowledge of the Teams.

## II. About the Competition

### II.1. Team Composition and Registration

22. Students of all those Universities, Associated Centers or Academic Institutions of Catalonia or that include academic, undergraduate or postgraduate, law programs or in which the Law is part of the program may participate in the Moot Court. As a matter of clarification, the students of these studies that are in exchange in Catalonia also have access. Teams of local boards of ELSA Spain can also be presented as long as they consult ELSA Barcelona UPF about the regulatory compatibility of their participation.
23. Those people who exercise or have practiced Law cannot participate. For these purposes, this regulation does not refer only to the formal status of a collegiate, but to have actively and autonomously performed functions related to the drafting of procedural texts. Therefore, the qualification for the practice of law will not be an impediment for a member of a team that neither exercises nor has exercised it. Nor can those who are taking a master's degree that is related to the legal theme of the MCC participate.
24. In case of doubt, it is recommended to contact the Organizing Committee to verify this requirement by email to [mootcourt.barcelonaupf@es.elsa.org](mailto:mootcourt.barcelonaupf@es.elsa.org), with the description of the specific case and attaching the student's CV before the end of the term of the inscriptions. It will be answered within five (5) working days in an argued manner. The resolution of the Organizing Committee will be irreversible.
25. Teams will consist of a minimum of 2 and a maximum of 4 students.
26. No modification will be accepted in the composition of the Teams once the established term has ended. However, on an exceptional basis, a change of this size may be requested by reasoned mail to the Organizing Committee. The acceptance or not of the modifications is the discretion of the Organizing Committee, and will be transmitted by means of a reasoned resolution, within five (5) working days from the presentation of the request. Such resolution is irrecurrible.
27. Each Team will have a maximum of 2 Coaches. The Coach will attend the general discussions regarding the case, grammatical or style aspects. In no case will it provide substantive knowledge support. The Coach may attend the Oral Phases, but may not actively assist the Team and must keep a distance from it, especially when sitting down. This seeks to avoid any type of verbal or nonverbal communication between the Coaches and the Team. Teams that do not comply with this provision will be penalized.
28. The participation of the following won't be allowed:
  - (a) People involved in the active organization of the ELSA Barcelona Moot Court Competition.
  - (b) Those who exercise or have exercised, at the time of the conclusion of the Competition, the Advocacy or any other legal activity relevant and / or related to litigation (including, without limitation, the professions of prosecutor or judge). However, internships or scholarships are excluded from this cause of incompatibility.

29. Students may request the compatibility and disengagement of the exceptions provided in section 23 by written request addressed to the Head OC, before the deadline for the registration of the Teams expires, who will grant or deny the authorization by reasoned resolution, within five (5) working days from the submission of the application. Such resolution is irrecurrible.
30. It is strictly forbidden for participants, academics or Coaches to contact the Moot Court Judges. Such an attitude will be sanctioned.
31. It is assumed, without admitting evidence to the contrary, that each of the participants knows the rules of the provision prescribed by the Organizing Committee from the moment of registration of their Team.

## II.2. Fees

32. Enrollment in the competition will be effective once the corresponding registration fee is paid, which amounts to a total of ten euros (€ 10) per participant if you are a member of ELSA and fifteen euros (€ 15) if it is not. For both cases a symbolic deposit of 5 euros (€ 5) will be deposited. The deadline for payment ends on the day of submission of the Writ according to the official calendar of each edition.
33. Payment will be made by bank transfer to the following account:

Beneficiary: ELSA UPF

Concept: EBMCC [Participant Identification Code]

Entity: CaixaBank

Account number (IBAN): ESXX XXXX XXXX XXXX XXXX XXXX<sup>1</sup>

## II.3. Cancellation

34. The Teams may cancel their registration at any time before the end of the deadline for submission of the Writings. Once this period has elapsed, the registration fee will not be refunded.

## II.4. Case and Deadlines

35. Subject / Area of Law: The Competition will have as its object the discussion and resolution of a case study that will deal with issues related to Trademark Law.
36. Publication: The Case will be published on the official website of the competition, whose URL is as follows: <http://www.elsabarcelona-upf.org/ebmcc/>.
37. Facts: The facts that give rise to the legal conflict are those stated in the Case and, where appropriate, the Clarifications issued to the Court and incorporated as part of the Case. All the facts will be considered proven, so that they cannot be the subject of discussion,

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<sup>1</sup> The EBMCC Organizing Committee will provide an identification code to each team so that they can make the payment. This identifier will also be used in the written phase.

except those that, due to the very nature of the Competition and design of the case, may give rise to the legal debate. The Teams will base their arguments on legal considerations regarding the applicable norms or jurisprudence. No additional data can be entered in the competition, except those that can be deduced from logic and experience.

Likewise, the facts alleged in the Writings, including their annexes and clarifications published, will be considered correct and truthful, unless there is a contradiction between them.

38. Questions and clarifications: Each Team may send up to a maximum of ten (10) questions, regarding clarification, doubts or questions that may arise, to be answered by the EBMCC organization, up to five (5) days before the end of the period period of sending the writings. The Organizing Committee reserves the right to omit answering all those questions that are irrelevant, irrational or oriented to the resolution of the Case.

The answers to the questions deemed pertinent, according to the criteria set forth above, will be published on the website of the Competition within ten (10) days, after the end of the deadline to formulate them, and notified by email to all participating teams .

Likewise, the clarifications issued by the Court will be incorporated as part of the Case.

## **II.5. Written Round**

39. Each Team must submit two Writings:

- (a) Written submission on behalf of the Applicant
- (b) Written submission on behalf of the Respondent

All of them must be sent within the period indicated by the Organizing Committee

### II.5.1. Format

40. Each team must submit to the organization a total of four (4) documents: two versions of the Applicant Writing and two versions of the Response Writing.

41. The following guidelines must be respected:

1. The first version of each of them - Applicant and Response - must contain:
  - a. Cover: name of the University or academic institution and of the participants;
  - b. Index of abbreviations and acronyms; and List of authorities mentioned (doctrine and jurisprudence);
  - c. Next, the Applicant and / or Response, which, in turn, should be structured in:
    - i. header
    - ii. background / facts
    - iii. legal bases
    - iv. plea
    - v. date - but no signature

2. The second version is required by the Organization for the purpose of guaranteeing anonymity. For this, the Teams must send both Writings - Applicant and Response - without containing any reference that allows identifying their origin or the members thereof.
3. The Writings must have a maximum length of twenty-five pages with 1.5 line spacing and Times New Roman font with a size of 12 points in the text and 10 points in the footnotes or in the literal transcription of precepts or paragraphs of sentences to be incorporated.

Therefore, for the shipment to be considered valid, participants must send:

- (a) Original version of the Applicant Writing - including cover and identifications, in "Word" format and the contest's organizational team will be responsible for transforming the PDF document to Word.
  - (b) Anonymous version of the Applicant Writing.
  - (c) Original version of the Response Writing- including cover and identifications - in "Word" format and the contest's organizational team will be responsible for transforming the PDF document to Word.
  - (d) Anonymous version of the Response Writing.
42. The writings must conform to what is established in the "Basic Guide for the presentation of procedural writings".
  43. Failure to comply may lead to penalty.
  44. The Teams must accept and respect the calendar established for the submission of the Writings.

#### II.5.2. Delivery

45. All Writings must be sent before 23.59 CET of the specific day on which the deadline for this purpose ends.
46. The writings will be sent by email to the following address: [participants.mcc.barcelonaupf@es.elsa.org](mailto:participants.mcc.barcelonaupf@es.elsa.org), with the following subject:  
"EBMCC Written Phase - [Team Code]".
47. A single email will be sent, attaching the two (2) Applicant Writings and the two (2) for the Response of the Participating Team. The team is free to have - unless subsidiary rules provide otherwise - their Response take the form of a Reclamation, which in itself will not be positive or negative for scoring purposes.
48. The Writing must be sent in the following format:
  - (a) In the briefs including the identification data:

EBMCC\_EquipoXX\_Demanda\_ID.doc<sup>2</sup>

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<sup>2</sup> The XXs refer to the Team code provided by the Organization in the registration confirmation email.

EBMCC\_EquipoXX\_Contestacion\_ID.doc

(b) In writings without identification, in compliance with the rules relating to anonymity:

EBMCC\_EquipoXX\_Demanda.doc

ESMCC\_EquipoXX\_Contestacion.doc

49. The consequences of breaching the provisions relating to anonymity will be the following:

- (1) Within the deadline for sending the documents: return of the document to the Team. Without prejudice to the corresponding penalty, the Committee will give a new deadline for its correction.
- (2) After the correction period has elapsed: the Writing shall be deemed not to have been submitted.
- (3) After the deadline for sending the submissions: it will be considered as not submitted and the Team will be excluded from the possibility of receiving the prizes corresponding to the Written Phase.

50. Teams that do not send their written deadline will be penalized. In the event that the delay exceeds five (5) days (including possible extensions), counted from the day following the one ending the deadline, they will be automatically excluded from the competition.

### II.5.3. Evaluation Criteria

51. The evaluation of the Writings will be done according to the following criteria:

- (1) Analysis of legal issues and problems: 50%
- (2) Argument and style: 50%

52. The maximum score for the Written Phase will be 50 points.

53. The scores will be published once all the Writings are evaluated and have been approved as a whole by the Judges.

54. The causes of penalty are those provided in the penalty table of this document.

## **II.6. Oral Round**

55. Place. Without prejudice to the Committee communicating to the Teams the location of the Oral Phase with reasonable notice, it reserves the right to modify, if circumstances require, the dates, times, locations, prior advance notice and Express to participating teams or their Coaches.

56. Process. The procedure shall be governed in accordance with the provisions set forth in the LEC and, where appropriate, the special laws.

57. Introduction. The Oral Phase ends the competition. A total of four (4) Teams, winners of the previous phases, will participate in it. This Phase will take place in Barcelona at Baker

Mckenzie's offices and will be organized by ELSA UPF-Barcelona in collaboration with the aforementioned firm.

58. Structure of the Oral Phase. It is made up by two phases:

1. Semifinal Oral Rounds four (4) teams
2. Final Oral Round: two (2) teams

59. The Teams will play both the Plaintiff and Respondent role, once each. The determination of what roles each team will assume in the subsequent phases corresponds to the Organizing Committee of the Competition and the law firm. They will be carried out as follows:

- (1) The team with the highest score (1st) will face the team with the lowest score (4th).
- (2) The team with the second best score (2nd) will face the team with the second lowest score (3rd).
- (3) The resulting Teams will pass to the Final Phase.

60. The members of the Court may request clarification or ask the Speakers questions.

#### II.6.1. Evaluation Criteria

61. The evaluation of the Oral Phase is discretionary of the Judges. They must take into account, among others, the following aspects:

1. Adaptations of the speakers' responses to the questions asked by the court.
2. Knowledge of the facts, of the principles of applicable Rights, norms and jurisprudence.
3. Adequate analysis of the facts and issues.
4. Logic and reasoning of the Speaker.
5. Creativity in the presentation of arguments and defense of their allegations.
6. Clarity, precision and organization.
7. Persuasion ability
8. Organization of time and position before the Court and in the Chamber.

#### **II.7. Prizes**

62. After the Oral Phase the following awards will be distributed:

- (1) Winning Team Award: a day of Shadowing in the international firm of Baker McKenzie Barcelona.
- (2) Finalist Team Award: those awarded by the university itself.

#### **II.8. Obtaining Credits**

63. The two (2) ECTS credits offered will only be obtained with full participation in competition, in the terms set forth below. They will be granted by the University Administration, and are likely to be validated in other universities.

64. Obtaining one (1) credit will be conditioned upon the delivery of a Writing that meets the following standards:
- a. Formal Correction of the Writings
  - b. Correct approach to actions and exceptions
  - c. Appointment of jurisprudence updated and appropriate to the specific case
  - d. Correct and clear statement of facts
  - e. Correct application of the law and jurisprudence to the specific facts of the dispute
  - f. Correct wording of the request plea
65. Obtaining the second credit (1), conditioned on obtaining the first credit for the delivery of the Writings, will occur with:
- a. Participation in the oral phase, and compliance with the following standards:
    - i. Structuring of oral reports
    - ii. Clarity and conciseness in explanations
    - iii. Good reaction to the issues raised by the opposing party
    - iv. Level and quality of response to questions raised by the Court
  - b. In case of not being one of the finalist teams in the Oral Phase, the second credit can be obtained when the attendance to any of these events is accredited:
    - i. Training on trademark law offered to participants
    - ii. Either of the two oral phases
  - c. In the event that the General Secretariat of ELSA Barcelona-UPF is notified of the lack of assistance for extraordinary reasons, it will also be admitted that the attendance at the events for obtaining the second loan is done electronically.
66. Regarding the incorporation of the credits to the file:
- a. In any case, to obtain the recognition of the credits it will be necessary to pay the corresponding fee.
  - b. Students enrolled at Pompeu Fabra University may request the incorporation of credit through the University Community Service (SACU).
  - c. In the event that the participants who wish to obtain the credit are students of other universities in the Spanish territory, after consulting with the organizational committee and complying with the requirements for obtaining it, the necessary documents and a certificate of attendance to the activity approved by the Pompeu Fabra University will be provided. It will be the competent body of each university who, by presenting the documents and records, must finally decide on the recognition of the credits.
  - d. In the event that the participants who aspire to obtain credits are Erasmus students, it is possible that the necessary documents may be requested as provided in the previous section (c). The student may also contact the academic

coordinator of their home university to request the incorporation of credits to the approved curriculum for their Erasmus exchange.

67. In no case may the credits be obtained in case of:
- a. Not comply with the requirements of arts. 64 and 65
  - b. For the expulsion of the contest as planned in the Standards of behavior.

## II.9. Interpretation of the Rules

68. The interpretation of the Rules, Conditions or any other decision regarding the Competition is the exclusive competence of the Moot Committee. Interpretation requests should be sent by mail to [participants.mcc.barcelonaupf@es.elsa.org](mailto:participants.mcc.barcelonaupf@es.elsa.org). The resolutions will be issued in a maximum of five (5) calendar days unless they are urgently required in which case they will be issued in a maximum of 48 hours. In any case, they will be irreversible.

## II.10. Expected Standards of Behaviour

69. The competition will be governed by the following standards of behavior:
- a. Submission of the writings. In the event that the delay in writing exceeds five (5) days, counted from the day following the end of the deadline (including possible extensions), the team will be automatically excluded from the competition.
  - b. Anonymity. It is prohibited to reveal the university or the identity of the participants in the written presentations. This prohibition applies as long as Teams are still in Competition; no such prohibition applies to Teams which have been eliminated.
  - c. Communication. Teams and team coaches are prohibited from engaging in communication with any Judge on the issue of the case before the end of the Final Oral Round.
  - d. Plagiarism. Teams shall not commit plagiarism. Plagiarism constitutes the dishonest presentation of non-original work or ideas as one's original work or ideas, regardless of whether it is intentional or unintentional. A Team has committed plagiarism if they include direct or indirect references to the work or ideas of another without giving due acknowledgement such as using quotation marks and proper citation of sources.
  - e. Judges. The Judges shall not provide support or advice concerning the case or the Competition to any Team or team coach during the Competition, including the Oral Rounds, semifinals and final.
  - f. Coaches. Coaches are not considered to be team members and must act in good faith in respect of the Competition.
70. Failure to comply with any of the above provisions will result in the exclusion of the participants from the competition, being able to make statements of justification before the Organizing Committee.
71. The deposit will be returned in case of exclusion.

### III. Table of penalties for writings

CAUSE	POINTS
Exceeding the maximum length allowed for writings	0.5 per page
Omitting of any of the required sections	0.5 per omission
Omitting of any of the requirements related to style (fonts, page format, paragraph enumeration, spelling mistakes ...)	0.5 per infraction
Lack of information on the Front Page	0.5
Failing to respect the provisions relating to anonymity	3
Use of endnotes	0.5 per infraction
Legal basis included outside the corresponding section	2
Delivery with 1 day delay regarding the deadline	0.5
Delivery with 2 days delay regarding the deadline	1.5
Delivery with 3 days delay regarding the deadline	2.5
Delivery with four or more days of delay regarding the deadline	Disqualification
Not keeping distance from the Coach during the Oral Phases	2 per infraction
Trying to communicate with the members of the Court outside the oral hearings	5
Intimidating, coercing or executing any other type of unfair behavior towards other participants.	Disqualification