

# ECTA

European Communities Trade Mark Association

## 32<sup>nd</sup> ANNUAL CONFERENCE

# THE JURY IS STILL OUT

BUCHAREST, 19-22 June 2013





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**Michael Edenborough QC**  
**Serle Court, UK**

**The oversight role**  
**of the Court of Justice**

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*“Friends, Romanians, countrymen, lend me your ears;  
I come to bury the Court of Justice, not to praise it.  
The evil that men do lives after them;  
The good is oft interred with their bones.”*

**(apologies to Shakespeare  
Julius Caesar Act III scene ii, lines 79-82)**

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## **Un-sought Answers to un-posed Questions**

***IP Translator* Case C-307/10, 19<sup>th</sup> June 2012**

**2 parties (CIPA and UK government)**

**12 interveners (10 MSs, OHIM and Commission)**

**Grand Chamber (13 judges & AG)**

**A3: introduced the idea of alphabetical lists**

**OHIM's Presidential Communication №. 2 of 2012**

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## **Inordinate Delay**

### ***Omnicare v OHIM Cases C-587/11 P and C-588/11 P***

**TFEU Article 279 application for interim relief,  
including an application to maintain the *status quo*  
pending a response from OHIM**

**filed: 23<sup>rd</sup> December 2011**

**acknowledged: 5<sup>th</sup> January 2012**

**OHIM's response: 25<sup>th</sup> January 2012**

**Court's Order: 19<sup>th</sup> July 2012**

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## Potential Solution

- **standard response:**
  - specialist court
  - specialist judges / Chambers
  
- **alternative (more modest) proposal:**
  - answer the question(s) asked
  - do so timeously

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*“O judgement! thou art fled to brutish beasts,  
And men have lost their reason.”*

**(Shakespeare, *Julius Caesar* Act III scene ii, lines 110-111)**

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## Michael Edenborough QC

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- **MA (Natural Sciences) (Cambridge); DPhil (Biophysics) (Oxford)**
- **All areas of IP law and practice, in particular patents, trade marks, copyright and designs. Over 95 reported cases since 2000, of which two thirds were appeals or judicial reviews. Appeared often before the General Court and Court of Justice (Luxembourg) in appeals from OHIM and Article 267 references (over 40 cases), and in the European Patent Office (Legal and Technical BoA). Acted for the Comptroller-General of Patents, the Registrar of Trade Marks, the UK government, Institute of Trade Mark Attorneys, Chartered Institute of Patent Attorneys and AIPPI UK Group.**

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