ECTA
European Communities Trade Mark Association

32nd ANNUAL CONFERENCE

THE JURY IS STILL OUT

BUCHAREST, 19-22 June 2013
Michael Edenborough QC
Serle Court, UK

The oversight role
of the Court of Justice
“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)
Un-sought Answers to un-posed Questions

*IP Translator* Case C-307/10, 19th 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
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\textsuperscript{rd} December 2011
acknowledged: 5\textsuperscript{th} January 2012
OHIM’s response: 25\textsuperscript{th} January 2012
Court’s Order: 19\textsuperscript{th} July 2012
Potential Solution

• standard response:
  – specialist court
  – specialist judges / Chambers

• alternative (more modest) proposal:
  – answer the question(s) asked
  – do so timeously
“O judgement! thou art fled to brutish beasts,
And men have lost their reason.”

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

- Contact Details:
  - Serle Court, 6 New Square, Lincoln’s Inn, WC2A 3QS, UK
  - (t) + 44 (0) 20 7242 6105
  - (e) MEedenborough@SerleCourt.co.uk

- 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.