

# Oxford Intellectual Property Moot 2023: Rules

## Abbreviations and Definitions

A4	References to A4 are to include paper of similar dimensions, such as US Letter
Bench	The group of judges for a given moot round in the Oral Proceedings
Moot	The Oxford International Intellectual Property Moot 2023
OC	The Moot Organising Committee
Oral Proceedings	The oral phase of the competition, to be conducted in March 2023; entry is by invitation only, based on the results of the Written Phase
Panel	The panel of judges for submissions in the Written Phase, as appointed by the OC
Written Phase	The first stage of the Moot, in which two 3,000 word submissions must be submitted by each prospective team

## Covid Statement

At the time of release of these rules, it is planned that the 2023 oral rounds will take place as a purely in-person event in Oxford in March 2023. Registration will take open at approximately 4.00pm on Wednesday 15 March, plus there will be an opening ceremony and optional dinner that evening. Mooting will take place from Thursday 16 to Saturday 18 March. We appreciate that circumstances can change, sometimes rapidly, and will notify teams immediately if we need to change plans for the oral rounds.

## Registration and Eligibility

1. Subject to §1A, the Moot is open to students who are enrolled on a full-time or part-time basis in a higher education degree, provided that:

- (a) such course is not a research degree in law;
- (b) they have not been admitted or licensed to practise law in any jurisdiction; and
- (c) they are enrolled at their institution at the date of the Oral Proceedings, or at an earlier time as permitted at the discretion of the OC.

Members of the OC are not eligible to participate as mooters, even if they otherwise meet the requirements of §1.

*Note to §1: prospective entrants who have any inquiries about eligibility are advised to contact the Moot Secretary at [moot@oiprc.ox.ac.uk] at their earliest convenience. The OC has received inquiries in the past about the status of paralegals, law clerks, and patent/trade mark agents. Merely being employed as a paralegal or clerk will not usually fall within the exclusion in §1, as such positions are often held prior to or without being admitted to practice. The status of patent and trade mark agents will depend on the rules in the particular jurisdiction, and the OC will advise on a case-by-case basis.*

2. Any entrant into the Moot is required to declare, when registering for the Oral Rounds, that they are eligible to compete under §1. Anyone considered by the OC to have misrepresented their eligibility will be subject to an appropriate penalty determined by the OC, which penalty may include disqualification from the competition. It is strongly recommended that those wishing to apply for discretion under §1(c) should apply in writing for such a determination prior to entering their written submissions. Such applications should be addressed to the Moot Secretary at [moot@oiprc.ox.ac.uk].

3. A university or other higher education institution may only enter one team for the Moot. A team comprises two or three team members, each eligible under §1. The same team must prepare the written submissions and appear in the Oral Proceedings. It is a matter for teams to decide which members speak (if at all) and in what order.

4. A team may be supported by a third party or parties who fulfill a mentoring or coaching role. Any such individual must not make any substantive contribution to the preparation of written submissions nor contribute during Oral Proceedings. For the avoidance of doubt, observers are not required to meet the conditions of §1.

5. On registration, each team undertakes to submit all documentation in good time to meet the deadlines set out in these rules. Additionally, each team undertakes to arrange timely payment of any fees. Late submission of any documentation or payment may lead to sanctions determined by the OC to be appropriate, including disqualification from all or part of the competition.

6. Entry to the Written Phase is free of charge. Each team that accepts an invitation to take part in the Oral Proceedings is required to pay a moot registration fee of **£475**. This subsidized fee covers, amongst other things, registration of the team in the competition, drinks at the Official Welcome on Thursday night, lunches at the preliminary rounds, attendance (including food and drinks) at the Pastiche lecture and dinner on Friday night, and attendance (including food and drinks) at the Saturday night Grand Final Dinner. If a team does not pay the registration fee by the date indicated in the invitation letter, it risks forfeiting its place in the competition. Teams are therefore advised to have their finances in place prior to the sending of invitation letters by the OC.

Any observers travelling with the team will be required to pay a separate registration fee, calculated on a cost-recovery basis. Details about the fee and arrangements for observers will be released separately on the moot website.

Each team will be responsible for paying its own accommodation costs. The OC will make arrangements for bed and breakfast accommodation to be available at the host college (Pembroke College) at a discounted rate. Details regarding accommodation options will be released separately on the moot website. Teams will be able to book accommodation at the host college when registering for the Moot.

7. A team is deemed to have applied to enter the Oral Proceedings when a completed team registration form has been received by the Moot Secretary. A team is deemed to have registered for the Oral Proceedings when all of the team registration form, a mooter registration form for each team member, and all the requisite fees as laid out in these rules, have been received.

8. Teams are entirely responsible for their own immigration arrangements. The OC can provide letters of invitation to help with visa applications, but teams are fully responsible for requesting these in good time to meet the appropriate deadlines. It is strongly recommended that such arrangements be commenced immediately after invitation to the Oral Proceedings. Teams unable to attend the Oral Proceedings because immigration arrangements were not made in good time will not be eligible for a refund of any fees for the Moot.

9. If a team finds itself unable to participate in the Oral Proceedings, it should inform the Moot Secretary immediately. If that team has already paid registration fees, the OC may, at its discretion, refund those fees in whole or in part. The OC may also, at its discretion, allow that team to remain eligible for an award relating to written submissions.

If a team that has registered for the Oral Proceedings fails to attend the Oral Proceedings without providing any notification or explanation to the OC, it will be deemed to have withdrawn from the Moot. That team will no longer be considered for any awards, including those relating to written submissions.

10. Participation in the Oral Proceedings is by invitation only. Except as set out in this provision, invitations will be issued on the basis of the results of the Written Phase (below, §14-§19). The total number of teams invited will be at the discretion of the OC, but is likely to be in the range of 24 to 32 teams. The OC will also contact potential reservists. Those teams will each be asked whether they wish to be considered for an invitation to the Oral Proceedings if a place becomes available under §11.

The winner of the previous year's Canadian Fox Moot will be granted entry into the Moot, provided they meet the eligibility requirements of §1. They will tender written submissions, and will accordingly be considered for awards for such submissions alongside other entrants. They will automatically gain an invitation to the Oral Proceedings.

11. If a team invited under §10 has to withdraw from the Moot or is otherwise disqualified, one of the reserve teams under §10 may, at the discretion of the OC, be invited to the Oral Proceedings.

12. Should a member of a team have individually to withdraw from the Moot, the remaining team members may continue in the Moot (if the team originally comprised three mooters) or withdraw from the Moot (if the team originally comprised two mooters). The team may apply in writing to the OC for permission to substitute a new team member. The OC will have complete discretion in deciding whether to accept this request.

## The Competition

13. The competition comprises a Written Phase and Oral Proceedings.

### Written Phase

14. For the Written Phase, each team must prepare TWO sets of written submissions: one on behalf of the appellant and the other on behalf of the respondent. Instructions for the preparation of the written submissions accompany the problem. Additionally:

(a) The word count for each submission is 3,000 words, including all footnotes and headings. The word count must be indicated at the end of each submission; those exceeding the word limit will be subject to a points penalty at the discretion of the OC. For avoidance of doubt, the indication of the word count does not count towards the word count, and nor does any court heading or title page (so long as it does not contain any substantive material).

(b) Each submission should be formatted to include at least 1.5 spacing between lines, with document margins of at least one inch (2.54cm) on all sides. There is no prescribed font, although any type size that is smaller than Times New Roman 12 point should be avoided (except for footnotes, for which a smaller text is acceptable).

(c) A bibliography or separate list of authorities is not required.

15. The written submissions must be received by the Moot Secretary by **MIDDAY on TUESDAY 13 DECEMBER 2022 (Oxford time)**. No alterations to the written submissions are permitted after this deadline. Within their written submissions, teams must identify themselves **only** by use of the anonymous identifier given to them in advance by the Moot Secretary. To apply for this identifier, prospective teams should email the Moot Secretary at [moot@oiprc.ox.ac.uk] well before the submission deadline.

The Moot Secretary will acknowledge receipt of all written submissions by email. If a team has not received an email acknowledgement by Thursday 15 December, they should contact the Moot Secretary at the email address above.

16. Written submissions must be made as electronic attachments to an email addressed to the Moot Secretary. They must be supplied **in Microsoft Word format only**, with either a .doc or .docx file extension. Please add a cover sheet on each submission that includes your anonymous identifier, the word count and whether the submission is for the appellant or respondent. The text on the cover sheet will not count for the purposes of the word count.

17. The written submissions shall be adjudicated anonymously by a panel of judges, selected by the OC from the legal professions and academia.

18. The Panel will award a mark out of 20 to each submission for each of: (i) legal analysis; (ii) clarity of argument and persuasiveness; and (iii) research and use of authority. A further mark, out of 10, will be awarded for style. This will result in a mark out of 70 for each submission. These marks will be forwarded to the OC by the Panel.

19. The team with the highest combined score for both submissions (i.e., out of 140) will win the award for Best Written Submissions. In the event of a tie, the award will be made jointly.

20. As discussed further in §26, the written submissions will not be circulated to judges of the Oral Proceedings or to other teams. Each submission will be treated as confidential to the team that wrote it, and (unless permission is obtained) access limited to the OC and the Panel.

### **Oral Proceedings**

20. The Oral Proceedings will be conducted **wholly in person**. In the event that this needs to be changed to a hybrid or fully online competition, a revised set of rules will be released.

### ***Conduct of moots***

21. This is an appeal. The facts of the case are admitted and agreed, and no new evidence or witness may be introduced.

22. There is no formal dress requirement, and no form of gown or court dress is required. However, mooters are advised to dress in a professional manner appropriate to a courtroom atmosphere.

23. Each mooter should address each judge individually as “Your Honour”. Collectively, the Bench should be addressed as “Your Honours”.

24. The order and timings for each speaker are as follows:

	Speaker	Preliminary rounds and all final round prior to the Grand Final	Grand Final
	<i>Introductions (lead appellant and lead respondent)</i>	<i>Not counted in allocation of time</i>	<i>Not counted in allocation of time</i>
1.	Senior appellant	Between 16 and 20 minutes per speaker	Between 20 and 24 minutes per speaker
2.	Junior appellant		
3.	Senior respondent		
4.	Junior respondent		
5.	Rebuttal by the appellant (senior <b>or</b> junior appellant)	Between 2 and 4 minutes	Between 2 and 5 minutes
<b>TOTAL TIME</b>		<b>A maximum of 37 minutes per team</b>	<b>A maximum of 45 minutes per team</b>

(a) Prior to the moot, each team shall indicate to the clerk their timings for each speaker and, for the appellants, the time reserved for rebuttal. Once timings have been confirmed, they may **not** be altered.

(b) Each team shall have a maximum of 37 minutes to speak, except in the Grand Final, when they shall have up to 45 minutes. Timings must fall within the ranges in the table, above, and must be whole numbers.

*For instance, the appellant might reserve 16 minutes for senior counsel, 18 minutes for junior counsel and 3 minutes for rebuttal (total: 37 minutes). The respondent might reserve 18 minutes for each of senior and junior counsel (total: 36 minutes).*

(c) At the commencement of each moot, the lead appellant and lead respondent will each be asked to introduce themselves and their junior counsel, and to indicate the timings reserved for the team. It is not necessary that a particular form of words be used. The introductions will not form part of the time allocation of time for each team.

*Example: "May it please the court, my name is Ms X, and I appear as senior counsel for the appellant along with my junior counsel, Mr Y. I will speak for 17 minutes; Mr Y will also speak for 17 minutes; and we reserve 3 minutes for rebuttal."*

(d) Time will be kept by the clerk, who will warn each mooter when he or she has five and then two minutes remaining, and when the mooter's time has expired. Mooters must not continue speaking after the expiry of time without first gaining the permission of the Bench.

(e) The Bench will have discretion to grant an extension, although the maximum extension that may be granted for any given speaker is **two minutes from the expiry of time**, with the exception of the rebuttal, for which **no extension may be granted**. Teams should **not** assume that they will be granted extensions and should structure their submissions accordingly.

(f) If a mooter finishes his or her submissions prior to the expiry of time, that time may not be "banked" (i.e., added to the time allocated to another mooter).

25. During the moot there is to be no communication by the mooters with anyone other than their fellow advocate, the Bench, and the clerk. Mooters are advised to communicate with their fellow advocate discreetly, via passing written notes.

26. The scope of the oral arguments is not limited by the written submissions, and the judges of the Oral Proceedings will not have copies of such documents. Instead, each team should prepare a short skeleton argument for each of their appellant and respondent submissions.

(a) Each skeleton argument should set out the key propositions that each team intends to make, and the authorities on which they will definitely rely. Other points may be raised and authorities cited in response to questions from the Bench and arguments made by the opposing side.

(b) The skeleton argument must not exceed two sides of A4 paper for each team. Teams should identify themselves on the skeleton argument **only** by reference to the anonymous identifier used for the Written Submissions.

(c) The skeleton arguments will be circulated to judges ahead of the preliminary rounds, in order to give the judges an opportunity to consider the arguments to be run and authorities to be relied upon by each side. In order to facilitate this, all teams must email their skeleton arguments to the Moot Secretary by **9.00am on Friday 10 March 2023** (Oxford time). Each skeleton **must** state prominently, in the heading on the front page, the team's anonymous identifier and the side to which it relates.

(d) It is recommended that teams bring plenty of clean copies of their skeletons to the Oral Proceedings. At each preliminary round moot, teams will exchange skeleton arguments with one another; these must be returned, unaltered, at the conclusion of each moot. Additional hard copies of the skeleton arguments will also be required for teams that progress to the quarter finals and beyond. In those rounds, each bench will comprise up to three judges.

27. The remarks made in the rebuttal are limited to the scope of the respondent's remarks. A good rebuttal will make specific points about the arguments pressed by the respondent, and not merely recapitulate the submissions already made by the appellant.

28. Ahead of the Oral Proceedings, teams will be provided with an electronic, paginated Bench Bundle containing the problem, the corrections and clarifications, and all the authorities cited in the moot problem. The Bench Bundle will be provided to the judges.

Teams should produce two Supplementary Bundles (i.e., one for the appellants and one for the respondent) comprising other authorities (statutes, cases, academic articles etc) **on which they are likely to rely.**

(a) Each Supplementary Bundle may comprise a maximum of 200 A4 **sides**. It is strongly recommended that pages be printed double-sided, such that the bundle is up to 100 A4 pages. For clarification, any cover page, tabs and/or table of contents is not included in the side/page count.

(b) In compiling their Supplementary Bundles, teams do not need to include every authority they might conceivably cite.

(c) In order to stay within the 200 side limit, teams are permitted to reproduce authorities in full or in part. Redacted or extracted authorities should include all aspects on which the team intends to rely, plus any necessary contextual material. That is, judges may not look favourably upon a single paragraph or page from a judgment, if this does not allow them to analyse how those statements are used by the team.

(d) Highlighting of relevant portions of the authorities is encouraged. Teams should have clear directions on how the Bench should navigate the Supplementary Bundle.

(e) Teams should identify themselves on the bundles **only** by reference to their anonymous identifier.

29. Each team must bring two copies of the relevant Supplementary Bundle to every preliminary round; and three bundles to every subsequent finals round. These will be collected by the clerk before the start of the moot for distribution to the judges.

30. Teams are wholly responsible for the production of all written materials for the Oral Proceedings. They should not expect that any printing or reprographic facilities will be made available to them by the OC, the Faculty of Law or Pembroke College.

### *Progress through competition*

31. There will be four preliminary rounds. These will take place on **Thursday 16 March** and **Friday 17 March 2023**. There will be two moots each day. Each team will complete once in each round, appearing twice for the appellant and twice for the respondent. The OC will be responsible for the draw to decide which teams face one another in the preliminary rounds. It is the responsibility of each team to ensure that they follow the competition schedule.

32. After the conclusion of each preliminary round moot, the judges will call a short adjournment, during which they will consider the performance of the mooters and decide on a winner. They will invite all mooters and audience to return, when they will make some general remarks regarding the performance of the mooters and indicate the winner of the moot. **Team and individual scores will not be announced.**

33. In the preliminary rounds, each Bench will be asked to award the following scores (in addition to determining the winner of the moot):

(i) **A team score.** This will be a mark from 1 to 10, where:

**9/10** = an excellent performance that displays the qualities of a semi-finalist or grand finalist;

**7/8** = a very good performance that displays the qualities of a team that will progress to the quarter finals;

**5/6** = a good performance that with improvement could be good enough for the team to progress to the quarter finals;

**3/4** = a solid performance of a team in the preliminary rounds; and

**1/2** = all other performances.

Across the four preliminary rounds, there is therefore a total of 40 points available per team.

In an extremely close moot, it is permissible for the Bench to give the same team score to both teams, however, it is not permissible for them to award a tie. It is permissible for the Bench to award half marks (e.g., 5.5 or 8.5).

(ii) **An individual score for each mooter.** This will be a mark out of 50, having regard to factors such as legal content, use of authority, courtroom manner, use of bundles, and responses to questions from the Bench. As an indication, an excellent mooter will score 40 and above, a very good mooter 35-39, a good mooter 30-34, and a solid mooter 29 and below. Only exceptional mooters will be awarded a mark greater than 45.

The aggregate of individual mooter scores for the winning team must be higher than for the losing team.

**34.** The teams will be ranked at the end of the preliminary rounds as follows:

(i) The **team scores** will be aggregated, and the teams ranked on the basis of those scores (from highest to lowest).

(ii) Where two teams have the same aggregate score, they will be separated according to **win/loss record**. If their win/loss record is also the same, they will be ranked on the basis of the **aggregate of individual scores** awarded to each mooter.

**35.** All finals will take place on **Saturday 18 March 2023**. The quarter finals will be drawn as follows:

1<sup>st</sup> **versus** 8<sup>th</sup>

2<sup>nd</sup> **versus** 7<sup>th</sup>

3<sup>rd</sup> **versus** 6<sup>th</sup>

4<sup>th</sup> **versus** 5<sup>th</sup>

Progress from the quarter finals to the semi-finals will be by knockout. As such, the judges in the quarter finals will only be required to select the winner of the moot. Team and individual scores will not be given.

**36.** The semi-final will be comprised:

Winner of 1<sup>st</sup> v 8<sup>th</sup> **versus** Winner of 4<sup>th</sup> v 5<sup>th</sup>

Winner of 2<sup>nd</sup> v 7<sup>th</sup> **versus** Winner of 3<sup>rd</sup> v 6<sup>th</sup>

Progress from the semi-finals to the Grand Final will be by knockout. As such, the judges in the semi-finals will only be required to select the winner of the moot.

**37.** In determining sides in the quarter finals, semi-finals and the Grand Final, the following rules will apply:

(i) If the two teams met in the preliminary rounds, they will argue the opposite sides to that round.

(ii) If the two teams did not meet in the preliminary rounds, the winner of a coin toss will decide which side each team will argue. The highest ranked team from the preliminary rounds will call the toss. Unless otherwise advised, the winner of the coin toss will have two minutes to allocate sides.

The winner of the Oral Proceedings is the team that wins the Grand Final.

**38.** The decision of the judges is final. Any concerns regarding the conduct of the judges must be addressed discreetly to the OC, and must not under any circumstances be raised directly with the Bench.

**39.** Scores from all rounds will be held confidentially by the OC. At the OC's discretion, applications by a mooter to see their scores only, or a coach to see the scores of their team, may be considered after the conclusion of the moot.



## Awards

40. The following prizes will be awarded:

Winner, Oral Proceedings

Runner Up, Oral Proceedings

Winner, Best Written Submissions

*The 2<sup>nd</sup> and 3<sup>rd</sup> place runners-up will also be announced*

Best Individual Mooter in the Preliminary Rounds (the Sir Nicholas Pumfrey Award)

*To be eligible, a mooter must have spoken in at least **three** moots in the preliminary rounds*

*Ranking will be undertaken by reference to the average score achieved by each eligible mooter in the preliminary rounds*

*Where a mooter participated in three moots, the average score will be calculated using those three moots; where a mooter participated in four moots, the average score will be calculated using the best three moots*

*The 2<sup>nd</sup>-5<sup>th</sup> place Herbert Smith Freehills runners-up will also be announced*

Highest Ranked Team After the Preliminary Rounds

Best Newcomers Award

*This award will be given to the highest-ranked team after the preliminary rounds representing an institution that: (1) has never participated at the Oral Proceedings; or (2) last participated at the Oral Proceedings in March 2019 or earlier.*

*If, under these rules, there are only three eligible teams or fewer, the OC may at its discretion expand the eligibility rules.*

Professor David Vaver Spirit of the Moot Award

*This award will be given to team that best embodies the spirit of mooting, having regard to such qualities as camaraderie, perseverance, respect of fellow competitors, passion, and academic excellence. The winner will be selected by reference to a vote of teams at the Oral Proceedings, along with feedback from judges.*

## Discretion of the OC

41. The OC may at any time amend or add to the rules of the Moot. In the event of a rule-change, notice will be given to all teams. Any questions of interpretation of the rules should be addressed, *via* the Moot Secretary, to the OC; during the Oral Proceedings, these should be addressed to members of the OC directly. Decisions of the OC are final and are not subject to any form of appeal.

42. The OC may, at their discretion, disqualify a team if they consider that there has been a serious violation of these rules, or in the event of other behaviour that is considered contrary to the spirit of this mooting competition. A team so disqualified may, at the discretion of the OC, be charged the full fee described in §9, as if they had withdrawn from the competition.