



Mooting Report
2008-2009

FACULTY OF LAW
Moot Court Programme

St Cross Building, St Cross Road, Oxford OX1 3UL

From the Mooting Coordinators



Professor James Edelman
Faculty Mooting Officer

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21 June 2009

Dear Professor Edelman,

Mooting Report 2008-2009

At the conclusion of our term of office as Mooting Coordinators for 2008-2009, we are very pleased to submit to you, as Faculty Mooting Officer, a Report on the mooting activities with which we have been involved during the last academic year.

We are delighted to have had the opportunity to serve as Mooting Coordinators this year, and take this opportunity to express our appreciation to you for your guidance and support.

Yours sincerely,

A handwritten signature in blue ink that reads 'B Spagnolo'.

Benjamin Spagnolo
Mooting Coordinator

A handwritten signature in blue ink that reads 'Paschalidis'.

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Contents

Mooting in Oxford	3
Introduction	3
Key developments in 2008-2009	4
Participation	5
Funding	6
Future	7
The Role of the Mooting Coordinator	8
Administration of internal competitions	8
Selection and coaching of teams competing in external competitions	8
Publicity and communication	8
Resourcing, advice and support	9
General coordination and planning	10
Shearman & Sterling LLP University of Oxford Moot Competition	11
Maitland Chambers University of Oxford Undergraduate Inter-collegiate (Cuppers) Mooting Competition	12
Freshers' Mooting Programme	13
Philip C Jessup International Law Moot Court Competition	15
International Roman Law Moot Court Competition	16
Oxford v Cambridge Clifford Chance LLP Roman Law Moot Court Competition	16
Oxford International Intellectual Property Moot	18
ESU-Essex Court Chambers National Mooting Competition	19
OUP and BPP National Mooting Competition	20
Weekly Law Reports Annual Mooting Competition	20

Photographs

Cover page photo: (l to r) Lynn Yu (Exeter), Daniel Baker (Harris Manchester), Ailene Chou (University), Katie Johnston (Corpus Christi) and Richard Hoyle (Brasenose) being presented with the Rebecca MM Wallace for the White & Case United Kingdom National Champions in the Philip C Jessup International Law Moot Court Competition

Back page photo: Edmond Boullé (University) in the Maitland Chambers University of Oxford Undergraduate Inter-collegiate (Cuppers) Mooting Competition

Photo credits: Pages 8, 12 and back page – David Thomas (Mansfield, LJCC Mooting Representative)
 Page 16 (top) – courtesy of the Institute Mohamed Ali for the Research of the Eastern Tradition
 Page 19 (top) – courtesy of the Business School, University of Bedfordshire
 All other photos – Benjamin Spagnolo (Magdalen, Faculty Mooting Coordinator)



Mooting in Oxford

Introduction

Mooting in Oxford is nothing new. Intra- and inter-college moots have been a part of legal education in many colleges for the better part of the last century. Nor is mooting far removed from the core methods of teaching law in Oxford: it bears strong affinities with the interactive and personal style of the tutorial system. The benefits of mooting in legal education are well-recognised: legal research skills are developed, as is the ability to relate the abstract to the real and the result to the rationale; the enhancement in students' clarity of thought and argumentation and, in many cases, their interest in legal problems, is readily visible in their essays and other written work. At the intersection of theoretical and practical training, mooting has been a constant feature of the formation of lawyers since its incorporation into the customs of the Inns of Court in the fourteenth century.

What has changed in recent years is the development and expansion of the mooting programme, internal and external, at the Faculty level. The Faculty of Law now boasts an outstanding mooting programme, offering undergraduate and postgraduate students the opportunity to participate in an extensive range of competitions. We believe it to be the largest and most diverse mooting programme of any law school in the United Kingdom. Its strength is illustrated by the success of Oxford's team in the Philip C Jessup International Law Moot Court Competition (see page 15): we won the White & Case United Kingdom Championship for the second consecutive year, and were placed ninth in the world at the Shearman & Sterling International Rounds in Washington.

"Mooting competitions require competitors to engage with legal issues, and to enhance their skills of legal research and analysis, as well as their skills of persuasive argument, in the formal context of an appellate court. Mooting affords participants the opportunity to develop an understanding of substantive legal principles, to construct and defend legal argument, to collaborate closely with teammates, and to interact with academic staff, practitioners and judges in an environment that is both rewarding and enjoyable."

– Front page of the mooting section of the Law Faculty website



(l to r) Katie Johnston (Corpus Christi), Richard Hoyle (Brasenose), Andrew Lodder (Magdalen, coach), Ryan Goss (Lincoln, coach), Daniel Baker (Harris Manchester), Ailene Chou (University), Lynn Yu (Exeter) at Gray's Inn during the White & Case United Kingdom rounds of the Philip C Jessup International Law Moot Court Competition

As with most endeavours in the collegiate University, mooting is a collaborative and largely decentralised activity. While this Report focuses on those parts of the mooting programme with which the Mooting Coordinators have direct involvement, it is important to acknowledge both the widespread and intensive use of mooting by individual members of the Faculty as a teaching tool in seminars and tutorials, the many formal and informal college moots and the well-established mooting competitions administered by particular centres, groups and projects within the Faculty. The last category, in particular, includes the Oxford International Intellectual Property Moot, the Monroe E Price International Media Law Moot Court Competition and the Oxford French Law Moot, accounts of which may be provided, respectively, by the Oxford Intellectual Property Research Centre, the Programme in Comparative Media Law & Policy at the Centre for Socio-Legal Studies and the Institute for European and Comparative Law.





The centralised, coordinating role of the Faculty is intended to complement these existing mooting opportunities for Oxford students, particularly where cooperation across a broader base is required. The University's participation in the Jessup competition, for example, is only possible on a sustainable basis because of the additional capacity for University-wide selection, economic support and advocacy training afforded by collective action through the Faculty. Similarly, a large-sale, University-wide competition such as the Maitland Chambers University of Oxford Undergraduate Inter-collegiate (Cuppers) Mooting Competition (see page 12) is not feasible without institutional support and coordination at the Faculty level.

It is appropriate to acknowledge, at the outset, the invaluable contribution of the judiciary, the profession, the academic and administrative staff of the Faculty and members of the postgraduate and undergraduate student body. The breadth and depth of the mooting programme we are able to offer at Oxford would simply not be possible without the unstinting support and encouragement they provide by so generously donating their time, expertise and sponsorship.

"Mooting in environmental law provides a helpful bridge from abstract, and often fine, legal points to the practice of environmental law. For a subject whose conceptual boundaries and factual underpinnings are contested and complex, the argument of concrete cases gives students a very valuable foothold."

– Eloise Scotford, Career Development Fellow, Corpus Christi

"I participated as a judge in a Lincoln College moot which was twinned with the teaching of contract law. The moot concerned the decision in *Alfred McAlpine Construction Ltd v Panatown Ltd* [2001] 1 AC 518 (HL) and the discussions with the students both during and after the moot were far more animated and detailed than the same discussions in tutorials on awarding damages for the performance interest. The students' initial anxiety about mooting quickly gave way to a genuine interest in the subject matter and, perhaps more importantly, a more analytical and critical approach to the decision."

– Andrew Lodder, Lecturer, Keble and St Catherine's

In 2008-2009, the Faculty for the first time appointed two postgraduate law students to the position of Mooting Coordinators, to assist in the administration and enhancement of the mooting programme in Oxford. In this Report, we summarise the mooting successes of the last academic year, the new initiatives undertaken and the evolution of the role of the Mooting Coordinators.

Key developments in 2008-2009

Four developments in the mooting programme this year stand out in particular. The most significant, in the sense that it has been the catalyst for several of the others, was the creation of the position of Mooting Coordinator. That development is addressed elsewhere in this Report (see page 8). The second key development was the establishment of the Maitland Chambers University of Oxford Undergraduate Inter-collegiate (Cuppers) Mooting Competition. A University-wide inter-collegiate mooting competition for undergraduates was an obvious gap in the programme, and was contemplated by the Faculty Mooting Officer and the Law Joint Consultative Committee in 2007-2008. The competition attracted significant interest and support in its inaugural year and is now a firm fixture. A full report appears on page 12. A related achievement was the Faculty's success in securing the sponsorship of Maitland Chambers for the Cuppers competition. This promises to be a most fruitful partnership.

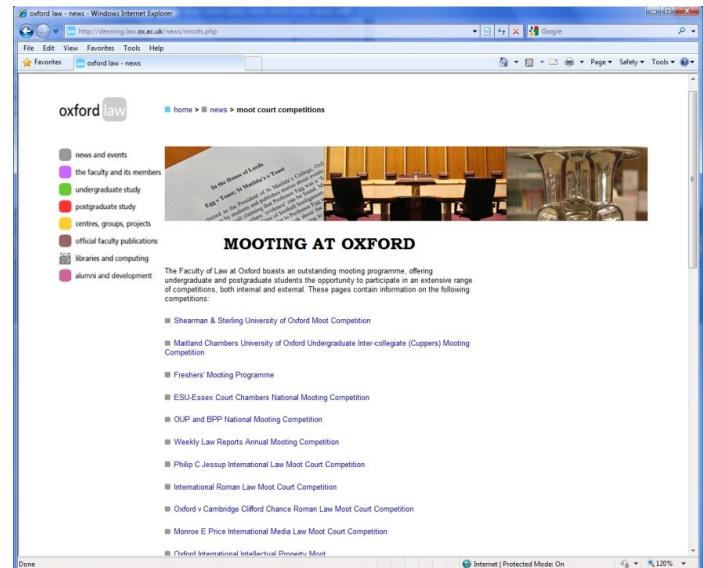


The Maitland Chambers University of Oxford Undergraduate Inter-collegiate (Cuppers) Mooting Competition Championship Cup



The third key development to be noted was the trial of a five-week Freshers' Mooting Programme in Trinity Term. This initiative was warmly received by first-year students, whose positive reaction provides incentive to integrate such an initiative on a standing basis in future years. A full report on the Freshers' Mooting Programme appears on page 13.

The final development to which we draw attention is the wholesale revision of the mootling pages of the Faculty website. The Web Development Officer, Catherine Donaldson, has been most helpful in effecting the changes designed by the Mooting Coordinators. These have transformed a single page of text with a brief statement of mootling opportunities in Oxford into a comprehensive set of pages devoted to the various competitions that the Faculty runs or in which the University regularly competes, with relevant links and materials available for download, as well as graphic and video content.



Screen shot of the mootling pages of the Faculty website:
<http://denning.law.ox.ac.uk/news/moots.php>

Participation

Some 163 individuals were involved in Faculty mootling activities in Oxford in 2008-2009, whether as interested but ultimately unsuccessful applicants, as competitors, as judges or as organisers. Of these, 119 (107 undergraduates and 12 postgraduates) were involved as competitors. The following table provides some more detailed information about the students who competed in the Faculty's three main internal mootling competitions:

Competition	Overall			Undergraduate			Postgraduate			Coll.
	Total	Male	Female	Subtotal	Male	Female	Subtotal	Male	Female	
Shearman & Sterling	24	10 (42%)	14 (58%)	13 (54%)	4 (31%)	9 (69%)	11 (46%)	6 (55%)	5 (45%)	12
Cuppers	52	28 (54%)	24 (46%)	52 (100%)	28 (54%)	24 (46%)	—	—	—	17
Freshers'	34	19 (56%)	15 (44%)	34 (100%)	19 (56%)	15 (44%)	—	—	—	17

The statistics on applications to participate in external mootling competitions (compared to the number of positions available to be filled) are also very encouraging:

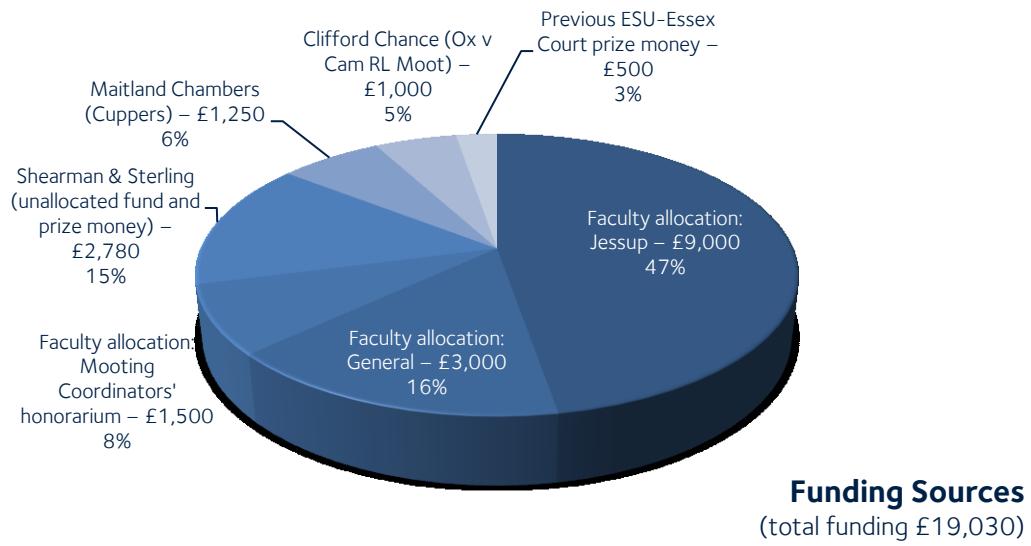
Competition	Places Avail.	Overall			Undergraduate			Postgraduate		
		Total	Male	Female	Subtotal	Male	Female	Subtotal	Male	Female
Jessup	5	9	4 (44%)	5 (56%)	9 (100%)	4 (44%)	5 (56%)	—	—	—
Intl RL Moot	4	12	8 (67%)	4 (33%)	12 (100%)	8 (67%)	4 (33%)	—	—	—
Ox v Cam RL Moot	4	16	9 (56%)	7 (44%)	16 (100%)	9 (56%)	7 (44%)	—	—	—
Oxford IP Moot	2	2	2 (100%)	—	1 (50%)	1 (100%)	—	1 (50%)	1 (100%)	—
ESU-Essex Court*	2	2	2 (100%)	—	2 (100%)	2 (100%)	—	—	—	—
OUP and BPP	2	12	5 (42%)	7 (58%)	12 (100%)	5 (42%)	7 (58%)	—	—	—
WLR	2	14	6 (43%)	8 (57%)	14 (100%)	6 (43%)	8 (57%)	—	—	—

*Automatically selected from the 2007-2008 Shearman & Sterling competition

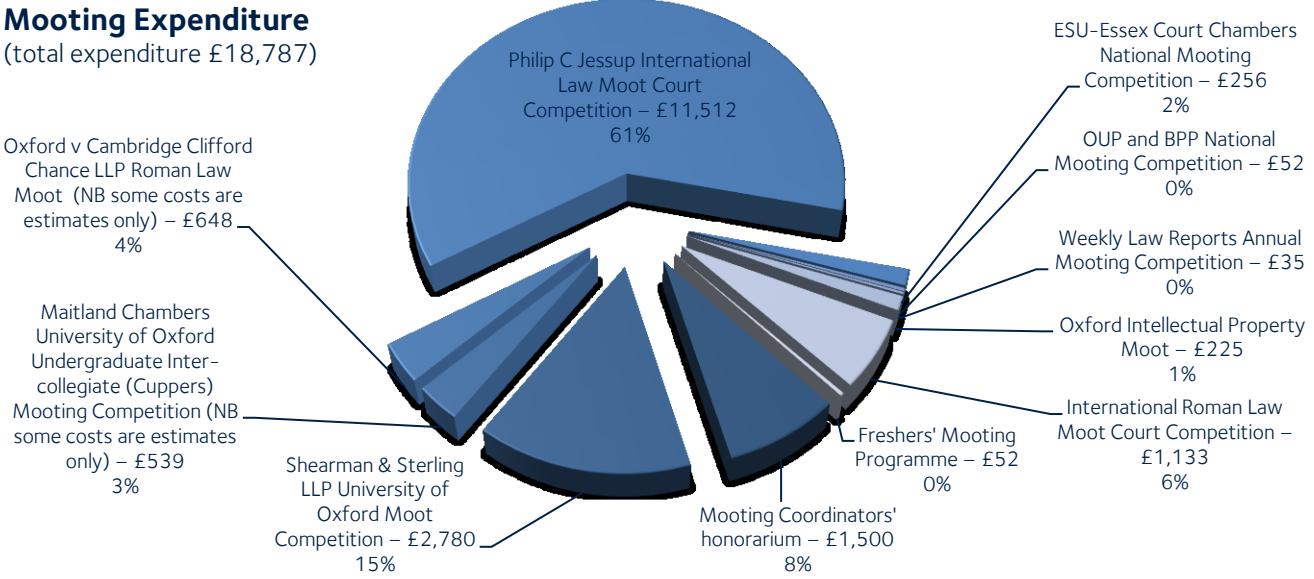


Funding

The costs involved in mootng activities are principally associated with travel and accommodation (in relation to external competitions), hospitality (in relation to internal competitions) and general expenditure on stationery, trophy engraving and the like (in both internal and external competitions). The expenditure in any given year depends on how far teams advance in the various external competitions. Funding for the Faculty's mootng programme is derived from a number of sources, though the bulk (over 60%) is comprised in Faculty allocations totalling £12,000. The chart below depicts the sources of funding in 2008-2009:



As reflected in the relative size of the Faculty allocations, Jessup was the single largest cost involved in the mootng programme in 2008-2009, since it encompasses the expenses of a team of five students, plus one coach, who travel to London and (depending on success there) to Washington each year. The Jessup allocation was reduced by £3,000 from the 2007-2008 amount. However, the effect of currency fluctuations was to drive up the costs involved in comparison to the figures for last year (on which this year's reduced allocation was premised). The amount expended on each of the competitions in 2008-2009 is illustrated in the chart below:



The continued viability of mooting depends on continued funding. As noted elsewhere in this Report, the generous ongoing support of Shearman & Sterling LLP and the contribution of Clifford Chance LLP towards the Oxford v Cambridge Roman Law Moot have this year been supplemented by funding for the Cuppers competition from Maitland Chambers. The Mooting Coordinators were pleased to attend a dinner hosted at All Souls College by the Regius Professor of Civil Law with the Dean and the Faculty's Director of Development and representatives of a major international law firm, as part of the Faculty's ongoing exploration of sponsorship opportunities.

Future

In our view, with the expected growth of the Cuppers competition and the consolidation of some form of the Freshers' Programme, the Faculty's internal mooting activities will reach their useful limits. Instigation of small-scale subject-specific moots may be an exception. We suggest that future expansion and development of the internal programme should focus on complementary competitions such as negotiation and forensic (trial) advocacy, which cater to the needs and interests of those students not contemplating a career in appellate advocacy. The LJCC has suggested that there would be strong student support for initiatives in these areas, though timing is always a significant problem during Oxford terms. Externally, there are several prestigious mooting competitions, such as the European Law Moot Court Competition, which we consider it would be desirable for Oxford to compete, if appropriate funding and coaching can be arranged.

"Mooting gives you an excellent opportunity to explore a legal problem in considerable detail and to engage with, and learn from, your team members. The knowledge that you acquire from mooting can often be put to use in examinations."

*– James Goudkamp, Lecturer,
St Hilda's*

In terms of support for mooting and related activities, we also note that Oxford lags behind most other law schools in lacking a suitable venue for important moots, which is particularly problematic when hosting other universities. The universities we have visited in national competitions this year – Buckingham, Bedfordshire and Wolverhampton – all welcomed us to dedicated or multiple-use moot courtrooms. The new standard around the world – from the University of Western Australia to Osgoode Hall Law School to the University of Edinburgh – is a venue fully equipped with the latest in audio-visual technology to permit recording and video-conferencing, as well as providing for a physical audience in a space designed to reflect the formal environment of a real court. A space such as Cornell University's recently renovated MacDonald Moot Court Room is more impressive than some countries' courts of final appeal, while even very small law schools in the United States have, over the last five to ten years, invested heavily in these facilities (see, for example, the US \$1.4 million renovation of the Millhiser Moot Court Room at the Washington and Lee University School of Law). The most recent designs proposed for the University of Sydney include not only courtroom spaces and chambers or retiring rooms for judges but also practice and preparation rooms for use by juries in forensic advocacy or for conducting negotiation and client interview competitions.



We understand that a moot court facility is being considered as part of the Faculty's longer term construction plans. We applaud this development, and we hope that the venue ultimately designed will befit the high standing of the University and the character and aspirations of the Faculty's mooting programme.

Mansfield College Chapel, in preparation for the Grand Final of the Maitland Chambers University of Oxford Undergraduate Inter-collegiate (Cuppers) Mooting Competition



The Role of the Mooting Coordinator

The Faculty's decision to appoint a Mooting Coordinator (this year, a role split between two postgraduate research students) to assist the Faculty Mooting Officer has, if we may be permitted to suggest, had a significant beneficial impact on mooting in Oxford in 2008-2009. The original terms describing the appointment do not reflect the inevitable elaboration of the role over the course of these first twelve months. With the support of an enthusiastic Faculty Mooting Officer, who set only the broadest limits on the direction we might take with respect to mooting, the role of the Mooting Coordinator has, this year, involved responsibilities in five main areas.

Administration of internal competitions

The position of Mooting Coordinator has essentially freed the Faculty Mooting Officer of all day-to-day administrative and logistical burdens in relation to the Shearman & Sterling competition and, but for an ultimate supervisory and supporting function, both of the Cuppers competition and the Freshers' Programme were planned, organised and conducted entirely by the Mooting Coordinators. Administrative responsibilities included advertising, drafting rules, assessment sheets and information packages for competitors, judges and clerks, drafting problems and, in the case of the Freshers' Programme, arranging court lists, venues, judges and refreshments. In relation to the Cuppers competition, the last set of duties was shared with the LJCC Mooting Representative, where not devolved to colleges under the rules.



(l to r) The Rt Hon. the Lord Mance hearing submissions from Emma Fenn (Worcester) in the Grand Final of the Maitland Chambers University of Oxford Undergraduate Inter-collegiate (Cuppers) Mooting Competition

In relation to the Cuppers competition and the Freshers' Programme were planned, organised and conducted entirely by the Mooting Coordinators. Administrative responsibilities included advertising, drafting rules, assessment sheets and information packages for competitors, judges and clerks, drafting problems and, in the case of the Freshers' Programme, arranging court lists, venues, judges and refreshments. In relation to the Cuppers competition, the last set of duties was shared with the LJCC Mooting Representative, where not devolved to colleges under the rules.

Selection and coaching of teams competing in external competitions

Oxford students participated in seven external mooting contests in 2008-2009. With the exception of the Oxford Intellectual Property Moot, the Mooting Coordinators were responsible for the selection and registration of teams, coaching them, arranging their travel and accommodation, accompanying them to moots and, where relevant, arranging hospitality for moots hosted in Oxford. As in previous years, a coach was appointed to the assist in the more labour-intensive preparation of the Jessup team, though both Mooting Coordinators were closely involved in the training of the team and the logistics of their participation in the competition.

Publicity and communication

One of the key benefits of the Mooting Coordinator position is the facility it affords for collation and coordination of information about mooting in Oxford. One aspect of this function has been the revision of the mooting pages of the Faculty website (see page 5). Another essential tool has been the creation of the email address mooting@law.ox.ac.uk. Over 2,800 emails have been sent or received through this address since it was established. There is now a central, static point of contact in relation to mooting at Oxford, which has simplified enormously the organisation of both internal and external competitions. When the staff in the Faculty Office receive information





(l to r) James Smithdale (Christ Church) and Ryan Goss (Lincoln, judge) in the Freshers' Mooting Programme

about mooting, and when they receive requests for information or to circulate emails to staff or students, there is a ready contact to ensure that nothing is overlooked and that everything is appropriately attended to. A case in point was the visit of a group of Polish students from the University of Warsaw Common Law Society, who were interested in mooting. The Mooting Coordinators were pleased to meet the students and arrange for them to attend a moot during their visit to Oxford. The Mooting Coordinators also participated in an interview in conjunction with the preparation of an e-brochure for the undergraduate course. In addition, the Mooting Coordinators also made use of the Faculty's online editing system to publicise mooting events on the Faculty website and in the daily and weekly email bulletins. The result has, we believe, been an enhanced profile for the Faculty's mooting programme and

greater awareness of mooting activities, through better-coordinated and better targeted publicity. Further efficiency

may be achieved by permitting the Mooting Coordinators to post directly to Faculty email lists.

Resourcing, advice and support

As noted at the start of this Report, the Faculty's mooting programme is designed to complement, not replace, other mooting activities available to students in Oxford: the opportunity for variation, experimentation and independence is a core value and strength of the collegiate University. This year, the Mooting Coordinators have, accordingly, considered it an important part of their role to provide resources, support and advice in relation to many mooting endeavours outside their direct administrative responsibility. Our objective has been to serve as points of contact and assistance in planning and administration (and in moments of crisis) in order to help ensure a diverse and flourishing range of mooting opportunities for students, without in any way trespassing on others' events.

We hope to have offered a stable point of contact to the organisers of moots on behalf of the Oxford Law Society, the Middle Temple Society, the Holdsworth Society and others, offering assistance in distributing information to potential competitors and judges and guidance on preparing problems, as well as serving as facilitators at workshops or judges in those societies' competitions. We have also been pleased to respond to requests from college law societies to conduct mooting information sessions or workshops. Most significantly, we have responded to many queries from students within and outside the Faculty in relation to mooting and moot opportunities. The Mooting Coordinators were also delighted to provide advice and assistance to the organisers of the Monroe E Price Media Law Moot Court Competition, administered by the Programme in Comparative Media Law & Policy at the Centre for Socio-Legal Studies.



(l to r) Valentin Jeutner (Pembroke) and Daniel Cashman (Exeter) in the Freshers' Mooting Programme



General coordination and planning

In the longer term, we hope that one of the benefits of the Mooting Coordinator position will be the overview of mooting in Oxford that it affords. This year, we have sought out and attempted to learn more about the many moots and workshops on offer so as to begin to compile databases of competitions, competitors, judges and mooting resources. The institutionalising of mooting experience and responsibility has obvious advantages for future planning as well as for present administration, including financial accountability. The development of selection criteria for external mooting competitions in which the Faculty is involved, the adoption of a practice requiring Faculty selection or supervision of, and a report on the achievements of, any team receiving support from mooting funds and the identification and selection of competitions in which it would be desirable for the University to compete are all products of the centralised role of the Mooting Coordinator. So, too, is the development of consistent and comprehensive assessment sheets and information packages in relation to internal competitions. Ultimately, we feel that the role has the potential to generate a healthy culture of mooting and participation in Oxford, which we consider beneficial in itself as a strength of the Faculty in comparison to other law schools, as well as instrumentally, in terms of the general enhancement of mooting skills and legal competence, and the promotion of mooting success, that such a culture entails over time.

FRESHERS' MOTING PROGRAMME

Assessment Sheet

Content	Overall score range: descriptive criteria (please tick as appropriate)				Comments and score (additional space over page)
	50-60	61-70	71-85	86-100	
Organisation of presentation	<input type="checkbox"/> written submissions are inadequate or incomplete <input type="checkbox"/> insufficient overview of submissions or conclusion <input type="checkbox"/> organisation poor; lacks structure or direction; poor time management	<input type="checkbox"/> written submissions lack clarity or directness <input type="checkbox"/> adequate overview of submissions and conclusion <input type="checkbox"/> argument may have been better structured; too lengthy or too brief in parts	<input type="checkbox"/> written submissions clear, concise and citations correct <input type="checkbox"/> clear focus, concise overview and conclusion, noting relative significance of arguments <input type="checkbox"/> logically structured	<input type="checkbox"/> written submissions clear, concise; citations correct; logical reasoning <input type="checkbox"/> effective overview and conclusion, noting relative significance of arguments <input type="checkbox"/> flexible and engaging	50-60 71-9 61-70 9-10½ 71-85 10½-13 86-100 13-15 / 15
Development of argument	<input type="checkbox"/> understanding of legal issues inadequate <input type="checkbox"/> use of authorities inadequate or inappropriate <input type="checkbox"/> fails to address key legal or factual issues	<input type="checkbox"/> good approach but lacks clarity or directness <input type="checkbox"/> addresses all key issues; though some arguments given inappropriate weight <input type="checkbox"/> poor application of law to the facts	<input type="checkbox"/> good understanding of all legal issues; good use of authorities <input type="checkbox"/> effective application of law to the facts <input type="checkbox"/> generally logical and persuasive	<input type="checkbox"/> excellent understanding of legal issues and their interrelationships; policy arguments and authorities <input type="checkbox"/> addresses and rebuts opposing arguments <input type="checkbox"/> logical and persuasive	50-60 15-18 61-70 18-21 71-85 21-26 86-100 26-30 / 30
Questions from the bench	<input type="checkbox"/> unprepared for questions reasonably to be expected <input type="checkbox"/> evades answering <input type="checkbox"/> poor composition <input type="checkbox"/> ineloquent or concedes too readily	<input type="checkbox"/> fails to perceive the object of questioning <input type="checkbox"/> responses sometimes too lengthy or too brief <input type="checkbox"/> responses lack clarity or directness	<input type="checkbox"/> accurately perceives the object of questioning <input type="checkbox"/> responds to questions directly and concisely <input type="checkbox"/> handles irrelevant questions well	<input type="checkbox"/> accurately perceives the object of questioning <input type="checkbox"/> clear responses; engages with the court's views <input type="checkbox"/> effectively integrates responses and argument	50-60 15-18 61-70 18-21 71-85 21-26 86-100 26-30 / 30
Speaking ability and delivery	<input type="checkbox"/> lacks proper courtesy; lacks clarity of language and expression <input type="checkbox"/> fails to observe correct etiquette and terminology <input type="checkbox"/> over-reliance on notes	<input type="checkbox"/> courteous and clear <input type="checkbox"/> lacks variation of tone, pace and expression <input type="checkbox"/> poor eye-contact <input type="checkbox"/> good knowledge of court etiquette and terminology	<input type="checkbox"/> courteous and clear <input type="checkbox"/> good use of language, gesture and expression <input type="checkbox"/> comfortable with interventions <input type="checkbox"/> conveys confidence	<input type="checkbox"/> conveys ideas and deals with interventions with ease, skill and confidence <input type="checkbox"/> engages well with court <input type="checkbox"/> conveys impression of conviction and sincerity	50-60 15-18 61-70 15-17½ 71-85 17½-21 86-100 21-25 / 25

Assessment Sheet for the Freshers' Mooting Programme, including descriptive criteria to guide judges' evaluation

are all products of the centralised role of the Mooting Coordinator. So, too, is the development of consistent and comprehensive assessment sheets and information packages in relation to internal competitions. Ultimately, we feel that the role has the potential to generate a healthy culture of mooting and participation in Oxford, which we consider beneficial in itself as a strength of the Faculty in comparison to other law schools, as well as instrumentally, in terms of the general enhancement of mooting skills and legal competence, and the promotion of mooting success, that such a culture entails over time.

The role of Mooting Coordinator has been time-consuming, though ultimately both enjoyable and fulfilling. It is to be acknowledged that the time commitment this year owes much to the fact that it was a new position, as well as to the number of initiatives attempted for the first time in 2008-2009. Distinguishing the role from how it has been filled this year (which is obviously a matter for others to evaluate), we believe that the position is highly beneficial to the Faculty. The advances made in the Faculty's engagement with mooting over the last six or seven years are not yet a fully entrenched part of the study of law in Oxford. Preserving and capitalising on these gains depends on securing the commitment to leadership roles such as those of the Faculty Mooting Officer and the Mooting Coordinators, with appropriate recompense, guidance and enthusiasm.



The Rebecca MM Wallace Trophy for the White & Case United Kingdom National Champions in the Philip C Jessup International Law Moot Court Competition



Shearman & Sterling LLP University of Oxford Moot Competition

The Shearman & Sterling LLP University of Oxford Moot Competition has become established as the most prestigious mooting competition within the University. On the basis of written outlines of argument, twelve teams of two students are selected to present oral argument in a series of 'lightning' moots conducted in a single day in Hilary Term. In past years, the Grand Final moot has been judged by a member of the House of Lords, the Court of Appeal or the High Court, and this year the Faculty was delighted that Lord Justice Mummery kindly agreed to preside, making it an even more significant occasion for the competitors and spectators.

Numerous cash prizes are awarded, and the names of members of the winning team are inscribed on the championship shield displayed in the Bodleian Law Library. In addition, the highest-placed undergraduate team is offered the option to represent Oxford in the ESU-Essex Court Chambers National Mooting Competition the following year. The competition is generously sponsored by Shearman & Sterling LLP, whose partners, counsel and associates also served as judges in the preliminary and semi-final rounds and attended a High Table lunch at St Catherine's College with the competitors.

This year's problem moot involved topical issues of promissory estoppel, and was of particular interest to students of contract and comparative law who attended the Grand Final in record numbers to watch some of the University's finest undergraduate and postgraduate mooters in action. At the end of an intensive day's mooting, the undergraduate team comprising **Hannah Noyce** (Wadham) and **Emily MacKenzie** (Lincoln) defeated postgraduate students **Stefanie Wilkins** (University) and **Tessa Khan** (Keble).

An additional feature of this year's competition was the involvement of the University's Public Affairs Directorate, who filmed one of the semi-final moots and conducted a range of interviews with competitors and judges.

The two films produced by the Directorate, now available on the Faculty website and on iTunes U, will be of interest to those embarking on mooting for the first time and have already proved beneficial as training resources – being used, for example, in the workshop sessions of the Freshers' Mooting Programme (see page 13).



(l to r): George Karafotias (Shearman & Sterling LLP), Hannah Noyce (Wadham), Emily MacKenzie (Lincoln), Lord Justice Mummery, Stefanie Wilkins (University), Tessa Khan (Keble) and Professor James Edelman (Faculty Mooting Officer)



Maitland Chambers University of Oxford Undergraduate Inter-collegiate (Cuppers) Mooting Competition

The Maitland Chambers University of Oxford Undergraduate Inter-collegiate (Cuppers) Mooting Competition was a new initiative in 2008-2009, organised by the Law Faculty in conjunction with the Law Joint Consultative Committee. Undergraduate students from across the University enthusiastically embraced the competition in its inaugural year, with some 17 colleges participating in Rounds I and II of the five-round contest. The eight top-ranked teams in the preliminary rounds advanced to the elimination rounds of the competition, comprising quarter finals, semi finals and a Grand Final. The Faculty is delighted that Maitland Chambers has agreed to sponsor the cuppers competition, and that they were pleased to offer the members of the winning team the opportunity to undertake mini-pupillages in Chambers.

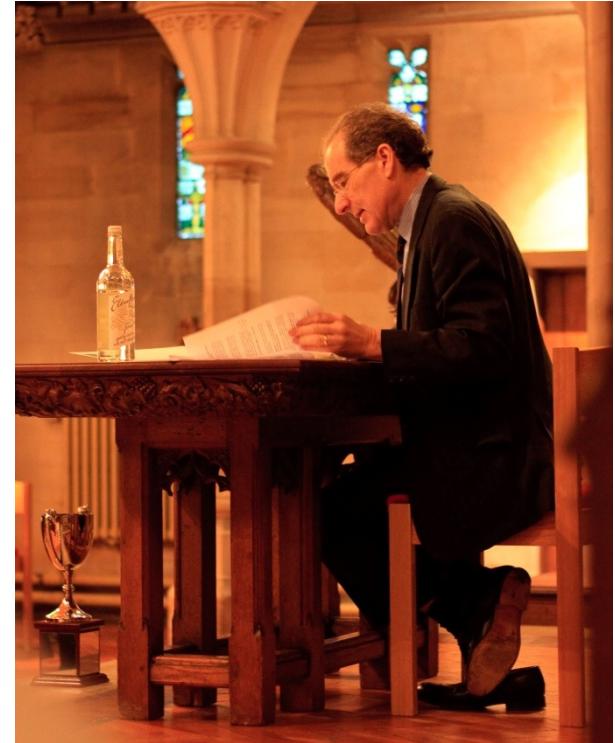
The Grand Final of the competition was held in Mansfield College Chapel on Friday 27 February 2009, between University College and Worcester College. The Faculty was especially honoured by the presence of the Rt Hon. the Lord Mance, who generously devoted his time and expertise to preside at the moot. The problem for the Grand Final moot focused on two tort principles expressed by the Latin phrases *ex turpi causa non oritur actio* (an action does

not arise out of a wrongful act) and *novus actus interveniens* (a new intervening act). With several appeals raising these issues pending before the House of Lords, the subject area was particularly topical.

The appellant team of **Toby Boncey** and **Emma Fenn** defeated respondent counsel **Edmond Boullé** and **Kerby Lau**, to ensure that Worcester College's name was the first to appear on the Championship Cup, now displayed in the Bodleian Law Library. The standard of legal research and advocacy skills displayed in the moot was exceptional, as it was throughout all rounds of the contest, and the competition promises to become a fertile source of great mooters in years to come.

The Faculty acknowledges, in particular, the considerable amount of time and energy contributed by the LJCC's Mooting Representative, David Thomas (Mansfield), to the success of this year's competition. The competition also involved many tutors and postgraduate students in the Faculty, whose assistance as judges in the preliminary rounds of the contest is much appreciated.

Emma Fenn and Toby Boncey (Worcester) with the Maitland Chambers University of Oxford Undergraduate Inter-collegiate (Cuppers) Mooting Competition Championship Cup



The Rt Hon. the Lord Mance presiding



Freshers' Mooting Programme

In Trinity Term 2009, the Faculty piloted a Freshers' Mooting Programme, intended to introduce first-year students to mooting in a non-threatening environment, after Law Moderations, with an emphasis on participation, enjoyment and skills development rather than competition. Some 34 participants from 17 different colleges participated in the Programme, which began with an introductory seminar, covering the basics of mooting and preparation, involving a panel discussion with current students about their experiences mootling in Oxford.

The students, many of them mootling for the first time, then appeared before experienced but kindly postgraduate students for their Round I moots the following Monday evening. An advanced workshop session in the third week of the Programme, opened by the Dean, Professor Timothy Endicott, incorporated reflections and suggestions based on Round I moots, viewing of and commentary on sections of the video taken at the 2009 Shearman & Sterling LLP University of Oxford Moot Competition (see page 11) and a range of observations and advice on matters of advocacy style, time management, structure and presentation.

"Videos are a really good way to get an idea of what a moot should look like[...]"

– Student feedback

– Student feedback



(l to r) Stefanie Wilkins (University, judge), James Illingworth (Mansfield) and Christopher du Boulay (Mansfield)

In Round II, mooters were required to argue the opposite side of the ground of appeal they had argued in Round I, in a court composed of different opposing counsel and a different judge. In their feedback, student participants overwhelmingly endorsed as especially valuable the opportunity to moot twice in a short period of time, with intervening feedback from their first-round judges and through the workshop session, as well as the opportunity to moot both sides of the same problem. The problem was designed to take up an area of the constitutional law course,

involving a challenge to the Advertising on Social Networking Sites Act 2007 and an attempt by the fictional political lobby group Republic Now to advertise a Republican Garden Party on a site covered by the Act. Building on their experiences in Round I, mooters displayed excellent skills of research and analysis, taking the judges through the complexities of recent jurisprudence from the House of Lords, the European Court of Human Rights and the Supreme Court of the United States. The improvement in their mooting technique and oral and written advocacy was rapid and remarkable.



(l to r) Laura McDonald (Lady Margaret Hall), Joanne Lau (Balliol) and Adam Webster (solicitor, judge)

"It was interesting to have to moot both sides, as we were forced to defend cases which we felt were weaker."

– Student feedback





(l to r) Matthew Feehily (St John's), Christopher Wallace (St John's), Joshua Folkard (University, obscured) and James Smithdale (Christ Church)

When the top four mooters (ranked according to their performances in Rounds I and II) appeared in the Final in the St Cross Senior Common Room on 1 June, the presiding judge, Faculty Mooting Officer Professor James Edelman, indicated that he could make none of the criticisms commonly levelled at student mooters, and declared the standard displayed to have been at least as good as that displayed in the Grand Final of the Maitland Chambers University of Oxford Undergraduate Inter-collegiate (Cuppers) Mooting Competition (see page 12). A wine, cheese and chocolate reception followed for the finalists, **Daniel Cashman** (Exeter), **Joshua Folkard** (University), **Andrew James** (Magdalen) and **Laura McDonald** (Lady Margaret Hall), together with fellow participants in the Programme, friends and supporters.

The Mooting Coordinators were delighted to receive very positive comments from the 28 participants who completed the feedback questionnaire, which was designed to assist in reviewing and evaluating the success of the pilot Programme. In light of this response, it is hoped that an initiative of this kind can be conducted again in future years, either on a similar basis to this year's trial, or perhaps as part of a revised Legal Research Skills Programme.

"The best [aspect of the Programme] apart from gaining mooting skills is to settle into an argumentative mindset that allows you to identify the crucial points for your argument and to respond to questions."

"The general helpful and friendly atmosphere in the competition took pressure off, and gave an opportunity to gain some confidence."

"Mooting can be fun in a scary way; it's a good test of one's ability."

"[I]t was a fun and valuable experience, improving speaking skills and giving some insight both into the work of a barrister and the procedure of the courts."

– Student feedback



(l to r) Louise Benski (Worcester, clerk), Allison Phua (Corpus Christi) and John Beresford (Corpus Christi)

Philip C Jessup International Law Moot Court Competition

The Philip C Jessup International Law Moot Court Competition is the largest and most prestigious mooting competition in the world. In 2009, the 50th year of the contest, nearly 600 teams from almost 90 countries vied for the world title, which was ultimately won by the Universidad de los Andes from Colombia. The Oxford team for 2009 comprised **Daniel Baker** (Harris Manchester), **Ailene Chou** (University), **Richard Hoyle** (Brasenose), **Katie Johnston** (Corpus Christi) and **Lynn Yu** (Exeter) and was coached by postgraduate students **Andrew Lodder** (Magdalen) and **Ryan Goss** (Lincoln). After finishing ahead of 19 other teams from universities and Inns of Court from across the country to win the White & Case United Kingdom Jessup Competition in February, the five Oxford mooters and their coach travelled to Washington to represent the United Kingdom in the Shearman & Sterling International Rounds of the competition, where they placed 9th in the world.

The Jessup competition involves a fictional problem set before the International Court of Justice and requires teams to prepare two 12,000-word written memorials, as well as present oral argument for both the applicant and respondent States. This year's problem, 'The Case Concerning Operation Provide Shelter', raised a variety of topical issues of public international law, including the use of force by way of humanitarian intervention, the production of classified intelligence reports, state responsibility for the conduct of troops of occupying powers and of national contingents in multilateral peacekeeping forces, the grant of asylum and the power and authority of the Court itself.

2009 is the second consecutive year that an Oxford team has, as UK Champions, won the Rebecca MM Wallace Trophy, and the third consecutive year that Oxford has represented the United Kingdom in Washington. This year they were joined in Washington by teams from University College London and the London School of Economics, who finished second and third respectively in the UK competition. Richard Hoyle was declared best oralist in the UK Championship Round, which was held at Gray's Inn in London and was judged by a panel of seven leading international lawyers, chaired by Lord Bingham.

In Washington, the team progressed to the advanced rounds with a perfect record, winning all four of their preliminary moots against the National University of Kyiv (Ukraine), Sulaymaniyah State University (Iraq), the University of Münster (Germany) and the University of Costa Rica. After victory over the Hebrew University of Jerusalem (Israel) in the first run-off round, Oxford lost by one point to the London School of Economics in a split-panel decision in the Octo-Final rounds. The team's final ranking of 9th in the world is the University's best result in the Jessup competition. The team's memorials were placed 20th in the world, and Richard Hoyle finished 23rd in the best individual oralist rankings.



(l to r) Ryan Goss (Lincoln, coach), Richard Hoyle (Brasenose), Daniel Baker (Harris Manchester), Katie Johnston (Corpus Christi), Ailene Chou (University), Lynn Yu (Exeter), Andrew Lodder (Magdalen, coach), Paschalidis Paschalidis (Harris Manchester, Faculty Mooting Coordinator) with the Rebecca MM Wallace Trophy for the White & Case United Kingdom National Champions



International Roman Law Moot Court Competition

In April 2009, the second International Roman Law Moot Court Competition and Colloquium was organised by the Institute Mohamed Ali for the Research of the Eastern Tradition and the Municipality of Philippi. The moot and colloquium again took place at the Imaret of Kavala and in the Roman forum of Philippi. Eight universities from across Europe attended this year: the Universities of Oxford, Cambridge, Naples Federico II, Vienna, Tuebingen, Liège and Trier and the National and Kapodistrian University of Athens.

The case involved the appropriation of state property by government officials and a point on servitudes (easements), taken directly from the recent case in the House of Lords of *Moncrieff v Jamieson* [2007] 1 WLR 2620. The elaborate case gave teams a wide variety of points on which to found their arguments – a rare opportunity in mooting competitions. The competition was followed by a colloquium, which also focused on the corruption of lawyers and officials in Roman law. Papers were delivered by leading academics from the universities represented. Our own Regius Professor of Civil Law, Professor Boudewijn Sirks, made a valuable contribution concerning the concept of corruption in late antiquity, noting that it provided Roman society with a bureaucracy it might otherwise have lacked.

The Oxford team, composed of **Philip Ahlquist** (Magdalen), **Simon Kerry** (Merton), **Daniel Khoo** (University) and **Martin Ström** (St Anne's) and coached by **Paschalis Paschalidis** (Harris Manchester), brought home the honour of having the highest aggregate score in the preliminary rounds of the competition, which was ultimately won by the University of Trier. In addition, Mrs Anna Missirian, President of the Institute Mohamed Ali, bestowed the Mohamed Ali Award upon the Faculty of Law of the University of Oxford for the crucial role it has played in establishing the competition, particularly through the unstinting efforts and enthusiasm of Paschalis Paschalidis.

Our thanks go to the organisers, as well as the generous sponsors of the competition: the Athens law firms Zepos & Yannopoulos and Karatza & partners and the Kavala law firm Koimtzidis, Paparalis & Kogkalidis.

Oxford v Cambridge Clifford Chance LLP Roman Law Moot Court Competition

The third annual Oxford v Cambridge Clifford Chance LLP Roman Law Moot Court Competition took place on 19 June, this year hosted in Oxford. Two teams composed of elite Roman law students from each university competed against each other before a packed audience in the Hovenden Room at All Souls College before the two Regius Professors of Civil Law, Professor Boudewijn Sirks (Oxford) and Professor David Ibbetson (Cambridge).

Professor Boudewijn Sirks, Regius Professor Civil Law in Oxford, presiding



(l to r) Mrs Anna Missirian (President, Institute Mohamed Ali), Paschalis Paschalidis (Harris Manchester, coach), Simon Kerry (Merton), Martin Ström (St Anne's), Philip Ahlquist (Magdalen) and Daniel Khoo (University)





(l to r) Scott Coleman (Brasenose), Joshua Folkard (University), Emeric Monfront (Christ Church), Di Yu (Brasenose), Marie Lucienne Lambert (Clifford Chance LLP), Natalia Wise (Clifford Chance LLP) and, foreground, Philip Ahlquist (Magdalen, coach) with the perpetual shield

Both teams presented arguments for each side of a dispute concerning the contract of pledge (pignus) and the delict of contempt (iniuria). The case was a variation on a theme extracted from the novel *Prigkipessa Izampo* by Angelos Terzakis and the *Chronicle of Morea*, which narrates the story of the Frankish conquest of the Peloponnese in the 13th and 14th centuries. Both universities provided the audience with an excellent performance, demonstrating not only their deep knowledge of Roman law, but also their skills in advocacy. The Oxford team, composed of **Scott Coleman** (Brasenose), **Joshua Folkard** (University), **Emeric Monfront** (Christ Church) and **Di Yu** (Brasenose), coached by **Philip Ahlquist** (Magdalen) and **Simon Kerry** (Merton), both alumni of the International Roman Law Moot Court Competition, achieved a great victory against Cambridge.

The competition was followed by drinks, where students had the chance to meet and talk to the representatives of Clifford Chance, and dinner in Harris Manchester College, where Ms Natalia Wise, associate at Clifford Chance LLP and Oxford alumna, gave a warm speech of encouragement to the competitors. Together with her colleague, Ms Marie Lucienne Lambert, she presented the winning team with the perpetual shield. In his speech, Professor Boudewijn Sirks expressed our enormous gratitude to Clifford Chance for their continuing generous sponsorship and support.

We were also very pleased to welcome a group of international visitors to this year's competition: Mrs Anna Missirian, Mr Michael Lychounas and Mr Evangelos Yasimakopoulos, from the Institute Mohamed Ali for the Research of the Eastern Tradition, which organises the International Roman Law Moot Court Competition, as well as law students from Germany (Philipp Ersfeld, Martin Weiler and Constantin Willems) and Italy (Paolo Mammola), all alumni of the International Roman Law Moot, who travelled from their respective countries especially in order to attend the moot.



Competitors and spectators listen to Di Yu (Brasenose) making submissions to Professor David Ibbetson (centre left) and Professor Boudewijn Sirks (obscured) in the Hovenden Room at All Souls College



Oxford International Intellectual Property Moot

The Oxford International Intellectual Property Moot is hosted by the Oxford Intellectual Property Research Centre and organised by a committee of students with an interest in intellectual property. The competition invites teams from universities around the world to prepare written submissions and present oral argument on each side of a hypothetical intellectual property law problem set by experts in the field. The event, now well-established, attracts teams from Asia, Australia, North America and Europe. In 2009, Oxford was represented by undergraduate student **Emer Cassidy** (St Hugh's) and BCL student **Narinder Jhittay** (Hertford), who submitted the following report:

The competition consisted of two parts: a written submission due in December and the oral competition held in March in St Catherine's College. The moot facts were on patent law and were divided into two parts, an appeal and a cross-appeal. We decided to split the issues up between us on this basis. Narinder dealt with the appeal proper and Emer dealt with the cross appeal. Each team was to prepare both sides to the dispute and both would be mooted orally.

For the team to be chosen there was a "mini moot" in which we were required to give a short oral presentation in front of Adrian Bradley, a patent attorney at FJ Cleveland, who was to be the moot team coach, his colleague Nicholas Bennett, and Barbara Lauriat, a Fellow of St Catherine's College. We were selected on this basis to go through to represent Oxford in the moot. We held meetings with Adrian and Barbara to discuss the law in this area and how best to structure our submissions. Adrian was extremely helpful, explaining some of the knottier points and helping us to make sense of the facts and how the science in this area works. Using these meetings, textbooks and cases we prepared our written submissions, had Adrian look over them and eventually sent them to the moot secretary for judging. Then we began preparing for the oral part of the competition. Again we held meetings with Adrian and Barbara where we presented our case and were subjected to some intense questioning. We wanted to be prepared for any questions the judges would throw at us.

Eventually the day of the competition arrived. 20 teams from as far away as Australia and as close as Cambridge assembled on Friday morning to each moot in front of two judges drawn from solicitors, barristers and judges in the field. Our first round moot was against Nantes University (France). They were a good side and although they beat us on the law we won on points in that round. The next round was a mere 15 minutes later and this time we were against the University of British Columbia (Canada). They were an excellent side and although this time we won on the law, mainly thanks to Narinder's "ingenious" point that one of the issues being mooted was actually a finding of fact, we unfortunately lost to them on points.

After lunch it was announced who would participate in the next round. To our delight we were through, and were to moot immediately against Queensland University of Technology (Australia) (QUT). They were not only lovely people, but a very strong team and mooting against them was very enjoyable. The judges in this round took around 20 minutes to deliberate and when they called us back in they said they couldn't choose the stronger side and that it was a draw. That was the last moot of the day and the teams getting through to the semi-final were to be announced at the Conversazione lecture given that afternoon.

Unfortunately we did not make it to the semi-finals; it was, however, a very close contest, as we drew with two other teams. The decision as to which teams went through had to be made on the aggregate scores from the previous rounds, which wouldn't normally have been taken into consideration. Although we were disappointed, we had enjoyed the mooting and the social activities, which were well organised and a good opportunity to talk to other teams and practitioners. At the final the next day QUT faced the University of Edinburgh in front of two Court of Appeal judges (Jacobs and Mummery LJJ) and a high court judge (Floyd J) in a very enjoyable final. QUT eventually took the prize; so although we hadn't made it to the semi-finals we took consolation in the fact that we drew with the winning team in the third round!

The IP Moot was a very valuable experience, not only for the advocacy practice but also for the opportunity to be a part of such a prestigious mooting competition. It was an excellent chance to meet other people with an interest in the field and discuss the issues with people who have actually worked on some of the important cases in this area of law.

ESU-Essex Court Chambers National Mooting Competition

Founded in 1972 as the Observer Moot, the ESU-Essex Court Chambers National Mooting Competition, organised by the English-Speaking Union and sponsored by Essex Court Chambers, is the largest and oldest of its kind in the United Kingdom. The competition involves knock-out rounds held throughout the academic year and hosted by competing universities across England, Wales, Scotland and Northern Ireland.

In 2009, Oxford was represented in the competition by **Robert Amey** (Christ Church) and **Nikhil Arora** (Queen's). In the first round, the team travelled to Luton to moot against the University of Bedfordshire on a topic involving questions of false imprisonment without actual restraint and battery by a publican who threw a pint of lager over a patron to wake him up. In an entertaining moot with generous hosts and before a large audience of spectators from the University of Bedford law students' society, the Oxford team convincingly defeated their opponents to proceed to the next round.



(l to r) Robert Amey (Christ Church) and Nikhil Arora (Queen's) in their first-round moot at the University of Bedfordshire



(l to r): Robert Amey (Christ Church), Nikhil Arora (Queen's), Mr Nicholas Cotter (Abbott Forbes Solicitors), Adam Rulewski (UEA), Matthew Davison (UEA)

Oxford hosted the second-round moot against the University of East Anglia. The Faculty was delighted that local practitioner Mr Nicholas Cotter (of Abbott Forbes Solicitors) kindly agreed to judge the moot, on a criminal law problem focusing on the problematic common law offence of outraging public decency and the statutory offence of engaging in sexual activity in a public lavatory contrary to section 71 of the Sexual Offences Act 2003 (UK). In a moot characterised by excellent advocacy, the Oxford team narrowly lost, despite winning the legal argument on both grounds of appeal.



OUP and BPP National Mooting Competition

The annual national moot competition conducted by Oxford University Press and BPP Law School now attracts more than 50 teams from across England, Scotland and Wales. The 2009 Oxford team comprised **Philip Ahlquist** (Magdalen) and **Oliver Linch** (Lincoln). They represented the respondent art deco renovations company Sunburst Design in their first-round moot hosted by the University of Wolverhampton in their new moot court facility.

The appeal concerned the correct test for assessing damages for defective construction and the circumstances in which an account of profits should be ordered in accordance with the principles set out in *Attorney General v Blake* [2001] 1 AC 268 (HL). These questions arose as a result of Sunburst Design's using a lighter kind of mahogany than specified in the contract, because they had sold the claimant's darker wood to a third party at a profit. The claimant was disappointed with his award of £1,000 for loss of amenity at first instance and sought the full £30,000 cost of remedying the defect, although this would not alter the value of his property, as well as an account of the £6,000 profit made by Sunburst Design. Despite their mastery of a difficult area of law that is sometimes controversial in its application, Philip and Oliver were unlucky to lose their moot, which was judged by District Judge Martin Brown and were knocked out of the competition.



(l to r) Philip Ahlquist (Magdalen) and Oliver Linch (Lincoln) in their first-round moot at the University of Wolverhampton

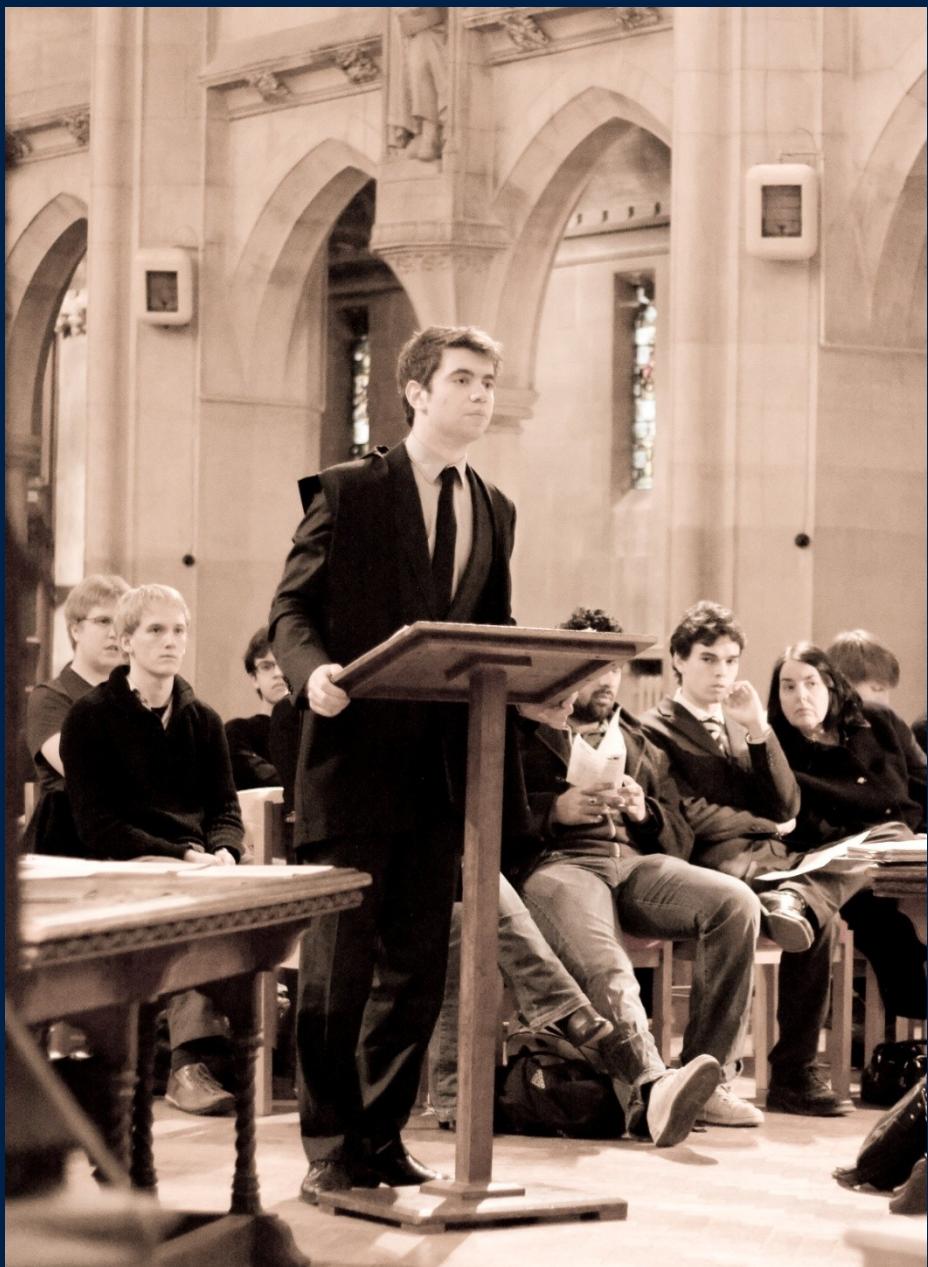
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Weekly Law Reports Annual Mooting Competition

The Weekly Law Reports Annual Mooting Competition is administered by the Incorporated Council of Law Reporting for England and Wales and comprises five knock-out rounds organised on a regional and national basis. Oxford was represented in the competition, which is limited to 32 teams, by **Charles Steward** (St John's) and **Gabriella McNicholas** (Magdalen).

Their first-round problem concerned a University of Dundee student whose trip to London for a training contract interview proved catastrophic, when his shoulder was dislocated by a fall occasioned by the bus driver's negligence and his bike was stolen from the coach company's luggage deposit. Charles and Gabriella were allocated the difficult task of representing the coach company against the University of Buckingham, who appeared for the student, in an appeal concerning the incorporation of terms into the contract and the overriding effect of the Unfair Contract Terms Act 1977 (UK). Unfortunately, the team lost by a very narrow margin, with the judge admitting his decision ultimately rested on the comparative ease of using the bundles prepared by each team.





FACULTY OF LAW
Moot Court Programme