

LITIGATION

United Kingdom

High Court rules on credit ratings arbitrage case

Author: Andrew McGregor

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FEFM3Z>)

The High Court recently ruled on a misselling claim brought against Barclays Bank Ltd in relation to the portfolio composition of a complex financial product. Many investors in this area will be surprised by the judge's conclusions on the basis of the collateralised debt obligations business.

Germany

Effective legal protection against excessively long judicial proceedings?

Authors: Stefan Gentzsch, Nils Hala

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FGJ5RX>)

The European Court of Human Rights has recently pointed out that excessively long judicial proceedings constitute a systemic problem in German procedural law and stated that the German legal system does not provide for an effective remedy against this. The government has since submitted a draft law with the aim of implementing an effective remedy against unreasonably long judicial proceedings.

Japan

New rules on international jurisdiction - impact on IP disputes

Author: Masayuki Yamanouchi

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FGJ5SM>)

A recently promulgated bill to amend the Code of Civil Procedure and the Civil Provisional Remedies Act will change the international jurisdiction of the Japanese courts and will have a significant impact on foreign businesses. It also raises specific concerns for IP stakeholders.

United Kingdom

Suing fiduciaries: delay is okay in claims to repay?

Author: Benjamin Roe

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FGJ5T2>)

A recent High Court case involving unlawful loans to directors illustrates the potential pitfalls involved in calculating limitation periods and the circumstances in which the usual six-year statutory limitation period will not apply to a recovery claim against a fiduciary. It is a reminder for liquidators that possible causes of action and related limitation periods must be considered promptly on liquidation.

Australia

Privilege between entities within corporate groups

Authors: Amanda Banton, Chris Martin

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FFL95X>)

A recent judgment in an interlocutory motion before the Federal Court of Australia is likely to have a direct impact on the manner in which in-house legal counsel provide advice to their client (the corporate entity that employs them) and, more specifically, the terms upon which and the manner in which they should provide advice to separate entities within their corporate group.

Hong Kong

High Court finds mediation and arbitration a volatile mix

Authors: Simon Richard Morgan, Jayne Bentham

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FFL96Z>)

The High Court recently refused to enforce an award because of the risk of bias by an arbitrator who acted as a mediator between the parties; however, the court stressed that it was the way in which the attempted mediation had been approached that had tainted the award, not the concept of med-arb itself.

New Zealand

A sea change in civil procedure

Author: *Ian Denton*

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FFL97L>)

The District Court Rules 2009 introduced a new regime for claims, which radically departed from traditional civil procedure. Almost 18 months after their commencement, it is clear how dramatically these rules have affected civil litigation. The interlocutory warfare that was common in traditional civil procedure has made way for a process that is strongly focused on early settlement.

United Kingdom

Tactics of termination: High Court offers lessons for both sides

Author: *Matthew Dando*

(Read article <http://www.internationallawoffice.com/?i=55592&l=7FFL98A>)

A recent case sheds light on the importance of careful drafting and interpretation of contractual termination provisions. The inclusion of one or two words would have significantly widened the scope of a key provision and ultimately changed the outcome of the litigation. The case also provides guidance on the correct measure of damages when a purported termination proves to have been unlawful.