



*Presentation given by 'Team Australia' from the
2007 Intercollegiate Negotiation Competition
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The Intercollegiate Arbitration / Negotiation Competition is a mooting / negotiation competition held annually at Sophia University in Tokyo. Team Australia sent two teams – one competing in the Japanese language, and one competing in the English language.

1) What the competition was about

The competition involved two days of competing in rounds of, as the name of the competition suggests, arbitration and negotiation.

In the arbitration round, the teams were given a fact scenario, which concerned a dispute arising out of several contracts concluded between two companies, which were of an international commercial nature. The contracts related to the sale of mobile phones, and were governed by the UPICC. I do not endeavor to go into the details of the problem question, but in very brief terms, the questions we were asked to deal with related to what the terms of the contract were, whether there had been a breach and termination of the contract, and if so, how much damages should be paid.

In this round, each of the teams was assigned either Red company or Blue Incorporated. The team members would take on the role of lawyers representing that company in arbitration, arguing for their company's position. Each of us would take on one issue and argue that point in front of the arbitrators, who were academics or practitioners either in Japan or abroad.

The arbitration takes place in a rather relaxed atmosphere. For the English teams, the lawyers did not need to stand up to address the arbitral panel, and may indeed refer to the members of the panel by name.

In the negotiation round, the teams were given additional facts, but this time, they were not lawyers representing their company. They were the company itself – each team member was assigned a role within the company, such as General Manager of Financial Affairs, the General Manager of the Legal Department, and so on.

The aim of the game was to negotiate a favourable outcome for your company, and report the outcome to the president, who was one of the judges. The question concerned several problems and disputes, including the running of a joint venture company, the establishment of a new commercial venture, and the settlement of a price dispute.

2) What individual team members had to do to get into the team

To enter the team, candidates were interviewed by our coaches either in Japanese or in English. Fluency in the Japanese language was a prerequisite for entering the Japanese team, while only English was needed for the English team. The other requirement was being willing and able to work on the problem question with the team straight after the November exams.

3) What we got out of it

One obvious experience we got out of the competition was the interaction with Japanese law students. For us, through the competition, we met other Japanese university students who had the same interests as we did. Even for the English team, some of us were able to break the language barrier, and communicate with the Japanese students and make friends. All the more for the Japanese language team, we were able to experience firsthand negotiating with people from a different cultural background.

We also experienced negotiating and mooting in an atmosphere rather different to one we have been used to in our law schools in Australia. Some of us had been used to mooting in a formal setting, or negotiating only in pairs. But to us, the competition shed new light, and quite realistically, on the running of companies, procedure in arbitration, and commercial practice in general. In fact, judges have commented that it would have been likely that the facts in the problem question would arise in a real international commercial context.

Within our teams, we learnt the importance of co-operation and teamwork, how significant each individual was in their input of ideas and arguments in discussion sessions in preparation for the competition.

On the day, the arbitration took four hours, and the negotiation took five. So combining that with the week or so of preparations beforehand, by the end of the competition we were all quite exhausted, but also satisfied with our efforts, and that it did pay off to work late into the night on the question.

4) What we thought was interesting

Apart from the arbitration and negotiation rounds, the competition also included a contest for the best company flag design. I recall two of our members, who had a passion for design and art, subtly fighting over whose flag should be submitted. From personal experience when I first entered this competition two years ago, I remember each of the teams having to perform a company song, and ranked according to their singing ability and content of the lyrics. I think this playfully exhibits some of the lawyer's most important skills – being able to sing in tune and in time and creativity in design.

Before I finish, I would like to quote our 'team aspiration', which sums up our attitude towards the competition from the very start: Team Australia is proud to be representing Australia in this prestigious competition in Japan. We are keen to be competitive, learn new skills and meet many future legal practitioners. Most of all though, we hope to have fun.



Claire Hazlett

I think one of the most important things about the negotiation and arbitration competition is the opportunity to forge friendships and develop networks with other law students in Japan and Australia who are interested in the same things as you. A particularly valuable experience about going and participating in the competition in Japan is seeing how the Japanese universities organise themselves and their teams and interact with you in a professional environment. One thing that struck me was the excellent use of sempai-kohai relationships that the Japanese universities had built up over the years in the competition. Having some older hands to help reduce nervousness, explain the nuts and bolts of the way the competition runs, and provide encouragement and feedback is a very valuable resource to new students. I hope that Team Australia's continued participation in the competition will also allow these sempai-kohai relationships to develop within Australian universities as well.

James McCombe

Competing in the 2007 intercollegiate negotiation competition provided us not only with a fantastic opportunity to develop our legal skills, it gave us an invaluable chance to develop our Japanese language skills, extending beyond everyday conversation and develop our 'legal Japanese' skills. This is particularly important, as there are few chances to really practice and utilise Japanese in a more professional context. Thus, this competition provided us with the chance to take the next step with out Japanese and allowed us to start the transition between conversing at an everyday level, and conversing at a professional, business level.

I believe this is particularly important in further developing and deepening respect and understanding between Australia and Japan. I feel that there exists an expectation on Japanese professionals to be well versed in, and conduct business in the English language. However, the same expectation is not as evident in relation to Australians, and other English speaking nations and our ability to conduct business in Japanese. Opportunities like the negotiation competition provide young Japanese students and aspiring lawyers and business leaders to develop their Japanese language skills to the extent necessary to converse fluently in professional situations. This helps foster respect for the Japanese language and the position of Japan as a close business partner of Australia