



# OVERSEAS DECISIONS BULLETIN

Produced by the Legal Research Officer,  
High Court of Australia Library

Volume 14 Number 1 (1 January 2017 – 28 February 2017)

Decisions of the Supreme Court of the United Kingdom, the Supreme Court of Canada, the Supreme Court of the United States, the Constitutional Court of South Africa, the Supreme Court of New Zealand and the Hong Kong Court of Final Appeal. Admiralty, arbitration and constitutional decisions of the Court of Appeal of Singapore.

---

## Arbitration

*L Capital Jones Ltd and another v Maniach Pte Ltd*  
**Singapore Court of Appeal:** [\[2017\] SGCA 03](#)

**Judgment delivered:** 9 January 2017

**Coram:** Sundaresh Menon CJ, Andrew Phang Boon Leong JA, Judith Prakash JA, Tay Yong Kwang JA, Steven Chong J

### Catchwords:

Arbitration – Stay of proceedings under *International Arbitration Act* – Whether minority oppression claims “arbitrable” – Whether notwithstanding decision in *Tomolugen Holdings Ltd v Silica Investors Ltd* [2016] 1 SLR 373, claims not “arbitrable” because claims raise issues of public policy.

**Held (5:0):** Appeal dismissed.

---

## Conflict of Laws

*Rahmatullah (No 2) v Ministry of Defence and another; Mohammed and others v Ministry of Defence and another*  
**United Kingdom Supreme Court:** [\[2017\] UKSC 1](#)

**Judgment delivered:** 17 January 2017

**Coram:** Lord Neuberger, Lady Hale, Lord Mance, Lord Clarke, Lord Wilson, Lord Sumption, Lord Hughes

**Catchwords:**

Conflict of laws – Sovereign immunity – Act of state – Foreign claimants arrested and detained by British armed forces acting abroad – Claimants bringing claims in tort for damages for unlawful detention – Whether claims justiciable – Whether barred by doctrine of Crown act of state – *Crown Proceedings Act 1947 s 2(1)* – *Human Rights Act 1998 Sch 1 Pt I art 6*.

**Held (7:0):** Appeals allowed.

---

*Belhaj and another v Straw and others; Rahmatullah (No 1) v Ministry of Defence and another*

**United Kingdom Supreme Court:** [\[2017\] UKSC 3](#)

**Judgment delivered:** 17 January 2017

**Coram:** Lord Neuberger, Lady Hale, Lord Mance, Lord Clarke, Lord Wilson, Lord Sumption, Lord Hughes

**Catchwords:**

Conflict of laws – Sovereign immunity – Act of state – Claim for damages for unlawful detention and mistreatment in various foreign states and on board United States aircraft – Claimants alleging participation of members of United Kingdom executive, intelligence services and government departments – Whether doctrines of state immunity and act of state operating as bar to claim – Whether English court lacking jurisdiction to hear claim – Whether claim non-justiciable – Whether determination of applicable law appropriate

**Held (7:0):** Appeals dismissed.

---

## Constitutional Law

*City of Cape Town v Aurecon South Africa (Pty) Ltd*

**Constitutional Court of South Africa:** [\[2017\] ZACC 5](#)

**Judgment delivered:** 28 February 2017

**Coram:** Nkabinde ACJ, Cameron J, Froneman J, Jafta J, Khampepe J, Madlanga J, Mbha AJ, Mhlantla J, Musi AJ and Zondo J

**Catchwords:**

Constitutional law – Right to lawful, reasonable and procedurally fair administrative action under Constitution s 33 – Where applicant seeks judicial review of own decision after City Council members raised concerns tender process tainted by corruption and irregularities – Calculation of 180-day period under *Promotion of Administrative Justice Act 2000* s 7 – Whether judicial review proceedings commenced in time – Whether interests of justice require extension of time – Whether involvement of tenderer in preparatory work contrary to Constitution s 217.

**Held (10:0):** Appeal dismissed.

---

*South African Riding for the Disabled Association v Regional Land Claims Commissioner and Others*

**Constitutional Court of South Africa:** [\[2017\] ZACC 4](#)

**Judgment delivered:** 23 February 2017

**Coram:** Nkabinde ACJ, Cameron J, Froneman J, Jafta J, Khampepe J, Madlanga J, Mbha AJ, Mhlantla J, Musi AJ and Zondo J

**Catchwords:**

Constitutional law – Just and equitable compensation under Constitution s 25(7) – Where Land Claims Court directed transfer of property as compensation for land lost during apartheid order – Where Association made improvements on land during tenancy – *Restitution of Land Rights Act 1994* s 35(9) – Right to intervene – Meaning of “direct and substantial interest”.

**Held (10:0):** Appeal allowed.

---

*Buck v Davis, Director, Texas Department of Criminal Justice, Correctional Institutions Division*

**Supreme Court of the United States:** [Docket No 15-8049](#)

**Judgment delivered:** 22 February 2017

**Coram:** Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ

**Catchwords:**

Constitutional law – Sixth Amendment – Whether ineffective assistance of counsel – Where counsel called psychologist who stated petitioner statistically more likely to act violently because of race – Where jury sentenced petitioner to death – Where petitioner failed to raise issue in

first petition – Certificate of appealability – Whether District Court erred in denying application for certificate.

**Held (6:2):** Reversed and remanded.

---

*Association of Mineworkers and Construction Union and Others v Chamber of Mines of South Africa and Others*  
**Constitutional Court of South Africa:** [\[2017\] ZACC 3](#)

**Judgment delivered:** 21 February 2017

**Coram:** Nkabinde ACJ, Cameron J, Froneman J, Jafta J, Madlanga J, Mbha AJ, Mhlantla J and Zondo J

**Catchwords:**

Constitutional law – Constitution ss 23, 36 – Restriction on freedom of association, right to collective bargaining and right to strike – Where Chamber of Mines concluded collective agreement on behalf of gold mining companies and trade unions – Whether binding on members of Association of Mineworkers and Construction Union – Whether different mining operations constitute single “workplace” under s 23(1)(d) *Labour Relations Act* 1995 – Whether infringement of right to strike “reasonable and justifiable”.

**Held (8:0):** Appeal dismissed.

---

*Business Zone 1010 CC t/a Emmarentia Convenience Centre v Engen Petroleum Limited and Others*  
**Constitutional Court of South Africa:** [\[2017\] ZACC 2](#)

**Judgment delivered:** 9 February 2017

**Coram:** Mogoeng CJ, Nkabinde ADCJ, Cameron J, Froneman J, Jafta J, Khampepe J, Madlanga J, Mbha AJ, Mhlantla J, Musi AJ and Zondo J

**Catchwords:**

Constitutional law – Right to lawful, reasonable and procedurally fair administrative action under Constitution s 33(1) – Where Controller of Petroleum Products and Minister refused to refer alleged unfair or unreasonable contractual practice to arbitration – Where Minister dismissed appeal from Controller’s decision – Whether decisions reviewable under *Promotion of Administrative Justice Act* 2000 s 6(2)(d) – Whether single act of cancellation of contract constitutes “contractual practice” under *Petroleum Products Act* 1977 s 12B.

**Held (11:0):** Appeal allowed.

---

*B.C. Freedom of Information and Privacy Association v British Columbia (Attorney General)*

**Supreme Court of Canada:** [\[2017\] SCC 6](#)

**Judgment delivered:** 26 January 2017

**Coram:** McLachlin CJ, Moldaver, Karakatsanis, Wagner, Gascon, Côté and Brown JJ

**Catchwords:**

Constitutional law – Charter of Rights – Freedom of expression – Elections – Individuals or organisations who wish to “sponsor election advertising” required by *Election Act* to register with Chief Electoral Officer – Meaning of “sponsor” of “election advertising” – Whether individuals engaged in political self-expression within definition of “sponsor” – Whether registration requirement reasonable and demonstrably justified limit on expression of sponsors who spend less than \$500 on election advertising – Canadian Charter of Rights and Freedoms ss 1, 2(b) – *Election Act* R.S.B.C. 1996 c 106 ss 228 “election advertising”, 229, 239.

**Held (7:0):** Appeal dismissed.

---

*Ekurhuleni Metropolitan Municipality v Germiston Municipal Retirement Fund*

**Constitutional Court of South Africa:** [\[2017\] ZACC 1](#)

**Judgment delivered:** 17 January 2017

**Coram:** Mogoeng CJ, Nkabinde ADCJ, Cameron J, Froneman J, Jafta J, Khampepe J, Madlanga J, Mbha AJ, Musi AJ and Zondo J

**Catchwords:**

Constitutional law – Obligations of Municipality under Constitution ss 152, 153, 195(1)(b), 230A – Whether Court should reconsider interpretation of Pension Fund Rules in light of “new” evidence – Whether Supreme Court of Appeal’s interpretation of pension fund rule would result in Municipality expending money in contravention of provisions of Constitution – Whether enforcement of rule offends public policy – Whether Pension Fund Board owes duty of good faith to Municipality – Whether Municipality estopped from raising defences.

**Held (9:1):** Appeal dismissed.

---

*Ernst v Alberta Energy Regulator*

**Supreme Court of Canada:** [\[2017\] SCC 1](#)

**Judgment delivered:** 13 January 2017

**Coram:** McLachlin CJ, Abella, Cromwell, Moldaver, Karakatsanis, Wagner, Gascon, Côté and Brown JJ

**Catchwords:**

Constitutional law – Canadian Charter of Rights and Freedoms s 24(1) – Where claim brought against statutory board seeking Charter damages for breach of right to freedom of expression – Where Board applying to strike claim on basis of immunity clause – Whether claim should be struck out because discloses no cause of action – Whether immunity clause constitutionally inapplicable or inoperable to extent it bars claim against board for Charter damages.

**Held (5:4):** Appeal dismissed.

---

## Criminal Law

*R v Bingley*

**Supreme Court of Canada:** [\[2017\] SCC 12](#)

**Judgment delivered:** 23 February 2017

**Coram:** McLachlin CJ, Abella, Moldaver, Karakatsanis, Gascon, Côté and Brown JJ

**Catchwords:**

Criminal law – Evidence – Expert evidence – Admissibility – Drug recognition evaluation – Where Drug recognition expert (“DRE”) certified under statutory scheme determined accused driving while drug impaired – Whether s 254(3.1) of *Criminal Code* R.S.C. 1985 c. C-46 provides for automatic admissibility of DRE opinion evidence – If not, whether DRE’s testimony admissible as expert opinion pursuant to common law rules of evidence.

**Held (5:2):** Appeal dismissed.

---

*HKSAR v Zhou Limei*

**Hong Kong Court of Final Appeal:** [\[2017\] HKCFA 10](#)

**Judgment delivered:** 16 February 2017

**Coram:** Mr Justice Ribeiro PJ, Mr Justice Tang PJ, Mr Justice Fok PJ, Mr Justice Chan NPJ and Lord Millett NPJ

**Catchwords:**

Criminal law – Admission – Where white powder found in lining of suitcase – Where powder tested positive for drugs – Where appellant responded “I suppose this is a dangerous drug” – Whether statement capable of being admission – Whether probative value outweighed by prejudice.

**Held (5:0):** Appeal allowed.

---

*HKSAR v Liang Yaoqiang*

**Hong Kong Court of Final Appeal:** [\[2017\] HKCFA 2](#)

**Judgment delivered:** 7 February 2017

**Coram:** Mr Justice Ribeiro PJ, Mr Justice Tang PJ, Mr Justice Fok PJ, Mr Justice Stock NPJ and Lord Millett NPJ

**Catchwords:**

Criminal law – Appellant convicted of murder by jury – Whether trial judge misdirected jury in respect of provocation – Homicide Ordinance (Cap 339) s 4 – Whether trial judge should have directed jury to form discrete view as to gravity of provocation – Whether trial judge should have directed jury that words “do as he did” refer to formation of intent to kill or cause really serious bodily harm rather than precise form of physical reaction.

**Held (5:0):** Appeal allowed.

---

---

## Discrimination

*Fry v Napoleon Community Schools*

**Supreme Court of the United States:** [Docket No 15-497](#)

**Judgment delivered:** 22 February 2017

**Coram:** Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

**Catchwords:**

Discrimination – Where school officials refused permission for trained service dog to join petitioner in kindergarten – Whether petitioner required to exhaust administrative procedures under *Individuals with Disabilities Education Act* 2004 before bringing claim – Whether claim concerns denial of “free appropriate public education”.

**Held (8:0):** Vacated and remanded.

---

*FirstGroup Plc v Paulley*

**United Kingdom Supreme Court:** [\[2017\] UKSC 4](#)

**Judgment delivered:** 18 January 2017

**Coram:** Lord Neuberger, Lady Hale, Lord Kerr, Lord Clarke, Lord Sumption, Lord Reed, Lord Toulson

**Catchwords:**

Discrimination – Disability – Duty to make adjustments – Where wheelchair user unable to board bus because allocated space occupied by non-wheelchair user refusing to move – Whether duty obliging bus operator to require rather than merely request non-wheelchair user to vacate wheelchair space – Extent to which requirement to be enforced – Whether operator in breach of duty – Whether unlawful discrimination against wheelchair user – Whether damages to be awarded – *Equality Act 2010* ss 20(3), 21, 29 – *Public Service Vehicles (Conduct of Drivers, Inspectors, Conductors and Passengers) Regulations 1990* reg 12(3)(b).

**Held (7:0):** Appeal allowed in part.

---

## Equity

*Proprietors of Wakatu, Rore Pat Stafford and Rore Pat Stafford, Paul Te Poa Karoro Morgan, Waari Ward-Holmes, James Dargaville Wheeler (suing as Trustees of Te Kahui Ngahuru Trust) v Attorney-General*

**New Zealand Supreme Court:** [\[2017\] NZSC 17](#)

**Judgment delivered:** 28 February 2017

**Coram:** Elias CJ, William Young, Glazebrook, Arnold and O'Regan JJ

**Catchwords:**

Equity – Fiduciary duties – Customary land owners – Whether Crown owed fiduciary duty to reserve land for benefit of customary owners – Whether appellants have standing to pursue claims on behalf of customary owners – Whether claims barred by *Limitation Act 1950*.

**Held (3:2):** Appeal by second appellant allowed in part. Appeals by first and third appellant and cross-appeals by Attorney-General and respondent dismissed.

---

*Tang Ying IP and others v Tang Ying Loi*

**Hong Kong Court of Final Appeal:** [\[2017\] HKCFA 3](#)

**Judgment delivered:** 8 February 2017

**Coram:** Chief Justice Ma, Mr Justice Ribeiro PJ, Mr Justice Fok PJ, Mr Justice Chan NPJ and Lord Millett NPJ

**Catchwords:**

Equity – Breach of fiduciary duty – Where administrator of deceased estate borrowed funds from estate to purchase property – Where interest rate favourable to administrator – Proper characterisation of transactions – Appropriate relief.

**Held (5:0):** Appeal dismissed.

---

## Human Rights

*R (on the application of Hicks and others) v Commissioner of Police for the Metropolis*

**United Kingdom Supreme Court:** [\[2017\] UKSC 9](#)

**Judgment delivered:** 15 February 2017

**Coram:** Lord Mance, Lord Reed, Lord Carnwath, Lord Toulson, Lord Dyson

**Catchwords:**

Human rights – Deprivation of liberty – *Human Rights Act* 1998 Pt 1, Sch I, art 5.1(b)(c) – Where claimants detained by police for duration of Royal Wedding to prevent breaches of peace – Where claimants released without having been brought before magistrates' court – Whether detention effected for purpose of bringing claimants before court – Whether exception applies where not reasonably practicable to bring detainee before court before release – Whether enough that lawfulness of detention capable of challenge in court.

**Held (5:0):** Appeal dismissed.

---

*In the matter of an application by Denise Brewster for Judicial Review (Northern Ireland)*

**United Kingdom Supreme Court:** [\[2017\] UKSC 8](#)

**Judgment delivered:** 8 February 2017

**Coram:** Lady Hale, Lord Kerr, Lord Wilson, Lord Reed, Lord Dyson

**Catchwords:**

Human rights – Peaceful enjoyment of possessions – *Human Rights Act* 1998 Sch 1, Pt I, art 14, Pt II, art 1 – Where condition in pension scheme precluded cohabitee’s right to survivor’s pension – Discrimination – Whether justification for different treatment compared with spouse or civil partner – Factors to be taken into account by court when reviewing impugned enactment – Whether factor that cohabitee status one of choice affects intensity of review.

**Held (5:0):** Appeal allowed.

---

*Abd Ali Hameed Al-Waheed v Ministry of Defence; Serdar Mohammed v Ministry of Defence*

**United Kingdom Supreme Court:** [\[2017\] UKSC 2](#)

**Judgment delivered:** 17 January 2017

**Coram:** Lord Neuberger, Lady Hale, Lord Mance, Lord Kerr, Lord Wilson, Lord Sumption, Lord Reed, Lord Hughes, Lord Toulson (1-4 Feb 2016), Lord Hodge (26 Oct 2016)

**Catchwords:**

Human rights – Deprivation of liberty – Where claimant arrested and detained in Iraq by British armed forces pursuant to United Nations Security Council resolution – Where claimant arrested and detained for more than 96 hours by British armed forces in Afghanistan – Whether detention lawful under Afghan law, United Nations Security Council resolution or international humanitarian law – Whether international humanitarian law provides authority to detain in non-international armed conflict – Whether procedural requirements of Convention right to liberty modified during conflict – Whether claimants’ detention breaching rights to liberty – *Human Rights Act* 1998 Sch I Pt 1 art 5.

**Held (7:2):** Appeal dismissed (*Abd Ali Hameed Al-Waheed v Ministry of Defence*); appeal by Ministry of Defence allowed in part (*Serdar Mohammed v Ministry of Defence*).

---

## Immigration

*R (on the application of Agyarko) v Secretary of State for the Home Department; R (on the application of Ikuga) v Secretary of State for the Home Department*

**United Kingdom Supreme Court:** [\[2017\] UKSC 11](#)

**Judgment delivered:** 22 February 2017

**Coram:** Lady Hale, Lord Kerr, Lord Wilson, Lord Reed, Lord Carnwath, Lord Hughes, Lord Hodge

**Catchwords:**

Immigration – Leave to remain – Family life – Where claimants unlawfully remained in United Kingdom after expiry of limited leave to remain and formed relationship with British citizen – Applications for leave to remain refused – Whether “insurmountable obstacles” to family life continuing in country of origin – Extent to which existence of “insurmountable obstacles” relevant to potential exceptional circumstances for granting leave to remain outside Rules – Whether refusal of leave constituting violation of Convention right to family life – *Human Rights Act 1998* Sch 1, Pt I, art 8 – Statement of Changes in Immigration Rules (1994) Appendix FM, para EX.1(b) (as inserted by Statement of Changes in Immigration Rules (2012) para 115).

**Held (7:0):** Appeals dismissed.

---

*R (on the application of MM (Lebanon)) v Secretary of State for the Home Department; R (on the application of Abdul Majid (Pakistan)) v Secretary of State for the Home Department; R (on the application of Master AF) v Secretary of State for the Home Department; R (on the application of Shabana Javed (Pakistan)) v Secretary of State for the Home Department; SS (Congo) v Entry Clearance Officer, Nairobi*

**United Kingdom Supreme Court:** [\[2017\] UKSC 10](#)

**Judgment delivered:** 22 February 2017

**Coram:** Lady Hale, Lord Kerr, Lord Wilson, Lord Reed, Lord Carnwath, Lord Hughes, Lord Hodge

**Catchwords:**

Immigration – Leave to enter – Foreign spouse or civil partner – Immigration Rules setting minimum income requirement for persons lawfully settled in United Kingdom wishing to sponsor spouse’s entry into United Kingdom – Whether disproportionate interference with Convention right to respect for family life – Whether requirement fulfilling Home Secretary’s statutory duty to have regard to best interests of children – Whether Rules providing complete code – Whether leave to be given outside Rules even though minimum income requirement not satisfied – *Human Rights Act 1998* Sch 1, Pt I, art 8 – *Borders, Citizenship and Immigration Act 2009* s 55 – Statement of Changes in Immigration Rules (1994) Appendix FM, para E-ECP.3.1 (as inserted by Statement of Changes in Immigration Rules (2012) para 115).

**Held (7:0):** Appeal allowed (*SS (Congo) v Entry Clearance Officer, Nairobi*); appeals allowed in part (*R (on the application of MM (Lebanon)) v Secretary of*

*State for the Home Department; R (on the application of Abdul Majid (Pakistan)) v Secretary of State for the Home Department; R (on the application of Master AF) v Secretary of State for the Home Department; R (on the application of Shabana Javed (Pakistan)) v Secretary of State for the Home Department).*

---

## Insolvency

*Akers and others (Respondents) v Samba Financial Group*  
**United Kingdom Supreme Court:** [\[2017\] UKSC 6](#)

**Judgment delivered:** 1 February 2017

**Coram:** Lord Neuberger, Lord Mance, Lord Sumption, Lord Toulson, Lord Collins

**Catchwords:**

Company – Winding up – Disposition of property – Where shares in Saudi Arabian banks purportedly held on trust for Cayman Islands company – Trusts not recognised in Saudi Arabia – Where shares transferred to defendants following company’s liquidation – Whether trust created and enforceable in respect of assets in jurisdiction not recognising trusts – Whether transfer of shares in breach of trust constituting “disposition of property” – *Insolvency Act 1986* ss 127, 436.

**Held (5:0):** Appeal allowed.

---

## Insurance

*Sabeen v Portage La Prairie Mutual Insurance Co*  
**Supreme Court of Canada:** [\[2017\] SCC 7](#)

**Judgment delivered:** 27 January 2017

**Coram:** McLachlin CJ, Moldaver, Karakatsanis, Wagner, Gascon, Côté and Brown JJ

**Catchwords:**

Insurance – Automobile insurance – Excess insurance policy – SEF 44 Endorsement – Deductions – Where insured awarded damages for injuries sustained in motor vehicle accident – Where tortfeasor’s insurance coverage inadequate to cover quantum of jury award – Where clause of insured’s Endorsement stipulated that amounts recoverable under “any policy of insurance providing disability benefits or loss of income benefits or medical expense or rehabilitation benefits” must be deducted from shortfall of damages award in determining amount payable by insurer –

Whether Canada Pension Plan is “policy of insurance providing disability benefits” within meaning of Endorsement.

**Held (7:0):** Appeal allowed.

---

## Judicial Review

*DB v Chief Constable of Police Service of Northern Ireland (Northern Ireland)*

**United Kingdom Supreme Court:** [\[2017\] UKSC 7](#)

**Judgment delivered:** 1 February 2017

**Coram:** Lord Neuberger, Lord Kerr, Lord Reed, Lord Hughes, Lord Dyson

**Catchwords:**

Judicial review – Police powers – Where “flag protests” conducted without notification under *Public Processions (Northern Island) Act 1998* in response to decision of Council to stop flying Union flag – Where Police Service of Northern Ireland allowed protestors to enter Belfast City Centre – Where Police Service made public announcements stating it had no power to stop parade if no notification under Act – Whether Police Service misconstrued power to stop parades.

**Held (5:0):** Appeal allowed.

---

*R (on the application of Miller and another) v Secretary of State for Exiting the European Union; In the matter of an application by Agnew and others for Judicial Review; In the matter of an application by Raymond McCord for Judicial Review*

**United Kingdom Supreme Court:** [\[2017\] UKSC 5](#)

**Judgment delivered:** 24 January 2017

**Coram:** Lord Neuberger, Lady Hale, Lord Mance, Lord Kerr, Lord Clarke, Lord Wilson, Lord Sumption, Lord Reed, Lord Carnwath, Lord Hughes, Lord Hodge

**Catchwords:**

Judicial review – Crown – Prerogative power – Notification of decision by United Kingdom to withdraw from European Union – Whether ministers entitled to give notice in exercise of royal prerogative – Whether requirement of primary legislation to authorise notification – *European Communities Act 1972* ss 1,2 – EU Treaty, art 50 – Whether requirement for prior consent of Northern Ireland Assembly and/or majority of people of Northern Ireland – *Northern Ireland Act 1998* ss 1, 75.

**Held (8:3):** Appeal dismissed.

---

## Jurisdiction

*Lightfoot v Cendant Mortgage Corp*

**Supreme Court of the United States:** [Docket No 14-1055](#)

**Judgment delivered:** 18 January 2017

**Coram:** Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

**Catchwords:**

Jurisdiction – Where corporate charter (12 U.S.C § 1723a) authorised the Federal National Mortgage Association to “sue and be sued” – Where homeowners sued Association after home mortgage foreclosure – Whether federal district court had jurisdiction – Meaning of “any court of competent jurisdiction”.

**Held (8:0):** Reversed.

---

## Patents

*Life Technologies Corp et al v Promega Corp*

**Supreme Court of the United States:** [Docket No 14-1538](#)

**Judgment delivered:** 22 February 2017

**Coram:** Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

**Catchwords:**

Patents – Whether single component of a multicomponent invention constituted “substantial portion” of components of invention – *Patent Act* 1952 35 U.S.C s 271(f)(1).

**Held (7:0):** Reversed and remanded.

---

## Property

*Nelson (City) v Mowatt*

**Supreme Court of Canada:** [\[2017\] SCC 8](#)

**Judgment delivered:** 17 February 2017

**Coram:** McLachlin CJ, Moldaver, Karakatsanis, Wagner, Gascon, Côté and Brown JJ

**Catchwords:**

Property – Real property – Adverse possession – Required elements – Successive occupants – Where possessors of land allege that predecessors acquired title by adverse possession – Where Chambers judge found gap in evidence for period of four years interrupted continuity of adverse possession – Whether evidence was sufficient to bridge evidentiary gap – Whether Court of Appeal erred by substituting own findings of fact – Whether inconsistent use requirement forms part of law of British Columbia.

**Held (7:0):** Appeal allowed.

---

## Statutory Construction

*Homes and Communities Agency v J S Bloor (Wilmslow) Ltd*

**United Kingdom Supreme Court:** [\[2017\] UKSC 12](#)

**Judgment delivered:** 22 February 2017

**Coram:** Lord Neuberger, Lord Clarke, Lord Sumption, Lord Carnwath, Lord Hughes

**Catchwords:**

Statutory construction – *Land Compensation Act* 1961 – Where land compulsorily acquired for development scheme – Whether compensation should be limited to existing use value of land – “No-scheme” rule – Whether Court of Appeal erred in interfering with Upper Tribunal’s assessment of weight to be given to development policies.

**Held (5:0):** Appeal allowed.

---

*Nam Sang Wai Development Co Ltd and another v Town Planning Board*

**Hong Kong Court of Final Appeal:** [\[2017\] HKCFA 11](#)

**Judgment delivered:** 16 February 2017

**Coram:** Chief Justice Ma, Mr Justice Ribeiro PJ, Mr Justice Tang PJ, Mr Justice Fok PJ and Lord Millett NPJ

**Catchwords:**

Statutory construction – Town Planning Ordinance Cap 131 s 17(1) – Meaning of “a decision of the Board under section 16” – Whether s 17(1) confined to review of decisions refusing permission or granting permission.

**Held (4:1):** Appeal dismissed.

---

## Trade Marks

*Crocodile International Pte Ltd v Lacoste*  
**New Zealand Supreme Court:** [\[2017\] NZSC 14](#)

**Judgment delivered:** 21 February 2017

**Coram:** William Young, Glazebrook, Arnold, O’Regan and Ellen France JJ

**Catchwords:**

Trade marks – *Trade Marks Act 2002* – Where Assistant Commissioner revoked trade mark for non-use – Whether differences so minor that respondent “used” trade mark within extended definition of “use” in s 7(1)(a).

**Held (5:0):** Appeal allowed.

---