

Permission to Appeal results - January 2013 and February 2013

Case name	Justices	PTA	Reasons given
<p>Brito and another (FC) (Appellants) <i>v</i> Secretary for State for the Home Department (Respondent) UKSC 2012/0200</p>	<p>Lord Mance Lord Clarke Lord Sumption</p>	<p>Refused 8 Jan 2013</p>	<p>Permission to appeal be refused because the application does not raise an arguable point of law of general public importance which ought to be considered by the Supreme Court at this time, bearing in mind that the case has already been the subject of judicial decision and reviewed on appeal.</p> <p>In relation to the point of European Union law raised by or in response to the application it is not necessary to request the Court of Justice to give any ruling, because the answer is so obvious as to leave no scope for any reasonable doubt.</p>
<p>Budejovicky Budvar Narodni Podnick (Respondent) <i>v</i> Anheuser-Busch Inc (Appellant) UKSC 2012/0184</p>	<p>Lord Neuberger Lord Mance Lord Wilson</p>	<p>Refused 8 Jan 2013</p>	<p>Permission to appeal be refused for the following reasons:</p> <ol style="list-style-type: none"> 1. The Appeal Panel does not regard this application as raising any point of law of general public importance which the Supreme Court ought now to consider. 2. The Court of Appeal did not reinstate the domestic concept of honest concurrent use. It applied the Court of Justice's answer to the third question posed in Case C-482/09. 3. The Court of Appeal proceeded on the premise that the mark Budweiser did not and does not denote the applicant's beer alone (paras 22 and 42). That was the basis upon which the Court of Justice also understood the reference before it to proceed, and upon which it itself also thought that the use by Buvar of the Budweiser mark was not liable to have an adverse effect on the essential function of the Budweiser mark owned by the application (see Court of Justice judgment, esp. paras 64 and 75, but also generally paras 76 to 84)). The Court of Appeal came to the same conclusion. 4. The facts have been extensively considered below, any issue as the facts stated in the reference was for the Court of Appeal and any issue to their correctness does not raise a matter of general public importance. 5. The errors alleged regarding pleading practice and burden of proof do not raise any point of general importance for the Supreme Court to consider, particularly in the light of the circumstances and considerations identified in the judgment of Warren J. 6. As to the allegations of unfairness in paragraph 68 of the Notice of Appeal – including unfortunate, though clearly light-hearted, comments made by Sir

			<p>Robin Jacob about the quality of beer at the initial hearing in 2009, and about the Court of Justice and the drafters of the Trade Marks Directive - the Supreme Court sees no prospect of any of them establishing a basis for setting aside the Court of Appeal's judgment, nor do they involve matters of general public importance.</p> <p>7. Other complaints about the Court of Appeal's procedural and substantive rulings also fail to substantiate any case of unfairness, particularly in view of full and understandable reasons given in the Court's judgment, and do not in any event raise any point of general public importance.</p> <p>8. The costs order made by the Court has to be seen against the background of the case as a whole, and its appropriateness again raises no point of general public importance.</p>
<p>Smith and Others (Appellants) <i>v</i> The Ministry of Defence (Respondent) UKSC 2012/0249</p> <p>Ellis and another (FC) (Respondents) <i>v</i> Ministry of Defence (Appellant) UKSC 2012/0259</p> <p>Allbutt and others (FC) (Respondents) <i>v</i> The Ministry of Defence (Appellant) UKSC 2013/0028</p>	<p>Lord Hope Lady Hale Lord Mance</p>	<p>Granted 24 Jan 2013</p>	
<p>In the Matter of B (FC) (A Child) UKSC 2013/0022</p>	<p>Lady Hale Lord Wilson Lord Carnwath</p>	<p>Granted 30 Jan 2013</p>	
<p>R (on the application of Nirula) (Appellant) <i>v</i> The First-Tier Tribunal (Immigration & Asylum Chamber) (Respondents) UKSC 2013/0005</p>	<p>Lord Hope Lord Kerr Lord Reed</p>	<p>Refused 4 Feb 2013</p>	<p>Permission to appeal be refused because the application does not raise an arguable point of law of general public importance which ought to be considered by the Supreme Court, bearing in mind that the case has already been the subject of judicial decision and reviewed on appeal.</p>
<p>MM (Ghana) (Appellant) <i>v</i> Secretary of State for the Home Department (Respondent) UKSC 2013/0012</p>	<p>Lord Hope Lord Kerr Lord Reed</p>	<p>Refused 4 Feb 2013</p>	<p>Permission to appeal be refused because the application does not raise an arguable point of law of general public importance which ought to be considered by the Supreme Court, bearing in mind that the case has already been the subject of judicial decision and reviewed on appeal.</p>
<p>Moore (Appellant) <i>v</i></p>	<p>Lord Walker</p>	<p>Refused</p>	<p>Permission to appeal be refused because the application does not raise an arguable</p>

Secretary of State for Communities & Local Government and another (Respondents) UKSC 2012/0227	Lord Sumption Lord Carnwath	4 Feb 2013	point of law of general public importance which ought to be considered by the Supreme Court at this time. The Court of Appeal rightly recognised this as an issue of fact and degree on which the Inspector made no error of law.
Khaira and others (Respondents) <i>v</i> Shergill and others (Appellants) UKSC 2012/0234	Lord Walker Lord Sumption Lord Carnwath	Granted 4 Feb 2013	
In the Matter of F (A Child) UKSC 2012/0278	Lady Hale Lord Wilson Lord Carnwath	Refused 4 Feb 2013	Permission to appeal be refused because the application does not raise an arguable point of law of general public importance which ought to be considered by the Supreme Court at this time. Whether or not the approach of the trial judge and the Court of Appeal was correct, the welfare arguments were so finely balanced that this is not a suitable case in which to consider what guidance (if any) this Court should give on relocation cases.
EMI (IP) Limited and Others (Appellants) <i>v</i> British Sky Broadcasting Group Plc and Another (Respondents) UKSC 2012/0237	Lord Walker Lord Sumption Lord Carnwath	Refused 6 Feb 2013	Permission to appeal be refused because the application does not raise an arguable point of law of general public importance which ought to be considered by the Supreme Court at this time. The Court of Appeal upheld the exercise of discretion in two cases on very different facts. No EU point of principle arises for reasons similar to those given on Sky's permission application in <i>Starbucks (HK) Limited (Respondent) v. British Sky Broadcasting Group plc and others (Appellants)</i> – see notice of objection, paras 7-9. In relation to the point of European Union law raised by the application it is not necessary to request the Court of Justice to give any ruling, for the reason mentioned above.
R (on the application of MM and AO (a child by her mother and litigation friend)) (FC) (Appellants) <i>v</i> Secretary of State for the Home Department (Respondent) UKSC/0235	Lady Hale Lord Kerr Lord Reed	Refused 7 Feb 2013	Permission to appeal be refused because the application does not raise an arguable point of law which ought to be considered by the Supreme Court at this time. The scope of article 3 investigations may potentially raise issues of general public importance but not in this case.
In the matter of an application by Wright and another (Northern Ireland) UKSC 2012/0222	Lady Hale Lord Kerr Lord Reed	Refused 7 Feb 2013	Permission to appeal be refused because the application does not raise an arguable point of law which ought to be considered by the Supreme Court at this time. There is no real possibility that the Court would find these convictions unsafe.
R (on the application of Fitzroy George) (Respondent) <i>v</i> The Secretary of State for the Home Department (Appellant) UKSC 2012/0250	Lord Hope Lord Mance Lord Wilson	Granted 8 Feb 2013	
Rahman (“G1”) (Appellants) <i>v</i> Secretary of State for the Home Department	Lord Hope Lord Mance	Refused 8 Feb 2013	Permission to appeal be refused because the application does not raise an arguable point of law of general public importance bearing in mind that the case has already

(Respondent) UKSC 2012/0212	Lord Wilson		been the subject of judicial decision and reviewed on appeal. In relation to the point of European Union law raised by or in response to the application it is not necessary to request the Court of Justice to give any ruling, because the answer is so obvious as to leave no scope for any reasonable doubt
Saunders (Appellant) <i>v</i> The Chief Constable of Sussex Police (Respondent) UKSC 2012/0211	Lord Hope Lord Mance Lord Wilson	Refused 8 Feb 2013	Permission to appeal be refused because although the Court has very carefully considered the well expressed application, the claim cannot succeed in the light of paragraphs 87 – 108 of the Judge’s judgment. It does not raise an arguable point of law of general public importance which ought to be considered by the Supreme Court.
Secretary of State for the Home Department (Appellant) <i>v</i> FV (Italy) (Respondent) UKSC 2012/0226	Lord Hope Lord Mance Lord Wilson	Granted 11 Feb 2013	
Maswaku (Appellant) <i>v</i> Westminster City Council (Respondent) UKSC 2012/0240	Lady Hale Lord Kerr Lord Reed	Refused 11 Feb 2013	Permission to appeal be refused because the application does not raise an arguable point of law. The Court of Appeal were right for the reasons they gave.
In the matter of an application by James Connelly (AP) for Judicial Review (Northern Ireland) UKSC 2011/0257	Lady Hale Lord Kerr Lord Reed	Refused 11 Feb 2013	Permission to appeal be refused because the application does not raise an arguable point of law of general public importance which ought to be considered by the Supreme Court at this time. The law in both jurisdictions having reached the same point, albeit by a different route, there is nothing to be gained by the Supreme Court considering the point.
British Telecommunication Plc (Appellant) <i>v</i> Telefonica 02 UK Ltd and Ors (Respondents) UKSC 2012/0204	Lord Neuberger Lord Hope Lord Sumption	Granted 12 Feb 2013	
Cox (Appellant) <i>v</i> Ergo Versicherung AG (formerly known as Victoria) (Respondent) UKSC 2012/0225	Lord Neuberger Lord Mance Lord Sumption	Granted 12 Feb 2013	
Clyde & Co LLP and another (Respondents) <i>v</i> Winklehof (Appellant) UKSC 2012/0229	Lord Neuberger Lord Hope Lord Wilson	Granted 12 Feb 2013	
Clyde and Co LLP and another (Appellants) <i>v</i> Winklehof (Respondent) UKSC 2012/0233	Lord Neuberger Lord Hope Lord Wilson	Refused 12 Feb 2013	Permission to appeal be refused because the application does not raise an arguable point of law, the question being one of fact for the Tribunal.
Interflora Inc. (a company incorporated under the laws of the State of Michigan, United States of America) and another (Appellants) <i>v</i> Marks and Spencer Plc (Respondent) and another	Lord Neuberger Lord Mance Lord Sumption	Refused 12 Feb 2013	Permission to appeal be refused because the application does not raise an arguable point of law of general public importance which ought to be considered by the Supreme Court at this time, bearing in mind that the case has already been the subject of judicial decision and reviewed on appeal. The only issue of law which

UKSC 20112/0277			may be appropriate for this Court would not arise on this appeal.
KME Yorkshire Limited and others (Outokumpu Oyj) (Appellants) v Toshiba Carrier UK Limited and others (Respondents) UKSC 2012/0232	Lord Neuberger Lord Mance Lord Sumption	Refused 13 Feb 2013	Permission to appeal be refused because there is no arguable point of law of general public importance which ought to be considered by the Supreme Court at this time.
KME Yorkshire Limited and others (Appellants) v Toshiba Carrier UK Limited and others (Respondents) UKSC 2012/0231	Lord Neuberger Lord Mance Lord Sumption	Refused 13 Feb 2013	Permission to appeal be refused because there is no arguable point of law of general public importance which ought to be considered by the Supreme Court at this time.
Evans (Appellant) v Equity Claims Limited (Respondent) UKSC 2012/0215	Lord Walker Lord Mance Lord Sumption	Granted 13 Feb 2013	
Wilkinson (a protected party by his Father and Litigation Friend Stephen Wilkinson) (Appellant) v Churchill Insurance Limited (Respondent) UKSC 2012/0258	Lord Walker Lord Mance Lord Sumption	Granted 13 Feb 2013	
Churchill Insurance Limited (Respondent) v Wilkinson (Appellant) UKSC 2012/0213	Lord Walker Lord Mance Lord Sumption	Granted 13 Feb 2013	
Ward (Appellant) v Allies and Morrison Architects (Respondent) UKSC 2012/0255	Lord Walker Lord Sumption Lord Carnwath	Refused 19 Feb 2013	Permission to appeal be refused because the application does not raise an arguable point of law of general public importance which ought to be considered by the Supreme Court at this time, bearing in mind that the case has already been the subject of judicial decision and reviewed on appeal. There are concurrent findings as to disablement. As to the Ogden tables the Court of Appeal followed the well-established principle in <i>Blamire</i> .
Gore (Appellant) v Stannard t/a Wyvern Tyres (Respondent) UKSC 2012/0236	Lord Walker Lord Sumption Lord Carnwath	Refused 20 Feb 2013	Permission to appeal be refused because the application does not raise an arguable point of law of general public importance which ought to be considered by the Supreme Court at this time, bearing in mind that the case has already been the subject of judicial decision and reviewed on appeal. The law is clear from <i>Transco</i> and <i>Cambridge Water</i> and the Court of Appeal applied the principles to the particular facts of this case.
In the Matter of F (Children) UKSC 2012/0230	Lady Hale Lord Kerr Lord Reed	Refused 20 Feb 2013	Permission to appeal be refused because the application does not raise an arguable point of law of general public importance. We have carefully considered all the material submitted. The issue was essentially one of fact for the trial judge and the criticisms made of his judgment were fully dealt with by the Court of Appeal.
The Trustees of the Portsmouth Roman Catholic Diocesan Trust (Appellant) and another v JGE	Lady Hale Lord Wilson	Refused 20 Feb 2013	Permission to appeal be refused because the application does not raise an arguable point of law of general public importance. The law has now been settled in the

UKSC 2012/0203	Lord Carnwath		Catholic Child Welfare Society case and is as was applied by the Court of Appeal in this case. The Supreme Court does not review the application of settled law to the facts of individual cases.
In the matter of "The Alexandros T" UKSC 2013/0023 In the matter of "The Alexandros T" (No. 2) UKSC 2013/0024 In the matter of "The Alexandros T" (No. 3) UKSC 2013/0025	Lord Neuberger Lord Hope Lord Clarke	Granted 21 Feb 2013	
JSC BTA Bank (Respondent) v Ablyazov (Appellant) UKSC 2012/0262	Lord Neuberger Lord Hope Lord Clarke	Refused 21 Feb 2013	Permission to appeal be refused because the application does not raise an arguable point of law of general public importance which ought to be considered by the Supreme Court at this time.