



Friday, 29 March 2024

## Weekly Immigration Law Review

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**A Weekly Bulletin listing Decisions  
of Superior Courts of Australia covering immigration**

### Search Engine

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### Executive Summary (One Minute Read)

**AHD20 v Minister for Immigration, Citizenship and Multicultural Affairs (FCA)** - primary judge had failed to afford the appellant procedural fairness by refusing the Minister's application to adjourn a show-cause hearing

**EVW20 v Minister for Immigration, Citizenship and Multicultural Affairs (FedCFamC2G)** - Tribunal erred by failing to determine to which region in Ethiopia the applicant would be returned

## HABEAS CANEM

The scent on the breeze





## Summaries With Link (Five Minute Read)

### **AHD20 v Minister for Immigration, Citizenship and Multicultural Affairs [2024] FCA 273**

Federal Court of Australia

Raper J

Migration - safe haven enterprise visa - delegate refused visa - Immigration Assessment Authority affirmed - the then Federal Circuit Court dismissed application for judicial review after a show-cause hearing - the primary judge had denied procedural fairness by refusing the Minister's application to adjourn the show-cause hearing in the light of the High Court decision in *AUS17 v Minister* [2020] HCA 37; 269 CLR 494 - the primary judge had had a duty to assist the unrepresented appellant had sufficient information about the practice and procedure of the Federal Circuit Court to ensure a fair hearing - appeal allowed.

[AHD20](#)

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### **EVW20 v Minister for Immigration, Citizenship and Multicultural Affairs [2024]**

**FedCFamC2G 259**

Federal Circuit and Family Court of Australia (Division 2)

Deputy Chief Judge Mercuri

Migration - protection visa - delegate refused visa - Administrative Appeals Tribunal affirmed - Tribunal failed to exercise its jurisdiction by failing to determine to which region in Ethiopia the applicant would be returned - application allowed.

[EVW20](#)

[From Benchmark Friday, 29 March 2024]



## INTERNATIONAL LAW

### Executive Summary and (One Minute Read)

**Lifestyle Equities v Amazon UK Services Ltd (UKSC)** - In a cross-border sale of merchandise where the same trade mark was owned by different entities in USA and UK, Amazon was liable for trade mark infringement where UK customers were targeted by Amazon's US website

### Summaries With Link (Five Minute Read)

**Lifestyle Equities v Amazon UK Services Ltd [2024] UKSC 8,**

Supreme Court of the United Kingdom

Lord Hodge, Lord Briggs, Lord Hamblen, Lord Burrows, & Lord Kitchin

The trade mark at issue was the 'Beverly Hills Polo Club' brand. The holder of the mark in the EU/UK was Lifestyle Equities which is unrelated to the brand owner in the USA. A UK resident ordered US sourced goods bearing the trade mark through Amazon's US website. The owner of the EU trade mark contended that Amazon was liable for trade mark infringement because it targeted consumers in the UK/EU. This matter concerned conduct that occurred before Brexit. Applying EU law, the Supreme Court said that Amazon could only be liable for trade mark infringement in a cross-border sale if it in fact targeted consumers in the UK. The mere fact that a foreign website is accessible to a UK resident is insufficient to establish targeting of a UK consumer. The question for the court was whether an average consumer within the UK, who is reasonably well-informed and observant, would consider the website targeted at that consumer. The Court found that targeting had occurred because Amazon offered to deliver to the UK, in a dialog box Amazon specified which goods could be shipped to the UK, and specified UK delivery times and featured the option to pay in British currency. The Supreme Court also stated that Amazon's subjective intent was not the key issue. Rather, the question was one of objective fact taken from the perspective of the average consumer. Intent may, however, be taken into account to the extent it is relevant to the objective assessment made by the court.

[Lifestyle Equities](#)



## Poem for Friday

### The Nightingale

**By:** Sara Coleridge (1802-1852)

In April comes the Nightingale,  
That sings when day's departed;  
The poets call her Philomel,  
And vow she's broken-hearted.

To them her soft, sweet, ling'ring note  
Is like the sound of sorrow;  
But some aver, no need hath she  
The voice of grief to borrow.

No, 'tis the merry Nightingale,  
Her pipe is clear and thrilling;  
No anxious care, no keen regret,  
Her little breast is filling.

She grieves when boys have robb'd her nest,  
But so would Stork or Starling;  
What mother would not weep and cry  
To lose her precious darling?

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