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English interest in Akzo appeal

The Law Society of England and Wales has joined ECLA in applying for permission to intervene in the closely-watched European case *Akzo Nobel* that has threatened in-house lawyers' ability to claim professional privilege.

The society – which is the representative body for 110,000 solicitors – has written to the European Court of Justice requesting permission to speak at a forthcoming appeal during which Akzo Nobel, the Dutch chemicals group, will challenge the European ruling that drew a significant distinction between the status of in-house and external lawyers.

It was the British subsidiary of Akzo Nobel that was raided by the European Commission's competition directorate-general in 2003. The commission's removal of documents that had passed between Akzo managers and in-house lawyers led to the original case, which was finally decided last September, when the European Court of First Instance (CFI) said discussions with in-house lawyers were not covered by legal privilege.

Law Society chief executive Des Hudson described the application to intervene as a "real step forward". He said: "I am confident that the court will see the merits of allowing us to participate in this case, given the arguments we have submitted and the long-standing experience we have

of privilege issues. It is time for the EU court to update its case law."

He added that the society would argue the CFI's decision represents a threat to the right of clients to communicate openly and in confidence with their in-house lawyers, "a privilege which is crucial in the business community".

The ECJ will decide whether to allow the law society to intervene in the next few weeks. It is common for professional bodies and other interested parties that are not involved in a dispute to be given permission to speak when cases are appealed.

US diversity drive

American general counsel are spearheading moves to increase diversity within the legal profession this month when they meet their private practice colleagues for a two-day event designed to help open access to the profession. More than 100 in-house lawyers from Fortune 500 companies and managing partners of US law firms are convening in the Call To Action (CTA) Summit, scheduled for 25-26 April in Scottsdale, Arizona. "The goal is to have a collaborative discussion between the general counsel and the managing partners about what we can do to move the needle on this issue," said Roderick Palmore, executive vice president, general counsel and chief compliance and risk management officer at General Mills.

Last year, women made

up less than 33 per cent of lawyers employed in the US, according to the Bureau of Labor Statistics. Blacks made up less than five per cent, Asians 2.6 per cent and Hispanics 4.3 per cent. "The statistics speak for themselves," Mr Palmore said. "They say our progress in the profession has been disappointing."

Call To Action is the second major US attempt to improve diversity in the legal profession. About a decade ago, the American Bar Association worked with Charles Morgan, then general counsel of BellSouth, to launch another initiative, called 'Diversity in the workplace: a statement of principle', which was signed by hundreds of general counsel executives. Mr Palmore said he was frustrated that not much had happened following the statement of principle.

Call To Action, he suggested, has "more teeth" because it states that corporations should end relationships with law firms that haven't made significant progress in achieving greater diversity. The scheme outlines goals for companies to follow to improve diversity in their own offices and in the law firms they instruct, focussing on gender, race and sexual orientation.

About 90 general counsel have signed the Call To Action, including those from Boeing, Prudential Financial, Microsoft, Johnson & Johnson, Tyson Foods, Coca-Cola and Bank of America. Keynote speakers at the event include former US Secretary

of State Warren Christopher and former US Supreme Court Justice Sandra Day O'Connor.

IBA in-house boost

In-house lawyers are set to take centre stage at the International Bar Association over the next two years following a recent speech by the IBA president in which he outlined his objectives during his tenure. Fernando Pombo, chairman and founding partner of Spanish law-firm Gómez-Acebo & Pombo, said he wanted, "To ensure the Corporate Counsel Forum continues to grow and develop within the IBA, increases its visibility and benefits from relations with other parts of the IBA. Emphasis will be on strengthening the relationship between corporate counsel, law firms and bar associations."

US general counsel brace for backwash

American general counsel recovering from 12 months of turmoil following the end of a series of high-profile investigations by the Securities and Exchange Commission (SEC) should be braced for another tough year, pundits in a leading US journal have warned. Whereas the 2007 investigations related to backdated bonuses in the IT markets, this year's will be >

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According to commentators, the US plaintiffs' bar is prepared for more litigation given the increasing number of disclosures from different corporate sectors. They pointed out that although

there has been a decline in securities class actions filed since 2004 (when there were 214), in 2007, 166 actions were filed as compared to 116 in 2006, 32 of which related to the sub-prime crisis. They reported the New York state attorney general and the SEC, among others, are investigating Wall Street's role in creating the crisis. Moreover they said that the damage could spread to other sectors, warning: "While allegations of fraud, nondisclosure, misrepresentation and predatory lending are apparent, the cast of purported wrongdoers may reach other parties who may have played some role, inclusive of advisers, attorneys and hedge funds."

Germany

The German bar association (incorporating its in-house lawyers' arm) will hold its 59th 'Lawyers' Days' convention at the Berlin Hilton hotel from 30 April to 3 May. It will be themed 'Lawyers: on the side of freedom', and will feature keynote addresses from the German federal minister of justice and Berlin's regional senator for justice. Events will be staged across a range of venues in the German capital including the cathedral and opera house.

Italy

Italian ECLA member AIGI is organising a conference on 27 May in Milan in co-operation with the International

Research Institute on 'The new risks in advertising: practical commercial solutions'. The event will take place at Milan's Starhotel Ritz and AIGI president Giovanna Ligas will be among the seminar presenters. Registration costs €890 plus VAT with a 20 per cent discount for AIGI members. For more details or to register: telephone: 00390283847627, fax: 0283847262 or e-mail conferenze@iir-italy.it, www.iir-italy.it. ■

The newsletter of the European Company Lawyers Association is a forum for the exchange of news and views of in-house counsel around Europe. Material for inclusion should be sent to Jeremy Fleming at jfleming@theeuropeanlawyer.eu