

Which decision of the  
uk supreme court  
since 1st january  
2012, relating to any  
as...

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UK Supreme Court Controversial Decision in Virgin Atlantic Airways Limited v. Zodiac Seats UK Limited UKSC 46 case UK Supreme Court Controversial Decision in Virgin Atlantic Airways Limited v. Zodiac Seats UK Limited (2013) UKSC 46 case

One of the most recent controversial decisions by the UK Supreme Court was decided July 3, 2013 in the Virgin Atlantic Airways Limited v. Zodiac Seats UK Limited (2013) UKSC 46 case (Slorach & Ellis, 2012). In its judgment, the Supreme Court overturned the old principle of patent law that had prevailed for over a century. The court confirmed the principle that no damages can be recovered in regard to a right that has been subsequently declared invalid. Since 1908, the courts in the United Kingdom have upheld that principle that in instances where the defendant is guilty of infringing a patent, the defendant is held liable for the damages incurred even when the patent is subsequently revoked.

In this case, Virgin Atlantic used Zodiac Seats for allegedly infringing the European Patent. At the same time, Zodiac filed an opposition challenging the validity of this patent at the European Patent office. Initially, the UK court ruled that the patent was valid and had not been infringed. Upon an appeal filed by Zodiac, this ruling was reversed and the patent was found to be valid and infringed. Zodiac then appealed to the Supreme Court claiming that principle of res judicata should not apply (Slorach & Ellis, 2012).

The Supreme Court assessed the effect of the patent that had been declared invalid. In its judgment, it decided that the invalid patent could not be infringed and that Zodiac was entitled to claim that Virgin had suffered no loss in terms of damages. The controversy in this decision lies in the fact that

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the Supreme Court challenged the rational of the commercial certainty principle that was used by the court of appeal. The Court commented that in any given situation, only half the parties involved in an action demand commercial certainty. This meant that the decision impacted on the damages and patent litigation in the United Kingdom.

#### Reference

Slorach, J. S. & Ellis, J. G.(2012). Business Law: 2012-2013. Oxford: : Oxford University Press