First Issue of 2013's Journal of Private International Law

The latest issue of the *Journal of Private International Law* was just released.

Reid Mortensen, Woodhouse Reprised: Accident Compensation and Trans-Tasman Integration

> *Australia and New Zealand have created a single civil judicial area, which gives all courts in each country a complete adjudicative jurisdiction and a barely qualified enforcement jurisdiction throughout the whole trans-Tasman market area. The risk of concurrent proceedings and incompatible judgments is minimised only by the power of courts to stay proceedings on the ground of forum non conveniens or when enforcing a choice-of-court agreement. The scheme rests on the 'strikingly similar' quality of the two countries' legal systems. However, New Zealand's Accident Compensation Act 2001 maintains a unique, comprehensive no-fault compensation scheme for accidents which also prohibits all court-based claims for compensation for personal injuries. It is 'strikingly dissimilar' to the common law systems of personal injuries compensation found in the Australian states. And, given that the Australian common law systems are often much more generous in the awards given for personal injuries, the New Zealand scheme has been a significant motivation for New Zealanders' forum shopping in Australia. This does not appear to have been addressed well by the new trans-Tasman scheme for civil jurisdiction. The article considers the confounding role that the Accident Compensation Act may continue to play in trans-Tasman civil jurisdiction, and its implications for the principles of forum conveniens, choice-of-law and the enforcement of personal injuries awards between Australia and New Zealand.*

Samuel Zogg, Accumulation of Contractual and Tortious Causes of Action under the Judgments Regulation

> *This article examines jurisdictional issues under the Judgments Regulation in cases where a claimant alleges to have, from one and the same incident, a contractual and a tortious cause of action, both providing for full compensation. It analyses the relationship between Article 5(1) and 5(3); particularly, whether and to what extent these provisions are mutually exclusive and whether they*

provide for accessory jurisdiction for related claims. Furthermore, the question is raised whether the claimant is free to "choose" the jurisdictional rule by skilful drafting of his claim.

As far as the claimant is free to pursue his claims in different fora, questions of how to deal with such parallel proceedings are discussed; namely, whether lis pendens exists (Article 27) and whether Article 28 applies. After termination of such proceedings, delicate res judicata issues arise; particularly whether and to what extent a judgment on one claim precludes judgment on the other and, if not, how double satisfaction may be prevented.

Rita Matulionyte, Calling for Party Autonomy in Intellectual Property Infringement Cases

This article discusses the possibility of parties choosing the applicable law for intellectual property (IP) infringements. Although party autonomy in IP cases has been explicitly denied in the Rome II Regulation, the recent worldwide academic proposals, such as ALI, CLIP, Transparency and the Joint Japanese-Korean proposal, have suggested a party autonomy rule in IP infringement cases. This paper demonstrates that, as a general matter, this approach is reasonable. It further discusses the most suitable scope and limitations of party autonomy for IP infringements.

José Velasco Retamosa, International Protection of United Nations System Emblems: Private International Law Issues

This article deals with the international protection that national and international Law grants to the United Nations system emblems. The study is carried out from a multidisciplinary perspective due to its relation with the different areas of Law, with special reference in each case to questions referred to in Private International Law. The intervention of the rules of public as well as private law supposes that the symbols and emblems that represent the international Organization and, more specifically, their protection, comes from the observation of the different areas of the legal system which range from Public and Private International Law in general to the specific regulations on industrial property rights. In this regard, when the protection transcends borders and the interest is located in more than one State, the rules of International private Law find their importance in the protection of these types of symbols and emblems.

Laurens Timmer, Abolition of *Exequatur* under the Brussels I Regulation: Ill Conceived and Premature?

On the 6 December 2012, the Council of EU Justice Ministers adopted a recast of the Brussels I Regulation. Among other changes, the recast provides for the abolition of the exequatur procedure. The changes had been proposed by the Commission in 2010, but have been significantly revised before being adopted by the European Parliament and the Council. This article examines and criticises both the adopted changes and the claims made in the political arena in regard to the necessity of these changes. The author favours the use of less radical measures to achieve the goal of abolition, which is avoiding unnecessary costs and delays in cross-border procedures within the European Union.

Martina Melcher, (Mutual) Recognition of Registered Relationships via EU Private International Law

An ever growing number of bi-national couples and increased population mobility together with highly heterogenous national substantive and conflict rules regarding couple relationships, such as same-sex marriage or registered partnerships, inevitably lead to limping relationships, different legal effects and disparate decisions. In addition to practical difficulties for such couples, the non-recognition of already registered relationships likely infringes their fundamental freedom of movement and human rights. For these reasons, the current article argues that registered relationships with cross-border effects should be recognised as such outside their state of origin. An analysis of several options to recognise those relationships shows that unified conflict rules are best suited to achieve this purpose. Whereas automatic recognition appears to be particularly attractive as it would not require the Member States to adopt new rules, such an instrument could not replace conflict rules altogether, but would only add to the legal complexity. In contrast, an EU regulation on the law applicable to registered relationships would create a comprehensive set of unified rules, thus guaranteeing an equal legal treatment of the relationship independent from the location of the competent court within the EU.In order to ensure the recognition of an already registered, or somehow formalised, relationship in another Member State, the article favours the place of registration as the main connecting factor for questions on the establishment, the personal legal effects and the dissolution of such couple relationships.

Other possible connecting factors, such as domicile, nationality or habitual residence, are discussed as well. Furthermore the potential necessity to limit the registration of aliens in order to confine system shopping and fraus legis is assessed. Finally, the article also tackles the problem of a possible refusal of recognition based on grounds of public policy and evaluates some arguments that have been brought forward in this context in national legal systems.

Fabrício Bertini Pasquot Polido, Review Article: How Far Can Private International Law Interact with Intellectual Property Rights? A Dialogue with Benedetta Ubertazzi's book *Exclusive Jurisdiction in Intellectual Property*