

Franzina on Jurisdiction Regarding Rights in Rem in Moveable Property in the Brussels I Review

Pietro Franzina (University of Ferrara) has posted “The Proposed New Rule of Special Jurisdiction Regarding Rights in Rem in Moveable Property: A Good Option for a Reformed Brussels I Regulation?” on SSRN. The abstract reads:

On 14 December 2010, the European Commission published a proposal for the recasting of regulation No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (Brussels I). The proposal purports, inter alia, to add a provision granting non-exclusive jurisdiction “as regards rights in rem and possession in moveable property” to “the courts for the place where the property is situated”. The paper examines the scope of application of the proposed new rule and the connecting factor it employs, in an attempt to determine whether it would be a useful addition to the existing rules on jurisdiction in civil and commercial matters in Europe. It concludes that, although it may in some cases (and subject to some conditions) serve the goals of proximity of predictability underlying the special heads of jurisdiction of the Brussels I regulation, the provision would bring more disadvantages than advantages, and suggests that the Commission’s proposal in this respect should better be abandoned.

The article is forthcoming in “Diritto del Commercio Internazionale” (issue 3/2011).