

Grosse Ruse-Khan on Competing Rationalities in International Law

Henning Grosse Ruse-Khan (Max Planck Institute for Intellectual Property & Competition Law) has posted A Conflict-of-Laws Approach to Competing Rationalities in International Law: The Case of Plain Packaging between IP, Trade, Investment and Health on SSRN.

The idea of employing conflict-of-laws principles to address competing rationalities in international law is unorthodox, but not new. Research focuses on inter-systemic conflicts between different areas of international law - but has stopped short of proposing conflict rules. This article goes a step further and reviews the wealth of private international law approaches and how they can contribute to applying rules of another, 'foreign' system. Against the background global intellectual property rules and their interfaces with trade, investment, health and human rights, the dispute over plain packaging of tobacco products serves as test case for conflict-of-laws principles. It shows how these principles allow a forum to apply external rules - beyond interpretative concepts such as systemic integration.