

Mariottini on U.S. Jurisdiction in Products-Liability in the Wake of McIntyre

Cristina M. Mariottini (MPI Luxembourg) has posted U.S. Jurisdiction in Products-Liability in the Wake of McIntyre: An Impending Dam on the Stream-of-Commerce Doctrine? on the Working paper series page of the Max Planck Institute Luxembourg.

By granting certiorari in McIntyre v. Nicastro (in which the New Jersey Supreme Court found personal jurisdiction over the manufacturer), the U.S. Supreme Court acknowledged the need to tackle the question of the stream-of-commerce doctrine, and particularly the issues left open by the lack of a majority opinion in Asahi. Nonetheless, on 27 June 2011, a – once again – deeply divided U.S. Supreme Court handed down its opinion in McIntyre, holding that, because a machinery manufacturer never engaged in activities in New Jersey with the intent to invoke or benefit from the protection of the State’s laws, New Jersey lacked personal jurisdiction over the company under the Due Process Clause.

Drawing a parallelism with the European provisions and case-law on specific jurisdiction in products-liability and providing an overview of the first reactions of the lower U.S. courts to this judgment, this article illustrates how in McIntyre the U.S. Supreme Court marked a strong narrowing down of the stream-of-commerce doctrine, and failed to provide a comprehensible framework for practitioners and lower courts faced with specific in personam jurisdiction questions.

The paper is forthcoming in A. Lupone, C. Ricci, A. Santini (eds), *The right to safe food towards a global governance*, Giappichelli, Torino, 2013.