

Professor Ron Brand on “Understanding Judgments Recognition”

The twenty-first century has seen many developments in judgments recognition law in both the United States and the European Union, while at the same time experiencing significant obstacles to further improvement of the law. This article, just posted here to SSRN, describes two problems of perception that have prevented a complete understanding of the law of judgments recognition on a global basis, particularly from a U.S. perspective. The first is a proximity of place problem that has resulted in a failure to understand that, unlike the United States, many countries allow their own courts to hear cases based on a broad set of bases of jurisdiction, while recognizing judgments from other countries only if they are based on a much narrower set of bases of jurisdiction. This gap between direct and indirect bases of jurisdiction results in a level of discrimination against foreign judgments that does not exist in the United States and some other countries, and makes a harmonized global approach to judgments recognition difficult. The second is a proximity of time problem that has resulted in a failure to remember the full context of Justice Gray’s historic analysis in *Hilton v. Guyot*, the seminal case in U.S. judgments recognition law. This article seeks to explain the consequences of both problems, and then comments on how a clearer understanding of these two problems of proximity may aid in making further progress in judgments recognition law.