Conference Announcement: Our Courts and the World

Our Courts and the World: Transnational Litigation and Civil Procedure

On Friday, February 3, 2012, Southwestern Law School in Los Angeles, California and the *Southwestern Journal of International Law* is hosting a symposium titled *Our Courts and the World: Transnational Litigation and Civil Procedure*. The symposium is co-sponsored by the American Society of International Law, the Junior International Law Scholars Association (JILSA), the Los Angeles County Bar Association – International Law Section, and the State Bar of California – International Law Section.

This one-day symposium will bring together leading scholars from Canada and the United States to discuss the procedural issues that arise in transnational civil litigation cases. It will also assess how receptive courts are to transnational litigation and explore issues related to transnational class actions. The proceedings and papers from this symposium will be published in the *Southwestern Journal of International Law.*

Panelists include (in alphabetical order):

- *Samuel P. Baumgartner*, Professor of Law, University of Akron School of Law
- *Vaughan Black,* Professor of Law, Dalhousie University Schulich School of Law
- *Gary B. Born,* Partner, WilmerHale, Lecturer on Law, Harvard Law School
- *Stephen B. Burbank,* David Berger Professor for the Administration of Justice, University of Pennsylvania Law School
- *Montré D. Carodine,* Associate Professor of Law, University of Alabama School of Law
- *Donald Earl Childress III,* Associate Professor of Law, Pepperdine University School of Law
- *Paul R. Dubinsky,* Associate Professor of Law, Wayne State University Law School
- *Allan Ides,* Christopher N. May Professor of Law, Loyola Law School, Los

Angeles
- *Thomas Orin Main,* Professor of Law, University of the Pacific, McGeorge School of Law
- *Erin O'Hara O'Connor*, Professor of Law and Director of Graduate Studies, Law & Economics PhD Program, Vanderbilt Law School
- *Cassandra Burke Robertson*, Associate Professor, Case Western Reserve University School of Law
- *Linda J. Silberman*, Martin Lipton Professor of Law, New York University School of Law
- *Linda Sandstrom Simard*, Professor of Law, Suffolk University Law School
- *Adam N. Steinman*, Professor of Law and Michael J. Zimmer Fellow, Seton Hall University School of Law
- *Janet Walker*, Professor of Law, Osgoode Hall Law School
- *Rhonda Wasserman*, Professor of Law, University of Pittsburgh School of Law

Moderators include:

- *William E. Thomson*, Partners, Gibson, Dunn & Crutcher LLP
- *James H. Broderick, Jr.,* Partner, Squire, Sanders & Dempsey LLP
- *Marcus S. Quintanilla*, Counsel, O'Melveny & Myers LLP
- *Ray D. Weston Jr.,* Vice President and General Counsel, Taco Bell Corp.

Symposium Co-Chairs:

- *Austen Parrish*, Professor of Law and Vice Dean, Southwestern Law School
- *Christopher A. Whytock*, Acting Professor of Law and Political Science, University of California, Irvine

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Latest Issue of RabelsZ: Vol. 76,

No. 1 (2012)

The latest issue of "Rabels Zeitschrift für ausländisches und internationales Privatrecht – The Rabel Journal of Comparative and International Private Law (RabelsZ)" has just been released. It contains – among others – articles on the recent Chinese and Japanese Codifications on Private International Law. The table of contents reads as follows:

Articles:

Knut Benjamin Pissler, **The New Private International Law of the People's Republic of China: Cross the River by Feeling the Stones,** pp. 1-46

Abstract:

On October 28, 2010, the "Law of the Application of Law for Foreign-related Civil Relations" was promulgated in the People's Republic of China. The law aims to consolidate the Chinese conflict of laws regime and signals a new step towards a comprehensive codification of civil law in China. Drafting of the law started in the early 1990s and produced an academic model law in the year 2000. The Chinese legislator was reviewing a first draft in 2002. However, due to other priorities, it has only been since the beginning of 2010 that conflict of laws has been at the top of the legislative agenda. It comes, therefore, with little surprise that the law has some deficiencies and has been welcomed with mixed feelings by Chinese academics, who had only limited influence in the last stage of the drafting process.

The promulgated law emphasizes party autonomy and the closest connection as general principles. The law furthermore replaces nationality with habitual residence as the principal connecting factor for personal matters in Chinese private international law. However, some lacunas remain and new questions arise from the law. The legislative gaps concern the form of legal acts, the maintenance duties after divorce as well as the assignment and transfer of rights and duties in general. New questions arise from the provisions in the law establishing alternative connecting factors. In some cases the law requires application of the law which favours a particular party (in parent-child relationships, maintenance and guardianship). Chinese courts will therefore be confronted with the demanding task of comparing the legal regimes of different

states in this respect. In other cases the law does not stipulate how to choose between the alternative connecting factors and it remains to be seen on which principles courts will render their decisions. Regarding the free choice of law with regard to rights in movable property provided by the law, it is additionally questionable how the rights of third parties are protected where they are not aware of such a choice of law. The decision of the legislator to exclude renvoi will force Chinese courts to apply foreign law even if the foreign private international law refers back to Chinese law.

Some of the particular provisions in the law are also a source for further problems: This concerns the application of the lex fori in divorce cases, the conflict of laws rule on trusts and arbitration clauses as well as on agency. Another point of uncertainty stems from older provisions of private international law that can still be found in several laws such as the Maritime Commercial Law, the Civil Aviation Law or the Contract Law. Those norms are still in force formally, but their relation to the new law is not sufficiently clarified. This uncertainty is particularly pronounced given that the relation of the new law to several provisions in the General Principles of Civil Law and the Inheritance Law is expressly regulated whereas the others are not even mentioned. Relating to international contract law and tort law, the Supreme People's Court had issued some judicial interpretations in the past to solve certain questions, but it also remains uncertain whether these interpretations still apply after the enactment of the new law. It is expected that the Supreme People's Court will issue a further judicial interpretation on private international law in the near future to help Chinese courts applying the new law.

Qisheng He, **The EU Conflict of Laws Communitarization and the Modernization of Chinese Private International Law,** pp. 47-85

Abstract:

Since 2007 the EU has adopted the Rome I, Rome II and Rome III Council Regulations codifying and unifying the respective conflict of laws rules in contract, tort and divorce and legal separation. The EU conflict of laws communitarization has attained great achievements. In 2010, China also adopted a self-contained statute – the Law of the People's Republic of China on

the Application of Law to Civil Relationships Involving Foreign Interests – which marks a significant step forward in the codification of Chinese private international law (PIL). However, the sources of Chinese PIL are still scattered and diverse because the PIL rules in existing commercial statutes have not been incorporated into this separate PIL statute. In contrast with the EU PIL, there are three issues on which China should devote special attention in further developing its PIL: Firstly, because of a mixed mode of legislation and the scattered sources of Chinese PIL, maintaining harmony between the new statute and the other sources still remains an important task. It remains very important for China to enact PIL provisions in future commercial law legislation. Secondly, the draft of the new statute includes no documents or materials which suggest that the Chinese legislative authority appreciated the tension and need for equilibrium between certainty and flexibility. Thus, the new statute manifests some problems in this regard. Lastly, current Chinese PIL is mainly focused on jurisdiction-selection rules, meaning that the formulation of reasonable content-preference rules is still an important task necessary for the modernization of Chinese PIL.

Yoshiaki Sakurada & *Eva Schwittek*, **The Reform of Japanese Private International Law,** pp. 86-130

Abstract:

Japan has reformed its Act on the Application of Laws. On 1 January 2007, the Hô no tekiyô ni kansuru tsûsoku-hô came into effect, a revised and renamed version of the Hôrei that dates from 1898. This article traces the legislative process and analyses the changes in the law, referring to the way they have been implemented in the court rulings rendered so far.

In sessions dating from May 2003 to July 2005, the Subcommittee for the Modernisation of the Act on the Application of Laws (part of the Legislative Commission of the Ministry of Justice) worked out fundamental innovations that were approved by the Legislative Commission of the Ministry of Justice on 6 September 2005. Based on this report, the Ministry of Justice, in cooperation with the Legislative Department of the Cabinet, drafted a bill that passed the Upper House on 19 April 2006 and the House of Representatives on 15 June

2006.

The reform is comprehensive. The only parts of the law that were exempt from amendment were international family and inheritance law, those already having been reformed in 1989. The present renewal focuses on the provisions concerning international contract law (Arts. 7-12) and the international law of torts (Arts. 17-22). Both sets of rules were further differentiated in their basic principles and complemented by special rules.

As for international contract law, the basic connecting factor is still the parties' choice of law (Art. 7). A fundamental change in determining the law applicable to contracts was implemented by introducing a new subsidiary objective connecting factor in Art. 8. It provides that in the absence of a choice of law by the parties, the law of the place with which the contract was most closely connected should apply, and it specifies criteria for determining the closest connection. The newly created rules on consumer and labour contracts in Arts. 11 and 12 contain major innovations aiming at the protection of the weaker party. However, they impose upon the weaker party the burden of stipulating the effect of the protective provision in question, an aspect which was much criticised as it limits such protective effects.

The lex loci delicti, as the basic connecting factor for the law of torts, formerly stipulated in Art. 11(1) Hôrei, is maintained in Art. 17. Multilocal torts are governed by the law of the place where the results of the infringing act are produced (Art. 17 sentence 1). However, if it was not foreseeable under normal circumstances that the results would be produced at that place, the law of the place where the infringing act occurred shall apply (Art. 17 sentence 2). Special rules on product liability and on infringements of personality rights were added to the law in Arts. 18 and 19. The lex loci delicti as connecting factor can be deviated from in cases where a manifestly more closely connected place exists (Art. 20) or where the governing law is changed by the parties (Art. 21). The principle of double actionability, stating that Japanese law should be applied cumulatively to the applicable law regarding the grounds of and the compensation for damages incurred by a tort, was upheld in Art. 22 against severe criticism.

Apart from the points of critique addressed above, the new law provides for a differentiated set of rules that keep pace with the latest international

developments.

Anne Röthel, **Family and Property in English Law: Developments and Explanations**, pp. 131-160(30)

Abstract:

In continental jurisdictions, there is still a strong link between family and property. Intestate succession, imperative inheritance rights as well as the concepts of matrimonial property regimes and in some aspects also tax law are designed to attribute property rights along personal relationships. The position of English law is often described as a contrasting concept, especially due to the deeply rooted reservations against fixed shares. However, continental lawyers often may be surprised with the actual outcome, especially in divorce cases. The article therefore explores the present state of English law concerning family and property. Is there a convergence in concepts as well? Is English law nowadays more favourable towards general normative models for the attribution of property within family relationships? Or is the 2010 decision of Radmacher v. Granatino another turning-point? The author argues that the inner explanation of these – at first glance – diverging steps lies in the recognition of equality in horizontal relationships. The outcome of cases like White v. White or Stack v. Dowden is only partly the effect of a generally altered view on family and property in English Law. Nonetheless, they reflect a different understanding of how and how much the state should regulate the family. Although all European legislations experience broadly similar demographic trends and social challenges, there remain decisive differences in legal concepts. The distance between English Law and the continent may be somewhat reduced – but it is far from disappearing.

Material:

Volksrepublik China: Erlass des Präsidenten der Volksrepublik China Nr. 36: Gesetz der Volksrepublik China zur Anwendung des Rechts auf zivilrechtliche Beziehungen mit Aussenberührung vom 28. 10. 2010, pp. 161-169 *(Peoples Republic of China: Order of the President of the People's Republic of China No.*

36: The Law of the Application of Law for Foreign-related Civil Relations of the People's Republic of China, 28/10/2010)

Japan: Gesetz Nr. 78 über die allgemeinen Regeln über die Anwendung von Gesetzen (Rechtsanwendungsgesetz) vom 21. 6. 2006, pp. 170-184 *(Japan: Act No. 78* of 2006 about General Rules for Application of Laws, 21/06/2006)

Hague International Financial Tribunal

PRIME Finance, an international tribunal specialising in resolving financial disputes has launched its services today in the Hague.

The services that it offers are arbitration and mediation, so it is, in effect, an arbitration institution rather than the "latest of six international courts in the Netherlands". The dispute resolution experts of Prime Finance are indeed specialists of international arbitration rather than international criminal law scholars, and the good air of the Hague seems unlikely to change the legal nature of this newcomer.

The press has reported that it is to be financed by the Dutch government and the city of the Hague for its first two years. The Netherlands has certainly a lot to gain if it can effectively compete with London and New York City as an international center for the resolution of financial disputes. For that purpose, one suspects that the founders of the institution have put more effort into attracting Lord Collins of Mapesbury and the Honourable Charles N. Brower than Luis Moreno-Ocampo.

Well, let's the competition begin, then.

Licari & Janke on Punitive Damages

F.X Licari is maître de conférences at the University of Metz; B.W. Janke works as associate in Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, New Orleans.

A new article on punitive damages and the Fountaine Pajot ruling (see related entries following this) has just been published on SRRN, entitled "Enforcing Punitive Damages Awards in France after Fountaine Pajot"; it will also be included in the *American Journal of Comparative Law* in summer. Here is the abstract:

> In a landmark ruling, the Cour de cassation held that 'an award of punitive damages is not, per se, contrary to public policy,' but that 'it is otherwise when the amount awarded is disproportionate with regard to the damage sustained and the debtor's breach of his contractual obligation.' Schlenzka & Langhorne v. Fountaine Pajot, S.A. involved the failed attempt by American judgment creditors to enforce their California judgment against a French defendant in France. At the same time that the judgment creditors were taking their case through the French legal system, the Cour de cassation, in a different line of cases, liberalized the conditions under which a foreign judgment could be enforced in France. But when the Court opened one door for the American plaintiffs, it closed another by refusing to enforce the judgment because it included disproportionate punitive damages. The Court's reasons were inconsistent with prior interpretations of proportionality and disingenuous to the court's modern approach to the enforcement of foreign judgments. In just a few words, the Court echoed prevailing French and European sentiments about American punitive damage awards. Unfortunately, the prevailing attitudes are dominated more by prejudice than by fact and reason.

Click here to access the whole text.

López de Tejada on the Abolition of Exequatur

María López de Tejada holds a PhD in law from the University of Paris II with a thesis on the abolition of the exequatur procedure. She has recently published an article on the topic in the Spanish journal La Ley (Diario La Ley, Nº 7766, Sección Tribuna, 30 Dic. 2011). Here is a summary of the contents.

The execution of foreign judgments has traditionally been subject to an enforcement procedure in the European judicial area. However, the Community lawgiver wants to get rid of that process so that any judicial decision could deploy its effects and be enforced throughout the community, without prior declaration of enforceability or control in the executing Member State. Several regulations of limited material scope have already achieved that objective, but the idea is to go further and abolish the exequatur procedure for all civil and commercial matters. Such an objective looks like praiseworthy at first sight, because it tends to break with a traditional legal lack of openness and to restore the continuity of the right to enforcement of anyone who has obtained a favorable judgment. But a deeper analysis of the issue shows that right now, the abolition of exequatur would be a hasty, even dangerous step for both the citizens and the harmony of the juridical systems of the Member States. The suppression of the exequatur procedure is based on the assumption that foreign court rulings, delivered under common jurisdictional criteria, provide similar guarantees and should be regarded as national decision. The truth is that until a higher level of integration has been reached such presumption, which implies the perfect equivalence of all national decisions, is simply excessive and unrealistic. On the one hand, the European system of jurisdiction set in regulations is still far from perfect; and the practical application of the rules leads too often to unpredictable consequences. On the other hand, the judicial area is characterized by a profound heterogeneity in as far as procedural law is concerned; and unfortunately both the ECHR and the ECJ case law still show scenarios of violations of fundamental rights by the States -in particular of Article 6 of the ECHR.

The suppression of all kind of control (meaning, public order clause included) of foreign rulings opens the door to the community space of judgments contrary to the fundamental rights enshrined in the ECHR and in the European Charter of Fundamental Rights, notwithstanding the Member States commitment to abide by both them.

Agreements in EU Council on Abolition of Exequatur and Succession

During its meeting of December 13-14, 2011, the Council of Ministers of the European Union has made decisions regarding some forthcoming private international law legislation. The Press Release states:

Main Results:

> *Ministers also reached agreement on the text of a regulation on jurisdiction, applicable law, recognition and enforcement of decisions and authentic instruments in matters of* ***succession*** *and the creation of a European Certificate of Succession. On the recast of a regulation on* ***jurisdiction and the recognition and enforcement of judgments in civil and commercial matters*** *(the so-called "Brussels I" regulation), the Council approved political guidelines for further work.*

More specifically, the Council agreed:

Judgments in Civil and Commercial Matters

> *The Council agreed on political guidelines on the abolition of exequatur on judgements given on matters falling within the scope of the so-called Brussels I regulation.*

(…)

The UK and Ireland have decided to take part in the adoption of the revised regulation. Once adopted, the revised regulation will also be applicable to Denmark in the context of the existing agreement between the EU and Denmark on the matter.

Succession

The Council reached very broad general agreement on the text of the regulation on jurisdiction, applicable law, recognition and enforcement of decisions and authentic instruments in matters of succession and the creation of a European Certificate of Succession (18745/11 + ADD 1). (…)

In order to reach a general approach, further work is needed, in particular on two issues:

– the question of restoration of lifetime gifts ("clawback") where considerable differences between member states' legal systems exist: While some member states allow for clawback, others don't.

– the question of the administration of a deceased person's estate: Work will start immediately in order to prepare incoming negotiations with the European Parliament.

Open questions also exist on the recitals as well as the proposed standard forms.

In general, the proposed rules aim to make life easier for heirs, legatees and other interested parties.

The main provisions are:

– The draft act provides for the application of a basic connecting factor for determining both the jurisdiction of the courts and the law applicable to a succession with cross-border implications, namely the deceased's habitual residence at the time of death. The proposed Regulation will also allow a person to choose the law to govern the succession the aw of the State of his/her nationality. This rule would take some of the stress out of estate planning by

creating predictability.

– The proposed rules will ensure mutual recognition and enforcement of decisions and mutual acceptance and enforcement of authentic instruments in succession matters.

– A European Certificate of Succession would be created to enable persons to prove their status and/or rights as heirs or their powers as administrator of the estate or executor of the will without further formalities. This should result in faster and cheaper procedures for all those involved in a succession with cross-border implications.
The UK and Ireland have not yet notified the Council that they will participate in the final adoption of the regulation, but have participated actively in the negotiations. Denmark will not take part in the adoption of the proposed regulation.

Many thanks to Niklaus Meier for the tip-off.

Kono on Intellectual Property and PIL

Toshiyuki Kono, who is a professor of law at Kyushu University – Graduate School of Law, has posted Jurisdiction and Applicable Law in Matters of Intellectual Property on SSRN.

The Hague Judgments Project, initiated in the early 1990 sat the Hague Conference on Private International Law, aimed to harmonize rules on international jurisdiction and the recognition and enforcement of foreign judgments. As this project faltered, supporters continued this work under an American Law Institute Project that developed comprehensive rules on international jurisdiction, particularly in cross-border intellectual property (IP)

disputes. Other initiatives in Europe and Asia worked to harmonize the settlement of multi-state IP disputes. This report synthesizes reports enforcement of judgments in IP matters. It also presents 12 hypothetical cases to determine how a given jurisdiction deals with various matters, including: personal jurisdiction and jurisdiction over infringement actions, subject-matter jurisdiction, consolidation of proceedings, choice of court agreements, Parallel proceedings, territoriality principle of IP rights, and applicable law regarding transfer of IP rights and agreements.

It is an abbreviated version of the General Report on Intellectual Property and Private International Law for the XVIIth Congress of the International Academy of Comparative Law (Washington, 2010) .

Symeonides on Choice of Law in American Courts in 2011

Dean Symeon C. Symeonides (Willamette University – College of Law) has posted Choice of Law in the American Courts in 2011: Twenty-Fifth Annual Survey on SSRN. It is, as usual, to be published in the *American Journal of Comparative Law* (Vol. 60, 2012). Here is the abstract:

This is the 25th Annual Survey of American Choice-of-Law Cases. It is intended as a service to fellow teachers and students of conflicts law, both within and outside the United States. The Survey covers cases decided by American state and federal appellate courts in 2011. The following are some of the cases discussed:

• Three Supreme Court decisions, one on general jurisdiction, one on specific jurisdiction, and one holding that the Federal Arbitration Act preempts state court rulings that protected consumers by refusing to enforce certain class-arbitration waivers.

• Two state supreme court cases refusing to enforce arbitration clauses that waive tort claims arising from gross negligence and criticizing the Supreme Court for "tendentious reasoning" and for creating new doctrines "from whole cloth."

• A New York case struggling with the Neumeier rules in a case involving the same pattern as Schultz, and a California case worthy of Traynor's legacy in delineating the extraterritorial reach of California statutes.

• A Delaware case holding that Delaware has an interest in "regulating the conduct of its licensed drivers," even when they drive in states with lower standards; a conflict between a dram shop act and an anti-dram shop act; and a product liability case in which a driver who crushed his car after taking a sleeping pill prevailed on the choice-of-law question.

• A case enforcing a foreign arbitration and choice-of-law clause prospectively waiving a seaman's federal statutory rights, even though there was little possibility for a subsequent review of the arbitration award.

• Several cases illustrating the operation of four competing approaches to statutes of limitation conflicts.

• A case rejecting a claim that a Sudanese cultural marriage was invalid because the groom had paid only 35 of the 50 cows he promised as dowry to the bride's father. • Two cases recognizing Canadian same-sex marriages.

• A case holding that the court had jurisdiction to terminate a father's parental rights without in personam jurisdiction over him, as long as the children were domiciled in the forum state.

• A case holding that a state's refusal to issue a revised birth certificate listing two unmarried same-sex partners as the child's parents after an adoption in another state did not violate the Full Faith and Credit clause.

• A case characterizing as penal and refusing to recognize a sister-state judgment imposing a fine for a violation of zoning restrictions.

• Several cases involving sex offenders required by sister-state judgments to register their place or residence, or terminating the obligation to register.

• Four federal appellate decisions holding that corporate defendants can be sued under the Alien Tort Statute for aiding and abetting in the commission of international law violations.

ERA Conference on the Optional European Sales Law

On 9 and 10 February 2012, the European Law Academy will host a conference on the Optional European Sales Law in Trier, Germany. The objective of the conference is to discuss the Proposal for a Common European Sales Law, which was published by the EU Commission in October 2011. Registration and further information can be found on the ERA website. The programm reads as follows:

Thursday, 9 February 2012

08:30 Arrival and registration
09:00 **Welcome**, *Angelika Fuchs*
Chair: *Hugh Beale*

I. SETTING THE SCENE

09:05 **The ongoing political debate**
• European Parliament: *Diana WallisPolish*
• EU Presidency: *Aneta Wiewiórowska*
• Danish EU Presidency: *Morten Fogt*

09:45 **Discussion**

II. LEGAL CHALLENGES FOR THE CESL

10:00 **Legal basis, content and scope**
Christiane Wendehorst

10:20 **CESL and the conflict of laws**
Gilles Cuniberti
• CESL and Rome I
• How to fill the gaps? Set-off, assignment, representation and other issues

10:45 **Discussion**
11:00 Coffee break

Chair: *Diana Wallis*

III. CESL RULES FOR B2C SALES CONTRACTS

11:30 **Pre-contractual information**
Eric Clive
• Distance / off-premises contracts
• Contents and sanctions

11:50 **Making a binding contract**
Anna Veneziano
• Offer and acceptance
• Defects in consent
• Right of withdrawal

12:15 **Discussion**

12:30 **Unfair contract terms: assessing unfairness**
Friedrich Graf von Westphalen

12:50 **Discussion**
13:00 Lunch

Chair: *Friedrich Graf von Westphalen*

14:00 **Obligations and remedies of the parties**
Hugh Beale
• Consumer choices
• Requirements
• Prescription periods

14:25 **Discussion**

14:40 **Goods, supply of digital content and pprovision of related services**
Matthias Storme

15:00 **Discussion**

IV. WORKSHOP (with coffee & tea)

15:15 **Life-cycle of a contract: a case study on the CESL in legal practice**
Martin Schmidt-Kessel

17:00 End of the first conference day
19:00 Evening programme and dinner

Friday, 10 February 2012

Chair: *Anna Veneziano*

V. CONSUMER AND COMMERCIAL CONTRACTS

09:00 **Comparing B2C and B2B contracts,** *Dora Szentpaly-Kleis*
Ursula Pachl
• Which rules are different
• Why?

09:40 **What is required to make the optional instrument work in practice?**
Dirk Staudenmayer

10:00 **Discussion**
10:30 Coffee break

Chair: *Morten Midtgaard Fogt*

VI. PANEL DISCUSSION

11:00
B2C: Added value for consumers or cost driver for enterprises?
Hanne Melin
Bob Schmitz

B2B: What does the CESL offer to businesses?

Tina Sommer
Andreas Dietzel

13:00 **Lunch and end of the conference**

Buxbaum and Michaels on International Antitrust Law

Hannah Buxbaum (Indiana) and Ralf Michaels (Duke) have posted Jurisdiction and Choice of Law in International Antitrust Law – A U.S. Perspective on SSRN.

> *This essay was written for a forthcoming book on international antitrust litigation in Europe. It provides a comparative perspective on the U.S. approach to the jurisdictional and choice-of-law issues raised in international antitrust litigation. The chapter examines personal jurisdiction over foreign defendants involved in anticompetitive conduct, as well as the question of applicable law in cross-border antitrust litigation — including the possibility of applying foreign antitrust law. It also focuses on the intersection between antitrust claims and contract claims, and on the special conflict-of-laws issues that arise in the context of class actions.*