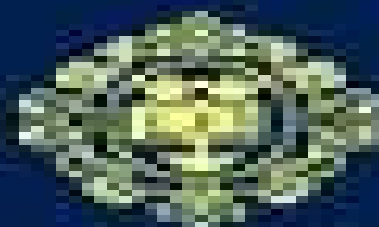


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FORUM SHOPPING AND VENUE IN TRANSNATIONAL LITIGATION

ANDREW HELL



UNIVERSITY OF CHICAGO

Forum Shopping And Venue In Transnational Litigation

Mary Keyes



Forum Shopping And Venue In Transnational Litigation:

Forum Shopping and Venue in Transnational Litigation Andrew S. Bell, 2003 Forum shopping in international litigation and arbitration is the product of the differences which exist in the procedural and substantive laws of countries throughout the world participating in an ever more globalized economy This book provides an in depth study of the conditions for motivations behind and techniques of forum shopping as well as possible defences against it It will be of interest to practitioners judges and academics throughout the common law world the European Union and the United States

Venue in Transnational Litigation Andrew S. Bell, 1994 **Forum Shopping in International Adjudication** Luiz Eduardo Salles, 2014-05-22 How can procedural objections be used to address the emerging phenomenon of forum shopping before international tribunals **Forum Shopping Despite Unification of Law** Franco Ferrari, 2021-08-16 Watch the interview with Franco Ferrari on Forum Shopping Despite Unification of Law According to some commentators forum shopping is an evil that must be eradicated It has been suggested that the unification of substantive law through international conventions constitutes one way to achieve this outcome This book shows that the drafting of uniform substantive law convention cannot prevent forum shopping The reasons are classified into two main categories convention extrinsic and convention intrinsic reasons The former category comprises those reasons upon which uniform substantive law conventions do not have an impact at all These reasons range from the costs of access to justice to the bias of potential adjudicators to the enforceability of judgments The convention intrinsic reasons on the other hand are reasons that relate to the nature and design of uniform substantive law conventions and include their limited substantive and international spheres of application as well as their limited scope of application the need to provide for reservations etc This book also focuses on another reason why forum shopping cannot be overcome the impossibility of ensuring uniform applications and interpretations of the various uniform substantive law conventions **Res Judicata, Estoppel, and Foreign Judgments** Peter R. Barnett, 2001 This book re examines the doctrines of res judicata and abuse of process when applied to foreign judgments and analyses how they are relied upon in English proceedings The book clearly explains the four main pleas to which a foreign res judicata might give rise in subsequent proceedings in England *International Litigation in Intellectual Property and Information Technology* Arnaud Nuyts, Jean-Sylvestre Bergé, 2008-01-01 At head of title European Commission Research Project on Judicial Cooperation in Matters of Intellectual Property and Information Technology Jurisdiction in International Litigation Mary Keyes, 2005 Transport and communications technologies have made international disputes common and a frequent practical issue is which country or countries have jurisdiction to resolve the dispute Existing literature on private international law tends to emphasize choice of law rather than jurisdiction Cases tend to show that the practical significance of Jurisdiction has yet to be appreciated This groundbreaking book fills in these gaps and offers a critical analysis of the principles and the theoretical foundations applied to resolve private international jurisdictional

disputes and of the manner in which those principles are applied in practice by Describing the context in which international jurisdiction disputes are determined Explaining and critically analysing the principles of jurisdiction Explaining and critically analysing the manner in which the principles are applied Identifying the interests which motivate principles and the courts application of the principles Recommending reforms to the principles by demonstrating that the existing principles of jurisdiction are flawed and ought to be reformed by taking into account the law s objectives defined by relevance to state and private interests

Treaty Shopping in International Investment Law Jorun Baumgartner, 2016-11-24 Treaty shopping also known under the terms of nationality planning corporate re structuring or corporate maneuvering implies a strategic change of nationality or strategic invocation of another nationality with the aim of accessing another usually more favourable investment treaty for purposes of investment arbitration When deciding on whether an investment claim based on treaty shopping should be upheld or dismissed investment arbitral tribunals have been increasingly faced with significant questions such as What is treaty shopping and how may legitimate nationality planning be distinguished from treaty abuse in international investment law Should a claimant that is controlled by a host State national be considered a protected investor or should tribunals pierce its corporate veil Does an investor have to make the investment in good faith and does it have to make a contribution of its own to the investment it is claiming protection for When does a corporate restructuring constitute an abuse of process and which is the role of the notion of dispute in this respect How efficient are denial of benefits clauses to counter treaty shopping Treaty Shopping in International Investment Law examines in a systematic manner the practice of treaty shopping in international investment law and arbitral decisions that have undertaken to draw this line While some legal approaches taken by arbitral tribunals have started to consolidate others remain unsettled painting a picture of an overall inconsistent jurisprudence This is hardly surprising given the thousands of international investment agreements that provide for the investor s right to sue the host State on grounds of alleged breaches of investment obligations This book analyses and discusses the different ways by which arbitral tribunals have dealt with the value judgment at the core of the distinction between objectionable and unobjectionable treaty shopping and makes proposals de lege ferenda on how States could reform their international investment agreements in particular with respect to treaty drafting in order to make them less susceptible to the practice of treaty shopping

Globalization and Health Belinda Bennett, George F. Tomossy, 2006-06-21 Within contemporary society globalization has emerged as a key concern at the centre of ethical legal and policy debates relating to health care Conflicts between public interests and individual rights the challenge of regulating health professionals and access to health services and the effects of a global market all feature prominently in these discussions As a result of globalization these issues can no longer be understood solely within the political boundaries that define traditional notions of individuals and communities Rather solutions demand a global conception of rights and obligations which in turn requires new approaches to health policy formulation and a reevaluation of existing ethical and

legal frameworks In essence the impact of globalization on human health is testing the robustness of modern regulatory systems legal doctrines and ethical paradigms PUBLIC HEALTH DEVELOPING GLOBAL CONCERNS The interconnectedness of the global economy presents new challenges in public health While globalization has facilitated improvements in health care it has also created new hazards and avenues for the exploitation of vulnerable persons It is becoming increasingly apparent that both national and international responses are required Indeed as the chapters in this section convey public health is rightly a global concern Globalization has led to a sharing of both risks and responsibilities in public health Belinda Bennett reminds us of the ease with which infectious diseases can spread within the global community given the speed of modern travel and trade

The Nature and Enforcement of Choice of Court Agreements Mukarrum Ahmed, 2017-10-05

PRAISE FOR THE BOOK This constitutes a work of impressive scholarship that will become a major reference point for future discourse on choice of court agreements Dr Ahmed advances a firm thesis in a lucid manner that will satisfy both academics and practitioners The discussion is supported by a monumental foundation of underpinning research Ahmed's monograph throughout shows clear understanding of underlying substantive laws and in Chapter 11 displays a refreshing willingness to engage in intelligent speculation on the implications of Brexit Professor David Milman University of Lancaster The book is an excellent attempt to understand the theoretical underpinnings of choice of court agreements in private international law Anyone with an interest in the theory and practice of choice of court agreements in particular in mechanisms for their enforcement should read this book They will find much of value by doing so Professor Paul Beaumont University of Aberdeen from the Series Editor's Preface This book examines the fundamental juridical nature classification and enforcement of choice of court agreements in international commercial litigation It is the first full length attempt to integrate the comparative and doctrinal analysis of choice of court agreements under the Brussels I Recast Regulation the Hague Convention on Choice of Court Agreements Hague Convention and the English common law jurisdictional regime into a theoretical framework In this regard the book analyses the impact of a multilateral and regulatory conception of private international law on the private law enforcement of choice of court agreements before the English courts In the process it both pre-empt and offers innovative solutions to issues that may arise under the jurisprudence of the emergent Brussels I Recast Regulation and the Hague Convention The need to understand the nature and enforcement of choice of court agreements before the English courts from the perspective of the EU private international law regime and the Hague Convention cannot be understated This important new study aims to fill an existing gap in the literature in relation to an account of choice of court agreements which explores and reconnects arguments drawn from international legal theory with legal practice However the scope of the work remains most relevant for cross border commercial lawyers interested in crafting pragmatic solutions to the conflicts of jurisdictions

Legal Interpretation in International Commercial Arbitration Joanna Jemielniak, 2016-04-22 This book fills a gap in legal academic study and practice in International Commercial

Arbitration ICA by offering an in depth analysis on legal discourse and interpretation Written by a specialist in international business law arbitration and legal theory it examines the discursive framework of arbitral proceedings through an exploration of the unique status of arbitration as a legal and semiotic phenomenon Historical and contemporary aspects of legal discourse and interpretation are considered as well as developments in the field of discourse analysis in ICA A section is devoted to institutional and structural determinants of legal discourse in ICA in which ad hoc and institutional forms are examined The book also deals with functional aspects of legal interpretation in arbitral discourse focusing on interpretative standards methods and considerations in decision making in ICA The comparative examinations of existing legal framework and case law reflect the international nature of the subject and the book will be of value to both academic and professional readers *Australian Private International Law for the 21st Century* Andrew Dickinson, Mary Keyes, Thomas

John, 2014-11-20 A nation's prosperity depends not only on the willingness of its businesses to export goods and services and of its citizens and residents to travel to take advantage of opportunities overseas but also on the willingness of the businesses and citizens of other nations to cross the nation's borders to do business Economic expansion and parallel increases in tourism and immigration have brought Australians more frequently into contact with the laws and legal systems of other nations In particular in recent years trade with partners in the Asia Pacific Region has become increasingly important to the nation's future At the same time Australian courts are faced with a growing number of disputes involving foreign facts and parties In recognition of these developments and the need to ensure that the applicable rules meet the needs both of transacting parties and society the Attorney General's Department launched in 2012 a full review of Australian rules of private international law This collection examines the state and future of Australian private international law against the background of the Attorney General's review The contributors approach the topic from a variety of perspectives judge policy maker practitioner academic and with practical and theoretical insights as to operation of private international law rules in Australia and other legal systems This title is included in Bloomsbury Professional's International Arbitration online service

Brussels I Regulation Ulrich Magnus, Peter Mankowski, 2009-04-27 This commentary is the first full scale article by article commentary in English ever to address the Brussels I Regulation It is truly European in nature and style It provides thorough and succinct in depth analysis of every single article and offers most valuable guidance for lawyers judges and academics throughout Europe It is an indispensable working tool for all practitioners involved in this field of law The Brussels I Regulation is by far the most prominent cornerstone of the European law of international civil procedure Its imminence could be easily ascertained by every practitioner even remotely concerned with cross border work in Europe However arcane private international law in general might appear to practitioners the Brussels I Regulation is a well known and renowned instrument A true first The first truly European commentary on the Brussels I Regulation the fundamental Act for jurisdiction recognition and enforcement throughout Europe The first commentary on the Brussels I Regulation written by a team from

all over Europe The first article by article commentary on the Brussels I Regulation in English *Private International Law, Art and Cultural Heritage* Christa Roodt, 2015-04-30 In this timely book Christa Roodt demonstrates how the structure and method of private international law can be applied in its expanding relationship with cultural heritage law In particular she explores the use of private international law in the co **Jurisprudence of Jurisdiction** Shaun Mcveigh, 2007-03-12 This book investigates the difference that jurisdiction continues to make to the ordering of normative existence It also follows the speculation that without an account of jurisdiction jurisprudence would be left with no power to address the conditions of attachment to legal and political order *Globalisation and Jurisdiction* Pieter J. Slot, Mielle K. Bulterman, E.M. Meijers Instituut, 2004-01-01 The spectacular growth of the international economy over the past decades has called for a more intensive role for the law and probably also a different kind of law In 2002 the Europa Instituut of Leiden University convened a seminar to discuss the various responses to the challenges posed by globalism in different fields of economic activity and legal practice Their presentations are presented in this book in a more formal and extensive format *The Oxford Handbook of Jurisdiction in International Law* Stephen Allen, Daniel Costelloe, Malgosia Fitzmaurice, Paul Gragl, Edward Guntrip, 2019-09-17 The Oxford Handbook of Jurisdiction in International Law provides an authoritative and comprehensive analysis of the concept of jurisdiction in international law Jurisdiction plays a fundamental role in international law limiting the exercise of legal authority over international legal subjects But despite its importance the concept has remained until now underdeveloped Discussions of jurisdiction in international law regularly refer to classic heads of jurisdiction based on territoriality or nationality or use the SS Lotus decision of the Permanent Court of International Justice as a starting point However traditional understandings of jurisdiction are facing new challenges Globalization has increased the need for jurisdiction to be applied extraterritorially non State forms of law provide new theoretical challenges and intersections between different forms of jurisdiction have become more intricate This Handbook provides a necessary re examination of the concept of jurisdiction in international law through a thematic analysis of its history its contemporary application and how it needs to adapt to encompass future developments in international law It examines some of the most contentious elements of jurisdiction by considering how the concept is being applied in specific substantive and institutional settings **Secured Credit in Europe** Teemu Juutilainen, 2018-03-22 Winner of the 2016 2018 KG Idman Prize This monograph seeks the optimal way to promote compatibility between systems of proprietary security rights in Europe focusing on security rights over tangible movables and receivables Based on comparative research it proposes how best to tackle cross border problems impeding trade and finance notably uncertainty of enforceability and unexpected loss of security rights It offers an extensive analysis of the academic literature of more recent years that has appeared in English German the Scandinavian languages and Finnish The author organises the concrete means of promoting compatibility into a centralised substantive approach a centralised conflicts approach a local conflicts approach and a local

substantive approach The centralised approaches develop EU law and the local approaches Member State laws The substantive approaches unify or harmonise substantive law while the conflicts approaches rely on private international law The author proposes determining the optimal way to promote compatibility by objective based division of labour between the four approaches The objectives developed for that purpose are derived from the economic functions of security rights the conditions for legal evolution and a transnational conception of justice This book is an important contribution to the future of secured transactions law in Europe and more widely It will be of interest to academics policymakers and legal practitioners involved in this field

Strategic Behaviour in Network Industries E. F. ten Heuvelhof, Ernst Ten Heuvelhof, 2009-01-01 This book convincingly argues that from a theoretical point of view present day network industries offer opportunities for strategic behaviour and that these opportunities are also actually utilized in practice The authors show that this behaviour can be harmful to the realization of the expected positive effects of institutional changes such as liberalization and privatization e g innovation and lower prices The authors make their case in a solid theoretical way illustrated with insightful case studies This book is a must for academics managers and policy makers in today s network industries John Groenewegen Delft University of Technology The Netherlands This in depth book explains how institutional changes such as the privatization and liberalization of network industries for example transport energy or telecommunications can frequently be disappointing The expected benefits such as lower prices innovation and better services fail to materialize often because the number of competitors is low The authors demonstrate how strategic actor behaviour of one or more of the firms involved can help explain these disappointing results This book elucidates the concept of strategic behaviour and portrays it in real life examples to aid our understanding of this important phenomenon in terms of policy and organizational decision making It clearly demonstrates the adverse effects strategic behaviour can exert on the quality of infrastructure provision after liberalization The theoretical sections are backed by empirical examples from throughout the world The unique multidisciplinary approach will ensure a broad readership among students researchers and policy makers with an interest in the economics politics and management of infrastructure and network industries

Optional Choice of Court Agreements in Private International Law Mary Keyes, 2019-10-18 This book highlights the importance of optional choice of court agreements and the need for future research and legal development in this area The law relating to choice of court agreements has developed significantly in recent years reflecting their increased use in practice However most recent legal developments concern exclusive choice of court agreements In comparison optional choice of court agreements also called permissive forum selection clauses and non exclusive jurisdiction clauses have attracted little attention from lawmakers or commentators This collection is comprised of 19 National Reports providing a critical analysis of the legal treatment of optional choice of court agreements including asymmetric choice of court agreements under national laws as well as under multilateral instruments It also includes a General Report offering an overview of this area of the law and a synthesis of the

findings of the national reporters The contributions to this collection show that the legal treatment of optional choice of courts differs between legal systems In some countries the law on the effect of optional choice of court agreements is at an early stage in its development whereas in others the law is relatively advanced Irrespective of this the national reporters identify unresolved issues with the effect of optional choice of court agreements where the law is unclear or the cases are conflicting demonstrating that this topic warrants greater attention This book is of interest to judges legislators lawyers academics and students who are concerned with private international law and international civil procedure

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
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