CCLFR Centre for Commercial Law and Financial Regulation

Swansea University Prifysgol Abertawe | Institute of International Shipping and Trade Law

The Biennial Modern Studies in Commercial Law Conference

Embedding Innovative Technologies into Commercial Law: Challenges and Opportunities

27 September–28 September 2023

Meadow Suite, Park House, University of Reading
#8 on the **campus map**

Wednesday 27 September 2023

13:45–14:15	**Arrival and Registration**
14:15–14:30	**Welcome Remarks** Professor James Devenney (University of Reading)
14:30–16:15	**Technology in the Context of Contract and Consumer Law** Chair: Professor James Devenney (University of Reading) *"A Game Changer? Use of Technology in the Enforcement of Consumer Law"* Professor Christine Riefa (University of Reading) *"Personalised Pricing: Gaps and Legal Uncertainty in the Regulatory Framework"* Professor Peter Rott (Oldenburg University) *"Digital Technologies and Consumer Protection in the Credit Market: Applying an EU Perspective"* Professor Iris Benohr (University of Southampton) *"Distributed Ledger Technology- Beginning of A New Era in Commercial Insurance Context?"* Professor Baris Soyer (Swansea University) *"Challenges of Providing Consumer Protection in a Modern Innovating Consumer Credit Market: the FCA Response"* Dr Sarah Brown (Senior Visiting Fellow, University of Reading) Q&A
16:15–16:30	**Tea & Coffee break**
16:30–18:15	**Technology in the Context of Contract and Tort Law** Chair: Professor Baris Soyer (Swansea University) *"Contract Law and the Embodied Legal Subject"* Dr Tim Dodsworth (Newcastle University) *"Smart Contracts and Traditional Private Law"* Professor Mateja Durovic (King's College London) *"I've Been Hurt by a Robot, What Do I Do?"* Professor Richard Hyde (University of Nottingham) *"When Smart Contracts Meet Circular Economy: the Complexities of Drafting an on-chain Servitisation Agreement"* Dr Monica Vessio (Exeter Law School) *"Emerging Issues for Autonomous Transportation Systems - The Case of Autonomous Vessels"* Dr Kyriaki Noussia (University of Reading) Q&A
19:00–21:00	**Dinner**

Thursday 28 September 2023

09:00–09:30	**Registration and Tea/Coffee**
09:30–11:00	**Technology in Financial and Highly Specialised Commercial Context** Chair: Dr Andrea Miglionico (University of Reading) *"Cryptocurrencies: Taking Commercial Law in a New Direction"* Ms Deirdre Norris (University College Dublin) *"Technology With a Non-human Face: Agency, Representation and AI"* Professor Andrew Tettenborn (Swansea University) *"The Role of Factoring in Financial Inclusion"* Professor Orkun Akseli (University of Manchester) *"Electronic Documents and Bills of Lading as Intangible Documents of Title"* Professor Andrea Lista (University of Southampton) Q&A
11:00–11:30	**Tea & Coffee break**
11:30–13:00	**Technology in Practice and IP** Chair: Dr Mary Catherine Lucey (University College Dublin) *"Modern Slavery Reporting"* Professor Jolyon Ford – Professor Sally Wheeler (ANU College of Law) – Dr Victoria Barnes (QUB) *"The Future Regulation of (Autonomous) Unmanned Aircraft Systems (UAS)"* Professor Georgios Leloudas (Swansea University) *"Embedding of (Electronic) ESG Supply Management Systems in Commercial Contracts"* Dr Ekaterina Pannebakker (Leiden University) *"What If It Is Neither Laborious nor Creative? Conferring Copyright to Generative AI"* Dr Başak Bak (University of Reading) Q&A
13:00–14:00	**Lunch**

Thursday 28 September 2023

14:00–15:15	**New Developments in Technology** Chair: Dr Andrea Miglionico (University of Reading) *"The Challenging Path of Artificial Intelligence's Ownership Right"* Dr Abdulrahman Aldossary (University of Reading) *"The Challenges and Opportunities of Online Consumer ADR Schemes in Thailand"* Sareeya Galasintu (University of Reading) *"Smart and Relational: The Development of Bimodal Contracts"* Matthew Armitage (University of Reading) *"A Discussion on Classification of Maritime Cyber Risks: Perils of the Seas, Piracy or A New Kind?"* Furkan Dogan (University of Reading) Q&A
15:15–15:30	**Concluding Remarks** Professor James Devenney (University of Reading)

Organised by

Professor James Devenney
University of Reading

Professor Baris Soyer
Swansea University

Dr Andrea Miglionico
University of Reading

A Game Changer? Use of Technology in the Enforcement of Consumer Law

Companies increasingly rely on technology to influence consumer choice, often using underhand tactics in the process. By contrast consumer law enforcement is still by and large reliant on manpower to uncover, document and sanction unfair commercial practices. There is a clear need for enforcement agencies to tool up to ensure markets continue to work optimally and to preserve consumer trust. But how to proceed? How to roll out tech tools in an enforcement toolbox? This paper explores the key building block for an effective enforcement response. It argues that using tech can not only enable enforcers to improve their operations, it can also be a game changer and move consumer law enforcement from a largely ex-post activity to ex-ante intervention.

Professor Christine Riefa
University of Reading

Christine Riefa teaches commercial law at the University of Reading. She currently serves on the United Nations Working Group on Consumer Protection in E-Commerce (sub-groups on unfair commercial practices and sub-group on cross-border enforcement) as part of the UNCTAD Inter-Governmental Group of Experts. She co-leads the EnfTech project (**enftech.org**).

Personalised Pricing: Gaps and Legal Uncertainty in the Regulatory Framework

The paper discusses conceptual, empirical and legal aspects of personalised pricing. It first distinguishes different forms of personalised pricing, including different degrees of price personalisation, and summarises empirical insights on the occurrence of personal pricing in practice and related consumer attitudes. The paper then analyses whether and how current EU law deals with this phenomenon and identifies regulatory gaps and legal uncertainty, on the basis of which it offers proposals for future regulation of personalised pricing.

Professor Peter Rott
Oldenburg University

Prof. Dr. Peter Rott is professor of civil law, commercial law and information law at the Carl von Ossietzky University of Oldenburg, Germany. He is specialised in European private law and in German and European consumer law. Currently, he focuses on the effects of digitalisation on private law, on sustainable consumer law and on the enforcement of consumer law.

Digital Technologies and Consumer Protection in the Credit Market: Applying an EU Perspective

This paper examines the rise of peer-to-peer lending platforms in the credit sector and the use of artificial intelligence to assess the creditworthiness of borrowers. This topic is particularly relevant for the consumer credit sector, because it has been profoundly transformed by the digital transition. New actors such as peer-to-peer lending platforms have emerged and new products which can lead to significant costs for the borrower, such as short-term high-cost loans, are increasingly being sold online. In addition, the rise in automated decision-making for credit scoring, and the use of personal data not directly provided by consumers for creditworthiness assessments, raise questions in terms of consumer and data protection. This paper will examine the current consumer credit regulation in the EU, highlighting existing gaps in the legal framework, to then propose concrete measures to strengthen consumer protection in the digital environment.

Professor Iris Benöhr
University of Southampton

Iris Benöhr is a Professor of Commercial Law and the Director of International Affairs at Southampton Law School.

Previously, she held positions at the Universities of Queen Mary London and Oxford and she was awarded a Fellowship by the British Academy.

She has published widely in the field of commercial law, working also as a legal expert for projects commissioned by the United Nations, the Commonwealth Secretariat and the Swedish Institute for European Policy Studies.

Distributed Ledger Technology- Beginning of A New Era in Commercial Insurance Context?

Distributed ledger technology (DLT) is an emerging technology and there is a real buzz in several parts of insurance industry, mainly generated by insurtech start-ups, that it can dramatically alter the way insurance business operates.

The main purpose of this contribution is to evaluate whether DLT could have such a disruptive impact on underwriting commercial insurance contracts, in managing claims and even perhaps in utilising insurance as a financial asset for insurance companies.

As part of this analysis, it will be deliberated whether this technological development can be accommodated within the current legal rules and principles of private law or it is essential to consider further regulation of insurance business to ensure that interests of all concerned, i.e. parties to the contract, service providers and the state, are protected.

Professor Baris Soyer
Swansea University

Professor Soyer directs the Institute of International Shipping and Trade Law at Swansea University and is a member of the British Maritime Law Association and British Insurance Law Association. He is the author of Warranties in Marine Insurance (2001), Marine Insurance Fraud (2014) and many articles published in journals such as Cambridge Law Journal, Law Quarterly Review, Edinburg Law Review, Lloyd's Maritime & Commercial Law Quarterly, the Journal of Business Law, the Torts Law Journal and the Journal of Contract Law. Warranties in Marine Insurance won the Cavendish Book Prize 2001 and was awarded the British Insurance Law Association Charitable Trust Book Prize in 2002 for its contribution to insurance literature. Marine Insurance Fraud also won the latter prize in 2015. He has also edited large numbers of collections of essays on commercial, maritime and insurance law. In addition, he sits on the editorial boards of the Journal of International Maritime Law, Shipping and Trade Law and editorial committee of the Lloyd's Maritime and Commercial Law Quarterly (International Maritime and Commercial Law Yearbook). Professor Soyer currently teaches Charterparties: Law and Practice and Marine Insurance on the LLM Programme at Swansea.

Challenges of Providing Consumer Protection in a Modern Innovating Consumer Credit Market: the FCA Response

The Financial Conduct Authority, (FCA) plays an integral part in the development of the supervisory and regulatory approach to financial services markets. One crucial element of this approach is consumer protection as laid down by its operational objectives contained in the Financial Services and Markets Act 2000. The FCA states that it is committed 'to protection of consumers, enhancing market integrity, and promoting competition in the interests of consumers'. There are three foci to current strategy: reducing and preventing serious harm; setting and testing higher standards; promoting competition and positive change. One current challenge that the FCA recognises within this is the fast moving digitisation of financial services, prompted by innovative technologies, and the impact this is having on good consumer outcomes.

The paper will explore the means by which the FCA intends to address this challenge, particularly in the context of consumer borrowing. This exploration will include looking at how the regulator has historically approached innovations in consumer borrowing markets, and how if at all this is reflected in current strategy. The aim is to illustrate the extent to which the FCA has, itself, innovated over time, and what this may mean for future regulation of consumer borrowing in the digital world.

Dr Sarah Brown
University of Reading

A qualified solicitor, Sarah returned to academia in the early 2000s and completed her PhD in 2006, at which point she took up a position at the School of Law, Leeds University, where she was an Associate Professor until the end of September this year. Sarah's research interests cover consumer protection and personal insolvency and more particularly she specialises in, and writes on, consumer credit law and relationships. Her most recent publications are her book The Regulation of Consumer Credit A Transatlantic Analysis (Edward Elgar, 2019) and 'Vulnerable consumers in financial services and access to justice: the regulatory response' in Vulnerable Consumers and the Law: Consumer Protection and Access to Justice (C Riefa , S Saintier (eds) Routledge 2021). Sarah is on the editorial team for Goode Consumer Law Credit and Practice (LNUK).

Contract Law and the Embodied Legal Subject

English private law, in particular contract law, underscores neo-liberal ideas of individualism, autonomy and rationality which means that court intervention is based on an economic assessment of where risk should lie and how foreseeable the risk was. The reasoning for the courts' laissez faire approach is the idealised rational individual who is unaffected by anything but duress (in some cases this manifests through unfair terms) or undue influence and operates in an a-contextual framework to the exclusion of society and the state.

This paper uses vulnerability theory to highlight and question three assumptions which underlie the current institution of contract law. First, limitations on the role of the state ignores that the state has a coercive mandate. This places a positive (rather than negative) duty on intervention. Second, private contracts, as an institution, re-distribute resilience assets which are derived from the collective and thereby require the incorporation of duties from and to societal institutions. Third, reasoning from the embedded legal subject ignores the reality of the embodied legal subject. This mischaracterisation leads to the distortion of economic and social realities most notably in relation to defining harm and liability.

Where technology is to be embedded within commercial law it must acknowledge the realities of the systemic assumptions of contract law as an institution. The starting point must therefore be a re-assessment of the role of 'private' individuals to each other and to the state, the nature of obligations and the remedial framework.

Dr Tim Dodsworth
Newcastle University

Tim is senior lecturer at Newcastle University Law School. His forthcoming monograph 'the underlying values of German and English contract law' is a cultural study in the field of comparative law which introduces a new values-based framework for comparing contract law doctrines. Tim has a broad interest in contract law theory and regulation but his particular interest lies in the structure and impact of long-term, essential services contracts and vulnerability theory. His recent work focusses on the conceptualisation of vulnerability for the purposes of regulating essential services contracts. Together with Maggie Hemsworth and Severine Saintier, Tim co-hosts the podcast 'unpacking contract law'.

Smart Contracts and Traditional Private Law

The Financial Conduct Authority, (FCA) plays an integral part in the development of the supervisory and regulatory approach to financial services markets. One crucial element of this approach is consumer protection as laid down by its operational objectives contained in the Financial Services and Markets Act 2000. The FCA states that it is committed 'to protection of consumers, enhancing market integrity, and promoting competition in the interests of consumers'. There are three foci to current strategy: reducing and preventing serious harm; setting and testing higher standards; promoting competition and positive change. One current challenge that the FCA recognises within this is the fast moving digitisation of financial services, prompted by innovative technologies, and the impact this is having on good consumer outcomes.

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Professor Mateja Durovic
King's College London

Dr. Mateja Durovic is Professor of Law and Co-Director of the Centre for Technology, Ethics, Law and Society (TELOS) at King's College London, where he first worked as lecturer and then as a reader in law. Previous to this, he was an Assistant Professor (2015-2017) at the School of Law, City University of Hong Kong. Dr. Mateja Durovic holds a PhD and LLM degrees from the European University Institute, Italy, LLM degree from the University of Cambridge, UK, and LLB degree from the University of Belgrade, Serbia. Dr. Durovic was a Post-Doc Research Associate at the EUI, Italy (2014-2015), Visiting Scholar at Stanford Law School, USA (2011), and at the Max Planck Institute of Private International and Comparative Law, Hamburg, Germany (2010). Dr. Durovic worked for the Legal Service of the European Commission, as well as a consultant for the European Commission, World Bank, GIZ, BEUC and the United Nations. The work of Dr. Durovic was published in leading law journals and by most prominent publishers. He is a member of the European Law Institute, Society of Legal Scholars and Society for European Contract Law.

I've been hurt by a robot, what do I do?

Professor Richard Hyde
University of Nottingham

Richard Hyde is Professor of Law, Regulation and Governance at the University of Nottingham. His current research spans consumer law and law and technology.

Autonomous systems are likely to become an increasing presence in our lives. With this increased ubiquity comes an increased risk of the autonomous systems causing harm to individuals or businesses. This paper begins to explore whether the law of tort is currently well adapted to redressing such harms. It begins by outlining the harms to which tort law responds, before considering how autonomous systems may cause such harms. The paper then turns to considering whether tort law (and accompanying rules of evidence and procedure) can provide redress when such harms are caused by an autonomous system and then provides an outline of the different mechanisms that might be used to fill the gaps that are left when tort law fails to provide a mechanism for redress.

When Smart Contracts meet Circular Economy: The Complexities of Drafting an on-chain Servitisation Agreement

Dr Monica Vessio
Exeter Law School

Dr Monica Vessio is module convenor for commercial law at the University of Exeter Law School. Her research is on circular economy principles and disruptive technologies in the commercial arena (with consumer considerations) and how these may be regulated in sustainable and ethical ways. She has worked internationally as a commercial lawyer with clients in diverse industries, advising startups utilising blockchain technology, and as commercial legal consultant for various corporate clients, including banks. Monica has recently completed a circular economy, business-led, inter disciplinary research project where she researched the practicalities of drafting a smart contract with circular economy characteristics. She has published widely, and her work has been recognised by the courts on numerous occasions.

The commercial transactional environment is naturally a complex one. When we interlace that setting with circular economy principles and apply that to a smart contracting spine the transaction becomes very sophisticated. The circular economy is a commercial model that guides us away from the traditional linear model of supply (take, make, use, waste) into a model that seeks to preserve the value within the supply chain and circulate products and materials at their highest value for as long as possible. The circular economy model considers percolating the linear model by re-examining design principles, introducing regenerative methods, remanufacturing and reuse of goods and materials, and finally recycling. It also looks to extend the life of products by offering the product as a service. In other words, adopting the servitisation model of supply. This can come in two forms: selling the product as a service and the second is selling the service alongside the product. This paper considers some of the contractual intricacies that arise in this type of transactional model and some adjustments that are required in a hybrid smart contract environment.

Emerging Issues for Autonomous Transportation Systems - the Case of Autonomous Vessels

Dr Kyriaki Noussia
University of Reading

Dr. Kyriaki Noussia is an Associate Professor in Commercial Law at the School of Law, University of Reading, UK. She is also a Greek advocate (solicitor and barrister), arbitrator and mediator. Her expertise spans across insurance, reinsurance, AI (regulatory aspects, data ethics), environmental law and dispute resolution. Prior to joining the University of Reading she held the position of Senior Lecturer at the University of Exeter, UK and has also worked as a lawyer, and in arbitration. She has an LLB from the University of Athens, Greece, an LLM from the University of Essex, UK and a Ph.D. from the University of Southampton, UK.

Maritime Autonomous Vessels (MAVs) are set to revolutionise the shipping sector and provide key benefits, such as decreased costs, emissions, and decreased risk of accidents. Hence, MAVs are perceived as the future of the maritime industry, as autonomous technology will radically change the design and operation of vessels across the board. Autonomous technology will also radically change the design and infrastructure of ports, as they will have to adapt to this new technology and will have an effect in shipping and insurance law. This paper will address the case for for autonomous vessels, i.e. the main issues and trends related to them, such as e.g. the liability regime and the issue of seaworthiness, attempt some conclusions and draw re;ated directions going forward.

Cryptocurrencies: Taking Commercial Law in a New Direction

The creation of bitcoin in 2009, the first cryptocurrency, was heralded as revolutionary by some, but widely criticised by many, especially in the financial services sector, as a 'fad' or gimmick. Its ability to operate without the need for third party oversight or Government intervention was an attractive prospect, especially post the Global Financial Crises where trust in Governments and banks had been damaged. Yet its connection with scandals and use for illegal purposes (Silk Road, Mt Gox, Terra, FTX) placed it firmly on many regulators' radar. Its use of consensus, although not new, was novel in conjunction with protocols, algorithmic authority and the blockchain, and emphasised the creator's desire to remain outside of any state regulatory framework. This caused a conundrum for central banks whose main focus is financial stability and prudential supervision, and many adopted a wait and see approach. Initially the EU responded with guidance notes and policy documents, but the recent introduction of the MiCA (EU Markets in Crypto-Assets) regulation shows not only a desire to close regulatory gaps but also an acknowledgement that crypto-assets have an ability to deliver by enabling those without bank accounts transact financially – more efficiently and cheaply.

This paper explores how cryptocurrencies can make a financial system more accessible to more citizens and how the use of democratic processes like consensus, voting and community can be beneficial to those operating within the cryptocurrency communities. Cryptocurrencies and the use of blockchain can create efficiencies and transparency for people as well as the institutions of Member States. The culture clash between crypto enthusiasts and crypto sceptics is beginning to wane as the merits of cryptocurrencies becomes more clear but there are still many challenges ahead.

Ms Deirdre Norris
University College Dublin

Deirdre is a PhD candidate in the Sutherland School of Law, University College Dublin, focusing on the impact of cryptocurrencies on regulation and regulation on cryptocurrencies. Her research examines the role of a disruptor and how this plays out in three key areas of regulation: rule making, monitoring and enforcement. Deirdre is a graduate of UCD, having obtained a BA in Economics and MSc in Environmental Management. She spent over 10 years working in the financial services sector before becoming an ERC Project Manager working on Property InJustice led by Assoc Prof Amy Strecker, Effective Nature Laws, led by Prof Suzanne Kingston, and The Foundations of Institutional Authority, led by Prof Eoin Carolan. She previously worked on several other research projects including 'A comparative analysis of transnational private regulation: legitimacy, quality, effectiveness and enforcement' funded by the Hague Institute for the Internationalisation of Law and 'Listed Companies' Engagement with Diversity: A Multi-Jurisdictional Study of Annual Report Disclosures' with Trinity College Dublin.

Technology With a Non-human Face: Agency, Representation and AI

The concepts of agency and vicarious liability are predicated on human and corporate actors. They do not, at least as currently applied, fit very well in a world where tasks are done, and their management undertaken, by AI. This contribution examines the changes that will have to be made to these areas of law in order to deal with this mismatch bring them into line with future developments in the scope of AI.

Professor Andrew Tettenborn
Swansea University

Professor Tettenborn has been attached to the IISTL at Swansea Law School since 2010, teaching international trade, payments and banking and admiralty. He has also taught at the universities of Cambridge, Exeter and Geneva, and held visiting positions in Europe, Australia and the USA. Author with Professor Frank Rose of Admiralty Claims, Professor Tettenborn is also general editor of Marsden's Collisions at Sea and Clerk & Lindsell on Torts and of the leading student textbook on commercial law (Sealy & Hooley's Text, Cases and Materials). He has authored numerous articles on commercial law and obligations, sits on the editorial boards of Lloyd's Maritime & Commercial Law Quarterly and the Journal of International Maritime Law, and has advised government departments and the Law Commission.

The Role of Factoring in Financial Inclusion

Financial inclusion is a pressing matter for governments. In the aftermath of global financial crisis and the Covid-19 pandemic, financial inclusion, particularly, of the financially vulnerable micro, small and medium enterprises (MSMEs) has taken its place in the forefront of governmental and international organisations' agendas. These agendas are based on the understanding that "financial inclusion, access to credit, and sustainable finance are ultimately social goods for many societies." These societies economically develop with business credit. Access to business credit has been problematic in jurisdictions where the laws do not permit the use of a variety of assets as collateral. These laws are unreformed laws which do not encompass the modern principles of secured transactions law. These societies are based on MSMEs which represent ninety percent of the world economy with fifty percent of worldwide employment. However, their financing needs are unmet. Creditworthiness, problems associated with risk in enforcement of debts, lack of modern secured transactions laws which prevent MSMEs' access to credit, lack of acceptable collateral and business structures which limit access to finance through banks are some of the reasons as to why financial inclusion has been an issue for MSMEs.

These problems and the lack of modern frameworks of secured transactions which hinder MSMEs from accessing to finance have led international organisations and international financial institutions to find solutions to strengthen other methods of financing. Receivables are probably the only meaningful assets that MSMEs can utilise as collateral. Receivables financing and factoring have been useful methods to raise finance and provide working capital for MSMEs. However, in order to utilise the economic value of these assets an adequate legal framework needs to be established. This article will examine the way factoring assists MSMEs in financial inclusion and access to credit and the Unidroit's Model Law on Factoring. Part 2 explores access to finance and financial inclusion in the context of MSMEs. Part 3 examines why and the way in which factoring is utilised by MSMEs. Part 4 will be conclusions.

Professor Orkun Akseli
University of Manchester

Professor Orkun Akseli is Professor of Commercial Law at the University of Manchester Law School and the Director of Manchester LawTech Initiative. He was a Fulbright Scholar at Elon University Law School, USA in 2022 where he taught secured transactions and international business transactions. He has published extensively on the modernisation and harmonisation of secured transactions law. His research has focused on the laws relating to secured credit, and the social and economic impact of these laws with reference to the financing of SMEs. His publications include "Secured Transactions in Global Law-making" (under contract with Hart, co-authored with S.V. Bazinas); "The Future of Commercial Law: Ways forward for Change and Reform" (Hart 2020, with J. Linarelli); "International and Comparative Secured Transactions Law" (Hart 2017, with S.V. Bazinas); "Secured Transactions Law Reform: Principles, Policies and Practice" (Hart 2016, with L. Gullifer); "Availability of Credit and Secured Transactions in a Time of Crisis" (CUP 2013); "International Secured Transactions Law: Facilitation of Credit and International Conventions and Instruments" (Routledge 2011). He studied law in Turkey, USA and the UK. He is an Associate Member of the International Academy of Comparative Law and the past President of the International Academy of Commercial and Consumer Law. He is a member of Turkish Bar.

Electronic Documents and Bills of Lading as Intangible Documents of Title

It has long been recognised that an electronic bill of lading is capable of fulfilling two of the traditional functions of a paper bill of lading, namely that it can be a receipt for cargo received for shipment and it can evidence the terms of the contract of carriage. However, it is considered that an electronic bill of lading is not capable of fulfilling the third function of a paper bill of lading: its role as a document of title. For carriers in particular, this meant uncertainty about whether delivery of goods according to an electronic bill of lading protected a carrier against claims for mis-delivery. The aim of the talk is to focus on the recent UK Electronic Trade Documents Bill, with emphasis on how E -Bills of Lading could retain their function as documents of title within the context of contracts concluded on shipment terms.

Professor Andrea Lista
University of Southampton

Professor Andrea Lista's research interests lie with the areas of International Trade (contracts concluded on shipment terms), the enforcement of maritime claims, international commercial arbitration and competition law. Andrea has written a number of articles and books on these subjects, and these have been cited as authoritative in courts worldwide.

Andrea has lectured for many years in Southampton, London, and Exeter, and has taught on professional courses for lawyers and judges at national and international level. In the past, Andrea has also acted as Legal consultant for the European Commission and European Parliament, and appeared as expert witness before the Houses of Parliament.

Andrea acts as of Counsel of Law for SLIG LAW LLP (London), and is a very active legal consultant for companies and law firms in the field of maritime commercial law.

Modern Slavery Reporting

The UK and Australia, along with several other national governments, have introduced legislation to curb incidences of modern slavery. This takes the form, in part, of imposing reporting requirements on business entities. Given the financial thresholds for reporting, literally thousands of reports are published each year. In neither jurisdiction are the reports submitted by businesses subjected to official scrutiny or assessment. In practice there are no penalties for poor or incomplete reports or indeed non-reporting. Any scrutiny of published reports that takes place occurs in the investment or financing community, thus reducing modern slavery to a reputational market-based risk, or in the NGO sector, where resource constraints dictate how much assessment and commentary on modern slavery reporting can take place. In the same way that technology has been deployed to combat human trafficking, it also offers many possibilities to enhance the evaluation of modern slavery reporting. NLPs (natural language processors) built through machine learning create opportunities to assess and grade the quality of reporting at scale. The results of this activity can then be used to guide businesses on best practise reporting, allow NGOs the opportunity to compare commercial actors more effectively and encourage governments to introduce sanctions for non-compliant or poor quality reporting.

Professor Jolyon Ford
ANU College of Law

Jolyon Ford is a Professor of Law at the Australian National University. Working from a regulatory theory perspective, he studies ways to shape and stimulate responsible business and investment conduct.

Professor Sally Wheeler
ANU College of Law

Sally Wheeler is DVC (International and Corporate) at the Australian National University where she is also a Professor of Law. She is a socio-legal scholar who works on contract (exchange behaviour) and company law.

Dr Victoria Barnes
QUB

Vicky Barnes is Reader of Commercial Law at Queen's University Belfast. Her research examines contract, commercial and corporate law from transnational, comparative and interdisciplinary perspectives.

The Future Regulation of (autonomous) Unmanned Aircraft Systems (UAS)

With the withdrawal of the UK from the European Union and its institutions, the UK is creating its own regulatory framework governing the operations of (autonomous) Unmanned Aircraft Systems (UAS) and has embarked on an ambitious project to integrate Beyond Visual Line of Sight (BVLOS) UAS into non-segregated airspace. This integration (which is underway) also questions the relevant liability and insurance paradigm that derives from manned aviation and has started a debate whether it is adequate to address the operational challenges of BVLOS UAS. The paper sets the terms of the debate and provides the author's view on the future development of liability and insurance provisions to accommodate BVLOS UAS.

Professor Georgios Leloudas
Swansea University

Professor George Leloudas is a graduate of the Law School of the National and Kapodistrian University of Athens, and holds LLM degrees in Commercial Law from the University of Bristol, and in Air and Space Law from the Institute of Air and Space Law of McGill University. He also completed his PhD degree in air law with emphasis on liability and insurance at Trinity Hall, Cambridge University in 2009.

Before joining the Institute and Swansea University in 2011, George worked as a Solicitor at Gates and Partners in London for several years where he advised on aerospace liability and airlines' regulatory matters. He was also an assistant to the legal counsel of the International Union of Aviation Insurers (IUAI) providing support in relation to the replacement of the Rome Convention on Surface Damage. George is an also instructor at the Training and Development Institute of the International Air Transport Association (IATA) where he teaches international air law, law of aviation insurance and air cargo liability.

George's principal research interest is the carriage of passengers and goods by air, but his (research and teaching) interests extend to multimodal transport, insurance law, arbitration and the regulation of autonomous transport systems. He has published two monographs, the first one on Risk and Liability in Air Law and the second one on Air Cargo Insurance with Professor Malcolm Clarke of Cambridge University, as well a long list of peer-reviewed articles and book chapters. He is also the General Editor of the preeminent air law publication, Shawcross and Beaumont on Air Law and his new (edited) book on the Montreal Convention 1999 is expected to be published at the end of 2023. For a full list of his publications and teaching/research interests see here: **swansea.ac.uk/staff/g.leloudas/#bbq=on**

Embedding of (Electronic) ESG Supply Management Systems in Commercial Contracts

Sustainable development in high on several agendas. Following the formulation of the United Nations Sustainable Development Goals, many commercial companies have formulated their own ESG (Environmental, social, and governance) objectives, and have reshaped their commercial operations to include sustainability requirements at several stages of the supply chain. Modern commercial operations are thus quasi unthinkable without sustainability requirements.

One way to comply with sustainability requirements is the use by the companies of (electronic) ESG supply management systems. Companies use these systems in order to ensure they foster procurement from suppliers, which adhere to the green, social, and sustainable procurement policies. In the meantime, such supply management systems are often offered by third parties, and it is the supplier who provides information to be further used in the system.

This contribution focuses on contractual clauses, which embed the use of such supply management systems in operations and attempts to raise fundamental questions their use may raise for modern commercial law.

The contribution builds further on the author's research on ESG-clauses in international contracts. In July 2023, her essay on this topic has won the first prize International Law Institute (ILI) and UNIDROIT Foundation's Essay Competition on Sustainable Development Goals (SDGs) of the United Nations.

Dr Ekaterina Pannebakker
Leiden University

Ekaterina Pannebakker is assistant professor at Leiden University, the Netherlands, since 2016. She specialises in private international law and commercial contract law. Her research agenda focuses on challenges posed by sustainable development to fundamental aspects of private international and commercial law. Ekaterina holds law degrees in French law and Russian law, and a LL.M and PhD degrees from Erasmus University Rotterdam. Her PhD thesis addressed comparative and uniform law approach to letters of intent in international contracting. Ekaterina was a visiting scholar at the University of Cambridge, UK, and at the UNIDROIT, Italy. Before joining academia, Ekaterina served four years as legal counsel at a multinational company.

What If It Is Neither Laborious nor Creative? Conferring Copyright to Generative AI

Generative artificial intelligence (GenAI) is an innovative technology that produces types of content – such as text, images, videos and music – that fall under the ambit of protected subject matter and are subject to copyright law. The use of GenAI to create content is increasing at an astonishing rate and altering how works are created and disseminated. GenAI has the potential to facilitate a wave of increased productivity that will transform global industries and boost economies by creating new opportunities. However, this technology raises controversial questions of copyright authorship and infringement. GenAI does not reproduce the content that it is trained on but rather creates something based on it. The derivate nature of GenAI's products has sparked an argument over the extent to which works produced by GenAI can be protected by copyright, which requires, among other criteria, 'originality'. The dissimilarities in how civil law and common law traditions understand originality contribute to the problem's intractability. Arguments about the copyrightability of AI-generated works are entrenched in the traditional rationales underpinning copyright law, but questions about AI-generated content go beyond copyright law and reveal people's perceptions of human-machine interactions. This paper proposes that, although the divergent copyright approaches on either side of the Atlantic have thus far coexisted, establishing a global approach to data that establishes whether GenAI technologies have a claim to copyright will require a compromise beyond what the existing international copyright system facilitates. The paper tests this argument by analysing examples of OpenAI text and image generator tools.

Dr Başak Bak
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Dr Bak is a lecturer in law at the University of Reading. Prior to this, she worked as a law lecturer for ten years at Ankara University and as an assistant professor of law for two years at Izmir University of Economics. She completed her first PhD (summa cum laude) on the civil law approach to copyright law in 2015, during which she was a visiting lecturer at the Eberhard Karls University of Tübingen (fully funded), as her doctoral thesis was mainly influenced by the German approach to copyright law. She also obtained an LLM degree in UK and US copyright law from King's College London to develop her expertise in the common law approach to copyright. In 2017, she was awarded a grant of £29,000 by the British Council to organise an international IP event based on a proposal she developed. Dr Bak has been working on AI and digital law since 2016. She published a book on author's rights, a book chapter on the liability regime of AI and various articles on copyright and AI. Dr Bak's second PhD is in data protection and privacy law, for which she received the prestigious Modern Law Review Scholarship. Dr Bak is a Certified International Privacy Manager (CIPM), Certified International Privacy Professional/ Europe (CIPP/E) and qualified barrister registered at Istanbul Bar Association.

The Challenging Path of Artificial Intelligence's Ownership Right

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Abdulrahman S. S. Aldossary, a PhD holder from the University of Reading and is a faculty member at the Law College of King Faisal University, Saudi Arabia.

This study critically examines the philosophical foundations of legal rights to determine the essential components necessary for eligibility to own property. Diligently exploring the definitions of key concepts, such as Hohfeldian's categorisation of rights, provides a profound understanding of the foundational basis of rights, which motivates this study to make its own contributions to artificial intelligence (AI). Firstly, this study argues that utilitarianism, rather than morality, capacity for suffering, or consciousness, should be the objective for granting AI rights, drawing lessons from the history of companies' rights. This primarily serves the interests of both humans and AI as independent entities. Granting legal rights to AI benefits the machines by affording them more protection and acknowledging their status. Secondly, to address the right to ownership, this study proposes the establishment of a financial status or themah, a concept from Islamic jurisprudence with limitations. Basing the right to ownership on themah intends to make AI systems more accountable by entitling them to own property and conduct certain legal actions. However, for practicality, AI's themah should not be completely separated from its owner's themah initially, similar to the concept of co-ownership or unlimited liability businesses and their owners. Although AI may possess its own themah, AI owners retain accountability for the liabilities and actions of the AI systems they own. This is because the AI has restricted ownership rights and limited legal liability, despite having its own themah. One benefit of AI having its own themah is that it could be sold or transferred along with any accrued debts or financial liabilities. Rather than the owner retaining all monetary responsibilities, the AI system and its financial obligations would accompany it to the new owner. In conclusion, examining the philosophical underpinnings of rights provides grounding to propose granting protected legal rights to AI based on interests rather than human traits. Co-ownership or themah offers a path to ownership accountabilities for AI.

The Challenges and Opportunities of Online Consumer ADR Schemes in Thailand

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Sareeya is a Ph.D. Student at the University of Reading and a lecturer at Kasetsart University Law School. She is Listed Arbitrator at the Thailand Arbitration Centre (THAC) and the Thai Arbitration Institution (TAI), and she has served as an Associated Judge at The Central Intellectual Property and International Trade Court. Sareeya's research theme is 'Comparative Study on the Optional Consumer Redress Mechanism: Alternative Dispute Resolution in the EU and Thailand.

Business to consumer e-commerce has developed rapidly from its inception within the late 1990s. E-commerce remains a core part of contemporary consumer transactions and as such can benefit from innovative technologies. This talk discusses the challenges and opportunities of imbedding innovative technologies within the consumer dispute resolution process at both the local and cross-bordered levels in the context of Thailand.

Within Thailand, consumers are increasingly engaging within B2C e-transactions. Traditionally when an issue arose litigation had always been considered the main route of redress. However, with almost a million court cases yearly in Thailand, the Alternative Dispute Resolution (ADR) scheme has become a common option. This talk demonstrates the challenges and opportunities of the Online Dispute Resolution (ODR) implemented within the Thai context. This discussion shares the results of in-depth interviews undertaken with a variety of professionals and consumers, which highlight the opportunities and challenges associated with the innovations of ODR. Despite the percentages of mediation successes being high, in-depth interviews revealed the many challenges on innovation. These challenges include lengthy processes, incurred costs, business bargaining power, consumer awareness, and technological literacy. In addition, with the communitarian culture of Thai consumers, most of interviewees preferred to rely upon authority assisted solutions, as they did not have to confront business and handle the dispute themselves. The conclusion offers insights into how ADR schemes can benefit from technological innovation and how certain challenges can be overcome.

Smart and Relational: The Development of Bimodal Contracts

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Matthew Armitage is a part-time PhD student at the University of Reading and an in-house lawyer for Finalto Financial Services Limited, a FinTech firm providing liquidity, trading, and technology solutions. Matthew previously worked at Toyota and Thomson Reuters and the focus of his research is on the ISDA Master Agreement as a simultaneously discrete and relational contract.

There are two fundamental shifts which are forming as part of the interpretation of contracts under English law. From one side, smart contracts could precipitate the automation and execution of certain contractual terms without, at least in theory, interference. From the other side, the English courts have started to recognise relational contracts, meaning that judges must often look beyond the four corners of the contract to understand the relationship between, and the intentions of, the parties. This could create a dichotomy between contracts, or between terms within contracts, with some being executed in code and designed to be self-enforceable while others will require distinct contextual third-party analysis to establish their meaning beyond the words used by the parties. These two concepts do not currently meet with any kind of regularity; many contracts are either not automated or do not fall under the imprecise definition of a relational contract. However, with both smart contracts and relational contracts starting to develop and gain recognition, this presentation looks at the fusion of the two as part of a continuing investigation into what I describe as bimodal contracts, those contracts which contain both discrete and relational terms.

A Discussion on Classification of Maritime Cyber Risks: Perils of the Seas, Piracy or A New Kind?

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Furkan Dogan is a research assistant at Turkey's unique maritime university Piri Reis, a PhD researcher at University of Reading and a Qualified Lawyer in Istanbul. He commenced his higher education at Ankara University's Faculty of Law and graduated in 2017. He furthered his academic pursuits and expertise by pursuing a Master of Laws (LLM) in Commercial and Maritime Law at Swansea University, The Institute of International Shipping and Trade Law. After completing his LLM degree in 2019, he commenced his doctoral studies in Shipping Law at the University of Reading, beginning in September 2020. His research focuses on the intricate interplay of Cyber Risks and New Technologies within the realm of shipping, specifically in terms of seaworthiness. This academic pursuit has been guided by esteemed mentors, Professor Robert Merkin QC and Professor James Devenney at the Centre for Commercial Law and Financial Regulation.

There has been a significant increase in discussions concerning 'maritime cyber risks' lately, both in the marine insurance market and academia. This increase can be attributed to the adoption of Information Technology (IT) and Operational Technology (OT) systems in shipping operations. These systems, in fact, constitute a vulnerable surface for cyber threats. As the industry continues to employ more systems to automate operations, the integrity between such systems is also on the rise. This integrity necessitates a connection between these systems, often established via the internet. Consequently, the established networks are becoming another surface that enables malignant third parties to gain access.

However, the market experiences uncertainty regarding maritime cyber risks due to the absence of sufficient regulations. Therefore, it is essential to examine these risks and determine whether they can be evaluated in the concept of 'maritime perils.' Furthermore, it is crucial to ascertain whether maritime cyber risks should be treated as a new type of threat or if they can fall under the application scope of one of the existing perils, such as 'perils of the seas,' 'piracy,' or 'inherent vice.'

The present article, focuses on the categorisation of the 'maritime cyber risk'. As a matter of fact, determination of the legal classification of harmful cyber activities is essential in terms of liabilities and marine insurance policies. Such an analysis determines the applicable law to possible disputes arising from cyber threats. Initially, this article discusses whether maritime cyber risks classify as 'maritime perils' and if so, whether they fall into the categories of perils of the seas, 'inherent vice, piracy, or a new type of threat.

In the absence of an established law concerning the question, it is necessary to, first, examine the past developments in the industry and how these were handled or resolved. Therefore, milestones in the evolution of each kind of risk throughout the history is a necessity if not obligatory. In this context, the change in their definitions and boundaries is revealed and the circumstances behind such modifications are presented. Furthermore, the similarities, if there are any, with the occasions led to the progress of these concepts and current developments with the emergence of cyber threats is discussed. It should not be forgotten that the manner in which issues were addressed in the past can be instrumental in resolving contemporary challenges.

In order to clarify the applicable legal framework, this article first examines whether it is possible to classify cyber threats to the shipping industry as "maritime perils." This is a key initial step for the purposes of clarifying the applicable law. Such hazards would not be regulated by marine insurance law if they fail to satisfy the definition and frame of 'maritime perils'.

Following the above, it is essential to examine, the concept of 'perils of the seas' with reference to its historical development, current understanding and distinct interpretations from several jurisdictions. However, it should be noted that the understanding of what constitutes a peril of the seas is far from a certain frame and yet its contemporary interpretation has become increasingly complex due to the emergence of new threats and technological advancements.

Secondly, the concept of 'inherent vice' and its possible relation, if any, with 'maritime cyber risks' is discussed. In this context, it is imperative to initially assess the scope of the aforementioned expression. Thus, similar to the discussion concerning 'perils of the seas', this section once again examines the historical development of the concept and its contemporary understanding. At last, the focus shifts towards the actual purpose, examination of possible classification of 'maritime cyber risks' within the 'inherent vice' concept.

The next issue of the discussion is determining whether 'maritime cyber risks' can be qualified as 'piracy' in terms of marine insurance. Similarly with the above, this is a discussion which may have significant outcomes for the relation between insurers and assureds.

Finally, the last part of the discussion focuses on whether cyber risks should be considered as a new kind of threat. This scenario is more open-ended than previous ones and needs careful consideration. In addition, such a case would require drafting new clauses in the sector for the purposes of ascertaining the insured perils and exclusions.

In conclusion, the primary objective of this article is to thoroughly examine the legal classification of 'maritime cyber risks' and explore the potential outcomes for each scenario. Therefore, it should be noted that the purpose hereby is far from presenting the definitions or providing an in-depth analysis of aforementioned concepts but to examine whether cyber threats can be evaluated as an element within such concepts. In doing so, this analysis aims to make a significant contribution to the ongoing efforts of clarifying the existing uncertainty in the market.

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