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EJAN MACKAY

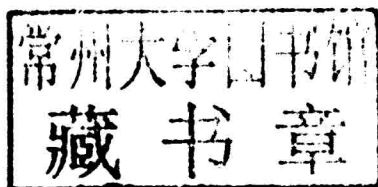
Law and Economics for Civil Law Systems



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Preface

In lecturing on law and economics in Argentina, in Brazil and in Chile (the ABC of Latin America) I discovered a rapidly mounting interest in this approach to law in legal communities that seemed until recently rather sceptical of it. The legal systems in these countries are based on the civil law tradition. This poses the challenge of presenting concepts and methods developed in English and in a common law context to audiences used to civil law concepts. For a first contact with law and economics, having to cope at once with an unfamiliar language and with unfamiliar legal concepts may be a bit much for those not already well disposed towards the approach.

With my colleague Stéphane Rousseau, we faced this very problem with respect to French-speaking audiences and responded in 2008 with a textbook on law and economics in French, using civil law concepts.¹ That book has been well received in French-speaking countries. Presenting the new approach with familiar concepts seems to make an essential difference.

The present book aims to provide civil law audiences elsewhere with an overview of law and economics in English, but using civil law concepts. Compared to its French predecessor, it focuses on core civil law areas and is documented less elaborately. Its aim is similar: to provide a first contact with law and economics by showing its core ideas and methods of reasoning on a representative sample of civil law concepts and rules. If the overview succeeds in demonstrating the power of the approach for lawyers in all walks of legal life, it will open the door to the very ample and more advanced literature on the field in English. Hints for further reading will help the reader along this path.

I should like to thank audiences in the ABC-countries and in Europe for making me realise that there is a niche market for a book like this and for raising questions about earlier drafts of different chapters; and Alain Parent for stimulating discussions on a multitude of law and economics questions; Mary Baker who translated most of the French book, and will

¹ Mackaay, Ejan and Stéphane Rousseau, *Analyse économique du droit*, Paris/Montréal, Dalloz-Sirey/Éditions Thémis, 2008, (2nd ed.).

not recognise much in this one as it has been entirely rewritten. May all of them find here a bridge to the land I promised.

Ejan Mackaay

Abbreviations

(All websites here and through the text last accessed 10 September 2012.)

BGB	<i>Bürgerliches Gesetzbuch</i> – Civil Code – Germany
CCF	Civil Code – France (available at http://www.legifrance.gouv.fr/affich-Code.do?cidTexte=LEGITEXT000006070721&dateTexte=20120906)
CCQ	Civil Code – Quebec (available at http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/CCQ/CCQ_A.html)
CrA	Copyright Act – Canada, RSC 1985, C. C-42
CPI	<i>Code de la propriété intellectuelle</i> – France (available at http://www.legifrance.gouv.fr/affich-Code.do?cidTexte=LEGITEXT000006069414)
NBW	<i>Nieuw Burgerlijk Wetboek</i> – Civil Code – Netherlands translation of Books 3, 5, 6, 7 (partial) (available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1737823 ; http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1708925 ; http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1737848 ; http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1737849)
PA	Patent Act – Canada, RSC 1985, c. P-4 (available at http://www.canlii.org/en/ca/laws/stat/rsc-1985-c-p-4/latest/rsc-1985-c-p-4.html)
RSC	Revised Statutes of Canada
SC	Statutes of Canada (annual)
SCC	Supreme Court of Canada
Sct	Section
TMA	Trade-marks Act – Canada, RSC 1985, c. T-13
TRIPS Agreement	Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) (1994 Marrakesh Agreement – Annex 1C)

(available at http://www.wto.org/english/docs_e/legal_e/27-trips_01_e.htm)

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