

---

## PREFACE TO THE SECOND EDITION

---

Ever since the publication of the first edition of this book in 2009, important developments in private international law in consumer contracts have occurred both in law and in research. The Court of Justice of the European Union has made a few important rulings on the application of consumer conflict of laws in electronic distance contracts. From 10 January 2015, the Brussels I Regulation has been replaced by the Brussels I Recast, which expands the territorial effect of the protective jurisdiction rules and abolished *exequatur* for cross-border enforcement of judgments. The Common European Sale Law is in the legislative process, which attempts to provide an innovative method to address the traditional choice of law dilemma between consumer protection and compliance costs for business. More importantly, the European legislators' focus on cross-border consumer contracts has moved from improving individual consumers' access to court, to establishing a comprehensive dispute resolution system, which is evidenced by the most recent initiatives, including the Directive on Consumer Alternative Dispute Resolution (ADR), the Regulation on Consumer Online Dispute Resolution (ODR) and the Recommendation on Collective Redress. This trend requires conflicts lawyers to study beyond private international law in individual litigation by examining new conflicts problems arising out of these more unconventional dispute resolution methods.

Developments in research are demonstrated by adopting various new research methods in consumer conflict of laws. Although traditional doctrinal research remains dominant and valuable, its limits are obvious. The nature of consumer disputes determines that very few cases are brought to the Court. It is thus inevitable that other factors must be taken into consideration, putting the law in the historical, social, economic and technological context. It is also necessary to consider the indirect effect of the consumer conflict of laws, ie how the law affects business and consumer behaviour and the economy as a whole even if no cases are actually brought to the Court. Economic analysis and empirical data provide important contributions in achieving this aim.

This book analyses the new developments in law and adopts multiple research methods to provide a comprehensive examination of the framework of cross-border consumer contracts. It compares the EU protective model and the US neutral model and examines conflict of laws questions in class action, mediation, arbitration, class ADRs and online dispute resolution. It uses economic theory and empirical evidence to justify the needs of the protective model and proposes the multi-tiered dispute resolution system. The objective is to provide balance

between consumer protection and business interest, and between regulation and commercial freedom, by improving the overall efficiency of cross-border consumer dispute resolution.

I dedicate my gratitude to the General Editors of the book series, Professor Paul Beaumont and Professor Jonathan Harris, who have also been my mentors throughout my career. The idea of adopting the multiple research method is inspired by the research culture at the University of Leeds and my former colleagues Professor Louis Ellison and Professor Anthea Hucklesby. The autonomous and liberal research environment at Newcastle University and the support from my colleagues, in particular Professor Chris Rodgers, Ms Suzanne Johnson and Ms Lida Pitsillidou, have made the completion of this monograph possible. I have also benefitted from the exchange of ideas with Dr Lorna Gillies, Dr Christa Roodt, Dr Andrej Savin, Dr Ulf Maunsbach and Dr Jonathan Fitchen. I want to thank the staff of Hart/Bloomsbury Publishing for their assistance and hard work during the process. Finally, I would like to thank my family, especially my husband Roy Rao, and close friends for their endless support.

I have endeavoured to state the law as at 1 March 2015, although it has been possible to incorporate more recent developments in some cases.

Sophia Tang  
Newcastle  
1 June 2015