

Preface

This work is the result of my doctoral research, accepted as a doctoral dissertation by the Faculty of Law of the University of Hamburg in Summer Semester 2011.

This book concerns a comparative analysis of intermediated securities and the intermediated systems (also known as the indirect holding systems) of major jurisdictions from the perspectives of substantive law and private international law. This book maintains that the current German and Korean intermediated systems, which were constructed based upon the *traditional* German property law model, are outdated, since tangible securities certificates (*Wertpapiere*) lost their original functions, and intangible credit book-entries, termed as *account securities* in this book, replace the functions of securities certificates in the intermediated systems. With a view to discovering proper substantive and conflict of laws rules for the German and Korean intermediated systems, to render them legally certain, sound, efficient and interoperable, this book further analyses two important international instruments, the Geneva and Hague Securities Conventions, the current EU regimes, and the U.S., Japanese and Swiss intermediated systems, ultimately proposing an *internally dematerialised system* that recognises functions of intangible book-entries, which replace functions of securities certificates. This approach to dealing with issues associated with intermediated securities may suggest ways to tackle the problem that legal theories and rules designed and developed resting on tangibles no longer fit legal issues arising in the Information Age and the knowledge-based society.

There are many people whom I wish to thank for completing this work. I should, first of all, like to sincerely thank my supervisor (*Doktorvater*), Professor Dr. iur. Heribert Hirte, LL.M. for his kind, considerate and erudite advice and guidance during the entire period of my doctoral research; he ably *shepherded* my research and life in Germany. Without his excellent leading and comments, this work could not have been completed. My sincere appreciation from the bottom of my heart also goes to Professor Dr. iur. Harald Baum for his thoughtful and professional comments on this work as the second examiner. He was always ready to assist me, and to share his invaluable time. His expertise in Japanese law provided penetrating insight when I was formulating the part on Japanese law.

Many thanks also go to Professors Daesung Kang and Kwang Hyun Suk for their sincere encouragement of my continuing study. Professor Sungung Lee provided thoughtful advice on the Korean legal theories of the law of bills and checks.

I should like to thank Alan N. Bloch, MPH, MCS, MA for his wonderful proof-reading of this book. I was amazed at his careful, precise, and deliberate corrections and comments. I owe him much.

I extend my sincere appreciation to Jaesung Lee, Jongchul Jung, Dongmin Park, Dr. Hyeongki Lee, Sangtae Baek, Jongwon Choi, Byungkeun Go, Yongchang Kim, Hyungseok Song, and Kazuhiro Nishimukai, all of whom gladly furnished me with important materials and information for my research.

Last, but not least, I would like to extend my thanks to Dr. Hyoung-Tae Kim, president of the Korea Capital Market Institute, who gladly provided an affordable and amicable environment to finalise this book. I also thank Ms. Anke Seyfried and other staff at Springer-Verlag GmbH for their skilful and heart-felt assistance for publication.

Seoul, November 2011

Changmin Chun

Cross-border Transactions of Intermediated Securities
A Comparative Analysis in Substantive Law and Private
International Law

Chun, C.

2012, XX, 504 p., Hardcover

ISBN: 978-3-642-27852-5