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CONFLICT-OF-LAWS ASPECTS OF DIGITAL DISPUTE RESOLUTION IN INTERNATIONAL INTERNET JURISDICTION

Abstract

The conflict-of-laws aspects of digital dispute resolution in international internet jurisdiction are becoming increasingly significant in the context of globalization and the rapid advancement of digital technologies. The digital environment erases national boundaries, giving rise to unique challenges for legal regulation, particularly in the areas of jurisdiction, dispute resolution, and user rights protection. Jurisdictional conflicts, inconsistencies among national legal frameworks, and the difficulties inherent in applying traditional legal doctrines necessitate the development of novel legal approaches. This article analyzes the principal conflict-of-laws issues in digital dispute resolution, including the intersection of different jurisdictional systems, the application of national laws to cross-border digital interactions, and the imperative of international cooperation for resolving disputes within the internet economy. Drawing on real-world judicial cases that illustrate these challenges, the article underscores the importance of harmonizing legal norms and establishing international legal standards for the effective resolution of conflicts in the global digital space.

Keywords: *lex loci delicti*, international internet jurisdiction, conflict of laws, substantial effect doctrine, arbitration, mediation, ODR, VPN, geolocation.

Introduction

Against the backdrop of globalization and the accelerating expansion of the internet, the conflict-of-laws dimension of digital disputes has emerged as an issue of growing importance in international jurisprudence. Jurisdictional conflict — the phenomenon whereby two or more legal orders simultaneously claim competence to adjudicate the same dispute — is particularly acute in the context of cross-border digital interactions. The virtual nature of the internet, the anonymity of its users, and the absence of clearly defined territorial boundaries generate legal uncertainty and considerably complicate the application of traditional legal doctrines governing jurisdiction, data protection, intellectual property, and related fields. This difficulty is especially pronounced in cross-border disputes, where the parties may be situated in different countries and subject to divergent legal systems.

Digital jurisprudence therefore confronts the imperative of adapting and reconceptualizing existing international legal norms to address such conflicts, and of identifying compromise solutions capable of ensuring legal protection and safeguarding the legitimate interests of all parties. International cooperation — directed toward the elaboration of harmonized legal standards for dispute resolution within the global internet economy — constitutes a central dimension of this challenge. An engagement with digital law and the conflict-of-laws aspects of internet jurisprudence accordingly requires both a systematic analysis of existing problems and the formulation of new approaches designed to uphold justice and the rule of law in the digital space.

Methodology

This study is grounded in a comprehensive analysis of current sources, scholarly publications, and the legislation of various states, as well as relevant international norms and standards. The article draws on domestic and foreign scholarship addressing problems of international jurisdiction, cross-border digital disputes, and conflicts of national laws. Particular attention is given to the legal mechanisms for dispute resolution in the context of technological globalization, including international arbitration, online mediation, and supranational jurisdictional platforms.

The methodological framework encompasses analytical and synthetic methods for examining legal norms, inductive and deductive reasoning, and both comparative and systemic approaches. Comparative analysis of different national legal systems serves to identify the principal conflicts arising in the resolution of cross-border digital disputes, while the systemic approach facilitates an assessment of the interaction among various legal institutions and mechanisms at the international level. A logical approach is further employed to identify the interrelationships among different legal instruments and their influence on digital dispute resolution.

The study also examines experience in the resolution of digital disputes in both foreign legal practice and the legal systems of CIS countries, thereby enabling the identification of key challenges and the proposal of practical solutions. Particular consideration is given to the development of international legal standards and the integration of emerging technologies — including blockchain and artificial intelligence — for optimizing dispute resolution processes in conditions of transnationality and technological transformation.

Results

1. *Digital Jurisprudence and Jurisdictional Challenges in the Global Internet*

Digital jurisprudence constitutes the foundation of internet law, providing essential guidance for the complex legal landscape that governs online interactions. As the internet transcends traditional national boundaries, it poses distinctive challenges to the construction of a coherent legal framework for resolving disputes arising in this virtual environment.[1] Digital jurisprudence encompasses the principles and guidelines developed to navigate these challenges, furnishing a basis for interpreting legal scenarios in the digital context. The interplay between national laws and the inherently cross-border nature of the internet further complicates digital jurisprudence, demanding international cooperation and the harmonization of legal standards.

Navigating the complexities of global internet law in digital disputes is a multifaceted undertaking, since the borderless nature of the internet collides with the jurisdictional limits established by sovereign states. In an era in which a single online interaction may span multiple countries, identifying which legal systems apply has become progressively more difficult. This difficulty is compounded by substantial divergence in the laws and regulations governing online conduct, data protection, and intellectual property across different jurisdictions.[2] The central challenge lies in determining the appropriate legal authority to adjudicate disputes, as traditional principles of jurisdiction frequently prove inadequate to account for the unique characteristics of cyberspace.

The conflicts inherent in the identification and resolution of international internet disputes become particularly acute in the context of global digitalization. A principal challenge is that many internet disputes engage multiple jurisdictions simultaneously, rendering the determination of applicable law extraordinarily complex.[3]

2. *Conflict-of-Laws Problems in Cross-Border Digital Disputes*

As noted above, the digital environment considerably complicates traditional conceptions of jurisdiction in cross-border disputes. Because the internet dissolves geographical boundaries, identifying which legal system holds authority has become a serious challenge. The distinctive nature of digital transactions and interactions across multiple jurisdictions creates ambiguity and inconsistency in legal processes. National laws, traditionally anchored to physical locations, now encounter significant difficulties in adjudicating disputes in which several jurisdictions may simultaneously assert their claims.

This complexity is further amplified by the decentralized and anonymous character of digital platforms, on which users, companies, and servers are frequently dispersed across the globe. The traditional principle of *lex loci delicti* — the application of the law of the jurisdiction in which the wrongful act occurred — has encountered serious difficulties in the digital age. As Svantesson has observed, the pervasive reach of internet content renders it increasingly difficult to identify the precise location of a wrongful act, since data can be disseminated instantaneously worldwide.[4]

The key factors governing the choice of applicable law in digital disputes are multifaceted and depend upon numerous considerations that are not always immediately apparent. Several factors have traditionally exerted influence on the determination of jurisdiction and applicable legislation.

Server Location Analysis. In the early years of the internet (the 1990s through the early 2000s), courts placed considerable reliance on the physical location of servers as the determinative factor for jurisdiction. This approach was workable when websites typically operated from a single, fixed server location. For example, in the 2002 case of *Dow Jones & Company Inc. v. Gutnick*,^[5] server location was a key factor; however, its significance has since diminished substantially. As Mills has noted, while server location was initially treated as the primary connecting factor, courts have increasingly recognized its limitations: cloud computing and distributed systems render server location an increasingly notional concept; companies routinely operate servers in multiple jurisdictions; and content delivery networks (CDNs) complicate the identification of any single actual server location. Modern cloud services — including AWS, Google Cloud, and Azure — have fundamentally transformed approaches to data storage and processing, enabling the automatic migration of data across physical locations in response to factors such as load balancing, cost optimization, and performance. While this architecture enhances availability and adaptability, it creates legal complexity, particularly in the determination of jurisdiction for data storage and processing in international transactions.

Assessment of the Place of Harm. Determining the location of harm in digital disputes represents a formidable challenge within international internet jurisdiction. Courts have developed sophisticated approaches centered on four key elements: the *location of direct financial impact* (where material losses occur); the *geographic spread of reputational damage* (analysis of the territorial distribution of harm); the *zones of impact in data breaches* (the location of affected data subjects); and *market consequences* (measurable market disruption). These elements are assessed within the framework of the *substantial effect doctrine*, which requires a demonstration that the effects were felt in the jurisdiction asserting authority.^[6] A notable illustration is the Facebook Data Protection Case (2018), in which the Irish Data Protection Commission established jurisdiction on the basis of the location of affected EU data subjects, notwithstanding the fact that Facebook's servers were situated in several jurisdictions outside the European Union. The court focused on the place of actual harm — the compromise of user data — rather than the location of technical infrastructure, thereby exemplifying the modern approach to determining the place of harm in digital disputes.^[7]

Technical Geo-blocking Measures. Technical measures for geographic restriction have become key instruments in the determination of jurisdiction and the enforcement of legal norms in international internet law. The principal methods of implementation include: IP address-based geolocation (with country-level accuracy of 95–99%); GPS location verification; billing address verification; and mobile network identification. In combination, these methods can achieve accuracy levels of up to 99.9% in determining a user's location, although they continue to encounter challenges posed using VPNs and proxy services. The legal significance of these measures is reflected in what Bogdan (2023) terms the "virtual borders doctrine," whereby courts increasingly treat the presence or absence of geo-blocking as evidence of the operator's intended territorial reach.

The technical reliability of derestriction measures varies considerably depending on the method of implementation and the combination of approaches employed. Research indicates that while basic IP address-based geolocation provides reasonable country-level accuracy, more sophisticated combined methods — incorporating GPS data, payment verification, and mobile network identification — offer substantially greater precision. This pragmatic approach takes account of both the technical limitations of current derestriction technologies and their important role in establishing jurisdictional boundaries in the digital space.^[8]

3. Legal Frameworks and International Cooperation in Digital Jurisprudence

Legal frameworks and international cooperation in digital jurisprudence are of decisive importance for addressing the complexities of digital disputes in an interconnected world. As digital activity transcends national boundaries, traditional legal systems frequently struggle to keep pace

with the dynamic and borderless character of the internet. To address these challenges effectively, states must develop legal frameworks that integrate both domestic law and international principles.

International cooperation is indispensable for producing coherent and effective responses to these challenges. Organizations such as the United Nations, the European Union, and various international trade bodies are actively promoting dialogue and developing recommendations for the harmonization of digital legal standards. The emergence of agreements and treaties directed at specific aspects of digital disputes — such as data protection and electronic commerce — exemplifies efforts to construct a more unified approach.[9]

Achieving consensus, however, remains a considerable obstacle owing to divergences in national interests, legal traditions, and levels of technological development. Sustained dialogue and a readiness to compromise are essential prerequisites for constructing a comprehensive legal framework capable of addressing digital disputes effectively at the global level. Continued international cooperation will enable the legal landscape of digital jurisprudence to evolve in keeping with the demands of a globally connected world.

Within the complex domain of digital disputes, jurisdictional challenges become especially pronounced in cases spanning multiple countries and involving different legal systems and conflicting laws. The conflict of national legal frameworks creates significant obstacles to the uniform resolution of digital disputes, particularly where substantial regulatory divergences exist. The divergence between EU and US approaches to personal data protection, for example, has demonstrated the difficulties of maintaining equivalent standards of protection at the international level.[10] This is illustrated by the multinational data protection dispute between European data protection authorities and a major American technology company, which raised the question of the extraterritorial applicability of the General Data Protection Regulation (GDPR) to the company's data processing practices outside the European Union.[11]

A further instructive example involves an international e-commerce platform accused of facilitating the sale of counterfeit goods across multiple jurisdictions. The platform's operations extended across countries with differing intellectual property standards, necessitating careful navigation of conflicting intellectual property laws and the coordinated engagement of judicial authorities from the affected states.[12]

International arbitration, online mediation, and supranational jurisdictional platforms represent the most promising mechanisms for resolving international internet disputes. These approaches are designed to ensure efficient and equitable resolution of cross-border conflicts in the digital environment — a matter of particular significance in the context of globalization and the continued expansion of the internet. The development of international online dispute resolution (ODR) platforms will contribute to swifter and more accessible conflict resolution.[13] Nevertheless, one of the central remaining challenges is overcoming the conflicts between different legal systems, which necessitates the elaboration of universal international standards and the creation of supranational arbitration mechanisms.

Discussion

The foregoing analysis yields a number of key findings concerning digital jurisprudence and jurisdictional challenges in the global internet.

Jurisdictional Complexity in Digital Disputes. Traditional legal principles, such as *lex loci delicti*, encounter fundamental difficulties in the digital age. As a global network, the internet dissolves geographical boundaries and complicates the determination of legal jurisdiction, especially in cross-border disputes. Businesses and users may simultaneously fall within the purview of multiple legal systems, giving rise to conflicts of laws and to significant difficulties in the resolution of disputes.

Reconsidering Server Location and Place of Harm. Server location as a decisive factor for determining jurisdiction is becoming increasingly marginal with the development of cloud technologies and distributed systems. At the same time, assessing the location of harm in digital disputes — such as data breaches or reputational damage — requires consideration of a multiplicity of factors, including direct financial impact, the spread of harm, and market consequences.

Geoblocking. Modern geolocation technologies, such as IP address-based and GPS-based location determination, assist in the establishment of jurisdiction but face challenges arising from the use of VPNs and proxy services. These geographic restriction measures play an important role in establishing virtual boundaries, yet they require a realistic appraisal of both the technical capabilities and the limitations of the technologies involved.

International Cooperation and Legal Harmonization. International efforts to develop harmonized legal standards in the digital environment — including the harmonization of data protection and intellectual property laws — are becoming indispensable for overcoming jurisdictional barriers. Nonetheless, the diversity of legal traditions and national interests continues to impede the adoption of universal solutions.

Prospects for Dispute Resolution. For the effective resolution of digital disputes in a globalized internet, international arbitration mechanisms, online mediation, and supranational jurisdictional platforms are being actively developed. These approaches may accelerate the resolution of cross-border conflicts and enhance access to justice, but their successful operation requires the resolution of conflicts between different legal systems.

Conclusion

Digital jurisprudence in the context of the globalized internet confronts a multitude of complexities arising from jurisdictional challenges and conflicts of legal systems. Traditional approaches to the determination of jurisdiction have proven insufficient to account for the distinctive characteristics of the internet — its anonymity, its global reach, and its decentralized nature. Contemporary approaches, including geoblocking and the assessment of the place of harm, contribute to improvements in digital dispute resolution but remain subject to both technical and legal constraints.

International cooperation and the development of harmonized legal standards represent an indispensable step toward resolving these challenges. States must work toward the harmonization of legislation in a manner that reflects digital realities, thereby ensuring effective and equitable dispute resolution in the global context. International arbitration, online mediation, and the establishment of supranational jurisdictional platforms constitute the most promising instruments for the resolution of cross-border digital disputes. Their effective functioning, however, requires universal international standards and the coordinated engagement of judicial authorities across different countries.

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ХАЛЫҚАРАЛЫҚ ИНТЕРНЕТ-ЮРИСДИКЦИЯДАҒЫ ЦИФРЛЫҚ ДАУЛАРДЫ ШЕШУДЕГІ ЗАҢДАРДЫҢ СОҚТЫҒЫСУ АСПЕКТІЛЕРІ

Аннотация

Халықаралық интернет-юрисдикциядағы дауларды цифрлық шешудің соқтығысу аспектілері жаһандану және цифрлық технологиялардың қарқынды дамуы контекстінде маңызға ие болуда. Цифрлық орта ұлттық шекараларды бұлдыратады, әсіресе юрисдикция, дауларды шешу және пайдаланушы құқықтарын қорғау саласында құқықтық реттеу үшін бірегей мәселелер туғызады. Юрисдикциялық қақтығыстар, ұлттық құқықтық шеңберлер арасындағы сәйкессіздіктер және дәстүрлі құқықтық доктриналарды қолданудағы қиындықтар жаңа құқықтық тәсілдерді әзірлеуді талап етеді. Бұл мақалада цифрлық дауларды шешудің негізгі қайшылықты мәселелері, соның ішінде әртүрлі юрисдикциялық жүйелердің қиылысуы, трансшекаралық цифрлық өзара әрекеттесуге ұлттық заңдарды қолдану және интернет-экономика шеңберіндегі дауларды шешу үшін халықаралық ынтымақтастық қажеттілігі талданады. Осы мәселелерді бейнелейтін нақты сот істеріне сүйене отырып, мақалада жаһандық цифрлық кеңістіктегі қақтығыстарды тиімді шешу үшін құқықтық нормаларды үйлестіру мен халықаралық құқықтық стандарттарды белгілеудің маңыздылығы көрсетілген.

Кілттік сөздер: lex loci delicti, халықаралық интернет юрисдикциясы, соқтығысу құқығы, маңызды салдарлар доктринасы, арбитраж, медиация, ODR.

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АСПЕКТЫ КОЛЛИЗИИ ЗАКОНОВ В РАЗРЕШЕНИИ ЦИФРОВЫХ СПОРОВ В МЕЖДУНАРОДНОЙ ИНТЕРНЕТ-ЮРИСДИКЦИИ

Аннотация

Коллизионные аспекты цифрового разрешения споров в международной интернет-юрисдикции приобретают все большее значение в контексте глобализации и стремительного развития цифровых технологий. Цифровая среда стирает национальные границы, создавая уникальные проблемы для правового регулирования, особенно в области юрисдикции, разрешения споров и защиты прав пользователей. Юрисдикционные коллизии, несоответствия между национальными правовыми рамками и трудности, присущие применению традиционных правовых доктрин, требуют разработки новых правовых подходов. В этой статье анализируются основные коллизионные вопросы разрешения споров в сфере цифровых технологий, включая пересечение различных юрисдикционных систем, применение национальных законов к трансграничным цифровым взаимодействиям и необходимость международного сотрудничества для разрешения споров в рамках интернет-экономики. Опираясь на реальные судебные дела, иллюстрирующие эти проблемы, в статье подчеркивается важность гармонизации правовых норм и установления международных правовых стандартов для эффективного разрешения конфликтов в глобальном цифровом пространстве.

Ключевые слова: lex loci delicti, международная интернет-юрисдикция; коллизионное право, доктрина существенных последствий, арбитраж, медиация, ODR.