
- Instructor
Hatsuru Morita, hmorita@uchicago.edu, LBQ 503
Office Hours: by appointment (send e-mail)

- Course Time and Location
We meet Wed 6:00-8:00 pm at the classroom B (subject to change).

- Course Description
This seminar examines selected topics of the Japanese law. Because there are many differences (and similarities) between the US law and the Japanese law, the seminar mainly adopts comparative law approach and functional approach. We identify what the differences are and then try to explain causes of the differences mainly from functional viewpoint. Differences (and similarities) can be caused from many factors, such as underlying social background, interaction between multiple legal rules, subtle difference of evaluation, or maybe just historical coincidence. Understanding these mechanisms will enhance understanding of various aspects of legal systems.
The topics that we discuss in this course are two-fold: in the first half, we discuss selected topics on contract, tort, property, and law on commercial transactions. In the second half, we discuss topics on corporate law, which is reformed dramatically in 2005, and the Japanese corporate governance system, which shows several peculiar characteristics, such as main bank system and lifetime employment system.

- Grading
Grading is based on class participation (30%), memoranda (30%), which are assigned each week, and three short papers (40%), which consist of two short papers (5-10 pages) and one final paper (20-30 pages). There is no midterm or final exam.
If you want to receive a substantial writing credit, please contact me in advance. In general, you need (1) to present a satisfactory proposal to me for a final paper requiring substantial legal research and analysis, (2) to submit a paper that I believe fulfills that requirement, within somewhat longer deadlines.

- Materials
You need to get a course packet at the copy center after Dec 29, but most of the materials will be posted on the chalk site.

- Chalk
The syllabus, homework assignments, handouts, and PowerPoint slides will be available at the Chalk cite (https://chalk.uchicago.edu/).
- Homework assignments

There are two types of homework assignments: memorandum and short paper. Memoranda aim to enhance your participation in classes and will be assigned for each class. This type of homework is due the day before each class at noon. Page limit is three, although shorter memoranda will not be rejected. Short papers test how you can broaden your idea after discussion in class or catch up what cannot be discussed sufficiently in class. Short papers are assigned occasionally and their deadlines vary. Homework shall be typed in 12 point double-spaced and within specified pages limit. One copy shall be submitted to Lorrie Ragland, my secretary. I kindly ask that you do not e-mail assignments to me. If you want to email or fax homework, you need to make an arrangement with Ms. Ragland. Homework left anywhere, as well as those overdue, will not be graded.

- Tentative Schedule

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- First class assignment

Get the course packet, access the chalk site and read the materials for Session #1 (and preferably #2).

- Sessions

(The materials marked as * are supplementary; others are required readings.)

[Session 1] Liquidated damages and penalty doctrine

- Ugo Mattei, Comparative Law and Economics, ch. 7 (1997)
- Ramseyer & Nakazato, ch. 2 (particularly 60-61)
- Civil Code 1, 90, 420
- Consumer Contract Act 9
- Labor Standards Act 16
- Interests Rate Limitation Act 1, 4
- Commercial Code 631
- Carriage of Goods by Sea Act 12-2I (same as Hague-Visby Rules)
- UCC 2-718, 2-719
[Session 2] Remedy against breach of fiduciary duty: function of disgorgement

In re Estate of Sweicicki, 477 N.E.2d 488 (Ill. 1985)
Magruder v. Drury, 235 U.S. 106 (1914)
Trust Act
Unfair Competition Act 5

[Session 3] Treatment of good faith purchaser

Schrier v. Home Indemnity Company, 273 A. 2d 248
UCC 2-403, 2-312, 1-201(19)
Civil Code 192, 193, 194, 566
Used Goods Dealing Act 22
Schwartz and Scott, Sales law and the contracting process pp. 508-512 (2nd ed., 1991)

[Session 4] Forgery: checks in the US and promissory notes in Japan

UCC 4-401, 3-418, 4-208, 4-207, 3-420, 3-406, 3-405, 3-404, 4-103
Keisuke Tani, Function and Practice of Bills of Exchange and Promissory Notes, in 2 Doing Business in Japan (Kitagawa ed.)
   cf. Tokyo District Court, Sep 27, 1982; Tokyo High Court, Nov 17, 1983
Bill Act (same as Germany, France, or other countries which are party to the Vienna Treaty)
Civil Code 109, 110, 112, 709, 715, 722
Model Form for Checking Account Contract [Toza Kanjo Kitei Hinagata]

[Session 5] Collateral source rule

Ramseyer & Nakazato, ch. 4
Civil Code 709
Commercial Code 662
Welfare Pension Insurance Act 40
Workers' Accident Compensation Insurance Act 12-4

[Session 6] Equity finance: protection of shareholders

Ministry of Justice, Japanese Corporate Law: Drastic Change in 2000-2001 & the Future
Delaware General Corporation Law; Revised Model Business Corporation Act (please use your own statute book)
[Session 7] Corporate Governance: Legal Structure
Ramseyer/Nakazato, ch. 5
Ministry of Justice, Japanese Corporate Law: Drastic Change in 200-2001 & the Future
Lucian A. Bebchuk & Mark J. Roe, A Theory of Path Dependence in Corporate Governance and Ownership (1999)
* Rafael La Porta, Florencio Lopez-de-Silanes, Andrei Shleifer, & Robert W. Vishny ["LLSV"], Legal Determinants of External Finance, JF 52:1131- (1997)
* LLSV, Corporate Ownership around the World, JF 54:471- (1999)

[Session 8] Case Study: Daiwa Bank Case

[Session 9] "Japanese Corporate Governance"
Masahiko Aoki, Toward an Economic Model of the Japanese Firm, 28 J. Econ. Lit. 1 (1990)
Ronald J. Gilson & Mark J. Roe, Understanding the Japanese Keiretsu: Overlaps between Corporate Governance and Industrial Organization, 102 Yale L.J. 871 (1993)

[Session 10] Looking for empirical foundations


* Yishay Yafeh, An International Perspective of Japan’s Corporate Groups and their Prospects, 2002


[Session 11] Changing environment: Rise of takeover cases

Sumitomo Trust Bank v. UFJ, Supreme Court, Aug 30, 2004

Notes on Livedoor v. Nippon Broad Casting


Ominicare, Inc. v. NCS Healthcare, Inc., 818 A.2d 914 (Del. 2003)


METI: Corporate Value Study Group, Summary Outline of Discussion Points, 2005

Tokyo Stock Exchange, Listing System Revision and the Adoption of Takeover Defense Measures (Draft Outline) (2005)

Curtis J. Milhaupt, In the Shadow of Delaware?: The Rise of Hostile Takeovers in Japan, Colum. L. Rev. 2005


* Paul Gompers, Joy Ishii, & Andrew Metrick, Corporate Governance and Equity Prices, QJE 2003