

Ole Böger

System der vorteilsorientierten Haftung im Vertrag

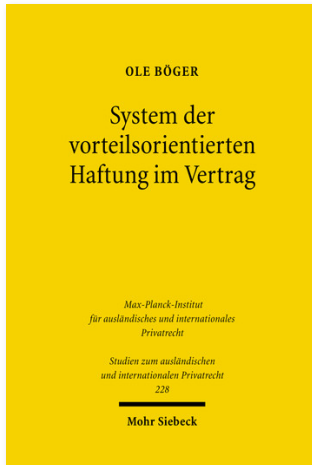
Gewinnhaftung und verwandte Haftungsformen anhand von Treuhänder und Trustee

[The System of Gain-Based Liability in Contract Law. Disgorgement and Restitutionary Damages with Special Regard to Fiduciaries.]

Published in German.

In the area of gain-based damages, i.e. liability based upon the debtor's gains rather than the creditor's losses, the German legal discussion was traditionally focused on extra-contractual liability, especially in the area of intellectual property law. Ole Böger describes the system of gain-based damages in German contract law. He analyzes the underlying principles behind well-known examples of these claims and differentiates between three sub-types, each of which fulfils different purposes such as deterrence or avoidance of under-compensation. The analysis in this study and its attempt to close existing gaps in German contract law are supported by extensive references to English law, especially with regard to the fiduciary liability of trustees and to ongoing developments and discussions on topics such as restitutionary liability for breach of contract, efficient breach of contract and disgorgement damages.

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