

Haase

Aspects of Mercantile and Business Law
in South Africa

Berichte aus der Rechtswissenschaft

Aspects of Mercantile and Business Law in South Africa

Selected Topics on Trade Marks, Advertising, Suretyship, Employee
Participation, E-commerce and Arbitration from a Global and a South
African perspective

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PREFACE

This book is not intended to state on Commercial Law and on Business Law in South Africa but to have a more detailed view on some selected aspects out of these fields of law comparing legal developments in South Africa with the legal situation in other countries, namely Germany, the UK, the United States, Canada, Australia, New Zealand, Scotland and in the European Union or focusing on international and global trends to show consequences for the legal situation in South Africa in some fields of commerce and business by improving the legal framework. This book therefore deals in five independent chapters with the following topics:

CHAPTER I is about the *South African Trade Marks Act 194* from 1993 and *Comparative Brand Advertising* with focus on the South African Constitution, the legal evaluation in the EU and statutory interpretation, followed by CHAPTER II on *Suretyship in South Africa* compared with the situation in German as well as Scots and English law. In CHAPTER III the focus is on *International Arbitration in South Africa in the banking sector* by reference to international loan agreements and a discussion of the pros and cons of arbitration, particular in a cross-border environment, as well as an outlook on the new International Arbitration Act of South Africa adopting the UNCITRAL Model Law and the chances for South African banking institutes, borrowers, lenders and lawyers. CHAPTER IV and CHAPTER V both deal with *E-commerce and office communications policies from a global perspective with emphasis on South Africa* comparing jurisprudence and legislation, the former listing the risks of internet usage and modern means of communication internal and external and providing the reader with a practical example to show risks obvious in a law firm environment and prevention methods, the latter with focus on the human factor by stressing the importance of motivating the workforce by allowing and encouraging employee participation as a prevention tool to protect private as well as company assets in cyber space.

The law is stated as at 31 August 2002 and the reader is encouraged to do further research on his own on the law in South Africa in its global context as the selected topics in this book can not cover the whole range of aspects and is also not intended to serve as a general introduction but to give specific insight to limited problems in South African law and to show perspectives for South African law by comparison with foreign countries.

Jörg Walter Haase

Recklinghausen/Marl
September 2002

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