

CISG CASES

TITLE: *Perry Eng P/L (Rec And Man Appt'd) V Bernold AG No. SCGRG-99-1063 [2001] SASC 15 (1 February 2001)*

CASE LINK: [*Perry Eng P/L \(Rec And Man Appt'd\) V Bernold AG No. SCGRG-99-1063 \[2001\] SASC 15 \(1 February 2001\)*](#)

Editorial remarks by Dr Bruno Zeller

This case is an illustration and warning to those who ignore the CISG or are not aware that an international sale is governed by the CISG. A plaintiff in Australia tried to sue a Swiss firm by relying on the South Australian Sale of Goods Act. As Judge Burley correctly pointed out the CISG is part of the law of South Australia and hence the CISG and not the Goods Act is applicable.

It is surprising that the earlier four appearances by Perry Engineering were not as forcibly rejected as Judge Burley did. Noticeably Judge Burley commented that: "The statement of claim has been drawn up on the assumption that the South Australian Sale of Goods Act applies. This seems to me to be fatal to the plaintiff's ability to proceed to judgment ..."

The simple fact is that the CISG cannot be ignored and that ignorance of the CISG can result in unnecessary expenses for clients.