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FORUM SELLING ABROAD

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Judges decide cases. Do they also try to influence which cases they decide? Plaintiffs "shop" for the most attractive forum, but do judges try to attract cases by "selling" their courts? Some American judges actively try to enlarge their influence by making their courts attractive to plaintiffs, a phenomenon known as "forum selling." This Article shows that forum selling occurs outside the United States as well, focusing on Germany, a country that is often held up as the paragon of the civil law approach to adjudication. As in the United States, German courts attract cases primarily through the pro-plaintiff manipulation of procedure, including the routine issuance of ex parte injunctions in press cases and refusal to stay patent infringement proceedings when the patent's validity is challenged in another forum. A critical difference between forum selling in Germany and the United States is that court administrators are more actively involved in Germany. As state officials, German court administrators have the incentive to consider the effect of caseloads on government revenue and the local economy, and they use their power to allocate judges to particular kinds of cases in order to make their courts attractive. They also use their power over promotion, case allocation, and resources to reward judges who succeed in

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