

Digital Asset Transactions and Private International Law (summary)

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The rapid emergence of blockchain-based digital assets—such as cryptocurrencies, digital securities, Non-Fungible Tokens (NFTs), and stablecoins—has created profound challenges for international civil procedure and private international law. These assets are intangible, decentralized, and pseudonymous, circulating globally without a clear territorial anchor or centralized control. As a result, traditional concepts such as the “location of property,” “place of performance,” and “locus delicti” must be reconsidered in light of the technological realities of blockchain systems.

This paper examines how Japanese law should respond to these developments. After outlining in Part I the essential features and diversity of digital assets, as well as international initiatives—including the UNIDROIT Principles on Digital Assets and Private Law (2023), the newly introduced U.S. UCC Article 12 and the Law Commission of England and Wales’ Consultation Paper (2025), the paper turns in Part II to a more detailed analysis of issues of jurisdiction and applicable law, which form the theoretical core of the discussion.

With respect to jurisdiction, Japan’s existing framework can largely accommodate disputes involving blockchain transactions, yet difficulties arise when jurisdiction depends on identifying the place of performance, the location of the asset, or the location of tortious acts. Because digital assets lack physical form and are distributed across networks, the “place” should be interpreted in functional rather than geographical terms. The approach proposed by the Law Commission—to treat as relevant the “place where the crypto-token can effectively be dealt with”—is a persuasive model. It aligns the exercise of jurisdiction with the ability to control or dispose of the asset, such as the custodian’s or controller’s location, and avoids formalistic reliance on server or node locations. In cases based on tort, the paper notes that the locus delicti should normally be identified by reference to the victim’s residence or place of economic loss, rather than to a virtual or indeterminate “site” of the blockchain.

For the applicable law, the paper discusses contractual, proprietary, and tortious aspects. Contractual matters can generally be governed by the law chosen by the parties under Article 7

of Japan's Act on the General Rules of Application of Laws, including choices embedded in white papers or smart contracts. The real difficulty concerns proprietary issues, since digital assets lack a physical situs or an identifiable issuer. Drawing on comparative models such as the UNIDROIT Principles and UCC Article 12, the paper proposes a “waterfall” approach to connecting factors: (1) an express choice of law made by participants or system operators; (2) the law of the system administrator’s location when identifiable; and (3) failing these, the law of the holder or controller of the digital asset. This structure balances predictability with flexibility. For tortious claims such as hacking or misappropriation, the governing law should generally be that of the victim’s residence as the place where the harmful result occurred, except when a digital asset is linked with a tangible asset or a claims, in which case the law of that asset’s location or the law of the claim is more appropriate.

Part III then addresses some hot issues in international civil procedure for digital assets. It highlights the difficulty of initiating proceedings where defendants remain unidentified due to blockchain anonymity. The paper points to the need for further consideration of cooperative mechanisms for access to the information of the relevant parties, asset tracing, and enforcement in cross-border digital-asset disputes.

Part IV examines the question of how digital assets, once established under one legal system, and proprietary rights relating thereto, should be treated when they circulate into jurisdictions that maintain different property-law regimes for digital assets. This issue is explored through an analysis of the recent Tokyo District Court judgment of 25 April 2024, which serves as a key case study for understanding the cross-border continuity and recognition of proprietary interests in such assets.