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Transnational Forum Non Conveniens in the Digital Age: Comparative Judicial Approaches Across Civil Law and Common Law Systems

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ABSTRACT

Background. Digital commerce and geographically dispersed electronic evidence increasingly challenge traditional approaches to selecting appropriate courts in transnational civil disputes.

Purpose. This study examines how common law and civil law jurisdictions address forum suitability when digital connectivity reshapes conventional territorial considerations.

Method. Employing qualitative doctrinal research and comparative legal analysis, it examines foundational judgments, jurisdictional legislation, and scholarly interpretations concerning the United States, England and Wales, Germany, and France.

Results. The findings reveal a persistent distinction between discretionary forum non conveniens analysis in American and English law and rule-based jurisdictional allocation under the applicable European framework. Electronic documents and remote participation may reduce practical litigation burdens, yet technological accessibility does not independently establish jurisdiction or resolve questions of procedural fairness, lawful evidence collection, and judgment enforcement.

Conclusion. Effective transnational adjudication requires adapting the evaluation of digital circumstances within existing legal frameworks rather than imposing a uniform discretionary doctrine across legal traditions. Further contemporary case analysis across diverse digital disputes is needed to assess practical judicial application.

KEYWORDS

Civil Law, Common Law, Digital Litigation

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INTRODUCTION

Digital globalization has fundamentally transformed the geographical structure of transnational civil litigation. Cross-border electronic commerce, digital platforms, cloud computing, and decentralized business operations increasingly generate disputes involving multiple jurisdictions. Traditional principles of judicial jurisdiction, historically associated with territorial connections and physical evidence, face growing challenges when commercial activities and legally relevant conduct occur across interconnected digital environments. These developments demand reconsideration of how courts determine appropriate forums for resolving international disputes (Hutaif, 2023; Wirajing, 2025).

The doctrine of forum non conveniens provides a mechanism through which courts in certain common law jurisdictions may decline jurisdiction when another available forum is demonstrably more appropriate. Judicial approaches differ considerably across legal systems. United States courts traditionally balance private and public interests, while English courts emphasize the suitability of alternative forums and the interests of justice. Civil law jurisdictions frequently prioritize statutory jurisdictional rules, although their approaches cannot be treated as institutionally uniform (Levack, 2023; Mancini, 2022).

The expansion of digital transactions has intensified uncertainty concerning the geographical location of evidence, parties, contractual performance, and harmful conduct. Electronic records may be distributed across servers in multiple countries, while online activities produce consequences beyond national borders. These circumstances challenge conventional assessments of convenience and judicial suitability. Comparative examination becomes essential for understanding whether existing jurisdictional frameworks adequately accommodate technologically mediated disputes while preserving procedural fairness and access to justice.

The central legal problem concerns the suitability of traditional forum non conveniens principles for determining jurisdiction in digitally interconnected transnational disputes. Conventional assessments frequently consider geographical proximity, witness accessibility, documentary evidence, and connections between litigation and territorial legal interests. Digital environments complicate these considerations because electronically stored evidence may be accessible remotely, while relevant parties and technological infrastructure operate across multiple jurisdictions.

Divergent jurisdictional approaches create additional difficulties for international litigants. Common law courts may exercise discretion when evaluating alternative forums, whereas civil law systems generally apply codified jurisdictional requirements and specific mechanisms governing parallel proceedings. The European Court of Justice's decision in Owusu v. Jackson illustrates the limitations imposed on discretionary jurisdictional dismissal within the applicable European jurisdictional framework. Such differences raise concerns regarding predictability, procedural consistency, and opportunities for strategic forum selection (Brooks, 2023; Widayati, 2025).

Digital disputes further expose tensions between procedural efficiency and substantive access to justice. Selecting a geographically convenient forum may disadvantage claimants who lack resources to pursue litigation abroad. Conversely, maintaining jurisdiction without meaningful connections to the dispute may impose unnecessary burdens on defendants and judicial institutions. The absence of consistently articulated criteria for evaluating digital connections complicates decisions concerning appropriate jurisdiction and equitable dispute resolution.

This study aims to critically examine how courts across selected civil law and common law jurisdictions address forum non conveniens and comparable jurisdictional allocation mechanisms in transnational digital disputes. Its primary objective is to identify doctrinal differences concerning judicial discretion, jurisdictional suitability, evidentiary accessibility, and procedural fairness. The analysis seeks to determine whether established jurisdictional principles remain appropriate when relevant activities and evidence transcend conventional geographical boundaries (Adinda, 2025; Zeleznikow, 2023).

The research further investigates how technological developments influence judicial assessments of convenience, substantial connections, and the availability of alternative forums. Particular attention is directed toward electronic evidence, cross-border digital transactions, remote participation, and the territorial distribution of technological operations. Examining these

dimensions enables evaluation of whether digital connectivity changes the significance of traditional jurisdictional factors without eliminating territorial considerations.

The study ultimately seeks to develop a comparative analytical framework for evaluating jurisdictional suitability in digitally mediated transnational litigation. This framework emphasizes meaningful jurisdictional connections, effective access to evidence, procedural fairness, and enforceability of judicial outcomes. Its intended contribution is to clarify how different legal systems may accommodate digital disputes while respecting their distinct jurisdictional structures and established legal safeguards.

Existing scholarship on forum non conveniens has extensively examined judicial discretion, private and public interest considerations, and the allocation of transnational litigation among competing courts. Foundational judicial decisions, including Piper Aircraft Co. v. Reyno and Spiliada Maritime Corp. v. Cansulex Ltd., establish influential approaches to jurisdictional suitability. Their traditional analytical factors nevertheless require renewed examination when disputes involve electronic evidence, geographically dispersed transactions, and technologically mediated legal relationships (Aksoy, 2023; Fahmi, 2024).

Comparative private international law literature also addresses differences between discretionary common law doctrines and rule-based jurisdictional arrangements. Further investigation is needed into how these distinctions operate when digital activities weaken conventional territorial connections. The relationship between electronically accessible evidence, jurisdictional predictability, and effective judicial protection requires particular attention because technological accessibility does not necessarily eliminate legal restrictions governing evidence or cross-border proceedings.

Existing doctrinal approaches provide insufficiently integrated criteria for comparing digital jurisdictional challenges across different legal traditions. The unresolved analytical issue concerns how courts should evaluate technological connections without disregarding statutory jurisdictional requirements or established standards of procedural justice. This study addresses that gap through a structured comparison of jurisdictional doctrines, digital connecting factors, and safeguards protecting litigants in transnational proceedings (Cox, 2023; Wardhani, 2022).

The proposed research advances a digitally responsive interpretation of jurisdictional suitability that distinguishes physical convenience from legally meaningful technological connections. Its conceptual contribution lies in examining how electronic evidence, distributed digital activities, and remote procedural capabilities affect traditional jurisdictional considerations. This approach challenges assumptions that geographical proximity necessarily determines litigation convenience while recognizing the continuing relevance of territorial legal authority.

The study introduces an integrated comparative framework incorporating digital connectivity, judicial competence, evidentiary accessibility, procedural fairness, and enforceability. Its proposed originality concerns the interaction among these dimensions across different jurisdictional systems rather than the isolated identification of technological challenges. The framework distinguishes discretionary forum non conveniens analysis from statutory jurisdictional allocation, avoiding the assumption that civil law courts necessarily exercise equivalent discretionary powers (Mentzingen, 2024; Muir, 2022).

The significance of this investigation extends to comparative procedural law, private international law, and digital dispute resolution. A coherent analytical framework may assist judges, policymakers, and legal practitioners in evaluating transnational jurisdictional disputes involving digitally distributed activities. The research provides a foundation for improving jurisdictional predictability, protecting access to justice, and adapting cross-border litigation principles to

contemporary technological realities without compromising established legal certainty (Athanasakou, 2024; Widyawati, 2025).

RESEARCH METHODOLOGY

This study employs a qualitative doctrinal legal research design integrating comparative judicial analysis and normative interpretation. The research examines how courts in civil law and common law jurisdictions determine appropriate forums for transnational disputes involving digital transactions, electronic evidence, and geographically distributed activities. Doctrinal analysis investigates jurisdictional principles, judicial discretion, procedural fairness, and access to justice. Comparative analysis identifies differences between discretionary forum non conveniens doctrines and statutory jurisdictional allocation mechanisms. The research emphasizes legally meaningful digital connections without assuming that technological accessibility eliminates territorial jurisdictional requirements (Cheng, 2022; Eshghi, 2024).

The comparative framework examines the United States and England and Wales as common law jurisdictions, alongside Germany and France within the European jurisdictional framework. These settings represent contrasting approaches to judicial jurisdiction and discretionary dismissal. Foundational authorities include Piper Aircraft Co. v. Reyno, Spiliada Maritime Corp. v. Cansulex Ltd., and Owusu v. Jackson. Regulation (EU) No. 1215/2012 provides an additional reference for examining jurisdictional predictability and statutory allocation. The analysis distinguishes traditional territorial reasoning from emerging considerations involving digital infrastructure, remote participation, and cross-border evidence.

The research population consists of accessible judicial decisions, legislative instruments, procedural regulations, and scholarly publications addressing transnational jurisdiction and jurisdictional suitability. Primary materials include appellate judgments, statutory provisions, international jurisdictional instruments, and authoritative judicial interpretations. Secondary materials comprise peer-reviewed journal articles, legal commentaries, and comparative private international law scholarship. The unit of analysis is the legal reasoning expressed in judicial decisions and regulatory provisions rather than individual litigants. Documentary evidence concerning digital disputes is incorporated where it clarifies technological influences on jurisdictional assessment and procedural accessibility (Dagan, 2023; Permoser, 2023).

Purposive sampling selects legal materials according to doctrinal authority, jurisdictional relevance, comparative significance, and technological applicability. The sample prioritizes decisions establishing foundational jurisdictional standards, alongside contemporary materials concerning electronic commerce, digital platforms, and electronically stored information. Documents are included when they address alternative forums, jurisdictional connections, judicial discretion, or procedural fairness. Materials lacking identifiable legal authority or substantive jurisdictional relevance are excluded. Selection remains qualitative and criterion-based rather than statistically representative, ensuring that differences between legal traditions are assessed within their respective normative contexts.

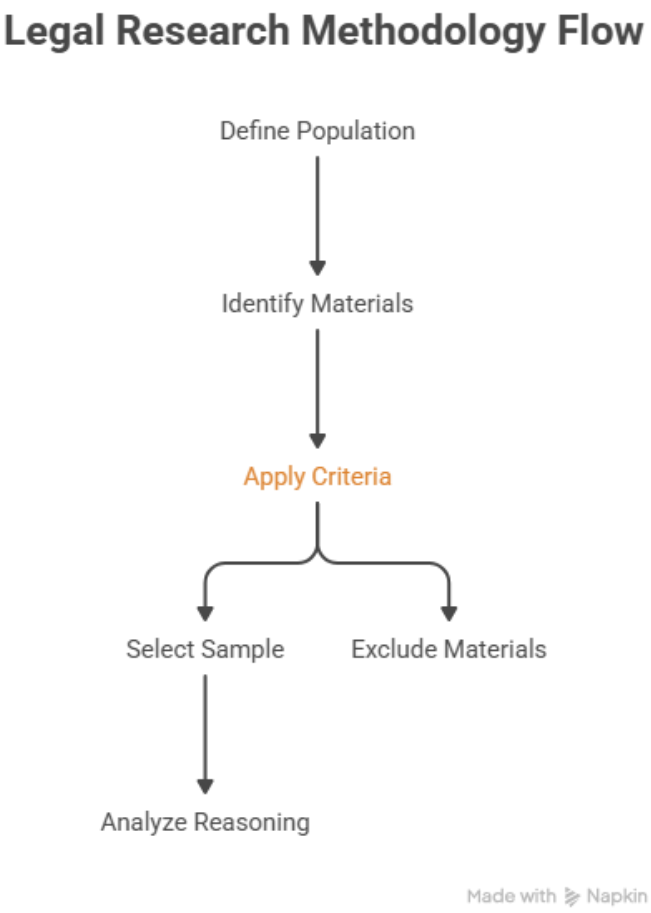


Figure 1. The research population consists

The principal research instrument is a structured legal document analysis matrix designed to classify jurisdictional reasoning across selected legal systems. The matrix incorporates six analytical dimensions: jurisdictional foundations, discretionary authority, territorial connections, digital evidence accessibility, alternative forum suitability, and procedural justice. Each dimension contains interpretive indicators guiding the examination of judicial decisions and statutory provisions. Documentary records identify the issuing institution, legal status, decision date, applicable rules, and relevant reasoning. These procedures support transparent comparisons while preserving distinctions between binding legal authorities and scholarly interpretations.

A qualitative coding protocol complements the analytical matrix by identifying recurring doctrinal patterns and emerging technological considerations. Coding categories include substantial connection, litigation convenience, evidentiary accessibility, judicial predictability, enforceability, and access to justice. Legal propositions are examined within their jurisdictional contexts to prevent inappropriate generalization across legal systems. Analytical consistency is strengthened through repeated examination, cross-referencing authoritative sources, and documenting alternative interpretations. Interpretive validity depends on doctrinal coherence, source authenticity, and the defensibility of comparative reasoning rather than statistical reliability measures (Pérez, 2022; Wang, 2023).

The research procedure encompasses documentary retrieval, eligibility screening, doctrinal extraction, comparative classification, and normative synthesis. Relevant sources are identified

through official judicial repositories, legislative databases, and recognized academic research platforms. Search terms include forum non conveniens, transnational jurisdiction, digital litigation, electronic evidence, civil law jurisdiction, and common law judicial discretion. Retrieved documents are screened against predetermined inclusion criteria and examined for legal authority and contextual relevance. Selected materials are organized by jurisdiction, doctrinal function, and technological implications to establish a traceable analytical foundation (Abdul-Malak, 2023; Bournakis, 2023).

Doctrinal analysis initially reconstructs applicable jurisdictional standards within each selected legal framework. Judicial reasoning is subsequently compared to identify how territorial proximity, digital accessibility, alternative forums, and procedural safeguards influence jurisdictional determinations. Particular attention is devoted to distinguishing discretionary dismissal from mandatory jurisdictional rules. Normative synthesis evaluates whether existing approaches adequately address digitally distributed disputes while preserving legal certainty and equitable access to justice. Findings are interpreted through comparative legal reasoning, with identified limitations informing recommendations for digitally responsive jurisdictional assessment and further judicial research (Coca-Vila, 2024; Kuzushima, 2024).

RESULT AND DISCUSSION

The comparative examination identifies substantial differences in jurisdictional allocation across the United States, England and Wales, Germany, and France. Three foundational judgments Piper Aircraft Co. v. Reyno (1981), Spiliada Maritime Corp. v. Cansulex Ltd. (1986), and Owusu v. Jackson (2005) illustrate contrasting approaches to judicial discretion. American courts employ private and public interest balancing, English courts consider whether an alternative forum is clearly more appropriate, and European Union jurisdictional rules prioritize predictable statutory connections. The documentary comparison reveals that technological accessibility does not itself displace jurisdictional requirements.

The secondary dataset comprises these three judicial authorities and Regulation (EU) No. 1215/2012, examined across four selected jurisdictions. This represents a defined doctrinal comparison, not a statistical sample of judicial decisions. The materials identify three analytical configurations: discretionary American dismissal, English appropriate-forum assessment, and rule-based European jurisdictional allocation. Germany and France are examined through their shared European framework rather than assumed to possess identical national procedural systems. Table 1 summarizes the documentary evidence and its relevance to digitally mediated litigation.

Table 1. Comparative Judicial Approaches to Transnational Jurisdiction and Digital Litigation

Analytical dimension	United States	England and Wales	Germany and France under Brussels I Recast
Principal authority	Piper Aircraft Co. v. Reyno (1981)	Spiliada (1986)	Regulation (EU) No. 1215/2012
Jurisdictional approach	Discretionary forum assessment	Clearly more appropriate forum	Statutory jurisdictional allocation
Principal criteria	Private and public interests	Substantial connections and justice	Domicile, special jurisdiction, applicable statutory exceptions
Alternative forum	Availability and adequacy	Availability and appropriateness	Jurisdictional rules and specified proceedings involving other states
Electronic evidence	Potential factor in	Potential connecting	Relevant to proceedings

	evaluating practical access	and convenience factor	but not an independent jurisdictional ground
Judicial flexibility	Relatively broad within doctrine	Contextual and structured	Limited by applicable legislative provisions
Principal safeguard	Adequate alternative forum and interest balancing	Justice-based assessment	Legal certainty and procedural predictability

The differences reflect competing institutional conceptions of judicial appropriateness. American doctrine permits dismissal when an available alternative forum and relevant interests justify litigation elsewhere. English doctrine similarly recognizes discretion but requires identification of another clearly more appropriate forum, subject to considerations of justice. European Union rules instead establish jurisdiction through defined legal connections, including defendant domicile and specified categories of disputes. These contrasting structures demonstrate that procedural flexibility and jurisdictional predictability receive different institutional emphasis. Digitalization changes the factual circumstances considered within these frameworks without automatically transforming their underlying legal authority.

The evidence also clarifies why digital convenience cannot be equated with jurisdictional competence. Electronic documents may be accessible across national borders, reducing certain transportation and logistical burdens. Their accessibility does not determine whether foreign courts possess jurisdiction, whether evidence is legally obtainable, or whether judgments can be enforced. Restrictions concerning disclosure, confidentiality, data protection, and cross-border cooperation remain potentially significant. The findings therefore distinguish practical access to information from legally effective access to justice. Technological developments influence evidentiary convenience, but their jurisdictional significance depends upon the relevant governing rules.

The documentary analysis identifies six recurring dimensions relevant to jurisdictional evaluation: territorial connection, alternative forum availability, evidentiary accessibility, applicable law, procedural fairness, and enforceability. Traditional judicial reasoning gives substantial attention to the location of parties, witnesses, transactions, and legally significant events. Digitally mediated disputes complicate these factors because contractual formation, data processing, communication, and alleged harm may involve different jurisdictions. The geographical location of a server may be relevant in particular circumstances but cannot automatically establish the most appropriate forum. Legal significance depends on the dispute's substantive characteristics and applicable jurisdictional provisions.

The examined frameworks differ in how these dimensions influence judicial decisions. American and English courts may consider practical litigation burdens within their respective discretionary tests. Courts applying the Brussels I Recast must instead establish jurisdiction through applicable statutory provisions, although Articles 33 and 34 allow qualified discretion concerning certain proceedings pending in third states. These provisions do not create unrestricted forum non conveniens authority. The findings indicate that electronic accessibility may modify practical litigation considerations while leaving statutory jurisdictional restrictions intact. Digital connections must consequently be evaluated alongside legal authority rather than treated as independent grounds for discretionary dismissal.

The inferential analysis suggests that technological accessibility changes the evidentiary context of jurisdictional disputes more readily than it changes the legal foundations of judicial

competence. Remote communication, electronic disclosure, and digital document management may reduce some costs traditionally associated with geographical distance. These developments could weaken arguments based exclusively on physical inconvenience within discretionary jurisdictional systems. Their legal consequences remain conditional, however, because witness compulsion, applicable law, procedural protection, and judgment enforcement continue to influence forum suitability. The comparative evidence supports this proposition through doctrinal reasoning rather than statistical estimation of judicial outcomes.

The analysis also indicates that judicial discretion does not necessarily provide greater procedural fairness than rule-based jurisdictional allocation. Discretionary approaches allow courts to accommodate exceptional circumstances but may introduce uncertainty concerning litigation location. Statutory frameworks improve predictability while potentially limiting flexibility when disputes possess multiple meaningful international connections. Neither approach can therefore be characterized as universally superior for digital litigation. The inference emerging from the comparison is that effective jurisdictional assessment requires balancing technological realities with the institutional safeguards already embedded in each legal system.

The comparative findings identify an interaction between geographical connection, electronic evidence, and procedural accessibility. Digital evidence may reduce the practical importance of document location, but its accessibility depends on legal permissions, technological infrastructure, and institutional cooperation. Witness testimony may similarly become easier through remote participation without eliminating differences in compulsory process or evidentiary admissibility. These relationships demonstrate that technological convenience is multidimensional rather than synonymous with geographical independence. The significance of digital accessibility consequently varies according to the nature of the dispute, the applicable procedural rules, and the resources available to litigants.

Jurisdictional predictability also interacts with effective access to justice. Predictable allocation rules allow parties to anticipate potential litigation forums and evaluate legal exposure before disputes arise. Discretionary mechanisms may accommodate exceptional circumstances involving unequal procedural resources or inadequate alternative remedies. The Spiliada framework explicitly preserves consideration of whether justice requires proceedings to remain in England. European jurisdictional law, illustrated by Owusu, emphasizes predictable jurisdictional connections. These differences indicate that legal certainty and individualized procedural protection are complementary objectives, although their relative importance varies across doctrinal settings (Coca-Vila, 2024; Kuzushima, 2024).

The first case study examines Piper Aircraft Co. v. Reyno, 454 U.S. 235 (1981), involving litigation arising from an aircraft accident in Scotland. The United States Supreme Court upheld dismissal on forum non conveniens grounds after examining relevant private and public interests. The Court determined that differences between substantive remedies in competing jurisdictions did not ordinarily prevent dismissal. Its reasoning emphasized the availability of an alternative forum, practical litigation considerations, and Scotland's substantial connections to the dispute. Although the litigation preceded contemporary digital commerce, it establishes an influential foundation for evaluating competing jurisdictional interests.

The second case study compares Spiliada Maritime Corp. v. Cansulex Ltd. [1987] AC 460 with Owusu v. Jackson, Case C-281/02. Spiliada established that English courts may stay proceedings when another available forum is clearly more appropriate, subject to justice considerations. Owusu subsequently determined that the Brussels Convention prevented discretionary dismissal on forum non conveniens grounds where its relevant domicile-based

jurisdictional rule applied. These decisions illuminate a doctrinal contrast between contextual suitability and mandatory jurisdictional allocation. The historical limitation matters because the United Kingdom's withdrawal from the European Union subsequently changed the applicable jurisdictional landscape for many proceedings.

The American and English cases demonstrate that jurisdictional suitability involves more than geographical proximity. Judicial reasoning considers whether the proposed forum can effectively administer justice, accommodate relevant evidence, and address the dispute's substantial connections. Electronic records and remote proceedings may influence these assessments by changing practical litigation burdens. Their introduction would not eliminate the need to establish a competent alternative forum or examine other legally relevant circumstances. The cases therefore provide adaptable analytical principles rather than direct judicial findings concerning contemporary digital disputes.

The European case illustrates the importance of jurisdictional certainty in systems governed by binding allocation rules. In Owusu, the Court of Justice rejected the application of forum non conveniens because discretionary departure from the Convention's jurisdictional framework would undermine predictability and legal protection. Regulation (EU) No. 1215/2012 continues to structure jurisdiction through defined legal grounds, subject to its own exceptions and qualifications. Germany and France consequently cannot be assumed to possess general discretionary powers equivalent to American or English doctrine within the Regulation's scope. Digital litigation must operate within these jurisdictional boundaries unless applicable law provides otherwise (Keating, 2023; Souza, 2025).

The combined findings reveal a fundamental distinction between technological changes in litigation practice and legal changes in jurisdictional authority. Digitally accessible evidence, geographically distributed transactions, and remote participation can alter assessments of practical convenience without necessarily establishing different rules of judicial competence. Common law approaches provide established mechanisms for evaluating contextual appropriateness, whereas the examined European framework emphasizes legislatively determined jurisdictional connections. The comparative analysis therefore suggests that digitally responsive jurisdictional reasoning should preserve the distinction between factual convenience and legal authority.

The research supports a proposed analytical framework incorporating meaningful territorial connections, lawful evidentiary accessibility, procedural fairness, jurisdictional predictability, and judgment enforceability. Its contribution lies in integrating digital litigation characteristics into existing comparative jurisdictional analysis without assuming doctrinal equivalence among legal systems. The findings do not establish how frequently courts modify jurisdictional decisions because of digital evidence or whether particular legal traditions produce superior empirical outcomes. They instead identify the doctrinal conditions under which technological considerations may become legally relevant. Effective transnational dispute resolution requires technological adaptability grounded in applicable jurisdictional rules and credible procedural safeguards (Chai, 2023; Khudiyeva, 2022).

The findings demonstrate significant differences between common law and civil law approaches to transnational jurisdiction, particularly regarding judicial discretion and jurisdictional predictability. American and English courts employ structured assessments of alternative forum suitability, whereas Germany and France operate within the statutory jurisdictional framework established by European Union law where applicable. These differences remain relevant when litigation involves geographically distributed digital activities.

The comparative analysis reveals that technological developments alter the practical significance of traditional connecting factors without automatically transforming jurisdictional authority. Electronic documents, remote testimony, and digital communication may reduce geographical barriers, yet legal considerations concerning admissibility, procedural fairness, and enforceability remain essential. Digital accessibility consequently influences assessments of litigation convenience without independently establishing the jurisdiction of national courts.

The documentary case studies identify contrasting judicial approaches to jurisdictional allocation. Piper Aircraft Co. v. Reyno emphasizes balancing private and public interests, while Spiliada Maritime Corp. v. Cansulex Ltd. requires identification of another clearly more appropriate forum. Owusu v. Jackson illustrates restrictions on discretionary dismissal under the applicable European jurisdictional regime. These authorities establish different relationships between flexibility and legal certainty.

The central finding concerns the distinction between technological convenience and legally appropriate jurisdiction. Digital infrastructure may facilitate cross-border proceedings, but geographical accessibility alone cannot determine judicial competence. Effective jurisdictional assessment requires consideration of substantial connections, procedural safeguards, evidentiary accessibility, and enforceability. These dimensions support a comparative framework accommodating digital transformation while preserving the doctrinal foundations of different legal traditions (Heirbaut, 2024; Khudiyeva, 2022).

The findings correspond with the judicial reasoning in Piper Aircraft Co. v. Reyno, which recognizes that jurisdictional suitability involves more than the claimant's preferred location. Private and public interests remain important when identifying appropriate venues for transnational litigation. The present analysis extends this reasoning by examining whether digital accessibility changes the practical significance of geographical inconvenience within established discretionary assessments.

The findings also reinforce Lord Goff's reasoning in Spiliada, which distinguishes an appropriate forum from one selected merely for convenience. This distinction becomes increasingly significant in digital litigation because remote access may simplify participation without resolving underlying jurisdictional conflicts. The present study therefore interprets technological accessibility as one consideration within a broader assessment of substantial connections and procedural justice.

The European findings align with the legal certainty emphasized in Owusu v. Jackson. The Court of Justice rejected discretionary departure from applicable Convention jurisdiction merely because another national court appeared more appropriate. This approach differs from common law balancing methods by prioritizing predetermined jurisdictional rules. The comparison illustrates how different legal traditions protect predictability through distinct institutional mechanisms.

The analysis further contributes to comparative private international law scholarship by distinguishing technological adaptation from doctrinal convergence. Digital communication may create similar practical challenges across jurisdictions, but shared technological conditions do not necessarily generate identical jurisdictional solutions. The study identifies a need to examine digital connecting factors within applicable legal structures rather than proposing a universally discretionary jurisdictional doctrine (Johnson, 2025; Li, 2022).

The findings signify a transformation in the relationship between territoriality and judicial accessibility. Traditional jurisdictional reasoning developed within legal environments where distance substantially affected communication, evidence collection, and litigation expenses. Digital technologies have weakened several practical barriers without eliminating national legal

boundaries. Jurisdictional analysis must consequently distinguish geographical distance from the legal and institutional capacity to administer justice.

The comparative evidence also indicates that jurisdictional suitability increasingly involves questions of digital infrastructure and procedural capability. Courts may access electronic documents and conduct remote hearings across borders, yet these developments remain dependent on technological security, evidentiary authenticity, and applicable procedural rules. Digital connectivity therefore expands litigation possibilities while introducing additional considerations concerning the reliability and legality of cross-border proceedings.

The findings reveal a potential digital jurisdictional paradox. Greater technological accessibility may make several courts practically capable of hearing the same dispute while leaving their legal authority unequal. Expanded procedural convenience can therefore coexist with persistent jurisdictional fragmentation. This contradiction highlights the importance of distinguishing technological capacity from legal competence when evaluating suitable forums for international civil proceedings (Ojiako, 2023; Sternberg, 2023).

The analysis also reflects changing expectations concerning access to justice. Remote participation may reduce travel expenses and improve opportunities for geographically distant litigants. Unequal technological resources, language barriers, and difficulties obtaining enforceable judgments may nevertheless preserve procedural disadvantages. Digitalization should consequently be assessed through its actual contribution to effective legal protection rather than presumed improvements in convenience.

The theoretical implications concern the continued relevance of territorial jurisdiction within increasingly interconnected digital environments. Traditional connecting factors should not be abandoned merely because evidence or communication crosses national boundaries. Their interpretation may nevertheless require greater sensitivity to electronically mediated transactions and distributed activities. Jurisdictional suitability should reflect meaningful legal connections rather than technological accessibility considered independently (Ferguson, 2022; Morris, 2023).

The judicial implications involve developing clearer methods for assessing electronic evidence, remote testimony, and digital business operations. Courts exercising discretionary jurisdictional powers may consider how these developments affect practical litigation burdens. Courts governed by statutory allocation rules must instead interpret technological facts within authorized jurisdictional categories. This distinction protects doctrinal coherence while permitting appropriate consideration of contemporary litigation practices.

The practical implications extend to multinational businesses, digital platforms, and parties involved in international electronic transactions. Predictable jurisdictional arrangements assist commercial actors in evaluating litigation exposure and contractual obligations. Clearly drafted jurisdiction agreements may reduce uncertainty where legally permitted. Effective dispute planning should also consider data availability, governing law, procedural accessibility, and the potential recognition of foreign judgments.

The regulatory implications emphasize the importance of international judicial cooperation. Cross-border access to electronic evidence, remote hearing arrangements, and recognition procedures require compatible safeguards and reliable institutional communication. Regulation (EU) No. 1215/2012 demonstrates the significance of coordinated jurisdictional arrangements, including qualified provisions concerning proceedings in third states. Such coordination can improve predictability without requiring identical national procedural systems (Huq, 2024; Ma, 2024).

The observed differences arise partly from distinct historical approaches to judicial authority. Common law systems developed discretionary mechanisms allowing courts to evaluate alternative litigation venues. European jurisdictional instruments instead emphasize defined connecting factors and predictable allocation rules. These institutional traditions explain why comparable transnational disputes may generate different jurisdictional outcomes despite involving similar factual circumstances.

The findings also reflect the territorial foundations of private international law. National courts exercise judicial authority through legally established jurisdictional rules, even when disputed activities involve internationally distributed technologies. Electronic accessibility cannot independently replace domicile, contractual connections, or other recognized jurisdictional grounds. Technological transformation therefore creates interpretive pressures without automatically changing the legal sources governing judicial competence.

The limited convergence between legal systems also results from differing understandings of procedural fairness. Discretionary approaches permit individualized consideration of alternative forums and litigation burdens. Rule-based approaches emphasize legal certainty and advance predictability for litigants. These objectives are not inherently incompatible, but legal institutions assign them different significance through established doctrines and legislative frameworks (Mashayekhi, 2024; Tariq, 2025).

The continuing importance of territorial considerations additionally reflects limitations in technological accessibility. Electronic evidence may remain subject to confidentiality rules, data protection requirements, and restrictions on compulsory disclosure. Remote testimony may depend on procedural authorization and technical reliability. Such constraints explain why digital communication reduces certain practical barriers without eliminating questions concerning jurisdictional appropriateness and effective judicial protection.

The findings support developing a digitally responsive jurisdictional assessment framework grounded in existing legal authority. Judicial analysis should begin by identifying applicable jurisdictional rules before examining technological factors affecting litigation suitability. Relevant considerations include substantial territorial connections, lawful access to electronic evidence, remote procedural capabilities, procedural fairness, and enforceability. This approach prevents technological convenience from displacing mandatory jurisdictional requirements.

Future research should systematically examine contemporary judicial decisions involving digital platforms, cross-border data disputes, online commercial transactions, and electronically mediated contractual relationships. Comparative case analysis could identify whether courts increasingly reconsider traditional connecting factors in response to remote litigation capabilities. Empirical research should assess these developments across larger judicial samples rather than relying exclusively on foundational precedents.

Additional investigations should examine how technological inequality influences jurisdictional fairness. Research involving litigants, legal practitioners, and judicial institutions could assess whether remote proceedings meaningfully reduce litigation burdens across national boundaries. Particular attention should address unequal digital infrastructure, evidence preservation, data localization, and access to effective remedies. Such evidence would strengthen the practical applicability of digitally responsive jurisdictional principles.

The proposed research agenda ultimately emphasizes adaptation without unnecessary doctrinal uniformity. Common law discretion and statutory jurisdictional allocation can each accommodate technological developments within their respective legal boundaries. Future legislative and judicial initiatives should prioritize predictability, effective procedural protection,

and international cooperation. Sustainable transnational dispute resolution requires recognizing digital connectivity while preserving legally defensible jurisdictional authority and equitable access to justice.

CONCLUSION

The central finding of this study is that digital connectivity changes the assessment of transnational litigation without automatically changing the legal authority of courts to hear disputes. Comparative examination of the United States, England and Wales, Germany, and France identifies a persistent divergence between discretionary forum non conveniens analysis and jurisdictional allocation under European rules. Electronic evidence, remote testimony, and geographically distributed transactions may reduce inconveniences, but they do not eliminate concerns about alternative forum availability, procedural fairness, or judgment enforcement. A digital jurisdictional paradox emerges: several courts may become practically accessible through technology while only some possess jurisdiction under the governing legal framework. Judicial suitability must therefore be distinguished from technical capability, while convenience remains anchored in recognized connecting factors.

The study contributes a framework that integrates territorial connections, digital evidentiary accessibility, procedural safeguards, jurisdictional predictability, and enforceability. Its contribution is doctrinal rather than empirical: it offers a structured way to examine technological circumstances within distinct legal traditions without equating jurisdictional powers. Analysis of Piper Aircraft, Spiliada, and Owusu illustrates why digital convenience cannot function as a universal ground for declining or retaining jurisdiction. Discretionary common law approaches allow contextual assessment where permitted, whereas European jurisdictional instruments prioritize statutory grounds and exceptions. The framework provides judges and practitioners with an ordered inquiry: identify the applicable rules, establish meaningful connections, evaluate legally obtainable evidence and procedural burdens, and consider the consequences of litigation in competing forums. This preserves clarity and institutional diversity. The resulting framework is intended for careful application, not automatic doctrinal harmonization.

The study is limited by its documentary design, its concentration on four jurisdictions, and its reliance on foundational judgments that predate platform-based disputes. Its conclusions do not establish how frequently judges consider digital evidence in forum disputes or whether one jurisdictional model produces fairer outcomes. National procedural distinctions within Europe, post-Brexit developments, and differences among substantive causes of action also restrict generalization. Future research should systematically code recent decisions involving online commerce, cloud-hosted evidence, digital platforms, and remote hearings, alongside comparative assessments of litigation costs and enforceability. Interviews with judges, litigators, and affected parties could reveal how technical infrastructure and unequal resources shape access to justice. Further doctrinal work should examine jurisdiction agreements, third-state proceedings, data-transfer restrictions, and recognition mechanisms. A broader evidence base would clarify when technological developments justify adjusted interpretations and when legislative coordination is necessary to secure predictable, fair, and effective cross-border adjudication.

DECLARATION OF AI AND AI ASSISTED TECHNOLOGIES IN THE WRITING PROCESS

During the preparation of this work the author(s) used Chat GPT to assist in improving grammar, language quality, and overall readability of the text. After using this tool/service, the author(s) reviewed and edited the content as needed and take(s) full responsibility for the content of the publication.

AUTHORS' CONTRIBUTION

Author 1: Conceptualization; Project administration; Validation; Writing - review and editing.

Author 2: Conceptualization; Data curation; In-vestigation.

Author 3: Data curation; Investigation.

DECLARATION OF COMPETING INTEREST

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

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