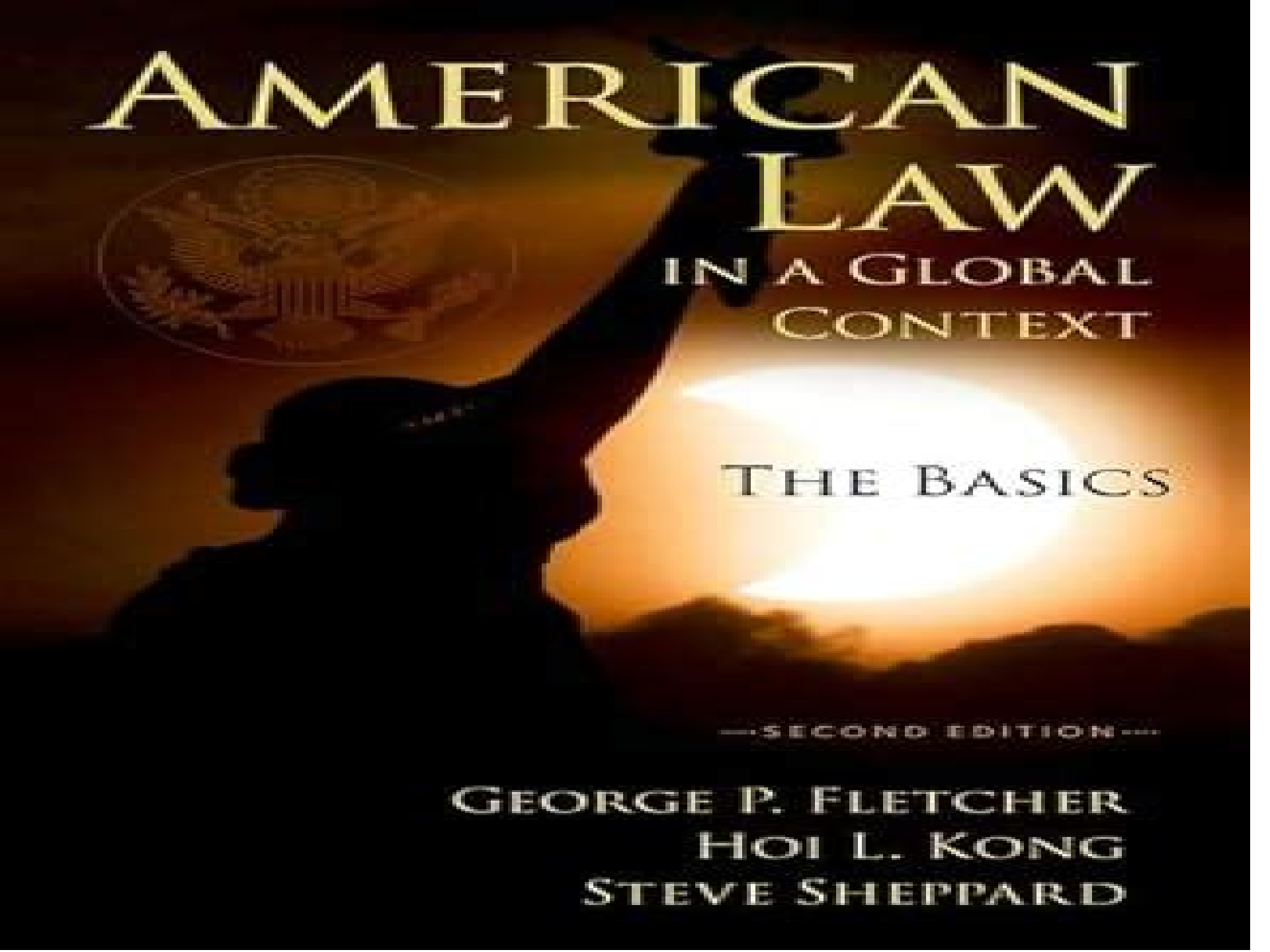




AMERICAN LAW

IN A GLOBAL
CONTEXT

THE BASICS

—SECOND EDITION—

GEORGE P. FLETCHER
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American Law In A Global Context The Basics

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demonstrates the parentship existing between the two systems of protection and highlights that the incremental structuring of trade secrets protection has led to legal systems lacking broad based conceptual foundations In both legal orders trade secrets rely on blurred protection formally anchored in unfair competition the strength of which however comes closer to that offered by intellectual property law In this convoluted architecture the judiciary is required to play a decisive role especially at the enforcement stage However the absence of clarity concerning the telos of trade secrets protection leads to legal uncertainty potentially incoherent enforcement and all in all to inefficient outcomes from a welfare perspective The book then explores a theoretical framework based on a distinction between two legal objects the undertakings secret sphere and secret pieces of information Securing the undertakings secret sphere appears as a condition for the competition process to happen in an economy working under structural uncertainty It requires objective regulations enforced by public authorities On the other hand the legal apprehension of secret pieces of information should be considered as falling within the realm of immaterial goods regulation aiming to solve the deficit of marketability of this type of good This might call after conducting a careful policy trade off for the establishment of relative i e inter partes subjective rights

A Cross Border Study of Freezing Orders and Provisional Measures Tibor Tajti, Peter Iglikowski, 2018-06-16 This book compares the law on provisional measures of common law and civil law countries the goal being to identify and compare their main advantages and disadvantages The guiding concept is a well known statement by the Justices of the US Supreme Court expressed in the famous Grupo Mexicano case according to which the age of slow moving capital and comparatively immobile wealth has now passed and the 21st century requires a fresh look at the law of provisional measures In the quest to find a model for interim relief the Mareva Injunction subsequently renamed the Freezing Order in the English Civil Procedural Rules is used as the benchmark to which each of the targeted systems discussed here is compared This is because international scholarship as well as e g the US Supreme Court generally consider the Mareva Injunction to be the most effective and farthest reaching provisional remedy The analysis suggests that the Mareva Injunction Freezing Order represents the type of relief that will most likely continue to dominate as the most efficient and farthest reaching interim measure in the years to come

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