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Richard Calnan. Description. This book explains how a creditor of an insolvent debtor can take priority over other creditors by claiming a proprietary interest in assets held by the debtor, and concentrates on the circumstances in which proprietary interests are created by operation of law or are implied from the arrangements between the parties. This is a subject of particular importance and difficulty in common law systems because of the changeable nature of equitable proprietary interests

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3 Under English law where the receipt is unauthorised the property will be held on trust: FHR European Ventures LLP v Cedar Capital Partners LLC [2014] UKSC 45; [2015] A.C. 250. Where the receipt is authorised the terms of the relationship will determine whether the property is held on trust upon receipt, or simply makes the fiduciary personally liable to his principal, Paragon Finance v ...

[3 Under English law where the receipt is unauthorised the ...](#)

The relevance of proprietary claims in the context of insolvency is that a person with a proprietary interest is not affected by pari passu sharing (at least not with those creditors who have only claims in contract, tort, or restitution, that is, personal rights): it is the debtor's assets which are used for distribution among his creditors, not the assets of other persons.

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See LAC Minerals v International Corona Resources [1990] 2 S.C.R. 574 (per Laforest J.). 31 [1998] Ch. 1; [1996] 4 All E.R. 698. 32 El Ajou v Dollar Land Holdings [1993] 3 All E.R. 717. 33 Bristol & West Building Society v Mothew [1998] Ch. 1 at 22–23. 34 See Fox, Property Rights in Money (2008), at paras 4.93–4.95. 35 A third exception is Calnan, Proprietary Rights and Insolvency (2010 ...

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2020 Thomson A legal owner can trace at common law albeit ...

The insolvency context in over-the-counter derivatives Similarly, such common intention as to termination and proprietary rights in assets transferred by arm ' s length market participants should be enforced by equity through the common intention constructive trust.

CLOSE-OUT NETTING ARTICLE

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Property, Proprietary Remedies and Insolvency 33 is or is not charitable, or whether on given facts a proprietary interest has arisen, and, if so, precisely of what kind.' ' Professor Birks' particular concern is with deciding whether a claimant should have

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