



# The common error in nomine: Legal comparison of the German and English position

*Miriam Nabinger*

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**The common error in nomine: Legal comparison of the German and English position** Miriam Nabinger  
Seminar paper from the year 2006 in the subject Law - Comparative Legal Systems, Comparative Law, grade: 72%, Stellenbosch University (University of Stellenbosch, South Africa - Department for Private Law), course: Comparative Private Law, 49 entries in the bibliography, language: English, abstract: In this paper it will be made an effort to compare the German and English position in the situation where two parties to a contract have actually reached consensus but gave their agreement an outwards wrong expression by using a wrong name for the subject-matter of contract.

In a first step, the general positions in both jurisdictions will be presented and afterwards, as a practical application of the functionalist approach, it will be sought to determine if the English law would have reached the same outcome if it would have to decide a prominent German court decision by reference to comparable English cases.

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