INDEX

absence of choice, and contracts see choice of law, contracts, applicable law in absence of choice; jurisdiction, contracts, absence of choice
advertising
EU E-Commerce Directive 2.04
and trademarks, designs and patents see unfair competition, trademarks, designs and patents, advertising
agency contract 6.117, 6.123
Albrecht, J. 3.53, 3.66, 3.97
alternative dispute resolution 1.05, 1.12, 1.17, 1.23
alternative dispute resolution, contracts 6.200–222
consumer access 6.203
EU E-Commerce Directive 6.201
European Small Claims Procedure Regulation 6.202
online intermediation services and complaint handling 6.204, 6.208 see also contracts
alternative dispute resolution, contracts, arbitration 6.212–222
agreements concluded by electronic means 6.214
B2C 6.216–222
B2C, annulment of awards 6.221
New York Convention 6.212–214
state court litigation comparison 6.215
UNCITRAL Model Law 6.214, 6.215
alternative dispute resolution, contracts, mediation 6.205–211
Brussels I Regulation (Recast) 6.210
consumers’ right to access to justice 6.206–207
cross-border enforceability 6.209–210
UNCITRAL 6.205, 6.210
alternative dispute resolution, domain names 5.48–51
ICANN Uniform Domain Name Dispute Resolution Policy (UDRP) 1.77, 5.16–19, 5.25, 5.26–47, 5.50–51
Amirmahani, A. 2.47
Ancel, M. 2.30, 4.67
Angelopoulos, C. 4.22, 4.125
antitrust law, 1.95, 1.135, 2.67, 3.113, 5.145, 5.146, 5.150, 5.171, 5.189–5.193, 6.189, 6.194
applicable law 1.78–100
contracts and party autonomy 1.79, 1.82
global comparisons 1.95–100
harmonization issues 1.96
lex loci protectionis principle 1.95
market effects rule 1.95
non-contractual obligations 1.97, 1.98
party autonomy 1.95
public interest law (PIL) systems 1.99
Rome I and Rome II Regulations see Rome I and Rome II Regulations self-regulation 1.95
substantive rules 1.78 see also choice of law
arbitration, alternative dispute resolution see alternative dispute resolution, contracts, arbitration
Australia
Dow Jones & Co. v. Gutnick 1.114, 3.112
Macquarie Bank v. Berg 3.152
X v. Twitter 3.152, 5.201
Bariatti, S. 4.16, 4.112

497
INDEX

Barlow, J. 1.02
barter contracts 6.168
Basedow, J. 1.08, 1.99, 4.12, 4.16, 4.47, 4.67, 4.103, 4.104, 5.189, 5.193, 6.183
Berman, P. 1.16, 1.17, 5.43
Berne Convention, copyright law 4.01–02, 4.03, 4.05, 4.07, 4.10, 4.12–13, 4.14, 4.48, 4.66, 4.99, 4.121
Bettinger, T. 5.18, 5.19, 5.28, 5.56, 5.57, 5.60
Biegel, S. 1.15
Bigos, O. 2.75, 2.83
Bizer, A. 3.138
blockchain technologies see classification, contracts, DLT and blockchain technologies
blocking access to damaging content, service provider intermediaries 2.46
blocking injunctions 2.84, 3.127, 4.88, 4.160, 5.86
Bodó, B. 4.101, 6.63
Born, G. 1.65, 1.103, 1.113, 6.87
Brachotte, S. 1.50, 2.72
branch operations 1.52, 2.15, 2.90, 3.82–83, 6.36, 6.125, 6.128, 6.151
Brand, R. 1.32, 1.76, 1.99, 1.118
Bridy, A. 2.48
Brkan, N. 3.78, 3.79, 3.88, 3.94, 3.134
Brussels I Regulation (Recast) 1.33–61, 1.63
alternative jurisdiction rules 1.46
branch agency disputes 1.52
choice of law, contracts 6.157
choice of law, copyright law 4.40, 4.91–95, 4.134, 4.148, 4.150
choice of law, trademarks, designs and patents 5.116, 5.117
civil claim for damages or restitution based on criminal proceedings 1.51
classification, contracts 6.20, 6.30, 6.32–37, 6.42–68
coordination of proceedings 1.57–61
defendant domiciled in Member State 1.37, 1.46, 1.47
defendant not domiciled in Member State 1.36–40
EU General Data Protection Regulation (GDPR), civil claims against a controller or processor 3.78, 3.79, 3.80, 3.82, 3.84, 3.85, 3.89–95
EU General Data Protection Regulation (GDPR), personality rights 3.115–118, 3.119, 3.125
EU Geo-blocking Regulation 2.42, 2.43
exclusive jurisdiction 1.42–45
foreign judgments, recognition and enforcement, copyright law 4.155, 4.163, 4.164, 4.170
forum non conveniens doctrine 1.72
jurisdiction, contracts 6.70–83, 6.86, 6.88, 6.90, 6.91–95
jurisdiction, copyright law, place where damage occurred 4.71–74, 4.77, 4.81–84
jurisdiction, copyright law, potentially unlimited jurisdiction, grounds for 4.52, 4.54–61, 4.63
legal certainty principle 1.48
lis pendens rules 1.57–58, 1.60–61
and Lugano Convention 1.35, 1.38, 1.43, 1.45, 1.52, 1.54, 1.117, 1.125, 1.131–132
mosaic approach 1.50
multiple defendant forum 1.53–54
and national laws 1.36, 1.38–41
national rights, trademarks, designs and patents 5.67–69, 5.71, 5.82, 5.84, 5.85, 5.89
parallel proceedings provisions 1.57–59
provisional measures, rules for adoption of 1.55–56, 1.128
recognition and enforcement, private international law 1.103, 1.109, 1.117, 1.125–130, 1.131
special jurisdiction 1.40, 1.48–54
torts and illegal content 2.66, 2.68–71, 2.80
unfair competition, trademarks, designs and patents 5.147–151, 5.153, 5.155–157, 5.166, 5.192
unfair competition, trademarks, designs and patents, foreign judgments 5.198, 5.215, 5.217, 5.218
weaker party 1.44, 1.73
Budiardjo, L. 4.22
bundle patents 5.68, 5.80
see also trademarks, designs and patents
Cachard, O. 2.24
Calliess, G. 2.97, 6.40, 6.135
Canada
Douez v. Facebook 6.87
Google v. Equustek 1.114, 4.45, 5.202
Haaretz v. Goldhar 3.112, 3.131–133, 3.149
Pro Swing v. Elta Golf 1.107, 4.69, 4.157
Society of Composers, Authors and Music Publishers of Canada v. Canadian Assn. of Internet Providers 4.50
Uniform Electronic Commerce Act 6.08
Cavanillas Múgica, S. 2.65
centre of interest
‘habitual residence’ of data subject
comparison 3.87
and personality rights 3.119–124, 4.64–67
and unfair competition 5.154
Chang, H. 3.38
characteristic performance doctrine,
contracts 6.152, 6.157, 6.159–164
children and minors 2.09, 2.22, 2.24, 2.60, 2.62, 3.05, 3.13, 3.15, 3.17, 3.22, 6.178
choice of law, contracts 6.135–199
characterization 6.180–186
content disputes 6.175–177
contract invalidity and lack of capacity 6.178
contracts with a weaker party and consumer protection 6.143–146
copyright licensing challenges and moral rights 6.184–186
country in which performance takes place 6.134, 6.174
data protection legislation 6.181
Digital Single Market 6.186
formation and validity of contract 6.173–179
freedom of choice 6.135–138
habitual residence of the parties focus 6.177
Hague Principles 6.139
lex loci protectionis 6.183, 6.186
minors, contracts involving 6.178
non-state rules, significance of 6.139–142
overriding mandatory rules, third country law 6.195–199
overriding mandatory rules, third country law, location of the relevant place of business 6.198
party autonomy 6.135–146, 6.138, 6.144, 6.146
public interests protection 6.138
Rome II Regulation 6.181, 6.182
social networks and platforms 6.139–142
translated version of the agreement 6.176
unfair competition 6.181
choice of law, contracts, applicable law in absence of choice 6.147–172
barter contracts 6.168
Brussels I Regulation 6.157
characteristic performance doctrine 6.152, 6.157, 6.159–164
contracts with a weaker party 6.170–172
developer-publisher licence agreements 6.164
development contracts 6.163
distribution contract 5.145, 6.103, 6.153, 6.157
escape clause and default rule 6.165–169, 6.172
INDEX

franchise contract 6.153
habitual residence of the parties focus
6.147, 6.149, 6.151–154, 6.156,
6.157, 6.159, 6.162, 6.169,
6.170–171
individual contracts of employment 6.172
joint development agreements 6.164
production and supply contracts 6.163
provision of services contract 6.152,
6.157–158, 6.163
proximity principle 6.148, 6.165
publishing agreements 6.163
Rome I Regulation 6.147–150, 6.153,
6.154, 6.157, 6.159, 6.165–166,
6.167–170, 6.172
sale of goods by auction contract 6.155
sale of goods contract 6.152, 6.157, 6.163,
6.171
tenancy of immovable property 6.38,
6.154, 6.167
transfer or license of IP rights 6.156–158,
6.161–163, 6.166, 6.167, 6.168
choice of law, contracts, overriding
mandatory rules and public policy
6.187–199
data protection 6.194
Digital Single Market 6.191
fairness and transparency for business
users 6.192–193
forum law 6.187–194
public security restrictions 6.193
Rome I Regulation 6.188, 6.189, 6.190,
6.191, 6.193, 6.195–196
self-employed commercial agents 6.190
choice of law, copyright law 4.96–151
'act of communication to the public'
concept 4.125
ALI Principles 4.16, 4.105, 4.117, 4.122
Brussels I Regulation (Recast) 4.40,
4.134, 4.148, 4.150
CLIP (Conflict of Laws in Intellectual
Property) Principles 4.16, 4.107,
4.110, 4.117, 4.124
employment relationship or service
contract 4.107
EU Digital Single Market Directive 4.19,
4.38, 4.125, 4.132–136, 4.150
foreign law and national treatment 4.120
geo-blocking effects 4.113, 4.127
information dissemination issues
4.111–115
initial ownership or authorship 4.102,
4.103–108
intermediaries and information
dissemination 4.114
intermediary service providers’ liability
4.121–129
lex originis 4.102, 4.104, 4.105
mosaic approach 4.115, 4.123
non-contractual obligation 4.97
parallel download of works protected by
copyright 4.113
party autonomy 4.108
Rome II Regulation and lex loci
protectionis 4.96–105, 4.109–113,
4.116–123, 4.126, 4.128, 4.131,
4.133, 4.137–138, 4.142, 4.144,
4.151
Rome II Regulation and lex loci
protectionis, alternatives 4.116–120
single copyright title suggestion
4.116–120, 4.124, 4.142–143
ubiquitous infringements 4.109–129,
4.151
uniform rules 4.96–108, 4.142–143
see also copyright
choice of law, copyright law, Digital Single
Market 4.130–151
country of origin principle 4.35,
4.130–132, 4.135, 4.142–151
cross-border portability of online content
services 4.139–141
cross-border teaching activities 4.137
cultural heritage institutions 4.137
enforcement against foreign providers
4.149
EU E-commerce Directive 4.130,
4.145–146, 4.148
harmonization target 4.142–144, 4.147
internal market rule 2.30, 2.32, 2.34,
2.35, 4.118, 4.144, 4.145–146,
4.148–149, 4.151
third States, copyrights granted by 4.151

500
Pedro de Miguel Asensio - 97817888110822
Downloaded from Elgar Online at 11/07/2021 05:01:31AM
via free access
choice of law, trademarks, designs and patents 5.01–08, 5.58–60, 5.111–128
ALI Principles 5.115
Brussels I Regulation (Recast) 5.116, 5.117
copyright comparison 5.113, 5.115, 5.116
't country in which the act of infringement was committed' concept 4.119, 5.103, 5.125–128
geolocation technology use 5.119, 5.121
mere accessibility and significant effect 5.121, 5.122
multilateral treaties 5.112
multiple country infringements 2.80, 5.116
non-contractual obligation 5.113–116, 5.124
Rome II Regulation 5.113, 5.116, 5.120, 5.123, 5.124, 5.126, 5.127
substantive law interaction 5.117–122
territoriality and lex loci protectionis 5.111–116, 5.118, 5.123
third states and unitary rights 5.128
ubiquitous infringement 5.115
unitary rights 5.123–128
WIPO Joint Recommendation 5.121
civil claims against a controller or processor see EU General Data Protection Regulation (GDPR), civil claims
against a controller or processor
CJEU
AB ‘flyLAL-Lithuanian Airlines’ 1.85, 5.152, 5.157, 5.191
ACI Adam BV 4.26, 4.27
AIRBNB Ireland 2.04, 2.08, 2.22, 2.35
Alassini 6.207
Alpine Investments 5.188
Amazon EU 2.11, 6.17
Amazon.com International Sales 4.26
AMS Neve 5.104–105
Apostolidis, 3.163
Apple Sales International 5.146, 5.152, 6.80
Aqua Med 6.85
Arblade 6.189, 6.190
ARD, 5.188
Art & Allposters International 4.36
Asbeek Bruse and de man Garabito 6.26
ASML 1.129
Asociación Profesional Élite Taxi 2.07–08, 2.23, 2.35, 5.144
Asturcom Telecomunicaciones 6.190, 6.221
Austro-Mechana 4.43, 6.93
Baltic Media Alliance 2.23, 2.24
Bastei Lübbe 4.32
Bavarian Lager 3.01
Bayrische Motoren Werke 5.91, 5.93, 5.106, 5.133, 5.145, 5.150
Belgian Electronic Sorting Technology 5.22, 5.23, 5.133, 5.143, 5.144
Benincasa/DentalKit 6.44
BergSpechte 5.11
Bexis 1.48, 4.74, 6.92
BestWater International 4.22, 4.125
Betriebsrat der Rubrlandklinik 6.89
BGL BNP Paribas 6.69
Bier 2.73
Blomqvist 5.65–66, 5.122
Bolagsuppsysningen 1.50, 2.79, 2.80, 2.84, 3.92, 3.112, 3.119–123, 3.125–127, 4.64, 4.86–88, 5.86–87, 5.154, 5.156, 5.197
Bond van Adverteerders 5.188
Bonnier 2.57, 3.03, 4.31, 4.45, 4.174
Breyer 3.06
Brogisitter 1.50, 3.80, 6.94
Buijvids 3.04, 3.38
BYG 1.43
C More Entertainment 4.24
Car Trim 6.101, 6.102, 6.104, 6.113, 6.114, 6.124
Castelletti 6.74
CDC Hydrogen Peroxide 1.54, 4.57, 5.152, 5.192, 6.80
Česká sportelna 6.43, 6.44, 6.93, 6.97, 6.120
ClientEarth and PAN Europe 3.06
Collectieve Antennevoorziening Goude 5.188
Color Drack 6.92, 6.115
combit Software 5.208, 5.213
Concurrence 2.79, 2.82, 5.146, 5.150, 5.157–158, 5.160, 5.191
Content Services 6.17

501
### INDEX

| Copydan Båndkopi 4.26 | flightright 6.93, 6.116 |
| Coreck Maritime 6.72, 6.80 | flyLAL-Lithuanian Airlines 1.85, 1.130, 3.163, 5.152, 5.157, 5.191 |
| Corman-Collins 6.100, 6.102, 6.103 | Folien Fischer and Fofitec 2.72, 2.73, 3.92, 3.95, 4.50, 4.63, 5.106 |
| Coty Germany 1.50, 2.73, 2.82, 5.91, 5.101–103, 5.104, 5.150, 5.151, 5.152, 5.153, 5.159 | Football Dataco 2.83, 4.61, 4.82, 4.112, 4.136 |
| Courage 5.146 | Freepost 1.54, 4.57 |
| Custom Made Commercial/Starwa Metallbau 6.98 | Funke Medien NRW 4.26, 4.29 |
| Da Silva Martins 1.85 | G 1.40, 1.41, 2.14, 2.17, 2.70 |
| Daimler 5.11 | Galileo Lebensmittel 5.17 |
| Danosa 6.89 | Gambazzi 1.120 |
| Data Protection Commissioner 3.34 | Gasser 1.58 |
| De Agostini y TV-Shop 5.188 | GAT 5.69, 5.70, 5.73–75 |
| De Bloos v. Bouyer 6.98 | GIE Groupe Concorde 1.48, 4.74, 6.98 |
| Denilauler 4.163 | Glawischnig-Piesczek 1.17, 2.57, 3.59, 3.127, 3.152 |
| Deutsche Grammophon 4.36 | Google France 2.05, 2.53, 2.55, 4.45, 5.11, 5.204, 5.218 |
| deutsche internet versicherung 2.11, 2.12 | Google (Portée territoriale du déréférencement) 1.17, 1.26, 3.03, 3.04, 3.15, 3.38, 3.40, 3.46, 3.55–56, 3.57, 3.60 |
| DHL Express France 1.107, 4.68, 4.70, 4.168, 5.196, 5.210, 5.212, 5.215, 5.216 | Gotcha 1.127 |
| Diages Brands 1.130, 3.163, 5.218 | Gourmet International Products 5.188 |
| Digital Rights Ireland and Seitlinger 3.03, 3.06 | Granarolo 1.37, 3.80, 6.93, 6.100, 6.103 |
| Donner 4.82, 4.109, 4.110 | Gruber 6.43, 6.44, 6.45, 6.54 |
| Dowse Egberts 5.188 | GS Media 4.22, 4.125 |
| Dujinsee 5.70, 5.71 | H. Gautzsch Großhandel 5.123 |
| Dumce 2.78 | Hauger & Schmidt 6.165 |
| Eco Swiss 6.194, 6.215 | Hanssen Beleggingen 1.43, 5.71 |
| eDate Advertising 1.50, 2.05, 2.14, 2.22, 2.32, 2.34, 2.36, 2.73, 2.79, 2.81, 3.87, 3.92, 3.112, 3.117–118, 3.121, 3.123–125, 3.141, 3.151, 4.64–66, 4.86, 4.145, 5.87–88, 5.154, 5.156, 5.184–185, 6.12 | Hansson 4.21 |
| Effort v. Kantner 6.93 | Hedqvist 6.68 |
| EGEDA 4.26 | Hejduk 2.73, 2.75, 2.79, 2.81, 3.118, 3.126, 4.35, 4.50, 4.62, 4.71, 4.73–75, 4.77, 4.82, 4.84–85, 4.146, 5.90, 5.105, 5.156 |
| El Majdoub 1.45, 6.71, 6.78 | Henkel 2.73, 5.150, 6.41, 6.72, 6.94 |
| Electrosteel Europe 6.113 | Hewlett-Packard Belgium 4.26 |
| Emrek 6.58 | Hi Hotel HCP 4.56 |
| Engler 6.42, 6.43, 6.44, 6.93 | Hobohm 6.60 |
| ERGO Insurance and Gjensidige Baltic 1.85 | Holtermann Ferbo Exploitation 6.88 |
| Estasis Salati di Catznani 6.76 | Höszig 6.71, 6.75, 6.80 |
| Falco Privatstiftung und Rabitsch 1.42, 6.103, 6.111, 6.158 | Huawei Technologies 5.145 |
| Farrell 4.74 | Hummel Holding 5.91, 5.92, 5.94 |
| Fashion ID 3.01, 3.03, 3.38, 3.76, 3.90 |  |  |  |  |
INDEX

Hydrogen Peroxide 1.54, 4.57, 5.152, 5.192, 6.80
Hypoteční banka 1.40, 1.129, 2.69, 2.70, 2.72
ICF 6.165
IHT Internationale Heiztechnik and Danzinger 5.63
Ilisinger 6.37, 6.42
Infopaq 4.27
Interflora 6.190
Interflora and Interflora British Unit 5.11
Internetportal 5.51
IPI 3.17
Jehovan todistajat 3.38
Kainz 2.76
Kalfelis 1.50, 1.54, 4.50, 6.94
Kamenova 5.138, 6.55
Kareda 1.85, 6.103, 6.118, 6.123
Ker-Optika 2.04, 2.05, 2.10, 2.26
Kerr 6.158
Koelzsch 6.172
Kolassa 1.50, 6.93
Kön 5.189
Konstantinides 5.188
Laezza 5.188
Lagardère 4.15, 4.34, 4.131
Lazar 2.88, 2.89
Lease Plan Luxembourg/Belgische Staat 2.15
Leathertex 6.98, 6.99
Lebok 1.129
Leventis and Vafeias 1.45, 6.75
Liberat 1.129
Liffers 4.21
Lindqvist 3.03, 3.08, 3.17, 3.38
L'Oréal 2.05, 2.53, 2.55, 2.64, 4.45, 4.110, 5.58, 5.62, 5.122, 5.204
McFadden 2.04, 2.53, 2.54, 2.56, 4.32, 4.45, 4.88, 4.158, 4.174, 5.184, 5.205
Mahamdia 6.72, 6.81, 6.90
Manfredi 5.146
Manni 3.06
Marinari 2.78
Meeth 6.71
Melter 4.56, 5.152
Menini and Rampanelli 6.207, 6.217
Merck 5.57
Mercedi 3.86
Milivojević 6.44
Mostaza Claro 6.190, 6.221
MSG/Les Gravières Rhénanes 1.45, 6.75, 6.97, 6.120
Mühlleitner 2.43, 6.58, 6.62
Mulox IBC/Geels 6.88
Neo Media Online 2.09
Nikiforidis 6.199
Nintendo 1.54, 4.57, 5.80, 5.83, 5.91, 5.96, 5.99, 5.103, 5.122–126, 5.208, 5.210, 5.215
Nipponkoa 3.95
Nogueira 6.90, 6.129
O2 5.130
Océano Grupo Editorial 6.26, 6.85, 6.86, 6.221
ÖFAB 1.48
Osusu 1.36, 1.48, 1.72, 2.69, 5.183
Padawan 4.26
Painer 1.54, 4.58–59, 5.81
Panmer and Hotel Alpenhof 2.43, 3.51, 5.60, 5.177, 6.58, 6.59
Papasevias 2.04, 2.05, 2.36, 2.53, 2.55, 3.144
Pelham 4.29
Peters 6.93
Petruchová 6.87, 6.44
Peugeot Deutschland 2.09
Philips 5.65
Pie Optiek 5.18, 5.48, 6.110
Pierre Fabre Dermo-Cosmétique 5.145
Pillar Securitisation 6.37
Pinkney 2.79, 2.81, 4.35, 4.65, 4.71–76, 4.82, 4.84, 5.87, 5.90, 5.105, 5.154, 5.156
Pippig 5.130
Planet 49 3.13
Plus Warenhandelsgesellschaft 5.141
Portakabin 5.11
Procureur-Generaal bij de Hoge Raad der Nederlanden 5.198
Profit Investment SIM 6.74
Promuscae 4.30
Public Relations Consultants Association 4.25
Ranks and VasiJević 4.23, 4.36

503
INDEX

Realchemie Nederland 1.108, 1.127
Refochem 1.44, 6.75
Rehder 6.116
Reichert 1.43, 1.55, 4.94
Renckhoff 4.22, 4.27
Roche Nederland 1.54, 4.57, 4.58, 5.74, 5.80–81, 5.99
RTL Televisión 5.188
Ryanair 1.52, 2.68, 6.37
Ryneš 3.38
SABAM 2.05, 2.57, 4.31, 4.45, 4.174
Saey Home & Garden 1.45, 6.76
Säger 5.188
St. Paul Dairy 1.55, 4.94
Sapir 1.53, 1.54, 3.79
Satakunnan Markkinapörssi and Satamedia 3.38
Scarlet Extended 2.05, 2.53, 3.03, 4.31, 4.45, 4.174
Schlecker 6.129, 6.172
Schrems 3.01, 3.03, 3.33, 3.78, 3.85, 3.94, 6.41, 6.48–51
Schweppes 4.36, 5.63
Sebago and Maison 4.36, 5.61
SGAE v. Rafael Hoteles 4.27
Shearson Lehman Hutton/TVB 6.41, 6.43, 6.44
Shenavai v. Kreischer 6.88, 6.99
Shevill 1.50, 2.73, 3.116, 3.117, 3.126, 4.86, 5.193
Silhouette 4.36, 5.61
Skanska Industrial Solutions 5.189
slewo 6.17
SNB-REACT 5.204
Solcay 5.76
Spiegel Online 4.26, 4.29
Stichting Brein 2.55
Stichting Brein [Filmpjesler] 4.22
Stichting Brein [Ziggo] 4.22, 4.27, 4.45, 4.125
Stichting de Thuiskopie 4.26
Stowarzyszenie Olaowsa Telewizja Kablowa 4.21, 4.172
Sunico 3.79
Svensson 4.22, 4.125
Tacconi 6.93
Taser International 1.44
Tatry/Maciej Rataj 1.54, 2.77, 4.63
Technische Universität Darmstadt 4.26
Tel2 Sverige AB 3.03, 3.06
Telekomunikacja Polska 5.142
Tessili v. Dunlop 6.98
Toa’s 4.12
Tommy Hilfiger Licensing 4.45, 5.205
Uber France 2.08, 2.35
Unamar 6.190
Universal Music International Holding 2.78
UPC Telekabel Wien 4.32, 4.45, 4.88, 4.159, 4.174
UseSoft 4.23, 4.36, 6.109, 6.110
Van Uden 1.55, 1.56, 4.91, 4.93, 4.94
Vanderborght 2.04, 2.36, 5.141, 5.184, 5.185, 5.187, 5.188
Vapenik 6.43
VCAST 4.22, 4.35, 4.130
Verband Sozialer Wettbewerb 5.142, 5.171, 5.172
Vereniging Openbare Bibliotheek 4.23
Vooggeerd 6.172
Walbusch Walter Busch 6.17
Wind Tre and Vodafone Italia 5.142
Wintersteiger 2.73–75, 2.79, 2.83, 3.118, 4.46, 4.61–62, 4.65, 4.74, 4.134, 5.83–84, 5.87, 5.88, 5.117, 5.152, 5.154, 6.121
Wirtschaftsakademie Schleswig-Holstein 3.38, 3.40, 3.62, 3.84
Wood Floor Solutions Andreas Donberger 6.116, 6.117, 6.123
YouTube 2.55, 4.22
Zelger v. Salinitri 6.97, 6.120
Zino Davidoff and Levi Strauss 4.36, 5.61
Zuid-Chemie 2.78
see also EU headings
classification, contracts 6.30–69
Brussels I Regulation (Recast) 6.20, 6.30, 6.32–37, 6.42–68

504
Pedro de Miguel Asensio - 9781788110822
Downloaded from Elgar Online at 11/07/2021 05:01:31AM
via free access
INDEX

collaborative economy and P2P transactions 6.52–56
collaborative economy and P2P transactions 6.52–56
consumer contract exclusions 6.37–39, 6.64
consumer protection 6.33, 6.35–41
collaborative economy and P2P transactions 6.52–56
collaborative economy and P2P transactions 6.52–56
collaborative economy and P2P transactions 6.52–56
collaborative economy and P2P transactions 6.52–56
consumer protection organizations, claims brought by 6.41
collaborative economy and P2P transactions 6.52–56
collaborative economy and P2P transactions 6.52–56
country of the consumer’s domicile concept 6.57–62
collaborative economy and P2P transactions 6.52–56
collaborative economy and P2P transactions 6.52–56
collaborative economy and P2P transactions 6.52–56
collaborative economy and P2P transactions 6.52–56
‘place of performance of the obligation’ 6.31
Rome II Regulation 6.35
social networks and platform economy 6.46–56, 6.61
special protection rules 6.58
classification, contracts, DLT and blockchain technologies 1.04, 1.06, 6.63–69
central administrator location 6.65
collaborative economy and P2P transactions 6.52–56
‘place of performance of the obligation’ 6.31
Rome II Regulation 6.35
social networks and platform economy 6.46–56, 6.61
special protection rules 6.58
classification, contracts, DLT and blockchain technologies 1.04, 1.06, 6.63–69
central administrator location 6.65
cryptocurrencies and virtual assets 6.68–69
encoding issues 6.67
collaborative economy and P2P transactions 6.52–56
and party autonomy 6.64
smart contracts 6.63–67
Clemmer, C. 2.48
‘click-wrapping’ method, contracts jurisdiction 6.78
CLIP (Conflict of Laws in Intellectual Property) Principles 4.16, 4.107, 4.110, 4.117, 4.124, 5.115, 5.199
cloud services 1.06, 1.14, 2.59, 2.83, 3.32, 3.36
cloud services 1.06, 1.14, 2.59, 2.83, 3.32, 3.36
collaborative economy and P2P transactions 6.52–56
collaborative economy and P2P transactions 6.52–56
collaborative economy and P2P transactions 6.52–56
Collins of Mapesbury, Lord 1.101, 2.95, 2.98, 3.143, 6.135
collaborative economy and P2P transactions 6.52–56
consumer protection see unfair competition
consumer contracts 6.37–39, 6.64, 6.81–87, 6.203
collaborative economy and P2P transactions 6.52–56
consumer protection
consumer contracts 6.33, 6.35–41, 6.143–146
data protection and personality rights, US 3.05
EU E-Commerce Directive 2.11, 2.27, 2.30, 2.57
EU Geo-blocking Regulation 2.43
collaborative economy and P2P transactions 6.52–56
consumer protection organizations 6.41, 6.72
collaborative economy and P2P transactions 6.52–56
contracts 1.10, 6.01–222
alternative dispute resolution see alternative dispute resolution, contracts
Brussels I Regulation Recast 6.20
collaborative economy and P2P transactions 6.52–56
choice of law see choice of law, contracts classification see classification, contracts
EU Contracts for the Supply of Digital Content and Digital Services Directive 6.19–23
EU E-Commerce Directive see EU E-Commerce Directive, contracts
EU Unfair Contract Terms Directive 6.24–26
harmonization measures 6.19–20, 6.24
jurisdiction see jurisdiction, contracts
legal certainty principle 6.02, 6.70, 6.92, 6.138, 6.148, 6.165
and party autonomy 1.79, 1.82
platform economy and intermediation services 6.27–29
Rome I Regulation 6.20
sale of goods and supply of digital content and services 6.19–23
‘writing’ requirement 1.45, 6.05, 6.06, 6.13, 6.30, 6.76–78, 6.179, 6.211, 6.214

505

Pedro de Miguel Asensio - 9781788110822
Downloaded from Elgar Online at 11/07/2021 05:01:31AM
via free access

506

Pedro de Miguel Asensio - 9781788110822
Downloaded from Elgar Online at 11/07/2021 05:01:31AM via free access
INDEX

WTO TRIPS Agreement 4.04–06, 4.07, 4.10, 4.12, 4.13, 4.21, 4.27
see also intellectual property rights; trademarks, designs and patents
counterfeit goods 4.08, 5.64–66
country of origin principle
EU E-Commerce Directive see EU E-Commerce Directive, country of origin principle
torts and illegal content 2.63
unfair competition, trademarks, designs and patents 5.181–188
country where the services are supplied, understanding of 6.39–40
country in which the act of infringement was committed concept 4.119, 5.103, 5.125–128
country in which performance takes place 6.134, 6.174
credit agreement and provision of services 6.118
cross-border activities
copyright law, Digital Single Market 4.137, 4.139–141
trademarks, designs and patents 5.57–66
cross-border processing, EU General Data Protection Regulation (GDPR) 3.61–74
cooperation procedure 3.67, 3.72, 3.74
cross-border processing definition 3.64–65
establishments in more than one Member State 3.63–64, 3.68–70
forum shopping ban 3.70
one-stop-shop mechanism implementation 3.66–70, 3.81
supervisory powers 3.61–63
cross-border transfers of data, EU General Data Protection Regulation (GDPR) 3.29–36
EU-US Privacy Shield 3.33
free flow of data in EU 3.29–31
right to privacy 3.29
transfers of personal data to third countries 3.32–36
Cruquenaire, A. 5.30
cryptocurrencies and virtual assets, DLT and blockchain technologies 6.68–69
cultural heritage institutions, and copyright law 4.137
cyberlaw 1.01–13
blockchains 1.04, 1.06
codes of conduct between professional bodies and associations 1.04, 1.08, 1.10
contract law 1.10
and copyright 1.07
dispute resolution mechanisms 1.05, 1.12
FRAND commitments 1.08
intellectual property rights 1.07, 1.11–12
licensing 1.08
multiple cross-border licences 1.04
national jurisdiction 1.03, 1.06, 1.07, 1.08, 1.11, 1.13
open source software 1.04, 1.08
party autonomy 1.09–10
platforms and social networks and service providers 1.05–1.06, 1.08, 1.10
self-regulation consideration 1.03, 1.10, 1.11, 1.13
technical infrastructure control issues 1.03, 1.12
and telecommunication services provision 1.06
territorial jurisdictions, alternatives and challenges 1.01–07
trademark protection 1.12
cybersquatting 5.24, 5.41–45
Czech Republic, Czech Trade Promotion Agency v. J.K. and CzechTrade Internet 5.144
Daskal, J. 1.114, 1.124
data processing contracts 6.106
data protection see EU General Data Protection Regulation (GDPR)
data protection, and contracts 6.106, 6.181, 6.194
De Beer, J. 2.48
De Filippi, D. 1.04, 1.06, 6.63, 6.66
De la Chapelle, B 1.16
De Lima Pinheiro, L. 3.21, 3.28
De Vasconcelos Casimiro, S. 3.02
INDEX

defective products 2.76, 2.78
derivative works, and copyright 6.185
designs see under trademarks, designs and patents
Determann, L. 4.36
development contracts 6.163
Dickinson, A. 1.38, 1.99, 2.33, 2.86, 3.108, 6.65, 6.68, 6.69, 6.139, 6.198
'digital content’ classification, and contracts 6.106–110
Digital Single Market
and choice of copyright law see choice of law, copyright law, Digital Single Market
choice of law, contracts 6.186, 6.191
Dinwoodie, G. 2.47, 4.39, 4.70, 4.123, 5.25, 5.133
distance contract 6.15–16, 6.17
distribution contract 5.145, 6.103, 6.153, 6.157
DLT and blockchain technologies see classification, contracts, DLT and blockchain technologies
domain names, trademarks, designs and patents 5.15–56
advertising and unfair competition 5.143, 5.144
cybersquatting 5.24, 5.41–45
Domain Name System (DNS) 5.15–19
eu. domain names 5.48–56, 5.63
eu. domain names, alternative dispute resolution 5.48–51
eu. domain names, national courts jurisdiction and choice of law 5.52–56
ICANN Uniform Domain Name Dispute Resolution Policy (UDRP) 1.03, 1.12, 1.77, 5.16–19, 5.25, 5.26–47, 5.50–51
ICANN Uniform Domain Name Dispute Resolution Policy (UDRP), limited scope and effect 5.28–31, 5.33, 5.34, 5.46
ICANN Uniform Domain Name Dispute Resolution Policy (UDRP), national court role and jurisdiction considerations 5.37, 5.39, 5.40–47
and intellectual property rights 5.20–25
provisional measures 5.29
registration 5.21, 5.22, 5.24
second-level domain names 5.17, 5.18, 5.21, 5.22
seizure issues, US, private international law 1.71
top level domains (TLD) 5.17–19, 5.21, 5.26, 5.48
trademark owner disputes 5.21, 5.23–25
domicile issues and copyright law 4.52–59
defendant domiciled in a Member State, Brussels I Regulation (Recast) 1.37, 1.46, 1.47
defendant not domiciled in a Member State, Brussels I Regulation (Recast) 1.36–40
torts and illegal content 2.69–70, 2.72–73
US, private international law 1.67
see also habitual residence
dominant position abuse, trademarks, designs and patents 5.145, 5.150
double instruments 1.117
Drexel, J. 4.08, 4.11, 4.97, 4.99, 4.100, 4.109, 5.03, 5.14, 5.112, 5.125, 5.167, 5.171, 5.181, 6.183
due process analysis, US, private international law 1.65, 1.68, 1.70, 3.130, 3.157, 6.133
Edwards, L. 2.48, 2.55, 3.37
‘effects test’ for establishing personal jurisdiction, US, private international law 1.70, 3.130
Efroni, Z. 5.30, 5.39
electronic mail 2.12, 2.19, 2.75
electronic signatures 6.03, 6.04–09, 6.11, 6.13
employment contracts 4.107, 6.88–90, 6.172
see also self-employment
escape clause 2.91, 6.165–169, 6.172
establishment as ground of jurisdiction, EU General Data Protection Regulation (GDPR) 3.81–85

508
Pedro de Miguel Asensio - 9781788110822
Downloaded from Elgar Online at 11/07/2021 05:01:31AM via free access
or habitual residence of the recipient, and contracts 6.121
in more than one Member State 3.63–64, 3.68–70
place of establishment and territorial constraints, EU E-Commerce Directive 2.14–20
service provider and contracts 6.121, 6.122–123
see also 'place' headings
Esteve, A. 3.37
Estrella Faria, J. 6.05, 6.11
EU Audiovisual Media Services Directive 2.09, 2.23, 2.24, 2.29, 4.131–132, 4.135, 4.148
EU Brussels I Regulation (Recast) see Brussels I Regulation (Recast)
EU CLIP (Conflict of Laws in Intellectual Property) Principles 4.16, 4.107, 4.110, 4.117, 4.124, 5.115, 5.199
EU Community Designs Regulation (CDR) 4.39
EU Contracts for the Supply of Digital Content and Digital Services Directive 6.19–23
EU Court of Justice see CJEU
EU E-Commerce Directive 2.01–36 consumer protection 2.11, 2.27, 2.30, 2.57 contracts 6.10–13, 6.201 copyright law 4.35, 4.125, 4.130, 4.145–146, 4.148
EU General Data Protection Regulation (GDPR) 3.07, 3.141–144 form of communication offered 2.11–13, 2.19 harmonizing reach 2.10–11, 2.18, 2.25, 2.34 information society concept 2.03–2.05 intermediary service providers 2.05, 2.07–08, 2.10, 2.20, 2.98–99 non-established service providers 2.17, 2.18 online advertising 2.04 place of establishment and territorial constraints 2.14–20 remuneration test 2.04 safe harbour immunities see service provider intermediaries, safe harbour immunities and EU E-Commerce Directive sanctions against infringements of national provisions 2.13, 2.28 third country service providers 2.14–20 torts and illegal content 2.61, 2.64 unfair commercial practices, ascertaining 2.07–08 unfair competition, trademarks, designs and patents 5.183–185, 5.186, 5.187, 5.190, 5.203, 5.205 EU E-Commerce Directive, country of origin principle 2.02, 2.06, 2.09, 2.13, 2.17, 2.21–36, 6.12 derogations 2.22–23, 2.27, 2.30 intellectual property protection 2.30 intra-community e-commerce activities 2.32–36 mutual recognition 2.13, 2.14, 2.17, 2.32, 2.35 reach and coordinated field 2.24–26, 2.36 Rome II Regulation 2.32–33 unfair competition law 2.30, 2.32 EU Enforcement Directive 4.21, 4.32, 4.155 EU General Data Protection Regulation (GDPR) 3.01–166 child's consent in relation to information society services 3.17 controller or processor requirements see controller or processor requirements, EU General Data Protection Regulation (GDPR) cross-border processing see cross-border processing, EU General Data Protection Regulation (GDPR) cross-border transfers of data see cross-border transfers of data, EU General Data Protection Regulation (GDPR) data protection as fundamental right 3.01–05

509

Pedro de Miguel Asensio - 9781788110822
Downloaded from Elgar Online at 11/07/2021 05:01:31AM via free access
INDEX

enforcement and conflict of laws 3.23–28
ePrivacy Directive 3.09–10
EU E-Commerce Directive 3.07, 3.141–144
intermediaries' liabilities 3.07
judicial remedies 3.26–28, 3.71–75, 3.79, 3.88, 3.90, 3.94, 3.95, 3.97, 3.101, 3.103
national laws, margin of manoeuvre 3.19–22
personality rights and defamation see personality rights and defamation, EU General Data Protection Regulation (GDPR)
personality rights and non-contractual obligations see personality rights and non-contractual obligations, EU General Data Protection Regulation (GDPR)
private enforcement of data protection law 3.27–28
public enforcement of data protection law 3.25–26, 3.27
right to be forgotten 3.04, 3.15, 3.55–56, 3.58, 3.60
right to privacy 3.04
sensitive data 3.09, 3.14, 3.18
services provided at a distance 3.07
territorial scope see territorial scope, EU General Data Protection Regulation (GDPR)
torts and illegal content 2.66
transparency and fair processing principles 3.11–13
unification and choice of law implications 3.17–22
unlimited jurisdiction 3.115, 3.116, 3.126, 3.127, 3.152
EU Geo-blocking Regulation 2.37–44
Brussels I (Recast) Regulations 2.42, 2.43
consumer protection 2.43
contractual obligations 2.41–44
exclusions 2.40
Rome I Regulation 2.42, 2.43
selective and exclusive distribution schemes 2.37
territorial scope 2.39, 2.44
third country traders 2.39
and unfair competition rules 2.44
EU InfoSoc Directive 4.18, 4.21, 4.22–23, 4.25–26, 4.32, 4.36, 4.147, 4.159
EU Lugano Convention see Lugano Convention
EU Marrakesh Treaty Directive 4.20
EU 'New Deal' legislative package 3.77
EU Online Transmissions of Broadcasting Organisations Directive 4.132–135
EU Orphan Works Directive 4.138
EU Patentability of Computer-implemented Inventions Directive 5.12
EU Satellite and Cable Directive 4.133
EU Services in the Internal market Directive 2.37, 2.40
EU Sexual Abuse and Sexual Exploitation of Children Directive 2.60
EU Small Claims Procedure Regulation 6.202
EU Software Directive 4.36
EU Trade Mark Directive 5.10
EU Unfair Contract Terms Directive 6.24–26, 6.84–86
EU-US Privacy Shield 3.33
European Court of Human Rights (ECtHR) 1.30
Amann v. Switzerland 3.01
Anheuser-Busch v. Portugal 4.29
Arlewin v. Sweden 1.30, 2.29, 3.128
Ashby Donald v. France 4.29, 4.174
Balan v. Moldova 4.29
Deffi AS v. Estonia 2.56, 3.111, 3.162, 3.166
Magyar Jeti Zrt v. Hungary 2.54
Magyar Tortalomszolgáltatók Egyesülete and Index.hu Zrt v. Hungary 3.162
Neij and Sunde Kolmisoppa v. Sweden 4.174
Pellegrini v. Italy 1.120
Pihl v. Sweden 3.162
Rotaru v. Romania 3.01
Saccoccia v. Austria 1.120
Satakunnan Markkinapörssin Oy and Satamedia Oy v. Finland 3.04

510

Pedro de Miguel Asensio - 9781788110822
Downloaded from Elgar Online at 11/07/2021 05:01:31AM
via free access
INDEX

Von Hannover v. Germany (no. 2) 3.164
European Patent Convention 5.07
exhaustion of rights
  copyright 4.04, 4.23, 4.36
  trademarks, designs and patents 5.61–63
Fallon, M. 2.31
Fawcett, J. 4.12, 4.49, 4.67, 4.97, 4.167
Fehlinger, P. 1.16
Feiler, L. 3.46, 3.94, 3.97
Feng, S. 2.47
Fezer, K. 2.31
Finck, M. 1.07
focalization see targeting criterion
foreign judgments
  copyright law 4.120
  EU General Data Protection Regulation
    (GDPR), personality rights and defamation 3.114, 3.157–158
  Rome I and Rome II Regulations 1.87
unfair competition and trademarks see unfair competition, trademarks, designs and patents, foreign judgments
  see also jurisdiction; third countries
foreign judgments, recognition and enforcement, copyright law 4.152–176
blocking injunctions 4.160
Brussels I Regulation (recast) 4.155, 4.163, 4.164, 4.170
fundamental rights 4.173–174
Hague Conference 4.154, 4.165
injunctive relief 4.06, 4.91, 4.92, 4.157–159, 4.169
intellectual property rights protection 4.169, 4.170, 4.171–176
interim relief 1.111, 4.51, 4.61, 4.92, 4.93, 4.161
intermediaries, injunctions against 4.174
jurisdiction verification and scope of injunctions 4.164–169
monetary judgments and injunctions 4.156–160, 4.165, 4.172
moral rights 4.171
non-monetary judgments 4.156–157
non-recognition grounds 4.164–176
provisional measures 4.161–163
public policy effect 4.169, 4.170–176
standard of equivalence approach 1.118, 3.158, 4.166
forum non conveniens doctrine 1.64, 1.72, 3.112, 3.131–132
France
  copyright law 4.14, 4.45, 4.99
  Lois HADOPI 4.24
  SFR v. l’Union des producteurs de cinéma
    4.21, 4.119, 4.127
  UFC-Queboisir/Twitter 6.25
  franchise contract 6.153
  FRAND commitments 1.08, 5.77
  Franzina, P. 6.72, 6.98
  freedom of choice 2.87, 6.135–138
  Friedmann, D. 1.05, 5.207
  Froomkin, A. 5.25, 5.30
  fundamental rights 1.75, 1.124, 2.57, 3.01–05, 4.29–33, 4.173–174
  Garcimartín, F. 3.153, 4.17, 6.71
  Geiger, C. 4.25, 4.29, 4.174
  Geist, M. 1.27
  Geller, P. 4.03, 4.88, 4.92, 4.109
geo-blocking
  and contracts 6.62
  copyright law 4.77–78, 4.113, 4.127
  EU Geo-blocking Regulation see EU Geo-blocking Regulation
  trademarks, designs and patents 5.90, 5.162, 5.178
  geolocation technology use 1.119, 5.60, 5.119, 5.121
Germany
  Bundesverbands der Verbraucherzentrale v. Facebook Ireland 6.25
  ‘An Evening with Marlene Dietrich’ 4.01, 4.80
  Hotel Maritime 5.119
  Network Enforcement Act 2.60, 2.63
  Parfummarken, 5.103, 5.104
  Störerhaftung des Access-Providers 2.46, 4.45
  Vorschaubilder (Thumbnails) 2.46, 4.28, 4.45

511
INDEX

Werbeblocker II 5.144
Ginsburg, J. 4.01, 4.09, 4.22, 4.46, 4.65, 4.112, 4.115
Giovanella, F. 4.31
Giuliano, M. 6.38, 6.160, 6.178
global injunctions 1.114, 1.119, 1.124, 2.84, 3.60, 3.127, 4.69, 4.167, 5.195, 5.199, 5.201–202
Goldman, E. 5.20
Goldsmith, J. 1.03
Gössl, S. 1.24
Grosse Ruse-Khan, H. 4.09, 4.129
Grundmann, S. 2.30
Guggenberger, N. 6.63
Guillaume, F. 6.64

habitual residence concept
centre of interest of the victim, habitual residence, personality rights and non-contractual obligations, EU General Data Protection Regulation (GDPR) 3.121
and contracts 6.57–62, 6.121, 6.147, 6.149–162, 6.169–171, 6.177
EU General Data Protection Regulation (GDPR) 3.86–88
torts and illegal content 2.90
see also centre of interest and domicile issues
hacking 2.76, 2.78, 2.83
Hague Conference 1.74–76, 1.96, 1.117, 4.17, 4.154, 4.165
Hague Convention on Choice of Court Agreements 1.123, 1.134, 5.78, 6.73
harmonization issues 1.96, 1.129
contracts 6.19–20, 6.24
copyright law 4.18–24, 4.38, 4.142–144, 4.147
EU E-Commerce Directive 2.10–11, 2.18, 2.25, 2.34
EU General Data Protection Regulation (GDPR), personality rights and defamation 3.128–130, 3.134–144
service provider intermediaries 2.49
trademarks, designs and patents 5.09–12
Hartley, T. 3.110, 6.74
Harvey, D. 1.15
Hatzimihail, N. 1.63
Heinze, C. 4.92, 4.142, 4.163, 5.74, 5.94, 5.123, 6.111
Hess, B. 1.107, 3.23, 3.95, 3.115, 3.118
Hetcher, S. 4.44
Hoeren, T. 2.53
Honorati, C. 4.155, 5.14, 5.171
Hörnle, J. 1.25, 2.95, 6.119
Howells, G. 2.11
Hugenholtz, B. 4.18, 4.132, 4.147
Husovec, M. 1.110, 1.124, 4.21, 4.159, 4.160
hyperlinks 2.54, 4.22
ICANN Uniform Domain Name Dispute Resolution Policy (UDRP) see under domain names
illegal content and torts see torts and illegal content
imitation with a risk of confusion, and trademarks, designs and patents 5.129, 5.150
‘inertia selling’ concept, trademarks, designs and patents 5.142
information society services 2.01–99
EU E-Commerce Directive see EU
E-Commerce Directive
EU Geo-blocking Regulation see EU
Geo-blocking Regulation
service provider intermediaries see service provider intermediaries
torts and illegal content see torts and illegal content
initial ownership or authorship, and copyright law 4.102, 4.103–108
injunctions
blocking injunctions 2.84, 3.127, 4.88, 4.160, 5.86
copyright law 4.21, 4.32
INDEX

global 4.69, 4.167, 5.195, 5.201–202
intermediaries, injunctions against 2.57, 4.174
recognition and enforcement 1.107, 1.110–111, 1.119, 1.124
unfair competition, trademarks, designs and patents 5.29, 5.43, 5.47, 5.54, 5.86, 5.107, 5.116, 5.144, 5.157, 5.170, 6.181

see also monetary judgments; sanctions
injunctive relief, foreign judgments and copyright law 4.06, 4.91, 4.92, 4.157–159, 4.169
injunctive relief, foreign judgments and trademark law 5.194–5.202, 5.204, 5.206, 5.216, 5.217
intellectual property rights
cyberlaw 1.07, 1.11–12
and domain names, trademarks, designs and patents 5.20–25
EU E-Commerce Directive, country of origin principle 2.30
foreign judgments, recognition and enforcement, copyright law 4.169, 4.170, 4.171–176
and torts and illegal content 2.67, 2.72, 2.79, 2.81
unfair competition, trademarks, designs and patents 5.129–135

see also copyright law; trademarks, designs and patents
Inter-American Contracts Convention 1.96
interest analysis approach, US, private international law 1.98
interim relief, and copyright law 1.111, 4.51, 4.61, 4.92, 4.93, 4.161
intermediation
as defendants, jurisdiction, copyright law 4.45
EU General Data Protection Regulation (GDPR) 3.07
freedom issues, copyright law 4.31
injunctions 2.57, 4.174
jurisdiction, contracts 6.72, 6.105
platform economy and contracts 6.27–29
service provider see service provider intermediaries
torts and illegal content 2.61
torts and illegal content, Rome II Regulation 2.96–99, 2.98–99
unfair competition, trademarks, designs and patents 5.173–174
unfair competition, trademarks, designs and patents, foreign judgments 5.203–207
internal market rule 2.30, 2.32, 2.34, 2.35, 4.118, 4.144, 4.145–146, 4.148–149, 4.151
Internet of Things 2.65, 2.76
Ireland, Data Protection Commissioner v. Facebook Ireland 3.34

Jacobs, G. 5.21
Jančiūte, L. 3.77
Janis, M. 5.133
Japan, KK Fuji Television v. KK Nagano Shoten (Maneki TV) 4.119
Jault-Seseke, F. 1.25
Johnson, D. 1.02
Jotzo, J. 3.53, 3.66, 3.97
judicial remedies, EU General Data Protection Regulation (GDPR)
3.26–28, 3.71–75, 3.79, 3.88, 3.90, 3.94, 3.95, 3.97, 3.101, 3.103
jurisdiction
foreign judgments see foreign judgments grounds, Brussels I Regulation (Recast) 1.42–56
torts and illegal content 2.68–84
unfair competition, trademarks, designs and patents 5.147–166
jurisdiction, contracts 6.70–134
Brussels I Regulation (Recast) 6.70–83, 6.86, 6.88, 6.90, 6.91–95
choice of court agreements 6.70–90
'click-wraping' method 6.78
consumer contracts (B2C) 6.81–87
and consumer protection organizations 6.72
employment contracts 6.88–90
exclusive choice of forum agreements, effects of 6.79
Hague Convention on Choice of Court Agreements 6.73
INDEX

intermediation services 6.72
jurisdiction clause content 6.80
non-contractual claims 6.80
party autonomy 6.71
prorogation agreements 6.77
self-employment 6.88, 6.89, 6.146, 6.190
severability principle 6.74
third States 6.72, 6.81, 6.86
validity and effects 6.74–80
‘writing’ requirement 6.76–78
jurisdiction, contracts, absence of choice 6.91–134
agency contract 6.117, 6.123
branch operations 6.36, 6.125, 6.128, 6.151
classification of contracts 6.101–103
credit agreement and provision of services 6.118
data processing contracts 6.106
‘digital content’ classification 6.106–110
‘fair remuneration’ payments 6.93
Hague Convention on the Recognition and Enforcement of Foreign Judgments 6.131–133, 6.139
intermediation services 6.105
‘matters relating to a contract’ 6.91–95
‘matters relating to tort, delict or quasi-delict’ 6.94
multiple places of delivery of goods or provision of services 6.115
non-physical performance contracts 6.104–111
online delivery of goods and provision of services 6.119–124
party autonomy 6.120
place of delivery 6.115, 6.119–120, 6.124
place of establishment or habitual residence of the recipient 6.121
place of establishment of the service provider 6.121, 6.122–123
place of performance, and fragmentation and special rules 6.96–100, 6.111, 6.112–113
place where goods were physically transferred 6.114
‘provision of services’ classification 6.103
recognition and enforcement implications 6.130–134
recognition and enforcement implications, US 6.133–134
‘sales of goods’ classification 6.102, 6.107, 6.108–110, 6.111, 6.112–118
special jurisdiction rule 6.92
weaker party, contracts with, and consumer protection 6.125–129, 6.130
jurisdiction, copyright law 4.41–95
administrative and criminal sanctions 4.42
Brussels I Regulation (Recast) 4.42–43, 4.46, 4.48, 4.49, 4.51
choice of forum agreements 4.49–50
contractual claims 4.44
exclusive jurisdiction and options, limitations of 4.46–51
fair compensation system 4.43
infringement claims 4.41–45
interim relief 4.51
intermediaries as defendants 4.45
localization of infringement 4.43, 4.49–50
national jurisdiction provisions 4.47–49
user generated content 4.44, 4.45
jurisdiction, copyright law, place where damage occurred 4.71–89
Brussels I Regulation (recast) 4.71–74, 4.77, 4.81–84
focalization (targeting) criterion 4.73–74, 4.82
geo-blocking tools 4.77–78
global accessibility issues 4.77–78
lack of impact of infringing activity 4.76
mere accessibility debate 4.71–80
mosaic approach and diffuse copyright infringements 4.81, 4.84–89
personality rights 4.86–88
jurisdiction, copyright law, potentially unlimited jurisdiction, grounds for 4.52–70
Brussels I Regulation (recast) 4.52, 4.54–61, 4.63
defendant’s domicile 4.52–59
global injunctions 4.69, 4.167
lex loci protectionis 4.67

514
Pedro de Miguel Asensio - 9781788110822
Downloaded from Elgar Online at 11/07/2021 05:01:31AM
via free access
moral rights 4.66–67
multiple defendant forum 4.54–59
mutual recognition of judgments 4.70
national rights restrictions and fragmentation 4.68, 4.70
personality rights and centre of interests of the rightholder 4.64–67
place of causal event giving rise to damage 4.60–63
Rome II Regulation 4.67

keyword metatags 5.83, 5.143
Kleinwächter, W. 1.03
Koekkoek, M. 3.37
Kohl, U. 1.20, 2.17
Koos, S. 2.31
Kuczerawaya, A. 3.166
Kuner, C. 3.02, 3.26, 3.42, 3.43, 3.56
Kur, A. 4.17, 4.39, 4.72, 4.110, 4.117, 4.123, 4.124, 5.25, 5.57, 5.59, 5.74, 5.80, 5.115, 5.128

Lambert, P. 2.65, 2.89
legal certainty principle 184, 1.27, 1.42, 1.48, 1.63, 1.72, 1.74, 1.90, 1.131
contracts 6.02, 6.70, 6.92, 6.138, 6.148, 6.165
copyright law 4.19, 4.27, 4.59, 4.121, 4.130, 4.143
personality rights and non-contractual obligations 3.123
torts and illegal content 2.49, 2.73, 2.78, 2.80, 2.86, 2.97
trademarks, designs and patents 5.73, 5.169, 5.181
Leible, S. 1.24, 5.183, 6.119
Lein, E. 1.38
Leiner, B. 1.01
Leistner, M. 2.47, 4.97, 4.121, 4.147, 5.129, 5.164
Lemley, M. 1.12, 2.50
Lessig, L. 1.07
lex loci protectionis 1.95
and contracts 6.183, 6.186
copyright law 4.12, 4.13, 4.15, 4.67
copyright law, intermediary service providers’ liability 4.121, 4.123, 4.126, 4.128, 4.129
trademarks, designs and patents 5.111–116, 5.118, 5.123
lex originis, copyright law 4.102, 4.104, 4.105
licensing 1.04, 1.08
copyright law 4.23, 4.44, 4.101, 4.107, 4.131, 4.135, 4.140, 4.150, 6.32, 6.184–186
trademarks, designs and patents 5.77, 5.145
Lindsay, D. 5.16, 5.22, 5.28
linguistic issues
trademarks, designs and patents, foreign judgments 5.213
translated version of contract agreement 6.176
Lipton, J. 1.24, 5.28
lis pendens rules 1.19, 1.21
Brussels I Regulation (Recast) 1.57–58, 1.60–61
EU General Data Protection Regulation (GDPR) 3.95, 3.96–102
Little, L. 3.130
Lodder. A. 2.10, 6.11
Long, J. 4.22, 4.125
López-Tarruella, A. 2.31
Lugano Convention
and Brussels I Regulation (Recast) 1.35, 1.38, 1.43, 1.45, 1.52, 1.54, 1.117, 1.125, 1.131–132
copyright law 4.46, 4.47, 4.79
trademarks, designs and patents 5.73, 5.108
Lundstedt, L. 4.66, 4.67, 4.131
Lutzi, T. 1.25, 2.80, 5.153, 6.119, 6.139
McParland, M. 1.88, 6.146, 6.147, 6.155
Mankowski, P. 2.29, 2.31, 2.80, 2.83, 5.09, 5.169, 5.184, 6.70, 6.119, 6.183
Mann, R. 1.73
market effects principle 1.95

515
Pedro de Miguel Asensio - 97817888110822
Downloaded from Elgar Online at 11/07/2021 05:01:31AM via free access
unfair competition, trademarks, designs and patents 5.153, 5.157, 5.163, 5.167–182, 5.185, 5.190–192, 5.199, 5.200

Martin-Casals, M. 2.65
Martiny, D. 1.88, 6.58, 6.68, 6.135
Mathiason, J. 1.03
Matulionyte, R. 4.83, 4.117, 4.118, 4.150
Meeusen, J. 2.31
mere accessibility and significant effect copyright law, place where damage occurred 4.71–80

trademarks, designs and patents 5.121, 5.122, 5.155–162, 5.177

Metzger, A. 1.04, 4.27, 4.101, 4.110, 4.117, 4.121, 5.82, 5.125, 6.141, 6.167
Mifsud Bonnici, J. 1.03
Mills, A. 3.129, 3.147, 3.150
minimum common standards, TRIPS Agreement, trademarks, designs and patents 5.04
minimum contact tests, US, private international law 1.68, 1.70, 3.130
minimum standards of protection of, copyright law 4.03, 4.07, 4.10, 4.12, 4.21

minors and children 2.09, 2.22, 2.24, 2.60, 2.62, 3.05, 3.13, 3.15, 3.17, 3.17, 3.22, 6.178

mirror-image approach 1.118, 3.158
Moerel, L. 3.42, 3.81
Moiny, J. 3.43
monetary judgments 1.106, 1.108

copyright law and foreign judgments 4.156–160, 4.165, 4.172

see also injunctions; sanctions

moral rights
contracts and copyright licensing challenges 6.184–186

copyright law 4.66–67, 4.171
mosaic approach

Brussels I Regulation (Recast) 1.50
copyright law 4.81, 4.84–89, 4.115, 4.123
EU General Data Protection Regulation (GDPR) 3.125–127
torts and illegal content 2.80, 2.91
trademarks, designs and patents 5.105, 5.157, 5.166, 5.193, 5.199
Moscon, V. 1.07
most-favoured-nation principle, copyright law 4.04
Moura Vicente, D. 3.02, 4.12, 4.49, 4.104, 4.117, 4.155, 5.08, 5.114, 5.134
Mueller, M. 1.03
multilateral agreements
copyright law 4.11–12, 4.16–17
trademarks, designs and patents 5.112, 5.131
multiple country infringements, trademarks, designs and patents 2.80, 5.115
multiple defendants

Brussels I Regulation (Recast) 1.53–54
EU General Data Protection Regulation (GDPR) 3.92
torts and illegal content 2.71
trademarks, designs and patents 5.79–80, 5.96–99
multiple places of delivery of goods 6.115
Murray, A. 1.17
mutual recognition 1.127
copyright law 4.70
EU E-Commerce Directive, country of origin principle 2.13, 2.14, 2.17, 2.32, 2.35

national fragmentation effects, copyright law 4.34–40

national jurisdiction 1.31, 1.38–41

Brussels I Regulation (Recast) 1.36, 1.38–41
copyright law 4.43, 4.47–50, 4.68, 4.70
cyberlaw 1.03, 1.06, 1.07, 1.08, 1.11, 1.13
domain names, trademarks, designs and patents 5.37, 5.39, 5.40–47, 5.52–56
EU E-Commerce Directive 2.13, 2.28
EU General Data Protection Regulation (GDPR) 3.19–22, 3.89–95
torts and illegal content 2.60–64
trademarks, designs and patents 5.148, 5.153
national rights, trademarks, designs and patents 5.67–90, 5.146
Brussels I Regulation (Recast) 5.67–69, 5.71, 5.82, 5.84, 5.85, 5.89
bundle patents 5.68, 5.80
copyright comparison 5.79, 5.90
exclusive jurisdiction 5.67–78
FRAND patent licence 5.77
geo-blocking tools, use of 5.90
Hague Choice of Forum Convention 5.78
multiple defendant forum 5.79–80
patent infringement claims and grounds of potentially unlimited jurisdiction 5.79–84
personality rights 5.87, 5.88
place where damage occurred 5.85–90
place where damage occurred, US jurisdiction 5.89
and public interests 5.70
registration issues 5.67–68, 5.70, 5.71
Rome II Regulation 5.88
unitary rights 5.67, 5.80
validity challenges 5.72–77
website keywords 5.83
national treatment principle
copyright law 4.01–03, 4.04, 4.10, 4.12, 4.13, 4.14, 4.15
trademarks, designs and patents 5.03
Neumann, S. 4.99, 4.115, 4.124
New York Convention 5.33, 6.212–214
Nielsen, P. 3.129
Nishitani, Y. 1.87, 4.120, 4.123, 6.183
non-contractual obligations 1.97, 1.98
contracts 6.80
copyright law 4.97
EU General Data Protection Regulation (GDPR) 3.92, 3.108–109
and personality rights see personality rights and non-contractual obligations, EU General Data Protection Regulation (GDPR)
and Rome II Regulation 1.91, 1.92–93
torts and illegal content 2.65, 2.66, 2.67, 2.85–88, 2.91–99
trademarks, designs and patents 5.113–116, 5.124, 5.147–154, 5.192
non-physical performance contracts 6.104–111
non-recognition factors 1.104, 1.114, 1.115–120, 1.129–130
see also recognition and enforcement
non-state and 'detrerritorialized' rules suggestion, EU General Data Protection Regulation (GDPR) 3.150
Nordemann, J. 4.121, 4.140
Nordhausen, A. 2.11
notice-and-action mechanisms, torts and illegal content 2.61
Nyuts, A. 1.39, 1.50, 1.63, 2.72
OECD Recommendation on Consumer Protection in E-Commerce 6.03
Ohly, A. 2.31, 4.105, 4.112, 4.123, 4.125, 4.144, 5.57, 5.218
one-stop-shop mechanism implementation, EU General Data Protection Regulation (GDPR) 3.66–70, 3.81
online delivery of goods and provision of services 6.119–124
online sharing platforms
copyright law 4.19, 4.22, 4.27, 4.125
safe harbour immunities and EU E-Commerce Directive 2.58–59
open source software 1.04, 1.08
overriding mandatory rules contracts and public policy see choice of law, contracts, overriding mandatory rules and public policy contracts and third country law 6.195–199
parallel download of works protected by copyright 4.113
parallel proceedings
Brussels I Regulation (Recast) 1.57–59
EU General Data Protection Regulation (GDPR) 3.102
Paris Convention, trademarks, designs and patents 5.01, 5.02, 5.03, 5.112, 5.115, 5.199
party autonomy 1.23, 1.79, 1.82, 1.95
contracts 6.71, 6.120, 6.135–146
contracts, DLT and blockchain technologies 6.64
copyright law 4.108

517

Pedro de Miguel Asensio - 9781788110822
Downloaded from Elgar Online at 11/07/2021 05:01:31AM via free access
cyberlaw 1.09–10
Rome I, Rome I and Rome II
Regulations 1.90
torts and illegal content 2.86–87
trademarks, designs and patents 5.172
patents see under trademarks, designs and patents
Peguera, M. 2.47, 4.160
performing artists, copyright law 4.01, 4.07
personality rights 1.14
copyright law 4.64–67, 4.86–88
EU General Data Protection Regulation (GDPR) 3.80, 3.92, 3.160
torts and illegal content 2.62, 2.65, 2.66, 2.72, 2.79
trademarks, designs and patents 5.87, 5.88, 5.154
see also privacy rights
personality rights and defamation, EU General Data Protection Regulation (GDPR) 3.134–152
EU E-Commerce Directive 3.141–144
foreign judgment for defamation 3.157–158
forum shopping concerns 3.137
free speech rights of authors and publishers (US) 3.156
freedom of expression right 3.162
future perspectives 3.145–152
habitual residence law 3.136–137, 3.139, 3.143, 3.146, 3.151
harmonization issues 3.134–144
mirror-image approach 3.158
non-state and ‘deterritorialized’ rules suggestion 3.150
privacy violations 3.135–140, 3.143, 3.148
public policy 3.161–166
recognition and enforcement of judgments 3.153–166
right of reply 3.146
right to private life and margin of appreciation 3.164
services limited to a community of users 3.149
and unfair competition 3.137
universal jurisdiction issues 3.152
verification of jurisdiction 3.157–160
personality rights and non-contractual obligations, EU General Data Protection Regulation (GDPR) 3.110–133, 3.135–137, 3.139–140
Brussels I Regulation (Recast) 3.115–118, 3.119, 3.125
centre of interest of the victim 3.119–124
centre of interest of the victim, habitual residence 3.121
criminal offences 3.115
foreign judgments, recognition and enforcement 3.114
forum non conveniens grounds for dismissal 3.112, 3.131–132
forum shopping (libel tourism) 3.110–114
harmonization issues 3.128–130
information removal and blocking injunctions 3.127
legal certainty principle 3.123
mosaic approach 3.125–127
‘place where the harmful event occurred’ jurisdiction 3.116–118
special jurisdiction rule ‘in matters relating to tort’ 3.116
Pertegás, M. 4.119, 5.125, 6.93
Petersen, C. 4.45, 4.129
Peukert, A. 4.34, 5.57, 5.213
place, and establishment see establishment place of business, contracts and third country law 6.198
place of causal event copyright law 4.60–63
trademarks, designs and patents 5.104
place of delivery, contracts 6.115, 6.119–120, 6.124
place of performance 1.25–26, 1.68, 1.98
and contracts 6.31, 6.96–100, 6.111, 6.112–113

518

Pedro de Miguel Asensio - 97817888110822
Downloaded from Elgar Online at 11/07/2021 05:01:31AM
via free access
place where damage occurred and copyright law see jurisdiction, copyright law, place where damage occurred

Rome II Regulation 2.88–89
torts and illegal content see torts and illegal content, place where damage occurred

trademarks, designs and patents 5.85–90, 5.151, 5.153, 5.157, 5.158–160, 5.163

trademarks, designs and patents, foreign judgments 5.197

place where goods were physically transferred, and contracts 6.114

place where harmful event occurred
EU General Data Protection Regulation (GDPR) 3.116–118
torts and illegal content 2.72, 2.73, 2.74–77, 2.75, 2.76

trademarks, designs and patents 5.100–106, 5.149, 5.151–152, 5.193

platform economy 1.05–06, 1.08, 1.10 contracts and intermediation services 6.27–29

contracts and social networks 6.46–56, 6.61, 6.139–142
copyright law 4.22
see also social networks

Plender, R. 1.85, 2.34, 2.97, 3.137, 6.35, 6.147, 6.155

Post, D. 1.02, 1.12

Pretelli, I. 1.24

privacy rights
torts and illegal content 2.62, 2.65, 2.66, 2.72

see also personality rights

private international law 1.01–135 alternative dispute resolution see alternative dispute resolution applicable law see applicable law

Brussels I Regulation (Recast) see Brussels I Regulation (Recast)

choice of court agreements 1.75–76

choice of law see choice of law

cooporation mechanisms 1.19–22, 1.23

DLT and blockchain technologies see classification, contracts, DLT and blockchain technologies

EU General Data Protection Regulation (GDPR) 3.27–28, 3.75–80

Hague Conference 1.74–76, 1.96, 1.117, 4.17, 4.154, 4.165

ICANN Uniform Domain Name Dispute Resolution Policy (UDRP) see under domain names

intellectual property rights see intellectual property rights

jurisdiction see jurisdiction

lis pendens rules see lis pendens rules

national jurisdiction see national jurisdiction

party autonomy see party autonomy

personality rights see personality rights

public interests see public interests

public international law comparison 1.30

recognition and enforcement see recognition and enforcement, private international law

self-regulation issues 1.03, 1.10, 1.11, 1.13, 1.18, 1.95

US see US, private international law

product liability, Rome II Regulation 2.76, 2.94–95

production and supply contracts 6.163

provision of services contract 6.103, 6.152, 6.157–158, 6.163

provisional measures
Brussels I Regulation (Recast) 1.55–56, 1.128

copyright law 4.90–95, 4.161–163
domain names, trademarks, designs and patents 5.29

trademarks, designs and patents 5.198, 5.215, 5.216

proximity principle, and contracts 6.148, 6.165

Psychogiopoulou, E. 3.134

public interests 1.16, 1.99

act of communication to the public concept, and copyright law 4.125
INDEX

and contracts 6.138
EU General Data Protection Regulation (GDPR) 3.36
trademarks, designs and patents 5.70
public international law, private international law comparison 1.30
public policy
copyright law 4.169, 4.170–176
EU General Data Protection Regulation (GDPR) 3.25–26, 3.27, 3.161–166
and overriding mandatory rules see choice of law, contracts, overriding mandatory rules and public policy trademarks, designs and patents, foreign judgments 5.218
publicly available electronic communications services, EU General Data Protection Regulation (GDPR) 3.09
publishing agreements, and contracts 6.163
Puurunen, T. 1.73
recognition and enforcement
contracts, absence of choice 6.130–134
copyright law and foreign judgments see foreign judgments, recognition and enforcement, copyright law
EU General Data Protection Regulation (GDPR) 3.100
EU General Data Protection Regulation (GDPR), personality rights and defamation 3.153–166
trademarks, designs and patents, foreign judgments 5.214–218
recognition and enforcement, private international law 1.101–135
Brussels I Regulation (Recast) 1.103, 1.109, 1.117, 1.125–130, 1.131
copyright infringement 1.108
double instruments 1.117
fair trial right 1.120
fundamental rights balance 1.75, 1.124
geolocation tools, use of 1.119
harmonization 1.129
injunctions 1.107, 1.110–111, 1.119, 1.124
intermediaries, injunctions against 1.110–111, 1.124
Lugano Convention 1.125, 1.131, 1.132
mirror-image approach 1.118
monetary judgments and punitive sanctions 1.106, 1.108
mutual recognition and enforcement 1.127
non-monetary judgments and negative declarations 1.106–107, 1.128
non-recognition factors 1.104, 1.114, 1.115–120, 1.129–130
public policy as grounds for non-recognition 1.120–124, 1.125, 1.130
third country judgments 1.131–132
US state laws 1.103
registration
trademarks, designs and patents 5.06–08, 5.22
trademarks, designs and patents, domain names 5.21, 5.22, 5.24
trademarks, designs and patents, national rights 5.67–68, 5.70, 5.71
see also licensing
Reidenberg, J. 1.02
Reindl, A. 4.123
Reithmann, C. 1.88, 6.135
remuneration test, EU E-Commerce Directive 2.04
rental rights for computer programs and cinematographic works 4.05, 4.07
reproduction, copyright law 4.03, 4.07, 4.19, 4.25, 4.26
resale outside a selective distribution network, trademarks, designs and patents 5.157, 5.191
right of reply, EU General Data Protection Regulation (GDPR) 3.135, 3.146
right to be forgotten, EU General Data Protection Regulation (GDPR) 3.04, 3.15, 3.55–56, 3.58, 3.60
right of withdrawal, EU Consumer Rights Directive 6.17–18
INDEX

Riis, T. 1.05, 4.44, 4.45, 4.129
Riordan, J. 2.45, 4.156
Roffael, C. 5.74
Rome I Regulation 1.80, 1.82, 1.83–94, 1.98, 1.99
and Brussels I Regulation (Recast) 1.85
choice of law, contracts, overriding mandatory rules and public policy 6.188, 6.189, 6.190, 6.191, 6.193, 6.195–196
contractual claims 1.88–89
EU Geo-blocking Regulation 2.42, 2.43
foreign law application 1.87
party autonomy and freedom of choice 1.90
uniform interpretation 1.84, 1.86
universal application 1.83
Rome II Regulation 1.80, 1.82, 1.83–94, 1.98, 1.99
and Brussels I Regulation (Recast) 1.85
choice of law, contracts 6.181, 6.182
choice of law, trademarks, designs and patents 5.113, 5.116, 5.120, 5.123, 5.124, 5.126, 5.127
classification, contracts 6.35
copyright law 4.13
copyright law, potentially unlimited jurisdiction, grounds for 4.67
EU E-Commerce Directive, country of origin principle 2.32–33
foreign law application 1.87
non-contractual obligations 1.91, 1.92–93
torts and illegal content see torts and illegal content, Rome II Regulation 5.105, 5.163–164, 5.167–174, 5.176, 5.181, 5.183, 5.185, 5.186, 5.188, 5.190–192
uniform interpretation 1.84, 1.86
universal application 1.83
Rühl, G. 6.145, 6.218
Rutledge, P. 1.65, 1.103, 1.113, 6.87
safe harbour immunities see service provider intermediaries, safe harbour immunities and EU E-Commerce Directive
sales contracts applicable law in absence of choice 6.152, 6.157, 6.163, 6.171
domiciliation, absence of choice 6.102, 6.107, 6.108–110, 6.111, 6.112–118
and supply of digital content and services 6.19–23
UN Convention on Contracts for the International Sale of Goods (CISG) 6.07, 6.09
sanctions 1.106, 1.108
copyright law 4.42
EU E-Commerce Directive 2.13, 2.28
unfair competition, trademarks, designs and patents, foreign judgments 5.211
see also injunctions; monetary judgments
Saumier, G. 3.153, 4.17
Savola, P. 4.71, 4.125
Schack, H. 4.18, 4.38, 4.102, 4.104, 5.126
Schaub, M. 2.03
Schmitz, S. 4.24, 4.152
Schönherr, F. 4.25
self-employment 6.88, 6.89, 6.146, 6.190
see also employment contracts
self-regulation issues 1.03, 1.10, 1.11, 1.13, 1.18, 1.95, 2.60, 6.08
sensitive data, EU General Data Protection Regulation (GDPR) 3.09, 3.14, 3.18

521
### INDEX

- **service contract** definition 2.15, 6.16
- service provider contracts, absence of choice 6.112–124 and electronic mail address contact 2.12, 2.19
- headquarters of service provider in third country 2.16
- limited to a community of users 3.149
- non-established 2.17, 2.18
- place of establishment 6.121, 6.122–123
- provision of services contract 6.152, 6.157–158, 6.163
- services provided at a distance and personal data protection 3.07
- third country service providers, EU E-Commerce Directive 2.14–20
- service provider intermediaries 2.45–59
  - blocking access to damaging content 2.46 and copyright law 4.121–129
  - copyright law and *lex loci protectionis* 4.121, 4.123, 4.126, 4.128, 4.129
  - EU E-Commerce Directive 2.05, 2.07–08, 2.10, 2.20, 2.53–59
  - harmonization, need for 2.49
  - *lex loci protectionis* and copyright law 4.121, 4.123, 4.126, 4.128, 4.129
  - liability regime implications 2.45–46, 2.48
  - third parties, services used by 2.46
  - US Digital Millennium Copyright Act (DMCA) 2.47, 2.50–52
  - user generated content 2.55, 2.59
- service provider intermediaries, safe harbour immunities and EU E-Commerce Directive 2.47–59
  - consumer protection 2.57
  - copyright protection 2.58–59
  - fundamental rights protection 2.57
  - hyperlinks 2.54
  - information removal 2.57
  - injunctions 2.57
  - limitations of liability 2.53–54
  - ‘online content-sharing service provider’ concept 2.58–59
  - passive or neutral intermediaries, identification issues 2.55
  - severability principle, and contracts 6.74
- single copyright title suggestion 4.38–40, 4.116–120, 4.124, 4.142–143
- Sirinelli, P. 1.15
  - ‘sliding scale’ test to Internet contacts, US 1.69, 5.89
- smart contracts 6.63–67
  - *see also* classification, contracts, DLT and blockchain technologies
- Smith, G. 2.65, 5.145
- social networks 1.05–06, 1.08, 1.10
  - choice of law, contracts 6.139–142
  - classification, contracts 6.46–56, 6.61
  - torts and illegal content 2.63
  - *see also* platform economy
- special jurisdiction 2.72–73
  - Brussels I Regulation (Recast) 1.40, 1.48–54
  - copyright law and localization of activities 4.130
  - non-contractual claims and trademarks, designs and patents 5.147–154, 5.192
  - personality rights and non-contractual obligations, EU General Data Protection Regulation (GDPR) 3.116
  - unitary rights *see* unitary rights, trademarks, designs and patents, special jurisdiction rules
  - speciality principle, trademarks, designs and patents 5.22
  - Spindler, G. 2.47, 2.63, 4.121, 5.145, 6.89
  - Staiger, D. 3.33
  - standard of equivalence approach, copyright law 1.118, 3.158, 4.166
  - Sujecki, B. 3.93
  - supplementary sanctions, trademarks, designs and patents, foreign judgments 5.211
  - *see also* sanctions
  - Svanessson, D. 1.26, 3.43
  - Swire, P. 1.23, 3.42
  - Symeonides, S. 1.97, 1.98, 1.129, 2.86, 6.87
  - Synodinou, Y. 4.25
  - Tang, Z. 6.35, 6.81, 6.170
  - targeting criterion classification, contracts 6.57–62

---

522

Pedro de Miguel Asensio - 9781788110822

Downloaded from Elgar Online at 11/07/2021 05:01:31AM via free access
copyright law, place where damage occurred 4.73–74, 4.82
EU General Data Protection Regulation (GDPR) see territorial scope, EU General Data Protection Regulation (GDPR), targeting criterion unfair competition, trademarks, designs and patents 5.156

technical infrastructure control issues 1.03, 1.12
telecommunication services provision, and cyberlaw 1.06
tenancy of immovable property, contracts, applicable law in absence of choice 6.38, 6.154, 6.167

territorial scope
EU General Data Protection Regulation (GDPR), civil claims against a controller or processor 3.103–109
EU Geo-blocking Regulation 2.39, 2.44 lex loci protectionis, trademarks, designs and patents 5.111–116, 5.118, 5.123
unfair competition, trademarks, designs and patents, foreign judgments 5.194–202, 5.210–212

territorial scope, EU General Data Protection Regulation (GDPR) 3.37–60
data controller and processor, concepts of 3.38–41
establishment of controller or processor 3.44–48
establishment of controller or processor, natural persons application 3.47
establishment of controller or processor, processing of personal data requirements 3.46–48, 3.56
online platform providers and users, relationship between 3.37
public international law and controllers or processors not established in the Union 3.41–43
rights and remedies, territorial limits 3.55–60
rights and remedies, territorial limits, dereferencing obligation 3.57–60

rights and remedies, territorial limits, right to be forgotten 3.55–60
territorial scope, EU General Data Protection Regulation (GDPR), targeting criterion 3.49–54
Brussels I Regulation 3.51
clear intention and question of degree 3.52
and controller or processor non-compliance 3.49
goods or services offered to data subjects in the Union 3.49–52
location of the data subject 3.49
monitoring behaviour of data subjects 3.53–54
special jurisdiction on consumer protection 3.51
territory-neutral market strategy 3.52
third countries contracts, and overriding mandatory rules 6.195–199
copyrights granted by 4.151
EU General Data Protection Regulation (GDPR), cross-border transfers of data 3.32–36
and EU Geo-blocking Regulation 2.39
headquarters of service provider in 2.16
judgments, recognition and enforcement 1.131–132
jurisdiction, contracts 6.72, 6.81, 6.86
service providers, EU E-Commerce Directive 2.14–20
unfair competition, trademarks, designs and patents 5.148
and unitary rights, trademarks, designs and patents 5.128
see also foreign judgments
Thornburg, E. 5.30
Thum, D. 5.57
Thünken, A. 2.31
top level domains (TLD) 5.17–19, 5.21, 5.26, 5.48
see also domain names, trademarks, designs and patents
Torremans, P. 4.12, 4.13, 4.49, 4.51, 4.67, 4.97, 4.167, 5.09
INDEX

tort issues
  contracts and ‘matters relating to tort, delict or quasi-delict’ 6.94
  personality rights and non-contractual obligations, EU General Data Protection Regulation (GDPR) 3.116
  Regulations 1.94
  torts and illegal content 2.60–99
  blocking injunctions 2.84
  Brussels I Regulation (Recast) 2.66, 2.68–71
  choice of law agreements 2.85–99
  country of origin principle 2.63
  domicile issues 2.69–70, 2.72–73
  EU E-Commerce Directive 2.61, 2.64
  EU General Data Protection Regulation (GDPR) 2.66
  EU Sexual Abuse and Sexual Exploitation of Children Directive 2.60
  freedom of choice restrictions 2.87
  and intellectual property rights 2.67, 2.72
  intermediary service providers 2.61
  and Internet of Things 2.65, 2.76
  jurisdiction 2.68–84
  legal certainty 2.49, 2.73, 2.78, 2.80, 2.86, 2.97
  multiple defendants domiciled in different Member States 2.71
  national level measures 2.60–64
  non-contractual obligations 2.65, 2.66, 2.67, 2.85–88, 2.91–99
  ‘notice-and-action’ mechanisms 2.61
  party autonomy 2.86–87
  place where harmful event occurred 2.72, 2.73, 2.74–77
  place where harmful event occurred, and defective products 2.76
  place where harmful event occurred, electronic mail 2.75
  privacy and personality rights 2.62, 2.65, 2.66, 2.72
  private international law 2.64, 2.65–67
  social network providers 2.63
  special jurisdiction in tort matters 2.72–73
  torts and illegal content, place where damage occurred 2.78–84
  accessing or hacking computer systems 2.76, 2.78, 2.83
  Brussels I Regulation (Recast) 2.80
  cloud services expansion concerns 2.59, 2.83
  damages compensation 2.84
  defective products liability 2.78
  intellectual property rights 2.79, 2.81
  mosaic approach 2.80
  personality rights 2.79
  trademark infringements 2.79
  torts and illegal content, Rome II Regulation 2.66, 2.67, 2.85–91
  direct damage in more than one country 2.89
  escape clause and mosaic approach 2.91
  habitual residence of companies 2.90
  intermediary liability 2.96–99
  intermediary liability, and E-commerce Directive 2.98–99
  place where direct damage occurred (locus damni) 2.88–89
  product liability 2.76, 2.94–95
  unfair competition liability 2.93
  trademark infringements, torts and illegal content, place where damage occurred 2.79
  trademarks, designs and patents 1.12, 5.01–218
  advertisements and company referencing websites 5.11
  choice of law see choice of law, trademarks, designs and patents
  counterfeit goods and online trade 5.64–66
  cross-border activities 5.57–66
  domain names see domain names
  exclusive rights 5.62, 5.63
  exhaustion of rights 5.61–63
  geolocation technologies use 5.60
  harmonization 5.09–12
  legal certainty principle 5.73, 5.169, 5.181
  Lugano Convention 5.73, 5.108
  national rights see national rights, trademarks, designs and patents
  national treatment principle 5.03

524

Pedro de Miguel Asensio - 9781788110822
Downloaded from Elgar Online at 11/07/2021 05:01:31AM via free access
INDEX

Paris Convention 5.01, 5.02, 5.03, 5.112, 5.115, 5.199
provisional measures 5.198, 5.215, 5.216
registration and granting procedures 5.06–08, 5.22
sign use on Internet 5.57–60
speciality principle 5.22
trademarks and ‘use in the course of trade’ 5.10–11
TRIPS Agreement and minimum common standards 5.04
unfair competition see unfair competition, trademarks, designs and patents
unitary rights see unitary rights, trademarks, designs and patents
unregistered trademarks 5.02
well-known marks, provision for 5.03, 5.04
WIPO Joint Recommendation on the protection of signs on the Internet 5.58–60
WIPO Patent Cooperation Treaty 5.07
see also copyright law; intellectual property rights
translated version of contract agreement 6.176
see also linguistic issues
transparency
contracts, overriding mandatory rules and public policy 6.192–193
contracts, platform economy and intermediation services 6.28
EU General Data Protection Regulation (GDPR) 3.11–13
Treppoz, E. 4.46, 4.105
Trimble, M. 1.26, 4.119, 4.167, 4.170
Ubertazzi, B. 4.48, 4.117, 4.121, 5.71, 5.167
ubiquitous infringements
copyright law 4.109–129, 4.151
trademarks, designs and patents 5.115

UK
Ablynx v. Vhsquared 5.69
Apple Corps Ltd v. Apple Computer 6.169
Cartier International v. British Telecommunications 2.46, 4.21
Conversant Wireless Licensing v. Huawei Technologies 5.77
Defamation Act 3.110, 3.129
Digital Economy Act 4.24
EMI Records v. British Sky Broadcasting 2.46, 4.45
Football Association Premier League Ltd v. British Telecommunications 2.46, 4.45
Hillside (New Media) Ltd v. Baasland 2.91
Lucasfilm Ltd. v. Ainsworth 4.46
Pearce v. Ove Arup Partnership 4.53
Twentieth Century Fox Film v. British Telecommunications 2.46, 4.45
Unwired Planet International v. Huawei Technologies 5.77
UN Convention on the International Sale of Goods (CISG) 1.78, 6.07, 6.09
UN Convention on the Use of Electronic Communications in International Contracts 6.05–06, 6.77
UNCITRAL Model Law on Electronic Commerce 6.03, 6.04–09, 6.11, 6.77, 6.214, 6.215
unfair competition and contracts 6.181
and copyright law 5.129
EU E-Commerce Directive 2.07–08, 2.30, 2.32
EU General Data Protection Regulation (GDPR), personality rights and defamation 3.137
EU Geo-blocking Regulation 2.44
torts and illegal content, Rome II Regulation 2.93
unfair competition, trademarks, designs and patents 5.58, 5.129–193
bilateral acts affecting exclusively the interests of a specific competitor 5.163–166
Brussels I Regulation (Recast) 5.147–151, 5.153, 5.155–157, 5.166, 5.192

525

Pedro de Miguel Asensio - 9781788110822
Downloaded from Elgar Online at 11/07/2021 05:01:31AM via free access
INDEX

'business-to-consumer commercial practices' 5.137–142
centre of interests criterion 5.154
consumer interests protection 5.170
country of origin principle 5.181–188
dominant position abuse 5.145, 5.150
EU E-Commerce Directive 5.183–185, 5.186, 5.187, 5.190
géo-blocking 5.162, 5.178
imitation with a risk of confusion to consumers 5.129, 5.150
'inertia selling' concept 5.142
information society services 5.185
infringement liability 5.189–193
intellectual property rights 5.129–135
intermediation services 5.173–174
jurisdiction 5.147–166
mere accessibility of Internet content 5.155–162, 5.177
mosaic approach 5.157, 5.166, 5.193
multilateral treaties 5.131
national court jurisdiction 5.148, 5.153
national laws and equivalence and effectiveness test 5.189
non-contractual claims and special jurisdiction 5.147–154, 5.192
party autonomy exclusion 5.172
personality rights 5.154
'place where the damage occurred' 5.151, 5.153, 5.157, 5.158–160, 5.163
'place where the harmful event occurred or may occur' 5.149, 5.151–152, 5.193
resale outside a selective distribution network 5.157, 5.191
special treatment for unfair competition claims 5.172
substantive and procedural law, differences between 5.134–135
targeting criterion 5.156
third states and forum choice 5.148
unitary rights 5.150
unregistered trademarks and designs 4.108, 5.50, 5.129, 5.133
website keyword metatags use 5.83, 5.143
unfair competition, trademarks, designs and patents, advertising and domain name use 5.143, 5.144
intra-community unfair 5.181, 5.183, 5.188
misleading and comparative 5.139, 5.141, 5.143, 5.150, 5.163
restrictions 5.175–180
tobacco 5.180
unfair competition, trademarks, designs and patents, foreign judgments 5.02, 5.194–218
adwords and service provider 5.204
ALI Principles 5.199
Brussels I Regulation (Recast) 5.198, 5.215, 5.217, 5.218
CLIP (Conflict of Laws in Intellectual Property) Principles 5.115, 5.199
copyright comparison 5.216
EU E-Commerce Directive 5.203, 5.205
global injunction concerns 5.195, 5.199, 5.201–202
information, protection of undisclosed information, protection of undisclosed
intermediaries 5.203–207
marketing products through websites 5.208–209, 5.211
mosaic approach 5.199
place where damage occurred 5.197
provisional relief 5.198
public policy 5.218
recognition and enforcement 5.214–218
Rome II Regulation 5.200, 5.206
supplementary sanctions 5.211
territorial scope 5.194–202, 5.210–212
third party use of sign and linguistic issues 5.213
unitary rights 5.208–213, 5.215
unlimited jurisdiction 5.198, 5.199

526
Pedro de Miguel Asensio - 9781788110822
Downloaded from Elgar Online at 11/07/2021 05:01:31AM
via free access
INDEX

WIPO Joint Recommendation 5.195
UNIDROIT Principles on Commercial Contracts 6.140
unification and choice of law implications, EU General Data Protection Regulation (GDPR) 3.17–22
uniform rules, copyright law 4.96–108, 4.142–143
unitary copyright title proposal, copyright law 4.38–40, 4.116–120, 4.124, 4.142–143
unitary rights, trademarks, designs and patents
choice of law 5.123–128
national rights 5.67, 5.80
unfair competition 5.150
unfair competition, foreign judgments 5.208–213, 5.215
unitary rights, trademarks, designs and patents, special jurisdiction rules 5.09, 5.12, 5.13–14, 5.91–110
cascade rules 5.94–95
general jurisdiction 5.91–95, 5.106
mosaic approach 5.105
multiple defendants 5.96–99
multiple defendants, close connection requirement 5.98
multiple defendants, same situation of law requirement 5.98–99
place of causal event 5.104
place in which act of infringement has been committed 5.100–106
Rome II Regulation 5.105
Unified Patent Court 5.107–110
unlimited jurisdiction
and copyright law see jurisdiction, copyright law, potentially unlimited jurisdiction, grounds for
EU General Data Protection Regulation (GDPR) 3.115, 3.116, 3.126, 3.127, 3.152
patent infringement claims 5.79–84
unfair competition, trademarks, designs and patents, foreign judgments 5.82, 5.147, 5.152, 5.198, 5.199, 5.201
unregistered trademarks and designs, unfair competition, trademarks, designs and patents 4.108, 5.50, 5.129, 5.133
Unsworth, R. 6.63
US
Anticybersquatting Consumer Protection Act (ACPA) 1.71, 5.41–45
Children’s Online Privacy Protection Act 3.05, 3.43
CLOUD Act 3.36
Communications Decency Act (CDA) 1.124, 2.51, 3.166
consumer interest protection, US, data protection and personality rights 3.05
contracts and consumer protection 6.87
data protection as fundamental right 3.05
Digital Millennium Copyright Act (DMCA) 2.47, 2.50–52
EU-US Privacy Shield, EU General Data Protection Regulation (GDPR), cross-border transfers of data 3.33
fair use approach 4.28
Foreign Country Money Judgments Recognition Act 1.103
Foreign Money Judgments Recognition Act, 1.103
Fourth Restatement of Foreign Relations Law 3.43
free speech rights of authors and publishers (US), EU General Data Protection Regulation (GDPR), personality rights and defamation 3.156
minimum contact tests 1.68, 1.70, 3.130
personality rights and ‘multistate defamation’ 3.148
place where damage occurred, US jurisdiction, national rights, trademarks, designs and patents 5.89

Pedro de Miguel Asensio - 9781788110822
Downloaded from Elgar Online at 11/07/2021 05:01:31AM
via free access
right to privacy 3.148
Second Restatement of Conflict of Laws 1.98
SPEECH Act 3.156, 3.157, 3.158, 3.165–166
state laws, recognition and enforcement 1.103
Stop Enabling Sex Traffickers Act 2.51
Third Restatement on Foreign Relations Laws 1.103
Uniform Electronic Transactions Act 6.08
unregistered trademarks 5.133
US, cases
A&M Recording v. Napster 2.52
ALS Scan v. Digital Serv. Consultants 1.70
Armstrong v. Virgin Records 4.46
Asahi Metal Industries Co. v. Superior Court 1.68
Authors Guild v. Google 4.28
Baldwin v. Fischer-Smith 3.130
Barcelona.com v. Excelsentismo Ayuntamiento de Barcelona 5.34, 5.41, 5.45
Bord v. Banco De Chile 5.30
Bristol-Myers Squibb Co. v. Superior Court of California 1.67, 1.68
Burnham v. Superior Court of California 1.62
Calder v. Jones 1.70, 3.130
Capitel Federal Sav. Bank v. Eastern Bank Corp. 5.89
Carnival Cruise Lines v. Skate 1.73, 6.87
Creative Tech. v. Astech Sys. Pte. 4.51
Cybersell v. Cybersell 5.89
Daimler AG v. Bauman 1.67
De Fontbrune v. Wofsy 1.108
Dlabos v. Strasberg 5.34
Doe v. Geller 4.55
GlobalSantaFe Corp. v. Globalsantafe.com 5.43, 5.44
Hanson v. Denickla 1.68
Helicopteros Nacionales de Colombia SA v. Hall 1.66
Inset Systems v. Instruction Set 1.69
International Shoe Co. v. Washington 1.67
Itar-Tass Russian News Agency v. Russian Kurier 4.105
Jan K. Voda, M.D. v. Cordis Corporation 5.70
Koch v. America Online 1.73
London Film Productions v. Intercontinental Communications 4.46, 4.51
MacDermid v. Deiter 2.83
McIntyre Machinery Ltd. v. Nicasio 1.68
Metro-Goldwyn-Mayer Studios v. Grokster 4.125
MGM Studios v. Grokster 2.52
Millennium Enterprises v. Millennium Music 1.70
Monroig v. RMM Records & Video Corp. 4.67, 4.112
Murray v. British Broad. Corp. 4.51
Parisi v. Netlearning 5.34
Penguin Group (USA) v. American Buddha 4.65
Perfect 10 v. Google 4.28, 4.125
Plixer Int'l v. Scrutinizer 5.89
Sallen v. Corinthisans Licenciamientos LTDA 5.41
Sarl Louise Ferand Int'l v. Viewfinder 4.173
Shaffer v. Heitner 1.68
Shropshire v. Canning 4.111
Spanski v. Telewizja Polska 4.88
Stoner v. Ebay 2.51
Tiffany (NJ) v. eBay 4.45
Tire Engineering and Distribution v. Shandong Linglong Rubber 4.112
Toys R Us v. Step Two 5.89
US v. Microsoft 3.36
Viacom International v. YouTube 2.52, 4.45
Weber-Stephen Products Co. v. Armitage Hardware and Building Supply 5.34
Wells Fargo Company v. Wells Fargo Express Company 5.146
World-Wide-Volkswagen Corporation v. Woodson 1.68
Yahoo! v. La Ligue Contre Le Racisme et L’Antisemitisme 1.114, 1.124
Young v. New Haven Advocate 3.130
Zeran v. AOL 2.51
Zippo Manufacturing Co. v. Zippo Dot Com 1.69, 5.89
US, private international law 1.62–77
common law principles 1.64–65
constitutional limitations over personal jurisdiction 1.64
‘doing business’ general jurisdiction 1.64
domain names, seizure issues 1.71
domicile or residence of the defendant 1.67
due process analysis 1.65, 1.68, 1.70, 3.130, 3.157, 6.133
‘effects test’ for establishing personal jurisdiction 1.70, 3.130
forum non conveniens doctrine 1.64, 1.72
incorporated business entity domicile 1.67
interactive and passive websites, distinction between 1.69, 1.70
interest analysis approach 1.98
minimum contact tests 1.68, 1.70, 3.130
non-contractual obligations 1.98
place of performance of contract 1.68, 1.98
‘sliding scale’ test to Internet contacts 1.69, 5.89
user generated content
copyright law 4.44, 4.45
service provider intermediaries 2.55, 2.59
validity
challenges, trademarks, designs and patents 5.72–77
contract 6.74–80, 6.173–179
Van Alsnoy, B. 3.37
Van Dongen, L. 4.21
Van Eechoud, M. 4.14, 4.16, 4.38, 4.108
Vandezande, N. 6.68
verification of jurisdiction, EU General Data Protection Regulation (GDPR), personality rights and defamation 3.157–160
visually impaired people provisions, copyright law 4.07
Von Hein, J. 3.138
Waddell, A. 5.18, 5.19, 5.28, 5.56, 5.57, 5.60
Wang, F. 1.24
Wang, J. 2.47
Weber, R. 1.01
Wendehorst, C. 6.51
Wilderspin, M. 1.85, 2.34, 2.97, 3.137, 5.74, 6.35, 6.147, 6.155
Wilson, C. 5.22
Winn, J. 1.73
WIPO Copyright Treaty (WCT) 4.07, 4.18
WIPO Internet Domain Name Process 5.25
WIPO Joint Recommendation 5.58–60, 5.121, 5.131, 5.176, 5.195
WIPO Model Provisions 5.136
WIPO Patent Cooperation Treaty 5.07
WIPO Performances and Phonograms Treaty (WPPT) 4.07, 4.18
Woebeking, M. 6.66, 6.67
Wong, M. 4.44
Wright, A. 1.04, 1.06, 6.63, 6.66
‘writing’ requirement, contracts 1.45, 6.05, 6.06, 6.13, 6.30, 6.76–78, 6.179, 6.211, 6.214
WTO TRIPS Agreement
copyright law 4.04–06, 4.07, 4.10, 4.12, 4.13, 4.21, 4.27, 4.175
trademarks, designs and patents 5.04
Wu, T. 1.03
Yokomizo, D. 4.118
Zimmermann, A. 6.65
Zittrain, J. 1.12