Index

advertising
  comparative 179–80
  misleading 179–80
alternative dispute resolution (ADR) 75–7
  and consumers 188–9
Anti-Counterfeiting Trade Agreement (ACTA) 149–50
Anton Piller orders 143–4
applicable law 64
  and consumer contracts 65
  and defamation 67
  and IP violations 69
  and mandatory rules 64, 66
  and personality rights 70
  and unfair competition 69
Audiovisual Media Services Directive 85–7
banking and financial services 170–78
Berne Convention for the Protection of Literary and Artistic Works 133, 239
Brussels I Regulation 54
  and consumer contracts 183
  and defamation 93–4
  general jurisdiction rules 55
  injunctive relief 121
  jurisdiction agreements 60–61
  special jurisdiction for contracts 57
  special jurisdiction for torts 58–60
Charter of Fundamental Rights of the European Union 84, 194
child pornography see pornography
Clinton, William 9, 21, 31
Code is Law 13
  collective rights management 135, 152–3
commercial communication 39
Common European Sales Law 41, 48–51
Communication Decency Act (CDA) 98, 105, 108
computer programs, protection of 142, 155–6
copyright protection 160–89
computer systems, misuse of 238
Consumer Rights Directive (CRD) 166–8
content regulation 82
  constitutional principles 83
  content control 95
cookies, regulation of 213–16
Copyright Directive 95
  aims 124
  communication right 127
  distribution right 128
  exceptions 128–35
  and internal market 126
  reproduction right 126
  scope 125
Copyright Enforcement Directive (Civil) 95, 120
  aims 142
  damages as a remedy 146–7
  measures for preserving evidence 143
  obtaining evidence 143
  provisional and precautionary measures 145
Copyright Enforcement Directive (Criminal) (Draft) 96
Copyright in the Knowledge Economy, Communication on (2009) 134
Council of Europe 3, 21
  country of origin rule 45–8
  Court of Justice 3
  and conflict-of-laws 71–5

263
EU Internet law

criminal law, competence to regulate in
233–4
cybercrime 233–59
Cybercrime Treaty 235–46
the offences 236–40
procedural measures 240–43
Cybercrime Treaty (1997)
Additional Protocol to 101
and hate speech 102
and Holocaust denial 103
and the United States 101
cybersecurity 219
data interference, as a criminal offence
237
Data Protection Directive 195–205
and automated decisions 201
and data controllers 196
and data export to third countries
202–5
and data passed on to third parties
199–201
history of 195
and Internal Market aims 196
and legitimate processing of data 198
revision of 206–8
scope 197
and sensitive data 198
Data Protection Regulation, proposal
for 206–7
data retention
in Cybercrime Treaty 243–4
Data Retention Directive 18, 208–11
Database Directive 156–7
databases 156–7
defamation
liability for 90
jurisdiction 90–92
Digital Agenda for Europe 22, 84
digital economy Act (UK) 107
digital Millennium Copyright Act (DMCA) 1998 3, 109, 136–7
digital rights management (DRM) 136
Distance Marketing of Consumer Financial Services 170–73
information requirements 172
right of withdrawal 172
Distance Selling Directive 162–6
cancellation of payment 165
contract performance 165
inertia selling 166
information to be provided 164
right to withdraw 164
domain name regulation 15–17, 153–5
e-Europe Initiative 21
e-Health Initiative 23
electronic commerce 29
policy on 31
Electronic Commerce Directive 29,
34–48
aims 34
and alternative dispute resolution 76
intermediaries, regulation of 111–19
operation 37
electronic contracts
conclusion of 41, 43–5
electronic payments
fraudulent use of 173–8
regulation of 228–32
Electronic Privacy Directive (E-Privacy Directive) 211–18
cookies, regulation of 213–16
and data retention 210
spam, regulation of 216–18, 253–5
electronic signatures 221
Electronic Signatures Directive 222–8
liability of certification service
providers 227–8
.eu Domain Name Regulation 155
Europe’s Way Forward to the Information Society (1994) 31
European Convention on Human Rights (ECHR) 24, 83, 210, 241
and defamation 94
European Copyright Code 151
European Initiative in Electronic Commerce (1997) 9, 20
European Patent Convention 158
European Union
competence to regulate 17–19
Internet policy 20–24
as Internet regulator 2–4, 260–61
Single Market 2, 14, 17, 20, 33

exhaustion of rights 157–8

Federal Communications Commission (FCC) 6, 15
fraud, computer related 239
free speech
  as a constitutional value 82–7, 250
  and copyright 95–8
  and privacy 192

Green Paper: Online Distribution of Audiovisual Works (2011) 135
hacking see information systems, attacks against
HADOPI 107
harmful content, regulation of 255–9
hate speech 101, 236
i2010 22
identity
  digital identity 219–20
illegal and harmful content 84
liability for 87
INDUCE Act 97
information and communication technology 1
information society services 37, 111
estABLishment of 38
information systems, attacks against 246–7
Infosoc Directive see Copyright Directive
injunctive relief 119
  in copyright cases 120
intellectual property rights 123–59
interception of data, as a criminal offence 237
intermediaries
  access providers as 111
  caching 114
  conduits 113
  definition of 111
  filtering, duty of 121
hosting 115–16
injunctive relief against 119–21, 141, 146
monitoring, duty of 117
vs primary publishers 117
Internet
  anonymity 6
  architecture 1, 4
  and collaboration 4
  neutrality 6
  regulatory arbitrage 6
  self-regulation 14
  TCP/IP protocol 5
Internet Assigned Numbers Authority (IANA) 15
Internet Corporation for Assigned Names and Numbers (ICANN) 5, 12, 16
Internet Engineering Task Force (IETF) 5
internet governance 8–17
  governance models 11
internet service providers (ISPs)
  injunctions against 107
  liability of 107–19
  and net neutrality 7
Internet Society (ISOC) 12
interoperability 50
judgments, recognition and enforcement of 62
  in the US 63
jurisdiction 55
  for audio-visual services 58
  general 55–6
  for IP rights 60
  for software sale 57
  special 55–7
jurisdiction agreements 60
  and consumer contracts 61
  and third states 62
lis pendens 61
Mareva injunctions 145
marketing 160–89
net neutrality 7, 23
orphan works 134
passenger data transfer
EU–US Agreement on 12
patents 158–9
payments
payment cards, fraudulent use of 173
Payments Services Directive 177–8
Recommendation on Electronic Payments 174–5
pornography 99–100, 255–7
child pornography 99, 239, 257–9
privacy 190–218
as a constitutional value 193
private use 129
compensation paid for 130
regulated professions 40
reproductions
photocopies 129
for private use 129
rights-management
removal of 140
Rome I Regulation 64
determining applicable law 64
consumer contracts 65, 187
Rome II Regulation 54, 67–70
and competition law 69
determining applicable law 69
earlier drafts 67
and IP infringements 69
Safer Internet Action Plan 84, 99–100, 255
sexually explicit speech 98
software see computer programs
SOPA Act 97
spam
civil regulation of 39, 216–18
as a criminal activity 251–5

technological measures
access control 136, 139
copy control 136, 139
protection of 136