
Akehurst, M (1972–3), ‘Jurisdiction in International Law’ British Yearbook of International Law 46 145–266.


Bigos, O (2005), ‘Jurisdiction over Cross-border Wrongs on the Internet’ International and Comparative Law Quarterly 54 (3) 585.


Droz, G (1972), La Compétence Judiçiaire et l’Effet des Jugements dans la Communauté Économique Européenne (Dalloz).


Franssen, J and R Budik (2005), ‘The European Remote Gambling Market’ Casino Lawyer (Fall) 8–9.


Hamann, G (2009), ‘Implications of Replacing Slingshots with Swords’
Hamilton, M and K Rogers (2008), ‘Internet Gambling: Community Flop or
the Texas Hold’em Poker Rules’ International Review of Law Computers &
Technology 22 (3) 223–30.
Hannon, L (2004), ‘Calling the Internet Bluff: The Interplay Between
Advertising and Internet Gambling’ Seton Hall Journal of Sports and
Entertainment Law 14 239–66.
Hartmann, J (2008), ‘The Lugovoy Extradition Case’ International &
Comparative Law Quarterly 57 (1) 194–200.
Hayer, T and G Meyer (2004), Die Prävention Problematischen
Law International).
Hörnle, J (2003), ‘The European Union takes Initiative in the Field of E-
commerce – Commentary’ The Journal of Information, Law and
Technology 3.
Hörnle, J (2004), ‘Global Regulation of Internet Transactions’ in
Hörnle, J (2005), ‘Country of Origin Regulation in Cross-border Media – One
Step Beyond the Freedom to Provide Services’ International Comparative
Law Quarterly 54 89–126.
Hörnle, J (2008), ‘The Jurisdictional Challenge of the Internet’ in L Edwards
121–58.
Horspool, M and M Humphreys (2008), European Union Law (5th edn)
(Oxford: Oxford University Press).
Howells, G and S Weatherill (2005), Consumer Protection Law (2nd edn
(Farnham: Ashgate).
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and Restitutionary Damages’ (November) The Modern Law Review 61 (6)
860.
Jones, A and B Sufrin (2004), EC Competition Law: text, cases and materials
Towards a European Framework for Electronic Signatures: the
Kaczmorowska, A (2009), European Union Law (Abingdon, UK and New York,
Laurent, F (1881), *Le Droit Civil International* (Brussels).
Littler, A ‘(2007), The Regulation of Gambling at European Level’ *ERA Forum* 8 (3) 357–71.
Mann, F A (1964), ‘The Doctrine of Jurisdiction in International Law’ *Recueil des Cours* 11 (1) 1–159.
Molfa, M (2005), ‘US Legislation on Cross-border Gambling Violates the
Murphy, J (2007), Street on Torts (12th edn) (Oxford: Oxford University Press).
Bibliography


Rennie, M (1994), Computer and Internet Contracts and Law (Looseleaf).


Schwartz, D (2005), Cutting the Wire (Reno, NV: University of Nevada Press).

Scott, C (2004), ‘Regulatory Innovation and the Online Consumer’ Law and Policy 26 (3) and (4).


Social Sciences Research Centre of the University of Hong Kong (2005), *Study on Hong Kong People’s Participation in Gambling Activities Key Statistics*.


Van der Hof, S (2003), ‘European Conflict Rules Concerning International
Online Consumer Contracts’ (June) Information and Communications Technology Law 12 (2) 165.
Volk, A (2006), Glückspiel im Internet (Cologne: Carl Heymanns Verlag).
Winkelmuller, M and H W Kessler (2009), ‘Regulating the German Internet Market – the Latest Developments in German Gambling Law’ 
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