Bibliography


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 Judiciare et l’Effet des Jugements dans la Communauté Économique Européenne (Daloz).


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


Laurent, F (1881), *Le Droit Civil International* (Brussels).


Molfa, M (2005), ‘US Legislation on Cross-border Gambling Violates the
Murphy, J (2007), Street on Torts (12th edn) (Oxford: Oxford University Press).


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).


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