Cambridge University Press	
978-0-521-19933-9 - Internet Jurisdiction and Choice of Law: Legal Practices in the EU,	US
and China	
Faye Fangfei Wang	
Table of Contents	
More information	

CONTENTS

Preface page ix List of Abbreviations х Table of Cases xii

PART I: Introduction 1

Introduction 1.

1.1 What are electronic commercial transactions? 3

3

1.1.1 Concepts and features

3

- 1.1.2 Benefits: economic and social impacts 4
- 1.1.3 Technical and legal barriers 6

What is contemporary private international law? 1.2 7 8

- 1.2.1 Global regimes
- 1.2.2 Other regimes 10

PART II: Jurisdiction 15

Jurisdiction in electronic contracting 2. 17

- 2.1 Overview of jurisdiction 17
 - 2.1.1 Definitions and principles 17
 - Differences between common law and civil law 2.1.2 systems 18
 - 2.1.3 Characteristics of Internet jurisdiction 18
- 2.2 Choice of court agreements: the Hague Convention 2005 19
 - 2.2.1 Scope: electronic choice of court agreements 21
 - 2.2.2 Definition: exclusive choice of court agreements 22
 - 2.2.3 Core principles: jurisdiction and obligations 23
 - 2.2.4 Signatory, ratification and implementation 25

Cambridge University Press
978-0-521-19933-9 - Internet Jurisdiction and Choice of Law: Legal Practices in the EU, US
and China
Faye Fangfei Wang
Table of Contents
More information

vi		CONTENTS
3.	EU 1	rules applied in cyber jurisdiction 35
	3.1	Overview of the EU jurisdiction rules 35
	3.2	Choice of court clauses/exclusive jurisdiction agreements 37
	3.3	General jurisdiction 45 3.3.1 Bases of jurisdiction applicable to domiciled defendants 3.3.2 Bases of jurisdiction applicable to non-domiciled defendants 47
	3.4	Special jurisdiction473.4.1B2B Contracts473.4.2B2C/consumer contracts57
	3.5	Exclusive jurisdiction 64
4.	US j	urisdiction tests employed in e-contracting disputes 65
	4.1	Overview of the US jurisdiction tests 65
	4.2	General jurisdiction 65
	4.3	Specific jurisdiction664.3.1B2B contracts674.3.2B2C/consumer contracts73
5.	Chiı	nese legislation on jurisdiction 79
	5.1	Jurisdiction clauses/agreements 80
	5.2	Jurisdiction rules 83
		Summary 87
	PAR	T III: Choice of law 91
6.	Cho	ice of law in electronic contracting 93
	6.1	Development of Internet choice of law 93
	6.2	International dimension946.2.1Lex mercatoria966.2.2CISG966.2.3ICC - Incoterms 200097
	6.3	Other regions 97

Cambridge University Press
978-0-521-19933-9 - Internet Jurisdiction and Choice of Law: Legal Practices in the EU, US
and China
Faye Fangfei Wang
Table of Contents
More information

		CONTENTS	vii
7.	EU I	Internet choice of law regime 100	
	7.1	Overview: the Rome Convention and Rome I Regulation 100	
	7.2	Scope and aims1017.2.1The Rome Convention1017.2.2The Rome I Regulation102	
	7.3	The applicable law in cases of choice1027.3.1B2B contracts1027.3.2B2C/consumer contracts107	
	7.4	The applicable law in the absence of choice1087.4.1B2B contracts1087.4.2B2C/consumer contracts118	
8.	US I	Internet choice of law rules 123	
	8.1	Overview 123	
	8.2	The applicable law for B2B contracts1248.2.1The applicable law in cases of choice1248.2.2The applicable law in the absence of choice127	
	8.3	The applicable law for B2C/consumer contracts 130	
9.	Chir	nese Internet choice of law approaches 133	
	9.1	Party autonomy/freedom of choice 133	
	9.2	The applicable law in the absence of choice 135	
		Summary 138	
		T IV: Online dispute resolution 141	
10.	Alte	rnative dispute resolution and the Internet 143	
	10.1	The movement from ADR to ODR 143	
	10.2	The concept of ODR 144	
	10.3	ODR practice14510.3.1Suitable cases for the usage of ODR14510.3.2Global successful examples of ODR services148	

Cambridge University Press
978-0-521-19933-9 - Internet Jurisdiction and Choice of Law: Legal Practices in the EU, US
and China
Faye Fangfei Wang
Table of Contents
More information

viii

CONTENTS

- 11. The legal obstacles and solutions to online arbitration and online mediation 156
 - 11.1Legal obstacles to ODR15611.1.1Online arbitration15611.1.2Online mediation164
 - 11.2 Solutions to legal obstacles 169
 - PART V: The future 177
- 12. Conclusion and recommendation 179
 - 12.1 Future legislative trends 179
 - 12.2 Solutions to obstacles in Internet private international law 181
 - Appendix 1: Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (Brussels I) 189

Appendix 2: Regulation (EC) No 593/2008 of the EuropeanParliament and of the Council of 17 June 2008 on the lawapplicable to contractual obligations (Rome I)218Bibliography241Index251