Contents

Acknowledgements Preface XX PART I Introduction 1 The business and legal landscape of electronic commercial transactions 1.1 Concepts and features 1.1.1 Internet 1.1.2 Electronic commerce 1.2 Benefits: economic and social impacts 1.3 The legislative approaches 1.3.1 Global regimes 1.3.2 Other regimes: EU, US and China 2 Technical and legal barriers to online commerce 2.1 Contracts of sale of goods 2.1.1 B2B Transactions: international trade 2.1.2 B2C Transactions: consumer contracts 2.2 Contracts of carriage of goods 1 2.3 Electronic payments 2.4 Dispute resolutions			e of cases		ix xiii
PART I Introduction 1 The business and legal landscape of electronic commercial transactions 1.1 Concepts and features 1.1.1 Internet 1.1.2 Electronic commerce 1.2 Benefits: economic and social impacts 1.3 The legislative approaches 1.3.1 Global regimes 1.3.2 Other regimes: EU, US and China 2 Technical and legal barriers to online commerce 2.1 Contracts of sale of goods 2.1.1 B2B Transactions: international trade 2.1.2 B2C Transactions: consumer contracts 1.2 Contracts of carriage of goods 1.3 Electronic payments 1.4 Dispute resolutions					XV
Introduction 1 The business and legal landscape of electronic commercial transactions 1.1 Concepts and features 1.1.1 Internet 1.1.2 Electronic commerce 1.2 Benefits: economic and social impacts 1.3 The legislative approaches 1.3.1 Global regimes 1.3.2 Other regimes: EU, US and China 2 Technical and legal barriers to online commerce 1.1 Contracts of sale of goods 2.1.1 B2B Transactions: international trade 2.1.2 B2C Transactions: consumer contracts 1.2 Contracts of carriage of goods 1.3 Electronic payments 1.4 Dispute resolutions 2 Dispute resolutions				·	xvii
Introduction 1 The business and legal landscape of electronic commercial transactions 1.1 Concepts and features 1.1.1 Internet 1.1.2 Electronic commerce 1.2 Benefits: economic and social impacts 1.3 The legislative approaches 1.3.1 Global regimes 1.3.2 Other regimes: EU, US and China 2 Technical and legal barriers to online commerce 1.1 Contracts of sale of goods 2.1.1 B2B Transactions: international trade 2.1.2 B2C Transactions: consumer contracts 1.2 Contracts of carriage of goods 1.3 Electronic payments 1.4 Dispute resolutions 2 Dispute resolutions	PA	RT I			
commercial transactions 1.1 Concepts and features 1.1.1 Internet 1.1.2 Electronic commerce 1.2 Benefits: economic and social impacts 1.3 The legislative approaches 1.3.1 Global regimes 1.3.2 Other regimes: EU, US and China 1 Technical and legal barriers to online commerce 2.1 Contracts of sale of goods 2.1.1 B2B Transactions: international trade 2.1.2 B2C Transactions: consumer contracts 2.2 Contracts of carriage of goods 2.3 Electronic payments 2.4 Dispute resolutions	F-19.		etion		1
1.1 Concepts and features 1.1.1 Internet 1.1.2 Electronic commerce 1.2 Benefits: economic and social impacts 1.3 The legislative approaches 1.3.1 Global regimes 1.3.2 Other regimes: EU, US and China 2 Technical and legal barriers to online commerce 2.1 Contracts of sale of goods 2.1.1 B2B Transactions: international trade 2.1.2 B2C Transactions: consumer contracts 2.2 Contracts of carriage of goods 2.3 Electronic payments 2.4 Dispute resolutions	1	The	business	and legal landscape of electronic	
1.1.1 Internet 1.1.2 Electronic commerce 1.2 Benefits: economic and social impacts 1.3 The legislative approaches 1.3.1 Global regimes 1.3.2 Other regimes: EU, US and China 1 Technical and legal barriers to online commerce 2.1 Contracts of sale of goods 2.1.1 B2B Transactions: international trade 2.1.2 B2C Transactions: consumer contracts 1 Contracts of carriage of goods 2.3 Electronic payments 2.4 Dispute resolutions		commercial transactions			3
1.1.2 Electronic commerce 1.2 Benefits: economic and social impacts 1.3 The legislative approaches 1.3.1 Global regimes 1.3.2 Other regimes: EU, US and China 1 2 Technical and legal barriers to online commerce 2.1 Contracts of sale of goods 2.1.1 B2B Transactions: international trade 2.1.2 B2C Transactions: consumer contracts 2.2 Contracts of carriage of goods 2.3 Electronic payments 2.4 Dispute resolutions		1.1	Conce	pts and features	4
1.2 Benefits: economic and social impacts 1.3 The legislative approaches 1.3.1 Global regimes 1.3.2 Other regimes: EU, US and China 2 Technical and legal barriers to online commerce 2.1 Contracts of sale of goods 2.1.1 B2B Transactions: international trade 2.1.2 B2C Transactions: consumer contracts 2.2 Contracts of carriage of goods 2.3 Electronic payments 2.4 Dispute resolutions			1.1.1	Internet	4
1.3 The legislative approaches 1.3.1 Global regimes 1.3.2 Other regimes: EU, US and China 2 Technical and legal barriers to online commerce 2.1 Contracts of sale of goods 2.1.1 B2B Transactions: international trade 2.1.2 B2C Transactions: consumer contracts 2.2 Contracts of carriage of goods 2.3 Electronic payments 2.4 Dispute resolutions			1.1.2	Electronic commerce	4
1.3.1 Global regimes 1.3.2 Other regimes: EU, US and China 2 Technical and legal barriers to online commerce 2.1 Contracts of sale of goods 2.1.1 B2B Transactions: international trade 2.1.2 B2C Transactions: consumer contracts 2.2 Contracts of carriage of goods 2.3 Electronic payments 2.4 Dispute resolutions		1.2	Benefit	ts: economic and social impacts	5
1.3.2 Other regimes: EU, US and China 2 Technical and legal barriers to online commerce 2.1 Contracts of sale of goods 2.1.1 B2B Transactions: international trade 2.1.2 B2C Transactions: consumer contracts 2.2 Contracts of carriage of goods 2.3 Electronic payments 2.4 Dispute resolutions		1.3	The leg	gislative approaches	7
2 Technical and legal barriers to online commerce 2.1 Contracts of sale of goods 2.1.1 B2B Transactions: international trade 2.1.2 B2C Transactions: consumer contracts 2.2 Contracts of carriage of goods 2.3 Electronic payments 2.4 Dispute resolutions			1.3.1	Global regimes	7
2.1 Contracts of sale of goods 2.1.1 B2B Transactions: international trade 2.1.2 B2C Transactions: consumer contracts 2.2 Contracts of carriage of goods 2.3 Electronic payments 2.4 Dispute resolutions 2			1.3.2	Other regimes: EU, US and China	10
2.1.1 B2B Transactions: international trade 2.1.2 B2C Transactions: consumer contracts 2.2 Contracts of carriage of goods 2.3 Electronic payments 2.4 Dispute resolutions 2.5 Contracts of carriage of goods 2.6 Contracts of carriage of goods 2.7 Contracts of carriage of goods 2.8 Contracts of carriage of goods 2.9 Contracts of carriage of goods 2.1 Contracts of carriage of goods 2.2 Contracts of carriage of goods 2.3 Electronic payments 2.4 Dispute resolutions	2	Tech	nical and	d legal barriers to online commerce	13
2.1.2 B2C Transactions: consumer contracts 2.2 Contracts of carriage of goods 2.3 Electronic payments 2.4 Dispute resolutions 2.5 Dispute resolutions		2.1	Contra	acts of sale of goods	13
2.2 Contracts of carriage of goods 2.3 Electronic payments 2.4 Dispute resolutions 2			2.1.1	B2B Transactions: international trade	14
2.3 Electronic payments 2.4 Dispute resolutions 2			2.1.2	B2C Transactions: consumer contract	s 17
2.4 Dispute resolutions		2.2 Contracts of carriage of goods		18	
1		2.3 Electronic payments		23	
Summary 2		2.4	Disput	e resolutions	24
		Summary			25

vi Contents

PA	RT	II
TIME	T/T	

Ele	ectron	ic contracts	29	
		scenario of electronic contracting al concerns in response to the scenario	29 30	
3	Wha	at is an electronic contract?	33	
	3.1 The definition of electronic contracting		33	
	3.2			
	3.3	The online contracting parties: who is contracting online?	35	
4	Whe	When is an electronic contract made?		
	4.1	Dispatch and receipt of an electronic communication	38	
		4.1.1 Time of dispatch	38	
		4.1.2 Time of receipt	39	
	4.2	Offer and acceptance	41	
		4.2.1 International legislative developments	41	
	4.3		49 50	
	4.4			
		4.4.1 Current legislation in electronic errors	51	
		4.4.2 Obstacles in regulating electronic errors	55	
		4.4.3 Solution I: implication from the Microsoft	56	
		Outlook case	30	
		4.4.4 Solution II: influence of European Contract Law	60	
5	Where is the contract made?		63	
	5.1	Place of business	63	
	5.2	Place of performance	64	
6	Con	Contemporary issue: electronic battle of forms		
	6.1	1 International legislation: CISG and PICC		
	6.2	US legislation: UCC		
		6.3 EU legislation: PECL		
	6.4			
	6.5			
		electronic contracts?	70	
	Summary			

			Contents	vii	
	RT III line s	ecurity		75	
7	Elect	tronic sig	gnatures	77	
	7.1	Currer	nt legislation: EU, US and China	78	
	7.2		of electronic signatures	79	
	7.2	7.2.1		80	
		7.2.2		80	
		7.2.3	Digital signatures	80	
	7.3	Benefi	ts	82	
	7.4	Functi	ons	83	
	7.5	Legal	recognition	84	
8	Electronic authentication			88	
	8.1	What i	is electronic authentication?	88	
	8.2	The di	fferences between E-signatures and E-authentication	89	
	8.3		d third parties: Certification Authorities (CAs)	89	
		8.3.1	Definition	89	
		8.3.2	Requirements	90	
		8.3.3	Functions and roles	91	
		8.3.4	Forms	91	
	p.	8.3.5	Conditions of establishment	92	
	8.4	Conte	mporary issue: regulating online		
		interm	nediaries – CAs	94	
		8.4.1	What are the duties of CAs?	94	
		8.4.2	What are the contractual liabilities of CAs?	94	
		8.4.3	What is the international regulatory		
			standard of CAs?	97	
9	Contemporary issue: protecting information in				
	electronic communications			103	
	9.1 Data protection policies and practices		105		
		9.1.1	EU	105	
		9.1.2	US	108	
		9.1.3	China	109	
	9.2	Intern	et privacy: regulations and practices	110	
		9.2.1	International framework	110	
		9.2.2	EU	113	
		9.2.3	US	114	
		9.2.4	China	116	
	Sum	mary		120	

viii Contents

PA	RT IV		
Dis	spute 1	resolutions	123
10	Resolving electronic commercial disputes		125
	10.1	Internet jurisdiction	125
		10.1.1 EU rules applied in cyber jur	isdiction 126
		10.1.2 US jurisdiction tests	132
		10.1.3 Chinese legislation on interne	et jurisdiction 136
		10.1.4 Summary: a comparative stu	
	10.2	Applicable law for internet-related dis	putes 139
		10.2.1 EU	139
		10.2.2 US	145
		10.2.3 China	149
		10.2.4 Summary: a comparative stu	1. The state of th
	10.3	Online dispute resolution	151
		10.3.1 Current legislation in the EU	
		10.3.2 Global successful examples of	
		10.3.3 The future of ODR: internati	
		standardisation	161
	RT V		
Th	e futu	re	165
11	Conclusions and recommendations		167
	11.1 Future legislative trends in the EU, US and China11.2 Solutions to obstacles in the law of electronic commercial		
	transactions		169
	Appendix 1: United Nations Convention on the Use of		he Use of
		Electronic Communications in I	nternational
		Contracts 2005	173
	Appe	ndix 2: United Nations Convention on C	
		International Carriage of Goods	
		by Sea	183
	Note.		236
		rences	263
	Index	C	269