ELECTRONIC CONTRACTS

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Negotiation and Drafting Major Business Agreements Conference
Federated Press October 2007

What's an Electronic Contract?

An "electronic" contract, also known as a "click-wrap", click-through", "web-wrap", "browse-wrap" or "point and click" contract, is an agreement presented and consummated entirely in an on-line environment; most often on the Internet. These contracts are typically contracts of adhesion: i.e., one-sided (in favour of the presenting party), boiler plate agreements presented to customers on a "take-it or leave it" basis. There is little if no room to negotiate the contract and, if the customer does not accede to the agreement, he or she will be denied access to the product or service. The term, "wrap" is a misnomer and has nothing to do with the manner in which such agreements are physically presented. Click-wrap or "browse-wrap" agreements take their name from "shrink-wrap" agreements; written paper contracts that were included in the plastic shrink-wrapped packaging containing, most often, computer software. As discussed below, a significant similarity between click-wrap and shrink-wrap contracts relates to their manner of acceptance as legally binding agreements. Users of software purchased in shrink-wrapped packages have been held to have agreed to the terms of a shrink-wrap contract by virtue of opening the package and installing the software. Similarly, in some instances, the courts have held that the web user can be bound by an electronic contract by the simple act of downloading software or purchasing products or services on-line. In both cases, the end user may not necessarily have read, much less understood, the contract. The term "click-wrap" comes from the fact that in order to accept the terms of the contract on-line, the party must "click" with a mouse on an on-screen icon or box.

Electronic contracts are ubiquitous for anyone who wishes to access certain web sites, pay for products or services on-line or even obtain an account with an internet service provider ("ISP") to access the Internet. Below are some recent statistics of internet penetration:

Top 14 Countries with the Highest Number of Internet Users as at June 30, 2007

#	Country or Region	Internet Users	Penetration % of Population	% of World Users	Broadband Subscribers	Broadband Penetration
1	United States	210,575,287	69.7%	18.0%	58,136,577	19.3%
2	China	162,000,000	12.3%	13.8%	35,300,000	2.7%
3	Japan	86,300,000	67.1%	7.4%	25,755,080	20.0%
4	Germany	50,426,117	61.1%	4.3%	14,085,232	17.1%
5	India	42,000,000	3.7%	3.6%	2,100,000	0.2%
6	Brazil	39,140,000	21.0%	3.3%	5,846,000	3.1%
7	United Kingdom	37,600,000	62.3%	3.2%	12,993,354	21.5%
8	South Korea	34,120,000	66.5%	2.9%	14,042,728	27.4%
9	France	32,925,953	53.7%	2.8%	12,699,000	20.7%
10	Italy	31,481,928	52.9%	2.7%	8,638,873	14.5%
11	Russia	28,000,000	19.5%	2.4%	1,200,000	0.8%
12	Mexico	22,700,000	21.3%	1.9%	3,728,150	3.5%
13	Canada	22,000,000	67.8%	1.9%	7,675,533	23.7%

[1]

The figures for the United States represent a 171.6% increase from 2000-2007.[2] In 2000, there were 12,700,000 internet users in Canada. That figure grew to 22,000,000 by 2007, representing a growth of 40.3% to 67.8% of the population.[3] Canadian retail e-commerce marked its fifth straight year of double-digit growth, yet online sales still account for less than 1% of the total retail market, according to Statistics Canada's *2006 Survey of Electronic Commerce and Technology*.[4]

Online sales more than doubled in Canada from 2003-2006, and nearly half of Canadian retail firms now have a web site, compared to the 42% that did in 2005. Among companies with 100 employees or more, of which 88% have a web site, the percentage is even higher.[5]

The average amount that Canadians spend online is anticipated to grow strongly over the next three years. Seasoned online buyers (rather than new ones) will drive overall market growth. Comparing Canadian and US online consumer behavior, Canadians are either on par or ahead of their US peers in purchasing electronics, travel and event tickets online. Canadians lag behind in the purchasing of clothing, music and videos, gifts and toys. Canada is a world leader in Internet adoption, time spent online and electronic banking and bill payment.[6]

Types of Click-Wrap Contracts

In an off-line contract, both parties typically indicate their agreement to the terms and conditions thereof by signing. On-line, only one of the parties (usually, the surfer or person using the computer), signifies acceptance by "signing" in the following ways:

1. Type and Click – the user must type "I accept" or other words in a specified area and then click "send";
2. Clicking an Icon – the user simply clicks an "I accept" icon to go to the requested page;
3. Scroll and Click – the user must scroll down the terms of the click-wrap contract and then click an icon marked "I accept" or "I agree".

One of the unique features of a click-wrap contract is that it is a one-sided, "take-it-or-leave-it" proposition. Unlike a paper contract, where the parties may vigorously negotiate the terms of the agreement before signing, the user in the on-line environment has no bargaining power. The user must either accept the terms of the click-wrap agreement (which will typically be in favour of the proffering party) or not gain access to the desired webpage, product or service.

The lack of negotiation is partly due to the realities of on-line commerce: it is not logistically possible for the ISP or on-line service provider ("OSP") to negotiate with each and every user.

Purposes of Click-Wrap Contracts

The main purposes of click-wrap Agreements are to:

1. ensure contractual certainty;
2. allow access to a particular web site or webpage;
3. download software;
4. purchase a product or service;
5. inform the user of proprietary material on the web site;
6. enumerate a web site's terms of use or service and privacy policy;

7. impose limitations on the use of downloaded material;
8. make it easier for the ISP or OSP to pursue users for violations or infringement;
9. limit the ISP's or OSP's liability for use of content, errors or problems associated with downloaded software, other products or services.

Browse-Wrap Agreements

"Browse-wrap" agreements, as distinct from "click-wrap" agreements, do not require the active consent of the user. Acceptance of a browse-wrap is implied from the user's browsing or other activity on the web site, even if the user has not reviewed the electronic contract. Browse-wrap agreements are typically found at the bottom of a webpage in the form of a link to another page on which the terms and conditions are posted. The user is not required to review the contract, much less access the page where it's located, in order to proceed.

Are Click-Wrap Agreements Enforceable?

Canadian Case Law

Generally, the same legal requirements for enforceable written or off-line contracts pertain to on-line contracts: the offer; acceptance; and consideration. Prior to e-commerce legislation and the growth of the case law, uncertainty existed as to whether the 3 main prerequisites for an enforceable contract could be achieved on-line: whether an offer was in reality an invitation to treat; and whether a party could accept the terms of an offer on-line. Recently, the forum selection or choice of law provisions in electronic contracts were the subject of judicial scrutiny. The leading case in Canada on click-wrap agreement is *Rudder* v. *Microsoft*,[7] a 1999 decision of the Ontario Superior Court of Justice. In that case, the Court found that the entire click-wrap agreement, including the forum selection clause, was enforceable. The plaintiffs launched a class action on behalf of Canadian MSN subscribers against Microsoft alleging financial improprieties, including inappropriate billing of subscribers' credit cards, thereby violating the terms of the click-wrap agreement. Microsoft filed a motion for a permanent stay of the action, arguing *forum non conveniens*. The click-wrap agreement provided that by accepting its terms (done by clicking an "I agree" icon) the plaintiffs agreed that the laws of the State of Washington governed the agreement and that the plaintiffs had attorned

to the jurisdiction and venue of the courts of King County, WA, "…in all disputes arising out of or relating to [their] use of MSN or [their] MSN membership".

The plaintiffs argued that since the entire agreement was not visible on the screen at any one time, Microsoft had a duty to bring the forum selection clause to their attention. The Court rejected that argument, noting that the click-wrap agreement was no more difficult to read than a multi-page written document, which requires a party to turn the page[8].

In addition, by requiring users to click the "I agree" icon, the Court in *Rudder* held that Microsoft ensured that an affirmative act was required to accept the terms of the contract. In other words, the plaintiffs were assumed to have read the agreement. Similar reasoning is found in cases regarding off-line contracts in which it has been held that by signing a contract, that party is deemed to have read, understood and accepted its terms. The Court also noted that the "I agree" icon was displayed at the same time portions of the click-wrap agreement were displayed on the screen.

The Court rejected the plaintiffs' excuse of ignorance of the forum selection clause. The MSN sign-up procedure required potential subscribers to view the terms and conditions and click the "I agree" icon twice. The second time the terms of the agreement were displayed, the click-wrap agreement provided that even if the applicants did not read the agreement before clicking the "I agree" icon, they would still be bound by all of the terms. The forum selection and choice of law provisions were held to be legally enforceable because the Court found they were no more difficult to read or find than other terms of the agreement. In addition, since the plaintiffs were seeking to have the court give effect to other terms of the click-wrap agreement, it would be unfair to not give effect to the forum selection and choice of law provisions: the Court held that not to do so would frustrate the purpose of commercial certainty.

American Case Law

The trend of the courts to give effect to electronic agreements is similar in the US, although in that country, the courts have shown that they will not always do so. Each case depends on its facts. Often, the matter will hinge on the manner of giving assent

and whether a given provision in an electronic contract or the entire contract itself, is reasonable.[9]

In *Caspi* v. *Microsoft Network L.L.C*.[10], the user was required to select either an "I Accept" or an "I Don't Agree" icon. Unlike in *Rudder*, the user was not required to "read", i.e., scroll through, all the terms and conditions of the click-wrap agreement; however, the user could not access the service without having clicked an icon. The Court upheld the electronic contract on the basis that the user could only access the service after he or she had the *opportunity* to review the membership agreement.

In *Forest* v. *Verizon Communications Inc.*[11], a case with facts similar to those in *Rudder,* at issue was whether the choice of law and forum selection clauses could be applied to a class action suit. The appellant customers argued that Verizon had not brought the stated provisions or their significance to their attention. The clause was located at the end of the agreement and could only be viewed if the user scrolled down the entire contract. As in *Rudder*, only a portion of the agreement was visible on the screen at any one time. The admonition, "PLEASE READ THE FOLLOWING AGREEMENT CAREFULLY" was located at the beginning of the agreement. Users could click an "Accept" icon below the scroll box. The Court held that Verizon provided adequate notice of the clause, because had the plaintiffs read the agreement before accepting it, they would have seen the choice of law and selection forum clause. The Court found that absent fraud or mistake, a user who "signs" a contract is deemed to have read it, whether or not he or she actually does so. The Court opined that a contract is no less a contract simply because it is entered into via a computer.

Are Browse-Wrap Agreements Enforceable?

Canadian Case Law

In *Kanitz* v. *Rogers Cable Inc.*[12], Rogers' customers signed an off-line service agreement. The agreement provided that amendments to it could be made at any time and posted on the Rogers web site. Rogers amended the agreement to provide that disputes would be settled by arbitration. The revised service agreement was posted on the web site, together with a notice that the agreement had been amended. As a result of experiencing service problems, the plaintiffs commenced a court action under the Ontario *Class Proceedings Act*. The plaintiffs alleged that they had not accepted the

provision that disputes were to be settled by arbitration. Although the Court found that arbitration would not apply for different reasons, it did uphold the amendment to the service agreement on the basis that the plaintiffs, by continuing to use the Rogers service, had impliedly accepted the amendment. The Court further ruled that the amending provision placed an obligation on the plaintiffs to check the web site occasionally. In essence, the Court's *ratio* founded upon the contractual doctrine of acceptance by conduct. By continuing to use the Rogers service after the posting of the amendment (even though the plaintiffs were unaware of it), the plaintiffs had impliedly accepted those amendments.

In the Supreme Court of Canada decision in *Dell Computer Corp.* v. *Union des consommateurs*[13], the Court had to determine, *inter alia*, whether an arbitration clause in Dell's electronic contract constituted an "external clause" under the *Quebec Civil Code*, and was therefore unenforceable. Dell sold computer equipment over the Internet. Its Canadian head office was in Toronto and it had a place of business in Montreal. The order pages of its English web site incorrectly listed the prices of two computers at $89 rather than $379 and $118 rather than $549. Once informed of its error, Dell blocked access to the incorrect order pages through its usual address or URL. The plaintiff, circumventing the measures taken by Dell, used a deep link allowing him to access the disabled order pages without using the usual route and ordered a computer at the lower price. Dell then posted a correction notice and notified customers that it would not honour orders made at the lower prices. The plaintiff moved to institute a class action against Dell. Dell applied for referral of the plaintiff's matter to arbitration pursuant to the arbitration clause set out in the terms and conditions of sale and for dismissal of the motion for authorization of the class action. The lower Courts had held for different reasons that the arbitration clause was unenforceable against the Plaintiff. The Supreme Court of Canada held that the clause was enforceable.

McLachlin, C.J., speaking for the majority, stated:

> Analogously to paper documents, some Web documents contain several pages that can be accessed only by means of hyperlinks, whereas others can be viewed by scrolling down them on the computer's screen. There is no reason to favour one configuration over the other.[14]

Later, McLachlin found that:

> The evidence in the record shows that the consumer could access the page of Dell's Web site containing the arbitration clause directly by clicking on the highlighted hyperlink entitled "Terms and Conditions of Sale". This link reappeared on every page the consumer accessed. When the consumer clicked on the link, a page containing the terms and conditions of sale, including the arbitration clause, appeared on the screen. *From this point of view, the clause was no more difficult for the consumer to access than would have been the case had he or she been given a paper copy of the entire contract on which the terms and conditions of sale appeared on the back of the first page*. [Italics added]
>
> In my view, the consumer's access to the arbitration clause was not impeded by the configuration of the clause; to read it, he or she needed only to click once on the hyperlink to the terms and conditions of sale. The clause is therefore not an external one within the meaning of the *Civil Code of Québec*.[15]

The plaintiff was held to be bound by the arbitration clause and his motion for authorization of his class action was dismissed.

Although dissenting on other grounds, Bastarache JJ. concurred that the arbitration clause was valid. Citing *Kanitz,* Bastarache JJ set out the key term of Dell's electronic contract:

> Upon clicking on the hyperlink, the first paragraph states, in block capital letters:
>
> > PLEASE READ THIS DOCUMENT CAREFULLY! IT CONTAINS VERY IMPORTANT INFORMATION ABOUT YOUR RIGHTS AND OBLIGATIONS, AS WELL AS LIMITATIONS AND EXCLUSIONS THAT MAY APPLY TO YOU. THIS DOCUMENT CONTAINS A DISPUTE RESOLUTION CLAUSE.
> >
> > This Agreement contains the terms and conditions that apply to your purchase from Dell Computer Corporation, a Canadian Corporation ("Dell", "our" or "we") that will be provided to you ("Customer") on orders for computer systems and/or other products and/or services and support sold in Canada. By accepting delivery of the computer systems, other products and/or services and support described on the invoice, Customer agrees to be bound by and accepts these terms and conditions.
>
> (Appellant's record, vol. III, at p. 381)
>
> Bastarache JJ. went on to find that:
>
> *This warning brings the existence of the dispute resolution clause directly to the attention of the reader at the outset,* and one has only to scroll down to find clause 13(c), where the arbitration clause is set out to easily access all

information needed about the conduct of the arbitration process. For this reason, *we would reject the suggestion that the arbitration clause was buried or obscured within the Terms and Conditions of Sale.* We adopt the reasoning in *Kanitz v. Rogers Cable Inc.*, at para. 31, regarding a very similar arbitration agreement located in a standard-form contract: [Italics added]

> [The arbitration clause] is displayed just as all of the other clauses of the agreement are displayed. It is not contained within a larger clause dealing with other matters, nor is it in fine print or otherwise tucked away in some obscure place designed to make it discoverable only through dogged determination. The clause is upfront and easily located by anyone who wishes to take the time to scroll through the document for even a cursory review of its contents. The arbitration clause is, therefore, not at all equivalent to the fine print on the back of the rent-a-car contract in the *Tilden* case or on the back of the baseball ticket in the *Blue Jays* case.[16]

Interestingly, Bastarache JJ. found that in this day and age of conducting business over the Internet, users should be deemed to have a certain facility with computers:

> The context of e-commerce requires courts to be sensitive to a number of considerations. First, we are dealing with a different means of doing business than has heretofore been generally considered by the courts, with terminology and concepts that may not easily, though nevertheless must be fit within the existing body of contract law. Second, as e-commerce increasingly gains a greater foothold within our society, courts must be mindful of advancing the goal of commercial certainty (see *Rudder v. Microsoft Corp.* (1999), 2 C.P.R. (4th) 474 (S.C.J.)). *Finally, the context demands that a certain level of computer competence be attributed to those who choose to engage in e-commerce.*[17] [Italics added]

Bastarache cited the following paragraph from *Kanitz* with approval:

> We are here dealing with people who wish to avail themselves of an electronic environment and the electronic services that are available through it. *It does not seem unreasonable for persons who are seeking electronic access to all manner of goods, services and products*, along with information, communication, entertainment and other resources, to have the legal attributes of their relationship with the very entity that is providing such electronic access, defined and communicated to them through that electronic format. [*Kanitz* at para. 32][18] [Italics added]

It remains to be seen whether Dell Computer Corp. will be limited in its application to Quebec civil law or whether the above-noted statements of the Court will be applied to electronic agreements in the common law jurisdictions of Canada.

US Case Law

In the US, the Courts have been inconsistent in their determination of whether the user of a web site can be deemed to accept the terms and conditions of "browse-wrap" agreements. Each case appears to be fact-specific and hinges on the steps, if any, the ISP takes to bring the user's attention to the browse-wrap agreement.

In *Specht* v. *Netscape Communications Corp.*[19], the Court held that the mere act of downloading software did not constitute implied acceptance of the browse-wrap agreement. As in *Kanitz*, the Court had to consider the applicability of an arbitration clause in Netscape's end-user license agreement. Netscape users could download the requisite software without first accessing the hypertext link to the end-user agreement, even though the user was asked to review the terms of the agreement before downloading. The Court denied the enforceability of the arbitration clause, holding that users would not first have noticed or learned of the existence of the license before downloading the software and that Netscape did not take reasonable steps to bring the end user agreement to their attention. The Court found that where consumers were urged to download free software at the immediate click of a button, a reference to the existence of license terms on a submerged screen is not sufficient to place consumers on inquiry or constructive notice of those terms.

In contrast, the Court in *Register.com* v. *Verio, Inc.*[20], upheld the enforceability of the terms and conditions of a web site on the basis that the user had impliedly agreed to those terms by submitting a search inquiry, even though the user did not expressly accept such terms. At the bottom of the terms was the phrase: "by submitting this query, you agree to abide by these terms". In hindsight, this case can be distinguished from *Specht* in that in *Register.com*, the Court found that Register.com had taken steps to ensure that the terms and conditions were clearly posted on its web site.

E-Commerce Legislation

Several provinces, US states and European countries have enacted legislation in an effort to provide commercial certainty in e-commerce. Electronic documents and signatures are to be given the same effect as those on paper.

The Act defines “electronic” as follows:

> …created, recorded, transmitted or stored in digital or other intangible form by electronic, magnetic or optical means or by any other similar means.

S. 3 of the British Columbia *Electronic Transactions Act*[21] provides:

> Information or a record to which this Act applies must not be denied legal effect or enforceability solely by reason that it is in electronic form.

Subs 15(2) states:

> A contract is not invalid or unenforceable solely by reason that information or a record in electronic form was used in its formation.

In order to be enforceable, electronic documents must be:

1. accessible by the recipient (subs 5(b);6(a));
2. capable of retention by the recipient (subs.6(b)); and
3. capable of being stored for subsequent reference (sub. 6(b)).

S. 11 of the *Act* provides that where a document legally requires the signature of a person, that requirement is satisfied by an electronic signature. An “electronic signature” is defined as:

> …information in electronic form that a person has created or adopted in order to sign a record and that is in, attached to or associated with the record.

The basic tenets of contract law, being offer, acceptance and consideration, may now be conveyed electronically and have the same force and effect as if those requirements were transmitted on hard copies. S. 15, “Formation and operation of contracts”, provides:

> **15** (1) Unless the parties agree otherwise, an offer or the acceptance of an offer, or any other matter that is material to the formation or operation of a contract [for example, consideration], may be expressed

(a) by means of information or a record in electronic form, or

(b) by an *activity* in electronic form, including touching or clicking on an appropriately designated icon or place on a computer screen or *otherwise communicating electronically* in a manner that is intended to express the offer, acceptance or other matter. [Italics added]

It remains to be seen whether the courts will interpret para. 15(1)(b) strictly against ISPs, OSPs and users or whether, for example they will inquire whether or not users actually read the electronic agreement before accepting it.

In some cases, where the law requires that information or a document be kept in non-electronic or original form, it may be kept in electronic form provided it's organized in the same or substantially the same manner as the specified non-electronic form; is accessible and capable of retention (ss. 7, 8).

The balance of the *Act* deals with payment to and from the government and the use of electronic agents (i.e., computer programs), carriage of goods and records in electronic transactions.

Summary

Canadian and US case law have recognized the enforceability of electronic contracts. Although each case depends on its particular facts, corporate counsel and corporate contract administrators would do well to consider the following factors when drafting electronic agreements:

1. Display the contract terms in such a manner that the user can consider them before payment, downloading or proceeding to the next webpage is allowed;
2. Provide the user with more than one opportunity to reject or accept the contract terms;
3. Require the user to make an affirmative act of acceptance, including clicking on an "I agree" or "I accept" icon or, better yet, typing out those words;

4. Require confirmation of the acceptance by having the user click the acceptance icon again;
5. Place an “I reject” or “I do not accept” icon next to the “I agree” icon;
6. Further access to the web site should be immediately blocked if the user does not accept the terms of the electronic contract;
7. Require the user to scroll down the contractual terms before clicking an icon confirming acceptance (this will minimize the potential argument that the user did not have the opportunity to read the contract);
8. Where possible, display the contract terms in simple, concise language and prominently display any unusual or key terms and give the user the opportunity to specifically consent to those terms (this will help avoid an argument of unconscionability);
9. Provide the user with an email address or telephone number to call in the event of questions;
10. Ensure the entire agreement is viewable in one area on the web site (it need not be viewable all at once);
11. Precede the contractual terms with admonitions to read them including “Please read carefully”, “The following agreement sets out important legal rights and remedies” or “Please read carefully before proceeding”;
12. Once the user has accepted the terms, provide subsequent links back to the contract, so the user may refer to them at any time, including after the initial acceptance;
13. Ensure that the user may save, print out or otherwise store the agreement;
14. Make sure the user is required to reconfirm acceptance when amendments are made to the electronic agreement[22];
15. Specifically advise the user that use of the web site is subject to the terms and conditions set out in the relevant electronic contract;
16. Record and maintain the date and time of the user’s acceptance;
17. Allow the user to exit the process at any point before final acceptance. This will highlight the fact that the user’s acceptance of the terms of the electronic contract is voluntary and purposeful;

18. Require users to fill in an on-line user registration form after acceptance, confirming that the user's use of the web site is subject to the terms and conditions of the electronic contract already accepted by the user.[23]

19. Be cognizant of consumer protection laws. If the ISP or OSP provides for forum selection in jurisdictions with less consumer laws or class action rights or if the clause in question is contrary to the consumer protection laws of the jurisdiction in which the hearing court is situated, then the forum selection clause may be held to be unenforceable.[24]

Endnotes

[1] InternetWorldStats.com. Miniwatts Marketing Group.
[2] *Ibid.*
[3] *Ibid.*
[4] *Ibid.*
[5] *Ibid.*
[6] *Ibid.*
[7](1999), 2 C.P.R. (4th) 474 (Ont. S.C.J.).
[8] *Ibid.* at para 14.
[9] Michael Geist *All electronic contracts are not created equal*, The Globe and Mail, Friday, May 25, 2001,on-line, http://www.theglobeandmail.com/reports/ebusiness/20010525/equal.html at 2.
[10] 371 A. ad 528 (N.J. Super. Ct. App . Div. 1999).
[11] 2002 D.C. App. LEXIS 509.
[12] (2002), 58 O.R. (3d) 299 (Ont. Sup. Ct.).
[13] [2007] SCC 34; http://www.canlii.org/en/ca/scc/doc/2007/2007scc34/2007scc34.html.
[14] *Ibid.* at para. 97.
[15] *Ibid.* at paras 100-101.
[16] *Ibid.* at paras 239-240.
[17] *Ibid.* at para.232.
[18] *Ibid.*
[19] 2000 United States Dist. LEXIS 12897 (C.D. 2000); aff'd 248 F. 2d 1173 (9th Cir. 2001).
[20] 126 F. Supp 2d 238 (S.D.N.Y. 2000); aff'd 2004 WL 103400 (2nd Cir.2004).
[21] [SBC 2001] Chapter 10.
[22] *Holland & Knight Intellectual Property and Technology Newsletter*, May 2003, Volume 6, Issue 2, http://www.hklaw.com/Publicvations/newletters.asp?IssueID=371&Article=2075 at 2;10.
[23] Francis M. Buono and Jonathan A. Friedman, *Maximizing the Enforceability of Click-Wrap Agreements*, Journal of Technology Law & Policy, Volume 4, Fall 1999, Issue 3, http://grove.ufl.edu/~techlaw/vol4/issue3/friedman.html at 3-4.
[24] Rachel Cormier Anderson, *Enforcement of Contractual Terms in Clickwrap Agreements*, 2 Shidler, J.L. Com. & Tech. 11 (Feb. 14, 2007). http://www.lctjournal.washington.edu/Vol3/a011Cormier.html> at 6.

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