



## Electronic Contracts

Simon Blout, *Electronic Contracts* (2nd edn), LexisNexis Butterworths, 2015, pb \$110

This compact book has a strong practical focus and would be useful for any lawyer practising in the area of electronic contracts.

Given that most of us buy goods online, it is no surprise that electronic contracts are so popular. In fact, as the book tells us, people are now entering into contracts to buy land by email (covered in Chapter 2). The author goes into some detail about the fact that consumers fail to read the fine print before clicking "I agree".

This is a relevant book which, according to the author, is the only text dealing comprehensively with common law principles of electronic contracting with a focus on case law rather than legislation. While *Electronic Contracts* naturally deals with general principles of contract law, this book extends to important electronic contract cases in some detail, including cases beyond Australia, in the US, Canada, UK, Ireland, Singapore, India, South Africa and New Zealand.

In this book, you will read about shrink-wrap, click wrap, and browse wrap contracts, electronic signatures, and webpage contracts and pop up terms.

Spanning ten chapters, the book covers topics such as the requirement of writing, offer and acceptance, the postal acceptance rule, e-auctions, incorporation of terms, misrepresentation, and misleading and deceptive conduct.

As quoted in the book, "While new commerce on the Internet has exposed courts to many new situations it has not fundamentally changed the principles

of contract" (the United States Court of Appeal in *Register.com Inc. v Verio Inc.*).

Notwithstanding this, as emphasised consistently through the case studies in the text, there is still a need by the courts to adapt the common law principles to accommodate virtual reality. Yet, the central thrust of the author's argument as stated in his conclusion, is that there is no need for additional legislation to accommodate electronic contracts given that common law can adapt familiar principles to novel circumstances. While this proposition may be debatable, what is clear is that this book will be an excellent resource for lawyers who deal with electronic contracts, especially in light of the new chapter on international conventions and model laws, one that was not available in the previous edition. Another thing that I like about the book is that it is written in plain language, with bold headings throughout, making it accessible.

Sharon Givoni, principal, Sharon Givoni Consulting

## The Trial: Principles, Process and Evidence

Jill Hunter, Terese Henning et al, *The Trial: Principles, Process and Evidence*, The Federation Press, 2015, pb \$125

While the publisher touts this text as "[challenging] mainstream approaches to teaching evidence law", it does increasingly seem that this has become a homogenous selling point for many evidence law texts used in Australian law schools. All the same, *The Trial* does stand apart from other similar books because of its interdisciplinary approach to the analysis of the trial and associated processes. Notably, the authors are drawn from both academia and professional practice and the book's analysis is very much coloured by theory developed in the social and

behavioural sciences.

The book successfully brings life to the "main event" of the (criminal) trial. It does so by critically engaging with the foundation principles which inform the rules governing the process. The authors operate with the appreciation that "[o]ne cannot understand evidence law without understanding the philosophical drivers of the common law trial". In addition, the discussion of each of the selected key areas is interspersed with and driven by interesting factual scenarios derived from reported (but not necessarily leading) cases, extracts of cross-examination and chapters such as "The Accused in Court". This all makes for compelling reading.

*The Trial* is loosely arranged around the tripartite themes of before, during and after the trial. It deals with pre-trial issues and the evidentiary rules which govern the trial itself and also includes a substantial chapter on judicial directions and sections on areas for reform. Particularly because of the application of its underpinning philosophy to the study of evidence, this text will be a useful companion to a drier, yet perhaps more comprehensive evidence law text. *The Trial* will also no doubt be a particularly useful text for students critically approaching evidence law.

Adam V Chernok, barrister

## Intentional Tort Litigation in Australia

Corrie Goodhand and Peter O'Brien, *Intentional Tort Litigation in Australia: Assault, False Imprisonment, Malicious Prosecution and Related Claims*, The Federation Press, 2015, pb \$99

This book on intentional tort litigation collects legal materials that are relevant to practitioners conducting tort litigation in Australia. The authors are a barrister and a