

**Prof. Dr. Philipp Hacker, LL.M. (Yale)**

**List of Publications**

**Books:**

1. Stefan Grundmann and Philipp Hacker (eds.), *Theories of Choice. The Social Science and the Law of Decision Making*, Oxford University Press, 2021, 352 pages
2. Philipp Hacker, *Datenprivatrecht. Neue Technologien im Spannungsfeld von Datenschutzrecht und BGB [Private Data Law. Emerging Technologies between Data Protection and Private Law]*, *Jus Privatum* 244, Mohr Siebeck, XXXI + 744 pages (Habilitation, in German)

Awards:       - Science Award of the German Foundation for Law and Computer Science (DSRI-Wissenschaftspreis)  
                  - Publication Grant by the German Research Association (DFG)

Reviews:       - Grünberger, *Archiv für die civilistische Praxis (AcP)* 221 (2021), 604-613  
                  - Armbrüster, *Zeitschrift für die gesamte Versicherungswissenschaft (ZVersWiss)* 2021, <https://doi.org/10.1007/s12297-020-00490-w>  
                  - Schwintowski, *Zeitschrift des Instituts für Energie- und Wettbewerbsrecht in der kommunalen Wirtschaft (EWeRK)* 2021, 107-110

3. Philipp Hacker, Ioannis Lianos, Georgios Dimitropoulos and Stefan Eich (eds.): *Regulating Blockchain. Socio-Technical and Legal Challenges*, Oxford University Press, 2019, XV + 443 pages

4. Philipp Hacker, *Verhaltensökonomik und Normativität. Die Grenzen des Informationsmodells im Privatrecht und seine Alternativen [Behavioral Economics and Normativity. The Limits of the Disclosure Paradigm in Private Law and Its Alternatives]*, *Studien zum Privatrecht* 67, Mohr Siebeck, 2017, XL + 1022 pages (Dissertation, in German)

Awards:       - Dissertation Award of the Faculty of Laws, Humboldt University of Berlin  
                  - Publication Grant by VG Wort

5. Wolfgang Fikentscher, Philipp Hacker and Rupprecht Podszun, *FairEconomy. Crises, Culture, Competition and the Role of Law*, 19 MPI Studies on Intellectual Property and Competition Law, Springer, 2013, 150 pages

Reviews:       - Adi Ayal, 45 *International Review of Intellectual Property and Competition Law* 734-736 (2014)  
                  - Marco Saverio Spolidoro, *Rivista delle Società* 2014, 940-941

## Articles in Peer-Reviewed Journals and Proceedings, as well as US Law Reviews:

6. AI Compliance, ACM Journal of Data and Information Quality (forthcoming) (Philipp Hacker, Felix Naumann, Tobias Friedrich, Stefan Grundmann, Anja Lehmann and Herbert Zech)
7. Varieties of AI Explanations under the Law. From the GDPR to the AIA, and Beyond, Lecture Notes on Artificial Intelligence 13200: xxAI - beyond explainable AI (forthcoming) (Philipp Hacker and Jan-Hendrik Passoth), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3911324](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3911324)
8. Manipulation by Algorithms. Exploring the Triangle of Unfair Commercial Practice, Data Protection, and Privacy Law, European Law Journal (forthcoming), <https://doi.org/10.1111/eulj.12389> (open access)
9. A Legal Framework for AI Training Data, 13 Law, Innovation and Technology 257-301 (2021), available at <https://ssrn.com/abstract=3556598>
10. Ein Rechtsrahmen für KI-Trainingsdaten, 12 Zeitschrift für geistiges Eigentum/Intellectual Property Journal 239-271 (2020) (German version of 9.).
11. Immaterialgüterrechtlicher Schutz von KI-Trainingsdaten [IP Protection for AI Training Data], GRUR 2020, 1025-1033
12. Matching Code and Law: Achieving Algorithmic Fairness with Optimal Transport, 34 Data Mining and Knowledge Discovery 163-200 (2020) (Meike Zehlike, Philipp Hacker and Emil Wiedemann)  
preprint: A Continuous Framework for Fairness, Working Paper, 2017, <https://arxiv.org/abs/1712.07924v1> (Philipp Hacker and Emil Wiedemann)
13. Explainable AI under Contract and Tort Law: Legal Incentives and Technical Challenges, 28 Artificial Intelligence and Law 415-439 (2020), <https://doi.org/10.1007/s10506-020-09260-6> (Philipp Hacker, Ralf Krestel, Stefan Grundmann and Felix Naumann)  
  
featured on the Oxford Business Law Blog: <https://www.law.ox.ac.uk/business-law-blog/blog/2020/05/explainable-ai-ma-legal-incentives-and-technical-challenges>
14. Daten als Gegenleistung: Rechtsgeschäfte im Spannungsfeld von DS-GVO und allgemeinem Vertragsrecht [Data as Counter-Performance: Transactions between the GDPR and General Contract Law], Zeitschrift für die gesamte Privatrechtswissenschaft 2019, 148-197
15. Verhaltens- und Wissenszurechnung beim Einsatz von Künstlicher Intelligenz [Attribution of Behavior and Knowledge in the Realm of Artificial Intelligence] Rechtswissenschaft 2018, 243-288
16. Teaching Fairness to Artificial Intelligence: Existing and Novel Strategies against Algorithmic Discrimination under EU Law, 55 Common Market Law Review 1143-1186 (2018)

17. Crypto-Securities Regulation: ICOs, Token Sales and Cryptocurrencies under EU Financial Law, *European Company and Financial Law Review* 645-696 (2018) (Philipp Hacker and Chris Thomale)  
 featured on the Oxford Business Law Blog: <https://www.law.ox.ac.uk/business-law-blog/blog/2018/01/crypto-securities-regulation-icos-token-sales-and-cryptocurrencies>
18. Personal Data, Exploitative Contracts, and Algorithmic Fairness: Autonomous Vehicles Meet the Internet of Things, *7 International Data Privacy Law* 266-286 (2017)
19. Digital Technology as a Challenge to European Contract Law – From the Existing to the Future Architecture, *13 European Review of Contract Law* 255-293 (2017) (Stefan Grundmann and Philipp Hacker)
20. Lessons from IP Markets for Data Markets. Moral Rights, Property Rules, and Resale Royalties, *Intellectual Property Quarterly* 45-67 (2018)
21. Reining in the Big Promise of Big Data. Transparency, Inequality, and New Regulatory Frontiers, *15 Northwestern Journal of Technology and Intellectual Property* 1-42 (2017) (Philipp Hacker and Bilyana Petkova)
22. Personalizing EU Private Law. From Disclosures to Nudges and Mandates, *25 European Review of Private Law* 651-677 (2017)
23. Learning and the Law. Improving Behavioral Regulation from an International and Comparative Perspective, *25 Journal of Law & Policy* 473-548 (2017) (Georgios Dimitropoulos and Philipp Hacker)
24. More Behavioral vs. More Economic Approach: Explaining the Behavioral Divide between the US and the EU, *39 Hastings International and Comparative Law Review* 355-388 (2016)
25. The Behavioral Divide. A Critique of the Differential Implementation of Behavioral Law and Economics in the US and the EU, *11 European Review of Contract Law* 299-345 (2015)

**Invited Contributions and Articles in Other Reviewed Journals:**

26. Automatisierung der AI Compliance [Automating AI Compliance], *REthinking Law* 2021(2), 62-66
27. Towards a Flexible Framework for Algorithmic Fairness, *Proceedings of INFORMATIK 2020* (2021), 99-108 (Philipp Hacker, Emil Wiedemann and Meike Zehlike)
28. Europäische und nationale Regulierung von Künstlicher Intelligenz [European and national Regulation of Artificial Intelligence], *Neue Juristische Wochenschrift (NJW)* 2020, 2142-2147

29. Gestufte Kontrolle, gemeinsame Verantwortung? Mehrstufige Informationsanbieterverhältnisse zwischen Datenschutz und Störerhaftung [Separate Control, Joint Responsibility? The Provision of Multi-Level Information Society Services between Data Protection and Civil Liability Law], *MultiMedia und Recht* 2018, 779-784
30. Leere Hülse, volle Haftung? Plädoyer für eine Insolvenzausnahme bei Unternehmensfortsetzung und wirtschaftlicher Neugründung [Empty Shell, Full Liability? Advocating a Liability Exemption for the Continuation of Companies after Insolvency], *ZIP* 2015, 761-770 (Philipp Hacker and Andrea Petsch)
31. Rechtsgeschäfte mit Unbekannten? Zu dogmatischen und praktischen Tücken im Umgang mit kartellrechtswidrigen Joint Ventures [Transactions with Unknown Parties? On Doctrinary and Practical Difficulties in Dealing with Joint Ventures Violating Antitrust Law], *Rheinische Notar-Zeitschrift* 2014, 349-365 (Christoph Spiering and Philipp Hacker)
32. „Korruptionsamnestie“: Eine neue Vokabel im nachhaltigen Kampf gegen Korruption [„Amnesty for Corruption“: A New Term in the Fight against Corruption], *Zeitschrift für Rechtspolitik* 2009, 4-6 (Alexander Schemmel and Philipp Hacker)

#### **Book Chapters:**

33. KI-Trainingsdaten nach dem Verordnungsentwurf für Künstliche Intelligenz. Qualität und Performanz im Zusammenspiel von Recht und Informatik [AI Training Data in the AI Act Proposal], in: *Verbraucherrechtstage 2021* (Frauke Rostalski ed., Mohr Siebeck, forthcoming) (Philipp Hacker and Lauri Wessel)
34. Die Digitalisierung als Herausforderung für das Verbraucherrecht. Automatisierte mentale Zustandsanalyse, Lauterkeits- und Datenschutzrecht [Digital Technology as a Challenge for Consumer Law], in: *Smart Regulation* (Patrick Leyens ed., Mohr Siebeck, 2021), 25-47
35. Computer-Generated Works im deutschen Urheberrecht [Computer-Generated Works in German Copyright Law], in: *GRUR Junge Wissenschaft* (Linda Kuschel et al. eds. 2021), 223-250
36. Theories of Choice and the Law – An Introduction, in 1. above, (Stefan Grundmann and Philipp Hacker), pp. 1-15
37. Regulating under Uncertainty about Regulatees’ Rationality: From Decision Theory to Machine Learning and Complexity Theory, in 1. above, pp. 87-114
38. Datenprivatrecht [Private Data Law], in: *DGRI-Jahrbuch 2019/20* (Matthias Baumgärtel and Peter Hoppen eds., Otto Schmidt Verlag, 2021, forthcoming)
39. Personalized Law and the Behavioural Sciences, in: *Data Economy and Algorithmic Regulation: A Handbook on Personalized Law* (Christoph Busch and Alberto de Franceschi eds., Hart/Beck, 2021), pp. 241-263

40. Digitale Marktordnung durch Urheber- und Datenschutzrecht [Digital Market Regulation through Copyright and Data Protection Law], in: Festschrift Hopt (Hanno Merkt et al. eds., De Gruyter, 2020), pp. 351-379.
41. Regulating the Economic Impact of Data as Counter-Performance: From the Illegality Doctrine to the Unfair Contract Terms Directive, in: Data as Counter-Performance: Contract Law 2.0? (Sebastian Lohsse, Reiner Schulze and Dirk Staudenmayer eds., Hart/Nomos, 2020), pp. 45-74, available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3391772](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3391772)
42. *Exploitative Contracts* im Zeitalter maschinellen Lernens. Eine rechtsökonomische Analyse [Exploitative Contracts in the Age of Machine Learning. A Law & Economics Perspective], in: Zivilrechtliche und rechtsökonomische Probleme des Internet und der künstlichen Intelligenz (Florian Faust & Hans-Bernd Schäfer eds., Mohr Siebeck, 2019), pp. 87-119
43. Regulating Blockchain: Techno-Social and Legal Challenges - An Introduction, in 3. above, 2019, pp. 1-24 (Philipp Hacker, Ioannis Lianos, Georgios Dimitropoulos and Stefan Eich)
44. Corporate Governance for Complex Cryptocurrencies? A Framework for Stability and Decision Making in Blockchain-Based Monetary Systems, in 3. above, 2019, pp. 140-166  
featured on the Oxford Business Law Blog: <https://www.law.ox.ac.uk/business-law-blog/blog/2017/08/corporate-governance-complex-cryptocurrencies>
45. The Crypto-Security: Blockchain, ICOs, and Securities Regulation, in 3. above, 2019, pp. 229-248 (Philipp Hacker and Chris Thomale)
46. The Digital Dimension as a Challenge to European Contract Law, in: European Contract Law in the Digital Age (Stefan Grundmann ed., Intersentia, 2018), pp. 3-45 (Stefan Grundmann and Philipp Hacker) (= extended version of the article published by the European Review of Contract Law, above 19.)
47. Nudging and Autonomy. A Philosophical and Legal Appraisal, in: Research Methods in Consumer Law. A Handbook (Hans-W. Micklitz, Anne-Lise Sibony & Fabrizio Esposito eds., Edward Elgar, 2018), pp. 77-118
48. The Ambivalence of Algorithms. Gauging the Legitimacy of Personalized Law, in: Personal Data in Competition, Consumer Protection and IP Law – Towards a Holistic Approach? (Mor Bakhom, Beatriz Conde Gallego, Mark-Oliver Mackenrodt & Gintare Surblyte eds., Springer, 2018), pp. 85-117
49. Behavioural Law & Economics and Sustainable Regulation: From Markets to Learning Nudges, in: Environmental Law and Economics (Klaus Mathis and Bruce R. Huber eds., Springer, 2017), pp. 155-183 (Philipp Hacker and Georgios Dimitropoulos)
50. Conflicts of Interest – Theory and the Regime of MiFID I and II, in: Regulation of the EU Financial Markets: MiFID II and MiFIR (Danny Busch & Guido Ferrarini eds., OUP, 2017), pp. 165-204 (Stefan Grundmann and Philipp Hacker)

51. Versicherung und Verbriefung – Der Irrweg der Kommission auf der Suche nach einer Regulierung von derivativen Finanzprodukten [Insurance and Securitization – How the Commission has been led astray in Its Search for a Regulation of Derivative Financial Products] in: Versicherungsmechanismen im Recht [Insurance Mechanisms in Law] (Caspar Behme, Martin Fries & Johanna Stark eds., Mohr Siebeck, 2016), pp. 15-44  
Review: Lars Leuschner, Versicherungsmechanismen im Recht, Neue juristische Wochenschrift 2016, 926

### **Case Notes and Case Reports:**

52. European Union Legislation [Case Reports on CJEU Case Law in European Contract Law, covering July – December 2019], 16 European Review of Contract Law 212-232 (2020) (Fabrizio Esposito and Philipp Hacker)
53. European Union Legislation [Case Reports on CJEU Case Law in European Contract Law, covering January - June 2019], 15 European Review of Contract Law 340-363 (2019) (Philipp Hacker and Betül Kas)
54. European Union Legislation [Case Reports on CJEU Case Law in European Contract Law, covering July 2018 - January 2019], 15 European Review of Contract Law 66-83 (2019) (Fabrizio Esposito and Philipp Hacker)
55. UberPop, UberBlack, and the Regulation of Digital Platforms after the Asociación Profesional Elite Taxi Judgment of the CJEU, 14 European Review of Contract Law 80-96 (2018)
56. European Union Legislation [Case Reports on CJEU Case Law in European Contract Law, covering August 2017 - January 2018], 14 European Review of Contract Law 64-79 (2018) (Philipp Hacker and Marie-Sophie Schäfer)
57. European Union Legislation [Case Reports on CJEU Case Law in European Contract Law, covering January - July 2017], 13 European Review of Contract Law 310-331 (2017) (Fabrizio Esposito and Philipp Hacker)
58. European Union Legislation [Case Reports on CJEU Case Law in European Contract Law, covering April 2016 - January 2017], 13 European Review of Contract Law 98-122 (2017) (Fabrizio Esposito and Philipp Hacker)
59. One Size Fits All? Heterogeneity and the Enforcement of Consumer Rights in the EU after Faber, Case Note on the Judgment of the Court (First Chamber) 4 June 2015, Froukje Faber v Autobedrijf Hazet Ochten BV (C-497/13), 12 European Review of Contract Law 167-177 (2016)
60. European Union Legislation [Case Reports on CJEU Case Law in European Contract Law, covering July 2015 - April 2016], 12 European Review of Contract Law 141-166 (2016) (Philipp Hacker and Max Starke)

### **Book reviews:**

61. Review of Carmen Langhanke: Daten als Leistung, Tübingen: Mohr Siebeck 2018, 220 AcP 444-452 (2020)
62. Nudge 2.0 – The Future of Behavioural Analysis of Law, in Europe and Beyond. A Review of ‘Nudge and the Law. A European Perspective’, edited by Alberto Alemanno and Anne-Lise Sibony, 24 European Review of Private Law 297-322 (2016)

### **Working Papers:**

63. AI Regulation in Europe, available at [https://papers.ssrn.com/abstract\\_id=3556532](https://papers.ssrn.com/abstract_id=3556532)

### **Blog Contributions:**

64. Explainable AI in M&A: Legal Incentives and Technical Challenges, Oxford Business Law Blog (8. Mai 2020), <https://www.law.ox.ac.uk/business-law-blog/blog/2020/05/explainable-ai-ma-legal-incentives-and-technical-challenges>
65. Corporate Governance for Complex Cryptocurrencies, Oxford Business Law Blog (August 18, 2017), <https://www.law.ox.ac.uk/business-law-blog/blog/2017/08/corporate-governance-complex-cryptocurrencies>
66. Crypto-Securities Regulation: ICOs, Token Sales and Cryptocurrencies under EU Financial Law, Oxford Business Law Blog (January 3, 2018), <https://www.law.ox.ac.uk/business-law-blog/blog/2018/01/crypto-securities-regulation-icos-token-sales-and-cryptocurrencies>
67. From Algorithmic Discrimination to Algorithmic Fairness, RAILS-Blog (October 1, 2018), <http://ai-laws.org/2018/10/from-algorithmic-discrimination-to-algorithmic-fairness-dr-philipp-hacker-ll-m/>

### **Miscellany:**

68. Interview with The Yale Politic on the regulation of blockchain technology: Eric Wallach, July 29, 2019, <http://thepolitic.org/dr-philipp-hacker-yale-llm-14-humboldt-legal-scholar-and-research-fellow-at-the-centre-for-blockchain-technologies>
69. Interview for the AXA Research Guide, Artificial Intelligence Fostering Trust, Paris 2018, 20-24