

Model Law on Electronic Commerce Cases

TITLE: *Aristocrat Technologies, Inc. v IGT* [2008] APO 33 (15 December 2008)

CASE LINK: [Aristocrat Technologies, Inc. v IGT \[2008\] APO 33 \(15 December 2008\)](#)

Editorial Remarks by Theresa Morgante

Facts:

This case argued the *Electronic Transactions Act 1999* (ETA) is based on the UNCITRAL Model Law on Electronic Commerce, shedding light on the definition of “designate”.

IGT made attempts to serve documents electronically by email at 23:59:59 on 17 July 2008 to Aristocrat Attorney’s server, by facsimile at 12:30am on 18 July 2008 to Aristocrat Attorney’s Melbourne Office and 10:32p, (Perth Time) on 17 July 2008 to Aristocrats Perth office.

Aristocrat argued this was outside normal business hours when no one was around to receive the email. Therefore service was not affected until it came to the attention of the addressee and did not comply with statutory obligations. (citing: *Austar Finance v Campbell* NSWSC 1793 (21 December 2007)).

The Applicant argued that designation is to be expressed and not just making reference to mail or telecopy address on letter or other similar documents.

Held:

Although states are not bound by the Model Law, they are encouraged to take it into consideration when drafting contracts.

Generally, under Article 15 of the Model Law the position is that unless the electronic message has been received by entering into the information system of the addressee then it has not been effectively received. Through a recommendation from an Electronic Commerce Expert Group, it was suggested to the Government that Article 15 not be followed but favoured the similar and preferable approach of the communication being received once it comes to the attention of the recipient.