Clickwrap, Browsewrap and Mixed Media Contracts

Courts have generally categorized online agreements into two types: “clickwrap” agreements and “browsewrap” agreements, write Joshua R. Stein and J. Alexander Lawrence of **Morrison & Foerster LLP** in an article posted on **Lexology.com**.

The explain:

> Clickwrap agreements—which require a user to check a box or click an icon to signify agreement with the terms—are usually enforceable under U.S. law, even where the terms appear in a separate hyperlinked webpage but where language accompanying the box or icon indicates that checking the box or clicking the icon indicates assent to such terms.
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> On the other hand, browsewrap agreements—where the terms are passively presented to users in a hyperlink somewhere on a webpage, often at the very bottom of the page in small font—are often unenforceable because it often cannot be proved the user knew the terms existed or even was aware of the hyperlink.

They describe a case in which a signed contract did not include an arbitration clause, but instead included an Internet link to terms and conditions that included arbitration conditions.

Read the article.