Virtual Justice: The New Laws of Online Worlds

By Greg Lastowka
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Reviewed by Rebecca M. Ferrante
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Virtual Justice: The New Laws of Online Worlds written by Greg Lastowka, explores how current law fails to address legal issues that arise between the boundaries of virtual world online games and reality, by explaining the context of virtual community, its norms and primary players, and introducing issues of jurisdiction, property and crime through relevant lawsuits. The author intends to introduce holes in the legal system through which main areas of law are left largely undetermined by a system that ceases to recognize the virtual property of avatars, the sovereignty of game owners or the rights of end users to legal remedy for damages suffered online. It is the author’s goal to give readers the foundation for considering how the law should be applied to virtual worlds in the future.

Greg Lastowka is a professor at Rutgers School of Law-Camden where he teaches intellectual property (copyrights, trademarks, and patents), internet law, and property law. He co-founded the game studies weblog Terra Nova, and contributes to several sites, including Madisonian.net, Gamastura, and the RIIPL blog, which also focus on the study of video games. While Virtual Justice is Lastowka’s first book, his opinions on this subject have been quoted in publications including Nature, The Economist, Scientific American, and the New York Times. Articles, essays, and book chapters comprise a large body of his prior publications and he has
several pending intellectual property essays and an upcoming co-authored book discussing the
intersection of user-generated content, copyright law, and cultural policy.

The author presents the material through analogy, introducing three castles wherein one
represents reality, another represents virtual community and a third is a combination of both.
The analogy is appropriate, comparing the actual European military stronghold Cardiff Castle to
the iconic fairytale Cinderella Castle in Walt Disney World’s Magic Kingdom – a municipality
with legal authority to enforce building codes and zoning laws and ejection rights over guests
and employees for poor conduct and rule breaking. Cinderella’s Castle is both virtual in its
image and real in its legitimacy. Lastly is Dagger Isle Castle in the virtual world Britannia; a
multiplayer online game called Ultima Online wherein the castle itself is as fantastical and
majestic as Cinderella’s, but with exceedingly more flexibility and autonomy due to its
intangible, unreal existence. Yet, even as the product of computer code with no true physical
existence, Britannia plays host to a universe of real world issues including socioeconomic class
levels, property ownership and commerce. As Lastowka explains, users rule their own castles in
Britannia, sell goods and property on eBay and enjoy the intangible experience not unlike a
tourist paying for the same fantasy encounter at Disney World. The author successfully
introduces the subject of internet law and broadens his audience to reach fans of fantasy and the
Magic Kingdom while centering the book on the legal and technological facets of virtual worlds
such as Britannia.

Much like basing an explanation of virtual worlds on the familiar pseudo-real world
Magic Kingdom, the author explains the primary legal issues of online community through
interesting stories of lawsuits starring the industry’s key players. One such example highlighted
the popular Second Life. Linden Lab’s Second Life is a user-generated virtual world with a
platform that encourages and promotes virtual commerce, giving rise to legal questions regarding intangible virtual property and real world currency. **Bragg v. Linden Research** represents a landmark lawsuit over the property ownership of land in Second Life wherein the user (Bragg) owned several thousand dollars’ worth of virtual property before the game owner (Linden) determined that he violated game rules and sanctioned him by cancelling his online account and re-selling his virtual property. Bragg sued on the grounds that he was entitled to either a refund or reinstatement of his account to which Linden defended by asserting that “land” in Second Life is a service that the company could cancel at any time, as to which Bragg had agreed when he accepted the terms and conditions of the site and consented to the rules by clicking on a check box during his registration. Because the parties eventually settled the lawsuit, the property issue went unresolved as a matter of law. The author presents a similar case with a far different outcome from China, where the massively multiplayer online role-playing game Legend of Mir presented users with the opportunity to earn valuable property through play or purchase. Offering only one Dragon Saber at a very high cost, Legend of Mir created a valuable asset for which one user was willing to murder a fellow player who stole his hard earned saber. The “owner” originally reported the theft to police, but the author explains that since it was virtual property from a virtual world, there was no legal redress available. The Dragon Saber had a market value of over one thousand American dollars and its murderous owner received a suspended life sentence for his real world crime.

In addition to discussing the history and evolution of virtual community, the author addresses contract law as well as intellectual property in the virtual world, finding that the “virtual sovereigns” leveraging currency and economy, established social norms and enforceable rules, are developing independent jurisdictions, though yet unrecognized by government. The
effect is the development of independent traditions for addressing contract, property, hacking and intellectual property in ways that largely insulate users and game owners from outside legal review. Based on the case law the author presents, this seems advantageous and desirable to virtual community members, until the user suffers some damage within the virtual world for which he seeks real world legal protection. The author explains that the lack of legal regulation is in part due to the reactive nature of law toward new technology with benign or harmless technologies being the last priority for government attention. Short of individual disputes being brought through lawsuits, virtual communities are not in the forefront. Further, where law is largely defined by spatial relation to governing bodies that define jurisdiction, identifying the proper jurisdiction for legal adjudication and oversight of online gaming conduct is a challenge not yet resolved.

Lastowka acknowledges the “control and autonomy” that the law affords the internet and also serves as the primary source of allure for virtual world gamers, but recognizes that the ambiguity created by lack of legal process specifically suited to the virtual world is also the primary source of pleasure. The more the law evolves to encompass virtual world legal dilemmas, the more regulation and government oversight may dictate the shape of virtual community, the conduct and the culture within. The question therefore is whether virtual gamers will be willing to trade the virtual wild-west nature of the internet for legal intervention and the availability of legal remedy for wrongs suffered online.

Virtual Justice is well suited to readers with interests in technology and intellectual property law, as well as those engaged in online virtual communities with interest in or familiarity with World of Warcraft, Second Life, Brittania, etc. Lastowka’s author’s page states that Virtual Justice was written with “lay readers, not legal academics” in mind, and at this, the
book succeeds. With well-placed references that run from Plato’s Republic to the Matrix’s flagship virtual world, from the intellectual property of J.K Rowling’s Harry Potter to Justice Cardozo’s 1921 ruling on new law to address new inventions, the author delivers a creative and well-rounded text with broad appeal. For attorneys, he provides an extensive bibliography with traditional legal cites specifically to assist in the practice of virtual technology law.