Preface

This book examines the legal realities which are emerging from Massively Multiplayer Online Role-playing Games (MMORPGs) or virtual worlds. These virtual worlds demonstrate many of the traits we associate with the Earth world: interpersonal relationships, economic transactions, organic political institutions, and so on. These virtual worlds are continuing to evolve daily into virtual communities with separate rules and expectations. They operate under their own system of private laws which often deviate abruptly from those of the physical world. Because they exist only online, they seek to ‘legally link’ the online world and the physical world through the agreements that create private rules in the absence of effective jurisdiction by real world governments and the potential development of “self-regulatory structures on the net.” Most citizens of these communities are unaware of these contractual restrictions until they unknowingly breach one of the provisions. As a general rule, courts are reluctant to intrude into the rules of a game, but they will do so if the court believes that it is necessary. Some scholars have called for separate treatment of virtual worlds because they believe that these worlds are separate and distinct from the real world and thus entitled to their own courts and laws. However, as individuals invest their time, personality, and finances into these environments, the legal rules that apply to all other aspects of their lives are sure to follow.

Virtual world designers have a duty to appreciate and comprehend the laws that apply to their creations. More importantly, the people who make and interpret laws, in turn, have a duty to recognize, or at the very least be aware of, virtual worlds. If they do not understand what they are regulating, how can they how to regulate it? This book aspires to provide understanding of the interface between the laws of the real world and the laws of the virtual worlds.

AIM

This book is designed for anyone who has ventured into a virtual reality space and wondered what the real world consequences were for their actions. There are many people whose children, spouses, friends, or acquaintances spend a phenomenal time in these worlds. Virtual worlds are more than just games. Some games are more than just a way to waste time. This book endeavours to explain this phenomenon and its potential legal consequences.

As such, chapter one will begin by looking at the three qualities of man as defined by Frederic Bastiat. In order to investigate this concept further, chapter two will provide a foundation regarding the nature of games and virtual worlds. An examination of what is real versus what is virtual will be made. Ideas regarding interactivity, physicality and persistence will be analysed. Chapter three will explain how one
explores these virtual worlds through avatars. Concepts such as immersion and presence will clarify why these virtual worlds are so popular. Bastiat’s second quality, personality, will be surveyed in chapter four via an examination of the personhood of avatars because identity is a key notion in virtual reality. It substantiates the notions of property, especially intellectual property. The first of Frederic Bastiat’s qualities, property or in this case virtual property, will be delved into in chapter five including a study of the difference between crafting and creating.

These virtual spaces rely on a distinct culture of shared norms and common values. In virtual worlds, any division between “rights” and “property” is an artificial and false dichotomy. “Property” is information, and “power” is the ability to control information. Property rights are not absolute. Unlike physical property which can physically possessed, property rights in information are intangible. Numerous individuals can possess the same information. Once the secret is out, property interests in information can only be protected through statutory or contractual rights. Chapter six explores the more specific ideas of intellectual property rights, in particular copyright. A legal analysis will follow regarding the means of protecting authorship rights and other copyrights which are possibly generated by these virtual worlds.

Finally, Bastiat’s third quality, liberty: some virtual world creators try to limit the liberties the players try to acquire. Others, on the other hand, have embraced the idea of granting intellectual property rights of all kind to their participants. To this end, end user license agreements will be thoroughly discussed. As many of these MMORPGs are based in the United States, the focus shall be on the laws of the United States with comparisons to other jurisdictions when helpful. Because virtual worlds are beginning to impinge upon the real world more and more, tort law and criminal law will be examined in relation to actions which cross over between the two. A conclusion suggesting an interface between the real and virtual shall be offered.

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