



The new landscape of law

Lawyers no less than anyone else are caught up in the waves of change in business and technology. Here are five vibrant practice areas that weren't on the radar ten years ago, but might well seem ordinary a mere decade from now.

BY BILL ROGERS

The practice of law is dynamic. Practice areas rise and fall from time to time in response to factors such as changing marketplace conditions, new technologies, legislative amendments and client preferences. Some traditional practice areas — including estates law, personal injury litigation and real estate law — have been irrevocably affected by these changes, and others seem poised to follow suit.

Yet the same dynamism that can overwhelm one area of practice can give others an unexpected boost or can even create brand new areas that no one would have considered feasible even a decade before. New industries, globalization, and scientific breakthroughs — and less happily, global warming and terrorism — all have a hand in shaping the world we live in and the law that lawyers practise.

Here are five profiles of lawyers who are leading the way in five emerging practice areas that weren't on many radar screens — or even in existence — just ten years ago. What will a similar list look like in August 2017? It sometimes seems that imagination is the only limiting factor.

“Online war game guilds are doing language tests to screen out people who don't speak English. Is that discrimination?”

INTERNET GAMING

Chris Bennett, Davis LLP, Vancouver

Imagine your name is Space Razor. You're a starship pilot who has achieved fame and fortune as an adventurer in an often-hostile galaxy. Space Razor isn't real, of course — he's your “avatar,” your online character for a massively multiplayer online role-playing game (MMPORG), a sci-fi Internet pastime played by people all over the world.

You've worked hard to build up Space Razor's reputation, skills and assets. Then, to your dismay, someone starts insulting the Razor in an Internet chat room. Reputation-damaging falsehoods are being spread throughout the Net. Is this defamation? Can Space Razor sue the defamer?

Laugh if you like, but for lawyers working in the rapidly growing online game industry, this scenario is very real. “For some people, their avatar is their persona,” says Chris Bennett of Davis LLP in Vancouver, who practises in the expanding niche of video and Internet game law. “The analogy is the ventriloquist with a dummy. Are you saying a bad thing about the dummy, or a bad thing about the person who's operating it?”

ROBERT KARPA



“ We can still do something about the environment. And if you want to believe in the next generation, we have to do something. ”

— H  l  ne Lauzon

Bennett sees myriad legal issues like this in the fledgling but hugely popular Internet game industry. One of them is the nasty phenomenon of “gold farming,” where people in third-world countries are locked in small rooms and forced to play online games for hours in horrible conditions to build up online game assets, which they then sell to people in the real world. “They’re sweatshops,” says Bennett. “A lot of companies try to deal with it by having terms and conditions saying it’s illegal. But it’s pretty hard to shut down.”

There are also potential human rights issues online, adds Bennett. “A good example is some of the online war games,” he says. “In order to really get anywhere, you have to join alliances or guilds. You work together as a team.

“Some of these guilds are doing language tests to screen out people who don’t speak English,” says Bennett. “They say they’re trying to avoid gold farmers. But you’re also filtering out people who aren’t doing that — they just don’t speak your language. From a legal perspective, is that discrimination?”

Ownership of intellectual property is also a growing question, especially in the popular game Second Life, where online creations can be sold for real cash. “The publisher typically finances the game and owns the intellectual property,” says Bennett. “But there’s a growing movement among developers to say: ‘We’re the creative folks here. We did the underlying work. We think we should own the intellectual property in what we created.’ But publishers take a big risk, so they’re reluctant to do that.”

Bennett first entered this practice area as an offshoot of the IP and legal technology work he was doing for software companies. “We eventually started acting for video game companies,” he says. “Initially, we thought they were pretty similar

to regular tech firms. But we realized the industry was different; it was a real niche. It made sense for us to focus on it.”

Looking into the future, Bennett, who posts about Net gaming issues at www.videogamelawblog.com, sees more sophisticated industry players entering the market. “The next-generation game consoles have come out,” he says. “So there’s been a shift in the industry. To develop a game for the Xbox 360, or the PlayStation 3, is significantly more expensive than it ever used to be. That has an effect on the type of players you see in the industry.”

Bennett loves working in this emerging field. “It’s great,” he says. “The people are fun. You get to see some of the stuff they’re working on. The ideas they come up with are truly inspiring.”

GLOBAL WARMING

H  l  ne Lauzon, Lavery, de Billy, Montreal

“ I’m an optimistic person,” says H  l  ne Lauzon of Lavery, de Billy in Montreal. “I still believe we can change the world for the better. Even small things can change the world. We have to be positive.”

But it’s not always easy to be positive practising in environmental law. “Looking at the expert reports on global warming,” says Lauzon, “some people say: ‘It’s over. Why should I do anything?’ But that’s not true. We can still do something. And if you want to believe in the next generation, we have to do something.”

Lauzon, who has been part of Lavery, de Billy’s Environment, Energy and Natural Resources Law Group for 15 years, feels that Canada’s existing environmental laws have