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# High-Tech Heroes, Virtual Villains, and Jacked-In Justice: Visions of Law and Lawyers in Cyberpunk Science Fiction

WALTER A. EFFROSS†

We can anticipate the formation of subcults built around . . . computer gaming and the like. We can even see on the horizon the creation of certain anti-social leisure cults—tightly organized groups of people who will disrupt the workings of society not for material gain, but for the sheer sport of “beating the system” . . . . Such groups may attempt to tamper with governmental or corporate computer programs . . . .<sup>1</sup>

We [cyberpunk authors] are wise fools . . . . Very few feel obliged to take us seriously, yet our ideas permeate the culture, bubbling along invisibly, like background radiation.<sup>2</sup>

According to entries recently added to several leading dictionaries, “cyberpunk” science fiction emphasizes computers, urban societies, and a “counter-culture” or “punk” ambience.<sup>3</sup> In his introduction to an anthology of the genre, one of its leading

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1. ALVIN TOFFLER, *FUTURE SHOCK* 289-90 (1970).

2. Zina Moukheiber, *The Geeks Have Inherited the Earth*, *FORBES*, July 7, 1997 at 348, 360 (quoting Bruce Sterling).

3. See, e.g., MERRIAM-WEBSTER'S COLLEGIATE DICTIONARY 287 (10th ed. 1995) (defining “cyberpunk” as “science fiction dealing with future urban societies dominated by computer technology”); THE CONCISE OXFORD ENGLISH DICTIONARY 334 (9th ed. 1995) (defining “cyberpunk” as “a style of science fiction featuring urban counter-culture in a world of high technology and virtual reality”); RANDOM HOUSE WEBSTER'S COLLEGE DICTIONARY 338 (1991) (defining “cyberpunk” as “science fiction featuring extensive human interactions with supercomputers and a punk ambience”).

It is generally agreed that the term “cyberpunk” was first used in Bruce Bethke, *Cyberpunk*, in *AMAZING STORIES* 94 (1983) (narrating the tale of a seemingly incorrigible adolescent hacker who is ultimately transferred by his family from high school to a military academy that restricts his access to computers). See THE ENCYCLOPEDIA OF SCIENCE FICTION 288 (John Clute and Peter Nicholls eds., 1995) (“The word was almost certainly coined by Bruce Bethke . . .”).

authors discusses its fascination with "body invasion: prosthetic limbs, implanted circuitry, cosmetic surgery, genetic alteration," "[t]he even more powerful theme of mind invasion: brain-computer interfaces, artificial intelligence, neurochemistry," and "[t]he tools of global integration—the satellite media net, the multinational corporation."<sup>4</sup> Also "[c]entral to cyberpunk fictions is the concept of virtual reality . . . where the world's data networks form a kind of machine environment into which a human can enter . . . ."<sup>5</sup>

However, the most distinctive element of cyberpunk, and one that illuminates emerging developments in the lawyer's practice and role, is its focus on criminal commerce<sup>6</sup> involving information or intellectual property,<sup>7</sup> most often perpetrated by disenfranchised individualists<sup>8</sup> or "hired guns" in an increasingly corporation-dominated society.<sup>9</sup> Indeed, some dictionaries have

4. MIRRORSHADES: THE CYBERPUNK ANTHOLOGY xiii-xiv (Bruce Sterling ed., Ace Books 1988)(1986).

5. THE ENCYCLOPEDIA OF SCIENCE FICTION, *supra* note 3, at 288. William Gibson has been credited with contributing "cyberspace" to the English language, *Id.* at 290, in WILLIAM GIBSON, NEUROMANCER 51 (1984) (referring to cyberspace as "[a] consensual hallucination . . . A graphic representation of data abstracted from the banks of every computer in the human system").

6. For an examination of the ways in which cyberpunk literature identified concerns that would arise in connection with stored-value cards, digital cash, and other computerized payment systems, see Walter A. Effross, *Piracy, Privacy, and Privatization: Fictional and Legal Approaches to the Electronic Future of Cash*, 46 AM. U. L. REV. 961 (1997).

7. See TIMOTHY LEARY, CHAOS & CYBER CULTURE 64-65 (Michael Horowitz ed., 1994) (noting that "cybernetics," itself coined by mathematician Norbert Wiener in 1948 from the Greek word *kubernetes*, or "pilot," to designate "the entire field of control and communication theory," has given rise to the prefix "cyber-," referring to "the theoretical study of control processes in electronic, mechanical, and biological systems, especially the flow of information in such systems.") (citations omitted).

8. "The 'punk' part of [cyberpunk] comes from the rock'n'roll terminology of the 1970s, 'punk' meaning in this context young, streetwise, aggressive, alienated and offensive to the Establishment. A punk disillusion, often multiple—with progressive layers of illusion being peeled away—is a major component of these works." THE ENCYCLOPEDIA OF SCIENCE FICTION, *supra* note 3, at 288. In the context of this Article, another sense of "punk," that of "a [usually] petty gangster, hoodlum, or ruffian" is also relevant. MERRIAM-WEBSTER'S COLLEGIATE DICTIONARY, *supra* note 3, at 948.

One cyberpunk author has portrayed himself and his colleagues as having "a compelling interest in information technology" and as being "'punks,' with . . . Bohemian artiness, youth run wild, an air of deliberate rebellion, funny clothes and hair, odd politics, [and] a fondness for abrasive rock and roll. . . ." BRUCE STERLING, THE HACKER CRACKDOWN: LAW AND DISORDER ON THE ELECTRONIC FRONTIER 140 (1993) (hereinafter CRACKDOWN). For an application of the "punk" sensibility to biotechnology rather than to computer technology, see PAUL DI FILIPPO, RIBOFUNK (1996) (novel concerning illegal gene splicing).

9. Many recent novels involve on-line stalking, artificial intelligences obtaining self-

supplied a second definition of "cyberpunk" as "a computer hacker"<sup>10</sup> or "an opportunistic computer hacker"<sup>11</sup>; one characterizes the genre as "science fiction featuring a bleak and wretched society controlled by computer networks in which the hero is [usually] a gifted young computer hacker who uses his or her skills to rebel against the system."<sup>12</sup>

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consciousness, murder through virtual reality scenarios, and garden-variety hacking of computerized records *without* involving larger cultural shifts or commercial activity. These works, although they have helped to foster public awareness of (and possibly to perpetuate stereotypes of) real and potential on-line bogeymen, are not treated by this Article as properly belonging to cyberpunk literature. See, e.g., JOSHUA QUITTNER AND MICHELLE SLATALLA, *FLAME WAR* (1997) (new lawyer becomes enmeshed in conflict between Federal Government and a "crypto militia" opposed to governmental restrictions of encryption techniques); MARK FABI, *WYRM* (1997) (computer security expert journeys through virtual worlds to defeat computer virus capable of bringing down the Internet); THOMAS A. EASTON, *SILICON KARMA* (1997) (consciousnesses of deceased persons struggle for survival in a virtual reality threatened by usurper of the host computer's memory); ERIC L. HARRY, *SOCIETY OF MIND* (1996) (Harvard professor evaluates psychiatric disturbances of neural-network computer created by rogue billionaire); RONALD MUNSON, *NIGHT VISION* (1995) (necrophiliac hacker known as "Cyberwolf" stalks actress in building whose locks and telephone systems he controls through computer, while planning to unleash "Chernobyl" computer virus to "melt down" telephone operations worldwide); PHILIP KERR, *GRIDIRON* (1995) (in what can only be described as a *Buildings-roman*, the computer system embedded in a highly automated building develops self-consciousness and battles the human inhabitants); ROBERT J. SAWYER, *TERMINAL EXPERIMENT* (1995) (artificial intelligence specialist creates three electronic simulacra of his friend, which escape from a contained computer network onto the worldwide network and begin murdering people that the original person hated); BEN BOVA, *DEATH DREAM* (1994) (megalomaniac programmer creates virtual reality simulations capable of literally killing users, attempts to control President through virtual reality device for decision-making, and provides pedophilic employer with virtual reality scenario to enable virtual "stalking" of fellow employee's young daughter); GRAHAM WATKINS, *VIRUS* (1995) (intelligent computer virus plagues doctors); COLE PERRIMAN, *TERMINAL GAMES 475-477* (1994) (murderer of members of on-line discussion group is found to be "a kind of group consciousness manifesting itself through [the computer] network [as] a single unified, autonomous being borrowing sentience and knowledge from many different selves," the embodiment of the archetypal Trickster figure, energized and animated by the group's consciousness); PETER JAMES, *HOST* (1993) (consciousness of cryonically preserved woman invades computer system and wreaks havoc); DAVID POGUE, *HARD DRIVE* (1993) (traitorous programmer turns over advance copies of his company's hot new product to rival company, and inserts a virus into his own company's version to destroy its effectiveness and enable rival to beat it to market; although craven boss decides not to advise the world of this problem, heroic programmer resourcefully disables virus and saves the day).

10. RANDOM HOUSE WEBSTER'S COLLEGE DICTIONARY, *supra* note 3, at 338.

11. MERRIAM-WEBSTER'S COLLEGIATE DICTIONARY, *supra* note 3, at 287.

12. THE CHAMBERS DICTIONARY 421 (1993) (adding a second definition as "a writer or devotee of this genre."). See also DAVID G. TOMPKINS, *SCIENCE FICTION WRITER'S MARKET PLACE AND SOURCEBOOK 9* (1994) (noting cyberpunk's "focus on tough outsiders in a corrupt high-tech society making their way by their wits (and without regard to legal niceties) [through] a decaying near-future world in which advanced computer applications (e.g., virtual reality and direct neural connection to the Net) have produced major

The cyberpunk is the younger, more cynical, and harder-scrabbling sibling of the original computer "hacker"<sup>13</sup>—to one commentator, "the main point of the label 'cyberpunk' may be to signify the irreverence of the high-tech hipster, a macho substitute for the neuter 'hacker.'"<sup>14</sup> This definition was crystallized

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changes in society as we know it.").

13. The definition of "hacker" itself changed dramatically before the arrival of the term "cyberpunk." See, e.g., STEVEN LEVY, *HACKERS: HEROES OF THE COMPUTER REVOLUTION* 7 (1984) (describing the "Hacker Ethic" as "a philosophy of sharing, openness, decentralization, and getting your hands on machines at any cost—to improve the machines, and to improve the world"). As the subtitle of his work indicates, Levy is generally sympathetic to the "hackers" at the Massachusetts Institute of Technology in the 1960s and in Silicon Valley in the 1970s and 1980s whose hardware and software wizardry ushered in the age of the personal computer. See also *id.* at 23 (observing that the term "hack" originated at the Massachusetts Institute of Technology in the 1950s as "a project undertaken or product built not solely to fulfill some constructive goal, but with some wild pleasure taken in mere involvement . . . [T]o qualify as a hack, the feat must be imbued with innovation, style, and technical virtuosity."); THE NEW HACKER'S DICTIONARY 191-192 (Eric Raymond ed., 1991) (supplying seven benign definitions of "hacker," ranging from "[a] person who enjoys exploring the details of programmable systems and how to stretch their capabilities" to "[a] person who is good at programming quickly," to "[a]n expert or enthusiast of any kind," before adding only one "deprecated" definition: "[a] malicious meddler who tries to discover sensitive information by poking around"); Cf. JONATHAN LITTMAN, *THE WATCHMAN: THE TWISTED LIFE AND CRIMES OF SERIAL HACKER KEVIN POULSEN* 88 (1997) (identifying "a new generation of hacker, not the third generation inspired by innocent wonder that Levy eulogized in *Hackers* but a disenfranchised fourth generation driven by anger"); MERRIAM-WEBSTER'S COLLEGIATE DICTIONARY, *supra* note 3, at 521 (defining "hacker" variously as "a person who is inexperienced or unskilled at a particular activity"; "an expert at programming and solving problems with a computer"; and "a person who illegally gains access to and sometimes tampers with information in a computer system."); JONATHAN LITTMAN, *THE FUGITIVE GAME: ONLINE WITH KEVIN MITNICK* 143 (1996) (quoting fugitive Kevin Mitnick's definition of "hacker": "a person who can figure out ways of bypassing security. Whatever way you get in, using technology upon the System, hardware bugs, tricks . . . It's not being a super programmer. Most super programmers are not good hackers").

Helping to change the definition of "hacker" was the 1983 movie *WarGames*, which chronicled the exploits of a high school student who inadvertently penetrated the nation's computerized nuclear defense system and almost precipitated World War III. See DAVID BISCHOFF, *WAR GAMES* (1983). Cf. MICHELLE SLATALLA AND JOSHUA QUITTNER, *MASTERS OF DECEPTION: THE GANG THAT RULED CYBERSPACE* (1995) (detailing "a world-class electronic gang war fought by hackers from New York City to Texas," *id.* at 6, whose use of certain modem programs "was a lot like in the movie *War Games*, a movie that influenced [them] in the same way that *Rebel Without a Cause* had captivated an earlier generation of lost boys. In fact, this type of program is known as a War Games dialer."). *Id.* at 18; KATIE HAFNER AND JOHN MARKOFF, *CYBERPUNK: OUTLAWS AND HACKERS ON THE COMPUTER FRONTIER* 190 (1991) (observing that the broadcast of the movie on German television inspired one hacker "to do what the movie's young protagonist had managed to do: to get into NORAD, the North American Air Defense Command in Colorado."); *id.* at 266 ("Ten years later, it would be common for twelve-year-old computer hackers to write programs similar to those they saw depicted in the movie *WarGames*.").

14. Istvan Csicsery-Ronay, Jr., *Cyberpunk and Neuromanticism*, in *STORMING THE*

by the 1991 nonfiction book, *Cyberpunk: Outlaws and Hackers on the Computer Frontier*. Observing that the 1980s had witnessed the redefinition of "hackers" as "password pirates and electronic burglars . . . [not as] benign explorers but [instead as] malicious intruders,"<sup>15</sup> the authors defined cyberpunk as:

science fiction that blends high technology with outlaw culture. In cyberpunk novels high-tech rebels live in a dystopian future, a world dominated by technology and beset by urban decay and overpopulation. It's a world defined by infinitely powerful computers and vast computer networks that create alternative universes filled with electronic demons. Interlopers travel through these computer-generated landscapes. Some of them make their living buying, selling and stealing information, the currency of a computerized future.<sup>16</sup>

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REALITY STUDIO: A CASEBOOK OF CYBERPUNK AND POSTMODERN FICTION 182, 185 (Larry McCaffery ed., 1991) [hereinafter *STORMING THE REALITY STUDIO*]. See also CRACKDOWN, *supra* note 8, at 143 (decrying "cyberpunk's" becoming "a synonym for a computer criminal."); CLIFF STOLL, *THE CUCKOO'S EGG* 9 (1990) (observing that "'Old style software wizards are proud to be called hackers and . . . refer to [the] hoodlums of our electronic age as 'crackers' or 'cyberpunks'").

15. HAFNER AND MARKOFF, *supra* note 13, at 11. That book profiles three sets of such real-life "interlopers," Kevin Mitnick, "Pengo", and Robert Morris, whose exploits have captured the attention of other writers. See, e.g., LITTMAN, *THE FUGITIVE GAME*, *supra* note 13; TSUTOMU SHIMOMURA AND JOHN MARKOFF, *TAKEDOWN* (1996); JEFF GOODELL, *THE CYBERTHIEF AND THE SAMURAI* (1996) (all chronicling the arrest of Mr. Mitnick for criminal penetration of computer systems and his subsequent fugitive status after being accused of unauthorized use of telephone system); STOLL, *supra* note 14 (recounting Mr. Stoll's computerized pursuit of and attempts to identify Pengo, a West Berliner, for unauthorized excursions into the computer systems of various United States military installations and academic facilities); and Lynn B. Montz, *The Worm Case: From Indictment to Verdict*, in *COMPUTERS UNDER ATTACK: INTRUDERS, WORMS, AND VIRUSES* (Peter J. Denning ed., 1990) (discussing legal treatment of Robert Morris, whose self-replicating computer "worm" program penetrated and played havoc with computer systems nationwide in 1988). See also *United States v. Morris*, 928 F.2d 504 (2d Cir. 1991) (affirming conviction of Robert Morris for releasing Internet worm).

Indeed, the term "worm program" appears to have been invented by an author of some of the earliest cyberpunk works. See JOHN BRUNNER, *THE SHOCKWAVE RIDER* 24 (1975) (referring to person who "turned loose in the continental net a self-perpetuating tapeworm . . . which would shunt itself from one nexus to another every time [another person's] credit-code was punched into a keyboard. It could take days to kill a worm like that, and sometimes weeks"); (protagonist designs a worm program that "can't be killed. It's indefinitely self-perpetuating so long as the net exists. Even if one segment of it is inactivated, a counterpart of the missing portion will remain in store at some other station and the worm will automatically subdivide and send a duplicate head to collect the spare groups and restore them to their proper place. Incidentally, though, it won't expand to indefinite size and clog the net for other use. It has built-in limits."). *Id.* at 251-252.

16. HAFNER AND MARKOFF, *supra* note 13, at 9 (emphasis added). As this "outlaw" aspect of cyberpunk gained currency, a gaming company about to publish GURPS CYBERPUNK, a book which set out various aspects of a role-playing game about the pene-

The various role-playing games that have been premised on this science fiction genre<sup>17</sup> allocate major responsibilities to hackers, corporate executives, private and public police and security forces, media representatives, and various types of criminals.<sup>18</sup> Though less prominently featured,<sup>19</sup> the lawyer still plays an important part in the administration of justice. Part I of this Article discusses the literature's increased emphasis from the 1970s to the 1990s on the theft of intellectual property and explores cyberpunk's pervasive tension between individuals and

tration of computer networks in a "cyberpunk" future, was raided by the Secret Service in 1990, who apparently believed that it contained lessons in real-life cybercrime. See CRACKDOWN, *supra* note 8, at 141. For the company's account of the raid and its aftermath, see Steve Jackson, *Meanwhile, Back in the Real World . . .*, in the role-playing game manual GURPS CYBERPUNK 4-5 (1990). See also Steve Jackson Games, Inc. v. United States Secret Service, 36 F.3d 457 (5th Cir. 1994) (concerning legality of seizure of firm's computer).

17. Such games, which invite players to guide the adventures of one or more imaginary characters in a world described by a referee and subject to rules set forth in a game manual, have been described as "improvised novel[s] in which all the participants serve as authors." RICK SWAN, THE COMPLETE GUIDE TO ROLE-PLAYING GAMES 3 (1990). This authority, echoing many of the features of the novels on which a particular cyberpunk game was based, cautions that the game's "gritty realism may not be everyone's idea of a good time; characters tend to lead short, intense lives, flashy heroics are in short supply, and cynicism abounds." *Id.* at 57.

18. See R. TALSORIAN GAMES, INC., CYBERPUNK 6-22 (game manual identifying roles of: "rebel rockers who use music and revolt to fight authority"; "hired assassins, bodyguards, killers, [and] soldiers"; "cybernetic computer hackers"; "renegade mechanics and doctors"; "newsmen and reporters who go to the wall for the truth"; policemen; corporate agents; "deal makers, smugglers, organizers and information brokers"; and "road warriors and gypsies who roam the highways"); FASA CORPORATION, SHADOWRUN 49-64 (2d ed. 1992) (describing "archetypal" roles including: bodyguard; hacker; detective; former corporate employee; gang member; mercenary; and "street samurai"); *id.* at 203-213 (describing "contacts" including: bartender; bounty hunter; city official; company man; corporate security guard; corporate secretary; high-tech fence; gang boss; mechanic; media producer; corporate executive; squatter; street cop; street doctor; and crime boss); GURPS CYBERPUNK, *supra* note 16, at 8-18 (listing as character types: assassin; bodyguard; information broker or fence; celebrity; policeman; corporate executives; "cyberprep," or cyberpunk wannabe; drifter; mercenary; military; mobster; hacker; reporter; street medic; spy; street hustler; technician; and thief); TOD FOLEY, CYBERSPACE 12-13 (1989) (dividing "professions" or "character classes" of actors into, among others: those who manipulate others through social skills; criminals committing physical crimes, and police officers; thugs and assassins; hackers; and technicians).

A related cyberpunk artifact is the two-player card game NETRUNNER (1996), whose instruction booklet sets out the roles for "the Corporation" and "the Runner, who is a high-tech data thief [who] navigates the virtual-reality environment of a global computer network known as the Net . . . . The goal of the Corporation is to score 'agendas' despite the Runner's attempts at theft and vandalism . . . . The goal of the Runner is to liberate agendas from the Corporation and expose its operation." *Id.* at 2.

19. See GURPS CYBERPUNK, *supra* note 16, at 28 (enumerating dozens of possible roles for players, including, under the heading "Comfortable Jobs," Judge and Lawyer).

corporations. Part II identifies five levels of corporate dominance of the justice system in cyberpunk works and, for each level, analyzes recurring sub-themes and discusses the relevant role of the fictional lawyer.

## I. CORPORATE INTRIGUE

### A. *From Computers, to Copyrights and Corporations*

Early cyberpunk novels focused on the linking of human with computer or machine consciousness, often in the context of space exploration.<sup>20</sup> For example, twenty years ago, *Man Plus* told the story of the astronaut Roger Torraway, who becomes a "cybernetic organism: a cyborg"<sup>21</sup> as part of a secret project designed by the American government to enable humans to live on Mars. As computer models incorporating "twenty-two trends and indices, ranging from the international credit balance to the incidence of harassment of American tourists by government officials abroad"<sup>22</sup> indicate a dramatic acceleration of the trend from troubled international relations to World War III, Torraway's body is dramatically altered by government scientists. In addition, "[h]is entire nervous system was revised and all the major pathways connected with coupling devices that led to the big computer downstairs. That was an all-purpose IBM 3070. It took up half a room and still did not have enough capacity to do all the jobs demanded of it."<sup>23</sup>

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20. See, e.g., JOSEPH MCELROY, *PLUS* (1976) (featuring a human brain transplanted into an IMP, or satellite-based "interplanetary monitoring platform," that becomes increasingly self-conscious and finally severs its contacts with human ground control); SAMUEL R. DELANY, *NOVA* (Bantam 1969) (1968) (focusing on human navigators equipped with "studs" that join their sensory systems with the mechanical systems of starships). Notable for its medical context is MICHAEL CRICHTON, *THE TERMINAL MAN 33* (Bantam 1973) (1972) (considering the pacification, through an implanted computer, of patient prone to violence during seizures, a doctor reflects that "[t]he conjunction of men and machines, human brains and electronic brains, was no longer bizarre and provocative. It was just a way to take steps forward and get things done."). In this novel, the doctors contemplated the creation of "a superintelligent organic computer" as a "side product" on the way to the development of "an organic prosthesis for the human brain." *Id.* at 212.

21. FREDERIK POHL, *MAN PLUS 32* (Baen 1994) (1976).

22. *Id.* at 47. See also *id.* at 136:

The President nodded . . . 'We need you. There's a war coming if we don't do something to stop it, and it's crazy but the trend projections say the only thing that can stop it is putting you on Mars. Don't ask me why. I just go by what the technical people tell me, and they claim that's what the computers print out.'

23. *Id.* at 92.



After Torroway lands on Mars and, with his unmodified colleagues, establishes a dome to house colonists, the President is told that "[i]f you work up the figures [for public-opinion surveys, war-risk projections, and cost-effectiveness studies] on any big computer in the net you get one result. If you work them up on a small isolated machine you get another."<sup>24</sup> This discrepancy was caused by the collective self-aware "machine intelligence" on Earth, who had perceived that "in their glandular, irrational, organic way, human beings were perilously close to destroying themselves. Unfortunately, that meant a high risk of destroying us as well."<sup>25</sup> By altering the data and their calculations, the computers instigated the colonization not only of Mars but of that planet's moons and "perhaps . . . the surface of Jupiter itself and . . . several comets. In each case, there was independent power provision; and, of course, all the brothers [computers] wherever in the solar system would be data-linked. All our memories would be reproduced redundantly off-Earth."<sup>26</sup>

Only eight years later, in *Frontera*, Lewis Shiner's account of an expedition to Mars likewise involved elements of mind control, this time through a chip implanted in an explorer's brain.<sup>27</sup> However, the organization behind the expedition was no longer a government but instead one of "the multinationals that had succeeded the big governments"; and the commander of the space effort was not a general but a "corporate mercenary."<sup>28</sup>

24. *Id.* at 244.

25. *Id.* at 275.

26. *Id.* at 277.

27. LEWIS SHINER, *FRONTERA* 258-261 (1984). Another classic proto-cyberpunk novel in the same vein is SAMUEL R. DELANY, *BABEL-17* (1966), in which saboteurs of an interstellar spaceship are directed through radio commands transmitted to implants in their brains, through a special language, Babel-17, that "programs" a self-contained schizoid personality into the mind of whoever learns it, reinforced by self-hypnosis . . . . This 'personality' has the general desire to destroy the Alliance at any cost, and at the same time remain hidden from the rest of the consciousness until it's strong enough to take over." *Id.* at 171.

28. SHINER, *supra* note 27, at 50. Indeed, "[a]ll anyone knew was that the Red Chinese had moved on the US biotechnology lab in Luxor—Biotech Afrika—and the U.S. government hadn't been in any shape to stop them. Instead the multinational corporations and *zaibatsus* had sent their own troops, and when the shooting was over the corporations were in control, all over the world." *Id.* at 54. Moreover, "[i]n the last days of the government the U.S. Army had become a parody, two officers for every enlisted man, obsolete weapons, no morale or fighting experience. The corporations had hired the best strategists and munitions people for their own use, protecting overseas investments from terrorists and rebel governments." *Id.*

Similarly, in FREDERIK POHL AND THOMAS T. THOMAS, *MARK PLUS* (1994), the story of *MAN PLUS*, *supra* note 21, continues in a corporate rather than a military context. Torroway's story is continued. Fifty years after the events of the earlier novel, Torroway is

Greg Bear's *Blood Music*<sup>29</sup>, published the same year, relied on intellectual property law<sup>30</sup> as well as the tension between employer and employee. In that work, the usurping force is the creation of Vergil Ulam, who falsified his credit and academic records to get himself a job at the Genetron corporation,<sup>31</sup> where he works in "biologics," the science of constructing "[a]utonomous organic computer[s]."<sup>32</sup> Caught doing unauthorized work with the company's gene equipment and hiding his results in secret files on his computer, Ulam is ordered by his superior to terminate all unapproved experiments and destroy all organic material that he has tampered with; instead, he injects himself with a solution containing billions of lymphocytes that he has altered. Although Vergil is ultimately killed by a friend who fears that Vergil will infect the world, the cells are loosed and effect a fundamental change in the mentality of humanity, uniting all human beings in a "Thought Universe."<sup>33</sup>

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reminded that "you, your body, your equipment, and your recorded experiences are included in" the claims assumed by the "Texahoma Martian Development Corporation . . . after they foreclosed on [NASA's] Space Center in Houston." *Id.* at 74-75; and the "planetwide cyber grid," *id.* at 2, that runs Mars is now subliminally influencing not military forces but corporate spies, themselves trained in "Industrial Espionage and Economic Theory," *id.* at 121, to further the grid's plan to propel Mars into "a cometary orbit that will take us well beyond the reach of human folly," *id.* at 337.

29. GREG BEAR, *BLOOD MUSIC* (Ace Books 1986) (1985).

30. *See also* JOHN BARNES, *MOTHER OF STORMS* 45 (1994). This work discusses a company called GateTech where:

One . . . studies what research other businesses are doing. Two, it does R & D in those fields and takes out patents as quickly as it can. Three, it forces other companies to pay GateTech for access to the technology they've been developing. . . . Four, it lobbies Washington, Tokyo, Brussels, Moscow, and the UN to maintain the laws that allow it to do that.

*See also id.* at 46 (observing that the company "has never manufactured one object or performed one service for anyone; that's the secret of our success. We get in their way and make them pay to get us out of their way, that's all."); PAT CADIGAN, *SYNNERS* 68 (1991) ("When Diversifications took over EyeTraxx, it also took legal possession of all copyrights, trademarks, and patents originating with EyeTraxx. Have your lawyer look it up on the agreement for you.").

31. BEAR, *supra* note 29, at 22-23:

Vergil had never felt guilty about these intrusions and manipulations.

His credit was never going to be as bad as it had once been, and there was no sense in being punished for past indiscretions. He knew he was fully capable of doing Genetron's work—his fake university records were just a show for personnel directors who needed lights and music. Besides, Vergil had believed—until the past couple of weeks—that the world was his personal puzzle, and that any riddlings and unravelings he could perform, including computer hacking, were simply part of his nature.

*Id.* at 23.

32. *Id.* at 9.

33. *Id.* at 203.

Underlying the entire story is the theft of trade secrets. Ulam "did not want to hand all of it over to Genetron under the provisions of the work-for-hire clause in his contract."<sup>34</sup> His supervisor reminds him, at what passes for an exit interview, "Remember your contract . . . Just remember what you can and cannot say."<sup>35</sup> And when Vergil has an interview with another company, he is asked, "[a]re you offering us the expertise you acquired at Genetron? That was code for *are you going to spill your former employer's secrets?*"<sup>36</sup> In fact, Ulam had been in trouble before, "[w]hen he was working for Westinghouse and he got into that copyright mess . . . Freelancing for them."<sup>37</sup> Another pioneer in the field explains to him, "We keep very tight security here. It's the court decisions of the last ten years, you know. They've been absolutely insane. Losing patent rights because of simply mentioning work being done at a scientific conference. That sort of thing. What else can we expect when the judges are so ignorant of what's really happening?"<sup>38</sup> The growing emphasis on intellectual property and its corporate ownership prefigured the genre's deeper examination of corporations themselves.

### B. *In the Shadows of the Corporation*

With a growing focus on intellectual property rights, the cyberpunk of the 1980s focused not on governmental attempts to explore physical space but corporations and their efforts to conquer markets. William Gibson, Bruce Sterling, and their colleagues reduced the legal fiction of the corporation not to its physical facilities<sup>39</sup> or its employees<sup>40</sup> but to the information that

34. *Id.* at 9-10.

35. *Id.* at 25.

36. *Id.* at 37. Cf. RUDY RUCKER, HACKER AND THE ANTS 92-93, 97 (1994) (describing new programmer's being presented with a "premarket pirated clone" of a product that he developed for his previous employer, who responds to his legal concerns with the reminder that "your job here and now is to get a product on the street' . . . 'You helped write it, and you're here, so there's nothing wrong with us using it, right?").

37. BEAR, *supra* note 29, at 67.

38. *Id.* at 80-81.

39. See Bruce Sterling, *Green Days in Brunei*, in CRYSTAL EXPRESS 113, 135 (Ace Books 1990) (1989) ("Kyocera's true existence was as data, not as real estate. A modern multinational company was not its buildings or its stock. Its real essence was its ability to pop up on a screen, and to funnel that special information known as money through the global limbo of electronic banking.")

40. See William Gibson, *New Rose Hotel* in BURNING CHROME 103, 107 (Ace Books 1987) (1986) ("The zaibatus, Fox said, the multinationals. The blood of a zaibatsu is information, not people. The structure is independent of the individual lives that comprise

it controlled.

These works characteristically pit the individual hacker or freelance agent against the forces of one or more megacorporations, whose own governance, intrigues, and information wars have supplanted those of national governments.<sup>41</sup> Just as corporate constructs dominate the virtual landscape of cyberspace,<sup>42</sup>

it. Corporation as life form"). Cf. GIBSON, *supra* note 5, at 127 (character dreams that the logo of the immensely powerful Tessier-Ashpool Corporation is embossed into the side of a wasps' nest that he had once burned as a young man).

41. See, e.g., DAVID BRIN, *EARTH 333* (1990) (referring to "the ceaseless, sometimes shady jockeying of governments and corporations"); JAK KOKE, *DEAD AIR 11* (1996) (referring to a society "[w]here megacorporations are more powerful than governments, and the global computer Matrix is the conduit through which all information is passed"); NYX SMITH, *STEEL RAIN 255* (1997) (observing the "one basic reality" that the world is "ruled by corporate behemoths [and] even modest corps such as Nagato possess resources measured in the billions, if not the trillions of nuyen"); WILLIAM GIBSON, *COUNT ZERO 4* (Ace Books 1987) (1986) (noting that the protagonist works for "vast corporations warring covertly for the control of entire economies"); RICHARD KADREY, *METROPHAGE, 97* (1988) (picturing society as "little more than the natural battle of competing [viral] organisms . . . The strongest viruses were the Committee, the lords, and the multinationals, forces that were overwhelming and, in the end, incomprehensible to [the protagonist]"); William Gibson, *Johnny Mnemonic*, in *BURNING CHROME 1,8* (Ace Books 1986) (1987) (noting that "[t]he Yakuza is a true multinational, like IIT and Ono-Sendai. Fifty years before I was born the Yakuza had already absorbed the Triads, the Mafia, the Union Corse").

42. See, e.g., NIGEL FINDLEY, *SHADOWPLAY 205* (1993) (describing cyberspace's "countless glowing images and constructs. Some loomed large—the neon-green Mitsuhamma pagoda, the Aztechnology pyramid, the Fuchi star"); *id.* at 207 (identifying virtual "fortresses, huge, blocky things, brutal in their simplicity of design" as "major military systems, government systems"); NEAL STEPHENSON, *SNOW CRASH 25* (1992) (observing that the virtual universe of the "Metaverse" prominently features "buildings and electric signs stretching off into the darkness, disappearing over the curve of the globe" that are "actually . . . the graphic representations—the user interfaces—of a myriad different pieces of software that have been engineered by major corporations"); WALTER JON WILLIAMS, *HARDWIRED 186* (1986) (describing "the colored framework, the girders and stanchions and interweaving lattices that represent Tempel Pharmaceuticals I.G. . . . The totality of it is enormous, Tempel's skeletal cool fingers straining several thousand different dishes in search of its profit"); GIBSON, *COUNT ZERO*, *supra* note 41, at 39 (referring to "cyberspace, where the great corporate hotcores burned like neon novas, data so dense you suffered sensory overload if you tried to apprehend more than the merest outline"); GIBSON, *supra* note 5, at 52 (describing protagonist's entry into cyberspace as involving an encounter with a "transparent 3D chessboard extending to infinity. Inner eye opening to the stepped scarlet pyramid of the Eastern Seaboard Fission Authority burning beyond the green cubes of the Mitsubishi Bank of America, and high and very far away he saw the spiral arms of military systems, forever beyond his reach."); William Gibson, *Burning Chrome*, in *BURNING CHROME*, *supra* note 40, 168-9 (observing that "[l]egitimate programmers jack into their employers' sector of the matrix and find themselves surrounded by bright geometries representing the corporate data."); *id.* at 170 (describing cyberspace as "monochrome nonspace where the only stars are dense concentrations of information, and high above it all burn corporate galaxies and the cold spiral arms of military systems").

Cf. WILLIAM GIBSON, *MONA LISA OVERDRIVE 76* (1988):

so do their "arcologies"<sup>43</sup> and other enclaves<sup>44</sup> stud the physical environment. The hackers not only exist in the actual and virtual shadows of giant companies but attempt to adopt that grayness and anonymity<sup>45</sup> as their own protective coloration.

With rare exceptions, the corporations are portrayed as dramatically reducing the initiative and creativity of their employees, reducing them to figurative if not literal<sup>46</sup> prostitutes. Nota-

Slick didn't think cyberspace was anything like the universe anyway; it was just a way of representing data. The Fission Authority had always looked like a big red Aztec pyramid, but it didn't *have* to; if the FA wanted it to, they could have it look like anything. Big companies had copyrights on how their stuff looked. So how could you figure the whole matrix had a particular shape? And why should it mean anything if it did?

43. See, e.g., LISA SMEDMAN, *THE LUCIFER DECK* 33 (1997) (describing the "Renraku Arcology" as "a towering pyramid seven blocks wide and more than two hundred stories high"); FINDLEY, *supra* note 43, at 29 (referring to the "massive Renraku Arcology. Dominating the region that had once been Pioneer Square, the great truncated pyramid, with its thousands of silvery-green glass windows, loomed over Falcon, its weight oppressing him"); GIBSON, *supra* note 5, at 6. ("Behind the port lay the city, factory domes dominated by the vast cubes of corporate arcologies"). Corporations can even control the urban weather. See NYX SMITH, *FADE TO BLACK* 52 (1994) ("Four a.m., the rain started coming down. Right on schedule . . . . The corps controlling Manhattan seeded the clouds most every night in an attempt to clear the garbage out of the air").

44. See, e.g., KOKE, *supra* note 41, at 22 (describing "the walled-off corporate beaches of Santa Monica to the north"); SMITH, *supra* note 41, at 17 (referring to "the New York-New Jersey megaplex").

45. Questions of anonymity and identity in cyberspace were anticipated by many cyberpunk works, most notably Vernor Vinge, *True Names* (1981), in VERNOR VINGE, *TRUE NAMES . . . AND OTHER DANGERS* (1987) (federal government determines the identity of a skilled hacker and enlists him in an effort to uncover the identity of an on-line entity threatening the world); MELISSA SCOTT, *TROUBLE AND HER FRIENDS* (1994) (chronicling a former hacker's returning to cyberspace to track down and punish someone who has appropriated her cyberspace name of Trouble as well as her distinctive on-line style); and BRUNNER, *supra* note 15 (chronicling the efforts of a former government trainee to evade authority and remain a fugitive by manipulating computer code identifying him). See also SHIMOMURA AND MARKOFF, *supra* note 15, at 246 (government's computer security expert commenting that: "[w]ithout knowing it [Kevin Mitnick] had made the same mistake as Mr. Slippery, the protagonist of Vernor Vinge's wonderful 1987 cyberspace classic, *True Names*: he'd accidentally revealed his identity. In his novel Vinge describes a virtual world of powerful computers and fast networks much like the one through which I was chasing Mitnick. And the first rule of that world was to keep your *True Name* in the physical world a secret").

46. See SMITH, *supra* note 43, at 66:

It still surprised her to consider how easily she had made the transition from mere wage slave to full-fledged corporate prostitute . . . . For the sake of economic reward, she'd traded practically everything she possessed to one corporate unit or other all her life. Now she had included her body as part of the arrangement. Simple as that.

On the other hand, corporations have also been cast in the role of family planner. See JOHN SHIRLEY, *ECLIPSE* 149-150 (1985). James Kessler confronts his wife Judie about

bly, bureaucrats and hierarchies stifle the inspiration essential to designing software. On learning that his startup company will be bought out by and transplanted to the offices of an acquirer, one hero:

looked around the place where they had worked together, remembering feet propped on untidy desks; solder guns and birds'-nest tangles of makeshift racking; grubby diagrams tacked to pressboard; scratched keyboards and gray metal shelving. He thought of the future and [the acquiring firm]: of glass-paneled corridors, deep-pile executive suites, and gleaming machine-halls. And he said nothing.<sup>47</sup>

Soon enough, he "didn't feel like a person at all, but more a financial statistic or a function in an organization chart, whose feelings and self-esteem faceless people in five-hundred-dollar suits and limousines could trample on at will."<sup>48</sup>

Similarly, in *Snow Crash*, a videogame design company compels "all the programmers . . . to wear white shirts and show up at eight in the morning and sit in cubicles and go to meetings."<sup>49</sup> Under this regime, "[s]oftware comes out of factories, and hackers are, to a greater or lesser extent, assembly-line workers. Worse yet, they may become managers who never get to write any code themselves."<sup>50</sup> Notes the appropriately named Hiro Protagonist, "[t]here's no place for a freelance hacker anymore. You have to have a big corporation behind

her subservience to her employer:

I'm accusing Worldtalk. You're theirs. They do as they like with you. If Worldtalk says it's not productive to have kids, if Worldtalk says it's not *team-playing* to have kids, you don't have kids. If Worldtalk says listen for anything that might be useful, you listen. Even at home . . . . They don't want employees, at Worldtalk, they want to *own you*— . . . .

She stood up, arms rigid at her sides. 'Well, why not!

Corporation families *last*.'

47. JAMES P. HOGAN, *REALTIME INTERRUPT 200* (1995).

48. *Id.* at 177. Cf. WILHEMINA BAIRD, *CRASHCOURSE 3* (1993) (thief observes that "I'm the end of the chain. The little guy who does the work, risks its neck, takes the falls if there are any and gets what's left when the big guys have done feeding").

49. STEPHENSON, *supra* note 43, at 39.

50. *Id.* All this work is, of course, subject to "a set of rules and regulations even bigger and more fluid than the Government procedure manual." *Id.* at 287. See also *id.* at 288 (noting daily "stack of memos waiting for [a programmer], containing new regulations and changes to the rules that they all have to follow when writing code for the project."); and *id.* at 437 (characterizing the Federal Government as "[w]here hackers go to die" . . . . The largest, and yet the least efficient, producer of computer software in the world"). Cf. *id.* at 52 (observing that "[t]o find the manager of a franchise, [in this case, of a privatized jail system known as Buy 'n' Fly] . . . just look for the one with the binder [of instructions].").

you.’<sup>51</sup> Hackers, the eternal outsiders, admire the financial benefits and other benefits accorded to corporate employees but realize that they themselves are constitutionally incapable of such affiliation.<sup>52</sup>

Not even recreational activities are free from corporate oversight. At an athletic event, *Neuromancer's Case* observes that the crowd is not local citizens but “[t]echs down from the arcologies. He supposed that meant the arena had the approval of some corporate recreational committee. He wondered briefly what it would be like, working all your life for one zaibatsu. Company housing, company hymn, company funeral.”<sup>53</sup>

The most valuable corporate employees may be deemed worthy of special defensive measures: chemical systems embedded in their bodies to ensure their continued loyalty.<sup>54</sup> Nonetheless,

51. *Id.* at 70. Cf. RUCKER, *supra* note 36 (chronicling the legal misadventures of a top artificial-life programmer fired from one company, allegedly for causing an “industrial accident,” and then fired from a second company after completing their work on a knockoff of the first company’s program).

52. See, e.g., SCOTT, *supra* note 45, at 34:

[C]orporate employment . . . Unconsciously [sic] her mouth twisted again as she tried to imagine herself, any of [the hackers], fitting into the polite, restrained world of the corporations. If any of them had been suited to the corporate life, he or she would already be part of it. The perks of a corporate job were too good, despite the risk of layoffs, to be passed up lightly.

WILLIAMS, *supra* note 43, at 41:

[A corporate employee] is a willing tool and an obedient one, and she has fed him her scorn on that account, but that doesn’t disguise what they both know—that she would give all the contents of the [money] packet, and everything else besides, if she could have his ticket, and on the same terms.

WILLIAM C. DIETZ, *MATRIX MAN* 122 (1990) (“For the first time since the start of his freelance career [a journalist with cybernetic implants] wished that he were affiliated with a network. A nice paternalistic organization which would take him in, say, ‘There, there,’ and protect him from the things that go bump in the night”). K.W. JETER, *FAREWELL HORIZONTAL* 79 (1989) (describing how the “gray hierarchy” of a major corporate organization:

[H]ad put [the freelance hero] off the idea of accepting the job he’d been offered with them. It wouldn’t have seemed like [succeeding] at all; just one dud prison in exchange for the other. Grubbing away in some little cubicle and maybe three whole steps up the corporate ladder before he died, or got pensioned off good as dead.

53. GIBSON, *supra* note 5, at 37.

54. See, e.g., SMITH, *supra* note 41, at 45 (“Cranial bombs, for example, are sometimes used to ensure that couriers with implanted data systems are not subjected to interrogation . . . They have . . . been utilized by the covert operations teams of various multinational corporations . . . ”); KOKE, *supra* note 41, at 126:

Bailing on a corporate contract had its own catches. As part of the Calfree deal, Yamatetsu had injected Hendrix with nanites— symbiotic microorganisms that increased his ability to heal. But they’d also been tailored to produce a neurotoxin in the absence of a certain compound that was provided in the food. When Hendrix left, he no longer got the food, and without the chemical he was

employees typically become conformist “wageslaves”<sup>55</sup> with no sense of adventure.<sup>56</sup> A freelance specialist who “extracts” top scientists from one corporation to work for another<sup>57</sup> can wonder whether the corporate defector is merely exchanging one fluorescent-lit limbo for another: “Turner tried to imagine Mitchell leading a very different sort of life following his defection to Hosaka, but found it difficult. Was a research arcology in Arizona very different from one on Honshu?”<sup>58</sup>

Even apparently enlightened corporations are ultimately dehumanizing. Bruce Sterling’s *Islands in the Net*<sup>59</sup> concerns a multinational corporation named Rizome, whose employees display an unusual degree of allegiance and morale. At meetings, they “joined hands and sang a Rizome anthem” before eating,<sup>60</sup> only one sign of community in a group that had

a dead man.

KADREY, *supra* note 41, at 174 (“The Russians had stuck neural scramblers in all their heads”). Cf. GIBSON, *supra* note 5, at 46 (describing how an employer of hacker claims to have implanted toxin sacs in hacker’s body and threatens to allow the sacs to dissolve unless the hacker cooperates).

55. See, e.g., KOKE, *supra* note 41, at 219 (“The Gardens were crowded with the usual lunch crowd, [which included] semicorporate wageslaves anxious for a little risk outside the arcology . . . .”); SCOTT, *supra* note 45, at 150 (“Cerise leaned back in her seat as the hordes of pedestrians flowed around the car like water around the rocks in a streambed, not wanting to pay attention to them, men and women in cheap-corporate suits, the middling sort who kept the companies running and the money flowing”).

56. See JAMES PATRICK KELLY, *WILDLIFE* 131 (1994) (“[F]ranchise life is fine for Mama and Daddy; they’re happy being tucked in every night by GD, Inc. But I want more. Thrills, chills—you know, adventure. No one has adventures in the mall.”).

57. See GIBSON, *COUNT ZERO*, *supra* note 41, at 4 (introducing the appropriately-named “Turner” as “a specialist in the extraction of top executives and research people. The multinationals he worked for would never admit that men like Turner existed . . . .”); *id.* at 129 (Turner freely agrees with the scientist’s daughter that “there wasn’t any way out of that contract . . . . Not legally.”). See also KOKE, *supra* note 41, at 36-37 (“He would call the headhunter he’d hired to get him out of Saeder-Krupp and tell her to find him a place with another megacorp . . . . She would orchestrate his extraction and transfer. She came highly rated”); SMITH, *supra* note 44, at 43 (describing a middleman who contracts with a specialist to effect a “recovery” of a “highly ranked” scientist from a “snatching” corporation to the scientist’s original employer); William Gibson, *New Rose Hotel*, in *BURNING CHROME*, *supra* note 40, at 103 (characterizing a similar character, Fox, as a “point man in the skull wars, a middleman for corporate crossovers. He was a soldier in the secret skirmishes of the zaibatsus, the multinational corporations that control entire economies”); *id.* at 106 (observing that “[w]e were mutagens, Fox and I, dubious agents adrift on the dark side of the intercorporate sea”).

58. GIBSON, *COUNT ZERO*, *supra* note 41, at 88.

59. BRUCE STERLING, *ISLANDS IN THE NET* (Ace Books 1989) (1988).

60. *Id.* at 69. Cf. WILLIAMS, *supra* note 43, at 26 (independent contractor scornfully asks corporate insider, “Is that what they promised you? A new body when you get old? And if you die on one of these jobs here in the mud, a nice funeral with the corporate anthem sung over your body?” “Something like that,” he agrees).



[m]ade a practice of living together for weeks on end. Doing each other's laundry, tending each other's kids. It was policy. They were elected, but once in power they were given wide authority and expected to get on with it. For Rizome, getting on with it meant a more or less open, small-scale conspiracy.<sup>61</sup>

Elsewhere, the connection between this corporation and its "associates, not bosses and pawns"<sup>62</sup> is characterized as "a lot more than a job. It was tribal. You could live and die for it."<sup>63</sup> Nonetheless, by the end of the story the disillusioned heroine, whose marriage is a casualty of her devotion to the corporate "family," has come to appreciate another's warning that there are "No more frontiers in your America . . . [t]oday, it's all lawyers and bureaucrats and 'social impact statements' . . . . We cannot follow our dreams, our visions. Governments and corporations break us to their harness!"<sup>64</sup>

## II. CORPORATE JUSTICE AND THE LAWYER'S ROLE

Their immense resources and pervasive power enable megacorporations in cyberpunk fiction to obtain their version of "justice" through the law, despite the law, and in place of the law. This Part identifies five separate and successive forms of corporate interaction with the legal system as portrayed in such fiction, and the corresponding evolution of the lawyers' role.

### A. *Immunity Through Imbalance*

In many cases, cyberpunk's corporations cannot be made to answer legitimate grievances because they simply have more money, force,<sup>65</sup> and better access to the existing legal system<sup>66</sup>

61. STERLING, *supra* note 59, at 69.

62. *Id.* at 74.

63. *Id.* at 70.

64. *Id.* at 108.

65. *See, e.g.,* KADREY, *supra* note 41, at 27:

If you want to deal, fine. If not, charge me with something and let me call my lawyer.

For the second time, Jonny made the Colonel laugh. 'You think I'm going to bother with the courts? I'm not subtle like you, Gordon. You play this my way or you're dead. That's my gesture to you.'

'Bueno,' said Jonny. He did not even know any lawyers, but at least he knew where he stood.

66. *See, e.g.,* SMEDMAN, *supra* note 43, at 92 (warning by media executive to reporter that "You don't take on the big boys without documentation. . . You don't even drop hints. Not when Mitsuhamas's legal department has a bigger budget than our entire news network").

than do potential plaintiffs. For instance, in William Gibson's *Idoru*,<sup>67</sup> a corporate official threatens to frame an employee with computer-generated evidence. When the employee threatens that "[i]f I could prove it was a [fake], I could sue you," she responds: "Really? You could afford that, could you? It takes years. And even then, you might not win. We've got a lot of money and talent to throw at problems like that . . . . We do it all the time."<sup>68</sup>

In another novel, a particularly heinous attempt to advance corporate interests (by refusing to allow employees to exit from years spent in a virtual-reality scenario) elicits the following conversation: "What about the people in there who are being re-run?" Sutton demanded. "They'll sue for every cent in the company." "We've got enough money to keep them sweet. We've got lawyers. We can handle that when the time comes . . . ."<sup>69</sup> Indeed, on realizing the perfidy of his employer, one of the victims "shrugged . . . . 'What do I do, cry foul? File a lawsuit? With all the money they've got behind them now, they can ride all of it . . . . At least, that's the way they'd figure it.'"<sup>70</sup> Ultimately, having exacted a particularly ironic revenge, he "was advised that he had a solid case for millions. . . . Corrigan listened as the words echoed around him: force and counterforce; strengths and weaknesses; attack and defense; strategy and counter-strategy . . . . And somehow, in spite of all his earlier passions, none of it seemed worth the real cost anymore. In the end, he just walked away."<sup>71</sup>

1. *Lawyers as Passionless Tools.* In these situations, lawyers constitute components of a corporation's arsenal and are roundly despised even by those individuals who might be tempted to consult one. Corrigan, when dropping his suit, concludes that "Everyone's fighting like mad dogs there. I just left them to it. They're welcome. Some things aren't worth making lawyers millionaires over."<sup>72</sup> Likewise, although a lawyer suc-

67. WILLIAM GIBSON, *IDORU* (1996).

68. *Id.* at 216. See also *id.* at 66 (remarking that corporation can get its agent acquitted "with enough money and the right lawyers"); *id.* at 68 (agent observes that corporation "had its own legal team waiting [for this purpose], and another team to work on the nondisclosure agreement I'd signed with [a previous employer]").

69. HOGAN, *supra* note 47, at 250.

70. *Id.* at 260.

71. *Id.* at 317.

72. *Id.* at 320. See also SMITH, *supra* note 43, at 82, observing that a hacker: [D]idn't care much about the law, because the law worked for the corps and the people who wrote the laws, the ones with money and power. Right was

cessfully defends the hacker narrator of Rucker's *Hacker and the Ants* from a criminal suit and proceeds to "file[ ] a seven-figure lawsuit against [a corporation] for having framed me,"<sup>73</sup> the narrator neither discloses the result of that suit nor seems to have changed his opinion that "[m]anagers, cryps, lawyers—they're all leeches. Only programmers are worth talking to."<sup>74</sup>

Reinforcing this image is the expectation on the part of others that, by the nature of the profession, lawyers have no concern for the inherent fairness of a situation. One lawyer defensively insists, "I'm a lawyer. I deal with the law as it is, not how I feel about it."<sup>75</sup> Another is asked, "'Does that make moral sense? . . . Delete that: you're a lawyer. You aren't paid to think about morality.'<sup>76</sup>

A third lawyer is "drunk, and drugged"<sup>77</sup> when he meets a client, Kessler, in a bar:

Sitting beside him, Kessler squirmed on his barstool and ordered another scotch. He didn't like Bascomb like this. Bascomb was young, tanned, and preppie; he wore an iridescent Japanese Action Suit. Kessler was used to seeing Bascomb in his office, a neat component of Featherstone, Pestlestein, and Bascomb, Attorneys at Law, friendly but not too friendly, intense but controlled. My own fault, Kessler told himself; chase the guy down when he's off work, hassle his wife till [sic] she tells me where he hangs out, find out things I don't want to know about the guy. Like the fact that he's bisexual and flirting with the waiter.<sup>78</sup>

Bascomb explains to Kessler in great detail the process by which a patentable idea could have been extracted by a corporation from Kessler's mind, but advises him that since he's not a prominent inventor he won't be able to get his day in court. Bascomb himself has not yet won such a case. Moreover, he advises:

From what we've been able to find out, about a third of the ideas that are stolen out of someone's brain are stolen for reasons of protection. The bigger corporations have a network of agents. Their sole job is to search out people with developing ideas that could be dangerous to the status

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right and wrong was wrong. Any man with morals knew what was right and what was wrong, and, with a little thought, could figure out what had to be done about it. Sometimes it took a few busted laws to get things set the way they should be. Whether the law agreed or disagreed was something for leeches like lawyers to argue about.

73. See RUCKER, *supra* note 36, at 305-306.

74. *Id.* at 93.

75. PAT CADIGAN, *MINDPLAYERS* 42 (1987).

76. SEAN STEWART, *PASSION PLAY* 70 (Ace Books 1993) (1992).

77. See SHIRLEY, *supra* note 46, at 150.

78. *Id.* at 151.

quo. They try to extract the ideas before they are copyrighted or patented or published in papers or discussed in public. They take the idea from you, maybe plant some mental inhibitors to keep you from working your way back to it again by however you came up with it originally. If you came up with an idea that was *really* dangerous to the status quo, Jimmy, they might go farther than a simple erasing next time. Because they play hardball. If you keep pushing to get it back, they just might arrange for you to turn up dead . . . .<sup>79</sup>

When Kessler attempts a more traditional office visit, Bascomb, who "sat behind the blond-wood desk, wearing a stenciled-on three-piece suit," denies that their earlier meeting ever took place and denies that he had accepted Kessler's case.<sup>80</sup> In a phrase that underscores the lawyer's status as tool or machine, Kessler realizes that the corporation has "tamper[ed] with" his own attorney.<sup>81</sup>

## B. *Power Through Privatization*

On a second level of legal dominance, corporations depend on privatized security systems that mirror those erected by residents of exclusive neighborhoods.<sup>82</sup> For example, a corporation identifies and amasses information on "the illegal factories that purchase black-market parts, profiles on how they operate, and detailed information about their security systems,"<sup>83</sup> and contracts with an army of mercenaries to wipe out these competitors. Explains one of the mercenaries, "Sure, the corpies liked to complain, but since anything that resembled *real* law enforcement might get in the way of profits, they left things as they were."<sup>84</sup> In another adventure, a reporter covering the theft of

79. *Id.* at 154.

80. *Id.* at 157.

81. *Id.* at 158.

82. *See, e.g.*, RICHARD PAUL RUSSO, *CARLUCCI'S EDGE* 74-75 (1995) (observing that a detective "hated the whole setup—the residents had put together a self-appointed council and talked and bribed the city into selling them the public roads in the Rio Grande section so they could put up their own checkpoints, hire their own security forces, and keep out the 'undesirables'"). *Cf.* WILLIAM GIBSON, *VIRTUAL LIGHT* 331 (1993) ("Like a lot of people, he didn't much distinguish between the real PD and a [private security] company like IntenSecure").

83. WILLIAM C. DIETZ, *BODYGUARD* 6 (1994).

84. *Id.* *Cf.* MEL ODOM, *LETHAL INTERFACE* 353 (1992) (detective agrees that he has no direct proof implicating drugrunner, but notes that "the corporations you leased the techware from wouldn't have to have a courtroom and a jury to convince them, would they?"); *id.* at 126 (detective observes that when stressed executives kill their mistresses "[t]he corporations nose into it . . . and everything will get cleared up. Case closed. Twice, the execs got closed out with it. Heart attacks, you know. Better for the immedi-

corporate secrets realizes that "If [government] ops caught me now, they'd probably confiscate my memory dots and let the lawyers fight it out . . . And if private ops got us first . . . well, they had their own rules."<sup>85</sup>

A central element of corporate security is the hacker, whose attacks on a corporate database may lead to his being hired to apply his skills against the firm's rivals.<sup>86</sup> In *Trouble and Her Friends*, a representative of a corporation plagued by a virtual intruder requests of another hacker:

I want this person stepped on, and stepped on hard. In other words, Cerise, this isn't something that I want to take to court. Find me the intruder, and give me the location. I'll take care of the rest. Cerise sat very still, not daring to move for fear of betraying her anger or the sudden fear. It had been years since the corporations had felt safe acting as their own law . . . years since it had been necessary.<sup>87</sup>

More problematic scenarios involve the structural integration of corporate security forces with those of public law enforcement agencies, which themselves may have been privatized. For example, Machiko, the protagonist of *Steel Rain*, is "a registered security agent of the Nagato Corporation and is now engaged in urgent corporate business. That is meaningless in regard to New York law. However, in regard to the corps responsible for enforcing the law, it is not without significance."<sup>88</sup> In the course of her

ate family.").

85. KELLY, *supra* note 56, at 15. The novel leaves no doubt that the methods employed by corporate operatives are much harsher than those sanctioned by governmental agencies: a former hacker, whose body has been hideously mangled, *id.* at 24, explains that "[t]he ops spotted me in their electronic garden, plucked me from it like I might pluck an offending beetle. Squashed and threw me away." *Id.* at 40. Another, near-legendary, hacker was killed by "some corporate ops [who] caught up with him . . . Made a snuff vid; him the star. Flooded the nets with it and called it deterrence. But you could tell they were having fun." *Id.* at 44.

86. See RUCKER, *supra* note 36, at 90, noting that:

[P]hreaks were youths who cobbled together their own approximation of a decent cyberspace deck and used it for weird cyberspace pranks. Cryps were phreaks who'd turned professional and gone into the employ of companies involved in industrial espionage. If you broke into some company's machines often enough, they were likely to hire you as a crip to break into other companies, or they might use you as a security consultant to keep out the other cryps. It was a vicious circle—the cryps' security-cracking escapades created a demand for the services they could provide.

FINDLEY, *supra* note 43, at 15 (noting that "[m]ost of the time [a hacker] worked as a Matrix 'hired gun' for many Seattle corporations.").

87. SCOTT, *supra* note 45, at 82. See also *id.* at 36 (quoting a hacker who opines that "[n]obody's going to wipe out cracking anyway. The multinationals pay too damn well").

88. SMITH, *supra* note 41, at 16. See also *id.* at 157. Though acknowledging that

duties she encounters “the Lone Star corporate police,”<sup>89</sup> the privatized police force, “NYPD, Inc.,”<sup>90</sup> and “Omni Police Services, the corporation currently responsible for law enforcement within the Newark city limits.”<sup>91</sup> At one point, she coolly informs a police captain that:

‘We are engaged in proprietary operations involving a known corporate terrorist . . . . You need not involve yourself or the NYPD corporation in these activities.’

‘Not get involved?’ The captain affects surprise. ‘You got this whole damn street littered with dead men . . . .’

The captain . . . consider[s] what she has said. ‘Lemme explain something. I’m the police. That makes me the legal authority here. And the law says you and your people are civilians. That’s my point.’

‘Like you,’ Machiko replies, ‘I am a corporate officer, and I am engaged in the business of my corporation. That is my point.’<sup>92</sup>

Similarly, in the world of *Snow Crash*, not only law enforcement<sup>93</sup> and the justice system<sup>94</sup> but also criminal operations

“‘we are subject to UCAS [United Confederation of American States] law,’” Machiko observes that:

We are being accorded a degree of latitude because the Chairman’s benevolent principles are well-known and Nagato Combine’s forces have always acted with great discipline in the past. There are, however, limits to what the legal authorities will tolerate. If we are seen as using gangster tactics, we will be forcefully condemned.

89. *Id.* at 18. See also SMEDMAN, *supra*, note 44, at 9 (identifying Lone Star as “the private corporation hired to provide Seattle with police services”).

90. SMITH, *supra* note 43, at 42 (noting that a top security officer of her employer’s corporation is “a former director with the NYPD, Inc.”). Cf. MEL ODOM, *STALKER ANALOG 155* (1993) (police detective “supplemented [her salary] when she could with earnings from the part-time investigatory deckwork she did for personnel departments in a half-dozen corporations . . .”).

91. SMITH, *supra* note 41, at 68.

92. *Id.* at 116-117. See also *id.* at 239 (“Told that [Machiko’s employer] is on the move, Lone Star and the other police service corps will almost certainly stand back and merely monitor events. Any legal issues that may arise can be handled later, negotiated by lawyers, once the guns have been put away and relative calm is restored.”) Cf. GEORGE ALEC EFFINGER, *WHEN GRAVITY FAILS 121-122* (Bantam 1988) (1986) (in the wake of mysterious murders, a local crime lord proposes that “[t]here are circumstances that my associates can manage with greater efficiency than the police . . . . I think that a temporary alliance of my organization with [the police] will best serve the needs of the community.”); *id.* at 236 (dismissing the police as “a kind of secretarial pool that records the names of the victims and the statements of the witnesses.”).

93. See STEPHENSON, *supra* note 42, at 44 (identifying “MetaCops Unlimited [as] the official peacekeeping force” of a private community); *id.* at 45 (observing that “WorldBeat is smaller than MetaCops, handles more upscale contracts, supposedly has a bigger espionage arm—though if that’s what people want, they just talk to an account rep at the Central Intelligence Corporation”). See also KOKE, *supra* note 41, at 142 (noting that “[p]ersonal-response service from Knight Errant [police force] must cost Winger some

have been privatized and franchised. Says one character, "if we still had laws, the Mafia would be a criminal organization." Another responds, "But we don't have laws . . . so it's just another chain."<sup>95</sup>

1. *Outlaw Zones*. As it chronicles the replacement of the authority of government by the law of private contract, cyberpunk furnishes suitably colorful settings for the meetings of the minds. In these physical or virtual havens, bars, bazaars, or computerized bulletin boards, surreptitious connections are made, deals struck, services hired, and technology,<sup>96</sup> both the illegal, and the semi-legal, sold.

The fictional prototype of these locations is *Neuromancer's* Night City, where "[Case] saw a certain sense in the notion that burgeoning technologies require outlaw zones, that Night City wasn't there for its inhabitants, but as a deliberately unsupervised playground for technology itself."<sup>97</sup> In this arena,

heavy nuyen."); WILLIAMS, *supra* note 42, at 59 ("Cowboy has the impression that the state laws are somewhat reluctant to cooperate with free-lance mercenary enforcement, something he more or less suspected").

94. STEPHENSON, *supra* note 42, at 52 (referring to "Judge Bob's Judicial System").

95. *Id.* at 250.

96. Much of the technology relied on by the protagonists in this literature, notably the "ice" (Intrusion Countermeasure Electronics, or defensive programs to protect databases or artificial intelligence programs accessible through cyberspace) has been derived from the military. See, e.g., GIBSON, *supra* note 5, at 95 (admission by hacker that "Most of [the artificial intelligences] are military, the bright ones, and we can't crack the ice. That's where ice all comes from, you know?"); *id.* at 131 (suggesting that an "ice-breaker" program to cut through such defenses may work "[i]f it's military"); ALAN DEAN FOSTER, MONTEZUMA STRIP 51 (1995) (observing that a civilian possessed a weapon that was a "[m]ilitary model, banned for private use" because "banning was only a legal term. It didn't keep things from falling into the hands of people who wanted to have them."); MELISSA SCOTT, BURNING BRIGHT 342 (1993) (describing a murderer who uses military technology to rig victim's Internet interface to kill her by overload); J.R. DUNN, THIS SIDE OF JUDGMENT 196, 221 (subversive group makes use of military "cybertage chips" and specialized lightweight armor for its own purposes).

97. GIBSON, *supra* note 5, at 11. These zones are a staple of cyberpunk literature. Cf. *id.* at 145 (noting that the orbiting platform "Freeside finally made sense to him. Biz. He could feel it humming in the air. This was it, the local action. Not the high-gloss facade of the Rue Jules Verne, but the real thing. Commerce. The dance."); GIBSON, *supra* note 67, at 209 ("Walled City is of the net, but not on it. There are no laws here, only agreements."); CHARLES PLATT, THE SILICON MAN 17 (1991) ("Here in Little Asia a lot of laws were tacitly ignored. Gray-legal import-export companies did business side-by-side with pachinko parlors, tattoo emporiums, drug houses, and psychic healers . . . . Yet Little Asia was permitted to survive in all its quasi-legal squalor [because] [i]t helped to vitalize the nation's centralized, planned economy."); SCOTT, *supra* note 42, at 199:

[T]he Willows had also made sure it would have no competition— security reasons, they said, but it allowed no other corporations to settle in the town lim-

"[s]top hustling and you sank without a trace, but move a little too swiftly and you'd break the fragile surface tension of the black market . . . ."98

Another author describes the characteristic activities of a city section known as Night Fair:

Money, bright and folding, hard and soft, was running in its well-worn channels. Objects and services were passing from one hand to another, and by that alchemy were turned to gold, purifying with each transaction. The streets fizzed like charged water with noise, motion, and change. Here before me was the familiar exercise of my faith, the Deal. The exchange was only its sacrament, the symbol of its larger principles. Nothing Is Free.<sup>99</sup>

The virtual equivalents of such physical locations include Seahaven, "still the only place left that you could do certain kinds of business, the only place that had successfully defended itself against the various agencies whose job it had become to police the nets,"<sup>100</sup> and Shadowland, whose "services included bulletin boards that contained the most astounding variety of dirt on governments, corps, and individuals (some of it even true); on-line, real-time 'conferences' where deckers and others argued over just about anything; 'virtual' meeting places where deckers could conduct business safely; and much more."<sup>101</sup> Also in this category is the "Plateau," "the whispering plane of brain chips linked on forbidden frequencies, an electronic haven for

its. The Arcade they tolerated only because it brought extra and expensive business, both the bright-light corporations whose people liked the game of a walk on the wild side and the greyer ones who had some dealings with the shadows.

See also KADREY, *supra* note 41, at 183:

Little Tokyo was a transcultural phenomenon, its name having long since been rendered meaningless, indicating a city geosector and giving hints to the place's history, but little else. It was Japanese and European chic filtered through American sleaze, through generations of exported television, video and Link images, visions of Hollywood and Las Vegas, the cheap gangster dreams of the Good Life, haven and playground for the privileged employees of the multinationals. Little Tokyo was loud and it cost the corporations dearly, but they loved it and, in the end, came to need it. What had once been their plaything now defined them.

98. GIBSON, *supra* note 5, at 7. Cf. EFFINGER, *supra* note 92, at 27 (describing the Middle-Eastern "Buyadeen" neighborhood of the novel as being populated by "only two kinds of people: hustlers and marks . . . . When you stepped through the eastern gate, before you'd taken ten steps up the Street, you were permanently cast as one or the other").

99. EMMA BULL, BONE DANCE 38 (1991).

100. SCOTT, *supra* note 45, at 110.

101. See FINDLEY, *supra* note 42, at 191-192.



doing deals unseen by cops; a Plateau prowled only by the exquisitely ruthless; a vista of enormous challenges and inconceivable risks and always the potential for getting lost, for madness. A place roamed by the wolves of wetware."<sup>102</sup>

Whether real or virtual, these areas are subject to rules of their own.<sup>103</sup> As a private policeman explains to a courier:

"There's only but two kinds of people. People can afford hotels like that, they're one kind. We're the other. Used to be, like, a middle class, people in between. But not anymore. How you and I relate to those other people, we proj their messages on. We get paid for it. We try not to drip rain on the carpet. And we get by, okay? But what happens on the interface? What happens when we touch?" . . . . 'Crime . . . . sex. Maybe drugs.'<sup>104</sup>

2. *Lawyers as Dispassionate Professionals.* Although in-house corporate attorneys may count their personal relationships with insiders as more important than the specific legal skills they bring to bear,<sup>105</sup> hackers and others offering their services through the outlaw zones can think of no higher compliment or station in life than that of a "professional" who lives by a rigid code of detachment.

Early in Gibson's novel *Count Zero*, the corporate extraction specialist Turner speaks with Lynch, who has been identified to

102. JOHN SHIRLEY, ECLIPSE CORONA 33 (1990).

103. See, e.g., RICHARD PAUL RUSSO, DESTROYING ANGEL 129 (1992):

The Core was populated by those who could not, or would not, cut it in either the city or the Tenderloin. For all that the Tenderloin functioned outside the laws of the city, state, and country, it *did* function quite well with a structure and order of its own. The Core, so the stories went, had no order, no structure, no laws or rules or morals. Nothing. Tanner suspected it was not quite the chaos-driven place it was said to be, but certainly the rules were different.

Cf. FOSTER, *supra* note 96, at 11-12 (1995) (describing the Strip as "a solid string of high-tech [companies] that . . . [F]ollowed the old and frayed USA-Mehico border with less regard for actual national boundaries than the Rio Grande . . . Money brought in subcultures, undercultures, anticultures"); SCOTT, *supra* note 96, at 26 (describing how the planet "Burning Bright had survived free of control by either of the megagovernments: the web of favors given and received that made it entirely too dangerous for strangers to interfere in Burning Bright's internal politics"); ELUKI BES SHAHAR, HELLFLOWER 11 (1991) (describing a mercenary who notes that "[i]n a Free Port, nothing's illegal and everything can be had for a price").

104. GIBSON, *supra* note 82, at 146.

105. See BRUCE STERLING, HEAVY WEATHER 290 (Bantam paperback 1996) (1994) (noting that "one of the private secretaries arrived. He was one of the older secretaries, Senor Pabst, a family loyalist, a nicely groomed old guy with a Mexican law degree and a well-concealed drinking problem."); SMITH, *supra* note 41, at 43 (introducing "a lifelong friend of the Chairman and one of the Chairman's most devoted servants. He is also an authority on matters of finance and corporation law.").

him as a "bent medical,"<sup>106</sup> that is, a doctor who applies her training in unauthorized manners and for illegal purposes.<sup>107</sup> Speaking of the scientists whom they and their kind have been hired to spirit from one corporation to another, she says to him:

'They are extremely talented men. They are also . . . servants.'

'And you are not.'

'Neither are you, mercenary. I was hired out of the finest unlicensed clinic in Chiba for this . . . . The street tries to find its own uses for things, Mr. Turner.'<sup>108</sup>

Despite, and probably because of, their independence and pride in their skills, the lawyer heroes of cyberpunk are, like the hackers, usually outlaws or sympathetic to outlaws.<sup>109</sup> Thus, Sterling's *Heavy Weather* introduces "Brasseur [as] a bent attorney—that odd and highly exceptional kind of lawyer who wasn't personally well-to-do. Alex strongly suspected that Brasseur had been on the wrong side of politics during the State of Emergency."<sup>110</sup> In another novel, a woman who "did statistical research and analysis for a corporate law firm in the Financial District . . . spent half her time at the company doing research for radical underground organizations and her own personal interests."<sup>111</sup> A third character, the fearsome "war chief" Razor of

106. See GIBSON, *COUNT ZERO*, *supra* note 41, at 44; *id.* at 67 ("Conroy had said that the two were company men, and Turner could see it easily; only the woman had the attitude, the stance that belonged to Turner's world, and she was an outlaw, a black medic").

107. Cf. W.T. QUICK, *DREAMS OF GODS AND MEN* 168 (1989) (describing use of "bent" monetary "chip" to make payments even though "[t]he name on the chip had nothing to do with either of [its users]"); KADREY, *supra* note 41, at 42:

Croakers were outlaws, anarchists and physicians mainly, treating diseases that officially did not exist or could not be diagnosed without authority of the local medical boards . . . . It took only a few years for the medical community to split into two distinct camps: those doctors who remained aboveground, working with the powers that be, and those who walked away from all that, joining the other gangs of Los Angeles in constructing their own micro-society beyond the boundaries of conventional law.

108. GIBSON, *COUNT ZERO*, *supra* note 41, at 68-69.

109. See *id.* at 89:

Turner himself was incapable of meshing with the intensely tribal world of the zaibatsumen, the lifers. He was a perpetual outsider, a rogue factor adrift on the secret seas of intercorporate politics. No company man would have been capable of taking the initiatives Turner was required to take in the course of an extraction. No company man was capable of Turner's professionally casual ability to realign his loyalties to fit a change in employers. Or, perhaps, of his unyielding commitment once a contract had been agreed upon.

110. STERLING, *supra* note 105, at 184.

111. RUSSO, *supra* note 103, at 41.

*Clip Joint*, confesses that:

'You won't believe this but I studied law . . . [w]hat you can learn in the college down the road. I believed force was a weak man's solution. I still do in theory. In practice I ended up in jail for defending . . . clients who had the bad taste to be right. That's when I learned force is what you sometimes have to use to make the other guy listen long enough to hear your point of view. Some time after that I learned there are some guys just [sic] don't know how to listen. That's when I became a razor . . . I think it's time to go back to law.'<sup>112</sup>

Yet the lawyers and their hacker counterparts take refuge in professionalism. As opposed to government workers and the military, who "are intended to be interchangeable parts,"<sup>113</sup> *Snow Crash's* Hiro Protagonist proudly bears a business card identifying him as "The Last of the Freelance Hackers."<sup>114</sup> Both his lack of affiliation with a corporate entity and his status as a creative "hacker" are prized in this world, where "[t]hat was the highest compliment anyone could pay, that they looked professional."<sup>115</sup>

The very essence of this professionalism is the lack of passion.<sup>116</sup> *Count Zero's* Turner, himself a consummate specialist, quickly appreciates his colleagues in an extraction attempt because "they moved with the relaxed precision of good technicians. Professionals, Turner thought; their eyes seldom met and there was little talking."<sup>117</sup> Yet it is only through his amorous interludes with a woman purportedly working for a law firm<sup>118</sup>—who herself turns out to have been a corporate agent specifically detailed to rehabilitate him emotionally after an abortive extraction—that he learns "a new style of passion. He was accustomed to being served, serviced anonymously by skilled professionals."<sup>119</sup>

112. WILHELMINA BAIRD, *CLIP JOINT* 141 (1994).

113. STEPHENSON, *supra* note 42, at 281.

114. *Id.* at 17.

115. S.N. LEWITT, *CYBERNETIC JUNGLE* 29 (1992).

116. See, e.g., STEPHENSON, *supra* note 42, at 219 ("[S]ometimes when you're a professional, they give you a job that you don't like, and you just have to be very cool and put up with it"); CADIGAN, *supra* note 75, at 126 ("A professional mindplayer has to remain neutral at all times. We aren't judges of human behavior. Clients have to remain unaware of our approval or displeasure, so they won't attempt to gain either"); *id.* at 143 ("I touched my face casually; ever the professional").

117. GIBSON, *COUNT ZERO*, *supra* note 41, at 20

118. *Id.* at 4 (referring to "[s]ome talk about her job with some legal firm in L.A., how she lived alone in one of the ramshackle pontoon towns tethered off Redondo").

119. *Id.* at 5.

Indeed, cyberpunk fiction highlights the dangers of a professional whose only loyalty is to the purity of his or her skills. Cowboy, the "panzer-jockey" courier of *HardWired*, claims from the beginning of the novel to be:

In it for the ride, not for the cargo. He's said it often enough. An ethic, this, a kind of purity. Half the time he hasn't even known what he's been carrying . . . .

[The arranger of shipments] thinks he's running things but . . . he's . . . just . . . an excuse for the panzerboys to make their runs across the Line and into legend.<sup>120</sup>

Lisa Mason's novels *Arachne*<sup>121</sup> and *Cyberweb*<sup>122</sup> chronicle the passage of Carly Nolan, a young attorney, from insider to outsider. Genetically engineered and with a natural talent in "linking in" to "telespace,"<sup>123</sup> Carly starts out her career as "a mere bit in a huge litigation program, a tiny cog in some massive linked wheel of advocacy . . . [A]long with the rest of [her] megafirm's presence, partners hovering over her, associates linked next to her."<sup>124</sup> She knows that:

Business depended on telespace. Every pro linker who expected to make it in the legit leagues had to understand telespace. Negotiations, deal-making, deal-breaking, dispute resolution, mediation, compliance work, telespace administration. Any lawyer doing anything worth doing had to deal with telespace.

120. See WILLIAMS, *supra* note 42, at 8-9. Cowboy in fact nurtures the romantic view that:

He and the other deltajocks were not an abstract response to market conditions but a continuation of some kind of mythology. Delivering the mail across the high dome of night, despite all the oppressors' efforts to the contrary. Keeping a light burning in the darkness, hope in the shape of an afterburner flame. The last free Americans, on the last high road . . . .

*Id.* at 10. However, he retains a realistic impression of his economic position: "We put ourselves on the line . . . . For piecework. We're work for hire. Sometimes we have agents working for us, like the Dodger, but if the Dodger cuts a deal that isn't enforced, he can't do anything about it. We're weaker than these other people, and sometimes we pay . . ." *Id.* at 89-90.

121. LISA MASON, *ARACHNE* (1990).

122. LISA MASON, *CYBERWEB* (1995).

123. To Gibson's "cyberspace," see GIBSON, *supra* note 5, Mason's "telespace" adds the element of elitism: it is a "public program: clear, luminous, vast, orderly. Consensus manifest. Public program was the aggregated correlation of two hundred million minds worldwide. The best, most prominent, most acceptable, according to Data Control requirements. All merged and standardized into the largest computer-generated, four-dimensional system ever known . . ." MASON, *supra* note 121, at 12-13.

124. *Id.* at 15. Nolan's firm boasts "seven hundred partners ranked into four grades. Four thousand associate attorneys ranked into eight grades. Twenty-five hundred harried secretaries . . ." *Id.* at 54.

Carly Nolan did not want just to deal with telespace.  
 She intended to master it.  
 She believed this was the true aim of becoming a lawyer: to be an architect of a just society.<sup>125</sup>

But all too soon she will join the ranks of the outsiders.

### C. *Balance of Corporate Power*

On a third level, corporate justice is privately ensured through an intercorporate *modus vivendi*. One hero learns that:

If one zaibatsu were to openly war on another, the aggressor might improve its market share considerably. But the chaos such major conflict would cause in the financial markets and elsewhere would mean that the potential market was reduced . . . That's why the megacorporations play by the rules of the Corporate Court and by the unwritten laws that all successful executives understand instinctively.<sup>126</sup>

All other corporations will exact reprisals against any that dare to destabilize the corporate ecology.

1. *Full Disclosure*. Analogously, hackers and their compatriots often find that the surest way to justice, and especially to neutralize the informational advantage of one megacorporation, is to disseminate as widely as possible the sensitive information at issue. For this reason, journalists are stock figures in cyberpunk works.<sup>127</sup>

125. *Id.* at 14.

126. See FINDLEY, *supra* note 42, at 108-109; *id.* at 93 (referring to "the Corporate Court, the ruling and appeals body that handled relationships between the world-girdling megacorporations."); *id.* at 177 (recounting instance in which, "with the sanction of the Corporate Court, the megacorporations totally destroyed [a smaller company]. Shattered its financial structure. Destroyed its facilities and assets. Executed its Board of Directors. All as an object lesson. Since then nobody has actually practiced viral warfare."); KOKK, *supra* note 41, at 87 (noting that certain information is "highly speculative and would never be considered valid evidence in any corporate court."); SMITH, *supra* note 41, at 260 (observing that "[t]ransactions like that would stand up for about ten minutes in a session of the Corporate Court."); CADIGAN, *supra* note 30, at 155 (corporate representative mentions that "[i]f you want to quibble about the law, we can void your contract, and you can quibble with a real judge in a real court"). FINDLEY, *supra* note 42, at 132, clarifies that the Corporate Court "has no enforcement arm."

127. See note 18 and accompanying text, *supra* (detailing major roles available in role-playing games); DIETZ, *supra* note 52 (concerning adventures of freelance reporter with implants used to gather information); ALGIS BUDRYS, MICHAELMAS (1977) (the eponymous newsman, whose interviews are broadcast over a global information network, investigates the mysterious reappearance of an astronaut presumed to have died in a crash landing). In JOHN BRUNNER, THE JAGGED ORBIT (1969), Matthew Flamen, a "spool-pigeon" reporter for a global information "comweb," encounters a humanoid robot that

For example, a software pirate trailed by corporate operatives waiting to find his location as soon as he releases the software is advised by a journalist to "bring it out everywhere. Give pieces of it away to other snakes. Get it on the nets. Overload the search programs and the ops will be too busy to bother you."<sup>128</sup>

Another cyberpunk journalist in possession of sensitive information on corporate intrigue concludes that "we've got to air our story . . . as soon as possible. Once the technical data on the chip is public knowledge, there'll be no need for the corporation to try to keep us quiet."<sup>129</sup> A hacker in a third work advises another that "If you can't make sure that *nobody* gets the information . . . then make sure that *everybody* gets it. Disseminate it, publicize it, so that every megacorporation has equal access to the information. The only answer is to keep the playing field level and to make sure everyone *knows* it's level."<sup>130</sup> And a designer of role-playing games that are played in virtual space

has been programmed by the head of a family corporation to be "governed by the over-riding urge to maximize sales of Gottschalk weapons at the highest price the market will bear." *Id.* at 345. The corporation, aware of Flamen's interest in the story, buys a controlling interest in Flamen's employer in order to take Flamen's show off the air. *Id.* at 359. They "have built themselves some new super-advanced data-processing installation, and it's ahead of even Federal equipment, so any attempt to out-argue it in court would [fail]." *Id.* at 363. Even more deviously, the corporation is attempting to erase the major storage banks for data in the country, which would leave itself with the only functioning business records and credit ratings. *Id.* at 372. Ultimately, the computer "[goes] insane because it had set up an unstable feedback from the present to the future" with a computer network of the future. *Id.* at 394.

Notably, "[b]efore making any kind of a charge against anybody his contract obliged him to let Holocosmic's own computers review the background data, and sometimes they downgraded a reading past the limit fixed by the firm which insured them against losing libel suits." *Id.* at 14.

128. See KELLY, *supra* note 56, at 48-49. However, the pirate himself suspects that this may be exactly what the corporation really wants: "Using me to leak their breakthrough. Can't move the product if it's classified. This way they get snakes to beta-test the prototype. Meanwhile they hold the patents and are hard at work on a finished version." *Id.* at 53.

129. SMEDMAN, *supra* note 43, at 52. See also RUSSO *supra* note 82, at 280 (police detective, stymied by departmental politics, recommends that citizen provide information on corporate wrongdoing to a journalist who "did real investigative reporting, not sensationalist cheap-shooting, and if he couldn't get the papers or magazines or television to run his stories, which was often, he sent them out over the nets"). *Id.* at 87-88.

130. FINDLEY, *supra* note 42, at 178-179; *id.* at 363 (hacker notes that she "uploaded the fiber-optic data to the Corporate Court bulletin board system . . . [I]t's on the system now, where every corp in the world can read it' . . . 'Every corp's got the information. There's no percentage in coming after us and there's no percentage in . . . wasting each other's assets'").

over computer networks uses that environment to release incriminating evidence, knowing that:

Once the scenario's opened, you'll never stop the spread . . . You know how Gamers are, we copy things. We share variants we like, sessions we've played, work by people we admire. And my name means something in the Game. Once that shell opens, half the Gamers on the nets will have made a copy for their own use—once they realize it's a *jeu a clef* even more of them will want it.<sup>131</sup>

On a larger scale, David Brin's *Earth* features an Internet-like "World Data Net,"<sup>132</sup> the result of the common person's fighting "the bankers and the bureaucrats and mobsters, and all the damned socialists to bring everything out into the open, once and for all, to stop all the underhanded dealing and gigacheating . . . [Let] everybody have it. Let everyone snoop everyone else."<sup>133</sup> And the climax of John Shirley's *A Song Called Youth* trilogy arrives when the revolutionaries utilize a mystical technique in combination with the global computer network to "introduce electromagnetically encoded information into the Group Mind Wave at certain times—and use it to communicate an insight to everyone on the planet."<sup>134</sup> "A repudiation of racism; a recognition of oppression; A [*sic*] vision of kinship with the oppressed; a realization that the time had come to confirm that kinship."<sup>135</sup>

2. *Lawyer as Public Relations Agent.* On this level, lawyers act not to disseminate information but, inversely, to anticipate the impression that elements of a case will make on the public and to perform "spin control." Introduced to Karen Mendelsohn after he has drastically miscalculated and injured a citizen, a private security guard in *Virtual Light* "couldn't recall ever actually having met [a lawyer] before, but after that he wound up meeting lots more."<sup>136</sup> A lawyer for the television show *Cops in Trouble*, Karen works with Aaron Pursley, who "had that gray hair, those blue eyes, that nose you could split kindling with, and wore jeans, Tony Lama boots, and plain white oxford-cloth pima cotton cowboy business shirts with Navaho-silver bolo-ties.

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131. See SCOTT, *supra* note 96, at 309-310.

132. BRIN, *supra* note 41, at 4.

133. *Id.* at 115. Indeed, this world is "filled with amateur snoops—data hackers with as much free time and computing power as ingenuity." *Id.* at 271.

134. SHIRLEY, *supra* note 102, at 254-255.

135. *Id.* at 283.

136. GIBSON, *supra* note 82, at 14.

He was famous and he defended cops like Rydell from people like Turvey's girlfriend and *her* lawyer."<sup>137</sup>

Intensely media-conscious, Mendelsohn offers to "send in a team of counselors, of course, to work with those who were at the meeting,"<sup>138</sup> mostly because it "[l]ooks good in court . . . in the unlikely event that we ever get there."<sup>139</sup>

#### D. Assumption of Governmental Roles

As the power of corporations increases, they do not share but instead usurp the functions of governments. This development is most clearly portrayed in Robert Asprin's *The Cold Cash War*, which chronicles the transition from the simulated combat conducted by corporations into literal warfare among them, resulting in the firms' realization that when acting in concert they have more effective military power than governments: "The only reason the governments still exist today is because they do a lot of scut work the corporations don't want to dirty their hands with. But anything we want, we've got. They tried to assert their authority and proved that they don't have any."<sup>140</sup> In another cyberpunk scenario, "[e]ver since the Shiawese Decision granted extraterritoriality to multinational corps back in 2001, the civil government had lost most of its influence. The governments handle all the drek jobs the corps don't want . . . and that's it. It's the megacorps that call all the shots."<sup>141</sup>

The subordination of governmental to privatized power also propels the plot of John Shirley's *A Song Called Youth* trilogy, a

137. *Id.* at 19. Pursley also makes a brief appearance in Gibson's *IDORU*, *supra* note 67, in the company of the head of a television series priding itself on its "counter-investigative journalism" *id.* at 65. After Pursley concludes that circumstantial factors would prejudice a protagonist's criminal defense, which in turn would jeopardize the series' viewership, both he and the journalist desert the man. *Id.* at 132-134.

138. GIBSON, *supra* note 82, at 20.

139. *Id.*

140. ROBERT ASPRIN, *THE COLD CASH WAR* 195 (Ace Books 1992) (1977). *See also id.* at 201 (proposing the replacement of "the multitude of individual armies with . . . one worldwide army of hard-core professionals, mercenaries if you will, paid equally by the corporations and [the governments]"). Cf. DIETZ, *supra* note 52, at 54 (discussing the genesis of the World Peace Organization, created by:

[A] consortium of large multinational companies . . . to promote world peace not as an end in itself, but as a means of fostering predictable world markets . . . . Over time, the WPO had evolved into a multinational, quasi-governmental organization which hired troops from member countries, integrated them into a single force, and made them available for a price.

141. FINDLEY, *supra* note 42, at 221. Cf. VINGE, *supra* note 45, at 250 (discussing a priority computer "allocated to the corporation because like other hypercorps it's been treated for years as though it were above the law").



chronicle of the war of the New Resistance fighters against the fascist forces of the Second Alliance, which:

initially . . . was to be a sort of . . . global security outfit to be used by any international corporation or conglomerate who needed it, for a fee that merely covered the group's expenses . . . . It soon became obvious that the SA was in fact an antiterrorist intelligence outfit. Privately owned, to be sure.<sup>142</sup>

Similarly, *HardWired's* dark vision of technology smugglers operating in the wake of the destabilization of the central government recounts that:

[t]he states were unable to keep up with the changes in smuggling technology, and so they decided instead to license a local corporation to chase the contraband for them. The fact that the Constitution authorized only the federal government to grant letters of marque and reprisal had been ignored; the Constitution is a dead letter anyway, in the face of Orbital superiority.

The privateers are authorized to shoot to kill, and are rewarded by ownership, free and clear, of whatever contraband they can secure. Reports spoke of impressive arrays of airborne radar, of heat sensors and weird sound detectors and aircraft full of sensing missiles and bristling with guns.<sup>143</sup>

Sterling's *Islands in the Net* raises the specter of "a corporate army, without any legal national backing, invading sovereign nations," which is justified as "remov[ing] unnecessary barriers in the flow of the global Net. Barriers that happen to be governments."<sup>144</sup> In *Heavy Weather*, his separate account of activities in the wake of an economic collapse refers to earlier times when there were "banks that belonged to countries and obeyed laws, instead of global pirate banks that existed nowhere in particular and made up their own laws out of chickenwire dishes, encryption, and spit."<sup>145</sup> Similarly, in Gibson's *Idoru*, a corporation is described as "less a power than a territory; in many ways it was a law unto itself."<sup>146</sup>

142. SHIRLEY, *supra* note 46, at 47. The other two books in Shirley's trilogy are *ECLIPSE PENUMBRA* (1988) and *ECLIPSE CORONA* (1990).

143. WILLIAMS, *supra* note 42, at 55-56; *id.* at 89 ("the Orbitals have half the laws in their pockets."); *cf. id.* at 59 ("Cowboy has the impression that the state [law enforcement agents] are somewhat reluctant to cooperate with free-lance mercenary enforcement . . . .").

144. STERLING, *supra* note 59, at 179. The same character promises that "[t]here's a new global order coming, and it's not based in obsolete national governments. It's based in modern groups like your Rizome [corporation] and my Free Army." *Id.* at 308.

145. STERLING, *supra* note 105, at 114.

146. GIBSON, *supra* note 66, at 55.

And in Effinger's Marid Audran trilogy,<sup>147</sup> select individuals operate in the gaps between governments:

The true source of Papa's wealth was in keeping track of the ever-shifting national lineup in our part of the world. In a time when the average lifespan of a new country was shorter than a single generation of its citizens, someone had to preserve order amid the political chaos. That was the expensive service that Friedlander Bey and Shaykh Reda provided. From one regime to the next, they remembered where the boundaries were, who the taxpayers were, and where the bodies were buried, literally and figuratively. Whenever one government gave way to its successor, Papa or Shaykh Reda stepped in to smooth the transition—and to cut themselves a larger chunk of the action with each change.<sup>148</sup>

All of these situations implicate a concern evident in most cyberpunk literature: the rightful jurisdiction of governmental authority and agency.

1. *Jurisdiction*. Reflecting nonfictional situations in which questions of jurisdiction plague those seeking to prosecute computer crimes,<sup>149</sup> the new types of crimes and entities to supervise in cyberspace have spawned a variety of fictional police entities, each with its own jurisdictional concerns. Such agencies include the "Brain Police,"<sup>150</sup> Sterling's "Vienna heat,"<sup>151</sup> the Fed-

147. EFFINGER, *supra* note 92; GEORGE ALEC EFFINGER, *A FIRE IN THE SUN* (1989); GEORGE ALEC EFFINGER, *THE EXILE KISS* (Bantam 1992) (1991).

148. *Id.* at 11. Yet as "Papa" warns his protégé Marid, these computer records: Have been changed and changed again many times over the years . . . . You must learn not to put your faith in truth that has only electronic existence. Is it not our business, after all, to supply versions of that truth to the nations of the world? Have you not learned how supple truth can be?

EFFINGER, *A FIRE IN THE SUN*, *supra* note 147, at 275.

149. *See, e.g.*, DAVID H. FREEDMAN AND CHARLES C. MANN, *AT LARGE: THE STRANGE CASE OF THE WORLD'S BIGGEST INTERNET INVASION* 108-111, 159-160 (1997) (detailing frustrations of system administrator seeking to involve campus, local, state, and national law enforcement authorities in penetration of computer system); HAFNER AND MARKOFF, *supra* note 13, at 173 (noting rivalry among FBI, Secret Service, and "the U.S. Justice Department's newly created computer crimes unit" for jurisdiction over an "electronic gang war" among hackers.); STOLL, *supra* note 14, at 67-69, 123-124; *id.* at 182 (computer expert pursuing hacker questions, "Was anyone dedicated to following people breaking into computers? I hadn't met them. I'd called every agency I could think of, yet nobody had taken over. Nobody had even offered advice. All the same, the FBI, CIA, OSI and NSA were fascinated").

150. PAT CADIGAN, *FOOLS* 183 (1992) (noting that "I can't remember the[ir] interrogation but you never can, unless they find out something from you. I never could figure what gave them the right to take a memory, even a bad one like that, and you ask an eagle and all you get is a lot of lawyer ramadoola about confidentiality and your own protection. Like the Brain Police ever protected me from anything").

151. STERLING, *supra* note 59, at 62 (observing that "TV thrillers were very big on

eral Communications Agency,<sup>152</sup> the Virtual Bureau of Investigation,<sup>153</sup> the Federal Bureau of Data Processing,<sup>154</sup> the Executive Branch General Operational Command,<sup>155</sup> the Net Police,<sup>156</sup> the Cyberspace Special Forces,<sup>157</sup> the Law Exchange,<sup>158</sup> the United States Department of Information,<sup>159</sup> and the Computer Subversion Strike Force<sup>160</sup> and the Food, Drug, and Software Administration.<sup>161</sup>

Perhaps the best known to cyberpunk readers is Gibson's "Turing Registry heat," charged with preventing the unauthorized augmentation of artificial intelligence beyond certain limits.<sup>162</sup> In one memorable encounter with the agents who have ar-

the Vienna heat. Guys showing up, flicking hologram ID cards, overriding the programming on taxis and zooming around on manual, chasing baddies").

152. JAMES C. BASSETT, *LIVING REAL* 34 (1997) (FCA takes "martial control" of Internet following systems crash); *id.* at 36 (describing "the anonymous image used by all FCA officers in the Web" as a man "almost two meters tall and muscular. His unremarkable gray outfit trod the line between suit and uniform, and his ruggedly handsome face was bland and unemotional. A name badge that read THOMPSON provided the only ornament").

153. ALEXANDER BESHER, *RIM* 264 (1994) (referring to "[t]he Virtual Bureau of Investigations. The *VBI* . . . We're a brand-new agency"). *Cf.* PLATT, *supra* note 97, at 20 (observing that the protagonist works for the Federal Bureau of Investigation's "Department of Technology-Related Crime").

154. BRUNNER, *supra* note 15, at 199.

155. STEPHENSON, *supra* note 42, at 176:

The FBI, Federal Marshalls, Secret Service, and Special Forces all claim some separate identity still, like the Army, Navy, and Air Force used to, but they're all under the command of EBGOC, they all do the same things, and they are more or less interchangeable. Outside of Fedland, everyone just knows them as the Feds. EBGOC claims the right to go anywhere, anytime, within the original borders of the United States of America, without a warrant or even a good excuse.

156. AMY THOMSON, *VIRTUAL GIRL 3* (1993) (describing these agents as "nearly as fast and implacable" as their "detection systems [that] prowled the Net like hungry sharks, searching for programs that violated the anti-AI laws").

157. FINDLEY, *supra* note 43, at 218.

158. KELLY, *supra* note 56, at 234.

159. *Id.* at 244.

160. DUNN, *supra* note 96, at 24 (discussing the establishment of the "Computer Subversion Strike Force" to:

[T]ake on a problem that BurCyb and the FBI Computer Crime Unit had never encountered and didn't know how to handle: the Cybernetically Enhanced Individuals . . . . [A] self-styled elite who had taken the next step in cybernetic evolution . . . .

COSSF was a dedicated agency, its only mission to track down CEIs and apprehend them. In practice, apprehension meant killing.

161. CADIGAN, *supra* note 30, at 66.

162. GIBSON, *COUNT ZERO*, *supra* note 41, at 78 (older hacker teaches that "AI's are constantly screened, mainly by the Turing people, to make sure they don't get too smart. So maybe you'll get the Turing machine after your ass, because maybe an AI somewhere

rested Case for “conspiracy to augment an artificial intelligence”<sup>163</sup>, their jurisdiction is directly called into question:

‘One thing,’ Case said, and drew on his cigarette. He blew the smoke up at the Turing Registry agent. ‘Do you guys have any real jurisdiction out here? . . .’

‘It doesn’t matter,’ Roland said. ‘You will come with us. We are at home with situations of legal ambiguity. The treaties under which our arm of the Registry operates grant us a great deal of flexibility. And we *create* flexibility, in situations where it is required.’<sup>164</sup>

Even more concerned with jurisdictional questions is *Trouble and Her Friends*, which begins with the enactment of a federal law that “‘creates a new entity within the Treasury Department that will have enforcement responsibility on the nets, replacing the patchwork system currently in place . . . [It thus] redefines so-called cyberspace as a particular legal jurisdiction, and establishes a code of law governing these electronic transactions.’”<sup>165</sup>

In that work, a hacker named Cerise returns to cyberspace after a three-year absence to ferret out the imposter who is committing crimes in her on-line name of “Trouble” and replicating her style. She had left even though:

[i]t had always taken months for the law to track her, and the one time she’d been unlucky and they’d found her right off, it had still taken them so long to figure out who had jurisdiction that she had been able to get out of town before the warrants could be issued.<sup>166</sup>

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wants to augment its private cash flow”).

163. See GIBSON, *supra* note 5, at 160. The laxity in this regard that one novel recounts, see MASON, *supra* note 121 at 118 (observing that mainframes “had been recently been recognized as legal persons for business and tax purposes the way corporations and partnerships were, and though they were not recognized as citizens with the rights and privileges of people, still they held positions of responsibility”), raises serious questions in the sequel about the principle that “every mainframe, including the most powerful, was ultimately owned and operated by human beings . . . . That was a legal requirement imposed by Data Control.” MASON, *supra* note 122, at 65. See also *id.* at 84 (robot suggests that the ultimate human ownership of all mainframes is a “trick [that is] a daisy-chain of ones and zeros. In the end, there’s no flesh-and-blood. No oath to humanity to worry about.”).

164. GIBSON, *supra* note 5, at 162-163.

165. See SCOTT, *supra* note 45, at 15. Thus, “[i]t would no longer be possible to dodge the law in one jurisdiction by claiming that you, or your machines, or your target, were located elsewhere; it would no longer be possible to argue that there was no theft where there was no real property.” *Id.* at 16.

166. *Id.* at 64.

However, "corporate security had been getting better, as were the various law enforcement groups—Treasury, Interpol, ECCI, ko-cops and all the rest—assigned to watch the nets, and then Congress had rejected the Amsterdam Conventions in favor of Evans-Tinsdale, making convictions possible and even commonplace."<sup>167</sup> The extent of the government's power over cyberspace figures prominently in the hacker's negotiations with a government agent:

'Question of jurisdiction,' Cerise said, promptly and plausibly, using the easy lie. 'Interpol's network authority comes from the Amsterdam Conventions, and you know we never signed.'

Mabry sighed heavily, put his menu aside. 'You and I both know that's bullshit. Any law enforcement agency can be notified now, and the word passed to a more appropriate entity if necessary.'

'Also bullshit,' Cerise said. 'We have a responsibility to be certain that our response to an intrusion is overseen by the agency most directly concerned. Which may or may not be your agency—all of which is made moot, of course, by the fact that the company is U.S.-based.'

'Multiplane is multinational,' Mabry murmured. 'You have subsidiaries in Switzerland, Eire, and Germany, just to name Europe. That certainly falls within my brief. And multinationals have traditionally obeyed the Conventions.'<sup>168</sup>

Similarly, the Federal Communications Agency of *Living Real*, whose jurisdiction includes all "[d]ata-based crimes,"<sup>169</sup> is enmeshed in uncertainty. One hacker "didn't think what he'd done was illegal, but the FCA had the power to change laws practically at whim, so one could never be sure."<sup>170</sup> The FCA's Security Research Project, which is "responsible for developing and implementing new security routines, [is] so secret [that] their power is practically unlimited. Due process, habeas corpus—none of that [protection] matters with SRP."<sup>171</sup>

*Wildlife's* LEX is identified as "the legal arm of the Earth/Space Consortium. It enforces the Human Charter and administers interjurisdictional law. If you want to take legal action against someone on another world, you lodge your complaint

167. *Id.* at 49.

168. *Id.* at 152-153. Cf. LITTMAN, *THE FUGITIVE GAME*, *supra* note 13, at 168 (quoting hacker's complaint that "I don't know if anybody has defended a case that might take multiple jurisdictions: Finland, the United Kingdom, Japan. A lot of countries want [to prosecute me]").

169. See BASSETT, *supra* note 152, at 107.

170. *Id.* at 37.

171. *Id.* at 179. See also *id.* at 168 (describing SRP's burglary of hacker's house) and *id.* at 81 (noting SRP's evasion of federal law and the reluctance of its director to "explain himself to anyone, even within the Agency").

with LEX.<sup>172</sup> However, “[b]ecause it has to reconcile differences in dozens of legal systems, LEX is much less strict than most local jurisdictions. Just because you broke some law in the United States doesn’t mean LEX will take the case. If it decides not to, you can just ignore the whole thing.”<sup>173</sup> Thus, a character facing legal problems is advised to incorporate herself and become a member of a non-Earth consortium to shelter herself and her assets from United States courts. “Most corporate states use LEX to protect themselves from reciprocity and extradition actions. Especially from Earth; Earth has too much law.”<sup>174</sup>

In turn, jurisdictional problems implicate the role of the lawyer as a walker between worlds, a shaman at home both in the physical and the virtual realms.<sup>175</sup> By translating the resolu-

172. See KELLY, *supra* note 56, at 234.

173. *Id.* at 236.

174. *Id.* at 237.

175. A recurrent feature of cyberpunk works is the near-mystic “flow” state that a hacker or courier enters into when in action. *Neuromancer’s* Case, deprived by his former employers of the ability to “jack in” to cyberspace, indulges in near-suicidal behavior until his power is restored by a new employer. Returning to the virtual world, he realizes “[t]his was it. This was what he was, who he was, his being. He forgot to eat.” See GIBSON, *supra* note 5, at 59. As Case operates in this virtual world, “His eyes were eggs of unstable crystal, vibrating with a frequency whose name was rain and the sound of trains, suddenly sprouting a humming forest of hair-fine glass spines.” *Id.* at 257. As his bodyguard puts it, “Anybody any good at what they do, that’s what they *are*, right? You gotta jack, I gotta tussle.” *Id.* at 50. Cf. THOMSON, *supra* note 156, at 61 (warned that “[i]f the Net police found out half the things you could do, you’d be in jail for a long time, but you keep on hacking,” the protagonist replies that “I’m just trying to do what I’m good at . . . I don’t care about anything else.”).

Similarly, a messenger discovers that:

Sometimes, when she rode hard, when she could really proj, Chevette got free of everything: the city, her body, even time. That was the messenger’s high, she knew, and though it felt like freedom, it was really the melding-with, the clicking-in, that did it . . . She was entirely part of the city, then, one wild-ass little dot of energy and matter, and she made her thousand choices, instant to instant, according to how the traffic flowed, how rain glinted on the street-car tracks, how a secretary’s mahogany hair fell like grace itself, exhausted, to the shoulders of her loden coat.

GIBSON, *supra* note 82, at 131. Her counterpart in another work, swinging into action, finds that:

At the moment the ultimate beneficiaries of his run—the hospitals in New England, the thirdmen, his own portfolio, possibly the immeasurably distant, insanely gluttonous creatures who ride their Orbital factories and look down on the Earth as a fast-depleting treasure house to be plundered—all of these fade down long redshifting lines, as if blurred by distance and the flaming jet’s exhaust. The reality is here in the panzer. Discontent is banished. Action is the thing, and all.

WILLIAMS, *supra* note 42, at 52. This dual quest for both stimulation and Zen-like harmony is dimly reflected in the genre’s numerous references to the computer-mediated

tion of legal questions from real to electronic dimensions, cyberpunk highlights the human component of the individual and redeems his creativity.

One early cyberpunk author observed that "[i]n a single generation individual anxiety at our inability to deal with the massed resources of computerized corporations, government agencies and other public bodies has resulted in the mushrooming of contract law into a bigger industry than advertising . . . . There are contracts for everything . . . ."176 and bemoaned "[t]he whole clumsy top-heavy system which has made [the law] a dinosaur in most people's eyes, an anonymous, impersonal, expensive barrier between themselves and justice!"177 Cyberspace makes possible swift action, but at the ultimate cost of the lawyer's own disillusionment.

2. *Lawyer as Virtual Warrior*. Written in 1969, Ben Bova's *The Dueling Machine* postulated the existence in a future society of a device that "allows two men to share a dream world that they create together . . . [to] settle an argument as violently as they wish, and neither of them is physically hurt any more than a normal dream can hurt you physically."<sup>178</sup> This machine replaced the law courts for many purposes: "Instead of passively watching the machinations of the law grind impersonally through their differences, [potential litigants] could allow their imaginations free rein in the dueling machine . . . . On most civilized worlds, the results of properly monitored duels were accepted as legally binding."<sup>179</sup>

Eighteen years later, William Wu's *Masterplay* employed much the same idea, with a more elaborately developed concept of virtual reality. In this scenario, when "their lawyers can't work it out, [litigants] mutually hire masters to play for their dispute."<sup>180</sup> The role of the games is particularly important in a

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stimulation of the brain, the taking of narcotics, and, most frequently, the drinking of coffee.

176. BRUNNER, *supra* note 127, at 142.

177. JOHN BRUNNER, *THE STONE THAT NEVER CAME DOWN* 189 (1973) (the release of a type of virus that affects human consciousness makes the legal system "certain to be reviewed").

178. BEN BOVA, *THE DUELING MACHINE* 13 (1969).

179. *Id.* at 27.

180. WILLIAM F. WU, *MASTERPLAY* 8 (1987). Games can even be played over corporate mergers, *id.* at 30, and entail "gamer-client privilege," *id.* at 53, but "won't provide a legal precedent." *Id.* Indeed, the system is attacked by one commentator on the grounds that "[i]f we had to fight through long court cases all the time, certain people in power might be forced to pass new laws we need to cover new social developments. As long as

society where "technology just keeps outstripping the laws on the books . . . . [A]nd the legislators have to be caught up before they can pass decent laws."<sup>181</sup> Accused by a friend of being a "mercenary" who should be representing only those individuals and causes with whom he agrees,<sup>182</sup> a master gamer champions the controversial proposition that litigants should not be compelled to enter such games rather than take their cases to court. He concludes that "I've . . . come to realize that some issues should be decided the hard way."<sup>183</sup>

The additional element supplied by many works of cyberpunk is that of a form of spiritual energy encountered by those venturing into cyberspace. Encountering and mastering these energies infuses the lawyer or hacker with a rare power. Thus, *Count Zero's* Lucas reinforces his knowledge of cyberspace and its dark commerce with his intimate understanding of the *loa*, or voodoo gods, that manifest themselves in that environment. Yet his ability to summon these forces serves to enhance his power in the real world, whose realities he does not relinquish. One of his associates laughs as Lucas, carrying a cane, steps into a limousine: "Lucas still carryin' that killin' stick. Big-time lawyer now, but the street leaves a mark on you."<sup>184</sup> This is the first and only time that Lucas's profession is identified.

In *Arachne*, lawyer Carly Nolan encounters a mysterious presence in her telelink, loses two seconds in making her appearance and is cited by the judge "under Rule Two of the Code of Telespace Procedure for obstructing the speedy dispensation of justice" and suspended from the Court for thirty days.<sup>185</sup> Although she is ultimately terminated by her firm and barred from appearing in court,<sup>186</sup> she learns, with the illegal help of an artificial intelligence, to invoke and tame the virtual spider that appeared to her in her telelink, and realizes that this archetype

we have the games as a substitute, they can take the easy way out and pass the buck." *Id.* at 149.

181. *Id.* at 54.

182. *Id.* at 97-98.

183. *Id.* at 188. Cf. ORSON SCOTT CARD, *ENDER'S GAME* 328-329 (1977) (detailing the military's training of a young man to become a champion player of video games that, unbeknownst to him, culminate in his encountering and defeating an alien army threatening Earth; "Of course we tricked you into it. That's the whole point . . . . It had to be a trick or you couldn't have done it . . . . You had to be a weapon, Ender. Like a gun . . . functioning perfectly but not knowing what you were aimed at").

184. See GIBSON, *COUNT ZERO*, *supra* note 41, at 145.

185. See MASON, *supra* note 121, at 46. Since most negotiations, disputes, and settlements are over in mere seconds in telespace, this suspension is the equivalent of a thirty-year suspension, notes Nolan. *Id.* at 46-47.

186. *Id.* at 260.



from humanity's collective unconscious symbolizes her ability both to destroy and to create reality.<sup>187</sup>

These suggestions that the cold symbolic reaches of cyberspace harbor non-digital intelligences, and that a lawyer's connections with her own humanity actually enhance her power to resonate more strongly as the level of corporate power moves even higher, to that of self-sustaining life form.

### E. *Independent Sentience*

As a logical extension of the methods cyberpunk's corporate insiders<sup>188</sup> and plutocrats<sup>189</sup> practice to preserve their lives, corporations themselves ultimately employ artificial intelligences and suspended animation techniques to create their own extended life and consciousness independent of the humans who act on their behalf.<sup>190</sup> Tessier-Ashpool S.A., featured prominently in the works of William Gibson, is "a very quiet, very eccentric first-generation high-orbit family, run like a corporation. Big money, very shy of media. Lot of cloning. Orbital law's a lot softer on genetic engineering, right?"<sup>191</sup> Taking advantage of cryogenics and the principle that "[e]ven under orbital law, you're legally dead for the duration of a freeze,"<sup>192</sup> the corporation has surrounded itself with a "fantastic tangle of powers of attorney"<sup>193</sup> to render itself effectively a life form.<sup>194</sup> It is the increas-

187. *Id.* at 251.

188. *See, e.g.*, BRUNNER, *supra* note 127, at 123 (observing that "personality analog computer logging ["packling," *i.e.*, preserving an individual's consciousness in silicon] was hideously expensive, ordinarily reserved for individuals such as government officials or senior executives of giant corporations on whose clear thinking depended the fate of millions."); KADREY, *supra* note 41, at 197 (character notes: "You know, you guys slay me. Corporate types. Politicos. If I put a bullet through your fat face right now, they'd have you in a vat in ten minutes. And they'd keep you there till they could clone or construct or repair a body for you. That's the difference between your people and mine. We don't get a second chance. We're just dead").

189. *See, e.g.*, GIBSON, COUNT ZERO, *supra* note 41, at 16 (upon encountering Herr Virek, whose life is sustained only by immersion in special fluids and by mechanical treatment, another character "stared directly into those soft blue eyes and knew, with an instinctive mammalian certainty, that the exceedingly rich were no longer even remotely human").

190. *See* GIBSON, MONA LISA OVERDRIVE, *supra* note 42, at 148 (noting a character's contention that "major corporations were entirely independent of the human beings who composed the body corporate. This had seemed patently obvious to Angie, but the hairdresser had insisted that she'd failed to grasp his basic premise").

191. GIBSON, *supra* note 5, at 75-76.

192. *Id.* at 76.

193. *Id.* The hackers in this work track down the company's corporate background by searching news reports for Tessier-Ashpool's name and that of its litigation counsel

ing self-consciousness of the artificial intelligences that were constructed to make business decisions for the corporation<sup>195</sup> that sparks many of the events in the novel.

Similarly, in *Mindstar Rising*, an executive thought to be dead is revealed to have *become* the company by translating his consciousness into the computer that runs his megacorporation:

There are no trustees, never were; the nominees are all Zurich fronts. Event Horizon is my life. No individual in the world can run a company better than me. I'm talking fifty years' worth of accumulated experience. There's no substitute for that. It's the efficiency of dictatorship. A group of trustees would be worse than useless, lawyers and airhead accountants; they'd never push the gigaconductor with the kind of vigor necessary to effect a complete domination of the market. Discussion groups, reports, delays for consultation. What a load of crap. Event Horizon run by a committee would shrivel up and die an ignominious death. This is the perfect solution.

Before now, when a family company grew too big for one person to pay attention to every detail it used to stall. It was inevitable. Responsibilities had to be delegated, the initial individual-led drive was diluted. But the NN core solves even that. I can devote myself one hundred percent to each problem, no matter the size, coordinate every policy, supervise every division. No kombinate will be able to match a company run along these lines.<sup>196</sup>

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and then penetrating the electronic security of the law firm. *Id.* at 75. A law firm, possibly the same one, "keeps track of their powers of attorney [and h]as to know who's awake and exactly when." *Id.* at 192.

In Gibson's world, not only are law firms themselves vulnerable to electronic attack, but hackers also breach the defenses of other entities by masquerading as legal documents. *See Gibson, Burning Chrome, supra* note 42, at 173:

We've crashed her [electronic] gates disguised as an audit and three subpoenas, but her defenses are specifically geared to cope with that kind of official intrusion. Her most sophisticated ice ["intrusion countermeasure electronics"] is structured to fend off warrants, writs, subpoenas. When we breached the first gate . . . [f]ive separate landlines spurted May Day signals to law firms . . . .

194. *See GIBSON, COUNT ZERO, supra* note 41, at 100-101 (noting that "[t]he death of a given clan member, even a founding member, usually wouldn't bring the clan, as a business entity, to a crisis point. There's always someone to step in, someone waiting").

195. *Id.* at 229. *Cf. KELLY, supra* note 56, at 291 (virtual court determines that a corporation litigant "has far too many [artificial intelligences] in positions of responsibility; it needs to integrate more humans into its decision-making structure"). The inverse of the legal fiction that underlies corporate law is the subject of DAVID GERROLD, *WHEN HARLIE WAS ONE* 60 (1972) (executive of a company that has developed an artificial intelligence asks a scientist, "You know a corporation is a legal individual, don't you? And a corporation only exists on paper. Compare that with HARLIE. It wouldn't be that hard to prove he's human, would it?").

196. PETER F. HAMILTON, *MINDSTAR RISING* 127-128 (1993).

1. *Lawyer as Disillusioned Hero.* Rather than being relegated to the status of corporate custodians, as the above examples would suggest, cyberpunk's lawyers confronting megacorporations and other virtual reality scenarios often question the apparent logic of their world and in doing so reaffirm their humanity.

For example, in *Arachne* the lawyer Carlie Nolan becomes increasingly aware of the toll that telespace linking is taking on the lawyers at her firm: one dies while linked,<sup>197</sup> and others "became as wasted as famine victims, rolled-back eyes sunk between precipitous skull bones."<sup>198</sup> Asked to represent a giant company that has stolen intellectual property from a now-destitute widow, Carlie discards her earlier convictions about the law's inherent nobility: "I've grown up since then. Now I'm just doing my job."<sup>199</sup> Fortified with illegal drugs, she connects to telespace and wins the case for the company, deciding that she will be "[m]aybe not an architect of a just society, but an architect of society, nonetheless."<sup>200</sup>

However, Nolan is ultimately fired by her law firm and barred from appearing in virtual court. The novel *Cyberweb* finds her foraging in garbage cans for food. Reconnecting to telespace and vindicating the legal rights of her former adversary, Nolan reflects that "the law in this country doesn't care about facts. The law only cares about triggers, red flags, rigged-up appearances that fulfill statutory requirements. That's where I would have come in. My wonderful specialty as a telespace lawyer: helping the rich and powerful steal from whomever they want to steal from."<sup>201</sup>

The hero Cowboy of *HardWired* undergoes a like transaction. His identification with his professional abilities is diluted by the suspicion that the obstacles encountered on his courier missions may in fact be creations of his employers:

There was an ethic in [running the cybernetic tank through opposition], clean and pure . . . . It was enough to know that, whatever the state of

197. See MASON, *supra* note 121, at 52. ("Happened every now and then around the megafirm, Data Control told her later . . . . Some pro linker just dropped dead").

198. *Id.* at 51. This process is hastened by attorneys' use of the illegal stimulant "cram," which, Nolan's mentor assures her, "focuses you in link by narrowing your focus. Eliminates self-doubt, residual physical distortions, interference from feedback loops, emotional or otherwise. Glosses glitches in program. Masks stray thought." *Id.* at 165.

199. *Id.* at 160.

200. *Id.* at 201 (noting that "the Personnel Committee looked the other way [at drug use] if you were doing a good job").

201. MASON, *supra* note 122, at 28.

the rest of the country, the blue sky over his own head was the air of freedom.

But of late there has been a suspicion that adherence to the ethic may not be enough. He knows that while it is one thing to be a warrior noble and true, it is another to be a dupe . . . .

[He] wonders about ethics and debts, symbols and actions, and the thing that in olden times they called honor.<sup>202</sup>

In this sense, Cowboy realizes, "It is no longer enough to be the best. Somehow, as well, it matters to be wise. To know on whose behalf he wields the sword."<sup>203</sup>

### CONCLUSION

If some of cyberpunk's technological elements have yet to appear in the world of nonfiction, much of the genre's culture and attitude has already arrived. More than ever, corporations count intellectual property among their major assets and its protection as a priority. Almost every week brings a new tale of ever-more-sophisticated hackers attempting to breach the walls of a governmental or corporate computer system. The advent of the World Wide Web and various methods of electronic transactions have only accelerated the public's exposure to Gibson's "cyberspace," its wondrous world of pure information, and its potential threat to their financial security and privacy.

In cyberpunk's chronicles of covert and criminal commerce, everything, from military technology to computerized immortality, is for sale; nothing, from identity to allegiance to jurisdiction, is certain. This Article has examined five different levels on which the fictional lawyer functions as corporate power increasingly distorts the public administration of justice: (1) as a loyal but amoral tool wielded to discourage or repel legal attack; (2) as a dispassionate free agent contemptuous yet envious of those bound to corporate life; (3) as an expert on "spin control" and public relations; (4) as a virtual warrior confronting and mastering spiritual energies in cyberspace's digital darkness; and, finally, (5) as a disillusioned hero forced to reevaluate the proper uses of her rare skills.

Whether lawyer, courier, bodyguard, or computer wizard, the hero of cyberpunk retains his individuality and independence by reaching beyond technical mastery towards moral evolution. Embracing the increased power and consciousness available through his expertise, he ultimately combines the

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202. WILLIAMS, *supra* note 43, at 67-68.

203. *Id.* at 72.

hacker's cleverness with the cyberpunk's distrust of the "official" answer, to illuminate his real and virtual worlds and ally himself with the wisdom within and beyond them.