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Digital Justice: Technology And The Internet Of Disputes



Synopsis

Improving access to justice has been an ongoing process, and on-demand justice should be a natural part of our increasingly on-demand society. What can we do for example when Facebook blocks our account, we're harassed on Twitter, discover that our credit report contains errors, or receive a negative review on Airbnb? How do we effectively resolve these and other such issues? Digital Justice introduces the reader to new technological tools to resolve and prevent disputes bringing dispute resolution to cyberspace, where those who would never look to a court for assistance can find help for instance via a smartphone. The authors focus particular attention on five areas that have seen great innovation as well as large volumes of disputes: ecommerce, healthcare, social media, labor, and the courts. As conflicts escalate with the increase in innovation, the authors emphasize the need for new dispute resolution processes and new ways to avoid disputes, something that has been ignored by those seeking to improve access to justice in the past.

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Customer Reviews

"Digital Justice is a must read for anyone who wants to know about how our lives are now affected by the real conflicts produced on the Internet. This book brilliantly examines how technology can be harnessed to prevent, resolve, and also produce conflict in ecommerce, healthcare, social relationships, work, and the legal system itself, illuminating the differences between the potential of digital justice and the concerns of digital injustice." --Carrie Menkel-Meadow, Chancellor's Professor

of Law and Political Science, University of California Irvine and Georgetown University Law Center

"Digital Justice is the perfect guide to understanding the future of access to justice. The future is digital, not imposing courthouses. This book provides a bold and creative vision of why we need new technology-supported dispute resolution institutions." --Colin Rule, Co-Founder and Chairman of Modria.com

"Katsh and Rabinovich-Einy explain how technology makes disputes online more likely to occur, and they identify ways in which that can change--indeed, technology can be used to prevent online disagreements in the first place. This book provides a roadmap for a better online experience. It gives us hope that going online need not entail going downhill." --Jonathan Zittrain, Professor of Law and Professor of Computer Science, Harvard University

"We need an accessible and reasonably priced system for all, and I have found no more promising option for that future than that offered by various types of Online Dispute Resolution. Lawyers should surely be the pioneers in upgrading justice rather than standing in the way of processes that, as Ethan and Orna so compellingly show, are great improvements on what we have today. I wish this work the very great success that it deserves." (From the Foreword) Richard Susskind, President, Society for Computers and Law, IT Adviser to the Lord Chief Justice of England and Wales

"[This] once-in-a-decade bookEL is in equal parts descriptive, analytical and visionary. While [it] is certainly of great importance to anyone dealing in conflict engagement and resolution, its implications range far beyond this field; anyone in the fields of law, management, e-commerce, social media, customer relations, internet innovation, and public policy, would do well to read this book. Having finished the book, I can't wait for the sequel to come out (or, in academic terms, a second edition). Change happens much faster than it used to; in a few short years, many of the projects described in the book will have come to fruition and provide data, and new horizons for Digital Justice will have emerged as innovations in technology and interaction continue to result in conflict and problems requiring solutions." - Professor Noam Ebner, Creighton University, Werner Institute for Negotiation & Conflict Resolution

Ethan Katsh is Professor Emeritus of Legal Studies at the University of Massachusetts Amherst and Director, National Center for Technology and Dispute Resolution. He is one of the founders of the field of Online Dispute Resolution and has published widely in the law and technology and dispute resolution fields. He authored *Law in a Digital World* (Oxford, 1995); *The Electronic Media and the Transformation of Law* (Oxford, 1989); *Online Dispute Resolution: Resolving Conflicts in Cyberspace* (Co-authored with Janet Rifkin, 2001). Orna Rabinovich-Einy is an associate professor (senior lecturer) at the Faculty of Law at the University of Haifa. Her areas of expertise are

alternative dispute resolution, online dispute resolution, and civil procedure, with research focusing on the relationship between formal and informal justice systems, dispute resolution system design and the impact of technology on dispute resolution.

“Conflict is a growth industry,” wrote Roger Fisher and William Ury in their book *Getting to Yes*. But, writing in 1981, even they could not have foreseen the tremendous growth that we have witnessed over the course of the past two decades. The internet has fundamentally altered our methods for transacting, relating, communicating and exchanging information and the scope at which we do so. And, with each online interaction, comes the potential for conflict. As a professor in the field of conflict resolution, I’ve been involved in the field of Online Dispute Resolution (ODR) for over a decade. I don’t often review books, but I’ve decided to share my thoughts on one once-in-a-decade book: *Digital Justice*, by Ethan Katsh and Orna Rabinovich-Einy. This book is in equal parts descriptive, analytical and visionary and identifies the increased potential for conflict that our age challenges us with, and details ODR’s potential to address it - improving our online and offline experiences, transactions and interactions. Before non-jurists head for the hills, I’ll note that this is not a legal text, nor is it written primarily for lawyers. Discussing *Digital Justice*, the authors are not focusing on “how can we bring the court system online?” (although, that is certainly one aspect of *Digital Justice*). Swap out “Justice” for “Recourse,” “Resolution,” or “Solution,” and you’ll have a clear idea of what the book is about: How can we leverage the power of technology to resolve disputes, provide recourse to people who have been harmed, or to otherwise identify, anticipate, and solve potential problems? While this book is certainly of great importance to anyone dealing in conflict engagement and resolution, its implications range far beyond this field; anyone in the fields of law, management, e-commerce, social media, customer relations, internet innovation, and public policy, would do well to read this book. And ODR, as a field, would do well to have more voices and innovators interested or involved in its development. One noticeable difference between earlier writing on ODR and *Digital Justice*, is that whereas the former is written in a tone infused with optimism and tentativeness, *Digital Justice*’s overall tone is one of inevitability. ODR has arrived, will continue to expand, and will leave no landscape of human activity unaltered. The authors discuss the first waves

of ODR activity, much of which involved efforts to conduct human-guided, online, versions of traditional resolution processes – primarily, mediation and arbitration, with technology providing, primarily, the communication conduit between parties. While some of these efforts were successful, the authors suggest that they are, at most, adjunct to the full promise of ODR. This lies, firstly, in ODR’s potential to resolve the staggering volume – hundreds of millions – of disputes resulting from online transactions. Digital Justice doesn’t stop there, going on to describe ODR’s role in creating a better future by offering us the first opportunity to connect our understanding of conflict to Big Data. Certainly, this might result in better resolutions. More importantly, it allows us to track back along disputes’ unfolding, examining their genesis and development. With this understanding in hand, preventative measures can be taken – and humanity might actually be able to get ahead of certain types of conflict, preventing them or channeling them constructively. The authors describe five areas in which ODR has great impact: e-commerce, social media, court systems, healthcare and the workplace. In each of these, the authors detail the inroads that ODR has made, and the potential ODR has for transforming the way information is communicated, disputes are resolved, problems are solved, and data translated into preventative improvements. Of course, these five areas are only examples. It would be hard to identify any aspect of life, in large parts of the world, in which technology does not play a role. Any such area invites Digital Justice -thinking, which entails recognizing an area in which people require recourse, and providing them with a technology-based pathway for obtaining it. I hope I’m not putting any unwarranted pressure on the authors by saying that, having finished the book, I can’t wait for the sequel to come out (or, in academic terms, a second edition). Change happens much faster than it used to; in a few short years, many of the projects described in the book will have come to fruition and provide data, and new horizons for Digital Justice will have emerged as innovations in technology and interaction continue to result in conflict and problems requiring solutions.

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