

Legal Regulation & Education: Doing the Right Thing?

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Virtual Worlds - a legal post-mortem account

The concept of virtual worlds (VWs) has been around long before the Internet emerged. The history of VWs is often said to have started from the text-based, offline role playing games, created on the basis of the different works of fiction, such as, for instance, Tolkien's books. The first text-based interactive computer game appeared in 1970, The Colossal Cave Adventure. Subsequently, by the end of the 1970s, real-time interactive computer games, virtual world appeared, the MUDs (Multi-User Dungeon), with MUD1, created by Richard Bartle and Roy Trubshaw in 1979, at Essex University and being the first online computer game connected. However, the most famous game in this group (text-based virtual worlds) was LambdaMOO, created by Pavel Curtis in 1990.

VWs have ever since been a fascinating area for academic exploration. The literature analysing their social, economic, technical, legal aspects starts from the late 1990s, in relation to the text-based virtual worlds, continuing throughout the 2000s, discussing visually represented VWs and MMOPGs (massively multiplayer online playing games). The focus of the early literature was mainly on the technical, philosophical and governance issues of the MUDs. More substantive legal discussion started at the beginning of the 21st century, with seminal works on the legal aspects of VWs. These academic works predominantly tackle the following issues: economies and taxation; governance of virtual worlds; property and IP in virtual worlds; contracts issues and consumer protection; virtual crime. There is also a variety of the academic literature discussing death and VWs (from anthropological, sociological, psychological, educational and other perspectives), but a little, almost nothing, from a legal point of view.

This paper aims to shed some light on the legal status of different in-game assets (e.g. avatars, weapons, houses, land), assessing whether these could fit within the notions of property, intellectual property or some other relevant legal concept. Having determined this, the paper goes on exploring the possibilities of the transmission of these assets on death.

The paper combines black-letter and socio-legal methodology, by the way of looking at the legal concepts and laws of property, contracts, IP and consumer protection in their correlation with specificities and a peculiar nature of VWs (discussed by a number of social science and humanities scholars).

The author does not share views of a great portion of the legal literature arguing for recognition of "virtual property" as a concept. Rather, this paper proposes an alternative, compromise solution, in order to reconcile different interests arising in VWs, primarily, those of developers and players. Recognising a phenomenon of consitutionalisation of VWs, the paper identifies a solution in the form of servitudes (usufruct). Virtual usufruct

is herein conceived as player's entitlement to use the VW account and profit from it, if applicable. It is suggested that the entitlement to use the account expires on death, but allowing player's personal representative/executor to gain access to the account and extract any possible monetary value (e.g. by selling virtual assets through the relevant auction sites). This money would be subsequently passed on to the heirs. The solution would, recognising the fact that the developers do own the underlying VWs software, enable players to take more control over their virtual assets and heirs to benefit from, potentially, valuable VW accounts.