The Ability To Apply Traditional Theories In Recognition Of Virtual Assets ' Ownership

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Abstract: Under rapid and robust Internet development, the virtual world has become popular in recent years. Participants in the virtual world will invest time, effort, and finance to reap virtual items. In many cases, these virtual items are precious in the virtual world. However, current legislation does not yet provide direct regulation of virtual objects. Some views use traditional theories of the virtual world. Nevertheless, some pictures analyze the irrational aspects of applying conventional approaches to virtual assets. The article examines the applicability of traditional ideas in recognizing virtual assets, including Lockean Labor-Desert Theory, Hegel's Personality Theory of Property, and Bentham's Utilitarian Theory of Property. Besides, the article points out the difficulties in applying the above ideas to virtual assets. Finally, the article hints at the point of using the freedom of contract between developers and players to regulate the issue of virtual assets.

Keywords: Virtual world, virtual property, Lockean Labor-Desert Theory, Hegel's Personality Theory of Property, Bentham's Utilitarian

1. Introduction

The virtual world is a non-physical world. The growth of the Internet made cyberspace designed to resemble physical space. In this day and age, participating in the virtual world is not just a single act of a separate individual, but it has become a way of life with many connections. For example, in the Second Life virtual world, an island is created with the specific intention of housing players (via their avatars) who suffer from Asperger's Syndrome.[1] Virtual environments provide them with a safe space to hone their social skills in situations, not in real danger.[2] Many educational institutions teach in virtual classrooms in Second Life.[3] More than 300 universities use Second Life as an educational tool.[4] So the virtual world can be just a game but can also be used for more serious purposes.

Managing these cyberspaces becomes essential. Are the service providers themselves functional enough to manage all aspects of the virtual world? The architecture of cyberspace has an automated function,[5] However, in some cases, state management is also required. Meanwhile, traditional theories face many difficulties when applied to the virtual world. Research on a legal framework for virtual community governance becomes essential.

2. Overview of the virtual world

Virtual assets originate from within the virtual world, which leads to the search for the concept of the virtual world. Bartle states that "virtual worlds are persistent, computer-censored environments through which many individuals can interact simultaneously with each other."[6] Definitions of the virtual world can express as a "continuous, synchronized network of people, represented as an avatar, supported by networked computers."[7]Moreover, "an automated, shared, the persistent environment through which people can interact in real-time using virtual accounts."[8]" a persistent, simulated, and immersive, computer-aided environment that provides many users with avatars and tools to communicate with to act in an interactive, time-based world, real."[9] In general, the virtual world has the following characteristics:

First, computers censor the virtual world automatically[10]. The computers that manage the virtual world are not the same as the local computer (desktop, personal laptop) but a system of computers linked together in a large matrix. The computer will manage automatically All aspects of the game related to virtual assets.

Second, the virtual world must exist "persistently."[11] Persistence means continuous, without interruption, not interrupted by physical conditions. The virtual world must always be available for players to interact with others. Persistence is one of the main reasons virtual worlds become "addictive,"[12] Because, from the player's point of view, if they turn off the computer, the virtual world is still happening. So players fear missing out on what happens in the virtual world when they do not log in and participate in it. The virtual world "remembers the location of people and things and the ownership of something."[13]

Third, the virtual world is interactive.[14] Even though they are on the server, they are remotely accessible to many users simultaneously, "with one person's command affecting the results of another."[15] Interaction is not only crucial for players (via avatars) but also for the relationships between players. For example, players can talk and eat together (in the virtual sense).[16] Because of this multiplayer factor, most virtual worlds are called Massively Multiplayer Online Role-Playing Games (MMORPG).

3. Overview of virtual assets

The virtual property becomes essential because it will reflect the properties of the virtual world. The virtual property was also designed with the specific intention that it should be able to simulate its real-world counterpart in both form and function. So it is thought that one is walking into a "virtual inn," one entering an inn and meeting the innkeeper, instead of "interpreting computer data and bits." In an article titled "Virtual Assets," Fairfield states that virtual assets should have three essential characteristics: competitiveness, persistence, and interconnectedness.[17] Summarize these three characteristics with an example: "If I hold a pen, I have it, and you do not… If one person puts the pen down and leaves the room, it is still there.

Moreover, finally, they can all interact with the pen…."[18]

First, virtual assets are competitive.

Competition is the characteristic of traditional property that allows control of the property to only one person at any time.[19] For example, a shoe can only be worn by one person. Therefore, the shoe is competitive. By wearing the shoe, the person who is currently wearing the shoe excludes all others from using it. Current technology allows virtual items to mimic these features.[20] For example, if one person's avatar in the virtual world holds a particular pair of boots, no one else's avatar can have a copy of those boots. If the player exits the game, the boot is still there. Furthermore, other people in the virtual world can see and interact with the boots.[21] As a result, some scholars have called for treating virtual items the same way as real-world assets.[22]

Second, virtual assets have persistence.

Persistence is also an inherent characteristic of traditional assets. Persistence keeps the property unchanged, even when it is not in use. A parked car continues to exist, and at the end of the day, the owner will find the vehicle where he parked it. Virtual assets also have such properties.[23] A user of the remotely hosted email services Gmail may find that messages stored in the "Inbox" persist for a long time (until purposefully deleted). However, maybe they only use the email account for a few minutes a day.

Third, virtual assets are interconnected. The linkage allows investments to influence or be influenced by other people/property.[24] Interoperability allows online multiplayer and interaction in the same virtual world, using shared resources. All of these things must be able to happen simultaneously. The fact that everyone can access and use the same game increases the value of virtual assets. Avatars can visit and interact with each other's virtual assets by sitting on a virtual sofa and pouring themselves a virtual glass of wine. Without linkage, each player can only see and experience their assets.

4.   The view of applying the traditional theory of recognition of ownership rights to virtual assets

4.1.   Lockean Labor-Desert Theory

According to Lockean Labor-Desert Theory, "who has used labor to make 'something in nature' into something of 'worthy value," they shall have the right to 'reap its value."[25] Humans have the right from birth to the products that nature gives. No one has any extraordinary power to make his property unless his labor. Labor creates individual property rights for people, separating them from common ownership.[26]

The basic argument from MMORPG users is that they have put time and effort into creating, developing, improving avatars, and purchasing in-game items. Players deserve some property rights because of the hard work and expense. The player's labor gives value to the elements of the game, such as a t-shirt design, a sword, or armor that the player obtains from a dungeon. Without the player's labor in the game, the t-shirt, sword, or armor would not exist in the game. For a while, players have amassed large amounts of virtual assets through trading with other users, so safeguards are needed if, for example, an opponent breaks into their account and steals their wealth.[27] Similarly, a user who

has spent much time becoming skilled and famous as a craftsman in the virtual world needs to have his creativity protected.[28]

4.2. Hegel's Personality Theory of Property

Hegel's personality theory of property can justify recognizing ownership of virtual assets. This theory emphasizes the deep connection between people and the support they create. Hegel viewed property as an extension of the personality. Thus, one's property rights are profoundly connected to identity and privacy.[29] For example, a house or a wedding ring is often not only an asset but also has a deep connection to themselves.[30]

Professor Margaret Jane Radin first endorsed this theory of property in her 1982 paper, Property and Personality.[31] Radin classifies assets according to two poles:[32] (i) "personal" property has a value to a person that exceeds the monetary value of the property, such as a wedding ring.[33] (ii) a "replaceable" property of average value to a person, a prime example being money.[34] The more an individual is attached to a property, the more protection the law has to give to that property.[35]

Applying Hegel's personality theory to virtual communities is not significantly different from applying it to the real world. It is easy to see avatars in the virtual world as a wedding ring in this respect. Avatars are images that depict players themselves in most MMORPGs, expressing their personality down to the smallest detail. Users can develop a personal relationship with their avatar as they allow the user to transcend their real-world identity and depict an ideal self. For example, the user can design an avatar to meet her wish. If the user is short, the avatar can be tall. Users can use avatars to achieve amazing feats beyond real life, such as flying or using magical abilities.[36]

Many MMORPG players spend so much time in the virtual world and feel so deeply connected to their avatar in the virtual world that MMORPG addiction is a recognized problem in many countries.[37] South Korea has enacted regulations to curb MMORPG addition by limiting an underage player's amount of time in the virtual world.[38] As such, the theoretical personality of the property can provide a more substantial justification for virtual items and avatars in the latter virtual world.

4.3. Bentham's Utilitarian theory of property

The principle of pragmatism tries to find the best for the most significant number of people.[39] According to Bentham's formula, "happiness" is simply a net balance of pleasure and pain.[40]

Can the recognition of ownership of virtual assets be socially beneficial? According to pragmatism, social good is the aggregate of individual goods. Hence if virtual assets are a legal asset class, collecting all virtual assets will be better for society.[41]

Once the law protects virtual assets, the bad guys will be held accountable in the real world, thus preventing violations and thus increasing social utility. The fear of legal liability

will act criminally, and players will feel secure.[42] In terms of practical philosophy, the result would be an increase in overall social good.[43]

In addition, proponents argue that recognizing ownership of virtual assets will increase investment in virtual worlds and promote economic efficiency.[44] Users and external investors are more likely to invest in virtual worlds if they are sure of the legal status of virtual content. More excellent investment increases the well-being of both users and developers by allowing developers to improve and extend the life of the virtual world. Investment also encourages innovation, leading to helpful technological advances and the development of new resources and markets, which improve the overall welfare of the economy. Furthermore, the certainty gained by ownership of virtual assets will make virtual asset transactions more efficient.

The virtual item market is a big, growing market. The lack of precise legal regulation allows fraud and scams to thrive in online communities. Transaction fraud will increase the transaction costs of the parties involved.

5.   Arguments against applying traditional theories to virtual world contexts

The three theories mentioned above (labor theory, personal theory, and utilitarianism) have been put forward to justify the claim of ownership of virtual assets. However, the unique nature of virtual assets and virtual worlds makes applying these traditional theories unconvincing.[45]

5.1.   Problems Applying Lockean Labor-Desert Theory to Virtual Worlds

Locke's theory is only intended to explain the origin of ownership rights of the first to claim natural resources.[46] After a man used his labor to act on nature, Locke conceded that state law would intervene to regulate disputes between owners. Users can obtain virtual assets "in the wild" in the context of the virtual world, but the resources of the virtual world are certainly not in their natural state, as stated in Locke's theory.[47] The developer creates the virtual world, and therefore any mining in the virtual world cannot be considered taking resources from the wild.[48]

Even admitting that users labor to obtain virtual assets, their rights are still secondary to the rights of developers who have created virtual worlds themselves. Developers invest their labor to create virtual worlds; the player is just enjoying the fruits of that labor with the developer's permission. Such enjoyment does not change the underlying ownership of the asset, which initially belonged to the developer.[49]

If players with their labor reap virtual items, the game creators have a more significant work contribution to the virtual world.[50] It is the creator of the game, not the player, who puts in more effort. The new initiator is the creator of the first virtual world, setting the rules for the virtual world, so their interests must be greater than the interests of any small players. In other words, there can be no virtual assets or virtual items if the creator of the game does not grant the player permission. Such virtual objects, in essence, are not created from nature and mixed with labor but by the game creator's authorization.

5.2. Problems Applying Personal Theory to Virtual Worlds

In Radi's terms, the law should only protect a person's personal property if it is a "good" relationship. Such relationships are beneficial to "human development," as assessed through the lens of "fixed moral views."[51] Meanwhile, society still does not have a favorable view of the virtual world. Addiction to the virtual world is increasing as a disease.[52] Some popular T.V. series also reflect the situation of individuals committing suicide or murder due to their participation in the virtual world.[53] Some popular T.V. series also reflect the situation of individuals committing suicide or murder due to their participation in the virtual world.[54] Therefore, even if a particular user has a personal relationship with virtual assets, it is not necessarily legal to protect such virtual assets as tangible assets.[55]

5.3. Bentham's Utilitarian theory of property to Virtual Worlds

This counter-argument argues that having full property rights in the virtual world may not be the best and most effective way to prevent such harms. Using the real-world legal system as the primary means of resolving disputes in the virtual world increases the cost to society.[56] In a lawsuit involving virtual assets, virtual world developers will have to be involved, usually in the position of "relevant rights and obligations," because the infringement occurred in their virtual world. Developers will be implicated in most disputes, both as custodians and experts in their world. These costs will eventually be passed on to the

player. In addition, the borderless nature of the virtual world also raises issues of conflict of laws, increasing the complexity of lawsuits.[57]

Besides getting entangled in disputes between users, the developers can be defendants in disputes. Developers can be held liable for intentional harm (e.g., stripping users' stuff they use to harass others) and unintentional harm (e.g., bugs in code that causes virtual item deletion). In such cases, developers must act quickly to fix problems before spreading.[58] Such action could include modifying avatars or world objects or, in extreme cases, restoring the entire virtual world to an earlier point in time.[59] In either case, developers can damage or destroy users' virtual assets to fix bugs. In the long run, virtual worlds also face a common technology problem: obsolescence. The virtual world met the process of updating the basic codes.[60] In addition, there will be virtual worlds that are too old technologically compared to the competition and are no longer profitable for developers.[61] An example is the case of the longstanding superhero game, City of Heroes, which ended in late 2012 after eight years of running.[62]

Thus it can be seen that this does not meet the goal of the pragmatist philosophy. While the utility gained from granting users property rights will be small, the costs and risks to developers will be higher. If the players have enough property rights, the developer will have to bear colossal liability, especially if the developer wants to terminate the operation of the virtual world.[63] Alternatively, they must settle with each player who holds valuable virtual assets in the

virtual world, negotiating the end of the virtual world.

6.   Conclusion and expansion

As Barfield warns, before acknowledging that a person may have title to the virtual property, it is essential to look at its consequences. [64]

Scholarly responses to this phenomenon have focused mainly on the normative debates over whether users should be granted ownership of virtual assets. Or is the rights to virtual assets should be governed by the contract between the provider and the player[65]. However, the object of relations is a virtual property, which is very different from the 'traditional' thing. They do not fall into tangible or intangible assets but rather digital assets. They exist secondarily, only as part of these platforms. When someone 'gifts' a virtual item to another person, it is not the entire virtual asset but only the modified entries in the database. Therefore, there is still no clear answer as to whether to apply property law or contract law to virtual assets.

There are at least two different relationships related to virtual assets. It is the relationship between the service provider and the user and the relationship between the users. In the virtual world of online games, game developers have created virtual worlds. Game developers know clearly and are in control of the worlds they make. Players may appear to have virtual items, but they are essentially simply exercising rights licensed by the developers through a contractual relationship. Whether the law should recognize ownership of virtual assets or whether this is just a contractual relationship between a service provider and a service user remains a matter of grave and in-depth study.

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