

Virtual property

Resumé

Private property is a natural law and the legal concept of ownership is known to mankind from time immemorial. Perception of the object of property has evolved through historical periods from a strictly tangible thing into intangible assets such as intellectual property. This advance was facilitated by technological progress – shortly after introduction of Gutenberg's printing press the law started to recognize rights in intangible assets, such as creations of one's mind.

Today, in the age of information Technologies, the scientific progress gave birth to a brand new world. A world outside the borders of our tangible reality, existing only in between a computer network. This new synthetic world, the cyberspace, has become an alternative reality for many. In this new social environment, millions of people come to interact in a completely new way. And where people interact, social relations emerge. If those relations have a certain degree of intensity or quality, they can be considered legal relations. In this study I focused on a specific kind of such relation – ownership of virtual assets. Virtual property is a new phenomenon, that is rapidly gaining significance.

These new kinds of property interests are being created, used and traded in the same way as traditional property. I have laid arguments proving that users of virtual property have legitimate interests in virtual assets and that they have reasons to consider these assets their property.

I have also applied three major property theories on the concept of virtual property and I came to conclusion, that they are suitable for providing the legal framework for recognition of virtual property.

Economical studies of virtual environments declare that a new market has grown to facilitate operations with virtual assets. Some experts estimate, that this new market is worth up to 7 billion American dollars annually.

So we have tens of millions of people engaging in transaction with virtual assets worth billions of dollars and still the law does not recognize any of it. We must bear in mind, that it is still people, that come to interact in virtual environments, thus their actions are capable of having a very real effect. Since people in virtual communities are essentially

individuals, they pursue their own individual interest, which can be quite contradictory.

I have also analysed some major objections from the game industry, arguing against legal recognition of virtual property and I found these objections unconvincing.

If there were no disputes among participants of the virtual environment social system, or if the whole system was capable of self-regulation, there would be no need for any external regulation. But as I have demonstrated, there are disputes arising and self-regulation is incapable of dealing with them. Normative regulation in the form of end user licence agreements is insufficient, provided that EULA is more of an instrument designed for protecting interests of one party, rather than an instrument for impartial and just regulation of relations emerging in virtual environments. That was proved in analysis of a court ruling, that held many of EULA's provisions unconstitutional.

In the light of the abovementioned arguments I came to a conclusion, that legal recognition of virtual property is justifiable, provided that the doctrine of utility of law by Gustav Radbruch requires the law to contribute to public welfare, justice and legal certainty of subjects of law. I, however, do not argue that law should be applied on virtual environments and generally cyberspace indiscriminately. There are many factors that need to be taken into an account before deciding whether the law should be applied to certain aspects of cyberspace. After presenting various arguments concerning this particular aspect of synthetic environments, I found that reasons for legal recognition of virtual property seem to outweigh reason against it.

Moore's law of information technologies states, that computer hardware increases its performance exponentially, doubling itself approximately every two years. Scientific progress in information technologies gives users broader and broader possibilities of interaction in cyberspace. People all over the world realize increasing significance of information technologies and begin to understand that intangible virtual property has a very real meaning. This fact was demonstrated on the RuneScape case, in which the Dutch court stated, that virtual items can be, and in fact are of same significance to their owner, as real items. This ruling is first of its kind, for it in fact equalizes intangible virtual assets with material assets of our real world. Only time will tell, whether this legal opinion will be seen as an important precedence, or just as an excess.

In any case, virtual property is a phenomenon, which is becoming a more and more important part of people's lives and the law will eventually have to take some kind of a stand towards it.