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Editorial

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Ten years ago, two of the editors of this special issue published a piece called “The Laws of the Virtual Worlds” (Lastowka and Hunter, 2004). It wasn’t the first article in legal scholarship about massively multiplayer online games—this honor belongs to a couple of student notes that came out the previous year—but it was the first piece by law professors or legal practitioners. *Terra Nova*, the collaborative blog about the serious study of virtual worlds, was founded in the same year, spurring a large range of discussions about every aspect of MMOs and virtual worlds, from almost every conceivable academic discipline. So 2003 represents a point where we might say that virtual worlds began to be taken seriously as significant objects of legal study.

Looking back, it’s interesting to consider what we imagined would be the nature of the study of the laws of MMOs and virtual worlds, and to consider how far the field has come in ten years. Some things are obvious. No-one would have believed that such a large, rich and varied body of legal scholarship would emerge. At the time the biggest issue was having senior colleagues think that the field was one worthy of study at all, and avoiding the inevitable jokes about “The Law of Monopoly” or “Disneylaw.” Almost every colleague—in economics, anthropology, finance, tax, social studies, history, you name it—faced this problem, although it’s probably fair to say that law was slightly more forgiving than some disciplines. But the editors have each lost track of the number of times we’ve given the typical justification speech that starts, “No, online games and worlds are absolutely worthy of study because...” It is easier now that there are a decent number of law professors (like the editors) who earned tenure largely on the strength of scholarship on virtual worlds and games, but a decade ago it was more-or-less uncharted waters for most of us.

Back then we couldn't have imagined the flourishing of work on the law of MMOs and virtual worlds, either in the number, style, topics, or scope. Looking back it seems inevitable that numerous scholars, legal practitioners, law reformers, gamers, law students and others would find compelling the sorts of questions that this field generates. But it certainly didn't feel like this then, and none of the editors could have imagined that there would be a scholarly journal called the *Journal of Virtual World Research*, let alone that we would be editing a special issue focused just on legal issues. It is remarkable to consider how fertile and long-lasting the laws of the virtual worlds have been.

Remarkable also is how we haven't yet managed to resolve the issues that emerged ten years ago. One would have thought that there would, by now, be clear answers to questions like: What is the proper relationship between the physical and virtual worlds? When should we pierce the magic circle? What is virtual property and how should we treat it? Do avatars have rights, and if so, what ones? And so on.

Yet we don't have these answers. We find the same issues cropping up, even in this special issue. It's clear that we have a greater understanding about the nature and scope of the problems these worlds generate, and we now have shared languages to discuss them. We are no longer trying to explain what Huizinga meant by the magic circle, and we can talk about the legal and regulatory and social issues in greater depth than before, with a greater shared core of meaning. But we seem to be no closer to an agreed account of how we should treat the regulation and legal meaning of MMOs and virtual worlds. This is surprising, and wonderful, and a little disturbing.

But it does provide an excellent justification for this special issue. We have been lucky to assemble six fascinating accounts of how we might approach the laws of the virtual worlds. They are each very different, but they all expand our understanding of the intersection between legal systems and these new (game) world systems. They are worthy markers of the ten year anniversary of the field of law and virtual worlds.

The issue opens with the vexed question of copyright and authorship in virtual worlds, presenting an examination of the collaborative engagement between player and platform (Dow, Uribe-Jongbloed, Barker and Scholz). The concept of copyright has been challenged by the digital environment and the expansion of contract, and the authors of this article further explore the failure of copyright to value and accommodate user contributions to online worlds. This article acknowledges a key concern of users of virtual worlds that has impact beyond games across the whole online environment. It reflects yet another example of technology and user ingenuity far outstripping the law.

Suzor and Woodford explore the fascinating environment of *EVE* and consider the role of social norms in resolving online disputes. They discuss the limitations of expecting the terms of service to resolve all conflicts within the online environment and explore the real nature of user consent. They conclude that an understanding of community norms is essential to legitimizing dispute resolution processes and highlight yet another legal and regulatory issue that remains unresolved in the virtual world context.

The next article adopts the point of view of the avatar: considering the role of law and order as experienced by different avatars in two disintegrating societies: *Star Wars: The Old Republic* and *Fallen Earth*. Bainbridge draws upon a wealth of ethnographic research as well as philosophy, sociology and science fiction writing to explore and explain the triumph of 'The Iron Law of Oligarchy' in these environments and parallels for real human societies.

Bombace's article provides a timely overview of issues arising from virtual currencies and regulation of money laundering. Often used by the mainstream media as an illustration of the dangerous

and marginal nature of online games (“they are used for money laundering”) the article places these arguments in a realistic perspective. The article also provides a useful starting point for the consideration of the nature of virtual currency.

The nature of virtual property remains a live issue in the virtual world context, despite the extensive ground work done by Hunter and Lastowka and the enormous efforts and huge body of literature which has emerged globally on the topic since 2003. In his article Lodder explores the decision of the Dutch Supreme Court in the *Runescape* case. Through this lens, Lodder considers the nature of virtual theft, comparing concepts of hacking and data crimes with traditional concepts familiar to all law students of various states of possession. It also explores the application of criminal law to the virtual world context, where enforcement is the responsibility of the state rather than the platform owner.

The final article looks at the issue of user-generated content and modding from a unique perspective: the modification of artwork depicted on gamecards from *Magic: the Gathering*. This article provides a fascinating insight into fan practices and how these practices can fall foul of business models for distribution. It also demonstrates the different (and sometimes conflicting) attitudes and interests of game owners, contracted artists and fan artists. This article provides a fitting end to this collection, reminding us that virtual worlds are still evolving, with social norms and legal rules battling for supremacy in controlling user conduct. Trammell reminds us also of the unintended consequences of creative practices: platform providers create the tools for users, but users’ imaginations inevitably extend well beyond the anticipated boundaries of the game.

These articles reflect a range of voices in virtual world scholarship and we hope that they inspire, provoke and facilitate a range of responses. In this way we can further the work begun a decade ago by a handful of brave (and reckless) scholars, who can now proudly label their work as “scholarship of virtual worlds”. We look forward to continuing the conversation in-world, online and even face to face.

References

Lastowka, G. & Hunter, D. (2004). The Laws of the Virtual Worlds. *California Law Review* 92(1).