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EverQuest: Virtual Property Rights

In early 2002, a small company called Black Snow Interactive began using unskilled Mexican laborers to play two massively-multiplayer role-playing games (MMORPG), Ultima Online and Dark Age of Camelot. The high-level characters and items that resulted from this assembly line were then sold on eBay for a profit. A few months later, Mythic Entertainment, producers of Dark Age of Camelot, halted the business by suspending Black Snow's game accounts and arranging to remove its eBay listings on the grounds of its intellectual property rights. Black Snow retaliated by suing Mythic for unfair business practices. The primary issue to be discussed: who owns the products of virtual game economies? The question was never answered in court because Black Snow ran into other legal troubles and disappeared without a trace, leaving behind thousands of dollars worth of debts. Their lawyers immediately dropped the case against Mythic.¹ In South Korea, where MMORPGs command a much larger user base, courts have already had to rule on conflicts about virtual property rights. Using real money to make transactions of in-game items is not a violation of copyright law, however the practice is banned if the user license agreement prohibits it.²

In the United States, game companies have taken a variety of actions regarding the selling of virtual items and accounts. Origin, the Electronic Arts subsidiary in charge of Ultima Online, has entered the market by selling custom-built characters. Microsoft openly allows Asheron's Call players to sell characters but charges an account transfer fee. On the other hand, Sony Online Entertainment has taken a hard stance against real currency transactions in EverQuest, the MMORPG with the greatest market share in the U.S.³ The history of EverQuest

and its relations with player auctions show that in order for the gaming community to thrive in the virtual world, steps should be taken to prevent the outside influence of real money in in-game transactions of virtual property. While the truly dedicated entrepreneurs can always find a way around such restrictions, the playing experience of the majority of users will be preserved.

EverQuest, developed by Verant Interactive, was first released on March 16, 1999 by 989 Studios (Verant was later acquired by Sony Online Entertainment, which published the expansion packs). Consumers paid a monthly subscription fee to role-play as their character in an online persistent world with other people around the country, and they soon nicknamed the game EverCrack for its addictive qualities.⁴ For several weeks after EverQuest's release, "the whole gaming industry effectively ground to a halt," and "at least one prominent game developer blamed EverQuest for product delays."⁵ Subscriptions quickly outpaced those of its main competitor, Ultima Online, which had faced numerous complaints about server lag and relatively high bug rate. Currently approximately 450,000 players pay the monthly subscription fee to take part in EverQuest's fantasy world.⁶ Various members of the press bestowed accolades upon the game ranging from "#2 Game of the Millennium" to "#6 Game that Changed the World." EverQuest recently celebrated its fifth anniversary, and has already had six expansion packs released.⁷

What accounts for this incredible response to what is, after all, simply a game? The official game website greets people with this description:

Welcome to the world of EverQuest®, a real 3D massively multiplayer fantasy roleplaying game. Prepare to enter an enormous virtual environment-an entire world with its own diverse species, economic systems, alliances, and politics. Choose from a variety of races and classes, customize your character, and begin your quest in any number of cities or villages throughout multiple continents. Equip yourself for adventure, seek allies and knowledge, and experience a rich world of dungeons, towers, crypts, evil abbeys-anything is possible-even planes and realities beyond your imagination. Meet new friends from around the world to

face epic challenges. Make yourself a noble human knight, a vicious dark elf thief, a greedy dwarven merchant, or whatever suits your desire.⁸

EverQuest is addictive and exciting because it provides an alternate reality for players in which they can act out a fantasy life. The player not only controls the avatar, or character, but also sees the world through the character's eyes. One of the main flaws in using games as an interactive storytelling medium is the fact that the game designer is limited in the number of story branches that can be developed to give the player a sense of choice.⁹ In an MMORPG such as EverQuest, this problem is avoided because the players work with each other in an unlimited number of ways in order to create their own story. Players completely customize not only their avatar's appearance, but they are also in complete control over how the character interacts with the world and develops relationships with other characters.

The ability of EverQuest to immerse players in its fantasy universe is well documented. Nearly one-third of adults playing the game spend more time in the fictional world of Norrath than they do working for pay, while about one-fifth of players consider Norrath to be their place of residence (they simply commute to Earth and back).¹⁰ In Tampa, Florida, a father allegedly became so engrossed in the game that he fatally neglected his infant.¹¹ The moral implications of the ability of the game to induce such addictive behavior will not be discussed in this paper. However, the fact remains that for many people, their virtual life in Norrath is very real and an important part of themselves.

A significant aspect of the EverQuest world is the economy. Players complete quests in order to receive money and loot, which can be sold or traded to acquire other items. The better equipped a player is, the easier it is to play the game and defeat harder monsters. Playing the game also increases the character's level; higher level characters are more skilled and powerful. However, obtaining a high-level character or useful items takes effort and work, so many players

who have neither the time nor the inclination to use in-game methods to boost their character turn to outside means. Nearly 10% of EverQuest players have bought EverQuest items from e-Bay.¹² 45% of survey respondents know someone who has used US dollars to purchase Norrathian items.¹³ The average price of a platinum piece, the unit of currency in EverQuest, is 0.01072 US dollars, higher than the exchange rate of the Yen and the Lira.¹⁴ The market for avatars places the price of an avatar at about \$13 per level. Citizens of Norrath generate about \$15,000 in avatar capital per hour, making the gross national product of Norrath about \$135 million. This makes Norrath the 77th richest country in the world, roughly equal to Russia and Bulgaria and higher than China and India.¹⁵ These numbers are skewed by the fact that the vast majority of characters and items are not for sale, reducing the supply and making the auction prices higher than they would be otherwise. However, the idea of a fantasy world having a real economy and value in real currency is still valid.

From the very beginning, the game developers disliked the idea of people buying and selling what they considered to be in-game rewards for hard work and dedication. Brad McQuaid, producer of EverQuest, commented in an interview in late 1999 that he “[didn’t] think it’s fair to players who can’t afford it that others obtain powerful characters and items they didn’t earn in the game.”¹⁶ However, the company turned a blind eye to the practice for over a year. In April 2000, Sony released a patch which also required users to agree to some additional terms in the User Agreement and Software License. One of these conditions was the statement, “You may not sell or auction any EverQuest characters, items, coin or copyrighted material.” John Smedley, President and CEO of Verant Interactive, cited the main reasons for the change. First, the company did not want to be put in the position of arbitrating disputes in case of fraud or other

disagreements, and second, they believed people should earn their items and characters by playing the game.¹⁷

Gamer response to this announcement was mixed. Most people on the site's site board applauded the ban, but on eBay and other auction sites, people continued doing business as usual. After the policy change, more than 1,000 sellers were still offering items for prices up to \$1,400. Top bids for a "killer Wizard" and a "Cloak of Flames" were \$1,375 and \$1,125 respectively.¹⁸ The net effect of the pronouncement was primarily symbolic in nature. Players who agreed with Verant and Sony that the ability of others to buy their way into the upper echelons of the game ruined the gameplay experience for others continued to refrain from trading. Players who saw the EverQuest world as an opportunity to make a profit continued to "camp" – stake out a place and repeatedly kill a monster for its loot.¹⁹ The new User Agreement merely gave Sony a basis to punish offenders, but it did not enforce the policy, evidently hoping that most people would be self-policing.

For nine months, buyers and sellers of EverQuest items continued to do so with impunity. Then in January 2001, in one of the largest mass removals due to an ownership dispute, eBay removed over 4,500 character and item auctions at the request of Sony, in response to player complaints.²⁰ Word quickly spread that GravitySpot.com had set up a website to gather plaintiffs for a class action lawsuit against Sony, Verant, eBay, and others who were preventing player auctions. The argument was that people listing the sales were "selling the time spent building the status of an EverQuest character" or "selling the time spent obtaining the item," and hence not infringing on intellectual property rights. However, the legitimacy of the suit was questionable since reporters were unable to contact the organizers and the targeted companies refused to comment.²¹

Most merchants simply moved their base of operations and continued with their business. Smaller websites such as PlayerAuctions, which focus solely on online game items and accounts, filled the vacuum left by eBay. According to PlayerAuctions, 15-20 people use the site to make \$5,000 per month. Jonathan Yantis, who specializes in buying EverQuest accounts and selling the items piecemeal, set up his own website, MySuperSales, which he claims engages in \$3,500 of business every day. All transactions are done under the table and at great risk, however. If Sony hears that an account is sold, the account is closed without warning. Yantis recently lost an account with an estimated \$26,500 worth of equipment because the account was closed, yet he views that as simply an accepted risk in the business.²² The situation has not changed dramatically in three years since EverQuest auctions were removed from all major public trading sites. Sony does not make an active effort to track down violators of the ban on buying/selling accounts and items, but any accounts that engage in such activity are subject to closure without notice. The risks associated with this black market probably discourage a large number of people from participating, so the game experience is fairly well preserved for most users.

Generally, arguments in favor of virtual property rights for users assume that the purpose of the virtual world is to become as real as possible. Cory Ondrejka argues that prohibition “effectively [criminalizes] and [marginalizes] a large section of the user base, it also fights one of the great benefits that free markets and competition bring to economies: innovation.”²³ However, he assumes that the ultimate goal is the creation of the Metaverse, a concept first introduced by Neal Stephenson in his novel *Snow Crash*. The Metaverse is an online environment, but it is a completely real place to its users, who can interact much like they can in the real world.²⁴ Likewise, Lastowka and Hunter use arguments such as Locke’s property theory – the person who labors to render the “thing in nature” into something of value deserves the benefits.²⁵ They argue

that “we will have to recognize that [virtual worlds] are separate places, with a separate community, separate laws, and separate rights.”²⁶

However, these arguments fail to realize that the purpose of a MMORPG such as EverQuest is not to provide the most realistic possible virtual world. The game may provide an enthralling virtual world which may be enhanced by adding realistic elements, but ultimately, the purpose of the game is to provide entertainment for its users. One may argue that allowing the buying and selling of virtual items is mutually beneficial to both parties, and thus makes increases their enjoyment of the game. However, such transactions destroys the “equality of opportunity of gameplay, and damages the entire gaming environment.”²⁷ Items in a virtual world do not disappear, so the overall effect of tactics designed to obtain in-game wealth quickly to sell for real money is to increase the natural rate of deflation. The overall price index fell twenty-nine percent from 2000 to 2001, which led to dissatisfaction because the challenge of obtaining good items fell.²⁸ The virtual world is inherently different from the physical world because the universe can be directly and cheaply manipulated by the owners of the game. The economy is completely under the control of the developers, who can choose to add or remove valuable items at will. Avatar economics is different from Earth economics in that price controls are feasible and possibly desirable, lack of work causes disutility, and economic growth can be bad. Characteristics of a digital world and the need to keep players sufficiently challenged are the primary reasons for these differences.²⁹

The attractiveness of EverQuest is its portrayal of an alternate reality, in which players can interact with one another and create their own narratives with nearly complete freedom. The game keeps players’ attention by giving them the tools to personalize their character and a complex system of goals such as gaining another level, finding a new item, or completing a

quest.³⁰ However, the intricacy of the world has led some to sidestep the game by purchasing virtual items at online auctions with real currency. Seeing the potential for revenue, other players step in to fill this demand of high-level characters and items by taking advantage of loopholes in the game system or sometimes other unethical means. Since much of the game is social in nature, these actions dismay many of the legitimate players of the game. Sony and Verant tried to halt this practice of selling virtual items by claiming others were profiting off of their intellectual property rights. The companies took increasingly more effective steps, from changing the User License to forcing eBay to remove all related auctions. Although there currently exists a flourishing black market for these virtual items, the situation has been alleviated a great deal to the satisfaction of many players. The fundamental of virtual property rights has yet to be resolved in the United States, but for the purposes of EverQuest, the issue is clear. The general rights of the majority of players who wish to play the game in the manner intended by its makers supersede any rights of the sellers to their labor within the game.

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