INTRODUCTION

Virtual worlds, or massively multiplayer online games (MMOGs), are increasingly the site of property disputes between the developers who design the worlds and the players who occupy them. Although these are games, they can be very serious for players, many of whom spend twenty to thirty hours a week on average playing them (Castronova, 2007). Some players are so heavily invested in MMOGs that they earn incomes from the sale of virtual goods and services. Ownership and trade have become so important to virtual worlds that many have their own economies comparable to those of real countries (Castronova, 2007). With much at stake for developers and players, it is unsurprising that virtual property has become a source of dispute. Virtual property strains the existing categories of ownership, introducing such difficult questions as the status of virtual theft (Arias, 2008; Brenner, 2008) and the right to tax virtual goods (Lederman, 2007; Seto, 2008, 2009).

The debate over virtual property fits into the interdisciplinary study of technoethics, a branch of scholarship that is concerned with exploring the moral dimensions of emerging technologies and their effects on society. Because these only exist in a digital form, they challenge existing moral categories used to assign ownership. Technoethics provides a way of reconsidering the concept of property and the moral and ethical implications of property in light of the way digital technologies have altered it.

One way of determining property rights is by using John Locke’s labor theory of property, which holds that people become owners of un-
claimed materials by adding their labor to them. Locke’s theory is one of the most important in the debate over ownership of virtual property, as players claiming property often justify their right to own and sell property on the grounds that they have labored to create it or to procure it (Kayser, 2007). The problem is that developers can claim to own virtual goods on the same grounds; they initially create them and host the virtual worlds that serve as the setting for the players’ labor. Most Lockean studies of virtual property have concluded that all or most virtual goods belong to the developers (Horowitz, 2007; Kennedy, 2008), giving players limited rights to do what they wish with virtual property. This paper will argue that this conclusion has much to do with a misapplication of Locke’s theory of the common. When this part of the theory is reconsidered to account for the differences between real and virtual worlds, Locke’s theory provides strong grounds for granting players ownership over many virtual goods.

Steinberg (2009) finds that three classes of virtual goods are at the center of the debate over virtual property: currency, items, and player accounts. This paper focuses on the ownership of the virtual common, of player accounts, and of the virtual worlds themselves. It shows that the first of these is owned by players collectively, the second by individual players, and the third by both the developers and the players. This paper will also argue that players can have strong claims to virtual money and items, especially when these are created by the players themselves, but that players only become owners of these things that developers have created when the property is gained through labor that is equivalent to the value of the good or by exchanging goods that represent their labor value. This only addresses property ownership as a moral issue. The laws regarding property ownership will have to be made by each country and will reflect existing property law in these jurisdictions. The legal question is one that must be resolved, but the purpose that the laws governing virtual property should serve is clarified by examining the extent to which there are moral justifications for ownership of virtual goods.

VIRTUAL PROPERTY RELATIONS

Virtual world developers differ in the extent to which they recognize user’s claims of ownership of virtual goods. World of Warcraft represents one extreme of property relations. Blizzard, the company responsible for it, forbids players for selling their accounts or their items for real money or goods; only trade within the game world for other virtual goods is permitted (Lastowka, 2004). Most virtual worlds follow the same model, giving players little control over the items they find or produce and forbidding or restricting the sale of avatars and items outside the virtual world (Lastowka, 2004). By contrast, Second Life allows players to create products in the game world, and to copyright them, patent them, and sell them (Steinberg, 2009). This has led to the rise of a diverse economy within that world, with users creating their own products for other players to buy, much as manufacturers do in the real world. Second Life acknowledge a very high level of user-control over property (Horowitz, 2007), yet even it has experienced property disputes because developers have the power to exclude users from access to the virtual goods that they own (Glushko, 2007). This indicates that whatever level of player ownership virtual worlds acknowledge, property disputes are likely to arise because of the developer’s gatekeeper role.

From a legal standpoint, developers have a strong claim to the ownership of the worlds and the goods they contain. EULAs usually state that the developers have ultimate control over the worlds and that they may seize player property if they wish (Caramore, 2008; Horowitz, 2007). For this reason, players are at a disadvantage when seeking to assert their rights over property they have created or earned while playing MMOGs (Jankowich, 2005). However, the problem of whether players can make a legal claim to the ownership of virtual property is different from the problem of whether there are moral grounds for recognizing their ownership claims. Players may have a moral right to their virtual property, even if they cannot assert their property claims through the law. Thus far, most
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