

How to apply e-commerce and intellectual property law in Virtual worlds? On the blurring borders between the real world (IRL) and virtual reality (in game)

Martine Boonk

Computer/Law Institute, Vrije Universiteit Amsterdam

Email: m.boonk@cli.vu

Arno R. Lodder

Centre for Electronic Dispute Resolution (CEDIRE.org)

Email: lodder@cedire.org

Abstract

The popularity of Massive Multiplayer Online Role Playing Games (MMORPGs) has brought about a number of virtual variations on all kinds of trades. The first MMORPG-millionaires have been reported. Popular brands in the real world are opening offices and shops in online games, e.g. Reuters Press agency, Adidas, Philips, Toyota, etc. In December 2006 the Dutch ABN AMRO Bank has been the first European bank to open a virtual office in the Second Life: "ABN has created different islands for starters, young professionals, advice on mortgages, investors, advice on products brokers, product advice, seminars and an island for recruitment. ABN's virtual offices has fully decorated offices and boardrooms, a beach and velicopters to shift one's avater to other locations." ABN AMRO Bank will probably soon start offering loans in Linden Dollars, the currency of Second Life.

In real life, advice given in such matters is subject to all kinds of regulations, for example the EU Directives on electronic commerce (2000/31/EC) and the distance marketing of consumer financial services (2002/65/EC).¹

In almost all MMORPGs, in-game life is governed by extensive terms and conditions of use as set by the producer of the game. However, when in-game life and real life interfere, it appears that game rules do not / cannot always provide a satisfactory solution. For example, when real money can be gained through playing virtual games, the relation between in-game life and real life becomes more strained.

Examples are the information requirements of the above mentioned Directives. How and when should they be applied? Only if real life services are delivered? Or also in case of in game services? And does it matter whether or not there is:

- an official link to the real world (ATM cash machines for Everquest, exchange rate for Second Life Linden dollars),
- an unofficial link (the trading of objects via eBay without permission of the producer of the game),
- or no link at all?

Intellectual property is another topical subject that can be evaluated following the distinction presented above. For example, mid January 2007, Second Life millionaire Ailin Graef and her Company Anshe Chung studios tried to press media to take down photos and videos of a "griefing attack" during an ingame interview with Ailin Graef's virtual character Anshe Chung, claiming that reproducing the images violated copyright. Youtube at first followed the notice and take down of the DMCA, but the movie reappeared a few days later (for 18+).

The paper addresses the topics mentioned above and builds upon prior work by the authors, written in the context of the Dutch working group on Law & Virtual worlds.²

¹ Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC.

² *Law & Virtual worlds*, in Dutch: A.R. Lodder (ed.), *Recht in een virtuele wereld: Juridische aspecten van Massive Multiplayer Online Role Playing Games (MMORPG)*, The Hague: Reed Elsevier 2006, see Bol, Boonk *et al.* <http://pubs.cli.vu/pub286.php>, Boonk & Groenveld <http://pubs.cli.vu/pub285.php>, Lagemaat, Boonk, Briet <http://pubs.cli.vu/pub284.php>, and Lodder <http://pubs.cli.vu/pub273.php>.