


IN THIS ISSUE AVATARS SPEECH RIGHTS VIRTUAL LAW & PATENTS

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VIRTUAL LAW PART 1 THROUGH THE LOOKING GLASS

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MESSAGE FROM THE CHAIR Christine M. Grant



The members of the Section of Science & Technology Law are poised to complete the first decade of the 21st century on a rising tide of optimism, innovation, and resilience. Section volunteers and ABA staff are collaborating to provide you with brief practice-relevant material on leading-edge topics. Readers will relish this issue's articles with the gusto with which they enjoy a best-selling legal thriller. The articles are relevant to everyone. If you think you have legal practice interest in virtual law topics, I challenge you to read these articles and then write me to say you didn't learn something very relevant to you and your practice.

We'll continue to challenge the editors to optimize the use of technology to print timely, compelling information while keeping the signature graphics that enhance member experience. The Section's other successful publication, *Jurimetrix* (published by Arizona State University Law School with Section support) has successfully transitioned to an online version with annual hard copy compendia available for sale. Other fledgling efforts have taken wing with the enthusiastic Section leadership support. For example, the *EDDE Digest*, written by the energetic co-chair of the Electronic Evidence committee, is available on the Committee's list serve. I salute, celebrate, and thank all who contribute so much to these and the other successful Section publications.

In addition to regularly appearing publications, our Section has maintained a strong record of service and programming during the decade. We know we have to significantly change the mix and formats of programs to meet members' interests and needs while continuing to provide a priceless outlet for members who want the freedom to create and contribute to new programs and committees, and to network with colleagues. This synergy of personal interests and organizational support is among the most valuable personal ABA and Section member benefits.

At the same time we want to enhance member opportunities, we face additional challenges. We understand the need to broaden our methods of delivering content to you but to do so in a cost-efficient manner. I've discussed previously in this column the Section's ongoing response to these competing trends under the umbrella of "individualized learning." We will continue to institutionalize the process of analyzing how we can optimize the life cycle and number of formats through which you can access CLE and other programming when, where, and how you want it. While individualized learning is great, we need to maintain some personal contact among ourselves. We don't want to lose collegiality, mutual respect, and an understanding of the nuances of expression of lawyers of widely differing ages, practice interests, ideology, and experiences. Our succession planning needs to incorporate interpersonal experiences to help rising leaders know the relevance and nuances of Section history.

In conclusion, it's been a wild decade, and it's unlikely to calm down soon. We now have active new lawyer Section members who were in high school when the decade began. As individual members and as an organization, we dodged the overblown specter of Y2K, struggled with all of America through the catastrophic events of 9/11, couldn't meet in New Orleans after Katrina, and continue to work while unprecedented covert terrorism and military action affect our lives. We experienced a historic presidential election, and are surviving the Great Recession while struggling with the many adverse impacts on our professional and personal lives. If we've managed to continue to move forward during all of these events, we can certainly manage budget reductions while improving our programs and come out a stronger, more valued Section of the ABA in the process. ♦

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extending speech rights into virtual worlds

by James D. Barger

Speech issues in a virtual world, where expression is free, there are few restrictions. The main draw of Second Life is the ability to express oneself at live concerts, creating freakish monster-alien avatars, sharing intimate moments with virtual strangers, and by making and selling everything from shoes to skyscrapers. They do this in a 3-D world created largely by the users, where avatars walk, fly, and teleport from island to city to mountaintop. In this new world, long-established property law and state constitutions may provide the best protection for a user's right to express himself in sometimes controversial ways.

Speech issues in a virtual world, where expression is free, there are few restrictions. The main draw of Second Life is the ability to express oneself at live concerts, creating freakish monster-alien avatars, sharing intimate moments with virtual strangers, and by making and selling everything from shoes to skyscrapers. They do this in a 3-D world created largely by the users, where avatars walk, fly, and teleport from island to city to mountaintop. In this new world, long-established property law and state constitutions may provide the best protection for a user's right to express himself in sometimes controversial ways.

California-based Second Life owner Linden Labs encourages creativity—even allowing users to retain all intellectual property rights in their creations—but the corporation does enforce rules of conduct. The conduct can be quite unruly. Most virtual worlds have their share of “griefers”—virtual world users who intentionally harass other users. Griefers interrupt virtual meetings with displays of gore or lewdness. They have recreated the September 11 World Trade Center attack, including falling bodies. They have dropped hundreds of giant phalluses on unsuspecting avatars. They have created scenes simulating rape, murder, and decapitation.

Virtual worlds are also scenes of political protests and labor protests, as well as debates over the line between innocent child-like fun and harmful child exploitation. Most virtual worlds require users to agree, in the Terms of Service, that the owner corporation may cancel accounts for rule violations. The First Amendment provides no protection against such private action. State constitutions, on the other hand, can guarantee a right to free speech, even when that right imposes on someone else's property rights.

A Recent Free Speech Claim Against the Private Owner of a Virtual World

In late 2009, a California man sued Sony for allegedly violating his First Amendment speech rights by banning him from the virtual world of the Sony PlayStation Network. Plaintiff Erik Estavillo's pro se complaint said Sony banned him from all PlayStation Network games after his online, in-game statements offended other participants in the multiplayer, science-fiction, war game "Resistance: Fall of Man." Estavillo, age 29, of San Jose, California, called the PlayStation Network "the only way the plaintiff can truly socialize" because he suffers from agoraphobia, major depression, panic disorder and other conditions limiting his ability to socialize. The game allows players to audibly talk to each other while engaged in battle against an alien-like invasion. During the game's battles, Estavillo shouted derogatory terms offensive to African-Americans and homosexuals, according to a report by KTXL Fox40 News in Sacramento, California.¹

Estavillo's complaint,² filed in federal district court for the Northern District of California, asserted claims against a private party for allegedly violating rights granted to individuals by the United States Constitution. In the court's opinion granting Sony's 12(b)(6) motion to dismiss, Judge Ronald M. Whyte stated the general rule that "[t]he First Amendment guarantee of free speech is only a guarantee against abridgment by state or federal governments, and not private actors."³ Judge Whyte cited the "company town" exception of *Marsh v. Alabama*, which applies to corporations that have the qualities of a municipality, but found that this did not apply, because the PlayStation Network "does not serve a substantial portion of a municipality's functions." Finally, Judge Whyte cited an exception where a corporation has a nexus with the government, a characterization that also did not apply to Sony.

The case against Sony failed miserably, with the judge dismissing the entire com-

plaint. However, the court's opinion, granting dismissal, fails to mention the landmark property law case that established that California's state constitution can and does protect individuals' free speech rights against infringement by some private entities. The 1980 *PruneYard Shopping Center v. Robins* opinion held that the owner of a shopping center or mall can be compelled to provide access to the property for free expression purposes, if state law extends free speech rights onto private property.

Estavillo has reportedly filed a new complaint in state court and is appealing the district court's dismissal.⁴ If the state court complaint states a claim that fits within the California state constitution's grant of speech rights, as defined in *PruneYard*, the plaintiff would be entitled to relief.

How Does PruneYard Provide Free Speech Protection Against Private Actors?

The American public once looked to town squares as the primary place for voicing political ideas, seeking petition signatures, and soliciting support for their causes. As times changed, malls became the new "town squares."⁵ Teenagers could congregate there with friends and classmates. Senior citizens could stroll the walkways of the massive structures for exercise. As Chief Justice Wilentz, of the Supreme Court of New Jersey, wrote in 1994, "[M]alls are where the people can be found today."⁶

Today, virtual worlds are also where "the people can be found today." Second Life has millions of regular users⁷ and is easily one of the best known virtual worlds.⁸ Another extremely popular,⁹ though very different, virtual world is Blizzard Entertainment's "World of Warcraft."¹⁰ Web-based social networks may be the next platform for virtual worlds. Facebook released the simplified virtual world of Farmville, by Zynga Game Network, Inc., in June 2009. By March 2010, Farmville on Facebook had more than 83 million users. However, Farmville lacks the real-world commerce and creativity of Second Life and World of Warcraft.

Unlike traditional role-playing games, virtual worlds often have no structured competition, no stated goal, no winners

or losers. There is merely interaction, expression and commerce. Some modern, online, role-playing games, such as World of Warcraft, are built on competition, but even these are incorporating more and more of the social networking qualities that define virtual worlds. As such, many commentators consider World of Warcraft-type games to be virtual worlds as well.¹¹ Sony's Resistance series of games fits this category.

State Constitutions Can Protect Speech Rights in Spite of Property Owner Rights

In *Marsh v. Alabama* (1946), the Supreme Court found some constitutional protection for individuals affected by "company town" actions because a) the property functioned like any other town, and b) the property was open to the general public.¹²

The Supreme Court's 1968 *Logan Valley* opinion applied constitutional free speech protections for picketers who might otherwise be excluded from a private shopping center. The *Logan Valley* holding was based on the court's finding that 20th-century shopping centers had become the functional equivalent of downtown business districts, where constitutional rights had always been upheld. Four years later, the shopping center speech case of *Lloyd Corp. v. Tanner* appeared to merely clarify and distinguish *Logan Valley*, holding that the *Logan Valley* extension of First Amendment rights only applied "where the First Amendment activity was related to the shopping center's operations." However, after another four years, the court seemingly reversed course in *Hudgens v. National Labor Relations Board*, stating that *Lloyd* had actually overruled *Logan Valley*, at least as applied to shopping centers. The *Hudgens* opinion stated the argument that a shopping center must honor the speech rights of individuals because the property has attributes "functionally similar to facilities customarily provided by municipalities" is an argument that "reaches too far."

The *Hudgens* opinion made the overruling of *Logan Valley* clear and definitive, sounding the death knell for claims of

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free speech on privately owned shopping center property under the First Amendment.¹³ After the *Hudgens* decision, only “company town” status, under the *Marsh* holding, would open up private property to full protection of individuals’ speech rights under the First Amendment.¹⁴ *Hudgens* left open avenues for extending speech rights onto private property through statute or state common law.¹⁵ Some states already had greater protections for freedom of speech in their constitutions than that found in the U.S. Constitution, but *Hudgens* did not address whether the owner of private property might have federal constitutional rights that would prevent others from exercising their speech rights on the property.¹⁶

In *PruneYard Shopping Center v. Robins*,¹⁷ the Supreme Court held that nothing in the U.S. Constitution precludes a state’s ability to extend free speech rights onto private property through the provisions of a state constitution.¹⁸ The 1980 *PruneYard* case came to the Supreme Court from the Supreme Court of California.¹⁹ A group of high

ping center told the students they were violating the shopping center rules and would need to leave.²⁵ The security guards suggested that the students continue their petitioning on the public sidewalk at the edge of the property.²⁶ The students left the shopping center immediately, and sued to enjoin the shopping center from forbidding the petitioning activity.²⁷

The *PruneYard* opinion held that the California Constitution provided greater protection of free speech rights than did the U.S. Constitution,²⁸ and that “the California Constitution protect[s] speech and petitioning, reasonably exercised, in shopping centers even when the centers are privately owned.”²⁹ The state constitution did not explicitly provide this protection for speech rights on private property.³⁰ But, California case law had extended free speech rights to privately owned property that was open to the public,³¹ so long as the exercise of these rights did not interfere with the commercial use of the private property, and providing that the property owners retained the right to regulate the time, place, and manner of such speech.

The California court said³² an earlier dissent by Justice Mosk³³ on the cultural significance of shopping centers had become more forceful with time.³⁴

Increasingly, such centers are becoming “miniature downtowns”; some contain major department stores, hotels, apartment houses, office buildings, theatres and churches. . . . Their significance to shoppers who by choice or necessity avoid travel to the central city is certain to become accentuated in this period of gasoline and energy shortage.³⁵

The Supreme Court of the United States unanimously affirmed, finding that the rights granted in the California State Constitution were compatible with the U.S. Constitution, and did not violate any property rights or Fifth or Fourteenth Amendment rights of the owner.³⁶ The Court held that the California ruling did not infringe on the property owner’s

First Amendment rights either, saying the property owner could, for example, post signs disclaiming any agreement with the petition activities.³⁷

The unanimous *PruneYard* decision opened the door to free speech rights on private property where a state constitution adds to speech rights, even though the exercise of such rights might conflict with the mall owner’s property rights.³⁸ In total, at least 21 states have addressed the question of whether free speech rights are extended onto the private property of shopping centers, with at least 13 declining this expansion of free speech rights.³⁹ State courts in several states have ruled that their constitutions do extend free speech rights onto the privately owned property of shopping centers and malls.⁴⁰ Among these is New Jersey, which provides even more speech protection than California.⁴¹

Today, virtual worlds are fulfilling the same role shopping centers and malls have long filled in American life, including the role of public forum for free expression of ideas, such as political thought and petitioning.⁴² The same free speech law that applies to malls should apply to virtual worlds. Virtual world providers based in California, New Jersey, and several other states may someday find themselves forced to reopen canceled accounts of griefers and protesters whom they would like to banish to the real world. ♦

The same free speech law that applies to malls should apply to virtual worlds.

school students had set up a table on the twenty-one-acre PruneYard Shopping Center²⁰ property, which encompassed 65 shops, ten restaurants, a cinema, and space for parking, walkways, and plazas.²¹ The students solicited signatures for a petition to oppose a United Nations resolution against “Zionism.”²² They intended to send this petition to the White House in Washington, D.C.²³ The court record indicated that their activities were peaceful and that nobody complained to the property owners about the students’ petitioning activities at the shopping center.²⁴ Security personnel at the shop-

Endnotes

1. Matthew Keys, *Bay Area Gamer Takes Playstation 3 Lawsuit to Appeals Court*, Fox40 News, www.fox40.com/news/headlines/ktxl-news-playstation3-1026,0,156635.story (last visited Mar. 14, 2010). For more details about this lawsuit and similar lawsuits by the same plaintiff, see <http://z-9.us/estavillo-links-01>.
2. Complaint, *Estavillo v. Sony Computer Entertainment America*, 2009 WL 3072887 (No. C-09-03007), available at <http://z-9.us/estavillo-v-sony>.
3. *Estavillo v. Sony Computer Entertainment America*, 2009 WL 3072887 (N.D. Cal. Sept. 22, 2009) (citing *Hudgens v. N.L.R.B.*, 424 U.S. 507, 513 (1976)).
4. GamePolitics, *Banned Resistance Gamer Appeals Verdict*, www.gamepolitics.com/2009/10/26/banned-resistance-gamer-appeals-verdict (last visited Mar. 14, 2010) (“Estavillo also filed (on October 14th) a civil lawsuit

against SCEA in Superior Court of California, County of Santa Clara seeking \$180,000.”).

5. *N.J. Coal. Against War in the Middle E. v. J.M.B. Realty Corp.*, 650 A.2d 757, 766 (N.J. 1994) (“Regional and community shopping centers significantly compete with and have in fact significantly displaced downtown business districts as the gathering point of citizens, both here in New Jersey and across America.”).

6. 650 A.2d at 767 (“[M]alls are where the people can be found today. Indeed, 70% of the national adult population shop at regional malls and do so an average of 3.9 times a month, about once a week.”) (citation omitted). See generally *Lloyd Corp. v. Tanner*, 407 U.S. 551, 580–81 (1972) (Marshall, J., dissenting) (“For many persons who do not have easy access to television, radio, the major newspapers, and the other forms of mass media, the only way they can express themselves to a broad range of citizens on issues of general public concern is to picket, or to handbill, or to utilize *other free or relatively inexpensive means of communication*. The only hope that these people have to be able to communicate effectively is to be permitted to speak in those areas in which most of their fellow citizens can be found.”) (emphasis added).

7. What is Second Life?, <http://secondlife.com/whatis/> (last visited Mar. 23, 2009) (stating “Second Life® is a 3-D virtual world created by its Residents. Since opening to the public in 2003, it has grown explosively and today is inhabited by millions of Residents from around the globe.”).

8. Robert D. Hof, *My Virtual Life*, NEWSWEEK, May 1, 2006, at 72; see Second Life—Economic Statistics, http://secondlife.com/whatis/economy_stats.php (last visited Dec. 5, 2008) (claiming to have 16,676,340 users, with 572,870 users logged in during the preceding seven days).

9. See Blizzard Entertainment—Media Alert, “World of Warcraft Subscriber Base Reaches 11.5 Million Worldwide,” www.blizzard.com/us/press/081121.html (last visited Mar. 23, 2009) (claiming 11.5 million users of World of Warcraft, as of Dec. 23, 2008).

10. Phillip Stoup, *The Development and Failure of Social Norms in Second Life*, 58 DUKE L.J. 311, 342–43 (2008) (categorizing World of Warcraft as a virtual world, although with a competitive focus; “[World of Warcraft] is a virtual world similar to Second Life in which individual users can interact with each other and the virtual three-dimensional environment in a real-time setting. WoW is different than Second Life in

that the virtual reality is based primarily upon a gamelike platform in which the world’s users focus primarily on gaining combat experience, skills, and items to best each other and to defeat the computer characters in the game”).

11. See, e.g., Stoup at 342–43.

12. 326 U.S. at 506 (“Ownership does not always mean absolute dominion. The more an owner, for his advantage, opens up his property for use by the public in general, the more do his rights become circumscribed by the statutory and constitutional rights of those who use it.”).

13. *Id.* at 518.

14. See *id.* at 519 (distinguishing a shopping center from private property like that in *Marsh*, which exhibits “all of the attributes of a state-created municipality”) (quoting *Lloyd*, 407 U.S. at 568–69); *Marsh v. Alabama*, 326 U.S. 501 (1946).

15. *Hudgens*, 424 U.S. at 513 (“statutory or common law *may in some situations* extend protection or provide redress against a private corporation or person who seeks to abridge the free expression of others . . .”) (emphasis added). See also *New Jersey Coalition*, 650 A.2d at 757, 769 (discussing four states where courts have held that the respective states’ citizens have greater free speech protection than that found in the federal Constitution).

16. *New Jersey Coalition*, 650 A.2d at 757 (holding that the New Jersey Constitution granted groups opposed to the Persian Gulf conflict the right to distribute leaflets at two New Jersey shopping malls); *Batchelder v. Allied Stores Int’l*, 445 N.E.2d 590, 593 (Mass. 1983) (based on Massachusetts’ “free-and-equal elections” provision); *Bock v. Westminster Mall Co.*, 819 P.2d 55 (Colo. 1991) (noting that Colorado’s Constitution “provides greater protection of free speech than does the First Amendment,” but holding that a group seeking to distribute pamphlets at the Westminster Mall had that right for the alternate reason that the city government was involved with the mall operations to a great enough extent that the mall was effectively a public place); *Lloyd Corp. v. Whiffen*, 849 P.2d 446 (Or. 1993) (holding that Oregon initiative and referendum powers of the state constitution grant speech rights on some private property); see also JENNIFER FRIESEN, STATE CONSTITUTIONAL LAW: LITIGATING INDIVIDUAL RIGHTS, CLAIMS, AND DEFENSES 535–37 (2d ed. 1996) (listing New Jersey, Colorado, Oregon, Massachusetts, Washington, and Pennsylvania as the states that “may require shopping mall owners to permit some forms of non-disruptive political activity in

the common areas of the malls”).

17. 447 U.S. 74 (1980).

18. *Id.* at 88 (“[N]either appellants’ federally recognized property rights nor their First Amendment rights have been infringed . . .”).

19. *Robins v. PruneYard Shopping Center*, 592 P.2d 341 (Cal. 1979), *aff’d sub nom. PruneYard Shopping Center v. Robins*, 447 U.S. 74 (1980) (The Supreme Court of the United States capitalized the shopping center name differently than had the Supreme Court of California.).

20. *Robins*, 23 Cal. 3d at 902.

21. *Id.*

22. *Id.*

23. *Id.*

24. *PruneYard*, 447 U.S. at 77.

25. *Robins*, 23 Cal. 3d at 902.

26. *Id.*

27. *Id.* at 903.

28. *Id.* at 910.

29. *Id.*

30. Article 1, § 2, of the California Constitution stated: “Every person may freely speak, write and publish his or her sentiments on all subjects, being responsible for the abuse of this right. A law may not restrain or abridge liberty of speech or press.” Article 1, § 3, of the California Constitution read: “[P]eople have the right to . . . petition government for redress of grievances.” *PruneYard*, 447 U.S. at 79 n.2.

31. *Robins*, 592 P.2d at 347 (citing *Diamond v. Bland*, 477 P.2d 733, 739 (1970) (“Diamond I”); finding constitutional protection for distribution of leaflets and petitioning at a shopping center); *Schwartz-Torrance Investment Corp. v. Bakery & Confectionery Workers’ Union*, 394 P.2d 921 (1964) (balancing the public’s speech interests against the property owner’s interests); *In re Lane*, 457 P.2d 561 (1969) (noting that some private property “is not private in the sense of not being open to the public. The public is openly invited to use it . . .”); *In re Hoffman* 434 P.2d 353, 358 (1967) (Stating that “Reasonable and objective limitations can be placed on the number of persons who can be present for First Amendment activities at the same time, and the persons present can be required so to place themselves as to limit disruption.”).

32. *Robins*, 592 P.2d at 347.

33. *Diamond II*, 521 P.2d at 468 (Mosk, J., dissenting).

34. *Robins*, 592 P.2d at 347.

35. *Diamond II*, 521 P.2d at 468 (Mosk, J., dissenting).

36. *PruneYard*, 447 U.S. 74, 83 (1980) (“Here

the requirement that appellants permit appellees to exercise state-protected rights of free expression and petition on shopping center property clearly does not amount to an unconstitutional infringement of appellants' property rights under the Taking Clause. There is nothing to suggest that preventing appellants from prohibiting this sort of activity will unreasonably impair the value or use of their property as a shopping center.”).

37. *Id.* at 87 (“[H]ere appellants can expressly disavow any connection with the message by simply posting signs in the area where the speakers or handbillers stand. Such signs, for example, could disclaim any sponsorship of the message and could explain that the persons are communicating their own messages by virtue of state law.”).

38. *Id.*

39. Josh Mulligan, *Finding a Forum in the Simulated City: Mega Malls, Gated Towns, and the Promise of PruneYard*, 13 CORNELL J.L. & PUB. POL’Y 533, 557–59 (2004) (collecting cases;

stating that 21 states have ruled on the extension of free speech rights onto shopping center property; listing 13 states that have declined to extend free speech rights in this way).

40. *Robins*, 592 P.2d at 341 (Cal. 1979) (allowing individuals to hand out leaflets in the shopping center, based on interpretation of the state constitution), *aff’d sub nom. PruneYard*, 447 U.S. at 74 (1980); *Batchelder v. Allied Stores International, Inc.*, 445 N.E.2d 590 (Mass. 1983) (allowing the gathering of signatures for ballots, initiatives, or referendums); *Alderwood Associates v. Washington Environmental Council*, 635 P.2d 108 (Wash. 1981); *State v. Schmid*, 423 A.2d 615 (N.J. 1980) (upholding the right to distribute leaflets on private university property, under state law); *N.J. Coal. Against War in the Middle E. v. J.M.B. Realty Corp.*, 650 A.2d 757 (N.J. 1994) (upholding right to distribute leaflets in a shopping center, under state law). *See also Wood v. State*, 2003 WL 1955433 (Fla. Cir. Ct. 2003) (precluding the use of trespass laws to prevent

political speech).

41. *New Jersey Coalition*, 650 A.2d at 757; *see also Gregory C. Sisk, Uprooting the PruneYard*, 38 RUTGERS L.J. 1145, 1205 (2007) (providing an extensive policy critique of *PruneYard*); Gregory C. Sisk, *Returning to the PruneYard: The Unconstitutionality of State-Sanctioned Trespass in the Name of Speech*, 32 HARV. J.L. & PUB. POL’Y 389, 392 (2009) (pointing out that New Jersey has extended *PruneYard* rights to private universities, private residential communities, and private residential buildings).

42. *See generally* Second Life—Economic Statistics, http://secondlife.com/whatis/economy_stats.php (last visited Dec. 5, 2008) (claiming to have 16,676,340 users, with 517,237 logged in during the preceding seven days); Blizzard Entertainment—Media Alert, “World of Warcraft Subscriber Base Reaches 11.5 Million Worldwide,” www.blizzard.com/us/press/081121.html (last visited Mar. 23, 2009) (claiming 11.5 million users of World of Warcraft, as of Dec. 23, 2008).

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only identified in the original complaint by the name of his avatar.⁷ Game-based worlds raise different questions. For example, the company that runs World of Warcraft recently won a \$6 million victory at the trial court level (presently slated for appeal) against a player who wrote and sold software that automated game play in arguable violation of World of Warcraft’s terms of service.⁸

Although virtual law is not as new a field as it was in 2008 when the first edition of *Virtual Law* was published, there are still many more questions than answers. Will a real-world lawsuit help clarify the status of digital property? Will criminal charges result from in-world activity? Will someone’s in-world private legal system become the de facto dispute resolution standard? Will attorneys practicing law in-world get in trouble with real-world ethics bodies? Will someone bring a civil suit for emotional distress inflicted by an avatar? As more people create avatars and begin using virtual worlds, and as video games introduce virtual goods to the mainstream via ubiquitous social network applications, these

questions will inevitably arise, and virtual law will inevitably become part of the modern legal landscape. ♦

Notes

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Endnotes

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2. Brian Crecente, *Sony Unveils Home*, March 3, 2007, available at <http://kotaku.com/gaming/gdc07/gdc07-sony-unveils-home-242332.php> (last visited Apr. 19, 2010).

3. Matthew Wall, *Virtual Worlds for Kids*

Take Off, Aug. 9, 2007, available at <http://www.guardian.co.uk/technology/2007/aug/09/guardianweeklytechnologysection.internet> (last visited Apr. 19, 2010).

4. *Avatars of Lord Vishnu*, available at <http://www.hindunet.org/avatars/> (last visited Apr. 19, 2010).

5. Linda Zimmer, *Second Life Entertainment Study Released: SL Accounts for More Time than All Other Forms of Entertainment Combined*, July 16, 2007, available at http://freshtakes.typepad.com/sl_communicators/2007/07/second-life-ent.html (last visited Apr. 19, 2010).

6. *Bragg v. Linden Research Inc.*, documents available at http://dockets.justia.com/docket/court-paedce/case_no-2:2006cv04925/case_id-217858/ (last visited Apr. 19, 2010).

7. *Eros LLC v. Doe.*, documents available at http://dockets.justia.com/docket/court-flmdce/case_no-8:2007cv01158/case_id-202603/ (last visited Apr. 19, 2010).

8. *Hernandez v. Internet Gaming Entertainment, Ltd et al.*, documents available at <http://news.justia.com/cases/featured/florida/flsdce/1:2007cv21403/296927/> (last visited Apr. 19, 2010).

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