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## Civil law status of virtual world objects

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STRACT

The article analyzes the problems of determining the legal status of the virtual world and objects in it, examines the theory of virtual property and gives the relationship between property and intellectual property rights to regulate relations arising in the virtual world. The author, on the basis of the analysis carried out, puts forward a proposal on the need to regulate relations in the field of creating computer codes to gain access to the virtual world using intellectual property norms, since the creative work of a person is involved, and to use the norms of property rights in relations of ownership of objects of the virtual world - domain names, URLs (uniform resource locators), websites, email accounts, crypto assets, items (artifacts and enhancements) in online multiplayer games. The author is developing a proposal on the need to supplement the current Civil Code of the Republic of Uzbekistan with a category of virtual property, which certifies the owner's right in relation to the objects of the virtual world. The author studies the theoretical statements of legal scholars regarding the status of virtual property, and comes to the conclusion that relations in the virtual space should be regulated by the norms of intellectual property and property law, while both institutions should not compete and mutually exclude each other, but, on the contrary, regulate in virtual space relationships based on their essence.

**Keywords:** 

virtual property, real world, virtual world, property law, private law, intellectual property, virtual property objects, crypto assets, computer code.

With the emergence and rapid development of information technology, the modern world has divided into two: the real world and the virtual world. [1] For the most part, the existing legal regulations regulate precisely the relations that arise in the real world and can partly [2] be applied to relations in the virtual space.

It is no secret that the current private law originates from Roman private law, where the main private law institutions arose, which include such main and fundamental institutions as persons, property law, law of obligations (institutional system).[3] All other institutions of private law (for example, property law,

inheritance law) follow from the above three institutions.

Since the emergence of Roman private law, the institutions of private law have undergone serious changes, but the foundations of private law (these three institutions) [4] have remained unchanged and were only supplemented by new forms: the development of legal entities in the Middle Ages in connection with the expansion of trade, the emergence of new types of contracts, the development of banks and the emergence of new types of services provided by them, distance relations and others. [5]

The development of technologies and the emergence of a virtual space, the opposite of the real world, requires today to solve important issues related to the regulation of private law relations in this space. [6] The question arises – can we use common tools of private law in relation to the virtual world? If we pay attention to the history of the development and formation of private law, we can say that the newly created relations in this area have always found their place in the system of private law norms (again the same three institutions). [7]

In our opinion, private law relations arising in the virtual world should be regulated precisely by the general rules of private law [8] and only complement the relevant institutions with the necessary set of new tools.

Property interests in virtual worlds flow into the real world, and assets accumulated in this world have value in the real world [9]. Court cases on the ownership of various virtual assets are no longer uncommon in developed countries, and every day thousands of units of virtual property are transferred to the real world for real money. [10]

To determine the legal status of the virtual space and the relations arising in it, it is advisable to first understand what this space is.

Virtual space does not exist by itself, since there is no cyberspace without appropriate technical means (computer, electronic network) [11]. Here information is expressed in a special programming language and is represented as sets of zeros and ones (bits), that is, we are talking about digital technologies (codes), with which we get into the virtual world. [12]

Some modern legal systems even give a legal interpretation to the concept of the virtual world. An example of what has been said may be the US Supreme Court's definition of virtual space as a unique medium, known to its users as cyberspace, which is not located in a certain territory, but is accessible to everyone anywhere in the world via the Internet.

N.N. Teleshina compares virtual space with information space and comes to the conclusion that the second concept is much broader, since, along with the relations arising about the use of computer and other electronic networks, it also includes other relations, for

example, about the formation and functioning of archives, libraries, databases and banks data.

In the Russian language, the word "virtual" has four meanings: in the everyday sense – the opposite of the real, an illusion, something impossible or imaginary; in the philosophical sense - a possible, but not actual existence; from the point of view of computer science – digitally stored as software, database, hypertext, etc.; that, what is generated by the computer. [13]

That is, a virtual space cannot exist by itself. To begin with, you need to create a material object (computer) and, when using it, already enter the virtual space, usually using the Internet [14]. Thus, the virtual space is generated with the help of an object of the material world, which is also an object of private law (the institute of real law).

If we proceed from the concept of the extension of private law institutions to the technologies with which the virtual space is created, [15] then we must solve the problem of using a specific institution of private law in relations arising within the virtual space.

Most of the computer code is just one step away from a pure idea. It is uncompetitive; that is, using the code by one person does not deprive another person of the opportunity to use it. [16] Such code is protected by intellectual property law. Intellectual property protects creative interest in non-competitive resources. If intellectual property did not exist, the creators would not be able to reimburse the costs of creating objects.

But there is another kind of code that is rarely discussed in the technical or legal literature. This code looks more like land or movable property than ideas. It permeates the Internet and includes many of the most important online resources. Often such code makes up the structural components of the Internet itself [17]. Domain names, URLs (uniform resource locators), websites, email accounts, crypto assets, items (artifacts and improvements) in multiplayer Internet games are all examples of the second type of code. They're competing. If one person owns them and controls them, others don't have access to it. Unlike the software on our computer, they do

not disappear when the computer is turned off, and such code is called "virtual property". [18]

However, there is a problem. In general, many law enforcement agencies continue to manage virtual property with the help of intellectual property law. Even where there has been some recognition that virtual property is somehow "different", no clear formulation of this distinction has been proposed [19]. As a result, intellectual property rights holders systematically eliminate emerging virtual property rights using contracts called end-user license agreements. Despite the existence of such agreements, there is no clear protection of property rights in the virtual world. That is, the owner of the code can restrict the use of the object in the virtual world by the user. [20]

Common ownership works to ensure proper use of resources. If a general theory of virtual property is not developed, then relations in this area will not be regulated at the proper level, which is why it is so important that we have a theory of virtual property. For example, a key step in the development of the Internet was the adoption of the ownership regime in the form of the International Corporation for Assigned Names and Numbers International Corporation for Assigned Names and Numbers "ICANN"), an organization that acts as an Internet address registration system. [21]

The theory of virtual property is crucial to ensure the efficient use of Internet resources, reducing the costs of search and negotiation, which would otherwise prevent the flow of valuable resources to highly efficient use. [22]

The theory of virtual property is also important for the future of the Internet. If we protect virtual property, the Internet can become a three-dimensional global virtual environment. The possibilities of medical, commercial, social, military, artistic and cultural development offered by such a virtual environment have just begun to be explored [23]. Thus, we should take care of the protection of virtual property not only because the markets already value it very much, but because we will all value it more because of the potential it offers for the development of society. Finally, the theory of virtual property is important for

maintaining the balance of the law as it adapts to new contexts. [24]

Virtual property is a competitive, persistent and interconnected code that mimics the characteristics of the real world. Virtual property shares three legally characteristics with real-world property: rivalry, persistence and interconnectedness. Based on these general characteristics, virtual property should be treated as real property in accordance with the law. Most of the code is intended to be used exclusively as an uncompetitive resource. Using the code by one person does not prevent another from using it [25]. The lack of competition allows you to create and distribute many perfect copies with almost zero costs. The lack of code competition is a novelty of the Internet, which most of all captured the imagination of legal and public circles in the form of lawsuits against music and movie uploaders, manufacturers of file-sharing software. [26]

Objects and places in the physical world are permanent. For example, a statue can be sculpted only once. After that, it remains in the city square for hundreds of years. Similarly, the code is often made permanent, meaning it doesn't disappear after each use and doesn't run on the same computer. For example, an email account can be accessed from a laptop [27], personal computer, or mobile phone. When the owner of an email account turns off his laptop, the information in this account does not cease to exist. It is stored on the server of her Internet provider.

Objects in the real world are also naturally interconnected. Two people in the same room perceive the same objects [28]. Objects in the real world can influence each other according to the laws of physics. Similarly, code can be made interconnected, so that while one person can control it, others can use it. The value of a URL or email address is not only that the owner can control it; the value is that other people can connect to it and use it [29]. They may not be able to manage it without the owner's permission, but, as in the case of real estate in the real world, with the owner's invitation, they can interact with it. [30]

By now, we have seen that many important online resources have nothing to do with intellectual property. On the other hand, these resources were designed to have legally significant characteristics of immovable and movable property [31]. This makes common ownership an obvious possible source of law for these resources. The critical question is whether the law of property can contribute anything useful to the regulation of intangible assets, such as virtual property. [32]

Property theory studies how limited resources should be used. However, it is not obvious that Internet resources are limited. Cyberspace is infinite or practically infinite. People can create more space for themselves [33]. Since Internet resources do not seem to be scarce, property theorists (unlike intellectual property researchers) today say little about the code. But even where there is a lot of space, people can still block each other so that they don't work productively. Mutual exclusion from the use of resources creates the same acute problem as the usual history of resource shortages. [34]

In the context of virtual property, the corresponding useful unit is the code itself. Since the virtual property acts as a single entity only at the code level, the corresponding package of ownership rights also appears at the code level [35]. This right matters. And it can be sold. For example, if you sell an address on the Internet, you are not selling the physical computers on which it resides. If you transmit an email address, you are not transmitting your personal computer [36]. The correct code is what is important, regardless of what system or movable it works on. So, when we consider the question of where to share ownership rights on the Internet, we will preserve useful packages of rights by granting rights to virtual property at the code level. Therefore, it is proposed to recognize ownership rights at the code level for virtual property. And accordingly, the question arises – if the code is property, that is, it acts as an object of civil law, then what kind of property does it belong to - movable or immovable? Some scientists are inclined to the theory of movable property of property rights on the Internet. [37]

If we are talking about the fact that a person owns an account in the Zoom program and pays a certain amount of money monthly for its use, then the person is entitled to use this account and invite a certain number of users to his "room" for a meeting to conduct an online conversation [38]. At the same time, this person owns the account in the virtual world, regardless of the intellectual property embedded in the base code. [39]

In the event of a dispute over the use of virtual property, the courts of the Republic of Uzbekistan would refuse to consider a claim for virtual property only because there is no law regulating it. [40] Cases of the application of property rights to the Internet are becoming more and more frequent in the modern world. To resolve these cases, the courts must have a clear rationale for what the property law will do in virtual spaces. Moreover, as we have found, the problems of virtual property are quite well solved by the rules with which the courts are already familiar.

There is an even stronger argument in favor of solving the issues of distribution of use on the Internet with reference to common ownership. Contract and property have evolved to balance each other. The law of the contract allows the parties to realize the value of personalized utility in the form of transactions. The law of property restricts this ability insofar as it blocks high-value property for low-value use. [41]

If we talk about the legal nature of the virtual space, it should be stated that relations in the virtual space should be regulated by private law, but the question of which institution remains open. [42] In this sense, it is appropriate to consider the option of regulation through the institution of intellectual property or property law. That is, the virtual space that arises on the basis of a special computer code must belong to someone's property - the institute of real law. And public and multi-user codes without competition should be regulated by the Institute of intellectual property. At the same time, everything that is created on the basis of these codes (certain virtual objects) should be subject to the regulation of property law (ownership of virtual things). [43]

In addition, it is necessary to note the role of intellectual property in virtual property. One extremely important caveat: the recognition of virtual property rights does not mean the destruction of intellectual property. The owner of the virtual property has no right to copy it. [43] We instinctively and logically understand that the ownership of a thing is always separate from the ownership of intellectual property embedded in the thing. The ownership of the book is not the intellectual property of the novel written by the author. The buyer of the book owns a physical book, nothing more.[45] The ownership of the CD is not the intellectual property of the music. The music buyer owns this copy of the music, nothing more. Similarly, the ownership of virtual property does not threaten the intellectual property interests belonging to the creator of the property. The owner of the virtual property has the same rights as the owner of the book.

Thus, intellectual property should not conflict with virtual property. In fact, these two institutions, if well balanced, will complement each other. In developed legal systems, there are already successful regimes that balance these interests. The first sale doctrine, for example, minimizes transaction costs by including the value of future sales in the value of the product at its first sale.[46] Thus, the creator of intellectual property does not track a long chain of potential subsequent sales. Similarly, virtual property will increase the value of intellectual property. Take websites for example: clear rights to websites have contributed to serious commercial investment in content websites.[47] This clearly benefits content creators. Property in the virtual world has real value in the sense that the creator of the software that creates the virtual world underlying virtual property will make a profit.[48] Thus, the value of intellectual property is not a reason for renouncing the rights of virtual property.

Based on the conducted research, the following conclusions and suggestions were developed:

1. Virtual space does not exist by itself, it is created by man with the help of objects of the material world, and accordingly, with respect to ideas, we use intellectual property norms (computer code), and to regulate relations between persons in created virtual worlds (idea) and emerging relationships about virtual objects, a proposal is put forward to regulate their norms property rights (property rights).

- 2. The most common objects in the virtual space are domain names, URLs (uniform resource locators), websites, email accounts, items (artifacts crypto assets. and improvements) in multi-user Internet games, which act as a set of codes (bits - zeros and ones), namely data codes form the basis of virtual objects. The idea of creating such an institution of private law in the legislation of the Republic of Uzbekistan as virtual property and making appropriate amendments and additions to the current Civil Code of the Republic of Uzbekistan is put forward.
- 3. Many developed legal systems still regulate relations from virtual property by the norms of intellectual property laws, which is erroneous and leads to a large number of disputes between users and developers. Therefore, it is necessary to differentiate relations in cyberspace.
- 4. Virtual space actually has no borders and excludes any competition in relation to its use, as opposed to, for example, with land plots (the real world), which are limited, which creates the basis for establishing ownership rights in relation to limited resources. However, in cyberspace, there is the possibility of blocking users (restricting access to the use of a virtual object), which already creates an atmosphere of competition over the ownership of an intangible good and requires the establishment of ownership rights over a virtual object.
- 5. The introduction of the institute of virtual property into private law in no way infringes the intellectual property right, since the virtual owner owns a specific virtual object created on the basis of the creative activity of a person, in respect of which the intellectual property is distributed. That is, the virtual owner's right to a virtual object is no different from the ownership of a book, and intellectual property extends to the person who created the virtual object or book.

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