



CIVIL LAW STATUS OF VIRTUAL OBJECTS AND THEIR REFLECTION IN THE NEW CIVIL CODE OF THE REPUBLIC OF UZBEKISTAN

Эгамбердиев Эдуард Хажобаевич

Associate Professor of the Department of Civil Law

Tashkent State Law University, Doctor of Philosophy (PhD) in Legal Sciences

Annotation

The article analyzes the problems of determining the legal status of the virtual world and objects in it, discusses the theory of virtual property and gives the relationship between property rights and intellectual property to regulate relations arising in the virtual world. The author is developing a proposal on the need to supplement the draft of the new Civil Code of the Republic of Uzbekistan with the category of virtual property, certifying the right of the owner in relation to the objects of the virtual world.

Keywords: virtual property, virtual world, computer code, private law, property law.

With the emergence and rapid development of information technology, the modern world has divided into two: the real world and the virtual world. For the most part, the current legal orders regulate relations that arise in the real world and can be partially applied to relations in the virtual space.

It is no secret that today's 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). All other institutions of private law (for example, the right of ownership, inheritance law) stem 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) have remained unchanged and have only been 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.

The development of technologies and the emergence of a virtual space opposite to the real world today requires solving important issues related to the regulation of private law relations in this space. The question arises – can we use the 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).

In our opinion, private law relations that arise in the virtual world should be regulated precisely by the general rules of private law and only supplement the relevant institutions with the necessary set of new tools.

A number of scientific works of Uzbek civil scientists are relevant in this area, among which should be highlighted O. Okyulov [1], N.F. Imomov [2], D.M. Karakhodjaeva [3-8, 12], L.M. Burkhanova [7-10, 12], B.R. Topildiev [11], U.Sh. Sharakhmetova [12, 13], K.M. Mehmonov [14-17] and others.

Property interests in virtual worlds flow into the real world, and assets accumulated in this world have value in the real world. Court cases of 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.

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

Most of the computer code is just one step away from a pure idea. It's not competitive; that is, one person's use of code does not deprive another person of the opportunity to use it. Such code is protected by intellectual property law [18]. Intellectual property protects the 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 [19]. But there is another kind of code that is rarely discussed in the technical or legal literature. This code is 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. Domain names, uniform resource locators, websites, email accounts, crypto assets, items (artifacts and enhancements) in multiplayer Internet games are all examples of the second type of code. They compete. If one person owns and controls them, others do not 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".

In general, many legal orders continue to govern virtual property through intellectual property law. Even where there has been some recognition that virtual property is somehow "different," no clear articulation of this distinction has been proposed. As a result, holders of intellectual property rights systematically eliminate emerging rights to virtual property by using contracts called end-user license agreements. [20] 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.

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

Virtual ownership theory is critical to ensuring the efficient use of Internet resources, reducing search and negotiation costs that would otherwise discourage the flow of valuable resources to highly efficient use.

Virtual property theory is also important for the future of the Internet. If we protect virtual property, the Internet could become a three-dimensional global virtual environment. The medical, commercial, social, military, artistic and cultural development opportunities offered by such a virtual environment have only just begun to be explored. Thus, we must take care to protect 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 equilibrium of the law as it adapts to new contexts. [21]

Virtual property is a competitive, permanent, and interconnected code that mimics the characteristics of the real world. Virtual property shares three legally relevant characteristics with real-world property: rivalry, perseverance, 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 solely as an uncompetitive resource. One person's use of code doesn't stop another from using it. The lack of competition allows you to create and distribute many perfect copies at almost zero cost. The lack of code competition is a novelty of the Internet that has most captured the imagination of legal and public circles in the form of lawsuits against music and film downloaders, manufacturers of file-sharing software. [22]

Objects in the real world are also naturally interconnected. Two people in the same room perceive the same objects. 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 meaning of a URL or e-mail address is not only that the owner can control them; the value is that other people can





connect to it and use it. They may not be able to manage it without the owner's permission, but as with real-world real estate, with the owner's invitation, they can interact with it.

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

Property theory studies how limited resources should be used. However, it is not obvious that the resources of the Internet are limited. Cyberspace is infinite or virtually infinite. People can create more space for themselves. Because Internet resources don't seem scarce, property theorists (as opposed to intellectual property researchers) don't say much about code today. [23] But even where there is a lot of space, people can still block each other out 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 scarcity.

In the context of virtual property, the corresponding useful unit is the code itself. Because virtual property acts as a unit only at the code level, the corresponding ownership package also appears at the code level. That right matters. And it can be sold. For example, if you sell an address online, you're not selling the physical computers on which it resides. If you provide an email address, you are not transferring your personal computer. The right code is what's important, no matter what system or movability it's running on. So, when we consider where to divide ownership on the Internet, we will preserve useful rights packages by granting virtual property rights at the code level. Therefore, recognition of ownership rights at the code level for virtual property is proposed. And accordingly, the question arises - if the code is property, that is, it acts as an object of civil law, then to what type of property does it belong - movable or immovable? Some scholars are inclined to the theory of movable property property rights on the Internet [23, 24].

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





If a dispute arises 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.

Cases on the application of property rights to the Internet are becoming an increasingly frequent phenomenon in the modern world [25]. To resolve these cases, 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 rules that courts are already familiar with.

In addition, the role of intellectual property in virtual property should be noted. One extremely important caveat: the recognition of virtual property rights does not mean the destruction of intellectual property. The owner of the virtual property does not have the right to copy it. We instinctively and logically understand that owning a thing is always separate from owning intellectual property built into a thing. The ownership of the book is not the intellectual property of the novel written by the author. The buyer of the book owns the physical book, nothing more. Ownership of a CD is not an intellectual property of the music. The music buyer owns that copy of the music, nothing more. Similarly, the ownership of virtual property does not threaten the intellectual property interests owned by the creator of the property. The owner of the virtual property has the same rights as the owner of the book. [26]

Thus, intellectual property should not conflict with virtual property. In fact, these two institutions, if well balanced, will complement each other. In the developed rule of law, there are already successful regimes that balance these interests. The doctrine of the first sale, for example, minimizes transaction costs by including the value of future sales in the cost of a good when it is first sold. [27] Thus, the creator of intellectual property does not track the 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 facilitated a serious commercial investment in content for websites. This clearly benefits content creators. Property in the virtual world has real value in the sense that the creator software that creates the virtual world underlying virtual property will make a profit. Thus, the value of intellectual property is not a reason to waive virtual property rights.

Thus, virtual space does not exist by itself, it is created by man with the help of objects of the material world, and accordingly, in relation to ideas, we use the norms of intellectual property (computer code), and to regulate relations between persons in the created virtual worlds (idea) and the relations that arise regarding virtual objects, a proposal is put forward to regulate them with the norms of property law (property rights).





Virtual space actually has no boundaries and excludes any competition in relation to its use, as opposed to, for example, land plots (real world), which are limited, which creates the basis for establishing ownership rights in relation to limited resources. However, in cyberspace, it is possible to block users (restrict 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 of a virtual object.

The introduction of the institution of virtual property into private law in no way infringes on the right of intellectual property, since the virtual owner owns a specific virtual object created on the basis of the creative activity of a person, in respect of which intellectual property is distributed. That is, the right of the virtual owner to the virtual object is no different from the ownership right to the book, and the intellectual property extends to the person who created the virtual object or book.

Based on the above analysis, it is proposed to supplement the draft of the new Civil Code of the Republic of Uzbekistan with a norm providing for the recognition of the right of ownership of virtual objects as intangible things along with other material things.

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