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Book Review: State of Play

by Jim Sherwood

With increasing availability of broadband internet connections, virtual worlds are flourishing. The subscriber base for World of Warcraft, a fantasy-based online role playing game, has reached over 7.5 million. [Blizzard Entertainment—Press Release, BLIZZARD.COM, Nov. 9, 2006](#). Second Life, which is more of a virtual community than an online game, has over 2.6 million residents. [Second Life—Economic Statistics](#). Subscribers, however, do more than play games; in most virtual worlds, they take part in complex virtual economies. In fact, it has been estimated that over \$1 billion were spent on virtual goods last year. See [Robert D. Hof, My Virtual Life, BUSINESSWEEK, May 1, 2006](#).

As virtual worlds such as Second Life and World of Warcraft continue to grow and play a larger role in people's real-world lives, we will also inevitably see the real world play a larger role in people's virtual lives. Two stories from Second Life and World of Warcraft animate this.

In November 2006, Ashne Chung became the first virtual millionaire after developing a portfolio of "virtual real estate that is equivalent to 36 square kilometers of land." [Press Release: Anshe Chung Becomes First Virtual Millionaire, ANSHECHUNG.COM, Nov. 26, 2006](#). The assets may be virtual—in the sense that they only exist in the virtual world Second Life—and Ashne Chung may be virtual (Chung is merely a Second Life "avatar"), but the monetary value, however, is very real to Chung's real-world creator, Ailin Graef. Chung's in-game assets are worth over \$1 million (real U.S. dollars, not virtual money), and her business model (or Graef's business model rather) grabbed the attention of BusinessWeek magazine, which recently featured Chung on its cover. [Cover Image: Virtual World, Real Money, BUSINESSWEEK, May 1, 2006](#). The creators of Second Life have no problem with Graef/Chung breaking what might described as a virtual fourth wall; instead, they encourage it by


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permitting its in-game virtual currency to be exchanged for real-world currency.

Not all virtual-world designers, however, strive for the same compatibility between virtual- and real-world activities: Blizzard Entertainment, the creator of World of Warcraft, has sought more control over its virtual world. In June 2005, Michael Donnelly, a third-party developer, released a program called [WoW Glider](#), “a tool that plays your World of Warcraft character for you.” Blizzard viewed this as a threat to the integrity of its game, and in October 2006, a private investigator, a Blizzard official, and a Blizzard lawyer arrived at Donnelly’s apartment, threatening to sue him under the DMCA if he did not remove WoW Glider from his website—hardly a virtual confrontation. [Blizzard Lawyers Visit Creator of WoW Glider, SLASHDOT.ORG, NOV. 18, 2006](#). Donnelly responded by contacting his lawyer and filing a [motion for a declaratory judgment](#) against Blizzard.

How should we deal with the real world bleeding in to the virtual world (or in some instances the virtual world bleeding in to the real world)? In *The State of Play: Law, Games, and Virtual Worlds*, Professors Jack Balkin and Beth Simone Noveck have brought together an array of virtual-world-savvy professionals to initiate a discussion on legal and social issues that will influence the development of virtual worlds. The two editors have assembled articles from a number of authors with varying backgrounds to tackle several issues stemming from the growth of virtual worlds.



First, Richard Bartle, Raph Koster, Edward Castronova, and Jack Balkin contribute articles addressing the interface (or the separation) of real-world law and virtual worlds. Bartle—codesigner of the first virtual world, Multi-User Dungeon (MUD)—argues for strong deference to designers, thereby leaving regulation to the market; if designers were denied absolute control, “the virtual world would be just another extension of the real world.” Raph Koster, the lead designer for Ultima Online, proposes a declaration of rights for players, but he does so more as a mental exercise, or even a guide for game designers. (By design, Koster’s declaration has all of the internal inconsistencies that we are used to seeing in a legal document.) Economist Edward Castronova proposes a legal mechanism, which he dubs *interration*, for achieving Bartle’s vision of strong designer control (while protecting “humanity’s right to play”!). By granting legal rights to fictional land, *interration* would be the virtual world analog of incorporation, which gives legal status to fictional people. Under his Law of Interration, virtual worlds would be open (subject to real-world law) or closed (fully governed by an end-user license agreement). For a virtual world to be “preserved as play space” (i.e. considered a closed world), the virtual world would need to conform to certain standards (such as maintaining a separate economy) to maintain its privileged status. Professor Balkin takes this idea of *interration* slightly further, suggesting that states could offer virtual worlds the ability to *interrate* in exchange for assurances that virtual worlds will protect players’ interest in free speech and privacy (and other liberty or property interests). He also suggests that, although the game designers are private actors, constitutional provisions (state or federal) could apply to virtual

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worlds, to the extent that they apply to corporate municipalities and shopping centers.

Next, several authors address players' real-world property interests in their virtual property. Generally, EULAs stipulate that the game owners retain the rights to any virtual property, but there are exceptions. Second Life for instance allows players to retain any copyrights or trademarks that their in-world creations may merit. Professors Lastowka and Hunter explore the possibility of virtual crimes (such as theft of virtual property) being prosecuted. Journalist Julian Dibbell writes of how his experiences as a professional gold farmer changed his view on EULAs, from always evil to generally evil unless renegotiated to address players' concerns. (As a side note, Dibbell titled his article *Owned!*, but if I recall my [133t](#) lessons correctly, he meant *Pwn3d!*.) Cory Ondrejka emphasizes the potential importance of a free market and proper allocation of intellectual property rights to allow for user creation and innovation; as virtual worlds grow, he writes, a bottom-up, user-based approach to content generation will be necessary as it becomes too burdensome for game designers to create all the content in their virtual worlds. Professor Benkler writes from a slightly different perspective on property, highlighting the importance of the social relations sought to be fostered in the virtual world to determine an appropriate licensing structure for virtual property.


The remaining articles in *State of Play* examine the privacy concerns of virtual worlds, and some further examine the importance of social relations as emphasized by Professor Benkler. All told, the book's collection of essays provide a solid foundation for addressing issues raised by the increasing role of virtual worlds in people's lives. The main shortcoming of the book is its focus on broad issues, rather than more specific issues (lawsuits under the DMCA for instance), but this is to be expected with a book on the cusp of change, since many of the specific issues have yet to fully develop.

For those interested in this developing area of law, New York Law School will be hosting its State of Play conference this spring. The conference had been scheduled to take place January 7-9 this year but has been postponed. For further details, see <http://www.nyls.edu/pages/2396.asp>.

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Some interesting follow-up activity regarding the real/virtual world interface. eBay has decided to exempt Second Life from it's prohibition of auctions of virtual items. There is an article on this here:

<http://blog.auctionbytes.com/cgi-bin/blog/blog.pl?pl/2007/1/1170127249.html>

Second, a commentator has compared Second Life's economy to a Ponzi scheme:

http://randolfe.typepad.com/randolfe/2007/01/secondlife_revo.html

In response to this, one of the State of Play contributors, Edward Castronova, has blogged a reply defending the virtual economy of Second Life:

http://terranova.blogs.com/terra_nova/2007/01/sl_economy_misu.html