Virtual Justice

Recent scholarship on virtual worlds often takes one of two approaches. Some scholars begin with traditional doctrinal frameworks, pointing out the problems of fit between the existing law and its contextual application to virtual worlds. Other attempt to start from scratch, focusing on baseline concerns such as governance and the rule of law. They often explore the way in which virtual communities create their own private orderings.

This presentation concerns the intersection of these "internal" and "external" rule sets. The recent case of MDY v. Blizzard, now on appeal to the Ninth Circuit, is a perfect example of how an "external" set of rules (copyright and contract law) is being used to enforce an "internal" set of community rules (prohibitions on gold farming and botting). The case demonstrates how laws of property and contract are often used as levers to support new forms of social governance within online spaces.

However, when external legal rules are deployed to meet internal community goals, the results may be counter-intuitive. Within virtual worlds, external legal rules are often "flipped" to support social objectives at odds with the theoretical bases of traditional doctrines. For instance, private contract law in virtual worlds may be used to prevent private contract formation and copyright law may be used to prevent individual creative innovation. To the extent virtual spaces are becoming increasingly important, legal scholars should be cognizant of the manner in which they are inverting the spirit, if not the letter, of the law.


I'd like to talk about chapter 9, which concerns copyright and virtual worlds. One of the main topics in that chapter is the Blizzard v. MDY case, which is discussed here: http://www.eff.org/deeplinks/2009/09/you-bought-it-you-own-it-mdy-v-blizzard-appealed

My pitch is that both the DMCA and RAM-copying claims demonstrate how far copyright's effects in this arena deviate from copyright law's traditional policy goals.