

Age of the Conducer

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The Copyright Balance

Encourage creativity by providing the incentive of exclusive rights to creators

v.

Promote and enable the dissemination of creative works for the public benefit

Tension

- Natural tension:
 - Between exclusive control & access
- Exacerbated **digital** tension:
 - Digital technologies cause a copy to be made as part of their very functioning
 - Digital technologies enable us to manipulate and repurpose content in unprecedented ways

In SL

- This digital tension is ever present in SL because it is our digital playground
- Our chats, our builds, the script that creates the visual representations, the images we see, our avatars, the snapshots we take - all copyrighted, all capable of copying and manipulation

The Rise of the Conducer

- Virtual worlds give us a new genre of experience
 - Production and consumption become synonymous
 - We as consumers acquire a piece of entertainment in order to produce our own entertainment
- A hybrid emerges - the **conducer**

The Question

Who owns this creativity?

The Different Spaces of Virtual World

- A topography of space
 - A set of pre-determined constraints created by the original developer
- A possibility space
 - A set of variables within which we choose and create our own experience

What is authorship?

- Copyright protection
 - Attaches to original, creative works
 - Is enjoyed by the first author
- Virtual worlds:
 - Original developer sets out the *topography space*
 - Participants experience and create the *possibility space*
- Which space does copyright law recognize as authorship?

Video Games Cases

- US court cases in the early 1980s considered the issue of copyright and video games
- Not directly analogous
 - Technology more limited
 - Disputes between commercial video game providers, not between the provider and participants
- But interesting nonetheless....

Midway Manufacturing

“Playing a video game is more like changing channels on a television than it is like writing a novel or painting a picture...[the player] is unlike the writer or the painter because the video game in effect writes the sentences and paints the painting for him; he merely uses one of the sentences stored in its memory, one of the paintings in its collection.”

Stern Electronics v. Kaufman

- Defendant company argued that plaintiff company did not own copyright in their game because of gamer participation
- Court rejected this:
 - Several aspects of the user experience that remain constant
 - These aspects may not be seen and heard each time the game is played
 - But these aspects are stored and capable of being seen - they are copyrightable works, owned by the original developer

Court Focus

- Both courts focused on the topography of space and hung copyright protection on this space
- Dismissed the experiences in the possibility space
 - Participants are not real authors or painters
- The technology has changed...**but...**

Open Question

- It is an open question whether a court would recognize participants' creativity in the possibility space as being copyrightable by the participant
- A court could hold that participant creativity is simply a derivative work based on the original developer's copyright
- Most developers of virtual worlds claim to own the rights to all that happens *in world* and, sometimes, what happens *out of world* in relation to *in world* experiences

SL Recognizes the Conducer

- SL's ToS acknowledges that participants can own the IP rights to their creations
- SL recognizes the role that participants play in creating and breathing life into the world
- And the happy consequence of that is that you can © license your creativity

What is Creative Commons Licensing About?

- Giving individual creators a simple way to manage their rights
- Enable more flexible use of copyrighted works
- CC's license generator has been brought in world thanks to Zarf Vantongerloo

Overview of CC Licenses

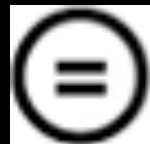
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Questions? Discussion?