

# Trade Marks and Visual Replicas of Branded Merchandise in Virtual Worlds

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LT Computer games; Infringement; Trade marks

The advent of computer games in everyday lives of millions of people around the globe passed almost entirely unnoticed by legal scholars—at least outside the comparatively narrow fields of copyright protection for game designers<sup>1</sup> and, slightly later, the legal concerns about violence in video games.<sup>2</sup> Initially, this attitude did not seem to change with the arrival of massively multiplayer online games (MMOG)<sup>3</sup> that were perceived by many as just another game—fun but pointless and, in a sense, childish. Legal writings about this phenomenon still tend to begin from an attempt to persuade the unaware reader of the importance of this technology.<sup>4</sup> Nevertheless, by 2007 virtual worlds seem to have established a very persuasive case for themselves,<sup>5</sup> and are now constantly attracting a scholarly attention from an ever-expanding circle of social science and legal researchers.

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<sup>1</sup> See, e.g. Marilyn A. Brody, "Copyright Protection for Video Games, Computer Programs and Other Cybernetic Works" (1982–1983) 5 *Comm. Ent. L.S.* 477; Jeffrey B. Mahan, "Federal Copyright Law in the Computer Era: Protection for the Authors of Video Games" (1983–1984) 7 *U. Puget Sound L.Rev.* 440.

<sup>2</sup> See, e.g. Matthew Hamilton, "Graphic Violence in Computer and Video Games: Is Legislation the Answer?" (1995–1996) 100 *Dick. L.Rev.* 181.

<sup>3</sup> Hereinafter I shall call these "virtual worlds", although authors offered many terms, "immersive virtual environment", "synthetic world", "proskenion", "hyperstage", "metaverse", etc. See Edward Castronova, *Synthetic Worlds: the Business and Culture of Online Games* (University of Chicago Press, 2005), p.10.

<sup>4</sup> See, e.g. Neal Feigenson, "Too Real? The Future of Virtual Reality Evidence" (2006) 28 *Law & Policy* 271.

<sup>5</sup> It is difficult to offer as good an argument here as it was already done before; I would refer those in need of persuasion after reading this article to the excellent book by Castronova, *Synthetic Worlds: the Business and Culture of Online Games* (2005).