Université de Montréal

**The Laws of *Britannia*: an application of Lessig's framework
to a virtual community**

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Résumé

Internet était initialement perçu comme un espace anarchique dont la nature voulait que toute réglementation y était non seulement inutile mais également futile. Or, selon LESSIG, le cyberespace n'a aucune nature. Il est une création de l'homme et peut donc être transformé par lui. En effet, suite aux modifications que le commerce y a effectuées, Internet devient un endroit de réglementation hautement efficace.

Ultima Online est un jeu en ligne dont les abonnés constituent une véritable communauté ayant dû faire face à plusieurs problèmes inattendus. Ainsi, c'est un environnement idéal pour explorer le cadre proposé par LESSIG.

En effet, les créateurs d'*Ultima Online* emploient les éléments de contrainte de LESSIG, soit la loi, le marché, les normes sociales et l'architecture, pour contrôler le comportement des joueurs. Cependant, quoique la réglementation par l'architecture semble d'abord être immuable, les joueurs d'*Ultima Online* ont trouvé des moyens de l'éviter et de la modifier.

Mots clés :

Abstract

The Internet was at first considered a lawless space where regulation was not only unnecessary but also futile. Its nature was to be unregulable. According to LESSIG, this is mistaken. Cyberspace has no nature. It is man-made and as such can be made into whatever man wants. Indeed, through commerce's modification of the Internet's architecture, it has started to become a place of highly efficient regulation.

Ultima Online is an online game whose close to 250 000 subscribers constitute a veritable community that has had to face many unexpected problems. Thus, it is an ideal environment in which to explore LESSIG's framework for cyberspace regulation.

Indeed, *Ultima Online*'s designers use each of LESSIG's four elements of constraint, the law, the market, social norms and architecture, to control player behavior. However, although architectural regulation can at first seem immutable, *Ultima Online* players have found ways to circumvent and modify it.

Keywords:

Cyberspace, Internet, Lessig, online games, regulation, regulation through architecture, virtual environments.

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Acronyms and abbreviations

GM: Game Master

IRC: Internet Relay Chat

ISP: Internet Service Provider

MUD: Multi-User Dungeon

MMORPG: Massively Multi-Player Online Role-Playing Game

NPC: Non-Player Character

PK: Player Killer

TCP/IP: Transmission Control Protocol / Internet Protocol

Introduction

Many initially touted the Internet as being the last bastion of liberty on account of the anonymity and of the freedom of expression it allows. Others warned of the lawlessness of this second apparition of the Wild West. However, both sides agreed that the Internet was beyond the scope of any one government's regulation. In an immaterial environment where borders not only do not exist but also have no meaning, we were back to a state where survival would belong to the fittest.

Except that this interpretation of cyberspace was mistaken. While most were busy celebrating or condemning the Internet's nature, which made it impossible to regulate, it took on an Orwellian character. From an environment of complete freedom, it became a place that could be regulated with great accuracy.

Legal scholars have somewhat followed this trend. The question of how to regulate the Net has been present in legal circles since its beginnings. As perceptions of cyberspace changed, so did the theories regarding its legislation. While not the first to do so, Lawrence LESSIG spoke of the Net's architecture and how it has been modified in order to allow better control of online behavior. His exposé will be our basis for looking at the virtual environment of *Ultima Online*. Indeed, as we will see, this artificial environment constitutes a true online community that has had to contend with many unanticipated problems, making it an ideal place to further explore LESSIG's framework.

The first chapter of our paper will concentrate on the evolution of cyberspace regulation theory (**I**). We will first examine the different authors who wrote on the subject of regulation of the Internet before professor LESSIG (**A**) and will then focus on the writings of the latter (**B**).

In a second chapter, we will turn our attention to *Ultima Online* itself (**II**), by first looking at virtual environments in general and *Ultima Online*'s place among them (**A**) followed by an examination of its technical aspects (**B**) and, finally, by a detailed description of the environment itself (**C**).

Our third chapter is devoted to the regulation within *Ultima Online* (**III**). It is here that LESSIG's framework will be of particular relevance as we will be looking at the role of the Law (**A**), of the market (**B**), of social norms (**C**) and of architecture (**D**) in the regulation of player behavior.

Finally, a last chapter (**IV**) will have us examining the different ways players modify (**A**), circumvent (**B**) or use off-line means of changing regulation (**C**).

I. Regulating cyberspace: from impossible to unavoidable

A. Pre-Lessig theories of cyberspace regulation

Initially, many had a utopian view of the Internet without seeing how gaudy it could become. There was a certain romanticism to the idea that all the information sharing and cooperation it was allowing would lead to an environment characterized by respect and self-regulation that would make government interference unnecessary. The idea was even more seductive at the end of the 20th century when so many people were blasé with governments and politics in general. Moreover, the lack of national borders on the network was perceived as meaning that even if governments legislated, their legislation would be ineffective since the absence of physical location would render any attempt to enforce rules futile.

However, the libertarian view of this new medium as a sphere of activity that was immune to government regulation[1] was prevalent at a time when the network was still the "information highway" and not the shopping mall it has become. Today, most authors generally recognize this immunity to be a myth and offer different theories of cyberspace regulation

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[1] James BOYLE refers to the idea that state legislation would be ineffective because prevented by "the technology of the medium, the geographical distribution of its users, and the nature of its content" as a "tripartite immunity". James BOYLE, "Foucault in Cyberspace: Surveillance, Sovereignty and Hard-Wired Censors", 1997, <http://www.wcl.american.edu/pub/faculty/boyle/foucault.htm>.

1. John Perry Barlow: the libertarian perspective

As one of the great representatives of the libertarian position, John Perry BARLOW[2] never actually gave us a theory on regulating cyberspace. However, his contribution to the way we view the Internet has had a direct impact on our views of how to regulate it. As such, his legacy cannot be ignored, if for no other reason than he is the first to use the term "cyberspace" to designate the network of networks[3].

Indeed, in "Leaving the Physical World"[4], a document prepared in view of the Conference on HyperNetworking, BARLOW explains how he realized that the network of computers that he had been introduced to was actually the "Cyberspace" that William GIBSON had wrote about in Neuromancer[5]. It is said that the term was used to designate the Internet for the first time by BARLOW in 1990[6] and that "[u]ntil his naming it, it had not been considered any sort of place"[7].

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[2] John Perry BARLOW's web page can be found on the web site of the Electronic Frontier Foundation at <http://www.eff.org/~barlow/barlow.html>.

[3] John Perry BARLOW, "Leaving the Physical World", for the Conference on HyperNetworking, Oita, Japan, date unstated, <http://www.eff.org/Publications/John_Perry_Barlow/HTML/leaving_the_physical_world.html>

[4] Ibid.

[5] The term "Cyberspace" was coined by William GIBSON in his novel Neuromancer, New York: Ace Books, 1984.

[6] J. P. BARLOW's web page, supra note 2.

It is also to BARLOW that we owe the "Declaration of Independence of Cyberspace"[8], which he authored in response to the signing into law of the Telecommunications Act of 1996[9]. In it he refers to a "global social space" as he talks in the name of a clique, those of the "future" who have no government and do not wish to elect one. He speaks of "us" and "our world" and, of course, of cyberspace. He says "Our world is different" and "our governance will emerge" and tells governments that, not only are they "not welcome", but also that they cannot impose their legislation on "us".

According to the information posted on his Web page, said Declaration has been copied on at least 20,000 sites. It is a document whose vocabulary is charged with conceptual views of this new communications medium and, through its widespread distribution, could not do otherwise than to impress the minds of the myriad of people who have read it. The use of territorial and group terms to depict the network has left indelible marks on our collective subconscious. The Internet is not perceived as a new medium but as a space whose inhabitants share common values, thus forming a community, a people who have the right to self-determination, who are "(…) forming their own Social Contract"[10].

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[7] Ibid.

[8] John Perry BARLOW, "A Declaration of Independence of Cyberspace", February 8, 1996, <http://www.eff.org/Publications/John_Perry_Barlow/barlow_0296.declaration>.

[9] Telecommunications Act of 1996, Pub. LA. No. 104-104, 110 Stat. 56 (1996). A copy of the Act can be found on the web site of the Federal Communications Commission at <http://www.fcc.gov/telecom.html>.

[10] J. P. BARLOW, "A Declaration of Independence of Cyberspace", supra note 8.

Many before BARLOW espoused a libertarian stance with regards to the Internet, stating that governments could not regulate it and that all efforts to do so would be futile. But it is to BARLOW that we owe our representation of the Internet as a space and as a distinct territory from the world we live in, a conception from which many theories of Net regulation follow.

2. David Johnson & David Post: cyberspace as a jurisdiction

Indeed, David R. JOHNSON[11] and David G. POST's[12] theory of cyberspace regulation involves the idea of the Internet as a separate territory from the real world. In their articles, "Law and Borders – The Rise of Law in Cyberspace"[13] and "And How Shall the Net Be Governed? – A Meditation on the Relative Virtues of Decentralized, Emergent Law"[14], they refer to the lack of borders in cyberspace and to the borders that separate it from the "real world". For them, these boundaries are composed of the screens and

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[11] A list of David R. JOHNSON's writings can be found at <http://www.cli.org/DRJ/index.html>.

[12] David G. POST's web page can be found at <http://www.temple.edu/lawschool/dpost/writings.html>.

[13] David R. JOHNSON and David G. POST, "Law and Borders – The Rise of Law in Cyberspace", 48 Stanford Law Review 1367 (1996). A copy is available at <http://www.cli.org/X0025_LBFIN.html>.

[14] David R. JOHNSON and David G. POST, "And How Shall the Net Be Governed? – A Meditation on the Relative Virtues of Decentralized, Emergent Law", Cyberspace Law Institute, September 5, 1996, <http://www.cli.org/emdraft.html>.

passwords upon which entry into cyberspace is contingent to. They also seem to recognize an Internet community, the "Netizens"[15], with their own values.

After having exposed the problems that arise when attempting to apply traditional models of regulation to the Internet, they propose another model that they call "decentralized emergent law". They argue that Net regulation can emerge, in the same decentralized manner as was used to create the actual technical network itself, through the voluntary acceptance of standards derived from the decisions made by Internet actors. Since Netizens have their own values, then it follows that they should be the best suited to know how to regulate activity in cyberspace efficiently and that governments should refrain from legislating.

Their model is therefore one that calls for general non-intervention by governments, without entirely excluding their power to protect their citizens. Instead, regulation of online activity should proceed through some sort of "Net federalism"[16]. Instead of territorially based sovereigns, the entities of this federation would be the Net's various venues, the individual network systems. The actors from whose decisions the standards will stem are the domain name or IP address registrars, system operators and the users themselves. The contracts between users and domain name registrars and those with

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[15] The term was coined by Michael HAUBEN and Ronda HAUBEN in their book Netizens: On the History and Impact of Usenet and the Internet, Los Alamitos, CA: IEEE Computer Society Press, 1997. An online version can be found at <http://www.columbia.edu/~hauben/netbook/>.

[16] D. R. JOHNSON and D. G. POST, "And How Shall the Net Be Governed? – A Meditation on the Relative Virtues of Decentralized, Emergent Law"", supra note 14.

Internet Service Providers can determine the basic rights and obligations of cyberspace actors. Choices made by system operators regarding the networks they will or will not connect to or the filters they will use can determine the standards of wrongful behavior. Finally, users, by the filters they choose to use and the technologies they accept can impose certain principles.

This, of course, presupposes that users will naturally chose the option that is more congenial. However, users will often chose the easiest way, the more convenient option, without thinking of long-term, or even short-term, consequences. After all, history has shown how easily consumers will give up their privacy, a fundamental right recognized as early as in Ancient Greek and Chinese civilizations and entrenched in the constitution of almost every country[17], in exchange for free goods[18].

JOHNSON and POST therefore propose that governments defer to the self-regulation of these different online entities, that they wait and see what comes of self-regulation before legislating activity "lest they prematurely preempt the growth of what might be the most efficient and empowering form of net governance"[19]. However, as we will see further with LESSIG, by following this

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[17] For an overview of the history of privacy protection see the survey conducted by the Electronic Privacy Information Center (EPIC) and Privacy International, Privacy and Human Rights 2000 – An International Survey of Privacy Laws and Developments, <http://www.privacyinternational.org/survey/>, specifically the section entitled "The Right to Privacy", <http://www.privacyinternational.org/survey/phr2000/overview.html#Heading9>.

[18] For just one example of how easily this sacrifice is made, see Eric LUNDQUIST, "Free PCs Bought with Sacrifice of Privacy", ZDNET, February 15, 1999, <http://techupdate.zdnet.com/techupdate/stories/main/0,14179,389412,00.html>.

[19] D. R. JOHNSON and D. G. POST, "And How Shall the Net Be Governed? – A Meditation on the Relative Virtues of Decentralized, Emergent Law", supra note 14.

hands-off approach, governments have left the way clear for the actors that JOHNSON and POST omit in their list of Internet participants: corporations.

They do mention the effects of cyberspace architecture somewhat in certain examples, when noting how the use of content filters can spawn behavior standards for instance. They even touch on it more directly in the conclusion of "And How Shall the Net Be Governed"[20] when they rule out the option that the technical elite should encode the rules of the Net into software. Yet, they do not develop the idea that architecture could play an important role in cyberspace regulation any further. Indeed, Joel REIDENBERG is the one who really brought the idea to the legal world.

3. Joel Reidenberg: introducing architectural regulation

Taking his inspiration from the *Lex Mercatoria* developed in the Middle Ages, Joel R. REIDENBERG[21] speaks of a "Lex Informatica" as early as in 1996[22]. For him, the Internet "(...) is not a lawless place. Rather, it poses a fundamental challenge for effective leadership and governance"[23]. He too

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[20] Ibid.

[21] Joel R. REIDENBERG's homepage is available at <http://home.sprynet.com/~reidenberg/>.

[22] Joel R. REIDENBERG, "Governing Networks and Rule-Making in Cyberspace", 45 Emory L. J. 911 (1996), <http://www.law.emory.edu/ELJ/volumes/sum96/reiden.html>.

[23] Ibid.

notes the disappearance of national borders, the ensuing difficulty in applying national legislation to transnational activities, and the emergence of a new kind of boundary on the network. Moreover, he observes that substantive borders used in the non-virtual world to delimitate distinct subject areas of the law are also obsolete on the global information infrastructure. "For example", he writes, "a packet of information may contain electronic cash or payment instructions, along with digitally reconstructed images of an individual. In such a case, the legal interests cross many sectoral lines, including telecommunications, financial services, intellectual property, and privacy"[24].

The challenge of regulating activity in the absence of traditional reference marks can be met if the regulatory power of the Internet's architecture is recognized. Indeed, "[t]echnical choices are policy decisions that have inherent consequences for network participants"[25]. Hence, both the programmers who create the network infrastructure and the users who chose one technology over another play a role in the development of cyberspace regulation. This is why, according to REIDENBERG, a network governance paradigm must include the input of all Internet participants: governments, systems operators, information providers and citizens[26].

In "Lex Informatica: The Formulation of Information Policy Rules Through

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[24] Ibid.

[25] Ibid.

[26] Ibid.

Technology"[27], REIDENBERG further develops the advantages of architectural regulation. Lex Informatica is a collection of rules embedded both in the architecture of the network itself and in the additional technology that completes it that can prevent users from doing certain things or compel them to do others. Through three concrete illustrations of policy problems and their technical solutions, REIDENBERG demonstrates how Lex Informatica's independence from territorial borders, the ease with which it is customizable and its self-enforcing nature make it ideal for cyberspace regulation.

For instance, it can solve dilemmas that arise from the incompatibility of territorially based laws by allowing the automatic enforcement of filters at the receiving end without hindering the distribution of content. Thus, sites that are considered illegal in some territories could be filtered out for their citizens while remaining available for people residing in other areas.

The rules of "Lex Informatica" can be either immutable or flexible, according to what part of the Net's architecture they are embedded in. Rules that proceed from the architecture of the network itself can be difficult and costly to modify whereas those stemming from more superficial levels of the system are malleable. Government could contribute to the development of architectural rules indirectly or directly by aiding their effectiveness through the adoption of rules that establish liability or sanctions for certain acts[28] or

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[27] Joel R. REIDENBERG, "Lex Informatica: The Formulation of Information Policy Rules Through Technology", 76 <u>Texas L. Rev.</u> 553 (1998). A copy is available at <<u>http://reidenberg.home.sprynet.com/lex_informatica.pdf</u>>.

[28] Ibid.

even by imposing certain types of regulation in the system's core when a fundamental principle is at stake[29].

Though REIDENBERG introduces regulation through architecture and offers many possible applications, he does not present a general enough theory of cyberspace regulation[30]. Laurence LESSIG proposes a much more comprehensive approach.

B. Lawrence Lessig on regulating cyberspace

In his book, Code and other Laws of Cyberspace[31], as well as in numerous previous articles[32], Lawrence LESSIG[33] discusses the application of

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[29] Ibid.

[30] See Graham GREENLEAF, "An Endnote on Regulating Cyberspace: Architecture vs. Law?", University of New South Wales Law Journal, volume 21, number 2 (1998) available at <http://www.austlii.edu.au/au/other/unswlj/thematic/1998/vol21no2/greenleaf.html>.

[31] Lawrence LESSIG, Code and other Laws of Cyberspace, New York, Basic Books, 1999. Hereinafter "Code".

[32] These articles include: "The Law of the Horse: What Cyberlaw Might Teach", 113 Harvard Law Review 501, (1999), available at <http://cyberlaw.stanford.edu/lessig/content/writings/works/finalhls.pdf>; "Reading the Constitution in Cyberspace", 45 Emory Law Journal 869, (1997), available at <http://www.law.emory.edu/ELJ/volumes/sum96/lessig.html>; "The Architecture of Privacy", presented at the Taiwan Net '98 conference in Taipei in March 1998, available at <http://cyberlaw.stanford.edu/lessig/content/works/architecture_priv.pdf>; "The Laws of Cyberspace", presented at the Taiwan Net '98 conference in Taipei in March 1998, available at <http://cyberlaw.stanford.edu/lessig/content/works/architecture_priv.pdf>. For a complete list of LESSIG's writings please see <http://cyberlaw.stanford.edu/lessig/content/writings/>.

[33] Lawrence LESSIG's home page can be found at <http://cyberlaw.stanford.edu/lessig/>.

constitutional principles and their translation. He deals with many problems facing the American people and their ideals of democracy. He looks at how the problems of regulating cyberspace are a manifestation of this malaise. These democratic problems not being the purpose of our paper, we will be focusing on LESSIG's conception of the elements of regulation and more specifically on how architecture, what he calls "West Coast Code"[34], has the potential to constrain. We will see that he supports government involvement in cyberspace regulation and decries the wave of libertarianism that the Internet brought out of the woodwork. We will begin with what LESSIG says is the nature of cyberspace, followed by an explanation of the relationship between architecture and values, then by an overview of the elements that constrain human behavior and, finally, by an examination of how these elements interact.

1. The nature of cyberspace

LESSIG begins his book by denouncing the strong libertarian perspective that characterized the early years of the rise in popularity of the Internet. Cyberspace was touted as a *place* where true freedom from government could reign. Moreover, it was said that government had no power in cyberspace, that it could not impose any rules there. Its nature was to be free and *unregulable*. Though no reasons why this should be so were ever given,

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[34] L. LESSIG, Code, supra note 31, p. 53.

the idea of this libertarian utopia came to pass and became entrenched as a given in collective thought. Everyone seemed to agree that what was easy to regulate before became much more difficult once it involved the Net. Since individuals navigating the Net could be just about anywhere, it was arduous for regulators to determine who was subject to their rules. The architecture of cyberspace makes the task of determining jurisdiction strenuous. Or does it? This image of the Internet, according to LESSIG, is "misguided". For one thing, he does not agree with the notion that cyberspace is *unregulable* and for another, if there is to be freedom in cyberspace it must pass by a certain form of government[35].

The nature of cyberspace does not make it unregulable. The Internet has no nature, no essence. It is man-made and can therefore be transformed just as man likes it. It is not because it *was* a certain way that it has to *be* that same way. As LESSIG puts it: "whether the Net is *unregulable* depends, and it depends on its *architecture*"[36].

The example of the University of Chicago versus Harvard University's Internet use policies illustrates the effects of architecture. The University of Chicago had an open policy regarding Internet use. Its dean was a great believer in free speech and had answered the technicians who had asked him that anonymous speech should exist on campus since it was protected by the first amendment. From this answer arose the university's network architecture

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[35] Ibid., p. 5.

[36] Ibid., p. 25.

allowing anyone to plug in to one of the many outlets on campus and surf the Web anonymously and without charge.

On the other hand, at Harvard, the network was built in a much less open fashion. Indeed, University officials had wanted to control access. Only registered computers could plug into the network and only members of the university could register their computers. Once online, their speech was not anonymous since, as pointed out in the user agreement, what was done from every machine was monitored.

These different values of controlling access and of facilitating access were made possible by the implementation of the appropriate architectures, of the right software. The design of the networks reflected their values. Harvard's network's design made it easy to track a user's actions and identity whereas Chicago's made this very difficult. Harvard's network therefore permitted more control of user behavior.

Chicago's network did not permit control for three reasons: it did not allow user identification; it did not allow data identification; and it did not allow zoning of cyberspace, the limited access to certain data only by certain people. These three elements were what make Chicago-type networks difficult to regulate. Harvard-type networks "correct" this, not by being fully proprietary like telephone systems, but by adding a layer of control on top of Chicago-type networks.

Thus, the Net has no nature. What it does have is many possible structures, which make it more or less regulable. The structure we will chose will reflect the values we cherish.

2. The values of architecture

This is why LESSIG talks of a constitution of cyberspace. Not a legal text per say but a consolidation of the ideals that should guide interactions on the information highway based on the values of the original Net: a constitution that would protect these values by limiting the scope of both legislation and social power. That would entrench the ideal of *liberty*. Barring any legislation, cyberspace would become the "perfect tool of control"[37]. Through his book, LESSIG illustrates how cyberspace is becoming just this, invisibly, while nobody notices, too content that the state is not intervening to realize that this architecture of control, of "highly efficient regulation"[38] is being put into place by commerce. First, he shows how and following which tangent cyberspace is changing. He then moves on to demonstrate how the change is coming about and what are the possible responses to it. It is here that he discusses the influence of an element of regulation that, although not new, has only recently become a concern to jurists. This is what he calls "code".

It can be built any which way, either protecting the values we hold fundamental or threatening them. This is not something we will discover about cyberspace. It is a choice we have to make.

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[37] Ibid., p. 6.

The choices will revolve around the values of this space, but also around its structure. Just as the state's actions are limited by certain rules in the same constitution that creates it, so too should cyberspace's structure reflect the limits we want to impose on regulatory power. This brings up the question of the ownership of the code, proprietary code permitting more control than code that is not owned, the latter allowing for a commons where debate can take place.

These choices are highly important because while the government abstains from legislating, certain values that we hold dear are being threatened. Indeed, new technologies have made the violation of fundamental rights both less expensive and less intrusive[39].

It is imperative that we make these decisions while the network's architecture is still in development for in enabling or disabling certain acts, spaces embed values.

For instance, the restriction in bandwidth at the Internet's beginnings limited communication on the Net to text. This environment was enabling for people with handicaps since their handicaps could remain secret unless they chose

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[39] For example, the right to privacy has recently had to contend with many violations under pretext that the intrusions are not invasive. These are scenarios that were not possible at the time of the framing of the United States' Constitution. Did the framers want to guarantee the right to privacy or the right to not be bothered by intrusive searches? It is this possibility of multiple interpretations of fundamental constitutional values that LESSIG calls "latent ambiguity". Because of it, we are faced with a choice as to the values we wish to preserve. According to LESSIG, the courts of today do not feel enabled to make these decisions and we have no other institutions upon which we can rely to complete such a daunting task. Therefore, we will have to decide for ourselves "what we want, and what is right" (LESSIG, Code, supra note 31, p.23.).

for them not to be. With the expansion of bandwidth and the new possibilities in audio and video it brought about, these same people who were enabled by a limiting architecture became disabled by a more permissive one.

In Counsel Connect, an online community of attorneys, the architecture embeds different values says LESSIG. Membership is restricted to members of the bar and is subject to a fee. Members must use their real name to interact with others. It is a discussion group and as such, postings are preserved in threads. The consequences of this architecture are multiple. First, the fact that members must use their real names creates a responsibility for what is said but also an inhibition. Second, the threads force members to read what has been said before in order not to repeat what someone else has said, doing so under their real name. Third, since posts are preserved, members have to be consistent with what they have previously affirmed lest it affect their reputation. Finally, since reputations here are tied to real names from a real community of professionals, Counsel Connect benefits from the norms of that community.

Moreover, some architectural choices can allow for values that are contrary to one another. In *law.cyber*, a discussion list in a class that LESSIG taught, the anonymity that the designers selected to include in the architecture enabled a community to flourish. It enabled students to say things they would not have had they had to use their real names. But this same enabling anonymity allowed the creation of a character that was evil and that harassed other members. This so changed the general feeling of openness that the community soon disappeared. The same anonymity that had enabled the community had also disabled it.

Cyberspace is not just one place. It is many places in which the regulation that is permitted, the values and the types of regulation vary according to the architecture that is chosen.

3. Constraints on human behavior

For libertarians of today, protecting liberty means keeping the government in check, without worrying about private action. This is misguided since threats to liberty have always varied. At the end of 19th century England, norms were the threat to liberty. In the first 2 decades of the 20th century, suppression of speech was the threat to liberty in the United States. In the mid-20th century, the threat by the market brought forth the labor movement. Finally, at the end of the 20th century and the beginning of the 21st, the threat to liberty is commercial Code, the architecture imposed by corporations.

Rather than look at Code extracted from its context, LESSIG prefers a more global approach, a more general look at how regulation works. He notes that human behavior is regulated by four elements of constraint: laws, social norms, the market and architecture. These four elements are present in cyberspace regulation.

The law regulates via the menace of punishment. It assigns a sanction to a certain behavior deemed to be unacceptable. Though it has many other purposes, like, for instance, informing citizens of their rights, this is the dimension of law that interests us here. In the non-virtual world, it is the

method preferred by governments to impose rules. It still has a role to play in regulating Internet activity. In theory, intellectual property laws still apply in cyberspace even though concretely it is difficult to implement them. As we will see in the following section, law also regulates indirectly by requiring changes in other elements of constraint. Finally, law regulates ex post facto and requires the intervention of the justice system, police officers, prosecutors and judges, to be carried out.

Social norms regulate by the stigma they attach to a certain behavior. For instance, covering one's mouth when coughing is a social norm. So is yielding one's seat to an elderly person on a bus. No law requires us to behave this way but failing to do so will probably result in reproachful glances. Norms regulate via ex post facto sanctions as well. However, the penalty here does not stem from the government but from the community. Norms also derive regulatory power because we want to avoid the guilt and embarrassment that violating them causes. In this sense, social norms regulate even in the absence of Law.

While many real world social norms cannot be transposed in cyberspace, new ones specific to the Internet have been elaborated. To be sure, a whole set of cyberspace social norms is known as "netiquette". Among its precepts is the rule that messages should not be written in capital letters lest it look like the author is shouting. As GREENLEAF[40] observes, the efficacy of social norms in cyberspace will depend on the levels of anonymity and surveillance involved. Insofar as social norms influence behavior through the sanctions of

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[40] G. GREENLEAF, "An Endnote on Regulating Cyberspace: Architecture vs. Law?", supra note 30.

guilt, embarrassment and criticism, they may not be very effective in the event that there are no witnesses. Many people who were too embarrassed to pick up pornographic material at the magazine stand or video store lost their inhibition on the anonymous Web. Needless to say, the threat of being caught, say by an employer or a spouse, increases behavior restriction, regardless of the threat of any disciplinary or marital sanctions[41].

The market constrains by the price it exacts on something. In order to obtain an item, a certain amount of money must be paid. The market regulates how much to pay for a house, a car or a bag of groceries. Its effect is simultaneous to the execution of the action. On the Internet, the market determines that the most popular sites will draw the most advertisers and that service providers drop forums that attract only a small crowd. Certain sites now condition their access to payment of a fee hence effectively zoning the Internet, making certain spaces exclusive for certain people. These are all manifestations of market forces.

Finally, architecture regulates by the physical burdens it imposes. In the non-virtual world, architecture usually involves nature or its manipulation. While some laws of nature are immutable, like the speed at which we can travel, others can be modified. There are many examples of architectural regulation in our world. Gravity is architecture that keeps things from floating around in

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[41] This effect recalls that of Jeremy BENTHAM's Panopticon, a prison built in such a way that the guards could constantly watch the prisoners but the latter could not see the guards and therefore never know when they were being watched. According to Michel FOUCAULT, its effect is one of perfect control since prisoners, not knowing when they are watched, are constantly on their best behavior, even when the guards are actually absent. See Michel FOUCAULT, Discipline and Punish: The Birth of the Prison, Peregrine Books, 1977 (translation: Alan Sheridan). Also see J. BOYLE, "Foucault in Cyberspace: Surveillance, Sovereignty and Hard-Wired Censors", supra note 1.

the air; steel bars on a window and a lock on a door keep intruders out; the weight of an object can be an obstacle to it being stolen. A stop sign requires a driver to stop because the law says so whereas a speed bump forces the driver to slow down considerably lest he damage his vehicle.

Architecture constrains before the fact. It does not sanction ex post facto. It is self-executing in that its constraint is immediate, that it does not need anyone else to have an effect. Window bars do what they are supposed to do without any intervention. Though they do not restrict absolutely, they are nevertheless a restraint.

Architecture is an important means of regulation in the real world but even more so in cyberspace. Indeed, the Internet has no nature. Its architecture, or code as LESSIG calls it, is the software that makes it what it is. It is entirely man-made and as such can be modified to be more or less constraining. Instances of code of particular significance for regulation of the network include cookies, passwords and encryption. The difference and danger with Internet architecture is that it can be invisible. Thus, it allows the government to do indirectly what it cannot do directly without facing protest, controversy and political cost. If a government can regulate without revealing its agenda, without being transparent, it evades its accountability. It is regulation enacted by the government yet nobody sees it as such since everyone is oblivious to its existence and the government does not wish to reveal it.

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4. Interaction between elements of constraint

The four elements above do not exist independently from each other. Instead, they are a whole and changing one can influence the other. In fact, the law often influences how the others evolve. For example, the law imposes that cigarettes be highly taxed so the market can influence cigarette consumption. The law imposes the modification of architecture so citizens with disabilities have access to public buildings. It changes architecture so it can deter discrimination. The law also changes social norms, primarily through education whose content is regulated by law. For instance, law can regulate school curriculums in order for them to teach children to respect people of all faiths. These are all examples of the law regulating indirectly, regulating another regulator so it in turn can constrain behavior. Obviously, it may also regulate directly by adopting a law including the threat of punishment for the transgression of its provisions.

Indeed, government has many ways to help these changes proceed. Although it is difficult for it to regulate behavior on the Net the way it exists today, it may regulate to change the architecture of the Net to make regulating behavior there easier. Moreover, it can achieve this quasi-perfect regulatory state with very little effort since commerce has already initiated the necessary changes.

In fact, commerce is behind a significant shift in the architecture of the network that makes regulating conduct easier. In cyberspace – in its original form – there is no authenticating of identity. TCP/IP, the basic protocols of the

Internet, include nothing that pertains to a user's identity. The network itself is designed in a way that it can tell whether there are connections to it but not who is connected and what data is going through it. Whereas in the real world identification is the norm, in cyberspace "anonymity is the given"[42].

Thus, if cyberspace contains no self-authenticating facts about its users, it greatly diminishes the effective application of regulation. Yet, as we have seen, the Net can have different structures. As in the Harvard network, it can have added layers that render it highly regulable.

Indeed, LESSIG points out three different identification techniques already used today. The first one is the use of passwords, which guarantees relative security, as long as the password is kept secret, though it can make navigating the Web a bit tedious.

The second identification technique is cookies. They are little files that sit on one's hard disk and allow a server to recognize the computer from which the connection comes from. They do not permit identification of the individual at the computer, nor do they follow the user from one computer to another. However, if you access a site that uses cookies that you have previously visited from the same computer, it will remember your preferences seamlessly[43], without prompting you for any information.

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[42] L. LESSIG, Code, supra note 31, p. 33.

[43] Of course, this is only true if you have not turned off automatic cookie acceptance in your browser preferences.

The third identification technique LESSIG refers to is digital signatures, which use digital certificates. They include personal data and authenticate an individual's identity. There is no limit to the information they can contain. While they are presently used, LESSIG examines a scenario in which they would reside on everyone's hard drive and would allow a server to identify the user, seamlessly, as with cookies, as he connected to it.

The certificates use encryption technology. Cryptography can fulfill two very different ends: on the one hand, it can secure confidentiality and on the other, it can serve to identify more effectively. Thus, it both preserves from regulation while it also permits its application more efficiently.

These three identification technologies that render Internet regulation more effective have been implemented by commerce. While government and commerce are not traditional partners, they both have an interest in the infrastructure we have described above: commerce because a safer transactional structure would help it flourish; government because this same safer structure would enable it to better regulate.

An architecture that allows for better and easier identification does not have to be imposed by government. Just as with cookies, this architecture can spread in acceptance because of incentives, because of ease of use in navigating the Web with an ID and obstacles that people without IDs will have to face[44].

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[44] Following LESSIG's example, disabling the automatic acceptance of cookies in one's browser preferences can give a good view of what it could be like for those without identification certificates. The author tried the experience whose result was that other users of her computer thought that she had downloaded a virus. Freedom to chose indeed.

This kind of architecture will surely come to be in the near future. For one thing, it is budding already with the addition of encryption to systems to make them more secure and with the creation of certification authorities. For another, just as consumers have an incentive to accept the easier way of doing things, so too does commerce have an incentive to make transactions more secure and therefore increase certification and authentication. If all else fails, says LESSIG, commerce can count on the government to help.

Government has a history of "regulating to make its regulation work better"[45]. As was the case with the <u>Communications Assistance for Law Enforcement Act of 1994 (CALEA)</u>[46] that required telephone companies to adopt an infrastructure that would enable wiretapping, it has often enacted regulation that obliged manufacturers to modify the architecture of their systems in order to make it more regulable. Other times, it has used the market to modify architecture into what it prefers it to be by subsidizing the development of its preferred technology, thus driving down its price in the hopes that consumers themselves would impose a certain architecture.

By regulating Code rather than behavior, government does indirectly what it can not do directly for a variety of reasons: public outcry, breach of fundamental rights protection or impossibility to verify compliance because of a too big number of subjects.

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[45] L. LESSIG, <u>Code</u>, supra note 31, p. 44.

[46] <u>Communications Assistance for Law Enforcement Act of 1994 (CALEA)</u>, Pub. L. No. 103-414, 108 Stat. 4279. A copy is available at <<u>http://www.askcalea.net/about/pl103414.htm</u>>.

In cyberspace, without regulating a particular behavior, government could make all behavior on the Internet more regulable if visitors to a site were identifiable. It would be difficult for the American government to enact legislation asking every Internet user to carry an ID but it could create incentives for them to do so. It could regulate intermediaries by requesting that they condition access to their site on having a certificate stating one's age and state of residence. It could also create a market incentive by imposing a sales tax that people with a recognized certificate would be exempt of paying. The final effect of these strategies would be a greater facility in regulating activity on the Net. Corporations are more pliant to government regulation. They do not have any ideals or principles to defend but rather an investment at stake.

"East Coast Code", the code that is enacted in Washington, D.C., is composed of words that command how one should or should not act. "West Coast Code" is written not by Congress but by the programmers that have set shop in Silicon Valley or Redmond. It too commands the way we can and can not behave not by words but by the characteristics of the infrastructure given to the software and hardware that have come to play such an important role in our lives.

Initially, they did not influence one another. Recently though, the development of "West Coast Code" has passed into the hands of big corporations and is therefore more than ever subject to "East Coast Code". The more commercial the Net becomes, the more government has power over it.

Identification certificates will further abet this regulation. If a jurisdiction is interested in preventing its citizens from engaging in a certain behavior, IDs will serve to identify them and block their access to sites that would contravene local legislation. States could form alliances with other states that probably would want to prevent another behavior. They could agree to prevent citizens of the other state from accessing sites that would be illegal in that state and in return, the other state would do the same. This way, even if the sites in question were located outside of state borders, citizens prohibited from visiting them would be prevented from doing so.

With jurisdictions cooperating in this way and certificates automatically authenticating credentials from one computer to another, the limits imposed by the absence of geographic boundaries on the Net disappear. Cyberspace thus effectively becomes a zoned space where only people with the proper credentials can access certain contents. Though some will always be capable of circumventing the system, it does not make it any less efficient.

If commercial interests are now shaping cyberspace's structure, if they are making the decisions that will make it a more or less regulable space, the same decisions that are determining the *values* that are to be constructed in this infrastructure, shouldn't government at the very least observe this process to insure the respect of our fundamental values? If openness and liberty were two of the values that were so appreciated in the original Net, shouldn't we be asking more questions before we allow them to disappear?

The application of LESSIG's framework to the *Ultima Online* environment will allow us to better understand how his four modalities of control function and

impact one another. Indeed, as we will see in the following chapter, *Ultima Online*'s many subscribers form a true community that has had to deal with many problems and whose designers implement each of LESSIG's elements in order to control player behavior.

II. <u>*Ultima Online*</u>

In order to understand *Ultima Online*'s regulation, we must first examine how the game works. Specifically, we will begin by looking at online environments (**A**), specifically Multi-User Dungeons (**1**) and Massively Multi-Player Online Role-Playing Games (**2**) and *Ultima Online*'s place among them (**2**). We will then proceed to an explanation of the technical aspects of the game (**B**), the real world physical process of accessing *Ultima Online* (**1**) and the relation between the players and the creators of the game (**2**). We will finally look at the game itself (**C**) by presenting the world of Britannia (**1**) as well as the operation and goal of the game (**2**).

A. *Online environments*

Cyberspace is rife with online environments. Usenet, America Online, chatrooms, MSN and the Web are all examples of online environments whose members potentially form communities. *Ultima Online*, the online environment that we chose to examine, is a massively multi-player online role

playing game or MMORPG with thousands of subscribers from around the world who participate simultaneously and in real-time. More than simply a game, it is an environment whose members form a mini-society and where the line between the real world and the virtual world is often very fine. In this section we will first offer an explanation of MUDs followed by a look at their descendants, MMORPGs and by a brief account of *Ultima Online*'s background and of how it fits into the MMORPG category.

1. <u>What is MUD?</u>

The expression "multiplayer game" does not refer to a multitude of players battling it out on the likes of a gigantic game of Monopoly®. Instead, it designates complex systems where players actually evolve. They are also called "persistent worlds" because there is neither beginning nor end to the game; it exists on its own while the players come and go. We will see that it actually has a life of its own and that it exists beyond its players. In traditional single-player computer games, the participant must try to beat the game's "artificial intelligence". Once he reaches the predetermined goal, for example finding the treasure, killing the last monster or checkmating the computer/opponent's King, the game is over. In online environments there are also other participants to contend with and since there is no actual goal, the game is never over. This also means that players can add elements to the environment and that they will remain there, accessible to others, even when their creators log off.

The history of virtual environments begins in 1937 with John Ronald Reuel Tolkien's novel The Hobbit. Indeed, the fantastic world created by the author is the inspiration for modern role playing games[47]. Concretely, however, in the fall of 1978, Roy Trubshaw and Richard Bartle[48], both students at Essex University in Great Britain, created the first multi-user game that they called MUD[49]. It is an entirely textual adventure game set in a scenario called "The Land" that includes pastures, forests, seas and subterranean passages and in which players seek to become wizards or witches[50].

The term "MUD" stands for Multi-User Dungeon[51]. Today it has come to designate a certain type of virtual environment. MUDs are textual environments that are accessible by multiple users via Telnet. They resemble chat rooms but participants each have a persona or avatar that evolves through a "world" with a basic predetermined backdrop, often involving rooms, through the use of commands. For example, some of these commands allow players to "see" the description of another character, to talk

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[47] Celia PEARCE, "The Convergence of Creativity and Commerce: The future of interactive game arts", September 29, 2001, presented at Playing by the Rules: The Cultural Policy Challenges of Video Games, a conference organized by the University of Chicago Cultural Policy Center <http://culturalpolicy.uchicago.edu/conf2001/papers/pearce.html>. Also see Raph KOSTER, "Online World Timeline", Raph Koster's Website, last updated March 11, 2001, <http://www.legendmud.org/raph/gaming/mudtimeline.html>.

[48] Richard BARTLE's web site is available at <http://www.mud.co.uk/richard/>.

[49] R. KOSTER, "Online World Timeline", supra note 47. MUD still exists today under the name MUD2, its fourth version. It is available at <http://www.mud2.com/>. See specifically Viktor T. TOTH, "A brief history of MUD2", MUD2.com, History, <http://www.mud2.com/history.htm>.

[50] Viktor T. TOTH, "What is MUD?", MUD2.com, Newcomer's library, <http://www.mud2.com/lib221.htm>.

[51] R. KOSTER, "Online World Timeline", supra note 47.

or to move. There is no final goal to the game, no score to keep track of and therefore no predetermined end.

Though MUDs are textual, they are organized around territorial concepts and players can usually access a map of the "world" through a specific command. Thus, usually, upon entering a MUD, one is greeted with a message describing the beginner's location. In LambdaMOO[52], for instance, players start in a closet. Each MUD has its own set of rules and different names have been coined to designate different types of MUDs according the program they are based on and what they allow players to do. A MOO, for instance, stands for Multi-User Dungeon Object Oriented and indicates a MUD in which players can create interactive objects. Finally, MUDs can include "artificial intelligence" characters whose role can involve helping other avatars and developing the game's scenario.

Technically, a MUD is composed of a server and a database[53]. The server manages the MUD, executes the programs and analyzes and translates the commands typed by the players. As BLANKENSHIP explains, "[i]f the server is the heart of the MOO, a giant database called the "core" is the brain"[54]. Indeed, the database contains the objects, the characters, the rooms and the

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[52]   LambdaMOO, <telnet://lambda.moo.mud.org:8888/>. "Felis~Rex" maintains an interesting web page introducing LambdaMOO and offering a brief explanation of how it functions. It is available at <http://www.gotham-city.net/lambda.html>. Also, see the map of LambdaMOO available on this site at <http://www.gotham-city.net/lambdamoomap/lambdamoomap.htm>.

[53] Loyd BLANKENSHIP, "The Cow Ate My Brain or A Novice's Guide to MOO Programming, Part I", September 3, 1993, copyright Illuminati Online (io.com). A copy is available at <http://www.cs.reading.ac.uk/people/mkh/virtual_worlds/MOO/tutorials/mootutor1.html>.

[54] Ibid.

exits[55]. Initially, its content is limited but it becomes larger as players join and create new items.

2. The difference between MUDs and MMORPGs

Almost all the members of the original *Ultima Online* design team had backgrounds in MUDs, all of them as players and some as designers[56]. It goes without saying then that *Ultima Online* was strongly influenced by MUD culture. In fact, MMORPGs are descendants of MUD. Like MUDs, they are persistent world, available 24 hours a day, 7 days a week. However, they differ from traditional MUDs in significant ways. First, they belong to a new category of graphical MUDs. In these, looking around to see one's surroundings has replaced the need to read their textual descriptions. While some claim that the first graphical MUD appeared in the 1970's[57], graphical MUDs really came about in the last decade. They are not to be confused with the likes of the popular *The Palace*[58], a graphical chatroom in which the

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[55] Mafalda STASI, "What is MUD, actually?", in <u>MU*ing for beginners</u>, Computer Writing and Research Lab, Division of Rhetoric and Composition, University of Texas at Austin, date unstated, <<u>http://www.cwrl.utexas.edu/moo/archive/mudhandouts/beginning.html</u>>. (It seems that this article is no longer available online A.R. December, 2001).

[56] Richard "Jonric" AIHOSHI, "Designer Dragon Interview", <u>RPG Vault</u>, April 27, 1999, <<u>http://rpgvault.ign.com/features/interviews/ddragon1.shtml</u>>.

[57] Chris GRAY, reply to a question concerning the first graphical MUD in the <u>MUD Development mailing list</u>, March, 2, 2000, <<u>http://www.kanga.nu/archives/MUD-Dev-L/2000Q1/msg00513.php</u>>.

[58] *The Palace*'s web site is available at <<u>http://www.thepalace.com/</u>>.

interlocutors appear as avatars. Second, an MMORPG is more than a multi-user environment. It is a massively multi-user online a role-playing game: *Ultima Online* for instance has more than 230,000 subscribers[59]. Moreover, while MUDs revolve around the concept of rooms, MMORPGs depict worlds, an idea that the creators of *Ultima Online*, Origin, chose to reflect in their slogan: "We create worlds". Finally, these large scale graphical MUDs are accessed through the Internet instead of Telnet, they usually require that the player install a client program on his computer and, while access to most MUDs was free, MMORPGs charge subscription fees.

Ultima Online shares the MMORPG spotlight with *Everquest*[60], created by Verant Interactive and published by Sony in February 1999, and with *Asheron's Call*[61], developed by Turbine Games and published by Microsoft in October 1999. It is not the most popular MMORPG out there, nor is it the first[62]. However, it is the first to have "popularize[d] the genre"[63], the first one to create a world instead of a game and the first one to implement a business model by which players have to buy the game and then pay subscription fees. It is therefore the one whose mistakes the others learned from. It has been

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[59] Tal BLEVINS, "*Ultima* Worlds Online: Origin Interview", ign.com, March 21, 2001. <http://pc.ign.com/news/32636.html>. According to the article, *Ultima Online*'s subscriber base has gone up 80% in the last year, definitely putting to rest any doubts about its long-term appeal.

[60] *Everquest*'s web site is available at <http://everquest.station.sony.com/index.jsp>.

[61] The reader can find the web site for *Asheron's Call* at <http://www.microsoft.com/games/zone/asheronscall/>.

[62] Andrew PARK, "*Ultima Online*", GameSpot PC, November 20, 2000, <http://gamespot.com/gamespot/stories/features/0,12059,2655124,00.html>.

[63] Ibid.

mired in controversy since its beginnings and has had to contend with quite vocal player complaints and even two class-action lawsuits[64]. Before proceeding to the description of *Ultima Online* we will first examine how it came to be.

3. Introducing *Ultima Online*

Ultima Online was created by Richard Garriott, or more specifically by his company Origin Systems, and published by Electronic Arts in September 1997. It follows the *Ultima* game series. In 1980, Richard Garriott, then a first year university student, created a computer game he called *Akalabeth*. It was based on Dungeons & Dragons, itself inspired by John Ronald Reuel Tolkien's The Lord of the Rings. A software publisher noticed it and took on its distribution. By the end of that year, it had sold thirty thousand copies. Nine one-player sequels followed over the years. Although greatly inspired by the *Ultima* series, *Ultima Online* is not a sequel to it. For starters, *Ultima Online* is played, well, online. The games in the series took anywhere between fifty to one hundred hours to complete. *Ultima Online* cannot be completed: it is a persistent world, it has no end. The games had a scenario

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[64] Ken Hinther et al. v. Electronic Arts Inc. and Origin Systems Inc., filed in the Superior Court of California on March 3, 1998, <http://www.ogr.com/specials/uolawsuit_interview_2.shtml> (It seems that this page is no longer available online A.R. December, 2001).; Katherine Reab et al. v. Electronic Arts Inc. and Origin Systems Inc., filed in the Colorado district court on September 19, 2000. The first was settled out of court with Origin and Electronic Arts agreeing to donate 15,000$ to the San Jose Tech Museum of Innovation, without any admission of liability. The second one is still pending before the court.

in which the character evolved as a lone hero. *Ultima Online* has no predetermined plot and it is much harder for players to be heroes since they share the game with thousands of other players. In this way, *Ultima Online* resembles the real world. We will see in the following pages that it is in fact a virtual environment but a real community, a smaller scale of society as we know it and an ideal space in which to study regulation.

B. Technical aspects of Ultima Online

Ultima Online is nothing like games we used to know. It is neither solely a computer game that can be installed on a computer, nor an Internet game that can be accessed solely on the Web, nor a CD that has to be inserted in a game console connected to a television or computer screen. It is important to understand this aspect of the game to better understand its architecture and its consequences.

1. The real world process of accessing *Ultima Online*

To access Britannia, a future player must first purchase the game on CD-ROM and install the client program on his hard drive. The software costs between 30$ and 50$. It contains large graphic and audio files as well as the

code used by the client software to communicate with the game server[65]. The basic prerequisites are a computer and an Internet connection. Among other minimum requirements, the most important one is that the computer must be equipped with a video card.

One accesses the game through the client program and a connection to the Internet. It is not possible to play from a computer without first installing the software. Multiplayer game creation can follow different approaches[66]. *Ultima Online* is a combination of multi-server and client/server systems. Parallel versions of the game run on multiple servers. Each one processes only the information from the members that play on it. The server tells the client what is on the screen and where. It collects all player input and relays only the pertinent information to the players concerned. Thus, each client program holds only the data necessary for the player's view. As the latter changes, so does the data that reaches the user. For instance, if one asks a vendor a question in his shop, only the players that are in the shop at that time will see the question. To see what others are saying outside the shop, the character will have to exit onto the street. We will explore communication in *Ultima Online* in the upcoming pages.

It is this client/server approach that allows *Ultima Online* to be dynamic. The server records the changes the players make to the game environment. It

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[65] Andrew KIMSE and Chris KIMSE, "Security in Online Games", Game Developer Magazine, July 1997. Available at <http://www.gamasutra.com/features/19970707/security.htm>.

[66] For a brief description of these approaches, please see Crosbie FITCH, "Cyberspace in the 21st Century: Mapping the Future of Massively Multiplayer Games", Gamasutra, January 20, 2000, <http://www.gamasutra.com/features/20000120/fitch_01.htm>.

also allows Origin to make changes to its Code without having to release a new game. Origin has released new editions but even then, it was possible for players to download the updates through a patching process[67]. Actually, players who already owned the previous version were simply informed that the patches would automatically update their version.

As for the multi-server design, it was adopted out of necessity when the game was first launched. Origin had not anticipated the huge success that *Ultima Online* would have. It expected to sell 20,000 to 30,000 copies of the game and to have 5,000 subscribers. Instead, when the beta test was announced 50,000 people sent in the five dollars that Origin had decided to charge for the CD-ROM to verify the seriousness of the participants. While other online games had only a few thousand subscribers, Origin had to stop selling the game after two months because the servers had reached their maximum capacity[68]. This is when the idea of creating parallel worlds on servers placed around the world arose.

Once the software installed, the new player must then register with *Ultima Online* through their Web site in order to create an account. Upon starting the game, the program is updated by the automatic uploading of patches. *Ultima Online* is a pay-as-you-play game. The first month is free but afterwards users must disburse a 10$ fee every month for the privilege. For this fee,

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[67] For an explanation of why games like *Ultima Online* charge a subscription fee, of the costs involved in running a massively multiplayer online game and of why companies release expansions in box format instead of allowing players to download them for free see: Raph KOSTER, "On "Pay To Play" Or, MMORPG Business Models 101", <u>Raph Koster's Website</u>, date unstated, <<u>http://www.legendmud.org/raph/gaming/busmodels.html</u>>.

[68] Charles GRAY, "Lord British: Interview", <u>Happy Puppy</u>, December 15, 1999, <<u>http://www.happypuppy.com/features/interviews/garriott%2Din%2D1.html</u>>.

players can create up to 5 personae per shard[69] and play 24 hours a day, seven days a week. However, characters can only be played one at a time since upon logging in, one is prompted to choose which one to enter Britannia as.

Members can suspend their accounts but their characters will be held for only 90 days after which they will be subject to character purging which is done periodically. However, if the player continues paying his monthly fees, his character will not be at risk for deletion.

The real world process of accessing Britannia is completed by the agreement between the players and the creators of the game.

2. <u>The relation between the players and the creators of the game</u>

As noted previously, Richard Garriott created *Ultima Online* as a take off on the *Ultima* game series. Origin Systems, the company he founded, manages and operates the game. Though the company was sold to gaming giant Electronic Arts in 1992, Origin still administers the game and it is with Origin that players have a contract.

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[69] For a complete explanation of shards see section B, subsection 1: "Presentation of Britannia", below. Basically, shards are servers.

The relation between the players and Origin is set forth in the *Ultima Online* Service Agreement, the documentation provided with the CD-ROM, the Rules of Conduct and the Harassment Policy. The documentation provided with the CD-ROM includes a Starter Guide, a Playguide, an Install Guide, a Reference Card and a Map of Britannia, the world within *Ultima Online*. Although the Service Agreement refers to these documents as part of the agreement between Origin and the account holder, they do not contain any contractual provisions and we will therefore not examine them here[70].

According to the Service Agreement[71], players have a limited, non-exclusive license to use the CD-ROM, the software and the service, in return for the payment of the fee. The license is exclusively for use with the service and members agree not to play through any other means and not to create any other means for others to play[72].

The most important part of the service Origin must provide is to maintain a site dedicated to *Ultima Online*. Players must be at least 18 years old[73] and are liable for all activities conducted through their account. Origin retains the right to terminate player accounts if the account holder or anyone he has

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[70] These documents explain how to play the game and are an invaluable source of information in order to understand *Ultima Online*. They will be considered in section B of this chapter: "Description of the game itself".

[71] *Ultima Online*, "*Ultima Online* Service Agreement", <http://www.uo.com/agreement.html>.

[72] For example, through server emulators.

[73] Of course, since players can create up to five characters per shard, it is possible for them to allow younger people to play one of these personae. Actually, during our adventure into the world of *Ultima Online*, we met many parents whose children, one as young as six years old, had characters of their own.

allowed to use the account has indulged in impermissible behavior. Active members are prohibited from allowing former members whose accounts have been terminated by Origin to use their account.

Each account holder is responsible for the content provided through it. Though, Origin does not check said content, it has the right to remove content that it deems harmful, offensive or in violation of the Agreement. Members accept that they have no expectation of privacy and that Origin may monitor communications. Parents accept that while Origin may monitor communications, it has no obligation to pre-screen them and that some content could be found inappropriate by some parents.

Members recognize that the content Origin provides is subject to intellectual property rights and is protected by the copyright laws of the United States. Similarly, account holders agree to grant a non-exclusive royalty-free license to any content they transmit to the service for Origin to use or transform in any way and on any platform.

Account holders accept that their connection to the network is their sole responsibility and that Origin is not liable for any damages like loss of data resulting from interruption of service in any form. Moreover, Origin does not offer any warranty regarding the software and the service. Members recognize that Origin's liability for any disciplinary action it may take, for example terminating a player's account, is limited to the cost of the CD and the fees for the service.

The Service Agreement includes eighteen Rules of Conduct[74]. They cover both in-game and out-of-game behavior. Briefly, these rules prohibit:

- harassment of other players;
- the use of offensive or sexually explicit language;
- the use of harmful, obscene, hateful or otherwise objectionable language toward other players;
- impersonating an *Ultima Online* Customer Support representative;
- marketing and soliciting through the game;
- violating laws;
- modifying the game;
- using *Ultima Online* to exchange illicit material;
- organizing guilds based on hate;
- using the game for activities that are not permitted;
- communicating a player's real identification information through the game;
- giving false or erroneous information during registration;
- transmitting any copyrighted material without the author's express permission;
- interfering or hacking into the *Ultima Online* system;
- exploiting a bug in the game and communicating its existence to others;
- playing *Ultima Online* on a system that does not emanate from Origin;
- creating, using or providing server emulators or other software for playing *Ultima Online*;

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[74] *Ultima Online*, "*Ultima Online* Service Rules of Conduct", <http://www.uo.com/conduct.html>.

- interfering in any way with other players' peaceful enjoyment of the game.

As for the Harassment Policy[75], it states that Origin condemns harassment of any form and that it reserves the right to permanently ban offending players. It also indicates measures that victims of such behavior can take from lodging a complaint with Origin to using the technological tools provided in the game to ignore the player in question or activating the obscenity filter provided. We will explore Origin's Harassment Policy further in the third chapter of this paper.

C. Description of the game itself

1. Presentation of Britannia

The action in *Ultima Online* takes place in two-dimensional[76] Britannia in the Middle Ages. It takes place in real time and players have an isometric third person overhead perspective, they see their own character as well as the others.

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[75] *Ultima Online*, "Harassment Policy", <http://www.uo.com/harass.html>.

[76] While this is still true for most players, in spring 2001, Origin released its third expansion of *Ultima Online*, *Ultima Online: Third Dawn*, which includes a three-dimensional accelerated engine. For purposes of this paper, and because this is the second major change to *Ultima*

Players choose the shard on which they prefer to play. The 23 shards represent 23 servers that are situated all over the world and each one constitutes a parallel world of "Britannia". Each shard has the same basis and the same rules but the different populations give it a distinct character. A character created on one shard cannot venture onto another.

Shards are organized according to the geographic situation of the servers. There are shards for North America East, North America Central, North America West, Western Europe, Japan, Korea, Taiwan and Australia. Although not mandatory, Origin recommends that players select the shard that is closest to them. This allows them to fully take advantage the social interaction aspect of *Ultima Online* by being online at the same time as others from their time zone. Moreover, players are thus connected to the server physically closest to them therefore allowing a better communication between the server and the client program[77].

Players can choose to create a character on a shard other than the one closest to them. Shards are presented by distance, number of people on them or fastest connection. One need not worry about being on a shard where most players speak a foreign language since *Ultima Online* includes software by Systran that, once configured, automatically translates foreign speech into the player's language of choice.

Online since we started our research for this essay, we will not consider the changes Third Dawn brings.

[77] *Ultima Online*, "Beginning Britannia: Shard selection", <u>Online Playguide</u>, <<u>http://www.uo.com/newplayer/newplay_0.html</u>>.

One of the 23 shards does not follow the above mentioned guidelines. It is Siege Perilous. It is not linked to any particular region but instead is reserved exclusively to advanced players. As its name indicates, it is a more dangerous world where skills are harder to gain, monsters are more difficult to kill and everything sells for three times the price it would on any other shard. It is recommended that players avoid attacking other characters and instead try to form allegiances as no single player can gain sufficient skills to gather all the resources he needs to survive.

Each shard has two facets: Felucca and Trammel. On the Felucca facet players may attack and kill each other. On the Trammel facet, player killing is not allowed. This is not to say that it can never happen, but only that it is against the rules. Characters arrive on the Trammel facet by default and, except for on Siege Perilous which only possesses the Felucca facet, they can travel from one facet to another on the same shard.

Britannia, in the tradition of <u>The Lord of the Rings</u>, is extremely detailed. It has its own ecosystem. It includes more than thirty types of animals from alligators to walruses, as well as dolphins, rabbits, gorillas, llamas and three sorts of bears – black/brown, grizzly and polar. Not all animals are present everywhere in Britannia: alligators dwell only in swamps, polar bears roam only in the arctic and gorillas keep to the jungle. Many of them can be domesticated and taught tricks. Each animal's description includes its habitat, what it seeks out, if it is herbivorous, carnivorous or omnivorous and finally, its size. Animals are programmed to move autonomously to the delight of

Britannia's fishermen whose prey actually bite according to a fixed algorithm[78].

Britannia's inhabitants also include 75 different monsters ranging from the classical zombies, Cyclops, daemons and dragons to the more unusual orcs, liches and wyverns.

As in the real world, Britannian nature is constituted of forests, mountains, tropical and arctic zones, jungles, oceans, deserts and plains. There are caves, volcanoes, dungeons and ponds. Its inhabitants settle in and around its sixteen towns.

The elements described above are part of a complex ecology in which rabbits eat the grass, wolves eat rabbits and dragons eat the wolves. The dragons and wolves are programmed in such a way that they truly seek out their prey. As in the real world, this ecosystem's elements are interdependent and the elimination of one of them has consequences on the whole system. For example, if the players were to kill too many rabbits, the wolves would have no more food and would slowly be eliminated and the famished dragons would then turn to the nearest town and its inhabitants for their next meal.

Britannia's capital is called Britain. This is where Lord British's castle is found. Lord British, the ruler of Britannia, is the character of Richard Garriott, co-founder of Origin and creator of *Ultima Online*. The other towns around Britain each have their own unique character as well. Yew, for instance, got its name

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[78] Elizabeth KOLBERT, "Pimps and Dragons", <u>The New Yorker</u>, May 28, 2001, pp. 88-98.

from the many Yew trees that surround it. Its houses are mostly simple wood cabins. Another town, Magincia, is home to Britannia's largest diamond mine. Its inhabitants will often add extra columns to their buildings, not for structural support but in order to showcase more gems.

Towns can contain houses, taverns, inns, banks, cemeteries, banks, libraries, theatres, medical and veterinary clinics as well as other institutions. Since most border the sea, they also include boats. Basically, Britannian cities comprise the same institutions you would expect to find in a real world city.

Ultima Online has many types of ships, which can be either bought or built. The Playguide even warns to be careful where the ship is built since there must be a way for it to get to the ocean.

There are 18 different houses that can be personalized by creating add-ons and decorating as well as by bringing in furniture like beds, tables and chairs. Private houses decay in 9 to 14 days unless their owners see to their maintenance. This involves refreshing the house, which can be done by double clicking on the front door, and throwing out the trash.

Indeed, articles in *Ultima Online* eventually decay except if they are in a persona's backpack, in his bank box or in his house. Objects deposited on the ground decay very quickly. Since this is not true of items in houses, characters must do it themselves by throwing things in their trashcan lest their abodes become cluttered.

The real reason behind this has to do with Britannia's economic system and the free flow of resources. We will examine this further in the second section of the third chapter of this work.

In addition to everything we've mentioned, Britannia is filled with objects of every kind. These include 39 weapons and 26 armor items plus clothing, food and drink, tools, magical reagents, furniture, and others like candles, scissors, flour mills, bottles, tubs and spinning wheels. In his 1999 paper, Zachary BOOTH SIMPSON wrote that there were 507 different items in Britannia[79].

Each of the items in Britannia is coded as basic units of a natural resource. For example, a leather armor plate could count as two units of leather. A sheep could be two parts wool, two parts leather and two parts meat. When a leather armor plate is produced, it would use up two units of leather that bond to create the armor. Likewise, if a sheep were to be killed, it could give two units of wool that one could spin on a spinning wheel to make yarn, two units of leather to make a pair of pants and two units of meat that could be cooked and consumed. Every item in *Ultima Online* is programmed in such a way that resources are assigned to it as it is created and are freed when it is destroyed.

The same goes for Britannia's surroundings. Mines will produce units of ore that characters can mine and smelt into metal and trees are composed of units of lumber that can be used by carpenters. These are what BOOTH

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[79] Zachary BOOTH SIMPSON, "The In-game Economics of *Ultima Online*", April 7, 1999. Originally presented at the Computer Game Developer's Conference in San Jose, California

SIMPSON calls "production paths"[80] and they must be expressly programmed by Origin as players cannot create any new ones.

Ultima Online is remarkably detailed and its creators have thought of everything in order to have it resemble the real world. It is in this space with endless possibilities that Britannia's people dwell. Let us now look at who these inhabitants are.

2. The characters

Britannia is a world without social classes. It is a society based on skills. Naturally, Lord British is the ruler of Britannia and above all but among regular players, there are no differences based on class.

Once the player has obtained his user account, he must proceed to the creation of his character. Each account can have up to five personae. Player characters are always anthropomorphic since monsters and animals are exclusively computer generated. *Ultima Online* offers 19 professions and 50 skills to choose from. To begin, one opts for either an adventurer or a merchant character. A third category, "advanced", is only recommended for players who are, well, experienced as they must determine their skill levels

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in March 2000, <http://www.totempole.net/uoecon/uoecon.html>. This number of course may no longer be accurate but it gives an idea of the multitude of items present in the game.

[80] Ibid.

themselves. Selecting between one of these two types of characters will follow gaming style. If one prefers fighting monsters, searching for treasure or exploring Britannia, he will opt for an adventurer. Those who seek to interact with others will prefer a merchant character[81].

After this first selection, it is time to personalize the physical identity of one's avatar. Personalization includes the character's sex, the color and style of its hair, the color of its skin, the color of its clothing and, if it is a male, if it will have a beard and/or a moustache.

Each character type is composed of different subcategories that hold the multiple professions. For adventurers the subcategories are archer, magician and warrior. Merchants are subdivided in craftsmen and tradesmen. Players can chose to be a bard, a warlock, a fencer, a carpenter, a tailor or a fisherman, to name only a few of the official 19 professions.

While the game designers have predetermined these official professions, players do have some leeway in what they chose to become. This is how, in Britannia's beginnings, a player introduced "the world's oldest profession" to the game by creating two characters: Jenny and Pimp Daddy[82]...

Each profession has preset attributes. There are 50 skills in all. Each character has a certain level of strength, dexterity and intelligence as well as certain degrees of a few other skills, according to its profession. A tailor starts

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[81] For more information about player types please see Richard BARTLE, "Hearts, Clubs, Diamonds, Spades: Players Who Suit MUDs", The Journal of Virtual Environments, volume 1, number 1, July 1997, <http://www.brandeis.edu/pubs/jove/HTML/v1/bartle.html>.

off with very high levels of tailoring, high levels of tracking in order to track animals that provide him with materials for his craft and adequate levels of healing seeing as he is good with a needle and thread. The archer starts with high levels of archery, medium levels of bowcraft that helps him create his own arrows and bows and medium levels of lumberjacking so he can cut lumber from trees as material for his craft. A fisherman begins with very high levels of fishing skills, high levels of cooking and adequate levels of camping so he can stay out in the wild overnight.

Players have the option to manipulate their skills as well as their levels in advanced character selection. Once again, it is recommended that beginners keep skills at their default levels and that only experienced gamers take advantage of this possibility.

To become better at one skill, players have three options: they can practice it, they can pay a non-player character (NPC) to train them or they can go to a specialized school. Except for the starting skills associated to their profession, characters must learn their skills from scratch. For example, players with very little cooking skills will understand this principle the hard way once they try to cook something and it burns instantly. Skills are rated from 0 to 100. As a skill level of 0 does not mean that an avatar cannot use it, so a level of 100 does not mean that it will never fail at it.

It is possible to better a skill by asking a non-player character to teach it. To learn how to fish, for example, a player can ask a fisherman to teach him fishing skills. The NPC will then name his price. The player can then drag the

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[82] E. KOLBERT, supra note 78.

amount from his backpack to the NPC and get taught all that the NPC can teach him. If he gives him less money, the NPC will teach him only for the money he has offered.

One can also improve a skill by repeating it continuously during a short period of time, for example by attacking dummies to advance strength and swordmanship skills. Players are even given the possibility to program macros to this effect. Neglected talents will inversely diminish. No one player can become superior to the others. If he gains too many points in one skill, points for other skills will decrease proportionately. Indeed, there is a maximum of 700 points for overall skills. Once this cap is reached, if one of them increases by five points, the sum of the others will have to decrease by five points. This system has the advantage of keeping players in essence equal, therefore preserving the classless society as per the game's initial conception. The absence of an absolute state of power also allows the game to endure since there is no goal to reach. We will examine the goals of the game more in depth in the following section.

Characters are classified as innocents, murderers, criminals or aggressors. Their names appear in the color corresponding to the category they belong to. Thus, innocent's names are blue, those of criminals and aggressors are gray and those of murderers and violent monsters are red. Color-coding is part of the reputation system. We will explain the system further in the third chapter of this paper.

Player stamina is limited and will decrease after strenuous activity like running or fighting. This can be an obstacle to many actions, even to simply moving. In order to get their strength back, characters need only stay calm

and immobile for a few moments. They cannot die of hunger but hungry characters will see their performance and their ability to heal affected negatively. Energy increases once something is eaten. Moreover, those who will have eaten recently are those who will heal the fastest.

Ultima Online is a persistent world as well as a pay-as-you-play game. It is therefore inconceivable that characters could die definitely. Once an avatar is killed, it becomes a ghost. It must wander Britannia to find a healer, a shrine or a powerful mage so it can be resurrected. Players resurrect without any loss to their skills and statistics except for murderers who lose up to 20% of them automatically when they are killed. Furthermore, shrines will not raise murderers from the dead. While a character is dead, his body and possessions are left unprotected. *Ultima Online* was conceived in such a way to encourage co-operation between players. Death is no exception to the principle. It is obviously wiser for players to have a companion watch over their body and possessions while they seek to be resurrected. This kind of co-operation is one of the core values of *Ultima Online* and appears mainly in two facets of the game: in Guilds and in volunteer help for new players.

There are today more than 40,000 guilds. They comprise professional guilds and player guilds. Professional guilds are part of the *Ultima Online* concept as they have been established by its creators. They include the Order of Engineers, the Warrior's Guild and the Thieves' Guild. There is at least one in every town in Britannia. Player guilds form the major part of guilds since there are about 40,893 of them[83]. They are created by players in view of a

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[83] *Ultima Online,* "*Ultima Online* Guilds", *Ultima Online* Community, <http://town.uo.com/guilds/>.

common goal and will often have their own Web site independent from *Ultima Online*'s. The United Blacksmiths of Britannia are but one of these guilds. It has a Web site at <http://www.ubb.org> and its purpose, as its name indicates, is to unite Britannia's blacksmiths in order to improve the profession and to ensure that all changes take place in respect of their fundamental principles.

As is the case with MUDs, there is a real culture of assistance in *Ultima Online*. When a player first logs on, after a brief tutorial, he starts in the city of Haven. It is a town reserved for new players, a place for them to get familiar with the game without risking any danger. There, players can find Companions that will come to their assistance. Companions are experienced players who have volunteered to visit Haven to help out new players and answer their questions. They have no special skills but are rewarded for sharing their experience with new players. One Companion we met in Haven had been playing for four years but had been playing for free for the past year.

Counselors are also experienced players that have volunteered part of their game time to helping others. They can be paged in the game but do not have a fixed schedule and may therefore not always be there. When they incarnate their role of Counselor, they wear a blue hooded robe and are immune to harm.

Finally, Game Masters (GMs) are Origin customer service employees that see to it that the game runs smoothly. Their role is not to help with technical or account issues. They attend to serious and unusual problems in the game like harassment, software errors that prevent a character from moving and

the exploitation of a loophole in the game. They are a kind of in-game police and can ask players to stop doing something or to do it differently. They can be paged and when they are in the game appear dressed in red hooded robes. Players must try to resolve their problem with their help before communicating with Origin.

Having examined the different characters that inhabit Britannia, we will now look at how they interact and what activities they devote themselves to.

3. The operation and goal of the game

Ultima Online is at once a role-playing game, a combat game and a social interaction game. As indicated in the preceding section, players select their character's profession according to which type of activity they seek. They can hunt dragons, explore Britannia for hidden treasure, become warriors and participate in battles against other warriors or simply discuss with other characters. It is surprisingly easy to strike up a conversation with a total stranger.

As mentioned above, *Ultima Online* is a persistent world. There is no goal, no higher levels to reach, no bigger monster to slay, no points and, consequently, no end.

The game is entirely interactive. Players use their mouse to make their persona walk or run and interact with its environment. Characters can use

scissors to cut fabric in order to make a skirt, use a fishing rod to go fishing, gather wheat that they must mill into flour before they can produce bread or cut down trees and transform the logs into lumber to build whatever it is they need. The process involves opening the avatar's backpack and clicking on the tool to be used. For example, a tailor could click on his sewing kit. The cursor then appears as a target to click on the material to use. Alternatively, clicking on the sewing kit can prompt a window with all the different types of clothing asking the character which one he wants to create. Of course, this can only be done if the production path[84] has been attributed.

Objects can also be bought from other player characters or from Non-Player Characters. A beginner character possesses only a shirt, shoes, a pair of pants or a skirt, a backpack, a candle, an empty book in which to keep a journal, 100 gold pieces, a practice weapon and whatever other object necessary to his craft.

The game needed to be difficult enough to keep experienced players interested yet easy enough to not discourage beginners. Moreover, Origin did not want players to become too skillful too quickly. Therefore, they designed the game in such a way that a beginner must repeat the same tedious gestures in order to improve his skills and start making money. A new warrior has to slay many a rabbit before he can attempt attacking a dragon. Typically, such a player has to kill rabbits, sell their ribs to butchers and their fur to furriers in order to make enough money to buy armor and better weapons as well as improve his skills to be able to attack bigger animals.

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[84] Zachary BOOTH SIMPSON, supra note 79.

Communication with other characters takes place as in MUDs except that, *Ultima Online* being a graphical environment, words appear over the heads of those "pronouncing" them and are seen only by those on the screen at the time. The placement of text this way is a great improvement from prior graphical environments like *The Palace*[85] in which text appears in a separate window at the bottom of the screen, forcing players to keep an eye both on the image on top and the text at the bottom[86]. While characters cannot actually smile or sigh, they can use emotes to convey these actions by typing different commands like a colon, a semicolon or an exclamation point before the text. Emotes appear as regular speech but in a different color and surrounded by asterisks like so: *smiles*, *frowns*, *sighs*. Whispering can only be seen by characters in the immediate vicinity while yelling can be seen by players even beyond the screen. Characters can also send each other in-game messages or join a chat in a conference of up to 300 users.

Characters will often join one of the many guilds. This allows them to get help and create relationships with other players. To join a professional guild, one must find the guild master in the guild hall and pay a 500 gold membership fee. To obtain a membership in a player run guild, a character must be recommended by a current guild member and must receive the guild master's approval. As mentioned in the previous section, guilds regroup people that have common interests and goals. Moreover, they allow players who enjoy fighting with other player characters to indulge in wars with other guilds

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[85] *The Palace*, supra note 58.

without affecting their karma or reputation. Indeed, if a guild declares war on another and the other accepts, attacks or murders between their members do are not counted.

Ultima Online allows players to own a part of Britannia by acquiring a house. Britannia's real estate system is almost as complex as that of the real world. Houses can be bought or built. They have to be maintained so they won't decay and although houses are safe, as is the case with houses in the real world, they cannot perfectly protect against theft. In the words of Starr Long, associate producer of the game:

> "Nothing can 100% prevent a break-in. But you can hire guards and have guard dogs, and you can leave your money in the bank"[87].

Indeed, Britannia has its own bank system with Non-Player Character bankers. Money and objects deposited in the bank are 100% safe from theft. Each character has its own bank account and bank box that it can access from whichever bank in Britannia. Direct transfers from one bank account to another and in the absence of a banker are possible for large purchases of 2000 gold or more. Actually, as we will see in the third chapter of this exposé, Britannia has a complete economic system.

The *Britannia News Network (BNN)*[88] keeps Britannia's citizens up to date on the latest developments. While it is the official news source of Britannia,

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[86] Dave GREELY and Ben SAWYER, "Has Origin Created the First True Online Game World?", Gamasutra, August 19, 1997, <http://www.gamasutra.com/features/19970819/sawyer_01.htm>.

players have established many other Web sites for the same purpose. BNN offers the possibility to listen to the news and even carries weekly horoscopes.

Possibilities in *Ultima Online* are not limited to what its designers have created. Social interaction is really what makes *Ultima Online* stand out from the rest. It is a community that has facets both inside and outside the game. This is reflected in player-run taverns, shops and inns. This is beyond what the game's designers has anticipated though it is something they had wished... Many marriages have been celebrated, a demonstration once took place at Lord British's castle and a secret shopping network was established on a player-run Web site in order to review Britannian shops[89]. A house of Commons was instituted to help communication between the people and Britannia's leaders[90] and a Senate was inaugurated so elected representatives could adopt laws regarding changes, improvements and add-ons to *Ultima Online*[91].

One of the most fascinating aspects of *Ultima Online* is this blurring of the line between fantasy and reality. You find yourself "playing" in a fantasy world yet talking to a real human being. Every time you log on, you don't start a game but actually enter the world of Britannia. Things have changed since you were

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[87] Ibid.

[88] Britannia News Network, *Ultima Online* <http://town.uo.com/bnn>.

[89] Secret Shopping Network, UO Vault, <http://uovault.ign.com/SecretShopper.asp>.

[90] *Ultima Online* House of Commons, UO Stratics, <http://uohoc.stratics.com>.

[91] UO Senate, <http://www.tstonramp.com/~jedi/uosenate/>. (It seems that the UO Senate no longer exists. A.R. December 2001).

there last. Assuming that it would be possible for no one to be online at one specific moment in time, there would still be activity.

Even more astonishing is the whole culture surrounding the game itself. Players create Web sites dedicated to the game, as if it were real. An example of this is the Web site for the Moonglow City Council[92]. The town of Trinsic has even elected a mayor[93]. Players organize community activities. There are gatherings where the players behind the characters actually meet face to face but there are also meetings inside the game. Indeed, the *Ultima Online* Web site recently included a posting for the third in a series of courses on modern magery to be given by another player at the Lycaeum Academy[94] in the town of Moonglow, Felucca facet, on the Europa shard at a certain time on a certain day.

A final comment that should convert even the most skeptic to the idea that it is not just a game but a world: Britannian gold has been traded at a better exchange rate than many real country currencies[95].

Ultima Online is definitely light years away from the likes of Pac Man or Gran Turismo[96]. Beyond a simple video game, it is more akin to the likes of <u>The</u>

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[92] Moonglow City Council, <<u>http://moonglow.lemming.org/MGCouncil/index2.htm</u>>.

[93] For more information on Trinsic's mayor and town council please see infra chapter IV, section B, subsection 3.

[94] The Lycaeum Academy has its own website including a class schedule calendar at <<u>http://learn.at/lycaeumacademy</u>>.

[95] ORTHANC, Letter from the Producer, <u>*Ultima* Online News and Support Archives</u>, November 1, 1999, <<u>http://www.uo.com/cgi-bin/newstools.pl?Article=1193</u>>.

Matrix[97]. It is a community in its own right and as such has its own norms, which we will now examine.

III. Regulation in *Ultima Online*

A world as complex and as rife with social interaction as Britannia requires norms so that all its inhabitants can coexist in it. It is quite painful to have an object stolen after having invested many real hours building it. It is just as unpleasant to be harassed or attacked while taking your first steps in this new universe, while serious confusion still plagues you. Initially, the developers of *Ultima Online* had planned for players to police themselves[98], without the administration having to intervene so much[99]. The reality is that, as Elizabeth KOLBERT puts it, Britannia "(...) kept veering toward anarchy"[100]. So the game creators stepped in. Just as Origin has created a complex and almost self-sufficing ecosystem, so has it established a regulatory system that takes into account almost all aspects of Britannian life. Following the four elements

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[96] *Gran Turismo* is a very popular car racing game on the Sony Playstation platform. Its web site is available at <http://www.gran-turismo.com/>.

[97] The Matrix, 1999, Warner Studios, directed by Andy WACHOWSKI and Larry WACHOWSKI. Film starring Keanu Reeves as the hero who realizes that the whole universe is computer generated and who fights those who would have this remain a secret.

[98] E. KOLBERT, "Pimps and Dragons", supra note 78.

[99] R. "Jonric" AIHOSHI, "Designer Dragon Interview", supra note 56.

[100] E. KOLBERT, "Pimps and Dragons", supra note 78.

of constraint that LESSIG discusses in Code, we will examine Britannia's Law, social values, market and architecture as well as how they interact.

A. The Law

Though Britannia, having no government, has no real authority and no law, there are certain rules that we include under this category. What made these rules resemble the Law in our perception was the fact that they stem from the documents that define the relationship between Origin and the subscribers to the game, that they prohibit a certain behavior and determine sanctions to be applied ex post facto.

Before even starting to play *Ultima Online*, one must familiarize oneself with certain rules that apply in Britannia since the Service Agreement refers to the Rules of conduct that prohibit specific behavior. Although the scope of this paper is to study in-game regulation, these documents as well as the Harassment Policy, although outside documents, have their place here seeing as they forbid certain conduct inside the game's arena. Furthermore, they seem to be Britannia's only written behavior guidelines[101].

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[101] *Ultima Online*, "How do I know what is "legal" to do in UO?", Game Master FAQ, <http://support.uo.com/gm_3.html>.

The Rules of Conduct[102] prohibit the harassment of other players, the use of offensive or sexually explicit language and all abusive, libelous, obscene or discriminatory language against another player. They state that the creation of guilds based on racist, sexist, anti-gay or any other hateful philosophy is forbidden. Finally, they include an interdiction for players to exploit any fault in the game in order to get an advantage on other players or to communicate the existence of such in any way.

The Harassment Policy specifies which behavior is considered harassment. It states that harassment is a serious offence and that vulgar and obscene language, insulting names and remarks, racial, sexual or religious comments, and any other behavior that offends or humiliates another player is considered to be harassment. However, player killing, stealing and fighting are not. The Policy enumerates the means players can take to report and to counter harassing conduct.

The remainder of Britannia law is can be found here and there on the *Ultima Online* Web site. A precious source of what is licit or illicit is the game master FAQ. The section concerning exploitation[103] is particularly enlightening for our purposes. Exploitation is referred to in the Rules of Conduct at section 15, which prohibits the exploitation of any bug in the game to gain an unfair advantage over the other players. The game master support further explains what constitutes an exploit. While it does not describe every incident that could be considered an exploit, it specifies that any method of doing

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[102] *Ultima Online*, "*Ultima Online* Service Rules of Conduct", supra note 74.

[103] *Ultima Online*, "Game Master Support: Exploitation", Game Master FAQ, <http://support.uo.com/gm_8.html>.

something that would normally be impossible to do, like in-town murders, constitutes an exploit[104]. Taking advantage of a loophole in the game in order to create more gold or other objects is also regarded as an exploit. Scamming can also be considered an exploit under certain circumstances to be examined on a case-by-case basis. Possible sanctions for exploitation are a reprimand, character deletion, reduction of statistics or skills, deletion of the items illegally acquired, being placed in a penalty box and account termination.

This same section stipulates under what circumstances using macros is illegal. We saw earlier that *Ultima Online* offers players the possibility to program macros in order to facilitate the execution of certain tasks. However, it is illegal to program macros to repeat the same action while away from the game. If a Game Master attempts to communicate with a character that is using a macro and he does not respond, he will consider it to be unattended macroing. They will not differentiate between players that have left their computers momentarily to, for example, go to the washroom or answer the doorbell, and those who have left their computers to go to sleep and wake up with much stronger personae.

A Game Master who catches a player macroing unattended will send his avatar to a place called the "macro room" in an inn in the town of Buccaneer's Den from where it can be removed from the game instantly. When the player

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[104] The use of the term "exploit" refers to hacker activity. Indeed, "exploit" is commonly used to designate programs used by hackers to take advantage of a vulnerability in a specific software to gain access to a system. See Zachary WILSON, "Hacking: The Basics", SANS (System Administration, Networking, and Security) Institute Information Security Reading Room, April 4, 2001, <http://www.sans.org/infosecFAQ/hackers/hack_basics.htm>.

returns to his computer, he finds his character in this room, can read why he is here on a sign posted in the middle of the room and can take one of the five moongates, the Britannian equivalent of portholes, to travel back into the game. The Game Master makes a note in the player's account to the effect that he was caught macroing unattended and sends him an email. First time offenders are removed from the game for 48 hours. For a second offence, they are penalty boxed for 72 hours and their case is sent to the Account Administrator who, after reviewing it, decides if they should be removed permanently. A third offence gets the players permanently removed. However, on Siege Perilous, the shard reserved for experienced players, violators only get the first warning including the 48 hour suspension and the email. Any subsequent offence can be sanctioned by permanent removal.

In Britannia, very few behaviors are prohibited by "law". Things that are not tolerated often have to do more with outside acts. Indeed, *Ultima Online*'s creators have turned to other regulatory means to control player behavior. The use of the Market is one of these means.

B. The Market

Britannia is equipped with a dynamic economic system[105]. The game designers meticulously planned its economy. As noted earlier, nothing is

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[105] For an in-depth look at Britannia's economy, please see Z. BOOTH SIMPSON, "The In-game Economics of *Ultima Online*", supra note 79.

given in Britannia, everything must be earned[106] and many somewhat tedious tasks must be completed before saving enough money to invest in property, for instance.

We saw that players must try selling their wares to shopkeepers. What we did not mention is that said shopkeeper can refuse to buy them. It happens that merchants do not have enough money or that they are overstocked. Britannia's economic system is based on the basic rules of supply and demand and in this case, merchants will either refuse to buy or buy for a ridiculous price. The Playguide indicates that if players find a market saturated in one town they should try selling their goods in another town.

Actually, this way of doing things has evolved somewhat since Britannia's beginnings.

Objects find their way into Britannia in three different ways. They are either produced by the players from basic resources, created by the Non-Player Character shopkeepers or picked up off the bodies of dead monsters. Every object that enters the game is stored in the server database that is updated according to the actions of players. Items leave the world primarily through deletion a few minutes after they either are deposited in the garbage bins available inside the houses or left on the ground. The other ways they leave the world are through failed attempts to create items by inexperienced players, deterioration through normal wear and tear, disappearance through consumption for one-time use articles like food and deletion by NPC

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[106] Actually, we will see that this is not exactly true when we take a look at Britannia's social norms.

shopkeepers who can chose to destroy objects they buy to return them to their basic resource state.

Britannia's currency is the gold coin. While players are free to barter items, some things such as houses and reagents for magic can only be bought with gold from NPC shopkeepers. Gold enters the game through NPC shopkeeper purchases and through harvesting from the bodies of slain monsters. Counterfeit gold also found its way into the game at one time in *Ultima Online*'s early history. This was made possible by a flaw in the game and, as we will see further, it had dire effects on the economy. Gold leaves the game through two avenues: purchases from NPC shopkeepers and rent paid to vendors. Vendors only entered the game six months after its release and are part of the second version of *Ultima Online*'s economic system.

Initially, Britannia's economy followed a macroeconomic design[107]. All units of basic resources existed in the game's databases and were meant to be used up in the game, degrade into their basic unit states and be recycled back into the game as such. We have said that characters must develop their skills to enjoy the game to its full potential. Herein lies the problem with Britannia's initial economy. Players are encouraged to produce items for which there is no demand. Though these same players would not expect to find a buyer for their wares in an oversaturated market in the real world, they demand it in *Ultima Online*. Player to player trading was not prevalent so players had to turn to NPC shopkeepers. However, the latter were programmed to use "a

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[107] Z. BOOTH SIMPSON, "The In-game Economics of *Ultima Online*", supra note 79.

very complicated artificial intelligence algorithm to simulate supply and demand"[108], and did not buy goods they were overstocked in.

This first version of the economy lead to many problems. The overproduction of goods by players trying to raise their skills and the refusal of NPC shopkeepers to purchase them led to deflated prices. Furthermore, this angered players who claimed that they had been encouraged to manufacture items in order to gain money only to be refused what they had been promised.

Incidentally this also exacerbated the hoarding problem within *Ultima Online*. For many possible reasons, players have a tendency to accumulate and store objects. Aside from being a little eccentric, this would be harmless behavior were it not for server capacity limits. Since NPC shopkeepers were not buying the items manufactured, these would stay in the game therefore aggravating server congestion.

The game designers ultimately modified its code allowing shopkeepers to buy articles even if they are overstocked but nevertheless limited the number of purchases of same items to ten an hour to avoid abuse. Correlatively, they bestowed shopkeepers with the ability to produce gold from scratch. This is one of the ways the designers used the game's code to regulate its economy.

Thus, the second version of Britannian economy includes shopkeepers that buy items off of avatars without truly considering supply and demand rules. A

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[108] Ibid., under "NPC Manufacturing".

second feature of this new system is that it is comprised of two parallel economies: NPC-to-player and player-to-player. The latter was only vaguely present previously. Its expansion is largely due to the introduction of vendors.

Players can indeed hire a vendor by purchasing a "contract of employment"[109] from tavern keepers and innkeepers. The vendors are placed in and around the avatar's house where they remain until the player removes them or stops paying them. Indeed, vendors charge a basic fee plus a percentage of the value of the articles they have in stock. They appear as other personae but are invulnerable, do not move and do not speak. They are like secure containers that can hold items to be sold to other characters. They are basically like "automated vending machines"[110] that stay in the game and continue offering goods for sale even after the player has logged off, 24 hours a day, seven days a week. The player determines the price of every item he deposits with his vendor who, not having the ability to negotiate, will only sell for the set price. Owners must pay them in advance but they will also debit their fees from the sales they realize.

Initially, vendors charged a fee based on the price of the resources they had in inventory and not the real price of items. This led to players using them as security boxes, pricing items too high for anyone to buy them (and further aggravating the hoarding problem). Origin, having taken notice of this ruse, modified vendor fees to be proportionate to the value of the items as

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[109] *Ultima Online*, Renaissance Playguide, <http://www.uo.com/guide/renaissance.pdf>. p. 98.

[110] Z. BOOTH SIMPSON, "The In-game Economics of *Ultima Online*", supra note 79, under "The Supply of Finished Goods: Vendors".

established by the player. The higher the prices a player fixes, the higher the rent he will have to pay. This economic deterrent does keep the tendency of players to hoard in check.

The first Britannian economy failed also because it was closed. The idea behind this design was that by fixing the quantity of available resources, they would enter the world, be transformed, exit the world and come back as basic resources, therefore avoiding any kind of inflation. This concept did not take hoarding into account and as characters held on to their possessions, the inventory of basic resources became so low that it could not produce sufficient creatures and items to keep the game interesting.

As an answer to player complaints, the designers tried adding more resources to the world, to no avail. They then thought of adding more drains through which objects could leave like increasing item deterioration or levying taxes but could not go ahead with either of these options due to their tedious, "real world" aspect and the anticipated player discontent. Finally, the solution implemented in the second economy was to abandon resource recycling in favor of independent incoming and outgoing flows, all elements leaving the world being destroyed.

Though the in-game economy failed for all of the reasons mentioned above, its demise was in great part due to the counterfeit gold production. Players discovered a fault in the game that allowed them to create gold. Hacker's law being that exploits are discovered much faster than they can be repaired, by the time the problem with the game's programming was fixed, Britannia was plagued with severe hyperinflation. In an attempt to remove gold from Britannia, its creators had to find something they could sell that players would

want but that would be a consumable, that is that would be of one time use so as to not exacerbate the hoarding problem. They held an auction for red hair dye that was so successful, players lined up for hours for a chance to get some and the game masters had to build partitions to keep the situation from becoming totally chaotic. The experiment gave the desired results but demanded too much effort for it to be a feasible solution.

Market forces in Britannia are also used to discourage or sanction harmful conduct. Although these economic sanctions take effect after the fact, they do not constitute law since the acts they punish are not actually prohibited. For instance, vendors charge murderers a higher fee, multiplying their regular rent by their number of murder counts[111]. Said higher fee is maintained even if the avatar's murder counts decrease. To revert to paying regular rent, it will have to hire a new vendor[112]. As for criminals, one of the sanctions they face is the impossibility to carry out any bank transactions while they are flagged. This prevents thieves from depositing stolen goods in their bank account where they would be safe from everyone else including the thief's victim[113].

One thing that is apparent from the above expose is that it is difficult to discuss Britannia's economy independently from its architecture. Hoarding, counterfeiting and even the flow of resources affect both the economy and

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[111] *Ultima Online*, "Vendor changes", <u>Update Center</u>, July 24, 2001, <<u>http://update.uo.com/design_353.html</u>>.

[112] *Ultima Online*, "Game Master Support: Reputation Problems ", <u>Game Master FAQ</u>, <<u>http://support.uo.com/gm_16.html</u>>.

[113] *Ultima Online*, "Miscellaneous: Money", <u>Online Playguide</u>, <<u>http://guide.uo.com/miscellaneous_2.html</u>>.

the architecture of the game. Let us now see if the same holds true for Britannia's social norms.

C. Social values

In her article concerning Richard Garriott's departure from Origin last spring, Jessica MULLIGAN praises him as a visionary and wonders if it signifies the end of the Golden Age of computer games. She explains:

> "While the rest of us were fumbling around, building hack-fests and ooohing and ahhhing over our neat use of assembly language to create funky-colored orcs and dragons, Mr. Garriott was building a living, breathing world. His Britannia had everything we had in our games, plus character, danger and – amazingly – a sense of ethics. His use of virtues bound us to his world; it gave us a goal and a reason to exist beyond killing everything in sight. No one had ever done that before; very few have done it since."[114]

The virtues she mentions are the Eight Britannian Virtues: compassion and honesty, courage and justice, honor and sacrifice and spirituality and humility. They are promoted via articles about characters that have put them into practice and by the reputation system. They are a remnant of the *Ultima*

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[114] Jessica MULLIGAN, "The Golden Age: DOA?", Happy Puppy, vol. 9, no. 10, April 6, 2000, <http://www.happypuppy.com/features/bth/bth-vol9-10.html>.

series as they were introduced in *Ultima IV* as an answer to critics who accused Garriott of having created violent and amoral games. Against Garriott's expectations, the introduction of the virtues actually led to a rise in the game's popularity.

The "sense of ethics" she speaks of refers to *Ultima Online*'s famous reputation system. Each character's reputation is a combination of their karma and notoriety. Karma is a measure of how good a character is and notoriety measures how well known he is in Britannia. Player conduct can affect karma and notoriety in different ways. For example, killing evil Non-Player Characters raises karma while stealing decreases it and killing characters more notorious than oneself will raise notoriety yet can also diminish karma if the character is innocent.

The combination of these two elements is what determines the attribution of titles to characters. The persona with the most notoriety and the best karma sees his name prefixed with "Glorious Lord" or "Glorious Lady". A character at the opposite end of the spectrum will have the title of "Outcast". There are 55 possible titles for various combinations of karma and notoriety and they are mostly useful for role-playing.

The purpose of the reputation system is to regulate fighting between characters by making more experienced players stop to think before attacking a beginner character. As discussed in the previous chapter, innocents' names appear in blue, murderers' in red and criminals' and aggressors' in gray. Attacking blue characters is bad for karma, attacking red ones is good and attacking gray ones has no effect.

Just how does one become flagged a murderer, criminal or aggressor? Attacking an innocent is considered attempted murder. If the victim dies before the healing process completes itself, the attacker is guilty of murder regardless if he gave the fatal blow. After five murders, the character is flagged a murderer and whichever title he may have is replaced by "The Murderer" and appears in red to all other players. The murder victim may, once resuscitated, denounce his assassin and make a donation to reward anyone who will bring back his head. The number of murders attributed to a character diminishes by one for every eight hours he plays without attacking an innocent.

Attacking innocents, stealing from them and looting a corpse makes someone a criminal. They appear in gray and innocents can attack them without being penalized. The length for which one remains flagged a criminal depends on the act committed. For looting a corpse or a simple attack, the label stays for only a few minutes whereas for stealing it lingers until the character dies.

An aggressor is the one who hits first during a fight. Anyone including those who are not innocents can defend themselves against an aggressor without repercussion on their karma. If both parties cease fighting for more than two minutes, neither will be labeled an aggressor.

These "social values" are imposed by architecture but they definitely do set the pace for "real" social values. As laws do in the real world, these rules embedded in the game's code do enshrine values that players already esteem. Or do they?

There really is a "social" divide in *Ultima Online*. Richard Bartle's player types[115] notwithstanding, there are two kinds of participants in this, and most Massively Multi-Player Online Rope Playing Games[116]. While a substantial number of them think that the game should follow real world values, others prefer it to allow them more leeway to "player kill".

Ultima Online is rife with monsters and evil non-player characters for players to attack. Yet, some participants prefer to go after their peers. Avatars who indulge in this type of behavior are called "player killers" or "PKs".

Player-killing or Pking is not unique to *Ultima Online*. Individuals who are perfectly normal in real life can be virtual sociopaths once online. For all its realism, Britannia is still a game. Not "just a game"[117] but still a game. People who participate in games generally do so to have fun. And as Amy Jo KIM puts it in the title of one of her articles, "Killers have more fun"[118]. She quotes a player whose character became "evil" somewhat by accident only to discover that "(...) playing a good guy gets really boring. The bad guys are having much more fun."[119]. For instance, bad guys accumulate wealth faster

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[115] R. BARTLE, "Hearts, Clubs, Diamonds, Spades: Players Who Suit MUDs", supra note 81.

[117] We refer here to one of Raph KOSTER's "Laws of Online World Design", <u>Raph Koster's Website</u>, <http://www.legendmud.org/raph/gaming/laws.html>, according to which: "It's a SERVICE. Not a game. It's a WORLD. Not a game. It's a COMMUNITY. Not a game. Anyone who says, 'it's just a game' is missing the point." In his interview with Richard "Jonric" AIHOSHI, supra note 56, KOSTER explains that this is what everyone who creates online games tries to make others understand, that "(...) even if it is a game, the emotions you feel while playing are real emotions, and the people on the other side of the screen are real people".

[118] Amy Jo KIM, "Killers have more fun", <u>Wired</u>, issue 6.05, May 1998, <http://www.wired.com/wired/6.05/ultima_pr.html>.

[119] Ibid.

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and partake in more exciting activities than simply fabricating more and more T-shirts. They generally have bigger houses and have more power. However, amongst themselves, bad guys behave just as good characters do, helping each other out and banding together to create guilds.

For, aside from the monthly subscription fees of every type of player out there, guilds are one of the reasons player-killers are allowed in the game. According to Amy Jo KIM, it would seem that the guild phenomenon, the gathering of participants in groups with common goals and interests, occurs solely in environments where player-killing is present[120]. In this perspective, Player-killing would not therefore be such a bad thing since it brings players to band together and fight it.

The creators of *Ultima Online* expected player-killing. What they weren't prepared for was "grief players"[121]. Indeed, misguided players started the trend of preying on weak avatars. They would wait for them just outside of towns and take advantage of their newbie therefore weak status to attack them and either loot their bodies or simply enjoy the sadistic activity in itself.

How players reacted to this is somewhat revealing of in-game social norms[122]. "Good" characters started banding up against player-killers. They would prowl Britannia looking for them and gang up on them, either killing

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[120] Amy Jo KIM, "*Ultima Online*: An Interactive Virtual World with Multiple Personalities", SIGGRAPH Computer Graphics Newsletter, volume 32, issue 2, in Scott S. FISCHER and Glen FRASER's column: "Real-Time Interactive Graphics in Computer Gaming", May 1998, <http://www.siggraph.org/publications/newsletter/v32n2/columns/fraser.html>.

[121] A. PARK, "*Ultima Online*", supra note 52.

them or threatening them to either stop their anti-social behavior or be hunted down[123]. Players who partake in this vigilante justice are basically reproducing "grief player" behavior and having as much fun as the player-killers[124], all in the name of morality.

Ultima Online encourages players to denounce their murderers and allows victims to make a donation to reward anyone who brings back the assassin's head. They even give detailed explanations of how to sever the head and bring it to an in-town guard to collect the reward.

One of the strongest social values in *Ultima Online* is that of help. There is a true culture of assistance and it is quite impressive how more experienced characters help out new players. They not only take the time to teach them new skills, explain aspects of the game and answer their questions but are also generous with their possessions, giving new players weapons, food, armor and such. Real world reflexes and defense mechanisms come out when at first a character approaches you to help you. Yet, soon, it becomes obvious that they want nothing in exchange and that if they do, they reward you generously for your help. This type of behavior is not exclusive to old-time players, as even those with only a few months of experience will share what they know. Even if initially this kind of conduct is unfathomable, once you are treated to this Britannian generosity, you tend to want to pass it on to someone else, therefore creating a domino effect of assistance. This is

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[122] Since this behavior also occurs in the real world, it is also revealing of human nature.

[123] Paul JOSEPH, "*Ultima Online*: Justice in a Virtual World", Nova Southeastern University Law Center, January 1998, <http://www.usfca.edu/pj/articles/*Ultima*.htm>.

[124] A. J. KIM, "Killers Have More Fun", supra note 118.

obviously not specific to *Ultima Online,* as it is a phenomenon abundantly observed in MUDs.

Finally, players are also invited to respect in-game usages[125]. These resemble substantially the rules of netiquette. They state that a player must behave politely and be courteous and that all players, including those that incarnate evil characters like murderers and criminals and that he must show respect to his fellow players. They also mention that a sentence typed in capital letters is the equivalent of screaming, that to snoop in another's backpack is not seen too well and that while murder does not violate any *Ultima Online* regulation, it does not help to make any friends.

As we noted for Britannia's market, Britannian values are oft entrenched in its code. This is not to mean that they are not social values regardless. What makes an element of behavior control strictly code and how *Ultima Online*'s developers use code to regulate player conduct is what we shall now look at.

D. Architecture

Like cyberspace, Britannia is an environment created by man using code. It is therefore normal that code should be present to a certain degree in every aspect of its regulation as we saw in the previous sections. In this section we

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[125] *Ultima Online*, "New Player Center: Britannian Etiquette", <u>New Player Center</u>, <<u>http://www.uo.com/newplayer/newplay_2.html</u>>.

will examine how the creators of *Ultima Online* use code more directly to influence player behavior.

Origin could have made the decision to program *Ultima Online*'s code in such a way that stealing, for example, would be "physically" impossible. As a "young" player without any stealing skills, every time we tried picking up an object that belonged to someone else, a message appeared informing us that we could not do so because it was an other character's possession. The whole universe of Britannia could have been programmed like this yet it is not what the game's designers chose to do.

Still, regulation through architecture plays an important role in the management of player behavior in *Ultima Online*. However, while the developers of *Ultima Online* manipulate code in order to manage avatar conduct, they themselves are limited by architecture outside of their control. The most important limitation they encountered is server capacity. Servers can only store and process limited amounts of data and, accordingly, a finite number of connections. This outside architectural barrier combined with player tendency to hoard is one of the problems that prompted the game's creators to use in-game architecture to modify player conduct.

Indeed, the issue first surfaced during Britannia's first days of existence. The game's creators had underestimated the game's success and had to contend with server lag, server crashes and many frustrated customers. Origin

therefore came up with the different shards or servers to accommodate all of its subscribers[126].

The hoarding problem also prompted Origin to rethink not only the faucet and drain of its economy[127], definitely separating the input and output of resources, but also reduce the number of items that could be stored inside of houses[128] in an attempt to decrease server congestion.

In October 1999, Origin implemented the first phase of the "Clean Up Britannia" campaign in order to rid the world of much of the clutter that was hindering server performance. The "ticket system", as the first step was called, lasted two weeks during which players were invited to throw out accumulated objects in special containers placed all over Britannia in exchange for tickets they could redeem for rare items. This fourteen-day "grace period" preceded changes to the decay system. As noted previously[129], the management of resources in Britannia includes the disintegration of objects dropped on the ground. However, items stored inside character houses were immune to this process.

Indeed, previously, characters could stockpile items in their houses and they would be immune to the deterioration the ones dropped on the ground outside were subject to. Under the new decay system, objects left inside a

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[126] C. GRAY, "Lord British: Interview", supra note 68.

[127] See the above section on Britannia's economy.

[128] Z. BOOTH SIMPSON, "The In-game Economics of *Ultima Online*", supra note 79.

[129] See the above section regarding the Britannian economy.

house have to be either "locked down" or placed into the provided secure containers, lest they slowly deteriorate and disappear from the game and its servers[130]. Moreover, each house type has a maximum number of lock downs and secures[131].

According to Origin, the "Clean Up Britannia" program was a success, reducing backup times by over 75% and server start times by over 50%[132]. In the perspective of player satisfaction, these numbers are of great significance. One of the initial complaints players had with *Ultima Online* is that in the case of server failure, it would take a long time for it to come back up and when it did, they would realize that they had lost their most recent acquisitions, be they objets, statistics or skills[133]. The improvement in backup and start up times meant that, in the event of a server shutdown, the game could be back online much sooner and the updated databases would allow for it to restart closer to where it had left off, therefore minimizing the loss of player gains.

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[130] *Ultima Online*, "Clean Up Britannia, Phase III Coming Soon", <u>News & Support Archives</u>, December 13, 1999, <http://www.uo.com/c/s.dll/newstools.pl?Article=1381>. See also James FUDGE, "Clean Up Britannia", <u>Computer Games Online</u>, October 5, 1999, <http://www.cdmag.com/articles/023/072/uo.html>.

[131] *Ultima Online*, "Phase II (Lock downs and Secures)", <u>News & Support Archives</u>, November 23, 1999, <http://update.uo.com/design_37.html>.

[132] *Ultima Online*, "'Clean Up Britannia' A Success", <u>News & Support Archives</u>, February 7, 2000, <http://www.uo.com/cgi-bin/newstools.pl?Article=1584>.

[133] For more information about these complaints and actions players took to put and end to this grievance, please refer to the last chapter of this paper.

The second important issue Origin had to contend with is player-killing. Player-killing is basically unavoidable and Origin did not want to ban player-killers from Britannia. It had to devise a way for these personae to be punished for their actions without infringing on their right to the service they pay a monthly fee to have access to. The solution that was adopted was the reputation system. Since Origin could not watch every player's move, they programmed the server to keep track of murders while taking also into account the quality of the victim[134] as a means to deter antisocial behavior[135].

Ultima Online's architecture elucidates what is acceptable or not in Britannia. One legitimate question about Britannia is if stealing is deemed to be legal. It is referred to often as a crime yet the Playguide explains how to go about doing it and that in order to be able to steal from Player characters, one must join the Thieve's Guild, not a player guild but one established by Origin.

Britannia was conceived in a way for freedom of action to be more limited in the towns than outside. The idea was to allow all types of role-playing, even player versus player, yet maintain a civilized, peaceful and orderly world. Indeed, according to Richard Garriott:

> "When we first launched *UO*, we set out to create a world that supported the evil player as a legitimate role. (...) Outlaws and monsters are simply two different types of carnivores, all part of one continuous organic system. (...) Players who choose the life of an outlaw (...) essentially become powerful and intelligent

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[134] For instance, the owner of a house can kill an intruder without it counting as a murder since, even if he was an innocent while outside of the building, as soon as entered it without being a friend of the house, he became a criminal.

[135] E. KOLBERT, "Pimps and Dragons", supra note 78.

monsters - akin to other monsters in the world, but even more sophisticated and interesting, because they're real human players."[136]

Thus, though it is accepted that some players will indulge in mischievous activity but they will not have the same privileges as others. Indeed, one of the corollaries of the reputation system is the physical, or architectural, limit on actions by the players who indulge in antisocial behavior. This is the role of the town guards, artificial intelligence Non-Player Characters that dwell only in Britannian towns, who protect their citizens and strike down assassins and criminals as soon as they set foot in a town. Ill-intentioned players, murderers and criminals, can indulge in their mean streak without consequence as long as they do not venture into one of the towns. This has the effect of keeping player-killers away from the population hubs while maintaining their ability to play in the vast Britannian wilderness. Of course, even this "sanction" is temporary as players have the opportunity of seeing their characters revert to a state of "innocence" if they display good behavior.

However, the servers keep track not only of short-term murder counts but also of long-term ones as well as of "Ping Pongs". Every murder gives both a short-term and a long-term murder count. Five short-term or long-term murder counts makes a character red. Short-term counts decrease by one for every 8 hours of playtime whereas long-term counts diminish by one for every 40 hours of playtime. Avatars suffer loss to their skill levels when they die if they have five or more short-term murders. Because of the long-term counts, a character can be red and not suffer any skill loss upon its death. There is one

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[136] A. J. KIM, "Killers Have More Fun", supra note 118.

"Ping Pong" count every time a character has five short-term murder counts, or every time he becomes susceptible to skill loss were he to die. Specifically, the first five reported murders are worth one Ping Pong count but if this count goes down to four and the persona commits another murder, another Ping Pong count will be added. Characters who repeatedly commit murders become permanently "red" without the possibility of reverting to "blue"[137] when they have accumulated five "Ping Pongs". Understanding "Ping-Pong" rules is a little complicated. Suffice to say however that these personae are for all intents and purposes, basically banned from ever entering Britannian towns. Thus, while this does not eradicate player-killing, it does give good citizens a place where they can dwell free from this menace.

Though the initial intention of the creators of *Ultima Online* was to let players police themselves[138], experience and player complaints made them rethink their position. Two architectural mechanisms were introduced in order to control player-killing. The first one is a 40 hour protection period for "young" players. Young players have certain privileges and restraints. They are immune to harm from monsters and from other players. They cannot hurt other players, cannot steal from other players or Non-Player Characters, cannot loot a monster they did not kill unless it has been dead for two minutes or more and other players cannot loot a monster killed by a young player. Moreover, they are automatically teleported to a healer when they die and while some of their possessions are safe from other players, they are all

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[137] *Ultima Online*, <u>Renaissance Playguide</u>, supra note 109, p. 79.

protected in case of death[139]. The "young" player status is temporary and optional. It lasts either until the player has logged in 40 hours all avatars combined, until predetermined levels of statistics and skills are attained by any of the avatars, until a Game Master revokes such status or until any of the avatars renounce the status.

The second architectural mechanism that Origin gave into is a "safe and a wild zone"[140]. Whereas this solution was implemented in one of *Ultima Online*'s competitors, *Everquest*, from its beginnings, Origin did not see fit to introduce such a mechanism until its second update, *Ultima Online: Renaissance*[141] in May 2000. By putting into place Felucca and Trammel as the two zones were called, Origin hoped that it could please those who wanted to play without the constant menace of player killers without upsetting the latter, by giving players the opportunity of playing with participants that share their play style. JOHNSON and POST mention this possibility as one of the advantages of the Internet:

> "The great virtue of the net is that it allows multiple, incompatible resolutions of (...) policy questions – by giving those who disagree about the resolution of any particular question the means to avoid contact with one another. If many people

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[138] R. "Jonric" AIHOSHI, "Designer Dragon Interview", supra note 56. See also Raph KOSTER, "A UO postmortem of sorts", Raph Koster's Website, June 2000, <http://www.legendmud.org/raph/gaming/postmortem.html>

[139] *Ultima Online*, Online Playguide, "Miscellaneous: Young Players", <http://guide.uo.com/miscellaneous_7.html>.

[140] R. KOSTER, "A UO postmortem of sorts", supra note 138.

[141] James FUDGE, "*Ultima Online*: Renaissance hits full domestic distribution", Computer Games Online, May 4th, 2000, <http://www.cdmag.com/articles/027/148/uor.html>.

disagree on applicable standards, then the remedy is to allow each set to migrate to different areas of the net."[142]

Some architectural features in *Ultima Online* seem to exert an influence on player conduct in a subtler manner. For instance, the limit on how much weight an avatar can carry as well as his strength is architecture that has effect on social values. Our first both encounters with other Britannian characters were due to these limits. After having picked up one item too many, our persona was unable to move. Confused and a little panicked, we asked one of the nearby characters if he wished to buy a cape from our inventory[143]. This led to our first meaningful exchange in Britannia. Our fellow player it turns out was very generous and even bore the title "admirable". He ended up teaching us more about the game in an hour than we had learned in a week's worth of playing time on our own. Our second significant meeting with a Britannian citizen happened when another more experienced player asked us to help him carry some of his belongings to the nearest bank. He also taught us quite a bit about the game, introduced us to his guildmates, gave us armor and food – incidentally taught us that we had to eat – and allowed us to practice our fencing skills on the guildhouse dummy. Both of these encounters happened because the characters were carrying too much weight and were stuck. This architectural limit thus encourages even the most

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[142] D. R. JOHNSON and D. G. POST, "And How Shall the Net Be Governed? – A Meditation on the Relative Virtues of Decentralized, Emergent Law", supra note 14.

[143] We could have simply dropped some items on the ground but for some reason, we were not able to do so at the time, probably due to server lag and our definitely outdated computer. Also, being a newbie, we preferred trying to sell the items and start building our nest egg rather than simply getting rid of our extra baggage.

solitary players to socialize with others lest they have to reluctantly give up belongings or remain stranded.

Other architectural measures are more obvious. One of the features included in *Ultima Online* is filtering software. Although *Ultima Online* rules state that players may not use obscene or vulgar language, the people at Origin realize that not all players follow the rules. However, it is not possible to monitor all in-game dialogue and, in some cases, sanctioning this sort of language ex post facto is not satisfactory. Therefore, the included obscenity filter option allows parents who wish to protect their children from this sort of language and any other player who does not want to be exposed to it to have hands-on control of it. When turned on, the filter makes common obscene or vulgar words appear as a series of punctuation marks. Players may add or remove words to the list of filtered expressions. They may also add another player's name to a list of players to ignore in order for his speech to not appear to them[144].

Another illustration of this type of architectural regulation involves vendors. Vendors can be hired for a certain daily fee to sell a player's wares, even in his absence. If their owner does not pay them, vendors pay themselves from the money they have made in sales. However, if the sum is insufficient, they do not turn to the real world method of filing an action in court but simply self-destruct. The items they have in stock remain on their corpse and disappear with it when it decays[145].

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[144] *Ultima Online*, Renaissance Playguide, supra note 109, p. 62

[145]   *Ultima   Online*,   "Miscellaneous: Vendors",   Online   Playguide, <http://guide.uo.com/miscellaneous_6.html>.

Moreover, when a character logs off, his house and the objects inside remain in the game while his avatar disappears. In reality, once a player logs off, his character remains where he is for about five minutes. In these five minutes he can be looted or even killed. The reason behind this is that the creators of the game did not want players to get away with doing something that is prohibited simply by logging off to avoid retribution. Avatars will automatically disappear only if the player logs off from inside an inn or his house.

More than simply to influence in-game character behavior, the game's architecture is also used to affect the conduct of the players themselves. In "Behavioral Game Design"[146], John HOPSON explains how players react to certain circumstances and more specifically to the game's contingencies. A contingency is a "rule or set of rules governing when rewards are given out" or, in other words, what action will trigger a reward and at what interval. How they are programmed in a game determines player reaction. The two basic types of contingencies are ratios, which grant compensation after a number of actions have been completed, and intervals, which provide rewards after a certain period of time has elapsed. In *Ultima Online*, an example of a ratio contingency is the fact that the more you practice a skill, the more proficient you become at it. An example of a mixed ratio and interval contingency[147] is the fact that a character has to kill a certain number of monsters before being

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[146] John HOPSON, "Behavioral Game Design", <u>Gamasutra</u>, April 27, 2000, <<u>http://www.gamasutra.com/features/20010427/hopson_01.htm</u>>.

[147] These types of contingencies are called "chain schedules". See HOPSON, ibid.

able to access the dragon's cage, but the dragon emerges randomly without following any fixed schedule[148].

These types of contingents have specific effects on player behavior that game designers should be aware of in order to keep their players interested as long as possible but we will not discuss them in this paper[149]. The one contingent in *Ultima Online* that we wish to point out does not really involve a reward. Indeed, the fact that avatars must maintain their houses by visiting them every so often is an "avoidance" contingent. Participants work to keep the status quo. The creators of the game do not have to provide them with new things to do or rewards to keep them interested. Players play even without a reward awaiting them at the end of their efforts, simply to keep a negative consequence from happening, in this case the deterioration of the house. In employing this type of contingent Origin keeps its subscribers coming back for more without having to do anything additional to keep them interested.

Origin has understood the importance and efficacy of regulating user behavior through code. It is the most important part in their regulatory approach. However, it is not absolute. Here is what Richard Garriott had to say about it:

> "Our biggest ongoing issue is staying ahead of players for laws
> of economy and ecology. Just like in the real world, the United

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[148] This example is taken from HOPSON's article as we did not get far enough in the game to witness this type of activity.

[149] For more information about the specific effects of different types of contingencies please see HOPSON, ibid.

States has to keep adding laws to the books to deal with criminals ... we have the same thing in the virtual world," says Garriott. "Every new feature we add, someone finds a way to exploit it in a way we didn't expect." [150]

Indeed, while architectural regulation may initially seem immutable, it is not necessarily so. As mentioned earlier, architectural rules furthest from the core of a system are the easiest to modify. In this respect, regulating through architecture may not always lead to highly efficient regulation. In the next chapter we will examine the different ways players circumvent or modify regulation in *Ultima Online*.

IV. Circumventing or modifying regulation

If we consider architecture as the limits imposed by nature, we tend to think of it as set. Even when we know that in cyberspace it is easily modifiable, we still think that it is the exclusive domain of program developers, without players having a say in it.

However, as in the real world, citizens of Britannia do have a say in the rules that govern them. If an overwhelming majority of Britannian citizens wanted to

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[150] Janelle BROWN, "Chaos in Britannia: *Ultima* Faces Protests", <u>Wired News</u>, November 14, 1997, <<u>http://www.wired.com/news/culture/0,1284,8545,00.html</u>>.

rid the world of thieves, it would no doubt happen, if for no other reason than the threat of subscribers moving onto other realms[151]...

A. Circumventing regulation

The first and obvious way to circumvent regulation is by cheating[152]. Cheating takes on a whole new dimension in multi-player games. Indeed, in single-player games it concerns only that player. In multi-player games, it affects the other participants who perceive the game as being unfair. If an online game allows cheating to become rampant, it will lose a certain subscriber base that just won't put up with it.

As we will see further, there is a market for Britannian goods that arose with the rise in popularity of the game. This phenomenon makes cheating even more worrisome: were the objects sold obtained legitimately? Cheating in *Ultima Online* therefore takes on aspects it didn't in other more "traditional" video games. But as in other video games, it does have its place and it has been reported many times.

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[151] As in *Everquest* and *Asheron's Call*, *Ultima Online*'s two main competitors.

[152] For a discussion on cheating in online environments and possible solutions to the problem please see Andrew KIRMSE and Chris KIRMSE, "Security in Online Games", <u>Game Developer</u> Magazine, July 7, 1997, available at <<u>http://www.gamasutra.com/features/19970707/security.htm</u>>. Also see Matt PRITCHARD, "How to Hurt the Hackers: The Scoop on Internet Cheating and How You can Combat It", <u>Gamasutra</u>, July 24, 2000, <<u>www.gamasutra.com/features/20000724/pritchard_01.htm</u>>.

The first and most notorious cheating incident that happened in *Ultima Online* was when players found a bug in the program that allowed them to create gold and reagents at will. The production of counterfeit gold had serious consequences for the game[153].

However, cheating is not limited to finding program faults and exploiting them. It can also occur when one manipulates in-game options in a way that was not intended by the game's programmers. For instance, *Ultima Online* allows members to have up to five characters per shard with their account though only one character can be played at a time. Certain players create expendable characters in order to avoid sanctions or regulation. This phenomenon is called "muling"[154]. Mules are characters created specifically to help a main persona by doing things that could be negative for the latter. Since they are not one of the player's "real" characters, it does not matter if they get killed, lose points in their skills and statistics or acquire a bad reputation. Mules are used to carry equipment and money, to steal items from others and to test experiences for a main character. To cite an example given by Zachary BOOTH SIMPSON:

> "For example, imagine that there is a dungeon filled with traps and treasure. Knowing that the cave holds unknown malice, a smart player will send his disposable mule character into the labyrinth first, thus revealing the traps and monsters at the cost of killing the disposal character several times. Once the optimal

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[153] See supra Chapter III, section C.

[154] Ibid.

solution is discovered the player replays the adventure with their real character, who can now make it through unharmed."[155]

A second in-game process that ill-intentioned players used to their advantage was the reputation system. As mentioned previously, in their effort to curb player-killing, Origin introduced the reputation system. It was meant to discourage antisocial behavior and give some power back to good characters that were its victims. One of the system's precepts was that slaying a murderer would not have a negative impact on the slayer's reputation. Instead, it was considered a good deed. Player-killers created alliances amongst themselves and assassinated each other thus regaining innocent character status[156]. The same phenomenon took place when the bounty system was later introduced. Player-killers would pair up, kill one another, claim the bounty and share it between them[157].

Thus, by using licit in-game options in ways that they were not meant to be used, players circumvent *Ultima Online*'s regulation. For instance, in the examples mentioned, the rules that are evaded are that avatars are supposed to advance in the game on their own merit and that benefits implemented to reward strikes against evil characters were not meant for the evil characters themselves.

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[155] Ibid.

[156] E. KOLBERT, "Pimps and Dragons", supra note 78.

[157] Ibid.

B. Modifying regulation

Ultima Online being a subscription based game, its creators tend to listen to player complaints and modify architecture when they deem it necessary. As Janelle BROWN puts it: "(...) as for the differing opinions on the society's rules and regulations, they're writing regular patches to deal with them"[158].

1. Negotiation

Ultima Online's initial design makes it an ever-evolving environment, not only because of the type of play that it involves but also because of the constant changes its creators can, and do, bring to it. Instant patching of the client software as a player logs on to an *Ultima Online* server plays a big role in this, as do the new versions that are published periodically. Among the many novelties this new medium allows games, the one that concerns us here is the dialogue between the players and the creators of the game.

Though patching of the game is done automatically, the game developers post all updates on the *Ultima Online* website, including updates that are either in concept or in development[159]. The *Ultima Online* message boards[160]

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[158] J. BROWN, "Chaos in Britannia: *Ultima* Faces Protests", supra note 150.

[159] *Ultima Online* Update Center, <http://update.uo.com/>.

allow players to discuss foreseen developments and developers can follow discussions to gage the feelings of their audience regarding specific changes before or after implementing them. Obviously, comments that players make on said boards can also be the inspiration for proposed alterations.

Since this is a two-way process instead of unilateral proposals from the creative team or simply player suggestions, since game developers can answer player posts on the boards themselves, this practice resembles more a negotiation between developers and players on modifying regulation instead of simple suggestion.

2. Pressure

Pressure here is the equivalent of lobby groups. As lobbies have their votes to bargain with, players of *Ultima Online* have their monthly fees. Players who don't enjoy the experience will kvetch but eventually they will simply leave. Because of this market pressure Origin has had to give in to many player demands to avoid losing a good part of their subscriber base.

As we saw earlier[161], Britannia's initial economic system was plagued with problems. NPC shopkeepers sold basic resources like wheat to characters in

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[160] *Ultima Online*, My UO Boards, <http://boards.uo.com/cgi-bin/wwwthreads.pl>, specifically on the board devoted to development issues <http://boards.uo.com/cgi-bin/postlist.pl?Cat=&Board=dev>.

[161] See chapter III, section 3 on the Britannian Market.

order to make it easier for them to manufacture items. These materials were "subsidized" so their low prices would be within beginner characters' reach. The shopkeepers would then buy back the transformed materials for a much higher price. Not being able to sell these items, the shopkeepers went broke. The game's designers tried to remedy this by having them sell unique items exclusively. For instance, they produced a special blue plate armor. Characters whose specialty was creating armor cried foul, stating that the shopkeepers had an unfair advantage over them[162]. The game designers gave in and reverted to another technique to get their shopkeepers out of financial trouble.

Players also used pressure to get Origin to modify Britannia's architecture when they signed a petition in early 1998 so objects in "Kazola's treetop keg and winery"[163], in the town of Yew on the Great Lakes shard, could get nailed down so they couldn't be stolen[164].

Another real world pressure tactic was also transposed into Britannia when disgruntled players decided to hold a protest in front of Lord British's castle only a few days after *Ultima Online*'s release. As Janelle BROWN put it:

> "(...) on the day press releases proudly trumpeted that they're the "fastest-selling Internet-only game" in Net history, *Ultima*

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[162] Z. BOOTH SIMPSON, "The In-game Economics of *Ultima Online*", supra note 79, under title "Failure of NPC Shopkeeper Economy".

[163] Kazola's treetop keg and winery, <http://kewl.com/kazolas/>.

[164] This according to a message posted by Raph KOSTER, on the MUD Development mailing list, April 16, 1998, <http://www.kanga.nu/archives/MUD-Dev-L/1998Q2/msg00203.php>.

was being deluged by a vocal group of anarchic gamers demanding the game be built *their* way."[165]

Hard-earned objects that disappeared because of server lag and instability were among the player complaints along with the fact that game's rules allowed characters to get away with evil deeds. The instigator of the whole protest was a character who went by his in-game name of Mohdri Dragon. In his call to arms[166], he exposes what he plans on accomplishing with the protest, the way it is to be conducted and the issues he wanted Origin to address.

In it, he asked all players to create new characters, of any profession except for thieves, to join him in a rally, drunk and stripped down to their undergarments. He asked them to get rid of their belongings and to stock up on as much alcohol as they could in order to maintain their inebriated state as long as possible. They were to gather in front of Lord British's castle make as much noise as they were capable of, both by crying out their demands and by overloading the servers. The idea behind being intoxicated was to make involuntary movements that were demanding on servers. Demonstrators were asked to choose a profession other than that of thief so that they could get caught trying to steal from fellow protesters therefore automatically calling upon the services of the guards and using up even more server resources. All this to get the most attention possible from Origin so they wouldn't have a choice but to answer their questions and address their concerns. Specifically

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[165] J. BROWN, "Chaos in Britannia: *Ultima* Faces Protests", supra note 150.

[166] MOHDRI DRAGON, "Full Statement by Mohdri Dragon: A Call To Arms – Event Description", GameSpot, November 4, 1997, <http://gamespot.com/gamespot/stories/news/0,10870,2566382,00.html>.

their complaints were that Origin was adding new features to a game that had serious problems without first fixing pre-existing problems. In this respect, Origin was asking subscribers to pay 45$ to buy a product plus charging them a monthly fee to participate in what in essence was a beta test, an incomplete product that was released before it was ready. Moreover, Mohdri Dragon's statement added that Origin's customer service was not only inadequate but also disrespectful towards its subscribers, which did nothing to bolster player tolerance for beginner blunders.

Another such protest was held when Origin announced that, in order to clean up the clutter in Britannia, it would ban all vendors that were not associated to a building. Several citizens who did not want to lose a certain vendor called Patterson of Yew held a protest to contest this change[167]. While the exact impact of the protest is not known, it is thought that it could have played a role in the decision to postpone the banishment of the vendors, leaving their owners enough time to move them to a building[168].

3. Creation of "democratic entities"

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[167] "Save Patterson – Summary", Kender's homepage, February, 22, 1999 <http://kender.brisbanecbd.com/patterson/save1.html>. See "Save Patterson II", Kender's homepage, undated, <http://kender.brisbanecbd.com/patterson/save3.html>, for a transcript of the protest that took place and "Save Patterson, Kender's homepage, January, 18, 1999, <http://kender.brisbanecbd.com/patterson/save2.html>, for an interview with Kender, Patterson's owner.

[168] Ibid.

Citizens of Britannia are first and foremost citizens of the "real world" and as such tend to reproduce its institutions. Indeed, Britannia is endowed with its own House of Commons and some of its multiple cities actually elect mayors and town councils to represent them.

Britannia's House of Commons was introduced in 1997[169] in collaboration with Stratics, a website devoted to massively multi-player online role playing games. It's purpose, as its slogan says, is "In order to form a more common bond between the Peoples and Rulers of Britannia"[170], that is between the game designers and its players.

Every other Thursday, a sort of conference is held through an IRC program[171] where players can ask questions to people from the game's development team. Players take advantage of the forum to signal problems with the game they would like to see resolved[172]. This forum therefore allows developers to find out about glitches they had overlooked.

Although there are no actual members to this "House of Commons" and therefore no representatives of the people, it remains that it is, as the first

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[169] Stratics, "What is the House of Commons program", stratics.com, <http://chat.stratics.com/content/community/hoc.shtml>.

[170] The *Ultima Online* House of Commons, <http://uohoc.stratics.com>.

[171] IRC stands for Internet Relay Chat.

[172] See as an example the transcript of a chat that was held recently in which players let developers know about bugs in the game at: <http://uohoc.stratics.com/logs/pub011102.shtml>.

House of Commons, a place where players can "present their grievances and petitions"[173] to those who are in power and, in regard to the topic that concerns us, one of the tools players can use to modify regulation.

This is not to say that elections have never been held in Britannia. For instance, the citizens of the town of Trinsic on the Atlantic Shard[174] hold elections to choose their mayor. He is the head of the Trinsic Council of Honor[175], the town council that was officially launched during the second week of January 1998[176]. The council is composed of a mayor, a vice-mayor, a secretary, a treasurer, a publicity officer, a town crier, an ambassador, a historian, a commander of the Honor Guard, a liaison to the Honor Guard, an event coordinator and a secretary of trade and commerce[177]. The council follows the rules found in the Guidelines[178] which include the fact that only the mayor is determined by public election while the other members are voted by the council following the procedure set out. In order to vote in the mayoral

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[173] From the history of the House of Commons, Encyclopedia Britannica, <http://www.britannica.com/eb/article?eu=25384&tocid=215005&query=house%20of%20commons>.

[174] Please see supra Chapter II for an explanation of what shards are in *Ultima Online*.

[175] Trinsic Council of Honor, <http://tcoh.hypermart.net>.

[176] Trinsic Council of Honor, "Timeline of the Trinsic Council of Honor", <http://tcoh.hypermart.net/cgi-bin/library/journal.cgi?folder=about&next=9>.

[177] Each member has a specific role and responsibilities that are described in detail in "Government Positions", <http://tcoh.hypermart.net/cgi-bin/library/journal.cgi?folder=government&next=2">.

[178] Trinsic Council of Honor, "Guidelines", <http://tcoh.hypermart.net/cgi-bin/library/journal.cgi?folder=government&next=3>.

elections, characters must be registered citizens of Trinsic[179], a status open only to those who are either born in Trinsic, owners of a house in its area, members of a Trinsic-based guild or who consider themselves loyal citizens of Trinsic[180].

The council meets every Sunday at 8 p.m., in-game, in the Meeting Hall of Trinsic. Its effective power is somewhat limited today. Indeed, the present Trinsic historian tells us that, though game masters have been known to modify the game's architecture as a response to character demands in the past, today they refuse to do anything that could "(...) even remotely alter the game world"[181].

C. Off-line world means of changing regulation

Britannia may appear to some to be a self-contained world and to others it may even seem like fiction but it is still both a part of the greater whole that is the real world and a reflection of it. It is therefore only natural that, when in-game efforts to modify or circumvent regulation fail, its members should resort

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[179] Characters can register at the "Trinsic Citizen Registry" <http://tcoh.hypermart.net/cgi-bin/mem/registry/index.htm>.

[180] Ibid.

[181] Quoted from an e-mail correspondence between the author and the Trinsic historian in November 2001.

to outside means to find satisfaction. Indeed, in order to solve their issues, certain unhappy players have looked towards the courts while others have tried "buying into the game".

1. Resorting to the Legal System

Despite all the in-game means of modifying regulation, several Britannian citizens thought it best to resort to the real world justice system twice. The first lawsuit by players against Origin was filed not long after Britannia's beginnings.

In March 1998, a group of unhappy *Ultima Online* players filed a class-action lawsuit against Origin and Electronic Arts. In it, they accused the defendants of making false representations regarding the game. While defendants had indicated that the game would be accessible 24 hours a day, seven days a week, the game would often be inaccessible for hours at a time, daily, because of server crashes. Players were told that the game could be played in real-time whereas there was a significant lag between their commands and the actions on-screen. Other complaints included the fact that defendants had pledged to correct the problems yet had not done so, that subscribers were not told of the 10$ a month fee, that they were led to believe that they did not need a credit card to play, that the minimum computer requirements were actually inferior to those necessary for the game to function properly and that they were told that their rights would not be restricted yet the consumer

warranty they were afforded by law was limited[182]. Basically, plaintiffs were asking to be compensated because Origin had sold them a product and a service that were not equal to the ones promised and, moreover, a product that was full of bugs, that was released before it was ready.

Many ridiculed the lawsuit and asked why the plaintiffs didn't simply stop playing if they did not like the game[183]. Though it was settled out of court with Electronic Arts committing to donate 15,000$ to charity, the attorney for the plaintiffs, an *Ultima Online* player himself, said that he was satisfied that the lawsuit had brought about changes to the game and that the plaintiff's were responsible for many of the improvements[184].

The second class-action lawsuit launched by players against Origin was filed in the United States district court for the district of Colorado on September 19, 2000[185]. As noted previously, one of the characteristics of *Ultima Online*, like many other online environments, is that experienced members tend to readily offer their assistance to those less seasoned. This willingness to aid has often been translated into "volunteer programs" by which members who wish to

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[182] Ken Hinther et al. v. Electronic Arts Inc. and Origin Systems Inc., supra note 64. See also Janelle BROWN, "A bug too far", Salon, August 19, 1998, <http://www.salon.com/21st/feature/1998/08/19feature.html>.

[183] P. Stefan JANICKI ("Desslock"), "To Sue... Or Not to Sue...", April 17th, 1998, GameSpot, <http://www.gamespot.com/misc/columns/desslock_980417.html>. Also see J. BROWN, "A bug too far", supra note 182.

[184] P. Stefan JANICKI ("Desslock"), "Interview with George Schultz (a.k.a. Bunboy) lawyer for the plaintiffs", RPG News, January 1999, <http://desslock.gamspot.com/features/ultima/uointerview-1.html>.

[185] James FUDGE: "*Ultima Online*: The second lawsuit", Computer Games Online, September 20, 2000, <http://www.cdmag.com/articles/029/159/uo.html>.

help are recruited to do so "officially", under the banner of the company, in exchange for certain perks. In *Ultima Online*, these volunteers were given free accounts and special in-game objects. Those who made it to the top positions were even given a monthly "thank you" sum[186].

Following an investigation by the U.S. Department of Labor into America Online's (AOL) volunteer program[187] and a class-action lawsuit filed by former volunteers against AOL in May 1999 accusing AOL of violating the Fair Labor Standards Act[188], Origin announced that it was cutting all rewards to its volunteers[189]. Before the change could actually take place, *Ultima Online* volunteers filed a class-action lawsuit against Origin and Electronic Arts seeking to be compensated for the time they put into the game, at a rate of three times minimum wage plus overtime[190]. Though the case is still pending,

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[186] Janelle BROWN, "Volunteer Revolt", Salon, September 21, 2000, <http://www.salon.com/tech/log/2000/09/21/ultima_volunteers/index.html>. The volunteer interviewed in the article received 500$ a month as a "regional lead counselor, managing a team of 90".

[187] Janelle BROWN, "Must AOL pay "community leaders"?", Salon, April 16, 1999, <http://www.salon.com/tech/feature/1999/04/16/aol_community>. Community leaders for AOL received extensive training and took on many roles including training new volunteers and "maintaining administrative paperwork".

[188] The Fair Labor Standards Act of 1938, (29 U.S.C. 201, *et seq.*), a copy of which can be found on the U.S. Department of Labor's website at <http://www.dol.gov/dol/esa/public/regs/statutes/whd/0002.fair.pdf>. According to the Act, "volunteers" who are actually employees and whose services are essential to the business must be compensated.

[189] *Ultima Online*, "*Ultima Online* Volunteer Program Changes", UO News and Support Archives, August 29, 2000, <http://www.uo.com/cgi-bin/newstools.pl?Article=3059>. Granting benefits to volunteers is a way of acknowledging their importance for the company.

[190] James FUDGE, "*Ultima Online*: The second lawsuit", supra note 185.

one of its effects has been the termination of all volunteer programs in *Ultima Online*[191].

2. "Buying into the game"

If cheating is defined as getting ahead by taking an unplanned shortcut, then the next method of circumventing *Ultima Online*'s regulation certainly qualifies. According to *Ultima Online*'s programming, players must repeat certain tasks before the game can actually become interesting. Many subscribers thought this tedious and found a surprising solution in their fellow gamers' unexpected sense of entrepreneurship[192]. Indeed, the rise in popularity of games like *Ultima Online* spawned a new kind of profitable online business: selling objects and characters from inside the games. As mentioned above, for the game to become really interesting, one must accumulate quite a few hours of practice. Skills come hard and character development is a time-consuming task. Some players therefore opted to forego this beginner stage chore by buying either a ready-made seasoned character, weapons that take a long investment to obtain, or in-game currency. Players with a business streak caught on to the need and began

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[191] *Ultima Online*, "*Ultima Online* Program Changes", UO News and Support Archives, May 9, 2000, <http://www.uo.com/cgi-bin/newstools.pl?Article=4607>.

[192] Ashley DUNN even talks with two game partners that run a "full-time business selling virtual gold captured from "*Ultima Online*"" and a player who quit his job to start an auction site in Ashley DUNN, "Virtual Loot for Real Cash", LA Times, April 20, 2000, <http://www.latimes.com>.

auctioning their in-game earnings in online auctions. In fact, a recent search on eBay[193] under the words "*Ultima Online*" turned up over 2,000 items. The highest bid (with more than three days remaining) was 3,050.00$ US for an account that includes a "Castle, Tower, 2 story house, large brick and a small house within the City of Occlo, and right beside the bank". The owner of said account had invested four years of his life in the creation of his characters and possessions.

Technically, the auction is completed through services like that of eBay but the exchange takes place inside the game. The two characters meet at a set appointment place and the seller then delivers the deed to the house, the amount of currency or any other object agreed on by simply dragging it from himself to the other[194].

Thus, with a spanking new character in tow, money, castles and power, certain new players get to reap the benefits of long hours of game time without ever having to... play[195].

In the wake of complaints of fraud, in an attempt to avoid all liability related to these sales the creators of *Everquest*, one of the three most popular massively multi-player online role playing games (MMORPG), posted a message reminding players logging on that selling their characters and

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[193] eBay, <www.ebay.com>.

[194] Ryan ALLEN, "*Ultima Online*: Profiting from Virtual Property Sales", August 17, 1999, <http://www.gamerscorp.com/articles/articles.cfm?ArticleID=1>.

[195] This paradox goes to show once again how *Ultima Online* is more than "just a game". How many games are there out there whose players prefer *not to play?* This, of course, in addition to the fact that people are willing to pay real world money in exchange for virtual goods.

possessions was forbidden[196]. Indeed, there were reports of items paid for never being delivered and complaints about "object hunters" stealing items from other characters. Origin, on the other hand, never condoned the sales but never forbade them either, even taking a certain pride in the amounts paid for characters created in its game[197]. It drew the line however when one of its employees, a game master to be exact, was caught auctioning goods on eBay[198]. Indeed, as seen above in chapter II, game masters are paid employees that play the game and have extraordinary powers and access to items in order to be able to help players. The employee having undermined Origin's reputation, he was fired.

Thus, *Ultima Online*'s code is not immutable, that its members employ many methods to either circumvent or modify the game's architecture. Some of these methods include the unsanctioned use of legitimate processes while others include dialogue and recourse to the legal system.

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[196] Robert LEMOS, "EverQuest players blame buyers", <u>ZDNet News</u>, October 25, 1999, <<u>http://www.zdnet.com/zdnn/stories/news/0,4586,2381019,00.html</u>> and Robert LEMOS, "Can you sell online game characters?", <u>ZDNet News</u>, October 22, 1999, <<u>http://www.zdnet.com/zdnn/stories/news/0,4586,2379998,00.html</u> >.

[197] Robert LEMOS, "EverQuest players blame buyers", ibid.

[198] Michael MULLEN, "Game employee fired for auction gaffe", <u>ZDNet News</u>, June 30, 1999, <<u>http://www.zdnet.com/zdnn/stories/news/0,4586,2286231,00.html</u>>.

Conclusion

The introduction of cyberspace in our daily lives has had profound impacts on the way we do things. Students can write entire theses without stepping foot in a library; bills can be paid without writing a check or running to get to the bank before it closes; and it is possible to have real-time chats with friends who live on tiny islands so remote they have no need for traffic lights.

The Internet has also changed many definitions we took for granted. Indeed, we have witnessed both discussions trying to differentiate what is private from what is secret and debates on how public "public" should be.

In the same way, this new dimension has provoked a stir in the legal world. In a system where legitimacy of regulation is based on territorial authority, how does one apply legislation when faced with the absence of physical borders?

Ideas on how to regulate this rebel space evolved along with our conception of it. At first it was perceived as a separate territory with its own citizens. Then it was seen as a separate parallel jurisdiction. Finally came the realization that it was not an unregulable space but a highly regulable one.

This highly regulable space is being implemented by commerce without any constitutional review. Indeed, LESSIG shows us how there are four orders of constraints on human behavior: Law, social norms, the market and architecture. He explains how these four elements can be manipulated to control user conduct without being divulged to the individuals it affects.

Through the study of the *Ultima Online* online community, we can see how LESSIG's four elements are used to control member behavior, both inside and outside the game, as well as the importance of architectural regulation in such environments.

Many of the ways they are employed resemble regulatory methods found in the real world. The Service Agreement and Rules of Conduct that outline the relationship between *Ultima Online* and its players are the equivalent of the contract that binds Internet users to their Internet Service Providers.

The fact that vendors charge murderers higher rent fees is reminiscent of the higher interest rates lenders charge those with bad credit for a loan and of the higher insurance premiums those who have been involved in car accidents must pay. They are all economic sanctions that punish as well as dissuade without being entrenched in any law.

The use of articles that promote the eight Britannian virtues reminds us television public service announcements that advocate social values like reading to young children, talking to teenagers or taking the time to visit the elderly.

The reputation system itself finds many comparable techniques in the real world. In that it takes into account a person's past deeds, good and bad, and can serve somewhat as a visiting card, it is similar to a curriculum vitae. The fact that it acts as a record not of professional but of socially reprehensible acts makes it comparable to a criminal record. Finally, by being public and

automatically visible to all, the reputation system reminds us of Megan's Law[199].

The vigilante justice that arose against Player-killers is reminiscent of anti-abortionists – not necessarily pro-lifers – and of anti-Arabs – not necessarily anti-terrorists – who have decided what justice was and the taken it into their own hands.

The zoning of Britannia into Felucca and Trammel is analogous to six lane highways separating predominantly white neighborhoods from predominantly black ones and to notoriously well-off towns adding padlocks to their gate's doors on the night of Halloween in order to keep children from the bordering poorer neighborhoods out.

Finally, the five minute delay between a player logging off of *Ultima Online* and his avatar disappearing from Britannia is somewhat akin to a bank that freezes the funds of a deposited cheque for a mandatory 48 hours.

Britannia, with its orcs and dragons, is a virtual world indeed. And yet…

On a final note, the study of *Ultima Online* has showed us that regulating through architecture does not have to be immutable. Indeed, Britannian citizens use many methods to evade or modify regulation including the

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[199] Megan's Law originated in New Jersey when a little girl named Megan was raped and killed by a known child molester that lived across the street from her house, unbeknownst to her parents. According to the law, a version of which has been adopted by all of the 50 states in the United Sates, dangerous sex offenders must register with the authorities of the communities where they choose to settle and the public must be informed of their presence in their neighborhood.

unsanctioned use of licit in-game options, the dialogue between the players and the game designers and the recourse to the legal system.

However, these means are not all available to Internet users. First, *Ultima Online*'s subscribers are aware of the architecture's existence. Most Internet users are oblivious to the regulating technology that lies behind their screen. How can they complain, initiate a dialogue or even use pressure tactics to modify the technology if they are not conscious of its existence?

Even if they knew of these extra applications, one of the most effective pressure tactics would still be out of their reach. Since the offending technology is being developed by private companies, entities that are not subject to the application of constitutional principles, Internet users could not even ask the courts to rectify the situation.

The libertarian perspective is romantic and dangerous. Indeed, it is time for governments, the group of people elected to represent their constituents, to intervene.

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