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Teaching on the MUVE: Legal Issues for Businesses Marketing in Second Life

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Abstract

Multi-user virtual environments (MUVEs) can be used to add an experiential element to education by allowing students to immerse themselves in the environment to accomplish one or more learning objectives. Immersion permits students to develop decision-making skills in a life-like, environment that involves little (financial) risk. Guiding students to incorporate legal, regulatory and ethical issues into business decision-making is a critical part of business decision-making. Business's failure to consider the law's impact on business decision-making can affect business's long term viability. Students in the author's sports marketing law class were required to develop a marketing strategy in Second Life and to identify legal issues that arose. This paper discusses the project, preliminary outcomes, and recommendations.

Introduction and Learning Objectives

Although businesses tend to focus on the legal environment as a hindrance to decision-making, the law can be viewed as a positive force to encourage creative and ethical decisions. Simulating decision-making in the business environment and identifying the legal issues can help students view the law as a positive force . In this author's course titled "Legal and Ethical Aspects of Sports Marketing", students were required to develop a marketing plan for a (fictional) local soccer team and to specifically use Second Life to do so. The course objectives were to:

- (1) Identify and explain the powers of key government agencies that regulate sports marketing, including those agencies that regulate advertising and other marketing activities, antitrust laws and labor relations
- (2) Evaluate key contract terms that apply to negotiating licensing contracts among players, owners, and sports leagues, including issues that address diversity and international issues
- (3) Explain and analyze the legal issues that arise when negotiating player, team

- and/or league endorsement contracts
- (4) Explain in writing and orally key legal rights and responsibilities of sports franchises and their marketing
 - (5) Read case scenarios and apply critical thinking skills to help resolve legal issues
 - (6) Explain in writing and orally the fiduciary and ethical responsibilities of agents serving a variety of functions in the sports marketing arena, including sports agents

The major class project to help students accomplish those objectives was to develop a marketing plan for a (fictional) local soccer team and include in that plan a strategy for marketing the team in Second Life. After developing an outline of that plan, students were to identify and examine the legal issues associated with marketing in the real world and in Second Life. They were also asked to recommend ways to minimize the legal risks involved in different methods of sports marketing and to make recommendations to manage the risk to accomplish marketing objectives.

What is Second Life?

Second Life is a 3D virtual environment that allows multiple users to interact with each other through user-created avatars. Although the interface is similar to that found in 3D gaming, Second Life has no pre-established goals or objectives that the user is to accomplish, i.e. it has no game-created objective to achieve or to win. Second Life also has no pre-established buildings or other creations, other than those “built” by Second Life creators, Linden Labs, a San Francisco based company started by CEO Philip Rosedale. In Second Life activities, buildings, interactions and objects are established and maintained by the avatars (residents) who download the free software onto their computers. The residents build, own and trade items in Second Life as permitted by the Second Life Community Rules (<http://secondlife.com/corporate/cs.php>). Residents can purchase land (“islands” which represent server space) from Linden Labs and can build items on that land. They can make that land public or private.

General Activities on Second Life

Users may use Second Life to create businesses, and to trade virtual items using the Second Life medium of exchange, Linden Dollars, which can be exchanged, traded and purchased using American dollars. Businesses as diverse as Dell, Sun, Nissan, Starwood Hotels, American Apparel and IBM have created a presence in Second Life (Collins, 2008; Hamm, 2006; Zimmer, 2007). IBM uses Second Life for internal collaboration in addition to virtual marketing. Other organizations have used Second Life to test first responders, to simulate the mind of a schizophrenic so that health workers can obtain a perspective on schizophrenia, and to create patient support groups (Stein, 2007). In August 2007, the television show CSI used Second Life in an episode and one artist held an initial album release using Second Life (Reuters, 2007).

Educational Users of Second Life

Educational institutions have used Second Life for a variety of purposes. More than 300 educational institutions have established a presence in Second Life ([http://simteach.com/wiki/index.php?title=Institutions and Organizations in SL#UNIVERSITIES.2C COLLEGES .26 SCHOOLS](http://simteach.com/wiki/index.php?title=Institutions_and_Organizations_in_SL#UNIVERSITIES.2C_COLLEGES_26_SCHOOLS)). Educational institutions' level of involvement in Second Life varies greatly. Most educational institutions present in Second Life have created a group, an island, or both. Education islands created in Second Life normally include a logo or billboards that identify the institution plus a welcome message. The welcome message is frequently delivered via a "notecard". A notecard is the equivalent of a piece of paper that is delivered to the viewer and which the viewer can store in the viewer's folder to read at any time while in Second Life. In addition to a welcome, some institutions have created virtual buildings, classrooms, auditorium spaces and places for social networking (e.g. student lounges). Other institutions, such as Harvard law school, offer classes based partially or wholly in Second Life. According to Jennings and Collins, educational institutions' uses can be placed in one of two categories: operative virtual campuses and reflective virtual campuses (Jennings and Collins, 2008).

Institutions that create operative virtual campuses design and establish those campuses to conduct educational business in the virtual world and do not copy the University's space in the real world. Development of such operational virtual campuses are equivalent to institutions' development of online campuses—how the campus is designed is determined by the purpose to be accomplished. Those spaces are designed to allow the University's mission to be accomplished in the virtual world. Institutions that operate reflective virtual campuses create buildings that mirror those found in the real world—thus virtual world campuses "look" like the real campus. Generally, the virtual world campus is designed as a supplement to the traditional campus.

Using Immersive Technologies to Accomplish Educational Goals

Modern learning theory tells us that people learn through receiving information and creating relationships between the new information and the information that the individual has previously acquired. This theory of learning, variously characterized as "active learning", "generative learning", or "constructive learning theory", states that in order for someone to learn new material one must create relationships between the new information and the knowledge previously learned.(Kolb, 1984) Under this theory, faculty's role is to guide students to create, evaluate, and assess new information. Learners best accomplish the task of generating new knowledge through activities that encourage them to use the new knowledge and incorporate it into the knowledge that they have previously acquired (Bonwell, 1991; Ko, 2001; Kolb, 1984; Palloff, 1999; Pimentel, 1999). By doing this, learners create relationships between the new information and the old knowledge. These theories have been summarized in Chickering and Gamson's "Seven Principles of Good Practice in Undergraduate Education, which specifically identify active learning practices as good practices in teaching (A. W. Chickering, and Zeldia F. Gamson, 1987) and have been updated to incorporate teaching using technology (A. W. Chickering, and Ehrmann, Stephen C. , 1996).

Immersive learning involves active learning through submersing the learner in the learning environment. Immersive learning works through encouraging students to suspend their connection with their current physical presence and become absorbed in the experience. According to one Harvard psychologist, 3-D virtual environments “creat[e] the ultimate theater of the mind” by tapping into the “capacity of the pre-frontal lobe to allow us to experience things mentally before we try them out in the real world” (Zimmer, 2007). Mental pre-experience, which is equivalent to rehearsing before a performance, can be a valuable tool that allows students to engage in activities in a relatively safe, risk free environment. This pre-experience can help students develop their decision-making and marketing skills through consideration of consequences and development of a strategy to make more informed business and marketing decisions.

This author sought to encourage more critical thinking and informed decision making through assisting students to consider the impact of the legal environment on marketing strategies. By exploring Second Life and viewing what was available students could begin identifying its marketing possibilities and evaluate the legal risks and rewards for the (fictional) local soccer team. Ultimately, students could then begin to develop legal risk management techniques to manage their marketing plans.

This author primarily used Second Life as a basis for students to explore the world and consider the possibilities in the context of legal issues. Students were not required to collaborate with their team members in Second Life. Instead, after exploring Second Life, students were required to evaluate how it could be used to market the local soccer team. They were encouraged to “think outside the box” to create marketing strategies that took advantage of the qualities of the virtual environment that differed from “real” life. They then moved to an analysis of the environment.

Class Project

After students created avatars and introduced themselves to Second Life through exploration, student teams began discussing activities that could be accomplished in Second Life. To increase their familiarity with Second Life, students were not required to engage in any specific activities; instead they were asked to review the community rules and interact with other avatars. (See Appendix A). After reading more in the textbook about legal issues and risk management, students were asked to identify legal issues that arose in the context of sports marketing. As part of that identification, students were asked to use an online forum to discuss possible marketing plans involving real life and in Second Life. This discussion occurred in the discussion forum of the University’s course management system (Blackboard). (See Appendix B).

Students’ online discussions and the reports submitted after the discussions reflected students’ serious consideration of the legal issues created through marketing in a virtual environment. The discussions also reflected consideration and analysis of some of the differences between marketing in a virtual world and marketing in real life. Students’

plans reflected the 3D nature of Second Life. Students' proposed activities that could be more inexpensively accomplished on Second Life.

Accomplishments

Students identified legal issues for each aspect of their plan. The three teams of students developed marketing strategies for Second Life that they could not have created in a traditional marketing environment. In general, creativity and viewing issues "outside the box" are strong assets of marketing students. These student teams developed 3 major items for marketing on Second Life:

- (1) Build a team house and broadcast games (Group 1)
- (2) Play virtual soccer games (Group 2)
- (3) Broadcast virtual games and create a clubhouse where fans could purchase ownership in the teams and make decisions (Group 3) (Appendix C).

After submission of these initial suggestions, students were required to discuss and report on the legal implications of each of these suggestions and to make assessments as to how best address the issues. Students will submit a written report and make an oral presentation. Group one identified two legal issues initially: issues involving Copyrights/Trademarks (For example copycats) and defamation of character ("for example people coming into our team's house talking bad about our team"). Group two identified several issues, including: "adopt[ing] clauses into player contracts to be able to use our players in advertising for our Soccer Island [and] to avoid liability for the actions taken by our members on our Soccer Island, we should create a sufficient virtual reality policy." Group 3 provided a detailed list of the legal issues that could arise, including:

- "Hire full time employees dedicated to second life issues (contract)
- Lease issues (island)
- TV broadcasting rights of our own team
- Sponsorship issues (selling and licensing our team's goods)
- Using our island's name as a trademark
- Behavior of visitors to our island
- Rules for selling virtual and real clothes on second life
- Player agreements to use their names/images on second life
- Commissioner agreement
- Piracy issues/protection
- Players' contracts that oblige them to participate in team events
- Keep the decision making power with the team's board of directors
- Let no more than 49% of shares go to fans
- Identify the shareholders' origin
- Balance the power of fans and historical owners
- MLS agreement
- Payment system
- Login system
- Voting system

- Buying/selling shares system
- Sponsor agreements
- Shareholders' contracts"

As students complete the project, they will prioritize the identify the key issues to begin and discuss how to manage those issues. Requiring students to incorporate Second Life marketing into their plans and identify legal issues permits them to think about things in a different way.

Challenges

Technology

In order to use Second Life, users must download the program onto their computers and must have a video card that is compatible with Second Life. In addition, Mac users may be required to use different keystrokes in order to use Second Life. Students with older computers may not be able to successfully use Second Life; the instructor must also check to be sure that on-campus labs have the capability to permit students to access Second Life. In the alternative, students can be instructed that they can download Second Life to a thumb or flash drive and can use that to access Second Life on computers. Students with dial-up connections will have a difficult time using Second Life.

Instructors must be flexible and either be willing to learn or have the support available to respond to questions on how to use the technology. There are instructions available on the Second Life website (http://ceterport.ed.uiuc.edu/technologies_folder) and within the Second Life Community .

Interacting in Second Life

Once students have solved the technology problem, they must register and ultimately create their avatar so that they can interact in Second Life. After the avatar is created and the student has logged in, the student must learn how to walk, chat, lift objects, fly and teleport in Second Life. Normally, the student is initially logged onto Orientation Island and the student must complete the activities there before teleporting to Help Island and to other areas of Second Life.

There are vast areas of Second Life that have no activity and no residents present. One's first experience on Second Life can be isolating unless the resident actively seeks others with whom to communicate and establish a connection. In addition, there are instances of crime, fraud (Singer, 2007) and areas of pornography (Meir, 2007) that can be found on Second Life. Part of the instructions to students were reminders that students should establish a home base in Second Life to which they could immediately retreat and that they could log off if they were unsure what to do. (Appendix A).

Additional development is needed to ensure seamless interoperability between web pages, multimedia, and other web 2.0 activities. For ease of use, users should be able to quickly, smoothly move from Second Life, to web pages, to multimedia, to photos and back. Although movement among different types of applications is possible, Second Life (and other virtual worlds) will not be as useful from an education perspective until tools that permit interoperability are easy to use and provide relatively trouble-free transitions (Zimmer, 2007).

Ownership and content creation

Ownership of items created on Second Life is problematic from a legal standpoint. The Second Life Community Rules and the CEO of Linden Labs allow residents to create, build and transfer "ownership" of their property using Linden Dollars. At least one resident, who found a loophole in the Community Rules, was removed from Second Life until there was a settlement reached in his lawsuit (Duranske, 2007; "Virtual Worlds Collide With Real Laws," 2006). Virtual property, at least in Second Life, has value in that it can be traded for U.S. dollars and can be bought and sold among residents. The law is unclear on ownership and where courts have not yet tread, government regulators might (Duranske, 2007; Meglio, 2007; "Virtual Worlds Collide With Real Laws," 2006).

Accessibility

Second Life is a visual interface that is primarily text (chat) based. In July, 2007, Second Life finished beta-testing the voice interface and thus communication can be by voice or chat. This author's requirements were that the teams develop the marketing and legal issues analysis of using Second Life, so that ultimately one of the team members could spend more time in Second Life. However, instructors would need alternatives if students were required to interact in Second Life. Text-based alternatives would not capture the experience well. However, allowing a student to serve as a guide during the Second Life Session, practice explaining well what occurred in Second Life and using voice-activated interaction are some ways to address that issue.

Individuals with varying physical limitations may make choices to keep those disabilities in Second Life. There are different organizations for those with physical limitations available. Others may choose to interact in Second Life without those limitations visible. Instructors should be aware of and design assignments that permit flexibility while attaining the learning objectives.

Assessment

This author assessed students on the written and oral reports submitted by students based on their exploration of Second Life. Students were not assessed based on what they had done specifically in Second Life. There have been some assessment tools developed based on activities in Second Life, but those assessment are at the beginning stages and much needs to be done. Sloodle, the open source project that is

actively incorporating uses of Second Life with Moodle, probably contains the most material to begin assessment of Second Life activities (<http://www.sloodle.org/>).

Preliminary Recommendations

There are many more things that can be done to enhance this project and make it a stronger learning experience. Students did not separately identify one of the key issues that relate to Second Life: property rights and ownership in virtual worlds. That was probably because property law is not covered as a separate topic in the textbook: the textbook focused on intellectual property in the context of trademarks and franchising. The project will be redesigned to cover, early in the semester, the legal rights associated with owning tangible and intangible property. That way, students can identify that as a significant issue earlier in the semester and begin using that information to develop a marketing plan that actively addresses those concerns.

In addition to taking advantage of the characteristics of virtual world interaction, this author would like to follow through with the students' recommendation by creating the items listed as possibilities in Second Life and creating scenarios that raise those legal issues in context. This project would be great as a collaboration among IT staff and students in computer sciences and/or engineering, kinesiology or those who are majoring in event planning for stadiums, the athletic department to flesh out the rules for soccer (or other sports, e.g. hockey on Second Life, <http://slcn.tv/sl-hockey>).

Second Life opens many possibilities for simulations and role-playing. Ideally, that can occur best when those with expertise in each field combine to develop educational experiences. Computer technology, engineering, business, psychology and other department faculty, staff and students could combine to create a dynamic, interactive learning experience using the tools available through Second Life.

Appendix A



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Second Life: Now That I Have An Avatar, What Do I Do?

Objective: To evaluate legal issues when marketing for a sports venue in a virtual world

Second Life (SL) Issues

1. To use SL
 - a. download SL on a computer or flash drive
 - b. Create an avatar
 - c. Add Ida Recreant as your friend on SL
 - d. Complete the orientation so that you can walk, manipulate items, chat, fly and teleport
 - e. Complete the team student orientation at Campus 170,101,25 (PG) Campus: Second Life Sandbox. Send an IM to me when you have completed 4 or 5 tasks in this orientation. The IM should include the names of the people who worked with you to complete the tasks.
2. Explore to see what possibilities exist for marketing-look for companies that currently have a presence on SL to see what they've done
3. Make a list of ways to establish a presence and/or market
4. Make a list of the top methods your group chooses to market on SL
5. For each method:
 - a. List legal issues that might arise
 - b. Read the SL use agreement to see whether it applies to the method you chose
 - c. Read the Major Soccer League rules to make sure there are no regulations that might have an impact
 - d. Find resources that explain the impact of the issues in a virtual world

Remember

1. You must comply with the Linden Lab Community rule:
<http://secondlife.com/corporate/cs.php>
2. We will meet at least once in SL (Democracy Island (NYLS) -
<http://slurl.com/secondlife/Democracy%20Island/116/220/>) and we may also meet on the Campus in Second Life.

3. DO ask questions of other people to learn. (i.e. Where can I learn to build? Where did you get your hair? What's the most beautiful place I can visit?) (Don't just use Search.. ask "live" people)
4. Do not ask personal (real world) questions of people .. at least not right away. Many people like to keep their first and second life separate. (Taking a peek at someone's profile can give you some clues to their preferences.)
5. Do not offer friendship the first minute you meet someone. Some folks like to get to know someone first. However, you can always offer them your Calling Card
6. Do not "Map" people you know and drop in unannounced. Start an IM first and ask to come over.
7. Thank people. Some people in SL will go WAY out of their way to be helpful and kind. They are rarely thanked.
8. Finally - always, always remember that each avatar you meet is a real person with real feelings.
9. Find a safe place to transport in case you're uncomfortable where you transport. If you arrive in a situation where there's a problem, transport away or, if you need to do to so, quit SL.

(Rules 3-8 courtesy of a post by Bret Ingerman on the SLED e-mail listserv)

Appendix B



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Class Project-Due 12/11

Objectives

- Explain and analyze the legal issues that arise when negotiating player, team and/or league endorsement contracts
- Explain in writing and orally the fiduciary and ethical responsibilities of agents serving a variety of functions in the sports marketing arena, including sports agents
- Evaluate key contract terms that apply to negotiating licensing contracts among players, owners, and sports leagues
- Explain in writing and orally legal rights and responsibilities of sports franchises and their marketing
- Evaluate in writing the legal issues that arise when engaging in marketing in virtual worlds

Introduction

You are an associate in a marketing firm. You have a strong interest in sports and you would like to see the firm provide marketing services to sports individuals, entities and organizations. You played soccer while in high school and you are especially interested in developing the firm's involvement in soccer. You are interested in other sports also, though, so you are open to increasing the firm's involvement with other sports.

You found out that the local soccer team is looking for a permanent location and for someone to promote the team and to sell tickets. You decide that you want your firm to do that. The local team is a member of Major League Soccer (<http://web.mlsnet.com/>) and is subject to their rules.

You have determined that you'd like to present new advertising venues for this team. Many of the fans are technologically savvy and you want to consider alternative ways of reaching them and keeping them interested. One of the venues that you want to explore is Second Life (<http://secondlife.com/>). Second Life is a virtual reality program that allows individuals to create an avatar and interact with others. Some companies have established a presence in Second Life. You want to explore it to determine whether you

could use it to tap into new markets, especially international markets that might be interested in this team.

1. What additional information do you need?
2. What legal issues arise in the context of engaging in those activities? (Chapter 1 gives a start-pp. 4-5) How can you use the law to create a competitive advantage for your team? (Chapter 2 gives some information to start)
3. Would you consider using one of the athletes as a spokesperson? Explain. What are some of the legal issues related to that?

I will provide information to you throughout the semester as you help identify the legal issues that may arise for this firm's sports marketing program.

Project

1. A written report that identifies the legal issues and provides a summary of managerial strategies that create competitive advantages and can minimize the risk associated with these activities. The report length can range from 5-15 pages depending on the number of issues raised and the clarity and completeness of the explanations.
2. A sample written contract that applies to **one** of the legal issues. You must explain what each section of the contract means and why you included it. That explanation will include
 - a. Information from the text
 - b. Information from credible resources from the internet or other sources
3. An oral report from the perspective of one of the parties identified for the project. In groups of 2-3 students, you can decide who you'd like to represent: the team, an athlete for the team or a local venue interested in hosting the team

Assessment

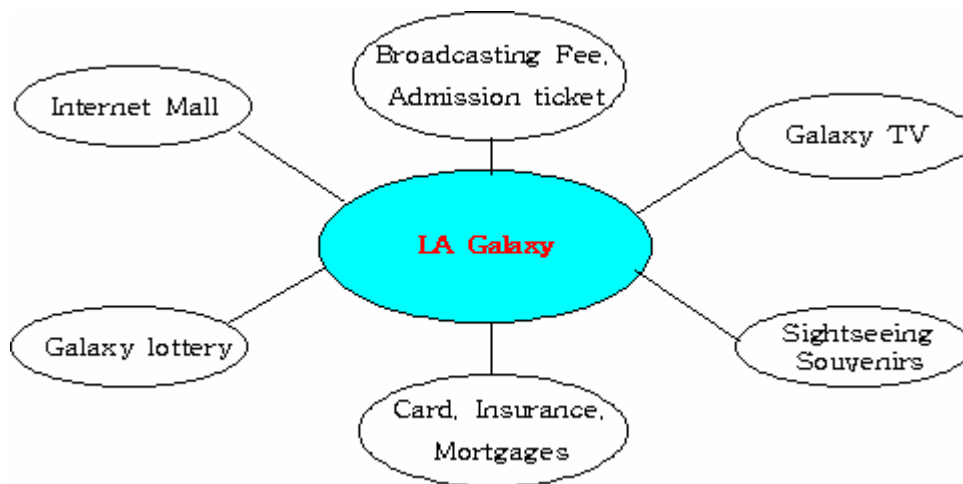
The project will be assessed on the written and oral portions. See attached scoring rubrics for details. [not attached but available if you are interested; contact idaj@csufresno.edu]

Appendix C-Initial Submission

Group 1

Using Second Life we want to build a house, and make it our team house and broadcast the team's games from there to get a bigger fan base and market to those outside of our city; a place for fans to come and cheer on their team and meet other fans. We would have a mascot avatar that would encourage team spirit. One legal issue with building a house for our team would be the concern of copycats.

Moreover, we would give some items that are useful in Second Life to people who have visited LA Galaxy house a lot. This would motivate people to visit there.



Group 2

“Purchasing an Island for our Soccer Team. Our team would all created avatars in their likings to play soccer on second life at the Soccer Island. The Island would be open for spectators to watch our games. Special Events would also be open for spectators play against the team.”

Group 3

“Second Life is a virtual universe which allows the users (called “residents”) to live a kind of “Second Life”. The major part of this virtual world is created by the residents themselves. This universe gives an important role to its economy: residents can build and sell products using the game’s currency: the Linden Dollars. There are about 10.000.000 registered people and 700.000 active members. Second Life is not a mainstream game; it is a space of exchange aiming to be as diversified as in real life.

The main idea referring to Second Life is to create our own island to promote our team throughout a virtual stadium where games highlights can be broadcasted: videos can be viewed and discussed by the fans.

In order to differentiate and create a worldwide buzz towards our team, we could set up a project similar to www.myfootballclub.co.uk: "Every MyFootballClub member will have an equal say in team selection, player transfers and the running of the club." This project is a venture which is trying to give decision power to the fans by allowing them to become shareholders. Each fan gives a £35 contribution to the team and then takes part in all the decisions by voting. This concept can be carried over to our project and will be a means to attract fans from all over the world."

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