Should there be legal protection for virtual property in China? This is a heavily debated topic in China with avid supporters on both sides.

Opponents worry about the dangers that stem from mixing virtual world with real word. If virtual property, including virtual currency, become interchangeable with real property, then problems such as inflation, money laundering and gambling may become rampant. Gambling is already a current concern. Numerous online games offer winnings in virtual currency. If such virtual winnings are exchanged for real money, then, in essence, online players can engage in gambling. However, Chinese gambling regulations are silent when it comes to virtual currency. Thus, although the government wants to prosecute online gambling, there has not been an actual case because the government has no legal basis to do so.

Because of these concerns, at the March 2006 Conference of the National People’s Congress a representative proposed a bill entitled “Ban on Trading of Virtual Currency for Real Money, Establish Regulations on Online Games.” In February 2007, 14 government agencies, including the Ministry of Culture and the Administration of Industry and Commerce, jointly issued a statement banning the use of virtual currency to buy real-world products and the trading of virtual currency. However, little impact resulted from the ban on trading virtual currency.

Users continued to conduct trading openly on Chinese auction websites. In fact, the widening trade in virtual property grows at a rate of 20% per year. Many argue that their virtual wealth should also be protected. There has been several cases in China recognizing the protection of virtual property. In 2006, Chen Xiao Fan (“Chen”) was prosecuted for theft of virtual property in Guangzhou Tianhe District Court. Chen was an employee of Guangzhou Net Ease Interactive Entertainment, Inc. and worked on the game Westward Journey Online II. Chen accessed several Net Ease accounts and stole virtual equipment. He sold the stolen equipment to other players and made a profit of 3750 RMB. The court held because the stolen virtual equipment were paid for by players and negotiable between players, they have value just as intangible property. Thus, the court convicted Chen on the crime of theft.

Further, the State Administration of Taxation recently announced the levy of individual income tax on income obtained through network virtual currency transactions. This new tax is significant because only legal income is taxable in China. Illegal income can be confiscated by the government but cannot be taxed. Thus, the new tax regulation amounts to a tacit recognition that trading of virtual currency is legal.

With different government bodies issuing conflicting regulations governing virtual property, we look forward to seeing how the National People’s Congress will handle this hot issue.

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