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DOI <https://doi.org/10.32842/2078-3736/2023.3.17>**TO THE QUESTION OF LEGAL PERSONALITY OF THE PHENOMENON
OF VIRTUAL (DIGITAL) PERSONALITY
IN THE UNDERSTANDING OF CIVIL LAW**

The article is devoted to the analysis of the problem of human identification on the Internet and the study of the phenomenon of virtual identity. The author traces the course of the process of virtual identification of a person in the Internet space and the ways of creating a virtual identity.

The development of cyberspace is not only a consequence of scientific and technological progress, but also a necessity in the context of limited space for personal realization because of war and pandemic. As a result, a virtual personality of both a person and a legal entity has been created, in the form of a game profile, avatar, account, and user of a game platform. At the level of philosophy and jurisprudence, researchers analyze the issue of self-identification in virtual reality, postulating such a negative factor as the replacement of one's own self with its virtual counterpart. Even though the virtual version of existence erases the real subjective existence of existence, there are many legal problems in cyberspace. How to consider a virtual personality as an object or subject of relations, how to formalize transactions regarding a game profile, etc. Analyzing the relationship between social transformations in the transition to the information society and virtual reality requires a scientific study of this issue. The article analyzes the opinion of foreign scholars on virtual space as an intermediary that helps organize working and free time, promotes the development and formation of personality, forms an appropriate level of culture, and expands the experience of communication. However, there are observations that the continuous, aimless and inept use of information sites, constant visits to web forums and incessant use of social networks have a number of risks and further consequences of the positive and negative impact of cyberspace on a person's personality in the modern world. The process of self-realization in cyberspace is provided by both positive and negative influences on personal development. The contradictory nature of the psychological components and factors of the process of self-realization in cyberspace proves the need for careful attention to this phenomenon by professional psychologists.

It is concluded that on the Internet, due to its anonymity, a person is inclined to manipulate the impression of himself or herself. As a result, not so much a virtual identity is created, but a set of images that only hide the user, giving out wishful thinking and for which there is no real identity.

Key words: *virtual personality, cyberspace, avatar, self-identification, virtual analog, object and subject of relations, Internet, meta-universe, virtual assets, cyber-physical system.*



Орешич В. В. До питання щодо правосуб'єктності феномена віртуальної (цифрової) особистості (цивільно-правовий аспект)

Стаття присвячена аналізу проблеми ідентифікації людини у мережі Інтернет та дослідженню феномену віртуальної ідентичності особистості. Пролітковуються перебіг процесу віртуальної ідентифікації особистості в Інтернет-просторі та шляхи створення віртуальної ідентичності.

Розвиток кіберпростору є не лише наслідком становлення науково-технічного прогресу, а і необхідністю в умовах обмеженого простору реалізації особистості внаслідок війни, пандемії. Як результат фактично створено віртуальну особистість як людини так і юридичної особи, зокрема у вигляді ігрового профілю, аватару, аккаунту, користувача ігрової платформи. На рівні філософії, юриспруденції дослідники аналізують проблематику самоідентифікації особистості у віртуальній реальності, постулюючи такий негативний фактор, як підміну власного «я» його віртуальним аналогом. Незважаючи на те, що віртуальний варіант буття стирає реальне суб'єктивне існування буття, в кіберпросторі накопичується чи немало юридичних проблем. Зокрема як розглядати віртуальну особистість як об'єкт чи суб'єкт відносин, як оформлювати правочини щодо ігрового профілю та ін. Аналіз зв'язку між соціальними трансформаціями при переході до інформаційного суспільства та віртуальною реальністю потребує звернення до наукового дослідження цієї проблематики. Проаналізована думка зарубіжних вчених щодо віртуального простору як посередника, який допомагає організовувати робочий та вільний час, сприяє розвитку та становленню особистості, формує належний рівень культури та розширює досвід комунікації. Однак існують зауваження, що безперервне, безцільне та невміле використання інформаційних сайтів, постійне відвідування веб-форумів та невпинне користування соціальними мережами мають низку ризиків та подальших наслідків позитивного та негативного впливу кіберпростору на особистість людини у сучасному світі. Процес самореалізації в кіберпросторі забезпечується як позитивними, так і негативними щодо розвитку особистості впливами. Суперечливість психологічних складових і чинників процесу самореалізації в кіберпросторі доводить необхідність прискіпливої уваги до цього феномену з боку фахових психологів.

Зроблено висновок, що в інтернеті завдяки її анонімності, людина схильна маніпулювати враженням про себе. В результаті створюється не стільки віртуальна ідентифікація особистості, а множина образів, які насправді лише приховують користувача, видаючи бажане за дійсне і за якими реальна ідентичність відсутня.

***Ключові слова:** віртуальна особистість, кіберпростір, аватар, самоідентифікація, віртуальний аналог, об'єкт та суб'єкт відносин, інтернет, мета всесвіт, віртуальні активи, кіберфізична система.*

Introduction. New forms of social interaction are growing within the framework of virtual communication on the Internet. At the same time, communication in various online communities creates problems with the identification of a virtual personality. The problem is exacerbated by the fact that the boundaries between real and unreal life are blurred, resulting in problems of self-identification and identification of the personality. These processes are based on wide access to various sources of information. Both real people and "bots" can be participants in virtual communication. Therefore, the problem of characterizing a virtual personality in terms of civil law arises.

Nowadays we see how rapidly artificial intelligence-related technologies are evolving. As a result, artificial intelligence is used in many areas of life and increasingly influences the functioning of society. The actions of artificial intelligence can not only be of great help to humanity, but can also cause harm (vehicles causing traffic accidents, etc.).



But we should distinguish between the concepts of "artificial intelligence" and "virtual personality". The issue of "virtual personality" is extremely relevant today. Many legal scholars consider the emergence of virtual identity in cyberspace to be one of the problems of the virtual environment of the Internet. Such concepts as freedom of identity, anonymity, irresponsibility, authenticity and identification in cyberspace are among the legal issues and are considered as challenges to virtual identity. [4] A digital identity is a unique combination of your name, email, date of birth, photos and texts, and, most importantly, social connections that can be used to adequately represent your real personality in the digital world (on social networks, for registration on websites, in various communication channels such as email and messengers). In the virtual world, people actively shape themselves through the perception of the outside world. And certain specific characteristics of such a virtual personality are "Nickname" (nickname is a pseudonym), "Avatar" (various visual images of a network user), "Profile" (status, rank, which is determined by the user's activity).

Objectives. When managing cyberspace and protecting the rights of cybersociety, citizens (network users) stand on the shoulders of the law, which makes building a legal framework an insurmountable task for the future virtual society. This requires a proper understanding of the virtual environment and related legal issues [4]. There are also certain proposals at the level of legislative initiatives. For example, on February 16, 2017, the European Parliament adopted a resolution requiring the European Commission to submit a proposal for a directive on civil law rules on robotics. The Parliament called on the European Commission to explore all possible legal solutions, such as "creating a special legal status for robots in the long term, so that at least the most advanced autonomous robots can have the status of electronic persons liable for any harm they may cause and possibly applying electronic personhood to cases where robots make autonomous decisions or otherwise interact independently with third parties" (§ 59, f) [5]. At the same time, this approach is quite controversial, since the introduction of the status of a robot into legal regulation is somewhat immoral in relation to human life and dignity. In this case, there is a need to provide a legal characterization of a real person in a virtual environment that has a direct connection with a particular individual.

Before analyzing the phenomenon of a virtual personality, it should be noted that it can exist only in a virtual environment/metaverse. This world exists in electronic form and is parallel to the real world. The metaverse is a virtual space that exists in real time. In it, users interact with each other and with digital objects through their avatars using virtual reality technologies. The cultural, social, economic, and political laws of the real world are not important in it. The Metaverse was first talked about in 1992. In his novel *Snow Crash*, American science fiction writer Neal Stephenson described it as an interconnected virtual world in which digital avatars of people interact with each other, and a person's status is determined by the degree of development of the avatar. According to Stephenson, the metaverse is a synergy of physical, augmented, and virtual reality [6].

The problems of self-identification in the meta-universe have been highlighted by Ben Chester Cheong. The researcher points out that by including an avatar and granting it a separate legal personality of the same quality as the corporate veil in company law, this would begin the process of identifying and considering the different types of rights and corresponding obligations that an avatar may have in the meta-universe [2]. In other words, the author insists on a separate legal regulation of virtual relations, with the allocation of their special subject composition.

According to O. Avramova, it is advisable to consider a virtual personality within the framework of intellectual property law, since authorship can exist in material (real) and virtual (digital) environments. In cyberspace, the author independently creates his or her own identity (game profile, avatar, account, user of the game platform), which is the result of his or her creative work and serves to identify the author among other users of cyberspace. Identification/identification of a virtual author with a real one may be carried out by him/her independently, and while maintaining anonymity, his/her representative may be the owner of the website and/or web page on which the relevant electronic (digital) information about the author's identity and the results of his/her creative, intellectual, scientific activity is posted or otherwise used [1].



It should be emphasized that the virtual version of existence erases the real subjective existence of existence, and many legal problems accumulate in cyberspace. After all, on the one hand, digital content has properties that allow it to be classified as things and to apply the rules of property and law of obligations to legal relations in the field of its circulation, and on the other hand, it is an object of intellectual property rights, which is subject to the property and personal non-property rights of the author. Analyzing the relationship between social transformations in the transition to the information society and virtual reality requires a scientific study of this issue.

There is also the concept of digital identity, which is how a person manifests himself or herself in the digital dimension: not only social media accounts, but also personal data, Internet search history, purchase history, passwords and logins, and even visited resources. Digital identity is a response to the challenges of the modern information society. As the role of online identity as a social phenomenon grows, one's own social presentation becomes an important condition for online and offline life. This results in manipulation and disinformation in the information field. Social networks are the platforms that provide users with the opportunity for personal fulfillment and give rise to a false sense of involvement in massively significant processes.

The current domestic legislation does not provide a definition and an effective mechanism for civil law regulation of the legal protection of a virtual personality. The Law of Ukraine "On Virtual Assets" (Draft Law No. 3637), adopted by the Verkhovna Rada of Ukraine on September 8, 2021 [3], was returned for further revision on October 7 this year. Therefore, it is necessary to improve the current legislation of Ukraine regulating legal relations on civil protection of virtual (digital) personality and to improve the judicial practice of resolving disputes on civil protection of virtual (digital) personality for the successful integration of Ukraine into the EU digital single market.

Conclusion. I would point out, that the current state of legislative support is extremely outdated and does not meet new challenges. The capabilities (properties) of artificial intelligence give grounds to grant it legal personality to be recognized as a subject of legal relations with the legal status of an electronic person. It is also necessary to improve the current legislation of Ukraine regulating legal relations on civil protection of virtual (digital) personality and to improve the judicial practice of resolving disputes on civil protection of virtual (digital) personality for the successful integration of Ukraine into the EU digital single market.

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