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EBay bans auctions of virtual treasures

Players of online games spend big on digital loot. But the site is worried about legal issues.

By Alex Pham
Times Staff Writer

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Need a Blood Bladed Dagger? Or an Axe of the Stoic?

Don't look on EBay.

Citing "complex legal issues," EBay Inc. has decided to yank auctions of virtual items garnered from popular online games such as "EverQuest" and "World of Warcraft."

"We can't say definitely if it's legal or illegal," EBay spokesman Hani Durzy said. "It's complex. And when something is complex like this, we have a history of disallowing the items."

For years, players of online games have traded unreal goods for real money. The items, which are often difficult to come by, can give players an edge in games.

Buyers can, for example, purchase a pair of Weatherbeaten Shoulder pads for "EverQuest," for \$74.99 on ige.com, a site operated by Internet Gaming Entertainment Ltd. in Hong Kong. On another site, uotreasures.com, a Krol Blade for "World of Warcraft" sells for \$119.

And on EBay this week a pair of EverQuest game accounts went for auction with an opening bid of \$200 before they were taken down.

Researcher Edward Castronova of Indiana University estimated in his book, "Synthetic Worlds: The Business and Culture of Online Games," that more than \$100 million changes hands each year for these digital items — a good portion of it on EBay.

With so much money at stake, disputes over the ownership of these digital bits are getting more heated.

Irvine-based Blizzard Entertainment, publisher of "World of Warcraft," has shut down several hundred thousand game accounts for buying and selling of virtual items, spokesman Shon Damron said.

"We have clearly maintained that all of the content in 'World of Warcraft' is the property of Blizzard," he said. "We do not allow in-game items to be sold for real money."

Nearly all online game publishers take similar positions.

"Our standpoint is that everything in our games is the property of Sony Online Entertainment," said Greg Short, director of Web development at Sony, which publishes "EverQuest."

Even so, Sony decided in 2005 to get into the market by hosting auctions for "EverQuest" items with its Station Exchange service, taking a 10% cut of each transaction.

Business has been brisk. One seller made \$37,435 from 351 auctions in the first year of Station Exchange. In total, Sony has brokered \$2 million in transactions since launching the service, Short said.

What's being bought and sold, Short said, is the right to use the items.

EBay's policy of taking down auctions of virtual game property, which went into effect last week, does not include items from online game "Second Life," operated by San Francisco-based Linden Lab, whose investors include EBay founder Pierre Omidyar.

"This policy applies to virtual game items," EBay's Durzy said. "We don't think it's appropriate to classify what happens in 'Second Life' as a game."

Another key difference is that Linden Lab gives users full ownership of the items they create in "Second Life."

"You create it, you own it, and it's yours to do with as you please," Linden Lab spokesman Peter Gray said.

That's the way Bob Kiblinger feels about the items he has sold on EBay and still does on his website, uotreasures.com.

"I liken it to using Microsoft Word to write a book," Kiblinger said.

"The book is your creation. It's the same with these games. You're talking about people who play these games for 30, 40 hours a week, crafting these communities and characters. It's the players themselves who created those worlds," he said.

EBay's move, however, had a positive effect for Kiblinger: Traffic on his Web store has doubled since EBay pulled the plug on auctions.

Richard Andrews, who has made a living selling virtual items exclusively on EBay for eight years, wasn't as lucky. Notified Thursday of the decision, he stopped posting new items and decided to let his current auctions run their course. By Friday, all his remaining auctions were pulled down and his account was suspended.

"You work a long time to build a customer base and now the public might say, 'If EBay doesn't allow it, it must be bad,'" said Andrews, who lives in Vancouver, Canada.

The items have no physical properties, so they are delivered in the games themselves. After a sale, the buyer and the seller often meet in the game to hand over the goods. Payment, though, is real — usually by credit card or PayPal.

From a legal standpoint, game companies hold all the cards. Subscribers to these games explicitly

agree to a contract, called a user agreement, stating that the intellectual property rights of anything they create in the game belong to the game publishers.

"It's extremely clear that these contracts are enforceable," said Beth Noveck, a professor at New York Law School. "That's not open to debate. It's a question of whether the players will tolerate this over the long term."

It doesn't help that the sale of digital goods is also difficult to police, Durzy said.

"When you're talking about virtual items, it's inherently harder to confirm delivery," he said.

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alex.pham@latimes.com

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