Who Owns the Moon?

Lawyers

D. B. Kanipe, October zz, 2014
Ridiculous History

- Lunar real estate being sold in 1890
- Nation of Celestial Space: Celestia (1956)
  - James Thomas Mangan claimed all of “space”
  - Applied for membership in the UN (refused)
  - Planned to sell “spheres of space”
- “Elves, Gnomes, and Little Men’s Science Fiction, Chowder, and Marching Society” (1952)
- Dennis Hope claimed the moon in 1980
  - “Omnipotent ruler of the lighted lunar surface”
  - Title: “The Head Cheese”
  - Established “The Lunar Embassy” (still operating)
    - Billed the government $55,000: storage & littering
    - Actually sold “properties”: 3500 in first 16 years!
Scams

- Planet Mars Development Corp. - (3 guys in Arkansas)
- Municipalities “officially” annexed the Moon and Venus
  - Oklahoma City – 1965 – Moon
  - Deer Park, Texas – 1965 – Venus
  - Geneva, Ohio – 1966 – Moon
Assorted Nuts

- Three Yemenis filed suit in Sana’a demanding NASA cease all ops on Mars because it belonged to them. They withdrew the case when threatened with arrest by the Yemeni Prosecutor General.

- A Russian astrologer tried to stop the Deep Impact mission because the impact would create a crater on Comet Tempel I which would create a disturbance in the national order of forces in the universe.

- A man claiming to own the asteroid Eros, sent a $20 invoice to NASA for parking the NEAR Shoemaker spacecraft on Eros
Moon Agreement (MA) 1979

- Moon Agreement of 1979 (Non-Appropriation Principle)
- Article 11.3 prohibits the appropriation of “the surface and the subsurface of the Moon by any State, international intergovernmental or non-governmental organization, national organization or non-governmental entity or of any natural person.”
- Signed by 13 States – none space faring
Outer Space Treaty (OST) of 1967
(Ratified by US and Others)

- **Non-Appropriation Principle**
  - Article II forbids the “national appropriation by claim of sovereignty, by means of use or occupation, or by any other means” of outer space, including the Moon and other celestial bodies.
  
  - Space and planets not under sovereignty of any State

- **Claiming is not the same as owning**
  - Impossible to prove that no one else ever wished to own the moon
  
  - “It’s mine because I say so” is invalid
Activities in Space

- Both the OST and MA
  - Establish the freedom to explore and do science in space
  - In accordance with International Law

- International Law
  - International convention
  - International custom
  - General Principles of Law (civilized nations)
  - Judicial precedent

- Bottom line
  - Absence of a ‘lunar civil code’
  - No clear rules of int’l law regulating property rights in space

- Lack of rules does not prevent a court from issuing a ruling
  - Silent law ≠ No law
  - Can lead to “What is not prohibited is permitted”
Profiting from Outer Space Resources?
“The value of the moon lies neither in science or exploration, but in its material.” John Marburger, 2006

- Are extraterrestrial materials there for the taking?
- If Gotham Space Industries provides the investment:
  - Should they alone reap the profits?
  - Or, does the entire earth have equal claim?
- 1967 Outer Space Treaty
  - Space represents great opportunities for mankind
  - Peaceful exploration and use of space
  - Carried out for all peoples regardless of economic or social development
- ET property law is almost nonexistent
- William Ogburn’s “Theory of Cultural Lag”
  - “The pace of technology exceeds the ability of the society to assimilate and manage it”
Space Law

- Immature
  - Difficult to craft laws when few facts are known
  - If drafted, they’d probably be wrong
- Many laws in US were influenced by settling the frontier
- Space Law will involve the planet; i.e., the UN
  - Private enterprise has a stake
  - Developing nations (non space faring) are pushing for a stake
    - Want a share of any future wealth derived from ET realms
- According to OST and MA
  - National appropriation of space and planets is outlawed
  - States do have jurisdiction over their subjects
  - Their citizens conduct can be regulated on ET realms
Focus of current governing space documents (OST & MA)
- Silent on the “legal status” of outer space
- Concerned with activities of State Subjects

Outer Space Treaty
- “Treaty on the Principles Governing the Activities of States…”

Moon Agreement
- “Agreement Governing the Activities of States on the Moon…”

Article I of OST: freedom of exploration and use of ET realms by all States “in accordance with International Law”

Article III of OST: States must conduct their space activities in accordance with International Law, including the Charter of UN

Article VI of OST: signers must bear international responsibility for their activities in space.

OST neglects to mention any obligation to share bounty of space
No distinct prohibition of a long-term, inhabited base

Emphasize:
- Prove humans can survive in a hostile environment
- Show that we are good stewards of the ecosystem
- Share our scientific findings

A settlement on the Moon will get the world’s attention
- Clear extension of US influence

Take advantage of the “law’s” vagueness

HALO = scientific investigation and space exploration
- Benefit of all space faring nations
- No stated goal to profit from HALO activities on the moon

No International police – yet