

Mars Land Claim - Preliminary Report: Questions & Answers

Dr Davies/Mars Register commissioned Prof. von der Dunk (via his Black Holes BV consultancy) to first produce a Preliminary Report on the legality of our position/strategy and then, five months later, revisit our duly revised legal strategy. From that subsequent scrutiny the professor produced an excellent report, specifically approved for publication, the 'Legal Reality Check.' That report is now published on The Martians' website (themartians.org and mars.sale).

To avoid confusion for interested readers, we have not published the Preliminary Report. However, as part of the commissioning of that report, Professor von der Dunk addressed our most pressing follow-up questions by email. You will see, below, the most important paragraphs in what was a very substantial Q & A document.

Essentially, it is our expectation that space law (which is less than 60 years old) will evolve in future to tolerate/encourage property rights to celestial land (e.g. land on the Moon or Mars). We consider this to be most likely whenever a substantial human settlement on such land becomes feasible. We (or more likely our co-claimants' family descendants) will have to be ready for that opportunistic moment.

Whilst we will endeavour to lobby for favourable changes in the law, we think it is more likely that such change will be triggered by other events/agencies (there are any number of potential circumstances). Professor von der Dunk rightly does not wish to speculate on such matters (even though we are sure he has an opinion); he concentrates more on what we can/could do to effect those changes in law. Nevertheless, he was kind enough to provide an opinion on our '*chances*' if and when such changes in the law will occur ...

Dr Davies: 'So, the cornerstone of our claim is that we can rightfully say we are in possession of land on planet Mars because of our persistent, continuous actions over the last 11+ years'

Professor von der Dunk: '(...) I'd phrase this a bit more carefully: you might have the best and most substantiated claim for *de facto* possession, making you first in line if and when it would become possible to take the next step to *de jure* possession = ownership which is what you really need to be able to legally 'control' the part of Mars concerned. But whether that "if and when" turns to reality, and whether the regime than (sic) applicable would indeed honour your first-in-line claim, is still an open question'

Dr Davies: 'So, we look to the future: we are, as you say ... striving for "first-come, first-served" recognition. If we can legitimately claim to be in possession now, then it doesn't matter how legally meaningless that possession is right now.'

Professor von der Dunk: 'That is correct, and as said, once a regime would be developed and widely acknowledged somehow allowing for private ownership of parts of Mars, you would be morally and ethically entitled to have the first choice of translating your possession into ownership. But as indicated, unfortunately the law may differ from ethics and morality (...)'

Dr Davies: 'W.R.T. Lex Ferenda: is it wrong (or unreasonable) for us to tell would-be co-claimants that our current claim to possession is valid and feasibly could, in maybe 150 years, lead to actual land title going to their family descendants?'

Professor von der Dunk: 'Well, that is a matter of relative judgement, as said above: you would be first-in-line, and if any future regime to be developed along the lines indicated would honour the logic and fairness thereof, you should be given the chance to convert this possession into ownership, but unfortunately there is no certainty in that regard (...)'

So, the expert legal advice is that de-facto possession cannot currently be progressed (within existing space law) to de-jure property/ownership". Currently space is regarded as a 'global commons,' but in recent years some big space faring nations have shown rumblings of dissatisfaction with this situation.

Space law, in our opinion, will evolve in future to tolerate/encourage both national and private appropriation of celestial land (just as most land can be on Earth).

If appropriation of Martian land was to become legitimate, one might reasonably expect it to follow the legal routes already established on Earth: effective occupation (national appropriation = sovereignty) and actual possession (individual appropriation = property under national law).

Therefore, whilst there is no guarantee that space law will evolve in this manner, there is logic in preparing for this now by providing evidence of enduring and continuous de-facto possession ... in order to 'deserve' first-in-line consideration. Our current claim of factual possession of land on Mars is now regarded as legitimate, but not particularly 'strong' ... it represents a valid baseline or starting point. We can strengthen it further by gaining a massive membership (co-claimants), lobbying state delegations (at UN-COPUOS) to appreciate our inclusive governance plan, and encouraging our family descendants to be part of any future 'manned missions to Mars.'

NOTE: would-be co-claimants must realise that we do all this not because we are keenly pro-appropriation, rather it is that we think celestial property rights are ultimately inevitable and we want to be ready with an inclusive solution that also appeals strongly to commerce. We call this '***Inclusivity built upon Exclusivity.***' See our new legal strategy document.

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