

**INTRO:**

So, who are 'The Martians?' ... we are All Mankind.

**CALL TO ACTION (and USP):**

If you would love to save the Outer Space Treaty (to keep us safe from aggressive weaponization just 350 km above our heads) and provide your family descendants with the real probability of owning a huge chunk of land on Planet Mars, then do something amazing ... JOIN our communal claim to land on Mars!

**MISSION STATEMENT:**

We must provide equitable opportunity for millions of people from all nations to provide their family descendants with the real probability of owning vast areas of land on Planet Mars, and to join us in our campaign to preserve and enhance the Outer Space Treaty - keeping humanity safe from military plans for aggressive space weaponization (including nuclear options, in orbit, just 350km above our heads).

**BACKGROUND**

Dr Phil Davies is a medical doctor with several years working experience (in a senior role) in defence and aerospace medicine. He became particularly interested in astronomy 12+ years ago.

Also 12+ years ago, he became aware that the only ratified treaty to prevent nuclear weaponization of space (OST) was becoming somewhat marginalized and threatened by spacefaring nations who desperately wanted to initiate space exploitation (mining of celestial bodies – asteroids and the moon). The OST did not easily facilitate such activity.

At the same time, he became aware of futuristic plans for the 'terraforming' of Mars (making Mars more habitable for human settlement). One of the most prominent plans was the generation of an atmosphere via the application of heat to the planetary surface ... a modest rise in surface temperature could release sufficient carbon dioxide to instigate a greenhouse effect (via sublimation, which is the conversion of lots of CO<sub>2</sub> dry ice on the surface into an atmospheric gas). Thus, a non-breathable atmosphere is enhanced (enabling summer surface water & no need for pressure suits), although the retention of that atmosphere becomes the next problem. Mr Elon Musk proposed that the 'fast way' to trigger all this was via detonation of thermonuclear bombs over the Martian poles!

Dr Davies then recognised that a targeted strong laser beam from Earth to Mars would result in powerful photons impacting the Martian surface and, sporadically, assisting in the

liberation of CO2 into the atmosphere (as well as other effects). Such an action is physically trivial but very much in keeping with the plan for a generated Martian atmosphere.

If such an action could be sustained (frequent laser applications) over many years, then this activity (if combined with an administrative/governance plan for the Martian land) could perhaps create early de-facto possession of the barren land on Mars.

Whilst recognising that without further development of space laws, it would not be possible to convert the de-facto possession of celestial land into titled ownership, he did opine that should space faring nations (and their delegations at the UN-COPUOS) become aware of the correctness of our celestial de-facto possession, it would create some agitation/concern that this weak claim could yet become quite a big issue: if, in future, the space laws were developed to tolerate private ownership of celestial land then this 'legally correct' claim would deserve first-in-line consideration. This realization would not be lost on the interested national/international media...

With media attention and some unease at COPUOS, Dr Davies would use any opportunity he had to voice concerns for the rather marginalized state of the OST. He would campaign for an update to space treaty-law (not by opening the existing OST but by adding to it). He would campaign for new laws to more effectively prevent the aggressive weaponization of space (especially powerful strike weapons), to legitimately facilitate celestial exploitation (mining) and to deal with space debris generation/removal.

He also realised that, not simply to satisfy criteria for actual possession, it was sensible to develop an exciting and practicable administrative/governance plan for the claimed land on Mars. Should, in perhaps 50-150 years, this claim be successful in gaining title registration, then this plan could really deliver (at least for Mars) those necessary updates to space law.

Dr Davies also realised that if he brought many co-claimants on board, ideally creating an equitable pan-multinational claim of possession, then we should have a stronger argument to perhaps shape the law in our favour. If some of those co-claimants entered the communal claim via a small joining fee, then we might be able to accumulate sufficient funds for legal fees and court costs (which had to be anticipated).

## **BACKGROUND-SUMMATION**

This double-edged venture ('Claim and Campaign': The Mars Land Claim and the Save The Space Treaty Campaign) started over 12 years ago. It was Dr Davies' hope that if we could prove ourselves to be in pan-multinational communal possession of land on Mars, it would agitate the UN (COPUOS). It should impact upon national/international media, providing a stage for us to voice our concerns about space weaponization, orbital debris and celestial exploitation, plus our calls for strengthening of 'hard' space law to deal with those issues. An honest proof of 'de-facto possession' would clearly differentiate us from all the previous 'point-and-claim' agents, some of whom sell fake 'deeds' to celestial land. It would enable us to provide opportunity for others to join in our claim (for free or at cost), via the issue of Mars Land Claim certificates (claims to actual possession, not ownership ...but with a commitment to seek opportunity for registration/ownership via international legal due process).

## **SO, IT IS THE MARS LAND CLAIM THAT WE ARE ADDRESSING HERE**

Note: The Mars land Claim is the first and most important of three claims (Claims 2 and 3 apply to priority rights to Martian resources and geospatial slots which approximate to the surface of Mars. These latter two claims need not apply if claim 1 proves successful).

Since March 2010 Dr Davies has been frequently targeting Planet Mars with high power lasers. He started with class III lasers but soon progressed to class IV (the most powerful lasers). Using some of the world's most powerful portable lasers, attached to an astronomical telescope with an auto-tracking mount, he targeted Mars for 15-30 minutes, twice weekly (sometimes more) for most weeks when Earth-to-Mars light-time is less than 15 minutes (and Mars is targetable in the evening/night/early morning sky. On average, over the course of those 11+ years, he has applied strong laser-light to Mars on almost 20 weeks per annum.

Dr Davies is an amateur astronomer and so also spends time studying other celestial features in the night sky, but it is for the use of lasers that he needs to observe strict standard operating procedures.

His/our use of these very powerful lasers is entirely legal. We perform outdoor laser activity when the only commercial airport within 40km of us is closed. We are outside the UK's defined notification zone (CAA: CAP 736 notification zone). We use a flight-radar app to raise awareness of approaching aircraft. We check ISS position and in-the-sky satellite position data (from Celestrak). We target and lock on Mars via the astronomical telescope with auto-tracking mount. The powerful laser is aligned to the telescope and so tracks Mars, thus leaving our eyes free to roam the skies (and flight-radar) in search of anything moving or blinking. If anything moves or blinks in the sky (or anyone approaches on ground) the laser goes off.

The CAA are aware of our activity. The UK Space Agency is especially aware of our activity: they have confirmed that we do not need a license for this.

We use lasers up to 5000mW (5W) in strength, but usually use 1W red and 3.5W blue lasers when Mars >30 degrees in the sky and 1W red laser when Mars is <30 degrees (Rayleigh scattering is much more pronounced against short wavelength blue light through the greater air-mass that low angles involve.... hence orange/red sunsets)

We only use a highly visible green laser to deliver Morse coded messages to Mars – this powerful 100mW EVO laser is controlled via an android smart-phone app that offers Morse Code capability ... allowing us to repeatedly declare “peaceful possession” of Planet Mars.

For easy-to-digest scientific info go to this webpage: <http://mars.sale/science-issues/>

For more detailed info you can peruse several detailed slides from this page: <http://mars.sale/about/>

So, what does this laser light actually do?.. well, it is best exemplified when Mars is closest to earth (at 'Opposition' when light time to Mars is about 3 minutes). At that time, the laser beam (depending on wavelength and divergence of the laser) may be 10 to 20 times the diameter of the planet, yet there are still 300 photons per second hitting each square metre of the effective surface area of Mars (300 million per Sq Km per second). A very sensitive receptor on Mars might detect these photons. Some of these photons will impact dry ice (CO<sub>2</sub>) on the surface of Mars. Sublimation (dry ice to gas) is an ongoing natural process, but our lasers will encourage a bit more. On a much larger scale, just as with Elon Musk's proposal, sufficient CO<sub>2</sub> release could trigger a greenhouse effect (and generate an atmosphere that removes the need for astronauts to wear pressure suits; and may allow for surface water). We suggest that, in line with human ambition to 'terraform Mars', our efforts deliver a tiny physical effect that could be termed 'beneficial.' There is no other targetable celestial body that could be beneficially influenced (even in a tiny way) by laser light applications, so Mars was the choice for possession. It's worth noting that many scientists think that higher energy light photons (e.g. blue light) may have served to spark life on Earth.

So, we have used the repeated application of strong laser beams to deliver a very small controlling influence upon the geo-atmosphere of Mars. This is physically tiny/trivial, but in keeping with case law on Earth (criteria for actual possession to acquire barren land) it is not legally trivial.

This famous paper from McDougal in 1963 (coinciding with the Principles Declaration) is a fantastic read and delineates, via case studies, the necessary strength of claims of possession that have been required to gain legal title to lands (on Earth) of varying geographical/geological quality. He has then considered the possibility of national and private acquisitions of celestial land and the application of similar possession-criteria to define eligibility for land registration:

[https://digitalcommons.law.yale.edu/fss\\_papers/2608/](https://digitalcommons.law.yale.edu/fss_papers/2608/)

From this paper and further reading, I could see that we needed to strengthen our claim of possession of Martian land. We needed more members and a persuasive legal argument (to prepare for and maybe shape *lex ferenda*).

Prior to Professor von der Dunk's initial 'Preliminary Report', we had been convinced that a pan- multinational communal claim (claiming de-facto possession) which sought only beneficial title (the legal title to be registered to All Mankind, held in trust by UN), would not be directly barred by Customary International Law which applies to Space (CIL). We now know that whilst the text of core space law (Outer Space Treaty) may remain intact, its interpretation within CIL must change towards tolerance of celestial land ownership. Nevertheless, we were (still are) determined to seek international legal appraisal.

Thus, Dr Davies was determined to have it presented to the UN (COPUOS). As the UK is one of the delegations at COPUOS, he sought to persuade them to introduce the 'problem' of our celestial possession claim to the committee. Of course, the UK Gov (FCO) resisted... such that he eventually took it to the UK High Court 2019 (and subsequently Court of Appeal Nov 2020). In considering permission, the judges agreed with the UK government that their refusal to facilitate access for us to any international due process was based on an interpretation of law that was tenable. They saw no procedural rule or positive obligation upon UK Government to act under A1P1 (or Article 6) ECHR.

#### **The UK Gov and judge said:**

*'... whether a "pan-multinational communal claim" is recognised in international law and, if so, whether it falls within Article II of the 1967 Treaty are complex questions governed, again, solely by public international law. In any event, even if such a species of claim were recognised to exist and/or not to fall foul of Article II, this would still not establish that the Claimant has a procedural right to have his land rights claim referred to COPUOS by the UK as his national State.'*

*'... the FCO's view that to submit the Claimant's land rights claim to COPUOS would be contrary to its obligations under the 1967 Treaty is at least tenable, meaning that there was no error of law.'*

Dr Davies had also stated in his skeleton argument:

With respect to my persistent activities using powerful lasers to target Mars: I note that in deploying Articles II and VI beyond their fullest accepted reach (and using that as the key reason for refusing to agree to my request), the defendants must openly consider all of their important international obligations that then flow from OST. Article XI must surely apply. This requires the UK Gov to advise the UN Secretary General (and general public/scientific community) of our 'national activities' in space. They should also consider the applicability of Outer Space Act 1986. The defendants have shown no such consideration.

In their ignorance of Article XI OST and the Outer Space Act 1986, despite applying Articles II and VI OST beyond the furthest accepted reach, they have satisfied the definition of Wednesbury Unreasonableness.

#### **The Judge did not agree.**

Dr Davies then also stated:

In stating their dislike for UN Trusteeship as a reason for refusing to agree to my request, the defendants (and thus the Judge also) have employed such conscious bias as to be discrimination ... and therefore, Article 14 ECHR is also breached.

#### **The Judge did not agree.**

In time for the application to ECtHR, we were pleased to receive some excellent critique of our strategy/opinions/assumptions ... Prof. von der Dunk's Preliminary Report indicated that a separation of what was *lex lata* and what might be *lex ferenda* was extremely needed within our presentation and strategy. Thus, we have refined our legal strategy and will cautiously monitor for ECtHR announcements regarding admissibility of our 'case.'

### **STRATEGY: Business-Legal**

1. Describe our current position within *lex lata* and then optimally position ourselves w.r.t readiness for/influence upon *lex ferenda*. Our legal strategy must be as compelling as possible, even capable of shaping changes in law (a long shot!). The bulky website must be trimmed and redacted before adjusting text to reflect the newly refined strategy with much clearer structure.
2. Focussing on USP (unique selling points), we use a structured, credible, public-facing approach - to recruit many more members, including fee-paying members (from £14 for a claim-of-possession certificate). These co-claimant payments will help with ongoing business-legal fees and serve to permit a more robust, professional approach to the future development of legal strategy and the lobbying of state delegations at COPUOS. Such lobbying (if effective), plus a huge membership (including both 'free and fee-paying' co-claimants) will give us increased strength. We aim for at least five million members.
3. Effective, tailored lobbying of state delegations to COPUOS... build awareness of the uniquely positive outcomes that may flow from the implementation of our proposal.
4. Imaginative use of national/international media (not just via science journos but certainly always including them), including a possible longitudinal documentary via a large US corporation (and similar with an exciting new UK media company).
5. Website translation into most major languages ... leading to engagement with prominent media outlets in multiple nations.
6. Imaginative use of existing co-claimants... inspire to become social-media influencers.
7. Professional assistance w.r.t website/social media enhancement plus SEO/PPC/CRO.
8. Build the brand 'The Martians' (plus sub-brands 'All Mankind', 'TrustMars' and 'OUTERSpeACE'): stands for accessibility, equality, caring-commerce, and safety.
9. With every opportunity for media exposure, we stress the importance, in our opinion, for additional 'hard' space law (a 'top-up' treaty) to be built upon OST to legally facilitate space commerce, further protect against aggressive space weaponization and mitigate/manage orbital debris. We acknowledge that will

be very difficult, but we describe how, through the successful propagation of this communal claim, we could help to deliver such a vital update in space law.

10. Building on the last point (9), we must openly explain the mechanisms by which our 'Save The Space Treaty' Campaign may benefit from our Mars Land Claim: the propagation of this claim provides three opportunities to JOLT the state delegations at UN-COPUOS into agreement on a limited 'Top-Up Treaty' to the OST. First, we will use world media attention to stress the urgent need for additional 'hard' space law, in order to prevent humanity's sleepwalking towards aggressive weaponization of the orbital space just 350 km above our heads. Second, the provisions within our 'Application for First Registration' (sent to UN) allows for the UN (conditional upon ratification of a new top-up treaty) to 'buy back' every claim for a nominal fee until 2037 or celestial land title registration (whichever comes first). This nominal fee was just \$1000 in 2017, but is doubling biennially, such that by 10.10.2037 (70<sup>th</sup> anniversary OST) it will become \$1Million to each co-claimant. Third, our legal strategy explains how the full realisation of our claim will also lead to ratification of the top-up treaty (such ratification will be a pre-requisite for space-faring nations seeking representation on the governing space-user group).
11. Our claim to 'early' factual possession is legitimate but not particularly 'strong' ... nevertheless, it is a great starting position. As the law now stands, it does not matter how weak or strong a 'validated' claim to possession might be ... no amount of possession/occupation can currently lead to appropriation/ownership. But, we can sensibly anticipate the likely changes within space law as it evolves into the future (we might even be able to influence those changes). So, it is important that we now have expert legal recognition of this 'correct' claim of factual possession of all land on Mars (since 2010). From here we can build the strengths of both the 'factual possession' and the argument towards implementation of our complete proposal. Effective lobbying of individual state delegations (@ COPUOS) will strengthen the argument for our proposal (and the legal changes required). The factual possession is strengthened initially by building our membership into a massive communal claim (exceeding five million international co-claimants). Funds permitting, we aim to liaise closely with ESA, NASA, Roscosmos, CNSA, UK Space Agency and the International Space University (and others), in order to provide for a significant number of annual scholarships to worthy applicants from within our membership (or members' families) to study STEM/space studies. Thus, we should generate expert advocates for our project, plus help to deliver the skilled astronauts and space engineers (etc) of the future. At this time, we should integrate/partner with space industry.
12. Communicate: 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.'**

## **STRATEGY: Legal**

In Advanced Introduction to Space Law, Prof. von der Dunk states, “wherever humans go, the law follows.”

### A: Lex Lata:

1. We assert that it is entirely reasonable for us to claim to be in de-facto possession of land on Mars. With no new definition in core space law of what actions might be sufficient for de-facto possession of barren celestial land, we suggest it is appropriate (as per OST Article III) to refer to case law in general international law. The minimal actions required of nations to satisfy effective occupation of barren land (in public international law) are very similar to the minimal actions required of an individual (squatter) to prove actual possession of poor-quality land (in UK: private law). Our actions of possession: persistent witnessed laser applications over 11+ years, laser Morse Code declarations, national/international media declarations, administrative/governance planning, recorded applications to UK Gov, US Gov and UNOOSA, persistent website and social media presence since 2010. We state these activities are sufficient to declare de-facto possession of land on Mars.
2. We assert that our claim of de-facto possession is stronger than any other known claim of possession. Indeed, we assert that no other claim to date can be considered to have satisfied the minimal criteria for de-facto possession (generally these have been ‘point-and-claim’ entities who also may have developed some planetary governance plan, but without any attempt at physical influence or control of the land claimed). Independent expert legal opinion agrees with this statement.
3. We assert that de-facto possession is entirely legal (so NOT illegal) – it is tolerated by OST and CIL in space. Independent expert legal opinion agrees with this statement.
4. We therefore assert that it is entirely reasonable for other co-claimants to join in our communal claim – a pan-multinational shared claim which is based on a single act of possession (laser activity conducted by Dr Philip Davies on behalf of 'The Martians').
5. It is also reasonable for us to request a small joining fee from new co-claimants. In recognition of their joining our communal claim, all new co-claimants are immediately issued (by email) with a downloadable claim certificate pack which documents their joining our claim of possession of land on Mars, plus assures them of our ongoing efforts to seek opportunity (within lex ferenda) to eventually register the claim into titled property. These claim certificates are not novelty items.
6. It is unreasonable for other agencies to sell deeds to celestial land unless the certificates are clearly defined as novelty items and have a stamp to that effect on the certificates. 'Real celestial deeds' cannot currently be legitimately issued.



7. We seek to allocate all available shared claims in an equitable but pro-business manner. Thus, half of all claim certificates are allocated to nationals in ratios based on national population, human rights records, and state corruption statistics. This represents our intent to distribute claims equitably. The remaining half of all available claims are available to all, first come, first served. To date, the largest numbers of claims have been issued for free, but priced claim certificates are now available from only £14 (\$18). We discovered that rather more people living in India could afford £14 than could in USA. This was our effort to be equitable but still pro-business.
  8. Our de-facto possession within lex lata cannot currently be converted into titled ownership. Such would require some significant change within CIL applied to space. We assert that this does not necessarily require any change to the text of OST.
- **Professor von der Dunk** confirms, in the published 'Legal reality Check' (May 2021), that our activities have been legal, and our claim of factual possession is valid. He states that unless/until the law was to appropriately evolve, we cannot yet convert that factual possession into titled ownership.

#### B/ Lex Ferenda:

1. We suggest that the sheer calorific value of capitalism will eventually lead to the moulding of space law towards some tolerance of appropriation. Any number of possible events could motivate nations to agree to modify/evolve the law towards this. All does not fall on our shoulders to effect these changes! Such might occur at a time when larger scale human settlement on Mars becomes feasible (maybe 50-150 years?). We (or our descendants) must have prepared and be ready for such an opportunistic moment. Should space law evolve to encourage/tolerate private appropriation of celestial land, then we can legitimately expect to be first- in-line for consideration because of our legally correct (albeit weak) claim of de-facto possession of land on Mars... but in reality, acquisition of such celestial land may not follow this fair legal route. There are things we can do now to help us get there...
2. Our unique legal construct may prove attractive to various national delegations to COPUOS. It is our job to effectively lobby these delegations with our proposal. There is a modest but real possibility that such lobbying, if received favourably (especially by delegates from space faring nations), could prepare for/instigate the moulding of CIL in our preferred direction. How so?...
3. We continue to submit applications for first registration of land on Mars (to UK/US Gov and UNOOSA). Within these applications we describe our preferred registration. If successful, we will have the legal land title going to 'All Mankind' and to be held in trust (on behalf of All Mankind) by a UN Committee (a Celestial Trusteeship Council). Thus the 'control' of the owned land is in the hands of the UN. All co-claimants seek

beneficial ownership (an interest in the economic benefit of property). This status is initially shared but should then be divided into plots (allocated by lottery). The owned land should be held open (within 'Trust Mars' - the named trust) as common land - a concept not yet defined in CIL but described in private common law in UK and other countries. There is a time-limited opportunity for the UN to acquire all claims (pre-registration) at a preferential rate ... a nominal fee which escalates over time in order to generate a 'financial-pressure stimulus' (this is documented on the claim certificates and in the 'Business-Legal' section of this document).

4. Evolution of Customary International Law (CIL) and Private International Law (PIL): This model does require considerable adjustment within CIL and PIL. In our opinion it does not require any change to the text of OST. With beneficial title going to nationals of every nation on Earth (and controlling legal title held by UN within Trust, on behalf of All Mankind), the bar on national appropriation can still be maintained.
5. If point 4 holds, then we have a strong argument to shape the law. Professor von der Dunk describes the substance of all space law to be represented by concentric circles, with the inner core of sensu stricto space law (including OST) being a *lex specialis*. This schematic shows that all the other applicable laws to space must, in principle, fit within the main parameters of this *lex specialis*. So, if in order to register our claim of possession into such split ownership there's no need to alter the text of OST (just a need to mould CIL and PIL to tolerate non-state ownership without involving national sovereignty) then it could be easier to facilitate our ambitions. I doubt that COPUOS delegations are ever keen to open the OST for editing. Admittedly it also demands that a common law model for property ownership (split bundle of rights) be accepted into PIL.
6. The above point is interesting, almost compelling. We are convinced that it could hold, although we are also doubtful that most nations would soon tolerate non state ownership of celestial land without national appropriation. Nevertheless, whether national appropriation comes into it or not, our proposal leads to an ethical and beneficial situation which addresses the obligations that come from OST 'Article I'. It can be seen to address the dichotomous problem that is '**exploitation with necessary sharing.**'
7. Our application for registration contains our proposal for a governing regime, that being a light-touch pro-business space-user group. For any space faring nation to have representation in the regime, it must ratify a succinct treaty which facilitates space exploitation, bars aggressive weaponization of space (including strike weapons) and mitigates/manages space debris (completely and deliberately in line with our 'Save The Space Treaty' campaign).
8. The space user group, as a pro-business responsible regime, will serve to facilitate the orderly and safe exploitation of land on Mars. Mining installations will incur a ground - rent which is paid to the affected co-claimant(s) (now beneficiaries) who

must part-share this payment with all other beneficiaries. Given that all nations are represented (in equitable numbers) via the pan-multinational beneficiaries, they all in turn benefit (via levy/taxation) from the exploitative use of the land. The mining company retains all profits (less tax/levy to the responsible nation). In this way, commerce is encouraged and the obligations of OST Article I can be honoured.

9. In addition to potentially addressing OST 'Article I' whilst still maintaining a very pro- business outlook, our proposed model may appeal to nations that feel uneasy about the ultimate consequences of the US Space Act and the Artemis Accords ... namely multiple widely protected celestial installations that initially occupy large areas of land and then spread further in a permanent exclusive possession over vast areas of optimal celestial land - such as to be difficult to distinguish from ownership.

**Professor von der Dunk** has suggested that our meta-legal arguments (with respect to the propagation of our Mars Land Claim) could prove appealing to space faring nations... such that a favourable evolution of the law might be achieved. He succinctly summarized those meta-legal arguments... Quote:

(1) factual possession by *The Martians* of parts of Mars would or should logically transform into legal ownership of those parts;

(2) private legal ownership over 'land' on Mars as per *The Martians'* aims would promote the use of outer space in the interest of peace and international security; and

(3) the approach to such private legal ownership taken by *The Martians* would ensure that all countries and their populations have a fair chance to benefit from the exploration and use of outer space as the "province of all mankind".

Generally speaking, there would be four possible paths to achieve such changes to the present regime of international space law, noting that they would not necessarily be mutually exclusive or even always easy to distinguish from each other.

**First**, countries always have the opportunity to conclude an entire new treaty creating new rules... [We say: this must be very unlikely in short-medium term]

**Second**, less disruptive than the first path but still formalized in nature, countries can amend the 1967 Outer Space Treaty, notably of course Articles II and I, instead of trying to more fundamentally 'overwrite' it ... [We say: this is unlikely in short-medium term]

**Third**, a much less formal and more limited path towards changing the international legal framework and environment would be to focus on a (re)interpretation of, especially, Articles II and I of the 1967 Outer Space Treaty, at least as a first step. Such a (re)interpretation would preferably take the form of a UN General Assembly Resolution. It would allow countries to declare that, without fundamentally doing away with the prohibition of actual "national appropriation" of a part of Mars or with the fundamental "freedom of exploration and use" also ruling on Mars and while acknowledging furthermore the continued application of other applicable rules of space law, some form of private ownership should be allowable.

Such a declaration could (and preferably should) also indicate how, for instance, proven factual possession of a sufficiently substantial nature, compliance with the lofty principle that “[t]he exploration and use of outer space, including the Moon and other celestial bodies, shall be carried out for the benefit and in the interests of all countries, irrespective of their degree of economic or scientific development, and shall be the province of all mankind”, and compliance with other relevant rules of international (space) law should allow for the acknowledgement of legal ownership.

Most importantly, in order for such an approach to work, however, the declaration should at least set out how proper registration of individual claims, in particular if successful, should be arranged – preferably at the international level. This would likely require a second step, given the general reluctance of sovereign nations to accept an international registration of valuable assets, even if there have been some successful examples in international law which may provide some guidance (as well as some hope) in this case.

[We say: this is an eloquent expansion of our existing strategy ... this is a route to target]

**Fourth**, an incremental bottom-up approach might be tried, by which sympathetic individual countries would already allow under domestic law some form of registration, which for the time being should occur in a provisional manner in order not to violate straight away the key provisions of the 1967 Outer Space Treaty analysed before.

By thus carefully indicating the way ahead on the issue of possible private ownership of land on Mars, presumably limited to the general parameters of the approach which *Mars Claim – Background and Strategy* has set out, such countries can gauge the general reaction of the rest of the world community, can initiate or engage in international discussions as relevant, and potentially convince other countries to follow suit. If protests from other countries generally remain absent, the potential for a novel set of international rules on the issue by way of customary international law may arise, a process which also has some interesting precedents in general international law.

National law on matters of outer space and space activities certainly constitutes a major example of the “international custom, as evidence of a general practice accepted as law” that would create customary international law. Thus, the above approach may, if successful, ultimately lead to a change in the customary international law underlying the current Articles II and I of the Outer Space Treaty sufficient to effectively supersede the effects of those clauses. ...

[We say: ‘4’ is an exciting and feasible option for us ... it should be combined with ‘3’]

... Along the lines of any of the above approaches, wherever meeting all fundamental requirements as set out above, it would certainly be possible that appropriation of ‘land’ on Mars would ultimately become an accepted and legally codified phenomenon. *If* that will happen, the new paradigm might in turn well follow the moral, ethical and philosophical approach taken by *The Martians*, including as of today any ‘provisional registration’ of relevant claims, to establish the desired measure of legal ownership.

*Whether* that will ultimately happen or not, and if so to what extent, is largely beyond the scope of this analysis focused on the current legal parameters and conditions.

[We say: that is very interesting, encouraging and of course, challenging]

- In a separate emailed statement on the matter, the Professor states:

‘... 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 ...’

[We say: it does not all fall upon us to cause a change in the law ... it WILL happen, for any number of triggering reasons. But we must be prepared - with our claim to ‘prior-and-most-effective-possession’]

**Right now, the most important stuff that a would-be co-claimant needs to know is...**

*Within lex lata, it is not illegal to be in de-facto possession of celestial land.*

*We can reasonably claim 'early' de-facto possession of land on Mars.*

*To date there have been no other entities who could reasonably claim to be / have been in sustained possession of land on Mars.*

*It is not illegal or dishonest to donate or sell claim certificates indicating that the new co-claimant has joined our communal claim of possession of celestial land. These are not novelty gifts, and these are definitely NOT deeds. To sell real deeds would not be legitimate.*

*Our claim is a pan-multinational communal claim (meaning we have people from every nation (195 nations) represented, in equitable numbers, within our shared claim.*

*Currently, within lex lata, there is no opportunity to progress our correct claim of possession towards registration of titled ownership.*

*In preparation for (or in an effort to shape) lex ferenda we have developed a model which should allow our pan-multinational communal claim to be first-in-line should ever the law come to tolerate private acquisition of celestial land.*

*We think that when it becomes feasible for widespread human settlement on Mars, the CIL is likely to change towards tolerance of national and private appropriation of celestial land. This could be 50, 100 or even 150 years away.*

*Our proposed model for ownership (split bundle of rights) would see the UN holding legal title to the land (on behalf of 'All Mankind') and all co-claimants becoming beneficial owners. This model may prove palatable to many national delegations at COPUOS and it also serves to deliver on the obligations of OST Article I, whilst still being very pro-business. It is pro-business because a commercially minded space user group will govern the exploitation process (mining) and will permit all profits to go to the mining company (after a ground rent is paid – which is shared by all co-claimants/beneficiaries). The full realisation of our Mars Land Claim project will also deliver on the goals of our 'Save the Space Treaty' campaign: that being a new succinct 'top-up' treaty that builds upon OST to keep us safe from aggressive weaponization in space, enables vibrant space commerce and manages the generation/disposal of space debris.*

Dr Philip Davies

17 Nov 2021

<http://marsregister.org>  
<http://themarkians.org>  
<http://mars.sale>