

Metaverse: taking on opportunities and managing risks (from a legal perspective)

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Undoubtedly, the digital world has come a long way since the dawn of the internet. Rapid evolution of technology has done away with slow connections and unresponsive websites, replacing them with lightning quick speeds, big data, virtual reality and customised user experience. However, this new era is not without its question marks. In this article, we take a closer look at the phenomenon of the metaverse and the notion behind the parallel reality it is offering as well as its core use cases in the digital industry. There are several implications for users, businesses and legislators to consider, including the potential effects and legal issues this new technology may represent and the challenges facing the areas of personal rights and data privacy, intellectual property, ownership of digital goods and e-commerce.

Summary of key points:

- There is no single metaverse, rather many metaverses facilitating different aspects of daily life with potential crossovers and transferability between them
- Gaming and entertainment industry, e-commerce and virtual meeting spaces are core industries experiencing the most advancements
- To benefit from current and future web 3.0 technological developments particular attention must be paid to legal implications in IP rights, data protection and privacy matters, asset ownership, and personal rights.

Concept and technology – the definition and elements of the metaverse

In the absence of a universal definition, **the metaverse can be best described as a new iteration of the Internet, a combination of software platforms and various immersive technologies**, providing users with a completely novel interactive experience of the digital world and digital content. The metaverse migrates certain parts of the experience of the physical world and re-create, import or augment this in an immersive virtual environment allowing superior user experience.

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Wolf Theiss

The transition from web 2.0 to web 3.0

With novel visual technologies rapidly spreading and computational abilities reaching new heights, the Internet, as we know it, will eventually have to evolve from its current web 2.0 state to something more fitting to our day and age. The new technologies of web 3.0, such as decentralized currencies, "open world" spatial interfaces and VR-enhanced user experiences is steadily becoming the new next thing, bringing with it its share of challenges along the way.

A parallel virtual reality is not entirely a novel concept. Interoperable immersive virtual platforms such as online realities of massively multiplayer online role-playing games (MMORPG) have been around for decades creating and have been around for decades. As early as 2003, San Francisco-based Linden Lab developed and released a game called "Second Life", an online multimedia platform using avatars to allow its users to exist in an online world, much like the metaverse does now. Almost all discussion sparked by the metaverse references the work of sci-fi writer Neal Stephenson, author of the novel Snow Crash (1992), a story set in a dystopian world featuring a world similar to the metaverse complete with virtual real estate accessible through special VR goggles. These signs lead us to conclude that while the concept, albeit in various forms, has been alive for decades, its evolution to a fully-fledged platform aimed at replacing traditional online solutions is only now starting to become reality.

No single metaverse

We may imagine the metaverse as a global virtual playground, however we must make it clear there is no single metaverse and it is safe to say, that almost each and every area of our lives has or will have its own metaverse. Starting from entertainment and gaming, through work and meetings, to e-commerce, financial services and shopping, there are already many virtual spaces offering real-life experiences online. As an example, recently in Poland the biggest Polish bank opened its branch office in the metaverse built on Decentraland.

Core sectors affected

The gaming and entertainment industry is a core and most natural sector when discussing the metaverse. We can expect that as technology develops, computer screens will lose their importance and be replaced by virtual reality with all types of interaction. This sector will also use all innovations in digital assets, like crypto payments, NFTs and individual/certified artefacts and items transferrable from one world to another (including from the virtual world to the real, physical one).

Virtual meetings and offices are another fast-growing sector of the metaverse. Today, we are at the very early stages of virtual offices, but global tech players have already invested in e-offices where employees experience real-life routines, such as virtual walks or person-to-person conversations. In the era of COVID-19 pandemic, video conferencing technology developed a lot and e-meetings in the metaverse will be a next step in this area.

Last, but not least, is the e-commerce sector and all other types of online services. This is a new area for technology-driven products available in metaverses where we can have real-time communication and negotiations with sellers, individualized marketing campaigns based on what we physically look at and make purchases through our VR goggles.

Challenges

There are many challenges relating to the metaverse. The first one is technology. It would be crucial to integrate virtual worlds with real, physical experience. How is this done? By transportability of assets between worlds. For example, by allowing users to pay for a drink with crypto currency, or by further integrating e-shopping with fast deliveries. Additionally, proper interface (VR/AR headsets), huge amounts of data and cloud computing powers (including IoT, AI, etc.) are all needed.

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Apart from the technology itself, any development of such technology will require that creators and providers are allowed and able to monetize their work and contribution in a safe and consistent manner. A popular way of monetizing is through NFTs, another core concept of the metaverse and one of its biggest challenges. This new technology allows users to have original and individual digital assets that can be used to monetize art or services via safe blockchain technology, allowing creators to earn on royalties from further sales without hiring agents or publishers.

However, despite user friendly and easily accessible technology, the metaverse also brings many challenges. One of them is tax issues. For example, the actual treatment of NFT sales from a tax perspective generally in many jurisdictions still remains unclear. Another issue is crime in the Metaverse related to both financial aspects, identity theft and other personal data breaches (read more [here](#)). There are also a range of other legal issues related to virtual life in the metaverse such as copyrights issues, brand protection, trademark protection, cyber security, privacy, consumer protection, crypto-assets and many more.

Legal implications

1. Intellectual Property

While its novelty can easily make us forget, the impressiveness of the metaverse may come at a cost, namely implications of the need to "duplicate " our actual physical reality to allow the creation of an actual parallel dimension to interact in. However, a great amount of our world is already a product of intellectual effort of someone else. Accordingly, we must remain cautious of the fact that our experience in this digital world is always governed by the intricate relations of applicable copyright laws and the terms of use of the relevant service provider.

A very good indication of how crucial brand usage is on metaverse platforms is the EUIPO's recent guidance on trademarks and NFT's in the metaverse and the numerous lawsuits sparked by the seemingly unauthorized use of third party designs, marks and other IP. ([Are your trademarks "meta" enough? Protecting trademarks in the metaverse](#))

2. Data protection and privacy matters

As a result of the high number of expected metaverse users safe and responsible collection, storage and use of personal data during user's lifecycle will become a major challenge and will require focused attention. Monitoring users' activity will also become paramount to ensure product safety and police unlawful behaviour, which creates even more issues from a data protection perspective. Furthermore, any efforts for integrating all personal data and financial data will require constant development from a cybersecurity angle.

3. Ownership of assets in the metaverse

Regardless of global ambition, any development of metaverse-related technology will require that creators and providers are allowed and able to monetize their works and contributions in a safe and consistent manner. After all, the metaverse should be an ideal area as its concept of web 3.0 rests on the assumption that the users create their own unique worlds and virtual spaces. This begs the question of ownership enforcement of virtual goods in this artificial world. While this remains a topic spawning more questions than answers, the concept of "contractual ownership" and licensing of IP rights will definitely receive great attention from the legal community (please read more [here](#)).

As much as these virtual assets become accepted in the financial world, it may be an interesting topic to further investigate the possibilities of encumbering these valuables and using them as actual collateral. Critical questions around these assets would possibly revolve around registration of these security rights and the ability of such volatile items to become the foundation of a new "digitally" secured financial market.

4. Personal Rights

The digital reality of the metaverse also carries the risk already experienced in traditional social media with the hacking of profiles and identity or data theft. Depending on what elaborate rights and possibilities of interaction the avatars of users will have (e.g.: the ability to make legally binding statements, such as a sale and purchase agreement), losing control of our profiles and our digital character may result in very serious reputational or pecuniary damage through misrepresentation or impersonation (e.g., commenting inappropriate content or committing slander), easily resulting in someone losing their job, not to mention the consequences of losing control over valuables (cryptocurrencies, NFTs) linked to the users' profiles or wallets. ([Financial crime in the metaverse is real - how can we fight back?](#))

5. E-commerce

The metaverse will (and to some extent has already) change how we perceive, interact and manage parts of consumer habits such as visiting a shopping mall and choosing our next set of furniture. As such, it has the potential to reshape the world of online sales by allowing us access to a level of detail and types of information, through the means of virtual reality, that was previously unaccessible from behind our computer screen. Just imagine trying on a new pair of shoes or complete outfits with your photorealistic avatar, or completely re-arranging and decorating the digital copy of your apartment and making a purchase by the push of a button. However, these possibilities equally raise the question how such vast amounts of information can influence the nature of our choices as consumers and whether these more educated decisions would have to be treated differently from the currently applicable regime of online purchases and the relevant legal safeguards (e.g, by limiting the withdrawal right for products sold online) surrounding these purchases.

Current legal frameworks and the metaverse both have ways to go

The rise of the metaverse and its novel circumstances introduce numerous technology issues and new legal questions. At the dawn of web 2.0, applicability of "real life" laws to virtual worlds raised issues and courts, authorities and lawmakers are required to constantly adapt laws and their application to allow proper use in these online realms. The above topics are just a part of the ongoing discussions regarding the legal questions surrounding the metaverse and its related technologies. As much as we believe that the metaverse has the potential to drastically change many parts of our lives, there is still a long road to go until this technology becomes commonplace and easily accessible for the critical masses of the population. Also, at first glance, the foundations of our current legal system appear well-equipped to handle the challenges of this new platform. The experiences acquired through the transition to the more traditional form of the Internet are more relevant than ever. However, lawmakers, legal professionals as well as users of the metaverse will have to remain careful and vigilant with those new products, services and developments which the law has not yet managed to fully define. In any case, keeping up with this rapidly evolving scene will be key to mitigate risk and allow maximizing potential benefit from this new digital frontier of virtual reality.

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