

The metaverse: ownership of virtual properties and objects in the "new reality"

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As the business of the metaverse grows, so do the legal questions around it

With the increasing popularity and acceptance of the metaverse, as well as the sale of crypto properties and items, we are confronted with the question of the type of ownership associated with them and to what extent the owner is entitled to property rights. Are there protective rights against interventions in virtual crypto-property?

Summary of key points:

- There is no single metaverse (virtual world) – what a large number of them have in common is that they are managed decentrally via a blockchain
- The legal question arises regarding the type of ownership associated with crypto properties and items and to what extent the owner is entitled to property rights
- Virtual crypto properties and items can usually be acquired in the form of Non-Fungible Tokens (NFTs)
- Although crypto-properties and objects of the metaverse require a publicly visible act of transfer due to the blockchain, similar to real properties and objects, it does not automatically mean that the virtual assets enjoy the same level of protection

Understanding the metaverse and its growing market share

The metaverse is currently one of the trending buzzwords in the IT, crypto and investment industries. The term came into the limelight last year when *Facebook* CEO Mark Zuckerberg presented his plans for a **virtual world** (the metaverse) in which - according to the company's vision - a large number of users will spend their daily lives in the future. In order to do this, users will need to create a virtual version of themselves, a so-called avatar, and will be able to buy a house or a flat in the virtual world, as well as engage in conventional real-world activities (such as meeting friends, racing cars, etc.). To underline its plans, Facebook also renamed itself to *Meta*.

However, there is no "single" metaverse. There are many different projects running independent from each other and in parallel. What a large number of them have in common is that they are managed decentrally via a blockchain (such as *Decentraland* or *Sandbox*). Among the many projects, there is a wide, varied and quite colourful range of designs of the respective virtual world. Differences can be seen, for example, in the deliberate thematic orientation towards certain target groups or also the technical depth and implementation of the respective project (graphics, range of available activities, etc.).

Recently, sales of virtual real estate have caused a stir and attracted a great deal of media attention, in some cases for sums in the high double-digit millions.

Major international corporations are also beginning to discover the metaverse for themselves and are using the virtual presence for marketing and sales purposes. *Nike*, for example, has opened its first flagship store in the metaverse and service providers are buying entire office towers to hold virtual meetings.

However, with the increasing popularity and acceptance of the metaverse, as well as the sale of crypto properties and items, there is also **the question of the type of ownership associated with them and to what extent the owner is entitled to property rights.**

Non-fungible tokens

Virtual crypto properties and items can usually be acquired in the form of Non-Fungible Tokens (NFTs). An NFT is a cryptographic token that is unique and is thus non-replaceable or non-exchangeable, and represents a specific, unique (in the case of the metaverse) digital object in the blockchain. Unlike, for example, a one-euro coin, which can be exchanged for any one-euro coin without loss of value, an NFT cannot be exchanged for any other NFT, as each NFT is unique and has its own value (comparable to da Vinci's Mona Lisa or real property).

Transfer of ownership of crypto properties and items

In principle, only the owner of an NFT can dispose of it. This is the person whose wallet the NFT is assigned to in the blockchain and who has the private key associated with the NFT. In simple terms, the NFT is transferred by transferring it to another wallet. The blockchain is a transparent network in which the transfer processes of an NFT in the blockchain are in principle publicly visible. **The blockchain therefore represents a kind of publicly accessible owner register** in which every act of transfer can be traced.

Are there protective rights against interventions in virtual crypto-property?

Although crypto-properties and objects of the metaverse, similar to real properties and objects, require a publicly visible act of transfer due to the technical requirements of the blockchain, **this does not automatically mean that virtual assets enjoy the same level of protection.** Austrian law for example provides extensive protection instruments for (real) physical objects against (physical) interference with them, such as actions for adverse possession and injunctive relief. A comparable level of protection for intangible and therefore also virtual objects does not exist. Claims usually only arise from an existing contractual relationship with a third party.

Therefore, **there is no legal instrument of protection against unwanted visits of third parties** to their virtual birthday party or the virtual neighbourhood barbecue in the metaverse. Since it is a purely contractual relationship between the owner of the NFT concerned and the metaverse operator, any remedies generally arise from the contractual basis and must be enforced against the metaverse operator.

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