
VIRTUAL WORLDS, REAL RIGHTS: SAFEGUARDING INTELLECTUAL PROPERTY IN THE METAVERSE

Kirti Singh, Lloyd Law College

Deeptanshu Shekhar, Lloyd Law College

ABSTRACT

Metaverse presents new sets of opportunities and challenges concerning Intellectual Property protection. This paper aims to look at the role copyright, trademark, and patent law play in protecting digital creations like virtual art and branded goods within this new domain. While international agreements such as the Berne Convention provide some background, the borderless nature of the Metaverse wholly bars enforcement, raising real mast concerns more especially for India.

Several challenges in India include jurisdictional problems, issues in protecting cultural identification, and the widening digital divide. The real risk of IP theft being a major concern is due to big overseas platforms where Indian courts have hardly any jurisdiction.

To find their way through this and to give India a fair chance, a multidimensional strategy is suggested. It would include amending the Trademark Act and Copyright Act to clearly include virtual goods, forming a "Digital Goods Registry" that will give digital assets legal recognition, and finding ways to bridge the digital divide via public access centres and incentives for domestic manufacturing. The framework will then go on to propose a Digital Heritage Council to protect cultural integrity and an ethical governance model based on sound domestic legislation and international cooperation to ensure a safe and inclusive Metaverse.

Introduction

As far back as the late sixth century BC, the Greek philosopher Parmenides declared, “nothing comes from nothing.” In the digital era, however, every few years a seemingly unprecedented phenomenon appears to come from nothing, yet holds the power to revolutionize the world and the law. The “metaverse” is the latest of these phenomena. First coined in Neal Stephenson’s 1992 science fiction novel.

¹Snow Crash is a term denoting the successor to the internet: one single and universal virtual world experienced through virtual and augmented realities. Today, there is the very important issue relating to a fundamental grappling of the existing paradigm of intellectual property (IP) law.

Going against appearances, the metaverse did not simply arise out of thin air. It owes its inception to some ebbs and flows over the past few decades in the fields of computing, networking, and digital graphics. It is powered by user-generated content (UGC), making users active contributors to the metaverse while also possessing a strong economy-developed through blockchain and NFT mechanisms.

Fundamentally, such features generate conflicts with IP law, which is a legal framework built upon national borders and tangible goods and which must now grapple with a domain that is borderless, intangible, and often decentralized.² A major issue creating the difficulty in applying national laws to this global space is the importance of platform-specific Terms of Service (ToS).

The Intellectual Property and its relation with Metaverse

The 21st century is giving rise to fundamental growth, modifying every aspect of life and enabling the rise of innovations like Artificial Intelligence, and the Metaverse. To be part of it, it is necessary to understand its core relation with technological progress and with intellectual property.

The core of Intellectual Property in the Metaverse centres on the unique challenges and opportunities of protecting and managing creative and intellectual aspects of work in today's

¹ NEAL STEPHENSON, SNOW CRASH (1992)

² <https://www.brandxr.io/what-is-a-defining-feature-of-the-metaverse?hl=en-IN>

life. It has been found through research that there is a need for the emergence of the Metaverse for the enhancement.

There are certain types of Intellectual Property relevant to the Metaverse :

1) Copyright: This plays an important role in Intellectual Property Rights, in order to protect the original digital work, such as Virtual artwork, avatars, which have been seen they are mostly used on all social platforms and to music in the metaverse, but there are certain issues around modification and establishment.

- ³The WIPO Copyright Treaty of 1996, addressing digital environments in a specific manner, states that storage of a protected work in digital format amounts to reproduction, which constitutes an act at the instance of the copyright holder.

2) Trademark: Metaverse trademark protection is oriented towards technological innovations that enhance human digital experiences. The metaverse not only protects the brands but also its identities which people have created in both the physical as well as in digital environments.

- The United States Patent and Trademark Office now recognises trademarks for virtual goods and services, acknowledging the commercial reality of digital brands. In today's real world, brands face certain problems as they extend to virtual spaces.

3) Patent: It means the exclusive right granted to a person by the Patent Office to exploit his invention for a limited period of time.. In India, it is granted for 20 years. The grant of a patent not only recognises and rewards the creativity of the inventor but also acts as an inspiration or catalyst for further inventions, which ultimately contribute to the technological development of a nation.

Challenges in Indian Society due to Metaverse:

In the metaverse, creativity will be everywhere, whether it is digital art, music, fashion for avatars or innovation. But this raises a big question – WHO OWNS WHAT?

- A digital artist in Chennai might design a unique piece of virtual artwork. But how can they stop someone in another country from copying it without permission?
- Even patents and trademarks become harder to enforce when the metaverse stretches across International borders.

³ https://www.wipo.int/edocs/en/wipo_pub_226.pdf

So, where is the issue in the Indian society? Does our legal system work properly, or are we concerned? No doubt India's Intellectual property laws are stronger on paper; yet, in practice, enforcing them will be a huge struggle.

Digital Gap: India in the 21st Century still struggle with unequal access to the Internet; most people in India don't know how to use the Internet. Only the wealthier section of society can afford VR devices and fast connectivity. This may widen the gap between the urban and rural populations

Cultural Distortion: India's rich traditions may be misused or distorted on global digital platforms. Protecting cultural identity in the metaverse is as important as protecting intellectual property.

Jurisdiction Problem: The biggest difficulty is that the metaverse does not belong to one country. If Intellectual Property theft happens on a platform hosted abroad, Indian courts may have little power to act, and it will become a worldwide problem, and the risk of fraud will increase significantly in Indian Society.

Severe Addiction: Nowadays, people are so engaged in their mobile phones that they forget their social bonding and culture. Our youth is degrading more and more due to spending more time online, leading to isolation, addiction and psychological strain.

For India, tackling IP and Metaverse challenges requires a balance of law, technology and ethics.

India's Metaverse Strategy: A Solutions Framework for Governance and Growth

Bridging the Digital Divide

The solutions need to be multidimensional toward ensuring equity of access. Public access can be democratized by having Common Service Centres evolve into 'Meta-Seva Kendras', providing subsidized hardware and speed connections. To counter exorbitant hardware costs, India must extend the Production Linked Incentive (PLI) scheme to nurture domestic AR/VR manufacturing, much like how IIT Madras has been incentivizing manufacturing of affordable models for learning.

A Modern Framework for Intellectual Property

Technologies like NFTs and smart contracts, while in fact providing tools for verifying ownership, present the challenge of not amounting to real IP protection. A strong system does require some kind of hybrid approach, one that integrates technology with law reforms, such as a possible amendment to India's Trade Marks Act, 1999, and Copyright Act, 1957.

Forging an Ethical Governance Framework

A sound and ethical governance structure is thus the bedrock of a safe Metaverse. The best course lies in three-tiered working model. The first tier would consider fortifying domestic law by vigorously enforcing the Digital Personal Data Protection (DPDP) Act, 2023, and carving out the soon-to-be-enacted Digital India Act (DIA) with a much finer liability framework for platforms. The second tier is to engage proactively in international diplomacy to shape global standards on jurisdiction and data protection.

Implementing these integrated solutions will ensure that India opts for a path of inclusive opportunity and responsible innovation towards the fulfillment of its Metaverse.

Conclusion

The discussion around Intellectual property and the metaverse is gaining slow yet steady momentum in India due to rapid digitization, a robust IT sector, and a young population eager to embrace technology. With a view to support the growth of the metaverse and strengthening Intellectual property rights in the emerging digital space, the Government set up several initiatives. One such prominent initiative is the XR Startup Program, a joint effort of the Ministry of Electronics & Information Technology with Meta to skill and accelerate startups working on Extended Reality technologies of AR, VR, and metaverse applications. Infrastructure-wise, India's first Metaverse Experience Centre in Noida promotes XR technologies and provides a platform for industry partners to look into metaverse applications.

These moves mark more than strategic innovation for India. In truth, the future does not just depend on technological advances, but also on how we deal with rights and responsibilities.