

Intellectual Property Client Alert

Proactive Approach to Protecting Intellectual Property Recommended to Organizations Conducting Business in the Metaverse

By: Joseph Barber | May 6, 2022

Companies with large IP portfolios that plan to conduct business in the metaverse should consider a proactive approach to ensure their IP is adequately protected. This includes a review of current trademark protection plans to ensure they are up-to-date and beefed-up enforcement plans to catch counterfeiters and infringers quickly. One of the easiest ways for a company to end up with a valueless brand is to fail to adjust to new developments quickly or stop infringers as quickly as possible.

The development of the metaverse and other virtual worlds introduces a host of critical issues relating to a company's copyrights, trademarks and patents. Licensing and advertising agreements also need to be reviewed to ensure current agreements cover the deal made between the relevant parties.

Additionally, companies should increase their monitoring activities for unauthorized use of their IP in the metaverse by competitors or careless virtual companies. The proliferation of NFTs is just one example of the ability of nefarious actors to reduce the value of a company's brand and IP through infringement or counterfeiting.

- Licensing and advertising agreements need to be reviewed to ensure loose language does not permit a licensee from using a license beyond the intended scope of the deal. Conversely, if the language in such agreements is currently adequate, the parties should consider whether the metaverse and other virtual environments are an area for potential expansion of the current relationship.
- Trademark registrations need to be reviewed to ensure any newly contemplated use is covered by existing classes. This is especially true for companies that have trademark registrations for hard goods that want to expand to NFTs or other virtual goods.
- Companies should surveil the metaverse and other virtual environments for the unauthorized use of their trademarks, copyrights, or patents and take swift action if infringement is discovered.

A company's intellectual property is often among its most important assets. And, just as in the real world, protecting those assets will likely result in a tsunami of new and complex legal challenges. Companies should be proactive, not reactive, to meet these new and developing frontiers.

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