
Metaverse: Challenges to Laws

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It has been nearly a year since Facebook announced its "metaverse," a move followed by other platform operators. The metaverse has since become a daunting legal challenge to businesses and attorneys. This article will provide general insight about the metaverse and its legal challenges, and pose necessary questions.

Metaverse

The term "metaverse" comes from "meta" (beyond) and "verse" (universe), which is often called a virtual world, parallel to the real one. Metaverse is cyberspace generated by a computer or artificial intelligence (AI) with the exploitation of internet and blockchain technologies where real people can interact with each other through their "avatar." You, through your avatar can interact, play, meet, dine, etc. with other avatars in the metaverse through a computer and virtual reality (VR) devices, e.g. VR headsets, etc.

The metaverse is continuous, 24/7, reactive among avatar (users), interoperable among platforms, and limitless. Digital/cryptocurrency and tokens will be exploited through the workplace, marketplace/digital commerce in the metaverse, e.g., gaming, dining, meetings, concerts, shopping, and most other forms presented in the real world. These all can be done in natural language procession (NLP) where AI eliminates any language barriers.

In Thailand, a number of companies have created their own metaverse platforms selling virtual land with the same landscape and geographical coordinates as in the real world, e.g. land in Siam Square or Thonglor areas.

Challenges to Law

Given that activity in the metaverse will correspond and correlate with individuals and businesses existing in the real world, we need rules or codes to create peace and fairness so that users can live and interact. Here come the main questions: Can existing laws can be applied in the metaverse? What will lawmakers in each country would do next? We consider the metaverse activity and legal considerations below.

1. Capacity and Contract Laws

Thai civil and commercial laws provide that people who have attained 20 years of age and who also are of sound mind can enter into a contract. If these basic conditions are not met, then contract is voidable. This poses both legal and practical questions as to whether the platform knows the actual age of the users when they register their accounts or create an avatar, particularly, taking into consideration personal data protection laws. And, when we interact

with other users/avatars to effect transactions, how we can be sure that they have the legal capacity to be lawfully bound?

To this extent, platforms or the authorities governing those platforms may need to enact more refined rules to ensure that users have the legal capacity to transact in the metaverse.

2. Criminal Law

The principle of Thai criminal law is a “person” must be responsible for his/her unlawful act as prescribed or prohibited by law, e.g., theft and embezzlement of virtual assets, defamation, etc. At this point, it is quite clear that, in principle, avatar users should be liable for their own criminal acts. But, in practice, what if we cannot find the user, or the user lives in other jurisdictions (countries), or if the avatars are AI-generated? This is the same dilemma as to who is responsible for lethal car accidents precipitated by auto-drive/pilot passenger cars. If the avatar user is below 12 years of age, would they be exempt from criminal prosecution?

3. Intellectual Property

Intellectual property issues and disputes will certainly be prominent. One of the most discussed issues will likely be trademark infringement, where a user/avatar uses real-world registered trademarks or those that are confusingly similar, for the same of goods or services, without authorization from the rightful trademark owner. For example, can users use a logo of a famous sport or fashion company on their attire in the metaverse? What if users design their own cars and affix among the “supercar” logos on them? Are trademarks infringed in these instances? Would the answer change if the legal trademark owner also opens its shops in the metaverse? And, with regard to patents, can creators register their inventions created in metaverse in the real world?

The creation of new types of digital assets, such as digital collectibles documented via non-fungible tokens or NFTs, tops up intellectual property issues as regards the right to use the content held by the NFT owner.

While the scope of intellectual property protection in the metaverse is not clear, some government authorities have now initiated a special class for trademark registration to be used in the metaverse. It is interesting that this will be soon modernized, globally, through international conventions as a new norm for intellectual property.

4. Digital Assets

Digital assets, likes cryptocurrency and digital tokens, will play indispensable roles in the metaverse. Users will turn to using cryptocurrency as a means of exchange for goods and services. Despite the rise of cryptocurrency, the Bank of Thailand and the Securities Commission and Exchange of Thailand recently barred the use of cryptocurrency as a means of payment for goods/services from 1 April 2022. These government agencies will find themselves leading from behind as they catch up with technology while fruitlessly applying current securities rules. They will ultimately need to issue contemporary or modern rules to regulate digital assets, banking, and other financial activities.

5. Personal Data Protection

Metaverse and Web 3.0, the third generation of internet services for websites and applications, are known to be using a machine-based understanding of data to provide a data-driven web with the aim to create more intelligent, connected and open websites. Metaverse will involve substantial personal data collection, use, and disclosure. This raises the challenge as to how the Thai Personal Data Protection Act (expected effective on 1 June 2022) will be enforce in the metaverse, esp. transmission of personal data out of Thailand.

6. Tax

Last but not least, while the world of taxation is trying to unify certain rules, e.g., base erosion and profit shifting and global minimum tax, the metaverse is presenting new such challenges. And, just as the Thai Revenue Department recently issued personal income tax guidelines on digital assets, it is now faced with constructing a tax regime useable, understandable and enforceable in the metaverse.

Author's Note:



The future is now, and the rise of new technology like blockchain, web 3.0, and the increasing number of metaverse platforms, globally, has intercepted our reality. Challenges to laws and legal systems are ensuing. The metaverse will need rules and codes so that platforms and users can interact fairly with a similar security and safety standard as in the real world. For the time being, we need to adhere to the existing laws that are applicable to metaverse activities. We will inevitably soon need to have rules and laws that particularly apply to the virtual world. Such rules may, in the next stage, unify on a global basis as a new universal normative order with an international independent monitoring organization. Readers, regardless of their occupation, should become aware of metaverse and challenges it poses to law, commerce and even society. Readers must also adapt themselves to this oncoming virtual world order.

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