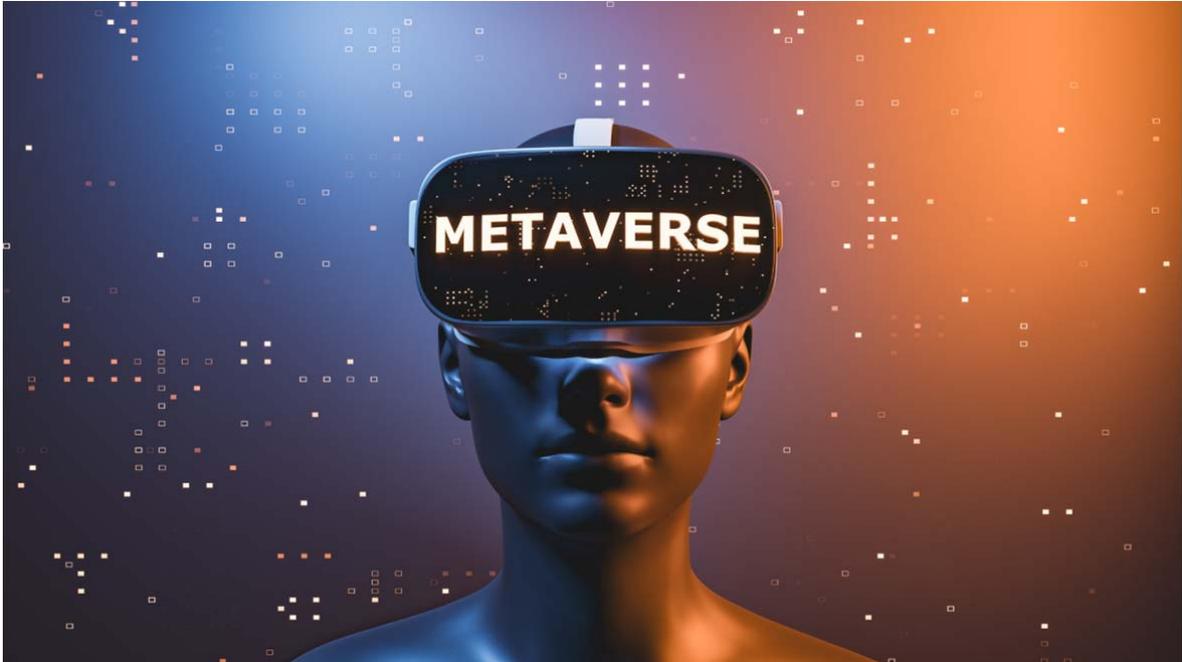


# PATENTING IN THE METAVERSE

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Metaverse as a concept is not new however, it has expeditiously gained traction in recent times. Now, what exactly is the metaverse? In the simplest terms, metaverse can be defined as a shared virtual world, which can be accessed using various technologies which offers experiences in the digital world that might not be possible in the real world. It is a platform which imitates real life world by creating programs wherein individuals can create avatars and interact and socialise through them.

When it comes to the question of what patents could potentially applied for in the metaverse, a rough classification can be made between two categories— hardware related components or software-based inventions. The hardware patents include the devices and gear that are used to enter into the metaverse, for example Virtual Reality glasses, processors and storage mediums. On the other hand, obtaining software patents for metaverse technologies is comparatively more complex. Much of the software in the metaverse is used for simulation of either, the real world or virtual situations. Obtaining patents for software inventions in the U.S. is relatively straightforward and easier when compared to the EPO state such as the U.K. Naturally, the patents that are filed in the metaverse would also need to meet the same requirements as for every patent, i.e. **novelty, inventive step and industrial applicability**.



In 2021, Apple Inc filed a patent application before the USPTO (United States Patent and Trademark Office), in relation to the metaverse, for a technical solution which allows users to block individuals who violate the guidelines. Through this, Apple aimed to seek protection for its technical solution for the Metaverse. **Other companies such as Meta have also filed patent applications** to amend the users' experience in the Metaverse. Through this, they aim to enhance the interaction between users and the digital world. In addition to this, they filed another patent, which includes an "avatar personalisation engine" that reproduces the appearance of a real person into an avatar, by using only one picture. Again, this engine would serve to make the users' experience even more realistic when interacting in the Metaverse. Furthermore, the company also filed a patent which comprised of a device that is able to track the users' facial expression and offers content which adapts based on their response. This would pave the way for inventions to be designed in a manner which allows the advertisers to launch more targeted advertisements of their products in the Metaverse.[\[1\]](#)

The Metaverse from trademark applications has been seen to be commercially ambitious as was seen in the case of RTFKT[\[2\]](#), the digital collectables company, that sold over \$3 million worth of virtual sneakers in less than five minutes and was acquired by Nike in December 2021. Its trademark applications include an array of virtual sports clothing, fashionwear, and equipment. It can be argued that virtual goods are in a way a proof of ownership of a physical product. In 2019, Nike obtained a patent for including blockchain technology to their physical sneakers. So when a customer would buy a pair of shoes, they would automatically obtain a token that stated the ownership of the product, in order to promote the authenticity of their products.

The overlapping of the metaverse and the real world raises questions on the jurisdiction over a dispute that may arise in the metaverse. In India, the courts have relied on the concept of "long-arm jurisdiction" to resolve disputes involving computer networks. In the case of *Swami Ramdev & Anr v. Facebook & Ors*[\[3\]](#), the Court examined the meaning of a 'computer network' with the respect to the case in order to determine the jurisdiction of courts in Delhi to grant a global injunction.

The intersection of patents and the metaverse also draws attention to the use of NFTs (non-fungible tokens) in representing patents in the metaverse. NFT's, by harnessing the endless capabilities of blockchain technology could help in capturing the ownership of the patent in

on fungible digital files. Not only would the NFT certify who the current owner of the patent is but would also capture it in a way that could not be tampered with, This could help in safeguarding the patent from infringement by providing the historical chain of ownership of the patent.



With the patent landscape in the Metaverse becoming complex due to the massive influx of applications, the challenge that arises for companies wanting to venture into the metaverse is that they must act promptly in order to secure their spot in the virtual market. In the virtual world, patents are territorial rights, i.e. a particular creation is only protected in the region/country wherein the patent has been filed. This raises several questions of the future of patents in the metaverse. Can the inventions created in the metaverse be used in the real world as well as in the metaverse? The Metaverse poses its own unique set of challenges to the applicants obtaining patent protection. It will be exciting to see how the Metaverse unfolds and develops alongside the analogous world.

[1] *'Intellectual Property in the Metaverse. Episode III: Patents.'* European Innovation Council and SMEs Executive Agency. *Can be accessed at* [https://intellectual-property-helpdesk.ec.europa.eu/news-events/news/intellectual-property-metaverse-episode-iii-patents-2022-05-30\\_en](https://intellectual-property-helpdesk.ec.europa.eu/news-events/news/intellectual-property-metaverse-episode-iii-patents-2022-05-30_en)

[2] Levi. D. *"Metaverse startup RTFKT sells 620 pairs of virtual sneakers for \$3.1 million in less than 5 minutes; now acquired by NIKE."* Tech Start-ups. *Can be accessed at* <https://techstartups.com/2022/01/09/metaverse-startup-rtfkt-sells-620-pairs-virtual-sneakers-3-1-million-less-5-minutes-now-acquired-nike/>

[3] CS(OS) 27/2019