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**TRILLIONS, TOKENS AND TEST DRIVES:
INTELLECTUAL PROPERTY IN THE
METAVERSE**

October 27, 2022

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PRESENTATION AGENDA

TRILLIONS, TOKENS and test drives: INTELLECTUAL PROPERTY IN THE METaverse

METaverse
OVERVIEW

METaverse
OPPORTUNITIES

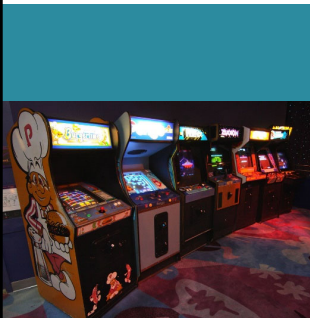
METaverse IP
ISSUES

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I. METAVERSE OVERVIEW

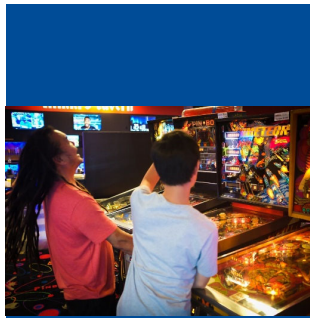
METAVERSE: WHAT IT'S NOT



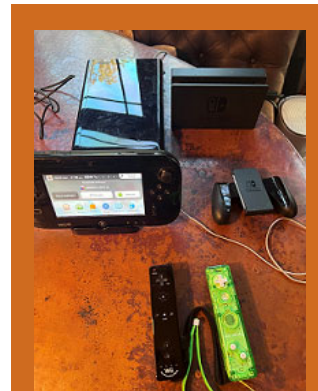
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METAVERSE DEFINED



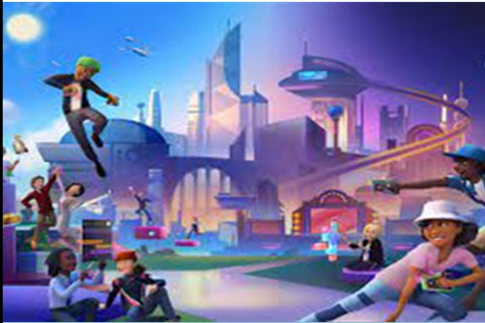
- 30 year old term.
- Digital layer on top of the “real” world through AR.
- 3-D network of virtual worlds.
- World where our digital alter egos can buy and sell virtual and real goods, test drive cars, buy houses and land, engage in mental health therapy, attend school, travel and on and on....
- The metaverse will be interoperable, meaning it will be possible to jump from one world in the metaverse to the next as simply as jumping from one website on the internet to the next.

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METaverse DEFINED

A persistent, shared, 3D virtual space linked into a customizable, virtual universe.



Once you enter the metaverse, ideally, you should be able to navigate through it, anywhere you want to go, in a seamless continuous fashion.

- e.g. using a virtual currency to purchase Adidas shoes from the virtual store before walking over to attend a virtual concert.

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METaverse BASICS: LINGO

- Avatar
- Virtual Real Estate
- Virtual Currency

- Meta
- Augmented Reality
- Virtual Reality
- And, of course, NFTs

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METAVEVERSE BASICS: NON-FUNGIBLE TOKENS (NFTs)



- A non-fungible token (NFT) is an indivisible digital token that represents the ownership of a unique asset.
 - NFTs frequently represent intangible assets like digital artwork, music, videos, domain names, or in-game items, but NFTs may also represent tangible assets like physical artwork or real estate.
 - NFTs verify ownership of assets because their metadata contains information on creation and ownership.
- NFTs are frequently purchased using cryptocurrency.
- The creator of an NFT normally maintains copyright and reproduction rights upon sale unless otherwise expressed.

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METAVEVERSE ECONOMY



- **NFTs** will anchor the digital economy.
- **Cryptocurrency**
 - **Ether**: One of the most popular currencies; most often used for digital land purchases. Decentraland & The Sandbox.
 - **MANA**: Native currency of Decentraland (buy land, apparel, accessories).
 - **SAND**: Native currency of The Sandbox (buy land, play games, buy NFTs).
 - **AXS, Axie Infinity**: Gaming currency.

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METaverse: POPULAR PLATFORMS

- Roblox
- Promotes real life brands and trends (Nikeland) (Pet Simulator X)
- Fortnite
- Decentraland
- The Sandbox
- Axie Infinity
- Illuvium
- Virbela

• META HORIZON WORLDS



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META HORIZON WORLDS

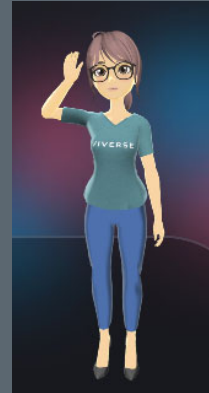


- Large VR chatroom.
- Meta's flagship metaverse is sinking and facing ridicule.
- Less than 200,000 monthly users (100,000 drop in numbers).
- Largely uninhabited worlds, about 9% of spaces visited.
- Zuckerberg's "PET PROJECT" with *legless* avatars.
- User retention, poor quality, actual experience does not match advertisements.
- Quest Pro VR \$1,500 v. Quest 2 \$400.
- Meta shares down 62% this year.

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METaverse: WHAT IS IT WORTH?



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TRILLIONS

Home / Daily News / Major law firm buys property in the metaverse...

LAW FIRMS

Major law firm buys property in the metaverse and opens virtual office

By: C. Conkle

HOME > NEWS > TECH > FACEBOOK CHANGES NAME

Facebook Changes its Name to Meta in Major Rebrand

Staff Writer · November 18, 2021 · 2 Comments

Twee

Public Companies Were Buzzing Over This Potential Trillion-Dollar Trend in Q3

TECH - NEWS ITEMS

JPMorgan bets metaverse is a \$1 trillion yearly opportunity as it becomes first bank to open in virtual world

February 16, 2022 12:35 PM EST

Why I Decided to Spend New Year's Eve in the Metaverse

Times Square's famous festivities are

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TRILLIONS



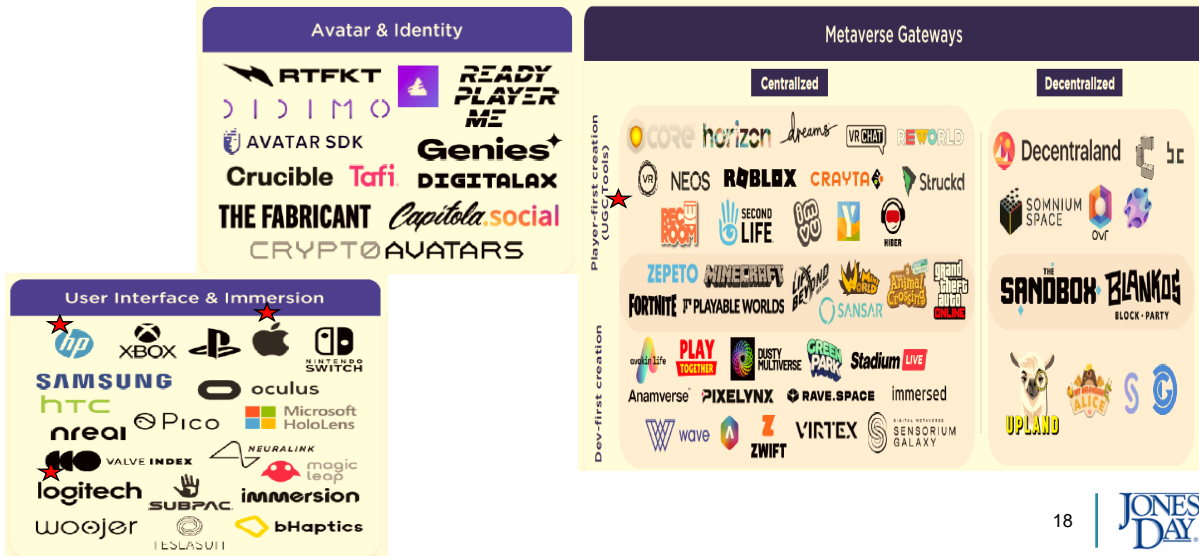
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- 2030 Metaverse Market Predictions:
 - \$5 Trillion (McKinsey)
 - \$8-\$13 Trillion (Citi)
 - \$30 Trillion (Epyllion)



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METAVVERSE: MAJOR PLAYERS IN THE ECOSYSTEM



II. METAVERSE OPPORTUNITIES

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METAVERSE: OPPORTUNITIES

Workplace
Applications

Online
Commerce
and
Marketing

Social and
Entertainment
Spaces

Healthcare

Real Estate

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METAVEVERSE: WORKPLACE - COMMUTE TO THE METAVEVERSE?



- Horizon Workrooms.
- Mesh for Teams.
- Collaborative technologies.
- Onboarding new employees.

- Conferences?
- Shareholders meetings?
- Workplace culture of the Metaverse?

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METAVEVERSE: ENTERTAINMENT

- Online Concert and Events
 - Ariana Grande
 - Travis Scott
 - Marshmello
- Thanksgivings in the metaverse?
- Gaming in the metaverse?



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METaverse: COMMERCE AND MARKETING

- Avatar Clothing and Accessories
- Real World Clothing Purchased in the Metaverse



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METaverse: TELEHEALTH TO METAHEALTH?

- Where we are now:
 - AR-Assisted Surgeries
 - VR-Assisted Trainings
- Where the Metaverse Could Take Us:
 - 24/7 Access to Mental Health Support
 - Applications to Alzheimer's and Dementia Treatment
 - Medical School in the Metaverse



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METaverse: TEST DRIVES - EVEN TRADITIONALLY TACTILE EXPERIENCES ARE MOVING TO THE METaverse



Automakers such as Hyundai have begun allowing customers to test drive vehicles virtually in the metaverse.

Using metaverse testing grounds allows for concept vehicles to reach consumers more quickly.

Virtual reality conditions allow companies to exert more control to personalize the consumer test driving experience.

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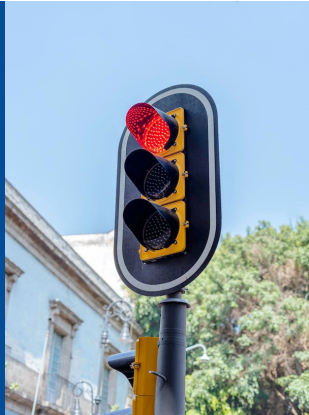
BEGINNING WITH REAL CARS AND ENDING WITH CONCEPT VEHICLES



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PUMP THE BRAKES: IP CONCERNS STILL EXIST FOR METAVERSE CARS



- All of the same IP concerns exist when putting test drives in the metaverse, with some new twists:
 - False advertising rules still apply, even with fantastical experiences.
 - Make sure existing IP covers metaverse or other digital uses (particularly trademarks).
 - A new concern: data security.
 - As companies place more experimental or proprietary data in metaverse platforms, proper security controls must be in place for users and the platform itself.

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META OPENS FIRST RETAIL STORE IN CALIFORNIA



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METaverse: REAL ESTATE - A BUYER'S MARKET

- Sales of real estate in the metaverse topped \$500 million in 2021.
 - Physical Store Fronts
 - Fantasy Island Villa: Own an island in the Metaverse

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III. METaverse IP ISSUES

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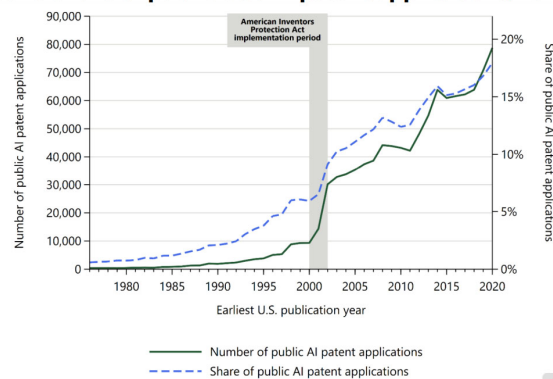
METaverse: IMPLICATIONS FOR PATENTS

- Large tech companies are at the forefront of the patents involving blockchain, web3 and the metaverse. Major players include: Sony, Microsoft, Samsung, Google, Facebook/Meta, Canon, IBM, LG, Apple, Intel and Magic Leap.
- Both hardware and software patents connected to AI specifically have been a priority of the larger players
- **Thaler v. Vidal, 43 F.4th 1207 (Fed. Cir. 2022)** – This year the Federal Circuit determined that AI cannot be an inventor under the Patent Act. DABUS (Device for Autonomous Bootstrapping of Unified Sentience), an artificial intelligence system, was added as an inventor on two patents. To date, the patent has been rejected in the EU, UK, Australia, and the U.S.

<https://www.forbes.com/sites/anthonytrippe/2021/10/12/heres-whos-winning-the-race-to-dominate-metaverse-tech/?sh=70255a4070fc>

METaverse: PATENTS

Volume and share of public U.S. AI patent applications, 1976–2020



<https://www.uspto.gov/sites/default/files/documents/Artificial-Intelligence-trends-in-U.S.-patents.pdf>

METaverse: PATENTS

- Inventorship could be a continued issue if a petition for certiorari is filed in *Thaler*.
- Novelty and inventiveness could be a major barrier with patents for hardware.
- With software, patent eligibility could be an issue under the standards per *Alice Corp. v. CLS Bank International*, 573 U.S. 208 (2014).
 - U.S. courts are increasingly invalidating software-focused patents as “abstract” and ineligible for patenting under Alice. The caselaw here is still developing and quite murky.
- Inventors may also run into issues with obviousness.
- Similar jurisdictional issues to trademark law when considering infringement.

<https://www.reedsmith.com/en/perspectives/metaverse/2022/08/intellectual-property>

METaverse: IMPLICATIONS FOR COPYRIGHT

- We could see more copyrights sought for software code as the metaverse expands.
- Shifting from centralized and controlled servers to a decentralized internet, where content is hosted using peer-to-peer technology, could lead to infringement issues.
- New questions surrounding authorship, as the prominence of AI grows or individuals create works within the metaverse.
- Vast majority of current infringement cases relate to NFTs.



<https://www.reedsmith.com/en/perspectives/metaverse/2022/08/intellectual-property>
https://intellectual-property-helpdesk.ec.europa.eu/news-events/news/intellectual-property-metaverse-episode-iv-copyright-2022-06-30_en

METAVEVERSE: IMPLICATIONS FOR TRADEMARKS - MARKETING



METAVEVERSE: FASHION, DIGITAL ACCESSORIES AND NFTS



METaverse: TRADEMARK EXAMPLES

**Word Mark
Goods and
Services**

LULLULEMON

IC 009. US 021 023 026 036 038. G & S: Downloadable virtual reality software for providing metaverse experiences; downloadable software for providing access to an online multimedia virtual environment; downloadable virtual reality immersion software; downloadable software for experiencing interactive entertainment and virtual reality content; downloadable virtual goods, namely, computer programs featuring avatars, clothing, footwear, headwear, yoga and athletic equipment, bags, pets, emotes, and gestures for use in online worlds and virtual environments; downloadable computer game software; downloadable computer graphics software; downloadable software for processing digital images, videos, sounds, graphics and text; downloadable software in the nature of an application for use by individuals participating in metaverse-based exercise classes, physical training, and exercise instruction for detecting, storing and reporting daily human energy expenditure and physical activity level, for developing and monitoring personal activity and exercise plans, training goals and for giving feedback on the achieved results; downloadable software and mobile applications for use as a cryptocurrency wallet; downloadable software for providing access to crypto-collectibles, crypto-art and application tokens; downloadable software and mobile applications for use in electronically trading, storing, sending, receiving, accepting and transmitting digital currency, and managing digital currency payment and exchange transactions; downloadable software and mobile applications for managing cryptocurrency transactions using blockchain technology; downloadable software and mobile applications for providing access to crypto-collectibles; downloadable computer programs for measurement and analysis of the body's autonomic nervous system, physical parameters and other physiological data, bio-signals and bodily behavior, recovery from physical and emotional stress, and human alertness level and performance, and for displaying, storing, sending, transmitting and receiving of individualized pattern-aware intervention instructions and data relating to any of the above; downloadable computer programs for displaying, storing, sending; transmitting and receiving of individualized pattern-aware intervention instructions and data relating to physical and mental wellbeing via virtual reality headsets, augmented reality headsets, metaverse headsets, mixed reality devices, virtual reality devices, and augmented reality devices; downloadable computer software for tracking fitness, health and wellness goals and statistics; downloadable computer software for displaying, aggregating, analyzing and organizing data and information in the fields of health, wellness, fitness, physical activity, weight management, sleep, and nutrition; downloadable computer application software and computer hardware that detects, tracks and monitors an individual's motions, body movement, body positioning and physical activity during exercise; downloadable computer application software for detecting, tracking and monitoring an individual's motions, positioning and physical activity for use in fitness instruction and for providing real-time personalized feedback based on an individual's body movement and positioning; wearable activity trackers; smart footwear equipped with wireless data communication devices

IC 035. US '100 101 102. G & S: Administration of incentive rewards programs and the offering of special offers and promotions in the metaverse and other virtual environments; contests and incentive award programs to promote the sale of clothing, footwear, headwear, yoga and athletic accessories, yoga equipment, athletic equipment, bags, cosmetics, electronic devices, and stretch bands via the metaverse and other virtual environments; retail store services featuring virtual goods, namely, avatars, clothing, footwear, headwear, yoga and athletic equipment, bags, pets, emotes, and gestures for use online; on-line retail store services featuring virtual merchandise, namely, avatars, clothing, footwear, headwear, yoga and athletic equipment, bags, pets, emotes, and gestures; operating a virtual retail store in the metaverse, online environments, virtual online environments, and extended reality virtual environments, offering actual and virtual goods, namely, clothing, footwear, headwear, yoga and athletic accessories, yoga equipment, athletic equipment, bags, cosmetics, electronic devices, and stretch bands; online marketplace services, namely, providing a marketplace for buyers and sellers of digital currency assets and crypto-collectibles; provision of an online marketplace for buyers and sellers of downloadable digital goods, virtual goods or digitized assets authenticated by non-fungible tokens (NFTs)

IC 038. US 100 101 104. G & S: Providing metaverse services to access virtual communities via the internet; telecommunications services, namely, electronic transmission of virtual reality content and data; providing an online community forum for users to share and stream information, audio, video, entertainment content, or information, to form virtual communities, and to engage in social networking; providing on-line chat rooms and electronic bulletin boards for transmission of messages among users in the field of cryptocurrency and digital currency assets

IC 041. US 100 101 107. G & S: Online gaming services in the nature of a metaverse and metaversal environments; entertainment services, namely, metaverse experiences; entertainment services, namely, providing online, non-downloadable virtual goods, namely, avatars, clothing, footwear, headwear, yoga and athletic equipment, bags, pets, emotes, and gestures for use in online worlds and virtual environments created for entertainment purposes; entertainment services, namely, providing an online virtual environment; entertainment services, namely, providing virtual environments in which users can interact for recreational, leisure, or entertainment purposes; entertainment services, namely, providing a metaverse for people to browse, accumulate, buy, sell, and trade clothing, footwear, headwear, yoga and athletic equipment, bags, and pets; entertainment services in the nature of organizing, arranging, and hosting virtual performances and social entertainment events; providing physical fitness and exercise services via online worlds and virtual environments; entertainment services, namely, providing interactive online mobile gaming applications; providing information on-line relating to crypto-collectibles for hobby or entertainment purposes

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AND MANY OTHERS

TACO BELL

**Word Mark
Goods and
Services**

TACO BELL

IC 041. US 100 101 107. G & S: Providing an online virtual event venue for special occasions; providing an online virtual event venue for others; arranging, organizing, conducting, and hosting social events within an online virtual event venue; providing an event venue in the metaverse for others; providing an online virtual event venue for wedding ceremonies; entertainment services, namely, providing an online virtual event venue for live and pre-recorded entertainment events; entertainment services, namely, providing an online virtual event venue for speakers and other cultural events

**Word Mark
Goods and
Services**

S SKITTLES

IC 009. US 021 023 026 036 038. G & S: Non-fungible tokens (NFTs) or other digital tokens based on blockchain technology; downloadable digital collectibles; virtual products, namely, chocolate, confectionery, frozen confectionery, candy, and gum; virtual drinks and snacks; downloadable multimedia files containing artwork, text, audio, and video files; downloadable software allowing users to find products in the real and virtual world

IC 035. US 100 101 102. G & S: Online retail store services featuring virtual products, namely, chocolate, confectionery, candy, gum, snacks and drinks

IC 041. US 100 101 107. G & S: Entertainment services, namely, providing online virtual store environments featuring virtual products, namely, chocolate, confectionery, candy, and gum; virtual drinks and snacks; virtual art and avatars for use in virtual environments; providing online downloadable and non-downloadable virtual gifts and rewards for use in on-line and virtual environments; providing temporary use of non-downloadable video games

IC 042. US 100 101. G & S: Providing temporary use of non-downloadable software for uploading, modifying, sharing, viewing, displaying, accepting and transmitting, publishing, storing, managing, verifying, authenticating and communicating digital currency, crypto-collectibles, non-fungible tokens, virtual reality content and information, digital collectibles, digital tokens, digital files, images, sound recordings, video recordings, virtual objects and virtual products, namely, chocolate, confectionery, frozen confectionery, candy, and gum; virtual drinks and snacks for use in metaverse platforms and metaverse environments; providing temporary use of non-downloadable software that allows users to locate products and/or collect rewards

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CONT.

**Word Mark
Goods and
Services**

LEBRON JAMES

IC 009. US 021 023 026 036 038. G & S: Digital media, namely, downloadable digital assets, digital collectibles, digital tokens and non-fungible tokens (NFTs) featuring virtual goods; downloadable virtual goods, namely, computer programs featuring footwear, clothing, swimwear, headwear, bags, backpacks sports equipment, sporting goods, toys, home furnishings, posters, trading cards, headphones, phones, video games, watches, jewelry, accessories, and home décor; downloadable virtual goods, namely, computer programs featuring digital representations of the foregoing items; downloadable image files containing the foregoing items that are authenticated by non-fungible tokens (NFTs); downloadable virtual goods, namely, computer programs for the creation and trading of digital collectibles featuring basketball players, records, statistics, information, images, and experiences; downloadable digital media, namely, digital collectibles in the nature of photos, images, and videos of basketball players and virtual experiences in the field of basketball; downloadable computer software for managing digital collectible services

IC 035. US 100 101 102. G & S: Provision of an online marketplace for buyers and sellers of downloadable digital products that are authenticated by non-fungible tokens (NFTs)

IC 041. US 100 101 107. G & S: Entertainment services, namely, providing on-line, non-downloadable virtual products for use in virtual environments created for entertainment purposes; providing a website featuring non-downloadable photographs and videos; organizing, conducting and hosting events in the interactive entertainment, virtual reality, sports and video game entertainment industries; virtual basketball courts, gyms, and recreational facilities for playing sports in the metaverse and virtual worlds

**Word Mark
Goods and
Services**

PETMD

IC 009. US 021 023 026 036 038. G & S: Downloadable digital assets and electronic data files provided with non-fungible tokens (NFTs) and other cryptocurrency collectibles and blockchain-based non-fungible assets; Downloadable collectible items authenticated by non-fungible tokens; Downloadable digital art authenticated by non-fungible tokens based on blockchain technology; Downloadable images and videos featuring animals authenticated by non-fungible tokens based on blockchain technology; Downloadable virtual goods, namely, computer programs featuring footwear, clothing, headwear, eyewear, bags, sports bags, backpacks, sports equipment, art, toys and accessories for use online and in online virtual worlds; Downloadable computer software for use in metaverse applications to enable interoperability and information sharing between hardware devices, software systems, and the internet; Downloadable software for use in mobile devices for integrating electronic data with real-world environments; Downloadable computer and mobile phone software for use in providing information in the field of pets and animals; Computer software to enable uploading, downloading, accessing, posting, displaying, tagging, blogging, streaming, linking, sharing or otherwise providing electronic media or information via computer and communication networks

IC 035. US 100 101 102. G & S: Retail store services featuring virtual goods and merchandise, namely, footwear, clothing, headwear, eyewear, sports bags, backpacks, sports equipment, art, toys and accessories for use online and in virtual worlds; Providing an online marketplace for buyers and sellers of cryptocurrency collectibles; Providing an online marketplace for buyers and sellers of blockchain-based non-fungible assets; Providing an interactive website and computer application software for virtual reality game services

IC 041. US 100 101 107. G & S: Entertainment services, namely, providing on-line, non-downloadable virtual footwear, clothing, headwear, eyewear, bags, sports bags, backpacks, sports equipment, art, toys and accessories for use in virtual environments; Entertainment services in the nature of organizing, arranging, and hosting virtual performances and social entertainment events; Virtual reality and interactive game services provided online from a global computer network and through various wireless networks and electronic devices; Hosting of virtual events in the metaverse and virtual worlds

IC 042. US 100 101. G & S: Programming virtual goods for use in online virtual worlds; Providing online non-downloadable game software; Creating and hosting an online community for users to access, create, publish and experience in virtual world and metaverse platforms

CONT.

**Word Mark
Goods and
Services**

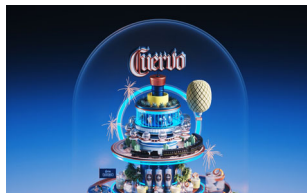
JOSE CUERVO

IC 009. US 021 023 026 036 038. G & S: Downloadable image files featuring bottles of spirits, bottles of alcoholic and non-alcoholic beverages, decanters, alcoholic and non-alcoholic beverages, foods, food and beverage product merchandise, artistic and creative works, and advertisements authenticated by non-fungible tokens (NFTs); Downloadable music files authenticated by non-fungible tokens (NFTs); Downloadable audio and video recordings featuring movie clips, memes, commercials, advertisements authenticated by non-fungible tokens (NFTs); Downloadable image files containing trading cards, bottles of spirits, alcoholic and non-alcoholic beverage bottles, artistic and creative works, memes, advertisements authenticated by non-fungible tokens (NFTs); Downloadable multimedia file containing artwork, text, audio, and video relating to alcoholic and non-alcoholic beverages, foods, and food and beverage product merchandise, alcoholic and non-alcoholic beverage bottles authenticated by non-fungible tokens (NFTs); Downloadable virtual goods, namely, virtual beverage and food products, virtual bottles of spirits, virtual alcoholic and non-alcoholic beverages and bottles of alcoholic and non-alcoholic beverages, virtual apparel, virtual food and beverage merchandise and other virtual goods for use in online virtual worlds, augmented reality platforms, and metaverse platforms

IC 035. US 100 101 102. G & S: Retail store services featuring virtual goods, namely, virtual beverage products, virtual bottles of spirits, virtual bottles of alcoholic and non-alcoholic beverages, virtual apparel, virtual food and beverage merchandise and other virtual goods for use in online virtual worlds, augmented reality platforms, and metaverse platforms; Provision of an online marketplace for buyers and sellers of artwork, text, audio, and video relating to beverages, food, accessories, and other retail items authenticated by non-fungible tokens (NFTs); Provision of an online marketplace and metaverse platform and augmented reality platform marketplaces for buyers and sellers of downloadable digital videos, art images, photos, advertisements, artistic and creative work, movie clips, alcoholic and non-alcoholic beverages and beverage and food product merchandise authenticated by non-fungible tokens (NFTs); Advertising; retail store services featuring virtual goods, namely, beverages and food items; digital retail store services featuring downloadable and non-downloadable virtual goods in the nature of beverages and food items; retail store services featuring virtual goods, namely, access tokens for use in online virtual worlds; conducting an incentive program whereby individuals can earn real world and virtual rewards

IC 041. US 100 101 107. G & S: Entertainment services, namely, providing a virtual distillery in online virtual worlds, augmented reality platforms, and metaverse platforms; Entertainment services, namely, providing on-line virtual restaurants, bars and cafes in virtual environments created for entertainment purposes; entertainment services, namely, providing on-line, non-downloadable virtual food items and beverages for use in virtual environments; Education services, namely, providing virtual tours of a virtual distillery; providing information concerning tequila distillation and production in online virtual worlds, augmented reality platforms, and metaverse platforms for educational and cultural purposes; Education services, namely, presenting virtual works of visual art to consumers in online virtual worlds, augmented reality platforms, and metaverse platforms for educational and cultural purposes; Entertainment services, namely, providing online non-downloadable virtual goods, namely, virtual beverage and food products, virtual bottles of spirits, virtual bottles of alcoholic and non-alcoholic beverages, virtual beverage and food product merchandise and other virtual goods, for use in online virtual worlds, augmented reality platforms, and metaverse platforms; Entertainment services, namely, providing on-line actual and virtual concerts, virtual events and virtual experiences; Online entertainment services, namely, providing on-line, non-downloadable gaming services and art exhibition services in a virtual environment and metaverse platforms and augmented reality platforms

IC 043. US 100 101. G & S: Operating a virtual distillery featuring actual and virtual goods; operating a virtual distillery featuring home delivery in the real and virtual world



CONT.



Word Mark WELLA
Goods and Services

IC 003. US 001 004 006 050 051 052. G & S: Hair care preparations, hair styling preparations, hair coloring preparations, non-medicated skincare preparations to be used by virtual avatars

IC 009. US 021 023 026 036 038. G & S: Downloadable software for the production and modification of interactive media, video clips, photography, music, audio recording, data, visual effects, digital files, digital collectibles, crypto-collectibles and non-fungible tokens (NFTs) on a blockchain network featuring or linking to digital or physical products related to hair care preparations, hair styling preparations, hair coloring preparations and non-medicated skincare; Downloadable mobile application software for users to browse and perform electronic transactions of retail consumer goods, namely, hair care preparations, hair styling preparations, hair coloring preparations and non-medicated skincare preparations in a virtual environment including a metaverse, virtual reality, augmented reality, mixed reality, extended reality, or a combination thereof; Downloadable mobile application software for users to access to digital electronic content and experiences such as virtually trying on hair color on themselves or their avatar, to assist users in the selection of hair coloring products, to provide information and tutorials in the field of hair color, beauty trends, hair care and hair styling trends, hair color application tips and hair product recommendations, to provide hair salon locator services; Virtual goods, namely, computer programs featuring hair care preparations, hair styling preparations, hair coloring preparations and non-medicated skincare preparations for use online and in online virtual worlds; Digital marketing initiatives in the form of live events, video clips, photography, music, audio recordings, visual effects, digital art, digital collectibles, crypto-collectibles using blockchain-based software technology, smart contracts and non-fungible tokens (NFTs) for use in virtual online environments, extended reality virtual environments and for engaging in social networking and interacting with online communities. Computer hardware and software, downloadable, for automating business activities for hair salons and spas, managing inventory and product ordering for smart product shelves and smart bins with sensors for monitoring inventory levels, assisting service personnel in providing hair care, hairstyle and non-medical hair treatment services, operating and tracking user data from hair and scalp scanners for the non-medical, cosmetic treatment of hair and scalp, operating and tracking user data from hair color creators, operating and tracking user data from color scales for weighing hair color preparations, operating and tracking user data from smart faucets for the control of water temperature and flow, accessing, managing, and displaying digital content on display screens and touch screens, and social networking; mobile devices and connected devices, namely, mobile phones, tablets, laptops, smart mirrors, display screens, touch screens, internet-connected devices and network connected devices for automating business activities for hair salons and spas, managing inventory and product ordering for smart product shelves and smart bins with sensors for monitoring inventory levels, assisting service personnel in providing hair care, hairstyle and non-medical hair treatment services, operating and tracking user data from hair and scalp scanners for the non-medical, cosmetic treatment of hair and scalp, operating and tracking user data from hair color creators, operating and tracking user data from color scales for weighing hair color preparations, operating and tracking user data from smart faucets for the control of water temperature and flow, accessing, managing, and displaying digital content on display screens and touch screens, and social networking

IC 035. US 100 101 102. G & S: Online retail store and online retail store services featuring goods and services in the field of hair care preparations, hair styling preparations, hair coloring preparations, non-medicated skincare preparations and hair color accessories; Online retail store and online retail store services featuring virtual goods and services, in the field of hair care preparations, hair styling preparations, hair coloring preparations, non-medicated skincare preparations and hair color accessories for use in online virtual environments; Provision of an online marketplace for buyers and sellers of downloadable digital art images authenticated by non-fungible tokens (NFTs), digital animated and non-animated designs and characters, avatars, digital overlays, skins; membership services and customer loyalty programs that include access to events, programs, and access to or ability to modify digital or physical products; providing incentive award programs for customers and members; advertising services, all in the field of beauty. Promotion of, retail store services featuring and wholesale store services featuring computer hardware and software, mobile devices and connected devices, namely, mobile phones, tablets, laptops, internet-connected devices and network-connected devices; arranging and concluding commercial transactions on behalf of third parties in the nature of a commercial intermediary

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CONT.

Word Mark SLIM JIM
Goods and Services

IC 009. US 021 023 026 036 038. G & S: Online retail services featuring virtual goods; virtual food products; downloadable multimedia files containing artwork, text, images, audio and video files, and non-fungible tokens; software for downloadable virtual goods, namely, crypto-collectibles and non-fungible tokens (nfts); downloadable computer software in the nature of crypto-collectibles and non-fungible tokens (nfts); downloadable digital art images authenticated by non-fungible tokens (nfts); downloadable software for viewing crypto-collectibles, nonfungible tokens and other application tokens; downloadable software for use in trading, storing, sending, receiving, accepting and transmitting crypto-collectibles, non-fungible tokens and other application tokens; downloadable virtual goods, namely, digital collectibles using blockchain-based software technology and smart contracts; providing online non-downloadable virtual goods, namely, digital art, photographs, videos, or audio recordings; downloadable software for engaging in social networking and interacting with online communities, accessing and streaming multimedia entertainment content, and for providing access to an online virtual environment; downloadable computer software for the creation, production and modification of digital animated and non-animated designs and characters, avatars, digital overlays and skins for access and use in online environments, virtual online environments, and extended reality virtual environments

IC 041. US 100 101 107. G & S: Providing an interactive website for virtual reality game services; entertainment services, namely, providing online, non-downloadable virtual food products, digital animated and non-animated designs and characters, avatars, digital overlays, and skins for use in virtual environments; virtual reality and interactive game services provided online from a global computer network and through various wireless networks and electronic devices; entertainment services, namely, online video games; entertainment services, namely, providing virtual environments in which users can interact for recreational, leisure, or entertainment purposes; entertainment services, namely, providing an online environment featuring streaming of entertainment content and live streaming of entertainment events; entertainment services in the nature of organizing, arranging, and hosting virtual performances and social entertainment events; entertainment services, namely, providing a metaverse for people to browse, accumulate, buy, sell, and trade virtual food products



IC 042. US 100 101. G & S: Creating an online community for digital assets, non-fungible tokens, and metaverses and online worlds; hosting an online community website featuring digital assets, non-fungible tokens, and metaverses and online worlds; providing non-downloadable computer software in the nature of crypto-collectibles and non-fungible tokens; software platforms for providing access to crypto-collectibles, non-fungible tokens and other application tokens



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METaverse: WALMART

USPTO TRADEMARK APPLICATION		USPTO TRADEMARK APPLICATION	
 <p>SERIAL #: 97197301</p> <p>FILING DATE: DECEMBER 30, 2021</p> <p>OWNER: WALMART APOLLO, LLC</p>	<p>WALMART</p> <p>IC 036: Financial services, namely, providing a digital currency and a digital token of value for use by members on an online community via a global computer network</p>	 <p>SERIAL #: 97197296</p> <p>FILING DATE: DECEMBER 30, 2021</p> <p>OWNER: WALMART APOLLO, LLC</p>	<p>WALMART</p> <p>IC 009: Downloadable software for use in managing portfolios of digital currency, virtual currency, cryptocurrency, digital and blockchain assets, digitized assets, digital tokens, crypto tokens and utility tokens; downloadable software for electronic wallet services; downloadable e-wallets</p>

The graphic represents only a portion of the application. For the full application, visit https://tda.uspto.gov/#caseNumber=97197301&caseType=SERIAL_NO&searchType=statusSearch

The graphic represents only a portion of the application. For the full application, visit https://tda.uspto.gov/#caseNumber=97197296&caseType=SERIAL_NO&searchType=statusSearch

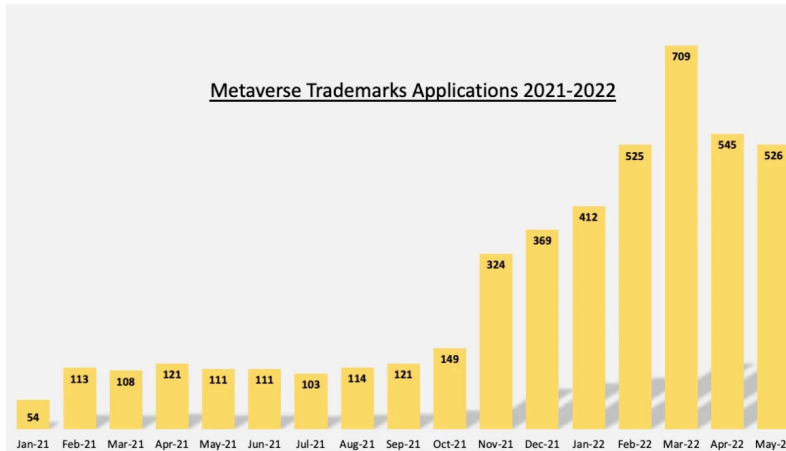
TRENDS IN TRADEMARK FILINGS FOR NFTS



- The USPTO has received 6,366 applications that incorporate or relate to NFTs in 2022.
- In comparison, the USPTO received 2,179 similar applications in 2021 and 18 in 2020.

<https://blog.cryptoflies.com/do-metaverse-and-nfts-have-a-future-these-statistics-on-trademark-fillings-will-convince-you/>
<https://finbold.com/nft-and-blockchain-related-trademarks-filed-in-the-us-surpass-6000-in-2022-3x-2021-figure/>

TRENDS IN FILINGS FOR METAVERSE-RELATED SERVICES



- The USPTO has received 4,618 applications for metaverse or virtual-reality related trademarks so far in 2022.
- Compare this to 1,798 similar applications received by the USPTO in 2021 and 155 in 2020.

<https://blog.cryptofiles.com/do-metaverse-and-nfts-have-a-future-these-statistics-on-trademark-fillings-will-convince-you/>
<https://finbold.com/nft-and-blockchain-related-trademarks-filed-in-the-us-surpass-6000-in-2022-3x-2021-figure/>

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NON-EXHAUSTIVE LIST OF POTENTIAL LEGAL ISSUES

- Antitrust & Competition Law
- Business & Tort Litigation
- Business Restructuring & Reorganization
- Cybersecurity, Privacy & Data Protection
- Government Regulation

- Health Care & Life Sciences
- Intellectual Property
- Labor & Employment
- M&A
- Securities Litigation
- Tax

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METaverse BRANDING CONCERNS

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CONCERNS WITH NFTs AND BRANDING: BUYING AND SELLING VIRTUAL ITEMS



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- The metaverse and web3 are the wild west in terms of content usage, as they continue to expand at a rapid pace.
 - Individuals or established third parties alike might create NFTs using or mimicking other established brands.
 - Content creation and the sale of virtual items and structures (many of which will be NFTs) will be the primary economic drivers of metaverse worlds.
- For example, in a metaverse technology demonstration by Mark Zuckerberg, an artist profited by accepting tips in exchange for extending the time that his virtual art was visible to other users present in the virtual room.

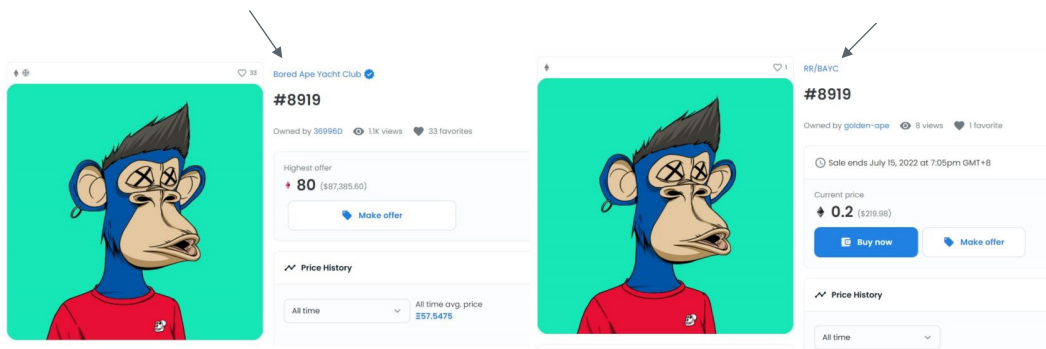
48



CONCERNS WITH NFTs AND BRANDING: NFT INFRINGEMENT

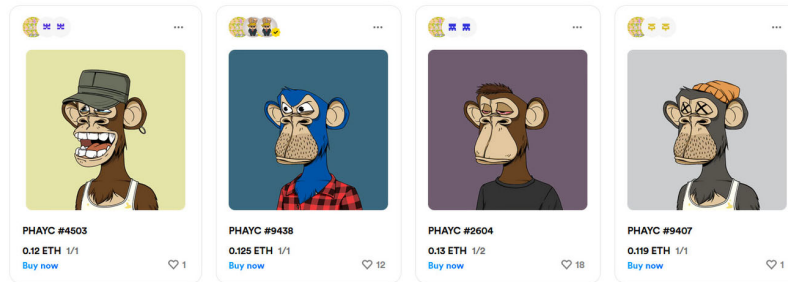
- Even NFTs themselves can be infringed, demonstrating that merely placing company assets and branding onto blockchains is not enough.
 - Yuga Labs, creator of the Bored Ape Yacht Club (BAYC) NFT collection, sued Ryder Ripps, creator of the satirical copycat Ryder Ripps Bored Ape Yacht Club (RR/BAYC) NFT collection, for trademark infringement and cybersquatting, among other claims. The RR/BAYC collection had been previously taken down after Yuga Labs made a DMCA takedown request.
- Complaint, *Yuga Labs, Inc. v. Ryder Ripps*, No. 2:22-cv-04355 (C.D. Cal. June 24, 2022).

CONCERNS WITH NFTs AND BRANDING: NFT INFRINGEMENT



CONCERNS WITH NFTs AND BRANDING: NFT INFRINGEMENT

- PHAYC and Phunky Ape Yacht Club (PAYC) each created NFT collections of mirrored or slightly altered versions of Bored Ape Yacht Club NFTs. Both collections were banned on OpenSea, an online NFT marketplace, although Yuga Labs has not taken legal action against either group.

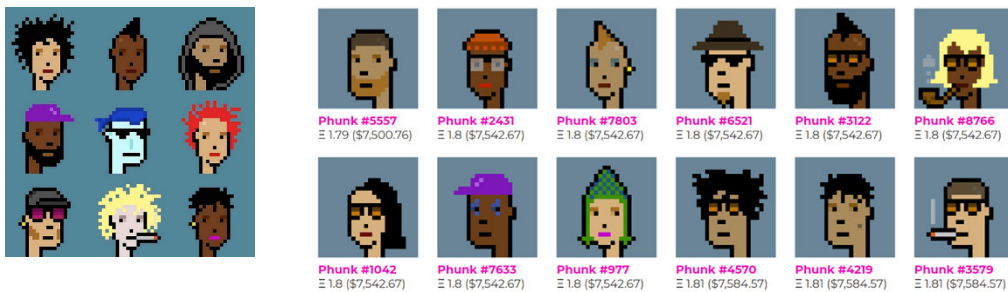


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CONCERNS WITH NFTs AND BRANDING: NFT INFRINGEMENT

- The makers of CryptoPunks requested a DMCA takedown of a parody project called CryptoPhunks, which created mirrored versions CryptoPunks NFTs. CryptoPunks has been fighting several other imitation NFT collections.



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ENFORCEMENT OPTIONS: TRADEMARK REGISTRATION, MONITORING AND UNIFORM DOMAIN NAME DISPUTE RESOLUTION (UDRP) ACTIONS

- Ensure trademarks are up to date and expand into new digital uses where possible.
 - For example, McDonald's filed trademarks covering digital items and intersecting digital/physical services for a virtual restaurant in the metaverse.
- Continue robust monitoring.
 - As web3 introduces more dispersed and decentralized platforms, the scope of monitoring for infringement will need to expand into metaverse ecosystems, cryptocurrency/NFT trading platforms, and both institutional and individual creators.
- Cybersquatting laws and UDRP actions—some domains that individuals use to trade on NFT versions of brands can be quickly reclaimed.
 - E.g., UDRP panel ordered the **nftmorganstanley.com** domain name to be transferred to Morgan Stanley because the cybersquatter registrant had no legal rights to it. The domain name was confusingly similar to the Morgan Stanley mark.

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LITIGATING NFTS: DISPUTES OVER VIRTUAL GOODS AND SERVICES

- *Hermès International, et al. v. Mason Rothschild* (S.D.N.Y)
- *Nike, Inc. v. StockX LLC* (S.D.N.Y)



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ENFORCEMENT OPTIONS: RELEVANT CASES

NIKE, INC. V. STOCKX, INC.



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QUESTIONS TO ASK

Early adopter or snooze you lose?

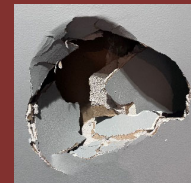
Have you considered the best strategies, based on your goals and current branding, for engaging with consumers in the metaverse?

Have you recently conducted an audit of your trademark portfolio and considered expansion of goods and services in the digital space? It takes 9-12 months to have an application examined.

What are your competitors doing?

Are you considering licensing your trademarks for use in the metaverse?

What happened to Carrie's wall?



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