

Media and Arts Law Review (MALR)

Volume 25 Part 4

(introduction and articles included in this part are linked to the LexisNexis platform)

CONTENTS

Introduction

[Introduction](#) 239

Articles

[Law's imperfect governance: Is the metaverse the solution?](#)

— *Roger Brownsword* 241

This article sketches three ways in which lawyers might engage with the metaverse. For lawyers who reason in a traditionally doctrinal and coherentist Law 1.0 way, the challenge will be to apply a repertoire of legal rules and principles — rules and principles that have been developed for the governance of transactions and interactions in the real world — to whatever ‘harms’ might be alleged to be caused by the development and use of the metaverse. For lawyers reasoning in a Law 2.0 way, the challenge will be to ensure that the legal rules and principles that are in place are ‘fit for purpose’ relative to the beneficial uses of the metaverse as well as to managing whatever risks it might present. For those who think in the manner of Law 3.0, while the challenge will be similar to that set by Law 2.0, the construction of a regulatory environment that is fit for purpose relative to the metaverse will aim to make use of the optimal mix of rules and technical tools. Significantly, Law 3.0’s mode of reasoning might prompt the thought that the metaverse itself might be a tool to be used with a view to improving on the imperfect performance of law’s governance.

[Legal implications of self-presence in the metaverse](#)

— *Jyh-An Lee, Liang Yang and Pan Hui* 267

The relationship between people and their avatars in computer-generated environments remains a puzzling matter, especially when harm to an avatar negatively affects the person possessing the avatar. Drawing on the theories of digital equivalence, we highlight the unprecedented development of the metaverse and illustrate the evolution of self-presence in that digital sphere. We then use Lawrence Lessig’s New Chicago School model to analyse how self-presence in the metaverse is regulated by technology, social norms, market forces and the law. While the independent and joint effects of these regulatory factors are constantly evolving, they all play distinct and important roles in shaping self-presence in the metaverse.

[Trademarks in the metaverse: Everything, everywhere all at once](#)

— *David Tan* 285

While the metaverse as an immersive virtual environment is a much-debated concept with myriad definitions, what is generally agreed is that the line between the social realities about how individuals

live on a daily basis and the constructed online worlds in which people choose to invest their time, money, emotion and creativity will blur as the metaverse becomes more prominent and pervasive in the future. This article discusses trademark use in the metaverse and non-fungible tokens (NFTs), and analyses how the freedom of expression can be accommodated in trademark doctrine as the law evolves to address the new challenges that technological advancement is presenting. It concludes that the metaverse may be regarded as the emerging digital carnivalesque, where individuals communicate through the use of avatars, images and videos each chosen with its semiotic freight and particular connotations understood within that community. It is in this new frenetic and dynamic digital milieu that trademark law must find its new space.