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A COMPARATIVE STUDY OF COPYRIGHT PROTECTION IN THE METAVERSE

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A COMPARATIVE STUDY OF COPYRIGHT PROTECTION IN THE METAVERSE

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ABSTRACT

The blistering development of the immersive online spaces has opened up new platforms of creativity, business, and socialization. The metaverse- a networked system of durable virtual worlds- poses complicated problems to intellectual property systems in the physical realm. The copyright protection in the metaverse has been of urgent concern in India, where the digital markets are rapidly growing. The article discusses the conceptualization of virtual goods in the Indian copyright law and the applicability of rights in the virtual world and whether current laws are sufficient to protect creators, brands, and digital property. The paper contends that the traditional copyright regulations in India, despite their thoroughness, are inadequate in dynamic and decentralized and interoperable virtual space through a study of the literature of copyright laws, comparative models, and emerging practices of global regulators. It concludes by suggesting doctrinal clarifications, regulatory innovations and technological enforcement tools that are needed to help India develop a resilient copyright structure for virtual worlds.

Keywords:

Metaverse, Copyright, Virtual Goods, Digital Assets, Indian Copyright Act, Intellectual Property, Virtual Worlds, Digital Infringement, NFTs, Blockchain.

INTRODUCTION

The growth of virtual worlds has fundamentally changed the way that creative works are produced, shared and monetized. The metaverse, as defined by persistently immersive and interactive digital environments -- allows users to engage in activities similar to those in the physical world: the creation of digital art, the purchase of virtual property, the ability to participate in virtual live

events, the creation of avatars, and the creation of virtual communities. These environments are gaming environments like Fortnite and Roblox, decentralized environments like Decentraland and The Sandbox, and hybrid social-commercial environments that are increasingly being adopted by Indian consumers.

In these spaces, creators put a lot of human work and skill into creating original digital creations - from 3D models to virtual garments, audiovisual experiences to blockchain-verified collectibles.¹ Yet, despite such creativity, often the legal protection under the Indian Copyright Act, 1957, is unable to deal with the infringements that take place in decentralized virtual spaces that transcend territorial boundaries and involve anonymous actors.² The digital environment makes it easy to make an instant copy, reproduction, stream, modify and distribute copyrighted works. The architecture of the metaverse exacerbates these issues: virtual goods can easily be cloned; NFTs can be forged or misrepresented; avatar skins can be replicated without permission; and digital marketplaces often do not have strong copyright enforcement protocols.³

Against this backdrop, it becomes important to examine whether Indian copyright law, which was drafted at a time when immersive virtual technologies did not exist, can in any way make a significant contribution to the safeguarding of virtual assets. This study explores how Indian law presently deals with work in the metaverse, the conceptual ambiguities that it raises and the need for legal reforms in the context of India's move towards large scale adoption of virtual ecosystems.

CONCEPTUAL FRAMEWORK

Understanding the Metaverse

The metaverse is known to be a coming together of extended reality technologies (augmented reality (AR), virtual reality (VR), and mixed reality (MR)) with persistent, real-time 3D worlds powered by blockchain and artificial intelligence. While the architecture of the various platforms is a different story, the common features are interoperability, user-generated content (UGC), virtual economies, and persistent identities.

In India, the metaverse has already made its way into the mainstream commercial space. Brands such as Tanishq and MakeMyTrip have experimented with virtual showrooms and educational institutions and entertainment companies have started hosting events in immersive digital spaces.⁴ With the growing adoption, there have been questions around ownership, authorship and enforceability of rights in virtual goods.

¹ WIPO, *The Metaverse and Intellectual Property* 4–6 (2023).

² Copyright Act, No. 14 of 1957, India.

³ Peter Mezei & Gunjan Chawla Arora, *Copyright and the Metaverse*, in Larry A. DiMatteo & Michel Cannarsa (eds.), *Research Handbook on the Metaverse and Law* 229, 233 (2023).

⁴ Bar & Bench, *Intellectual Property Rights in the Metaverse: Protecting Digital Assets and Virtual Real Estate* (2025).

Model of Virtual Goods and Digital Assets

Virtual goods in the metaverse are a wide range of intangible assets: 3D environment, virtual real estate, avatar skins, digital art, AI generated objects, scripts, background music, blockchain-based NFTs, etc. These goods can be "works" under Section 2(y) of the Indian Copyright Act if they embody originality, expression and fixation.⁵

However, fixation in the metaverse is complicated. Digital objects can be dynamically rendered, stored on decentralized servers or partially created by the interactions of users. This raises doctrinal questions as to whether generative content or user augmented digital objects meet the test for authorship set out in *Eastern Book Company v. D.B. Modak*.⁶

Applicability of Indian Copyright Law

The Indian Copyright Act covers original literary, artistic, musical, dramatic, cinematograph and computer generated works. In principle, metaverse assets, particularly digital art, code, sound design and 3D models, fit into these categories. Yet gaps remain:

- The Act does not explicitly recognize virtual goods, digital twins or NFTs.
- Jurisdiction becomes unclear in situations where infringement occurs on global servers.
- Enforcement mechanisms are not adapted to decentralized and anonymous environments.

Thus, though the framework is general, it is technologically outdated.

COPYRIGHT PROTECTION IN THE METAVERSE

Infringement Challenges

The metaverse amplifies the risk of copyright infringement because it is open, modifiable and accessible to everyone worldwide. Common violations include:

- **Unauthorized copying of virtual goods or NFT-linked artworks.**
- **Replicating avatar apparel, skins or accessories that are the same as those designed by creators.**
- **Unauthorized streaming/display of copyrighted music and videos in virtual environments.**
- **Modding or changing game assets that are copyrighted by the copyright owner, violation of Section 51.**
- **Selling fake NFTs of works that are not owned by the seller.**

⁵ Copyright Act, No. 14 of 1957, § 2(y), India

⁶ *E. Book Co. v. D.B. Modak*, (2008) 1 SCC 1.

Many of these acts take place in anonymous decentralized marketplaces, and it is hard to track down offenders.

Indian Legal Responses (Judicial Approach)

Although Indian courts are yet to decide a metaverse specific copyright case, the existing jurisprudence does give some guidance:

- In *R.G. Anand v. Delux Films*, The Supreme Court reaffirmed the concept of copyright protecting expression, not ideas - a very important concept for disputes over virtual recreations.⁷
- In *Disney Enterprises v. Nayanraj*, Delhi High Court ordered blocking of infringing streaming domains - showing willingness to issue dynamic injunctions, which could extend to metaverse platforms.⁸
- *MySpace Inc. v. Super Cassettes* clarified Intermediary liability under digital platforms is well-illustrated by this case, which might have some relevance for metaverse hosts.⁹

The flexible approach of the judiciary indicates that the courts might interpret the existing copyright law in a broad manner to include virtual works. However, there is still a lack of explicit statutory recognition.

Liability and Enforcement of the Platform in Virtual Worlds

In the metaverse, the governance of the platforms is of central importance in deciding how copyright violations are identified, prevented and corrected. Indian law presently relies on the Information Technology Act, 2000 and the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 to define the obligation of intermediaries, however these laws were never intended for immersive and user driven environments.

Under Section 79 of the IT Act, intermediaries receive protection from liability for safe harbour as long as they do not "initiate the transmission," "select the receiver," or "modify the information" transmitted on their platforms.¹⁰ In a traditional Web-2 context, this is the case with social networks, video sharing portals, and e-commerce platforms. However, metaverse platforms are where people have real-time interactions, allow for user-generated 3D assets, and have virtual marketplaces for digital goods. As a result, they arguably play a much more participatory role than passive intermediary. In the case of *MySpace Inc. Vs. Super Cassettes*, the Delhi High Court held that intermediaries can lose the safe harbour if they do not remove the infringing content after receiving "actual knowledge."¹¹ This principle proposes that metaverse platforms - upon

⁷ *R.G. Anand v. Delux Films*, (1978) 4 SCC 118.

⁸ *Disney Enters. v. Nayanraj*, 2018 SCC OnLine Del 8518.

⁹ *MySpace Inc. v. Super Cassettes Indus.*, 2011 SCC OnLine Del 4776.

¹⁰ Information Technology Act, No. 21 of 2000, § 79, India.

¹¹ *MySpace Inc. v. Super Cassettes Indus.*, 2011 SCC OnLine Del 4776.

notification of infringing virtual assets - would be required to take prompt actions towards the takedown of the same. But takedowns in the metaverse are more complex than takedowns of a video or a post. Virtual replicas of something may reside on multiple servers; objects may be rendered dynamically; and decentralized storage systems (such as IPFS or blockchain) may make deletion technically impossible.

The problem is complicated by the interoperability, a fundamental characteristic of the metaverse. The same virtual asset may move from platform to platform - e.g. from Roblox to Unity-based worlds or from a Web 3 avatar system to an AR environment. This leads to some unanswered questions of cross-platform accountability:

- So who is liable if an avatar skin being worn by an infringing avatar is transferred from one virtual world to another?
- Can an intermediary be held responsible in infringing NFTs just displayed but not sold in its world?
- How should the Indian courts deal with decentralized autonomous organizations (DAOs) that govern virtual spaces without taking the corporate form?

Indian law does not provide any clear direction, indicating a regulatory gap which needs to be filled in before mass adoption of the virtual ecosystems.

COMPARATIVE INTERNATIONAL APPROACHES TO METAVERSE COPYRIGHT

United States

The U.S. approach is influenced by the main source: the Digital Millennium Copyright Act (DMCA), which gives detailed frameworks for notice and takedown, counter-notifications and repeat infringement policies.¹ In metaverse environments such as the Meta Horizon Worlds or Roblox, the procedures of the DMCA are commonly applied to assets created by users, virtual performances and virtual merchandise.

One of the attributes of the U.S. regime is its flexible definition of "copying" which has been interpreted widely by courts. In *MAI Systems Corp. v. Peak Computer*, loading a software program into RAM was held to create a copy², so the reasoning could logically be applied to virtual rendering of objects in the metaverse. Similarly, US courts have ruled that digital architecture, audiovisual works and software-generated art may all be within the protective shield of copyright.³ However, the model offered by the DMCA still has problems with decentralized systems. NFTs for instance, are not stored in platforms but on distributed ledgers, and hence takedown procedures are not suited for blockchain-based infringements. This gap is similar to the problems India is

facing, and it indicates that neither country has fully adapted its copyright enforcement to Web-3 architectures.

European Union

The EU Digital Services Act (DSA) is a more organized model of intermediary liability for emerging —technologies. The DSA mandates:

- increased due diligence requirements for big platforms,
- content-moderation rules which are transparent,
- proactive risk mitigation measures, and
- mandatory cooperation with the rights-holders.

Although the DSA does not explicitly mention the metaverse, the general obligations it imposes on platforms apply to immersive virtual environments whereby platforms must detect and remove infringing digital goods. The EU's focus on proactive monitoring, which is quite different from the US model, could offer lessons to India when it is thinking about reform.

Lessons for India

From such a comparative picture, India may learn three important things:

1. **Adopt structured procedures for notice and take down and counter notice, similar to the DMCA, but adapted for virtual goods and blockchain-based assets.**
2. **There must be transparency, algorithmic accountability and proactive monitoring, as proposed by the EU.**
3. **Implicitly acknowledge virtual goods and NFTs in copyright laws, including clarification of fixation, ownership and infringement rules.**

Indian courts have the capacity to fill in some of the gaps through interpretation but the legislative intervention is essential.

INDIAN LEGAL SYSTEM PROBLEMS AND SHORTCOMINGS

Jurisdictional Barriers

Jurisdiction is one of the most serious obstacles to regulating copyright infringement in the metaverse. Under Sections 62 of the Copyright Act and 20 of the CPC, plaintiffs can sue in the place they live or do business.⁴ But the metaverse is a trans-territorial space:

- Platform may be based outside India,
- Servers can be stored in multiple jurisdictions,

- Infringers can operate anonymously with the help of Blockchain wallets, and
- Transactions can take place with decentralized exchanges that have no identifiable operator.

As seen in *Swami Ramdev v. Facebook*, in Indian courts, several extraterritorial takedown orders have been asserted on global platforms requiring worldwide removal of defamatory content.⁵ If applied to the metaverse, this reasoning could give courts the power to issue worldwide injunctions against the infringement of virtual goods - but enforcement is uncertain.

Evidentiary Difficulties

Proving that the assets are virtual, confirming their originality, and demonstrating their being reproduced in an unauthorized manner are complicated by:

- Lack of centralized records,
- Dynamic display of digital objects,
- Changeable user generated content,
- Pseudonymous blockchain identities, ● Absence of standardized metadata.

While NFTs are theoretically capable of proving authenticity, they cannot prove authorship, nor do they stop duplication of the underlying digital work. Courts can have a hard time with evidentiary standards in cases where digital asset history is complex.

Gaps in Statutory Language

The Copyright Act lacks:

- Definitions of “virtual goods,” “digital twins,” or “metaverse assets”;
- Explicit provisions for works generated by VR/AR;
- Legal recognition of decentralized marketplaces;
- Enforcement mechanisms specific to the blockchain environments.

Thus, interpretation tends to involve stretching existing categories which may endanger legal certainty.

THE FUTURE OF COPYRIGHT PROTECTION IN THE METAVERSE

Need for Statutory Reform

As immersive technologies grow and India gears up for mass adoption of digital technologies, the current Copyright Act will not be able to support regulatory burdens created by virtual economies. The Act was written in the age of physical works and analogue reproduction. Even with amendments, its basic vocabulary still assumes tangible fixation, traditional broadcasting and centralised authorial models.

India needs to have a future ready statutory framework that:

- Defines virtual goods and digital environments, recognizing the importance of the economic and creative significance of such environments.

- Recognizes works that are generated with the help of AI and algorithms, and clarifies who authored the work.
- Creates explicit rights of digital replicas, such as virtual architecture, avatars and immersive scenes.
- Incorporates blockchain-based rights management systems/ownership tracking is persistent.

Statutory reform should not try to anticipate all technological developments, but instead, the law should incorporate technology-neutral principles which are sufficiently broad based to allow for rapid change.

Balancing Copyright and User Creativity

The metaverse lives on the idea of participatory culture. Users remix, redesign and re-purpose digital material, blurring the line between creators and consumers. A hard copyright regime stands to stifle this creativity, just as early copyright enforcement was incompatible with fan art, sampling and online memes.

India may consider:

- Expanded fair use/fair dealing for transformative virtual works;
- Exceptions for non-commercial user generated content;
- Guidelines for avatar expression, which in many cases is a mash up of cultural symbols.
-

These measures would preserve creative freedom while maintaining respect for rights-holders.

Addressing AI-Generated Content

Many of the metaverse assets - world-building textures, talking non-player characters (NPCs), 3D models - are starting to be generated by generative artificial intelligence. The Copyright Act does not specifically speak about works created with minimal human intervention. Indian courts have frequently emphasized "modicum of creativity," but the AI-generated elements make the creativity threshold difficult to define:

- To which company does the output of an AI-powered rendering engine belong?
- Can AI models be regarded as "authors"?
- Should AI generated content be protected in any way?

A balanced approach would acknowledge human directed outputs of AI but exclude the generation of AI that is fully autonomous. This brings India in line with the trend around the world and helps to maintain the human-centred nature of copyright.

RECOMMENDATIONS FOR STRENGTHENING INDIA'S METAVERSE COPYRIGHT REGIME

Legislative Recommendations

A. Add a separate chapter about digital and virtual works.

The Copyright Act should expressly provide that:

- “virtual goods,”
- “digital avatars,”
- “virtual architecture,”
- “immersive works that have an audiovisual component,” and
- “blockchain-linked property rights.”

Such definitions will minimize uncertainty and continuity of enforcement from court to court. **B.**

Establish a set up a metaverse specific takedown and notice mechanism.

Borrowing from the DMCA, India may require:

- standardized requirements of notices,
- counter-notification procedures,
- time-bound takedowns,
- repeat-infringer policies.

This will reduce litigation and bring more confidence to rights-holders. **C.**

Explain Authorship for AI-Assisted Creation.

Legislation should be enacted to acknowledge the models of co-authorship, should respect human choice, and deny copyright to purely autonomous outputs from AI.⁶

Institutional and Judicial Reforms

A. Creation of Digital Rights Authority (DRA).

There could be a specialized body in charge of:

- disputes involving virtual goods,
- platform compliance review,
- AI-related copyright claims,
- coordination with global regulators.

B. Judicial education in new technology.

Courts dealing with and adjudicating copyright issues should be provided with technical orientation regarding blockchain, VR/AR systems, rendering engines, and avatar governance.

Technological Solutions

A. Copyright registries that are Blockchain enabled.

A national decentralized registry could be used by creators to timestamp and register:

- 3D models,
- virtual environments,
- avatar skins,
- NFTs that are associated with Copyrightable works

Such registries would help to increase transparency and certainty of evidence in legal disputes.⁷ **B.**

Interoperable rights-management protocols.

As virtual goods move across worlds, there is a need for India to champion standards for ownership and licensing across the different platforms. This solves the problem of accountability breakdown in interoperable ecosystems today.

CONCLUSION

The metaverse is a revolutionary shift in the way humans create, interact and monetise digital content. It is not a new technological platform so much as a new ontology of creativity - a new space in which identity, expression and commerce meet in ways that have never before existed. As India positions itself as a global digital innovation hub, it will have to update its copyright frameworks to make it able to deal with the complexities in immersive environments.

The current statutory language, judicial precedents and intermediary liability rules were designed for a Web-2 world. In contrast, metaverse ecosystems are based on decentralized networks, distributed authorship, fluid content creation, and interoperable digital goods. As a result, traditional copyright doctrines - fixation, originality, authorship, reproduction, and territoriality - are being pushed to their limits.

India has to pursue a reform agenda which is:

- flexible, adaptable to future technological changes;
- balanced, so that both the creativity of users and the rights of rights holders are respected;
- worldwide aligned, with reference to best practices in the U.S. and EU;
- innovation-friendly, to allow the development of local metaverse industries; and
- technologically informed, including blockchain verification as well as rules for authorship such as AI, VR/AR specific protections.

A clear and comprehensive legal strategy is not only going to protect creators, but will also incentivize investment, provide accountability for platforms and build a strong digital economy.

India is at a critical juncture: the decisions taken at this point will determine the meaning of creativity, identity and ownership for decades to come.

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