



JGSA

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METaverse AND COPYRIGHT: BRIEF REMARKS

In recent times we have witnessed a constant mention and media buzz on the subject of the Metaverse. From the perspective of intellectual property, and especially copyright, areas with which I most collaborate, there are several prisms from which they can be framed in the Metaverse, a panoply of applicable legislation and, little by little, some doctrine. I will only touch lightly on legal-authorial issues and not, due to lack of time and space, on all the other immense and complex areas of Law that converge and are urgent within the Metaverse (eg: privacy law, protection of personal data, personality rights, industrial property).

But first of all it is important to explain what the Metaverse is. As the wheel is not invented twice, I prefer to quote a definition that (although it is not the only one and some others may differ substantially) seems quite adequate:

"The metaverse is a vision of what many in the computer industry believe to be the next Internet interaction: a unique, shared, immersive and persistent 3D virtual space, where humans experience life in ways they could not in the physical world".

(definition from the techtarget.com website, our own translation).

Now, in the Metaverse, or in the metaverses (as practical sub-realities of the same idyllic reality), Copyrights are present in a natural way and without the need for any new theoretical construction, from the outset resorting to the basic principles of the Berne Convention and naturally applying, in a subsequent way and case by case, territory by territory, eventual regulations according to the need of action to which the client refers.

In the Metaverse there has been, there is and there will be a constant use of copyright protected works (in the broad sense also including in many cases, especially in music, the related or neighbouring rights).

The use of copyright works in the metaverse requires the authorisation of the right holders or their representatives. Without such prior authorisation protected works cannot be made available and if they are, they will carry the appropriate sanctioning consequences.

In practical terms, in a metaverse where access to music is made available (in recorded or live streaming form), such availability (making available or other form of public communication and/or reproduction) requires (with rare exceptions - for example public domain, CCs or buyouts/works made for hire) a prior authorisation from the copyright holders, i.e. authors and composers of the musical work as well as, in the case of publishing contracts, the Music Publishers, but also the rightholders of neighbouring rights, involving here the artists and performers as well as the phonogram producers (often negotiating these in a nutshell, in the case of the existence of centralization in the Label).

But not only in terms of music use. The Metaverse cannot, without the due authorizations, reproduce architectural works without due authorisation (or the eventual application of an exception, eg: panorama exception), and cannot contain within itself plastic and graphic works, nor audiovisual or even literary works.

The Metaverse has to be understood, *mutatis mutandis*, by those stakeholders acting in it, from the Copyright point of view, as a plus of need of attention in relation to the real world (physical world. Meaning that all those authorizations that would be necessary in a physical world are, with some exceptions, necessary in the Metaverse, and for new uses only in this existing one, additional authorizations will be required. In the latter, there is a creative need on the part of the jurists who deal with the matter in order to ensure, through new contractual wordings, that the Clients may exercise their business with due security and proper and correct legislative and jurisprudential framework, but also in the fair negotiation of adequate licences from and to all rightholders or their representatives whose rights are intended to be used in the Metaverse. The fundamental principle is: without permission/authorization from the rightholders and without exception to such mandatory permission, there can be no use of protected works, either in the Metaverse or outside it.

Stephen Hawking said that "although I cannot move and must speak through a computer, in my mind I am free". Being this a true b2c inspiration of the metaverse, from a b2b point of view it is important to underline that this freedom has the limitations arising from Copyright (again in a broad sense) and which are intended to satisfy an established principle in article 27 of the Universal Declaration of Human Rights, and whose practical consequence implies that creation deserves a fair remuneration.

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