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Thought Leadership | Metaverse

The rise of the metaverse: Challenges ahead for the legal industry

The concept of a digital metaverse has received renewed attention following a presentation from Mark Zuckerberg and his newly renamed company Meta. His vision for the project – [an immersive and lifelike digital environment](#) where users can interact with each other’s avatars – is ambitious indeed, even if similar ideas have been bouncing around in tech circles for decades.

Although the metaverse idea is hardly new, recent advances in technology have brought the digital realm closer to realizing its true potential. Yet, as we will see, the outcome of Meta’s effort, and of others like it, may depend on a host of issues which remain unresolved within the legal industry.

Though ambitious, in some ways the metaverse concept represents a natural extension of well-established digital communication trends. Just as social media enables instant chatting, video games transport our avatars into virtual environments, apps like Zoom facilitate conference calling, and online stores allow for instant purchases, the metaverse aims to take the best of these features and combine them with Augmented Reality and Virtual Reality tools.

At every level of society, the disruptive potential of the metaverse concept is enormous. The world got a taste of digital living in 2020 and 2021, as the pandemic prompted many businesses and schools to go virtual. But Meta aims to deliver a generational leap forward in the technology that holds together our digital experiences, making the virtual world a far more compelling and satisfying place for users to inhabit.

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The project itself has its share of skeptics, including many who say that VR goggles will never become mainstream. Others insist that a successful metaverse will need to [evolve organically](#), like the internet itself, instead of being constructed according to a single company's vision or blueprint.

In public conversation, however, relatively little attention is being paid to the thorny legal issues that surround the metaverse concept as a whole. Issues relating to data privacy, licensing, competition law, and intellectual property ownership will need to be firmly addressed by the legal industry before any version of the metaverse can be made available to the public.

Below is a short summary of the major legal issues in each of these areas, which need to be taken into account by any organization that plans to operate in the type of virtual environment that metaverse architects are currently creating.

Data privacy and Protection

One of the primary features of the metaverse concept is its ability to deliver a customized experience for each user. Yet customization depends on the collection of user data – which, incidentally, advertisers will also want to access. With PDPA soon coming into force, the legal industry in Thailand will need to bring the metaverse and its business participants – both domestic and international – into line with Thai law.

The PDPA requires clear user consent before personal data can be collected, while also imposing strict rules on how that data may subsequently be stored, processed and shared. Since the metaverse will let users move seamlessly between discrete apps and environments, a consistent user experience must therefore depend on the instantaneous and multilateral sharing of data.

How will this issue be handled by regulators? Will user data and privacy be the responsibility of the metaverse itself, or will these obligations fall to the individual apps that wish to collect such data? Businesses must be alert to the potential legal issues here, as penalties for PDPA non-compliance can be severe.

Licensing

Interoperability is at the heart of the metaverse concept. Users will be chatting, listening to music and looking at ads while having their

About Us

Digital Law Practice

Kudun and Partners' digital law practice consists of some of the most prolific digital law savvy lawyers in Thailand, offering a broad range of legal advisory services and quality solutions to both local and international clients across a broad scope of legal matters for a wide range of TMT industries. We understand the challenges and rewards of staying innovative and profitable amid the fast-paced change in the information technology and communications industry.

Our firm has been providing legal advice on both contentious and non-contentious on a spectrum of issues on some of the issues including regulatory advice, systems procurement and integration, Legal compliance, including data privacy and protection, information security and record retention, Cybersecurity framework, E-commerce regulations for domestic and foreign providers, E-payment/ Online payment gateway, Data centers and cloud storage, Tax planning, including transfer pricing and both direct and indirect taxation for digital businesses and Employment law implications for agile workforce.

avatars try on new virtual clothes. Of course, the more fluid and natural these experiences become, the more licensing agreements need to be in place behind the scenes.

Licensing allows apps to operate seamlessly with each other, and within an underlying metaverse infrastructure. In the metaverse, these agreements will need to strike a delicate balance involving a variety of standards, rights and use cases, so as to enable a better user experience while simultaneously preventing software developers from taking unfair advantage of each other's work.

Business to Consumer ("B2C") licensing will also play a significant role in the virtual world, to prevent consumers from using metaverse tools and apps in antisocial ways.

Competition law

Businesses may choose to enter exclusive licensing agreements with each other inside the metaverse, although depending on the context, such a strategy may in some cases lead to antitrust issues. If (for example) user avatars are allowed to wear Nike shoes but no other name brands, or if the most popular chat room has an exclusive deal with Tinder but with no other dating app, then regulators may cry foul.

Other elements of standard competition law will also apply in the metaverse. If participating businesses conspire to fix prices, or to provide each other with unchallenged, dominant positions in certain agreed-upon sub-sectors of the virtual world, antitrust enforcement could result in significant penalties. Moreover, as with other areas of digital commerce, jurisdiction would play an important role here. Practices which may be legal in one country could be successfully challenged elsewhere.

Intellectual property ownership

If a user creates a piece of art inside the metaverse, does that art legally belong to the user, or to the metaverse, or to the developers of the app that provided the artistic tools? If two user avatars talk to each other, does the content of their conversation belong to the users, or to a software company?

Laws governing these and related questions will surely be written and rewritten in the years to come, and it is unclear whether an international standard will be adopted.

Making the connection

Digital regulations and platform design are both highly fluid in nature, and the final version of the metaverse – if such a term has any meaning in our world of continuous software updates – will surely differ from what its developers currently imagine. But in one form or another, the metaverse is on its way.

When it arrives, both users and companies across Thailand will surely join in, opening up a wide variety of new business opportunities. Yet success in this new environment requires preparation and guidance, particularly on legal issues. **Kudun and Partners** operates at the forefront of these digital trends, and is standing by to help your organization blaze a new path forward in the digital world ahead.

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