Trademark Protection in The Metaverse and Virtual Worlds Under Indian Law

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Abstract- The rapid growth of "metaverse" has transformed how brands create goodwill, market products, and interact with consumers. Alongside legitimate brand expansion into virtual worlds, however, new forms of trademark misuse have emerged like the avatar-level impersonation, virtual counterfeiting, unauthorised NFTs and digital collectibles, misleading brand experiences. This shift challenges traditional trademark doctrines rooted in territoriality, "use in the course of trade," consumer confusion, and enforceability against anonymous or platform-mediated infringement. The metaverse platform is vulnerable to infringement through marketplaces embedded in virtual environments leading to global legal evolution. While Indian courts have not yet developed a comprehensive body of "metaverse trademark" jurisprudence, India's trademark framework is largely technology-neutral and capable of responding to digital infringement through established principles of infringement, passing off, dilution, jurisdiction, and intermediary liability.

This paper critically examines how Indian trademark protection can apply to metaverse disputes, focusing on: (i) whether trademark "use" covers virtual goods, NFTs, and immersive advertising; (ii) classification challenges under the Nice system and Indian practice; (iii) jurisdiction and enforcement in borderless environments; and (iv) platform responsibility and remedies such as dynamic injunctions. It also examines how the Trade Marks Act 1999 can be applied to virtual goods and metaverse-based commerce. It evaluates enforcement and jurisdiction challenges for Indian right-holders, including evidence preservation, identification of anonymous infringers, and cross-border harms. Moreover, it analyses platform liability and safe-harbour. The paper concludes with targeted legal and policy recommendations for clarification on classification and "use," procedural tools such as dynamic injunctions, stronger notice-and-action frameworks for virtual marketplaces, and specialised capacity-building for enforcement agencies to ensure Indian trademark law remains commercially realistic and are rights-protective in the digital economy.

Keywords: **--- Metaverse Trademarks, Virtual Infringement, Trade Marks Act 1999, NFT Protection, Digital Goods Registry**

I. INTRODUCTION

Fast changes in virtual worlds have shifted how people and companies connect, build things, make stuff, then turn it into money inside digital areas that mix what's real with what feels real. Starting fresh each time, places like Decentraland, The Sandbox, and Roblox let folks exchange items - clothes made of data, plots of fake land, unique digital tags - sometimes linked to actual brand names wanting space there too. Even though India's trademark rules come from the Trade Marks Act, 1999[1], which says a brand sign must be shown visually and tell one seller apart from another, older laws weren't built for borderless online actions shaped by users themselves. Because of this gap, legal structures meant for physical products face difficulty handling fast-moving, invisible deals happening at once around the world through just one shop floating in code.

In India, trademark rights usually depend on real-world use. If a mark sits idle too long, it can vanish from the registry under Section 46. But what counts as use inside digital spaces is unclear. Showing a logo on an NFT or through a character in a game - does that count? Past rulings hint at flexibility. The Yahoo! case against Akash Arora showed confusion online might be enough to claim harm. That thinking may stretch

[1] Trade Marks Act, No. 47 of 1999, § 2(1)(zb) (India).

into virtual zones. A company might say fake versions of its name appear on digital ads or objects in games. This could blur its identity. Even without registration, strong reputation matters. Marks recognized widely might get shield under Section 2(1)(zg), opening doors to legal steps via Section 29 or 27.[2]

Blockchain-powered metaverses spread data across many locations. This setup complicates legal actions under Indian rules. When violations happen, smart contracts hide user identities. So tracking down offenders becomes tough. These people might be based far beyond India's legal grasp. Sending court notices the usual way often fails then. Even though the 2015 Commercial Courts Act speeds up intellectual property fights, such digital cases depend heavily on location links. A connection could come from local server usage or events aimed at Indians online. The IT Act of 2000 includes some shield for intermediaries in Section 79.[3] Platforms can lose protection if they ignore takedown requests after being alerted. Yet forcing them to scan content ahead of time sparks debate. Especially true for worldwide services hosting Indian participants, like Horizon Worlds.

Out here, virtual items are pushing at the edges of how trademarks get sorted today. Take Class 9 - it holds software, sure, but not digital land floating in a VR world. Over in Class 35, ads fit neatly, though what about a pop-up shop inside a headset? Then there's Class 42, built for tech help, still silent on immersive brand events that live only online. Lately, India has started taking requests to register "virtual goods," tagging along behind moves made by Europe and the U.S., even if nobody's spelled out exactly how those will work long-term. Without clear rules, people filing now wonder just how broad their rights really are, especially when renewal time comes and proof means showing activity in places that aren't physical. Across borders, deals like the Paris Convention let companies claim early dates abroad, thanks to agreements India signed under TRIPS.[4] Still, holding others back when someone mimics your logo in a digital realm? That part stays shaky - look at cases where names like Tata or Reliance showed up in altered forms across platforms, much like that tiger walking through a fake ad space years ago in Second Life.

From profits come interest, as companies eye the metaverse not just for reach but lasting revenue streams worth vast sums. Trillion-dollar forecasts now push Indian regulators to rethink rules via agencies including DPIIT, nudging old frameworks into new spaces. A fresh law called Digital India Act might soon take shape, built with tech-savvy layers - like blockchain-backed ownership proofs or global enforcement hooks for online violations. While that unfolds, businesses aren't waiting; they're weaving rights directly into platforms using licenses coded into NFTs or user agreements. These moves let creators earn in digital realms without losing grip on how assets evolve. Old laws lag behind fast-moving worlds, making agility key - mark registrations across categories, automated tracking by intelligent systems, joint efforts beyond borders help firms stay grounded amid shifting ground. How one acts today shapes what remains tomorrow.[5]

II. TRADE MARKS ACT, 1999

A law made in 1999 sets the rules for how trademarks work in India, reaching into new spaces like virtual worlds by adjusting old ideas to fit modern uses. Though built to update earlier laws, it also connects national practice with global agreements such as TRIPS and the Paris Convention. Section 2(1)(zb)[6] says a trademark can be anything visible - names, symbols, forms, noises, or objects in 3D - that tells one company's offerings apart from another's. Because the description is wide open, things seen online - like emblems worn by characters in games, shops floating inside digital realms such as Decentraland, or artwork tied to blockchain tokens - count too. Firms now apply to register signs linked to files people download in

[2] Trade Marks Act, No. 47 of 1999, §§ 2(1)(zg), 27, 29 (India).

[3] Information Technology Act, No. 21 of 2000, § 79 (India).

[4] Paris Convention for the Protection of Industrial Property art. 4, Mar. 20, 1883.

[5] Mark A. Lemley & Eugene Volokh, Law, Virtual Worlds, and NFTs, Stanford Pub. L. Working Paper (2022).

[6] Trade Marks Act, No. 47 of 1999, § 2(1)(zb) (India).

virtual settings, so real-world identity finds its way into screen-based experiences.

It gets tricky when words like "virtual sneaker" can't be claimed by one brand alone - they start too ordinary, unless used so much that people begin linking them to just one source. Think of how some names fade into common talk online, losing their legal shield over time. What counts as obvious description in real stores? That idea shifts in digital spaces, yet rules still demand proof the term stands apart somehow. Courts have looked at website names before; now similar logic touches 3D platforms where shopping happens through avatars. Picture someone selling fake designer bags as digital collectibles inside a game world. Even if built differently, likeness may blur lines enough to mislead users who expect consistency. When older logos already exist, copying close versions sparks conflict, especially where experience feels more lifelike. Protection kicks in not only for exact copies but also for anything riding near the edge of recognition. Meaning matters less than whether shoppers walk away confused. These limits shape what creators can safely adopt while building branded zones far beyond physical reach.

One key part of the law, Section 29, spells out when trademarks are violated, stopping people from using copied or nearly identical signs while trading similar products or services.[7] Well-known brands get extra shield under Section 2(1)(zg), reaching into unrelated areas if their image gets weakened or someone unfairly benefits. Inside virtual worlds, trademark owners can act against fakes - a counterfeit Tata symbol on a digital car inside The Sandbox world, say - by seeking court orders, compensation, or profit recovery. It does not matter where the server sits; what counts is connection to India, even for users scattered worldwide. Judges have stretched "trade use" wide, especially online, covering ads or sales of imaginary goods. That means anonymous makers offering knockoff digital clothing face legal heat, since such acts harm brand value across open networks.

When it comes to unregistered trademarks that carry some reputation, Section 27 keeps traditional legal options alive. Harm caused by false associations can still lead to claims, especially in digital worlds moving faster than paperwork allows. Think of fake brand experiences inside virtual reality - this is where old court principles step in quietly. Goodwill matters, so does public belief shifting due to imitation, plus real harm shown through customer mix-ups. That trio stems from landmark rulings such as Reckitt & Colman facing Borden long ago. Digital mimicry of familiar Indian names finds itself under scrutiny using these standards. People exploring simulated environments might walk away confused about who truly stands behind a name. Now consider location - not physical streets but online reach shaping legal power. Under Section 134, lawsuits follow the impact zone rather than corporate addresses. Blockchain layers complicate boundaries since code ignores geography. Still, if users based in India interact with counterfeit items on servers holding domestic information, courts here may act. Speed sometimes counts more than precision in such disputes. The Commercial Courts Act adds procedural shortcuts without changing core rights.[8]

Under Section 49, those officially listed can let others use their mark through deals - important when companies work together in digital worlds, like setting up online events or releasing digital collectibles, where having the agreement on file helps block unauthorized users. Five years after registration, Section 46 requires showing real-world usage to keep the rights active, so anyone operating in virtual spaces must save records such as sales numbers, interaction stats, or ledger entries proving actual business activity. Grouped by function rather than platform, the Fourth Schedule follows an international system that sorts products into categories: software clothes go in Class 9, online shops fit under Class 35, money-related digital tools fall into Class 36, shows and games belong in Class 41, while permanent web-based items are filed under Class 42 - even without a special label just for virtual realms, approvals continue rising as more cases get accepted.[9]

[7] Trade Marks Act, No. 47 of 1999, §§ 29, 2(1)(zg) (India).

[8] Commercial Courts Act, No. 4 of 2016 (India).

[9] Annette Kur & Martin Senftleben, *European Trade Mark Law* (Oxford Univ. Press 2017).

Getting things done under Sections 18 to 23 has become smoother, thanks to clearer steps for registering, challenging, or extending trademark rights. More and more, the Trade Marks Registry handles online submissions, especially companies such as Ajio file for protections on high-end digital goods. When it comes to stopping unauthorized use in virtual spaces, Section 142[10] allows official warnings to be sent through internet platforms, helping remove copied material fast. Protection grows stronger when a brand is recognized widely, something Section 11(9) supports by guarding famous names across different digital zones.[11] While these tools help stretch the 1999 law into new tech-driven areas, questions linger - like whether selling an item once in a virtual world blocks future resale, or how to track down rule-breakers hiding behind fake identities. The system keeps shifting, shaped by real-world use rather than fixed rules.

III. TRADEMARK LAW IN THE AGE OF THE METAVERSE

Metaverse realities stretch India's trademark rules beyond their original purpose. Instead of shopfronts, identities now live inside glowing screens across continents. A symbol seen by someone in Mumbai might originate from code running halfway around Earth. Visual identity still matters - yet movement, sound, even shifting colors can mark origin within virtual halls. Old tests for uniqueness wobble when a logo floats above a digital marketplace, changing shape as it spins. Confusion between brands does not vanish just because transactions happen in encrypted ledgers. Laws written for paper files accept moving images without hesitation these days. Ownership stamped on blockchains gives weight to items with no physical form. Luxury emblems appear on bags that exist only as light and data, bought using decentralized tokens.[12] Rights tied to geography strain under borderless interaction shaped by avatar choices. Registration systems adapt - not always smoothly - to claims involving floating signs in three-dimensional cyberspace. Value builds differently when possession means verification through cryptography instead of holding material objects. Immersive ads blur lines once clearly drawn between promotion and product. What counts as representation shifts alongside technology capable of rendering motion as legal evidence. Territorial limits feel thin when access spreads through global networks in constant motion.

These days, using a trademark isn't just about selling stuff in stores. Now it includes showing logos in places like Decentraland or on clothing for game characters. Judges are starting to see how often people interact with these items online - things like how long they stay or how many trades happen - as proof of real business activity, which helps keep trademarks alive under Section 46. Companies in India, whether making clothes or running big tech operations such as Reliance, file protection across several categories at once, thanks to the Nice Agreement. They cover areas like software for virtual worlds (Class 9), digital shop experiences (Class 35), and online performances (Class 41). This shields them when copycats pop up fast, spreading through shares and app algorithms more quickly than fake goods ever did in cities.[13] When others pretend those brands belong to someone else - say by dressing avatars in lookalike outfits - old rules from Section 27 now carry stronger weight. Even if a name hasn't been officially registered, being widely known matters, especially where playful copies start feeling like approval.[14]

Names hiding behind wallet IDs make old-style rules hard to apply when dealing with Section 29, so builders now bake self-enforcing terms into code that kills fake NFT copies once spotted. Indian judges stretch across borders by claiming power over online spaces if users live there or ads earn money from locals. Famous brands get extra protection under Section 11(2), stopping others from riding their reputation in unrelated digital zones - say, turning a trusted kitchen label into cheap game outfits in virtual realms.[15] Damage sticks because bad imitations stay

[10] Trade Marks Act, No. 47 of 1999, §§ 18–23, 142 (India).
[11] Trade Marks Act, No. 47 of 1999, § 11(9) (India).
[12] Primavera De Filippi & Aaron Wright, *Blockchain and the Law* (Harvard Univ. Press 2018).
[13] Dev Gangjee, *Trademark Law and Policy in India* (Cambridge Univ. Press 2017).
[14] Trade Marks Act, No. 47 of 1999, §§ 46, 27 (India).
[15] World Intellectual Property Org., *Brands and Blockchain* (2022).

forever on ledgers, dragging down image through shaky links. Rules laid out in Section 49 let companies lend names safely into shared imaginary places, opening doors for avatars dressed in branded gear or short-term shops popping up in digital neighbourhoods. Paper trails locked into records help track who owns what after items change hands again and again.

When metaverse economies grow, old ideas about exhaustion in Indian law come into question. A first sale of an NFT might not shield later transactions from legal risk, since digital items can be copied endlessly without loss, unlike tangible objects that change hands. Past rulings on domain conflicts - like cases tied to Yahoo or Rediff - offer clues for today's battles over lookalike usernames or ENS tags in blockchain spaces.[16] What matters most is whether users get confused about origin, just as they once did online. Lately, trademark offices have begun allowing applications for things labeled "virtual goods," showing some flexibility. Still, it remains unclear how much weight to give popularity built through viral posts instead of real-world presence when assessing mark strength. Online rules from 2021 require sites such as The Sandbox to act fast when told about violations. This pushes shared responsibility onto hosts, using automated tools to pull down harmful uses early, slowing damage until courts step in.

This mix of old laws and new tech needs careful handling. Because machines now watch online spaces for copied names, companies act early. Not only do they claim rights globally through treaties, but also secure their presence across borders. Imagine digital plots sparking fights much like physical ones did before. When someone uses a known name in these zones without permission, it weakens its value. That is why holding domains linked to brand identities matters more now.[17] As estimates show how much the metaverse might add to India's economy, risks grow too. With more people making content comes more copying. To prove who used something first, methods shift - blockchain records with exact times help clarify ownership. In fast-moving online worlds, clarity counts.[18]

IV. ANALYSIS OF JUDICIAL DECISIONS AND CASE STUDIES

Indian courts have not yet delivered definitive rulings squarely addressing trademark infringement within metaverse platforms, yet existing judicial precedents involving virtual simulations, online branding, and digital misrepresentations provide critical analogical frameworks for interpreting protections under the Trade Marks Act, 1999, in immersive virtual worlds. The landmark case of Tata Sons Pvt. Ltd. v. Greenpeace International in 2011[19] before the Delhi High Court exemplifies early judicial engagement with virtual environments, where Greenpeace's creation of a "Save the Nano" parody campaign in Second Life—a proto-metaverse platform—deployed a modified Tata Nano logo on a virtual tiger avatar to protest environmental impacts. The court scrutinized the use under passing off principles akin to Section 27, emphasizing that even non-commercial expressive parodies could infringe if they engendered likelihood of association or diluted the mark's distinctiveness, setting a precedent for metaverse scenarios where user-generated avatars sporting counterfeit brand emblems in Decentraland might similarly mislead participants into believing official endorsement exists despite the digital medium's intangibility.

Building on this, the Yahoo! Inc. v. Akash Arora decision from 1999 [20]established domain name protections as virtual real estate equivalents, holding that deceptive similarity in cyberspace sufficed for passing off without physical goods exchange, a logic readily extensible to metaverse ENS domains or parcel names mimicking trademarks like Reliance or Flipkart on The Sandbox blockchain. Courts therein prioritized source identification over territorial tangibility, mirroring challenges where pseudonymous NFT minters replicate logos on virtual sneakers, prompting

[16] Yahoo! Inc. v. Akash Arora, 1999 PTC (19) 201 (Del.).
[17] McKinsey & Co., *Value Creation in the Metaverse* (2022).
[18] Primavera De Filippi & Aaron Wright, *Blockchain and the Law* (Harvard Univ. Press 2018).
[19] Tata Sons Ltd. v. Greenpeace Int'l, 2011 SCC OnLine Del 4665 (India).
[20] Yahoo! Inc. v. Akash Arora, 1999 PTC (19) 201 (Del.).

inquiries into whether immersive VR interfaces heighten confusion risks beyond static websites due to sensory engagement. This domain jurisprudence underscores Section 29's application to virtual commerce, where "use in course of trade" encompasses promotional displays in Roblox experiences, even absent immediate Indian-hosted servers, as long as consumer targeting evidences nexus under Section 134's jurisdictional ambit.[21]

Further illumination emerges from Satyam Infoway Ltd. v. Sifynet Solutions Pvt. Ltd. at the Supreme Court level[22], which validated domain names as property rights protectable against bad faith registrations, analogizing to metaverse land squatting where branded virtual plots are auctioned deceptively. The apex court's affirmation of digital goodwill as actionable parallels unregistered mark defenses in passing off claims against metaverse parodies, particularly where ephemeral avatars transiently tarnish reputations before blockchain permanence locks in evidence. Judicial flexibility shines in e-commerce precedents like Christian Louboutin SAS v. Nakul Bajaj,[23] where the Delhi High Court in 2018 enforced intermediary takedowns under Section 79 of the IT Act for hosted counterfeit listings, prefiguring obligations for platforms like Roblox to expeditiously remove infringing virtual goods upon notice, with algorithmic persistence amplifying damages calculable via transaction logs rather than physical inventory seizures.

Case studies of global disputes filtered through Indian lenses, such as Hermes International v. Mason Rothschild[24] involving MetaBirkins NFTs, inform potential outcomes absent direct precedents; Indian courts might reject artistic defenses under Section 30's fair use limits if commercial NFT sales predominate, aligning with the Rogers test's Indian analogs that prioritize expressive merit only sans commercial exploitation. Similarly, Nike v. StockX's[25] virtual sneaker battle highlights exhaustion debates, questioning if blockchain-enabled resales evade first-sale doctrines under Indian law, where courts could mandate case-by-case assessments of digital scarcity versus infinite reproducibility. Emerging trends in 2026 filings, like Ajio's virtual fashion registrations, signal judicial readiness to accept VR screenshots and wallet proofs as use evidence under Section 46 rectification proceedings, evolving evidentiary standards from physical affidavits to cryptographic verifications.

Procedural insights from Meta Platforms Inc. v. Noufel Malol[26] underscore enforcement rigor, with the Delhi High Court in 2022 granting injunctions against phonetically similar marks like "Facebake," extendable to metaverse handles evoking "Facebook Horizon" confusion, where compliance monitoring via platform APIs supplants traditional contempt proceedings. In hypothetical Indian metaverse litigation, courts might draw from Rediff Communication Ltd. v. Cyberbooth[27] to affirm well-known mark status under Section 11(9), shielding against dilution in dissimilar virtual classes like gaming apparel bearing food trademarks.[28] These decisions collectively illustrate trademark law's technological neutrality, adapting physical-world tests to virtual canvases where confusion manifests psychologically amid avatars' social interactions, fostering a jurisprudence that balances innovation with brand integrity through injunctions, accounts of profits, and damages scaled to cryptocurrency equivalents.[29]

V. REGISTRATION AND PROTECTION STRATEGIES

[21] Lionel Bently et al., *Intellectual Property Law* (5th ed. Oxford Univ. Press 2018).
[22] Satyam Infoway Ltd. v. Sifynet Solutions Pvt. Ltd., (2004) 6 SCC 145 (India).
[23] Christian Louboutin SAS v. Nakul Bajaj, 2018 SCC OnLine Del 12215 (India).
[24] Hermès Int'l v. Rothschild, 590 F. Supp. 3d 647 (S.D.N.Y. 2023).
[25] Nike, Inc. v. StockX LLC, No. 1:22-cv-00983 (S.D.N.Y. 2022).
[26] Meta Platforms Inc. v. Noufel Malol, 2022 SCC OnLine Del (India).
[27] Rediff Commc'n Ltd. v. Cyberbooth, 2000 PTC 209 (Bom.).
[28] Trade Marks Act, No. 47 of 1999, § 11(9) (India).
[29] 2 J. Thomas McCarthy, *McCarthy on Trademarks and Unfair Competition* (5th ed. 2023).

Indian brands venturing into the metaverse must prioritize comprehensive trademark registration strategies under the Trade Marks Act, 1999,[30] by meticulously selecting specifications that explicitly encompass virtual goods and services across multiple classes of the Nice Classification to establish a robust defensive perimeter against potential infringements in decentralized digital realms. For downloadable virtual apparel, footwear, or accessories prevalent on platforms like Decentraland or Roblox, filings under Class 9 prove indispensable, detailing items such as computer programs featuring digital clothing, eyewear, or bags for use in online virtual worlds, mirroring approaches adopted by global pioneers like Nike and adapted by Indian entities such as Ajio Luxe, which have successfully secured protections for similar digital assets amid rising registry acceptances. Concurrently, Class 35 registrations for retail services featuring virtual goods via online marketplaces fortify coverage for e-commerce simulations, while Class 41 safeguards entertainment services like branded VR concerts or immersive gaming experiences, ensuring proprietors can invoke Section 29 infringement remedies against unauthorized replicas that flood NFT marketplaces with counterfeit digital merchandise.

Strategic pre-filing trademark availability searches emerge as a cornerstone tactic, leveraging the Trade Marks Registry's online database alongside metaverse-specific scans of platforms like The Sandbox and OpenSea to detect conflicting ENS domains, parcel names, or existing NFT collections that could precipitate oppositions under Sections 21 or 23, thereby averting costly rectification battles later.[31] Businesses enhance application precision by incorporating forward-looking descriptors such as "non-downloadable virtual goods authenticated by blockchain" or "augmented reality brand experiences," which not only satisfy Section 9's distinctiveness mandates but also preempt refusals on absolute grounds, particularly for marks acquiring secondary meaning through nascent social media campaigns or beta virtual launches. Multi-jurisdictional filings exploiting Paris Convention priorities enable Indian brands to synchronize protections globally, crucial for metaverse economies where a single infringing avatar in Singapore impacts Indian consumers instantaneously, with recorded use affidavits incorporating wallet transaction screenshots to substantiate bona fide exploitation under Section 46's five-year renewal threshold.

Beyond registration, proactive monitoring constitutes an essential protection layer, deploying AI-powered tools to crawl virtual worlds for mark encroachments on avatars, billboards, or user-generated content, facilitating swift Section 142 notices to intermediaries under IT Rules, 2021, compelling platforms to execute takedowns before disputes escalate to commercial courts.[32] Licensing agreements pursuant to Section 49 empower controlled brand extensions, embedding smart contract provisions for metaverse collaborations where licensees mint authorized NFTs or host pop-up stores, with chain-of-title documentation shielding against downstream infringers in resale markets unburdened by traditional exhaustion doctrines. Collaborative platform partnerships, such as embedding brand verification APIs into Roblox's creator economy, further mitigate risks, allowing real-time authentication that aligns with well-known mark declarations under Section 11(9) to deter dilution across dissimilar virtual categories like gaming skins bearing fashion trademarks.[33]

Defensive publication strategies complement registrations by disseminating mark details across metaverse forums and blockchain explorers, deterring squatters while building evidentiary trails for passing off claims under Section 27 against unregistered goodwill erosion, especially vital in pseudonym-driven environments where traceability hinges on forensic wallet analysis.[34] Insurance portfolios tailored to digital IP, coupled with contingency litigation funds, prepare enterprises for enforcement skirmishes,

[30] Trade Marks Act, No. 47 of 1999 (India).
[31] Trade Marks Act, No. 47 of 1999, §§ 9, 21, 23, 46 (India).
[32] Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, G.S.R. 139(E) (India).
[33] Trade Marks Act, No. 47 of 1999, §§ 49, 142, 11(9) (India).
[34] Trade Marks Act, No. 47 of 1999, § 27 (India).

where damages computations incorporate cryptocurrency valuations and viral propagation metrics rather than conventional sales data. Educational initiatives within corporate IP teams foster agile responses, training legal personnel on blockchain explorers like Etherscan to map infringement networks, ensuring sustained vigilance as virtual commerce volumes swell with India's burgeoning creator base.[35]

VI. ASSESSING INDIAN LAWS AGAINST US AND EU PRACTICES

Indian trademark law under the Trade Marks Act, 1999, adopts a hybrid first-to-use and first-to-file approach that offers flexibility for metaverse protections through broad graphical representation requirements under Section 2(1)(zb),[36] yet lags behind the United States' proactive USPTO guidelines which explicitly endorse virtual goods registrations in Class 9 since 2022, specifying downloadable digital apparel and NFTs with precision that sidesteps India's more interpretive application process prone to examiner discretion. While US courts in Hermès v. Rothschild[37] affirmed consumer confusion tests for MetaBirkins NFTs absent parody defenses under the Rogers doctrine, Indian jurisprudence relies on analogous passing off precedents like Tata v. Greenpeace, lacking metaverse-specific dilution benchmarks akin to the US Lanham Act's Section 43(c)[38] that shields famous marks against virtual tarnishment regardless of class similarity, compelling Indian brands to pursue multi-class filings defensively amid slower registry processing times exceeding six months compared to USPTO's streamlined virtual dockets.

In contrast to the European Union's harmonized EUTM[39] system via EUIPO,[40] which issued 2023 guidance classifying virtual goods as data under Class 9 distinct from physical counterparts—exemplified by Louis Vuitton's successful oppositions against NFT handbags—India's Trade Marks Registry accommodates similar specifications absent formal notices,[41] resulting in inconsistent acceptances for brands like Ajio seeking VR fashion protections without the EU's unitary enforcement across 27 member states that facilitates cross-border injunctions under Regulation 2017/1001. EU practices emphasize absolute refusal grounds mirroring India's Section 9 but bolster them with explicit metaverse examination manuals, whereas Indian absolute grounds assessments often hinge on acquired distinctiveness proofs via virtual sales logs, exposing nascent metaverse marks to rectification risks under Section 46 unlike the EU's five-year non-use grace tempered by bad faith exceptions that deter squatting in platforms like The Sandbox.

Jurisdictional assertions diverge markedly, with US federal courts exercising expansive extraterritorial reach in Nike v. StockX[42] by scrutinizing blockchain resales for post-sale infringement, a boldness unmatched in India's territorial Section 134 suits requiring demonstrable Indian nexus such as localized VR events, while EU national courts leverage the Brussels Recast for unified metaverse disputes absent India's reliance on fragmented state high courts supplemented by Commercial Courts Act expediency. Well-known mark safeguards under India's Section 11(9)[43] parallel US survey-based fame declarations and EU Article 10(2)(c) reputation protections,[44] but US dilution claims preemptively block virtual dilutions via nationwide injunctions, contrasting India's remedial focus post-harm with EU's preemptive opposition windows that curtail infringing NFT launches earlier in the lifecycle.

Exhaustion doctrines reveal further disparities, as the US first-sale principle grapples with digital non-rivalry in ongoing StockX appeals questioning NFT

[35] Primavera De Filippi & Aaron Wright, *Blockchain and the Law* (Harvard Univ. Press 2018).
[36] Trade Marks Act, No. 47 of 1999, § 2(1)(zb) (India).
[37] Hermès Int'l v. Rothschild, 590 F. Supp. 3d 647 (S.D.N.Y. 2023).
[38] Lanham Act § 43(c), 15 U.S.C. § 1125(c).
[39] Regulation (EU) 2017/1001 on the European Union Trade Mark.
[40] EUIPO. (2023). Classification guidance on virtual goods.
[41] Trade Marks Act, No. 47 of 1999, §§ 9, 46 (India).
[42] Nike, Inc. v. StockX LLC, No. 1:22-cv-00983 (S.D.N.Y. 2022).
[43] Trade Marks Act, No. 47 of 1999, §§ 11(9), 134 (India).
[44] Regulation (EU) No. 1215/2012 (Brussels I Recast).

resale immunities, while EU exhaustion applies territorially under Article 15 absent international alignment that India's common law permits selectively for virtual imports, complicating cross-metaverse commerce where a Decentraland sale in Roblox evades single-jurisdiction blocks. Intermediary liabilities under India's IT Rules 2021[45] mandate notice-and-takedown akin to US DMCA safe harbors and EU Article 14 horizontal directives, yet US platforms face secondary liability for inducement per Grokster precedents, pressuring proactive metaverse moderation beyond India's intermediary passivity unless knowledge is proven.[46] Registration renewals underscore procedural gaps, with India's use evidence mandates contrasting US intent-to-use declarations that facilitate speculative metaverse entries, and EU's graphic representation rigor that aligns closely with India's but benefits from centralized appeals via BoA efficiencies outpacing India's IPAB successor delays.

VII. TAXATION AND FEMA IMPLICATIONS

Taxation of metaverse transactions involving trademarks intersects profoundly with India's Income Tax Act, 1961,[47] particularly through the expansive definition of Virtual Digital Assets (VDAs) under Section 2(47A) introduced via Finance Act 2022,[48] capturing NFTs embodying trademarked virtual goods like branded digital apparel or accessories sold on platforms such as Decentraland or The Sandbox, subjecting gains from their transfer to a flat 30% tax plus 1% TDS under Section 194S irrespective of holding period or capital asset classification. Indian brands licensing trademarks for metaverse NFT drops must navigate transfer pricing scrutiny for cross-border royalties if affiliates mint collections abroad, with arm's length pricing mandated under Section 92 to reflect intangible value derived from virtual goodwill, while domestic sales of trademarked virtual real estate trigger GST at 18% as composite supply of digital services, complicating input tax credits amid disputes over whether blockchain hosting qualifies as intermediary services.[49]

FEMA implications loom large for trademark proprietors engaging in metaverse commerce,[50] as cross-border VDA transfers—such as an Indian fashion house selling NFT-embedded trademarked sneakers to overseas buyers—fall into regulatory ambiguity since VDAs lack recognition as currency or capital account items under FEMA 1999, rendering Liberalised Remittance Scheme (LRS) usage for outbound virtual purchases precarious absent explicit RBI approval, with banks frequently flagging transactions to foreign exchanges as potential violations carrying penalties up to thrice the sum involved. Inbound remittances from metaverse licensing, where foreign platforms pay royalties for deploying Indian trademarks in VR experiences, demand repatriation within nine months as export proceeds under current account rules, necessitating e-BRC filings that prove convertible foreign exchange realization, yet VDA-denominated payments like USDT evade this framework, exposing recipients to Enforcement Directorate probes for non-repatriation despite underlying trademark value transfer.

Overseas Direct Investment (ODI) pathways under FEMA enable Indian entities to acquire metaverse assets abroad incorporating their trademarks, such as virtual land parcels for branded pop-ups, but strict 400% net worth caps and pricing guideline adherence limit scalability, with downstream investments in foreign metaverse startups deploying licensed Indian marks requiring RBI reporting via Form FC via Single Master Form (SMF). Taxation overlaps exacerbate when FEMA-compliant ODI yields VDA royalties taxed as business income under Section 28,[51] potentially qualifying for DTAA relief against source-country levies if trademark protection clauses invoke permanent establishment risks in virtual storefronts hosted on US or EU servers.

[45] Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, G.S.R. 139(E) (India).
[46] MGM Studios Inc. v. Grokster, Ltd., 545 U.S. 913 (2005).
[47] Income-tax Act, No. 43 of 1961, § 2(47A) (India).
[48] Finance Act, No. 6 of 2022 (India).
[49] Central Bd. of Indirect Taxes & Customs, GST Clarifications on Digital Assets (2022).
[50] Foreign Exchange Management Act, No. 42 of 1999 (India).
[51] Income-tax Act, No. 43 of 1961, § 28 (India).

For trademark enforcement actions, FEMA regulates damage awards from metaverse infringement suits against non-residents, mandating repatriation of foreign judgments in rupees via authorized dealers, while cryptocurrency settlements of licensing disputes trigger VDA tax netting against FEMA current account permissibility. Indian startups trademarking metaverse goods face compounding compliance when FDI inflows fund virtual expansions, as Press Note 3 compliance intersects with FDI caps on e-commerce marketplaces hosting NFT sales,[52] blurring inventory versus marketplace distinctions under Consolidated FDI Policy and risking retrospective FEMA adjudication if virtual goods deemed inventory. These intertwined regimes compel metaverse trademark holders to structure transactions via rupee-denominated smart contracts or escrow mechanisms bridging taxation certainty with FEMA repatriation,[53] all while bracing for anticipated 2026 regulatory clarifications amid surging VDA volumes straining legacy frameworks designed for tangible trade.

VIII.CRITICAL ANALYSIS OF LEGAL GAPS AND REFORM PROPOSALS FOR TRADEMARK PROTECTION IN THE METAVERSE

Trademark protection in the metaverse reveals profound legal gaps stemming from the clash between traditional territorial principles and the borderless, immersive nature of virtual environments, where digital replicas of goods and services blur the lines between physical and immaterial commerce. Existing frameworks, designed for tangible markets with clear geographic boundaries, struggle to encompass the decentralized platforms hosting user-generated content, NFTs, and virtual storefronts, often leaving brand owners vulnerable to widespread infringement without effective recourse. Courts have begun extending real-world trademark rights to virtual equivalents, yet the scope remains uncertain, as immaterial uses dilute the principle of territoriality, allowing counterfeit virtual goods to proliferate across global servers without a unified enforcement mechanism.[54]

This territorial mismatch intensifies when infringers exploit the metaverse's anonymity and pseudonymity, operating from jurisdictions with lax IP enforcement, making it nearly impossible for rights holders to identify and pursue violators through conventional channels like cease-and-desist letters or litigation. Platforms' internal policies vary wildly, sometimes prioritizing user creativity over brand integrity, which further erodes protection as virtual billboards or avatars mimic famous marks, sowing consumer confusion in immersive spaces where context is fluid and deceptive similarity thrives. The absence of standardized definitions for "virtual goods" or "metaverse services" in classification systems like the Nice Agreement compounds the issue,[55] leading to inconsistent registrability and enforcement, where a mark protected in one platform's ecosystem might falter in another due to platform-specific rules overriding national laws.

Enforcement hurdles extend to jurisdictional quagmires, where pinpointing the "location" of an infringement in a cloud-based, multi-server metaverse defies traditional venue rules, often forcing brand owners into protracted international disputes with unpredictable outcomes. Well-known marks face dilution through unauthorized virtual merchandising, yet proving likelihood of confusion demands evidence of consumer harm in digital realms, where surveys and metrics lag behind the rapid evolution of VR/AR interfaces.[56] Moreover, the interplay with emerging tech like blockchain-hosted NFTs introduces novel defenses, as infringers claim tokenization as transformative fair use, challenging courts to reconcile decentralized ownership with centralized trademark doctrines. Reform proposals advocate for harmonized international guidelines through bodies like WIPO,

[52] Press Note 3 (2020 Series), Ministry of Commerce & Industry (India).

[53] Foreign Exchange Management Act, No. 42 of 1999, adjudication provisions (India).

[54] Graeme B. Dinwoodie & Mark D. Janis, *Trademark Law and Theory: A Handbook of Contemporary Research* (2d ed. 2021).

[55] World Intellectual Property Organization, *Nice Classification Developments and Virtual Goods* (2023).

[56] Mark A. Lemley & Eugene Volokh, Law, Virtual Reality, and Decentralized Platforms, 75 Stan. L. Rev. 1055 (2023).

urging amendments to treaties to explicitly cover virtual spaces and establish "digital territoriality" based on server location, user IP, or platform domicile, thereby streamlining cross-border takedowns. Legislative updates in regions like the EU, via recommendations from the Commission on combating counterfeiting, push for stakeholder dialogues to refine Directive 2015/2436, incorporating metaverse-specific classes for virtual goods in EUIPO filings to bolster registrability and scope without mandating entirely new filings.

In the US, USPTO guidance evolves toward broader Class 9, 35, 41, and 42 coverage for digital assets, with calls for federal legislation mandating platform liability akin to the DMCA for copyrights,[57] imposing "notice-and-takedown" obligations tailored to trademarks, complete with safe harbors for proactive monitoring. Proponents suggest "know your trader" rules for metaverse marketplaces, requiring verification of virtual sellers to curb anonymous counterfeiting, mirroring e-commerce reforms while integrating AI-driven scanning tools for automated detection. Further proposals emphasize blockchain integration for immutable trademark registries, enabling smart contracts that auto-enforce licensing in virtual transactions, reducing litigation by preempting disputes through embedded IP clearances. Advocacy groups like INTA recommend criteria for jurisdiction in metaverse cases,[58] balancing plaintiff access against defendant protections, potentially via specialized virtual tribunals for swift ADR in decentralized disputes. Technological mandates, such as mandatory watermarking for user-generated content or API access for brand owners to scan platforms, aim to shift burden from reactive policing to proactive prevention.

Expanding on EUIPO precedents rejecting overly generic metaverse terms for lack of distinctiveness, reforms call for refined examination guidelines distinguishing virtual from physical uses, ensuring marks convey origin in immersive contexts without stifling innovation. Globally, harmonizing Nice classifications via WIPO could introduce a dedicated "metaverse class" encompassing VR/AR services, NFTs, and digital twins, facilitating multinational filings and uniform enforcement. Collaborative platform-brand protocols, incentivized by regulatory carrots like liability shields, would foster self-regulation, where operators deploy unified reporting tools modeled on expanded DMCA frameworks. Amid these, proposals for "metaverse IP passports" via interoperable digital certificates leverage blockchain to prove rights across platforms, streamlining verification and reducing infringement by empowering users with instant authenticity checks. National laws might mandate virtual goods disclosures, labeling replicas as "inspired by" to mitigate confusion, while empowering agencies with metaverse-specific enforcement units equipped for cyber-investigations. International treaties could formalize mutual recognition of virtual registrations, akin to Madrid Protocol extensions, closing gaps in protection for transborder virtual commerce.

IX. CONCLUSION

In conclusion, trademark protection in the metaverse and virtual worlds under Indian law represents a dynamic intersection of legacy frameworks like the Trade Marks Act, 1999, with the borderless, immersive realities of platforms such as Decentraland, Roblox, and blockchain ecosystems, where brands must adapt traditional doctrines of infringement, passing off, and distinctiveness to govern digital assets ranging from NFT-embedded apparel to virtual real estate adorned with logos. While Sections 29 and 27 empower robust enforcement against unauthorized replicas that dilute goodwill in these decentralized spaces, the absence of metaverse-specific guidelines leaves Indian enterprises reliant on analogical judicial precedents from domain disputes and e-commerce battles, compelling proactive multi-class registrations under Classes 9, 35, and 41 to fortify defenses amid Nice Classification ambiguities. Comparative lags against US USPTO virtual goods directives and EUIPO harmonized manuals highlight India's interpretive flexibility but underscore enforcement gaps in pseudonymity and jurisdiction, exacerbated by FEMA non-repatriation risks and VDA taxation at

[57] United States Patent and Trademark Office. (2023). *Examination guidance for trademarks in virtual environments*. USPTO.

[58] Int'l Trademark Ass'n, *Trademarks in Virtual Worlds and the Metaverse* (2022).

30% that complicate cross-border licensing and NFT royalties.

Ultimately, as metaverse economies propel India toward a trillion-dollar digital frontier by 2030, strategic imperatives emerge for brands to deploy AI monitoring, smart contract licensing, and Paris Convention priorities alongside advocacy for legislative evolution—potentially via a Digital India Act incorporating blockchain registries and extraterritorial clauses—to balance innovation with IP integrity. Judicial evolution through cases testing virtual use evidence will refine "course of trade" thresholds, ensuring intermediary takedowns under IT Rules evolve into proactive safeguards, while taxation-FEMA synergies demand rupee-escrowed transactions to mitigate penalties. This adaptive legal tapestry positions Indian law not as obsolete but as resiliently extensible, empowering domestic players like Reliance and Tata to thrive in virtual commerce provided they pioneer vigilant portfolios and policy dialogues that preempt dilution in avatar-driven marketplaces where consumer confusion manifests psychologically across infinite replicas.

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