

Shopping in the Metaverse

Rasha Al Ardah - Partner - Intellectual Property
r.alardah@tamimi.com - Dubai International Financial Centre

The retail industry went through several changes over the past decade, moving from bricks and mortar retail to e-commerce and social commerce and now moving into the digital world. The metaverse has taken the world in a storm. While the concept and technology has been there for a while, the recent investments announced by the technology giants Meta (Facebook) and Microsoft in the metaverse created a hype. Major brands and companies are now rushing to ride the wave of the metaverse by creating different consumer experiences in this new world. It is expected that the metaverse will revolutionize the retail industry. In this article, we will highlight the current trends for the retail sector in the metaverse and the issues that arises with it.

What is the metaverse?

While the metaverse is still not very clear, it can be described as the next version of the internet that combines a number of technologies including virtual reality, augmented reality, videos and other communication means, which will allow users

to game, work, shop, socialise and communicate digitally creating an online virtual world that is parallel to the world we live in.

The idea is to create a space similar to the internet, but where users can walk around inside of it and where they can interact with one another in real time. People will be able to buy and build assets that will only exist in the metaverse and have real monetary value. These assets could be land, art, clothing and other items, which comes in the form of NFTs (Non Fungible Tokens), and will pay for it by cryptocurrencies. NFTs play a massive role in the retail industry and is the main element that would make the retail in the metaverse possible and profitable.

There are currently a number of virtual worlds such as Decentraland, Somnium Space, the SandBox, Roblox, Second Life, Cryptovoxels, SuperWorld, Zepeto and many others. Each virtual world uses certain blockchain technology and has its own cryptocurrency.

For the retail industry, the metaverse is expected to bridge the gap between the actual physical shopping and the e-commerce shopping, as it will be a combination of both channels, where consumers will get the feel of the physical shopping but in his/her own comfort.

Retail trends in the Metaverse

Brands always try to embrace all channels of retail possible to them and to create innovative consumer experiences to motivate sales of their products. The metaverse is no difference, and brands have already started their steps into the metaverse.

Nike is one the brands that embraced the metaverse with bold steps. Nike has recently acquired Rtfkt, which is a leading brand in NFT creation. This acquisition will help Nike create their unique digital sneakers and clothes. Furthermore, Nike launched Nikeland in Roblox, which is a virtual world of sports and slick-looking apparel by Nike. Players would be able to play the game while wearing Nike apparel. In its preparation for the metaverse, Nike has filed a number of new trademark applications in the US at least that specifically covers downloadable virtual goods and retail store services featuring virtual goods.

Luxury brands are not far from the metaverse as well; for example, Gucci has bought a virtual land in the SandBox to expand its Gucci Vault, its online concept store, to create an interactive consumer experience. Earlier in 2021, Gucci opened a Gucci Garden in Roblox, where users can buy Gucci digital collectibles. It has also released a digital version of the Dionysus bag on Roblox, which was sold for 350,000 Robux (USD 4,115). Other brands such as Ralph Lauren also offered some of its collection on Roblox. Louis Vuitton as well provided customized “skins” (graphic appearances) for various games being played in the metaverse environment.

Other brands have been using the metaverse to create experiences for their customers that is linked with their ecommerce world. For example, Dyson potential buyers can use certain headsets to interact with haircare appliances. The virtual reality gives consumers the opportunity for a in-depth experience compared to a standard website.

Not only brands have been joining the metavers, but also there seems to be some virtual shopping malls opened. In 2021 a virtual mall named Metamall was launched, which is a platform where users can spend time, meet friends and interact with them at a cafe in real-time and where users can even buy or lease a space in the Metamall. The idea of the Metamall is to have brands setup their virtual shops in which they would be free to experiment with store designs and provide users with unique experiences.

Issues related to retail in the Metaverse

The metaverse will bring multiple new legal implications, especially in the absence of existing standards, precedents and regulations.

Trademark Protection and Infringements: Brand protection is already making waves in the metaverse, as brands have already started using and offering their brands in the metaverse. With brand protection comes some challenges such as the registration of trademarks and which classes can be covered and in which countries to be registered.

Infringement of trademark is yet another challenge that has already started to appear in the metaverse. The luxury French fashion house Hermès sued a digital artist for copying its Birkin handbag through the issuance of MetaBirkins NFTs. Hermes is claiming trademark infringement of its well-known Birkin trademark and dilution of the distinctive quality of Hermes famous handbag. This is a very interesting dispute that will have an impact on infringement cases in the metaverse in the future.

Unlimited licensing possibilities; with the metaverse, there will be unlimited number of products that any brand can offer in the metaverse. This creates huge opportunities for brands to expand in many different products and service offering that may exceed their offering in real world. This brings with it challenges on how quality control will be achieved and measured.

Copyright related issues; while in real world copyright is not much addressed in the retail industry, in the metaverse, copyright will have a bigger role to play. This is mainly due to the NFT role in the metaverse. The content of NFT is subject to copyright, and content owners shall understand their usage rights. Therefore, the smart contract used for purchasing NFTs shall be carefully drafted. Infringement of copyright in the metaverse is also a big challenge and there are already disputes related to copyright ownership in NFTs.

Property related issues; as more and more brands would be purchasing lands and leasing shops in the metavers, an interesting question arises on how such ownership or lease will be treated and whether the current property and real state laws would apply.

There are of course a number of other issues that will arise with the use of the metaverse similar to all legal issues that we are still facing with the online presence.

Conclusion

The metaverse offers massive opportunities, and with opportunities, there are always challenges. It is a new world that may require a different legal thinking and new solutions to what could be a rapidly changing area. It is however advisable to all business owners in the retail industry to be ready to embrace this new digital world and get their rights protected at an early stage.

For further information, please contact John Doe (j.doe@tamimi.com) or Jane Doe (j.doe@tamimi.com).