



Branding Beyond Reality: The Indian Trademark Horizon in the Metaverse

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Introduction

When you shop for virtual clothes, celebrate Diwali online, or attend a virtual concert, you are participating in the new digital world, where you need legal protection for your digital products and virtual goods. The emergence of the metaverse has opened a lot of opportunities for companies at large, many companies have changed their way of building and protecting their brands. It has created a parallel digital environment where people can have the same interaction with products and services as they have in the tangible world. In this digital realm, words, brands, design, logos, and brand names are not only limited to the actual world or in the form of tangible goods but also in the form of virtual avatars, virtual clothing, and online marketplace, with the expansion of NFTs, known as non-fungible tokens, a unique digital certificate preserved on the blockchain that proves the ownership and authenticity of a particular digital asset, which cannot be copied or replaced by another token.² For example, Tata Tea Premium launched a virtual Holi experience in the metaverse and took the steps for trademark registration of their brand in the metaverse, showing how important it is to safeguard the brands in the digital world.³ There are a lot of different brands as well who have already taken steps to protect their brands in the metaverse. In India, issues related to trademark are governed under the Trademarks Act 1999, which also includes a legal framework for the registration of the brands in the virtual world.⁴ India follows the Nice classification, which is an international system that categorizes trademarks into 45 classes,

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²NFT, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/NFT> (last visited Sept. 30, 2025).

³Tata Tea Premium Launches 'Meethi Holi' Virtual Experience in the Metaverse, BUSINESS STANDARD, https://www.business-standard.com/article/companies/tata-tea-premium-launches-meethi-holi-virtual-experience-in-the-metaverse-122031800514_1.html (last visited Sept. 12, 2025).

⁴The Trademarks Act, No. 47 of 1999, INDIA CODE (1999).

separating goods from Classes 1–34 and services from Classes 35–45. Indian regulation follows this system under the Trademarks Act, 1999, to ensure consistent classification and registration of trademarks.⁵ However, these legal frameworks are still in their early stages, and India lacks clear guidelines designed for the metaverse.⁶ But, countries like the USA and the EU have already taken steps to protect their digital assets and goods in the virtual environment. Comparing it to the other countries, where these laws are much more evolved and protected as compared to India, regulations in India are still at their initial level; that is why the brands face challenges such as classification ambiguities, enforcement difficulties, and uncertainty over infringement in virtual environments and many other problems.⁷ This paper aims to highlight that even if there are laws present in the Indian legal framework, they are new and not well regulated, and these frameworks are still not sufficient to resolve the issues of branding and trademark in the metaverse. Further, this paper also aims to discuss some of the suggestions that can help the companies or the brand owners to protect their brands and digital assets in the metaverse.

The Realm of Trademark in India

A trademark is an essential tool that distinguishes the goods or services belonging to one brand from those of others.⁸ Its main purpose is to protect the consumer from any confusion regarding some goods and services and to ensure the protection and the reputation and goodwill of the brand.⁹ Trademarks are not restricted to logos or brand names solely, but they also represent the entire identity of a business and establish credibility between the consumer and the product.¹⁰ In India, the legal framework governing trademark-related laws is given under the Trademarks Act, 1999, which includes extensive provisions relating to registration, protection, and enforcement of

⁵Nice Classification (NCL), 12th ed., World Intell. Prop. Org. (2023), <https://www.wipo.int/classifications/nice/en/> (last visited Sept. 12, 2025).

⁶Prashant Reddy & Sumathi Chandrasekaran, Trademarking the Metaverse: India's Legal Lag, 28 J. Intell. Prop. Rts. 115, 118–20 (2023).

⁷Moushami Joshi & Shruti Sharma, Metaverse and Intellectual Property Rights: The Legal Grey Areas in India, MONDAQ, <https://www.mondaq.com/india/trademark/1258264/metaverse-and-intellectual-property-rights-the-legal-grey-areas-in-india> (last visited Sept. 12, 2025).

⁸The Trademarks Act, No. 47 of 1999 § 2(1)(zb) (India) (1999), <https://www.indiacode.nic.in/handle/123456789/1997> (last visited Sept. 12, 2025).

⁹*Trademarks Act, 1999*, No. 47 of 1999, India Code (1999), § 29.

¹⁰Pratibha Singh, Trademark Protection in India: Balancing Private Rights and Public Interest, 5 NALSAR L.J. 73, 75–76 (2010).

trademark rights.¹¹ These statutes are also enhanced by the Trademarks Rules, 2002, which do provide detailed procedural guidelines on registrations and enforcement.¹² The Trademark Act 1999 generally includes words, logos, symbols, shapes of goods, packaging, or even combinations of colors. Once the trademark is registered, it grants the rightful owner an exclusive right over his products or services, also safeguarding his rights to take legal action against the infringement under the provision of the above-mentioned act.

The procedure of registration has been clearly laid down under the Trademark Act, 1999. The person can claim to be the proprietor of a mark or logo to apply for the registration of its brand.¹³ Once the application is accepted, it must be advertised,¹⁴ which further gives the public an opportunity to oppose the registration of the brand.¹⁵ If there is no opposition filed against the product and services, only then can the owner register the trademark;¹⁶ further, the proprietor enjoys the exclusive rights of the trademark for the next 10 years.¹⁷ After this, owner deals extensively with trademark infringement,¹⁸ which states that a registered trademark is infringed when a person uses a mark identical or deceptively like a registered mark in a way that causes confusion among the public or dilutes the distinctiveness or reputation of the registered mark. The remedies for infringement are also given, including injunctions to stop it.¹⁹ Thus, the Trademarks Act, 1999, provides a comprehensive framework to protect brand identity in the physical world. But in the 21st century, the trademark issues are not just limited to the physical world but also to the virtual world as well, but before discussing how the trademark laws govern the virtual environment, it is important to recognize how the trademark laws are well structured in the physical world. Trademarks safeguard consumer trust by denoting origin and authenticity, helping avoid confusion and protecting brand identity.²⁰ However, while clear in the physical marketplace,

¹¹The Trademark Act, No.47 of 1999, chs. IV–VII (India) (1999), <https://www.indiacode.nic.in/handle/123456789/1997> (last visited Sept. 12, 2025).

¹²The Trademarks Rules, 2002, Gazette of India, pt. II, sec. 3(i) (India), Mar. 26, 2002, <https://www.indiacode.nic.in/handle/123456789/1748> (last visited Sept. 12, 2025).

¹³The Trademarks Act, No. 47 of 1999, § 18 (India) (1999).

¹⁴*Id.* § 20.

¹⁵*Id.* § 21, INDIA CODE (1999), <https://www.indiacode.nic.in/handle/123456789/1997> (last visited Sept. 12, 2025).

¹⁶*Id.* § 22.

¹⁷*Id.* § 25.

¹⁸*Id.* § 29.

¹⁹*Id.* § 135.

²⁰4 J. Thomas McCarthy, McCarthy on Trademarks and Unfair Competition § 2:14 (5th ed. 2023).

trademark enforcement in the virtual world remains uncertain, leading to risks of unauthorized use and consumer confusion.²¹

Furthermore, the Trademarks Act, 1999, was initially enacted to address trademark infringement issues confined to the physical world. However, with the gradual emergence of the Metaverse, instances of trademark infringement began appearing in virtual environments as well, where logos, brands, or marks belonging to different companies were being used without authorization, often for commercial gain. Such practices are unfair to the rightful owners of these marks. The present issues have not gone unnoticed; countries such as the USA²² and members of the EU²³ have already implemented regulations to protect brands in digital space. In the Indian context, trademark infringement issues in the virtual world are also being acknowledged. India follows the internationally recognized Nice Classification (NCL), which divides trademarks into 45 classes. Classes 1 to 34 for goods and Classes 35 to 45 for service also while filing a trademark application under the Trademarks Act, 1999, the applicant must first identify the correct class based on the nature of goods or services, since protection is granted only for the class applied, this classification helps avoid overlapping, ensures proper examination by the Trade Marks Registry, and provides clarity in case of dispute. Now in the context of the metaverse, businesses often register trademarks in Class 9 for software and digital goods, Class 35 for online marketplaces, and Class 41 for virtual entertainment or educational services.²⁴ For example, companies like Infosys and Mahindra & Mahindra have begun registering their NFTs under Class 9, which covers virtual goods, demonstrating the growing importance of NFTs and trademark protection in digital environments. Nevertheless, despite the existence of relevant laws, constant challenges remain, including the ambiguities in classification, difficulties in the enforcement, and uncertainty related to the application of infringement rules in virtual spaces, all of which is needed to be addressed.²⁵

²¹Stacey L. Dogan & Mark A. Lemley, Trademarks and Consumer Search Costs on the Internet, 41 Hous. L. Rev. 777, 779–80 (2004).

²²U.S. Patent & Trademark Office, Trademarks in the Metaverse, <https://www.uspto.gov/trademarks/metaverse> (last visited Sept. 12, 2025).

²³European Union Intellectual Property Office, Trademarks and Digital Environments, <https://euipo.europa.eu/ohimportal/en/trademarks> (last visited Sept. 12, 2025).

²⁴Nice Classification (NCL), 12th ed., World Intellectual Prop. Org. (2023), <https://www.wipo.int/classifications/nice/en/> (last visited Sept. 12, 2025).

²⁵World Intellectual Prop. Org. (WIPO), *Trademarks and NFTs*, <https://www.wipo.int/trademarks/en/> (last visited Sept. 12, 2025).

Metaverse Branding: An Indian Perspective

Branding is the process of giving a product or company its own distinct identity, which differentiates it apart from others and promotes a connection with consumers. It involves not only logos and names but also the feelings and trust that customers associate with the brand.²⁶ The metaverse, on the other hand, is a very vast and growing digital universe where people interact through avatars in virtual spaces they can shop, socialize, attend events, and explore different worlds, all online. Today, this digital realm is becoming a hotspot for brands as they look beyond traditional marketing methods to create new form of immersive experiences. Brands are building virtual stores, hosting events, and offering digital products to engage users in ways that feel private and innovative. The current scenario reveals a rapidly growing trend, where companies across various industries, from fashion to sports to entertainment, are investing heavily in the metaverse to reach younger, tech-savvy audiences and unlock new opportunities for creativity and connection.²⁷ This evolved combination of branding and the metaverse is shaping the future of consumer engagement, where the line between the real and digital worlds continues to blur.

Metaverse Branding: Challenges for Indian Trademarks

Now, the main question arises: if this is the situation wherein the laws and registration process are mentioned, then what are the challenges India is facing even after the laws and regulations are prescribed? The real question is, do the laws exist, why are they not implemented properly, and what challenges are there? Now, the first problem, which is generally faced by brands or companies, is

1. Lack of jurisdictional clarity

Companies and brands that have enterprises in the digital environment and virtual marketplace have encountered a lot of unsolved problems regarding jurisdictional clarity under laws and regulations governing the trademark rights in the virtual marketplace. In the physical world, under

²⁶Kevin Lane Keller, *Strategic Brand Management: Building, Measuring, and Managing Brand Equity* 3d ed.

²⁷McKinsey & Company, *The Metaverse: Business Opportunities and Strategic Implications* (2022), <https://www.mckinsey.com/business-functions/strategy-and-corporate-finance/our-insights/the-metaverse-business-opportunities-and-strategic-implications> (last visited Sept. 25, 2025).

the Trademarks Act 1999, cases regarding jurisdictional infringement are mainly addressed under Section 134,²⁸ where the owner of the trademark lives, does business, or where the dispute occurred. But the laws are mainly designed for the problems in the physical world, which creates difficulties for brands in virtual places like the metaverse, which don't have specified geographical boundaries. In the virtual world, due to no clear geographical boundaries, the identification of the infringers becomes difficult for the brand owner to identify. A lot of challenges occur in enforcing the trademark rights in the digital world due to the decentralized nature of the platform, unauthorized use of the platform, and problems related to counterfeiting.²⁹ This leads to risk of challenges such as consumer confusion and financial losses to the rightful owner.³⁰ Also, the existing Indian laws are still in their initial phases and not addressed these problems properly.

2. Unauthorized use of the trademark in the metaverse

As the virtual world and metaverse are generally decentralized, it becomes very easy for the individuals in the metaverse to exploit the logos, brand names, and designs protected under the Trademark Act, 1999.³¹ Sometimes, these misuses can lead to various forms, like counterfeit virtual goods and the unauthorized sale of NFTs resembling products, including the case where people in the metaverse have established whole new stores in the name of the reputed company. From the jurisdictional perspective, Section 29(1) of the Trade Mark Act, 1999, states, "A registered trademark is infringed by a person who, not being a registered proprietor or a person using by way of permitted use, uses in the course of trade a mark that is identical with or deceptively similar to the trademark in relation to goods or services in respect of which the trademark is registered and in such a manner as to render the use of the mark likely to be taken as being used as a trademark,"³² but implementation of the same in the virtual world becomes

²⁸ The Trademarks Act, No. 47 of 1999, § 134, INDIA CODE (1999), <https://www.indiacode.nic.in/handle/123456789/1997> (last visited Sept. 25, 2025).

²⁹ Moushami Joshi & Shruti Sharma, *Metaverse and Intellectual Property Rights: The Legal Grey Areas in India*, MONDAQ, <https://www.mondaq.com/india/trademark/1258264/metaverse-and-intellectual-property-rights-the-legal-grey-areas-in-india> (last visited Sept. 25, 2025).

³⁰ Dev S. Gangjee, *The Consumer Interest in Trademark Law*, 39 Oxford J. Legal Stud. 511, 512–15 (2019).

³¹ World Intellectual Prop. Org. (WIPO), *Trademarks and NFTs*, <https://www.wipo.int/trademarks/en> (last visited Sept. 25, 2025).

³² The Trademarks Act, No. 47 of 1999, § 29(1), INDIA CODE (1999).

difficult. Apart from uncertainties in judicial interpretations, the validity of the digitally presented evidence still poses a challenge. Under Indian law, Section 65B of the Indian Evidence Act, 1872, recognizes electronic records, but the court present in India does not have any clear rules regarding the blockchain transaction and smart contract as proof.³³ As there is no established procedure given to collect and give this kind of proof, company owners often face difficulties in getting the court order, like injunctions. The delays make it harder to solve this problem in the virtual world.

3. Cross-platform enforcement across the different platforms of the metaverse

When the infringement is established, there is no uniform procedure present to address the issues, although the registration process of the trademark in the metaverse is given under law, but there is no mention of the ways to counter the infringement in the metaverse.³⁴ Each platform have its own distinct terms of service and internal dispute resolution procedure, often independent of the Indian judicial authorities.³⁵ As a result, Indian brand owners have uncertainty in enforcing their rights when they face infringement in the metaverse, and it takes them a long time to understand and take legal action. These hurdles pose a challenge for the brand owners to protect their brand effectively in the metaverse. A very famous instance of this was in 2022, when the big luxury fashion brand Gucci sued a virtual sneaker company, StockX, for selling unauthorized Gucci sneakers in the virtual world.³⁶ Now similar kinds of instances are present on the different metaverse platforms as well, where Gucci cannot take direct legal action against the infringers. While Indian courts recognize electronic records as evidence, the absence of cross-platform enforcement standards poses a substantive hurdle in promptly restraining infringing activity in fast-evolving virtual marketplaces. Lastly, the absence of clear laws for jurisdiction and proof from blockchain transactions, as well as cross-platform enforcement, leaves the Indian company owners vulnerable to misuse of their trademarks in the digital workplaces, which makes it another drawback for the enforcement of trademark rights in the metaverse.³⁷

³³*Id.* § 29(1).

³⁴*Id.* § 65B.

³⁵ Moushami Joshi & Shruti Sharma, *Metaverse and Intellectual Property Rights: The Legal Grey Areas in India*, MONDAQ, <https://www.mondaq.com/india/trademark/1258264/metaverse-and-intellectual-property-rights-the-legal-grey-areas-in-india> (last visited Sept. 25, 2025).

³⁶ Nike, Inc. v. StockX LLC, No. 22 Civ. 983 (VM), 2023 WL 2139675(2022).

³⁷ Moushami Joshi & Shruti Sharma, MONDAQ (last visited Sept. 25, 2025).

Case Study Analysis

An analysis of the challenge of trademark infringement in the virtual environment would not be complete without discussing the leading case law analysis to give us a clearer picture. The following examples and cases will help us understand the whole picture

1. Gucci v. StockX LLC

Gucci is a prestigious luxury fashion house, which can be a very good example under the Indian legal framework. Gucci had filed a legal action against StockX for unauthorized selling of digital sneakers as NFTs featuring Gucci's trademarks. The present case brought critical issues, such as digital counterfeiting, within the virtual workplace. Given the decentralized and global nature of the virtual platform, there were a lot of problems faced by the brand, such as difficulty in securing effective cross-platform injunction, etc.³⁸ This case shows how the luxury brands in India face so many problems in the metaverse. It becomes difficult because it's not clear in the scenario which country's law would be applicable, and there is no global enforcement measure available to solve the problem. So, even if a brand wins one case at one place, there might be a situation where copies of the same products are available elsewhere online, making the enforcement tricky for the brand owner. Although the case has not yet settled a comprehensive legal precedent, this case demonstrates the urgent need for better legal enforcement measures for the virtual environment. This ongoing case is an example for the Indian luxury brands to register their product in the virtual marketplaces to protect their trademark in the digital world.

2. Hermès v. MetaBirkins

The luxury brand Hermès sued the Mathon Roschild because he made and sold the NFTs, which show the Birkin bags covered in the fur called "MetaBirkins". Hermès argued that the NFTs have confused consumers, weakened the uniqueness of the brand, and harmed its reputation. The U.S. Court gave the judgment in favor of the brand Hermès and stated that the trademark of one brand should have protection in the virtual world; a digital artist cannot misuse the brand names by

³⁸ *Gucci Am., Inc. v. StockX LLC*, No. 1:22-cv-0018(2022).

calling them their own.³⁹ This decision is very significant in the context of India because this case shows that the courts in other parts of the world are updating the old trademark law and bringing up the new updated laws under trademark to protect the brand trademark in the digital world. India should take lessons and strengthen their laws on trademarks.

3. Nike v. StockX

Nike sued the online marketplace StockX for selling Nike sneakers in the virtual marketplace without authorization. The company argued that NFTs can mislead consumers into thinking that Nike intentionally harms the brand's image. This case highlights the emergence of more virtual common in the digital marketplace, and it also shows how there is a need for a proper legal mechanism to solve similar issues.⁴⁰

Recommendations For Trademark Protection in the Metaverse

After reviewing the case study analysis of the trademark-related infringement in the metaverse, it's important to understand the possible suggestions that could protect the brand's trademark in the metaverse. In the present time, there are well-defined laws for trademark infringement in the metaverse, but talking about the metaverse, the nature of the metaverse is more decentralized, so the question arises as to which country's law would be applicable when there is an infringement of the trademark in the metaverse.⁴¹ Law-related registration of the trademark in the metaverse is present but not well defined in India. First, India must establish clear jurisdictional guidelines specifically addressing trademark-related infringement in the metaverse.⁴² The legal framework should be enforced so that it would be clearer as to which court has jurisdiction to deal with the cases. Amending the Trademarks Act 1999 could be one of the suggestions, which can include explicit provisions that will define how jurisdiction is determined in virtual marketplaces and would provide more clarity and enable an effective and faster enforcement of trademark protection in the metaverse. Secondly, India needs stronger legal rules for presenting blockchain and NFT

³⁹Hermès Int'l v. Rothschild, No. 1:22-cv-03204 (S.D.N.Y. 2022).

⁴⁰Nike, Inc. v. StockX LLC, No. 2:21-cv-11144 (E.D. Mich. 2022).

⁴¹Hermès Int'l v. Rothschild, No. 1:22-cv-03204, S.D.N.Y. (2022).

⁴²Nike, Inc. v. StockX LLC, No. 2:21-cv-11144, E.D. Mich. (2022).

transactions as legal evidence in the metaverse. Although Section 65B of the Evidence Act acknowledges electronic records, there are no defined procedures for proving blockchain records or smart contracts. Introducing proper guidelines for collecting and authenticating such evidence will make trademark-related protection in the metaverse faster and more powerful.⁴³

Lastly, India should establish a specialized and proper Online Dispute Resolution (ODR) mechanism to address the problems of trademark infringement in the metaverse.⁴⁴ This platform would enable brand owners to swiftly file complaints, and this system would help the brand owners get the infringing content or fake virtual goods removed as quickly as possible, without a long court procedure. Integrating such a system within the Trademarks Act 1999, would make enforcement quicker, more cost-effective, and more convenient for Indian brands in the metaverse.

Conclusion

The evolution of the metaverse is at its peak, well-structured laws and regulations are present for trademark infringement in the metaverse, but as the brands shift more towards the virtual marketplaces, the shortcomings of existing trademark laws become blatantly obvious. Without well-defined mechanisms for jurisdiction, recognition of blockchain evidence, and online dispute resolution, brand integrity and consumer trust will remain at risk. This smart and integrated method would protect the Indian brands worldwide and give India protection for its trademark in the metaverse. As the metaverse expands, Indian trademark laws should also evolve to address the unique kind of digital challenges like counterfeiting in the virtual world and unauthorized use across the decentralized platform of the virtual marketplace. Updating laws must also cover NFTs and blockchain-based digital assets, which will be better in protecting the brand owners' interests in the trademark-related infringement and ensuring their trademarks retain value online. Cooperation among the lawmakers, tech experts, and businesses will build up a legal system that encourages innovation while effectively safeguarding the intellectual property rights of the brand owners in virtual worlds.

⁴³ Indian Evidence Act, No. 1 of 1872, § 65B (India).

⁴⁴ Sanchita Basu Das, Online Dispute Resolution in India: Prospects and Challenges, 12 *J. Indian L. & Soc'y* 45 (2021).