



IP ITeaser 076:

Meta-IPRs meet Metaverse

IPRs used to be (relatively) well defined to include copyright, patents and trade marks, with established jurisprudence on subsistence, owner, infringement and cancellation. That triumvirate has always included designs, confidential information and passing-off. Over time, the scope of IP law has expanded to include privacy, malicious falsehood, semi-conductor topology, moral rights, performance rights, plant varieties and database rights, and a host of associated rights such as publication right, artist resale right, public lending right, circumvention of protection measures, counterfeiting and piracy, and sui generis protection for Peter Pan. The scope of protection expanded with the creation of geographic indications (PDOs, PGIs, TSGs, mountain products and island farming), and new classes of subject matter such as Traditional Knowledge, Traditional Cultural Expressions and Genetic Resources. These may be described as meta-IPRs as they mimic to some extent traditional IPRs but provide protection in cases where none before was conferred.

As for traditional IPRs, the subject matter has expanded from the corporeal to the incorporeal with the introduction of the metaverse and rise of AI. Jurisprudence has responded by denying patent inventorship (DABUS) and copyright authorship (Théâtre D'opéra Spatial) to machines. Moral and performance rights are being stretched by the possibility of using a digitally created version of an actor or actress for evermore, regardless of the ageing process, or even if they are already dead. Google has raised issues of novels being written by ChatGPT (with the concomitant effect upon copyright), and Large Language Models might be used to draft patent specifications or contracts (with wider ramifications for negligence and rendering parts of the IP profession redundant). Surely soon, the meta-IPRs will also enter the metaverse (if they have not already with, for example, some of the TK from indigenous cultures). It makes the discussions of a decade ago about potential

infringement of IPRs in space seem all so old-hat. As the purportedly Chinese proverb says: it is a blessing to live in interesting times (or is it a curse, I can never remember)!