The Metaverse is widely regarded as the next frontier in digital commerce, with organizations spending millions of dollars securing a presence by buying digital real estate and investing in platforms to be market leaders. While it offers clear opportunities for nonprofits, the Metaverse also presents distinct legal challenges. We highlight a few key legal issues nonprofits should consider before making the leap into the Metaverse.

What is the Metaverse?

At its core, the Metaverse is the next generation of the Internet. Built largely on decentralized, blockchain technology instead of centralized servers, it consists of immersive, three-dimensional experiences with vibrant digital marketplaces,
persistent and traceable digital assets, and a strong social component. While some elements remain aspirational, consumers are already flocking to Metaverse platforms and spending significant sums on digital assets. Meanwhile, many tech companies are working on next-generation consumer electronics such as smart glasses that they hope will take e-commerce to the next level and make today’s two-dimensional web browsing a thing of the past.

The Business Case for the Nonprofit Sector

The Metaverse offers remarkable opportunities for the nonprofit sector:

- Membership organizations can hold their annual meetings wholly within the Metaverse.
- Educational institutions can offer virtual campus tours, admissions interviews and conduct the entire enrollment process through this medium.
- Think tanks can present white papers and hold real-time symposia.
- Cultural institutions can curate exhibits and provide performances—for free or for an admission charge.
- Fundraising can become more efficient generally and more creative using new development tools like non-fungible tokens (NFTs).

Before making a leap into a Metaverse platform, nonprofits should consider these issues:

1. **Register your Intellectual Property.** Nonprofits should consider filing trademark applications covering core Metaverse goods or services and securing any available blockchain domains, which can be used to facilitate Metaverse payments and to direct users to blockchain content, such as websites and decentralized applications. Reminiscent of the rush in the 90’s to secure various “dot-com” names, many organizations are filing as a defensive measure while their leadership deliberates how their institution should interact with the Metaverse. Given the accelerating adoption of blockchain domains along with limited dispute resolution recourse available, we strongly encourage nonprofits to consider securing intellectual property rights now.

2. **Protect and enforce your IP.** The decentralized nature of the Metaverse poses a significant challenge to intellectual property owners. Before proceeding with blockchain-based transactions, businesses need to understand that content recorded on a blockchain is there permanently and cannot be deleted. Restrictions on use and resale of an NFT must be carefully considered and implemented prior to minting because once the content is on the blockchain there is little recourse. In addition, nonprofits must understand how others may suborn their identity or trademarks. Many nonprofits are considering proactive steps to monitor and ensure that their intellectual property is not pirated.

3. **Reserve Metaverse rights.** Institutions that license their IP, particularly those that do so on a geographic or territorial basis, should review existing license
agreements to determine what rights, if any, their licensees have for Metaverse-related uses. Moving forward, we encourage nonprofits to expressly reserve rights for Metaverse-related uses and exercise caution before authorizing any third party to deploy your IP to the Metaverse on your behalf.

4. Take custody of digital assets. Because of their digital character, digital assets such as cryptocurrency and NFTs are particularly vulnerable to loss and theft. Before acquiring cryptocurrency or NFTs, organizations will need to set up a secure “blockchain wallet” and adopt appropriate access and security controls.

5. Establish a dedicated legal entity. Institutions may want to consider setting up a new subsidiary or affiliate to hold digital assets, shield other parts of their operations and endowment from Metaverse-related liability, and deal with potential tax consequences.

6. Select the right platform. There are multiple Metaverse platforms with different benefits and detractions. Some, including Roblox and Fortnite, offer access to more consumers but generally give less control over content within the programs. Others, such as Decentraland and the Sandbox, provide greater control but smaller audiences and higher barriers to entry. Organizations should consider who their target audience is and their long term Metaverse strategy before committing to a particular platform.

Other Nonprofit Concerns

The unique nonprofit perspective to new technology has triggered some additional concerns:

1. Stability. Many Boards of Trustees are curious whether the Metaverse is a “passing fad” and not worthy of attention. All experts agree that the Metaverse is a natural evolution of the Internet and is here to stay. While some platforms may become obsolete (remember AOL? Netscape?), the Metaverse will continue to develop and improve.

2. An Environmentally Friendly Platform. Much has been written about the energy consumption of a blockchain-based transaction. While the energy consumption is considerable, it is still a vast improvement over current practices. For instance, a cryptocurrency exchange employs much less energy that the process of preparing, authorizing, sending, confirming and booking a wire transfer. And Metaverse transactions are still nascent. Energy efficiency is a primary consideration in the improvements currently evolving.

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