

Mike McArthur in WIPR: ‘Litigation in the Metaverse: Is IP Fit for Purpose?’

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[Mike McArthur](#), an associate in the Intellectual Property practice group, was quoted in a *World IP Review* article titled “Litigation in the Metaverse: Is IP Fit for Purpose?” Read an excerpt below:

Litigation over the virtual realm will test the boundaries of existing IP laws, finds Muireann Bolger.

If interest from the world’s largest tech companies is a measure of potential, then the dawn of the metaverse is not far away.

Facebook rebranded as Meta at the tail end of last year and shortly after it showed just how much it is pinning on the virtual ecosystem, spending \$10 billion on its metaverse division in 2021. ... This view is shared by Mike McArthur, associate at Haynes Boone, who cautions that: “Failure to adapt and protect IP here would stifle innovation in this new world and would bring harm to rights owners and consumers.”

But he predicts a growing volume of case-law will eventually help clear a path for all stakeholders. “The number of these cases with unique fact patterns and new legal claims should only increase in the coming months and years, providing some clarity about protecting IP in the metaverse in their wake,” adds McArthur.

For example, he predicts that the MetaBirkin case could eventually challenge the precedent set by Rogers. “We should learn whether NFTs depicting famous products will be treated as an infringing offering or as transformative art protected by the First Amendment. My initial sense is that it will be the former.”

And in the Nike v StockX case, he mulls that as Nike plans to sell its own sneaker NFTs, StockX’s NFT receipts will be viewed as “a separate competitive and infringing offering” rather than “a permissible form of digital authentication for the owner of a physical product”.

To read the full article from *WIPR*, click [here](#).