

ALGORITHMIC PASSING OFF CIVIL LIABILITY FOR AI GENERATED DECEPTIVE SIMILARITY IN THE METAVERSE Sivanesan Vajravelu

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ALGORITHMIC PASSING OFF: CIVIL LIABILITY FOR AI-GENERATED DECEPTIVE SIMILARITY IN THE METAVERSE

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Abstract:

In the recent past, the Artificial Intelligence has seen the most growth with respect to generating creative things. It can be seen by anyone that metaverse would be the thing of the future. Currently, anyone with good amount of prompting skills and with a small amount of open mind, would be able to create AI agents and can easily replicate registered and protected trademarks within seconds. Thus, the generative AI technology poses huge threat to trademark jurisprudence of India, forcing it to evolve against the current trends within short span of time. Thus, there is a gap in finding out whether the current laws governing trademark infringement would be able to adequate to withstand the AI data-driven, subtle, mimicry of Trademarks and other related issues.

This paper from the perspective of International Law and India's Trade Marks Act, 1999 analyses the jurisdictional issues faced as to enforcing civil liability when the infringement was caused by a foreign creator using AI driven borderless servers. It further touches upon the difficulty in proving "misrepresentation" element among other elements of trinity of passing off and also the difficulty in holding the AI agents liable. It further analyses the digital sovereignty issues posed by the Metaverse platforms by taking IP enforcement in their very own hands. Finally, this paper proposes and suggests to further strengthen the legal frameworks towards strict liability to mitigate the dilution of goodwill in metaverses and this paper attempts to provide a blueprint for preventing IP violations in a period where non-human entities are the primary abettors of commercial deception.

Keywords: Metaverse, AI liability, Digital Sovereignty, trinity of passing off.