Comparative Report on the TM5 Questionnaire:

Examination Practices and Trends regarding Trademarks in Virtual Space

2026

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Introduction

Trademark applications designating goods and services related to virtual environments — including the metaverse, virtual reality, augmented reality, and non-fungible tokens (NFTs) — have increased significantly in recent years across TM5 Partners. As these technologies continue to evolve, examination practices for virtual goods and services have become an area of shared interest among the TM5 Partners (CNIPA, EUIPO, JPO, MOIP, and USPTO).

Against this backdrop, the TM5 Partners agreed to develop a questionnaire to compare examination guidelines, practices, and emerging trends related to trademarks in virtual spaces across the five offices. This report presents a comparative summary of the responses received from each office.

The final version of the questionnaire was first circulated to TM5 Partners in June 2024, and responses and feedback were collected through August 2026. Each office's answers reflect its examination practice and available data as of the time of response; practices and guidelines in this area are evolving rapidly, and readers should note that some information may have changed since responses were submitted.

This report is intended to provide a general comparative overview of each office's current approach and should not be relied upon as a definitive statement of any office's legal position.

CNIPA

CNIPA

Questionnaire on "Trademarks in Virtual Space"

Part 1 Examination guidelines/practices related to Virtual goods/services

1. How does your Office define 'virtual space' in the context of trademark Act? If there is no definition, please provide specific measures for distinguishing goods/services in virtual world.

CNIPA does not have a specific definition for "virtual space". Since the beginning of the 2024, some virtual service items are registrable in China, which are services can be realized under current technology in the virtual space, such as simulated travel services provided in virtual environments for entertainment purposes.

2. Does your Office have specific regulations or guidelines for trademarks in virtual spaces such as the metaverse, virtual reality, or augmented reality? If not, are there any plan to introduce such regulations or guidelines?
* If yes, please provide details or a link to the relevant regulations/guidelines.

☐ Yes ☑ No

We are still researching the possibility of acceptance of foresaid virtual goods and services. We will publish relevant policies or guidance on the acceptance and examination of virtual goods and services.

3. Are there any special considerations or requirements for examination of trademarks in virtual spaces? * If yes, please describe them. (Such as "Proof of Use", "Technical Specification" or "Special Classification of designated goods")

☐ Yes ☑ No

4. Does your office use the agreed-to terms for virtual goods and services, as specified for each indication in the Nice Classifications from the 33rd or 34th Nice Committee of Experts?

☐ Yes ☑ No

4-1. Does your office use the term "virtual currency" as a similar term to "cryptocurrency" or "crypto asset"?

☐ Yes ☑ No

"Virtual currency", "cryptocurrency", and"cryptoasset"are not registrable in China, so we cannot make the judgement of their similarity.

4-2. Does your office use the term "virtual environment" instead of "virtual world"?

☐ Yes ☑ No

We have been always using the term "Virtual environment" instead of "Virtual world" in Chinese.

Part 2 Issues related to virtual goods/services

5. Main issues related to virtual goods/services

5-1. What are the main challenges your Office faces when determining the similarity between virtual and physical goods/services. If your Office have identified any solutions, please describe them.

CNIPA holds the view that since virtual goods must rely on the corresponding virtual environment for their existence, and their physical form is downloadable data, it is very difficult for virtual goods to establish a connection with traditional goods in the real world. Therefore, CNIPA is still exploring how to establish the intersecting and similarity relationships between virtual goods and the corresponding traditional goods in the real world. Regarding virtual services, we believe that regardless of what kind of services they manifest in the virtual environment , we will make the judgment based on whether they can bring the same service to consumers in the real world during the procedure of acceptance and examination. Therefore, currently, CNIPA only accepts application of virtual service items which can establish corresponding relationships with real-world services.

5-2. What are the main challenges your Office faces when determining the similarity between different virtual goods/services. If your Office have identified any solutions, please describe them.

Based on the current technological development, we think the display, trading, and consumption of virtual goods in a virtual environment are all services to consumers in the real world. Therefore, we are still exploring how to establish a similarity relationship between virtual goods and the corresponding virtual services.

5-3. Please provide any gaps or ambiguities in the existing legal framework for trademarks in virtual space.

The goods and services referred to in the current trademark law are all physical goods and services, and cannot be fully applied to the goods and services in the virtual environment.

5-4. Are there any other issues related to virtual goods/services that your Office faces? If so, please specify.

No.

6. Please provide any notable case studies or examples of latest trends of applications related to virtual goods/services. (Such as studies or examples related to significant Increases in applications, cases of successful registration, information on the types of applicants, etc.)

Enterprises apply for trademarks with designation of registrable virtual service items concentrated in the game, software development, intelligence development industry.

Among these industries there are representative companies such as Mikhail, Tencent and Baidu. At present, trademark applications designating virtual service items originated from game industry and is increasingly moving towards real life, the number of trademark applications designating services such as virtual meeting scenes, virtual clothing, and virtual travel experiences is increasing. For example, trademark application NO. 82870571" 腾讯元宝"from Tencent, which designate services such as "entertainment services provided in virtual environments, providing online virtual guided tours" of Class 41.

Part 3 Infringement in virtual space

7. How does your Office handle trademark infringement cases in virtual spaces?

7-1. If there are any legal provisions regarding infringement in virtual space, please outline them.

7-2. Please describe the general procedures, common challenges, and any differences compared to handling infringement in physical spaces.

8. What specific enforcement mechanisms or strategies does your agency employ to combat trademark infringements in virtual spaces? Please include any innovative technologies or collaborative efforts used in these strategies.

Part 4 Additional Comments

9. Is there any additional information or comments your Office would like to provide on the topic of trademarks in virtual spaces?

No.

EUIPO

Questionnaire on "Trademarks in Virtual Space"

Part 1 Examination guidelines/practices related to Virtual goods/services

1. How does your Office define 'virtual space' in the context of trademark Act? If there is no definition, please provide specific measures for distinguishing goods/services in virtual space.

EUIPO does not have a definition for 'virtual space'. However, EUIPO has analysed the impact that virtual goods or services may have when these are rendered in a virtual environment. Therefore, EUIPO deems unacceptable the term 'virtual goods' by itself due to lack of clarity and precision. With regards to 'virtual services', their acceptability is assessed in line with the established principles of classification, in accordance with the underlying nature of the service, considering its impact in the real world. Again, the term 'virtual services' on its own would not be acceptable.

The nature of the goods & services and how the services are rendered need to be clear, that is, it must be unambiguous if the protection sought is for physical or virtual goods and/or services.

2. Does your Office have specific regulations or guidelines for trademarks in virtual spaces such as the metaverse, virtual reality, or augmented reality? If not, are there any plan to introduce such regulations or guidelines?
* If yes, please provide details or a link to the relevant regulations/guidelines.

☑ Yes ☐ No

EUIPO's specific practice is published and available to all users via the following two links:

https://guidelines.euipo.europa.eu/2214311/2215355/trade-mark-guidelines/4-4-virtual-goods--services-in-virtual-environments-and-nfts

https://guidelines.euipo.europa.eu/2214311/2215067/trade-mark-guidelines/6-76-virtual-environment

3. Are there any special considerations or requirements for examination of trademarks in virtual spaces? * If yes, please describe them. (Such as "Proof of Use", "Technical Specification" or "Special Classification of designated goods")

☐ Yes ☐ No

The same grounds for refusal would apply whether it is for the physical world or virtual environment.

https://guidelines.euipo.europa.eu/2302857/2215774/trade-mark-guidelines/2-virtual-goods-and-services-in-a-virtual-environment

4. Does your office use the agreed-to terms for virtual goods and services, as specified for each indication in the Nice Classifications from the 33rd or 34th Nice Committee of Experts?

☑ Yes ☐ No

4-1. Does your office use the term "virtual currency" as a similar term to "cryptocurrency" or "crypto asset"?

☑ Yes ☐ No

4-2. Does your office use the term “virtual environment” instead of “virtual world”?

☐ Yes ☑ No

Part 2 Issues related to virtual goods/services

5. Main issues related to virtual goods/services

5-1. What are the main challenges your Office faces when determining the similarity between virtual and physical goods/services. If your Office have identified any solutions, please describe them.

5-2. Identify any solutions, please describe them.

EUIPO has not yet established a practice on the similarity between virtual and real-world goods. The comparison carried out taking into account the similarity criteria set out in the Canon judgement and the subsequent case-law of the EU Court of Justice. In this respect, the main issue will be how to apply these criteria in a novel context such as the metaverse. Indeed, different scenarios may arise when comparing virtual and real-world goods that belong to different industries. This is why for the time being it is fundamental that the parties involved in the proceedings should provide arguments and evidence to justify a possible similarity. This is because in inter partes proceedings the Office is limited on the facts, evidence and arguments provided by the parties and cannot speculate on issues that are not generally known and customary. The market reality of activities related to metaverse cannot be considered as such at this stage. Therefore, in general terms, the outcome would then depend on whether the parties can show that the manner in which the virtual goods relate to the real-world goods fulfil the Canon criteria, or whether other relevant factors may apply in view of the specificities of the case.

5-3. What are the main challenges your Office faces when determining the similarity between different virtual goods/services. If your Office have identified any solutions, please describe them.

The same principles shown above will apply when comparing different virtual goods/services: the practice has yet to be established, and information provided by the parties will be crucial.

5-4. Please provide any gaps or ambiguities in the existing legal framework for trademarks in virtual space.

There is as yet no case law on which to base practice; once this is available, the EUIPO will be in a better position to express its practice and implement this into its Guidelines.

5-5. Are there any other issues related to virtual goods/services that your Office faces? If so, please specify.

No.

6. Please provide any notable case studies or examples of latest trends of applications related to virtual goods/services. (Such as studies or examples related to significant Increases in applications, cases of successful registration, information on the types of applicants, etc.)

Part 3 Infringement in virtual space and Additional Comments

7. How does your Office handle trademark infringement cases in virtual spaces? Please describe the general procedures, common challenges, and any differences compared to handling infringement in physical spaces.

EUIPO does not have enforcement competencies and therefore does not handle trademark infringement cases directly. The EUIPO Observatory is a platform that brings together stakeholders from the public and private sectors to collect and share knowledge, raise awareness, and support the enforcement of intellectual property rights across the EU. As part of this role, the Observatory collects relevant case law on IPR infringement from Member States with the help of Intellectual Property Offices from the European Union.

One case dealing with trademarks and metaverse that has been brought to our attention is the decision by the Court of Rome "Juventus Football Club S.p.A. vs. Blockeras S.r.L." This case concerns the use of trademarks for non-fungible token (NFTs). In particular Juventus' trademarks were used for crypto games and blockchain games, that is videogames based on

blockchain, cryptocurrencies and NFTs. The blockchain company Blockeras marketed NFTs digital cards of football players, including cards featuring the ex-footballer of the Juventus Christian Vieri, wearing the Juventus shirt bearing the logo of the club. In this regard the Court of Rome held that the use of such signs by Blockeras, for identical or similar products, may have risen a likelihood of confusion. On this ground, the Italian judges found that such conducts infringed Juventus trademarks.

Blogposts commenting the decision (English) here: https://brandwrites.twobirds.com/post/102ithq/the-first-italian-decision-on-nfts. The text of the judgement (Italian) is available here: https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwj-hb2Zv4r8AhVzXqQEHUgnACAQFnoECBAQAQ&url=https%3A%2F%2Ffiles.lbr.cloud%2Fpublic%2F2022-11%2FRome%2520Court%2520NFTs.pdf%3FVers&usg=AOvVaw0Nebpi0VvCyS-Ft_AsGpeQ

This case is very similar to the decision "Hermes International v. Rothschild" by a New York Federal court. This case concerns the infringement of the trademark rights of French luxury brand Hermes through the marketing of non-fungible tokens (NFTs) by Rothschild. Hermes claimed that Rothschild's MetaBirkins NFTs infringed Hermes' trademarks in the word "Birkin" and in the design and iconography of the bag. It was proven that Rothschild took advantage of Hermes' goodwill for profit, misleading the public about the origin of the NFTs. On February 8, 2023, the jury rendered a verdict in favour of Hermes awarding $133,000 in total damages.

Blogposts commenting the decision (English) here: https://www.lexology.com/library/detail.aspx?g=c043ba9c-9541-4727-b398-5d3a9ca30cb9 and here: https://www.stites.com/resources/client-alerts/trademark-law-developments-in-the-metaverse/. The latter reports 2 additional cases on trademarks in the metaverse. The text of the judgment and related acts are available here: https://www.bloomberglaw.com/public/desktop/document/HermesInternationaletalvRothschildDocketNo122cv00384SDNYJan142022?doc_id=X1Q6ODL37A82

While not infringement cases, the EUIPO has rules regarding opposition and cancellation cases.

Finally, in our view infringements in virtual spaces should in principle be dealt with the same way as any other IP infringements.

8. What specific enforcement mechanisms or strategies does your agency employ to combat trademark infringements in virtual spaces? Please include any innovative technologies or collaborative efforts used in these strategies.

EUIPO has identified 6 investigative strategies that are effective regarding IP crime, including IP crime in virtual worlds. The strategies are follow the goods, follow the stream, follow the pattern, follow the money, follow the pixel and follow the person. Currently the most applied investigative measures in virtual worlds are infiltration, identifying crypto or other monetary payments, and obtaining information about users from the administrator of the virtual world but generally speaking many traditional cyber investigative measures will be equally useful in virtual worlds. EUIPO has published a report on infringement and enforcement in the metaverse in 2024. The report contains information about what investigative tools will be needed or adapted to function in virtual worlds. https://www.euipo.europa.eu/en/news/observatory/impact-of-the-metaverse-on-infringement-and-enforcement-of-intellectual-property

Part 4 Additional Comments

9. Is there any additional information or comments your Office would like to provide on the topic of trademarks in virtual spaces?

The Observatory has organised a workshop on the Metaverse in November 2023.

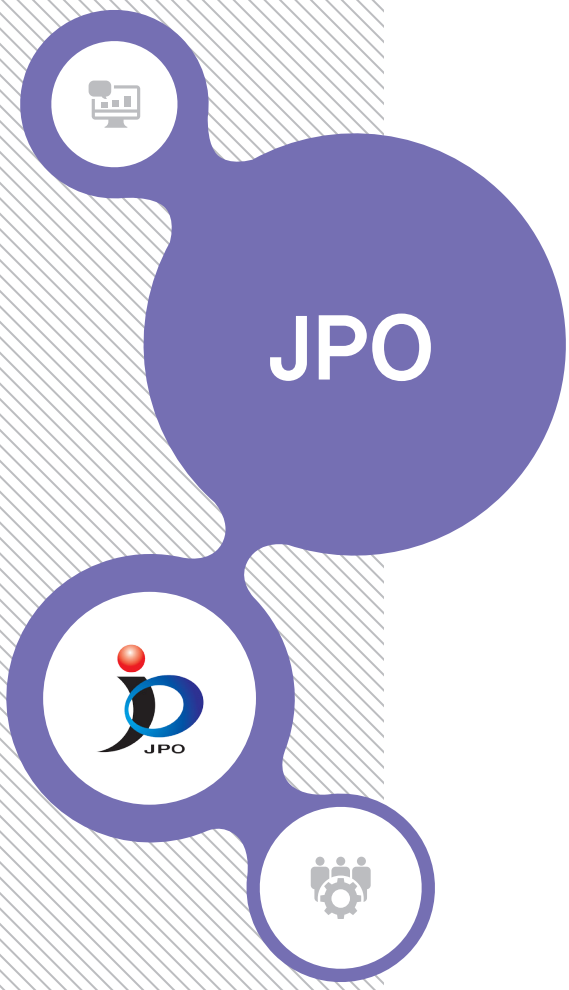
The majority of the about 35 participants didn't have a direct experience about the Metaverse, except for fashion events held, brands' promotional strategies and as a leisure activity in some immersive platforms, such as Decentraland, Sandbox and Horizon Worlds.

Most participants coincided in the fact that, even if currently fashion, food, education and entertainment are the most active sectors, in the future most sectors will be affected by the development of the Metaverse.

While some expressed the opinion that the Metaverse it is a hot topic and stakeholders should have knowledge about it, others mentioned that the Metaverse was still in its infancy and that it was too early to draw conclusions about future developments, opportunities, and threats (wait-and see approach).

Territoriality and jurisdiction were identified as key points when dealing with IP enforcement in the Metaverse. Another issue is the anonymity of Metaverse users which makes more difficult the identification of infringers.

Even if participants were not familiar with any specific tool to detect, report or investigate IP infringements, some of them emphasized that NFTs should be accorded a heightened status, comparable to valuation given to any other form of evidence. Since then, the EUIPO Observatory has not summarised any new IP enforcement case on the metaverse for its case law collection.


JPO
JPO

JPO

Questionnaire on "Trademarks in Virtual Space"

Part 1 Examination guidelines/practices related to Virtual goods/services

1. How does your Office define 'virtual space' in the context of trademark Act? If there is no definition, please provide specific measures for distinguishing goods/services in virtual world.

> The Japanese Trademark Act does not define "virtual environment," however, the guidelines define the term as follows.
>
> Virtual environment refers to "a virtual three-dimensional space built on the internet that can be accessed by multiple users and in which users can move freely."

2. Does your Office have specific regulations or guidelines for trademarks in virtual spaces such as the metaverse, virtual reality, or augmented reality? If not, are there any plan to introduce such regulations or guidelines?
   * If yes, please provide details or a link to the relevant regulations/guidelines.

☑ Yes ☐ No

> The JPO has established guidelines setting out its policy on the examination and operation of designated goods and designated services related to virtual environment. The guidelines can be viewed on the following link.
>
> https://www.jpo.go.jp/e/system/laws/rule/guideline/trademark/guideline_virtual-nfts.html

3. Are there any special considerations or requirements for examination of trademarks in virtual spaces? * If yes, please describe them. (Such as "Proof of Use", "Technical Specification" or "Special Classification of designated goods")

☐ Yes ☑ No

4. Does your office use the agreed-to terms for virtual goods and services, as specified for each indication in the Nice Classifications from the 33rd or 34th Nice Committee of Experts?

☑ Yes ☐ No

> The JPO adopts each indication of virtual goods and services specified in the NCL.

4-1. Does your office use the term "virtual currency" as a similar term to "cryptocurrency" or "crypto asset"?

☐ Yes ☑ No

4-2. Does your office use the term “virtual environment” instead of “virtual world”?

☑ Yes ☐ No

Part 2 Issues related to virtual goods/services

5. Main issues related to virtual goods/services

5-1. What are the main challenges your Office faces when determining the similarity between virtual and physical goods/services. If your Office have identified any solutions, please describe them.

Challenge: Determining the objectives and results of services provided in virtual environment

The JPO currently determines that virtual goods and physical goods are not similar. On the other hand, the similarity between the services provided in virtual environment and those provided in reality are determined by comparing and examining their objectives and results. Therefore, it is necessary to determine the objectives and results of services provided in virtual environment. However, because there are many services in the virtual environment that are unfamiliar and hard to understand, examiners find it time-consuming to determine the nature of such services.

5-2. What are the main challenges your Office faces when determining the similarity between different virtual goods/services. If your Office have identified any solutions, please describe them.

Challenge: Determining the objectives and results of services provided in the virtual environment

The JPO currently determines that virtual goods are similar to each other regardless of their content. On the other hand, the similarity between different services provided in virtual environment are determined by comparing their objectives and results. Therefore, it is necessary to determine the objectives and results of each service provided in the virtual environment. However, because there are many services in the virtual environment that are unfamiliar and difficult to understand, examiners find it time-consuming to determine the nature of such services.

5-3. Please provide any gaps or ambiguities in the existing legal framework for trademarks in virtual space.

N/A

5-4. Are there any other issues related to virtual goods/services that your Office faces? If so, please specify.

Challenge: Determining the class of the services provided in the virtual environment

If the objectives and results of services provided in the virtual environment are the same as the services provided in reality, they are classified under the same class as those provided in reality. However, if the objectives and results of services provided in virtual environment are different from those provided in reality, examiners find it time-consuming to determine the nature of such services and classify them into the appropriate classes.

6. Please provide any notable case studies or examples of latest trends of applications related to virtual goods/services. (Such as studies or examples related to significant Increases in applications, cases of successful registration, information on the types of applicants, etc.)

N/A

Part 3 Infringement in virtual space

7. How does your Office handle trademark infringement cases in virtual spaces?

7-1. If there are any legal provisions regarding infringement in virtual space, please outline them.

N/A

7-2. Please describe the general procedures, common challenges, and any differences compared to handling infringement in physical spaces.

N/A

8. What specific enforcement mechanisms or strategies does your agency employ to combat trademark infringements in virtual spaces? Please include any innovative technologies or collaborative efforts used in these strategies.

N/A

Part 4 Additional Comments

9. Is there any additional information or comments your Office would like to provide on the topic of trademarks in virtual spaces?

N/A

MOIP

MOIP

Questionnaire on "Trademarks in Virtual Space"

Part 1 Examination guidelines/practices related to Virtual goods/services

1. How does your Office define 'virtual space' in the context of trademark Act? If there is no definition, please provide specific measures for distinguishing goods/services in virtual world.

MOIP's Trademark Act does not have a definition for "virtual space," but the Examination Guidelines for Virtual Goods (2nd Revised Draft, 2025) provides a definition for "virtual goods/services," which is as follows: **Virtual goods are "non-physical goods in digital form that are traded or used in online games or virtual environments" and Virtual services refer to "services provided through online games or virtual environments".**

2. Does your Office have specific regulations or guidelines for trademarks in virtual spaces such as the metaverse, virtual reality, or augmented reality? If not, are there any plan to introduce such regulations or guidelines?
   * If yes, please provide details or a link to the relevant regulations/guidelines.

☑ Yes ☐ No

MOIP provides guidance on designated goods related to the metaverse, virtual reality (VR), and augmented reality (AR) in accordance with "**the Examination Guidelines for Virtual Goods** (2nd Revised Draft, 2025)".

3. Are there any special considerations or requirements for examination of trademarks in virtual spaces? * If yes, please describe them. (Such as "Proof of Use", "Technical Specification" or "Special Classification of designated goods")

☐ Yes ☑ No

N/A

4. Does your office use the agreed-to terms for virtual goods and services, as specified for each indication in the Nice Classifications from the 33rd or 34th Nice Committee of Experts?

☑ Yes ☐ No

Yes, MOIP uses the agreed-upon terms for virtual goods and services as specified in the Nice Classification. In particular, virtual goods are recognized when described in the format **"downloadable virtual [designated good]"** in line with the structure adopted in the Nice Classification. This approach ensures consistency and clarity in examination practices.

4-1. Does your office use the term "virtual currency" as a similar term to "cryptocurrency" or "crypto asset"?

☐ Yes ☑ No

4-2. Does your office use the term “virtual environment” instead of “virtual world”?

☑ Yes ☐ No

Part 2 Issues related to virtual goods/services

5. Main issues related to virtual goods/services

5-1. What are the main challenges your Office faces when determining the similarity between virtual and physical goods/services. If your Office have identified any solutions, please describe them.

One of the main challenges MOIP faces is determining the similarity between virtual goods/services and their physical counterparts, especially when their functions or modes of use differ significantly. For instance, a virtual clothing item used in a game environment may not be considered similar to physical clothing in terms of trade channels or consumers. As a solution, MOIP is developing internal guidelines and accumulating examination examples to ensure consistent decisions based on function, purpose, and consumer perception.

5-2. What are the main challenges your Office faces when determining the similarity between different virtual goods/services. If your Office have identified any solutions, please describe them.

When comparing different types of virtual goods/services, the main challenge lies in the lack of clear distinctions and established usage patterns in the market. Virtual goods often overlap in functionality or appearance, making it difficult to assess their similarity objectively. MOIP is addressing this by monitoring evolving market trends and referencing real-world product classifications as analogues, where appropriate, while gradually building a case database to guide consistent practice.

5-3. Please provide any gaps or ambiguities in the existing legal framework for trademarks in virtual space.

The current legal framework does not explicitly define trademarks in the virtual space, which creates ambiguity in areas such as classification, scope of protection, and infringement interpretation. For example, the question of whether a trademark registered for physical goods can be enforced against similar virtual goods remains unclear. MOIP is considering future legislative or guideline updates to provide more clarity in these areas.

5-4. Are there any other issues related to virtual goods/services that your Office faces? If so, please specify.

Challenge: Determining the class of the services provided in the virtual environment

If the objectives and results of services provided in the virtual environment are the same as the services provided in reality, they are classified under the same class as those provided in reality. However, if the objectives and results of services provided in virtual environment are different from those provided in reality, examiners find it time-consuming to determine the nature of such services and classify them into the appropriate classes.

6. Please provide any notable case studies or examples of latest trends of applications related to virtual goods/services. (Such as studies or examples related to significant Increases in applications, cases of successful registration, information on the types of applicants, etc.)

MOIP has observed a significant rise in trademark applications for virtual goods and services within 5 years. In response, MOIP introduced revised Examination Guidelines for Virtual Goods to ensure accurate classification and protection of digital products in virtual spaces.

Part 3 Infringement in virtual space

7. How does your Office handle trademark infringement cases in virtual spaces?

7-1. If there are any legal provisions regarding infringement in virtual space, please outline them.

N/A

7-2. Please describe the general procedures, common challenges, and any differences compared to handling infringement in physical spaces.

N/A

8. What specific enforcement mechanisms or strategies does your agency employ to combat trademark infringements in virtual spaces? Please include any innovative technologies or collaborative efforts used in these strategies.

MOIP has developed examination guidelines (2nd Revised Draft, 2025) that define and provide examination standards for virtual goods and services. For instance, virtual goods are defined as “non-physical goods in digital form that are traded or used in online games or virtual environments,” and virtual services are defined as “services provided through online games or virtual environments.” These guidelines aim to clarify the scope of trademark use in virtual spaces and support the determination of potential infringements.

Physical goods(services) and virtual goods(services) are generally considered dissimilar even if they share similar appearances or names until a specific trial precedent is established. However, trademarks that may cause confusion regarding the source can still be subject to Article 34, Paragraph 11, Item 11(Likelihood of Confusion), Item 12(Deception of Consumers) and Item 13(Unfair Purposes) of the Trademark Act.

Part 4 Additional Comments

9. Is there any additional information or comments your Office would like to provide on the topic of trademarks in virtual spaces?

N/A

USPTO
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USPTO

Questionnaire on "Trademarks in Virtual Space"

Part 1 Examination guidelines/practices related to Virtual goods/services

1. How does your Office define 'virtual space' in the context of trademark Act? If there is no definition, please provide specific measures for distinguishing goods/services in virtual space.

The U.S. Trademark Act does not define "virtual space." However, the U.S. Patent and Trademark Office's (USPTO) Trademark Manual of Examining Procedure (TMEP) §1401.15(c) defines virtual services as "being on or simulated on a computer or computer network." Thus, virtual services include both (i) real-world service activities that are delivered by means of a computer or the internet, and (ii) simulations of real activities that take place in virtual worlds or virtual environments. For classification purposes, the overall purpose or result of the service determines if the virtual services are classified in the same class as their real-world counterpart. Identifications for simulations of real-world services in virtual environments that are rendered for a non-entertainment purpose are carefully evaluated to confirm they meet the criteria for constituting a service under TMEP §1301.01. Virtual goods are explained in TMEP §1401.15(d). The USPTO's Trademark ID Manual, accessible at https://idm-tmng.uspto.gov/search/search-information, contains entries using the terms virtual environments, virtual reality, virtual worlds, and virtual, but not virtual space.

2. Does your Office have specific regulations or guidelines for trademarks in virtual spaces such as the metaverse, virtual reality, or augmented reality? If not, are there any plan to introduce such regulations or guidelines?
* If yes, please provide details or a link to the relevant regulations/guidelines.

☑ Yes ☐ No

TMEP §1401.15(c) describes virtual services, and TMEP §1401.15(d) describes virtual goods. The USPTO does not have specific rules pertaining to the metaverse or augmented reality.

3. Are there any special considerations or requirements for examination of trademarks in virtual spaces? * If yes, please describe them. (Such as "Proof of Use", "Technical Specification" or "Special Classification of designated goods")

☐ Yes ☑ No

4. Does your office use the agreed-to terms for virtual goods and services, as specified for each indication in the Nice Classifications from the 33rd or 34th Nice Committee of Experts?

☑ Yes ☐ No

4-1. Does your office use the term "virtual currency" as a similar term to "cryptocurrency" or "crypto asset"?

☐ Yes ☑ No

4-2. Does your office use the term “virtual environment” instead of “virtual world”?

☐ Yes ☑ No

Part 2 Issues related to virtual goods/services

5. Main issues related to virtual goods/services

5-1. What are the main challenges your Office faces when determining the similarity between virtual and physical goods/services. If your Office have identified any solutions, please describe them.

The USPTO has flexibility in making likelihood of confusion determinations, as the identified goods and/or services do not need to be identical or even competitive to find a likelihood of confusion. The issue is not whether the goods and/or services will be confused with each other, but rather whether consumers would be confused as to their source. TMEP §1207.01(a)(i). Moreover, the classification of goods and services has no bearing on the question of likelihood of confusion. Rather, it is the manner in which the applicant and/or registrant have identified their goods or services that is controlling. TMEP §1207.01(d)(v).

5-2. What are the main challenges your Office faces when determining the similarity between different virtual goods/services. If your Office have identified any solutions, please describe them.

See answer to 5-1.

5-3. Please provide any gaps or ambiguities in the existing legal framework for trademarks in virtual space.

N/A

5-4. Are there any other issues related to virtual goods/services that your Office faces? If so, please specify.

N/A

6. Please provide any notable case studies or examples of latest trends of applications related to virtual goods/services. (Such as studies or examples related to significant Increases in applications, cases of successful registration, information on the types of applicants, etc.)

The USPTO's Office of the Chief Economist (OCE) published a 2023 working paper titled, "Competitive Dynamism in Nascent Markets: Trademarks and Superstar Firm Entry in the Metaverse." This paper studies the firms filing for trademarks related to the early metaverse, and documents the impact of Facebook's 2014 acquisition of Oculus on other firms' metaverse activities. https://www.uspto.gov/ip-policy/economic-research/publications/working-papers.

Hermès International SA v. Rothschild, 678 F. Supp. 3d 475 (S.D.N.Y. 2023) (finding that there was no legal bar to jury verdict finding likelihood of confusion for use of trademarks in connection with NFTs based on rights in the same trademarks for physical goods).

Yuga Labs, Inc v Ripps, 144 F4th 1137, 1157–59 (9th Cir. 2025) (the court clarified that NFTs are goods under the Lanham Act).

Part 3 Infringement in virtual space

7. How does your Office handle trademark infringement cases in virtual spaces? Please describe the general procedures, common challenges, and any differences compared to handling infringement in physical spaces.

The USPTO does not have enforcement authority or handle enforcement actions. The USPTO is the federal agency responsible for granting patents and registering trademarks. While the USPTO conducts administrative processes related to exercising these responsibilities, it does not have enforcement authority or conduct activity to enforce the registrations it issues.

8. What specific enforcement mechanisms or strategies does your agency employ to combat trademark infringements in virtual spaces? Please include any innovative technologies or collaborative efforts used in these strategies.

N/A

Part 4 Additional Comments

9. Are there any additional information or comments your Office would like to provide on the topic of trademarks in virtual spaces?

N/A