

BRANDS AND THEIR PROTECTION IN THE METAVERSE





In the last decade, humanity has entered a digital revolution in commerce and finance, with the irruption from cryptocurrencies to works of art, and the commercialization of other assets through blockchain technology, and specifically in the field of brand protection in the metaverse and NFTs.

In this sense, it is especially important to identify the following concepts:

¿What is the Metaverse?

A set of virtual spaces or universe where you can create and interact, buy, or share common interests, with other people who are not in the same physical space as you.

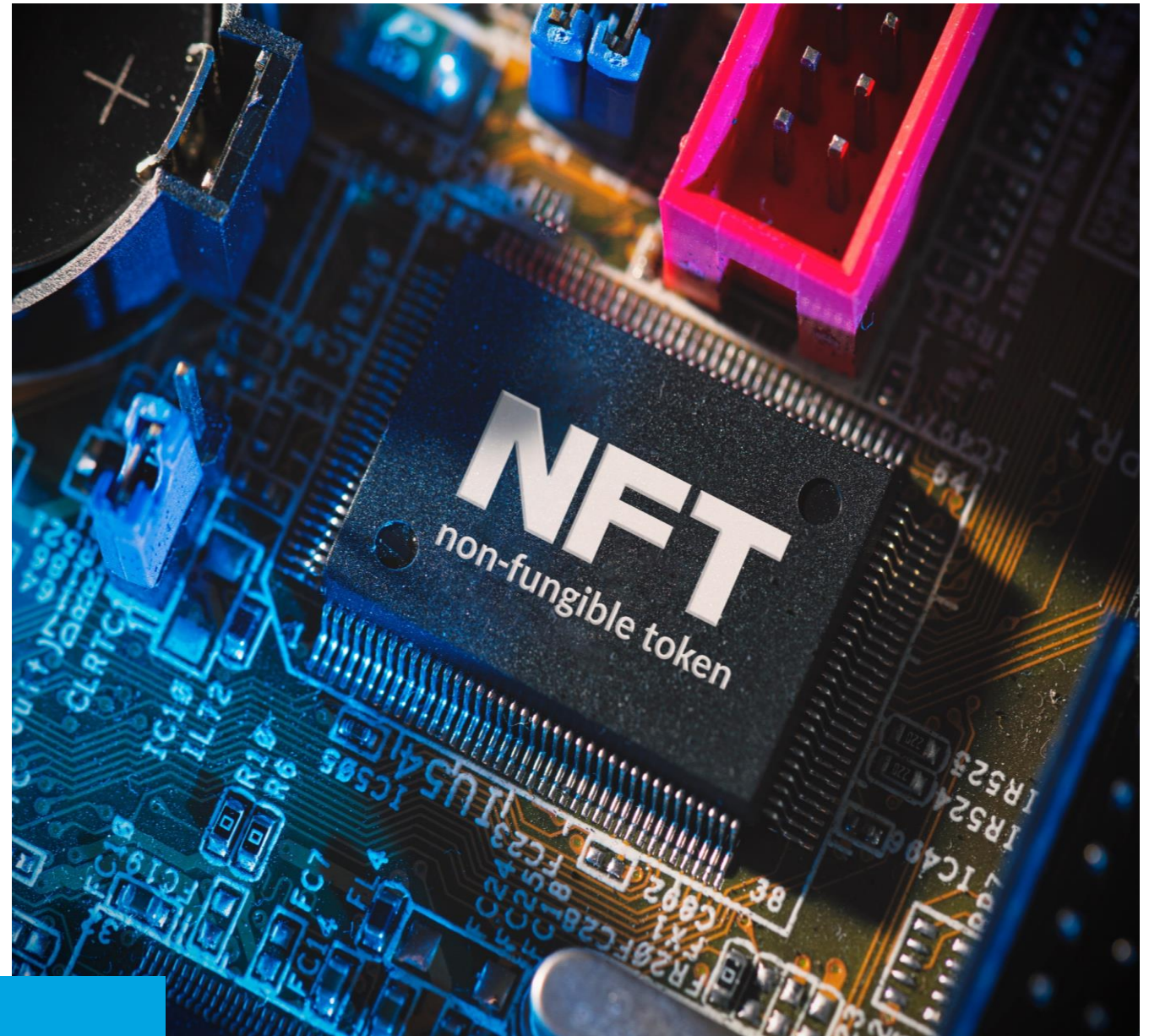
Or as the author Matthew Ball defines through his book “*The Metaverse; and How it Will Revolutionize Everything*” :

“The Metaverse is an expansive network of persistent, real-time rendered 3D worlds and simulations that support continuity of identity, objects, history, payments, and entitlements, and can be experienced synchronously by an effectively unlimited number of users, each with an individual sense of presence.”

¿What are NFTs?

The NFT is a non-fungible token, it is a digital asset that has the ability to be unique, that cannot be exchanged for another equal and is unrepeatable.

Blockchain technology means that the properties of this type of token can be stored and, in this way, it becomes possible to certify both the originality of the asset, such as a work of art, as well as its ownership. This is achieved through a *smart contract*, or intelligent contract, which also opens the possibility of marketing it in a virtual space.





¿Why protection of brands in the metaverse including NFTs?

Owners of trademark rights must consider new ways of protecting their products and services, through the acquisition and execution of this type of rights. Brands can also interact with the metaverse by protecting various products (including NFTs) and services in a virtual universe and including NFTs.

There are trademarks like NIKE, L'ORÉAL, WALMART, CONVERSE ALL STAR that protect their products and services in the virtual world, and fashion brands, such as BURBERRY, and GUCCI who protect their NFTs in the metaverse up today.

In the Mexican trademark system, it has recently been stipulated that the classes applicable to said protection in the metaverse are the Int. Classes; 9, 35 and 41, this according to the new version of the *International (Nice) Classification of Goods and Services for the Purpose of the Registration of Marks Trademarks* adopted by the Mexican Institute of Industrial Property on January 1, 2023. In this sense, we suggest our clients to protect their brands in these Classes, to obtain an extension of their rights within the metaverse, which will be the future largest market for companies anywhere in the world soon.

Benefits of protecting brands in the metaverse and their enforcement in the virtual world.

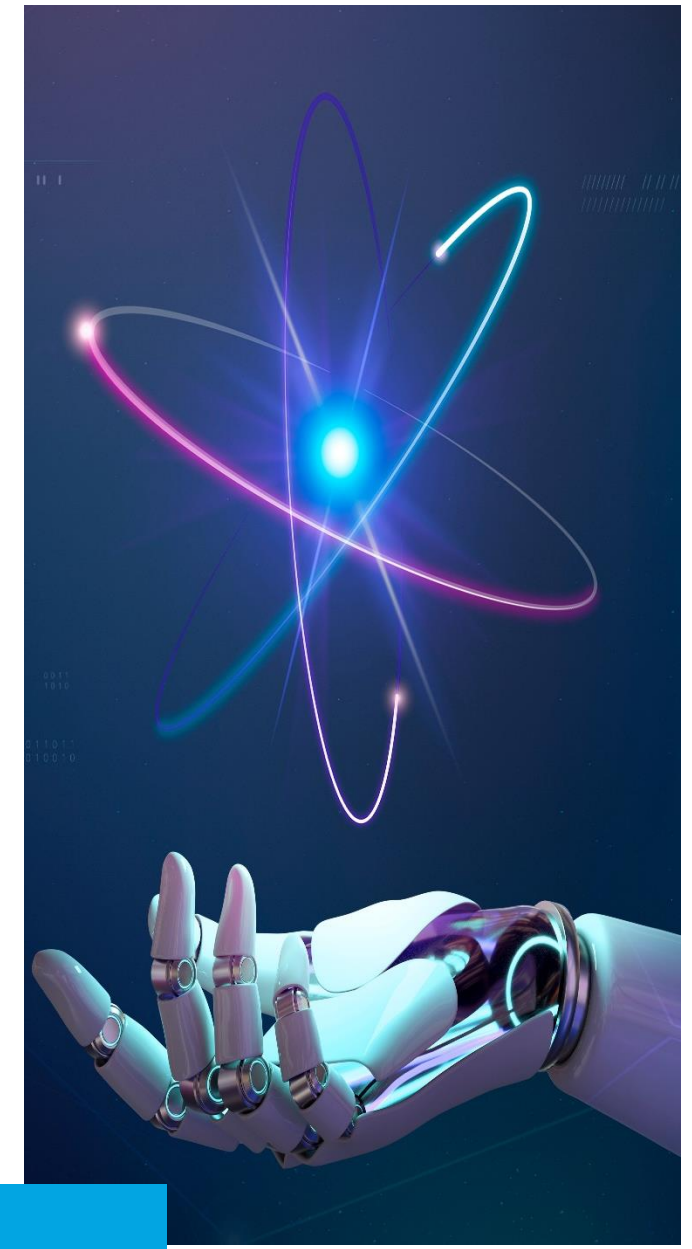
International precedents are beginning to exist in the world, as is the case of the HERMÈS Company, which on February 8, 2023, obtained a favorable ruling from the Federal Court for the Southern District of New York in the "MetaBirkins" case, where said French Company was indemnified by the Infringer for damages of USD \$133,000, considering that Mr. Mason Rothschild, author of the MetaBirkins NFTs project, infringed the trademarks owned by HÈRMES that protected a collection of art bags, in addition to promoting its dilution and undue cybersquatting, without written authorization.

The judge ruled that *"If you want to put in the market a work based on such technology, you must respect the authorship of trademarks, with a level of protection similar to that of offering a physical product, considering that they have an impact on intellectual property."*

Likewise, the Judge confirmed in his judgment that the appropriate scope of protection for trademarks in the digital world were Int. Classes; 09, 35 and 41, which set an international precedent in this regard.

Another vital point of this judgment **is the recognition of the intellectual law's provisions to the virtual o digital world, including NFTs**, as long as the products `brands and the copyrights holders in the digital world are respected.

This is why it is important for trademark holders to protect their Intellectual Property assets, in these new descriptions of Int. Classes 09, 35 and 41, and NFTs as computer works (*software*).



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BDO GLOBAL STATISTICS 2022

BDO GLOBAL

GLOBAL REVENUE

US\$12.8
BILLION



12.1%
(constant exchange rate)*

164

COUNTRIES & TERRITORIES



1,803

OFFICES



GLOBAL HEADCOUNT

111,307

14.4% Increase year on year

GLOBAL AVERAGE PROFESSIONAL PARYNER

A STAFF RATIO 1 TO 10

BDO MEXICO

BDO
MÉXICO



STAFF
+ 800

NUMBER OF
offices

9



LOCAL
OFFICES

MEXICO CITY
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CIUDAD JUÁREZ
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