

Legal Protection of Ethnic Avatars and Their Cultural Markers

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This paper explores the legal protection of ethnic avatar and digital cultural markers of Indigenous peoples in the metaverse. Avatars, as virtual representations, are suggested to be recognised as “characters” within the intellectual property framework. The study highlights the complexities of ownership and legitimacy concerning the use of digital cultural markers, often rooted in collective Indigenous heritage. It underscores the necessity of informed consent from Indigenous peoples, before their identity and cultural elements are digitalised or commercialised. Thorough an exploration of different projects in the metaverses, the paper identifies three critical considerations to consider legal protection: the legitimacy of the user, the origin of the cultural marker and the use of the avatars and markers. While the fair use doctrine provides exceptions, the paper argues that the use of Indigenous cultural elements require informed consent from the community, not only because they are rights that are enforced collectively but also for their historical context. The paper delves into the complex interplay between the representation of Indigenous cultures in the metaverse and the challenges of safeguarding their right to preserve their cultural heritage. The paper invites the readers to consider cultural promotion with ethical responsibility within metaverses.