



CARIFORUM Intellectual Property Rights and Innovation

Alejandro Camacho | Online | 20.11.2023



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This Project is funded by the European Union and implemented by the European Union Intellectual Property Office (EUIPO)

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Exploiting IP in the Digital Age

Online, 20.11.2023



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Dealing with piracy and unauthorized use of digital assets

- The availability of free online content
- Paradigmatic case: Music & Movies
- Online platforms: The Peer2Peer system
 - Hosting content: the website / platform hosts the content
 - Linking content: the website / platform links to other platforms
- Copyright infringement? Consent?
- Illegitimate: no consent from copyright holder + fraudulent income (Ads, subscription fees)
- Legitimate: legal access to works (for free, against payment, etc.)

- Difficult to enforce the law
 - Moving servers from 1 country to another
 - Closing links → reappearance of new links
- Side criminal activities
 - Money Laundering
 - Other crimes
- Two complementary ways forward:
 - Law enforcement: police, courts, administration
 - Changing minds: awareness, no clients no illegal business

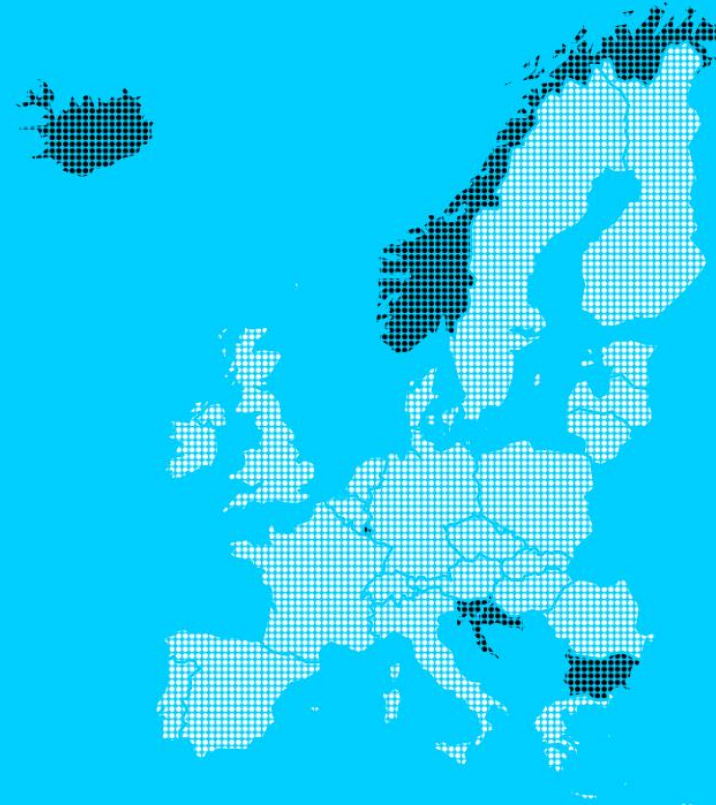
The importance of raising awareness



- <https://youtu.be/fIA0QrqVdZI>
- 25% of EU Citizens wondered if an online source was genuine or not
- 41% among EU citizens aged 15-24
- Agorateka helps consumers identify legal offers from music, TV, Films, Books and sport events by linking to existing national portals.

Find creative content legally online in your country

Use the map to find Legal Offer Sites
in your country, filter by the content
you require



IP and the Metaverse

- A virtual world, where people interact via an Avatar
- Where you can buy, you can study, you can play games...
- Where you can find trademarks, designs....
- ... which may also be available in the real world
- A world where even the currency is digital

What can you do at the Metaverse?

- You can create your Avatar to live virtually or to help you in real life
- You can buy products
 - **Real products:** you visit a virtual shop, choose your product, pay and receive your product at home
 - **Virtual products:** you buy a product which is virtual adopting the form of a Non-Fungible Token NFT
- You can buy an artistic or musical work

Trademarks in the Metaverse

- Products existing in the Metaverse are just the virtual appearance of the real product presented by means of an NFT
- Companies are including the mention “virtual” in classes 9, 35 and 41 for goods and services, to extend Protection to the Metaverse
- Metabirkings case
 - Hermès owns a popular bag “Hermès Birkin”
 - Author commercialized 100 NFTs similar, called “MetaBirkins”
 - Hermès sued the author
 - Author claimed NFTs are artistic representations of imaginary bags, not real
 - Manhattan federal judge granted request to permanently block these NFTs

How to deal with / within the Metaverse?

- Create your own NFTs so that you cope the market
- Intensively monitor the Metaverse and take enforcement actions against infringers
- Collaboration between brands and virtual reality companies
 - ZARA / Ader Error: AZ collection: clothing available for the avatars but also allowed users to buy real clothes for their daily life

- If the person is identifiable and there is an infringement → rightsholders can resort to national courts
- But, what about Metaverse platforms? Are they responsible?
 - Will they implement enforcement mechanisms?
 - Will they be forced to identify the Avatar which is infringing IP rights?
- Which jurisdiction is competent?

Thank you * Gracias * Merci * Bedankt

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