



Q&A with: Sarah Malik, CEO and Founder, and Swetha Sivaram, Associate at SOL International Ltd.

*The metaverse is undoubtedly the future of the internet. Although its development is still very much at a nascent stage, the legal industry is already seeing the impact of metaverse technologies and artificial intelligence. Virtual offices are being set up in the in the metaverse. Disputes are being litigated in the metaverse. Disputes are arising out of complications in the metaverse. Whether they like it or not, law firms and international organisations must learn how to adapt to and navigate this changing landscape.*

*Bond Solon sat down with CEO and Founder, Sarah Malik and Associate, Swetha Sivaram of renowned global law firm, SOL International Ltd to discuss the benefits and challenges of litigating in the metaverse, the impact that this is likely to have on witnesses giving evidence and what global trends we are likely to see in the latter half of this year.*

**↑** Law 360 recently reported that we are going to see a “huge wave of litigation” in the metaverse, particularly in the areas of IP and data privacy. What, in your opinion are the reasons for this shift? What types of disputes have we seen, and will continue to see litigated in the metaverse?

The metaverse is a virtual world/a 3D version of the internet where people

can engage in a virtual wide range of activities, including socialising, gaming, and shopping. The metaverse market was valued at USD 68.49 billion in 2022 and is estimated to surpass USD 1.3 trillion by 2030. As the metaverse continues to grow in popularity and complexity, it has become an increasingly important area of focus for legal issues, particularly in the areas of intellectual property (IP) and data privacy.

One of the main reasons for the shift towards litigation in the metaverse is the increasing commercialisation of virtual worlds. With more businesses and

leading household names entering the metaverse, the potential for IP disputes has grown. Companies may claim that their trademarks or copyright materials are being used without permission in virtual environments. Similarly, disputes will arise over ownership of virtual goods and assets.

Another factor driving the rise of litigation in the metaverse is the growing concern around data privacy. As people spend more time in virtual worlds and personal information is shared, there is naturally an increased risk of cybersecurity and data breaches, as well as other privacy violations. Virtual

environments collect personal data such as IP addresses and location data, purchases made by users and social media conversations with other individuals. These are then used for targeted advertising or other purposes without the user's consent.

Also, with sports teams building digital arenas in the metaverse, broadcasting rights will become an issue that is likely to be litigated over.

Some of the disputes we have seen litigated in the metaverse include cases related to trademark and copyright infringement, virtual property ownership, and fraud. We have seen cases involving NFTs in the metaverse such as the Meta-Birkin, Nike vs. StockX and Miramax LLC vs Tarantino. These are IP related issues and have been litigated in Courts. At some stage litigation could regularly take place within the metaverse itself once the metaverse becomes a more sophisticated environment with its own laws and own legal systems.

We are likely to see increased litigation, including disputes over virtual currency and payments, online harassment and cyberbullying, and the use of artificial intelligence in virtual worlds. To minimise the risk of legal issues, companies functioning within the metaverse will need to carefully consider the legal implications of their actions and take steps to protect their IP and user data. This thought process will take place in line with an evolving legal landscape, which will be tailored to cater for the issues that are arising and are likely to arise in a virtual world.

## What are some of the key challenges/issues that law firms and their clients will need to be aware of when litigating in the metaverse?

Litigating in the metaverse presents various unique challenges and issues that law firms and their clients will need to be aware of. Some of the key challenges include:

**1. Jurisdictional issues:** The metaverse is a fluid environment that transcends borders, law, and geography. As the metaverse exists beyond physical borders, determining jurisdiction will be challenging and there are no clear-cut answers. Where parties are located in different countries, governing laws and jurisdiction will become an issue as well as where any potential dispute

will take place, whether in the real or virtual world. It is likely that users of the metaverse will prefer expedient resolution of disputes within the metaverse, which will be seen to be easier and faster than disputes arising in the real world with more complex and longer procedures.

**2. Technical complexity:** Litigating in the metaverse often involves technical issues, such as analysing code and digital evidence, which will require specialised knowledge and expertise. Lawyers and judges will need to be able to understand and work with AI and virtual worlds.

**3. Difficulty in collecting evidence:** In the virtual environment, evidence is stored in multiple locations and in various formats, making it difficult to collect and preserve. Additionally, evidence can be easily manipulated, hacked into, or destroyed in virtual worlds, which will necessarily complicate any discovery process.

**4. Data Privacy concerns:** Privacy concerns in the metaverse are significant. Law firms and their clients will need to be aware of how data is being collected and stored. Clients will also need to take additional steps to protect user data, such as implementing more stringent privacy policies and protocols. There could be a scenario where a defendant hacks into the claimant/plaintiff's headset and could therefore follow their movements and conversations, possibly even thoughts.

**5. Emerging legal frameworks:** As the metaverse continues to grow and evolve, legal frameworks are still emerging. Therefore, there will not be clear precedents or case law for many legal issues. This uncertainty will make litigation more challenging. Lawyers and judges will need to interpret existing laws and possibly new laws specific to the metaverse and apply them to new and complex situations in a virtual environment.

**6. Litigants in person:** Individuals who are litigants in person are probably more affected in respect of virtual court hearings because it is unlikely that the majority will have access to complex technology to be able to access the metaverse.

To overcome these challenges, law firms and their clients will need to work closely with experts in virtual reality, data privacy, and other related disciplines to understand the technical

aspects of the case. They will also need to take a proactive approach to collecting and preserving evidence and invest in technologies such as blockchain to ensure data integrity. Additionally, they may need to stay up to date with emerging legal frameworks and precedents in the metaverse to build effective legal arguments.

In our experience, some of the newer qualified lawyers show a huge interest and affiliation with the virtual space and an understanding which can be used effectively by law firms.



## What are some of the key benefits of litigation taking place in the metaverse?

Whilst litigation in the metaverse has its own challenges, there are also potential benefits that will arise from resolving legal disputes in virtual environments.

Litigating in the metaverse is likely more cost-effective than traditional litigation, as it will not require physical travel (VR headsets will suffice). Virtual reality tools, such as virtual mediation platforms, will be used to resolve disputes without the need for in-person meetings. In addition, tools that are used to create 3D models and visualisations will assist lawyers and judges to better understand various complex and technical issues or evidence.

As a globalised platform, the metaverse will make the legal system and litigation more accessible to people who may not be able to attend in-person hearings, such as those who live in rural areas or have mobility issues. It will also open avenues for people of different socio-economic backgrounds to be able to access justice in the metaverse.

In comparison to traditional litigation, litigating in the metaverse will potentially be faster and more efficient, as virtual environments will enable real-time collaboration and streamline different aspects of the legal process.

There will also certainly be a boost in innovation and experimentation within the legal industry as lawyers and judges work to adapt to new technologies and find new ways to resolve disputes in virtual environments.

Overall, while there are challenges associated with litigating in the metaverse, there are also key benefits that can make the legal process more efficient, accessible, and innovative.



## A court hearing in Colombia recently took place in the metaverse, with participants using virtual reality headsets and appearing as avatars. If this process is rolled out worldwide, what implications is this likely to have on the litigation process, particularly with regards to witnesses giving evidence?

The use of virtual reality and avatars to conduct court hearings has the potential to significantly impact the litigation process, particularly with regards to witnesses giving evidence. There are also some potential implications in terms of witness credibility, language barriers, security concerns, technical challenges, and improved access to justice.

Credibility of witnesses while giving evidence is seen as a key matter in trial processes globally. Therefore, there will naturally be concerns about whether witnesses have been coached while giving evidence. It will also be difficult to verify the identity of a witness appearing as an avatar, and it will be harder to assess their body language and other non-verbal cues that can indicate truthfulness. However, we have already seen a trend towards virtual/hybrid hearings during the COVID-19 pandemic and this issue has been dealt with using 360-degree cameras in rooms where witness testimony is being provided. Witnesses are also able to provide evidence from different locations geographically, potentially reducing the costs and logistical difficulties associated with traveling to give testimony. This in turn will increase access to justice for individuals who are not able to attend court in-person.

Conducting court hearings in the metaverse requires technical infrastructure, which is not readily available in all regions globally. Additionally, not all participants have the same affordability or access to the necessary equipment, such as virtual reality headsets. The more sophisticated the use of technology is the more likely it is to lead to glitches depending on where one accesses the virtual environment.

Virtual courtrooms may require the use of machine translation software to facilitate communication between participants speaking different languages, which may well introduce errors and inaccuracies in the proceedings.

Security concerns, such as hacking or impersonation, which would undermine the integrity of the proceedings are also likely to arise with the use of the virtual environment to conduct court hearings.

For virtual reality court hearings to become more widely adopted, many of these challenges will need to be addressed. Improved standards for verifying witness identities will need to be developed, and upgrades to machine translation software will be necessary to ensure accurate communication between participants speaking different languages. The use of virtual reality in court hearings presents both opportunities and challenges. It will be important for legal systems to proceed with caution while adopting these technologies keeping in mind the various implications.



## What are your predictions of the litigation trends in the latter half of 2023 and beyond?

With the growing threat of cyberattacks and data breaches, we are likely to see an increase in litigation related to cybersecurity and data privacy. This will include cases involving allegations of hacking, unauthorised access to sensitive information, or failure to adequately protect personal data.

Environmental, social, and governance (ESG) issues are becoming increasingly important to investors and regulators, and this is likely to translate into more litigation related to ESG concerns. This could include cases involving allegations of environmental damage, labour violations, or board misconduct related to corporate governance.

As virtual and augmented reality technologies continue to evolve; cases involving allegations of copyright infringement, trademark disputes, or data privacy violations in virtual environments are likely to arise.

Almost all industries are introducing and integrating AI within their existing systems. There may well be a rise of litigation related to cases involving allegations of bias or discrimination in AI algorithms, or disputes over intellectual property related to AI inventions.

Class action lawsuits are becoming increasingly common in many jurisdictions, and this trend is likely to continue.

It is important to note that these predictions are based on current trends and developments and are subject to change based on various factors such as changes in technology, legal and regulatory developments, and unforeseen events.



**Sarah Malik**, CEO of SOL International Ltd, is an award-winning lawyer who achieved Litigator of the Year (2022)

at the first GCC Women in Law Awards and received an honourable mention as Law Firm Leader of the Year. SOL is named by Legal 500 EMEA as a 'Firm to Watch' in Dispute Resolution: Arbitration and International Litigation and in 2023 Sarah has been listed as a leading practitioner in 'The Arbitration Powerlist: Middle East'.



**Swetha Sivaram** is an Associate at SOL International Ltd. She is a newly qualified solicitor from England and

Wales and is a registered practitioner at the DIFC Courts. She prepares first drafts of pleadings and bundles, drafts notes, liaises with Clients, and is involved with the business development of the firm. Having graduated with a BBA (Hons) in Law she developed a particular interest in dispute resolution along with intellectual property law and company law.]



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