



EU trade marks in virtual environments: latest developments and next challenges

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10.00 to 10.50 (CET)

Speakers:

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** This document contains the answers to relevant questions submitted by the audience during the webinar that could not be answered during the live session, and to which an answer is possible.*

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Questions and answers – EU trade marks in virtual environments: latest developments and next challenges

My questions is related to services, which are obtained in the metaverse, but can be used in the real world.

Example: you buy fitness classes in the metaverse, but afterwards you can go to a real fitness centre.

As the virtual environment here will only be the means of acquiring the services, **the actual services will stay in the same class.**

The **Nice Classification** now shows in the **General Remarks** the following:

'This is the case, for example, when certain services are rendered in a virtual environment. For instance, transport services belonging to Cl. 39 involve the moving of goods or people from one physical place to another. However, in a virtual environment, these services do not have the same purpose or result and must be clarified for appropriate classification, e.g., simulated travel services provided in virtual environments for entertainment purposes (Cl. 41).'

(https://nclpub.wipo.int/enfr/?gors=&lang=en&menulang=en¬ion=general_remarks&version=20240101)

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You said that the function, purpose and nature of virtual goods is not the same as that of their real-life counterparts. Does that exclude any similarity between e.g. virtual clothing in Class 09 and (real-life) clothing in Class 25?

As *virtual clothing* and *real-world clothing* do not coincide in their nature and purpose, they cannot be considered identical.

However, for a **possible finding of similarity**, as stated in the webinar, at this stage the comparison of virtual and real-world goods will be carried out in light of **the facts and evidence provided by the parties** since issues related to these new types of goods cannot be considered to be well-known facts.

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Can this system lead to a collapse of class 9 registration and create procedural problems in order to register digital goods/services?

The **structure of the Nice Classification is administered by WIPO**, and decisions on this are taken by the **Committee of Experts**.

As **EUIPO is only an observer** in these meetings, it cannot comment on if this will become an issue or not: this is not foreseen in this year's meeting.

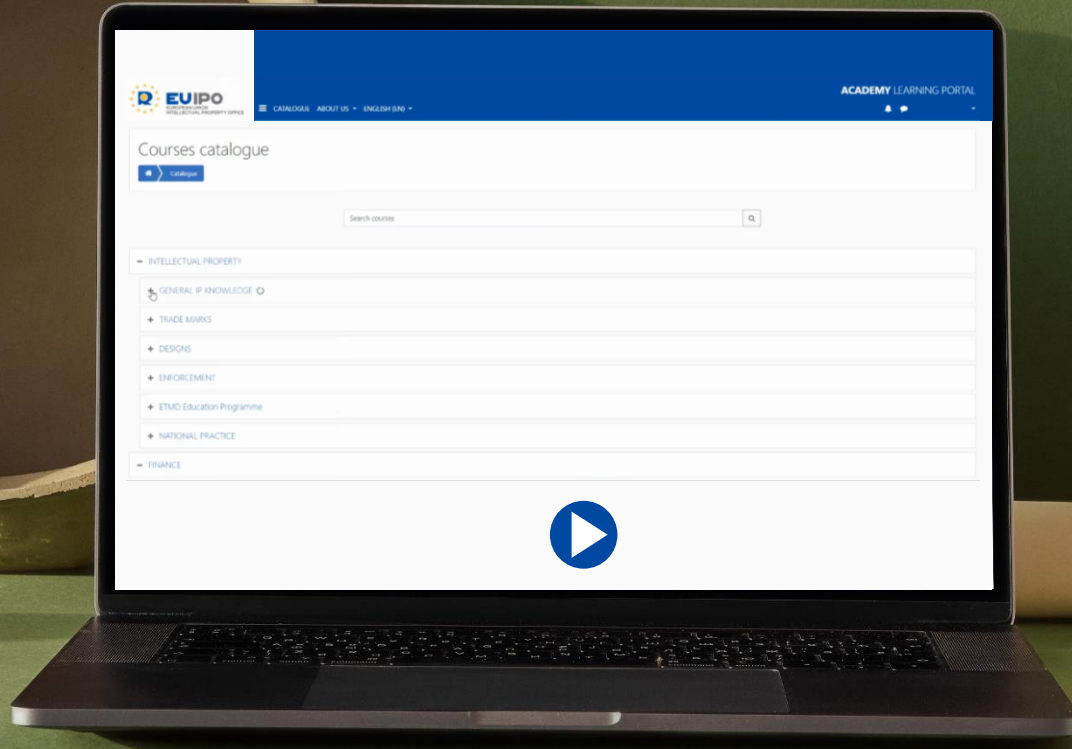
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Could you elaborate on the comparison of downloadable digital files and virtual goods?
Does the precision of the term virtual good (e.g. virtual clothing) make it possible to clearly differentiate virtual goods from downloadable digital files ?

As stated in the webinar, since the comparison of these goods is carried out in the context of *inter-partes* proceedings, the **outcome of the comparison will mostly depend on the facts and evidence** provided by the parties.

It should be noted that issues related to these new types of goods cannot be considered to be well-known facts.

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