

# CHAPTER I

## INTRODUCTION

### A. Background of the Study

In recent years, the metaverse has emerged as one of the most revolutionary digital innovations in the field of technology.<sup>1</sup> The metaverse is defined as a three-dimensional virtual platform that allows users to create avatars, explore digital spaces, and interact with other users online as if in the real world.<sup>2</sup> Within the metaverse, users not only engage in social interactions but also conduct economic transactions, such as buying, selling, and exchanging virtual assets,<sup>3</sup> including clothing, accessories, and digital artworks, which are traded using virtual currencies or cryptocurrencies.<sup>4</sup> This ecosystem provides opportunities for individuals and businesses to monetize creativity in the virtual world.<sup>5</sup> The transformation towards

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<sup>1</sup> Redha, "Revolusi Dalam Industri Metaverse: Mengubah Dunia Digital," Biro Penjamuan Mutu dan Informasi Digital Universitas Medan Arena, 2024, <https://bpmid.uma.ac.id/revolusi-dalam-industri-metaverse-mengubah-dunia-digital/>. accessed on Januari 06, 2025, at 22.20 WIB.

<sup>2</sup> See some of them Amina Almarzouqi, Ahmad Aburayya, and Said A. Salloum, "Prediction of User's Intention to Use Metaverse System in Medical Education: A Hybrid SEM-ML Learning Approach," *IEEE Access* 10 (2022): p.43421, <https://doi.org/10.1109/ACCESS.2022.3169285>; Benny Aprial, "Identifikasi Metaverse dalam Pembelajaran Penjas," in *Universalisme Dunia Metaverse* (Tulungagung: Akademia Pustaka, 2022), p.158, [www.akademiapustaka.com](http://www.akademiapustaka.com); Chris Collins, "Looking to the Future: Higher Education in the Metaverse," *Educause Review* 43, No. 5 (2008): p.51, <https://er.educause.edu/articles/2008/9/looking-to-the-future-higher-education-in-the-metaverse>.

<sup>3</sup> Desy Maritha, "Ekonomi Digital," *Jurnal Transformasi Administrasi* 13, No. 01 (2023): p.4, <https://doi.org/10.56196/jta.v13i01.249>.

<sup>4</sup> Billa Ratuwibawa Nyimasmukti, Mustika Setianingrum Wijayanti, and Dewi Bella Juniarti, "Hak Kebendaan Dan Keabsahan Perjanjian Kebendaan Virtual Land Di Dalam Metaverse Ditinjau Berdasarkan KUHPerdara (Virtual Land's Material Rights and The Legality of The Virtual Land Agreement in Metaverse Reviewed Under Indonesian Civil Code)," *Majalah Hukum Nasional* 52, No. 2 (2022): p.272, <https://doi.org/10.33331/mhn.v52i2.176>.

<sup>5</sup> Yogesh K. Dwivedi et al., "Metaverse beyond the Hype: Multidisciplinary Perspectives on Emerging Challenges, Opportunities, and Agenda for Research, Practice and Policy," *International Journal of Information Management* 66, No. July (2022): p.102542, <https://doi.org/10.1016/j.ijinfomgt.2022.102542>.

a digital ecosystem reliant on virtual currencies and digital asset transactions creates new dynamics in business, while also presenting novel challenges regarding intellectual property protection, particularly trademarks.

Metaverse platforms such as Roblox have become some of the most popular media.<sup>6</sup> With over 380 million active monthly users in 2024, 58% of whom are under the age of 16,<sup>7</sup> Roblox provides a space for users to buy and sell virtual items such as avatar clothing and accessories.<sup>8</sup> However, the practice of using visual representations of well-known marks without authorization on this platform raises legal issues concerning trademark protection in the digital realm. This phenomenon has led major brands such as Gucci, Nike, and Ralph Lauren to leverage Roblox as a new marketing channel by selling official virtual products.<sup>9</sup> A notable example is the Gucci Garden collection, released in 2021,<sup>10</sup> which generated virtual items resold by users for prices up to \$4,115.<sup>11</sup> This situation highlights the importance of trademark protection in the metaverse ecosystem, particularly because

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<sup>6</sup> Tivani Yulastika, Mayasari, and Ana Fitriana Poerana, "Motif Penggunaan Game Online Roblox Pada Anak Usia Sekolah," *Jurnal Ilmiah Wahana Pendidikan* 9, No. 9 (2023): p. 364, <https://doi.org/https://doi.org/10.5281/zenodo.7953027>.

<sup>7</sup> Brian Dean, "Roblox User Stats: How Many People Play Roblox in 2023?," Backlinko, <https://backlinko.com/roblox-users>, accessed on September 26, 2024, at 9.39 WIB.

<sup>8</sup> Bang, "Apa Itu Roblox? Panduan Lengkap Untuk Pemula," Fantech, 2023, [https://fantech.id/apa-itu-roblox-panduan-lengkap-untuk-pemula/?srsltid=AfmBOoqdCmX5a8HLk3OGJy\\_BjqfrERp0Yln18kq1fV1D9gZjaEty-uWM](https://fantech.id/apa-itu-roblox-panduan-lengkap-untuk-pemula/?srsltid=AfmBOoqdCmX5a8HLk3OGJy_BjqfrERp0Yln18kq1fV1D9gZjaEty-uWM), accessed on September 29, 2024, at 9.42 WIB.

<sup>9</sup> Danial Ibrahim, "Roblox Metaverse: Building the Future of Virtual Worlds," Digital Twin Insider, 2022, <https://digitaltwininsider.com/2022/11/21/roblox-metaverse/>, accessed on September 30, 2024, at 11.20 WIB.

<sup>10</sup> "Gucci Gaming on Roblox," Gucci, [https://www.gucci.com/us/en/stories/article/gucci-gaming-roblox?srsltid=AfmBOoq02sjP5-Hk36VgOqyyS5RBPczOEShlrt\\_IKsAc08WXM8O6utNI](https://www.gucci.com/us/en/stories/article/gucci-gaming-roblox?srsltid=AfmBOoq02sjP5-Hk36VgOqyyS5RBPczOEShlrt_IKsAc08WXM8O6utNI), accessed on September 30, 2024, at 10.23 WIB.

<sup>11</sup> Mario Abad, "Gucci's Virtual Bag Sold for More on Roblox Than IRL," Paper, 2021, <https://www.papermag.com/gucci-bag-roblox#rebelltitem3>, accessed on September 29, 2024, at 9.13 WIB.

trademarks not only serve as product identifiers but also as intellectual property assets that must maintain their exclusivity and value in the virtual world.

In this context, it is essential to understand the basic concept of a trademark and its strategic role in intellectual property protection, both in the real world and in the digital realm. A trademark functions as a symbol or sign that can consist of a name, term, image, logo, icon, design, or a combination of these elements, which play a crucial role in distinguishing goods or services.<sup>12</sup> Article 1, paragraph 1 of Trademarks Act No. 20 of 2016 defines a trademark as:

“A trademark is a sign that can be represented graphically in the form of an image, logo, name, word, letter, number, color arrangement, in two-dimensional and/or three-dimensional form, sound, hologram, or a combination of two or more of these elements to distinguish goods and/or services produced by individuals or legal entities in the trade of goods and/or services.”

From a legal perspective, a trademark primarily functions as a distinguishing sign that helps consumers identify the origin of a particular good or service in the market (Usanti in Balqis, 2021). In addition, trademarks play a crucial role in ensuring product quality, protecting a company's reputation, and granting exclusive rights to the owner.<sup>13</sup> In both physical and digital trade, trademarks establish product identity, enhance consumer trust,<sup>14</sup> and provide a legal basis for the owner to take action against infringement or unauthorized use.<sup>15</sup> However, the development of

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<sup>12</sup> Dwi Suryahartati and Nelli Herlina, *Buku Ajar Hukum Kekayaan Intelektual* (Jambi: UNJA Publisher, 2022). p.74.

<sup>13</sup> Maya Ruhtiani, Yuris Tri Naili, and Hesti Ayu Wahyuni, “Perlindungan Hukum Terhadap Merek Dagang Di Metaverse Berdasarkan Perspektif Hak Kekayaan Intelektual Maya,” *Journal of Law, Economics, and English* 4, No. 2 (2022): p.20, <http://ejournal.uhb.ac.id/index.php/J-LEE/issue/archive>.

<sup>14</sup> Maria Isabel Clarissa and Lena Ellitan, “Peran Brand Equity Dan Kepuasan Pelanggan Dalam Membangun Brand Loyalty,” *Jurnal Cendekia Ilmiah* 2, No. 2 (2023): p.251.

<sup>15</sup> Raisya Hasna Desiani, Rika Ratna Permata, and Enni Soerjati Priowirjanto, “Studi Komparasi Perlindungan Merek Terkenal Dalam Metaverse Berdasarkan Hukum Merek Indonesia Dan Amerika Serikat,” *COMSERVA : Jurnal Penelitian Dan Pengabdian Masyarakat* 3, No. 09 (2024): p.3591, <https://doi.org/10.59141/comserva.v3i09.1141>.

technology and digital commerce presents new challenges in safeguarding exclusive trademark rights in the virtual world, such as the metaverse. In this digital space, trademarks become valuable assets that need to be protected from counterfeiting and unauthorized use.

With the advancement of digital technology and the emergence of metaverse platforms like Roblox, trademark protection, especially for well-known marks, faces new challenges.<sup>16</sup> A well-known mark is a sign widely recognized by the public and holds significant commercial value, necessitating strong legal protection.<sup>17</sup> In Indonesian law, Ministerial Decree No. M-03-HC.02.01 of 1991 defines a well-known marks as a trade mark that is widely recognized both domestically and internationally. According to Article 21, paragraph (1) letters b and c of Trademarks Act No. 20 of 2016, well-known marks are granted special protection even if they are not registered, to prevent misuse that harms the trademark's reputation. However, the presence of the metaverse blurs the line between the physical and digital worlds, enabling virtual goods that imitate well-known marks to be created and sold without license.<sup>18</sup> Platforms like Roblox highlight how this shift presents new challenges in trademark protection in the digital world.

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<sup>16</sup> Svetlana Ilnitskaya, "Brand Protection in the Metaverse: What Brands Need to Know," Corsearch, 2022, <https://corsearch.com/content-library/blog/brand-protection-in-the-metaverse-what-brands-need-to-know/>, accessed on September 29, 2024, at 9.21 WIB.

<sup>17</sup> Ahmad Yakub Sukro, "Perlindungan Hukum Terhadap Merek Dagang Terkenal Atas Tindakan Passing Off Pada Praktek Persaingan Usaha," *Syiar Hukum Jurnal Ilmu Hukum* 16, No. 1: p.100, <https://doi.org/https://doi.org/10.29313/sh.v16i1.5130>.

<sup>18</sup> ALMT Legal, "Metaverse, NFTs, and Intellectual Property Rights: What You Need to Know," Lexology, 2021, <https://www.lexology.com/library/detail.aspx?g=acde121f-a075-4198-8b8f-f1f4c6d4952a>, accessed on September 26, 2024, at 8.11 WIB.

Roblox is a tangible example of metaverse utilization in economic and social activities.<sup>19</sup> Launched in 2006, this platform allows users to build virtual worlds, create, and trade digital goods<sup>20</sup> through user-generated content (UGC) features.<sup>21</sup> Roblox fosters user creativity and global collaboration,<sup>22</sup> attracting millions of people while opening up brand expansion opportunities in the virtual world. The platform also creates economic opportunities through the trade of digital goods using in-game currency, Robux,<sup>23</sup> which can be used to purchase items and accessories.<sup>24</sup> While providing significant economic opportunities, this ecosystem also presents new challenges in trademark protection, especially concerning the unauthorized use of well-known marks in the virtual world.

On digital platforms like Roblox, trademarks play a crucial role in protecting virtual products from counterfeiting and copyright infringement.<sup>25</sup> As the commercialization of digital goods increases, legal protection of intellectual property becomes even more important,<sup>26</sup> well-known marks participating in the

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<sup>19</sup> Jining Han, Geping Liu, and Yuxin Gao, "Learners in the Metaverse: A Systematic Review on the Use of Roblox in Learning," *Education Sciences* 13, No. 3 (2023): p.2, <https://doi.org/10.3390/educsci13030296>.

<sup>20</sup> "Apa Itu Roblox?," Global Prestasi School, <https://globalprestasi.sch.id/id/news-event/apa-itu-roblox/>, accessed on September 24, 2024, at 12.03 WIB.

<sup>21</sup> "Roblox: User-Generated Gaming," App Economy Insights, <https://www.appconomyinsights.com/p/roblox-user-generated-gaming>, accessed on September 24, 2024, at 12.25 WIB.

<sup>22</sup> Galih, "Kreator Roblox: Menciptakan Dunia Virtual Dan Komunitas Yang Interaktif," Hybrid, <https://hybrid.co.id/post/kreator-roblox/>, accessed on September 26, 2024, at 11.47 WIB.

<sup>23</sup> "Roblox Metaverse: Dunia Virtual Baru Dengan Segala Kemungkinannya," Plisio, <https://plisio.net/id/blog/roblox-metaverse>, accessed on September 24, 2024, at 8.33 WIB.

<sup>24</sup> "Roblox Checklist," SWGfL, <https://swgfl.org.uk/assets/documents/roblox-checklist-new.pdf>, accessed on September 24, 2024, at 9.48 WIB.

<sup>25</sup> "Intellectual Property & the Metaverse: How Do I Protect My Brand Identity in the Virtual World?," FGvW, <https://www.fgvw.de/en/news/archive-2023/intellectual-property-the-metaverse-how-do-i-protect-my-brand-identity-in-the-virtual-world>, accessed on September 26, 2024, at 7.22 WIB.

<sup>26</sup> Hasna Desiani, Ratna Permata, and Soerjati Priowirjanto, *Op. Cit.*, p.3584.

metaverse, including on Roblox, must ensure their products are protected to remain authentic and not be misused. In Indonesian law, the criteria for well-known marks are regulated under Article 18 of the Minister of Law and Human Rights Regulation No. 67 of 2016, which assesses public recognition, geographic coverage, and promotional investment. Brands like Gucci and Nike that appear on Roblox could be considered to meet the criteria for well-known marks based on their global recognition. However, in Indonesian regulation, the protection of virtual trademarks still requires adjustment. Furthermore, Roblox as a digital platform is protected by copyright, meaning potential conflicts between trademark protection and copyright in the virtual world need to be addressed to avoid overlapping regulations.

At the international level, the protection of well-known marks is governed by various legal instruments, such as the Paris Convention and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). Article 6bis of the Paris Convention<sup>27</sup> provides protection for well-known marks by prohibiting the registration or use of trademarks that could cause confusion, even if the trademark is not locally registered in the member country. Meanwhile, under the TRIPS Agreement, Articles 16(2) and (3)<sup>28</sup> expand the protection of well-known marks, including for goods or services that are not similar, as outlined in Annex 1C of the document forming this agreement. These provisions aim to prevent harm to the reputation of well-known marks due to unauthorized use and provide broader

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<sup>27</sup> Hafid Zakariya and Amir Junaidi, "Protection Intellectual Property To Well-Known Marks In Indonesia" 10, No. 8 (2021): p.1.

<sup>28</sup> "The Agreement on Trade Related Aspects of Intellectual Property Rights," [https://www.wto.org/english/docs\\_e/legal\\_e/27-trips.pdf](https://www.wto.org/english/docs_e/legal_e/27-trips.pdf).

rights to trademark owners to protect their marks from infringement in various sectors.

However, although international instruments such as the Paris Convention and the TRIPS Agreement provide protection for well-known marks in the physical world, different challenges arise in the digital space, such as the metaverse. On platforms like Roblox, there is an intersection between trademark rights and copyright, as users often create virtual items that resemble well-known marks without permission. While these items may be considered creative works that are protected, the use of trademark elements without the owner's consent could potentially infringe upon trademark rights. In the digital realm, trademarks play a crucial role in protecting valuable virtual goods,<sup>29</sup> such as digital clothing and avatar accessories,<sup>30</sup> from counterfeiting and unauthorized use.<sup>31</sup> Trademark counterfeiting, as regulated under Trademarks Act No. 20 of 2016, occurs when a third party uses a trademark that resembles a registered trademark without permission, thereby misleading consumers. In the virtual space, this infringement takes place when users create and sell digital items that resemble the original products of well-known marks. Additionally, trademark licensing violations, as regulated under Article 42 of the Trademark Act, may also occur if the exclusive rights of the trademark owner are exploited without consent. Without adequate legal

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<sup>29</sup> “Trademark Rights in the Digital Age: AI and NFTs,” CMS Law-Now, 2024, <https://cms-lawnow.com/en/ealerts/2024/09/trademark-rights-in-the-digital-age-ai-and-nfts>, accessed on September 26, 2024, at 7.45 WIB.

<sup>30</sup> Clarissa and Ellitan, *Loc. Cit.*

<sup>31</sup> Kimiko Auguchiro Putri Samudra, Tasya Safiranita, and Rika Ratna Permata, “Unauthorized Use of Famous Brands In Virtual Products of The Metaverse World In The Perspective of Brand Law And Technology Law In Indonesia,” *Jurnal Indonesia Sosial Sains* 4, No. 03 (2023): p.248, <https://doi.org/10.59141/jiss.v4i03.796>.

protection, virtual goods in the metaverse are at risk of unfair competition, intellectual property infringements,<sup>32</sup> and harm to the trademark owner's reputation and revenue, while also creating confusion among consumers regarding the authenticity of virtual products on digital platforms.

The Indonesian legal system faces challenges in adapting trademark regulations to virtual goods in the metaverse,<sup>33</sup> which hold economic value despite lacking physical form.<sup>34</sup> A notable case illustrating this issue is *Hermès v. MetaBirkin*,<sup>35</sup> in which digital artist Mason Rothschild sold virtual handbags resembling the Birkin design without license<sup>36</sup> generating significant profits through the metaverse platform.<sup>37</sup> The unauthorized use of a well-known mark undermines the distinctiveness of the brand and creates consumer confusion, highlighting the urgent need for stronger legal protections to prevent trademark infringements in digital environments.<sup>38</sup>

Under Indonesian regulation, trademark infringements such as those in the *Hermès v. MetaBirkin* case may fall under Article 83(1) of Trademarks Act No. 20 of 2016, which prohibits the unauthorized use of trademarks that result in harm.

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<sup>32</sup> Ruhtiani, Naili, and Wahyuni, *Op. Cit*, p.17.

<sup>33</sup> Dewi Ambarwati, "Urgensi Pembaharuan Hukum Di Era 'Metaverse' Dalam Perspektif Hukum Progresif," *DIALEKTIKA: Jurnal Ekonomi Dan Ilmu Sosial* 7, No. 2 (2022): p.152, <https://doi.org/10.36636/dialektika.v7i2.1306>.

<sup>34</sup> Ujang Badru Jaman, Galuh Ratna Putri, and Tiara Azzahra Anzani, "Urgensi Perlindungan Hukum Terhadap Hak Cipta Karya Digital," *Jurnal Rechten : Riset Hukum Dan Hak Asasi Manusia* 3, No. 1 (2021): p.10, <https://doi.org/10.52005/rechten.v3i1.22>.

<sup>35</sup> Ioanna Lapatoura, "From Hermes v Rothschild to Vegap v Mango: An EU Analysis on Fair Metaverse Uses of Digitised IP," 2024: p.1.

<sup>36</sup> *Ibid*.

<sup>37</sup> Simon Keevey-Kothari and Roger Lush, "A Tale of Bags to Riches in the Metaverse: Hermes, Its Trade Mark Rights and Infringing NFTs," Carpmals & Ransford, <https://www.carpmaels.com/a-tale-of-bags-to-riches-in-the-metaverse-hermes-its-trade-mark-rights-and-infringing-nfts/>, accessed on September 26, 2024, at 14.15 WIB.

<sup>38</sup> Putri Samudra, Safiranita, and Ratna Permata, *Op. Cit*, p.253.



Additionally, Article 100(1) of the Trademarks Act provides for criminal sanctions against parties that use registered trademarks without lawful rights.<sup>39</sup> Virtual goods on platforms like Roblox frequently resemble well-known marks without authorization, potentially harming brand owners such as Eiger, Indomie, or SilverQueen. Such virtual products pose risks to brand reputation and integrity, while also fostering unfair competition and consumer confusion.<sup>40</sup>

This challenge creates legal uncertainty in the application of Trademarks Act No. 20 of 2016 to trademark use in digital spaces, potentially disadvantaging trademark owners on digital platforms such as the metaverse. The legislation primarily focuses on trademark protection in the physical world, while virtual goods in digital environments require a distinct legal approach. The lack of clear regulations on trademark protection in digital spaces results in legal loopholes that facilitate infringement. Without firm regulatory measures, well-known Indonesian trademarks risk inadequate protection in the metaverse.

Thus, based on the background explanation above, the researcher is interested in further examining this issue in a thesis entitled **The Use of Well-Known Marks in Roblox: Perspective on Indonesian Trademark Act.**

## **B. Research Questions**

Based on the aforementioned background of the problem, the researcher will examine the following issues in the study:

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<sup>39</sup> *Ibid.* p.255.

<sup>40</sup> Hasna Desiani, Ratna Permata, and Soerjati Priowirjanto, *Op. Cit.* p.3588.

1. How is the regulation governing the use of well-known marks on Metaverse platforms established under Indonesian law?
2. What forms of legal protection are provided for the use of well-known marks within Roblox in accordance with the Trademark Act in Indonesia?

### **C. Objectives of the Study**

This research aims to:

1. To analyze the regulation governing the use of well-known marks on Metaverse platforms under Indonesian legislation, with a focus on Trademarks Act Number 20 of 2016. This study aims to examine the application of trademark law in providing protection for well-known marks in digital environments such as the Metaverse.
2. To examine the forms of preventive and repressive legal protection provided by Trademarks Act Number 20 of 2016 regarding the use of well-known marks on virtual goods in Roblox, and to explore the legal challenges that arise in the application of these regulations in the digital world.

### **D. Significance of the Study**

This research is expected to provide several significant benefits, including:

1. Theoretical Benefits

This study is intended to enhance the scholarly discourse regarding trademark protection law in the digital context, particularly in relation to the use of well-known marks on metaverse platforms such as Roblox. It is further

expected that this research will contribute new perspectives on the implementation of the Indonesian Trademark Act within the framework of virtual goods, thereby establishing a foundation for subsequent legal studies focused on intellectual property protection in the digital era.

## 2. Practical Benefits

This research aspires to function as an informative reference for its audience and to advocate for the development of trademark protection on metaverse platforms, specifically on Roblox. Additionally, it is expected to be of substantial benefit to owners of well-known marks operating within metaverse platforms like Roblox, enhancing their understanding of the legal risks and strategies for trademark protection in the digital landscape. This study may also provide valuable insights for law students and academics in Indonesia as they explore the challenges of trademark protection in the digital era.

## **E. Conceptual Framework**

To establish a clear and focused scope for the discussion in this thesis, it is essential to clarify the following key concepts:

### 1. Well-Known Mark

A well-known mark is defined in the Decree of the Minister of the Republic of Indonesia No. M-03-HC.02.01 of 1991 as a trademark that is generally known and used on goods traded by an individual or entity, both

within Indonesia and abroad.<sup>41</sup> According to Trademarks Act Number 20 of 2016, a well-known mark receives special protection even if it is not formally registered, particularly to prevent the use that could harm its reputation.<sup>42</sup>

A well-known mark is also defined as a trademark that is widely recognized by the public due to its association with certain goods or services. Its evaluation is based on several factors, including the level of public recognition, duration and scope of use, related publicity, the number of international trademark registrations, the trademark owner's efforts to protect it from imitators, and the economic value of the trademark.<sup>43</sup> In the context of the Roblox game, many well-known marks may be used in digital content creations by users, potentially leading to infringements on the intellectual property rights of the trademark owners.

## 2. Metaverse

The metaverse is a conceptual framework for a virtual world that serves as an immersive digital environment where individuals can interact, work, play, and conduct transactions in a manner that is more realistic than traditional internet experiences.<sup>44</sup> Within the metaverse, various digital platforms, including gaming, social media, and e-commerce, are integrated to create a

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<sup>41</sup> Debora et al., "Ketentuan Hukum Merek Wellknown Mark Dalam Pemberlian Melalui Online," *PKM: Pengabdian Kepada Masyarakat* 03, No. 01 (2022): p.43, <https://ejournal.uhn.ac.id/index.php/pengabdian>.

<sup>42</sup> Lucky Setiawati, "Perlindungan Merek Terkenal Yang Tidak Terdaftar Di Indonesia," *Hukumonline.com*, 2019, <https://www.hukumonline.com/klinik/a/merek-terkenal-yang-tidak-terdaftar-cl5892/>.

<sup>43</sup> "WIPO National Seminar on Intellectual Property (The Protection of Well-Known Trademarks)" (Cairo University, 2003).

<sup>44</sup> Wahyu Firmansyah et al., "Analisis Peluang Dan Tantangan Pemanfaatan Metaverse Sebagai Pemasaran Digital," *Jurnal Penelitian Sistem Informasi* 2, No. 1 (2024): p.2, <https://doi.org/https://doi.org/10.54066/jpsi.v1i4.1409>.

sustainable digital ecosystem.<sup>45</sup> Users can create avatars and engage with other virtual elements as if they were in the real world.<sup>46</sup> This concept encompasses aspects such as augmented reality (AR), virtual reality (VR), blockchain technology, and real-time interactions, often involving transactions utilizing digital assets such as cryptocurrencies or non-fungible tokens (NFTs).<sup>47</sup> In this study, the metaverse is viewed as a broad context in which platforms like Roblox operate, presenting challenges related to the legal protection of well-known marks within this virtual environment.

### 3. Roblox

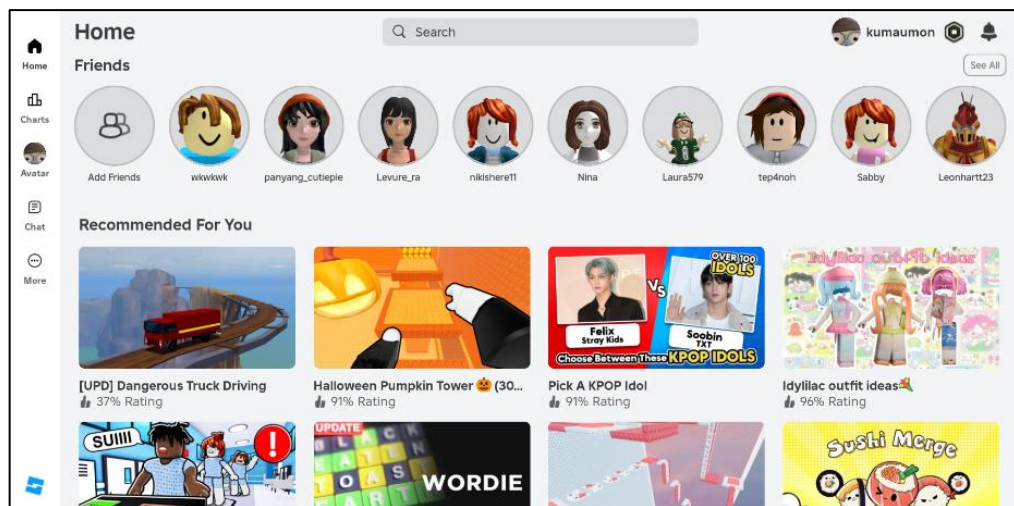


Figure 1.1 Homepage Roblox game

<sup>45</sup> Kaya Kuru, "MetaOmniCity : Toward Immersive Urban Metaverse Cyberspaces Using Smart City Digital Twins," *IEEE Access* 11, March (2023): p.43852, <https://doi.org/10.1109/ACCESS.2023.3272890>.

<sup>46</sup> "Mengenai Metaverse: Pengertian Dan Konsep Di Balik Dunia Virtual Yang Terhubung," BizTech Academy, <https://biztechacademy.id/mengenai-metaverse-pengertian-dan-konsep-di-balik-dunia-virtual-yang-terhubung/>, accessed on September 30, 2024, at 14.14 WIB.

<sup>47</sup> Moayad Aloqaily et al., "Integrating Digital Twin and Advanced Intelligent Technologies to Realize the Metaverse," *ArXiv*, 2022, p.1, <https://doi.org/https://doi.org/10.48550/arXiv.2210.04606>.

Roblox constitutes a significant platform functioning within the metaverse, specifically in the domain of user-generated content (UGC) gaming.<sup>48</sup> Roblox enables users to create and play a variety of games, interact with other users, and even engage in economic transactions within the platform.<sup>49</sup> Users can create content that incorporates various visual elements, including well-known marks, which often have the potential to infringe on copyright or trademark rights.<sup>50</sup> On this platform, content involving the use of well-known marks frequently emerges, both directly and indirectly, leading to challenges related to trademark protection.<sup>51</sup> Understanding the mechanisms within the Roblox platform concerning oversight and regulation of content usage is crucial for analyzing trademark-related issues.

#### 4. Legal Protection of Trademarks in Indonesia

The legal protection of well-known marks in Indonesia is governed by Trademarks Act Number 20 of 2016, which includes two main mechanisms: preventive and repressive.<sup>52</sup> The preventive mechanism aims to prevent the registration of trademarks that are identical or similar to a well-known marks,<sup>53</sup>

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<sup>48</sup> Yubo Kou and Xinning Gui, "Harmful Design in the Metaverse and How to Mitigate It : A Case Study of User-Generated Virtual Worlds on Roblox," *Designing Interactive Systems Conference (DIS '23)*, 2023, p.175, <https://doi.org/10.1145/3563657.3595960>.

<sup>49</sup> "Roblox Ketentuan Penggunaan," Roblox Help Center, <https://en.help.roblox.com/hc/id/articles/115004647846-Roblox-Ketentuan-Penggunaan>, accessed on September 30, 2024, at 10.45 WIB.

<sup>50</sup> Muhammad Asrul Maulana and Niken Nurcahyani, "Tinjauan Hukum Hak Atas Kekayaan Intelektual Pada Platform Roblox," *Jurnal Analisis Hukum* 6, No. 1 (2023): p.82, <https://doi.org/10.38043/jah.v6i1.4205>.

<sup>51</sup> *Ibid*, p.81.

<sup>52</sup> Callista Hans and Chistine S T Kansil, "Analisis Bentuk Perlindungan Hukum Terhadap Penggunaan Merek Pada Kelas Barang Dan Jasa Yang Sama," *UNES Law Review* 6, No. 2 (2023): 4165, <https://doi.org/https://doi.org/10.31933/unesrev.v6i2>.

<sup>53</sup> Dwi Seno Wijanarko and Slamet Pribadi, "Perlindungan Hukum Preventif Terhadap Merek Dagang Di Indonesia Berdasarkan Undang-Undang Nomor 20 Tahun 2016 Tentang Merek Dan Indikasi Geografis," *Jurnal Penelitian Universitas Kuningan* 13, No. 2 (2022): 196.

as outlined in Article 21 paragraph (1), which prohibits unauthorized use prior to registration. Well-known marks also receive additional protection against imitation, particularly for goods or services of the same kind. Meanwhile, the repressive mechanism grants the owner of a well-known marks the right to file a lawsuit for infringement,<sup>54</sup> as stipulated in Article 83 paragraph (2), allowing the owner to sue infringers who use the trademark without permission. However, on digital platforms such as Roblox, trademark protection challenges become more complex, as users can create virtual content that resembles well-known marks, often outside the scope of traditional regulations. Therefore, while the Trademarks Act provides a legal foundation, its application in the digital world requires further adjustments to address the new dynamics of the metaverse.

## **F. Theoretical Framework**

To attain the intended research objectives, it is essential to select appropriate theoretical frameworks as analytical instruments for the issues under study. The following theories will be utilized by the researcher.

### **1. The Legal Protection Theory**

The Legal Protection Theory emphasizes the importance of effective legal protection for the rights of individuals and entities, including intellectual property rights such as trademarks. Sajipto Rahardjo (as cited in Daffa Arya

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<sup>54</sup> Wahyudi Lesmana, “Perlindungan Hukum Terhadap Pemegang Hak Atas Merek Helm Ink Ditinjau Dari Undang-Undang Nomor 20 Tahun 2016 Tentang Merek Dan Indikasi Geografis” (Universitas Pattimura, 2019), 48.

Prayoga et al., 2023) states that the purpose of legal protection is to regulate public interests, minimize conflicts, and ensure that rights established by law can be fairly enjoyed by all parties. In Indonesia, the concept of legal protection not only safeguards individual interests but also embodies the principles of the Pancasila State Law (*Negara Hukum Pancasila*), where law plays a central role in upholding human dignity and balancing various interests within society.<sup>55</sup>

In this research, the Legal Protection Theory will be employed to examine the protection of well-known marks in digital platforms, particularly in addressing the use or misuse of trademarks on Roblox. Legal protection in Indonesia is regulated by the Trademark Act, which includes both preventive and repressive measures.<sup>56</sup> Preventive protection aims to prevent violations by establishing clear limitations, while repressive protection serves as a sanction, such as fines or penalties, to address violations that have already occurred. The provisions concerning the protection of well-known marks are outlined in Article 21, paragraph (1) of Trademarks Act No. 20 of 2016, which safeguards well-known marks from unauthorized use prior to the registration process.<sup>57</sup> Furthermore, well-known marks associated with similar goods or services receive additional protection against imitation and infringement. Additionally, the repressive mechanism enables the owners of well-known

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<sup>55</sup> I Dewa Gede Atmadja and I Nyoman Putu Budiarta, *Teori-Teori Hukum*, Setara Press (Malang: Setara Press, 2018). p.166.

<sup>56</sup> *Ibid.*

<sup>57</sup> *Ibid.*



marks to file lawsuits in the event their rights are violated.<sup>58</sup> Article 83, paragraph (2) provides the legal basis for owners to pursue claims against infringers who utilize well-known marks without permission.<sup>59</sup>

Accordingly, legal protection functions to uphold individual rights and to ensure that the law is applied with professional integrity, thereby fostering social order, security, and justice. This study aims to evaluate whether current legal protections are adequate in the digital environment and to identify any potential legal gaps that may require to be addressed to optimize the protection of well-known marks.

## 2. The Property Rights Theory

The Property Rights Theory emphasizes that clearly defined and legally protected ownership serves as a major foundation for economic efficiency and the optimal utilization of resources.<sup>60</sup> Ronald Coase, through his "Coase Theorem," asserts that well-defined property rights led to efficient outcomes even in the presence of externalities, as individuals or entities have the incentive to invest in and manage resources productively.<sup>61</sup> Thus, property rights not only safeguard individual interests but also drive economic growth and foster innovation beneficial to society.

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<sup>58</sup> Lesmana, "Perlindungan Hukum Terhadap Pemegang Hak Atas Merek Helm Ink Ditinjau Dari Undang-Undang Nomor 20 Tahun 2016 Tentang Merek Dan Indikasi Geografis." p.48.

<sup>59</sup> *Ibid.* p.43.

<sup>60</sup> Adam Mossoff, "Trademark As A Property Right," *Kentucky Law Journal* 107, No. 1 (2018): p.38.

<sup>61</sup> Jongwook Kim and Joseph T. Mahoney, "Property Rights Theory, Transaction Costs Theory, and Agency Theory: An Organizational Economics Approach to Strategic Management," *Managerial and Decision Economics* 26, No. 4 (2005): p.226, <https://doi.org/10.1002/mde.1218>.

This principle is particularly relevant to trademark rights, where similar protections are essential. Trademarks, as high-value intangible assets, require strong legal safeguards to function effectively within the marketplace.<sup>62</sup> As distinctive identifiers of products or services, trademarks represent a specific form of property right that secures the interests of the owner.<sup>63</sup> Legal scholars have argued that trademark protection incentivizes companies to invest in brand building, foster strong reputations, and encourage healthy competition and innovation within the market. These outcomes ultimately benefit consumers by expanding access to high-quality products and diverse options.<sup>64</sup> In the digital age, especially within virtual environments like the metaverse, Property Rights Theory provides a vital framework for protecting trademarks across both physical and digital spaces, reducing legal uncertainty, and preventing misuse that could harm the economic value and integrity of a brand.

### **G. Originality of the Study**

To ensure that this research contains elements of novelty and avoids similarities with previous studies, the researcher has conducted a search of various relevant academic works. The results of this search are summarized in the following table:

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<sup>62</sup> R. Murjiyanto, “Konsep Kepemilikan Hak Atas Merek Di Indonesia (Studi Pergeseran Sistem ‘Deklaratif’ Ke Dalam Sistem ‘Konstitutif’” (Universitas Islam Indonesia, 2016). p.81.

<sup>63</sup> Suryahartati and Herlina. *Loc. Cit.*

<sup>64</sup> Kim and Mahoney, *Loc. Cit.*

Table. 1 Originality of the Study

No.	Author, Year	Title, Method	Findings	Differences
1.	Josep Rafael, Thesis, Legal Studies (Law), Universitas <sup>65</sup>	<p>“Perlindungan Hak Cipta Karya Seni Digital Non-Fungible Token dalam Hukum Kekayaan Intelektual”</p> <p>This research employs a normative method utilizing both a statutory approach and a conceptual approach.</p>	<p>The findings conclude that the position of copyright in digital art works in the form of Non-Fungible Tokens is recognized based on Article 25 of the Electronic Information and Transactions Act (ITE Act). The legal protection afforded by the Copyright Act to the creators of these digital artworks is considered inadequate, as it is primarily based on the declarative principle of copyright, and most creators fail to register their works with the Directorate</p>	<p>The difference lies in the focus, Rafael's research discusses the protection of copyright for digital art works in the form of NFTs, whereas this thesis focuses on the protection of well-known marks on the Roblox platform in accordance with Indonesian Trademark Act. This thesis offers a different perspective by emphasizing trademark protection rather than copyright in the digital realm.</p>

<sup>65</sup> Josep Rafael, “Perlindungan Hak Cipta Karya Seni Digital Non-Fungible Token Dalam Hukum Kekayaan Intelektual” (Universitas Sriwijaya, 2023).

			General of Intellectual Property (DJKI).	
2.	Muhammad Asrul Maulana, Niken Nurcahyani, Journal, Faculty of Law Universitas Muhammadiyah Sidoarjo, 2023. <sup>66</sup>	<p>“Tinjauan Hukum Hak Atas Kekayaan Intelektual Pada Platform Roblox”</p> <p>This research utilizes a normative method with a statutory approach and a conceptual approach.</p>	<p>The research findings indicate the legal relationship of Intellectual Property regarding trademark infringements, rights to Roblox services, rights related to User Generated Content, modification rights, and audience rights. Furthermore, it identifies the legal relationship between users and platform owners in granting perpetual rights and licenses that are non-exclusive and royalty-free.</p>	<p>The difference lies in the analytical focus; their research addresses the legal relationship of intellectual property on the Roblox platform, including licensing and user rights concerning user-generated content. In contrast, this thesis specifically examines the use of well-known marks in Roblox games and its application within the framework of Indonesian Trademark Act, thereby concentrating more on the aspect of well-known marks rather than</p>

<sup>66</sup> Maulana and Nurcahyani, “Tinjauan Hukum Hak Atas Kekayaan Intelektual Pada Platform Roblox.”

				intellectual property in general.
3.	Kimiko Auguchiro Putri Samudra, Tasya Safiranita, Rika Ratna Permata, Journal, Legal Studies (Law), Universitas Padjajaran, 2023. <sup>67</sup>	<p>“Unauthorized Use of Famous Brands in Virtual Products of The Metaverse World in The Perspective of Brand Law and Technology Law in Indonesia”</p> <p>This research employs a normative legal approach using primarily literature or secondary data sources.</p>	<p>The findings reveal that the use of elements of famous brands in the metaverse is regarded as trademark infringement, consistent with trademark violations in the physical world. Consequently, based on the Trademarks and Geographical Indications Act Number 20 of 2016, aligned with the ITE Act, the rights of trademark owners to pursue legal action for the protection of their trademarks remain applicable even when</p>	<p>The difference lies in the specific focus of this research, which does not address the Roblox platform. This thesis will delve deeper into the application of the Trademark Act in Indonesia specifically within the context of virtual games, including the responsibilities of the Roblox platform itself. Additionally, this research discusses the metaverse in general, while the thesis will specifically explore the legal challenges present in Roblox.</p>

<sup>67</sup> Putri Samudra, Safiranita, and Ratna Permata, “Unauthorized Use of Famous Brands In Virtual Products of The Metaverse World In The Perspective of Brand Law And Technology Law In Indonesia.”

			infringements occur in the digital space.	
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Based on the study above, this study seeks to provide an original contribution by specifically examining the protection of well-known marks on the Roblox platform through the application of Indonesia's Trademark Act. Distinct from prior research, which often addresses general aspects of intellectual property or trademark infringement within the metaverse, this study presents a specific focus to well-known marks in digital environments. This approach aims to introduce new perspectives on trademark protection within virtual platforms, thereby enriching the discourse on intellectual property in digital spaces.

## H. Research Methodology

To collect the data and information essential for this study and to achieve the intended objectives, specific methodologies have been implemented. The research methods applied in this study are as follows:

### 1. Type of Research

This study adopts a normative legal research approach, selected due to its suitability for analyzing and evaluating the legal provisions governing the use of well-known marks within the Roblox platform and assessing the practical application of these regulations. Normative legal research facilitates a thorough examination of established legal norms, encompassing statutes and relevant doctrines related to trademarks,<sup>68</sup> thus aiming to

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<sup>68</sup> Sigit Sapto Nugroho, Anik Tri Haryani, and Farkhani, *Metodologi Riset Hukum* (Madiun-Surakarta: Oase Pustaka, 2020). p.39.

understand the legal issues arising from the use of well-known marks in digital environments.

## 2. Research Approach

This study employs several research approaches:

### a. Statute Approach

The statute approach involves examining all relevant laws and regulations pertinent to the legal issues under study. This approach views law as a closed system characterized by:<sup>69</sup> (1) comprehensiveness, meaning that legal norms are logically interconnected; (2) all-inclusiveness, encompassing all legal issues to prevent legal vacuums; and (3) systematic organization, where legal norms are structured and interrelated, forming an integrated legal framework. This approach is used to analyze the provisions of the Trademarks Act Number 20 of 2016 and other relevant regulations, enabling the researcher to assess how existing laws regulate the use of well-known marks and to evaluate compliance and implementation in digital contexts, specifically on the Roblox platform.

### b. Conceptual Approach

This approach is based on various perspectives and doctrines within the field of law. It has been selected to address the legal issues at hand, ensuring alignment between the approach and the identified legal

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<sup>69</sup> Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020). p.56.

questions.<sup>70</sup> This approach is applied to explain and define concepts related to well-known marks and legal protection, allowing the researcher to develop a conceptual framework addressing legal issues associated with the use of well-known marks in digital environments.

#### c. Case Approach

The case approach involves analyzing and reviewing relevant court decisions concerning the issues under study. This approach exclusively references cases that have attained final and binding legal force (*inkracht van gewijsde*).<sup>71</sup> This approach aims to understand how the law is applied in concrete situations, providing critical insights into judicial interpretations of related regulations. Furthermore, this approach evaluates the efficacy of existing laws in addressing and resolving issues similar to those explored in this research.

### 3. Data Collection Methods

The collection of legal materials in this study comprises three primary categories as follows:

#### a. Primary Legal Materials

Primary legal materials are authoritative sources with legal force, consisting of statutes, court rulings, and other official documents.<sup>72</sup> In this research, primary legal materials include:

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<sup>70</sup> *Ibid.* p.57.

<sup>71</sup> *Ibid.*

<sup>72</sup> *Ibid.* p.60.



1. The Indonesian Civil Code (KUHPer)
2. The Trademarks Act Number 20 of 2016
3. Ministry of Law and Human Rights Regulation No. 67 of 2016 on Trademark Registration
4. Ministerial Decree of the Republic of Indonesia No. M-03-HC.02.01 of 1991
5. The Paris Convention for intellectual property protection
6. Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS)

These documents form a vital legal basis for analyzing provisions related to the use of well-known marks in digital platforms such as Roblox.

b. Secondary Legal Materials

Secondary legal materials offer explanations and analyses of primary legal materials.<sup>73</sup> These include legal literature, books, journals, and articles discussing issues surrounding trademark protection in the digital realm. These sources provide context and deepen understanding of relevant legal aspects for this research.

c. Tertiary Legal Materials

Tertiary legal materials provide additional explanations regarding primary and secondary legal materials. They include legal dictionaries, encyclopedias, and other sources that offer context and

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<sup>73</sup> *Ibid.* p.61.

definitions relevant to the research object.<sup>74</sup> The use of tertiary materials aims to enrich understanding of terms and concepts related to the protection of well-known marks on digital platforms and their legal safeguards within Indonesia.

## **I. Systematic Structure of the Thesis**

The structure of this thesis is organized systematically to provide a clear framework of the research flow and structure. This thesis is divided into four (4) chapters, each with specific relevance and purpose, as follows:

**CHAPTER I INTRODUCTION**, this chapter outlines the background of the study, the research question, objectives and significance of the study, focusing on the protection of well-known marks on Roblox based on the Trademark Act. Additionally, it presents the conceptual and theoretical frameworks that underpin this research and explains the research methodology employed to obtain relevant data. Lastly, it includes the structure of the thesis, offering an overview of the research framework.

**CHAPTER II LITERATURE REVIEW**, This chapter discusses the concept of well-known marks in Indonesian law based on Trademarks Act Number 20 of 2016, including definitions, functions, types, as well as rules on protection and infringement. Furthermore, the chapter explores the development of the metaverse as a new digital space and the challenges of trademark protection within it, with emphasis on the Roblox platform as a user-generated content gaming

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<sup>74</sup> *Ibid.* p.62.

ecosystem. Additionally, legal violations affecting the protection of well-known marks in the digital realm are also discussed.

**CHAPTER III DISCUSSIONS,** In this chapter, the author will analyze the application of the Trademark Act on the use of well-known marks in Roblox games. The chapter will identify challenges arising in the application of Trademarks Act to virtual goods, including legal uncertainties in protecting well-known marks in the digital world. The analysis will also cover relevant provisions of the Trademark Act and explore how the law can evolve to protect trademark rights in the digital domain.

**CHAPTER IV CONCLUSION,** This chapter presents conclusions regarding the protection of well-known marks on Roblox based on the Trademark Act, as well as recommendations for improving regulations in Indonesia concerning trademark law on virtual goods in the metaverse. Recommendations for further research on trademark protection in the digital era are also provided.