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THE DISPUTES POWERHOUSE

METAVVERSE DISPUTE RESOLUTION COLLOQUIUM

Applicable Law and Choice of Courts in Metaverse Disputes

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Metaverse – a new international legal environment

Current Private International Law Framework

Key features of Metaverse transactions

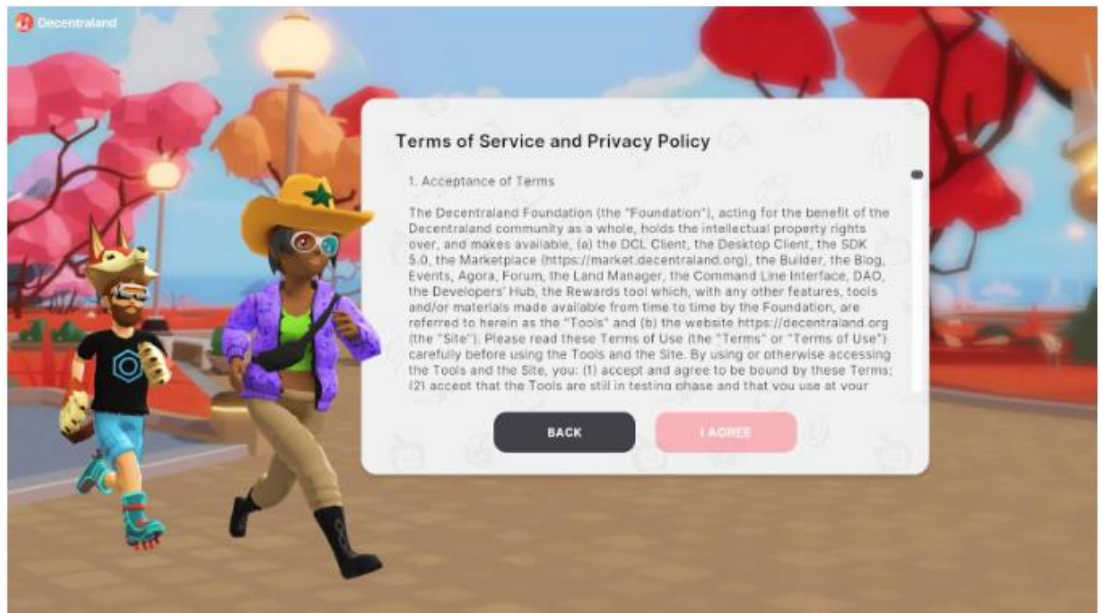
- Who?
- What?
- Where?

What kind of disputes?

Which Court?

Dispute resolution clauses

- Transactions to be distinguished:
 - Between a metaverse and a user
 - Among users



Dispute resolution clauses in smart contracts?



Contract Source Code (Solidity Standard Json-Input format)

File 1 of 15 : mnlthrvld.sol

```
1  // SPDX-License-Identifier: MIT
2
3  /*
4     RTFKT Legal Overview [https://rtfkt.com/LegalOverview]
5     1. RTFKT Platform Terms of Services [Document #1, https://rtfkt.com/tos]
6     2. End Use License Terms
7     A. Digital Collectible Terms (RTFKT-Owned Content) [Document #2-A, https://rtfkt.com/Legal-2A]
8     B. Digital Collectible Terms (Third Party Content) [Document #2-B, https://rtfkt.com/Legal-2B]
9     C. Digital Collectible Limited Commercial Use License Terms (RTFKT-Owned Content) [Document #2-C, https://rtfkt.com/Legal-2C]
10
11    3. Policies or other documentation
12    A. RTFKT Privacy Policy [Document #3-A, https://rtfkt.com/privacy]
13    B. NFT Issuance and Marketing Policy [Document #3-B, https://rtfkt.com/Legal-3B]
14    C. Transfer Fees [Document #3C, https://rtfkt.com/Legal-3C]
15    C. 1. Commercialization Registration [https://rtfkt.typeform.com/to/u671kiRL]
16
17    4. General notices
18    A. Murakami Short Verbiage - User Experience Notice [Document #X-1, https://rtfkt.com/Legal-X1]
19  */
20
21  pragma solidity ^0.8.2;
22
23  import "@openzeppelin/contracts/token/ERC721/ERC721.sol";
24  import "@openzeppelin/contracts/token/ERC721/extensions/ERC721Enumerable.sol";
25  import "@openzeppelin/contracts/token/ERC721/extensions/ERC721URIStorage.sol";
```


Validity of dispute resolution clauses

- In writing, or
- By any other means of communication, as long as the text remains accessible for subsequent reference
 - Art. 3(c) Hague Convention on Choice of Court Agreement (2005)
 - Art. 23(1)(a) Lugano Convention
 - Art. 25(1) Brussel Ibis Regulation

Default jurisdiction ?

- PIL connecting factors
 - Place of defendant's habitual residence, place of business or domicile
 - (Art. 2 Lugano; Art. 4 Brussel Ibis)
 - Place of performance of contracts/transactions
 - (Art. 5(1) Lugano; Art. 7(1) Brussel 1bis)
 - Location of the servers
 - Location of digital assets
 - Registered seat of the metaverse company

Which law?

- Choice of law agreements
 - Valid in principle
 - (Art. 3 Rome I Regulation; Art. 2 Hague Principle on Choice of Law in International Contracts)
- Fallback rules
 - Closest connection (seller or service provider's habitual residence)
 - (Art. 4 Rome I Regulation)
 - Location of servers
 - Location of digital assets

Potential solutions

- At the Private International Law level
 - Courts of claimant's domicile/place of business as subsidiary solution ?
 - Janesh s/o Rajkumar v. Unknown Persons [2022] SGHC 264
 - *Lex fori* as subsidiary solution ?

Action against whom?

- Defendant identified as owner of digital wallet
 - Chainswap Limited vs The Owner of Digital Wallet
0X941A9E3B91E1CC015702B897C512D265FAE88A9, et all (BVI Commercial Court, 15 Mar. 2022)
- Service through NFT Airdrop
 - LCX AG v 1.274M US Dollar Coin et al, No. 156444/2022 (N.Y. Sup. Ct Aug, 22, 2022)
 - [2022] EWHC 1723 (Ch) in D'Aloia v Person Unknown & Others

IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
BRITISH VIRGIN ISLANDS
(COMMERCIAL DIVISION)

Claim No: BVIHC (COM) 2022/0031

BETWEEN:

CHAINSWAP LIMITED

CLAIMANT

AND

- (1) THE OWNER OF DIGITAL WALLET
0X941A9E3B91E1CC015702B897C512D265FAE88A9
- (2) THE OWNER OF DIGITAL WALLET
0XEDA5066780DE29D0DFB54581A707EF6F52D8113
- (3) THE OWNER OF DIGITAL WALLET
0XB63F0D8B9AA0C4E68D5630F54BF6FC6CF2C2AD19
- (4) THE OWNER OF DIGITAL WALLET
0X196593ADE7CC7EDF18981C7A7DBC2E96000004FB
- (5) THE OWNER OF EMAIL ADDRESS:
TRUMANBROUGHTON@GMAIL.COM
- (6) OTHER PERSONS UNKNOWN

DEFENDANTS

Potential solutions

- At the Metaverse Level

Thank you



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