

## Digital Planning Podcast (Season 4, Episode 3): What is The Metaverse?

Speakers: Justin Brown, Jennifer Zegel, and Ross Bruch

Justin Brown:

Welcome to the digital planning podcast. This is Justin and I'm here with Ross and Jen, and we took a little bit of a hiatus over the past couple of months, but we are back and we are very excited to be talking about a topic that is hot and in the news right now, the metaverse. And let's get started with Jen. Can you talk a little bit about what is the metaverse?

Jennifer Zegel:

The metaverse can be thought of as an online virtual world with various interconnected functions and is likely the future of where our digital identities and a portion of our entertainment work and even digital assets may reside. Right now, there is no commonly accepted definition of the metaverse and tech giants, such as meta, formally known as Facebook, Google, Apple, and Microsoft are all vying for definitional ground and platform offerings to dominate this space. While the metaverse is a new term in mainstream vernacular, its origins can actually be traced back to the 1935 short story Pygmalion's Spectacles, which was written by Stanley Weinbaum.

Jennifer Zegel:

Now I view the metaverse as the next evolution of our digital lifestyle and the internet by reshaping user experiences, platforms, and applications, and having companies create a lot of new ways for commoditization. I think of it as providing a vehicle for people to socialize, work and play in avatar form, and the virtual world in the metaverse will also in some ways... Or users will have the option to have that overlap with our physical world by involving augmented reality or virtual reality. Now, the difference between augmented reality is, think about that as a technology that super imposes a computer generated image on a user's view of the real world. So if you're wearing goggles and you can still see a painting in your house, but with the AR glasses, you may be able to see a different dimension of that painting or superposed graphics on that painting. Whereas virtual reality, this is more of an immersive alternative digital experience, where if you put on virtual reality glasses, that painting is now gone unless it's in your virtual world as well, because it's more of an immersion experience and it's not using superposed.

Justin Brown:

So Jen, one of the things that people ask me all the time is, that they understand what the metaverse is, and it's this virtual world where people can interact. But the question people ask me is, why do I want to be in the metaverse? What's the big deal, what's so great about being in it?

Jennifer Zegel:

I mean, I think that's a classic, where the answer is, it depends. I think it depends on what somebody's goals and expectations are. Whether they want to buy virtual real estate or create their own little virtual world. If they want to display their NFTs, if they want to be able to meet people from other countries that they wouldn't normally come across in the real world. There's a lot of different options for those types of interactions and companies are also really getting into the metaverse space and offering real world bonuses or incentives for buying products through those companies in their metaverse shops. So I think it really depends on what the user's goal is, and there can be many.

Justin Brown:

So let's take a step back. So if I want to get into the metaverse, how do I physically do it?

Jennifer Zegel:

So first you have to choose what metaverse you want to go to? One of the most established metaverse worlds is Decentraland and on Decentraland's website, it is self described as a place to create, explore and trade in the first ever virtual world owned by its users. And Decentraland is a software that's actually running on the Ethereum blockchain network and it is incentivized to both a global network of users to operate in a shared virtual world. And to give some economics here, MANA is the token for Decentraland, the cryptocurrency that you need to run on it. And the market cap, according to Yahoo Finance, this month was 1.45 billion dollars. So there is insane amounts of money being pumped into the metaverse by so many different companies that it's becoming a new way to trade and commoditize. And people like to do new things and I think that's a big draw, because it's the new kid on the block.

Ross Bruch:

So let me bring some skepticism to this conversation and ask a few questions and dive in a little bit, because you mentioned real estate before and earlier this year, thinking back in February somebody paid a huge amount, I want to say \$450,000, to be in the real estate next to the rapper, Snoop Dogg in the Decentraland and buy that virtual real estate. Help me understand, what does that actually get me other than bragging rights to my friends to say, my house in this virtual world is next to Snoop Dogg's? Does that guarantee me that I'm going to interact with Snoop Dogg? Do people have to pass by my virtual house to get to Snoop Dogg's, and that's why it's valuable?

Ross Bruch:

That's my first bit of skepticism about this process. The second one, which we can circle back to in a moment is, I love the idea that there's just one login, that I'm Ross, I'm logging in as Ross to the metaverse, to all the metaverses and I'm the same person no matter which metaverse I go to. But where do we have any sign that the different metaverses that you mentioned are going to also talk to each other, and I can go from one to the other without re-logging in? Which I think is one of the attractions to this virtual world. So let's go back to the real estate first, convince me if you can, that you or I want to be next to a celebrity in the virtual world for any reason other than just saying at a party, "Hey, by the way, guess what I bought?"

Jennifer Zegel:

What you read is that the person bought a partial land in the Snoopverse, which is the virtual world, Snoop Dogg is creating in the metaverse The Sandbox, which is also one of the bigger ones. And I'll go back to why somebody may find that important or attractive and beauty is in the eye of the beholder, so I will say that. So different things can have different meanings to other people, but I do want to make one point in that you said you could have one login and go into multiple metaverses, and the technology's not quite there yet. There are what's called digital bridges being built, or attempting to be built to go from one metaverse to the other. But the technology is still in the early stages and in its infancy so we're not quite fully there to be able to have just one user login and go from decentraland into the metaverse, to the other metaverses in The Sandbox.

Jennifer Zegel:

They trade on different cryptocurrencies, and a lot of the metaverses are being built on the Ethereum blockchain. That might not continue to happen in the future because of different gas prices for building on Ethereum. So when you have different metaverses being built on different chains, there's a whole lot of other interoperability issues that come out. So I think in five to 10 years, that could be much more of a common feature, but we're not right there yet. In terms of wanting to be next to Snoop Dogg, aside from bragging rights, it's also important to understand that if you buy virtual worlds in most metaverses, you can either have it public or permissioned, meaning that you could have people anywhere in the world who are also in that metaverse walk by and see the wares that you're touting. If you have an NFT collection, if you do this, if you're displaying other things and fully be able to see that and interact in your own virtual space in the metaverse.

Jennifer Zegel:

But you can also have it more private so that if you wanted to have an after party for a concert, that Snoop Dogg threw in the metaverse, you would need to be invited into his parcels to be able to go in and enjoy that and interact with the people there. So I guess if somebody is next to Snoop Dogg's property, they're hoping they may see him on the metaverse street and become friendly and then be able to get into these more, probably private permission rooms.

Justin Brown:

So let's take this a little further. Let's say that I have bought a parcel of real estate in the Snoopverse next to Snoop. Who am I actually buying that from? Does Snoop own the Snoopverse or is it within Sandbox? Who am I actually paying to get that real estate?

Jennifer Zegel:

I think it could happen a couple of ways. Initially the basic building of a metaverse would be contracting with The Sandbox or Decentraland's to buy those properties, but there can be secondary markets for parcels in virtual space, but each metaverse may have their own rules. Some could prohibit that, some may want you to sell it back to them, some may have the ability in a lot too, to have land for sale on OpenSea, which is like the eBay or Amazon of the blockchain world, where people can interact and trade in those virtual worlds.

Ross Bruch:

I still get caught up in... Going back to NFTs. We recorded an episode on NFTs last year, and some of my skepticism around that was that, there needs to be trust in the provider that if they say they're going to mint a hundred NFTs, then I believe them. And that they're not going to then turn around after they sell the first 100 NFTs, they're going to do the same thing and reprint them, thus making whatever I purchased less valuable. The same is true for virtual real estate that I have to trust the provider that they're not going to create an infinite amount of virtual real estate, because if they do, my property that I purchased becomes less valuable. And I think that this is where I get a little bit caught up in the level of trust. That being said, it's clear that very significant dollar amounts are being spent in the metaverse already.

Ross Bruch:

And that's relevant to team e-planners because their clients may own this. It's one more thing to ask about, it's one more thing to have to figure out how to own it, how to transfer it? What happens at the death of the owner? Most importantly, in my view, what are the license agreement rights and capabilities when that person purchases that real...? Or, I'm sorry, the virtual property. Those are the questions, very similar to what we experienced at NFTs that come to mind when we're talking about this. As a slight aside, going back to, Jen, you mentioned perhaps putting on some sort of AR goggles so that I can see different things in the world. If you guys remember VH1's popup video? Back in the nineties, they would play a music video and in order to make it a little bit more interesting for the audience, they would have fun facts that pop up all the time.

Ross Bruch:

If that's the world that we're creating with these special goggles, I'm all in, I'm more than happy to go buy a painting and click on my glasses and have it tell me a few additional facts that I would've otherwise not known. But at the same time, I can also... Another use. I'm terrible with names. I'm terrible with names at cocktail parties. Boy, wouldn't it be great if I had those goggles that had face recognition that every time it whispered in my ear, "Oh, by the way, this is that person that you met five years ago and his name is Bob."

Ross Bruch:

That would be so valuable to me, but that's also kind of creepy because then if I have facial recognition of everybody at that party, I know that they're also... They know who I am and it loses some of that... There's privacy aspects out the wazoo here. And I know that we're going off a tangent because this is a planning, not a privacy podcast, but still there's just from that little

bit, it's evident that there's so much that's not been properly thought through in terms of the legality and rights and obligations and ownership. So much for attorneys to be mindful of when they talk to their clients about the metaverse or even any digital asset.

Jennifer Zegel:

I do remember the VH1 popup videos. And I think that is a great analogy for some aspects of using AR glasses and having those types of abilities, or people coding that type of ability into their own virtual worlds and seeing different things or having fun facts about NFTs that they may be displaying on the walls in their virtual space. But while this isn't a privacy podcast, I think some of the privacy rights, especially the fact that there's really no post-mortem privacy rights, except with some celebrity and artist protections in the US, with respect to your avatar and your likeness, or even your voice, because you could have recordings and speak with people that can be recorded for all time, living in this metaverse. And what are we going to do with all of that data and potential commoditization of that, and who has the rights to do that?

Jennifer Zegel:

Or wouldn't an executor of an estate have a right to try to block somebody from using somebody's avatar and likeness and voice from recordings in the metaverse. And that also gets back into, well, were they doing it in a public space? Is there a metaverse portion where they were public? Was it more permissioned? And the mind can just go down a very deep digital rabbit hole when you start to think about all of these things that aren't being policed, haven't been fully thought about from this perspective. Of course, with the other just inherent issues with technology, they're going to become bugs and coding issues. And we've already seen, you talked a little bit about it on the NFT podcast, of NFTs suddenly becoming derailed because some of the full components of an NFT get compromised.

Jennifer Zegel:

And I think we're going to see the same things. I'm sure we will have virtual land be taken over by hackers, and that's going to have a whole lot of connotations and it disrupts some planning considerations, or where do you go when that happens? Can you go anywhere? Is there a third party that can boost this and right now, not really. So it's very interesting.

Justin Brown:

When I'm thinking about the metaverse, I'm putting my estate planners hat on and trying to think about what assets does somebody own and how can they transfer them either during their life or at their death? Going back to that piece of virtual real estate next to Snoop, what exactly do I own and how is there a record of what I own? And I guess I'm comparing this to regular real estate where there's a deed and you can go to the local office and see a copy of that deed that says exactly what you own. And if you own it with your spouse, maybe you own as tenants by the entireties or joint tenancy with right of survivorship or tenants in common. But how does that work in the metaverse?

Jennifer Zegel:

So the metaverses that are run on a blockchain, because not all of them are. I mean, we have Second Life and some of these gaming worlds that have already created metaverses that aren't on blockchain networks. But for blockchain based metaverse virtual real estate, the ownership is memorialized in the blockchain ledger, and so that's where that information resides. However, there's no ability right now through that type of ledger to have a virtual property with joint tenants, rights of survivorship or tenants in common. And to the extent that somebody would want to do that and buy virtual and together you would need secondary agreements or trusts created with all of those different types of provisions.

Justin Brown:

So let's call it probate property in the name of a decedent. So if that's the case, how does my executor gain access to my virtual real estate? And then how does my executor sell this virtual real estate? Does the executor have to be in the metaverse in order

to do it, do they have to enter the metaverse in order to sell this virtual real estate? Can it be done outside of the metaverse, what is the process to access and to sell property?

Jennifer Zegel:

With respect to accessing and transferring virtual reality that's owned and held in the metaverse. It's very similar to how private crypto currencies are custodied by people who aren't using exchanges and you are being your own bank. You have a virtual wallet that identifies you, you create it, you have a username, you set up your own passcodes and the actual ownership rights are stored in that virtual wallet. And so in order for your executor, post representative, to be able to access and transfer that they're going need to know the information regarding your wallet and your crypto currencies. And you also, if you have multiple virtual spaces in different metaverses, you may have multiple virtual wallets.

Jennifer Zegel:

Because I mentioned before, they may not all be running on the same blockchain. They may not all take the same cryptocurrency. So not all wallets can hold all types of cryptocurrency yet. And we don't have a third party entity that is a coin base that can hold in custody, these types of things yet. But I think that is something that a lot of the bigger exchanges are working on. So people don't have to privately need to use this.

Ross Bruch:

All right, Jen honest. Answer is that sentence that you just said that there's at the moment a need for multiple wallets and multiple types of cryptocurrencies to deal with multiple metaverses. Is that exciting to you or terrifying? Where on that scale is that? Because I'll give my answer in a moment, but I want to hear yours first.

Jennifer Zegel:

I mean, as a planner, it's terrifying because I think people are not going to necessarily document and maintain those types of records in an efficient and secure manner. And then the more pieces of the puzzle are out there, the more likely that something's going to be missed or lost or inaccessible. So I think from that perspective, it's very scary and we do need these third party clearing houses that can help maintain and manage it. But that also opens up its own security issues.

Ross Bruch:

Justin, same question to you.

Justin Brown:

I think it's terrifying. I think the fact that there is no uniformity makes things a lot more difficult, whether it's clients keeping track of their private keys or their NFTs inside the metaverse or their real estate holdings or whatever assets they own. From an executor's perspective, it makes the job of gathering assets so much more difficult.

Ross Bruch:

Totally agree. Par for the course for this podcast, I'm right in between and I can see both arguments. I love the idea that one day there could be a more digital record that is equating to property in real life. That's easier to gather assets and identify assets of a decedent. We're just years away from that, so for the time being, it's still the wild west of planning when it comes to anything metaverse related. I love the potential. I love the idea of sitting around a meeting with other people and seeing their hologram rather than on zoom and actually feeling like I'm in the room with them. But again, years away from, I think that being incorporated into modern business life and the rest, the fact that there's just so many different opportunities for scams or grifting or for other ways in which people can take advantage of others. Or even just for failed projects where money can go out the window. That scares me at the moment a lot. So it'll be exciting to see where the dust settles and how long that takes, but for now I'm middle of the road.

Jennifer Zegel:

And from that perspective, it's also important to consider just from my firm's policy perspective, are we going to custody this type of information in these private keys or recovery codes? And right now the answer is no, we don't want to take on that type of responsibility or potentially have liability issues connected with that. But at the same point, that is not always doing a great service to the client because in theory, the lawyer would be more organized and keep better and more fastidious records than a client. So if the lawyer's saying, "No, we can't take this information, you have to put it somewhere else." That makes the onus on the client, who's coming to you for help even more difficult. And there's a real kind of competing interest there.

Ross Bruch:

Be interesting to see when somebody creates a trust in the metaverse and whether it applies backwards to the real world. And one of the implications of that again, far off concept, but I can imagine it happening and maybe we're going down that road?

Justin Brown:

Let me go down that road a little bit. I'm curious about if you have multiple assets in the metaverse right? So let's say you own multiple parcels of real estate or you own a business within the metaverse. Can you segregate those different assets so that you can give certain assets to certain people and other assets to other people, or does your entire existence within the metaverse fall within one ID and private key that is only transferable to one person.

Jennifer Zegel:

I think with good planning, you could definitely give Susie the Birkin bag that your avatar has that's worth a few thousand dollars. You could give Joey the virtual property next to Snoop Dogg's place in the Snoopverse, you could definitely customize and cherry pick things that you would want to specifically leave to people. And in absence of that, I think all of these items would just pass through as a jewelry clause in the state under a will. But I think the real devil is in the details, and even if you laid out all of those great specific requests, one, you may need different IDs if you're talking about different metaverses in different worlds that you have digital assets in, but two, the executor then would need to ultimately have access to all the keys in the wallets, and then would from that point be able to make the transfers.

Jennifer Zegel:

Because in some ways we're a little bit outside of RUFADAA here, the Revised Uniform Fiduciary Access to Digital Assets Acts because some of these items may not be controlled by terms of service agreement. Some could be, there are some rules with buying virtual parcels. But if you have a digital Gucci bag that once you bought it, there's not necessarily a term to service agreement that would control. Although there could be, they may limit that. And so that is definitely something that would need to be looked at to see if the transfer of that is governed by RUFADAA, if it's outside of RUFADAA? But putting those issues aside, you just have a basic tech problem. You need to have an executor who's going to know how to go into your wallets and assuming you can splice up these assets to different individuals, actually then transfer it to them and they're going to need to be able to receive it.

Jennifer Zegel:

And I don't expect all the estate planning attorneys out there to become technologists by any stretch. But I do think that there's a growing need and demand that we communicate and work with technologists who then would be able to help actually implement those transfers. And this brings back a concept that we've talked about in many other podcasts that is an eye catching headline that you've seen in a lot of digital asset planning articles on a digital executor. And oh, wouldn't it be nice if you just had a digital executor that does all of these things. And I've always been very adamant that there is no digital executor. The executor is the executor. You don't want to be bifurcating that type of power, but just like you can have an executor, hire a CPA and do all of the accounting work that have to do with your obligations, you can hire a technologist and kind of carries out that same thing that they can have these powers to work with the executor to make these types of transfers.

Ross Bruch:

Well, let me pull on that a little bit because in my mind, again, going back to where we started this podcast, one of the best advantages of the metaverse potentially would be that I am Ross, I will have one log on. I will conduct my business as Ross in the metaverse as I would in the real world as myself. So a client comes to you and says, I'm starting a business in the metaverse, but I also like to go on the metaverse for personal reasons. I like to explore, what should I do? How should I plan around that? You would probably say, "okay, for your business, you should be an LLC or another entity to predict their liability in the business that they're going to conduct." As far as I know at this moment in time, we cannot create an LLC in the metaverse you have to do that outside. So they would need to create a separate entity. That LLC would have its own login and the individual would have his or her own login.

Ross Bruch:

That's not the streamlined capability that I'm looking for here. And that's where the technology needs to advance in the future if that is going to be a second type of world. Again, I'm going back to my skepticism of, that doesn't work well for where our laws are and for where the metaverse currently stands.

Justin Brown:

And take that a step further. If you have a trust that owns an LLC or that owns NFTs, then that trust would have separate private keys, logins for each of those different assets that it holds. Which makes things just even more cumbersome and more difficult for the trustee that is now responsible for holding all of those private keys.

Jennifer Zegel:

It's certainly an issue that's not going to be solved anytime soon and we're going to need a lot of alignment with the private sector, attorneys, the government, companies that there is some type of uniformity in how assets can be transferred, if you can have coded in beneficiary designations into some of these items in digital widgets. And I think there are a lot of startups in this space and potential legislation that can begin to chip away at this issue, but it's just something you need to be very mindful of.

Ross Bruch:

Well, I think that I remain as skeptical as ever about the future of the metaverse, but that being said, I am excited about some of the things that we've talked about here in their potential and excited to see how they unfold over time. So this is the digital planning podcast's first introduction into the metaverse and we'll be sure to revisit this subject, bring on some experts, have some additional discussions as we learn more about where this world is headed. So for my podcast co-hosts Jen and Justin, I'm Ross. Thank you so much for listening and we'll catch you on the next episode of the digital planning podcast.