

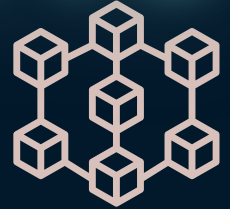


# LEGALLY SPEAKING:

# NFTS

## Introduction

**Non-fungible tokens (“NFTs”)** are used to represent ownership of items. Such items include art, music, images, collectibles, or even virtual real estate. Since NFTs are powered by smart contracts on the Ethereum blockchain, no one can modify the record of ownership or copy/paste a new NFT into existence.



## Popularity of NFTs

**NFTs are popular due to their unique properties.** Blockchain enables quick verification of the authenticity and ownership of the NFT. Since the NFT is encrypted with the artist’s signature on the blockchain, it makes NFTs ideal for art pieces and collectibles. Additionally, NFTs display item activity, which consists of information as to when the NFT was minted, sold or transferred.

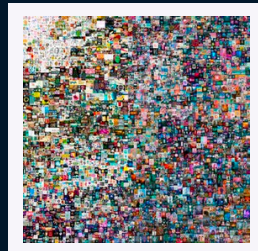
## Ownership of NFTs

With the introduction of fractionalised-NFTs (“F-NFTs”), **it is now possible for there to be several owners of an NFT.** Further, F-NFTs allow people to invest a small sum of money to gain fractional ownership of an expensive NFT, making NFTs more accessible, while also resulting in higher liquidity of NFTs.



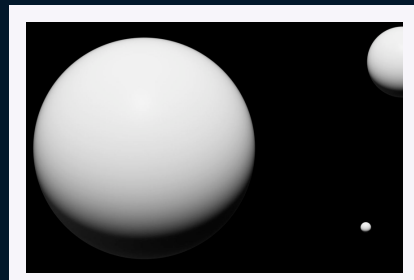
## Most expensive NFT

Beeple’s artwork, titled “Everydays: the First 5000 Days” was sold to a sole owner for \$69.3m. The piece was a collage of 5000 pieces of Beeple’s work created daily, starting from 2007.



## Most expensive F-NFT

Pak’s “The Merge” sold for a record \$91.8m, with 30,000 co-owners. This proves the attractiveness of F-NFTs, since people can chip in together, making it easier for the NFT to be sold at a higher total price. Unlike a typical NFT, The Merge was sold in an open edition (the opposite of limited edition). In an open edition sale, buyers can purchase any number of tokens starting with a set unit price, which increases every few hours.



NFTs appear abstract and intangible (especially when you find out that a digital clipart of a rock has been sold for about 1 million USD). But there is a **real impact** for the legal industry and law students!



# ATTENTION LAW STUDENTS!



## Benefits of NFT adoption for the legal industry

### Smart Contracts:

Let's say I take a photo of Campus Green. I mint it as an NFT<sup>2</sup> and when I do that, I am signing it with my cryptographic key<sup>3</sup>. Since this information is public on the blockchain, everyone can see that I was the original minter of the photo. If Mark Zuckerberg is the first buyer and buys the NFT from me, the information will also be recorded on the public blockchain. Over time, **this creates a rich history of ownership where anyone can check who created the NFT and who has bought it.** Imagine buying something that your favorite artist, actor, or athlete used to own too!

If that doesn't sound all that special, let's add the financial aspect of this. Since NFTs operate on a smart contract platform (mostly Ethereum), they can be crafted so that the original creator can receive a royalty for all future sales. Going back to my photograph of Campus Green, not only do I make money from my initial sale to the first buyer (Zuckerberg) but it can be programmed so I receive 10% (or other percentages) of all future sales<sup>4</sup>. If Zuckerberg sells it to another buyer for \$100, I automatically receive my royalty of \$10. **Creativity can hence be monetized and repeatedly rewarded.**

### Government Paperwork:

NFTs can clearly record and change ownership without relying on a trusted intermediary, which means **it can supplement various government ministries** like Singapore Land Authority (SLA). This has been tested in the UK with HM Land Registry. Home-sellers there created a digital twin of their traditional title deed and transferred it to the home-buyer's digital wallet for a set price. It was faster, cheaper, and more transparent than the traditional method of submitting loads of paperwork to multiple parties and waiting for their response<sup>5</sup>.

## Drawbacks of NFT adoption for the legal industry

While it is heartening to see the rise of artistic appreciation through the medium of NFTs, the same risks associated with money laundering arise, as they do with physical art.

### Money Laundering:

Someone looking to 'clean' their dirty money could also turn to NFTs due to their unregulated and anonymous nature. Seeing as NFTs are not hard to mint, the accused could very easily generate an anonymous NFT, list it for sale on the blockchain, and re-purchase it with another anonymous unregulated wallet. **This 'washing' process would legitimise the funds generated from the sale and leave the origins of the illicit funds untraceable.**

### Traceability:

An additional layer of complexity and difficulty is added when we consider that NFTs are purchased with cryptocurrencies, not cold hard credit. Theoretically, dirty cash can be pushed through a myriad of cryptocurrency transactions before the NFT purchase stage, making funds even harder to trace.

Large markets like the USA have attempted to regulate NFT related transactions through legislation such as the Anti-Money Laundering Act 2020. However, the constantly evolving nature of blockchain and reinventions of transaction has puzzled policy makers and made regulation a rather perplexing task.

### Copyright & IP Conflicts:

Generally, the purchase of an NFT only grants the purchaser ownership of the specific copy or version of the work that the NFT represents. Therefore, **the sale of an NFT does not transfer the underlying copyright of the work to the purchaser.**

NFTs can also be accompanied by a contract of sale, deed of copyright assignment or deed of copyright licence. Under such contracts, specifications of proprietary rights can be transferred pursuant to the sale of an NFT. **The multiplicity and numerous variations of copyright rights leaves NFTs susceptible to copyfraud,** which occurs when a person mints an NFT while falsely claiming to own a copyright of the underlying work. Furthermore, due to the anonymous features of the blockchain, it makes it very difficult to verify who the true owner of the copyright of an underlying work is.

## Conclusion

NFTs bring many possibilities for the advancement of the legal industry such as the introduction of smart contracts and its usage in government registries. However, we also need to acknowledge that there might be some drawbacks. Therefore, it is imperative for lawyers to keep abreast of these issues so as to better understand the possible legal implications of NFTs.

1: <https://medium.com/lansaar/nfts-and-smart-contracts-6c4c5516d5a0>

2: Not as difficult as it sounds. It can be made on OpenSea.io

3: <https://open.spotify.com/episode/4yfrHggcSCRhZaxp0SDRD5>

4: Companies like NBA and UFC already do this where they receive royalties from all NFT transactions in both primary and secondary markets.

5: <https://consensus.net/codefi/assets/html/>

### Bibliography:

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NFT Canon: <https://future.a16z.com/nft-canon/>

