



NFTs, Blockchain Technologies, and the Metaverse

ABA TIPS Cybersecurity and Data Privacy Committee

Mike Kasdan, Wiggin and Dana LLP

Wednesday, May 18, 2022

The logo for the American Bar Association (ABA), featuring the letters 'ABA' in a stylized, bold, sans-serif font. The letters are white with a slight shadow effect, set against a blue background.

AMERICAN **BAR** ASSOCIATION

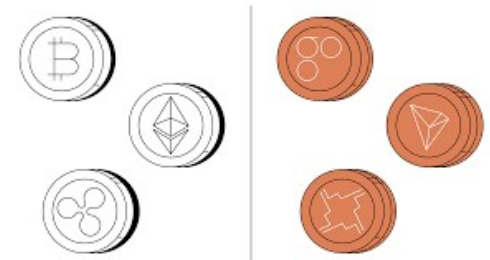
Tort Trial and Insurance
Practice Section

Today's Agenda

- The goal of this short talk is to demystify and explain why NFTs, blockchain technology and the metaverse are such a hot topic these days, covering the business, technological, and legal issues.
- I will cover:
 - What are these things and why are they potentially valuable?
 - What are some of the main criticisms/controversies/risks around them?
 - Security, cyber, and insurance-specific applications and issues

What are NFTs?

- “Non-Fungible Tokens”
 - *Non-Fungible* Tokens vs. Fungible Tokens
 - Money or fiat currencies are fungible assets. Similarly, Bitcoin and Ether are fungible tokens.
 - NFTs are unique/scarce “tokens” that represent ownership of (or access to) any object that can be digitized (a new and broad class of digital assets)
 - e.g., art (GIFs, videos, audio clips, memes, Tweets), collectibles (trading cards, badges) tickets, clothes or weapons for your online avatar, a piece of property inside a video game or virtual world
 - Think of them as digital assets. Once converted to representation as a token (“tokenized”) they can be bought and sold using cryptocurrency or fiat currency.



What are NFTs?

- Implementation:

- Creation process of a new non-fungible token is called “minting” (tokenization)
- Stored on a blockchain, an immutable distributed ledger that is visible to all.
- Rules defined and automatically enforced by “smart contracts”
- Bought and sold using crypto-currency on market exchanges like OpenSea where they can also be resold on secondary market.

Decentralized Ledger

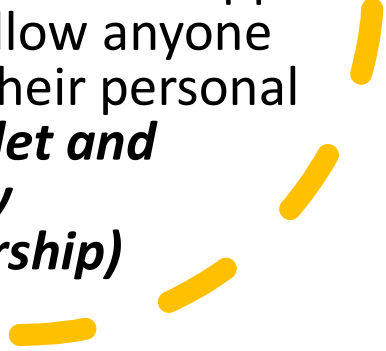


CBINSIGHTS

<https://www.cbinsights.com/research/what-is-blockchain-technology/>



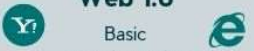


What is “web3” & Why all the excitement?

- Web1 refers to the original version of the Internet, full of read-only HTML pages.
 - Web2 refers to the version of the internet most of us know today, the internet of social platforms and dynamic content. An internet dominated by companies – like Facebook, Google, Amazon - that provide services in exchange for your personal data. (“Log in with Facebook”)
 - **Web3** refers to an internet of decentralized apps running on the blockchain, which allow anyone to participate without monetizing their personal data. ***Every user has their own wallet and controls their own data and money individually. (self-custody of ownership)***
- 

What is “web3” & Why all the excitement?

ELEVATE X
Unleashing the power of freelancing

Web 1 vs. Web 2 vs. Web 3

	 Web 1.0 Basic encyclopaedias	 Web 2.0 Social Networks	 Web 3.0 Assistants, Clouds
Content	Static, read-only content	Shared, dynamic content	Content-connection based trough search and analysis
Interaction	(Almost) no interaction	User interaction via social media	AI-driven services
Focus	Company based	Community based	Individual based



Benefits – Why This Space Is Exploding

- Distributed Architecture
- Security (???)
- Potential “democratizing effect”
 - Artists, creators
- ***A vehicle to monetize digital assets that previously were difficult to monetize***
 - ***Ideally provides authenticity, scarcity, provenance for digital assets***
- Potential for new innovations



Criticisms --

- Decentralized...in theory. But in practice, are we replicating our same winners and losers and structures?
- Valuations of art NFTs seem ludicrous to casual observers
- ***Are digital assets/ownership certificates really scarce/valuable?***
 - ***“I can just right-click and save it!”***
 - ***Proliferation of fraud in unregulated space***
- Legal risks – the law has not caught up to technology....



Potential Risks of NFTs That Must Be Addressed

- **Fakes/Fraud**

- Loss of value by invalidation of provenance
- People making NFTs of content that does not belong to them
- Copyright holder does not own the necessary IP rights

- **“We Lost The Asset”**

- “Rug pulls”
- NFT associated artifact source (URL, file, etc.) of artwork compromised or corrupted
- Platform technical failure or business insolvency

LONDON, Feb 11 (Reuters) - The platform which sold an NFT of Jack Dorsey's first tweet for \$2.9 million has halted most transactions because people were selling tokens of content that did not belong to them, its founder said, calling this a "fundamental problem" in the fast-growing digital assets market.

[Marketplace suspends most NFT sales, citing 'rampant' fakes and plagiarism | Reuters](#)

Potential Risks of NFTs That Must Be Addressed

- **Theft**
 - Theft from account (Token Theft)
 - Hackers
- **Copies/Re-Prints**
 - Loss of value from reduced scarcity
 - People selling unauthorized copies of others' NFTs
 - An NFT is re-released inappropriately – due to copyrights sale or transfer (new holder) or inappropriate re-release of like artifact by same holder



Some NFT Insurance Products

“Non-fungible tokens insurance is in its infancy and will be used to minimize risk, making it so important for this new form of digital asset technology.”

- **Nexus-Mutual**

- “Get covered against smart contract failure & exchange hacks.”
- “A people-powered alternative to insurance” – “Nexus Mutual uses the power of Ethereum so people can share risk together without the need for an insurance company.” (NXM Tokens)

- **Insurace.io**

- “We provide reliable, robust, and secure insurance services to DeFi users, allowing them to secure investment assets against various risks.

- Smart Contract Vulnerability
- Custodian Risk
- IDO Event Risk
- Stablecoin Depeg Risk”

Some NFT Insurance Use Cases

“The insurance industry was one of the earliest to adopt blockchain technology after banks because of its data protection concerns. As a result, insurance companies can use blockchain to store information on policies, transactions, and claims

[Blockchain in Insurance: Use Cases and the Way Forward - Excellerate](#)

- Blockchain can reduce human error in claims processing by storing every side of the transaction on an immutable record that can't be changed or replaced.
- If implemented properly, blockchain technology is also more secure than systems that rely on a central authority – such as large servers – because it is more difficult to hack a distributed system.
- Because of the immutable nature of the contracts stored on the blockchain, there is no need for any third party to act as an intermediary. There are also plenty of opportunities for automation with smart contracts. For example, smart contract technology can automate the entire claims process.

Security Challenges for Blockchain

- Contrary to popular belief, the blockchain is not impenetrable.
 - There have been large-scale hacks and high value thefts of cryptocurrency, as well as phishing attacks
- Further, authentication of NFTs can only occur at the source; just because something is an NFT does not mean its “authentic.”
 - Determining authenticity, risk, and value is a difficult exercise



Questions?



OPENSEA LISTING - NFTs

Question Mark Block - Military styled question mark block from the Super Mario Bros. series.

Owned by [owensmowen](#)

Current price

0.05

(\$131.18)

Contact



Michael Kasdan, Esq.

mkasdan@wiggin.com

A screenshot of an Instagram profile and a tweet. The profile header shows the name 'mkasdan' and location 'Maplewood, New Jersey'. Below the profile picture, there are two tweets. The first tweet is from 'Mike Kasdan (He/Him)', an IP Partner at Wiggin and Dana, LLP, and an Adjunct Professor at NYU School of Law, posted 'now'. The second tweet is from 'Michael Kasdan' (@michaekasdan) and says 'My lyrics are bottomless.' with a GIF of a man in a brown jacket and glasses. The tweet is timestamped '11:51 PM · 2/10/22 · Twitter for iPhone'.

Michael Kasdan - Wiggin and Dana LLP

This presentation is a summary of legal principles.
Nothing in this presentation constitutes legal advice, which can only be obtained
as a result of a personal consultation with an attorney.
The information published here is believed accurate at the time of publication, but
is subject to change and does not purport to be
complete statement of all relevant issues.