

# Crypto Currency and NFTS: What Lawyers Need to Know

By:

Richard S. Chizever, Esq.: [Rchiz@ChizeverLaw.com](mailto:Rchiz@ChizeverLaw.com)

Josh Lida, Esq.: [Josh@TwigLaw.com](mailto:Josh@TwigLaw.com)

# WHAT IS CRYPTO CURRENCY AND WHY DO PEOPLE USE IT

- Cryptocurrency, generally speaking, is a digital token that lives and is stored on a distributed and decentralized digital ledger known as a block chain, which allows for peer to peer direct monetary transactions without traditional intermediaries
- The blockchain, or digital ledger, documents all transactions that occur and are verified by “nodes” (computers) who run the program and reach a consensus to assure the transactions listed are accurate
- When the majority of nodes agree (consensus), the system adopts the new information in a block in the chain and that data cannot be modified or hacked
- The mechanism of nodes and decentralization is key to understanding why intermediaries are not needed

# POSITIVE USES OF BLOCKCHAIN

- Speed of transactions
- Low fees for transactions
- Immutable records publicly accessible
- Safe and secure transactions
- May eventually receive important documents as NFTs such as IDs, passports, other official records
- Could be used as a voting mechanism (actually already is in a robust ecosystem)

# IS IT SAFE TO USE THE BLOCKCHAIN?

- Blockchains (generally) are publicly accessible meaning all transactions are stored and can be viewed or reviewed by anyone
- While this may seem like it lacks privacy, the wallets (where crypto is stored) are pseudonymous so while the transactions are public your identity is not necessarily
- The public nature is what allows the blockchain to transfer monies in a way monitored by thousands of nodes assuring the information is correct, tamperproof, and immutable based on trust.
- In fact, one of blockchain's key features is its security. Blockchain utilizes cryptographic keys to encrypt the data and allow for transactions to occur in a manner that is virtually hacker-proof
- Blockchain's data structure cannot be altered or deleted. To tamper with the information in a blockchain, each copy of the ledger on the majority of participating nodes would need to change the same piece of information, also known as a 51% attack which is (at the moment) the only way to effectively change the information in the blockchain once consensus is reached
- While possible, the mechanisms and realities make this impractical to accomplish

# Sending Money via Crypto vs. SWIFT

CRYPTO	SWIFT
Almost instantaneous	Can take between 3-5 days
Just need someone's direct wallet address	Need account numbers and routing numbers
Operates 24/7 can be used at any time	Subject to banking hours of operations and holiday closures
No limits on amounts that can be sent	Requires swift codes for international transfers and the institutions to confirm everything
Can send to anyone anywhere with a wallet	May be restrictions on when and to who money can be sent with little explanation why
Irreversible	You have to go to the bank or utilize online banking services

# PRACTICALITIES OF TRANSACTING IN CRYPTO

- Fees in Crypto
- What are wallets
- What is staking (interest)
- Volatility of the Crypto Market
- Instantaneous transactions
- No bounced check, meaning the transaction will not initiate if not enough to execute

# Crypto/Non-Fungible Token (NFT) Basics

- **Blockchain-** a digital ledger which stores transactions in “blocks” of data that are locked in a “chain” which is extremely difficult or impossible to change, hack, or cheat the system
  - Some blockchains are open source and enable applications to be designed on them, like Ethereum which what allows NFTs and other applications to be built
- **Smart Contract-** computer programs or protocols designed to automatically execute, control, or document actions pursuant to set terms: think of a vending machine
- **Non-Fungible token-** are unique tokens representing data stored in a block chain which is used to certifies assets as unique and signifies ownership of both digital and physical assets

# Examples of Usages for NFTs

- Mostly, NFTs have been used for art and collectibles both digital and physical
- There have been attempts to tie other items to NFTs such as real estate transactions
  - While there are a myriad of issues which will have to be worked out, real estate appears to be an area ripe to be disrupted by the use of NFTs
- Insurance policies may be issued as NFTs in the future for simpler policies
- The possibilities with NFTs are endless as they are an excellent way to track transactions instantly, safely, and securely



# Legal Issues re: Crypto/NFTs

- The news stories mostly like to focus on the fraud issues and certainly that is a major area which will be the subject of a lot of litigation
  - A major decentralized exchange was just sued in a class action suit for issues associated with the coins transacted on there
- Real estate attorneys may need to adjust practices to accommodate sales via NFTs
- Divorce attorneys need to be cognizant that spouses can have significant valuable crypto holdings that may be difficult to track down if not familiar with how crypto works
- Business attorneys need to be aware of the types of NFT projects, how the relationships should be structured, IP issues, wallet issues, etc as we see more projects launch
- Securities issues: the SEC has been tightlipped over what factors they use to determine what is an is not a security, this can apply to NFTs. Attorneys need to be cognizant of this when advising clients regarding projects involving tokens or other airdrop mechanisms (free stuff).

# What's The Metaverse?

- Not a simple answer as most people would have you believe: different definitions
- Some view it as increasing parts of our lives interacting with the internet in more immersive ways such as Twitter/Discord etc.
- The most common view portrayed in media are virtual reality game/universes
- Examples of these include Sandbox Game, Decentraland, OM, etc.
- Land can be purchased in these universes and have mostly been used for meeting places, art galleries, and just general time spending activities in these universes
- Expect this to grow in popularity as time goes on