

HKU CCPL TALK

Non-Fungible Tokens: Art and Crime in a Virtual World

17 January 2024 (Wednesday) 1:00 pm - 2:30 pm
Academic Conference Room, 11/F Cheng Yu Tung Tower, HKU

Since the record-breaking sale of 'Everydays: The First 5000 Days' by Mike Winkelmann (better known as Beeple) most people in the art market know what an NFT (non-fungible token) is and that there is significant potential to make money with this 'artistic movement'. 'Everydays' achieved a record sales price of US\$69,346,250 on 11 March 2021 and was the first 'purely' digital art work sold by Christie's Auction House. This was the third highest price ever paid for a single work of a living artist after Jeff Koons and David Hockney. NFTs are a relatively new technology, developed in 2014. The NFT 'boom' happened in 2021. While the traditional art market also skyrocketed, specifically since the 1980s, the NFT rise in prices was much faster. What took the art market decades, took NFTs several months. Most remarkable here was the increase of the sales value for NFTs in early 2021. While the total sales value was an estimated US\$12 million in December 2020, it reached \$340 million by February 2021. While the market in NFTs is by now on its way down, high profits can still be made, in particular with collectibles, making NFTs an attractive target for financial crimes.

NFTs have attracted a mixed reception: for example, in the UK the Law Commission emphasises 'their potential as a novel and flexible legal structuring tool'. The DCMS Committee has described NFTs as a 'groundbreaking technology'. In contrast, the Financial Conduct Authority has issued various warning statements as to NFT promotions, and HM Treasury has stressed that 'There are a number of risks associated with the NFT market including fraud, market manipulation and money laundering.' Similar concerns have been echoed by the Financial Action Task Force and others. While there has been significant discussion on cryptocurrencies and crime, much less is said about NFTs and crime. Indeed, much of the legal discussion on NFTs thus far has focused on copyright; issues of ownership; royalty rights; consumer protection; and property. This is perhaps understandable, given that the NFTs market is still evolving and initial considerations are commerce-related. However, as with many technological advancements, the potential for crime is not far away, thus it is important to consider criminal law aspects of NFTs.

The aim of this presentation, then, is to consider the applicability of criminal law to NFT-related financial crime. Specifically, the applicability of current laws on theft and fraud; market offences; and money laundering.

SPEAKER:



Saskia HUFNAGEL University of Sydney

Saskia Hufnagel is a Professor at the University of Sydney Law School. Her research concerns global law enforcement cooperation, transnational and comparative criminal justice and art crime. Her particular interests are international and regional legal patterns of cross-border policing as well as the detection, investigation and prosecution of art crimes in the UK, Germany and Australia. Saskia is a qualified German legal professional and accredited specialist in criminal law.

CHAIR:



Simon YOUNG

Ian Davies Professor in Ethics, Faculty of Law, The University of Hong Kong



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