

Special Edition Editor's Note

NFTs and the Legal Landscape - A New Frontier in Intellectual Property, Digital Ownership, Financial Crime, Collective Organisations and Consumer Protection

In the ever-evolving digital landscape, Non-Fungible Tokens (NFTs) have emerged as a disruptive force, challenging the traditional paradigms of digital asset ownership and control. As Fortnow and Terry aptly highlight, NFTs seek to redefine the relationship between creatives, users, and digital artwork, a relationship historically dominated by powerful online intermediaries operating under the access model [1].

The prevailing access model, underpinned by a blend of technological, legal, and market dynamics, has largely curtailed the ability of creators and individual internet users to exert meaningful control over digital assets. Instead, these assets are predominantly governed by centralized intermediaries, offering seemingly unlimited access. While this model boasts advantages, such as a robust rights management system ensuring IP security and user convenience [4], it is not without its criticisms. The most glaring concern for creators is the 'value gap' - the disparity between the value generated by intermediaries and the compensation received by content creators [3]. This concern was so profound that it catalysed significant reforms in the EU's digital platform regulations in the form of the DSM Directive and, most recently, the DSA Act [2].

Centralized intermediaries, with their overarching influence, have not only skewed the value distribution but have also left users vulnerable. The tentative nature of access rights means users can be deprived of their digital assets without warning, rendering them powerless against potential misuse by these intermediaries [5].

This special issue of the journal underscores the profound impact of NFTs on Intellectual Property law. We are privileged to feature contributions that delve deep into this relationship from diverse legal perspectives. Dr. Ioanna Lapatoura offers a compelling analysis of the intricate relationship between NFTs and trademark law, using the MetaBirkins case as a focal point. Daniel Becker and Aylton Gonçalves, on the other hand, explore the implications of NFTs within the Brazilian legal framework.

However, the legal ramifications of NFTs extend beyond IP law. In that context, Matteo Alessandro challenges traditional notions of property in light of NFTs, while Marica Ciantar examines the transformative potential of NFTs and Decentralized Autonomous Organizations (DAOs) in reshaping collective organizational governance. Prof. Dr. Yulia S. Kharitonova explored legal issues of decentralized services in the context of utility NFTs. J.-G. A. Hanneman researched DAOs and AI-based Smart Contracts. The darker aspects of NFT transactions are also addressed, with Ass Prof. Dr. Dimitrios Kafteranis, Dr. Huseyin Unozkan and Prof. Dr. Umut Turksen elucidating their alignment with financial crime regulations. Moreover, the discourse on NFTs in private law is expanded upon by Dr. Elena Tzoulia, who highlights their intersection with the secondary digital consumer protection acquis in the EU.

This issue serves as a testament to the multifaceted legal challenges and opportunities presented by NFTs. Through the insightful contributions of our esteemed authors, we hope to foster a deeper understanding and stimulate further discourse on this pivotal topic.

- [1] Fortnow, M., Terry, Q. (2021) “The NFT Handbook: How to Create, Sell and Buy Non-fungible Tokens” (John Wiley & Sons, Incorporated), 47-57.
- [2] Frosio, G. (2021) “Reforming intermediary liability in the Platform Economy: A European Digital Single Market Strategy”, *Northwestern University Law Review Online*, 251, 112-119
- [3] Perzanowski, A., Schultz, J. (2018) “The end of ownership: Personal property in the Digital Economy” (The MIT Press).
- [4] Rifkin, J. (2002) “The age of access: How the shift from ownership to access is Transforming Modern Life” (Penguin).
- [5] Rosati, E. (2021) ‘The DSM directive Two Years on: Do things ever get easier?’, *IIC - International Review of Intellectual Property and Competition Law*, 52 (9), 23-33.

ABOUT THE EDITOR



Ioannis Revolidis – PhD, Resident Academic Lecturer, Department of Media, Communications & Technology Law, Centre for Distributed Ledger Technologies, University of Malta
e-mail: ioannis.revolidis@um.edu.mt
Scopus Author Profile: <https://www.scopus.com/authid/detail.uri?authorId=57194702661>
Google Scholar ID: <https://scholar.google.com/citations?user=ITGuRhcAAAAJ&hl=en>
ResearchGate Profile: <https://www.researchgate.net/profile/Ioannis-Revolidis>