

Meta Description: What are NFTs, and what do they mean for copyright – both for buyers and creators? We’re unpacking it all here.

NFTs and How They Work With Copyright

If you thought the world was going crazy when it made extremely volatile crypto coins a record-breaking asset class (bitcoin we’re looking at you), wait until you read about NFTs.

Initially started as a quaint pastime involving [virtual kittens](#), this (literally) unique brand of digital tokens went viral in 2020, gaining a reputation as a whole new digital art class. Everything from gifs to video clips, digital trading cards, JPEGs, and even [one ancient tweet](#), have been sold as NFTs, making some people very rich along the way and confounding the rest of the (sane?) world.

Now, with [more than \\$2.5 billion](#) spent on NFTs in 2021 alone, we have just about enough time to take a deep breath and make some sense of it all. What are NFTs, and what do they mean for copyright – both for buyers and creators? We’re unpacking it all here.

What are NFTs?

NFTs stands for non-fungible tokens. They are unique or “one-of-a-kind” digital assets that can be traded just like any piece of property. While many NFTs exist solely in the digital world, some might be tied to a piece of physical property (such as an oil painting or a card), enabling trade in the underlying asset without ever moving it.

Before going further, let’s break down what NFT means. First, these assets are digital tokens, meaning they are kind of like cryptocurrency, in this case typically hosted on the Ethereum blockchain. However, unlike other crypto coins, these tokens store extra information about the asset tied to them. The data might include the nature of the asset, details about its owner, and a record of its sale history. That extra information is also what allows the token to look like art instead of, well ... a coin. (What does a crypto coin look like?) As a result, each NFT is unique, and this ties into the second point.

NFTs are non-fungible, meaning you cannot exchange them with another similar asset. So, for instance, you can change one \$10 bill for another \$10 bill. There’s no difference between the two. Likewise, if you sold one bitcoin today and got another one tomorrow,



* This article provided as information only and **should not be considered legal advice**

** This article was assembled by [DMCA.com](#) a private copyright services company.
This article is available at [DMCA.com/articles](#).

it's still the same bitcoin. But NFTs are designed to be unique and indivisible. So, while there might be several copies of similar tokens, much like [Larva Labs' 10,000 CryptoPunks](#), there can only ever be one original copy of each NFT.

But wait. What exactly is unique? The token or the underlying asset? That's a good question because, being digital art in most cases, an NFT can simply be copied by anyone. In practice, just the NFT is unique, and that's because the record on the blockchain shows who the original owner is - so there can only be one owner. That's why they're called crypto collectibles.

What about the underlying asset, then? That leads us nicely into the problems that NFTs bring to copyright and IP.

NFTs and copyright

The first big copyright-related question that pops right up with NFTs is: who actually owns the NFT (especially where it's entirely digital)?

As we mentioned above, NFTs come in all shapes and file types. The digital art they represent is the result of a creator's work - while this can include seemingly inane items, like [this picture of a rock](#) (yes, a rock), some take meticulous detail and tremendous effort, like [Beeple's \\$69 million NFT](#). Regardless of the nature of the art, NFTs are typically original expressions of ideas in a permanent form (blockchain records are essentially indestructible), and this qualifies them as copyright.

But here's the twist: NFT sales frequently do not include the copyright to the auctioned work. For example, Linkin Park lead vocalist, Mike Shinoda, sells his NFTs with the following express terms: "Only limited personal non-commercial use and resale rights in the NFT are granted, and you have no right to license, commercially exploit, reproduce, distribute, prepare derivative works, publicly perform, or publicly display the NFT or the music or the artwork therein. All copyright and other rights are reserved and not granted."

By implication, the copyright in the work typically resides with the creator, leaving the buyer with no more than a crypto token that they might resell, but cannot do anything else with. Therefore, for an NFT auction to assign rights to the copyright, it must include terms for transferring those rights upon sale.

Another significant copyright issue that NFTs pose is their potential to become a tool for infringing the rights of creators. NFTs are created by a process called "minting", and while the process sometimes involves the creation of original works, it doesn't always



* This article provided as information only and **should not be considered legal advice**

** This article was assembled by [DMCA.com](#) a private copyright services company.

This article is available at [DMCA.com/articles](#).

require this. Mostly, you just have to find the right platform, have a sufficient amount of the necessary cryptocurrency, and follow the process to mint an NFT.

This relatively loose process sometimes results in the minting or “tokenization” of someone else’s work. Nothing stops people from minting pieces that belong to other artists. In fact, many artists [already report](#) seeing their works being appropriated and sold as NFTs without their knowledge or permission. Recently, a spate of uncontrolled minting by a Twitter bot called @tokenizedtweets drew ire from Twitter users whose tweets were tokenized without their consent.

Others have taken the NFT opportunity as a means to create NFTs of works in the public domain – a practice referred to as “copyfraud”. Since there’s often no verification process to ascertain that the proposed NFT belongs to the person presenting it, nothing stops this fraud from happening.

While these infringements are not necessarily a function of the technology, but of people – those who will steal stuff will steal stuff – it’s still important that NFT platforms begin to look critically at their IP rights protection processes.

Could NFTs protect creators?

Despite its flaws, there’s still much justifiable excitement about NFTs especially considering their potential value for creators.

The technology provides the potential to create stronger protections around proof of creation and ownership for creators. With the immutable records that the blockchain offers, it becomes easier to quickly verify actual ownership of copyrighted works, saving the time and money involved in a more extensive search. This also holds immense potential to help resolve the problem of orphaned works (works for which ownership cannot be proved because the records are lost).

In addition, NFTs present a lucrative option for creators looking to monetize their work – even works that are decades old. For example, Beeple’s record selling NFT combined 5,000 days of digital artwork into a single collage. Many other NFT creators simply repurpose their already existing content.

NFTs add to this potential through a capability that allows a creator to receive a fee every time the NFT is sold. Although the capability seems currently limited to transactions within the same blockchain, it is a promising feature that creators will want to keep their eye on.



* This article provided as information only and **should not be considered legal advice**

** This article was assembled by [DMCA.com](https://www.dmca.com) a private copyright services company.

This article is available at [DMCA.com/articles](https://www.dmca.com/articles).

Summing up

NFTs have undoubtedly become a big deal, and with the institutional interest they're attracting (the [NBA](#), Taco Bell, [Marvel](#), and [The New York Times](#) have all sold NFTs), they will likely get even bigger.

However, NFT platforms will need to implement stricter procedural measures to prevent copyright theft. While some platforms are implementing tools for initiating DMCA takedowns, they might need to go further to avoid more serious issues – such as a [section 1201](#) lawsuit that could hold them liable for encouraging unauthorized use of copyrighted works.



* This article provided as information only and **should not be considered legal advice**

** This article was assembled by [DMCA.com](#) a private copyright services company.
This article is available at [DMCA.com/articles](#).