



COPENHAGEN LEGAL TECH LAB — PODCAST

EPISODE 05 – NFTs IN ART

In this episode, Alexandra Andhov, Associate professor at the University of Copenhagen, Faculty of law and founder of the Copenhagen Legal Tech Lab, Berdien van der Donk, PhD-fellow at the University of Copenhagen, Faculty of law, and Alberto Oddenino, Professor of International Law at the University of Torino, discuss the topic of NFTs focusing on the reasons for the recent proliferation of NFTs into art and their significance for the future of art.

00:00:00 Intro music

00:00:01,940

Alexandra Andhov

Hello and welcome to the Copenhagen Legal Tech Lab - podcast, where we address innovation and the law from three angles: people, business, and technology.

Today we are here at the Law Innovation and Vulnerability Conference at the Faculty of Law at the University of Copenhagen. Together with Professor Alberto Oddenino, professor of international Law at the University of Torino. Welcome.

Alberto teaches several courses on international law. He has participated in over 50 academic events, he's author of two books and numerous articles and contributions on topics of public and private international law, international economic law, monetary law, arbitration, health law in the EU, and international law and technology.

Besides everything else, Alberto is also a co-director of the Academic Diploma in law and technology at the University of Torino.

Welcome, Alberto. Thank you for coming.

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Alberto Oddenino

Oh, it's a pleasure being here. Thank you, Alex.

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Alexandra Andhov

And then we have our one and only Berdien van der Donk, who is our PhD fellow at the Faculty of Law at the University of Copenhagen who focuses on the Internet Regulation.

Hi, Berdien. Welcome.

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Berdi van der Donk

Thank you. Thank you.

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Alexandra Andhov

And, who you actually hear now, that's me, your kind of moderator for today's podcast. My name is Alexandra Andhov, an associate professor and the founder of the Copenhagen Legal Tech Lab. So today we're going to target the issue of NFTs. We will talk about what are they. How they are special from other crypto assets or other, let's say tokens, and what is actually their value.

And at the end of the podcast will also use art industry as an interesting use case where we might use NFTs for something different and whether they actually can make some change.

All right, then, let's start with you, Alberto. If you are to explain to someone who has never heard about NFTs, how would you explain in NFTs to them? What are NFTs?

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Alberto Oddenino

Well, thank you, Alex. It's not an easy task. But in a very few words, I would say that we need to start from Blockchain technology and understand that tokens, NFTs are tokens, non-fungible tokens which are created on a DLT technology, and this token have some features, uniqueness and ownership that are traceable and demonstrated and verified through the DLT technology itself.

So, in this sense, we can see NFTs as a utility token and they are not fungible, so opposed to payment tokens that are by nature fungible. Moreover, let's say that payment tokens are also as money are accepted generally. Whereas NFTs have this characteristic of being non fungible, which means that they are unique, not interchangeable, not convertible. And this is the essence of their nature. And this can also lead to creation of value.

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Berdi van der Donk

Okay, Blockchain technology is difficult in itself. I think, at the conference here during the panel, you explained it as boxes. And you say you have boxes where you can put something inside, which is the token.

So, for money or crypto currencies, there's money inside the box, but it can be anything and it depends on what you put inside this box that eventually makes it tradable.

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Alberto Oddenino

Yeah, this is very true. And this is true because it's very flexible. The content of an NFT. We will see, for example, in art it's really an excellent tool for regulating also legal relationship. But the essence of this token is that you need a legal counterpart, but not like it's not like money.

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Alexandra Andhov

Yes, and I think we will get definitely to that point. But I want to know if, I'm listening to you guys really talking about this. I'm like, Okay, so there is a box. How do I put art in a box? And what does that mean? What am I putting in this box or to the block? Ultimately, as it is a Blockchain. Right. So, what is inside of this and how does it connect to the real world?

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Alberto Oddenino

Well, I think you could even think of NFTs even more as a label on the box, then as a box in itself. And so, the label is vital because you can then identify an object. And you can do that both in the real world with some pieces of art, that are part, for example, of our cultural heritage. But you can do that in particular in digital art, where you face a huge problem of identification of the concept of originality and authenticity because, as we all know, digital art is somehow always reproducible. And this is indeed a feature that can negatively impact the capability of having a stable value a long time.

So, in the end, this idea of labelling whatever you like, whatever you need to label and then put in that box also particular legal relationship with artists, for example. So, the relationship between the owner and artist is a very flexible and very promising tool for the art market. This is how I see it.

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Berdien van der Donk

Yes, you could say that inside this book there is a code. So, if you have a digital image, of course, it's not only the image that we see on the screen, but there is also the software behind it. It has a digital code, and that is inside. So, if the computer unpacks it, it can read what is inside from the back end and how it connects to also the physical world is, as Alberto also already said.

If I would be to sell you, Alexandra, a painting, then we can put inside the box that I made a painting. I sold it to you. So inside will literally say I sold it to you for X. And, because it is on a ledger, it's traceable. Afterwards, we can see that that transaction happened in the real world.

So, if Alberto afterwards is interested in buying exactly this painting, he can see it's now with Alexandra.

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Alexandra Andhov

All right, then. But so, can I also use it, These NFTs with the real world in real paintings, or is it only connected to digital?

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Alberto Oddenino

Well, it is possible to tokenize also real world objects. So also, of course, pieces of art.

The logic is that you should do that to add some artistic value so it can be done, for example, as a tool for valorizing cultural heritage and to make it even more visible and to make it circulate.

So, there can be a public visibility dimension in it, but it's also very important aspect that Berdien was stressing. Which is the provenance, the tracking. Which is so important in art.

It is a way of also securing ownership and securing authorship and this is this is a great value because, you know, DLT metadata are not replicable, duplicable. They are somehow also immutable as it is for the DLT and Blockchain technology.

So, this distributed ledger is a way of creation of value creation because it's both give the idea of scarcity on the one hand. And maybe we can also dig a bit into that. And traceability and precise individuation.

So, this is the idea.

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Berdien van der Donk

Yes. If we take this example: scarcity and adding value. So, imagine you are an upcoming digital artist. You make digital prints. So, what happens by the nature of the Internet? As soon as you put it out there, you can make a screenshot. People can copy your art. And because of the nature of digital art, you don't tell the difference from the original work or following copies.

So, what you can do with this technology? What you also see popping up people say: Ok, NFTs in art, this is what they usually think about you See these apes coming by. Right?

So, if you start with digital art, you give it out as an NFT in the beginning. You connect this one piece that you made. The authorship is controlled. You can say there is only one and anyone that afterwards follows all your different copies are infringements because there's only one.

So, it creates scarcity in a market where it was very easy to copy art.

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Alexandra Andhov

Okay. Yes, I'm starting to follow. Yes. OK, so just to maybe recap at this point.

So, this is a tool, and I still have a feeling that yes, you can tokenize the real life, but it's more or less focused or really prevalent in the digital world. I mean, we live in very much digital world as well, but where we can capture the ownership better, we can trace the ownership. We can trace the use which helps with protecting the copyright or any other types of a right that is to the content that is within NFTs.

The scarcity and fungibility. I think that these are still a little bit away from what I can connect to the real-life world. Is it creating the scarcity for the purpose of creating scarcity?

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Berdien van der Donk

Yes. If you connect it to the real world, If we look at the Mona Lisa, there's one. And if I would make a copy, we will agree that that one is not authentic, and you will probably not pay as much for a copy as for the original.

So, the problem with digital art has been that it's so easy to copy that the value is very hard to trace. Okay, so why would you invest in making digital art as an artist if the outcome is going to be that people steal your work and take your credit?

So, the way about giving out art on the ledger, this is you can give out one. And the funny thing is, if you have connected to the real world, that's already existed in copyright law.

But because of the function of the Internet, that legal system didn't work enough. At least didn't protect the artists.

If you want to go after all the infringements of, say, a X that you made, it's impossible because people are all over the world. You don't know where they are. They are behind the screen. You cannot trace them down.

But with this technology, you only have one given out. You can prove there's only one, and that's yours. And all the others, by default, are infringing.

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Alberto Oddenino

Yeah, if I may add, there is a strong artist empowerment in this technology.

And of course, you were asking why. Why scarcity? Because scarcity is at the basis of the creation of value. Think of diamonds. Think of whatever is in real life. Scarcity is an element that gives you the idea that in the market you have a certain value, and you have a value stability that is linked to scarcity.

So, it's a sort of recreation of this dynamic, also with digital assets, and we need that because in the digital world, reproducibility has no limit in a sense, so that leads to a further element. That is indeed value creating, which is that the technology and the DLT becomes also the marketplace for the piece of art and here again you have an element of empowerment of the artist and also the owner in a sense or the buyer.

Because there is a sort of disintermediation with the classic value intermediator of art market, which are art dealers, art galleries, critics. They are still there. But they will probably have to cope with the NFTs phenomenon because that will create this intermediation as it is in general for blockchain.

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Alexandra Andhov

It is happening across different markets. It suddenly just got to, let's say art market. But yeah, I think there is another element. Maybe that we can add to it, Berdien.

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Berdien van der Donk

Yes, I think we have artists that we are going to protect by this, at least empowered. They get more power over the digital work. The one thing that I would like to mention is then the downside of this technology and the people that suffer from empowering this through NFC technology, which is the world around us, the physical world.

Because at the moment creating this system, I see how it applies to the digital world and how we can use it. I'm not sure if I'm the biggest fan of also applying it to the world around us because of the sustainability issues of this technology and the impact that it has on the environment at the moment.

So, the energy it takes to find out who is the owner at what point. We have a system for that that works for physical art.

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Alexandra Andhov

Okay, I see your point that this physical art is different than this digital art and then we don't have as grave issues when it comes to, let's say, copyright issues, with the physical art.

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Berdien van der Donk

Well, because you have the physical objects so I can see who has the physical object in hands. I can see where it is. There's one Mona Lisa. I know it's in Paris.

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Alexandra Andhov

But what about the transparency that this technology brings? Right? You yourself mentioned and both of you that, you know, you see who has been the owner? What price was it? Isn't also an added value for the physical world.

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Berdien van der Donk

Definitely. And if we find a solution to creating a ledger system that does not harm the world as it does right now, I would change anything to Blockchain technology.

Definitely, because it gives this, way of checking the ownership of all the objects around us. I could also see people buying houses in this sense.

But at the moment, if we make a draw of what are the benefits, who benefits and where and what are the harms, I think at this moment the physical world is harmed more by enabling this technology than otherwise

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Alexandra Andhov

Okay, so I think we're getting to the last question: so, where is this heading? Are we going to the web 3 kind of world and can NFTs help us get there?

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Alberto Oddenino

Well, I think that Blockchain is changing the digital space of course. And the issue of sustainability is an issue. Energy consuming technologies should be governed, and I take this point.

But I think that there is new validation techniques of Blockchain based on proof of stake rather than on proof of work that will probably lead us to a more sustainable Blockchain.

At that point, Blockchain and DLTs running on the Blockchain are indeed an excellent way to also map the real world in terms of relationship provenance ownership.

So, it's a sort of atlas of the world in a sense that we can imagine. And the atlas also becomes a possible market.

So, it's a huge change of perspective that we can have provided that it is sustainable. So, I see great potential. But of course, we have to be careful in two directions.

One is sustainability the other and we haven't touched much upon that is speculation and some risk of abuse of those instruments in the regulatory perspective. Because regulation is still to come. And this object, NFTs, require some careful attention, some care the from the legislation from the regulator.

But we shall see. That could be the occasion for a second podcast.

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Alexandra Andhov

Exactly. We can talk about it next time.

What are your kind of final comments, Berdien?

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Berdien van der Donk

My final comment on this is I agree fully that there are loads of potential in this technology, and I think what we see now in digital art is that the technology stepped in where the regulator failed for digital art. Because copyright was not sufficient to secure the rights of digital artists. And we see technology stepping in.

Hopefully in the future, we see more of emerged also in the direction that Alberto was going, that we have regulations and technology more hand in hand.

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Alexandra Andhov

Yes, I'm sure we can touch upon it next time.

Thank you both for joining the podcast.

Thank you for listening. This is the Copenhagen Legal Tag Lab

My name is Alexandra Andhov and see you next time. Thank you.

20:01,950 - outro

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