

NFT Case Study: LAWS6087 Internet Law

Module designed by Marie Hadley, with materials developed by Travis De Vries, Sheridan Clark and Marie Hadley

This module introduces students to the concept of Non-Fungible Tokens (NFTs) and their general relationship to the contract law and copyright law principles. It also explores the ethical, business, and legal considerations involved in the decision to mint an NFT, through the experience and practice of a contemporary First Nations artist. Finally, the module builds a practical understanding of NFT marketplaces, and is designed to develop skills in translating legal information for diverse audiences.

This module was designed to be accessible to a diverse cohort of students; 4th and 5th year undergraduate law students; 1st and 2nd year Juris Doctor students; and Masters of Cybersecurity students studying a law subject for the first time. This module was taught 100% online.

I NFTs: AN INTRODUCTION

Three Microlearning Videos

The aim of these microlearning videos is to introduce students to the nature of NFTs and their relationship to Law. A scaffolding approach is used in this part of the module to gradually build understanding (so as to provide a bridge to the next part of the module that focuses on the needs and practices of artists who engage with NFTs).

1. What is a Non-Fungible Token?
2. NFTs and Law: Overview of Legal Issues involving Non-Fungible Tokens
3. Focus: NFTs and Copyright Law

Three Readings

The three readings in this module provide (1) an accessible account of a legal issue that arises in relation to NFTs, extending the commentary in the second microlearning video; (2) an introduction to the relationship between NFTs and sustainability considerations (to introduce ethical and moral dimension to our study of this phenomenon, and support the First Nations perspectives explored in the next section of the module); (3) detailed legal analysis of NFTs and copyright law, that extends the analysis covered in the third microlearning video.

- James Purtill, 'Artists Report Discovering Their Work is Being Stolen and Sold as NFTs', *ABC News* (16 March 2021) <<https://www.abc.net.au/news/science/2021-03-16/nfts-artists-report-their-work-is-being-stolen-and-sold/13249408>>.
- Memo Akten, 'Episode V. Toward a New Ecology of Crypto Art: A Hybrid Manifesto', *Flash Art* (26 February 2021) <<https://flash-art.com/2021/02/episode-v-towards-a-new-ecology-of-crypto-art>>
- Andres Guadamuz, 'The treachery of images: non-fungible tokens and copyright' (nb: note the legal issues in this article are analysed from the UK perspective but

the hypothetical applicability of the various concepts are relevant to the likely position in Australia were those issues litigated)

II SPOTLIGHT: CREATIVE PRACTICE & NFTs

Guest Lecture from Concept Artist Travis De Vries

This guest lecture builds upon the previous part of the module, by casting a spotlight on a potential clients' needs and objectives in engaging with NFTs. In this guest lecture, Gamilaroi/Dharug artist Travis De Vries reflects on his experience of creating an NFT. He touches upon legal, business and ethical perspectives on NFTs of most relevance to his practice. This includes a discussion of sustainability concerns with minting NFTs and the benefit of providing for resale royalties in the underpinning smart contract (and how this links to First Nations sovereignty).

Artwork

Complementing the guest lecture in the course materials is an image of *Cook Falling (Tear it Down)* (2019) by Travis De Vries, the artwork that Travis minted as an NFT and discusses in his guest lecture.

III LEARNING ACTIVITIES

Each student in the cohort was assigned one of 4 web-based research tasks to grow and consolidate their understanding of the practical and cultural dimensions of NFTs. These tasks focused on enhancing the students' practical understanding of how creators use NFTs as part of their creative practice; the market for NFTs including what NFTs are popular, their price points, the nature of consumer demand; and the relationship between NFT communities and crypto-communities. Students were required to report their findings back to the group on the Discussion Board, enhancing peer-to-peer learning opportunities.

IV ASSESSMENT TASK

The assessment task used to assess students on this module's content took the following form:

Question 1 required students to prepare a summary of what an NFT is and how it relates to blockchain, cryptocurrency, and smart contracts for a lay audience

Question 2 required students to draw upon the Guest Lecture and perspectives presented by Travis De Vries and additional research, and write a Letter of Advice to a hypothetical client about the key legal, ethical and business considerations they should consider before embarking on selling NFTs. The profile of the artist was also provided and mentioned they were an environmentalist and interested in sustainable practices.

Question 3 required students to develop legal analysis that addressed the question: When will a NFT of someone else's artwork amount to copyright infringement? Students were to present their response to this question in blog post format.