

APJA Australian Photographic Judges Association Inc.

APJA NEWS

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APJA Australian
Photographic
Judges Association
Inc.

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President's Message

Judging images is about subtlety and subtlety matters. Continuing with the theme of subtlety in commentaries made when judging images there are delicate subjects where extra care with diplomacy, tact and sensitivity are needed. Typical amongst these subjects are those concerning social issues (suicide, street living, begging), people issues (nudes, gestures, appearances, types) and tragedies (property fires, vehicle crashes) are just a few to be aware of. How we express ourselves in the club environment our comments will nearly always impact on someone either directly or indirectly. We should think through how we express ourselves in the most perceptive and understanding way.

Paul Robinson

Syllabus

All meetings by ZOOM (Subject to review)

2021

July Sunday 11th APJA AGM
Aug Level 4 Seminar via Zoom
Friday 6th
Friday 13th
Friday 20th
Sept Sunday 12th Committee and General
Nov Level 6 Seminar via Zoom
Friday 5th
Friday 12th
Friday 19th
Sunday 14th EoY

I once asked my father, “Did you have a Leica when I was younger?”

His response was, “Like a what?”

You know you might be a die hard photographer, When you are with someone and are looking at a exquisite sunset going down over a breath taking mountain and they say “isn’t this beautiful.” And your first thoughts are “the ambient light would have been better 20 minutes ago, the ISO would work at 200 and all those hues are just going to pop shot raw at a f/22 Aperture”. As you smile and say yes it is.

Special Article - NFTs

NFTs What Are They?

By Gary Smith

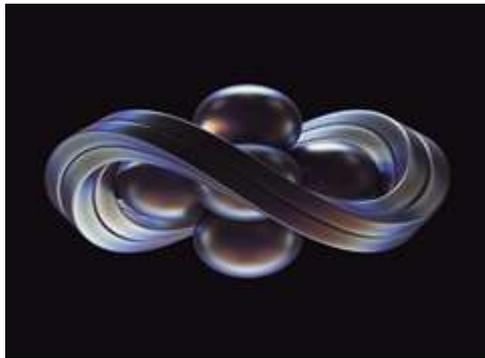
We have all seen in recent news items the insane sums of money people are getting for their artwork, as NFTs take the world by storm. The NFT market was reportedly worth some \$200 million in 2020; in 2021 it has already reached \$250 million in the first 4 months.



This image (Beeple's Everydays – The first 5000 days) sold at Christies for \$69.3Million



Pixel
Sold at Sotheby's
for \$1.7Million



Metarift sold for \$904,413

So we need to ask ourselves what are NFTs, how do we take advantage of this boom or indeed how do we protect ourselves from it?

Let's first start by understanding the term NFT which stands for:

Non-Fungible Token. The dictionary definition is:

1. The meaning of the word Fungible is:

Adjective 1. Of such a nature that one unit or portion may be replaced by another in respect of function, office or use; usually confined to goods.

Noun 2. A fungible thing, as in money or grain, etc.

Macquarie Dictionary

2. A. Being something (such as money or a commodity) of such a nature that one part or quantity may be replaced by another equal part or quantity in paying a debt or settling an account. Oil, wheat, and lumber are *fungible* commodities.

B. Capable of mutual substitution: Interchangeable — courts postulate that male and female jurors are fungible.

C. Readily changeable to adapt to new situations: Flexible

Merriam-Webster Dictionary

In simple terms; if your house burns down, it can be replaced with another house that is identical, so this is a fungible asset. However, if you lose your photographs in the same fire, the photographs of your 5- or 6-year-old son or daughter, they cannot be replaced as they are now 30 years old. This is a non-fungible asset. These terms are used more in finance circles rather than in other professions.

Cryptocurrency

To understand NFTs we need to understand cryptocurrency. Essentially cryptocurrency began in around 2009 with Bitcoin using what is called blockchain technology. In our current financial control of the system, it is centralised within the banking sector giving them enormous power. It also makes hacking into a central control much simpler. Blockchain technology attempts to decentralise this by decentralising control and spreading the load, so to speak, among many contributors using a public digital ledger.

Every time a transaction occurs information needs to be recorded in the blockchain as proof money has changed hands. To do this dedicated computer farms, around the world, try to solve what amounts to a complex guessing puzzle. When one of these computers hits on the right answer, a block is added to the blockchain verifying the transaction. The process sounds complex and it is, but blockchain technology prevents fraudulent activity. This process is called mining and the computer farms receive a monetary reward for completing the block.

In this way no group or individual can control what is included in the blockchain, nor can they replace parts of the block making hacking virtually impossible.

To create the blocks used in the blockchain the computers are required to perform some serious grunt work to run the guessing games involving huge numbers per second. It is currently estimated that the farm network will handle 176,000,000,000,000,000,000 (that's 176 quintillion) computations every second!

Currently there are approximately 26 different cryptocurrency platforms such as, Bitcoin, Ethereum, Litecoin, Dogecoin etc.

So where do NFTs come in?

NFTs

Ethereum took the idea of using the blockchain technology and applying it to digitised assets such as music or art. Whilst Ethereum was the first to do this there are now a number of platforms in the market place such as:

- [OpenSea](#)
- [SuperRare](#)
- [Nifty Gateway](#)
- [Foundation](#)
- [VIV3](#)
- [BakerySwap](#)
- [Axie Marketplace](#)
- [Rarible](#)
- [NFT ShowRoom](#)
-

Each of these platforms operate in a similar fashion:

1. Create a wallet. This allows you to deposit funds, pay fees and receive transaction amounts from sales.
2. Create a profile. Some platforms require verification that you are the owner of the artwork.
3. Upload your artwork.
4. Select sale method. This can be by direct sale or via auction.
5. Select if copies can be sold. These will have a lesser value than the original artwork.
6. Select the amount of commission on resale. This is usually between 10% - 30% and is paid to the artist should the original token be on-sold.
7. Create Token.

This sounds great for artists; connecting directly with collectors and buyers in a market place, and being paid handsomely for your work. Sounds too good to be true! So what are the pitfalls?

Bad side of NFTs

It seems there are a number of downsides to NFTs:

1. **Environmental** — University of Cambridge's Centre for Alternative Finance estimates the annual consumption of electricity used by the Bitcoin network is 149.6 terawatt hours and growing; that is equivalent to the consumption of countries like Sweden, Pakistan and Malaysia and about 61 per cent of Australia's total energy consumption. It is for this reason that people like Elon Musk have pulled away from Bitcoin.

NFTs use more power to generate the tokens than Bitcoin. It is estimated that it requires approximately 192kWh to create a single token.

2. **Business model** — NFTs require the platform to stay in business. Tokens are non-transferable to other platforms and become worthless if the platform goes out of business.
3. **Ownership** — Ownership of the original NFT does not give you the exclusive right to the NFT. Copies of the token appear identical to the original, the only difference is the data packet behind the original token.
4. **Fees** — The cost of selling artwork as an NFT is high and very few people talk about this. There are:
 - a. **Minting Fee**
 - b. **Listing Fee**
 - c. **Commission Fee**
 - d. **Transaction Fee**
 - e. **Escrow Fee** — This is still only cryptocurrency. You will have to change this into real money and the banks will charge a fee for this.

Cost — Most fees are paid on a percentage basis and the following example is based upon Ethereum at \$1740. As Ethereum is currently valued at \$3881 these fees will be higher.

- f. **Minting fee** .050421 eth = \$87.53
(Add items f. & g. for \$149.72 just to get your
token onto a platform)
- g. **Listing Fee** .035822 = \$62.19
- h. Artwork sold for \$286.44
- i. 15% Commission = \$42.97
- j. Transaction fee = \$31.25

So from the original sale price of \$286.44 the artist received \$62.50 that is 21.8% of the total value.

5. **Illegal Transaction** — NFTs by their very nature are effective outside of any jurisdiction globally, therefore if you are ripped off there is little to no chance of recovering your money.
6. **Copyright** — NFTs by their very nature, are effective outside of any jurisdiction globally and therefore copyright typically does not apply.

Australian Copyright Council

At this point it is worth noting the response from the council to my query, shown in full here:

NFTs are an emerging technology and require an understanding of blockchain technology to fully comprehend. The idea behind NFTs is that an artist (or photographer) can mint a token and sell ownership of that token to someone else. The token references the artwork by either containing the data in the blockchain or providing a link to a website where the artwork is hosted. An NFT is considered personal property and any transfer of ownership of copyright or licences to use copyright material, must be made through a separate agreement between the artist and the purchaser.

Because NFTs are a relatively new invention, it is unclear how the law will apply to protect artists and purchasers of NFT where a person has created an unauthorised or unlawful token. Unfortunately, there have been instances of people minting tokens relating to artwork which they do not have the rights to.

Copyright law may help artists where a person or organisation infringes copyright by making an unauthorised copy of a work to mint an NFT. The remedies a court may be able to offer are an account of profits for any money made through the sale of an unauthorised NFT and an order to transfer ownership of the NFT to a wallet controlled by the copyright owner. Unfortunately, there is little that a photographer or artist can do to prevent this from occurring before the fact.

One further avenue to consider is the terms and conditions of a service provider for the minting and sale of NFTs. Most of the large platforms (such as OpenSea and Rarible) state in their terms and conditions that users are not able to create NFTs for works which they do not own the rights to. If an unauthorised NFT is seen on platform, the copyright owner should contact the platform immediately to notify them of the infringement before the NFT is transferred to a user's wallet.

In practice, enforcement may be difficult because of the secure nature of blockchain technology, the anonymity which it can provide and the likelihood that parties will be based in jurisdictions outside Australia.

We hope this information helps. 7

One further consideration is that if artists have minted their own NFT, this may be seen as a technological protection measure (TPM) and the minting of subsequent NFTs relating to the same token may be seen as circumventing a TPM which is an offence under the Copyright Act.

Here I must add a little, the [current cost](#) of minting an NFT is \$100.52 on OpenSea or \$677.21 on Rarible; therefore a photographer will be up for several thousand dollars per year just to take out the technological protection measure (TPM).

Some Final Thoughts

NFTs sound good from an artist's perspective, access to a global market place, on-going commission every time your artwork is resold, the ability to sell copies of your work and total protection for your work (at least that is what the NFT platforms will tell you).

The reality is a long way from what you are told by the NFT providers. Yes, some people make a lot of money but many do not. You only receive approximately 21% of the sale price of your artwork.

The NFT platforms are global and therefore it is very difficult to trace their origins, meaning that any breach of copyright law will be impossible trace; even if the platform does respond to requests or complaints. It will be in an overseas jurisdiction meaning that you will not be covered by Australian copyright law, but the law of another country, if any.

Theft of artwork is simple. Bring up the image on screen and take a screenshot, create an NFT and its yours, no hassle, no annoying legal consequence; too simple!

The Australian Copyright Council's idea of the artist creating a token for their photographs may work for a few photographs per year but an average camera club member will potentially have 10 or more images per year, which will then cost a minimum of \$1000 per year.

In our current climate governments are concerned about climate change, and our carbon footprint. Considering that most of the world's electricity is still produced by coal powered generators we must be concerned with the amount of power required to produce the NFT's.

One final thought. I've heard people complain about email spam and refuse to have their email address published for fear of the spam they may get as a consequence, and rightly so; but these same people will happily have their artwork published on websites, such as club websites or competition websites without a second's thought regarding the security of their artwork. Currently there are an estimated 2.5 billion images stolen every day from the internet. That's right; every day!

Australia contributes about 1.3% of that total or about 32, 500, 000 images every day and it will only get worse as the advent of NFTs are making it easier for the theft to occur, by allowing the systems to bypass our country's copyright laws.

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Further Video References in the next Newsletter