

Demystifying NFTs Episode 1

PLUS Staff: [00:00:00] Welcome to this PLUS Podcast: Demystifying NFTs, Episode One. We would like to remind everyone that the information and opinions expressed by our speakers today are their own and do not necessarily represent the views of their employers or, of PLUS. The contents of these materials may not be relied upon as legal or financial advice.

Before we begin, let's meet each of our speakers. I'd like to turn it over to Alice to get us started.

Alice Budge: Thank you. Thanks so much for joining everyone. I'm Alice Budge from, the London Market I'm a Lloyd's Broker, and today we've got Jennifer Stivrins and Vito Marzano here from KSW (Kissel Straton & Wilmer LLP).

Jennifer Stivrins: Great. Thanks so much, Alice, for having us.

Like you said, I'm Jennifer Stivrins, KSW, and Vito Marzano is on as well. And we are members of KSW's Emerging Tech Team and we're excited to talk about NFTs. I think today will be a basic basic, what is an NFT?

Alice Budge: Thanks Jenni. Yeah, so what, what the topic is today is we've titled it [00:01:00] Demystifying NFTs, which is very much a Harry Potter terminology there to really give you a better understanding in layman terms, of what NFTs are and the surrounding factors around them.

What we'd like to start off with, I thought was just firstly, if I could quickly ask what your favorite NFT is that you've come across, what your most interesting one is? The one that I have found that I'm assuming you've come across a lot more than I have is I like The Clock. I think it's a fascinating one.

And this is the one that Julian Assange created with Pak, and it effectively depicts a timer to show how many days he's been in prison for. And he sold it to a collection of people in order to raise, money. And the proceeds of the sale are to go towards his legal costs to get him out of prison.

I'm not saying it's my favorite for any other reason other than I think it's fascinating that he came up with the idea of even creating this. That's super interesting. I haven't, I know I'll hit off with that one.

Jennifer Stivrins: Vito, you wanna go?

Vito John Marzano:

Sure. Mine is the Dune--The NFT of Jodorowsky's Dune, the [00:02:00] picture book that the people that were SpiceDAO, Decentralized Autonomous Organization, we'll talk about that in a later network, a later episode.

They thought they were buying all these rights with this NFT. I think [they] spent like 3 million dollars on it. And they really did not get anything, like, it was not worth that amount of money. And I, I think it illustrates, with NFTs, the, the kind of uncertainty that surrounds them. That we're gonna talk about in this episode later.

Jennifer Stivrins: Definitely. And we'll, yeah, talk about values some more here and in a later episode. I think. So, I, my answer should be Crypto Kitties, Mer, my partner Meredith, is gonna kill me, that I'm not saying crypto kitties, but no. So, the one I'm watching most closely right now is an app called Plato, P L A T O.

And it's self-described as a web3 lifestyle app that brings users out to physical restaurants. But essentially what it is, is you can buy, you can own an NFT [00:03:00] table, and then you eat at any local restaurant. It's gonna include all of the restaurants in the Google Map API. And then when you eat there, you earn dine tokens, you can earn more seats for your tables, you can share those tokens, and then eventually, those can be swapped for Solana USDC coins, which is basically like digital dollar stablecoin. It's still in beta. My brother is like an early adopter. He's a chef out in Colorado, so he's been watching this like super closely.

That's my favorite one to watch right now as they roll it out.

Alice Budge: You heard it here first, then.

Vito John Marzano: I have so many questions about that one.

Jennifer Stivrins: I'm not giving financial advice. I'm not saying go get some, but it's fun to watch.

Alice Budge: Perhaps we could get your brother on as a guest one, one week, ask him lots of questions.

Oh, well, great. Thanks for that. Now I thought it'd be easier if we just first get into what is an NFT for people who don't know or firstly have never heard of it, or know just a little bit about it. So, if I could pass over to you guys, the two experts, between you firstly, [00:04:00] what is an NFT? Like, what does it stand for?

And give me a sort of in layman's terms of slight explanation, please.

Jennifer Stivrins: Yeah, so NFT stands for Non-fungible Token, which is essentially a digital thing, a digital object that doesn't have an analog, which sounds like a bunch of word salad. So, I'll let Vito kind of dig in a little bit deeper as to what those terms mean in this context.

Vito John Marzano:

So, an NFT is, it's the, the, the non-fungible token is a non-replicable, not interchangeable unit of data associated with a physical or digital asset that uses unique identification codes and metadata and is stored on and certified as authentic by a blockchain. And I think that is a very simple definition that should have fully explained it.

And we can end the episode now. What do you both think?

Alice Budge: Oh yeah, I dunno. I think we are gonna go a little bit more explanation for people, I think. [00:05:00] Say maybe what the token part is first.

Vito John Marzano: Cryptographic token in simple terms, for our discussion, it's a digital unit of value that exists on the internet, on computers to, yeah.

Jennifer Stivrins: Perfect. And then when you say non-fungible, you're basically talking about something that can't be traded one for one, I guess?

Vito John Marzano: Yeah, so, also has nothing to, nothing to do with fungi, just to be very clear about that. But although some people could beg to differ on that, so yeah, exactly. It's, it cannot be replicated. It's unique. For UK listeners, I would say bespoke in it's like original meaning of the word—literally one of a kind.

Alice Budge: Yeah. And I, I actually, the way I've always liked explaining it to myself, how I taught myself originally was that it is very similar to say you've got, fungible being something you can completely exchange. Say one currency for another 10 pounds can be a certain amount of euros, probably yours at the moment.

And that sort of exchange rate when it's an NFT, it's completely [00:06:00] unique and it can't be copied. There's no other out there. So let's say you had a \$10 note. And you could change it for any other \$10 worth note, it would be completely fungible. But if you got, say, a celebrity, let's say a Elon Musk or someone to sign it, put his autograph on it.

It's effectively unique now, there's no exact other 10 pound out there, albeit has that same 10-pound currency. For some people it could be worth a million pounds for some people, it's now less than 10 pound, though, effectively in their head. But I think it's quite a nice analogy of explaining how, it, it takes it from taking it from a fungible item and then making it a non-fungible item within one signature.

Jennifer Stivrins: Yeah, I think that's a great way to visualize it. And one of the ways that Vito explained it to me once upon a time was, you know, they can be mass produced, but even if they're mass produced, they're not all the same. They're not. They're, each one is unique. So think of cars on a factory line. Yes, we're gonna produce a bunch of cars, but if I borrow your car, I can't return to you a different car.

Even if [00:07:00] it's the same make and model, I have to return your car. There's only one of your car. So I think that's a helpful way of sort of picturing it in my head as well.

Alice Budge: Yeah, and even like your house value, you can have the same house value, but you couldn't swap them because one might, you know, have mold in the kitchen and you know, you don't wanna exchange that to the same, they're completely different.

Even if they are the same value.

Vito John Marzano: Yeah. I would also say like, with your mass-producing loaves of bread, every loaf of bread, it's gonna be complete-- it's gonna be not completely, but it's gonna be different enough that you can never have the same exact loaf of bread.

Alice Budge: I mean, I've never compared, but I'm sure.

Vito John Marzano: Yeah.

Alice Budge: No, that's great.

No, I think--thanks guys. I think that's, that's really, interesting and a few good examples of what they are in, in basic terms. So obviously we use a technology called blockchain of which they sit on, and I thought it'd be good for us to kind of dive deeper into that and the relationship between blockchain and NFTs and how they rely on each other, and how they're kind of, made for each other really.

Vito John Marzano: So, the [00:08:00] blockchain, it's, this is a similar technology that, is used for cryptocurrency, right? This all comes, involves some cryptocurrency. So, it's a digital ledger of sorts. It's, when, when looking at NFTs and blockchain, it's kind of easier, maybe conceptualize the blockchain as being a security network that acts as a base for the NFT to develop and grow.

It's where the NFT is going to be stored. So, it's the, it's the, it's the tech, it's the mechanism or technology actually. It's the technology where the, where the NFT lives, where the digital asset's going to live.

Jennifer Stivrins: When we talk about NFTs being bought and sold, is the blockchain also bought and sold?

Vito John Marzano: No. So, what ends up happening is the, the NFT that's being bought sold will have to be tied to a blockchain. It will live on that blockchain. The, one of the things the blockchain may influence is how the NFTs bought and sold. Specifically, there's a type of currency, cryptocurrency that's used for it.

The, the wallet that had the [00:09:00] transactions be done in. And even some of the things that the NFT itself could happen depending on the type of, code or, uh that's being used, there's something we'll call the smart contract that we'll talk

about. Those are being upgraded to include different things, that can also influence what can go into the smart contract.

Jennifer Stivrins: And this isn't like a blockchain specific podcast, but in talking about blockchain security, it, I feel like when I hear the people talk about blockchain and NFTs and why they would want to store money assets on with an NFT on the blockchain, they do so because they claim that it's safe. Are they infallible or is it just safer?

Vito John Marzano: No, and that's a, that's an excellent question. I think safe is gonna be kind of a subjective way to look at it. Objectively they could be more safe. Maybe there's an argument to be made that they are gonna be more safe than other technologies. Partially 'cause it has a unique [00:10:00] identifier, it's gonna have that wallet.

But if somebody gets access to your wallet, and access to the NFT. If you, if somebody gets access to your computer and you have your password to your wallet saved somewhere, and they get access to your NFT, and they pull it there's not a lot of ways that I could think of to recover that lost property.

So, is it safer there? I think it's gonna be as safe, for the everyday user. And how much, how safe their regular passwords are.

Alice Budge: Yeah. Thanks guys. I also thought what, how I've always read about it is also it does, it, it leads to an easy transaction as well. It makes, speeds things up, makes things very quickly like Vito, you mentioned the smart contracts. I know we're gonna come onto that later on. But it makes all those things happen very quickly. Things can be stored on there, whether it be money or commodity on there that can instantly be released once an a transaction takes place. And I think that's also a great, underlying technology, therefore for this and multiple other things.

Vito John Marzano: I just, I wanna go back. So the, the idea of the blockchain, the underlying technology is fashioned so as to keep things safe and authentic, and that's one of the things that a blockchain does have. [00:11:00] One of the value to

it is that it does authenticate the tokens that was stored on it, and that is necessary for an NFT.

The idea that the NFT is the only thing of that thing that exists in the world, that nothing else can exist that is—a replica of that NFT will lose all value. The only way to maintain that uniqueness is to be able to authenticate it, and that's where the blockchain is of value.

Alice Budge: Yeah. I like that they used the same coordination mechanism, which is what they used like to summarize it as it, giving it the only way you can have rights over it when it is a digital asset. Otherwise, you would have no rights effectively. Again, we've just, I know we talked, briefly before about. NFTs. It's not just being artwork. It doesn't have to be intangible assets. It can be tangible things such as real estate or, you know, real artwork and stuff.

It can actually, you can have the rights put onto there. And I, I found a really interesting article recently that I read that apparently last year, in Florida, someone managed to sell their [00:12:00] house through an NFT in for 653k USD, which turned out I think to be about 110 Ether. And they managed to just do it over there and what it was is they managed to exchange it so quickly.

No, you know, mortgage advisor going through or anything like that to slow down the process. In England, it's a nightmare buying a house. I don't think it's any better in America.

Jennifer Stivrins: Similarly, a nightmare here.

Alice Budge: Right? So awful. So it was just so interesting they did it via this firm called Propy and it was a very quick transaction. And the money went from one wallet to another wallet, and it was instantly through this NFT, which was like you say, this digital ledger just, there was instantly this person's new house. And I don't know if this will take up or happen again because I think the, that Ether did drop about a week later and become worth less.

So, I didn't know. Does that make your house worth less? I don't know. But again, I just thought it was really interesting that it's not just this sort of like digital asset world. It can be some a way to sort of give you a license [00:13:00] of a hard copy item in the real world as well that you can touch.

Jennifer Stivrins: Yeah, I think that's one of the most interesting parts about NFTs in terms of what they can represent, right? They can represent anything that's digital, or anything that's physical. A lot of things that are physical, I should say. And I think that's where we see a lot of the litigation and initial questions coming out in terms of how can we be using an NFT and if we're using an NFT for something else that used to be regulated by the government, do we now have to try and figure out how we deal with regulating the NFT the same way? Or is it something different? We've seen a lot of physical assets that can be represented with NFTs and one of them you mentioned real estate, stocks, multimedia files, fine artworks, hard copy, fine artworks, and creative works.

I think one of the cases that [00:14:00] Vito and I were watching pretty closely was the Tarantino Miramax case where Quentin Tarantino was attempting to make NFTs of his handwritten script to Pulp Fiction. And Miramax said, no, that belongs to us. That one settled out of court, unfortunately, so we didn't get an answer on that one, but you can see how it's ripe for, for legal action.

When all of a sudden, we're creating basically a new thing with an NFT. They can also be markers for other physical assets, so things like certificates of authenticity, proofs of purchase. The, these are the types of things that I would expect to see on a smart contract like you were talking about, Alice. Fractional ownerships and that sort of thing is sort of more easily dealt with with a smart contract.

Alice Budge: Yeah. Oh no. In addition to that point, I think people were talking about like music tickets for concerts. You can buy them but then get an NFT and they never expire effectively. You've then got this [00:15:00] ticket to use you, can't physically lose it.

Jennifer Stivrins: You do have to be pretty careful to figure out, you know, what, what it's for and how far it will go.

We were at, Vito and I were at a crypto event this past fall and someone was telling us that, there were a bunch of shows during New York Fashion Week where you had to have a specific NFT to actually get into the show itself. But then once the show was over, it was like, okay, now I have this NFT that's worth nothing, you know?

Alice Budge: I didn't get my invite.

Vito John Marzano: Well, we didn't have your NFT wallet.

Alice Budge: Oh, that was what it was then, okay.

Vito John Marzano: So, yeah, I mean, I do wanna, that one of the things about NFTs is that they can, the NFT can represent digital and virtual assets, but it, and it can represent just digital assets, but it can never just represent physical assets, it must always have some type of virtual component to it because it lives on in our computers.

Jennifer Stivrins: I was gonna say is that's because it lives on the blockchain, right?

Vito John Marzano: But also, how it's authenticated now, and kind of going back to what I referenced earlier, Jodorowsky's Dune that NFT, where [00:16:00] it does represent some type of physical asset in the world, but it didn't confer any of the rights. And those, the, the Spice DAO though, who purchased the NFT thought that they were gonna be able to take this NFT that they were purchasing. They thought it represented ownership of the actual, physical book, right? And it would confer all these rights that they could mass produce it and sell it at-large.

And the internet was very quick--and, and by the internet, I mean Twitter, pre-Elon Twitter was very quick to spank them and say, no. That is not what just happened. But there, I mean, that's, so while an NFT can absolutely represent a physical asset, and we're seeing that more and more, it's important that people consider—okay, just 'cause it represents a physical asset, it doesn't mean it always confer all the rights that we would think comes with ownership of that physical asset in the traditional sense.

In some regards, it's almost, you could say it's like when I go to the store, and I don't know who still buys blu-rays. But if I buy a blu-ray of, of Dune, [00:17:00] I'm just gonna stick with that, that does not somehow confer on me the right to mass produce that movie. And make copies of it.

And I think sometimes people, when they're looking at NFTs, especially this specific group, they were looking at like, okay, well we're buying a copy of this book. We must have all these, rights? No, just 'cause you own something physically does not mean you're gonna get the right to own the rights of like the patent and trademark and all that good stuff.

Jennifer Stivrins: Right. Right. And I think speaking of trademark, that's a good segue into, into talking about strictly digital asset NFTs as well. Because that's where we've seen a lot of the media law, issues arise, which we will have a future episode on. But we have the, MetaBirkin case verdict come down this week, in which the jury held that, in fact, the NFT creator did violate Hermes' trademark rights. So, we definitely have a lot of things that are digital assets. Where the courts are gonna be looking at are these infringing on other [00:18:00] existing rights that are out there in, in the universe.

Vito John Marzano: What case was that? Because I have no idea.

Jennifer Stivrins: That's the MetaBirkin case.

Alice Budge: I wonder if it will, obviously it was one of the first ones settled within a court for the public to see. I wonder if it'll set a precedent for sort of other cases and whether they'll all follow that exact format or whether it will be by a case by case. 'Cause obviously, I know like you say, that the fashion company, got the cost from the artist.

I wonder if it's on a case by case or if every other one would be different.

Jennifer Stivrins: I do think it's, definitely more of this to come in a future episode because I want to digest it more fully. But I do think it's interesting that the damages awarded were low six figures, a hundred thousand dollars-ish.

Which, when you think about the amount of money that this company made on these MetaBirkins, maybe it's the cost of doing business for them. I'm not sure, you know, on a case-by-case basis, what courts are really gonna look [00:19:00] at, lost profits, what they're gonna use for those damages measures. And I think that's still pretty unclear.

Vito John Marzano: Just to be, so that's the case where they, this, this company was selling NFTs of this person's designs from Fashion Week without any permission, correct?

Jennifer Stivrins: Yep. Yep.

Alice Budge: A well-known, very fashionable handbag that all girls want to have in their wardrobe and their little avatar was holding them.

And I think he made, or I, on what I read, seemed to have made over a million in a month of sending them out onto the internet to sell them. And there was only a hundred of sort of them put out there. Obviously, Hermes went after the artist.

Vito John Marzano: Can I just say I want one of the bags too?

Alice Budge: Yes. When I've got one, I'll let you hold it. Vito, I just wanted to pull up a point you made, in regards to obviously not having the same rights as you would say, as holding a physical asset, if you do have it with a sort of on an NFT. And do you think that's because NFT is still set on a [00:20:00] decentralized system rather than being centralized and you know, has been covered by law or has no legal sort of background behind them supporting it, do you think that's partly why?

Vito John Marzano: You mean in terms of why the, does it confer the rights? Not, not entirely. I think the misunderstanding on why people may think they're getting more rights or not fully understand the rights they're getting. I think that's entirely informed by the centralized or decentralized aspect of it, yes.

Alice Budge: Okay.

Vito John Marzano: And that's partially important because people are getting involved. I think some people, I don't wanna speak so broadly, maybe some are getting involved but not fully understanding what NFTs are. Maybe they're also being, to some degree, misrepresented. And it is hard to regulate that industry.

So actually, to answer your question broadly, yeah. I think part of it could be the decentralized aspect that, that kind of may lead one to think that this is a unique and there's no laws on it or the existing laws can't really apply to the, to this thing. I don't necessarily buy into that mindset. I do think that we can draw analogies to existing laws in a lot of regards. [00:21:00]

But I think when people start to see the decentralized--that word being used.

Alice Budge: And if, like you say, the regulations not being quite in place yet by the lawyers, you've got no support by legal regulations. But what's interesting is

that the e-commerce market used to be like that back in the day. Like apparently when the internet first came up, you'd buy your handbag over the internet, you send your pennies across to them and you'd hope that you get one back. There's no, there wasn't any sort of regulation behind you to support you if you didn't get your item. But there, I think there needs to be a bit of traction before people are willing to go, yeah, okay, we will help you regulate this market and centralize it.

So, I think unfortunately it is going to be like that trial-and-error period, isn't it, at the beginning until it becomes something that's used more often?

Vito John Marzano: Oh, absolutely. And I think what's, what's gonna dictate that is money. So many of the things, right? It's gonna be the value of this, of this market, that that's emerging.

If this were to stay a market that was relatively small and didn't have, you know, billions of dollars at risk then would we expect regulation of it? No, it's gonna be, [00:22:00] the Wild West. But as it's growing, it's, we're gonna see the, once people start getting ripped off and we see more of these instances of somebody buying an NFT maybe, legitimately buying an NFT, that loses all value.

And once that starts happening, I think a bit more en masse, then we're gonna see a lot more regulation get pushed. But that having been said, the government, at least in the US, they are really looking at NFTs. And one of the things we be talking about in a later episode, and I feel like we're using that phrase a lot right now, is the how like the SEC's gonna treat NFTs. Are they securities? Are they not securities? I think I, I'm pretty sure that they're securities, by the way. Oh, that's, that's my opinion. But we can hold that.

Jennifer Stivrins: The law, according to Vito.

Vito John Marzano: Yeah, the law, according to Vito, I wish I could cite everything I write, with just see me and the date that I said at the first time.

Alice Budge: Right. Well, we've got whole episode on that, so we just save all your thought based on that, please. But I think going back to that sort of thing, last thing I would say that read that I found interesting was this whole idea that the most of the population is so addicted to be it working [00:23:00] or, so used to, only working with centralized corporations that it's like a Stockholm syndrome of your kidnapper and you get addicted to using them and it feels uncomfortable to go

to something that you're not used to i.e., moving to work with or to trade or to sell or buy with a decentralized system. So I think, I think I like that analogy, even if it's a bit dark.

Jennifer Stivrins: I think that's a really good segue into talking about how these NFTs get their value in the first place. Vito, what's, what are your thoughts on that? Where does the value come from?

Vito John Marzano: Scarcity. The value comes from the fact that it's the only thing that, is the only, that now that exists in the world, right in the universe rather, you cannot have more than one. And if an NFT, if there's a second NFT that is exactly the same as the one you have, then they're A) they're no longer NFTs. And, by definition, and they lost all value. And part of this kind of goes back into something we were talking about earlier with [00:24:00] security.

There's something in the blockchain world called forking, which is when, a blockchain, splits into two and can start producing the exact same tokens, for crypto that has been used to bring prices down. So Ethereum did it a couple years back to bring down the cost of NFTs, specifically, in India.

They had the Ethereum split and fork. That was a, a very good use of it. On NFTs with absolutely destroyed value, if one, if the fork and what that, that could happen. If the people that are the miners are, they, they don't agree with an upgrade.

Jennifer Stivrins: Got it.

Vito John Marzano: So, we have one, one group that says, we're gonna do this upgrade.

The other group says, we're not gonna this upgrade. And then you start having the blockchain start producing the same tokens. So now you have two of everything. And in that instance, what would have to happen is one group is going to have to say, this is the original one, or this is the one that's gonna be continuation of the original one, and we're gonna be something different.

And that would restore value. But if that doesn't happen, then you are literally going to have two NFTs being produced of a thing, and there's gonna be no [00:25:00] value. So, part of it to answer your question, part of it is it's just pure

scarcity. Another part of what's gonna go into the value is how, what people think it's worth, right?

So, me drawing, producing an NFT of say my, a picture of myself, right? Anybody can make an NFT of themselves. I may think personally that that should be worth billions upon billions of dollars. But the rest of the world may say not even a penny.

Jennifer Stivrins: No one is interested. No one is interested in me writing a page of the script of Pulp Fiction, but if it's in Tarantino's handwriting, then the value increases.

Vito John Marzano: Right. I'm sorry.

Jennifer Stivrins: You do have that sort of like celebrity speculation part there.

Vito John Marzano: And this goes Alice to your example earlier, right? Like the, the dollar, right? Of somebody having a dollar. It may not be, that valuable to somebody if it's unique, but have Elon Musk sign that dollar and maybe, or [00:26:00] pound or 10 pounder like maybe all of a sudden that's, that's gonna increase the value of that to the people that value him as a person.

Alice Budge: Yeah, I saw that, that Jack Dorsey's first tweet, NFT--got NFT'd and went for sale for 48 million dollars, but then when they went to resell it, the top bid was \$280. Now, that's a loss. That's what I find fascinating that, you know, it can, it was at one point worth 48 million USD and now 280.

I just think it is interesting how it can just go so up and down and fluctuate.

Jennifer Stivrins: Yeah, again I mean there's just such a speculation factor there that you're right, it can, it can go up and down and it's based on what people will pay. That's the value, what someone will pay for it.

Vito John Marzano: So I don't know if you guys have, like sports cards or baseball, well, you, not baseball cards, not really, but sports cards in the UK, in the US growing up those are the thing that a lot of the people that I went to school with and [00:27:00] family that were really into sports they all had to have baseball cards and how rare that card was informed the value of the card. And it's kind of the, in that instance, although those are fungible 'cause there, unless there's only

one of those baseball cards that exist in the world, that, is analogous to an NFT, the sense of value that the only reason why those have any value whatsoever is 'cause people ascribe value to it.

And much the same way that diamonds are given value, even though there's more than enough diamonds for everyone to have.

Alice Budge: To your quick, quick question to you, if you can explain to me, you talk about scarcity being one of the main factors. So effectively there has to be a finite number of them. So just an example.

Let's say, I dunno, someone like McDonald's made a McNugget or some sort of NFT McNugget. I think they've made something like that. And let's say they made a hundred of them fine, sold them off and 'cause there was only a hundred of them everyone's really excited and there was some finite numbers therefore everyone went after them, could, would, McDonald's then not allowed to create another a hundred because effectively doesn't that [00:28:00] devalue all of the ones out there? Is, is there sort of a legal regulation on that?

Vito John Marzano: No, there's no legal regulation. I'm not--to answer that part, no. Ok. But, no, but, well, I mean, so that maybe there's a false advertisement, but I wanna be very clear what it's meant by the uniqueness isn't, isn't necessarily that there's an NFT that is maybe of the same thing.

It's that they're the, it's the NFT itself is, 'cause that has the unique identifier. So you can, McDonald's can create a hundred McNugget NFTs, right, that are maybe the same picture, but each NFT itself is inherently unique 'cause it's the only one that's gonna have those identifier, that unique identifier codes that metadata that should all be unique.

If they create two NFTs that are exactly the same that, that are direct replicas of each other, they have those same unique numbers, then they're not NFTs by definition.

Alice Budge: I just more sort of meant that if there was, then, you know, if you've got one of a hundred of the unique things. Right. Oh my gosh, so exciting.

You've got 100, but as soon as there's another hundred added, you're sort of like not as exciting. It's like having a limited edition of something. It makes it less

[00:29:00] unique in a way. I know they're obviously, individually unique, but I just mean other.

Vito John Marzano: I'm sorry. Yeah, I was just trying to explain that for listeners said this, not confusion at like if McDonald's is creating the same thing at the NFTs themselves are unique, but yeah, no, I agree 100%.

And that's like, again, similar to baseball cards, right? If we say that there was only five cards of this player. And then all of a sudden, they're like, we need a bit more money right now, so we're gonna produce a hundred cards. Those five owners of those cards are gonna say, okay, well, you know, they're still gonna be scarce, but you're actually now impacting our value of this.

And maybe, without going too much into the weeds on that, maybe there's an argument that, a bit, a company that does sell something as we are only producing a hundred of these and you know, that's, they're gonna be scarce. You know, that's, that's the point of it. And then to turn around and do another hundred, there could be a, maybe false advertisement, a misleading advertisement claim, or something along those lines.

I don't know if, if those have been, necessarily filed yet, because I, I think this market isn't that matured. [00:30:00]

Alice Budge: Yeah, I think it's a question and we go away, find out the answer. We're gonna come back to that one then. I'm bringing it back. I'm not letting you off.

Jennifer Stivrins: Yeah, I think, I think you don't have to look far for examples of people flooding the market with what's gonna be a limited edition.

I mean our, our ex-president (said with no other comment than that whatsoever), did release several digital trading cards, I think right before the end of the year last year, and I don't think there's anything to say that he couldn't release several more if he felt like it. We'll have to have to wait and see what the courts do with that.

Vito John Marzano: Yeah, I think it all comes down to how it's gonna be, to how it's advertised, right? Yeah. That's gonna determine, and if there, if something is advertised, regardless if it's, that, and I'm not even sure what he did, what was

NFTs, what was an NFT, but, if it's advertised as this is unique and we're only selling a hundred, a hundred of these.

Like I went, I went to a concert a couple years ago and there were only 2,500 of this cool, tea towel that was signed by the band. [00:31:00] alright? And I was like, I need to have one of those because of who I am as a person, right? But, and I wasn't necessarily putting value on it, like these are only 2,500 that are gonna exist.

It was more like; I just want to own it. But if somehow that band blows up and the all of a sudden becomes a million dollar tea towel and then the band's like, we're gonna produce another 2,500. I'm like, okay, well no, that's not, this is supposed to be the only 2,500 produced or signed. You're taking away that value.

But if it's a, but if it's only advertised as like limited edition 2,500, and they're not saying that they will not produce something else, I don't know what the law is on that. Yeah. Yeah.

Alice Budge: Can I just move on to the next point then? Is there, what, have you got any tax guidance at all? Is there any tax guidance out there?

Jennifer Stivins: I actually, so, it's a great question. And obviously we are not tax attorneys, but I did just get my, tax questionnaire in the mail from my accountant, and it does include a question on digital assets, which was, I [00:32:00] thought, very exciting. So mid-October 2022, the IRS changed the wording of its tax guidance to replace virtual currency with the term digital assets.

So, now that is for sure going to include NFTs. So, the guidance mandates tax payments in scenarios that include receiving digital assets, either as a payment or a reward, through mining or staking through a hard fork like Vito just discussed selling them and transferring them even as gifts. I got my questionnaire from my accountant and their question is, "did you have any sales or other exchanges of digital assets, including from an airdrop or hard fork, or use digital assets to pay for goods or services?"

So, we will definitely get into what kind of asset is this? Is this a security or a commodity? And talk about sort of the wealth figures, how [00:33:00] wealth figures in with NFTs, and how we figure out the wealth of NFT value essentially in a future episode. But, for those US listeners about to file taxes, there's my 2 cents.

Alice Budge: Oh, I think ours was two weeks ago, so I must have missed a question in the UK.

But yeah, so anyway, thank you so much for that, guys. I think that's a really good overview. So, I'm just gonna do some closing thoughts here, really. Why are we interested in NFTs? Are they gonna be a thing of the future? Are they just a new, exciting, flashy thing and the buzzword to make you sound cool? Or is it going to impact our business and world generally and how is it going to, impact the insurance landscape specifically, especially in regards to hearing that really good Hermes case closing and going forward, what we will see in the future.

So, thanks so much guys for joining. I really appreciate it [00:35:00] and we will be back soon.

Jennifer Stivrins: Absolutely. Thanks so much. This was fun. Thanks guys.

Vito John Marzano: Yes, thank you.

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