

Blockchain and Intellectual Property: Innovative Connections

Most of us have heard about blockchains. Almost every day there is news about fluctuations in the value of bitcoins, development of central bank digital currencies, and sometimes how much the market will pay for non-fungible tokens that were once highly valued (Jack Dorset's NFT tweet). Blockchain is the most disruptive technology of the fourth industrial revolution (to date). It is a distributed ledger technology that allows information to be recorded, stored, secured, and verified using a decentralized peer to peer network. The technology has facilitated various types of disruptive uses which are transforming many everyday transactions and how different types of businesses are done. Examples of uses include remittances services, land tax and transfer transactions, digital currencies, digital art, and certain types of intellectual property related transactions, such as copyright and trademark registration services. Many of these developments are still in the testing or prototype stages, but some, such as NFTs, digital currencies (including bitcoin, Ethereum and Dash) have seen significant developments towards near mainstream usage. The proprietary interest in blockchain technologies is diverse. This note addresses three intersections between blockchains and intellectual property (IP) and implications for Caribbean entrepreneurs with interest in the space.

A. Diversifying Patent Portfolios

Although the base technology in blockchain is open source, improvements on the technology may be patentable. As of June 2022, there are over 50,000 blockchain related patents filed or registered internationally (PATENTSCOPE). These patents cover different aspects of blockchain including methods or processes associated with cryptocurrencies, storage of files on blockchain, or devices associated with how cryptocurrencies operate. A patent gives its owner the exclusive right to make, sell, license, or use the invention for twenty years. The number and types of blockchain patents have increased over the years with China, the United States and Korea being the most active in the space (respectively). In many instances, the holders of these patents have other types of technologies as well (such as Samsung Electronics Company Inc.), thereby enabling a diversification of the owners' patent portfolio. An owner of a blockchain patent can license the technology to others for use or sell the invention should they choose to exit the market. The growing interest in and uses for blockchains suggest that patented blockchain innovations can be sound investments if markets and its eco-system support its objectives.

B. Leveraging Trademarks

Consumers are becoming more concerned about the origin of products they buy. Their concern may relate to how foods are processed along supply chains, the ingredients in foods, or whether their favorite products are in fact authentic. One of the characteristics of blockchain is that it timestamps, records and stores data in an immutable way – information cannot be entered on the chain unless it is verified by the previous chain, and once the data is inputted, it cannot be changed (the hacking of blockchains shows that data can be changed; however, security improvements on the technology are always happening). Business interest in using blockchain technology to authenticate or show the provenance of products, or to bring transparency to supply chain logistics is a developing trend in blockchains' usage.



When used to prove provenance or to give consumers a historical trace of the various value or supply chain in products, the technology can influence consumers' loyalty to brands, promote goodwill, and therefore build trademark values. Walmart, Louis Vuitton, and Prada have used blockchain technology to show transparency in their supply chains, and specific to Louis Vuitton and Prada, validate the authenticity of their goods. In these instances then, blockchain helps to define the relationship between the trademark, the products the mark is associated with, the consuming public, and the rights holder – all towards building strong brands.

C. The Intellectual Property Content in Non-Fungible Tokens

Non-fungible tokens (NFTs) are changing the way digital artists create, sell their artforms and earn a living from their creations. NFTs are uniquely identifiable digital assets that store information on the blockchain platform. These digital assets are not just being developed by visual artist, but companies (including large multinationals) are using NFTs to complement their revenues and leverage their brands in digital markets. The more popular forms of NFTs include digital art, tweets, video clips of important events and fashion items – all represented in digital formats. These digital assets may embody intellectual property content, either in what they represent (the design) or in the names or marks used in association with the NFT (such as Nike or McDonalds). From the perspective of the owners' IP, NFTs add a digital dimension to rights, diversifies their portfolio, and create alternative revenue streams for innovations.

D. Implications for the Caribbean

Blockchain is a developing technology. Improvements are always being made on existing developments in the space. The technology is not without its issues but has promises as well. Launch of Jamaica and The Bahamas's central bank digital currencies indicate that there are significant interests in aspects of blockchain technologies. This may help to build strategy in St. Maarten and the region's development conversations. Aside from digital currencies, there are other uses of blockchain that may allow St. Maarten to innovate and create solid IP investments in the space. These include blockchain fintech, NFTs, tourism and metaverse connections.

The intellectual property rights connection with blockchains is an interesting one that is not without its issues.

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However, since the technology is one of the most significant hallmarks of the mid-twenty first century, developers and businesses should not lightly dismiss its potential to change the IP landscape.

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IP Events Calendar		Location	Website
14/07 15/07	i-Pharma: 3rd International Pharmaceutical Conference and Expo 2022	London, UK	www.ipharmacongress.com
20/07	WIPO: WIPO-IPOS International AIPM Program 2022	Virtual	www.wipo.int
28/07	The IPR Gorilla: Virtual IP conference	Virtual	www.theiprgorilla.com
11/08	WIPO: WIPO-IPOS International AIPM Program 2022	Virtual	www.wipo.int
31/08	INTA: Know Your Neighbor: Understanding Differences in Trademark Law in Canada, Mexico, and the United States	Virtual	www.wipo.int
11/09 13/09	INTA: 2022 Trademark Administrators and Practitioners (TMAP) Meeting	Arlington, Virginia, USA	www.inta.org
18/09 20/09	INTA: 2022 IPO Annual Meeting	Los Angeles, California, USA	www.inta.org
18/09 20/09	IP Law Summit: IP Law Summit	Las Vegas, USA	www.inta.org
18/09 20/09	Intellectual Property Owners Association: IPO Annual Meeting 2022	Los Angeles, California, USA	www.ipo.org
22/09	WIPR Trademark Live: Discussing key strategic trademark management issues	Los Angeles, California, USA	www.trademarksnorthamerica.com