

The Impact of NFTs on Chinese Digital Artists

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Abstract:

This paper explores the rise and impact of NFTs (non-fungible tokens) in the digital art market. It focuses on, among other things, the definition and role of NFTs, the opportunities that NFTs provide for young and unfamous digital artists, and the blockchain technology of NFTs that mitigates the problem of copyright theft of digital artworks. In addition, this article explores the challenges faced by NFTs. Primarily, the legal framework is unclear, and smart contracts may not be considered valid, leading to uncertainty in dispute resolution. To promote the healthy development of the NFTs market, it is recommended that governments and companies strengthen copyright protection and content management, as well as engage in global cooperation and cross-regional coordination, to promote the development of digital art and the NFTs market and create a healthier and sustainable environment for digital art creators and the NFTs market.

Keywords:

NFTs, Digital Artists, Copyright

1. Introduction

NFTs, short for Non-fungible Tokens, are units of data stored on a Digital Ledger, better known as Blockchain. This makes NFTs a unique, non-interchangeable digital asset with real-world homogenized currencies. [1] Due to their non-interchangeable nature, NFTs can represent digital assets such as paintings, artwork, sounds, videos, in-game items, or other forms of creative work. However, NFTs are not these digital assets but rather a certificate or credential of ownership. For example, the New York Times has drawn a vivid analogy between artworks and NFTs. For artworks, NFTs are similar to how museums mark the provenance of a painting and give it a proprietary stamp, which can still be freely distributed on the Internet. This means that for many artists, especially creators in the field of digital art, the most significant benefit of NFTs is that they provide exclusive ownership protection for artworks and a new way for digital art creators to get the financial rewards they deserve through their works.

In addition to Christie's huge auction prices, COVID may have accelerated the growth of the NFTs art market. [3] With no way to get out of the house due to COVID,

most traditional brick-and-mortar exhibition spaces closed, art fairs could not take place, and people turned to their computer screens. The art world was forced to embrace digital and new forms of commerce, such as NFTs, which also meant that it was very lucrative for both artists and the market. [4] Interestingly, as COVID subsided, NFTs exhibitions began to be held in physical spaces as well. However, all transactions still occurred online. [4] In July 2021, the Center for Contemporary Art, Miami, added the Crypto Punk 5,293 to its collection, making it the first significant art Institution. At the Russian State Hermitage Museum, NFTs versions of some sold works from the group also became part of its permanent collection. In January 2022, the world's first offline NFTs art gallery, the NFTs Museum in Seattle, USA, opened, utilizing high technology to showcase NFTs to the public. Overall, the NFTs art market is active, and its growth is rapidly accelerating. These initiatives and events highlight the continued expansion and recognition of NFTs as an essential art market segment.

2. The Impact of NFTs on Digital Art Creators

NFTs may have allowed many digital artists to eventually make a living from their creations, some of whom have become millionaires. [4] Interestingly, according to Cryptoart, despite their record sales, the best-selling NFTs artists are not the ones exhibiting the most work in the contemporary art world. This suggests that most successful emerging artists in the NFTs art scene tend to be young and relatively unknown creators. [5] This situation highlights the attraction of the NFTs field to young, emerging artists, providing them with an opportunity to show and sell their work and achieve impressive success in the digital art market.

The internet has provided wider digital art creators of NFTs but has also introduced the risk of widespread unauthorized downloading and file sharing. [6] Advances in digital technology have made it easier to copy and use digital works multiple times and modify them without permission. However, NFTs as digital certificates of authenticity and ownership seem to help solve this problem. This is because it could further advance provenance research. Particularly in the field of art, blockchain can effectively address the lack of documentation and proof of ownership. [7] Traditional paper certificates and receipts can be lost, damaged, or forged; however, since information stored on the blockchain cannot be tampered with or deleted, art transactions registered on the chain can be easily tracked. Online platforms such as Verisart and Artory provide the tokenization and blockchain-based authentication services artists require. However, the current application of NFTs is not entirely perfect. Although NFTs are supposed to verify ownership, a system to ensure that the creator of NFTs is also the creator of the work in question is currently lacking, a shortcoming that has given rise to several copyright-related disputes. [8] Namely, digital artworks have been stolen and cast as NFTs without the knowledge or permission of the original author.

3. Challenges of NFTs in China's Digital Art Market

First, there is a lack of clarity about how NFTs fit into the legal framework. A February 2019 article states that "NFTs are still in the developmental stage, and their legal consequences are unclear". [9] Even after four years, the situation is still unclear. NFTs function based on smart contracts, but from a legal point of view, smart contracts may not be considered valid contracts. This may be due to various issues, such as the parties' anonymity and the lack of consensus on resolving disputes. [10]

Second, copyright does not and cannot protect NFTs. NFTs are encrypted data stored on the blockchain, typically consisting of URLs pointing to digital image files. A URL generated on the blockchain cannot be protected by copyright law because it is not original content that requires copyright protection. The scope of copyright protection covers any original elements associated with NFTs. [11] To create NFTs and associate them with links to digital artifacts, these links must be encrypted on the blockchain (usually contained in a hash string). This process is called “casting NFTs”. [12] At this stage, under copyright law, one of the following situations occurs between the creator of the work (the copyright holder of the work) and the non-copy holder.

A- The copyright holder overlaps with the NFTs holder; B- The copyright holder assigns the copyright to the NFTs holder; C- The copyright holder authorizes the NFTs holder to use the work in NFTs; D- The copyright holder does not assign the copyright to the NFTs holder, but instead provides the NFTs holder with a specific license with or without a smart contract, which may include a right to resell. [13]

The above situation is not problematic in terms of copyright law. However, legal problems arise if the original version of an artistic work is cast as a non-functional artwork without authorization or if a modified version of an artistic creation is released as a non-functional artwork without the author’s approval. In general, there is a problem of copyright infringement if the content made into NFTs contains content protected by intellectual property rights. [12]

In addition, the BSN (Blockchain-based Service Network), as China’s state-supported infrastructure, is seen as the only way to support Chinese NFTs nationally. This means that the scope of NFTs trading and marketplaces will be tightly controlled and limited to trading areas within China. [14] In other parts of the world, the NFTs market is more open and hosted on blockchain platforms like Ethereum. These markets offer individuals with cryptocurrency accounts or wallets the opportunity to participate and trade. [15] While the NFTs market continues to thrive globally, the Chinese government has imposed strict regulations on the NFTs sector. It requires large IT companies to sign self-regulatory statements to isolate the NFTs market from the world of cryptocurrencies and the Western context. Such initiatives aim to prevent money laundering, protect consumer rights, and promote national culture. [14] Still, they also limit the freedom of creators and businesses in the NFTs space, as all data must be processed and stored in the government’s BSN. To discuss China’s attitude towards NFTs, Tong (2022) collected the following information. [14]

Some of China’s largest IT companies have signed a self-regulatory statement to keep its booming market for NFTs away from the world’s cryptocurrencies and to avoid language used by their counterparts in the market’s Western economic powerhouses, according to CCTV News. [16] The Self-Regulatory Convention for the Digital Cultural and Creative Industries, recently signed by Tencent, Jingdong, and Alibaba, contains 11 standards that align with Beijing’s broader goals for the digital economy. These include “preventing money laundering, committing to separating from virtual currencies, protecting consumer rights, and promoting national culture”. In addition, Alibaba and Tencent’s virtual marketplaces have chosen to downplay the link between their NFTs collections and cryptocurrencies, referring to them as “virtual collections” and avoiding using the term “NFTs”. And, Bitcoin and other cryptocurrencies are not encouraged for use by the Chinese government.

4. Conclusions

The impact of NFTs on digital art creators is twofold, with both benefits and drawbacks. On the positive side, NFTs provide a platform for young, unknown artists to showcase and sell their work on the NFTs marketplace, enabling them to make a living and gain widespread recognition. This opportunity is significant for emerging artists struggling to access the traditional art market. Second, NFTs use blockchain technology to provide proof of authenticity and ownership of digital artworks, solving the problem of unauthorized distribution and modification of digital works on the Internet. This offers artists and purchasers greater confidence in the authenticity and uniqueness of the work and provides clear proof of ownership. These advantages make NFTs an essential channel for digital artists to pursue and profit from their creative freedom while delivering purchasers with new, unique, guaranteed digital artworks.

However, NFTs also raise several challenges. One of them is the lack of clarity in the legal framework, which leads to the possibility that intelligent contracts may not be considered valid, increasing the uncertainty of dispute resolution. In addition, to create NFTs, links to digital artworks must be encrypted on the blockchain, which may raise copyright issues, particularly about the unauthorized use of content protected by intellectual property rights. Enhanced copyright protection and content management are needed to ensure the healthy development of the NFTs market. NFTs art platforms and marketplaces can ensure that the creation and resale of digital artworks comply with copyright regulations by establishing more robust content management systems. Finally, global cooperation and cross-regional coordination are essential, and such collaboration can help develop more consistent standards and rules to address the challenges facing the NFTs market and create a healthier and more sustainable market environment for digital art creators and the NFTs market.

Conflicts of Interest

The author declares that there is no conflict of interest regarding the publication of this article.

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