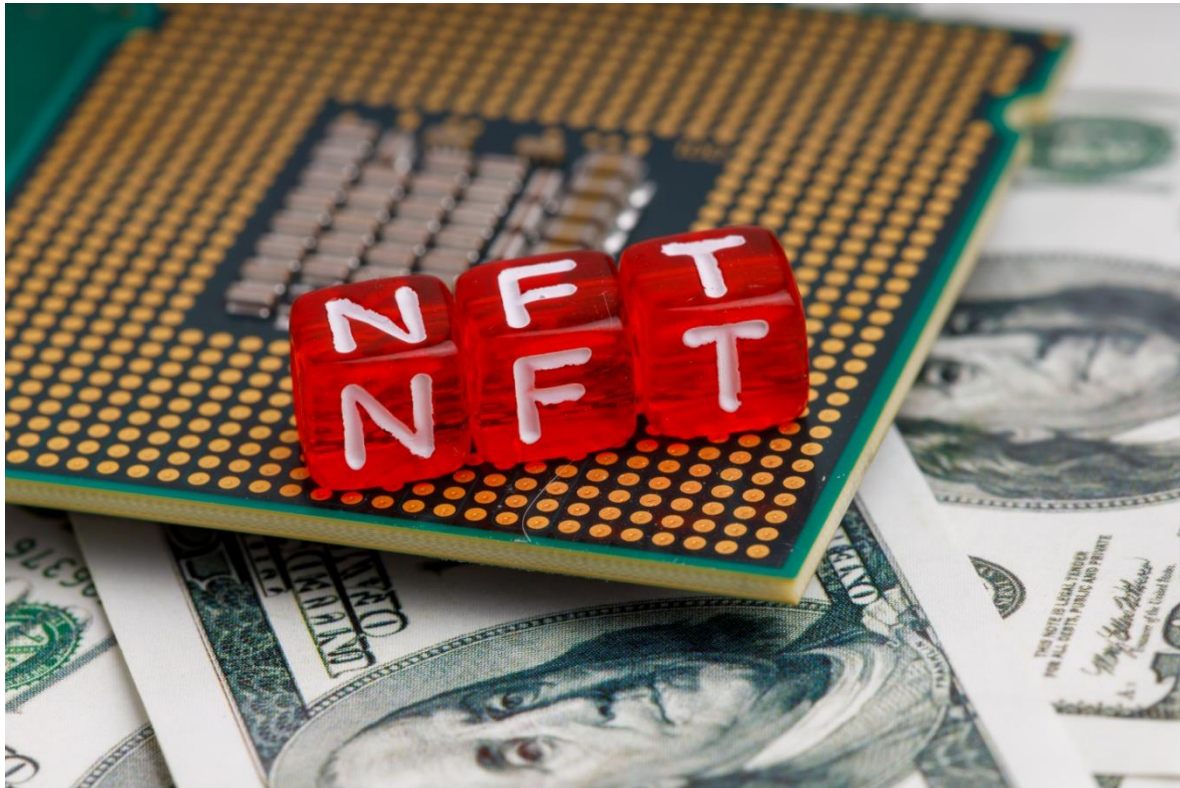


NFTs and legal issues



Topics

- NFT explanation
- Jurisdiction and applicable law
- Regulatory issues
- Copyright
- Platforms and consumer protection
- Smart Contracts
- Chances and risks of the blockchain
- Examples and perspectives
- Summary

NFT explanation

- = Non-Fungible Token
- \neq coins
- 1. data file
- 2. token on blockchain
- NFT \triangleq certificate of authenticity and ownership

- Blockchain = decentral, immutable database/register
- Transaction recorded on blockchain
 - ownership traceable
 - authenticity



Jurisdiction and applicable law

- Better determine beforehand
- International Private Law

Regulatory issues

- European Commission: MiCAR
 - Standardises obligations
 - Differentiates tokens
 - „White paper“ required
 - NFTs disputed
-
- European Parliament: MiFID II Directive
 - NFTs ≠ finance instrument



- NFTs bought for investment
- Marketplaces: enormous amount of transactions
- Monitor value on platform
- Speculative

Copyright

- Arises automatically for the author
- Moral right and patrimonial rights
- No automatic transfer of copyright
→ Licence agreement required
- Platforms do not control legitimacy



Platforms and consumer protection

- Liability in case of breakdown unclear
- Transparent information for consumers
- Possible compensation
- Consumer's place of residence
(Art. 3 Rome I Reg.)
- Problem of anonymity and decentral structure
- No deprivation of protection
(Art. 6 Rome I Reg.)
- System misses rights of withdrawal

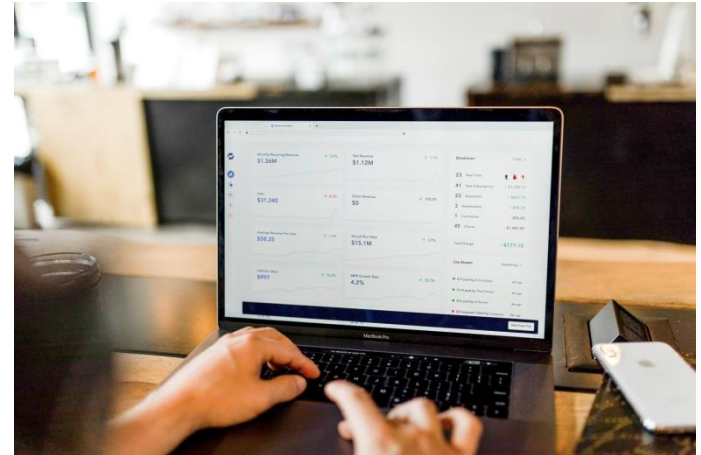
Smart Contracts

- = 1. fully encoded
- 2. partly encoded, partly real contract
- Codes limit complex clauses
- Connection of ,hybrids':
 - a) reference on smart contract
 - b) e.g. link to standardised license

Chances and risks of the blockchain

- Advantages:

- transparency
- history of transactions
- public
- decentral
- controlled by many
- automatic royalty percentages to creator
- EU copyright Directive (EU) 2019/790



- Disadvantages:
 - dependant on people
 - virtual
 - no control of copyright
 - unclear what law applicable
 - no consumer protection
 - relies on trust
 - no rights of withdrawal



- issues concerning data protection
- money laundering



Examples and perspective

- CNN ,Moments‘
 - Bored Ape Yacht Club
 - Alfa Romeo
 - Real estate
-
- All purchases
 - Certificates and documents



Summary

- No clear legislation
- Better determine applicable law beforehand
- Include clauses on copyright
- Write „white paper“ for consumer protection