

BLOCKCHAIN WILL RESHAPE REPRESENTATION OF CREATIVE TALENT*

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I. BLOCKCHAIN AND 21ST CENTURY REPRESENTATION OF CREATIVE TALENT

The traditional creative artist business model of intermediaries and fractional financial reward simply does not serve the future of creative artists.

Artists relinquish large amounts of potential earnings to traditional management, publishing and entertainment distribution systems in return for fractional and deferred payments, despite massive profits from their work.¹ finance intense creatives like filmmakers and musicians, these traditional systems make it difficult to maintain their art and creativity.

Blockchain disruption now expands to the media and entertainment industry, as well as the legal profession that supports it. Democratization and non-fungible tokenization² technology unlocks new solutions for independent control, licensing

Abstract description of the topic

The legal professional has just identified the terms Blockchain and tokenization. This lack of understanding of the technology and utilization of how independent artists in all mediums will unlock new control and financing opportunities, without having to sacrifice ownership and contract rights, including future royalties. The role of attorney as intermediary will shift more to counselor and business advisor, as the traditional intermediary role is minimized. The development and leveraging of smart contracting will provide artists to receive instantaneous remuneration from their creative work generated from visual, written or musical creation. The new Age of Digital Democratization associated with various technology platforms will also reshape the marketing of their image, endorsements and publicity rights.

This is a cursory article of the business and technology developments across mediums and legal models affected including the recently enacted Music Modernization Act opportunities, and requirements utilizing blockchain technologies.

At a Glance

The role of attorney as intermediary of creative artists will shift toward counselor and business advisor, as the traditional intermediary role is minimized in the 21st century practice of law. Blockchain technology and creative artists' utilization of non-fungible tokens are unlocking new control and financing opportunities, without sacrificing ownership and contract rights. New smart contracting resources and blockchain entities advancing legal efficiencies for the representation of creative artists advance both the legal professional and the business of legal services for the creative artist marketplace.

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¹ <https://informationisbeautiful.net/visualizations/how-much-do-music-artists-earn-online-2015-remix/> and <https://news.bitcoin.com/peertracks-blockchain-3-0-platform-muse-set-transform-music-industry/>.

² A non-fungible token (NFT) is a special type of cryptographic token which represents something unique; non-fungible tokens are thus not interchangeable. This is in contrast to cryptocurrencies like Bitcoin, and many network or utility tokens that are fungible in nature. (see https://en.wikipedia.org/wiki/Non-fungible_token).

management and financing opportunities, without creatives sacrificing ownership and contract rights, including future royalties.³

The legal profession is relatively unaware of blockchain and tokenization. The attorney's role as intermediary will rapidly shift to regulatory counselor and business advisor, as their traditional role as intermediary is minimized. Maintaining the requisite knowledge and skill of the legal practitioner supporting 21st century creative artists demands business, legal and technologic understanding of blockchain and distributed ledger technology. Understanding blockchain and the supporting business technology is the first step in providing new legal value while complying with ethical and competency requirements under the Model Rules of Professional Conduct that state "a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology . . . to which the lawyer is subject."⁴

II. DATA DEMOCRATIZATION AND BLOCKCHAIN

Data democratization is a principle that suggests data should be owned by the creator and available to everyone in a given ecosystem. This democratization concept raised by former Intel Senior Scientist and Cypherpunk contributor, Tim May promoted democratization and tokenization of information, evangelizing the benefits of cryptographic protocols and smart-contracting in 1988 when he introduced conceptually "a liquid market for any and all material which can be put into words and pictures".⁵ His technology "manifesto" was the impetus of the current blockchain movement and advancement of digital democracy.

In 1991, Stuart Haber and W. Scott Stornetta proposed a cryptographically secure method for storing documents as a 'chain of blocks' using Merkle Trees.⁶

Several years later, Satoshi Nakamoto (pseudonym) emerged in 2008-2009 claiming to have solved the Byzantine General's double spend problem and proposed a system for electronic transactions without relying on centralized trust. In January 2009, Nakamoto released software launching the network and the first cryptocurrency units called bitcoins, not to be confused with blockchain.⁷

³ Brian Curran, *What Are Non-Fungible Tokens?* (2018), <https://blockonomi.com/non-fungible-tokens/> (Accessed July 28, 2018).

⁴ Model Rules of Professional Conduct R. 1.1 cmt. [8].

⁵ Tim May, *The Crypto Anarchist Manifesto*, <https://www.activism.net/cypherpunk/crypto-anarchy.html> (Accessed July 28, 2018).

⁶ *Who Invented Blockchain?* <https://www.blockchaineconomy.com.au/learn-about-our-guest-speaker-phd-w-scott-stornetta/> (Accessed July 28, 2018).

⁷ Satoshi Nakamoto, *Bitcoin: A Peer-to-Peer Electronic Cash System*, <https://bitcoin.com/bitcoin.pdf> (Accessed July 28, 2018).

A. Blockchain is a Decentralized, Transparent, Immutable, Secure, Public, Distributed Ledger of all Transactions on the Network that Anyone can Read, Write and Trust.

Blockchain utilizes a shared distributed ledger technology (DLT) using independent decentralized computers (known as “nodes”) on a Peer-to-Peer (P2P) network, with data transmission occurring directly between nodes instead of through a central server to record, share and synchronize transactions in their respective non-centralized electronic ledgers. Think of the underlying ledger as an infinite single column spreadsheet, not as advanced as the program developed by professor Richard Mattessich in 1961 or Dan Bricklin’s Visicalc created for the personal computer in 1978.⁸ Every node stores an identical copy of the ledger providing increased security while providing no single point of failure. Blockchain protocol organizes data into blocks, “chained” together in append only mode.⁹ Not a novel concept, Chinese records showing equally complex distributed ledger systems date back to the early stages of the Qing Dynasty.¹⁰ Current DLT systems are consensually shared, governed and synchronized across various peer-to-peer network of sites. Ethereum, Corda, Fabric and Ripple are examples of DLT protocols considered blockchains.

Trust is a risk judgement between different parties, and in the digital world, determining trust often boils down to proving identity (authentication) and proving permissions (authorization). In the case of blockchain technology, private key cryptography provides a powerful ownership tool that fulfills authentication requirements. Possession of a private key is ownership.¹¹ Together these characteristics allow two parties to trust each other and execute transactions and associated smart contracts based on the blockchain without the need for a third party institution or private intermediary.

Blockchain is considered the building block of the “internet of value”¹² and enables recording of interactions, and transfers “value”, without a need for a centrally coordinating entity or intermediary. A blockchain carries no transaction cost. The blockchain is a simple yet ingenious way of passing information from A to B in a fully automated and safe manner.¹³

Blockchain 2.0 is enabling creative artists to store a "persistent digital ID" or persona and enter the global digital economy. It protects privacy of participants allowing anyone to "monetize their own information" and provides the capability to ensure creators are compensated for their intellectual property. Blockchain uses

⁸ <https://history-computer.com/ModernComputer/Software/Visicalc.html>.

⁹ *The World Bank, Blockchain & Distributed Ledger Technology*, <https://www.worldbank.org/en/topic/financialsector/brief/blockchain-dlt> (Accessed July 28, 2018).

¹⁰ Distributed ledgers, http://ethw.org/w/index.php?title=Distributed_ledgers&oldid=149464 (Accessed July 28, 2018).

¹¹ Authored by Nolan Bauerle; images by Maria Kuznetsov - <https://www.coindesk.com/information/what-is-blockchain-technology/>.

¹² Value refers to any record of ownership of an asset.

¹³ <https://blockgeeks.com/guides/what-is-blockchain-technology/>.

can be broadly classified into three categories: Storage of digital records; Exchange of digital assets; Recording and execution of smart contracts.¹⁴

Smart Contracts

The term Smart Contract is misleading. They are neither “smart” nor a “contract” and typically misconstrued as legal document. Smart Contracts, which were first introduced as a term by cryptography researcher Nick Szabo in 1994 are basically scripts or software code written by developers and deployed onto a blockchain.¹⁵ A smart contract is a computer protocol intended to digitally facilitate, verify, or enforce the negotiation or performance of a contract.¹⁶ The Ethereum blockchain technology first integrated these small programs coded into the blockchain that automates the execution of business logic, obligations, and agreements. In March 2018, a US Senate Joint Economic Committee, said: “While smart contracts might sound new, the concept is rooted in basic contract law. Usually, the judicial system adjudicates contractual disputes and enforces terms, but it is also common to have another arbitration method, especially for international transactions. With smart contracts, a program enforces the contract built into the code.”¹⁷

This acceptance of “trust in the code” and the associated cryptographically secured rules has taken on a new terminology known as “lex cryptographica” and introduces new business and legal systems built around their use.¹⁸ This concept of how Blockchain technology and the associated technology is the natural progression from *lex mercatoria*’s rise from early international trading systems to internet Web 2.0 advancement of *lex informatica*.¹⁹

Written as transaction instructions usually triggered by events, a smart-contract can be used to represent any fungible or non-fungible token asset including a song royalty payment, warehouse receipt, a bond, an invoice, a unit of currency, a futures contract or a share of risk. This new coding technology mandates a technologically competent legal professional to review and “supervise” the creation of these advanced methods of contracting.²⁰

¹⁴ This article was written by Deloitte and not by the Quartz editorial team. <https://qz.com/1241254/what-is-blockchain-and-why-does-it-matter/>.

¹⁵ Oliver Belin, *6 Essential Blockchain Technology Concepts You Need To Know*, <https://tradeix.com/essential-blockchain-technology-concepts/> (Accessed July 28, 2018).

¹⁶ https://en.wikipedia.org/wiki/Smart_contract.

¹⁷ https://www.jec.senate.gov/public/_cache/files/aaac3a69-e9fb-45b6-be9f-b1fd96dd738b/chapter-9-building-a-secure-future-one-blockchain-at-a-time.pdf (page 210).

¹⁸ Primavera De Filippi and Aaron Wright *Blockchain and the Law*, See page 32, 87, 193.

¹⁹ Aaron Wright and Primavera de Filippi article ‘Decentralized Blockchain Technology and the Rise of Lex Cryptographia’. (See https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2580664 20 Mar 2015 Last revised: 25 Jul 2017).

²⁰ Model Rules of Professional Conduct R. 5.3, cmt. (2) and (3), and Model Rules of Professional Conduct R. 1.1 cmt. [6].

B. TOKENIZATION-OLD CONCEPT, NEWER TECHNOLOGY

In the 1990s, David Bowie created ‘Bowie Bonds’, offering his fans a chance to share in the ownership of his intellectual property. In 1996, David Bowie became the first artist to sell a song online, receiving more than 300,000 downloads of his tune “Telling Lies” launching BowieNet, his own Internet Service Provider in 1998.²¹

Tokenization is the encapsulation process converting intellectual property into digital tokens with an underlying value. ERC-20 fungible tokens were created to re-used by other applications, from wallets to decentralized exchanges and were not well-suited for use as proof of ownership or authenticity.²² You could not add a history, provenance, or identity to each token using metadata. ERC-721 non-fungible tokens only allowed you to create one-of-a-kind tokens. The need for a lightweight and “easy for the network to handle” token has advanced token protocols from ERC-20 and ERC-721 to new ERC-1155 Crypto Items standard which solves these issues by combining the benefits of both allowing for infinite numbers of fungible and non-fungible items in a single deployed contract. ERC-1155 asset tokens will now have increased power of choice, as each token can be either mass-produced or created singularly and either contain unique metadata or be fully fungible.²³

Similar in how owning shares of a stock grant you ownership rights in a company, tokens allow a person to share a piece or percentage of a song’s rights, while receiving money accrued from it. “Tokenization allows fans to be active participants in an artist’s creative work and share in the success of a project,” stated artist A-Rayz, “this new model of fan vesting in the success of a song, smaller independent artists can unlock new opportunities for fan relationships, brand evangelism, and marketing.”²⁴

Tokenization harnesses the bond between artist and fan, unlocking revenue opportunities by issuing and selling tokens to fans who believe in the artist’s creative work, sharing in the financial success of their favorite artists, while creating a new level of support.

Grammy winner Imogen Heap, one of the most prominent musicians to embrace blockchain on Ethereum wrote, “Blockchain has the potential to provide a more quick and seamless experience for anyone involved with creating or interacting with music”. Heap utilized smart contracts controls for buying licenses

²¹ SingularDTV, 9 Artist-Entrepreneurs Who Created their Own Economies (2018), <https://medium.com/singulardtv/9-artist-entrepreneurs-who-created-their-own-economies-e6091fb8b5cf> (Accessed July 28, 2018).

²² <https://hackernoon.com/an-overview-of-non-fungible-tokens-5f140c32a70a>.

²³ <https://ethereumworldnews.com/inventor-of-the-non-fungible-token-creates-new-standard-that-could-replace-erc-20-and-erc-721/>.

²⁴ Andrew Rossow, Forbes, Blockchain Aims to Be the Biggest Stage for Empowering Music Artists (2018), <https://www.forbes.com/sites/andrewrossow/2018/05/27/blockchain-aims-to-be-the-biggest-stage-for-empowering-music-artists> (Accessed July 28, 2018).

to download, stream, remix and sync her song, controlling how she and her collaborators on the track were paid.²⁵

III. BLOCKCHAIN IMPACT ON THE CREATIVE ECOSYSTEM

Artists need capital to build a strong network and a competent team supporting their creative efforts. Until recently, it was difficult to put out music without getting a record deal and relying on a label to record, distribute, and monetize your art. The same is true in film and television distribution, success is difficult without studios and production companies' influence, and movie theaters or cable channels agreeing to showcase your work. Smaller artists lack the recognition, legal knowledge and numbers that provide them with leverage in negotiation.²⁶ Democratized content creation and distribution utilizing blockchain has now disrupted the entertainment business model.²⁷

"Bitcoin: A Peer-to-Peer Electronic Cash System"²⁸ proposed electronic payment system based on cryptographic proof instead of trust, allowing any two willing parties to transact directly with each other without the need for a trusted third party. The concept of electronic "wallets" predate Bitcoin by several decades, developed in the early 1990's during the dotcom revolution.²⁹ Blockchain is the building block of value and enables recording of interactions, and transfers value, without a need for a centrally coordinating entity, it is "an incorruptible digital ledger of economic transactions that can be programmed to record not just financial transactions but virtually everything of value."³⁰

Blockchain protects privacy of participants, allowing creative artists to "monetize their own information" and provides the capability to ensure creators are compensated for their intellectual property. Blockchain uses are broadly classified into three categories: Storage of digital records; Exchange of digital assets; Recording and execution of smart contracts.³¹

²⁵ Imogen Heap, *Blockchain Could Help Musicians Make Money Again* (2017), <https://hbr.org/2017/06/blockchain-could-help-musicians-make-money-again> (Accessed July 28, 2018).

²⁶ Sunny Dhillon, *Forbes*, *How Blockchain Can Transform the Future of Entertainment* (2018), <https://www.forbes.com/sites/valleyvoices/2018/02/01/how-blockchain-can-transform-the-future-of-entertainment> (Accessed July 28, 2018).

²⁷ Tech #StartupLife Feb 1, 2018 @ 01:57 PM - How Blockchain Can Transform The Future Of Entertainment, Valley Voices, Contributor - <https://www.forbes.com/sites/valleyvoices/2018/02/01/how-blockchain-can-transform-the-future-of-entertainment/2/#572ff3a44528>.

²⁸ *Supra* vii. - Satoshi Nakamoto, *Bitcoin: A Peer-to-Peer Electronic Cash System*, <https://bitcoin.com/bitcoin.pdf> (Accessed July 28, 2018).

²⁹ Paul Andrews, *PC in Your Pocket: Bill Gates Previews Wallet That Knows You Well*, (1993), <http://community.seattletimes.nwsources.com/archive/?date=19930202&slug=1683214> (Accessed July 28, 2018).

³⁰ Don & Alex Tapscott, authors *Blockchain Revolution* (2016). (See <https://blockgeeks.com/guides/what-is-blockchain-technology/>).

³¹ *What is Blockchain and Why Does it Matter?* <https://qz.com/1241254/what-is-blockchain-and-why-does-it-matter/> (Accessed July 28, 2018).

Within a media and entertainment supply chain, blockchain is applied to verify any type of exchange agreement from smart, self-executing supply contracts to tokenization of creative assets such as music, film, images or the written word. These governance methods combined with the advanced Crowdfunding initiatives like Kickstarter and Gofundme, have advanced the P2P economy and led to crowd-sourced venture capital funds and new methods of creative venture funding.³²

A blockchain-based crowdfunding platform can securely record funding transactions that are transparent to all investors, allowing them to know real-time where they stand in the pecking order. Upon sale, licensing, or consumption of a creative asset, smart contracts can then automate payments to both rights holders and investors leveraging Initial Coin Offerings (ICO) or Security Coin Offerings (STO) for crowdfunding vehicles. Indiegogo³³ launched in December 2017 its own ICO platform and advanced to STO in 2018.³⁴ Iprodoos is the next evolution of entertainment that merges premium content, crowdfunding and social media into one, easy to use streaming platform.³⁵

An understanding of ICOs and STO's for films and other creative ventures are contingent on jurisdiction and how the Securities and Exchange Commission (SEC) applies and imposes securities laws to these funding vehicles.³⁶

A. An Artist-Centric Model for Blockchain

Music streaming sites and rights holders struggle to agree on compensation for trillions of song streams leading to costly lawsuits.³⁷ Due to ease of electronic copy distribution, royalty payment mechanisms are ripe for disruption. Performance-rights organizations and intermediaries such as Spotify and YouTube, increasingly insert themselves into the value chain between artists and their audiences. As an example, on Spotify it would take between 120 to 170 streams for rights holders to receive their first penny.³⁸

The vision outlined by Open Music Initiative (OMI) Operating Committee member, and attorney George Howard³⁹ for this artist-centric model would include a transparent blockchain-based ledger that contains music assets and their rights

³² <https://blockgeeks.com/guides/what-is-blockchain-technology/> (Multiple cites, is there a better one).

³³ <https://www.indiegogo.com/>.

³⁴ <https://venturebeat.com/2018/08/23/indiegogo-investors-can-purchase-blockchain-based-security-tokens/>.

³⁵ <https://iprodoos.com/>.

³⁶ <https://www.cnbc.com/2018/08/23/indiegogo-expands-crypto-offering-to-let-firms-sell-security-tokens.html>.

³⁷ <https://www.hollywoodreporter.com/thr-esq/spotify-hit-16-billion-copyright-lawsuit-tom-petty-weezer-neil-young-songs-1070960>.

³⁸ Ryo Takahashi, *How Can Creative Industries Benefit from Blockchain* (2017), <https://www.mckinsey.com/industries/media-and-entertainment/our-insights/how-can-creative-industries-benefit-from-blockchain> (Accessed July 28, 2018).

³⁹ <https://www.linkedin.com/in/georgeahoward/>.

holders. Smart contracts can then automate royalty payments based on a song's consumption, including streaming.⁴⁰

The OMI led by co-founders Panos A. Panay, Dan Harple and Michael Hendrix⁴¹ is a non-profit initiative creating an open-source protocol for the uniform identification of music rights holders and creators. OMI is composed of over 200 members⁴² including several major labels such as Sony Music, and Warner, as well as content distributors YouTube, Netflix, Spotify, and Viacom⁴³, The OMI seeks to modernize royalty payment mechanisms with blockchain as a foundational technology.⁴⁴ The OMI three-pronged mission in its role as a neutral industry convener includes: 1) Advancing open protocols for musical rights owner identification; 2) Educating creators about intellectual property rights; and 3) Coordinating and promoting innovation across the music industry ecosystem.⁴⁵

Blockchain redefines artist's remuneration systems, serving as a platform for creators of intellectual property to receive value for their work. Smart contracts automate royalty payments based on consumption, including streaming, while eliminating gatekeepers and intermediaries. Smart contracts help artists manage digital rights and simultaneously allocate revenue shares to creative process contributors. The smart contract technology libraries provide inclusive royalties and fairer terms for composers, lyricists, and musicians. PeerTracks is an example of a service for artists to seek immediate royalty payments and ownership of their content by attaching a smart contract to every song an artist uploads and dividing the revenue according to the terms the contract stipulates.⁴⁶

In the creative artist model of film, SingularDTV's mission to build the framework of a decentralized entertainment economy began in 2013 with co-founder Kim Jackson and Zach LeBeau. Being a film producer for more than 15 years, Kim's motivation was to create a film and television distribution solution that is transparent, where revenue collection is instantaneous and where the artists and creators have control over the administration and deployment of their intellectual property.⁴⁷

The business analytics of blockchain information provides control to the artists to identify who accessed the work, how much revenue the work is generating and promotes efficient, dynamic pricing. Artists could set and control prices pricing and provide discounts on their works as required according to supply and demand.

Blockchain holds great promise for the cousin of micropayments: digital rights management. Micro-monetizing services like the pioneering, now "silent"

⁴⁰ <https://www.forbes.com/sites/georgehoward/2015/07/17/imogen-heaps-mycelia-an-artists-approach-for-a-fair-trade-music-business-inspired-by-blockchain>.

⁴¹ <http://open-music.org/about>.

⁴² <http://open-music.org/members>.

⁴³ <https://www.berklee.edu/focused/ice/open-music-initiative>.

⁴⁴ <https://www.berklee.edu/focused/ice/open-music-initiative>.

⁴⁵ <http://open-music.org/governance>.

⁴⁶ <https://peertracks.com/> and <https://www.superbrew.com/streaming-platform-peertracks-uses-the-soundac-blockchain-to-provide-free-music-for-us-all/>.

⁴⁷ <https://medium.com/singulardtv/the-encyclopedia-of-singulardtv-194366d0c854>.

Streamium,⁴⁸ and alternative Portal⁴⁹, are disrupting the traditional method of distribution by providing “Snippets” of creative work.⁵⁰ Micro-metering records the precise components of the creative work that were used for a few seconds of a song for use in a movie or commercial for a price determined by the artist. Utilizing DApps, or Decentralized Apps for on-demand video live streaming, thousands of computers around the world act as “broadcasters” in a non-hierarchical network. These “super nodes” solve the last mile problem by broadcasting the signal to computers that are geographically nearby.⁵¹

Tangible goods revenue, such as celebrity merchandise, event tickets and memorabilia present the value issues of scarcity and authenticity. Blockchain transactions provide a unique identity to each unit of product, tracing its authenticity on the chain.⁵²

IV. CHALLENGES

Artists utilizing blockchain remain a small minority. While blockchain may provide creators with a larger voice in the revenue generated from their creative content, questions remain as to what extent they can market and promote their creative content without traditional agents, publishers or record-label companies.⁵³

Governments and IP-rights consortiums must still define legal frameworks recognizing transactions conducted using blockchain. While blockchain technology provides the means for keeping a record of the property holder, we still rely on traditional mechanisms to enforce owners’ rights, especially when contracts are not upheld.⁵⁴

Another challenge is defining value in creative work. Blockchain technology will provide transparent methods of storing and analyzing the underlying data. Understanding this data and applying it to valuation models will be a bit harder. As stated by Dr. Kenji Saito, a lecturer on blockchain at Keio

⁴⁸ Streamium.io the first form of unidirectional payment channel was demonstrated as a prototype video streaming application in 2015 by an Argentinian team of developers. Housed originally at streamium.io, you can still see it at https://web.archive.org/web/*/streamium.io.

⁴⁹ <https://portalxyz.zendesk.com/hc/en-us> and <https://portal.xyz/>.

⁵⁰ World Economic Forum, *Creative Disruption* (2018), http://www3.weforum.org/docs/39655_CREATIVE-DISRUPTION.pdf (Accessed July 28, 2018).

⁵¹ Rizwan Virk, *How Blockchain Could Kill Both Cable and Netflix* (2018), <https://venturebeat.com/2018/01/28/how-blockchain-could-kill-both-cable-and-netflix/> (Accessed July 28, 2018).

⁵² *Supra*, note 27, <https://www.forbes.com/sites/valleyvoices/2018/02/01/how-blockchain-can-transform-the-future-of-entertainment/#7e40c5f56b6b>.

⁵³ *Supra*, note 25. Imogen Heap, *Blockchain Could Help Musicians Make Money Again* (2017), <https://hbr.org/2017/06/blockchain-could-help-musicians-make-money-again> (Accessed July 28, 2018).

⁵⁴ *Supra*, note 25. Imogen Heap, *Blockchain Could Help Musicians Make Money Again* (2017), <https://hbr.org/2017/06/blockchain-could-help-musicians-make-money-again> (Accessed July 28, 2018).

University, “we need to develop software that will allow artists to directly record the digital characteristics of their art onto the blockchain,”⁵⁵

Jurisdictional selection is now challenging the traditional process requiring analysis of a myriad of new business, legal and technology factors. Blockchain technology is borderless. Progressive jurisdictions want to be the first to recognize cryptocurrencies, virtual securities and other digital assets in addition to allowing financial depositaries. From Bermuda⁵⁶ to Wyoming, communities, states and countries are rushing to provide a technology friendly environment and brand themselves as “place to be for Blockchain technology.”⁵⁷

The greatest challenge still remains the undefined role of the 21st century attorney as legal professional and business advisor. Every attorney should understand how critical information and advancement of blockchain and Web 3.0⁵⁸ provides their clients a competitive advantage, in business or within the jurisdiction’s court system. Quoting from the State Bar of Michigan 21st Century Practice of Law vision, “In a time when technological innovations are transforming the marketplace, the absence of an innovative culture puts the legal profession and the ability to deliver quality legal services at risk.”⁵⁹

Janet K. Welch, executive director of the State Bar of Michigan, maintains the bar has been actively promoting the use of technology by emphasizing the benefits clients derive from it. Understanding the risks, advantages and possible adoption of new technologies by their clients, is a new competence challenge for the 21st century attorney supporting these clients. Legal professionals who “embrace the need for change and are most adept at adapting their processes will not only be leaders in enhancing access to justice for their clients but will also provide advantages to their business their jurisdiction’s economic competitiveness.”⁶⁰

V. CONCLUSION

Current creative distribution industries are monopolized by gatekeepers who mandate how artists navigate intermediary systems as they attempt to reach an audience. The current creation and distribution process for a piece of art requires

⁵⁵ <https://www.mckinsey.com/industries/media-and-entertainment/our-insights/how-can-creative-industries-benefit-from-blockchain>.

⁵⁶ <https://www.gov.bm/articles/fintech-banking-solution>.

⁵⁷ <https://www.wyomingpublicmedia.org/post/wyomings-new-blockchain-laws-are-receiving-world-wide-attention>

⁵⁸ <https://media.consensys.net/is-the-u-s-losing-the-race-for-web-3-0-739789dc1ae1?gi=e4697bc01458>.

⁵⁹ <https://www.michbar.org/future/culture>.

⁶⁰ Victor Li, *Florida Requires Lawyers to Include Tech in CLE*, ABA JOURNAL, (February 2017), http://www.abajournal.com/magazine/article/technology_training_cle/news/article/judges_and_the_administrative_state/?icn=sidebar&ici=bottom.

unconventional luck or the network of a political candidate. Creative talent alone won't suffice and cannot survive.

The music industry alone has undergone a dramatic period of redesign. Music streaming services replaced traditional album sales. Learning from the music industry delay in technology adoption, the television, film and publishing industries are leaping ahead by deploying blockchain technologies and applications. Blockchain technology could provide a fair creative artist compensation model driven by consumer's new entertainment habits.

The need for fungible cryptocurrencies remain. Newer non-fungible tokens represent a transition to tokenization of digital and physical assets offering a diverse and imaginative use of the blockchain and the verifiable immutability and authenticity that it provides.⁶¹

As the president-elect of the Florida Bar, John M. Stewart proclaims, "The simple fact is that technology is changing the way lawyers practice," and goes on to state "This provides us an opportunity to offer more services to more clients at a better price point"⁶² This statement supports the challenge that the new "value" of adopting technology competence not only supports the attorney, but the economic development of the jurisdiction in which they practice.

The demands of business, legal and technology understanding within the legal profession is now on the frontline of our every state's advancement of economic development in providing advanced legal professionals to attract new business and advancing existing business. Blockchain's decentralized and smart contracting has become a powerful driver digitally transforming the new creative economy. One can only look to Wyoming to see how aggressive blockchain adoption has resulted in advanced legislation and statutory creation.⁶³ However, current blockchain hype makes it hard to distinguish between true potential and reality, reminiscent of past Internet bubbles.⁶⁴

In order to rapidly create a new "front end value" as a 21st century legal professional supporting the creative talent marketplace, it is imperative that the legal counselor understand their client's complex needs, acquire a broader technologic and business acumen, as well as new legal skill and training in the 21st century practice of law to successfully navigate these new disruptive technologies.

⁶¹ *Supra*, note 2. Brian Curran, *What Are Non-Fungible Tokens?* (2018), <https://blockonomi.com/non-fungible-tokens/> (Accessed July 28, 2018).

⁶² Mark D. Killian, *The Florida Bar News* (October 15, 2016), <https://www.floridabar.org/news/tfb-news/?durl=%2FDIVCOM%2FJN%2FJNNews01.nsf%2F8c9f13012b96736985256aa900624829%2F3b05732acc9edd28525803e006148cf%21OpenDocument>.

⁶³ Caitlin Long, *What Do Wyoming's 13 New Blockchain Laws Mean?* <https://www.forbes.com/sites/caitlinlong/2019/03/04/what-do-wyomings-new-blockchain-laws-mean/#2f970f575fde>.

⁶⁴ <https://www.forbes.com/sites/nelsongranados/2018/01/04/what-blockchain-has-in-store-for-media-and-entertainment-in-2018/#3facdcf571f4>.