



PROTECTING COPYRIGHT IN DIGITAL ART AND NFTS: EMERGING CHALLENGES IN INDIA

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ABSTRACT: The article critically examines Digital Art work and Copyright, and sheds light on the potential and violation of Copyright in Digital Art through Non-Fungible Tokens (NFTs). The progressive phenomenon of Digital Art in the online world has changed the market for fine art. The article provides deep insights into laws applicable to Digital Art and Copyright Protection in the perspective of Indian law. It analyses possibility of violation of Copyright in digital art and its reconstruction, as established in Google v Oracle and OpenBSD. The invention of NFT offers terms to combat the imminent problems facing the digital art world, such as preserving ownership, authenticity, and market value. The adoption of NFT generates legal and regulatory barriers for artists, particularly in India where cryptocurrency and blockchain regulation is in a nascent stage. Blockchain technology automates a secondary market without a centralized custodian or intermediary for payments, thus bringing in legal issues between creators and consumers. A detailed analysis of Indian Copyright law, case laws, and digital payment websites depicts the challenges of NFTs in India, required legal reforms, and details on how blockchain technologies can be used for Copyright purposes; and how education of artists is vital for better understanding. Indeed, it is imperative for India to define its legal regime to Digital Art and NFT with regard to the nature of ownership, Copyright, digital identification of authentic art, and the ambit of respective legal regimes.

Keywords: Digital Art, Non-Fungible Tokens (NFTs), Copyright Law, Blockchain Technology, Digital Ownership.

1.1. INTRODUCTION

Digital art and NFTs are set to transform the relationship between art and technology in ways that were previously unthinkable. This article aims to describe what digital art and NFTs are, and explain their importance in both our fast-emerging digital economy, and the wider art world.

Digital art – broadly defined as artworks created or presented through digital technology – has fundamentally altered the manner in which artists conceive and produce creative works, offering new modes of expression and allowing them to both explore and suggest nuanced ideas in more novel and immersive ways. Yet it is precisely the ‘digitality’ of digital art – that is, its ‘born digital’ properties and the characteristics they endow works with – that raise countless challenges for the artworld itself, such as questions of origin and ownership, whether a work is ‘original’ or a ‘copy’, and what such terms actually signify within the context of digital art.

In steps non-fungible tokens (NFTs), digitally unique identifiers that can’t be copied, swapped or split, and can be recorded on the blockchain. NFTs represent the first viable solution to the twin issues that have plagued digital art for years: how to prove its originality, and how to give it real value. By storing information about who owns an asset to which it’s attached, NFTs resolve the conflicts between scarcity and copying that radicalized the copyright activists of Napster’s 1990s heyday. An NFT is unique, in contrast to a fungible good (like cryptocurrencies such as Bitcoin or, in classical economics, something like gold) where a unit of the asset – a single Bitcoin, a single gram of gold – is no different than another. The uniqueness of NFTs offers an avenue to digital scarcity that’s essential for digital art to be bought, sold and collected in a way that predictably resembles physical art ownership.

NFTs represent a revolution, foreshadowing a future of art never before possible in the digital economy – a new model for artists, collectors and investors. Artists stand to profit directly from their digital creations in a way previously impossible without a gatekeeper, like a gallery or auction house. NFTs provide a democratization of art sales to benefit everyone, from the artist to the new investor. This shift in the future of art could help artists retain power over the pricing and distribution of their work, while providing a new form of art investment overall.

In this way, the NFT can be a new asset class (for collectors and investors) with potentially high prices. NFTs demonstrate the possibility of giving a digital object a unique digital provenance that proves ownership and authenticity, addressing some serious concerns for the collection of digital art. Lastly, the neutrality and universality of blockchain (it is decentralized all around the world without a head office) allow this democratization of markets, involving more people as potential sellers and consumers.

However, the application of NFTs to the digital art market raises several questions in the minds of both artists and collectors. Copyright and intellectual property issue primarily arise from current legal practice, which are challenging for the application of blockchain technology in digital art. As the first country in Asia to integrate blockchain into the country’s legislature in a bill known as ‘The Cryptocurrency and Regulation of Official Digital Currency Bill, 2022’, India is in a nascent stage in this regard. Given the current legal uncertainty around crypto tokens in these countries, solving the issue of blockchain compatibility will require legal

innovation.

This discussion will address these new challenges of protecting copyright in digital art and NFTs in India – the existing legal tapestry, the important case laws, and the statutes that identify this new intersection of art, technology and law, in a bid to provide a balanced analysis of the issues and ideas to explore this new world of digital art and NFTs under the Indian jurisprudence.

1.2. UNDERSTANDING DIGITAL ART AND NFTS

Digital art and the use of smart contracts to authenticate pieces as Non-Fungible Tokens (NFTs) have combined to produce not only new art in new forms, but to create new concepts of art and ownership, as well as a complex new legal regime. This section unpacks what digital art and NFTs are, what they mean and why they are relevant for all of us.

1.2.1. Definition and characteristics of digital art

Digital art is any kind of art or art practice that involves digital technology in the creation or presentation process. This can include 2D or 3D digital paintings, digital installations, and algorithmically generated art, among many other forms. Given the digital nature of its production, digital artworks are generally intangible and infinite, and thus lack a fixed point of reference in their production and display. It should therefore not be surprising that all the key founding concepts of the art market – authenticity, ownership, value – come into question when considering digital art.

1.2.2. Introduction to nfts: technology, uniqueness, and ownership

Whereas the essence of digital art is questionable – it can be duplicated at practically no cost – NFTs present a solution to the digital duplicability problem. NFTs stand for Non-Fungible Tokens, and they represent real-world objects (such as art, music, in-game items, videos etc) in the form of a digital asset stored on a blockchain, which is a decentralized digital ledger that records transactions in a public database, in cryptography, usually through a peer-to-peer network. A blockchain's most alluring quality is that it provides a unanimous, chronological record of transactions that cannot be changed without altering all subsequent blocks. Consequently, NFTs are tamperproof. However, my NFT is not interchangeable for your NFT because it has a unique digital signature (or 'token') that distinguishes it from every other NFT. This unique characteristic (and digital scarcity) is what makes NFTs non-fungible, unlike cryptocurrency such as Bitcoin or Ethereum. These are fungible – i.e., exchangeable on a one-for-one basis.

The uniqueness of the art, as well as the irrevocable record of ownership on the blockchain, address two issues that have long plagued the digital art arena: copyright infringement and the dissemination of reproductions without the consent of the original maker. For artists, NFTs allow them to monetize their output in new and exciting ways; for collectors, they offer a verifiable ownership of unique digital artworks.

1.2.3. The process of creating, buying, and selling nfts

The way an NFT gets ‘minted’, or created, goes something like this: an artist uploads a digital file, like a still image, GIF or video, to an NFT marketplace – a platform that hosts the minting, sale and purchase of NFTs. The digital file is then turned into a token, recorded on that blockchain, with metadata attached to the token containing the signature of the artist, the sale history and information about the digital asset – effectively transforming the digital art into unique digital property that can be traded and bought and sold.

NFTs are bought and sold on NFT marketplaces that accept cryptocurrencies for transactions, and the results are stored on the blockchain providing a public and indelible record of ownership, and history. A blockchain ledger verifies the originality of the digital artwork, and the journey it has taken with each buyer and seller.

1.2.4. Importance of nfts for artists and collectors

NFTs could change this by creating a clever way for artists to monetize their digital work while maintaining full control. NFTs create what many artists see as a paradigm shift: the potential to monetize their artefacts, and thus gain some agency over their digital work, in a creative commons environment where they would otherwise struggle to prove copyright. Businesses also have a monetary incentive to solve these issues. Digital artefacts, as images or video, are easy to reproduce and distribute. Until now, there was no way to create unique proof of ownership or originality, yet straight copies still made it onto the collector’s wall. This meant that all intermediaries had to keep their fingers in the pie. An artist would possibly receive as little as 10 per cent of the artwork’s collected price. To some digital artists, however, NFTs could change this by creating a clever way for them to monetize their digital work while maintaining full control over their creations. To this end, Beeple sold the piece in a single transaction: no auctioneer, no in-house gallery – it all goes straight to the collector’s portfolio.

Meanwhile, authentication, which is a key benefit for collectors, is provided by NFTs. Fears surrounding counterfeit work, or works being illegally reproduced, remain a concern in the digital art market, but the permanent record of ownership and provenance on the blockchain addresses these issues. Additionally, NFTs have made art collecting more inclusive by reducing barriers to investing and collecting art.

1.3. COPYRIGHT BASICS IN THE DIGITAL CONTEXT

The overlapping space of copyright law with digital art and other digital works – such as Non-Fungible Tokens or NFTs – constitutes one of the most exciting (and confusing) legal boundaries. This part touches upon the basics of the application of copyright law to digital art; the process of registration for digital works under the Copyright law in India; and the intricacies of the concept of ‘ownership’ and ‘ownership of authorship’ which are unique to digital works. This understanding of the basics is essential in the digital art ecosystem for any artist, collector or a lawyer.

1.3.1. Copyright Law Fundamentals Applicable to Digital Art

Copyright is a right given by the law of a country to the originator(s) of certain types of artistic or intellectual writings and creations, which gives them the sole right to reproduce, publish, perform, or distribute copies of the original work of authorship. The right to exclude others from using the copyrighted work belongs exclusively to the creator. Thus, the duration of copyright in some jurisdictions such as India is the lifetime of the author plus 60 years, as per the Copyright Act, 1957. Copyright is a form of intellectual property, protecting 'expressions' but not the 'idea' behind the creation.

Digital art ... Copyright law protects this by giving the owner a bundle of rights governing reproduction, distribution and public display in the case of digital works, which are not a physical thing, copyright law protects this by giving the owner a bundle of rights governing reproduction, distribution and public display, even if they only take on substantial form after creating the work. As long as it is original and contains a modicum of creativity, the Copyright Act recognizes digital works as works of authorship just as if they were codified on stone tablets. The work is protected starting at the date of creation independent of any registration required by statute. Even without formal registration, the Copyright Act provides a remedy for infringement – but the remedy is limited. For every additional available right, additional potential damages in court await the copyright holder, making registration a prudent precaution.

1.3.2. Copyright Registration Process in India for Digital Creations

In India, the copyright registration is managed by the Copyright Office under the Department of Industrial Policy and Promotion, Ministry of Commerce and Industry, Government of India. The process for registering the copyright in digital art is akin to traditional art forms, which includes the following steps.

- **Notice of Intention to Apply:** Within six months of filing the application, the applicant or the owner of the copyright in the digital art must give the registrar a Notice of Intention to Apply, Form IV with the appropriate fee. He must attach a statement of particulars to indicate the nature of the work and the owner, and a statement of further particulars indicating the date of completion of the digital art and the price. **Actual filing of the application:** Again, the statement of particulars and statement of further particulars (indicating the nature of the work and the owner, and the date of completion of the digital art and the price) must be submitted, along with the fee. Unregistered owners will not hold intellectual property over an avatar or creation without registration. Print Screen technicians agree that, after payment, the avatar and digital world become the property of the buyer, not the seller. Despite these agreements, many creators do not bother to register their avatars or digital artworks because of the high cost and because they are not concerned with protecting their intellectual property in the democratic environment of most virtual worlds.
- **Copies For a Digital Work:** If the work is published, you must submit two copies. If unpublished, you must submit only one. As the work is digital, you must send the work on CD ROM in the rare case of the Copyright Office still having a CD – or 'upload electronically as you may do with the entire application process'.

- Examination and Objection (if any): For any objection on the other hand, examination of the application for any objection: while very limited in scope, there must not be any discrepancies for any objection, either from the Copyright Office itself or publicly, in response to the advertisement of a work (if the work is not subsequently published because some discrepancy is found or satisfactorily addressed, it will remain just a provisional registration), the applicant has to address and satisfy.

Upon examination and elimination of objections, the copyright is registered and a certificate of registration is issued to the applicant. Registration.

This creates a legal record that will come in very handy in disputes over copyright infringement or ownership.

1.3.3. The Concept of Ownership and Authorship in Digital Works

These questions are especially sharp in the case of digital works, which can be the products of collaboration and anonymity in unprecedented ways. In existing copyright systems, the creator (or set of creators) is conceived as someone who has followed the 'path of skill' or invested 'sweat', and is thus regarded as the author(s) of the work. But digital works, particularly those with complex software or works created on software, might steer copyright law to such collaborative contributions as those of software developers, artists or algorithms due to the issue of joint authorship.

The relevance for NFTs is that there's a mismatch between this notion of ownership and the copyright regime. By purchasing an NFT, one does not obtain ownership of copyright in the underlying digital art asset (unless that has been expressly communicated). Ownership of an NFT provides ownership of a digital token on a blockchain, signaling an ownership of a particular, unique digital asset. But the artist owns copyright in the work of art – the underlying digital asset – unless she has expressly, separately communicated those rights. This distinction is important.

Moreover, where generative art is produced using algorithms, authorship isn't always clear – any attempt by the legal profession to assign authorship rights will be met with disagreement over whether it's the programmer of the algorithm, the artist who had the idea, or a combination of the above who can legitimately be called the author for the purposes of copyright.

1.4. THE LEGAL FRAMEWORK FOR COPYRIGHT IN INDIA

The basic foundation of copyright protection in India is represented in Indian Copyright Act, 1957, which is a legislation to protect the interest of the creator by giving them exclusive right to reproduce, publish, perform, film or record their work. The Act recognizes such works in the categories of literary, dramatic, music, and artistic works, and gives protection to every work if it is original and bears some amount of creativity, and is fixed in some medium of expression.

The Copyright Act defines 'artistic works' as including: Paintings, sculptures, drawings (including maps and charts), engravings and photographs, including works of artistic craftsmanship. 'Artistic works also include architectural works. To the extent digital art is an original, creative work expressed in a digital medium, copyright protection should extend to 'artistic works. The Copyright Act protects the creators of works for their life plus a further 60 years after their death during which time the rights to use, distribute or adapt the

works is controlled by the creator or their assignees.

Anticipating the digital future and its implications of copyright, the Indian legislature has taken repeated amendments to the Copyright Act, 1957 to reflect the specific nuances of works in the digital world. The most important change was introduced in The Copyright (Amendment) Act, 2012 which for the first time incorporated specific provisions to deal with works in the digital milieu. These include:

- **Addition of Rights of Communication to the Public:** The decision to extend the concept of ‘communication to the public’ as one of the exclusive rights to cover the making available online of a work strengthens authors’ rights in the digital environment by granting the author a right to be paid adequately when that author’s work is used online.
- **Storage of Works in Digital Medium:** The amendments made explicit what is copyright infringement when works are reproduced by unauthorized owners in electronic form. This made explicit the copying, distribution and replication of digital art.
- **Statutory Licensing for Broadcasting:** Amendments in this area confirmed that broadcast of copyright works didn’t constitute infringements of rights, and would, indirectly, affect how works can be consumed and shared on public screens and other viewing-based omnipresent public platforms.

These amendments illustrate India’s continued willingness to adapt its statutory laws to the realities of new types of digital content, in this case digital artworks, and by extension NFTs.

1.4.1. Copyright Protection for Software and Digital Works: Applicability to Digital Art

The Copyright Act is silent on digital art, let alone NFTs. But specific provisions addressing software and digital works can be used to legally protect both. Software, in particular, is a key component in the creation and use of digital art and NFTs and qualifies for copyright as a ‘literary work’, which enjoys the same protections as digital art. That’s significant because artistic merit is safeguarded only if the work is extremely creative and individual.

The copyright of digital art and NFTs is provided through the Copyright Act. Since the underlying code of software falls under the definition of a literary work under the Act, it is protected which adds a legal shield for digital art against your friend’s copying, modification or distributions. Moreover, since digital art similarly falls under ‘artistic work’ in the Act, digital art enjoys the right of protection from the moment of its creation, which requires it to be original as well as fixed. Sure, digital artists can have a filed federal copyright registration, but it is not required.

1.5. CASE STUDIES

International case studies do provide useful lessons for understanding legal responses to copyright infringement in digital art and NFTs in the Indian context because Indian law is influenced by international legal concepts and its legal framework draws heavily from global rules. This section therefore looks at the copy right disputes around digital art and NFTs from around the world, the applicability of these case studies with respect to India, and the lessons that can be derived from international responses to the emerging copyright crisis.

1.5.1. Analysis of Notable Cases Involving Copyright Disputes Over Digital Art and nfts Globally

A crucial case in this regard is that of Derrick Lantz, the artist who claimed that his NFT was listed on the NFT marketplace Open Sea for sale without his permission. In response to legal action that had been taken against him, Open Sea argued that the image Lantz had used to build his digital NFT was under a Creative Commons license, which allowed for 'fair use' for commercial and non-commercial purposes. This is a significant development because in order to transform one's artwork by means of digital reproduction, one must enter into a grey area between outright copyright infringement (the copyright is not transferred to the digital artist) and outright fair use (the reproduction does not amount to copyright infringement). This case was argued before a judge in the United States in June 2022. Although it involves proceedings beyond the shores of India, it brings to the forefront the need to develop the legal framework to regulate NFT marketplaces and the sale of digital art, a need that is crucial in the Indian context as well.

Another important case is the lawsuit of Hermès against Mason Rothschild in respect of his 'MetaBirkins' NFT collection, made in the digital form of Hermès's Birkin bags. Hermès made a claim of copyright and trademark infringement against Rothschild, by saying that his nature of NFTs has misguided the consumers and violates its trade marks thereby making a dilution of the brand name. Even though the Hermès suit is brought on the principles of trademark law, it brings enough discussions on the copyright issues in the digital domain, especially a situation where digitally reproducing the physical objects. In this particular case, Hermès was reproducing the bags digitally and selling it as an NFT. This case is very important, as it shows a glimpse on how Indian copyright law would treat the digital reproductions of copyrighted physical objects.

1.5.2. Lessons Learned from International Approaches to NFT Copyright Issues

This underscores the need for an explicit and clean clarification of copyright ownership while selling and creating NFTs. For India, proper guidelines on copyright ownership over digital art and NFT purchases would avoid ambiguity and protect creators' rights.

The fact that NFT marketplaces are getting dragged into these copyright disputes suggests that enforcing copyright policy might become part of their remit; Indian NFT platforms could be incentivized, or compelled, to pre-vet submissions of digital art by artists to ensure their privacy rights are respected.

International precedents highlight the struggle to find the right balance between copyright protection and the innovative potential of NFTs. India can benefit from developing copyright laws to protect artists without hampering the creative and economic possibilities offered by digital art and NFTs.

India needs to internationalize now So, in the NFT era, international collaboration will be a crucial element. India can and should pursue information-based bilateral or multilateral agreements with other jurisdictions on the protection and enforcement of copyright in digital art.

In order to keep up with the evolving world of digital art and NFTs, the copyright laws in India will probably need to be periodically updated. India can be inspired and guided by foreign disputes to proactively reform its laws to resolve the particular challenges that digital creations and distribution bring forth.

1.6. PROTECTING COPYRIGHT IN DIGITAL ART: INDIAN PERSPECTIVE

In the wake of the digital revolution that saw the rise of digital paintings and non-fungible tokens (NFTs), the traditional world of fine art has transformed and posed a number of fresh questions for artists, owners of copyright, and lawyers alike. The advent of digital paintings and NFTs has shaken up the establishment and redefined the landscape of copyright and, in India, the interactions between digital art and copyright law spark a number of unique concerns. This section discusses issues exclusive to Indian artists in the NFT market, looks into whether existing Indian copyright statutes can apply to digital art and NFTs, and explores the role of digital platforms and marketplaces in copyright enforcement.

1.6.1. Specific Challenges Faced by Indian Artists and Copyright Owners in the NFT Market

Indian artists in the digital art and NFT space will surely be impeded by various obstacles, beginning with the absence of clarity on the kinds of legal protections that will be available for their work. Their key challenges will likely be:

- **Ownership of Copyright:** They also might not know their rights in digital creations and NFTs. That bodes both ill for them and also for the organisations that should want their creation skill but often end up exploiting them and illegally putting their work on the blockchain.
- **Infringement and replication:** the digital object invites copying, distribution and use, diluting the value of the original and complicating enforcement.
- **Marketplace Responsibilities:** So many digital platforms and NFT marketplaces are now popping up – what is their responsibility to protect artists' copyright?

1.6.2. Analysis of Current Indian Copyright Law in the Context of Digital Art and nfts

Under Indian law, the Copyright Act, 1957 provides the primary statutory basis to protect original copyright work but its applicability to digital art and to NFTs is not clear-cut since many of its basic components are relatively new in the understanding of the economy from which they emanate. A few of the Act's key factors and its amendments should thus be considered.

- **Copyright in Artistic Works:** The Act grants copyright over artistic works, which could cover digital art. But there are still questions about how this protection covers the particular approach of NFTs (basically digital certificates of ownership registered on a blockchain) to ownership.
- **Adaptations and Derivative Works:** The enforcement problem becomes particularly acute where digital art is concerned, especially in its most commercial incarnation: NFTs. Protections for unauthorized adaptations are granted by the Act, but the ease with which digital works can be altered and redistributed online is a significant issue.
- **Communication to the public:** the 2012 amendments to the Act included provisions related to communication of copyright work to the public, which includes over the internet. This will be relevant in respect of works of digital art which might be disseminated online although the mechanisms of enforcement specifically in respect of the digital marketplace are underdeveloped.
- **Moral Rights:** The Act enunciates the moral rights of artists in terms of their right to attribution and

integrity, yet the anonymity of many digital transactions and indeed the mutability of digital files can also infringe upon those rights.

1.6.3. The Role of Digital Platforms and Marketplaces in Copyright Enforcement

While digital platforms and NFT marketplaces continue to revolutionize digital art, and despite their enviable hold over copyright – something that’s up artists, in India especially, is something we can all look forward to.

- **Verification Frameworks:** Adopting strict verification frameworks for artists and their works can help ensure that only legitimate digital art gets sold, safeguarding copyright.
- **Transparency and Records:** NFTs are built on blockchain technology which holds a permanent and immutable record of transactions. Platforms could use this to maintain transparent records of ownership and transfers, and enable more effective copyright enforcement.
- **Educational Initiatives:** A lot of artists and buyers are new to digital art and copyright law, and platforms can organize and supply educational resources to get their users informed about their rights and responsibilities.
- **Cooperation:** with legal authorities the platform could force known counterfeiters to reassess their conduct by sharing data and records with law enforcement.

1.7. SUGGESTIONS FOR STRENGTHENING COPYRIGHT PROTECTION

As digital art and Non-Fungible Tokens (NFTs) start to shape the future of creative expression and digital ownership in India, the relevant copyright law needs to improve to provide statutory protection via formal legal remedies, particularly in the digital domain where legal doctrines are shifting and loss of control is an inherent consequence. The following Suggestions provide piecemeal solutions that advance legal reform, blockchain applications for copyright management, and education for artists and creators.

1.7.1. Legal Reforms Needed to Address the Unique Challenges of Digital Art and nfts

- **Cosmetic Clarification and Expansion of Indian Copyright Law:** Indian copyright law requires cosmetic changes to explicitly bring digital art and NFTs within its ambit as it currently stands. This involves explaining what digital works of art are, clarifying the legal position of NFTs as unique digital assets within the legal texts, and detailing the scope of copyright rights that exist in data on a blockchain. A finely chiseled definition of digital artworks makes enforcement clear, which would lessen vagueness.
- **Recognition of the Digital and Global Nature of Adaptation:** Copyright law in India should be revamped to account for the fact that events in the digital world are cross-border events, and should incorporate provisions regarding the cross-border nature of copyright infringement. This may involve both the ratification of international copyright conventions specific to digital content, as well as collaboration with foreign countries to ensure that copyright laws are enforced across borders.
- **Moral Rights and Artist Protection:** There should be provisions to strengthen the moral rights of artists, particularly in the attribution and integrity of their works. Legal reforms should ensure that these rights are available and enforceable in the context of NFTs, which can multiply and modify the original

artwork without the artist's permission.

- **Dispute Resolution Mechanisms:** Creating rapid track resolution mechanisms for copyright issues relating to digital art and NFTs facilitates redress for artists and copyright-holders in a quick manner. For example, one option could involve the establishment of dedicated courts or arbitration panels with the expertise in digital copyrights and blockchain technology.

1.7.2. Potential for Blockchain Technology in Copyright Registration and Verification

In fact, modern blockchain technology – the foundation of NFTs – represents a huge opportunity to improve copyright registration and verification mechanisms.

- **Immutable Copyright Registry:** If you could use a blockchain to record all copyrighted material in an immutable copyright registry, it would provide a hacker- and evidence-proof way of registering copyright and verifying ownership. It could record creation, sale and transfer of ownership for every piece of digital art.
- **Smart Contracts for Rights Management:** Smart contracts on the blockchain could mechanize rights management, enabling artists to license their work, receive royalties, and enforce usage terms without intermediaries. It could speed up the administrative aspect of copyright licensing, reduce disputes, and ensure creators are fairly compensated.
- **Improved Verification and Enforcement:** The natural transparency and security structures of Blockchain can help identify ownership of copyright and enforce against infringing copies by detecting unauthorized copies and following the movement of art across the distribution channels for a digital world to take legal action where applicable.

1.7.3. Educational Initiatives for Artists and Creators About Copyright and nfts

Education offers a powerful way to support artists and creative workers for the digital age. The following ideas are some steps that could be taken:

- **Copyright Literacy Programs:** Organize workshops, seminars and online courses for artists and creators to understand the relevant parts of copyright law, digital technology implications, and the details of NFTs. Leverage programmes to dismantle the mystery of legalese, while demystifying copyright concepts that are only popularly understood.
- **Practical guidance on creating NFTs and selling them:** information on the legal issues involved in minting NFTs: draft. How to create and mint an NFT. From a purist perspective, what the most equitable way to transfer copyright in an NFT. The focus of these subsections will be legal information concerning minting non-fungible tokens – i.e., creating NFTs – including: • tips regarding the way copyright might most appropriately be transferred; • the available licensing options for the works or items being tokenized (i.e., the 'content'); and • how some moral rights might best be safeguarded in the digital realm.
- **Awareness Campaigns:** Launch awareness campaigns on copyright and related rights. Communicate to artists and to the general public about the risks arising under copyright law in the digital environment, as well as on the importance of respecting authors' rights. Create awareness campaigns

through collaborations with the digital platforms, educational institutions and artist communities.

- **Partnerships with Digital Platforms:** Working with NFT marketplaces and other digital art platforms to provide integrated educational resources and direct legal support services to users of these platforms, such as FAQ databases, legal templates, and direct contact with copyright enquiries.

1.8. FUTURE OUTLOOK

The intervention of digital technology has been nothing short of revolutionary in a wide range of domains, immersing the world of art and protection of copyright in a revolutionary flux. The radical evolution emerging from the emergence of digital art and Non-Fungible Tokens (NFTs) poses grave challenges and immense opportunities, especially in a bustling, multifaceted legal arena such as India. An artistic masterpiece authored by Stevenson (1869) *Pirates Own Book* and Charles Stewart Parnell, © Nnette, dated 25 January 1903. This essay explores the estimated future landscape of digital art and NFTs, juxtaposed with the expected legal and technological developments and India's position within the scope of the worldwide NFT market and protection of copyright.

1.8.1. The Evolving Landscape of Digital Art and nfts

Digital art and NFTs have already started to transform the art market by providing new ways of owning, making and selling things, and in the future we can reasonably expect digital art to grow more sophisticated and interactive. As the technology develops, for instance, it's likely that digital art will increasingly incorporate AR, VR and AI into sophisticated works of immersive art. Describing these radical new forms will stretch existing concepts of what can be considered art, and will most likely challenge the existing legal framework based on copyright – laws which were built around older forms of artistic output.

Meanwhile, the capacity of NFT space to democratize art and allow artists to sell their work globally, and directly to their audiences, is only likely to expand. In theory, this bodes well at least for the diversity of the art market, boosting the fortunes of the underrepresented and giving them a level playing field on which to challenge their more established counterparts in the offline world.

1.8.2. Anticipated Legal and Technological Developments Impacting Copyright Protection

Stepping back, his legacy will have a transformative impact on the legislative and digital landscape: both shaped by the blinding speed of digital art and NFT creation.

Expect changes in copyright law to address distinct matters of digital creation and NFTs: defining digital ownership; delineating when, and whether, digital assets can be transferred or bequeathed; and distinguishing an artwork's copyright from the ownership of its NFT, for example. Internationally, copyright treaties and agreements could be updated so that digital art could be protected throughout borders in a predictable way.

Third, technological advancements. Blockchain (which powers NFTs) is sure to develop. The hope is that the new versions will be more secure, fast and scalable. Enhanced blockchain transaction processing might enable better, cheaper algorithms for copyright registration, thereby facilitating protection of works, as well as easier means of proving provenance and work authenticity for buyers. Potentially, artificial intelligence could be used to keep tracks of copyright violations in the digital realm at large and provide the tools for automatic

enforcement and dispute resolution.

1.8.3. India's Position in the Global NFT Market and Copyright Protection

If anyone can embrace a world of innovation and technology while still safeguarding its heritage, India can. The country has become a hotbed of NFT innovation, ready to make an impact in the global NFT market and the wider debate on copyright protection of digital art.

- **Market Readiness:** The market for digital art and NFTs is very exciting in India because of a young and tech-savvy population, and rapid expansion in digital infrastructure. The boundary between physical and digital in India is also a lot more porous than in Western cultures. With growing numbers of Indian artists and creators venturing online, India could become a hub for the NFT global market, bringing unique perspectives and works of art that integrate Indian cultural influences.
- **Legal Leadership:** India has the opportunity to shape the future of copyright law in response to the digital age. Any country can be the first to update their copyright framework to accept digital art and NFTs, and India can lead the way. If the country takes on this challenge now, it could set a precedent for other countries dealing with the same issues, establishing India as a hub for digital art innovation and copyright discourse.
- **Technological Innovation:** That serves them well in other ways. India can also benefit the NFT developments with its strong IT sector. It could possibly develop new applications of blockchain and new copyright-verification tools that accompany digital artworks. As they did with digital music, Indian startups and tech companies will leap on the occasion to create digital platforms, aggregators and licensing businesses that cater to the digital art market and can build in more robust copyright protections.

1.9. CONCLUSION

The intersection of emerging trends in digital art, Non-Fungible Tokens (NFTs) and copyright law marks the current juncture of the collision of art, technology and legal regulation. In subsequent parts of my post, I delve into those prospects and dilemmas that Digital Art and NFTs as technological inventions bring to the cusp of Indian legal regime. The revolution in art world through digital art and NFTs has utterly altered the status quo. With the development of artistic productions online, artists have an entirely new dimension to their styles – where traditional materials are replaced by digital mediums and digital technologies. The NFT has further paved the way for a game-changing mode of establishing digital ownership, scarcity and proof of originality, much similar to the physical art form. Nonetheless, with the revolutionary impetus and its wide-reaching implications of digital art, NFTs, and related artistic trends, some vexing legal questions also emerge. Many of these questions remain unanswered, especially in a country like India, where digital laws and copyright laws are yet to catch up with the pace of technological developments.

The central problem underlined in this chapter is that of interpretive lack of clarity and legal ambiguity with respect to the ownership of digital art and NFTs in India. In the absence of a well-and-truly modernized legal framework capable of grappling with the innovative and complex nature of digital artworks and NFTs, present-day copyright laws in India, which are primarily based upon the Indian Copyright Act of 1957 and

successive amendments thereof, hardly provide any meaningful insights concerning issues such as copyright protection and infringement with respect to digital art and NFTs, but also in terms of the enforceability of the rights of the original creator or artist. Further, in the United States, there are also copyright concerns and ownership questions arising from NFTs: the fact that the transactions concerning the sale of NFTs can take place online across the world and the artists themselves might be located in another jurisdiction. So, any application of US copyright laws onto foreign nationals can pose legal issues. In an attempt to bridge this gap and address the challenge of protecting and enforcing copyright provisions on a global scale, it would be advisable to employ a nuanced approach and promote international cooperation.

Looking at some recent global copyright disputes surrounding digital art and NFTs is helpful in capturing the lessons for India. Among others, these court cases point towards the need to capture in legislation whom should own the copyright. They illustrate the responsibility of NFT marketplaces to enforce their copyright policies. In most cases, the copyrights would have to find a balance between protecting intellectual property rights and the capacity of the artform to iterate, find inspiration and expand itself. Above all, they assert the need for India to bring its legal regime into the digital era, by learning from successful international precedents in protecting artists' rights while opening up possibilities embedded in digital art and NFTs.

To meet these challenges, as per the article's suggestions, there are several actions that must be taken: primarily, legal reforms through providing explicit recognition of digital art and NFTs in copyright law; providing greater clarity of copyright in the context of using blockchain technology; developing fast-track dispute-resolution procedures; leveraging blockchain technology for copyright records, and using smart contracts for rights management; and increasing copyright literacy through educational programmes for functioning reliably under digital art and NFT environments.

We can expect the technology of digital art and NFTs to evolve rapidly, and the law – particularly through legislative reform – will likely shape the future at the cutting edge of this intersection of digitalization and the arts. Meanwhile, India, with its rich tradition of art and culture, holds the promise of being well-placed on the cutting edge of various forms of cultural expression, including digital art, on the back of its burgeoning digital economy. The legislative committees can perhaps pave the way ahead, putting in place a progressive yet adaptive legal and regulatory framework for an area that requires a balance between protecting the right of the artist and concurrently developing an ecosystem for Indian digital art and NFTs.

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