

OWNERSHIP CHALLENGES IN NFTS AND METAVERSE

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5.1. INTRODUCTION

Technology is changing at lightning speed, and we are seeing more of digital assets than we have ever before. All this has radically changed the heart of ownership, creativity, and intellectual property. Copyright law that has for long protected creators over works was facing enormous challenge in this digital space. One of the latest buzzwords around is that of Non-Fungible Tokens, which attracted some popular artists, tech enthusiasts, and legal scholars alike. They describe unique digital assets, often tied up with content like art, music videos, and even virtual real estate. Unlike cryptos, where one is just as good as the next, each of these NFTs has a characteristic different from its counterpart and is stored on a blockchain that provides an easily identifiable record of ownership. The underlying purpose of copyright law, much like in most others, is to protect the rights of the creators by making the rights over creations exclusively theirs. These rights shall include reproduction rights, distribution rights, and display rights so that they appropriately collect compensation for their mental work. NFT, however, has brought into question major issues regarding copyright laws around this newness. NFTs have placed digital art and content in a peculiar position that one would consider such assets to be sold, bought, and exchanged as separate properties. Thus, in general, it becomes unclear whether the ownership of the intellectual property that constitutes the NFT is legitimate.⁹⁴⁹

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⁹⁴⁹ Dong, Y., & Wang, C. (2023). Copyright protection on NFT digital works in the Metaverse. *Security and Safety*, 2, 2023013.

5.2. THE APPEAL OF NFTS: UNIQUE OWNERSHIP IN THE DIGITAL WORLD

Perhaps the most seductive allure of NFTs is that they provide a sort of proof of ownership over digital goods that was tough to establish before. Where, in previous times, anyone could download a copy of the digital artwork, only the owner of the NFT tied to that artwork will be able to claim he owns the "original". As a result, there are now new sales and purchases of digital art, music, and even virtual lands in online worlds like Decentraland. Most NFTs are sold through specific online platforms such as OpenSea and Rarible, which allow creators to mint their NFTs for sale to collectors. Most often, the royalty to the original creator is incorporated into the sale of NFTs, thus earning them a percentage of the profit every time this NFT is resold.

5.3. NFTS AND COPYRIGHT LAW IN INDIA

Copyright ownership seems the biggest questions of law regarding NFTs in India. Essentially, if an author mints an NFT of his work—a digital painting or a piece of music, for instance—what happens to the copyright ownership rights of that work? Is the buyer automatically gifted a copyright, or is the author left with it? Copyright in Indian law is once again approached basically as belonging to the author and from there may be transferred through a legal contract, such as a sale or licensing agreement. Thus when a person purchases an NFT of a digital artwork he acquires the ownership of the token but not necessarily the copyright of the underlying work. Even if someone buys the "original" version of a digital file, a creator retains her rights to reproduce, distribute, or license the work, unless there is a specific contract that transfers those rights in addition to the sale of the NFT. Of course, this requires an understanding that many buyers of NFT come from the same schools

of thought: they believe in purchasing an NFT, they're also entitled to all rights in the work. Under Indian copyright law, however, that isn't so unless agreed upon by the creators and buyers; therefore, there is a call for more awareness and clarity about the legal terms involved in such sales vis-à-vis copyright and licensing.⁹⁵⁰

5.4. NFTS AS A NEW CATEGORY OF DIGITAL ASSETS

NFTs are an altogether new and complex class of digital assets, not fitting anywhere under the existing structures of legal structures in India. It cannot be brought under the ambit of physical assets, as NFTs still question the established law of ownership and property. For instance, whereas in the theory of laws of physical property the notion is held to be that at any one time one entity may hold a deed of title, rights in NFTs can be distributed to multiple parties so that many individuals can have different rights in a given digital asset: one might own the NFT while the copyright holder retains it. It makes things more complicated in the case of blockchain technology because there are decentralized records of ownership. In a more traditional system, there is a database that keeps track of ownership, perhaps government registrations. With NFT, though it is recorded on the blockchain, it is accessible to everybody yet controlled by nobody. This makes for some completely new problems concerning law, especially with disputes in regard to ownership, if some argue that their NFT has been stolen or presented misleadingly

5.5. THE FUTURE OF NFTS IN INDIA

NFTs grew much more rapidly than the laws. With further incorporation of NFTs in India, the need for lawmakers and their regulatory bodies may come to establish new laws to govern this new technological

⁹⁵⁰ Gulyani, N. (2023). Nexus between NFTs and Intellectual Property Law. *Issue 2 Int'l J.L. Mgmt. & Human.*, 6, 446.

development and the unique legal issues they raise. This may be in the form of amendments in copyright law which explicitly envisions the concept of a digital asset or creating new legislation wherein NFTs and similar blockchain technologies are governed by.

5.5.1 Copyright Ownership in the NFT Ecosystem

NFT, which literally means non-fungible tokens, represent a revolutionary model of digital asset, permitting the ownership of unique pieces of digital content, be it artwork or music, video clips, or even tweets. Yet the question of ownership related to NFTs poses quite a number of legal challenges, especially in copyright law. Copyright protection is specifically granted under Indian and other laws to the original creators of the work. With the evolution of NFTs, questions are always new as to who has the copyright: whether it is the creator, or the one minting the NFT, or perhaps the owner of the NFT? The remaining section endeavours to peep into the intricacies regarding the Indian legal system.⁹⁵¹

5.5.2 Who Owns the Copyright of NFT-Linked Content?

In most traditional terms, copyright automatically vests in the creator of a work from the moment it is created. This would apply to exclusive rights to reproduce, distribute, and display the work. This, in effect, means that if a digital artist in India creates an illustration, that's automatically copyrighted—even, for instance, after they have sold their work in some form later. But when that artwork or any other digital content is transformed into an NFT, this transfer only changes the ownership of the NFT, a digital certificate of ownership, connected to the blockchain but no underlying copyright of the artwork itself. So, the token the buyer gets is really just a token

representing ownership of a certain digital version of the artwork but does not grant legal rights to reproduce, modify or distribute the image if not granted through some separate agreement. This is why many people tend to commit the mistake with NFTs: buying NFT does not mean obtaining copyrights. The purchase of a digital token automatically makes the buyer assume that he has become the copyright owner for the creative work. The result could be some fights between creators and buyers of NFTs, the former especially if the latter starts to use the material commercially without rights. In the Indian context, protection of creative works is governed by the Copyright Act, 1957, and it specifies that unless it is so assigned or licensed, the copyright remains with the owner. Therefore, unless the owner of intellectual property—right of the work, that is its creator transfers rights to the buyer, the buyer would only own the NFT itself and not the work's underlying intellectual property.

5.5.3 Impact of Blockchain Technology on Copyright Ownership

In a nutshell, the basic foundation of NFTs works on blockchain technology. It provides a bookkeeping system that is immutable and tamper-proof, hence evidencing ownership and provenance of the digital assets. Technically, it adds much-needed transparency and security in ownership transactions. However, blockchain's immeasurability also creates some problems with regard to copyright management. For instance, it offers the transaction history and ownership of blocks, such as blockchain. However, it is incapable of achieving an instant interrelation with copyright law. Thus, it cannot offer any guarantee to ensure that the person creating the NFT shall have copyright over the work wherein it is tokenized; thus, opening the floodgates to copyright infringement, whereby the NFT was created by a person other than the original author

⁹⁵¹ Kim, D. K. (2023). A Study on the Liability of NFT Platforms as Online Service Providers under the Copyright Act. *Law Journal*, 80, 429-461.

by utilizing another person's work. As defined in Section 51 of the Indian Copyright Act, 1957, copyright infringement relates to the use, without permission from the author or creator, of copyrighted works. Probably, in all likelihood, printing an NFT of copyrighted work would mostly fall under the rubric of this definition of copyright infringement. However, because blockchain is a decentralized and anonymous technology, it becomes very difficult to enforce such rights. Cases in which the infringed is a foreign one or one having used pen names as part of their other identification means make tracing them a task for law courts making copyright enforcement complicated.⁹⁵²

5.5.4 Case Studies: International and Indian Perspectives

While Indian law on regulation of NFTs is still emerging, international studies would provide an insight into the probable course that a copyright dispute might take in the NFT arena. For instance, the famous digital artist Beeple sold an NFT in the United States for \$69 million. However, all of the copyright vested in the work remains with Beeple, so the owner of the said NFT cannot reproduce the original art unless further permission is sought for the said purpose. More in India, NFT is gaining popularity in creative fields and entertainment. There were many creators minting as well as selling their digital products on India's very first NFT marketplace that is WazirX. No significant court decisions have yet dealt with intersection of NFTs and copyright law in India and with the growing markets on NFT, more battles on ownership and copyright, judicial clarification would be an inevitable outcome. For instance, unauthorized minting of a clip from a Bollywood movie or a cricketing moment as an NFT by a private individual will not be

permissible without the permission of the copyright owner. The Indian Copyright Act grants exclusive rights to the owner of the original video or content, and its minting as an NFT without permission could thus create serious legal hurdles. Such cases shall create significant precedents for Indian Courts in interpreting issues of copyright ownership in digital domains and blockchain domains.⁹⁵³

5.5.5. Clarifying Ownership through Licensing

Due to the complexity surrounding copyright ownership within the NFT ecosystem, it is essential for the rights definition of both creators and buyers to look to licensing agreements. When an NFT is sold, the rights-transfer details may be defined by the creator at specific terms. For instance, such a creator may allow the buyer to publicly display their work or use it for a restricted, non-commercial purpose while retaining the majority of the copyright. This would help minimize potential conflicts since Indian creators, buyers, and marketplaces will have to adopt transparent licensing practices that define what rights are transferred when a person buys an NFT. Consequently, there is a possibility that the Indian judiciary system will have to interpret existing copyright to cater for new forms of digital ownership.

5.5.6 Licensing of NFT

This is a very complex situation in India that is significantly underdeveloped in terms of licensing NFTs. Problems on copyright licensing and enforcement add up to many problems when NFTs provide lots of opportunities for creators to monetize their works. This section will cover how licensing works in NFTs, the nature of licenses involved, and what India needs to worry about regarding enforcing the

⁹⁵² Mehrotra, A. (2023). LEGAL FRAMEWORK OF NON-FUNGIBLE TOKENS LEGAL REPERCUSSIONS & CHALLENGES AHEAD. *Janus*, 14(2).

⁹⁵³ Mesevic, I. R. (2023). NFTS and Intellectual Property Rights-A Special Reference to So-Called" Art NFTS". *Pravni Vjesnik*, 39, 147.

terms of licensing.⁹⁵⁴

5.5.7 Licensing Agreements in the Context of NFTs

Licensing is, at a traditional level of intellectual property, a mechanism by which one may permit copyright holders to use, reproduce, or distribute their work yet retain ownership of that work. For NFTs, the role licensing plays in this arena is comparable but with vast differences because of the nature of the digital assets and blockchain technology. When an NFT is issued, it often is married to a work of digital material. For example, artworks, music, or videos. The author of the original work retains their copyright absent transfer of that right, unless otherwise stated in a licensing agreement, the buyer of the NFT does not inherit the copyright. This leads us to perhaps one of the most problematic areas for Indian buyers and creators alike: What does the NFT buyer actually own? Most buyers think they're buying all rights over a digital asset, but instead, what they are really buying is ownership of the token—they get a unique code on the blockchain—and only a license to use or display the associated digital content. That scope can be extremely variable depending on the precise terms laid down by the issuer. For example, some licences may limit use to personal, non-commercial activities while others may include greater rights which also allow display or reproduction in certain ways. An important difference is between owning an NFT and possessing a copyright in any material associated with it, which, to date, is still not well understood by those purchasing it. For example, someone buys an NFT connected to a piece of digital art; such a person would not automatically be granted a license to create derivative variations of the art on pieces of

merchandise or for commercial purposes unless some separate agreement explicitly provides for that as a licensable right. Knowhow about these subtle differences continues to be something of an evolving learning curve in India compared to others concerning digital literacy in advance of appearing as a point of law susceptible to dispute.

5.5.8 Types of Licenses.

In NFT transactions the types of licenses which may apply to an NFT can be very restrictive and quite permissive. The most common types of licenses are:

- **Non-Exclusive License:** All ownership and licensing rights the creator might have in the original work will remain with him/ her, but he shall grant the buyer of the NFT a non-exclusive license to use or display the digital asset. That is to say, it is not a violation if the creator sells other licenses or NFTs of the same work while allowing the buyer rights concerning NFT-linked content.
- **Exclusive License:** the creator transfers exclusive rights of the digital asset to the NFT buyer for some use that may either be for personal use, for commercial purposes, or for distribution. This may particularly include using the content reproduced in derivative works, or to use it commercially among others.⁹⁵⁵
- **Creative Commons License:** Some creators affiliate their NFTs with a Creative Commons (CC) license, which confers rights on both the buyer and even members of the public to be allowed use or to modify and to distribute said content under certain conditions that may include not being used for commercial purposes or even having the name of the creator attributed.

The issue with India is that such licenses are generally not clearly and more easily stated

⁹⁵⁴ Mishra, P., Singhal, A. K., Thakur, V. S., Sharma, D., & Bedi, M. (2024). Beyond Traditional Intellectual Property: Rise of Non-Fungible Tokens (NFTs) and Role of Blockchain in Protecting Digital

⁹⁵⁵ Art. Wilson, J. (2023). COPYRIGHT IN THE AGE OF NFTS AND DIGITAL ART. *Michigan State Law Review*, 2023(3).

in NFT sales. Customers may not know what rights they are getting, whereas creators do not get a clear understanding of the implications of granting their licenses. Most of the NFT platforms are located outside India, and standard terms of service adopted by them may collide with the intellectual property law of India.

5.6. CHALLENGES IN ENFORCING LICENSING TERMS FOR NFTS IN INDIA

India would raise a few specific counts while applying the terms of licensing in the NFT space.

- *Less Precedential Jurisprudence:* The Indian NFT market is relatively nascent. In case the former gives any such precedential judicial precedents or case laws regarding the disagreements on the license terms, the courts would be dazed and confused. Indian copyright law has not even been amended to give a definite effect to the NFTs and how the existing laws could be applied to these digital assets.
- *Cross Border Jurisdiction:* As most of the NFT platforms are international, cross border jurisdiction usually applies. Here, enforcing the licensing agreement for the Indian creators becomes tough when the platform or the buyer sits in another jurisdiction. Disputes over the cross border are accompanied by complex questions over jurisdiction and conflict of laws that would make it expensive as well as time consuming.⁹⁵⁶
- *Lack of awareness:* on the right to digital rights and intellectual property: Generally speaking, there lacks adequate awareness on this right to digital rights and intellectual property. Most creators, including first-timers in the NFT space, would not know the best method to protect their licensing rights.

In effect, buyers may not be aware that buying an NFT does not automatically create copyright over the related content. That's why this lack of knowledge may bring about miscommunications and then, subsequently, other kinds of conflicts.

- *Smart Contracts and Their Weaknesses:* NFTs tend to self-market on the basis of smart contracts that are self-executing contracts wherein terms of an agreement are written directly into code. The truth, however, is that while smart contracts are absolutely brilliant at streamlining the enforcement procedure for specific areas of a licensing agreement, such as royalties, they are by no means infallible. One characteristic of a poorly drafted contract is that such a poorly drafted contract, offering little or no protection to the creator or buyer or not considering all the legal contingencies, has an intrinsic ability to be done so. Such smart contracts are based on blockchain technology and generally regulated by the law of the platform or blockchain in which they are implemented; such is not necessarily in conformity with Indian legal requirements.

5.7. FAIR USE AND COPYRIGHT EXCEPTIONS IN THE NFT MARKET

The Indian Context This is exactly what NFTs have done with digital content: create, own, and trade. In this course, as NFTs flow into popular culture, questions arise on applying copyright law generally and, more especially, on applying the provisions of fair use. In India, copyright law is governed by the Copyright Act of 1957. Such issues thus find themselves valid concerns for many digital artists, creators, and buyers of NFTs. Section 2 proceeds with the tension between NFTs and the Indian law's fair use doctrine about how it affects reproduction, distribution, and the issue of potential

⁹⁵⁶ Mujević, B., & Mujević, M. (2023). NFTs AND COPYRIGHT LAW. *SCIENCE International Journal*, 2(2), 15-20.

copyright infringement.

5.7.1. Fair Use Doctrine in India

The principle of fair use, also known as "fair dealing," forms an essential exclusion to copyright infringement in India. Anything that is copyrighted material can be used without the copyright owner's permission if the use was made for any of the purposes listed in the statute. Only private study, research, criticism, review, reporting, and teaching are permitted under the Copyright Act, 1957. Fair use is no permission in a blanket sense, but is interpreted judicially, and thus granted on case-to-case basis. The Indian courts widely consider the issues such as purpose of use, nature of the original work, amount of the copyrighted material used, and also the effect of the new work upon the potential market for the original work. It remains a problem in that NFTs are still relatively new, and its interaction with the fair use provisions under Indian law, would largely remain untested. Traditionally, the principles of fair use are based on physical as well as digital media that existed before NFTs—which can buy and sell and transfer anywhere in the world, blockchain-based digital asset.⁹⁵⁷

5.7.2. Reproduction and Distribution of NFT-Linked Content

One of the salient issues to be considered in connection with NFTs in copyright law revolves around reproduction and distribution. NFTs, by definition, represent digital tokens that may include any form of artwork, song, video, and so forth. Importantly, no copyrights relating to the underlying work are acquired through the purchase of an NFT. Copyright often is retained by the artist, but ownership is restricted to a digital certificate of authenticity. This creates ambiguity over what rights NFT buyers possess, and

particularly in reproduction and distribution. To take a familiar example: if someone buys an NFT of some digital artwork, does that entitle them to reproduce the work, share it on social media, or even create derivative works based on an image? Generally speaking, that would depend upon the terms of the sale and licensing agreements accompanying the NFT, but such terms are often vague or not well understood by the parties. The right of fair use may allow limited reproduction or distribution of an NFT-tied work in such a circumstance because the purpose of such conduct would differ. For example, if the purchaser reproduces or distributes the work for purposes of criticism or review, then that conduct could fall within the right of fair use. Commercial exploitation—for example, selling prints of the artwork or using it as an advertisement—probably falls outside the right of fair use and could be copyright infringement.

5.7.3. Copyright Infringements Potentials through NFT

Copyright infringement potential is an extremely vast field when talking about NFT due to its decentralized and relatively anonymous nature of transactions. Among the most extensive and widespread issues is minting unauthorized NFTs using copyrighted content without a creator's permission. This is what happens when a third party takes an image, song or video, and creates from it an NFT without first having secured licenses from the copyright holder. Probably under Indian law, this would amount to infringement by the Copyright holder's exclusive rights, to reproduce, distribute, and license works. The Copyright Act, 1957 grants exclusive rights to the creators concerning how their works are utilized, and unauthorized uses, such as the creation of NFTs, would probably be challenged as infringement. However, enforcement is quite a nightmare in the

⁹⁵⁷ Murray, M. D. (2023). Transfers and licensing of copyrights to NFT purchasers. *Stan. J. Blockchain L. & Pol'y*, 6, 119.

world of NFTs. Most of these are sold on the global marketplaces, which create jurisdictional issues to enforce Indian copyright laws against violators residing elsewhere in the world. In addition, the challenges arise with blockchain technology itself as it is decentralized and anonymous most of the time, making the identification and prosecution of infringers extremely difficult.⁹⁵⁸

5.7.4. Defence through Fair Use

Copyright infringement represents the potential threat for NFT market, but the dispute concerning fair use doctrine might determine its defence in some disputes. For instance, if an individual uses a work NFT-licensed in a way that is fair use under the exceptions—like criticism, commentary, news reporting, teaching, scholarship, or research—they will likely not be held liable for infringement. Of course, fair use is by no means a hard-and-fast doctrine, and application to NFTs will lie where Indian courts apply the law in this new digital space. Courts will probably consider whether the use is transformative—that is, whether the NFT-linked content is used in a way that adds new meaning or value, or simply as a reproduction of the original work.

5.7.5. Indian Law's Lack of Clarity

As the use of NFTs spreads throughout India and beyond, the legal ambiguity surrounding fair use and copyright must be clarified. Despite Indian copyright law providing clarity in some areas, the latter was never created with blockchain technology or digital assets in mind. Hopefully, legal reforms would soon be necessary to define better how copyright law applies to NFTs and especially on fair use matters. Meanwhile, creators and buyers of NFTs walk on eggshells regarding

all these legal nuances. Understanding the limitations of fair use and the possible risks of copyright infringement can help avert future legal wrangles. Indian courts, too, are bound to play a crucial role, interpreting and applying old copyright principles to this fast-paced technology.

5.7.6. Challenges to Copyright Law in the Digital Economy

The digital revolution has brought forth many innovations but also poses critical challenges to traditional legal frameworks, and for India, copyright law, designed for the protection of intellectual property rights of the creators in a more conventional format, is finding it difficult to adapt itself to the meteoric rise of digital platforms, particularly in light of the recent development of Non-Fungible Tokens. NFTs, as relates to digital assets attached to original work such as art, music, and videos, form a novel legal frontier for India to grapple with as it is failing to adapt to the copyright regime. This chapter therefore focuses on some of the major concerns with which Indian copyright law has had to grapple concerning the NFT market.

5.7.7. Copyright Infringement in the NFT Market

NFTs revolutionized the world of buying and selling digital content. Since, these enabled creators to tokenize their work, selling them uniquely. This does, however open the potential gates for copyright infringement; such as when users mint NFTs of owned content that they do not actually own. Such as using the picture of an artist or a track of music without first having obtained the proper authorization. In India, where copyright laws are often loosely enforced, the fear is that the NFT space could be pretty dirty with illegal copying and misappropriation of works.⁹⁵⁹ Because NFTs

⁹⁵⁸ Sganga, C., Bonadio, E., Contardi, M., & Clopterop, M. (2024). NFTs and copyright law: Setting the scene. In *NFTs, Creativity and the Law* (pp. 20-39). Routledge.

⁹⁵⁹ Yoga, D., Susilowati, T., & Tohari, M. (2024). Copyright Violation in Works of Art Using the Form of Non-Fungible Tokens (NFT) in the Era of Digitalization. *Return: Study of Management, Economic and Business*, 3(8), 561-569.

are tied to digital representations of content- artwork, music, videos-the requirement for legitimacy is just a few clicks away. Someone can now easily create an NFT tied to a popular work without the permission of the creator. For instance, one may download a digital image from the internet, mint it as an NFT, and sell it to the victim. This is both unethical and infringing on the copyright laws. Indian copyright law has given remedies for infringement, but when such infringement involves cross-border transactions or platforms outside the jurisdiction of India, it complicates the problem. For instance, most of the NFT marketplaces are decentralized and based outside of the country, therefore where the creators sit is India, thereby litigating or even understanding who is to be blamed in the country where misappropriation happens. Though the original work was under protection by the Indian Copyright Act, here's the problem: how do the creators know someone hasn't copy-pasted their work on a blockchain network without knowing it?

5.7.8. Jurisdictional Issues and Cross-Border Copyright Violations

As NFTs exist on a worldwide digital ledger, the transactions may cut across multiple countries and jurisdictions. This creates incredible challenges to copyright enforcement since violations are more easily perpetrated in jurisdictions that have less demanding intellectual property protection or other dissimilar legal frameworks. What adds more complexity to this challenge is that NFTs are inherently decentralised, with creators, buyers, and marketplaces spread all over the world. The issue is much more complicated in the Indian context. Take, for instance, the Indian Copyright Act, which extends protection to works created within India, but certainly cannot be extended to everybody around the world. If an NFT is minted using somebody else's work created by an

Indian creator, who happens to reside elsewhere in another country and then sold or traded internationally, then enforcement of rights is going to be a little difficult for the Indian creator. Unless it is a clear violation of Indian law or the violator's physical presence falls under Indian jurisdiction, there does not seem to be a direct method for Indian courts to deal with such violations. Cross-border copyright issues have long been a thorn in the side of Indian creators; NFTs just add another layer of complexity to all this. As of now, India does not have an all-encompassing structure that can handle international disputes involving digital assets like NFTs. Although treaties, such as the Berne Convention, do afford some degree of protection, their enforcement is not easy. Thus, India has no effective mechanism to redress cross-border copyright issues, and Indian creators may face problems in enforcing their rights in works created digitally and as NFTs.

5.7.9. Copyright Law in India

Indian copyright law needs to be transformed to deal with the challenges posed by NFTs. The Copyright Act 1957 was written keeping in mind physical works like books, films, and artwork. But clearly, the digital economy, especially through NFTs, is grounded on different principles, and current law cannot fully cover such complexities of ownership and control in digital realms. Urgent inattention is paid to questions of copyright ownership as regards digital tokens and how license models can apply to NFTs. One possible reform is updating the law to specify who owns and can distribute digital works bound to the NFTs. India could initiate creating specific provisions for digital tokens and their stance in transferring rights, with wider provisions for NFTs. For example, the law may determine that purchasing an NFT automatically transfers exclusive ownership rights of the work or that the rights over copyright remain with the creator. This is an

important distinction, considering its wide implications in how creators are understood and how consumers understand what they buy. The other area in which the law should be reformed is enforcement of digital copyright. Indian copyright law can be further enhanced to also include mechanisms for better monitoring and protection of digital works in online platforms. The government can make provisions to identify and remove infringing NFTs from digital marketplaces and empower Indian creators to take easier action on the protection of their works. India may also engage to enhance international cooperation in the enforcement of copyright in the digital space. Hence, strengthening bilateral and multilateral agreements in accordance with intellectual property enforcement would further form a more coherent framework in NFT rights and protections for better cross-border infringement combats.

5.8. GLOBAL APPROACHES TO NFT REGULATION: LESSONS FOR INDIA

NFTs are increasingly gaining popularity across the globe. Nations are presented with various questions of law on such intangible digital rights, particularly concerning intellectual property rights and copyright law. In India, the scenario is still in a nascent stage. Still much to be gauged from the approaches adopted by other nations dealing with similar challenges.

5.8.1. International Legal Approaches to NFTs

Legal responses have been proactive in the United States and the European Union. The situation is a bit different from these countries since there the legal response has been proactive as one example, the Copyright Act of the United States, establishes the right of the author to reproduce or modify an original work even after it has been sold in the form of an NFT. However, in the United States, purchases of NFTs are still quite unclear about copyright

transmission because in buying one does not automatically transfer to ownership of the underlying copyrights. The European Union has also recently been very closely scrutinizing the use of NFTs, particularly studying how copyright and data protection laws apply. In other words, NFTs have been thought of as property in certain contexts, but the questions are aplenty about how these classic copyright laws can be implemented into a digital economy. There are explorations in regulatory frameworks for NFTs going on both in Japan and Singapore, among others. Japan is safeguarding its IP in its digital asset market, while Singapore has been making its landscape conducive for blockchain and NFTs by clarifying tax rules and providing more deterministic guidelines on digital ownership. Both these efforts point towards a viable need for balanced regulations that would ensure rights for creators without at the same time fettering the former's playing field.

5.9. BEST PRACTICES FOR INDIA

India can learn from approaches overseas. The key takeaway would be clarity in copyright ownership in relation to NFTs. The Indian government can provide specific guidelines regarding the transfer (or retention) of copyrights when an NFT is sold so as not to cause any further disputes about who owns the work and clarify the rights of creators. More importantly, the regulation on NFTs should be compatible with India's data protection and digital security laws to make the legal system more effective. Observing global best practices could help in creating a forward-looking regulatory framework that is apt to the unique legal challenges posed by NFTs while promoting creativity and the protection of intellectual property in the marketplace.

Recommendations:

• **Ownership Rights:**

The Indian Copyright Act would be amended to provide clarity on whether purchasing an NFT confers any form of copyright over the underlying digital work. Under this, there needs to be a well-defined legal framework that separates ownership of the token from ownership of copyright, display rights, or usage rights between the creator and the buyer.

• **Sanitizing Licenses**

The government needs to permit model licensing agreements specific to NFT, which will explicitly state usage rights and limitations on resales. Enforceable regulations will protect the creators and the buyers from the confusion of rights associated with NFT transactions.

• **Copyright Infringement and Unauthorised Creation**

Amending copyright law to include liability for infringing content hosted on NFT platforms and offering an expedited digital process to remove unauthorized NFTs will allow for quick legal recourse in copyright infringement cases.

• **Harmonization of Indian Laws with International IP Standards**

Align Indian copyright laws with international IP standards, such as the Berne Convention and the WIPO Copyright Treaty, to ensure that Indian creators can secure international rights in their work. Collaboration among international bodies will also help the adoption of best practices in respect of NFTs.

• **Consumer Protection**

Enact specific consumer protection regulations for the NFT buyers in which ownership rights and copyright claims are explicitly stated. Bringing into the NFT

contract mechanism of dispute resolution will protect the buyer and pending disputes will be left to law courts.

• **Public Awareness and Education**

Launch NFT and copyright law education programs to create, consume, and advocate on both sides, including most legal professionals. Educating the bar on evolving digital technologies to help them resolve disputes related to these issues and keep appropriate tabs on intellectual property law is important.

The digital economy has been challenged by innovations like Non-Fungible Tokens and is challenging the status quo of copyright law in India. The present legal regime relies on the physical world to give a conceptual understanding of it but is faced with problems in dealing with the intricacies that are surfacing with digital assets. Problems related to copyright infringement, jurisdictional factors, and cross-border violations are now on the rise, as NFTs negate geographical boundaries and operate on decentralized platforms. Indian copyright law, that dates from 1957 under the Copyright Act, barely fits the specific needs of NFT. A clarification on such issues related to ownership rights, standardized licensing agreements, and specifically defined enforcement mechanisms for digital works should come forward. Unless such reforms take place, Indian creators are likely to get stymied in their efforts to protect intellectual property, especially at international forums. The above in international parlance leaves the U.S., the EU, Japan, and Singapore well on their journey to tackling the nuances of the NFT market. India needs to pick up lessons from each of these regulatory frameworks in borrowing best practices that would balance creators' rights with consumer protection, ensure transparency, and provide legal certainty in the NFT space. Then, reforming copyright law, public



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information, and international cooperation would be the most significant steps for India to implement to effectively take on the challenges of this digital economy and ensure the creators of India secure their rights in this international NFT marketplace.

