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Tokenize My Patent Please: The Many and Varied Uses of NFTs

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By now, you have likely heard about Non-Fungible Tokens, or NFTs, which have taken off considerably in the last year. NFTs are a form of crypto asset, similar to popular crypto currencies like Bitcoin and Ethereum. The main difference is that Bitcoins are fungible assets, meaning you can trade one Bitcoin for another and have an exchange of equal value. NFTs, on the other hand, are unique and thus cannot be the basis for an equal-value exchange. This uniqueness allows for an immutable and unalterable digital record on any blockchain network. Importantly, the blockchain stores the entire history of the token, such as information about when it was created, and details of any transfers of ownership.

NFTs themselves are not new, but recent efforts to couple NFTs with digital artwork, music and collectables has been transformative. Dapper Labs' NBA Top Shot paved the way for NFTs in the world of sports collectables, and made more than \$200 million in its first three months of operation. NFTs have also been used to create markets for unique collectables, like Larva Labs' "CryptoPunks," digital representations of people in 8-bit style graphics that have occasionally sold for millions of dollars each. You may have also heard about the digital artist Beeple, who sold a 'one of a kind' piece of his artwork as an NFT for \$69 million through a Christie's auction. Even Twitter CEO Jack Dorsey has cashed in by selling his first tweet as an NFT for over \$2.9 million.

More recently, musicians and celebrities have been getting into the NFT game. The rock band Kings of Leon released their 2021 album "When You See Yourself" as an NFT, becoming the first musician or band to ever do so. They used a company called YellowHeart for the release, an entity that is not only helping musicians profit from the NFT craze, but is also building a concert-ticketing platform that utilizes NFTs. The Kings of Leon token was priced at \$50, and included with it several exclusive extras like a digital download of the album, and a limited-edition vinyl version.

NFTs are even being used in the legal world. Just this past April, IBM began working with a company called IPwe to 'tokenize' their patents, a process which will make it much easier to track patent ownership changes, since every transaction will be stored on a blockchain. In tokenization, an asset like a patent is 'tied' to a unique NFT. If the asset is subsequently sold through a buyer purchasing the NFT, the ownership transfer is automatically recorded on the blockchain. IPwe even states that a "smart contract is built into the token with standardized terms...The owner of the patent sets their contract terms, what is public and what is not." IPwe is doing the same thing for various other companies besides IBM, and they believe that tokenizing intellectual property assets will ultimately lead to an open marketplace where such assets can be easily sold and transferred. On its website, IPwe astutely points out that "IP NFTs are set to benefit banks, insurers, capital markets players – and anyone who lends, insures or invests money." A company called True Return Systems LLC has already created an auction for a patent that is tied to an NFT.

Even with the clear benefits that NFT-backed patents offer, there are a number of impediments to actually achieving such a system. For example, convincing patent owners to actually put current ownership records for their patents into NFTs poses an initial obstacle. If patent owners are unwilling to invest time and money in this process, perhaps the benefits of NFTs will convince the majority of patent holders to use NFTs on a prospective basis, leading to a slower-

paced transition from paper to digital records—only time will tell. Another issue could arise in a situation where a patent owner does not accurately record paper transactions on the blockchain. For example, what if a patent owner sells or leverages his or her patent, but does not enter the transaction on the blockchain, thus leaving an immutable record that is *inaccurate*? However, if the tokenization of patents is successful, there is no reason to believe that such a practice would not bleed into other areas of intellectual property, like copyrights. For example, tokenizing musical compositions and sound recordings would likely make it much easier for music publishers to sell and license music. Similar benefits could be realized in software licensing. The possibilities are truly limitless.

There are certainly a number of questions regarding the future of NFTs as they relate to the world of intellectual property. As NFTs become more widely accepted and mainstream, look for many of these questions to be answered with workable solutions. Crypto assets, and NFTs especially, are likely here to stay, and it is possible that they soon make the full jump from one-time fad to a valuable and prevalent business asset.

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