

The Music Business, Blockchain, and NFTs: The Future of Music Ownership, Merchandising, and Monetization

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Abstract

This paper explores the technology and opportunities presented in selling or owning verified digital assets within the music business. Blockchain technology, an open source ledger supported by a collective of users who are responsible for verifying transactions, offers new opportunities for tracking assets, ownership, and is the foundation of new revenue streams via non-fungible tokens (“NFTs”). We are currently experiencing growth in consumers seeking verified ownership of digital assets via NFTs, which are unique and non-replicable. The use of Blockchain technology provides the ability to embed ownership and monetization structures within smart contracts stored on the chain to establish the rightful ownership of these assets. Until this point almost all digital content could be replicated. The use of blockchain ticketing has been explored with companies including YellowHeart but it’s only been within the last year or so where NFTs have grown in popularity as a way to release art and music, with 3lau releasing the first NFT album in February 2021.

The consistent use of NFTs to buy and sell music goods may lead to an entire new market system based on music-specific cryptocurrency. Given the devaluation of “purchased” music assets (e.g., recordings) in the wake of streaming’s rental-based business model, it is possible that new values may be reassigned to music rights in an alternative marketplace not based in dollars.

Notwithstanding the potential for NFTs to build the future of music asset management, there are limitations to their

capabilities. Smart contracts are limited in their application to broader music assets and transactions beyond tangible goods, such as merchandise, copies of records, or ticket sales. The problem with smart contracts is that they are controlled by computer coding (“if-then”) language. Smart contracts are not able to consider varying factors accompanying negotiations for music synchronization such as the substantive narrative in a film scene for which music is being licensed. They are also unable to address the most common issue for copyright owners—dispute resolution and potential copyright infringement—without deploying additional integration of a content identification system within the blockchain structure. There is no automated mechanism for disputes as to actual uses of music, and the cost-prohibitive nature of litigation often diminishes the strength of music rights owners.

Another limitation of smart contracts is legal enforceability since contract enforceability is governed by state law in the United States, and treated differently in various territories worldwide. Not all territories have adopted legislation or legal precedent as to the enforceability of smart contracts—potentially leaving open additional vulnerability as to disputed transactions trading in NFTs.

Regardless of its limitations, the increasing utilization of NFTs in the music business is positioning the industry for fundamental change in the nature of independent music merchant transactions, restoring control and transparency to music creators and consumers alike.

Keywords: NFT, non-fungible token, music business, blockchain, smart contracts



Imraan Farukhi is an entertainment attorney for transactional matters in the motion picture, music, and new media industries. He has drafted and negotiated agreements for independent film productions as well music production and distribution for major artists and music entities. He routinely advises on intellectual property and clearance matters.

Before joining the Newhouse School faculty at Syracuse University, Farukhi was an associate attorney in the entertainment practice of a national law firm and also held positions at prominent boutique entertainment law firms in the New York City area. He also previously taught communications and media law at William Paterson University in Wayne, New Jersey. Farukhi has been featured as a panel speaker at industry events, including the 2015 and 2017 Garden State Film Festival and 2017 New York City Drone Film Festival.



As a faculty member within the Bandier Program at Syracuse University, **Ulf Oesterle** has been teaching about the music business for the last sixteen years with courses touching on recorded music, live music, social media strategy, and data within the music business. He completed his doctorate in Mass Communications from the Newhouse School at Syracuse University in 2007 and spent several years as the Music and Entertainment Industries Department Chair, Interim Director of The Bandier Program and Interim Chair of Audio Arts (M.A.). Oesterle is an educator and practitioner, having operated a small record label, an artist management company, and has history with radio programming and hosting a commercial specialty show for a few years.

Outside of campus, Dr. Oesterle currently sits on the board of the Music and Entertainment Industry Educators Association (MEIEA), contributes to educational endeavors for Show Makers, speaks at conferences regularly, and consults about TikTok strategy while managing his own creator presence on the platform.



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