

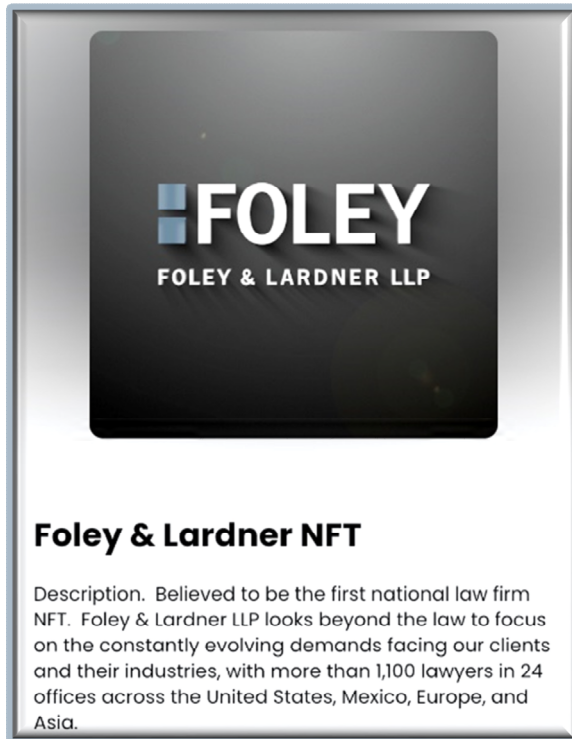


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# Cryptocurrency and Non-Fungible Tokens (NFTs)

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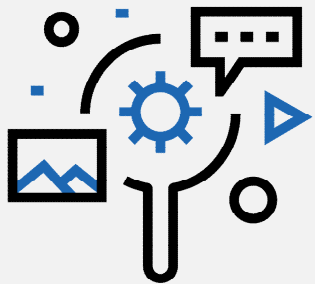
# What is an NFT?



*Above is an NFT that was created by Foley & Lardner LLP team members during a live demonstration of the technology.*

- NFT is short for **Non-Fungible Token**.
- NFTs are non-fungible because they are unique tokens (representing digital assets) that cannot be interchanged with other tokens.
- When an NFT is minted (created) the NFT is recorded onto the blockchain. Due to the nature of blockchain, NFTs contain immutable data stored across a distributed ledger. This means that no one can unilaterally modify the record of ownership associated with an NFT, nor can anyone make another copy of an NFT.
- Each NFT is unique, incorruptible, unfalsifiable, and indestructible, eliminating the need for outside authentication of assets like artwork or other collectibles.
- Primary Types of NFTs: PFP, Utility, Security & Governance

# NFT Project Genesis



- Corporate Formation
- Legal Analysis
  - *Securities Laws*
  - *IP Rights (© ® Patent NIL)*
  - *Consumer Protection*
  - *AML/KYC*
- Documentation



# Commercial Agreements for Deploying NFT Projects



- NFT Marketplace Agreement
- NFT Marketplace Terms of Use
- NFT Terms/Conditions of Sale

# Where Are Things Heading?

- **Web3**

Decentralization is the future — DAOs and less “sexy” NFTs as well as blockchain technology in general will become more prevalent and begin to influence day-to-day life.

- **Biden Administration Executive Order**

Four main policy concerns: (1) consumer & investor protection, (2) global market stabilization, (3) mitigation of illicit & dangerous activities, and (4) maintaining U.S. primacy in global finance and technology, while directing federal agencies to submit reports and make recommendations over the next year.

- **Responsible Financial Innovation Act (Lummis/Gillibrand)**

Among other things, would: characterize most digital assets (including NFTs) as commodities, rather than securities; amend the definition of “dealer”; simplify taxation of digital assets; regulate stablecoins

- **SEC Scrutiny or Guidance**

Growing public perception of NFTs as investments, actions by bad actors, plus evolving structures of NFT issuances will lead to SEC scrutiny and/or guidance.

- **Smart Legal Contracts**

Types of “smart legal contracts” in NFTs are likely to evolve to encompass transactions more sophisticated than collectibles with secondary market commissions.

- **Crypto Bubble**

A flurry of litigation and legislation will follow, which may shape the NFT landscape over time.

- **Evolution of the Law**

Existing areas of law will need to be adapted and applied to NFTs and other blockchain technologies.