

Abstract**A study on copyright issues as regards NFT art under
the Korean copyright system****- Focusing on Works of Art -**

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Nonfungible token, or NFT is a unit of data stored on a digital ledger known as blockchain. Each NFT is unique and acts as a digital certificate attesting to a work's authenticity and is used to represent an item such as an artwork. Thus, when a user buys NFT, they are purchasing the token itself, not the digital asset that is linked to the token. Despite of the recent hype surrounding NFT-based artworks, it has also raised concerns over copyrights. Especially, the scenario of copyright infringements surrounding NFT-based artworks includes fake artworks as well as unauthorized NFT minting, because it does not prove authorship, although blockchain provides a unique token identity, records a transaction, and can prove ownership, as demonstrated by the recent auction fiasco surrounding Korean modern art masters. It is important to note that the NFT itself cannot prove the genuineness of a creative work. It is possible that an NFT may get associated with a counterfeit or that the first ownership entry in blockchain is incorrect. In addition, the pertinent legal question that remains is whether the first sale doctrine, well-established principle of current copyright law, applies to purchases made by NFT owners, since NFT can thus be tied to a physical object but it is not the object itself. The purchase of the token may include, as a matter of contract, other associated rights, and might even include transfer of possession of a digital

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file of the digital asset, but that depends entirely on the terms of sale for any particular NFT.

Considering this characteristic of NFT-based artworks, this article addresses major copyright issues, including copyright infringement, liabilities of NFT platforms as ISPs under the current copyright system, and digital copyright exhaustion, and offers potential mechanisms for solving disputes and controversies surrounding NFT art.

Keywords

NFT, Nonfungible token, blockchain, copyright infringement, art forgery, doctrine of exhaustion, limitations on copyright, online service provider