

# Frontier Technologies and their Impact on Copyright Protection and Enforcement in SEA

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**SOUTH-EAST ASIA  
IP SME HELPDESK**



# Speaker's Bio

**Name:** Nick Redfearn

**Firm:** Rouse

**Location:** Jakarta, Indonesia

Nick started at Rouse's London office, where he then relocated to Indonesia, Vietnam and Dubai respectively. He was appointed Indonesia Country Manager from 1999 – 2003, where he then helped set up the Rouse businesses in Thailand in 2000 and the Philippines in 2005. He then moved to run the Hong Kong office in 2003 and Guangzhou office in 2004 before returning to manage Rouse's business in Indonesia from 2010 - 2013. Nick also took leadership in opening Rouse's office in Africa in 2015.

Nick has decades of experience in Asia, which has led him to successfully run anti-counterfeiting and anti-piracy work throughout Asia, from the southeast Asian countries to China. He has adept expertise in complex IP litigation in Asia, including cross border disputes, Chinese infringement disputes, and famous trademark recovery and trademark squatter cases. He has then built and managed many China IP protection and enforcement programs.

Nick advises many MNCs as well as Asian companies on copyright, patent, and trademark protection on an international scale. His commercial experience includes IP agreements and deal structuring including IP merger and acquisition and financing.

Nick leads Rouse's IPR Policy and Development practice helping international institutions implement IP capacity building and similar programs that pay particular focus to Southeast Asia.



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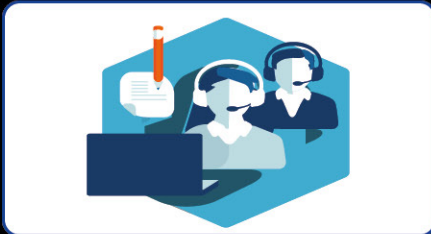
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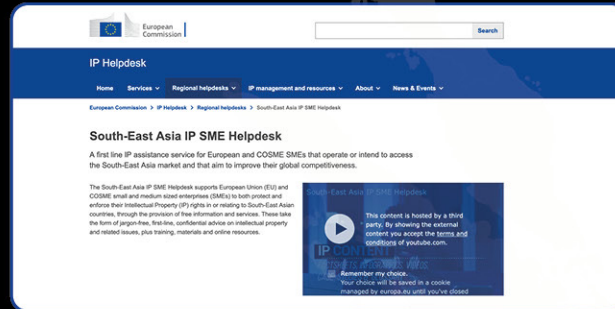
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# Agenda

- I. Blockchain, cryptocurrencies, non-fungible tokens (NFTs)
- II. The Metaverse
- III. Internet of Things (IoT)
- IV. 3D printing
- V. Personalized medicines
- VI. Artificial Intelligence (AI) – the famous monkey photographer case

# I. Blockchain technologies



- Blockchain is distributed ledger technology (DLT) for tamper-proof transactions e.g. cryptocurrencies like Bitcoin. It is secure and transparent.
- **Copyright registration:** Blockchain can be used to create a tamper-proof record of copyright ownership. This can be public. The Singapore High Court confirmed this with caveats.
- **Copyright licensing:** Blockchain can be used to create smart contracts that automate the licensing of copyrighted works. This solves costs and speed of certain licensing.
- **Copyright tracking:** Blockchain can be used to track the distribution and use of copyrighted works.
- **Challenges** include scalability, regulation and low awareness.
- ETH is perhaps the most widespread platform in use today.
- **Web3.0:** URLs and trademarks

# I. Cryptocurrencies



- Creation and issuing coins involves **various IP elements** – White Papers, underlying code, logos/brands may be protected by copyright (Note: Singapore courts have confirmed crypto coins as 'property').
- **Challenges** exist for any IP with the open source nature of the crypto world – subsistence and ownership hard to show when there are multiple authors, often no legal ownerships structures to hold IP, or offshore ownership, or unclear ownership, tax havens, etc. (See analogy of the FTX investigations).
- Often little consideration to names and trademarks.
- Entire industry based on **anonymity**, no central authority, lack of regulation, use of tax havens

# I. Non-fungible tokens (NFTs)



- NFTs are **collectible digital assets** stored on a blockchain.
- Used to represent ownership of a wide variety of digital and physical assets, including artwork, music, videos, and even real estate.
- Owning NFTs may not give you copyright in underlying works.
- Review the Terms – copyright should be covered, or limited.
- NFT creators are often in trouble if they copy works.
- Be careful not to reproduce publish or exploit your NFTs commercially.



# I. NFTs – the Birkin case



- Birkin Hermès NFT case – TMs vs copyright
- French luxury brand Hermès sued the digital artist Mason Rothschild for **trademark infringement and dilution**. Rothschild had created and sold a collection of NFTs called "MetaBirkins," which were digital images of Hermès Birkin bags covered in faux fur and patterns.
- Hermès argued that Rothschild's NFTs were likely to confuse consumers into thinking that they were affiliated with Hermès brand. Rothschild argued that his NFTs were protected by the First Amendment as works of art.
- February 2023: New York court ruled in favor of Hermès and awarded Hermès \$133,000 in damages; June 2023: permanent injunction granted.

# I. NFTs - Bored Ape Yacht club cases



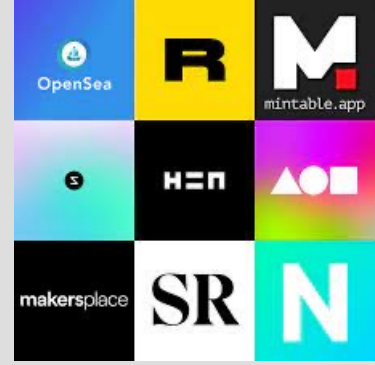
## US Case

- Conceptual artist Ryder Ripps made copies of Yuga Labs' popular Bored Ape Yacht Club NFTs. Yuga sued for counterfeiting its tokens; satire, criticism, free speech, artistic content, Anti SLAPP issues all arose. First LA court decision, Yuga won on Trademarks violation; under appeal to Federal Circuit.

## SG case

- A Singaporean NFT investor used a rare Bored Ape Yacht Club NFT as loan to for a loan from an unknown person "ChefPierre." Loan dispute but court said that ChefPierre had infringed the investor's copyright in the NFT by reproducing and communicating it to the public without the investor's permission.

# I. NFT Platforms



- OpenSea, Rarible, etc.
- Primary (art drops) and secondary (resale) markets, often using cryptos.
- Secondary liability?
- Check **Platform Terms**
- **Notice & Takedown**
- **ISP liability**
- **Challenges:** location, law, Terms

## II. The Metaverse

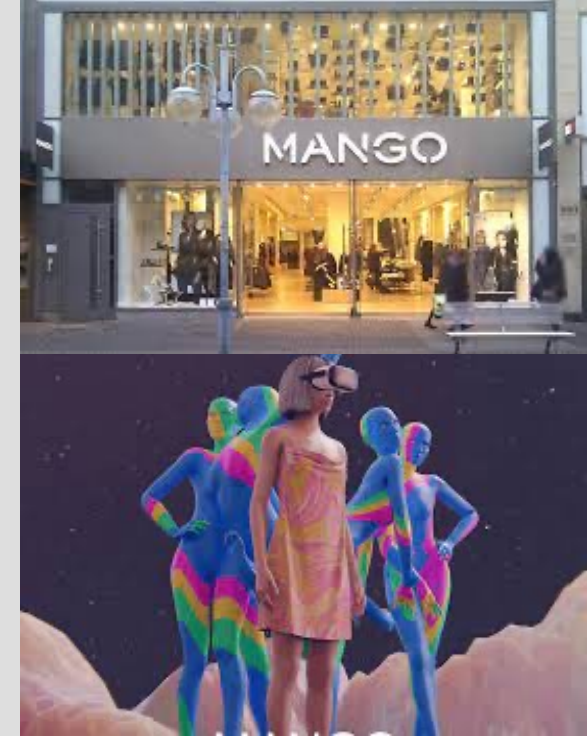


- Private online 3-D virtual environments; gaming driven, VR & AR interactive.
- **Copyright ownership:** Who owns copyright to different metaverse elements: the virtual worlds, avatars, and objects? Legal entity and location/jurisdiction challenges; User Terms and IP; derivative works, NFT use for objects, Avatars and rights of publicity;
- **Copyright licensing:** can copyright holders license works for use in the metaverse? Content and brand licensing, revenue models.
- **Copyright infringement:** detecting and preventing infringement in the metaverse?
- Performances, derivative works and mashup uses.
- Decentralization vs legal persons, jurisdiction, virtual law firms



## II. Metaverse case: VEGAP v. Mango

- Commercial Law Court Barcelona, Spain
- Mango fashion brand produced NFTs works from the art of 4 Catalan artists and displayed them in a virtual museum in Decentraland. Mango had bought the originals.
- Spanish collective society for artists: VEGAP sued to remove.
- NFTs were adaptations and the display was merely linking to OpenSea.
- Preliminary injunction; NFTs placed in custody in the court's own digital wallet. Full trial awaited.



## II. Commercialisation in the Metaverse?

- **[Nike]** Nike partnered with Roblox to create Nikeland, a virtual world where users can play games, customise their avatars, and purchase Nike products.
- **[Gucci]** Gucci partnered with Sandbox to create a virtual world where users can explore a variety of Gucci-branded experiences, such as a Gucci Villa and a Gucci Art Gallery.
- Decentraland teamed up with Transak to launch its first **Metaverse ATM** – enabling Bitcoin withdrawals to spend in Decentraland.

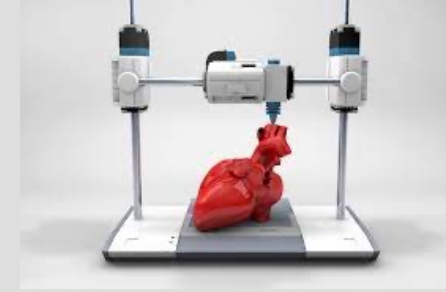


# III. The Internet of Things (IoT)



- IOT is **network of physical objects** that are embedded with sensors, software, and other technologies to connect and exchange data.
- Wearables, appliances, vehicles – the list grow yearly
- **Copyright ownership** in the extensive embedded software and firmware embedded in IoT devices. Who owns copyright to data collected and generated by IoT devices?
- **Copyright licensing:** Numerous licensed works in IoT devices and applications?
- **Copyright infringement:** potential for copyright infringement for operating systems, firmware, and applications; esp. derivative works
- Collision of copyright and data.

# IV. 3D printing



- A **layering manufacturing process** that creates a physical object from a digital model.
- **Ownership:** Who owns copyright to a 3D printed object? Is it the copyright holder of the digital model, the person who 3D printed the object, or someone else?
- **Copyright licensing:** How can copyright holders license their works for 3D printing?
- **Copyright infringement:** How can copyright infringement be detected and prevented in 3D printing? 3D printers can be used to easily copy and distribute copyrighted works, such as sculptures, toys, and jewelry. Is it reproduction to make a 3d work from a 2D drawing? Derivative work issues too.
- Manufacturing decentralization – over 1 bn USD market in SEA - automotive, healthcare, manufacturing, and consumer goods.



## IV. 3D printing cases



- [In 2017] a Singaporean company called Artisphere was sued by Hasbro for copyright infringement. Hasbro alleged that Artisphere had 3D printed and sold replicas of its copyrighted toys, including Transformers and My Little Pony figures. The case was settled out of court, with Artisphere agreeing to stop printing and selling the **infringing toys**.
- [In 2018] a Singaporean man was arrested for 3D printing and selling counterfeit iPhone cases. The man was found to have been using 3D printers to create replicas of Apple's copyrighted iPhone cases, which he then sold online. He was charged with **copyright infringement** and possession of **counterfeit goods**.



# V. Artificial Intelligence and SEA

- One of the main AI copyright issues is authorship and ownership of rights.
- The story of a Naruto the Sulawesi monkey, photographer David Slater and a lawsuit about legal capacity to own copyright.
- A quick thanks to Google' Bard AI.



# Send us your IP questions



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# IoT guide



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**IP Protection in South-East Asia for the Internet of Things Industry**

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**1. Overview: Internet of Things Industry in South-East Asia**

The term 'Internet of things' (IoT) describes devices, usually everyday appliances (such as refrigerators and light fixtures) that are capable of transmitting and/or receiving information over a network, for example the Internet, so that they can be controlled or monitored remotely.

The South-East Asian region has a diverse range of countries; Indonesia has the fourth largest population in the world whereas Bhutan has a population of fewer than 500,000. Levels of economic and financial development also vary across the region. For example, Singapore is a highly developed city-state with a large market for high-end consumer electronics, whereas there is a large proportion of the population in other parts of the region that do not have access to basic services.

Nevertheless, South-East Asia (SEA) is estimated to have 744 million mobile connections<sup>1</sup>, providing great potential for the application of the IoT and increasing demand for technological innovation in this area. Furthermore, the implementation of the IoT across various industries (such as healthcare, transport, manufacturing, government, etc.) is supported by a number of governments in SEA. These factors contribute to the rapid development of the IoT industry in SEA and across the Association of Southeast Asian Nations (ASEAN). IoT spending is expected to reach USD 7.53 billion in 2020<sup>2</sup>.

There are significant opportunities for European-based small and medium-sized businesses (SMEs) in SEA. However, as IoT devices by their nature typically require the application of several interdependent technologies, an SME is unlikely to provide solutions in all areas. Therefore it may need to disclose its innovations to third parties, increasing the risk of copying if preventive measures are not put in place (even before entry to the market is considered). Therefore, it is important to establish a comprehensive intellectual property (IP) strategy that considers all available forms of IP protection in order to minimise the risks associated with entering markets in the SEA.

<sup>1</sup> <http://www.internetworldstats.com/asia.htm>  
<sup>2</sup> <http://www.statista.com/statistics/542882/iot-market-size-forecast-2015-2020/>  
<sup>3</sup> <http://www.internetworldstats.com/asia.htm>

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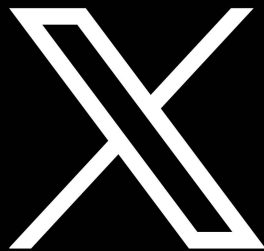
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