# Kluwer Copyright Blog

## The Contested Meaning of Web3 & Why it Matters for (IP) Lawyers

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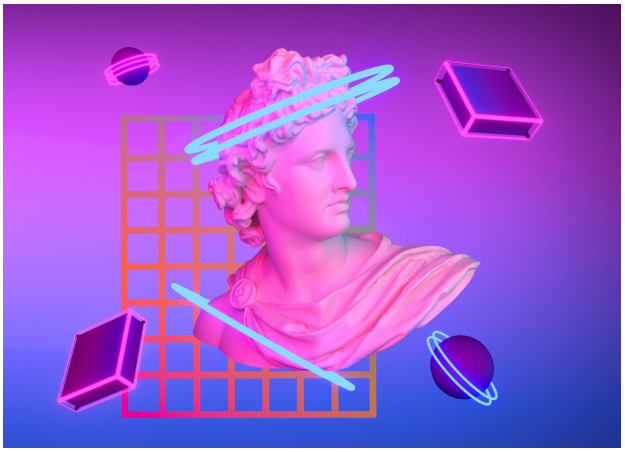

**The Rift Over Web3**

The week before Christmas was disrupted by a controversy in Silicon Valley over the future of the internet. Prominent tech founders and venture capitalists (VCs) argued about the meaning and implications of web3, a vague concept hinting at a possible utopian vision of a decentralized internet and the new opportunities that might be created around emerging technologies such as blockchain.

It started on December 20, when Tesla CEO Elon Musk tweeted, "Has anyone seen web3? I can't find it."

Former Twitter CEO Jack Dorsey responded, "It's somewhere between a and z." Although Dorsey did not elaborate on the meaning of his tweet, he clearly alluded to Andreesen Horowitz, one of the most prominent venture capital firms in Silicon Valley, established by (another) tech visionary Marc Andreesen (co-founder of Netscape, the pioneering web browser that delivered on its advertising promise that "the web is for everyone").

Jack Dorsey tweeted another provocative idea the next day. This time in the form of a warning: "You don't own "web3." The VCs and their limited partners do. It will never escape their incentives. It's ultimately a centralized entity with a different label. Know what you're getting

into…”

Dorsey’s comment spurred much debate online – thousands of reactions – especially within the Silicon Valley community.

Then, the rift got personal. On December 22, Dorsey announced that he was “officially banned from web3” and reposted a screenshot of a Twitter page showing that Marc Andreesen had blocked Dorsey from following him.

To give a bit of a context, it is worth noting that in July 2021, Andreesen Horowitz confirmed their commitment to crypto by announcing the launch of their $2.2 billion Crypto III fund to pursue investments in blockchain-driven technologies.

So, is web3 “somewhere between a and z”? What is web3, anyway? And why do definitions matter anyway (especially for lawyers)?

**Why Does Web3 matter for Copyright and IP Lawyers?**

Blockchain and decentralized ledger technologies offer some powerful functionalities that could be relevant to the functioning of IP rights. More specifically, blockchain technologies offer the possibility of attaching digital timestamps to creative works and tracing the subsequent owners of the work. Besides, creators can benefit from smart contracts and determine that a certain percentage of the sales price goes to the original creator each time the work is resold.

Dada.nyc platform could be a perfect example of the applicability of blockchain to copyright-protected works. Dada is a platform for artists to express themselves and speak to each other through drawings. On Dada, the communication happens not only by pressing heart buttons or comments in a chat; artists can utilize a set of digital drawing tools to create follow-up drawings to the ones created by other platform members. Each image is attributed to its creator and timestamped with a digital key on the blockchain. Subsequently, those works are made available on Dada’s marketplace for purchase. Smart contracts are used to ensure that the initial author receives some compensation whenever the digital work changes owners, and Dada takes some percentage to maintain the platform.

Blockchain-powered timestamps coupled with smart contracts could help address complex copyright and other IP-related problems (patents, trademarks, etc.) related to commercializing other creative works. Non-fungible tokens (NFTs) are one of many possible use cases for how blockchain technologies could help monetize creative works and reduce the reliance on intermediaries (for an analysis of copyright issues with NFTs see here and here).

**Web3 Is More than Just Blockchain**

It is no wonder that the future of the internet triggers so much debate and disagreement. Governments and consumers face the present-day effects of incumbent tech giants building digital platforms and creating vast monopolies based on their seemingly total control of big data. At the same time, tech visionaries, innovators, and VCs have their eyes focused on the next set of

technologies that will shape how information and resources will be utilized in the future.

Distributed ledger technologies (blockchain) and the concept of decentralization are at the heart of the debate around web3. VCs are hopeful that "high-performance programmable blockchains will make decentralized network development much more accessible."

Blockchains are already powering initiatives to decentralize finance and creative industries (Bitcoins and NFTs), and they are likely to offer valuable features to other sectors of the economy. Decentralized autonomous organizations (DAOs), for example, offer the possibility of flatter, more open, and purpose-driven organizations.

From a historical perspective, however, it is worth asking whether web3 should be uncritically equated with blockchain technologies, as the prevailing opinion in the tech community seems to currently suggest.

Take the definition of web3 offered by Packy McCormick: "web3 is the internet owned by the builders and users, orchestrated with tokens." On this view, blockchain-backed tokens are seen as a defining, constitutive element in this nascent infrastructure.

And yet, is this prevailing consensus correct? One of the primary reasons the internet is such a powerful "invention" is that it is primarily software-based and new networks can be created on top of it. Web1 and web2 were not associated with any technology but a set of network-layer communication protocols.

***Is it not sufficient to refer to web1 as an internet where people could read (i.e., search), web2 as read-and-write (i.e., social), and web3 as read-write-own (i.e., user ownership of digital assets)?***

Of course, blockchain may well emerge as a defining technological solution to the widespread dissemination of ownership, but web3 cannot and should not be reduced to blockchain when the real shift is towards user ownership of digital assets.

Recognizing the significance and value of blockchain whilst excluding it from any definition of web3 seems prudent. After all, blockchain is simply a "method to verify ownership" – a decentralized ledger – for assets that in most cases exist outside the blockchain, i.e., off-chain. Of course, a blockchain can be highly effective in verifying asset ownership in a scalable manner, but that does not mean it (blockchain) should be uncritically equated with web3.

**Decentralization is Happening Anyway**

Decentralization is one of the significant shifts driving change right now. Regulators worldwide and the entire tech industry are affected and concerned by the power that is concentrated in the hands of the five tech giants (Google, Amazon, Facebook, Apple, and Microsoft).

From a legal and regulatory point of view, it seems challenging to dismantle their current dominance across various markets. Nevertheless, emerging technologies – not only blockchain but also cloud computing, machine learning, edge computing, differential privacy, and AI, for instance – are clearly shifting towards more decentralized solutions. Companies, consumers, and regulators look for alternative approaches that help them bypass the one-sided requirements imposed by tech

giants and are more oriented around individual consumers and their needs and interests.

One such shift we would like to highlight here is the emergence of the so-called user-centric data model, which enables individuals to collect their data from various data sources (such as wearable devices, online browsing histories, as well as data harnessed on digital platforms) and store that data in their own "personal "data cloud." A personal data cloud can be better understood as an individual's personal cloud folder with a pre-installed software robot that integrates the data and makes it comprehensible for the average consumer.

Individuals can then download various applications created by third-party brands and developers and run such "super-apps" locally (i.e., in their own personal data cloud, or on a device). The data never leaves the personal data cloud, and the value from the data is captured on the user's side.

The emergence of a user-held data model can be seen as a natural progression of cloud computing technologies in which the tech giants were able to build their business models over the past two decades. In other words, the user-held data model is like a P2P cloud which is geared to decentralize the collection and use of personal data and create a new user-centric ecosystem that empowers individuals to extract personalized value from their data.

**Ownership of Digital Assets in a Web3 Environment**

Definitions matter because they frame debate and reveal certain issues as important and worthy of attention and discussion.

Definitions of web3 focused on a shift towards persistent user ownership of digital assets (rather than the underlying technology, whatever it is) place difficult legal questions – both substantive and procedural – front and center. They also raise important questions about the future of law and the shift from state-based, "analogue" law to non-state and technology-driven regulatory models.

Most obviously, this definitional shift focuses attention on *what* assets can be legally owned and the meaning of ownership "rights," more generally, in the digital spaces of web3. For instance, ownership of personal data remains a legally controversial issue.

Moreover, focusing on ownership as the paradigm shift in web3 raises difficult issues on protecting assets in these new virtual spaces. Doug Clinton, for example, has written about the importance (and massive opportunity) of "recourse," and giving users "safe and simple tools" to access and protect their assets in web3 environments. As Clinton puts it, "complete non-recourse is a web3 bug that we need to address, not a feature."

Aragon's development of Aragon Court, a dispute resolution protocol for arbitrating disputes in DAOs, for instance, offers an interesting example of such a technology-driven platform for "recourse." Such mechanisms operate outside the framework of state-based dispute resolution and can provide the kind of infrastructure that seems necessary to generate trust in these new systems and achieve the goal of mass participation in the ownership of digital assets.

**A Better Future?**

Dorsey's concern – that web3 might not result in an internet controlled and owned by users but VC funds and other "traditional" market actors – is a legitimate one, given our experience (and disappointments) of previous waves of technological development.

The challenge of web3 is, in part, ensuring that ownership of the firms and core technologies driving change does not become overly centralized (i.e., Dorsey's concern), but it goes beyond that if the goal of a decentralized, user-owned, and controlled internet is to be realized.

We already have the signposts – (web3 = read-write-own) – to guide us in navigating the difficult path ahead but ensuring that this vision of a fairer and more equitable internet is materialized requires vigilance and a collective effort to ensure that one form of highly centralized power and control is not simply replaced by another.

To ensure that we don't repeat the same mistakes as last time(s), it seems crucially important to identify and understand what is really at stake in the transition to web3 – the shift towards new and more equitable forms of persistent ownership of digital assets – and to focus on ensuring that the technologies remain focused on realizing this vision.

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This entry was posted on Thursday, January 27th, 2022 at 8:01 am and is filed under European Union, Infringement, Liability, Ownership
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