

OPINION OF ADVOCATE GENERAL

delivered on 20 Nov 2024

Case Number 06/2025

Sango Traditional Arts Association (STAA)

v

Makudo Investments Corporation (MIC)

(Request for a preliminary ruling from the High Court of Azzania)

Reference for a preliminary ruling – Copyright and related rights – Legal protection of works by Gen. AI – Training of Gen AI models – Minting of NFT's

Analysis for the court

1. One of the uses of blockchain technology is the tokenization of assets, where a token is a programmable digital unit of value recorded on a digital ledger. There are various types of tokens, such as fungible and non-fungible tokens (NFTs), with many different types of token standards.¹ The most common type of NFT is a piece of code written into the blockchain. The first core element of an NFT is a number known as the token ID, which is generated upon the creation of the token; the second is the contract address.² At its core, the NFT consists of these two elements, and their combination makes the token unique. Additional elements, such as the wallet address of the creator, help identify the NFT's originator. Most NFTs represent a metadata file encoded using a work, which may or may not be subject to copyright protection, or it could even be a work in the public domain.³ Furthermore, any digital work, including physical goods that can be represented digitally, such as a photograph, video, or scan, can be converted into a non-fungible token.

2. Most NFTs also commonly include a link to where the original work can be found. This is because the non-fungible token is not the work itself, but rather a unique digital signature linked to an original work.⁴ When an NFT is created in a process called "minting," a smart contract generates an entry on the blockchain.⁵ NFT projects can store the represented work itself on the blockchain ("on-chain") or host it outside the blockchain ("off-chain"), for example, on a central server or a decentralized peer-to-peer (P2P) network, such as the Interplanetary File Storage System (IPFS).⁶ In these cases, the metadata contains a hyperlink to the work stored outside the blockchain. Here, a distinction must be made between the creation of the NFT and the acts accompanying its creation to ascertain whether either of them affects any rights in the respective work.

¹ Andres Guadamuz, Non-Fungible Tokens and Copyright, WIPO MAGAZINE, Dec. 2021, https://www.wipo.int/wipo_magazine/en/2021/04/article_0007.html#:~:text=Most%20non%2Dfungible%20tokens%20are,work%20in%20the%20public%20domain.

² Id.

³ U.S. PATENT & TRADEMARK OFFICE & U.S. COPYRIGHT OFFICE, NON-FUNGIBLE TOKENS AND INTELLECTUAL PROPERTY: A REPORT TO CONGRESS (Mar. 2024), available at <https://www.copyright.gov/policy/nft-study/Joint-USPTO-USCO-Report-on-NFTs-and-Intellectual-Property.pdf>.

⁴ Sebastian Pech, Unchain My Art – Copyright Implications of Tokenized Artworks Under US and EU Law, STANFORD-VIENNA TTLF WORKING PAPER NO. 106 (Sept. 20, 2023), available at SSRN: <https://ssrn.com/abstract=4585465> or <http://dx.doi.org/10.2139/ssrn.4585465>.

⁵ Id.

⁶ Id.

3. The potential issue of copyright infringement concerning NFTs is whether someone can generate an NFT of a work that does not belong to them. Instances of copyright infringement are already emerging in NFT marketplaces, with several artists taking to social media to complain that their works were being minted as NFTs without their permission.⁷ For example, production company Miramax filed a lawsuit against film director Quentin Tarantino for trademark infringement, copyright infringement, and breach of contract over his plan to sell NFTs based on his film *Pulp Fiction*.⁸ In *Roc-A-Fella Records v. Damon Dash*, the dispute similarly involved copyright-related concerns in NFT minting.⁹ While most alleged infringement instances have been resolved outside of the courts, usually by removing the token from the auction platform,¹⁰ these issues underscore the complexities surrounding copyright in the context of NFTs.

4. From a copyright perspective, diverse views exist, making it difficult to address such cases, particularly with the rise of Generative AI (Gen AI). Copyright infringement generally requires three elements: the infringer must undertake one of the exclusive rights of the author without authorization; there must be a causal connection between the works; and a substantial part of the work or its entirety must have been copied.¹¹ The current case requires determining whether unauthorized minting of a work constitutes an infringement of the exclusive rights of the owner. Broadly speaking, the exclusive rights of the author include reproduction, publication, lending, rental, public performance, adaptation, communication to the public, and authorization to perform these acts. While not all rights might be relevant to NFTs for the current case but are open to be analysis, the rights of reproduction and communication to the public warrant closer scrutiny.¹²

5. The right of communication to the public could be infringed through a hyperlink contained in an NFT, as this creates a causal connection between the token and the underlying work. Communication to the public constitutes a strong argument for finding infringement in cases of unauthorized minting. The critical question before the court is whether an NFT containing a hyperlink to a represented work constitutes an act of communication within the meaning of Article 3(1) of the Information Society Directive.¹³ For this provision to apply, the communication must be directed to the public. According to the CJEU, this determination depends on several complementary and interdependent criteria that are not autonomous.¹⁴

6. For analyzing communication to the public, it is pertinent to note that most NFTs do contain hyperlinks. However, these links may not always be easily accessible or publicized, as NFT contracts are not universally open to inspection and therefore the facts of the case should guide the court. Moreover, if a token is minted without the owner's permission but does not contain a link to the underlying work, establishing infringement is hard, although ethical concerns may arise. Conversely, if the token contains a link to an infringing copy of the work, the act of uploading the infringing material itself would constitute copyright infringement.¹⁵ A

⁷ Timothy Tau Hsieh, "I Want My NFT": Money for Nothing for Intellectual Property Rights in the Modern-Day Non-Fungible Token Transaction, 48 OKLA. CITY U. L. REV. 245 (2024), available at SSRN: <https://ssrn.com/abstract=4712975> or <http://dx.doi.org/10.2139/ssrn.4712975>.

⁸ Jack Queen, Tarantino, Miramax Settle Copyright Suit Over 'Pulp Fiction' NFTs, *Reuters* (Sept. 9, 2022), <https://www.reuters.com/legal/tarantino-miramax-settle-copyright-suit-over-pulp-fiction-nfts-2022-09-09/#:~:text=The%20case%20was%20one%20of,%E2%80%99Cuncut%20Pulp%20Fiction%20scenes.%22>

⁹ *Roc-A-Fella Records, Inc. v. Dash*, No. 1:2021cv05411 - Document 86 (S.D.N.Y. 2022), <https://law.justia.com/cases/federal/district-courts/new-york/nysdce/1:2021cv05411/562168/86/>.

¹⁰ Hsieh at 7.

¹¹ Pech at 4.

¹² Andres Guadamuz, The Treachery of Images: Non-Fungible Tokens and Copyright, J. INTELL. PROP. L. & PRAC., jpub152 (Aug. 15, 2021), <https://doi.org/10.1093/jiplp/jpub152>, available at SSRN: <https://ssrn.com/abstract=3905452> or <http://dx.doi.org/10.2139/ssrn.3905452>.

¹³ Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the Harmonization of Certain Aspects of Copyright and Related Rights in the Information Society, art. 3(1), 2001 O.J. (L 167) 10.

¹⁴ Christina Angelopoulos, CJEU Decision on Ziggo: The Pirate Bay Communicates Works to the Public, (CIPIL, Univ. of Cambridge, June 30, 2017), <https://copyrightblog.kluweriplaw.com/2017/06/30/cjeu-decision-ziggo-pirate-bay-communicates-works-public/>.

¹⁵ Guadamuz, at 7

legal scrutiny of various case laws by the court can create a clearer picture. For instance, the case of *Dramatico Entertainment v. BSKyB*¹⁶ the claimants successfully sought a blocking order against The Pirate Bay for serving links to infringing works, establishing that such actions amount to communication to the public.

7. The use of hyperlinks itself has been the subject of extensive judicial scrutiny by the CJEU. Cases such as *Svensson v. Retriever Sverige AB*,¹⁷ *BestWater International GmbH v. Michael Mebes*,¹⁸ and *GS Media v. Sanoma*¹⁹ highlight the nuanced interpretation of hyperlinks in copyright law. While these judgments sometimes appear contradictory, they collectively offer guiding principles for evaluating hyperlinks in the context of NFTs. Based on current jurisprudence, it is stated that an NFT containing a link to an infringing copy of the work may constitute communication to the public under certain circumstances, particularly if the minter has knowledge of the action. The for-profit nature of the token's sale often satisfies the commercial element required for infringement. However, a counter argument exists that hyperlinks embedded within NFTs differ significantly from standard hyperlinks found online. These links are often embedded in the token's code, making them less visible or accessible. Even when the associated work is online, the link may reside in a smart contract that has not been made public.²⁰ Understanding the technical details of NFTs and smart contracts is essential for determining infringement.

8. Furthermore, one could argue that if the communication is limited to a small group of individuals, it may fail to meet the threshold of addressing a "public" under copyright law. The case of *SGAE v. Rafael Hoteles*²¹ provides a useful reference for this argument. Cases involving communication to the public also examine the liability of secondary infringers, such as internet service providers or manufacturers of media players used to access infringing content. These decisions hold relevance for NFT platforms and marketplaces, which play a crucial role in the minting and sale of tokens. Discussing copyright infringement in the NFT context it is also important to examine the role of platforms as well. While some tokens are sold directly by the issuer, most NFTs are published and traded on large platforms specializing in this market. Platforms often assist issuers in minting tokens and host pages listing the associated assets. When such listings include direct links to the underlying works or copies of the works themselves, the platforms may face greater liability for infringement than if they were merely hosting the NFT code.

9. Looking at whether there is a causal connection between the works, it can be acknowledged that a token is technically derived from an original work. The creation of an NFT requires access to a digital version of the work, to begin with. Over time, determining whether one work is derived from another has often been treated as a factual question. However, even when two works appear similar, they may lack a causal connection if they were created independently. This nuance becomes particularly relevant in evaluating the reproduction right in the context of NFTs.

10. The question of whether a work has been copied in its entirety or substantially depends on the type of NFT. If the NFT is "on-chain" and fully uploaded to the blockchain, there is direct copying of the work, which could constitute *prima facie* copyright infringement. However, most NFTs are code-only tokens, which do not directly represent the work itself. Instead, they consist of metadata generated using the work. This distinction underscores that while the NFT

¹⁶ *Dramatico Entm't Ltd v. British Sky Broadcasting Ltd*, [2012] EWHC 268 (Ch), [2012] R.P.C. 27 (Ch. Div. 2012).

¹⁷ *Svensson v. Retriever Sverige AB*, Case C-466/12, Judgment of the Court (Fourth Chamber), 13 February 2014, ECLI:EU:C:2014:76.

¹⁸ *BestWater Int'l GmbH v. Mebes*, Case C-348/13, Order of the Court (Ninth Chamber), 21 October 2014, ECLI:EU:C:2014:2315.

¹⁹ *GS Media BV v. Sanoma Media Netherlands BV*, Case C-160/15, Judgment of the Court (Second Chamber), 8 September 2016, ECLI:EU:C:2016:644.

²⁰ *Guadamuz* at 7

²¹ *Sociedad General de Autores y Editores de España (SGAE) v. Rafael Hoteles SA*, Case C-306/05, Judgment of the Court (Third Chamber), 7 December 2006, European Court Reports 2006 I-11519, ECLI:EU:C:2006:764.

as code does not involve substantial copying, the associated listing on a platform may include infringing material. Evaluating reproduction in the minting process is relatively straightforward when the work is "on-chain," though such instances are uncommon. Most NFTs use existing works to encode metadata, ensuring the uniqueness and provenance of the token. Even so, it is possible to create multiple "unique" versions of the same work, much like limited-edition lithographs. ament and of the Council of 22 May 2001 on

11. A key distinction must be made for NFTs based on whether the represented work is stored on the blockchain or only its metadata. If the work itself is saved on the blockchain, reproduction may fall under Article 2 of the Information Society Directive.²² Additionally, if the NFT is created for resale, the minting process would not fall under the EU's private copying exception provided by Article 5(2)(b) of the Information Society Directive, as the reproduction is for commercial purposes.²³ On the other hand, if the NFT contains only metadata, there is no reproduction of the work itself. In this case, the blockchain merely stores the identifying features of the work. Generating and saving a hash value also does not constitute reproduction, as it serves only as a "digital fingerprint" to identify a specific file. The hash neither contains the work itself nor allows its reconstruction.²⁴ These nuances are critical when assessing whether reproduction rights have been violated.

12. In addition to the complexities introduced by NFTs, the element of Generative AI (Gen AI) and the issue of memorization add significant challenges to the present case. Outputs generated by Gen AI, particularly those involving memorization of copyrighted works, raise intricate legal questions. Cases like *Getty Images v. Stability AI*²⁵ and the popularly dubbed *Ultraman case*²⁶ illustrate the ongoing debates surrounding copyrightability and protection from infringement. Although, The European Union, extends protection through a sui generis database right, safeguarding databases against unauthorized extraction and reutilization. This is particularly relevant when examining databases linked to NFTs and those used to train Gen AI models. Courts should address whether existing legislation provides exceptions for AI training or allows opt-outs, while also evaluating memorization's implications. Relevant cases include *Authors Guild v. OpenAI Inc.* (consolidated into *Alter v. OpenAI Inc.*)²⁷ and *New York Times Company v. Microsoft Corporation et al.*,²⁸ *Mumsnet v. OpenAI*²⁹ and *Robert Kneschke v. LAION eV*,³⁰ which can provide valuable guidance on scraping publicly available materials for model training.

13. Legally, the Berne Convention for the Protection of Literary and Artistic Works requires signatories to grant authors exclusive rights over their works, irrespective of the medium or nature of expression. Supplementary agreements, such as the WIPO Copyright Treaty of 1996, complement the Berne Convention by addressing the digital landscape. For instance, the Agreed Statement concerning Article 1(4) of the WIPO Copyright Treaty³¹ explicitly states

²² Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the Harmonization of Certain Aspects of Copyright and Related Rights in the Information Society, art. 2, 2001 O.J. (L 167) 10.

²³ Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the Harmonization of Certain Aspects of Copyright and Related Rights in the Information Society, art. 5(2)(b), 2001 O.J. (L 167) 10.

²⁴ Balazs Bodo, Daniel Gervais & João Pedro Quintais, Blockchain and Smart Contracts: The Missing Link in Copyright Licensing?, 26 INT'L J. L. & INFO. TECH. 311 (2018), <https://doi.org/10.1093/ijlit/ey014>.

²⁵ *Getty v. Stability AI* (Reed Smith, Feb. 28, 2024), <https://www.reedsmith.com/en/perspectives/2024/02/getty-v-stability-ai-case-goes-to-trial-in-the-uk-what-we-learned>. And Blake Brittain, Getty Images Lawsuit Says Stability AI Misused Photos to Train AI, *Reuters* (Feb. 6, 2023), <https://www.reuters.com/legal/getty-images-lawsuit-says-stability-ai-misused-photos-train-ai-2023-02-06/>.

²⁶ Marianna Foerg, "Awaken, the Warrior of Light": What Lessons Can We Learn From Ultraman?, *Kluwer Copyright Blog* (Sept. 5, 2024), <https://copyrightblog.kluweriplaw.com/2024/09/05/awaken-the-warrior-of-light-what-lessons-can-we-learn-from-ultraman/>.

²⁷ Stella Haynes Kiehn, Plot Twist: Understanding the Authors Guild v. OpenAI Inc. Complaint, *Washington Journal of Law, Technology & Arts* (Mar. 5, 2024), <https://wjta.com/2024/03/05/plot-twist-understanding-the-authors-guild-v-openai-inc-complaint/>.

²⁸ *The New York Times Co. v. Microsoft Corp. et al.*, No. 1:2023cv11195, 2023 WL 11195 (S.D.N.Y. Dec. 27, 2023).

²⁹ Kate Knibbs, OpenAI Messed With the Wrong Mega-Popular Parenting Forum, *Wired* (Sept. 16, 2024), <https://www.wired.com/story/mumsnet-openai-copyright-allegations/>.

³⁰ *Robert Kneschke v. LAION eV*, Case No. 310 O 227/23 (Hamburg Regional Ct. Sept. 27, 2024), <https://www.wipo.int/wipolex/en/judgments/details/2381>.

³¹ WIPO Copyright Treaty (WCT), art. 1(4), adopted Dec. 20, 1996, 36 I.L.M. 65, available at <https://www.wipo.int/wipolex/en/text/295166>.

that storing a protected work in digital form in an electronic medium, such as an NFT or a file displayed in the metaverse, constitutes reproduction. Consequently, prior approval from the copyright holder is required. These provisions highlight how legal frameworks adapt to evolving technology. The current case also necessitates examining NFTs created for the metaverse using Gen AI. This raises two crucial issues: whether NFTs facilitate the transfer of rights and whether Gen AI outputs meet the threshold for copyright protection.

14. Some individuals may create NFTs based on existing works, such as a cartoon character or a meme derived from a famous TV show. In such instances, the NFT creator might own the token but not the copyright to the original work. This distinction parallels traditional art. For example, when an artist sells a print at a gallery, the buyer acquires the print and the right to display it, but not the right to reproduce the artwork or claim a stake in the original creation.³² The same principle applies to NFTs, leading to widespread confusion among buyers regarding the rights they acquire. Most buyers believe they own the underlying work and its associated rights, but they typically purchase only the metadata linked to the work, not the work itself. While most NFTs do not involve the transfer of rights, exceptions exist where the seller explicitly offers to turn the token into a vehicle for transferring copyright ownership of the original work.³³

15. Several cases illustrate the nuances of NFT-related rights. For example, Yuga Labs, the creators of the popular NFT collection Bored Ape Yacht Club, achieved a significant legal victory in their litigation against artist Ryder Ripps.³⁴ Similarly, a Commercial Court in Barcelona ruled on a novel copyright dispute involving the fashion brand Mango and the Spanish collective society VEGAP.³⁵ Other relevant cases include *Shenzhen Golden Idea Cultural and Creative Co. v. Hangzhou Bigverse Technology Co.*³⁶ and *Hermès International v. Rothschild*.³⁷ These cases reinforce the notion that NFTs represent code written into a blockchain containing links to digital assets, rather than the assets themselves. Thus, when a person buys an NFT, they acquire the token, not the collectible, artwork, or music associated with it. Moreover, since intellectual property (IP) laws protect the intangible aspects of both physical and virtual objects, it stands to reason that creators in the metaverse must uphold the rights of inventors, designers, and owners of distinctive symbols, just as they would in the physical world. Accordingly, rights holders maintain the authority to pursue legal action against the unauthorized use of their IP in the metaverse, such as when it is incorporated into virtual accessories or clothing for digital avatars.³⁸

16. In the case of Yuga Labs, Inc. -v- Ripps, et al³⁹ the Court defines what an NFT is. First the judge cites the following from McCollum:

³² Pech, at 4.

³³ Christa Laser, Legal Issues in Blockchain, Cryptocurrency, and NFTs, 102 NEB. L. REV. 761 (2024), available at SSRN: <https://ssrn.com/abstract=4591858>.

³⁴ Yuga Labs, Inc. v. Ripps et al., No. 2:2022cv04355 - Document 452 (C.D. Cal. 2024), available at <https://law.justia.com/cases/federal/district-courts/california/caedce/2:2022cv04355/855658/452/>.

³⁵ European Innovation Council and SMEs Executive Agency, *Mango Prevails: Court Supports NFT Art Exhibition in Metaverse - General Court Upholds Yannick Noah's TM Against Non-Use Cancellation Action*, European Innovation Council (Feb. 15, 2024), https://intellectual-property-helpdesk.ec.europa.eu/news-events/news/mango-prevails-court-supports-nft-art-exhibition-metaverse-general-court-upholds-yannick-noahs-tm-2024-02-15_en.

³⁶ Yupeng Dong & Hong Wu, *The World's First Completed Copyright Case of NFT Works: Shenzhen Golden Idea Cultural and Creative Co., Ltd. v. Hangzhou Bigverse Technology Co., Ltd.*, *Queen Mary Journal of Intellectual Property*, Vol. 13, Issue 3, at 358–68 (Oct. 12, 2023), <https://doi.org/10.4337/qmjip.2023.03.05>.

³⁷ *Hermès International v. Rothschild*, No. 22-CV-384-JSR, 2023 WL 1458126 (S.D.N.Y. Feb. 2, 2023), accessed from <https://www.wipo.int/wipolex/en/judgments/details/1841> (last visited Nov. 19, 2024).

³⁸ Intellectual Property in the Metaverse: Episode IV – Copyright, EUROPEAN INNOVATION COUNCIL AND SMES EXECUTIVE AGENCY, June 30, 2022, https://intellectual-property-helpdesk.ec.europa.eu/news-events/news/intellectual-property-metaverse-episode-iv-copyright-2022-06-30_en.

³⁹ Yuga Labs, Inc. v. Ripps et al., No. 2:2022cv04355 - Document 452 (C.D. Cal. 2024), at 25.

“Those that argue for NFTs to be considered only as ownership receipts often focus on the fact that blockchain-based technologies essentially comprise software code that provides a new way to store and synchronize encrypted data about purchases. Inside that software code lies a sequence of instructions that cause a computer to perform a certain process. However, viewing the NFTs as ownership receipts treats the NFTs as mere written instructions while ignoring their documented commercial value. Software is created to contain instructions to tell a computer what to do, and it is most often this functionality, not brand association or creative content, that causes consumers to buy software. In contrast, NFTs and some other blockchain-based assets are sold specifically for their connection to a particular brand, creator, or associated creative work...”

17. A significant area of confusion regarding NFTs concerns the rights buyers acquire when purchasing an NFT. Often, buyers believe they acquire not just the NFT token but also the underlying rights to the work itself. However, most NFT purchases only transfer ownership of the metadata linked to the digital work, not the work itself. This is analogous to traditional art sales, where a buyer may own a physical print but cannot reproduce the original artwork. While NFTs often do not involve a transfer of copyright, some platforms may include provisions that transfer the copyright of the underlying work. This raises questions about the validity of such transfers and whether a simple action, like ticking a box, can effectively transfer rights. According to Article 5(2) of the *Berne Convention*,⁴⁰ copyright subsists without formalities, meaning that rights exist if a work meets the necessary criteria for protection under national law. However, some jurisdictions require formalities for the alienation of rights, adding complexity to the transfer process. A “click-wrap” agreement, where a party accepts terms by clicking a button, is widely accepted in legal practice. Case law supports the idea that such electronic agreements can be binding.⁴¹ Yet, doubts remain about whether a token encoded in smart contract code can meet the written requirements for transferring rights. In cases like *Bored Ape Yacht Club*, where NFT holders are granted copyright licenses for derivative works, such transfers are explicitly stated in the smart contract.⁴² However, without such explicit provisions, an NFT holder does not automatically gain the right to publicly communicate, adapt, or reproduce the underlying work.

18. The legality of AI-generated content, particularly when used to create NFTs, raises further questions about the originality of such works. In copyright law, originality generally means that a work must reflect the intellectual creation and personality of its author. Many NFT projects, especially Profile Picture (PFP) collections, rely on generative algorithms with minimal human input, resulting in images that may not meet the threshold of originality. In generative algorithmic art, the final image often results from randomness or pre-programmed algorithms, with little to no human creativity involved. As generative AI becomes more prevalent in creating digital works, a key question arises: can works created by AI be considered original or must there be significant human input for them to qualify for copyright. For example, while collections like *Bored Ape Yacht Club* or *CryptoPunks* use randomly generated portraits, human artists contribute creatively by designing base layers and ensuring that the variations are unique. This human involvement may make these collections eligible for copyright protection. However, works purely generated by AI may not meet the originality requirement, particularly in European jurisdictions where copyright law emphasizes the necessity of human authorship. The rise of AI-generated art complicates this issue, as courts must grapple with whether these works exhibit enough human creativity to warrant protection.

⁴⁰ Berne Convention for the Protection of Literary and Artistic Works (as amended on Sept. 28, 1979), art. 5(2), available at <https://www.wipo.int/wipolex/en/text/283698>.

⁴¹ Stuart Levi, Eytan Fisch, Alex Drylewski & Dan Michael, Legal Considerations in the Minting, Marketing and Selling of NFTs, *Global Legal Insights* (2023), <https://www.globallegalinsights.com/practice-areas/blockchain-cryptocurrency-laws-and-regulations/legal-considerations-in-the-minting-marketing-and-selling-of-nfts/>.

⁴² M.D.M. Kentucky, Transfers and Licensing of Copyrights to NFT Purchasers, *Stanford Journal of Blockchain Law & Policy* (2023), <https://stanford-jblp.pubpub.org/pub/copyrights-nft-purchasers>.

19. The legal landscape surrounding NFT rights and AI-generated content is evolving, with several cases shedding light on these issues. In *Yuga Labs, Inc. v. Ripps*,⁴³ the court examined whether NFTs should be treated as ownership receipts or something more substantial, noting that NFTs are often valued for their connection to a particular brand, creator, or work. Similarly, in *Hermès International v. Rothschild*,⁴⁴ the court reaffirmed that NFTs are typically tied to the underlying content they represent, such as the MetaBirkins collection. The court clarified that individuals buy NFTs not merely as digital deeds but because they wish to own the exclusive content associated with the NFT. This reinforces the idea that NFTs are inseparable from the digital assets they represent. As legal frameworks around NFTs and AI-generated art continue to develop, further decisions, such as *Thaler v. Perlmutter*⁴⁵ and *Zarya of the Dawn*,⁴⁶ and the Beijing internet court decision⁴⁷ will help clarify the copyright eligibility of AI-generated works. Thus, the Hon'ble Courts must decide whether such works satisfy the criteria for originality and human authorship required for copyright protection, ensuring that the goals of copyright treaties are upheld while balancing the interests of creators, users, and the public.

⁴³ *Yuga Labs, Inc. v. Ripps et al.*, No. 2:2022cv04355 - Document 452 (C.D. Cal. 2024), at 25.

⁴⁴ *Hermès International*, 2023 WL 1458126, at 27.

⁴⁵ *Thaler v. Perlmutter*, No. 22-CV-384-1564-BAH, WIPO Lex (U.S. Dist. Ct. D.C. Aug. 18, 2023), available at <https://www.wipo.int/wipolex/en/judgments/details/1841>.

⁴⁶ Atreya Mathur, Copyright Registration for AI Generated Works: *Zarya of the Dawn* and the Dawn of a New Creator, *ITS Art Law* (July 6, 2023), <https://itsartlaw.org/2023/07/06/copyright-registration-for-ai-generated-works-zarya-of-the-dawn-and-the-dawn-of-a-new-creator/>.

⁴⁷ Aaron Winger, Beijing Internet Court Releases Translation of Li vs. Liu Recognizing Copyright in Generative AI, *China IP Law Update* (Jan. 22, 2024), <https://www.chinaiplawupdate.com/2024/01/beijing-internet-court-releases-translation-of-li-vs-liu-recognizing-copyright-in-generative-ai/>.