

PROTECTING YOUR POSSIBILITIES PODCAST WITH LUKE FEDLAM

Episode 41: Understanding the Intersection of NFTs and Sports | May 19, 2021

The following is a transcription of the audio podcast recording. It is largely accurate but in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors.

Luke: I'm sports attorney Luke Fedlam, and welcome to the Protecting Your Possibilities podcast. Each conversation we focus on sharing information and having conversations around how athletes can best educate and protect themselves or their life outside of their sports.

Thank you so much for tuning in to the protecting your possibilities podcast. I'm your host, Luke Fedlam. excited for another episode and want to just dive right in to the world of NFT's and cryptocurrency in the intersection with sports. If you've been watching the news or reading any current trends in sports, one of the things that you have most likely read about or heard about is the increased interest in the amount of money flowing into NFT's. Now, you might be saying what is an NFT? So let's, let's start by breaking down an NFT and then trying to make it a little bit more real. And then we can talk about the impact that that's having in the sports world today.

So usually, when you have something that's an acronym, and like NFT, you think, okay, if I'll understand that, if I could understand just what each word stands for which each letter stands for, in this case, maybe not, in this case, NF T's stand for non-fungible tokens, non-fungible tokens. So that doesn't really help us out too much. If you have no clue what an NFT is, this definition isn't going to help us. But broadly speaking, and I'll say very technically speaking, NFT's are cryptographic assets, that are on blockchain that have unique identification codes and metadata that distinguish them from each other.

So now you're like, Alright, Luke, you just gave me the definition of what NFT's are. And I literally still have no idea. So if you could imagine an NFT really is like a one of a kind representation of something digital or physical. And it's like a digital trading card. All right, you're like, Luke, why don't you just start with that at the very beginning. I know, I'm sorry. I had to, you know, sound a little smart for a little bit. But an NFT is like, if you could imagine, baseball cards and basketball cards that have been around for decades and decades. If you could imagine a digital version that then had its own embedded serial number, based on kind of the blockchain and backed by crypto, that's really what NFT is, right? So it's basically like taking online or digital collectibles, trading cards, and bringing them into the 21st century. So that's what we're going to talk a little bit about. And if you were to Google NFT's, you'd find out so much information, right? So I want to break down one thing, which is fungible versus non fungible.

So in the definition, it's called or in the name NFT. It's non fungible tokens, right? So fungible is something that can just be, replaced by an identical item, or it's interchangeable, right? So if I a physical version of a fungible item would be like \$1 bill. If I gave you \$1, you could give me back \$1. Or you could give me back four quarters, right? It's immediately mutually interchangeable. And the same goes on the digital side of fungible with cryptocurrency. So if I give you a Bitcoin, you could give me a Bitcoin back, or you could give me like, the equivalent value of a Bitcoin in etherium. Right, which is another cryptocurrency.

So that's the fungible side, the non-fungible would be from a physical perspective, things like artwork, like the Mona Lisa, or a particular car or house, right, those are all, not mutually interchangeable, right. And so in the digital version, that's where NFT's come in of non-fungible that they are unique, one of a kind, digital token or digital representation of something that has its own serial number, if you will, and its own kind of data stored within to make it unique to its owner. So if you've heard about NFT's you probably heard about just the incredible amount of value that these digital tokens have amassed over the past year, really the past six months here in 2021. So one of the most famous is this NFT, a digital representation called every day is the first 5000 days, that was actually sold at auction at Christie's auction house in March for \$69.3 million.

And really all it is a representation of somebody that had pictures of 5000 different days and put it all together. And ultimately he made an NFT and sold it for nearly \$70 million. Another famous NFT is the first tweet by Twitter CEO Jack Dorsey. He turned that into an NFT. It was his first tweet that just said something like setting up my Twitter, and he sold that the NFT of that tweet for \$2.9 million. So to help make that piece clear, you know, that's a tweet. So you're thinking to yourself, Well, I could go on to Twitter and I could scroll up and find the first tweet Jack Dorsey ever sent back in 2006. And I can screenshot it. And then I have the exact same thing that the person that paid \$2.9 million has, right? It's just literally the same tweet. Well, not exactly.

Because like I said before, because it was made into an NFT. There's inherent data right there on the back where it has a serial number, and it is authenticated that it is the first one and the only one that is the actual NFT of that tweet. So when you think about that, it's like imagine having a Michael Jordan basketball card right from his rookie year. So if you have that card, there's value in that card, potentially right or obviously, but there's so much more value once it's signed or autographed by Michael Jordan. And so by having this NFT, that actually has all the data within it, that has its own unique serial number, that it's the only one that was turned into an NFT as his first tweet, then there's obviously value then that comes into that. So we may be a little bit more still cloudy in this NFT space.

So let's break it down a little bit more. And I'm going to bring it into the sports world because I think this is where we're going to see a lot more action, if you will, in the NFT space. So just recently, we've seen a couple athletes launch their own NFT's. First, I want to talk a little bit about at the college level, there are a couple college student athletes who are transitioning into the pros, who launched an NFT in one was Luka Garza played at the University of Iowa. And so he had an auction, he auctioned off his NFT, which really looked like a trading card, but there was a lot of graphics and movement within it. In addition to the NFT itself, he also had additional perks that the winner of that auction would get a game of horse with him, dinner and a movie with him, they would get his game-worn sneakers when he got the all-time scoring title at Iowa, they would get a private meditation session with him, and then a lifetime VIP pass to any of his basketball camps that he hosts in life.

And that went for basically that NFT along with the perks went for a little over \$41,000. And what's interesting is he's really into blockchain technology. He was I believe, an economics major at Iowa, and his dad is really into the tech world as well. And so he just thought it was a really unique opportunity to be able to start pushing his brand. And I think that's what we're gonna see more and more of athletes wanting to push their brand and NFT's allowing them to engage with a new audience that maybe they weren't able to engage with before, you're definitely still gonna have your traditional sports fans that are going to engage in NFT's but you also have other folks who are just into the tech space, and who are collectors in the tech space who are speculators in the tech space that think if I can get something that's unique and one on

one, if this person goes on to do something great, then there's value down the road in this. So that was Luka Garza.

And also Jalen Suggs. Interestingly, Jalen Suggs also had an NFT. If you don't remember, one of the greatest shots in March Madness history, Jalen hit a nearly half court three points shot to win their semifinal game and the Final Four and send them to the national championship. And so the NFT was positioned as his announcement that he was going pro and then also Trying to capture the shot that he made. And so now this is where kind of the legal side of NFT's can be challenging, which is you can't put out an NFT with imagery that you don't necessarily own. And so because the actual video of the shot is owned by the NCAA and its media partners, the NFT that Jalen put out couldn't be an NFT of that actual shot. But what it was it's a representation and you can Google it, it's a representation of him about to do his fist bump and celebration, wearing a jersey again, that looks like Gonzaga, but doesn't say Gonzaga, and then has words graphically throughout his body face jersey just talking about the shot and just other kind of motivating words as well and it moves around.

And so it's really cool NFT showing just that moment in time and so he also auctioned off the sneakers that he wore in that game along with to the winner of the of the NFT auction. So it's interesting, I found a quote actually from the person, the anonymous owner of that NFT that said in an interview that he's a huge fan of college basketball. You know, it's one of the top games of all time in this person's opinion. And it was a top five made March Madness shot ever. And he said that I'm a huge fan of Suggs and his pro potential. And so when you think about that, it's like this was a 101 NFT, which means it was the only one about the shot that's been issued by Jalen Suggs.

And so, the idea, at least reading between the lines of that owner is that hey, you know, Jalen goes on to have a great professional career owning this representation of Jalen celebration after you know, one of the biggest shots in March Madness history, we'll have inherent value in it down the road. We've also seen those a couple individuals, and we've seen Patrick Mahomes in the NFL, Gronkowski, as well both have gotten into the NFT space individually. But on a platform level as it relates to a league. We've seen the NBA get involved with NBA Topshot, and so they've partnered with Dapper Labs to offer NFT's of various top shots are top plays in basketball. And so it's a partnership right between the league, the players union, because the players earn off of this as well, the league, the players union, as well as Dapper Labs. And so you can google NBA Topshot, and you can find a lot of information about the NFT's that the NBA is putting out there.

There are some others, right, so basically baseball tried in in last year, In 2020 with MLB, champions, it didn't really go as they thought. So I think they're revamping and trying to look at what they could do with kind of a new platform. So Rare is one that deals with European soccer. And I think it's also interesting to note that Tom Brady announced that he's launching Autograph, which is available, you can learn kind of some more information at autograph.io, where he is trying to create the ultimate NFT experience.

And it's interesting that if you look at his board of advisors that are listed there, on the website, you've got the CEO from Lions Gate, from Draft Kings, some of the founders of Draft Kings, you've got so many different folks in the entertainment space, owners of professional sports teams. So with all of that, you just have to believe that he is going all in on creating a comprehensive platform for NFT's in sports. And it'll be interesting to see how that all plays out.

Now, if you've listened to my podcast regularly, or just even checked in sporadically, you'll know that pretty frequently, I've been doing episodes on name, image and likeness, and the impact of name image and likeness to college sports. And I think NFT's are an interesting area to consider when thinking about name, image and likeness. Because we know that NFT's are going to create an opportunity for student athletes to promote their brand to new markets, right.

So we know that they're going to have the opportunity to get in front of people who maybe don't follow their sport, or who maybe aren't even into sports, but yet they're into collecting unique NFT's or NFT's that could appreciate in value over time. Now, we also know that when it comes to name, image and likeness, what will be interesting is that both non-revenue producing sports and unique sports achievements will create a market for selling NFTs. So if you think about we know that basketball and football are the primary revenue producing sports and most schools, but with that, I think what we'll see is, if you could imagine, thinking about SportsCenter Top 10 and when you watch SportsCenter Top 10, you typically will see depending on the season or time of year, it'll be the primary sports, baseball, basketball, football, soccer, hockey, that will be represented.

But there are also times where something big happens in women's lacrosse or men's diving or some other sport where it's just a unique achievement, like, wow, they just did something absolutely amazing. And so with that, I think that there's a likelihood that you would see NFT's be created for those unique achievements in sports. You know, you could imagine if you if you follow social media and college sports you've most likely followed or at least seen UCLA, women's gymnastics team. And you could imagine NFT's very easily being put together around what they're able to do. The challenge with that though, is that for the student athlete, they will not be able to be using the school's logos or protected marks in doing that. So they're going to think about and they're going to find ways to navigate using their name image and likeness in an NFT while avoiding using the schools or the media's licensed marks. So in that instance, you know, using the UCLA women's gymnastics team you could imagine seeing a student athlete not in competition or having an NFT, based on competition, but potentially, if they're doing some training, not on this, the school's facility, and having somebody videotape them doing some unique move or something along those lines, where they own the footage, they're not wearing a particular brand of the school, maybe potentially, they're partnering with a brand, that they're doing a name image and likeness, opportunity with and maybe wearing that company's brand while they do the NFT.

So you could see how this could just continue to increase in terms of what this looks like for student athletes. And I'll say this kind of in closing, the NFT world is really just getting started. If you look at any kind of financials of the last three or four years, I mean, NFT's have really exploded in late 2020, and now, early 2021. And there's really nothing that says that this is going to stop, at least anytime soon. I mean, when you think about it, trading cards, baseball cards, like the physical cards, they've been around for, I think in baseball, you'd have that fact check me on this, but I think like 100 years. And so the idea of NFT's now using this digital world that we have using cryptocurrency that really can lock in ownership, and an actual ledger of ownership for these digital marks, these digital tokens, I don't see it going anywhere.

What may happen is that this kind of this massive valuation that we're putting on or that some buyers are putting on NFT's that may cool off, and it may not be these astronomical numbers that we're seeing in certain NFT's. But those are really kind of the outliers, right? There's so many NFT's even within NBAs Topshot, where you could buy an NFT for \$5 \$7, \$10, on their secondary marketplace.

But I do think that while the industry is just getting started, student athletes don't fully understand the marketplace, but they're going to want to engage. So as I talked about always protecting possibilities, that's going to be something where student athletes are going to have to be prepared to manage getting involved potentially getting involved in NFT's because there are some significant legal issues that arise when it comes to NFT's, from securities laws to copyright laws, to standard corporate and contract law issues. And there are also some significant financial challenges as well, because, it's backed on crypto, which is incredibly, incredibly volatile. You've got potential taxes, issues around taxes, financial aid implications based on earnings, due diligence around the types of advisors who want to get you involved in NFTs.

So again, there is so much more, this episode was meant to just be a primer and just really kind of get you familiarized with just what NFT's are and how they're playing a role in sports. I think we're going to continue to see NFT's rise and become much more understood and more common. As we go forward, I think we'll see the NFL most likely will come to agreement to have an NFT partner to provide NFT's I think, there's been discussion at the NHL level as well.

So it's just a matter of time for these primary leagues to get involved very similarly to how the NBA did. But I think in certain respects, there may be some pause. As the NBA kind of went right in with Dapper Labs to offer NBA Topshot there now questions as to whether or not they're actually offering a security, which then takes you down the path of securities laws and disclosures and a lot of other requirements beyond just selling a collectible item. So a lot more to be seen. I know we will talk much more about this. But hopefully, this gave you a good understanding of NFT's and what they are some of the challenges that are presented, but I look forward to having more conversations on this topic in the future. Again, thank you so much for tuning in. Thank you for sharing this podcast and thank you for providing your comments and your questions to me. Please continue to reach out continue to share this podcast with others. I really appreciate you for listening, and I look forward to talking to you again real soon. Have a great day.

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