

## **How Blockchain Technology Empowers Future Intellectual Property Law**

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Blockchain and the new-born technologies have recently been regarded a hot topic attracting a great deal of attention from society, with multiple industries exploring their possibilities and new blockchain use cases emerging almost every day. There is no doubt that this incredible technology has the potential to shake up the world of finance. However, the usefulness of blockchain is not just limited to finance and banking. Let's see how might the technology be used in the context of intellectual property law and practice.



### **An introduction to blockchain technology**

Blockchain, understood in the simplest way, is a decentralized distributed ledger technology which allows creation, validation and encrypted transaction of digital assets to happen and get recorded in an incorruptible way. At its heart, it is a database of groups of transactions (blocks) that are linked to the previous group of transactions (the chain) and is distributed to each participant in the network so that all copies of the database are identical. Blockchain records every transaction that ever happens, and no records are ever deleted.

### **How blockchain could innovate the Intellectual Property Law?**

## “Smart” IP rights

“Smart IP rights” can be effectively created by recording IP rights in a distributed ledger rather than a traditional database. Related is the idea of IP offices using distributed ledger technology to create “smart IP registries” in the form of a centralized solution run by the IP office as an accountable authority which would create an immutable record of events in the life of a registered IP right. It could include when a trademark was first applied for, registered and first used in trade; or when a design, trademark or patent was licensed and assigned, etc. It would also resolve the practicalities of collating, storing and providing such evidence.



The ability to track the entire life cycle of a right would have many benefits such as smoother IP right audits. It could thereby simplify the due diligence exercises which are necessary for IP transactions, for example in mergers and acquisitions. Confidentiality concerns on the side of the IP owners could be addressed by an opt-in scheme.

## Smart contracts and digital rights management

Often mentioned in the context of blockchain is the concept of “smart contracts.” Smart registries could include the information required for potential licensees as well as provide an option to enter into a smart (licensing) contract that is automatically executed – including the payment of the license fee and the recorder of the license in the registry.



Moreover, “smart information” about IP rights in protected content, for example a song or an image, could be encoded in digital forms. That these ideas are fast becoming mainstream is evidenced by Kodak’s recent launch of a blockchain-based image rights management platform and its own cryptocurrency.

### **Potential drawbacks**

Blockchain is still in the nascent stage which requires a vast amount of resources in processing power and thus, energy. Set-up costs are considerable. Only a limited number of transactions per hour can be processed. One of the blockchain’s strengths, the tamper-proof design, also causes problems for applications such as IP management. It is virtually impossible to make corrections in the system, but in some cases, such corrections may be necessary, e.g. in the wake of an ownership dispute. It will be challenging to design feasible ways for rights owners and other stakeholders that allow modifications to the blockchain-based registers in accordance with applicable laws.

Last but not least, whereas blockchain promises a revolutionary way for copyrighted content to be catalogued and commercialized, the case for blockchain-based applications seem to be weaker with regard to registered IP rights, such as patents, designs or trademarks: The public registers for these IP rights are, by their nature, centralized and administered by a public authority (e.g. a patent and trademark office), and the set-up and process surrounding such registers is determined by law. It remains to be seen whether and how such registers could profit from a decentralized blockchain-based structure.



Overall, without a doubt, blockchain presents an unrivalled opportunity to make IP rights management more certain, stream-lined, transparent and less expensive. Despite its potential weaknesses, blockchain use cases for intellectual property are clearly worth exploring and researching for businesses, authorities and governmental agencies.

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