



CUTTING THROUGH

Your QM Bar Society Newsletter



Welcome to the first edition of Cutting Through for the year 2022! We hope that you have had a restful break and that any exams have gone to plan. We can also give a warm welcome to those who are joining us this semester both at Queen Mary and with the Bar Society! This month's edition has a special focus upon technology in law, specifically cryptocurrencies and non-fungible tokens.

This edition focuses on emerging technology and how it relates to law and possibly your career at the bar. We will be examining how the UK government want to bring more regulations to all areas of crypto-assets along with some emerging case law in the crypto field.

This edition also features the Mock Criminal Trial jointly hosted between the Criminal Justice society and the Bar society. As it is already underway, applications are closed however, you are invited to watch the final. Even if you are not participating, the process and the events will be exactly the same as a murder trial. So it is sure to be an exciting watch!

Finally, as usual we will have our book and film recommendations. To follow the theme of this edition they will be focused around crypto and related technologies.

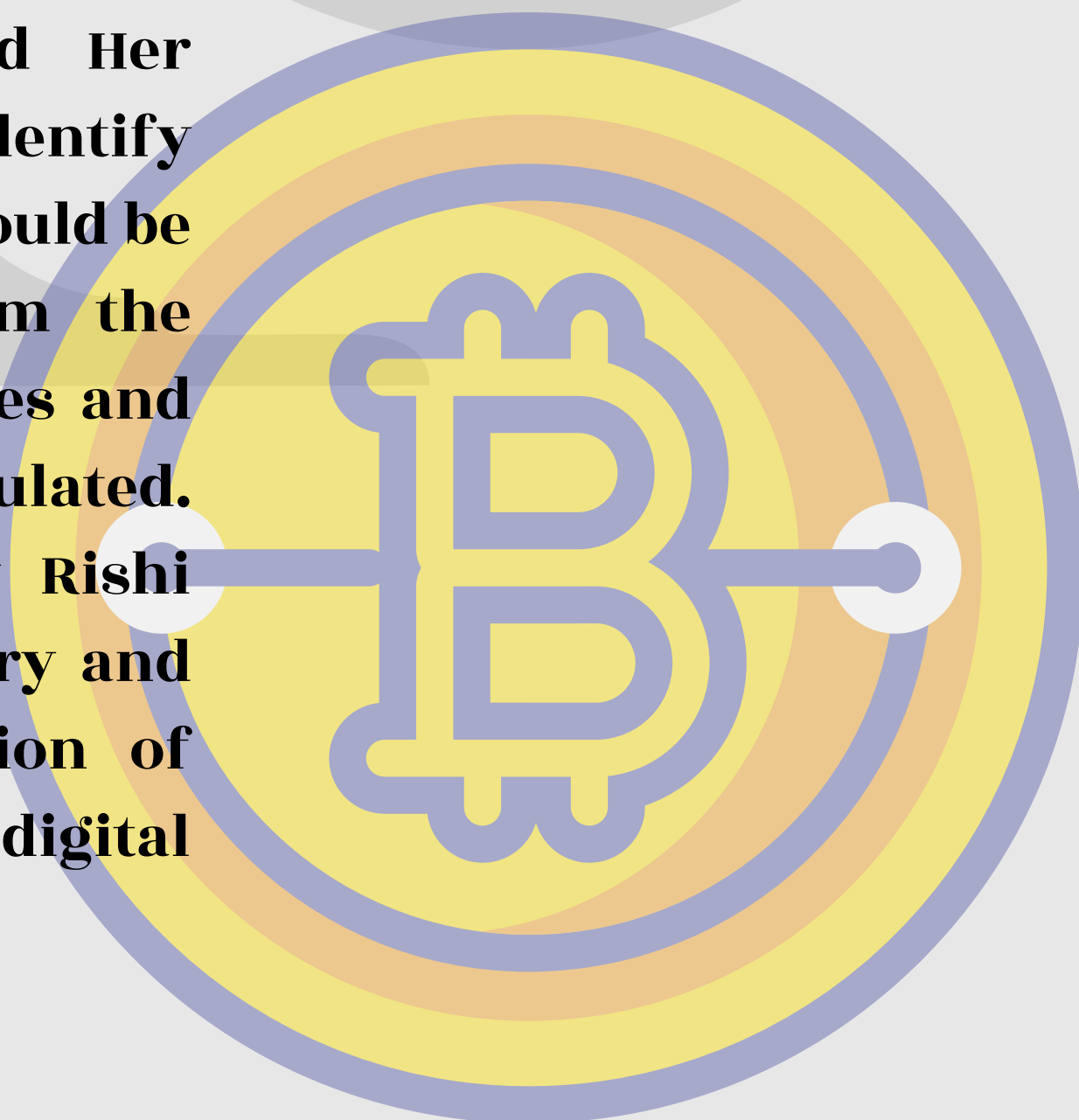




Crypto-currency

To give a brief description, crypto is a virtual currency which is saved onto a “digital ledger”. The system relies on a distributed ledger technology to function, in the form of blockchain. To explain, the digital ledger is distributed to all users on the network. This gives everyone all successfully completed transactions concerning the currency. It acts essentially the same as a public database and is constantly being updated with entries with transactions, commonly also showing offers to buy and sell currencies. This demonstrates one of the main advantages of using cryptocurrency, the “middleman” is cut out as no bank or single entity is required to process a transaction. Additionally, the value is purely driven by the demand and is equally not controlled.

This feature is known as “decentralisation”, defined as not being created or controlled by a single entity. This feature has quickly attracted a lot of attention from the Bank of England. This is mainly due to the risk associated with crypto as the value is extremely volatile, seeing percentage increases in the thousands over the years. In 2018, the “Crypto-assets Taskforce” was established, consisting of the Financial Conduct Authority, the Bank of England and Her Majesty’s Treasury. Their purpose is to identify when and if certain assets/currencies should be regulated. Affirmation also came from the House of Lords stating that all exchanges and “crypto wallet” providers would be regulated. With another taskforce announced by Rishi Sunak in April 2021 between the Treasury and the Bank of England with the intention of working towards a central bank digital currency or national cryptocurrency.





Crypto-currency

Currently, there are regulations surrounding two of the broad categories:

- Security tokens which are currencies with characteristics that mean they provide certain rights akin to shares, falling under the Financial Services and Markets Act 2000.
- E-money tokens which meet the definition of electronic money under the Electronic Money Regulations 2011.

Regulations are not the only things that govern the crypto world, there is of course already a wealth of case law surrounding crypto-assets. One of the largest areas being the remedies available from English courts against fraud concerning crypto-assets. A principle that has been often questioned and asserted is the fact that crypto-currency is in fact legally “property”. This was first stated in the case of *AA v Persons Unknown*. The case based itself highly upon the UK Jurisdiction Task Force in its ‘Legal Statement on Crypto-assets and Smart Contracts’. They held that crypto assets are property and therefore can be the subject of an injunction.

The case of *ION Science Ltd v Persons Unknown* and others recognised the difficulties that individuals may have in retrieving their money after an act of fraud. The applicants sought the following relief from the court in an *ex parte* application:

- A proprietary injunction, a worldwide freezing order, and ancillary disclosure against persons unknown,
- An order for disclosure against disclosure against the crypto-currency exchanges
- Permission for serving out of the jurisdiction

The main issues at hand were whether the courts had jurisdiction over the matter if the unknown individuals were outside of the United Kingdom, and whether the unknown individual could in fact be identified. You can read more about the judgment itself on Thomson Reuters.

The field of crypto in law is slowly growing, especially in the United Kingdom. This is seen in the 2022 Chambers UK Bar guide, where it features a brand-new ranking table for the field of crypto-currency with 11 barristers. You can read the list of barristers and their chambers here: [Chambers Ranking](#)



Non-Fungible Tokens

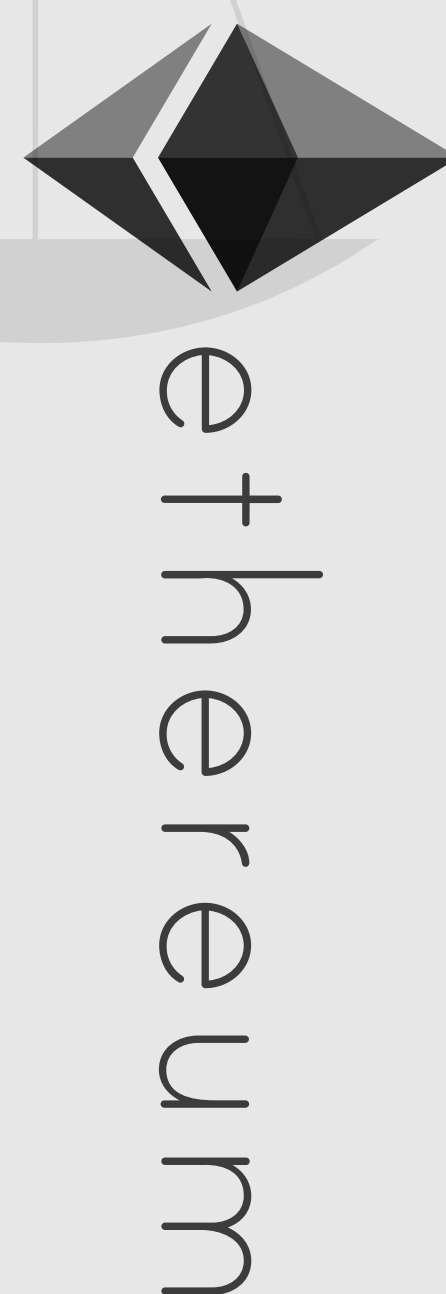
NFT stands for non-fungible token, non-fungible means that it is unique and cannot be replaced. That is how it differs from a bitcoin. Most NFTs are supported by the Ethereum blockchain, therefore are a derivation of it. NFTs can be anything that is digital, but they are currently mainly used to buy and sell digital art. NFTs are designed to give ownership of the work whilst the artist retains the copyright and reproduction rights.

One of the reasons why we are featuring NFTs in this month's edition is because just the other day, Her Majesty's Revenue and Customs have been the first in the country to seize an NFT. The seizure was part of a £1.4 million fraud case, it included £5,000 worth of crypto assets alongside three NFT artworks. It is reported that they have sought a court order to prevent them from being sold. This is due to the criminals artificially inflating the value of the assets using 250 fake companies.

The regulations around crypto assets will continue to grow, not only will there be a huge amount of fraud cases growing in the realm of cryptocurrencies but also contracts.

There is another growing issue surrounding cryptocurrencies, the environmental impact. Environmental law falls mostly within regulatory law and the public realm. The mining of cryptocurrency is one of the ways that people can gain currencies like Bitcoin, and this process is highly energy-intensive. Bitcoin uses 122.87 Terawatt-hours of electricity every year, this is more than the Netherlands, Argentina or even the United Arab Emirates. Whilst Ethereum used 99.6 Terawatt-hours, more than Belgium or Philippines.

We believe that the field of cryptocurrencies will only continue to grow and is an area that will continue to expand within the barristers of London. As more and more newly qualified barristers adventure into the realm of crypto legal work.





Queen Mary Mock Trial

What is the Mock Trial Competition?

The competition is a simulation of a criminal murder trial. Students are acting as barristers for the defendant as well as the prosecution. The student barristers will give opening speeches, conduct examination in chief and cross-examination of live witnesses and then give closing speeches. This absolutely mirrors the way in which a murder trial is conducted in real life. A jury of 12 students will then be sent out to deliberate and will decide whether the defendant is guilty or not guilty of the murder. Leading criminal barrister Jeremy Dein QC will act as the judge in the case.

Why is this important?

Perhaps watching the final might make you realise that trying the competition out next year is something you want to do. Perhaps it could inspire you to go and watch a real case in the crown court which are often open to the public. It also gives you a chance to see what good student advocacy looks like.

For once instead of a film we have a series called Startup on Netflix. It concern laundering stolen money through cryptocurrency, perhaps not the most law related but certainly interesting.



Where and When?

The final will take place in the Octagon on Wednesday 23rd February at 18:30pm. Please arrive promptly so as not to disrupt the case.

If you would like to attend, then please complete the following form:

<https://forms.gle/ufrajw2qjPW8wnaRA>

Some Films and Books to keep you occupied

We also have a book by Aaron Wright called: Blockchain and the Law: The Rule of Code

It completely explains how the blockchain works and how it has the power to completely overturn the legal order of today