Is Blockchain the New Internet for Sports and Entertainment?
October 13, 2019 | 10:45 am – 12:15 pm

Program Description
Join us for an expert presentation on everything you didn’t know you needed to know about cutting edge blockchain technology. Our industry experts will define and explain the technology and its applications, how it will impact your clients’ future business and your legal practice, and affiliated risk management and legal issues. Jump ahead of your competitors with this insider’s view of the future tech landscape.

Lead Facilitator
Caren Yeamans, SVP and General Counsel of Fanatics, Philadelphia, PA

Speakers
- Amy Caiazza, Wilson Sonsini Goodrich & Rosati, Washington, DC
- Andrew Maxwell Hinkes, General Counsel, Athena Blockchain & Adjunct Professor, NYU Law, New York, NY
- Adi Sideman, CEO of YouNow, New York, NY

Program Materials
1. Power Point Presentation: Is Blockchain the New Internet for Sports and Entertainment?
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Is Blockchain the New Internet for Sports and Entertainment?

Sunday, October 13, 2018
Speakers

• Lead Facilitator
  – Caren Yeamans, SVP, General Counsel & Secretary, Fanatics

• Speakers
  – Amy Caiazza, Wilson Sonsini Goodrich and Rosati
  – Andrew Hinkes, Carlton Fields, Athena Blockchain, Adjunct Professor | NYU Law School
  – Adi Sideman, Co Founder, Props
What is blockchain technology?

- Collective recordkeeping
- Unique decentralized/distributed architecture
- Proof of work mining = resource consumptive process of confirming and securing new transactions
- Blockchain is in its infancy
  - Web in 1995:
Terms of art in the crypto world

Blockchain
Consensus mechanism
Mining
Token
Smart contract
Wallet
Multisig
NFT

There is no consensus definition for these terms
What does blockchain technology enable? How does it work?

• Collaborative recordkeeping
• Tamper resistant data timestamping/ordering
• Key innovation: proof of work
  – Expensive to add new records, even more expensive to retroactively modify records
• Cryptographically controlled access to assets
• Private/Permissioned blockchains have different features
How is it being used?

- Fundraising by selling tokens
- Rebuilding securities issuance/trading/clearance/settlement
- Tracking entity corporate records
- Supply Chain/Provenance
- Consortia (banking, shipping, insurance)
- Identity
- “Tokenizing” real life assets
- Non-fungible assets
- “Prediction markets”
- “Smart contracts”
Are there vulnerabilities?

- Public/Private key ~bearer issues
- Hacks/theft of secondary software
- Technical issues
- Legal concerns
- Lack of transparent governance
- Replacement of traditional third-party intermediaries with new weird intermediaries
What should lawyers consider when their business team has a blockchain idea?

• Does this need a blockchain/token?

• Different laws may apply depending on use
  – Securities/Commodities
  – Money Transmission
  – Tax
Regulatory Landscape

• Gaps exist between existing regulations and technology – the law is playing catch up
• When is a token, cryptocurrency, or similar digital asset a security or commodity or funds?
• When are issuers of digital assets, or other actors involved in transactions in digital assets, money transmitters or money services businesses regulated by FinCen or under state law?
The SEC’s Approach

• Almost all tokens are securities
  – Offerings (including free distributions) must be treated as securities offerings and offered in compliance with the Securities Act
  – Rule 144
  – Broker-dealer issues
  – Exchange/ATS issues
  – Investment adviser issues
  – Regulation M
  – Investment Company Act

• Implications when tokens are not securities
3 kinds of tokens

• A “traditional security token” a tokenized version of a security such as a company’s common stock or tokenized real estate etc., usually available to accredited investors only.

• A “consumer token” not a security.
  – Bitcoin and Ether: sufficiently decentralized to comply with this categorization (among other attributes).
  – Some stablecoins (such as TurnKey, that do not appreciate / depreciate) may also fall under this category.
  – So far, only four coins have been identified by the SEC that are not securities (Bitcoin, Ether, Turnkey, Quarters)

• A “Howey token” (a.k.a utility token) is a token that it the SEC recognizes as a security because it is an investment contract under the Howey test. (SEC approved 2 Reg A+ tokens that fall here)
MSBs and State-level MTL’s

Federal/State

FinCEN guidance

Users, Exchangers, Administrators

State money service business regulation

Registration

Exempted

Unaddressed

Compliance obligations:

BSA, AML/KYC
Additional Regulatory Considerations

- CFTC/Regulation as a commodity
- Foreign law considerations
  - Some jurisdictions are less restrictive (e.g., Singapore)
  - Others are just as strict
  - The nature of the technology makes it difficult to know which country’s laws may apply
Smart Contracts

- “Programmable Money”
- Uses external data to trigger the transfer of an asset to one or more other wallets
  - Code specifies conditions for transfer
  - Oracle supplies triggering data
- May or may not be a legally binding contract
  - Execution component of a contract
Possible uses in Sports and Entertainment?

- Transfer of assets within/among online games
- Betting/gambling pools, including “staking” pools that allow betting and “re-betting” of winnings
- “Tipping” of or investment in players, teams, or other participants with digital assets
- Distributions of gaming revenue through fractional interests represented via a game piece
- Royalty tracking systems/payments
Possible uses in Sports and Entertainment?

- Revenue tracking for media consumption
- Fan experiences:
  - Non-fungible token (NFT) collectibles or other unique experience technology
  - Affinity collectibles
  - Fan loyalty incentives
- Team-centric captive economies
- Ticketing – tokenization, resale control, “smart” ticketing
Possible uses in Sports and Entertainment?

- Digital collectables (i.e. MLB Crypto Baseball Cards)
- Supply Chain/Provenance Systems
- PED sample testing
Case Study: Props

• Overview of the Props Token and the YouNow platform
• Reg D, Reg CF, Reg A offerings
  – Major issues that arose during qualification
  – Ongoing issues to address
Questions?