

## ESSAYS

### BLOCKCHAIN AND THE GENESIS OF CREATIVE JUSTICE TO DISINTERMEDIATE CREATIVITY

by  
Tonya M. Evans\*

*Historically, the art market has been shrouded in opaqueness and exclusivity, permissioned access and asymmetry of information that rivals the systemic ills of legacy financial markets that led to the Great Recession. Moreover, legacy art market stakeholders have, through the centuries, been entrenched in elitist and inequitable notions of art that excluded Black artists. These legacy intermediaries have also consistently demonstrated a deep and enduring disdain for any art connected to the digital world. That is, until the age of COVID-19 and the dramatically increasing value and dominance of the non-fungible token (NFT) market.*

*This Essay explores why, and how, the technology that Satoshi intended for the disintermediation of financial markets has demonstrated incredible potential to disintermediate the art world and enfranchise Black and brown artists. The often-exclusionary bright line between revered “fine art” expressed in physical form, and digital art, has begun to blur. So too has the invisible racial dividing line used to segregate artists based on race. If measuring creative justice in terms of the building blocks of the future of creativity, we are at the genesis.*

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\* Tonya M. Evans, Professor, Penn State Dickinson Law. Northwestern University (B.S.); Howard University School of Law (J.D., *cum laude*; editor-in-chief).

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## INTRODUCTION

The legacy art market is a multibillion-dollar industry.<sup>1</sup> The market is popular among high-net-worth individuals, who see the art market as an opportunity to balance and diversify their portfolios, despite the relative illiquidity of art as compared to other asset classes. Sales of fine art and antiques around the world yielded a staggering \$50.1 billion in 2020 (actually, a decline from previous years).<sup>2</sup> However, online sales of art and antiques reached a record high of \$12.4 billion, doubling in value over 2019 and accounting for a record-high market share of 25%, up from the previous year's 9%—the first time the share of e-commerce has exceeded that of retail sales in the market at large.<sup>3</sup>

Artistic production in elite circles has historically been commissioned by patrons, according to artistic standards accepted by those patrons, the commissioned artists, and those referred to as the “educated” public.<sup>4</sup> The concept of art patronage has evolved over the centuries but still has its place in the support of artists and in driving and defining which art is valued in the art market. Patrons (coupled with galleries and auction houses)<sup>5</sup> have been key intermediaries in the art world. Although artists have the creative talent, patrons have the financial resources and reputations to provide artists with access to the market, exposure, and esteem.<sup>6</sup>

<sup>1</sup> See Pippa Stevens, *Buy a Monet Instead of a Treasury? Art Has Shown Long-Term Returns that Rival Bonds*, CNBC, <https://www.cnbc.com/2019/12/07/art-has-shown-long-term-returns-that-rival-bonds.html> (Dec. 9, 2019, 7:24 AM); see also *The Art Market, Explained: What You Need to Know About Auctions*, ARTSY, (May 18, 2016, 8:51 AM), <https://www.artsy.net/article/artsy-editorial-uncovering-the-surprisingly-secret-world-of-art-auctions>.

<sup>2</sup> See CLARE MCANDREW, ART BASEL & UBS, *THE ART MARKET 2021*, at 28–33 (2021), <https://artbasel.com/about/initiatives/theartmarket2021pdf/>. Sales in 2020 fell an estimated 22% from the 2019 total of \$64.1 billion. *Id.*

<sup>3</sup> *Id.* at 17, 21.

<sup>4</sup> See Daniel J. Gifford, *Innovation and Creativity in the Fine Arts: The Relevance and Irrelevance of Copyright*, 18 CARDOZO ARTS & ENT. L.J. 569, 579 (2000).

<sup>5</sup> See Nathalie Heinich, *Mapping Intermediaries in Contemporary Art According to Pragmatic Sociology*, 15 EUR. J. CULT. STUD. 695 (2012).

<sup>6</sup> See Marjorie Garber, *PATRONIZING THE ARTS 2* (2008). Garber notes that patronage is responsible for undervaluation and overvaluation of art throughout the ages. *Id.* at xi (noting that “the system of arts patronage has led to both a devaluation of art-making and performance and, with equally damaging results, to their overvaluation, aligning the ‘creative arts’ with aesthetic transcendence rather than with work that can be assessed within the traditional canons of scholarship”).

Historically, the market has been shrouded in opacity and exclusivity, permissioned access, and asymmetry of information that rivals the systemic ills of legacy financial markets that led to the Great Recession (discussed below). Legacy art market stakeholders—galleries, patrons, and auction houses—have, through the centuries, been entrenched in elitist and inequitable notions of art that excluded Black artists and devalued their considerable artistic contributions and Afro-centric points of view.<sup>7</sup> This assertion holds firm despite the reality that museums are filled with pilfered cultural artifacts from nations populated with Black and brown peoples.<sup>8</sup> That entrenchment is rooted in the pernicious myth of white superiority. Also rooted in an unequal system is the goal of protecting white (and often male), educated, propertied, and (for centuries) the religious elite. The codification of separation further calcified these institutional goals and, accordingly, devalued the significant contributions of Black and brown artists to the cultural ethos.<sup>9</sup>

#### I. THE IMPACT OF TECHNOLOGY AND THE PANDEMIC ON ART MONETIZATION MARKETS

Legacy intermediaries have also consistently demonstrated a deep and enduring disdain for any art connected to the digital world. That is, until the age of COVID-19.<sup>10</sup> The dramatically increasing value and dominance of the non-fungible token (NFT) market, and the benefits of secure, immutable, verifiable scarcity, together

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<sup>7</sup> See Brian Boucher, *It's Not All in Your Head—the Art World Really Is Unfair. Here Are 9 Reasons Why*, ARTNET NEWS (Dec. 12, 2019), <https://news.artnet.com/art-world/9-reasons-art-world-is-unfair-1726653>.

<sup>8</sup> See Avery Kleinman, *Museums Are Filled with Stolen African Art. Is It Time to Return It?*, 1A (Sept. 15, 2020), <https://the1a.org/segments/art-repatriation-museums/>; see also Nicole Daniels, Student Opinion, *Should Museums Return Looted Artifacts to Their Countries of Origin?*, N.Y. TIMES (Oct. 16, 2020), <https://nyti.ms/3GXan0I>.

<sup>9</sup> See K.J. Greene, *Copyright, Culture & Black Music: A Legacy of Unequal Protection*, 21 HASTINGS COMM'N & ENT. L.J. 339, 369 (1999) (explaining that “[t]he persistence of notions of white superiority and ideology of separation resulted in the cultural devaluation of works by minority artists as a class”). While Greene’s work focuses on Black musical artists, his broader points regarding the impact of racism and white supremacy on Black artists span every creative genre. *But see* CÉLINE MOINE & JEAN MINGUET, ARTPRICE.COM, *Black (Also) Matters (in Art)*, in ARTPRICE REPORT: 20 YEARS OF CONTEMPORARY ART AUCTION HISTORY, 2000–2020, at 40, 40–41 (2020), <https://imgpublic.artprice.com/pdf//the-contemporary-art-market-report-2020.pdf> (highlighting a shift by legacy gatekeepers to developing, resourcing, and amplifying the work of Black and brown artists).

<sup>10</sup> See MCANDREW, *supra* note 2, at 50, 97–99 (noting “[t]he fallout from the COVID-19 crisis had a negative effect on dealer sales, with aggregate values declining by 20% to an estimated \$29.3 billion in 2020, after a marginal increase of 2% in 2019”).

with the confluence of technological advances of Web 3.0 technologies<sup>11</sup> like blockchain and smart contract code, the emergence of high value contemporary art,<sup>12</sup> and the devastating impact of the COVID-19 pandemic on in-person experiences that closed virtually every door around the world, has led even some of the most hardened digital art opponents to take notice of an emerging form of digital art creation and ownership—NFTs.<sup>13</sup> Most art professionals and collectors now acknowledge that technology and online art businesses will play an increasingly important role in the art marketplace of both the present and the future.<sup>14</sup> The 2020 trend tells the story. Despite overall declining sales, “aggregate online sales reached a record high of \$12.4 billion, doubling in value from 2019.”<sup>15</sup>

NFTs are a means for providing verifiable and immutable proof of ownership of an asset (usually digital). NFTs have existed since 2018.<sup>16</sup> They gained mainstream prominence, however, when digital artist Mike Winkelmann, known as Beeple, made history by auctioning an NFT consisting of 5,000 of his illustrations for over \$69 million at a Christie’s auction in March 2021.<sup>17</sup> In fact, the 2021 gross NFT sales figures have been impressive. August 2021, alone, proved to be extremely robust for creative NFT sales, with almost \$900 million spent in just 30 days, which more than tripled the previous best month for NFT sales when \$255 million worth was sold in May of the same year.<sup>18</sup>

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<sup>11</sup> Web 3.0 technologies include: blockchains, artificial intelligence (AI) and machine learning (ML), virtual reality (VR), augmented reality (AR), and Internet of Things (IoT). See generally Werner Vermaak, COINMARKETCAP: ALEXANDRIA, *What Is Web 3.0?* (Feb. 8, 2021), <https://coinmarketcap.com/alexandria/article/what-is-web-3-0>.

<sup>12</sup> See MOINE & MINGUET, *supra* note 9, at 40 (noting that “one of the major trends of our time” is “repairing the omissions of history by giving a real place to artists from Africa and the African diaspora”).

<sup>13</sup> “Of 365 global art fairs planned for 2020, 61% were cancelled, 37% held live events, and the remaining 2% of fairs held a hybrid, alternative event.” MCANDREW, *supra* note 2, at 20, 172.

<sup>14</sup> See DELOITTE & ARTTACTIC, ART & FINANCE REPORT 2016, at 19 (2016), <https://www2.deloitte.com/lu/en/pages/art-finance/articles/art-finance-report.html> [<https://perma.cc/78U7-GXQD>]. Technologies like blockchain and related technologies are, however, considered more as secondary, rather than primary, vehicles for services. For example, using blockchains to track and verify provenance is of great interest to the industry. *Id.* at 22.

<sup>15</sup> MCANDREW, *supra* note 2, at 210.

<sup>16</sup> See generally ERC-721 Non-Fungible Token Standard, ETHEREUM (Dec. 2, 2021), <https://ethereum.org/en/developers/docs/standards/tokens/erc-721/>; ERC-721, <http://erc721.org/> (last visited Mar. 13, 2022).

<sup>17</sup> See Kyle Chayka, *How Beeple Crashed the Art World*, NEW YORKER (Mar. 22, 2021), <https://www.newyorker.com/tech/annals-of-technology/how-beeple-crashed-the-art-world>; see also *Beeple’s Opus*, CHRISTIE’S, <https://www.christies.com/features/Monumental-collage-by-Beeple-is-first-purely-digital-artwork-NFT-to-come-to-auction-11510-7.aspx> (last visited Mar. 13, 2022) (“Created over 5,000 days by the groundbreaking artist [Beeple], this monumental collage was the first purely digital artwork (NFT) ever offered at Christie’s.”).

<sup>18</sup> Martin Young, *Record \$900-Million Month for NFT Sales as CryptoPunks Go Stratospheric*,

To minimize the seismic losses brought on by the pandemic, auction houses and galleries, which had resisted any meaningful adoption of Web 3.0 technology, finally embraced digital solutions out of necessity.<sup>19</sup> Commentators and critics who describe the forced pivot as a revolution overstate the industry's acquiescence, to be sure.<sup>20</sup> It was a reluctant digital *evolution*, at best. But one industry's last gasp is another's first breath. Two things can be true. And for both established and emerging Black and brown creatives working in physical and digital mediums alike, the emerging NFT market is more than a first breath; it is a North Star. NFTs have the potential to be a bright and guiding light for emerging and established artists of color. Access to global markets—and secondary market sales—without relying on distrusted insiders to facilitate access and transactions serves as a powerful technological beacon that can illuminate a peer-to-peer pathway to meaningfully engage in the marketplace on one's own terms.

## II. ENTER NON-FUNGIBLE TOKENS AND DIGITAL ART AND COLLECTIBLES

The original cryptocurrency, Bitcoin, and its progeny have ushered in a transformative digital wealth economy built on the rails of blockchain technology, cryptographically secured assets, and transparent records of transfers and balances. Satoshi Nakamoto—the pseudonymous moniker used by the person or persons who envisioned, developed, and released the Bitcoin software protocol and mined the Bitcoin Genesis Block in 2009 as a peer-to-peer version of electronic cash—enabled internet-based transfers of value without the need for a bank or any other “trusted” intermediary to facilitate the transaction and provide trust between parties who may not know or trust each other.<sup>21</sup> Satoshi's intention was to disintermediate legacy financial systems; that is, to remove third parties like banks from the equation while also avoiding the double-spend problem in the digital realm.

Fungible cryptocurrencies are the first use case for blockchain's distributed ledger technology and, for tax purposes, they are treated as capital assets like stocks. The characteristic of fungibility permits cryptographically secured digital assets of the same kind to be interchangeable. By contrast, NFTs are unique, scarce, and

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COINTELEGRAPH (Aug. 27, 2021), <https://cointelegraph.com/news/record-900-million-month-for-nft-sales-as-cryptopunks-go-stratospheric> (reporting that the dramatic increase included nearly \$400 million from CryptoPunks sales alone).

<sup>19</sup> *What's Changing*, ARTPRICE.COM (2021), <https://www.artprice.com/artprice-reports/the-art-market-in-2020/whats-changing>.

<sup>20</sup> *Id.*

<sup>21</sup> *See generally* SATOSHI NAKAMOTO, BITCOIN: A PEER-TO-PEER ELECTRONIC CASH SYSTEM (2008), <https://bitcoin.org/bitcoin.pdf> [hereinafter SATOSHI WHITE PAPER]; Daniel Phillips, *The Bitcoin Genesis Block: How It All Started*, DECRYPT (Feb. 10, 2021), <https://decrypt.co/56934/the-bitcoin-genesis-block-how-it-all-started>.

generally indivisible. These supply-side characteristics, when propelled by demand, drive value. NFTs, first created by the ERC-721 coding standard for the Ethereum Virtual Machine, enabled, “for the first time, verifiable digital scarcity—an elusive technological characteristic in the world of Web 2.0.”<sup>22</sup>

In the pre-blockchain era of money, Internet-based commerce relied almost exclusively on financial institutions serving as the necessary trusted third party between buyer and seller.<sup>23</sup> Yet, those same trusted intermediaries (and requisite blind eyes turned by regulators) were largely to blame for the financial crisis, commonly referred to as the Great Recession, that ravaged middle America in 2008.<sup>24</sup> Although average U.S. family wealth dropped in virtually every demographic and socioeconomic class, “black families and workers consistently experienced a bigger decline and slower recovery.”<sup>25</sup> And the wealth gap between white families and Black families (five times greater) is much wider than the income gap (two times greater).<sup>26</sup>

And thus emerged another crisis: the crisis of trust. Seemingly overnight, the world learned that global financial firms like Lehman Brothers, Washington Mutual, and Bears Stearns had been engaged in an international high-stakes Ponzi scheme with exotic financial products involving the housing market that left America holding the bag.<sup>27</sup>

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<sup>22</sup> See generally Tonya M. Evans, *Cryptokitties, Cryptography, and Copyright*, 47 AIPLA Q.J. 219 (2019). In that article, I argued that the ERC-721 non-fungible token standard empowers those whom I refer to as unique cryptographic asset (UCA) holders to “maintain control over copyright in their [cryptographically-secured digital] creations in gaming, collectibles, and copyright-intensive industries.” *Id.* at 220. Those industries, I argue, “are generally controlled by powerful, often siloed, intermediaries that restrict access, regulate transferability, and govern how or whether user-generated digital content may be controlled and exploited by the user.” *Id.*

<sup>23</sup> SATOSHI WHITE PAPER, *supra* note 21, at 1.

<sup>24</sup> See Renae Merle, *A Guide to the Financial Crisis — 10 Years Later*, WASH. POST (Sep. 10, 2018), <https://wapo.st/3u8gTyp>.

<sup>25</sup> DOROTHY A. BROWN, *THE WHITENESS OF WEALTH: HOW THE TAX SYSTEM IMPOVERISHES BLACK AMERICANS—AND HOW WE CAN FIX IT* 166–67 (2021). Professor Brown argues that biases in the tax system systemically impoverish Black Americans and impede Black communities from building generational wealth due to preferential tax treatment for assets typically held by white families rather than Black families (real estate, stocks, and bonds) and tax-free estate transfers at death. *Id.* at 88, 168–69.

<sup>26</sup> Sharmila Choudhury, *Racial and Ethnic Differences in Wealth and Asset Choices*, 64 SOC. SEC. BULL., 2001/2002, at 1, 2–6. I explain, anecdotally, the difference in wealth versus income as the difference between your money working for *you* and you working for your *money*.

<sup>27</sup> See *The Origins of the Financial Crisis: Crash Course*, ECONOMIST: SCHLS. BRIEF (Sept. 7, 2013), <https://www.economist.com/schools-brief/2013/09/07/crash-course>.

## III. BLACK ARTISTS ON THE BLOCK

NFT art has the power to both create accessibility to a global platform while also granting Black creators the opportunity to own a new appreciating asset.<sup>28</sup> Artists of color now have a viable and long-overdue opportunity to experience access to, and clarity of, an otherwise opaque art market and, finally, one that does not rely on legacy gatekeepers to publicly perform and display their works. Artists of color can now sell directly to collectors and investors or through more egalitarian marketplaces to create (i.e., mint) new works and to even participate in secondary markets via smart contract standards that automate payments (a market usually out of reach for artists after the first sale).<sup>29</sup>

In the same way that cryptocurrencies disintermediate traditional gatekeepers in finance with cryptographic proof-based systems instead of trust-based systems to facilitate transactions, NFTs are poised to do the same to the art world.<sup>30</sup>

## IV. WHY BLACK ARTISTS CAN CHANGE THE WEALTH CALCULUS . . . AND MUST

In 2020, the Hamilton Project released a comprehensive evaluation of wealth in the United States and found evidence of staggering racial disparities in generational wealth accumulation.<sup>31</sup> For example, in 2016, the net worth of a typical white family was \$171,000, nearly ten times greater than that of an average Black family (\$17,150). The report also shows that families with the same income can have dra-

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<sup>28</sup> See Cuy Sheffield, *Why I'm Collecting Black Crypto Art*, MEDIUM (Dec. 21, 2020), <https://medium.com/@cuysheffield/why-im-collecting-black-crypto-art-c3cbb939d64> (asserting that “[c]rypto art as a new form factor and platform for Black artists, curators, and collectors, is one of the most exciting new avenues that could spur a Black Digital Renaissance that would create and capture billions of dollars of value for Black communities across the world over the next decade”).

<sup>29</sup> Despite the chronic concern of lack of transparency in, and regulation of, the art market, technologies like blockchain could bring younger generations (and, presumably, diverse populations) to the art market. See Stevens, *supra* note 1 (explaining that “[t]ransparency around art sales has long been a hurdle for the market, but . . . new technologies including blockchain could draw younger generations to the art world”).

<sup>30</sup> See Sandali Handagama, *These Black Artists Say NFTs Help Them Monetize Their Work*, COINDESK <https://www.coindesk.com/business/2021/04/05/these-black-artists-say-nfts-help-them-monetize-their-work/> (Sept. 14, 2021, 5:35 AM) (explaining that “NFTs are opening the typically exclusive art world to artists from diverse backgrounds, and are helping those artists monetize their work”).

<sup>31</sup> See generally Kriston McIntosh, Emily Moss, Ryan Nunn & Jay Shambaugh, *Examining the Black-White Wealth Gap*, HAMILTON PROJECT (Feb. 26, 2020), [https://www.hamiltonproject.org/blog/examining\\_the\\_black\\_white\\_wealth\\_gap](https://www.hamiltonproject.org/blog/examining_the_black_white_wealth_gap).

matically different wealth profiles, thanks to differences in past accumulated income, inherited wealth, and other liquid assets.<sup>32</sup>

“In 2018, artwork by Black artists accounted for just 1.2% of the global traditional art auction market,”<sup>33</sup> and 77% of the total from 2008–2018 is attributed to sales of just one artist, Jean-Michel Basquiat.<sup>34</sup> The NFT market presented a unique opportunity based on self-sovereignty and direct access to global markets that began to change the calculus.

For example, retired major league baseball player and full-time artist and creator of the Black astronaut character Aku, Micah Johnson, became the first artist to option an NFT for film and TV.<sup>35</sup> Johnson is listed in the top 20 all-time grossing NFT artists with a total art value (TAV) of \$18.9 million in sales for 8,795 NFTs sold with the highest sale valued at \$657,310.00.<sup>36</sup> Other successful Black artists to yield at least six-figure sales include Corey Van Lew,<sup>37</sup> Ethiopian artist Kiya Tadele (member and leader of the Yatreda art collective),<sup>38</sup> and Afro-Caribbean artist Itzel Yard (aka IX Shells),<sup>39</sup> the highest-selling female NFT artist to date, with the \$2 million sale of her artwork “Dreaming at Dusk.”

Other artists have celebrated smaller yields that have, nonetheless, allowed them to retire a debt, reinvest in their creative endeavors, leave their job to pursue a full-time art career, and “pay it forward” to assist other artists in minting their first pieces or securing their genesis sale.<sup>40</sup> The re-circulating ether in the Black NFT

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<sup>32</sup> *See id.*

<sup>33</sup> Handagama, *supra* note 30.

<sup>34</sup> James Pickford, *Black Artists Matter: The Winds of Change Are Blowing Through the Art World*, FIN. TIMES (Aug. 24, 2020), <https://www.ft.com/content/10c8bef5-b62f-464f-a3ee-1512056c62aa>.

<sup>35</sup> Todd Spangler, *Black Astronaut Character Aku Is First NFT Optioned for Film and TV*, VARIETY (Apr. 16, 2021, 9:37 AM), <https://variety.com/2021/digital/news/aku-first-nft-optioned-film-tv-1234953189/> (explaining that “Aku, a young Black astronaut NFT character created by Micah Johnson, an artist and former MLB player, has been optioned for TV and film projects by Anonymous Content and Permanent Content”).

<sup>36</sup> As of January 2022, the top NFT seller, pak, had a TAV of \$272,212,300.68. Beeple had the highest sale of a work at \$69,346,250.00. *See Top Artists*, CRYPTOART.IO, <https://cryptoart.io/artists> (last visited Mar. 13, 2022).

<sup>37</sup> Aislinn Keely, *This NFT Artist is Exploring What a Real-World Gallery Would Look Like for Digital Art*, BLOCK (Mar. 22, 2021, 4:17 PM), <https://www.theblockcrypto.com/post/98858/this-nft-artist-is-exploring-what-a-real-world-gallery-would-look-like-for-digital-art>.

<sup>38</sup> Chiara Bardelli Nonino, *Yatreda*, VOGUE (July 14, 2021), <https://www.vogue.it/fotografia/article/yatreda>.

<sup>39</sup> Rashi Shrivastava, *Lost in the Metaverse: Meet Itzel Yard Aka IX Shells, the Highest-Selling Female NFT Artist*, FORBES (June 18, 2021, 6:00 AM), <https://www.forbes.com/sites/rashishrivastava/2021/06/18/lost-in-the-metaverse-meet-itzel-yard-aka-ix-shells-the-highest-selling-female-nft-artist/>.

<sup>40</sup> Genesis sales are considered an artist’s first sale of their work.

community, in particular, exemplifies the Kwanzaa principles of collective work and responsibility and cooperative economics.<sup>41</sup>

As of January 2022, Cryptoart.io reports in its Cryptoart Market Data that the market cap for the entire industry is over \$2 billion with a total of 2,856,883 works sold.<sup>42</sup> Many people look with intrigue, confusion and, in some cases, horror at the sensational sales for everything from cryptokitties to cryptopunks to digital pictures of rocks. One need only scan the astronomical sale prices of the likes of Gerhard Richter's "Mirror" (a red block) that sold for \$1.3 million,<sup>43</sup> Cy Twombly's crayon squiggles on canvas that sold for \$70.5 million,<sup>44</sup> or Barnett Newman's "Onement VI" (two rectangles of a vibrant blue, divided by a light blue line) that sold for a record \$43.84 million in May 2013 at a Sotheby's auction in New York,<sup>45</sup> to acknowledge that while the value of an artwork can sometimes be predictably referenced, at other times it is wholly, wildly (and necessarily) a subjective thing to behold.<sup>46</sup> Indeed, the value of unique, and therefore non-fungible, properties driven by supply and demand in an arm's length transaction between a willing buyer and willing seller often is subjective.

## CONCLUSION

What Satoshi intended for the disintermediation of financial markets has demonstrated incredible potential to disintermediate the art world and enfranchise Black and brown artists. The often-exclusionary bright line between revered "fine art" expressed in physical form and digital art has begun to blur. So too has the invisible racial dividing line used to segregate artists based on race. If measuring creative justice in terms of the building blocks of the future of creativity, we are at the genesis.

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<sup>41</sup> See Tonya M. Evans, *Kwanzaa Principles Pave a Way to the Promise of Crypto*, MEDIUM (Jan. 1, 2021), <https://advantageevans.medium.com/kwanzaa-principles-pave-a-way-to-the-promise-of-crypto-5f00d0f353e8>.

<sup>42</sup> Cryptoart Market Data, CRYPTOART.IO, <https://cryptoart.io/data> (last visited Mar. 13, 2022). CryptoArt.io data reported includes the following NFT marketplaces: Art Blocks, Nifty Gateway, SuperRare, Foundation, hic et nunc, MakersPlace, KnownOrigin, and Async Art.

<sup>43</sup> Souren Melikian, *At Auctions, Contemporary Art Shows Its Strength*, N.Y. TIMES (Nov. 14, 2008), <https://www.nytimes.com/2008/11/15/arts/15iht-melik15.1.17823096.html>.

<sup>44</sup> Annikka Olsen, *Cy Twombly: By the Numbers*, SOTHEBY'S (July 24, 2018), <https://www.sothebys.com/en/articles/cy-twombly-by-the-numbers>.

<sup>45</sup> Carol Vogel, *Record Auction Price for Barnett Newman, \$43.8 Million, Is Set at Sotheby's*, N.Y. TIMES (May 14, 2013), <https://www.nytimes.com/2013/05/15/arts/design/record-auction-price-for-barnett-newman-at-sothebys.html>.

<sup>46</sup> See Alice Xiang, Comment, *Unlocking the Potential of Art Investment Vehicles*, 127 YALE L.J. 1698, 1714 (2018); see also DELOITTE & ARTTACTIC, *supra* note 14, at 54 (highlighting that many high-net-worth collectors report buying art for "passion with an investment view").