

As Auctioneers and Artists Rush Into NFTs, Many Collectors Stay Away

Auction sales show a schism in the market: speculative buyers flock to crypto art while blue-chip collectors hold back, fearing legal gray areas and copyright issues.

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Phillips recently sold its first NFT, "Replicator," by the digital artist Mad Dog Jones for \$4.1 million to a buyer new to the auction house. Mad Dog Jones, via Phillips

A handful of auctions this month testing the appetite for a

type of investment known as [NFTs](#) seemed likely to prolong the nascent fad for ownership of works that exist only in the digital world. Missing from those transactions, however, were the blue-chip collectors who typically drive the art market's sales.

Industry experts have observed a growing wedge between a new generation of digital speculators and an older school of art collectors who say their concerns about the quality, ownership and authenticity of NFTs have gone unresolved, even as their fears of legal challenges grow.

More than a dozen collectors interviewed for this article said that NFTs raise copyright and other issues that sellers and buyers have not fully thought through. "Absolutely none of my clients are buying NFTs," said Lisa Schiff, an art adviser in New York. "I have people curious, but we are waiting to let the dust settle first."

NFTs, or nonfungible tokens, have taken off in music, art and sports, created and sold in marketplaces for crypto goods with names like [Rarible](#) and [OpenSea](#), or in collaboration with auction houses. Sotheby's made its initial push into the market earlier this month with a three-day auction of NFTs by the anonymous artist known as Pak. A flurry of blockchain bidding pushed the total price to around \$17 million — paid through the digital platform [Nifty Gateway](#) with Ethereum cryptocurrency and credit cards —

for 6,150 minted NFTs. One work, a single gray pixel, sold for more than \$1.35 million after a prolonged bidding war.

Phillips also recently sold its first NFT, by the artist Michah Dowbak, who goes by the name [Mad Dog Jones](#), for \$4.1 million, including premiums, to an anonymous bidder new to the auction house.

Mad Dog Jones, the pseudonym of Michah Dowbak.via Phillips

Those sales amounted to drops in the bucket compared with Christie's March sale of an NFT by the artist Beeple for nearly [\\$70 million](#). But Max Moore, the Sotheby's specialist who led the Pak sale, argued that the mission was "about establishing connections with this new audience around NFTs."

"They are primarily younger and more digitally native than other collectors," he explained. "We wanted to establish an understanding of what is defining their taste and collecting style."

With more than 3,000 participating buyers, Moore declared his experiment a success. But the hordes of traditional collectors who have defined the contemporary art market's ups and downs have held back.

The collectors Jill and Peter Kraus in their apartment with Pope.L's "Sunny Day White Power." "Why pay \$69 million for something anyone can see online?" Peter Kraus said of the investments known as NFTs.via Peter Krauss

Some collectors questioned the idea of owning art without exclusivity. "Why pay \$69 million for something anyone can see online?" said [Peter Kraus](#), chairman and chief executive of Aperture Investors, a New York advisory firm, who collects with his wife, Jill, a trustee at the Museum of Modern Art. Their acquisitions include one of six existing versions of "[The Clock](#)," Christian Marclay's 24-hour-long video collage showing thousands of clips from movies throughout history.

"Scarcity is worth something; it's about owning something that you think is beautiful and can't be seen in anybody else's house," Kraus added. "There has to be some clarity around what it is that you are owning as a collector."

Alain Servais, left, a Belgian collector, with Eva Ruiz, right, and artwork by Khadim Ali, left, and Thomas Houseago's "Minotaur I" at right. Servais criticized NFTs for their "enormous unsolved copyright issues and security challenges."Matt Bauwens

The Belgian investment banker [Alain Servais](#) has acquired works by digital artists, including Rafaël Rozendaal, that are typically shown on websites that the buyer owns. With NFTs, on the other hand, control of the work is usually decentralized on the blockchain, with a purchaser receiving a digital receipt, called a token — but the rest of the world can still look on.

"Deep Blue" (2021), an NFT artwork by Rafaël Rozendaal, who started as an internet artist. He received nearly \$360,000 in cryptocurrency for his highest-selling NFT.

"Murakami.Flower #0000" by Takashi Murakami. Non-fungible token (NFT) "The Pixel," an NFT artwork of a single gray pixel sold for more than \$1.35 million. Rafaël Rozendaal

Servais criticized NFTs for their "enormous unsolved copyright issues and security challenges" in the marketplace and pointed to two recent setbacks that highlight the uncertainties of NFTs for collectors.

The first occurred earlier this month when the popular artist Takashi Murakami — who had rushed to embrace NFTs after the Beeple sale by [releasing a set of pixel works](#) based on his signature smiley flowers — announced on Instagram that he was withdrawing his NFTs from OpenSea for the time being to “further explore the optimal format” and ensure his collectors’ “satisfaction and sense of security in owning the works.”

Analysts said that Murakami may have been smart to take a moment to reconsider how NFT artworks might affect previous collectors of his paintings and sculptures. William Goetzmann, a professor of finance and management studies at Yale University, said established artists should balance exposure and exclusivity.

“I can see a risk for established artists who expose themselves to this new market where the rules aren’t clear,” Goetzmann said. “If the prices of NFTs stumble along at fairly low values, that would scare people away from collecting your other works.”

Around the same time, the NFT market’s vulnerabilities were being tested by a hacker operating under the pseudonym Monsieur Personne, [who produced](#) a “second edition” of Beeple’s record-selling work. The hacker [registered](#) the forgery with the blockchain as though Beeple himself had minted it. The NFT was listed on Rarible and OpenSea, both

of which eventually deactivated the posts.

Legal experts are quick to point out that questions of copyright and fraud in the NFT market have not been tested in the courts, creating an element of unknown risk for collectors.

"It's the Wild West," said [Nelson M. Rosario](#), an intellectual property lawyer in Chicago who specializes in the cryptocurrency exchange. He added that NFT purchasers often receive different rights over an image than they might expect with a traditional painting or sculpture. The international nature of blockchains, which often have nodes — the machines validating information — located across the globe, also raised questions of whether countries would recognize the copyright rights provided in the terms of an NFT sale.

"If you want a high degree of confidence, then you will have to pay way too many lawyers," Rosario said. "Many NFTs are stored on the Ethereum blockchain, which has nodes in almost every jurisdiction on the planet."

With the scope of risk unclear and the market's future uncertain, Servais worries that the digital artists he has collected for years could "end up looking like last year's bad fashion trends," and devalue their previous work if they embrace NFTs.

He and other collectors also worry about the NFT's reliance on digital platforms that are still considered start-ups. If those companies ever disappear, the links to NFTs they host might also vanish. "If you introduce an intermediary between you and the blockchain, and the intermediary goes down, you are in trouble," Servais said.

Curiously, the artists don't share these concerns. Rozendaal, who started his career in the early 2000s by turning websites into art objects and selling their domain names, now sees NFTs as the next logical step.

With NFTs, "the big appeal is digital permanence," he said in an email. He and others pointed to the [vanishing of art](#) created in the 1990s as earlier internet hosting systems have become obsolete. By parking his works in nonfungible tokens on the blockchain, Rozendaal said, he no longer spends his days worrying about server maintenance and domain access. It also helps that minting NFTs is incredibly quick, taking only about 10 minutes.

He has released four works over the last month, receiving nearly \$360,000 in cryptocurrency for the [highest-selling piece](#), "Deep Blue" — a far cry from the \$10,000 he typically makes per work.

"The inter is evolving and blockchain is the next step," the artist said. "I cannot predict the future, but as I see it now, I

will be making NFTs for decades.”

Rozendaal has not collected any NFTs himself. Nor have many other artists who are minting digital tokens but are cautious about investing themselves in what they admit could be a passing fad. And in such a new market, some collectors see the art offered through NFTs as too low-quality to acquire.

“There is no challenge whatsoever in NFT art,” said Pedro Barbosa, a Brazilian collector who is used to buying conceptual artworks that sometimes have no physical form.

"Fungible Open Edition, Single Cube," an NFT by Pak.Pak, via Sotheby's

"The Pixel," an NFT artwork of a single gray pixel sold for more than \$1.35 million. Pak, via Sotheby's

"The ideas being explored by Pak, for example, have been around for more than 100 years," Barbosa added. "The geometric abstraction he is selling has already been explored by artists like Josef Albers, László Moholy-Nagy, and Marcel Duchamp."

But some industry watchers argue that the Beeples of today could be the Warhols of tomorrow.

"I remember my parents being fascinated when popular lowbrow images were suddenly being treated as art or collectibles with the advent of Pop Art," said Goetzmann, the professor. "Maybe we are seeing a similar phenomenon with NFTs — but it could be a bridge too far for people with collections in other media."

In the meantime, artists and their dealers are marching ahead with their plans to conquer the new digital market.

Earlier this month, Urs Fischer sold his first NFT for \$97,700; Pace will facilitate the artist's future drops on the blockchain in May after his dealers at Gagosian Gallery [declined to participate](#). Marc Glimcher, Pace's chief executive, said through a representative that he believed NFTs are here to stay. The gallery plans on accepting cryptocurrency for physical artworks in the fall and is working with more artists on future NFT collaborations.

Volta Art Fairs also has plans for NFTs in its programming. Kamiar Maleki, who directs the company, said he anticipates being one of the first art fairs to exhibit nonfungible tokens in a gallery setting coinciding with Art Basel in September.

"There is a sense that a parallel art market is emerging that

comprises a new set of artists and a new set of collectors," said Tina Rivers Ryan, a curator at the [Albright-Knox Art Gallery](#) in Buffalo with expertise in digital art. "But the \$69 million question is whether this is going to become another hype cycle like virtual reality was in 2016 or like Net art was before the dot-com bubble burst in 2001."

Schiff, the art adviser, said that the widening gap between the traditional art collector and new speculators of nonfungible tokens could be a good thing: NFTs might attract speculators away from the contemporary art market, where they are often criticized for quickly reselling their work for an easy return on investment.

"It's better for everyone if you can get speculators off physical art and onto NFTs," she said. "They don't have to lie. They don't have to store the art. They won't get screamed at for putting it up for auction a few years later. It could be a good way for the market to settle itself."

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