

Dr Poorna Mysoor, Fellow and DoS - 'What do land, a chair, and a song have in common?'

It may sound like the beginning of a clever joke, but a lawyer might focus on the way law treats human relationship to land, a chair, and a song. As valued resources, one of the most important relationships these can have to human societies is as 'property'. Defining property is a challenge of its own. Roman Law developed the division between tangible and intangible property, although the Romans did not think of songs as property. Advancements in technology in the last few hundred years, including the printing press led to the law having to grapple with certain unusual types of intangible subject matter vying for property protection.

Today, we have statutes that recognise songs as property within the broader category of intellectual property, so much so that intellectual property scholars regard this as settled, whereas property scholars regard it too specialised to be questioned. In reality, however, very few have tried to analyse how songs came to be regarded as property. In recent times we have been faced with the questions of even more esoteric subject matter for property protection, such as digital tokens and crypto assets. How do we address this challenge? A consistent, coherent, and rigorous manner to deal with this challenge is to draw analogies from tangibles to intangibles; that is, to analyse how legal fiction has imbued an intangible like a song with the characteristics enabling it to mimic tangible property. My presentation will explain how the journey of copyright law in relation to a song can be used as a bridge between the classical forms of property such as land and a chair, to carry forward the enduring property logic to newer and more elusive subject matter.