

NFTs promise to shake up digital ownership, with widespread implications for branding. Yuga Lab's Bored Ape Yacht Club took the unusual step of handing commercial IP right to its holders, remaining the poster child for commercial IP in the web3 space. Mariquita de Bossière catches up with some of the community members and legacy brands to find out what this means for businesses.

Sealed off with yellow barricade tape playfully marked 'APETAPE', the queue outside **Fred Segal's Arcade gallery** on Sunset Boulevard grew steadily longer as the glaring Los Angeles sun crept up overhead. Attendees had gathered in the 32°C heat on a late September afternoon, keen to 'quench their metathirst' at the launch of Ape Beverages' 'Ape Water'. Staking its claim as the "first sustainable water beverage of Web 3.0", Ape Water marks one of the more recent additions to the vibrant ecosystem of projects to emerge under the Bored Ape Yacht Club brand.

That Fred Segal, an iconic brand which defined California Cool, should be the hub for visitors hoping to be atop the next wave of chic is apt. "Fred was very much about showcasing what's new and next," Doug Scott tells me. Co-founder of Subnation, his is the media tech company which partnered with the clothing retailer to create their 'Apecade' exhibition space. "At Subnation, we're very focused on the new and the next too."



For one month, BAYC took over Fred Segal's Arcade, turning it into APECADE.

At the heart of this Yacht Club proliferation — and this interpretation of the 'new and next' — are commercial IP rights. Divided between thousands of holders and verified on the blockchain, decentralised intellectual property is one of web3's most exciting opportunities. For Doug, Arcade's temporary rebranding as APECADE sought to "lean into the most well-known NFT collection in the world". His aim? To creatively "uplift the movement taking place with the owners and the ways they are commercialising their IP."

Spanning food and drink, fashion, music, and more, the BAYC-emergent brands showcased during the month-long takeover ranged from **the Bored Breakfast Club** to **Ape-in Records**, to Jenkins the Valet's **'Writer's Room'**, amongst others. Beyond APECADE, Bored Apes have inked deals with tier-one agencies and managers like **Universal Music**, **WME**, and **Guy Oseary**; and Jenkins the Valet has signed with **CAA**.

BAYC and the dawn of the de-collab business model

Down some 49% from an all-time high floor price of 153.7 eth (and even more in fiat terms), the Yacht Club has nonetheless weathered 'crypto winter' with relative grace. A case in point: despite the fallout from FTX's high-profile collapse in November, **Ape #232** sold for just shy of \$1 million later that month. Already this year, there have been multiple trades that have surpassed the 100 eth mark.

BAYC's creators, Yuga Labs, have **continued their expansionary agenda** in their acquisition of Wenew, whose partners include Wimbledon, Louis Vuitton, and 10KTF, a metaverse storefront, as they seek to connect multiple web3 brands under the same umbrella. Meanwhile, Dookey Dash, Yuga Lab's newest web3 activation, is the NFT sector's biggest news in 2023, even though fewer than 14,000 people are technically allowed to play it (you need a **Sewer Pass NFT**).

Josh Ong, known as 'the godfather' in the Yacht Club for his contributions to them, traces much of the community's (so far) enduring popularity back to Yuga Lab's innovative approach to IP. "BAYC wasn't the first project to give commercial rights to holders," he says. "But I would argue it's one of the first where people really did something with it".

"It didn't just happen suddenly."

— Swickie

Across the broader NFT landscape, projects that grant commercial rights to holders continue to buck the trend. Fundamentally, NFTs are metadata — information about the data it is associated with — even if the data itself, whether art, ape, or other, isn't stored onchain itself. But owning an NFT is not the same thing as having full authority over it: unless the terms of a given project explicitly state otherwise, commercial ownership doesn't necessarily extend to the IP itself. Yuga Labs has recently come under fire in a report produced by **Galaxy Digital** for embedding “critical contradictions” in its BAYC licensing, warning that holders risk their IP being “rugged at any time.” A similar criticism was made of Moonbirds, whose creators, PROOF, unilaterally moved the collection to a Creative Commons Zero licence in late 2022.

Yuga Labs, for what it's worth, have been at pains to emphasise **their view** that, whilst “the copyright and the material object are separate and distinct property rights, a BAYC NFT gives you rights in both.” But their Yacht Club nonetheless finds itself in the middle of the rights spectrum. For where decentralised ownership *does* exist, as with **Doodles** or **CryptoKitties**, rights tend to either be restricted to personal use only, or include a cap on the amount of revenue that can be generated, by applying limited commercial use licensing.



BAYC worked on a collaborative project with Adidas, NFT comic series Punks Comic, and cryptocurrency investor Gimoney.

While debate rages around which model of IP is best suited to spawn a web3-powered creative industry, the answer will come from practice, rather than theory. Josh recalls the creative frenzy which emerged within the BAYC community following the mint in April 2021. “I was on this Twitter Space looking over the terms when we realised, ‘oh shoot, we have commercial rights for our apes.’” Reminiscing, he adds, “a lot of us who minted or bought didn't even realise that. We were like, ‘what are we going to do with this?’” Asking — and answering — that question is the key to BAYC's success; Ong notes that a flurry of projects and collaborations created momentum that drew in a new wave of holders, curious to experiment with the IP further.

The implication, seen at APECADE and around the world, is clear. Web3 technology is disrupting how brands have traditionally thought about IP. Law Professor at the University of Kentucky, Brian Fry, argues that exclusive — or ‘centralised’ — IP rights are relics of a bygone era, “**when publishing and distributing works was costly**”, and when mechanisms were needed to ensure that creators were compensated. With rights stored on the blockchain, web3 changes those premises. The internet has already reduced the cost of publishing and distribution to virtually zero; NFTs provide the last piece of the puzzle, making it easy to verify at scale who has the rights to what, as well as providing the means to compensate creators through the blockchain.

Inclusive-exclusivity and other experiments in community culture

Speaking over video, pseudonymous NFT collector and photographer, **Lord Truffington**, recounts the time he was spotted in a London pub by a stranger — not for his own appearance, but through the lock screen on his phone, which the Italian native had saved to an image of Harry, or Ape #8526. “This is what a brand is. It is something that people recognise.” He pauses, before adding, “that's where the value of having an Ape comes in. It becomes something that is associated with your personal brand. I am Harry and Harry is me.”

Similarly, Josh Ong's Ape goes by the name **Maui Prime**, whilst Adidas did not enter the **metaverse** alone, they entered with **Indigo Hertz**. The widespread adoption of BAYC profile pictures and the construction of identities around them helped solidify a visually identifiable sense of community. By 2022, community members were looking to turn those relationships into more palpable connections, away from the glare of computer and mobile phone screens.

“My hope for the Apes has always been to find a way to be inclusive.”

— Josh Ong

“Now that we are back in a world that is open, people are looking for the physical get-togethers of their community,” muses Scott. Seeking to tap into those desires, Subnation modelled APECADE after Andy Warhol’s iconic Silver Factories of the 1960s and 80s. “The community Warhol curated would convene at Studio 54 and other locations around Manhattan,” he explains. “When you look at that in terms of the Parisian salon during the days of Picasso, with the poets and fine artists of that time coming together to feed off of each other, you could say that we see that same thing happening right now with the digerati of our period.”

Just as any major brand is more than the sum of its visual imagery, these in-person meetups and pop-up spaces served to consolidate and empower the culture that defines BAYC today. “It didn’t just happen suddenly, and it didn’t happen on its own,” explains Swickie, whose ape, Kiki, adorns one of the early covers of **PUNKS Comic**, one of the Yacht Club’s first major external collaborations. “Every single one of us who has been here, even the people who aren’t BAYC holders, but who really supported the culture, they’re all just as much a part of the story.”

Breaking into laughter, she adds, “I feel like that’s what it’s going to take. Everyone’s got to get their butt moving.” She shares with me her wonder at what leveraging BAYC’s IP has made possible, recalling Quantum Art’s Los Legends NFT event in Los Angeles. “We had this panel, and as I’m sitting there listening to everybody, it suddenly clicked that the reason that we’re all there is because of Kiki.”



The BAYC community is heavily reinforced by IRL events, including Quantum Art’s Los Legends NFT event in Los Angeles, where, thanks to her Bored Ape, Kiki, Swickie took part in a panel.

From luxury to mass appeal

From Subnation’s perspective, this has created a “new, luxury, class of goods.” Scott adds, “the community has created desirability around it.” This kind of desirability, however, can cause tension for those seeking to turn Ape-branded products into consumer brands of mass appeal. “My hope for the Apes has always been to find a way to be inclusive and to not be exclusionary,” says Ong, adding with a slight, self-aware chuckle, that his notion of “inclusive exclusivity” “sounds almost absurd.” For Yuga Labs, this looks like **project extensions**, like the openly available ApeCoin or the much-anticipated Otherside metaverse, which allow for community engagement beyond those who hold highly-valued NFTs.

Inclusivity is critical for the entrepreneurs, like Andrew Bagg, seeking to bring the Ape brand to millions of customers. The Ape Beverages co-founder is well aware of the balance to be struck. “For us, Ape is broader than BAYC. Ape is an adjective with a positive connotation, as in ‘Aping in’ and becoming part of the web3 community and an early adopter to this emergent technology that’s going to change the world.”

In this way, Ape Beverages could be classified similarly to Nike, whose business model revolves around marketing as much as sportswear. Indeed, “Just Do It” is essentially a refined forefather to the intentionally unrefined “Aping in.”

“We’re entering a renaissance era of IP.”

— Swickie

Leveraging a brand like BAYC whilst retaining creative direction over how to do so is powerful for entrepreneurs like Bagg. “Whenever you’re a new brand, you have to spend a great deal of time educating the market that you exist”, he explains. “But, because we were able to associate with an already known IP, it accelerated our path tremendously. The community took to it immediately.”

The kinds of branding opportunities that web3 communities can create speak to what Edward Lee, Professor of Law at the Illinois Institute of Technology, has coined ‘**de-collab**’, or decentralised collaboration. Others have called the concept ‘**headless branding**’. By granting commercial IP rights to holders and building on top of ownership verified onchain, community members are incentivised to contribute to the ongoing success of the BAYC ecosystem by becoming creators in their own right.



The Bored Ape Breakfast Club featured at Artcade's month-long APECADE takeover.

Citing Lior Messika, founder of the Mutant Cartel, a community built by members of the BAYC ecosystem, Ong suggests how to think about this concept in practice. Comparing the Yuga Labs IP set-up to a Layer-one blockchain like Ethereum, activations like Ape Beverages and Mutant Cartel can be thought of like the Layer-two infrastructure and apps built on Ethereum to increase the size of the entire pie. “You have this base IP and then you have what holders are able to create as a layer on top of that,” he explains.

From experimentation to consolidation

From web3-native community members to forward-thinking legacy brands, looking back over how the BAYC ecosystem has evolved over the past couple of years provides a masterclass in the power of decentralising IP to a project’s biggest fans — its holders.

“Our belief is that the Disney of tomorrow is going to start off as a web3 project,” Bagg predicts. “We’re very bullish on IP and web3 because we feel that that is going to be the genesis of legacy brands that are still potentially unknown.”

“We’re entering a renaissance era of IP,” reiterates Swickie. “In a year, I think, we’re going to be seeing Apes on TV. It’s going to be a regular part of the culture, not this novelty thing.” The appearance of Bored Apes in music videos by **Timbaland, Snoop Dogg, and Eminem**, as well as a cameo feature alongside Lionel Messi on Adidas’ World-Cup-themed television advertisement, give us a taster of what could be yet to come. For holders who lack the clout that comes with superstardom or don’t have an extensive background in marketing, platforms, such as **Bored Jobs**, are emerging to help connect IP holders to potential commercial opportunities.

“There have been hundreds of different experiments at this point,” notes Ong, musing on the many questions yet to be answered for web3 brands. “How much power can you share? How much can you decentralise whilst holding on to what a business needs to grow? We’ll see some things play out better than others. It’s going to be interesting to see how those experiments end up.”

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