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# BitClout: Decentralized Social Media or NFTs for Celebrities?

BY [BRIAN WOHLHIETER](#)/ ON APRIL 12, 2021



*Photo by Ethan Haddox on Unsplash*

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If you've been paying any attention to the latest cryptocurrency news and even if you haven't you've probably heard something about the new NFT craze that has been sweeping the space. NFTs are "non-fungible tokens"<sup>1</sup> that are stored on a blockchain and are used to represent anything from artwork<sup>2</sup> to music<sup>3</sup> to digital NBA trading cards.<sup>4</sup> While the image or song or trading card may still be digitally reproducible elsewhere, the novelty and value provided by NFTs are that they connote proof of ownership of the unique asset represented by the token.<sup>5</sup> With this trend heavily influencing the cryptocurrency landscape over the past few months, many people were shocked to learn that one project was minting what Billboard referred to as "NFTs for people."<sup>6</sup>

These “NFTs for people” were being generated by an incredibly ambitious blockchain upstart called BitClout.<sup>7</sup> Interestingly, their primary mission is not to create a marketplace for tokens representing real people, dubbed “creator coins,” but to create a “new type of social network.”<sup>8</sup> This social network just so happens to also let you “speculate on people and posts with real money”<sup>9</sup> through a demand-driven formula underlying the value of each user’s token.<sup>10</sup> The creators of BitClout envision a range of future uses for their creator coins outside of speculation on its users that will also allow those users to monetize their social media presence.<sup>11</sup> However, BitClout has not yet integrated these features into the platform or open sourced their code to allow other users to add those functionalities.<sup>12</sup> Currently, the only way users are able to monetize their presence is through what BitClout calls “founder rewards” which are essentially a tax on purchases of a user’s coin.<sup>13</sup> For example, if Elon Musk has a founder reward percentage of 10% (the default) and someone spends \$100 on his creator coin, they would receive \$90 of “Elon Musk coin” and Elon Musk would receive \$10 of “Elon Musk coin” allowing him some pecuniary interest in the trading on his reputation.<sup>14</sup>

Reading the above description, it might not be immediately clear why BitClout has become a lightning rod for all of the critical coverage so early in its existence. BitClout has received some negative coverage for heavily favoring insiders to the project but this is a recurring issue with many new cryptocurrency projects.<sup>15</sup> Decentralized social networks are not new; many are being created and funded in order to possibly provide a decentralized and less censored alternative to current options.<sup>16</sup> Blockchain tokens representing real people are not even new; Roll has allowed people to create a personal digital currency.<sup>17</sup> Aside from combining and tweaking some of these features, what has made BitClout unique is that it has pre-loaded thousands of the most popular Twitter users into its network and allowed trading on those users even without their permission.<sup>18</sup> This signature feature has led to more interest and faster adoption of the platform, but inversely, it has also opened BitClout up to attacks from critics on its ethical implications and from litigants upset that the platform is making money off of their likeness.<sup>19</sup>

The way that BitClout operates has led to an almost direct line from the money people have spent on users’ profiles to the Bitcoin irrevocably<sup>20</sup> put into the platform to purchase its native coin, also named BitClout. In order to understand this relationship, one only has to work backwards from the money locked into a user’s profile. For example, the token representing Ariana Grande is currently the sixth most valuable creator coin on the platform.<sup>21</sup> According to BitClout, users have already spent the equivalent of \$2.27M purchasing her coin.<sup>22</sup> While Ariana Grande will be able to claim her account and the founder rewards associated with that, those rewards will only be a percentage of the total amount users have spent on “Ariana Grande coin” (currently valued at about \$1M)<sup>23</sup>. The other \$1.27M of value in Ariana Grande coin will be locked into the profile as BitClout tokens belonging to other users; tokens that would have to have been purchased from the platform in exchange for Bitcoin.<sup>24</sup> Currently, there is no way to exchange BitClout back to Bitcoin so the rest of this value remains locked into the BitClout system and, assumingly, under the control of its developers. This chain of

events therefore links about \$1.27M in profit to the platform directly from the use of Ariana Grande's likeness. Twitter user Larry Cermak has allegedly discovered the Bitcoin wallet associated with BitClout<sup>25</sup> which has amassed over \$220M worth of Bitcoin in the past five months.<sup>26</sup> If the connection is true, BitClout has made a lot of money in connection with other peoples' Twitter profiles and could be a tantalizing target for an upset litigant.

Unsurprisingly, within a few weeks of launching, BitClout's alleged founder, Nadar Al-Naji, has already been hit with a cease-and-desist from the law firm of Anderson Kill P.C. on behalf of client Brandon Curtis, another player in the cryptocurrency space.<sup>27</sup> The letter alleges several violations of California Civil Code including using another person's likeness without their consent (§ 3344) and violation of an individual's right to privacy (§ 1798).<sup>28</sup> While California does have stricter privacy laws than most states, using another person's likeness without their consent is a cause of action which has been established throughout the United States and could lead to further lawsuits from disgruntled celebrities and influencers.<sup>29</sup> According to *Abdul-Jabbar v. General Motors Corp.*, in order to state a cause of action under Cal. Civil Code §3344, the plaintiff needs to allege a (1) knowing use (2) of the plaintiff's identity (3) to the defendant's advantage, (4) with a direct connection between the use and the advantage, (5) without consent (6) which causes injury to the plaintiff.<sup>30</sup> As articulated by Jake Chervinsky, lawyer and Compound Finance GC, there's a "strong argument" that what BitClout is doing has violated the rights of those added to the platform without their permission.<sup>31</sup>

As with any controversial newcomer, there are also those applauding the ambition of BitClout. This was bound to happen if, as one of the founder has claimed, the list of investors includes the likes of such heavy hitters as Sequoia, Andreessen Horowitz, Social Capital, TQ Ventures, Coinbase Ventures, Winklevoss Capital, Arrington Capital, Polychain, Pantera, Digital Currency Group, and others.<sup>32</sup> Most of the positive feedback is related to the attempt that BitClout is making to decentralize control of social media and to allow its users to have a meaningful way to monetize their presence on social media without relying on current models of sponsorship, merchandise, or click-driven revenue.

BitClout has also found itself an unlikely promoter in the social media critic and former *Baywatch* star Pamela Anderson<sup>33</sup> who quit social media earlier this year after saying it was "wasted time" that companies "can use to make money" and that she was now "free."<sup>34</sup> Two months later, she has joined BitClout and filled her feed with messages claiming that the platform is "freedom" and "where I want to be."<sup>35</sup> She has even started to engage more deeply with the platform by auctioning off signed covers of her final *Playboy* cover to the top three accounts that hold "Pamela Anderson coin" on a certain date in an attempt to drive demand, increase her coin's value, and take advantage of the founder rewards.<sup>36</sup>

Whether BitClout is here to stay, with influencers and celebrities flocking to the platform in an attempt to happily claim their rewards and monetize their brands, or whether it will be buried under litigation and bad press is still to be determined. It certainly wouldn't be the first major

project to be built on the back of a legally dubious, high-risk but high-reward model.<sup>37</sup> With the blockchain space moving at breakneck speed and forcing regulators to triage, it is possible that BitClout will not receive close scrutiny and will only need to face piecemeal litigation from a few disgruntled Twitter users with a majority embracing the new model or shrugging it off. However, many celebrities and influencers have already grown accustomed to the current revenue models and any threat to that model could be seen as a threat to their business. They could also be turned off by the brazen use of their likeness without permission.

As of two weeks ago, the platform was supported by twelve nodes<sup>38</sup>, likely owned by a group of insiders.<sup>39</sup> If BitClout irons out the kinks and launches their software allowing other unaffiliated nodes to flood the network, it might not matter if legal action is taken. The network would become fully decentralized and independent of the developers, making it nearly impossible to shut down. “NFTs for people” could be here to stay, whether we like it or not.

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  2. Id.
  3. Jessica Bursztynsky, Rock Band Kings of Leon Will Release New Album as an NFT, Making It a Digital Collector’s Item, CNBC (Mar. 4, 2021, 11:44 AM), <https://www.cnbc.com/2021/03/03/kings-of-leon-to-release-album-as-nft-.html>.
  4. Jabari Young, People Have Spent More Than \$230 Million Buying and Trading Digital Collectibles of NBA Highlights, CNBC (Mar. 2, 2021, 8:22 AM), <https://www.cnbc.com/2021/02/28/230-million-dollars-spent-on-nba-top-shot.html>.
  5. See Dean, *supra* note 1.
  6. Micah Singleton, ‘NFTs for People’: BitClout Sells Coins Based on Celebs Without Their Permission, Billboard (Mar. 13, 2021) <https://www.billboard.com/index.php/articles/business/digital-and-mobile/9539942/bitclout-bitcoin-celebrity-nft-social-network>.
  7. Id.
  8. BitClout, One-Pager 1 (2021), [https://bitclout.com/one\\_pager.pdf](https://bitclout.com/one_pager.pdf).

9. Id.
10. See id. at 3-7.
11. Id. at 3-4.
12. See Dan Kahan, BitClout's Insiders-Only Pre-Launch Overshadows Social Media Revamp, The Defiant (Mar. 23, 2021), <https://thedefiant.io/bitclouts-insiders-only-pre-launch-overshadows-social-media-revamp/>.
13. BitClout, supra note 8 at 6-7.
14. Id.
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16. Primavera De Filippi & Aaron Wright, Blockchain & The Law 121-122 (2018).
17. Brady Dale, Roll Raises Another \$1M to Make Money Social, Coindesk (Oct. 26, 2020, 9:00 AM), <https://www.coindesk.com/roll-raises-another-1m-to-make-money-social>.
18. Singleton, supra note 6.
19. See Kahan, supra note 12.
20. See Kahan, supra note 12 ("Notably, while BitClout and creator coins can be swapped back and forth, Bitcoin to BitClout transactions are one-way only. This means that any BitClout profits cannot currently be pulled from the system.").
21. Buy Creator Coins, BitClout, <https://bitclout.com/creators?tab=posts> (last visited Mar. 30, 2021).
22. Ariana Grande (@arianagrande), BitClout, <https://bitclout.com/u/arianagrande?tab=creator-coin> (last visited Mar. 30, 2021).
23. If Ariana Grande claimed her account, she would have 43.47 of her own creator coins. Id. If she were to sell off all of those creator coins, she would net about \$1M. This figure can be found using the "Creator Coin Supply Curve" provided on BitClout's One-Pager. BitClout, supra note 8, at 5 (integrating the price curve from the current number of coins in circulation to the number of coins that would be in circulation after Grande sold her held coins, 243.77 to 200.3, gives a figure of ~\$1M of value unlocked). However, this value would still be stored as BitClout tokens and trapped in the BitClout system as there is no way to exchange BitClout back to Bitcoin and then into fiat currencies. See Kahan, supra note 12.
24. BitClout, supra note 8, at 1.
25. Larry Cermak (@lawmaster), Twitter (Mar. 17, 2021, 4:59 PM), <https://twitter.com/lawmaster/status/1372291551213277189>.
26. Bitcoin / Address / 1PuXkbwqqwzEYo9SPGyAihAge3e9Lc71b, Blockchair, <https://blockchair.com/bitcoin/address/1PuXkbwqqwzEYo9SPGyAihAge3e9Lc71b> (last visited Apr. 7, 2021).
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28. Id.

29. Id.
30. See Abdul-Jabbar v. Gen. Motors Corp., 85 F.3d 407, 413-14 (9th Cir. 1996).
31. See Kahan, *supra* note 12.
32. See Brady Dale, What Is BitClout? The Social Media Experiment Sparking Controversy on Twitter, Coindesk (Mar. 24, 2021, 11:43 AM), <https://www.coindesk.com/what-is-bitclout-the-social-media-experiment-stoking-controversy-on-twitter>.
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34. Pamela Anderson (@pamelaanderson), Instagram (Jan. 26, 2021), [https://www.instagram.com/p/CKg4Pfpngh8/?utm\\_source=ig\\_embed](https://www.instagram.com/p/CKg4Pfpngh8/?utm_source=ig_embed).
35. Pamela Anderson (@pamelaanderson), BitClout (Mar. 27, 2021), <https://bitclout.com/posts/4ea429eb1c8806c5ab04270cabf57f14756993fce29654c1b122f8ee9a06174?tab=posts>.
36. Pamela Anderson (@pamelaanderson), BitClout (Mar. 28, 2021), <https://bitclout.com/posts/311805f96fc8ec4ecf2b640e211d3002b628f67755e7b5c9a625fc5803a3cd54?tab=posts>.
37. See Matthew Wansley, Taming Unicorns, 97 Ind. L. Rev. (forthcoming 2021) (manuscript at 13-22), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3801131](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3801131) (examining the legally dubious beginnings of Theranos, Uber, and Juul, two of whom remain multi-billion dollar enterprises despite the early controversy).
38. "Diving into the context of blockchains . . . the network of computer nodes is what makes it possible for [a blockchain] to be used as a decentralized peer-to-peer (P2P) [network]." What Are Nodes?, Binance, <https://academy.binance.com/en/articles/what-are-nodes>. This
39. See Kahan, *supra* note 12.